

ORDINANCE NO. 2966-11

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE TO AMEND CERTAIN SECTIONS OF TITLE 19 (ZONING) OF THE SUNNYVALE MUNICIPAL CODE RELATING TO IMPLEMENTATION OF THE HOUSING AND COMMUNITY REVITALIZATION SUB-ELEMENT TO INCLUDE PROVISIONS FOR SPECIAL NEEDS HOUSING; MULTI-FAMILY RESIDENTIAL DEVELOPMENT REVIEW PROCEDURES; PARKING STANDARDS FOR SENIOR HOUSING, AFFORDABLE HOUSING, AND HOUSING FOR PERSONS WITH DISABILITIES; AND REASONABLE ACCOMMODATION PROCEDURES.

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

SECTION 1. SECTION 19.12.020 AMENDED. Section 19.12.020 of Chapter 19.12 (Definitions) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.12.020 “A”

(1) – (6) [Text unchanged.]

(7) “Affordable housing” means dwelling units with a requirement or obligation to be rented or owned by households and individuals whose income meets the definition of moderate or below as determined by the California Department of Housing and Community Development guidelines and adjusted for household size.

(8) “Affordable housing development” means a development on a site where all dwelling units meet the definition for affordable housing.

(9) [Text unchanged.]

(8) – (17) [Renumber (10) – (19), consecutively. Text unchanged.]

SECTION 2. SECTION 19.12.050 AMENDED. Section 19.12.050 of Chapter 19.12 (Definitions) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.12.050. “D”

(1) – (8) [Text unchanged.]

(14) “Dwelling” means a use which contains one or more separate dwelling units, used exclusively for residential purposes. “Dwelling” includes transitional and supportive housing, but does not include hotel, motel, boarding house, lodging, mobile or trailer home.

(a) “Single-family dwelling” means one detached dwelling unit on a single lot used for occupancy by one family, and containing only one kitchen.

(b) “Two-family dwelling” means two dwelling units that are attached, such as a duplex, or detached on a single lot, used for occupancy by two families living independently from one another.

(c) “Multiple-family dwelling” means three or more separate dwelling units such as apartments, townhouses, condominiums or other

community housing projects used for occupancy by families living independently of one another.

(15) [Text unchanged.]

SECTION 3. SECTION 19.12.060 AMENDED. Section 19.12.060 of Chapter 19.12 (Definitions) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.12.060. “E”

(1) – (5) [Text unchanged.]

(6) “Emergency shelter” means any facility with on-site management and security that provides temporary overnight sleeping accommodations for a maximum of 30 days and minimal supportive services for homeless persons.

(7) “Emission” means the electromagnetic energy propagated from a source by radiation or conduction.

(7) – (9) [Renumber (8) – (10), consecutively. Text unchanged.]

SECTION 4. SECTION 19.12.200 AMENDED. Section 19.12.200 of Chapter 19.12 (Definitions) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.12.200. “S”

(1) – (28) [Text unchanged.]

(29) “Supportive housing,” means a dwelling that is linked to a range of on-site or off-site support services, such as medical and mental health services, vocational and employment services, childcare, or independent living skills training, to enable residents to maintain stable housing and live as independently as possible.

(30) “Sustainable development” means development and construction practices designed to use natural resources in a manner that does not eliminate, degrade or diminish their usefulness for future generations.

SECTION 5. SECTION 19.12.210 AMENDED. Section 19.12.210 of Chapter 19.12 (Definitions) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.12.210 “T”

(1) – (9) [Text unchanged.]

(10) “Transitional housing” means a dwelling where support services are offered to facilitate the movement of homeless persons to permanent housing, and where residency is restricted to up to 2 years, but no less than 6 months.

(10) – (11) [Renumber (11) – (12). Text unchanged.]

SECTION 6. SECTION 19.18.030 AMENDED. Section 19.18.030 of Chapter 19.18 (Residential Zoning Districts) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.18.030. Permitted, conditionally permitted and prohibited uses in residential zoning districts.

(a) **Use Table.** Table 19.18.030 sets forth those uses which are

permitted, conditionally permitted, and prohibited in residential zoning districts, and the type of approval a use requires.

(1) **Permitted (P).** A use shown with “P” in the table is allowed subject to compliance with all applicable provisions of this title. If the proposed use includes new construction, changes to the exterior of a building or other site modification, design review is required in accordance with the provisions of Chapter 19.80, *Design Review*.

(2) **Miscellaneous Plan Permit (MPP).** A use shown with “MPP” in the table requires the approval of a miscellaneous plan permit, in accordance with the provisions of Chapter 19.82, *Miscellaneous Plan Permit*. If there is an existing valid miscellaneous plan permit for the use, and no new construction or expansion is proposed, then such use may be conducted without requiring another miscellaneous plan permit.

