ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE AMENDING CHAPTER 19.32 (BUILDING HEIGHTS, LOT COVERAGES AND FLOOR AREA RATIOS) AND REPEALING AND REPLACING CHAPTER 19.80 (DESIGN REVIEW) OF TITLE 19 (ZONING) OF THE SUNNYVALE MUNICIPAL CODE RELATED TO THE IMPLEMENTATION OF LOWER DENSITY RESIDENTIAL DESIGN STANDARDS AND MAKE OTHER MINOR CORRECTIONS, CLARIFICATIONS AND TECHNICAL CHANGES, AND AMENDING CHAPTER 19.79 (ACCESSORY DWELLING UNITS) OF TITLE 19 (ZONING) OF THE SUNNYVALE MUNICIPAL CODE TO CONFORM WITH NEW STATE ADU LAW (AB 1154 AND SB 543)

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

SECTION 1. SECTION 19.32.010 AMENDED. Section 19.32.010 (Conformance required) of Chapter 19.32 (Building Heights, Lot Coverages and Floor Area Ratios) of Title 19 (Zoning) is hereby amended to read as follows:

19.32.010. Conformance required.

The maximum building height and maximum lot coverage of and on each lot in every zoning district shall conform with the areas, distances and percentage herein specified in the table of building height and lot coverage unless increased, decreased or modified by special provisions applicable thereto, including those in state law. Unless otherwise specified, building heights are ~~ex-pressed~~expressed in terms of lineal feet as defined in Section 19.12.030 of this code. Floor area ratio and lot coverage is expressed in terms of percentage of net lot area.

SECTION 2. SECTION 19.32.020 AMENDED. Section 19.32.020 (Building height, lot coverage and floor area ratio) of Chapter 19.32 (Building Heights, Lot Coverages and Floor Area Ratios) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.32.020. Building height, lot coverage and floor area ratio

(a) Maximums. Maximum building height, lot coverage, and floor area ratio are shown in Table 19.32.020 (Building Height, Lot Coverage and Floor Area Ratio) with the following exceptions:

(1) R-1.5. In the R-1.5 zoning district, walls facing the side yards ~~cannot~~

shall not exceed ~~twelve~~ 12 feet in height within ~~twelve~~ 12 feet of the side property lines. Second-story wall height is limited to ~~twenty-one~~21 feet, exclusive of pitched roof structure.

(2) – (4) [Text unchanged]

(5) C-2 and C-3. In the C-2 and C-3 zoning districts, hotels may exceed ~~seventy-five~~75 feet in height if allowed by use permit or special development permit.

(6) – (7) [Text unchanged]

(b) Specific Plan, Precise Plan and Other Specialized Areas. If the lot is within a combining district or specialized plan's prescribed area, the standards established for those areas override the maximums shown in Table 19.32.020. Refer to the plans referenced in Chapter 19.27 (Site and Project-Based Specific Plan Districts), Chapter 19.28 (Downtown Specific Plan District), Chapter 19.29 (Moffett Park Specific Plan District), Chapter 19.35 (Lawrence Station Area Plan District, or Chapter 19.36 (El Camino Real Specific Plan District), for maximum allowable stories, heights in feet, lot coverages, and floor area ratios (if applicable) for lots within these respective specific plan or area plan districts.

Table 19.32.020				
Building Height, Lot Coverage and Floor Area Ratio				
Zoning District	Building Stories	Building Height (ft.)	Lot Coverage	Floor Area Ratio (FAR)
R-0	2	30	50%~~45% (single-story dwellings) 40% (two-story dwellings)~~	~~45% FAR or 3,600 sq. ft. of gross floor area, whichever is less~~60%
R-1	2	30	~~45% (single-story dwellings) 40% (two-story dwellings)~~50%	~~45% FAR or 3,600 sq. ft. of gross floor area, whichever is less~~60%
R-1.5	2	30	~~40%~~50%	~~50%~~60%
R-1.7/PD	2	30	~~40%~~50%	~~50%~~60%
R-2 ~~(single-family dwellings)~~	2	30	~~45% (single-story dwellings) 40% (two-story~~	~~45% FAR or 3,600 sq. ft. of gross floor area, whichever is~~

