

ORDINANCE NO. 3209-23

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE REPEALING AND READOPTING CHAPTER 19.79 (ACCESSORY DWELLING UNITS) OF TITLE 19 (ZONING) AND ADOPTING CHAPTER 16.72 (PERMIT PROCESS FOR ACCESSORY DWELLING UNITS) OF TITLE 16 (BUILDINGS) OF THE SUNNYVALE MUNICIPAL CODE.

WHEREAS, on September 28, 2022, the State of California enacted legislation known as Senate Bill 897 ("SB 897") which amended Section 65852.2 of the Government Code pertaining to accessory dwelling units; and

WHEREAS, the City Council desires to amend relevant zoning regulations to ensure consistency SB 897;

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

SECTION 1. CHAPTER 19.79 REPEALED AND RE-ADOPTED. Chapter 19.79 (Accessory Dwelling Units) of Title 19 (Zoning) is hereby repealed and re-adopted to read as stated in Exhibit A1 attached to this Ordinance and incorporated herein by reference.

SECTION 2. CHAPTER 16.72 ADOPTED Chapter 16.72 (Permit Process for Accessory Dwelling Units) of Title 16 (Buildings) is hereby adopted to read as stated in Exhibit B attached to this Ordinance and incorporated herein by reference.

SECTION 3. 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 4. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 5. 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 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 fifteen (15) days after adoption of this ordinance..

Introduced at a regular meeting of the City Council held on December 13, 2022, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on January 10, 2023, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:
RECUSAL:

ATTEST:

APPROVED:

DAVID CARNAHAN
City Clerk
Date of Attestation: _____

LARRY KLEIN
Mayor

(SEAL)

APPROVED AS TO FORM:

JOHN A. NAGEL
City Attorney

EXHIBIT A-1

SUNNYVALE MUNICIPAL CODE CHAPTER 19.79 ACCESSORY DWELLING UNITS

- 19.79.010. Purpose.
- 19.79.020. Requirements applicable to all accessory dwelling units.
- 19.79.030. Streamlined approval of certain accessory dwelling units.
- 19.79.040. Accessory dwelling units that do not qualify for streamlined approval.
- 19.79.050. Owner-occupancy restrictions.
- 19.79.060. Utility connections.
- 19.79.070. Impact fees.
- 19.79.080. Permit review.

19.79.010. Purpose.

The city council finds that the city is experiencing a severe shortage of housing, especially affordable housing, and that facilitating the development of accessory dwelling units will increase the housing options for family members, seniors, low-wage workers, persons with disabilities, students and others in the community. Because accessory dwelling units are an essential component of the city's housing supply, an accessory dwelling unit that conforms to all applicable requirements shall not be considered to exceed the allowable density for the lot upon which it is located, and is deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot.

19.79.020. Requirements applicable to all accessory dwelling units.

The following requirements apply to all accessory dwelling units.

- (a) Building Requirements. All otherwise applicable requirements of Title 16 (Buildings and Construction) shall be satisfied subject to the exemptions contained in Chapter 16.72 of this code.
- (b) Design. Exterior materials, colors and appearance of accessory dwelling units shall match the primary structures on the same lot.
- (c) Entrances. The accessory dwelling unit shall have independent exterior access from the single-family dwelling. The entrance to the unit and the entrance to the single-family dwelling shall not be on the same wall plane facing the public street.
- (d) Parking. No off-street parking spaces are required for an accessory dwelling unit, and the applicant shall not be required to replace any covered parking spaces that are removed or demolished as a result of the construction of the accessory dwelling unit.

(e) Subdivisions. Nothing contained herein shall be construed to permit subdivisions of real property otherwise prohibited by this code or state law.

(f) Sale and Rental. An accessory dwelling unit may be rented separately from the single-family dwelling or multi-family dwelling structure, but may not be sold or otherwise conveyed separately from the other dwellings on the lot, except as permitted by Government Code Section 65852.26. An accessory dwelling unit approved on or after January 1, 2020, shall not be used as a short-term rental.

(g) Correction of Nonconforming Conditions. Approval of the accessory dwelling unit shall not be conditioned on the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction of the accessory dwelling unit.

(h) Other Legal Requirements. Accessory dwelling units shall comply with all other applicable legal requirements that are not inconsistent with this chapter.

(i) Urban Lot Splits. A lot created through an urban lot split pursuant to chapter 18.26 of this code may have a maximum of one accessory dwelling unit in conjunction with one single family home on the lot. If the lot contains two dual urban opportunity units, no accessory dwelling units are permitted on the lot.

19.79.030. Streamlined approval of certain accessory dwelling units.

No discretionary permit is required for an accessory dwelling unit that meets the requirements listed below. Accessory dwelling units are subject to a ministerial building permit application.

(a) The lot contains an existing or proposed single-family dwelling or an existing multi-family dwelling structure. For purposes of this chapter, a duplex shall be treated as a multi-family dwelling structure.

(b) Number of Units Allowed.