(3) **Use Permit and Special Development Permit (UP and SDP).** A use shown with “UP” or “SDP” requires approval of a use permit or special development permit, in accordance with the provisions of Chapter 19.88, *Use Permit*, or Chapter 19.90, *Special Development Permit*, whichever applies. If there is an existing valid use permit or special development permit for the use, and no new construction or expansion is proposed, then such use may be conducted without requiring another use permit or special development permit.

(4) **Prohibited (N).** A use shown with “N” in the table is prohibited.

(b) **Compliance.** It is a violation of this chapter to:

(1) Engage in a use that is conditional without complying with the imposed conditions;

(2) Engage in a prohibited use;

(3) Engage in a use requiring a miscellaneous plan permit, use permit or special development permit without obtaining the required permit.

**TABLE 19.18.030
Permitted, Conditionally Permitted and Prohibited Uses in Residential
Zoning Districts**

In the table, the letters and symbols are defined as follows:

P = Permitted use

MPP = Miscellaneous Plan Permit required

UP = Use Permit required

SDP = Special Development Permit required

N = Not permitted, prohibited

| RESIDENTIAL ZONING DISTRICTS | R-0/R-1 | R-1.5 | R-1.7/PD | R-2 | R-3 | R-4 | R-5 | R-MH |
|--|----------------|--------------|-----------------|------------|------------|------------|------------|----------------|
| <i>I. Residential</i> | | | | | | | | |
| A. Single-family dwellings | P | P | SDP | P | UP | UP | UP | P ¹ |
| B. Single room occupancy (SRO) facilities | N | N | N | N | N | UP | UP | N |
| C. Two-family dwelling (duplex) | N | UP | SDP | P | P | P | UP | P ¹ |

| RESIDENTIAL ZONING DISTRICTS | R-0/R-1 | R-1.5 | R-1.7/PD | R-2 | R-3 | R-4 | R-5 | R-MH |
|--|----------------|--------------|-----------------|------------|------------|------------|------------|-------------|
| D. Multiple-family dwellings (3 to 50 units) | N | N | N | P | P | P | P | P |
| E. Multiple-family dwellings (over 50 units) | N | N | N | UP | UP | UP | UP | UP |
| F. Boarding for less than three persons | P | P | P | P | P | P | P | P |
| G. Facilities caring for 6 or fewer persons, as declared by state to be residential use | P | P | SDP | P | UP | UP | UP | P |
| H. Residential mobilehome park site | N | N | N | N | N | N | N | P |
| 2.- 7. [Text unchanged.] | | | | | | | | |

SECTION 7. SECTION 19.18.040 AMENDED. Section 19.18.040 of Chapter 19.18 (Residential Zoning Districts) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.18.040. Use permit required for multiple ownership.

In the R-2, R-3, R-4, R-5 and R-MH zoning districts, a use permit is required for any community housing project, condominium, or other common interest development, as defined in Section 1351 of the Civil Code, including the conversion of any existing building(s) to a common interest development. Conversion of any building(s) to multiple ownership shall be in accordance with the provisions of Chapter 19.70 *Conversion of Rental Housing to Community Housing Projects*.

SECTION 8. SECTION 19.22.030 AMENDED. SECTION 19.22.030 of Chapter 19.22 (Industrial Zoning Districts) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.22.030 Permitted, conditionally permitted and prohibited uses in industrial zones.

(a) **Use Table.** Table 19.22.030 sets forth those uses which are permitted, conditionally permitted, and prohibited in industrial zoning districts, and the type of permit a use requires.

(1) **Permitted (P).** A use shown with “P” in the table is allowed subject to compliance with all applicable provisions of this title. If the proposed use includes new construction, changes to the exterior of a building or other site modification, design review is required in accordance with the provisions of Chapter 19.80, *Design Review*.

(2) **Miscellaneous Plan Permit (MPP).** A use shown with “MPP” in the table requires the approval of a miscellaneous plan permit, in accordance with the provisions of Chapter 19.82, *Miscellaneous Plan Permit*. If there is an existing valid miscellaneous plan permit for the use, and no new construction or expansion is proposed, then such use may be conducted without requiring another miscellaneous plan permit.

(3) **Use Permit and Special Development Permit (UP and**

SDP). A use shown with “UP” or “SDP” requires approval of a use permit or special development permit, in accordance with the provisions of Chapter 19.88, *Use Permit*, or Chapter 19.90, *Special Development Permit*, whichever applies. If there is an existing valid use permit or special development permit for the use, and no new construction or expansion is proposed, then such use may be conducted without requiring another use permit or special development permit.

(4) **Prohibited (N).** A use shown with “N” in the table is prohibited.

(b) **Compliance.** It is a violation of this chapter to:

(1) Engage in a use that is conditional without complying with the imposed conditions;

(2) Engage in a prohibited use;

(3) Engage in a use requiring a miscellaneous plan permit, use permit or special development permit without obtaining the required permit.