			~~dwellings)~~50%	~~less~~60%
~~R-2 (all uses other than single-family dwellings)~~	~~2~~	~~30~~	~~45% (single-story dwellings) 40% (two-story dwellings)~~	~~55%~~
R-3	3	35	40%	None
R-4	4	55	40%	None
R-5	4	55	40%	None
R-MH	2	30	None	None
O	2	30	40%	None
P-F	N/A	See Section 19.32.020(a)	See Section 19.32.020(a)	N/A
C-1	2	40	35%	None
C-2	8	75	35%	None

SECTION 3. SECTION 19.32.030 AMENDED. Section 19.32.030 (Building heights – Increased -- When) of Chapter 19.32 (Building Height, Lot Coverage and Floor Area Ratio) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.32.030. Building heights – Increased – When.

(a) Towers, spires, chimneys, machinery penthouses not exceeding 25 ~~twenty-five~~ percent of the roof area on which the penthouse is located, scenery lofts, cupolas, water tanks, telecommunications facilities, wind turbines and towers, high bay test facilities, and similar architectural and utility structures, including equipment screening, and necessary mechani~~-~~cal appurtenances, may exceed the maximum building height in any zoning district by a maximum of 25 ~~twenty-fiv~~e feet, unless otherwise permitted pursuant to Chapter 19.54 (Wireless Telecommunication Facilities) or Chapter 19.56 (Alter-native Energy Systems). Provided, however, that no such architectural or utility structure, equipment screening, or necessary mechanical appurtenance shall be erected, maintained, or located between the face of the main building and any public street, nor in any required side or rear yard.

(b) [Text unchanged]

SECTION 4. SECTION 19.32.040 AMENDED. Section 19.32.040 (Building heights--

Distance from property line) of Chapter 19.32 (Building Height, Lot Coverage and Floor Area Ratio) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.32.040. Building heights – Distance from property line.

(a) Except as otherwise provided in subsection (b), the height of buildings constructed or erected in any commercial or industrial zoning district within ~~seventy-five~~ 75 feet of the property line of property in a single-family residenciale zoning district shall not exceed ~~twenty~~ 20 feet in the event existing buildings on the adjacent lot are one story or thirty feet if the existing buildings are two-story or the lot is undeveloped.

(b) Single-family dwellings and townhomes constructed in any multiple-family residential zoning district adjacent to a single-family residence zoning district shall not exceed ~~thirty~~30 feet in height within ~~seventy-five~~75 feet of the property line, provided the setback requirements are met.

SECTION 5. SECTION 19.32.060 AMENDED. Section 19.32.060 (Limitations on paved surfaces in R-0 and R-1 zoning districts – Required front yard) of Chapter 19.32 (Building Height, Lot Coverage and Floor Area Ratio) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.32.060. Limitations on paved surfaces in R-0 and R-1 zoning districts – Required front yard

Not more than ~~fifty~~50 percent of the required front yard of any lot within an R-0 or R-1 zoning district shall be paved with asphalt, concrete cement, or any other impervious surface, except as may be required to meet off-street parking and access requirements of this code.

SECTION 6. SECTION 19.32.070 AMENDED. Section 19.32.070 (Floor area ratio [FAR]) of Chapter 19.32 (Building Height, Lot Coverage and Floor Area Ratio) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.32.070. Floor area ratio (FAR).

(a) The total floor area ratio of all buildings on a parcel zoned M-S or M-3 and occupied in whole or in part by the following uses shall not exceed 35 percent:

(1) Administrative, professional, medical and research and development offices and uses;

(2) Financial institutions, such as banks and savings and loan associations,

except drive- through facilities;

(3) Plants and facilities for the assembly, compounding, manufacture, packaging, processing, repairing, or treatment of equipment, materials, merchandise or products, except for products containing explosives or propellants;

(4) Public utility buildings and service facilities, electric transmission and distribution substations, and public utility service centers;

(5) Amusement, athletic, cultural and recreational enterprises;

(6) Businesses selling merchandise or products at retail or services (such as real estate brokerage services);

(7) Hazardous materials storage facilities not governed by Section 19.22.060 or Chapter 19.82.

