

ORDINANCE NO. 2908-09

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE AMENDING CERTAIN SECTIONS OF CHAPTERS 19.12 (DEFINITIONS); 19.32 (BUILDING HEIGHTS, LOT COVERAGES AND FLOOR AREA RATIOS); 19.80 (DESIGN REVIEW); AND 19.98 (GENERAL PROCEDURES) OF TITLE 19 (ZONING) OF THE SUNNYVALE MUNICIPAL CODE PERTAINING TO SINGLE-FAMILY HOMES

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. SECTION 19.12.080 AMENDED. Section 19.12.080 ("G") of Chapter 19.12 (Definitions) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.12.080. "G"

(1) - (6) [Text unchanged]

(7) "Gross floor area" means the following:

(a) Single-family Residential Uses. The sum of the areas computed from the outside dimensions of a building, including supporting columns and unsupported wall projections (except for: eaves, uncovered balconies, uncovered porches, covered porches on the ground floor, uncovered stairways, fire escapes, landing places, fireplaces, and similar architectural features) for each floor. Garages are included in floor area calculations. Basement area may be exempt from the calculation as long as it is located no higher than two feet above grade. Except for those areas specifically exempted above, any area with an interior ceiling height exceeding 15 feet shall be counted twice for the purpose of calculating gross floor area.

(b) Commercial, Industrial, Multifamily and Other Uses. The sum of the areas computed from the outside dimensions of a building, including corridors, supporting columns and unsupported wall projections (except for: eaves, uncovered balconies, uncovered porches, covered porches on the ground floor, uncovered stairways, fire escapes, landing places, fireplaces, and similar architectural features) for each floor including mezzanine floors and enclosed and unenclosed roofed patios where the roof is more than fifty percent solid.

SECTION 2. SECTION 19.32.020 AMENDED. Section 19.32.020 ("Building height and lot coverages") of Chapter 19.32 (Building Heights, Lot Coverages and Floor Area Ratios) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.32.020. Building height and lot coverages.

Building height and lot coverages shall be according to the provisions set forth in Table 19.32.020, except that all lots located within the DSP district shall conform to provisions set forth in Chapter 19.28.

**TABLE 19.32.020
Building Height, Lot Coverage and Floor Area Ratio**

Zoning District	Building Stories	Building Height (ft.) ^{8,9}	Lot Coverage (%) ⁹	Floor Area Ratio (FAR) (%) ⁹
R-0	2	30	45	45% FAR or 3,600 sq. ft. of gross floor area, whichever is less ⁶
R-1	2	30	45	45% FAR or 3,600 sq. ft. of gross floor area, whichever is less ⁶
R-1.5	2	30 ¹	40	50
R-1.7/PD	2	30	40	50
R-2 (single-family dwellings)	2	30	40	45% FAR or 3,600 sq. ft. of gross floor area, whichever is less ⁶
R-2 (all uses other than single-family dwellings)	2	30	45	55 ⁶
R-3 Townhomes	3	35	40	
R-3 (all other uses)	2	30	40	
R-4	4	55	40	
R-5	4	55	40	
R-MH	2	30	None	
O	2	30	40	
P-F	2			
DSP	See Table 19.28.170	See Table 19.28.170	See Table 19.28.170	See Table 19.28.170
C-1	2	40	35	
C-2	8	75 ⁵	35	55 (Future Site D) as described in Section 19.32.070(c)(3)
C-3	8	75 ⁴	35	
C-4	2	40	35	
M-S	8	75	45	35 ^{5,7}
M-3	8	75	45	35 ^{5,7}

- ¹ Walls facing the side yards cannot exceed twelve feet in height within twelve feet of the side property lines. Second story wall height is limited to twenty-one feet, exclusive of pitched roof structure.
- ² One-half foot shall be added to the front, side and rear yard setbacks for each foot that the building exceeds the maximum height allowed in the most restrictive abutting district.
- ³ Coverage shall not exceed the maximum structural coverage in the most restrictive zoning district abutting this district.
- ⁴ Hotels and motels may exceed seventy-five feet if allowed by use permit.
- ⁵ Fifty percent FAR for commercial storage or warehousing, Section 19.32.070(d).
One hundred percent FAR for Future Site B, as described in Section 19.32.070(c)(1).
Seventy percent FAR for Future Site C, as described in Section 19.32.070(c)(2).
Fifty percent FAR for Future Site E, as described in Section 19.32.070(c)(4).
- ⁶ Applications for residences which exceed the FAR set forth in this table shall be considered pursuant to Section 19.80.040(c).
- ⁷ 5% FAR bonus for green buildings may apply. See Section 19.32.075.
- ⁸ A five-foot height bonus is allowed when underground parking is included in the design. See Section 19.46.040.
- ⁹ Refer to Chapter 19.56 for deviations to height, lot coverage, and floor area ratio to accommodate and/or provide incentives for installation of solar energy systems.