(c) **Uses in Enclosed Buildings.** Unless otherwise authorized by a permit, all permitted or conditionally permitted uses in an industrial zoning district shall be conducted entirely within an enclosed building. Where unenclosed uses are authorized by a permit, such uses (excepting, e.g., outdoor seating, plazas, etc.) shall be prohibited within required front yards in industrial zoning districts and shall be screened from view from any public street or adjacent property by suitable landscaping or fencing. This does not apply to recycling centers for which a valid use permit has been granted.

TABLE 19.22.030

Permitted, Conditional Permitted and Prohibited Uses in Industrial Zoning Districts

In the table, the letters and symbols are defined as follows:

P = Permitted use

MPP = Miscellaneous plan permit required

UP = Use permit required

N = Not permitted, prohibited

FAR = Floor area ratio restrictions

> = Greater than

N/A = FAR does not apply

| Use Regulations by Zoning District USE | M-S Zoning Districts FAR ³ | M-S Zoning Districts | M-S/POA Zoning Districts | M-3 Zoning Districts FAR ³ | M-3 Zoning Districts |
|--|--|----------------------------|--------------------------------|--|----------------------------|
| 1. – 5. [Text unchanged] | | | | | |
| 6. Other | | | | | |
| A. – E. [Text unchanged.] | | | | | |
| F. Emergency containers meeting criteria described in this chapter (ARKs) | N/A | P | P | N/A | P |
| G. Emergency containers other than ARKs | N/A | UP | UP | N/A | UP |
| H. Emergency shelter | N/A | UP | P | N/A | UP |

| Use Regulations by Zoning District USE | M-S Zoning Districts FAR ³ | M-S Zoning Districts | M-S/POA Zoning Districts | M-3 Zoning Districts FAR ³ | M-3 Zoning Districts |
|---|--|----------------------------|--------------------------------|--|----------------------------|
| (H.) – (Q.) [Renumber (I.) – (R.), consecutively. Text unchanged.] | | | | | |

¹ Subject to provisions of Chapter 19.60.
² Subject to provisions of Chapter 9.41.
³ 5% FAR bonus for green buildings may apply. See Resolution No. 368-09 for green building tables adopted..
⁴ Automobile service stations with sale of groceries, beer and wine, or both, require findings as set forth in 19.98.020(i) and/or (j), as applicable.

SECTION 9. SECTION 19.22.040 AMENDED. Section 19.22.040 of Chapter 19.22 (Industrial Zoning Districts) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.22.040 Use permit required for multiple ownership in all industrial zoning districts. In all industrial zoning districts, a use permit is required for any condominium project or other common interest development, as defined in Section 1351 of the Civil Code, including the conversion of any existing building(s) to a common interest development.

SECTION 10. SECTION 19.22.050 AMENDED. Section 19.22.050 of Chapter 19.22 (Industrial Zoning Districts) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.22.050. Emergency containers (ARKs).
Emergency containers (ARKs) are permitted in the M-S (industrial service zoning district) and the M-3 (general industrial zoning district). ARKs may be established subject to the findings of the director of community development that the following conditions have been satisfied:

(a) – (b) [Text unchanged.]

SECTION 11. SECTION 19.29.050 AMENDED. Section 19.29.050 of Chapter 19.29 (Moffett Park Specific Plan District) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.29.050 Permitted, conditionally permitted and prohibited uses.

(a) **Use Table.** Table 19.29.050 sets forth those uses which are permitted, conditionally permitted, or prohibited in each of the Moffett Park Specific Plan subdistricts.

(1) **Permitted (P).** A use shown with “P” in the table is allowed subject to compliance with all applicable provisions of the specific plan and of this title. New construction, changes to the exterior of buildings, or other site modification shall be in accordance with Subsection 19.29.050(c), *Requirements for New Construction*.

(2) **Miscellaneous Plan Permit (MPP).** A use shown with “MPP” in the table requires the approval of a miscellaneous plan permit, in accordance with the provisions of Chapter 19.82, *Miscellaneous Plan Permit*. If there is an existing valid miscellaneous plan permit for a use, and no new construction or expansion is proposed, then such use may be conducted without requiring another miscellaneous plan permit.

(3) **Special Development Permit (SDP).** A use shown with “SDP” requires approval of a special development permit, in accordance with the provisions of Sections 19.29.100, *Minor Moffett Park Special Development Permit*, and 19.29.120, *Major Moffett Park Special Development Permit*. If there is an existing valid use permit or special development permit for a use, and no new construction or expansion is proposed, then such use may be conducted without requiring another special development permit.

(4) **Prohibited (N).** A use shown with “N” in the table is prohibited.

(b) **Compliance.** It is a violation of this chapter to:

(1) Engage in a prohibited use;

(2) Engage in a use requiring a permit without first obtaining that permit;

(3) Engage in a use that is conditional without complying with the imposed conditions.