(b) The following are exceptions to the total floor area ratios set forth in subsection

(1) Hazardous materials storage facilities governed by Section 19.22.060 or Chapter 19.82;

(2) Buildings permitted by use permits or special development permits;

(3) Temporary offices except floor area will be included for such offices in place for more than four years;

(4) Architectural design features not utilized for occupancy or storage;

(5) Bicycle Support Facilities. When showers and/or dressing rooms are provided for use by bicycle commuters, the floor area occupied by such facilities may result in an increase in total floor area ratio of up to ~~forty~~ 40 percent if approved through the miscellaneous plan permit process. Request for higher percentage substitutions shall be reviewed by the planning commission using the use permit or special development permit process.

(c) The floor area ratios for intensification sites are as follows:

(1) M-S (100 ~~One Hundred~~ Percent FAR). Parcels within the area as delineated on the zoning map are allowed a maximum ~~one hundred~~100 percent floor area ratio.

(2) M-S (~~Seventy~~ 70 Percent FAR). Parcels within the area delineated on the zoning map, are allowed a maximum ~~seventy~~ 70 percent floor area ratio.

(d) Commercial storage and warehouse uses are limited to ~~fifty~~ 50 percent floor area ratio unless otherwise approved by a use permit or special development permit.

SECTION 7. SECTION 19.32.080 AMENDED. Section 19.32.080 (Interpretation and application of floor area ratio in M-S (industrial and service) and M-3 (general industrial) districts) of Chapter 19.32 (Building Heights, Lot Coverages and Floor Area Ratio) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.32.080. Interpretation and application of floor area ratio in M-S (industrial and service) and M-3 (general industrial) districts.

This section is enacted to supplement and assist in the interpretation and administration of Table 19.32.020.

(a) – (b) [Text unchanged]

(c) A use permit or special development permit, if applicable, is required where the addition or expansion of use(s) subject to FAR limitations to an existing building(s) results in an FAR exceeding the maximum allowed.

SECTION 8. SECTION 19.32.090 AMENDED. Section 19.32.090 (FAR in ITR (industrial to residential district) of Chapter 19.32 (Building Heights, Lot Coverages and Floor Area Ratio) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.32.090. FAR in ITR (industrial to residential) district.

New construction of nonresidential building, or expansion or reconstruction of an existing nonresidential building in an ITR district shall not exceed ~~thirty-five~~ 35 percent except as allowed by use permit or special development permit.

SECTION 9. SECTION 19.32.100 DELETED. Section 19.32.100 (FAR in downtown specific plan) of Chapter 19.32 (Building Heights, Lot Coverages and Floor Area Ratio) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby deleted.

~~19.32.100. FAR in downtown specific plan.~~

~~FAR requirements for the downtown specific plan are as permitted in Table 19.28.080.~~

SECTION 10. SECTION 19.32.110 RE-NUMBERED. Section 19.32.110 (City council action where FAR exceeds delineated threshold in M-S and M-3 districts) of Chapter 19.32 (Building

Heights, Lot Coverages and Floor Area Ratio) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby re-numbered as follows:

19.32.100~~10~~. City council action where FAR exceeds delineated threshold in M-S and M-3 districts.

The city council shall be the approval authority for any new industrial development in the M-S or M-3 districts proposing an FAR in excess of that prescribed by this chapter.

SECTION 11. SECTION 19.79.050 AMENDED. Section 19.79.050 (Requirements for lots with a single-family dwelling) of Chapter 19.79 (Accessory Dwelling Units) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended as follows:

19.79.050. Requirements for lots with a single-family dwelling.

The following requirements apply to lots with an existing or proposed single-family dwelling. Multiple detached single-unit dwellings on the same lot shall be considered single-family dwellings for the purposes of the accessory dwelling unit regulations in this chapter.

(a) – (c) [Text unchanged]

(d) Junior Accessory Dwelling Units.

(1)-(6) [Text unchanged]

(7) Owner-occupancy and Deed Restriction. Owner-occupancy is required in the single-family residence in which the junior accessory dwelling unit is located if the junior accessory dwelling unit has shared sanitation facilities with the existing structure. Either the newly created junior accessory dwelling unit or the remaining portion of the single-family dwelling structure 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 establishing title and residency.

