

DRAFT 11/11/16 *um*

ORDINANCE NO. _____

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF SUNNYVALE TO AMEND SECTION 10.26.050
OF CHAPTER 10.26 (PREFERENTIAL PARKING ON
RESIDENTIAL STREETS) OF TITLE 10 (VEHICLES AND
TRAFFIC), REPEAL SECTION 19.68.040 (ACCESSORY
LIVING UNITS) AND RE-ENACT SECTION 19.68.040
(ACCESSORY DWELLING UNITS) OF CHAPTER 19.68
(MOBILE, ACCESSORY, AND SINGLE ROOM OCCUPANCY
LIVING UNITS) OF TITLE 19 (ZONING) OF THE
SUNNYVALE MUNICIPAL CODE AND MAKE OTHER
RELATED CHANGES TO TITLE 19**

WHEREAS, on September 27, 2016, the state of California enacted legislation known as Assembly Bill 2299 and Senate Bill 1069 which, among other things, amended Section 65852.2 of the Government Code pertaining to accessory dwelling units; and

WHEREAS, the amendments to Section 65852.2 become effective on January 1, 2017;
and

WHEREAS, Government Code Section 65852.2(a)(3), as amended, provides that in the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of Section 65852.2, that ordinance shall be null and void unless and until the agency adopts an ordinance that complies with this section; and

WHEREAS, on December 6, 2016, the City Council adopted amendments to Sunnyvale Municipal Code 19.68.040 pertaining to accessory dwelling units and made related changes to the Sunnyvale Municipal Code (Ordinance No. _____) in order to make the City's regulations of accessory dwelling units consistent with Government Code Section 65852.2 as amended; and

WHEREAS, pursuant Government Code Section 36937, a non-urgency ordinance becomes effective 30 days after the date of adoption; and

WHEREAS, Government Code Section 65858 provides that a city may adopt an urgency interim ordinance by a four-fifths vote where necessary to protect the public health, safety and welfare, in order to prohibit uses that may be in conflict with a contemplated zoning proposal of the legislative body, which ordinance shall expire 45 days after adoption unless extended by the legislative body; and

WHEREAS, if the City does not adopt an urgency ordinance to amend the Sunnyvale Municipal Code in order to make the City's regulations of accessory dwelling units consistent with Government Code Section 65852.2, there is a possibility that the City's existing ordinance would be deemed to be null and void as of January 1, 2017, until the date that the regular ordinance becomes effective, and applications for accessory dwelling units filed during that period would not be subject to any of the City's regulations, which would be detrimental to the public health, safety and welfare.

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

SECTION 1. SECTION 10.26.050 AMENDED. Section 10.26.050 of Chapter 10.26 (Preferential Parking on Residential Streets) of Title 10 (Vehicles and Traffic) of the Sunnyvale Municipal Code is hereby amended to read as follows:

10.26.050. Issuance of permits.

(a) The department of public works shall be responsible for the issuance of permits pursuant to this chapter. Applicants for such permits shall present such proof, as may be required by said department, of residence adjacent to the area designated as a preferential parking zone and of the number of vehicles registered at said residence regularly used by the applicant. Not more than one permit shall be issued for each such motor vehicle. Not more than three permits shall be issued for each qualified dwelling unit to any qualified applicant or applicants. The occupants of an accessory dwelling unit shall be entitled to one permit in addition to any permits issued to the occupants of the primary residence. Applicants ~~requesting more than three permits for any dwelling unit~~ may be granted additional permits by the department of public works upon a showing that ~~there are more than three additional~~ vehicles are registered at the address of such dwelling unit or regularly used by residents thereof and that insufficient off-street parking is available to the applicant during the effective hours of the preferential parking zone. The department of public works shall prescribe appropriate application forms and procedures with respect to such permits. The form of the permit shall be prescribed by the department of public works. The department of public works may also issue to qualified applicants one or more temporary guest permits upon a showing of need therefor and in such form as may be prescribed by the department of public works. Such temporary permits shall be valid only for the date shown on the face of such permits.

