

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE TO AMEND CHAPTER 19.18 (RESIDENTIAL ZONING DISTRICTS), CHAPTER 19.20 (COMMERCIAL ZONING DISTRICTS), CHAPTER 19.24 (OFFICE AND PUBLIC FACILITIES ZONING DISTRICTS), CHAPTER 19.79 (ACCESSORY DWELLING UNITS), AND CHAPTER 19.98 (GENERAL PROCEDURES) OF TITLE 19 (ZONING) OF THE SUNNYVALE MUNICIPAL CODE.

WHEREAS, the City of Sunnyvale desires to amend certain sections of Title 19 (Zoning) of the Sunnyvale Municipal Code.

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

SECTION 1. Section 19.18.025 AMENDED. Section 19.18.025 of Chapter 19.18 (Residential Zoning Districts) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.18.025. Density bonus.

A density bonus ~~of up to thirty-five percent~~ above the maximum allowable density of a residential zoning district may be granted under California Government Code Sections 65915 through 65918 and through other development incentives adopted by the city council. An application for a density bonus and any associated incentives, concessions, waivers of development standards, or modified parking ratios shall be submitted with the application for a discretionary permit for the development. The director of community development may establish guidelines, forms, and submittal requirements for the filing, processing, and consideration of density bonus applications.

SECTION 2. Section 19.20.040 AMENDED. Section 19.20.020 of Chapter 19.20 (Commercial Zoning Districts) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

Section 19.20.040. Uses requiring use permit; all commercial zoning districts.

(a) [Text unchanged]

(b) If state law requires the city to allow a residential use on a commercially zoned site, such use shall require a use permit, or, if required by Chapter 19.90 of this code, a special development permit. The project shall comply with the residential density and other residential standards applicable to the site in the General Plan. The project shall also comply with all zoning standards that apply to residential uses in the

lowest residential zoning district that would allow the density established by the General Plan for the site.

SECTION 3. Section 19.24.040 AMENDED. Section 19.24.020 of Chapter 19.24 (Office and Public Facilities Zoning Districts) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

Section 19.24.040. Uses requiring use permit; office zoning district.

(a) – (b) [Text unchanged]

(c) Any residential project that is allowed with a use permit in an office zoning district that has a General Plan Land Use Designation of Village Mixed Use shall comply with the residential density and other residential standards applicable to the site in the General Plan. The project shall also comply with all zoning standards that apply to residential uses in the lowest residential zoning district that would allow the density established by the General Plan for the site.

SECTION 4. Section 19.79.020 AMENDED. Section 19.79.020 of Chapter 19.79 (Accessory Dwelling Units) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.79.020. Requirements applicable to all accessory dwelling units.

(a) – (c) [Text unchanged]

(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) – (g) [Text unchanged]

SECTION 5. Section 19.79.030 AMENDED. Section 19.79.020 of Chapter 19.79 (Accessory Dwelling Units) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.79.030. Streamlined approval of certain accessory dwelling units.

(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) [Text unchanged]

(2) Multi-Family. On lots that contain an existing multi-family dwelling structure,

(A) [Text unchanged]

(B) At least one standard ~~One or more~~ accessory dwelling units 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 a single-family dwellings or accessory structure.

(1) – (5) [Text unchanged]

(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) – (E) [Text unchanged]

(d) – (g) [Text unchanged]

SECTION 6. Section 19.79.040 AMENDED. Section 19.79.040 of Chapter 19.79 (Accessory Dwelling Units) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

(a) – (e) [Text unchanged]

(f) All other applicable zoning requirements in Title 19 shall be satisfied, including, but not limited to, lot coverage, required rear yard maximum lot coverage, 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, at least sixteen feet in height measured from within five feet of the structure from the ground to the highest point on the roof, with at least four-foot side and rear setbacks, and which complies with all other applicable development standards.