(A) 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 all of the following:

(i) One of the dwelling units on the lot shall remain owner-occupied unless the owner is a governmental agency, land trust, or housing organization.

(ii) The junior accessory dwelling unit shall not be sold separately from the sale of the single-family residence.

(iii) The junior accessory dwelling unit shall not be more than 500 square feet gross floor area in size and shall comply with all other requirements applicable to junior accessory dwelling units in Section 19.79.050.

(iv) The rental of a junior accessory dwelling unit shall be for a term longer than 30 days.

~~(iv)~~(v) A statement that these deed restrictions are enforceable against future purchasers.

SECTION 12. SECTION 19.79.100 AMENDED. Section 19.79.100 (Procedures and decisions) of Chapter 19.79 (Accessory Dwelling Units) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended as follows:

19.79.100. Procedures and decisions.

(a) The city shall determine whether an application for an accessory dwelling unit or junior accessory dwelling unit is complete and provide written notice of the determination within 15 business days after the city receives the application. Incomplete applications will be returned with a written determination and a list of missing items and a description of how the application can be made complete.

(b~~a~~) The city shall approve or deny the application to create an accessory dwelling unit within 60 days from the date the city receives a complete 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.

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

(d~~c~~) If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay.

SECTION 13. CHAPTER 19.80 REPEALED AND RE-ADOPTED. Chapter 19.80 (Design Review) of Title 19 (Zoning) is hereby repealed and re-adopted to read as stated in Exhibit A, attached to this Ordinance and incorporated herein by reference.

SECTION 14. CEQA - EXEMPTION. The City Council finds, pursuant to Public Resources Code Section 21080.17, that this ordinance is not subject to the requirements of the California Environmental Quality Act (CEQA), and, further, is exempt pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3) in that it is not a Project which has the potential for causing a significant effect on the environment.

SECTION 15. 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 16. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

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 _____, 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:

_____
DAVID CARNAHAN
City Clerk
Date of Attestation: _____

APPROVED:

_____
LARRY KLEIN
Mayor

(SEAL)

APPROVED AS TO FORM:

_____
REBECCA L. MOON
City Attorney

EXHIBIT A

SUNNYVALE MUNICIPAL CODE
CHAPTER 19.80
DESIGN REVIEW

19.80.010 Purpose.
19.80.020 Design Guidelines and Standards.
19.80.030 Applicability.
19.80.040 Procedures and decisions.
19.80.050 Finding.

19.80.010 Purpose.

The purpose of this chapter is to promote the health, safety and general welfare by establishing a site and architectural design review process to improve the design quality of developments; enhance and protect existing neighborhoods; promote economic development; create a strong and positive image for the city; improve property values; and enhance the economic well-being of the city by promoting an orderly, attractive, safe and efficient community. The provisions of this chapter identify and prescribe specific procedures and requirements for the filing, processing and consideration of design review. These provisions shall be used in conjunction with the general requirements and procedures identified in Chapter 19.98 including requirements and procedures for applications, fees, notification, appeals, conditions of approval, modifications, expiration, extensions, revocation and infractions.

19.80.020 Design Guidelines and Standards.

The city council shall establish criteria and various guidelines and standards for design review. These design guidelines and standards shall be maintained in the department of community development and shall be available to the public. Minor additions to or deletions from the guidelines and standards may be made by the director of community development; major changes require approval of the planning commission. Properties located within a heritage district, a specific plan area or an area for which design guidelines and standards have been established by the planning commission or city council shall be subject to the requirements of the design guidelines and standards established for those districts or areas.

19.80.030. Applicability.

(a) Discretionary Approvals. Any proposed use requiring a discretionary land use permit that includes new construction, changes to the exterior of a building or other site modification

is subject to design review. Design review shall be conducted as part of the review of that discretionary permit.

(b) Permitted Nonresidential Uses. Any permitted nonresidential use that includes new construction, additions, changes to the exterior of a building or other site modifications is subject to design review. If the project is not subject to the required review procedures in Section 19.80.040 (Procedures and decisions), or subject to another planning permit, design review shall be conducted through the building plan check process.

(c) Residential Uses.

(1) Single-Family and Two-Family Dwellings.