(c) **Requirements for New Construction.** All permitted uses that require no new construction or additions or changes to the exterior of the building may be conducted within existing enclosed buildings. Major changes to the exterior of a building for either approved or permitted uses, new construction, site improvements, or additions to an existing building shall require a Moffett Park Design Review Permit (MP-DR) or Moffett Park Special Development Permit (MP-SDP). Minor changes to the exterior of a building for either approved or permitted uses may be approved by the director of community development through a Miscellaneous Plan Permit (MPP) as set forth in Chapter 19.82.

(d) **Uses in enclosed buildings.** Uses are to be conducted entirely within an enclosed building unless otherwise identified in the table. Where unenclosed uses are allowed through the approval of a planning permit, such uses (excepting, e.g., outdoor seating, plazas, etc.) are prohibited from locating in a required front yard and are to be screened from view from adjacent streets and adjacent property with suitable landscaping, walls or fencing as determined by the approving authority.

Table 19.29.050
Permitted, Conditionally Permitted and Prohibited Uses
in MPSP Subdistricts

In the table, the letters and symbols are defined as follows:

P = Permitted use. A Moffett Park Design Review Permit is required pursuant to Section 19.29.050(c). Development exceeding the standard FAR limit must be reviewed through a major permit.

SDP = Special development permit. A Moffett Park Special Development Permit is required.

MPP = Miscellaneous Plan Permit. A Miscellaneous Plan Permit is required.

N = Not permitted. Prohibited.

| Use | | Specific Plan Subdistrict | | |
|---------------------------|---|---------------------------|------|------|
| | | MP-TOD | MP-I | MP-C |
| 1. -7. | [Text unchanged.] | | | |
| 8. | Other | | | |
| A. – E. [Text unchanged.] | | | | |
| F. | Emergency containers (ARKs) meeting criteria described in Section 19.22.050 of the Zoning Ordinance | P | P | P |
| G. | Emergency containers other than ARKs | SDP | SDP | N |
| H. – U. [Text unchanged.] | | | | |

SECTION 12. SECTION 19.46.045 AMENDED. Section 19.46.45 of Chapter 19.46 (Off-Street Parking and Loading) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.46.045 Parking management plans—When required. Applicants shall provide to the director of community development a parking management plan for all new mixed uses, multi-family residential, special housing developments defined in Section 19.46.055, new commercial or shopping center uses, medical clinics and places of assembly uses, or as otherwise required by use permit or miscellaneous plan permit.

SECTION 13. TABLE 19.46.050 AMENDED. Table 19.46.050 of Chapter 19.46 (Off-Street Parking and Loading) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

**Table 19.46.050
Parking Requirements**

| LAND USE | NUMBER OF PARKING SPACES REQUIRED | | | MAXIMUM PERCENTAGE OF COMPACT SPACES ALLOWED |
|---|--|--|---|--|
| RESIDENTIAL USES | | | | |
| Single-Family and Duplex: | 2 covered spaces per unit, plus 2 uncovered spaces on driveway (minimum dimensions 17 ft. x 20 ft.). For projects located on streets with limited or no on-street parking, projects shall provide an additional 0.4 unassigned parking spaces per unit. The two driveway spaces shall not be counted as unassigned spaces. | | | N/A |
| Multifamily, Townhouses, Condos and Apartments: | Specific ratios based on the type of parking facilities provided are noted below. See also Notes 1 and 2. | | | |
| | Carports, Underground and Open | One Fully-Enclosed Garage Space | Two or More Fully-Enclosed Garage Spaces | |

| LAND USE | NUMBER OF PARKING SPACES REQUIRED | | | MAXIMUM PERCENTAGE OF COMPACT SPACES ALLOWED |
|---|---|---|--|--|
| | Parking Lot | and Open Parking Lot | | |
| Studio, Efficiency, or 1 Bedroom Units: | 1 covered space per unit, plus 0.5 unassigned space per unit. | 1 covered space per unit, plus 0.8 unassigned space per unit. | 2 covered spaces per unit, plus 0.25 unassigned and guest parking spaces per unit. | 10% of uncovered and unassigned spaces in parking lots with more than 10 spaces. |
| 2 Bedroom Units: | 1 covered space per unit, plus 1 unassigned space per unit. | 1 covered space per unit, plus 1.33 unassigned spaces per unit. | 2 covered spaces per unit, plus 0.4 unassigned and guest parking spaces per unit. | 10% of uncovered and unassigned spaces in parking lots with more than 10 spaces. |
| 3 Bedroom Units: | 1 covered space per unit, plus 1 unassigned space per unit. | 1 covered space per unit, plus 1.4 unassigned spaces per unit. | 2 covered spaces per unit, plus 0.5 unassigned and guest parking spaces per unit. | 10% of uncovered and unassigned spaces in parking lots with more than 10 spaces. |
| 4 or More Bedroom Units: | Add 0.15 unassigned spaces per bedroom per unit to the 3 bedroom requirement. | Add 0.15 unassigned spaces per bedroom per unit to the 3 bedroom requirement. | Add 0.15 unassigned spaces per bedroom per unit to the 3 bedroom requirement. | 10% of uncovered and unassigned spaces in parking lots with more than 10 spaces. |
| Single Room Occupancy and Residential Hotels with Units: | Specific ratios based on the size of units noted below. | | | |
| Less than 200 sq. ft. | 0.25 spaces per unit. | | | 10% of uncovered and unassigned spaces in parking lots with more than 10 spaces. |
| 200 to 250 sq. ft. | 0.5 spaces per unit. | | | 10% of uncovered and unassigned spaces in parking lots with more than 10 spaces. |
| Greater than 250 sq. ft. | 1 space per unit. | | | |
| Affordable Housing Development (Lower Income Households Only) with: | | See Section 19.46.055 for additional requirements. | | 10% of unassigned spaces in parking lots with more than 10 spaces. |