(g) [Text unchanged]

SECTION 7. Section 19.79.060 AMENDED. Section 19.79.060 of Chapter 19.79 (Accessory Dwelling Units) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

(a) [Text unchanged]

(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 ~~19.79.020(e)~~19.79.030(c), unless the unit is constructed with a new single-family home

SECTION 8. 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:

**Table 19.98.040
Public Notice**

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

“Yes” = Required

“-” = Not required

Decision Procedure	Mailing	On-Site Posting	Bulletin	Newspaper	Minimum Days before Decision
Director Decision with Public Notice and No Hearing	Yes	Yes	-	-	14 days or per CEQA
Public Hearing for Site-Specific Application	Yes	Yes	Yes	Yes	10 days or per CEQA
Public Hearing on Legislative Action (such as a zoning text amendment)	-	-	Yes	Yes	10 days or per CEQA
Public Hearing for Appealed Decision	Yes	-	Yes	-	10 days
<u>Public Hearing for Appeal of Incompleteness Determination</u>	=	=	<u>Yes</u>	=	<u>3 days</u>

SECTION 9. Section 19.98.075 ADDED. Section 19.98.075 of Chapter 19.98 (General Procedures) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby added to read as follows:

19.98.075. Appeals of incompleteness determinations.

(a) An applicant for a development project that is subject to Section 65920 et seq. of the California Government Code (known as the Permit Streamlining Act) may appeal a determination that the zoning application is incomplete.

(b) The appeal shall be in writing and shall state the facts and basis for the appeal, and the relief or action sought, and shall be accompanied by the required fee.

(c) The appeal shall be filed with the community development department by 5:00 p.m. of the fifteenth day after the applicant is notified of the determination that the application is incomplete.

(d) The appeal shall be heard by the Planning Commission no later than sixty days after the filing of the appeal.

(e) After receiving an appeal from the determination that the application is incomplete, and following a public hearing, the planning commission, whose decision is final, by the affirmative vote of a majority of its voting members, shall determine whether the application is complete or incomplete. In order to determine that an application is incomplete, the planning commission must make all of the following findings:

(1) The item or items identified as incomplete by the city were included in the city's submittal requirement checklist.

(2) The city provided the applicant with a notice of the incomplete item or items within thirty calendar days after the city received the applicant's application.

(3) The notice specified those parts of the application that were incomplete and indicated the manner in which they could be made complete, including a list and thorough description of the specific information needed to complete the application.

(4) The applicant resubmitted the application.

(5) The materials provided by the applicant with the resubmitted application did not include information identified and described in the notice of incompleteness.

(f) The city shall provide the applicant a written notice of the planning commission's decision following the hearing and before the expiration of the sixty day period for hearing the appeal.

SECTION 10. 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 11. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, 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 passed this ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 12. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 13. 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 _____, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:
RECUSAL:

ATTEST:

APPROVED:

City Clerk
Date of Attestation: _____

Mayor

(SEAL)

APPROVED AS TO FORM:

City Attorney

AMENDED IN ASSEMBLY APRIL 29, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 703

Introduced by Assembly Member Blanca Rubio

February 16, 2021

An act to amend Section 54953 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 703, as amended, Blanca Rubio. Open meetings: local agencies: teleconferences.

Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to observe and provide comment. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined.

Existing law, Executive Order *No.* N-29-20, suspends the Ralph M. Brown Act's requirements for teleconferencing during the COVID-19

pandemic, provided that notice requirements are met, the ability of the public to observe and comment is preserved, as specified, and that a local agency permitting teleconferencing have a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill would remove *the notice requirements particular to teleconferencing and would revise the requirements of the act particular to teleconferencing and to allow for teleconferencing subject to existing provisions regarding the posting of notice of an agenda and the ability of the public to observe the meeting and provide public comment. agenda, provided that the public is allowed to observe the meeting and address the legislative body directly both in person and remotely via a call-in option or internet-based service option, and that a quorum of members participate in person from a singular physical location clearly identified on the agenda that is open to the public and situated within the jurisdiction.* The bill would require that, in each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the local agency also give notice of the means by which members of the public may observe the meeting and offer public comment and that the legislative body have and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act, as provided.

This bill would declare the Legislature's intent, consistent with the Governor's Executive Order *No. N-29-20*, to improve and enhance public access to local agency meetings into the future, and considering the digital age, by allowing broader access through teleconferencing options.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 54953 of the Government Code is
2 amended to read:

3 54953. (a) All meetings of the legislative body of a local
4 agency shall be open and public, and all persons shall be permitted
5 to attend any meeting of the legislative body of a local agency,
6 except as otherwise provided in this chapter.

7 (b) (1) Notwithstanding any other provision of law, the
8 legislative body of a local agency may use teleconferencing for
9 the benefit of the public and the legislative body of a local agency
10 in connection with any meeting or proceeding authorized by law.
11 The teleconferenced meeting or proceeding shall comply with all
12 otherwise applicable requirements of this chapter and all otherwise
13 applicable provisions of law relating to a specific type of meeting
14 or proceeding.