(A) The following single-family and two-family projects require a design review permit:

i. Construction of one or more new dwellings units.

ii. First-story addition of new floor area to an existing dwelling exceeding 50 percent of the gross floor area (including attached covered parking areas and excluding porches, unenclosed patios and accessory dwelling units) of the existing dwelling.

iii. Second-story addition of new floor area, regardless of size.

iv. New, expanded, or design modifications to second floor balconies or decks.

v. New, relocated, or enlarged second-story windows on building elevations excluding those facing a public street.

vi. Significant exterior modifications, which consist of:

1. New and expanded front yard or reducible front yard entry porches for an existing single-family or two-family dwelling.

2. Additions to the front yard or reducible front yard elevations that span over 75% of the existing front or reducible front elevation length.

3. Second-story exterior modification to an existing dwelling including different exterior materials.

(B) Single-family and two-family dwelling projects that do not meet the criteria in Section 19.80.030(c)(1)(A), and do not exceed the floor area ratio (FAR) threshold established in Section 19.32.020, are exempt from the procedures required under Section 19.80.040 and only require a building permit.

(2) Multi-Family Dwellings. The following multi-family projects require a design review permit:

(A) New three or more multi-family dwellings in the R-2, R-3, R-4, R-5 and R-MH zoning districts and which are not subject to any other discretionary permit under this title.

(B) Addition of new floor area to existing multi-family dwelling in the R-2, R-3, R-4, R-5 and R-MH zoning districts and which are not subject to any other discretionary permit under this title.

19.80.040 Procedures and Decisions.

(a) Design Review without Public Notice or Hearing by Director. For design review applications listed in this subsection, the director of community development may, without public notice or hearing, approve the application as requested or as changed, modified or conditioned by the director or deny the design review application based on Section 19.80.050 (Finding). The following design review applications shall require design review without public notice or hearing:

(1) New construction of a one-story single-family or two-family dwelling in the R-0, R-1 or R-2 zoning district which does not exceed the FAR threshold established in Section 19.32.020;

(2) First-story addition of new floor area to an existing single-family or two-family dwelling exceeding 50 percent of the gross floor area (including attached covered parking areas) of the existing structure in the R-0, R-1 or R-2 zoning district and which does not exceed the FAR threshold established in Section 19.32.020; and

(3) New construction or additions to a main building of a permitted nonresidential use, not adjacent to a residential zoning district, and which is not subject to any other discretionary permit in this title; and

(4) First story addition of new floor area to an existing multi-family dwelling in the R-2, R-3, R-4, R-5 and R-MH zoning districts and which are not subject to any other discretionary permit or action by this title and which does not exceed the FAR threshold established in Section 19.32.020.

(b) Design Review with Public Notice and No Hearing by Director. For design review applications listed in this subsection, the director of community development may, after providing public notice as described in Chapter 19.98 (General Procedures) and a 14 day public comment period, approve the application as requested or as changed, modified or conditioned by the director, or deny the design review application based on Section 19.80.050 (Finding). On-site postings for single-family or two-family dwelling new

construction or addition projects shall include a streetscape elevation showing the proposed home and one adjacent home on each side as viewed from the front elevation. The following design review applications shall require design review with public notice and no hearing:

(1) Construction of a two-story single-family or two-family dwelling in the R-0, R-1 or R-2 zoning district which does not exceed the FAR or threshold established in Section 19.32.020;

(2) Second-story addition of new floor area to an existing single-family or two-family dwelling in the R-0, R-1 or R-2 zoning district which does not exceed the FAR or threshold established in Section 19.32.020;

(3) New, expanded, or design modifications to second floor balconies or decks;

(4) New, relocated, or enlarged second-story windows excluding those facing a public street;

(5) New nonresidential building adjacent to residential zoning district and which is not subject to any other discretionary permit in this title;

(6) Addition of new floor area to a nonresidential building adjacent to a residential zoning district and which is not subject to any other discretionary permit in this title; and

(7) Second-story or above floor area addition to an existing multi-family dwelling in the R-2, R-3, R-4, R-5 and R-MH zoning districts and which are not subject to any other discretionary permit or action by this title and which does not exceed the FAR threshold established in Section 19.32.020.