(b)-(c) [Text unchanged]

SECTION 2. 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) [Text unchanged]

(2) “Accessory dwelling unit” means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit includes an efficiency unit as defined in California Health and Safety Code Section 17958.1 and a manufactured home as defined in California Health and Safety Code Section 18007. ~~“Accessory living unit” means any one-bedroom dwelling unit which provides independent provisions for living, sleeping, eating, cooking and sanitation, for one or more persons, whether attached or detached to the principal dwelling unit. A mobile home shall not be erected as an accessory living unit.~~

(3)-(20) [Text unchanged]

SECTION 3. TABLE 19.18.030 AMENDED. Table 19.18.030 of Chapter 19.18 (Permitted, Conditionally Permitted and Prohibited Uses in Residential Zoning Districts) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

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
1.-4.	[Text unchanged]							
5. <i>Accessory Uses</i>								
A. Accessory living <u>dwelling</u> units	MPP - <u>See 19.68.040</u>	N	N	MPP ³ - <u>See 19.68.040³</u>	N	N	N	N
B.-D.	[Text unchanged]							
6.-7.	[Text unchanged]							

¹⁻² [Text unchanged]

³ Only in conjunction with a single-family dwelling unit.

⁴⁻⁶ [Text unchanged]

SECTION 4. TABLE 19.28.080 AMENDED. Table 19.28.080 of Chapter 19.28 (Downtown Specific Plan District) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

TABLE 19.28.080
Permitted, Conditionally Permitted and Prohibited Uses in Residential DSP
Blocks

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

DSP RESIDENTIAL BLOCKS	4, 5, 14, 15, 16, 23	6, 10a	8, 9, 10, 11, 12, 17	8a	8b, 9a
1.-3.	[Text unchanged]				
4. Accessory Uses					
A. Accessory Living-Dwelling Units	SDPMPP - See 19.68.040⁴	SDPMPP - See 19.68.040⁴	SDPMPP - See 19.68.040⁴	SDPMPP - See 19.68.040⁴	SDPMPP - See 19.68.040⁴
B.-D.	[Text unchanged]				
5.-6.	[Text unchanged]				

¹⁻³ [Text unchanged]

⁴~~Only in conjunction with a single-family dwelling unit.~~

SECTION 5. TABLE 19.28.140 AMENDED. Table 19.28.140 of Chapter 19.28 (Downtown Specific Plan District) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

TABLE 19.28.140
Parking Requirements

Land Use	Number of Parking Spaces Required	Maximum Percentage of Compact Spaces Allowed
Single-Family Residential	1 covered + 1 uncovered	None
Single-Family Residential with Accessory Living-Dwelling Unit in Blocks 8—12, and 17	2 covered + 2 uncovered See Section 19.68.040	None
Single-Family Residential with Accessory Living Unit for All Other Blocks	1 covered + 2 uncovered	None
Multiple-Family Residential Studio or 1 Bedroom	1 assigned and covered/unit + 0.50 unassigned/unit or per Section 19.28.140(b)	35% of uncovered, unassigned spaces in lots with more than 10 spaces

Land Use	Number of Parking Spaces Required	Maximum Percentage of Compact Spaces Allowed
Multiple-Family Residential 2-Bedroom or more	1 assigned and covered/unit + 1 unassigned/unit or per Section 19.28.140(b)	35% of uncovered, unassigned spaces in lots with more than 10 spaces
Office/Retail	1/250 sq. ft.	10%
Medical Clinic	1/200 sq. ft.	10%
Restaurant without Bar	1/110 sq. ft.	10%
Restaurant with Bar	1/75 sq. ft.	10%
Bar Only	1/50 sq. ft.	10%
Restaurants with 100% Fixed Seating and No Bar	1/2 fixed seats + 1/400 sq. ft. of area not devoted to seating	10%
Assembly/Theater	1/3 seats	10%
Any Use within the Parking District	Parking requirements consistent with zoning code unless special circumstances arise	Not applicable

SECTION 6. TABLE 19.37.040, FOOTNOTE 1 AMENDED. Table 19.37.040, Footnote 1 of Chapter 19.37 (Landscaping, Irrigation and Useable Open Space) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

- ¹ One thousand square feet of usable open space is required for a property with an accessory ~~living dwelling~~ unit.

SECTION 7. SECTION 19.40.020 AMENDED. Section 19.40.020 of Chapter 19.40 (Accessory Structures) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.40.020. General requirements.

