

ORDINANCE NO. 3154-20

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY  
OF SUNNYVALE TO REPEAL SECTION 19.68.040, TO  
ADD CHAPTER 19.77 (ACCESSORY DWELLING UNITS),  
AND TO MAKE OTHER RELATED CHANGES TO  
PROVISIONS AFFECTING ACCESSORY DWELLING  
UNITS IN TITLE 19 (ZONING) OF THE SUNNYVALE  
MUNICIPAL CODE**

THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS  
FOLLOWS:

SECTION 1. SECTION 19.12.010 AMENDED. Section 19.12.020 (“A”) of Chapter  
19.12 (Definitions) of Title 19 (Zoning) is hereby amended to read as follows:

**19.12.020. “A”**

- (1) [Text unchanged]
- (2) “Accessory dwelling unit” means an independent residential dwelling unit located on the same lot as a single-family dwelling, or which is added to a lot containing an existing multi-family dwelling structure. 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. Types of accessory dwelling units include:
  - (a) Junior Accessory Dwelling Unit. An accessory dwelling unit that is entirely contained within the walls of a single-family dwelling, is no more than 500 square feet gross floor area in size, and includes provisions for living, sleeping, eating, and cooking. A junior accessory dwelling unit may have separate sanitation facilities, or may share sanitation facilities with the single-family dwelling.
  - (b) Standard Accessory Dwelling Unit. An attached or detached accessory dwelling unit that includes permanent provisions for living, sleeping, eating, cooking, and sanitation.

SECTION 2. 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. Accessory Uses								
A. Accessory dwelling units	See 19.77	See 19.77	See 19.77	See 19.77	See 19.77	See 19.77	See 19.77	N
B.-D.	[Text unchanged]							
6.-7.	[Text unchanged]							

<sup>1-2</sup> [Text unchanged]

<sup>3</sup>Only as allowed by Chapter 19.77 in conjunction with an existing or proposed single-family dwelling or an existing multifamily dwelling structure.

<sup>4-6</sup> [Text unchanged]

SECTION 3. 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 Dwelling Units	See 19.77 <sup>4</sup>	See 19.77 <sup>4</sup>	See 19.77 <sup>4</sup>	See 19.77 <sup>4</sup>	See 19.77 <sup>4</sup>
B.-D.	[Text unchanged]				
5.-6.	[Text unchanged]				

<sup>1-3</sup> [Text unchanged]

<sup>4</sup>Only as allowed by Chapter 19.77 in conjunction with an existing or proposed single-family dwelling unit or an existing multifamily dwelling structure.

SECTION 4. 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
<i>[Text in following rows unchanged]</i>		

SECTION 5. SECTION 19.40.020 AMENDED. Section 19.40.020 (General requirements) 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]

SECTION 6. SECTION 19.46.060 AMENDED. Section 19.46.060 (Parking for single-family and two-family dwellings) 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) Garage or Carport Conversion. As provided in Chapter 19.77 (Accessory Dwelling Units), replacement parking is not required when a garage or carport is converted to an accessory dwelling unit, or demolished for the purpose of constructing an accessory dwelling unit. Otherwise, conversion of a garage or carport to a non-parking use requires review through a miscellaneous plan permit, which shall be conditioned on replacement of each converted space by a covered space that meets current standards.

SECTION 7. SECTION 19.68.040 REPEALED. 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 is hereby repealed.

SECTION 8. SECTION 19.76.040 AMENDED. Section 19.76.040 (Hosted short-term rentals—General requirements) of Chapter 19.76 (Short-Term Rental of Residential Property) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

**19.76.040. Hosted short-term rentals—General requirements**

(a)(1) – (3) [Text unchanged]

- (4) The host shall reside on-site throughout the lodgers' stay. To reside on-site means that the property being used for short-term rentals is the host's primary residence and the host uses the property for purposes of eating, sleeping, and other activities of daily living during the time periods that lodgers are present. Lodgers may also stay in one dwelling unit of a two-family dwelling if the host resides in the other dwelling unit.

- (5) Accessory dwelling units approved on or after January 1, 2020, shall not be used for short-term rentals. An accessory dwelling unit that was approved prior to January 1, 2020, may be used as a short term rental if the host resides on the lot that contains the accessory dwelling unit.

(6) – (10) [Renumbered; text unchanged]

SECTION 9. CHAPTER 19.77 ADDED. Chapter 19.77 (Accessory Dwelling Units) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby added to read as follows:

**Chapter 19.77 Accessory Dwelling Units**

**19.77.010. 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.

**19.77.020. 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. However, accessory dwelling units shall not be required to provide fire sprinklers unless required for the single-family home or multifamily dwelling structure. Occupancy of the accessory dwelling unit shall not be allowed until the city approves occupancy of the primary dwelling.
- (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 offstreet parking spaces are required for an accessory dwelling unit, and the applicant shall not be required to replace any 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 multifamily dwelling structure, but may not be sold or otherwise conveyed separately from the other dwellings on the lot. An accessory dwelling unit approved on or after January 1, 2020, shall not be used as a short-term rental.

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

**19.77.030. Streamlined approval of certain accessory dwelling units**

The director shall ministerially approve a building permit application to create an accessory dwelling unit that meets the following requirements.