15 (2) Teleconferencing, as authorized by this section, may be used
16 for all purposes in connection with any meeting within the subject
17 matter jurisdiction of the legislative body. All votes taken during
18 a teleconferenced meeting shall be by rollcall.

19 (3) If the legislative body of a local agency elects to use
20 teleconferencing, it shall allow members of the public to observe
21 the meeting and address the legislative body, ~~and it~~ *body directly*
22 *pursuant to Section 54954.3 both at an in-person location and*
23 *remotely via a call-in option or internet-based service option. The*
24 *local agency shall give notice of the meeting and post agendas as*
25 *otherwise required by this chapter. ~~The agenda shall provide an~~*
26 *opportunity for members of the public to address the legislative*
27 *body directly pursuant to Section 54954.3. In each instance in*
28 *which notice of the time of the teleconferenced meeting is*
29 *otherwise given or the agenda for the meeting is otherwise posted,*
30 *the local agency must also give notice of the means by which*
31 *members of the public may observe the meeting and offer public*
32 *comment. The legislative body shall conduct teleconference*
33 *meetings in a manner that protects the statutory and constitutional*
34 *rights of the parties or the public appearing before the legislative*
35 *body of a local agency. During the teleconference meeting, at least*
36 *a quorum of the members of the legislative body shall participate*
37 *in person from a singular location clearly identified on the agenda,*
38 *which location shall be open to the public and situated within the*

1 *boundaries of the territory over which the local agency exercises*
2 *jurisdiction.* If the legislative body uses teleconferencing to hold
3 a meeting, the legislative body must have and implement a
4 procedure for receiving and swiftly resolving requests for
5 reasonable accommodation for individuals with disabilities,
6 consistent with the federal Americans with Disabilities Act of 1990
7 (42 U.S.C. Sec. 12132), and resolving any doubt in favor of
8 accessibility. The procedure for receiving and resolving requests
9 for accommodation must be noticed each time notice of the means
10 by which members of the public may observe the teleconference
11 meeting and offer public comment is made.

12 (4) For the purposes of this section, “teleconference” means a
13 meeting of a legislative body, the members of which are in different
14 locations, connected by electronic means, through either audio or
15 video, or both. Nothing in this section shall prohibit a local agency
16 from providing the public with additional teleconference locations.

17 (c) (1) No legislative body shall take action by secret ballot,
18 whether preliminary or final.

19 (2) The legislative body of a local agency shall publicly report
20 any action taken and the vote or abstention on that action of each
21 member present for the action.

22 (3) Prior to taking final action, the legislative body shall orally
23 report a summary of a recommendation for a final action on the
24 salaries, salary schedules, or compensation paid in the form of
25 fringe benefits of a local agency executive, as defined in
26 subdivision (d) of Section 3511.1, during the open meeting in
27 which the final action is to be taken. This paragraph shall not affect
28 the public’s right under the California Public Records Act (Chapter
29 3.5 (commencing with Section 6250) of Division 7 of Title 1) to
30 inspect or copy records created or received in the process of
31 developing the recommendation.

32 (d) Nothing in this subdivision shall be construed as
33 discouraging members of a legislative body from regularly meeting
34 at a common physical site within the jurisdiction of the local
35 agency or from using teleconference locations within or near the
36 jurisdiction of the local agency.

37 SEC. 2. It is the intent of the Legislature in enacting this
38 measure to improve and enhance public access to local agency
39 meetings into the future, and considering the digital age, by
40 allowing broader access through teleconferencing options

1 consistent with the Governor's Executive Order ~~29-20~~ *No. N-29-20*
2 dated March 17, 2020, permitting expanded use of teleconferencing
3 during the COVID-19 pandemic.

4 SEC. 3. The Legislature finds and declares that Section 1 of
5 this act, which amends Section 54953 of the Government Code,
6 furthers, within the meaning of paragraph (7) of subdivision (b)
7 of Section 3 of Article I of the California Constitution, the purposes
8 of that constitutional section as it relates to the right of public
9 access to the meetings of local public bodies or the writings of
10 local public officials and local agencies. Pursuant to paragraph (7)
11 of subdivision (b) of Section 3 of Article I of the California
12 Constitution, the Legislature makes the following findings:

13 This act is necessary to ensure minimum standards for public
14 participation and notice requirements allowing for greater public
15 participation in teleconference meetings.