(1) Single-Family. On lots that contain an existing or proposed single-family dwelling,

(A) No more than one accessory dwelling unit is allowed per lot, except as provided in subsection (b)(1)(B) of this section.

(B) One junior accessory dwelling unit that is within the walls of the single-family dwelling and meets the requirements of subsection (c) of this section may be combined with one detached, standard accessory dwelling unit that is either:

(i) Created pursuant to subsection (d) of this section; or

(ii) Created pursuant to Section 19.79.040, as long as the accessory dwelling unit is not more than eight hundred square feet.

(2) Multi-Family.

(A) On lots that contain an existing or proposed multi-family dwelling structure, two detached accessory dwelling units that meet the requirements in subsection (d) of this section are allowed per lot.

(B) On lots that contain an existing multi-family dwelling structure, at least one standard accessory dwelling unit may be created within a multi-family dwelling structure by converting interior non-livable space under subsection (e) of this section. The maximum number of accessory dwelling units so created shall not exceed twenty-five percent of the total number of dwelling units in the existing multi-family structure prior to the addition of any accessory dwelling units.

(c) Interior space within single-family dwellings.

(1) The lot contains an existing or proposed single-family dwelling.

(2) The accessory dwelling unit is located:

(A) Entirely within the interior space of the existing or proposed single-family dwelling; or

(B) Within the interior space of an existing accessory structure and may include an expansion of not more than one hundred fifty square feet beyond the physical dimensions of the existing structure for the sole purpose of accommodating ingress and egress.

(3) The total floor space of the unit is at least one hundred fifty square feet.

(4) The unit has exterior access independent from the existing residence.

(5) The side and rear setbacks are sufficient for fire safety and life safety.

(6) Junior Accessory Dwelling Units. The following additional requirements apply to junior accessory dwelling units.

(A) A junior accessory dwelling unit shall be no more than five hundred square feet gross floor area in size and must be contained entirely within the walls of an existing or proposed single-family dwelling.

(B) The unit may have separate sanitation facilities, or may share sanitation facilities with the single-family dwelling. If sanitation facilities are shared, there must be a connecting interior door between the junior accessory dwelling unit and the single-family dwelling.

(C) The unit shall include cooking appliances, food preparation counter, sink, and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

(D) An accessory dwelling unit that was constructed as a standard accessory dwelling unit shall not be treated as a junior accessory dwelling unit for purposes of this chapter unless the owner complies with the owner-occupancy restrictions in Section 19.79.050.

(d) Newly Constructed, Detached Accessory Dwelling Units.

(1) The lot contains either:

(A) An existing or proposed single-family dwelling; or

(B) An existing or proposed multi-family dwelling structure.

(2) The accessory dwelling unit consists of entirely new construction.

(3) Setbacks. Minimum four-foot side and rear-yard setbacks are required; however, setbacks of less than four feet are allowed if the accessory dwelling unit is constructed in the same location and to the same dimensions as an existing structure that is demolished for the purpose of constructing the accessory dwelling unit.

(4) Size. The total floor area of the unit is at least one hundred fifty square feet gross floor area and not more than eight hundred square feet gross floor area.

(5) Height. The height of the unit as measured from within five feet of the structure is not more than the following:

(A) Sixteen feet on a lot with an existing or proposed single family dwelling or single-story multifamily dwelling unit that does not meet the requirements of subsection (B), below.

(B) Eighteen feet on a lot that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code. An additional two feet in height is allowed to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary dwelling unit.

(C) Eighteen feet lot with an existing or proposed multi-story, multi-family dwelling structure.

(6) Location. A detached unit shall not be located in front of a single-family dwelling, or in the required front setback of a multi-family dwelling, unless the enforcement of this requirement would preclude construction of an accessory dwelling unit that is at

least eight hundred square feet gross floor area in size, with at least four-foot side and rear setbacks, and which complies with all other applicable development standards.

(e) Conversions of Interior Space Within a Multi-Family Dwelling Structure.

(1) The lot contains an existing multi-family dwelling structure.

(2) The accessory dwelling unit is created within portions of the structure not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, as long as the unit meets building standards for dwellings.

(3) An accessory dwelling unit shall not be created within any portion of the habitable area of an existing dwelling unit in a multi-family dwelling structure.

(f) The applicant shall comply with applicable provisions of this chapter regarding owner-occupancy, impact fees, and utility connections.

19.79.040. Accessory dwelling units that do not qualify for streamlined approval.

A miscellaneous plan permit is required for any accessory dwelling unit that does not meet the criteria for streamlined approval in Section 19.79.030. The director shall ministerially approve a miscellaneous plan permit for an accessory dwelling unit that meets the following requirements:

(a) The lot contains an existing or proposed single-family dwelling located in a residential or mixed-use zoning district.

(b) Only one accessory dwelling unit is allowed per lot, except as allowed by section 19.79.030(b)(1)(B).

(c) The total size of the accessory dwelling unit is:

(1) Minimum Size. No less than one hundred fifty square feet gross floor area.