| LAND USE | NUMBER OF PARKING SPACES REQUIRED | | MAXIMUM PERCENTAGE OF COMPACT SPACES ALLOWED |
|---|---|--|--|
| Studio, Efficiency or 1 bedroom units 2 or 3 bedrooms units 4 or more bedroom units Affordable Housing Development (Lower Income Households Only) for Senior Citizens or for Persons with Disabilities | 1 space per unit. 2 spaces per unit. 2.15 spaces per unit. 0.6 spaces per unit | | |
| Senior Citizen Housing or Housing for Persons with Disabilities | 1 space per unit. | See Section 19.46.055 for additional requirements. | 10% of unassigned spaces in parking lots with more than 10 spaces. |
| Mobile Home Park: | 2 spaces per unit, plus 1 space per employee living off-site, plus 1 space per special purpose vehicle. Tandem parking is permitted. | | N/A |
| Mixed Use: | Parking ratios shall be based on accepted guidelines such as ITE or ULI subject to the approval of the director of community development | | |
| [Text unchanged for remainder of table.] | | | |

Note 1 – Note 3: [Text unchanged.]

SECTION 14. SECTION 19.46.055 ADDED. Section 19.46.055 is added to Chapter 19.46 (Off-Street Parking and Loading) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby added to read as follows:

19.46.055 Parking for special housing developments.

(a) **Special Housing Developments.** For the purposes of this section, special housing developments include:

- (1) Affordable housing developments for lower income households;
- (2) Senior citizen housing, as defined in California Civil Code Sections 51.3 and 51.12, or successor sections; and
- (3) Housing for persons with disabilities, as defined in the federal Fair Housing Amendments Act of 1988 and the California Fair

Employment and Housing Act, or successor statutes.

(b) **Parking Management Plan Required.** To ensure an adequate mix of assigned and unassigned parking spaces for guests and visitors, a parking management plan is required for the special housing developments listed in subsection (a).

(c) **Request for Reductions.** A request for a reduction in parking requirements for those uses listed in subsection (a) may be filed through a miscellaneous plan permit application, in accordance with Chapter 19.82, *Miscellaneous Plan Permit*, or if the request is part of a project that requires another discretionary approval, the request shall be submitted with that application. The decision to grant the reduction in parking requirements shall be based upon a showing by the applicant that the proposed parking standard is adequate through a combination of any of the following considerations: location or proximity to transportation, variety or forms of transportation available, accessibility, services and programs offered, or population served by the housing development.

SECTION 15. CHAPTER 19.65 ADDED. Chapter 19.65 (Reasonable Accommodation Procedures) is added to Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby added to read as follows:

Chapter 19.65
Reasonable Accommodation Procedures

- 19.65.010 Purpose.**
- 19.65.020. Definitions.**
- 19.65.030 Applicability.**
- 19.65.040 Procedures.**
- 19.65.050 Decisions.**
- 19.65.060 Findings.**

19.65.010 Purpose.

The purpose of this chapter is to provide reasonable accommodations for the needs of persons with disabilities seeking equal access to housing, while at the same time ensuring necessary safeguards to protect the integrity of residential neighborhoods. This chapter establishes a procedure to request reasonable accommodation in the application of the city's land use and zoning regulations and procedures. This chapter shall be construed to assure compliance with the federal Fair Housing Amendments Act of 1988 and the California Fair Employment and Housing Act, or successor statutes.

19.65.020 Definitions.

(a) **"Acts"** means the federal Fair Housing Amendments Act of 1988 and the California Fair Employment and Housing Act, or successor statutes.

(b) **"Person with disability"** means an individual who has a medical condition, physical or mental impairment that substantially limits one or more of the individual's major life activities, as defined in the Acts.