(a)-(f) [Text unchanged]

(g) Prior to issuance of a building permit, each applicant for an accessory structure greater than or equal to one hundred fifty square feet in size shall provide evidence that a covenant has been recorded on the title of the affected property, to the effect that the accessory structure shall not be converted to an accessory dwelling unit for the period of ten years from the date the covenant is recorded, or until this provision is repealed, whichever occurs first.

SECTION 8. SECTION 19.46.050 AMENDED. Section 19.46.050 of Chapter 19.46 (Parking) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.46.050. Parking for single-family and two-family dwellings.

(a)-(d) [Text unchanged]

(e) Accessory ~~Living-Dwelling~~ Units. Parking requirements for accessory ~~living-dwelling~~ units are prescribed in Section 19.68.040 (Accessory ~~living-dwelling~~ units).

(f) Garage or Carport Conversion. Parking requirements applicable when a garage or carport is converted to an accessory dwelling unit are prescribed in Section 19.68.040 (Accessory dwelling units). A garage or carport may be converted to other non-parking uses provided each converted space is replaced by a covered space which meets current standards. Proposed garage or carport conversions require review through a miscellaneous plan permit.

SECTION 9. SECTION 19.48.040 AMENDED. Section 19.48.040 of Chapter 19.48 (Fences, Distances Between Buildings and Extensions Into Yards) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.48.040. Distance between main buildings and accessory structures.

A detached garage or other detached accessory structure shall be located either directly adjacent to the structure or at least five feet away from another accessory structure, accessory ~~living-dwelling~~ unit or main building.

SECTION 10. SECTION 19.68.040 REPEALED. Section 19.68.040 of Chapter 19.68 (Mobile, Accessory, and Single Room Occupancy Living Units) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby repealed.

SECTION 11. SECTION 19.68.040 ADDED. Section 19.68.040 of Chapter 19.68 (Mobile, Accessory, and Single Room Occupancy Living Units) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby added to read as follows:

19.68.040. Accessory dwelling units.

(a) **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.

(b) **Requirements applicable to all accessory dwelling units.**

(1) No more than one accessory dwelling unit shall be located

on any lot.

(2) Entrances and outside stairways serving accessory dwelling units shall not be constructed on any building elevation facing a public street.

(3) Exterior materials, colors and appearance of accessory dwelling units shall match the primary structures on the same lot.

(4) No detached unit may be placed in front of the main dwelling.

(5) Either the accessory dwelling unit or the primary dwelling 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. The dwelling unit not so occupied may be rented. Prior to issuance of a building permit, each applicant shall provide evidence that a covenant has been recorded on the title of the affected property, to the effect that the property shall be owner-occupied as defined herein, for the period of twenty years from the date the covenant is recorded, or until this provision is repealed, whichever occurs first.

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

(7) All setback, lot coverage, building height, open space, design review and other applicable zoning requirements in Title 19 shall be satisfied, except as permitted by variance or as otherwise provided in this section.

(8) All otherwise applicable provisions of Title 16 shall be satisfied, including solar hot water heating requirements. Accessory dwelling units shall not be required to provide fire sprinklers unless required for the primary residence.

(c) **Newly constructed or expanded structures.** The following requirements apply to all accessory dwelling units other than qualified conversions of existing interior space as provided in subsection (d), below.

(1) **Location.** Accessory dwelling units shall be allowed only in the following zoning districts in conjunction with a single-family dwelling:

(A) R-0 and R-1.

(B) R-2. At least one thousand square feet of open space is required for each R-2 lot with an accessory unit.

(C) Residential DSP blocks.

(2) **Minimum Net Lot Area.**

(A) R-0 and R-1 zoning districts require nine thousand square feet.

(B) R-2 zoning district and residential DSP blocks require five thousand square feet.

(3) **Size.** The total size of an accessory dwelling unit shall be no less than 150 square feet and no greater than 700 square feet.

(4) **Parking.**

(A) In order to add an accessory dwelling unit, the primary residence must meet or be upgraded to meet applicable parking standards.

(B) In addition to the parking spaces required for the primary residence, at least one off-street parking space shall be provided for each accessory dwelling unit, which may be provided as tandem parking in an existing driveway.

(D) If a garage, carport, or covered parking structure is converted or demolished in conjunction with the construction of an accessory dwelling unit, those off-street parking spaces shall be replaced if the primary residence would not otherwise meet applicable parking standards. The replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical parking lifts. No setback is required for an existing garage that is converted to an accessory dwelling unit.