SECTION 3. SECTION 19.80.020 AMENDED. Section 19.80.020 ("Design guidelines") of Chapter 19.80 (Design Review) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.80.020. Design guidelines.

The city council has established criteria and various guidelines for design review. These design guidelines shall be maintained in the department of community development and shall be available to the public. Minor additions to or deletions from the guidelines may be made by the director of community development; major changes require approval of the planning commission.

SECTION 4. SECTION 19.80.030 AMENDED. Section 19.80.030 ("Procedures") of Chapter 19.80 (Design Review) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.80.030. Procedures.

(a) Except as noted below, any site or building development or modification requiring a discretionary land use permit or a building permit shall be subject to the requirements of this chapter. Unless an applicant has obtained approval of a discretionary permit, design review shall be conducted as part of a building permit plan check process or miscellaneous plan permit process.

(1) Single story additions or any single-story modifications to single-family detached dwellings or duplex residential dwellings which add or modify less than twenty percent of the floor area of the existing structure are generally exempt from design review requirements, except that the director of community development shall have the authority to require design review for any significant modification which changes the exterior appearance of the home. Significant modifications may include but are not limited to: exterior materials; the number, placement, or design of windows or doors; and the height, pitch, or material of the roof.

(2) Properties located within a heritage district, a specific plan area or an area for which detailed design guidelines have been established by the planning commission or city council shall be subject to the requirements of the design criteria established for those districts or areas.

SECTION 5. SECTION 19.80.040 AMENDED. Section 19.80.040 ("Decisions") of Chapter 19.80 (Design Review) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.80.040. Decisions.

(a) – (b) [Text unchanged.]

(c) Applications for design review for residences in the R-0, R-1 and R-2 zoning districts which exceed either the FAR or gross floor area threshold established in Section 19.32.020 , shall be considered by the planning commission at a public hearing. Notice of such hearing shall be given in accordance with Section 19.98.040(c). The planning commission may:

(1) Approve the design review as requested or as changed, modified or conditioned by the commission if the commission finds that the project as approved meets the required finding.

(2) Deny the design review if the commission finds that the project would not meet the required finding.

(d) [Text unchanged.]

SECTION 6. SECTION 19.98.020 AMENDED. Section 19.98.020 (Applications) of Chapter 19.98 (General Procedures) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.98.020. Applications.

(a) Consideration of a permit or process is initiated by the filing of an application signed by the owner of the land to which the permit or process would be applicable. The application shall be filed with the director of community development on forms furnished for this purpose. The application shall be accompanied by the required fee, plans, elevations and other supporting data set forth in this section, or determined necessary by the director of community development.

(b) Design review and miscellaneous plan permit filings shall include:

(1) Written explanation of project;

(2) Site plan; except that a site plan is not required for landscape/irrigation for single-family, duplexes, triplexes or fourplexes. Nothing shall prohibit the director of community development from requiring site plans with certified site elevation data and shall show street and sidewalk locations (if applicable) in addition to property lines. Single-family design review site plans shall include certified elevation data to establish property grades;

(3) Architectural elevations of all sides of all buildings indicating exterior materials and colors. Where appropriate, a color and material board may be required. Nothing shall prohibit the director of community development from requiring site plans. Single-family design review architectural elevations shall include a streetscape view showing the proposed home and one adjacent home on each side. Single-family design review architectural elevations shall also include certified elevation data to establish property grades;

(4) Floor plans of all buildings;

(c) – (k) [Text unchanged.]

SECTION 7. SECTION 19.98.040 AMENDED. Section 19.98.040 (Notice requirements) of Chapter 19.98 (General Procedures) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.98.040. Notice requirements.

(a) Design Review

(1) The director of community development may take an action without public notice or hearing except as provided below.

(A) Residential design review. Prior to any action being taken on a design review application for a single family home or duplex in an R-0, R-1, R-1.5, R-1.7PD, or R-2 zoning district that includes a two-story component, notice of the pending application shall be given by mail to owners of properties located within 200 feet of the subject property, stating that the application is available for review and comment for fourteen days following the date on the notice. A notice shall also be posted on the subject site, and such notice shall include a streetscape elevation showing the proposed home and one adjacent home on each side. Notice titles shall be visible from a passing car.