(c) **"Reasonable accommodation"** means a modification or exception to the regulations and procedures contained in this title for the siting, development and use of housing or housing-related facilities, that would eliminate regulatory

barriers and provide a person with a disability equal opportunity for the use and enjoyment of housing of their choice, and does not impose undue financial or administrative burdens on the city or require a fundamental or substantial alteration of the city's planning and zoning policies.

19.65.030 Applicability.

The provisions of this chapter shall apply when any person requests reasonable accommodation, based on the disability of residents, in the application of land use or zoning regulations and procedures which may be acting as a barrier to fair housing opportunities. The provisions for reasonable accommodation are solely for residential uses.

19.65.040 Procedures.

(a) **Application Required.** Any person seeking reasonable accommodation for a project not requiring some other discretionary approval shall file a miscellaneous plan permit application. Unless specifically stated in this chapter, the reasonable accommodation request shall follow the same procedures for a miscellaneous plan permit application, as provided in Chapter 19.82, *Miscellaneous Plan Permit* and Chapter 19.98, *General Procedures*.

(b) **Review with other Discretionary Approvals.** If the project requires some other discretionary approval, review of a reasonable accommodation request shall be conducted as part of the review of that discretionary approval. For example, if the request is related to a single-family home addition that requires design review by the planning commission, the request for reasonable accommodation shall be included with the submittal for that design review application.

(c) **Fees.** There shall be no fee for a miscellaneous plan permit application for reasonable accommodation, including appeals. This section does not exempt applicants from paying the required fee for related applications.

19.65.050 Decisions.

The decision to grant or deny the reasonable accommodation request shall be based on the required findings in Section 19.65.060, *Findings*. In granting a request for reasonable accommodation, the reviewing authority may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation will comply with the findings required by this chapter. This may include the removal of any removable structures or physical design features once they are no longer necessary to afford a person with a disability use and enjoyment of the dwelling.

19.65.060 Findings.

The decision to grant or deny an application for reasonable accommodation shall be based on a finding of consistency with the federal Fair Housing Amendments Act of 1988 and the California Fair Employment and Housing Act, or successor statutes, and shall take into consideration all of the following factors:

(a) Whether the housing or housing-related request will be used by a person with a disability protected under the Acts;

(b) Whether the request for reasonable accommodation is necessary to make specific housing available to a person with a disability protected under the

Acts;

(c) Whether the requested reasonable accommodation would impose an undue financial or administrative burden on the city;

(d) Whether the requested reasonable accommodation would require a fundamental alteration in the nature or effect of the city's land use and zoning ordinances, programs or policies;

(e) Whether the requested reasonable accommodation adequately considers the physical attributes of the property and structures; and

(f) Whether alternative reasonable accommodations could provide an equivalent level of benefit.

SECTION 16. SECTION 19.66.110 AMENDED. Section 19.66.110 of Chapter 19.66 (Affordable Housing and Single Room Occupancies) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.66.110. An applicant's density bonus for senior citizen housing.

(a) – (b) [Text unchanged.]

(c) Parking requirements for senior citizen housing is provided in Chapter 19.46, *Off-Street Parking and Loading*. A reduction in parking standards may be granted by the director of community development in accordance with Section 19.46.055, *Parking for special housing developments*.

(d) For purposes of this section, a senior citizen is a person sixty-two years old or older. If two persons occupy a single unit, at least one person must be a senior citizen.

SECTION 17. SECTION 19.80.020 AMENDED. Section 19.80.020 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. 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 18. SECTION 19.80.030 AMENDED. Section 19.80.030 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. Applicability.

(a) **Discretionary Approvals.** Any proposed use requiring a discretionary land use permit that includes new construction, changes to the exterior of a building or other site modification is subject to design review. Design review shall be conducted as part of the review of that discretionary permit.

(b) **Permitted Uses.** Any permitted use that includes new construction, changes to the exterior of a building or other site modification is subject to design review. If the project is not subject to the required procedures in Section 19.80.040, *Procedures and decisions*, or subject to a miscellaneous plan permit, as provided in Chapter 19.82, *Miscellaneous Plan Permit*, design review shall be conducted through a building plan check process.

(1) **Single-Family Homes and Duplexes.** Single-story additions or any single-story modifications to single-family detached dwellings or duplex residential dwellings which add or modify less than 20 percent of the floor area of the existing structure are generally exempt from the required procedures in Section 19.80.040, *Procedures and decisions*, 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.

SECTION 19. SECTION 19.80.040 AMENDED. Section 19.80.040 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 Procedures and decisions.