(E) Parking in setback areas or tandem parking may be denied if found to be infeasible due to specific site or life safety conditions.

(F) Exceptions. Off-street parking spaces for the accessory dwelling unit are not required if any of the following circumstances apply.

(i) The accessory dwelling unit is located within one-half mile of public transit. For purposes of this section, “public transit” means an existing rail station or a bus stop with service intervals no longer than 15 minutes during peak commute hours.

(ii) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(iii) The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.

(iv) When there is a designated, fixed pick-up or drop-off location for a car share vehicle located within one block of the accessory dwelling unit.

(5) **Utilities.** The applicant may be required to install a new or separate utility connection directly between the accessory dwelling unit and the utility and may be subject to a connection fee or capacity charge established by the City Council that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(d) **Conversions of existing interior space.** An application for a

building permit to create one accessory dwelling unit per single-family lot in the R-0 or R-1 zoning districts shall be ministerially approved subject to the following requirements:

- (1) The unit is contained within the existing space of a legally permitted accessory structure or single-family residence.
- (2) The total size of the accessory dwelling unit is no less than 150 square feet and no greater than the following:
 - (A) For a unit created within an existing accessory structure, 1,200 square feet.
 - (B) For a unit created within an existing single-family dwelling, 50% of the floor area of the dwelling with a maximum of 1,200 square feet.
- (3) The unit has independent exterior access from the existing residence.
- (4) The side and rear setbacks are sufficient for fire safety.
- (5) The applicant shall not be required to provide an off-street parking space for the accessory dwelling unit. However, the primary dwelling must meet applicable parking standards for a single-family dwelling.
- (6) Design review shall not be required for minimal exterior changes that do not expand the existing structure.
- (7) The applicant shall not be required to install a new or separate utility connection directly between the accessory dwelling unit and the utility, and shall not be charged a connection fee or capacity charge related to such requirement. The applicant may voluntarily install a new or separate utility connection, which shall be subject to the same fees described in 19.68.040(c)(5).

SECTION 12. 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) Accessory ~~Living-Dwelling~~ Units. Notwithstanding any other provision of this code, all miscellaneous plan permits for accessory ~~living-dwelling~~ units shall be reviewed by the director of community development for compliance with the standards set forth in the tables of uses in Chapter 19.18 and Section 19.68.040. The permit shall be considered ministerially without discretionary review within the time frames required by Section 65852.2 of the Government Code; when the application is in compliance with the relevant standards, the permit shall be issued. The director's decision shall be final. In those instances where an applicant seeks permission to deviate from the standards set forth in Section 19.68.040, he or she shall file an application for a variance in accordance with the procedures set forth in Chapter 19.84. In cases where

development of an accessory ~~living-dwelling~~ unit is included in a broader development application requiring a discretionary land use permit, such as a use permit, the accessory ~~living-dwelling~~ unit shall be considered in conjunction with the process for the overall project proposal in order to ensure consistency with relevant standards and site development;

(2)-(25) [Text unchanged]

(b)-(k) [Text unchanged]

SECTION 13. CEQA - EXEMPTION. The City Council finds that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15305 of Title 14 of the California Code of Regulations (minor alterations in land use limitations that do not result in any changes in land use or density). In addition, the ordinance is exempt under the general rule that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the action may have a significant effect on the environment, the activity is not subject to CEQA. (Section 15061(b)(3)). The Council therefore directs that the Planning Division may file a Notice of Exemption with the Santa Clara County Clerk in accordance with the Sunnyvale Guidelines for the implementation of CEQA adopted by Resolution No. 118-04.

SECTION 14. 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 15. EFFECTIVE DATE. This urgency ordinance shall be in full force and effect on the date of its adoption and shall expire 45 days after adoption unless extended by the City Council.

SECTION 16. URGENCY FINDINGS. The City Council finds and determines pursuant to Government Code Section 65858 that adoption of this ordinance is necessary for the immediate preservation of the public health, safety, and welfare in order to prohibit uses that would be in conflict with a contemplated zoning proposal of the legislative body.

SECTION 17. 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 _____, 2016, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, 2016, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:
RECUSAL:

ATTEST:

APPROVED:

City Clerk
Date of Attestation: _____

Mayor

(SEAL)

APPROVED AS TO FORM:

City Attorney