(a) The lot contains an existing or proposed single-family dwelling or an existing multifamily 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 19.77.030(b)(1)(B), below.

(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 19.77.040, as long as the accessory dwelling unit is not more than 800 square feet.

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

(A) Two detached accessory dwelling units that meet the requirements in subsection (d) of this section are allowed per lot.

(B) One or more accessory dwelling units may be created by converting interior non-liveable space under subsection (e) of this section. The maximum number of accessory dwelling units so created shall not exceed 25% of the total number of dwelling units in the existing multifamily structure.

(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 150 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 150 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 500 square feet gross floor area in size and must be contained entirely within the walls of an existing 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) The unit shall not be considered a separate or new dwelling for purposes of fire safety or life safety.

(E) 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 19.77.050.

(d) Newly constructed, detached accessory dwelling units.

(1) The lot contains either:

- (A) An existing or proposed single-family dwelling, or
- (B) An existing 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 150 square feet gross floor

area and not more than 800 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 16 feet from the ground to the highest point on the roof.
- (6) Location. A detached unit shall not be located in front of a single-family dwelling or in the required front setback of a multifamily dwelling.
- (e) Conversions of interior space within a multifamily dwelling structure.
  - (1) The lot contains an existing multifamily dwelling structure.
  - (2) The accessory dwelling unit is created within portions of the structure not used as liveable 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 multifamily dwelling structure.
- (f) Applicants shall not be required to correct non-conforming zoning conditions as a condition of approval of an accessory dwelling unit meeting the requirements of this section. Nothing in this section shall preclude the city from taking any other legally available actions to enforce the provisions of this code.
- (g) The applicant shall comply with applicable provisions of this chapter regarding owner-occupancy, impact fees, and utility connections.

**19.77.040. 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 19.77.030. 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 the R-0, R-1, R-1.5, R-1.7/PD, R-2, or residential DSP zoning districts.
- (b) Only one accessory dwelling unit is allowed per lot, except as allowed by section 19.77.030(b)(1)(B).
- (c) The total size of the accessory dwelling unit is:
  - (1) Minimum size. No less than 150 square feet gross floor area.
  - (2) Maximum size. No more than 850 square feet gross floor area, or 1,000 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 50% 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 16 feet from the ground to the highest point on the roof, except that an accessory dwelling unit may be located on the second floor of a newly constructed or expanded single-family dwelling that meets the following requirements:

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

(B) 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.

(C) 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.

(2) A detached unit shall not be located in front of the single-family dwelling.

(e) Applicants may be required to correct non-conforming zoning conditions on the lot before approval of the accessory dwelling unit.

(f) All other applicable zoning requirements in Title 19 shall be satisfied, including, but not limited to, 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 800 square feet gross floor area in size, at least 16 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.

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

#### **19.77.050. 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.

#### **19.77.060. 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 19.77.020(c), unless the unit is constructed with a new single-family home.

#### **19.77.070. 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 750 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.

**19.77.080. Permit review**

- (a) The city shall act on the application to create an accessory dwelling unit within 60 days from the date the city receives a completed application if there is an existing single-family or multifamily dwelling on the lot. Incomplete applications will be returned with an explanation of what additional information is required, and the 60-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 acting on 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 60-day time period shall be tolled for the period of the delay.

**19.77.090. Delay of enforcement of building standards**

- (a) Prior to January 1, 2030, the owner of an accessory dwelling unit that was built before January 1, 2020, may submit an application to the director requesting that correction of any violation of building standards be delayed for five years. For purposes of this section, "building standards" refers to those standards enforced by local agencies under the authority of Section 17960 of the California Health and Safety Code.
- (b) The director shall grant the application if the director determines that enforcement of the building standard is not necessary to protect health and safety. In making this determination, the director shall consult with the city's chief building official and fire marshal.
- (c) No applications pursuant to this section shall be approved on or after January 1, 2030. However, any delay that was approved by the enforcement agency before January 1, 2030, shall be valid for the full term of the delay that was approved at the time of the approval of the application.
- (d) Until January 1, 2030, any notice to correct a violation of building standard that is issued to the owner of an accessory dwelling unit built before January 1, 2020, shall include a statement that the owner has a right to request a delay in enforcement of the building standard for an accessory dwelling unit pursuant to this section.
- (e) This section shall remain in effect until January 1, 2035, and as of that date is repealed.

SECTION 10. SECTION 19.82.020 AMENDED. Section 19.82.020 (When required) 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 Dwelling Units. Accessory dwelling units described in 19.77.040 shall be reviewed by the director of community development for compliance with the standards set forth in Chapter 19.77. The permit shall be considered ministerially without discretionary review within the time frames required by Chapter 19.77; when the application is in compliance with the relevant standards, the permit shall be issued. The director's decision shall be final.

(a)(2)-(25) [Text unchanged]

(b)-(k) [Text unchanged]

SECTION 11. CEQA - EXEMPTION. The City Council finds that this ordinance is statutorily exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 21080.17 of the Public Resources Code, which provides that CEQA does not apply to the adoption of an Accessory Dwelling Unit ordinance to implement the provisions of Section 65852.2 of the Government Code. In addition, the action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15061(b)(3) as these changes have no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. 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 12. 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 13. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 14. 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 10, 2019, 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