(a) **Residences Not Exceeding FAR Threshold.** Applications for design review for single-family and duplex residences in the R-0, R-1 and R-2 zoning districts which do not exceed either the FAR or gross floor area threshold established in Section 19.32.020 shall be considered by the director of community development without a public hearing. The director, in accordance with the noticing requirements in Section 19.98.040, *Notice requirements*, may:

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

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

~~(b) **Multiple-family Projects of 3 to 50 Units.** Applications for design review for multiple family residential projects between 3 to 50 units in the R-2, R-3, R-4, R-5 and R-MH zoning districts shall be considered by the director of community development at a public hearing. Notice of such hearing shall be given in accordance with Section 19.98.040, *Notice requirements*. The director may:~~

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

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

~~(e)(b) **Appeal of Decision by Director.** After receiving an appeal from the decision of the director of community development on a requested design review, and following a public hearing, the planning commission by the affirmative vote of a majority of its voting members 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.

(c) **Multiple-family Projects of 3 to 50 Units.** Applications for design review for multiple-family residential projects between 3 to 50 units in the R-2, R-3, R-4, R-5 and R-MH zoning districts 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, *Notice requirements*. 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) **Residences Exceeding FAR Threshold.** Applications for design review for single-family and duplex 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(b). 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.

(e) **Appeal of Decision by Planning Commission.** After receiving an appeal from the decision of the planning commission on a requested design review, and following a public hearing, the city council by the affirmative vote of a majority of its voting members may:

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

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

SECTION 20. SECTION 19.82.020 AMENDED. Section 19.82.020 of Chapter 19.82 (Miscellaneous Plan Permit) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.82.020. When required.

(a) General Reviews.

(1) – (18) [Text unchanged.]

(19) Reasonable accommodation requests not made concurrently with an application for some other discretionary approval.

(19) – (25) [Renumber (20) – (26), consecutively. Text unchanged.]

(b) – (d) [Text unchanged.]

(e) Emergency containers in accordance with Section 19.22.050.

(f) – (k) [Text unchanged.]

SECTION 21. SECTION 19.98.040 AMENDED. Section 19.98.040 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 Not Requiring a Public Hearing.** The director of community development may take an action without public notice or hearing except as provided herein:

(1) **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 14 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.

(2) **Nonresidential Design Review Adjacent to Residential.** Prior to any action being taken on a design review application for any nonresidential 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 14 days following the date on the notice.

(b) **Design Review Requiring a Public Hearing.** For design reviews requiring a public hearing, the following notification is required:

(1) **Residences Exceeding FAR Threshold.** For design reviews requiring action by the planning commission in accordance with Section 19.80.040(d), notice of the time and place of the public hearing shall be given at least 10 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. 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 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.

(2) **Multiple-family Projects of 3 to 50 Units.** For any multiple-family project between 3 to 50 units, notice of the time and place of the public hearing shall be given at least 10 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. ~~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 properties within 300 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

(c) Miscellaneous Plan Permits and Tree Removal Permits.

The director of community development may take an action without public notice or hearing except as provided herein.

(1) **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) **Accessory Structures.** Miscellaneous plan permits for accessory structures require that prior to any action being taken, notice of the pending application shall be given by mail to adjacent property owners, stating that the application is available for review and comment for 14 calendar days following the date on the notice.

(d) **Minor Permits.** 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 10 calendar days prior to the day of the hearing in the following manner:

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

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

(B) On the public notice bulletin board at the Sunnyvale City Hall;

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

(A) The owner and applicant, and

(B) The owners of all adjacent properties;

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

(e) **Mobile Vendor Permits.** For a mobile vendor permit, notice of an approval of a permit shall:

(1) Be posted at the permit location within 5 days of approving a permit;

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

(f) **Major Permits.** For use permits, special development permits, and variances determined not to be exempt from the California Environmental Quality Act (major 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 as prescribed by the California Environmental Quality Act prior to the day of the hearing in the following manner:

- (1) By posting a copy of the notice of hearing:
 - (A) At a conspicuous location on each frontage of the property which is the subject of the application;
 - (B) On the public notice bulletin board at the Sunnyvale City Hall.
- (2) By mailing a copy of the notice to:
 - (A) The owner and applicant; and
 - (B) The owners of all property located within 300 feet of the property under consideration.
- (3) By publishing at least once in a newspaper of general circulation in the city, a copy of the notice.

(g) **Education, Recreation and Places of Assembly.** With regard to any application for an educational or recreational use or place of assembly in a POA combining district, notice of the time and place of any public hearing shall be sent to all property owners and tenants within 1,000 feet of the subject site, in addition to any other notices that are otherwise required.

(h) **Medical Clinics.** With regard to any application for a medical clinic, notice of the pending application for a miscellaneous plan permit or notice of the time and place of any public hearing for a use permit or special development permit, shall be sent to all property owners and tenants within 300 feet of the subject site.