(B) Non-residential design review adjacent to residential. Prior to any action being taken on a design review application for any non-residential building which is adjacent to any residential zoning district, notice of the pending application shall be given by mail to owners of properties located within 200 feet of the subject property, stating that the application is available for review and comment for fourteen days following the date on the notice.

(2) For special development permits, use permits and variances determined to be exempt from the California Environmental Quality Act (minor permits), notice of the time and place of each public hearing required as a condition precedent to the consideration of the approving or revocation of a permit shall be given at least ten calendar days prior to the day of the hearing in the following manner:

(A) By posting a copy of the notice of hearing:

(i) At a conspicuous location on each frontage of the property which is the subject of the application. For design review applications requiring public hearing under 19.80.040(c), the posted notice shall include a streetscape elevation showing the proposed home and one adjacent home on each side;

(ii) On the public notice bulletin board at the Sunnyvale City Hall.

(B) By mailing a copy of the notice to:

(i) The owner and applicant; and

(ii) The owners of all adjacent properties; except that for design review applications requiring public hearing under 19.80.040(c), notice shall be provided to owners of all properties within 200 feet of the subject property.

(C) By publishing at least once in a newspaper of general circulation in the city, a copy of the notice.

(b) Miscellaneous Plan Permits and Tree Removal Permits

(1) The director of community development may take an action without public notice or hearing except as provided below.

(A) Donation centers for used goods. Within 5 days of approving an MPP, the director shall post the subject property providing notice of the date of the approval action. In addition, written notice of approval shall be sent to property owners and occupants of adjacent properties.

(2) For special development permits, use permits and variances determined to be exempt from the California Environmental Quality Act (minor permits), notice of the time and place of each public hearing required as a condition precedent to the consideration of the approving or revocation of a permit shall be given at least ten calendar days prior to the day of the hearing in the following manner:

(A) By posting a copy of the notice of hearing:

(i) At a conspicuous location on each frontage of the property which is the subject of the application.

(ii) On the public notice bulletin board at the Sunnyvale City Hall.

(B) By mailing a copy of the notice to:

(i) The owner and applicant; and

(ii) The owners of all adjacent properties.

(C) By publishing at least once in a newspaper of general circulation in the city, a copy of the notice.

(c) For a mobile vendor permit, notice of an approval of a permit shall:

(1) Be posted at the permit location within five days of approving a permit.

(2) Sent to all occupants and owners of immediately adjacent properties.

(d) – (l) [Text unchanged.]

SECTION 8. SECTION 19.98.070 AMENDED. Section 19.98.070 (Appeals) of Chapter 19.98 (General Procedures) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.98.070. Appeals.

(a) Appeal of Design Review Permits.

(1) Design review by director: An applicant, the owner of the subject property, or the owner of a property within the required noticing radius as described in 19.98.040, aggrieved by a design review decision of the director of community development with regard to nonconformance with applicable design guidelines may file an appeal to the planning commission by 5:00 pm on the fifteenth calendar day following such action. All proceedings initiated by the decision of the director of community development shall be suspended pending a determination by the planning commission on the merit of the appeal. The decision of the planning commission is final.

(2) Design review with public hearing: An applicant, the owner of the subject property, or the owner of a property within the required noticing radius as described in 19.98.040, aggrieved by a design review decision of the planning commission made pursuant to Section 19.80.040(c) with regard to nonconformance with applicable design guidelines may file an appeal to the city council by 5:00 pm on the fifteenth calendar day following such action. All proceedings initiated by the decision of planning commission shall be suspended pending a determination by the city council on the merit of the appeal. The decision of city council is final.

(b) Appeal of Tree Removal Permits. The owner of the subject property, aggrieved by a tree removal permit decision of the director of community development may file an appeal to the planning commission after the date of such decision. All proceedings initiated by the decision of the director of community development shall be suspended pending a determination by the planning commission on the merit of the appeal. The decision of the planning commission is final.

(b) – (c) [Text unchanged. Renumber (c) – (d).]

SECTION 9. CEQA EXEMPTION. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment.

SECTION 10. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision or decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause or phrase be declared invalid.

SECTION 11. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 12. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication of a notice once in The Sun, the official newspaper for publication of legal notices of the City of Sunnyvale, setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on October 27, 2009, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, 2009, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

APPROVED:

City Clerk
Date of Attestation: _____

Mayor

SEAL

APPROVED AS TO FORM AND LEGALITY:

David E. Kahn, City Attorney