(2) Maximum Size. No more than eight hundred fifty square feet gross floor area, or one thousand square feet gross floor area if the unit has two bedrooms. However, if the accessory dwelling unit is attached to an existing single-family dwelling, the floor area of the accessory dwelling unit shall not exceed fifty percent of the existing single-family dwelling.

(3) Height. The height of the unit as measured from within five feet of the structure is not more than the following:

(A) Detached accessory dwelling unit:

(i) Sixteen feet on a lot that does not meet the requirements of subsection (ii), below.

(ii) Eighteen feet on a lot that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code. An additional two feet in height is allowed to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary dwelling unit.

(B) Attached accessory dwelling unit: twenty-five feet or the height limitation that applies to the primary dwelling, whichever is lower. An accessory dwelling unit may be located on the second floor of a newly constructed or expanded single family dwelling only if it meets the following requirements:

(i) The lot is not located in a single-story overlay zone.

(ii) The proposed project meets all requirements of this code applicable to second-story construction or additions including, but not limited to, second-floor setbacks and solar shading.

(iii) If the entrance to the accessory dwelling unit is above the first floor, it is not on the same building elevation as the entrance to the single-family dwelling.

(d) Setbacks.

(1) Minimum four-foot side and rear-yard setbacks are required; however, setbacks of less than four feet are allowed under the following circumstances:

(A) Existing livable space or an existing accessory structure is converted to an accessory dwelling unit or portion of an accessory dwelling unit; or

(B) The accessory dwelling unit is constructed in the same location and to the same dimensions as an existing structure that is demolished for the purpose of constructing the accessory dwelling unit.

(e) All other applicable objective zoning requirements in Title 19 shall be satisfied, including, but not limited to, lot coverage, required rear yard maximum lot coverage, front setbacks, floor area ratio, open space, and design review, as long as those requirements permit construction of an accessory dwelling unit that is at least eight hundred square feet gross floor area in size, with at least four-foot side and rear setbacks, and which complies with all other applicable development standards.

(f) The applicant shall comply with applicable provisions of this chapter regarding owner-occupancy, impact fees, and utility connections.

19.79.050. Owner-occupancy restrictions.

(a) With respect to a lot containing a junior accessory dwelling unit, one of the dwellings on the lot must be the bona fide principal residence of at least one legal owner of the lot, as evidenced at the time of building permit approval by appropriate documents of title and residency. Prior to the issuance of a building permit, the applicant shall provide evidence that a covenant has been recorded on the title of the affected property stating that one of the dwelling units on the lot shall remain owner occupied. Owner-occupancy is not required if the owner is a governmental agency, land trust, or housing organization.

(b) With respect to a lot containing a standard accessory dwelling unit, for applications received after January 1, 2025, one of the dwellings on the lot must be the bona fide principal residence of at least one legal owner of the lot containing the dwelling, as evidenced at the time of building permit approval by appropriate documents of title and residency. Prior to the issuance of a building permit, the applicant shall provide evidence that a covenant has been recorded on the title of the affected property stating that one of the dwelling units on the lot shall remain owner occupied.

19.79.060. Utility connections.

(a) Except as provided in subsection (b), an accessory dwelling unit may be required to have a new or separate utility connection directly between the accessory dwelling unit and the utility. The city council may adopt by resolution a connection fee or capacity charge that is proportionate to the burden of the proposed accessory dwelling unit upon the water and sewer system. The fee may be based upon either the square feet of the accessory dwelling unit or its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials. Such fees and charges shall not exceed the reasonable cost of providing the utility service.

(b) The following accessory dwelling units shall be exempt from any requirement to install a new or separate utility connection and to pay any associated connection or capacity fees or charges:

(1) Junior accessory dwelling units.

(2) Standard accessory dwelling units converted from interior space under Section 19.79.030(c), unless the unit is constructed with a new single-family home.

19.79.070. Impact fees.

(a) Except as provided in subsection (b), below, the city council may, by resolution, establish fees for accessory dwelling units that mitigate the impact of the accessory dwelling unit on public infrastructure and services. Such fees shall be imposed proportionally based on the square footage of the accessory dwelling unit in relation to the square footage of the primary dwelling unit.

(b) No impact fees shall be imposed on an accessory dwelling unit that is less than seven hundred fifty square feet in size. For purposes of this section, “impact fees” include the fees specified in Sections 66000 and 66477 of the Government Code, but do not include utility connection fees or capacity charges.

19.79.080. Permit review.

(a) The city shall approve or deny the application to create an accessory dwelling unit within sixty days from the date the city receives a completed application if there is an existing single-family or multi-family dwelling on the lot. Incomplete applications will be returned with an explanation of what additional information is required, and the sixty-day period shall be tolled until a complete application is submitted.

(b) If the permit application to create an accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the city may delay approving or denying the permit application for the accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing.

(c) If the applicant requests a delay, the sixty-day time period shall be tolled for the period of the delay.