(i) **General Plan and Zoning Amendments.** For amendments to the general plan and precise zoning plan, notice of the time and place of each public hearing by the planning commission and city council required as a condition precedent to the consideration of the approval or revocation shall be given at least 10 calendar days prior to the day of the hearing in the following manner:

- (1) By publishing at least once in a newspaper of general circulation in the city a copy of the notice;
- (2) Published notice of an amendment to the precise zoning plan shall include a map showing the subject property, surrounding properties and the nearest street intersection.

(j) **Heritage Resources.** For heritage resource and heritage resource district designation, notice of the time and place of each public hearing by the heritage commission required as a condition precedent to the consideration of any action shall be given in the following manner:

- (1) By publishing at least once in a newspaper of general circulation, at least 30 calendar days prior to the hearing, a copy of the notice;
- (2) By certified mail to the owners of the property at least 10 calendar days prior to the hearing.

(k) **Landmark Alterations.** For a landmark alteration permit, notice of the time and place of each public hearing by the heritage commission as a condition precedent to the consideration of the approval or revocation of a permit shall be given at least 10 days prior to the day of the hearing by publication at least once in a newspaper of general circulation.

(l) **Appeals.** Notice of an appeal of an action to the heritage commission, planning commission or city council shall be made 10 calendar days prior to the appeal hearing as follows:

(1) Minor permits;
(A) By mailing a copy of the notice to the owner of the subject property;
(B) By mailing a copy of the notice to the appellant;
(C) By mailing a copy of the notice to the owner of adjacent properties;
(D) Notice for an appeal of a waiver of proximity to a similar use for a large family day care home shall also include mailing a copy of the notice to all property owners within 100 feet of the property under consideration.

(2) Major permits;
(A) By mailing a copy of the notice to the owner of the subject property.
(B) By mailing a copy of the notice to the appellant.
(C) By mailing a copy of the notice to all property owners within 300 feet of the property under consideration.

(m) **Demolition Permits.** For all demolition permits authorizing the complete demolition of a residential structure in the R-0, R-1 and R-2 zoning districts, which are issued separately and unconnected to any other type of discretionary permit, notice of such demolition shall be given at the time the permit is issued by mailing a copy of the notice to all occupants and owners of immediately adjacent properties.

(n) **General.** All mailed notice shall be with postage prepaid. Failure to give or receive notice by mailing or by posting shall not affect the appropriateness of the person or body holding the public hearing to proceed with the hearing.

SECTION 22. SECTION 19.98.070 AMENDED. Section 19.98.070 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) – (b) [Text unchanged.]

(c) Appeal of All Other Permits and Actions. Any person aggrieved, including a member of the planning commission or city council, by the decision of the director of community development, heritage preservation commission or planning commission may file an appeal after the date of such decision. The appeal shall be in writing stating the grounds therefor. All proceedings initiated by the decision of the director of community development, heritage preservation commission or planning commission shall be suspended pending a determination on the merit of the appeal.

(1) Any decision by the director of community development may be appealed to the planning commission and city council, except:

(A) Miscellaneous plan permits, where the decision of the planning commission is final; except that decisions by the director on findings of convenience or necessity may be appealed directly to the city council.

(B) A decision by the director on a tree removal permit, where the decision by the planning commission is final.

(C) A decision by the director on an application for reasonable accommodation, where the decision by the planning commission is

final.

(D) A decision by the director on a variance request on the maximum height of a ground sign, where the decision by the planning commission is final.

(E) A decision by the director on a use permit for a large family day care where a waiver of proximity to a similar use is not requested.

(F) A decision by the director on a mobile vendor permit where the appeal is directed to the city council.

(G) A decision by the director regarding a heritage landmark, heritage resource or property located within a heritage landmark district or heritage resource district, where the appeal is directed to the heritage preservation commission, whose decision may be appealed to the City Council.

(2) – (5) [Text unchanged.]

(d) [Text unchanged.]

SECTION 23. SECTION 19.98.090 AMENDED. Section 19.98.090 of Chapter 19.98 (General Procedures) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.98.090 Conditions of approval.

(a) [Text unchanged.]

(b) For appurtenant, temporary, hazardous materials storage or emergency container uses conditions may include those determined to be reasonably necessary in connection with the hours of operation, visual screening, cleanup of the location or premises, use of lights or lighting or other means of illumination, or operation of any loudspeaker or sound amplification or any other aspect of the project, in order to prevent the creation of any nuisance or annoyance to the occupants of or commercial visitors to adjacent buildings or premises or any public nuisances.

(c) [Text unchanged].

SECTION 24. EXEMPTION FROM CEQA. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Sections 15061(b)(3) and 15307, 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 25. 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 shall not affect the validity of the remaining portions of this ordinance. The City Council 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 26. EFFECTIVE DATE. This ordinance shall be in full force and effect 30 days from and after the date of its adoption.

SECTION 27. 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 once in *The Sun*, the official newspaper for publication of legal notices of

the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within 15 days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on _____, 2011, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, 2011, 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