(c) Appeal of Decision by Director. A decision by the director of community development on a design review pursuant to subsections (a) and (b) may only be appealed by the applicant, the owner of the subject property, or the owner of a property within the required noticing radius as described in Chapter 19.98 (General Procedures). After receiving an appeal of the decision of the director, and following a public hearing, the planning commission, whose decision shall be final, by the affirmative vote of a majority of its voting members may:

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

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

(d) Design Review with Public Hearing by Planning Commission. For design review applications listed in this subsection, the planning commission may, after holding a public hearing, approve the application as requested or as changed, modified or conditioned by the commission, or deny the design review application based on Section 19.80.050 (Finding). On-site postings for single-family or two-family dwelling new construction or addition projects shall include a streetscape elevation showing the proposed home and one adjacent home on each side as viewed from the front elevation. The following design review applications shall require design review at a public hearing by the planning commission:

(1) New single-family or two-family dwellings in the R-0, R-1 or R-2 zoning district which exceeds the FAR threshold established in Section 19.32.020;

(2) Addition to a single-family or two-family dwellings in the R-0, R-1 or R-2 zoning districts which exceeds the FAR threshold established in Section 19.32.020;

(3) New three or more multi-family dwellings in the R-2, R-3, R-4, R-5 and R-MH zoning districts and which are not subject to any other discretionary permit or action by this title; and

(4) Addition to an existing multi-family dwelling in the R-2, R-3, R-4, R-5 and R-MH zoning districts and which are not subject to any other discretionary permit or action by this title and exceed the FAR threshold established in Section 19.32.020.

(e) Appeal of Decision by Planning Commission. A decision by the planning commission on a design review pursuant to subsection (d) may only be appealed by the applicant, the owner of the subject property, or the owner of a property within the required noticing radius as described in Chapter 19.98 (General Procedures). After receiving an appeal from the decision of the planning commission, and following a public hearing, the city council by the affirmative vote of a majority of its voting members may:

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

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

19.80.050 Findings.

The director, planning commission or city council, as applicable, may approve any design review upon such conditions, in addition to those expressly provided in other applicable provisions of this code, as it finds desirable in the public interest, upon finding that the project's design and architecture will conform with the applicable criteria and design guidelines and design standards established by the city council.

For a housing development project for very low, low-, or moderate-income households, or an emergency shelter, the decision making official or body shall not deny or condition approval in a manner that renders the project infeasible, including through the use of design review standards, unless it makes one of the written findings, based on a preponderance of evidence, set forth in Government Code Section 65589.5(d).

EXHIBIT A

SUNNYVALE MUNICIPAL CODE
CHAPTER 19.80
DESIGN REVIEW

19.80.010 Purpose.
19.80.020 Design Guidelines and Standards.
19.80.030 Applicability.
19.80.040 Procedures and decisions.
19.80.050 Finding.

19.80.010 Purpose.

The purpose of this chapter is to promote the health, safety and general welfare by establishing a site and architectural design review process to improve the design quality of developments; enhance and protect existing neighborhoods; promote economic development; create a strong and positive image for the city; improve property values; and enhance the economic well-being of the city by promoting an orderly, attractive, safe and efficient community. The provisions of this chapter identify and prescribe specific procedures and requirements for the filing, processing and consideration of design review. These provisions shall be used in conjunction with the general requirements and procedures identified in Chapter 19.98 including requirements and procedures for applications, fees, notification, appeals, conditions of approval, modifications, expiration, extensions, revocation and infractions.

19.80.020 Design Guidelines and Standards.

The city council shall establish criteria and various guidelines and standards for design review. These design guidelines and standards shall be maintained in the department of community development and shall be available to the public. Minor additions to or deletions from the guidelines and standards may be made by the director of community development; major changes require approval of the planning commission. Properties located within a heritage district, a specific plan area or an area for which design guidelines and standards have been established by the planning commission or city council shall be subject to the requirements of the design guidelines and standards established for those districts or areas. Heritage resources and properties located with heritage resource districts shall comply with the Secretary of the Interior's Standards for the Rehabilitation of Historic Properties.

19.80.030. Applicability.

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

(b) Permitted Nonresidential Uses. Any permitted nonresidential use that includes new construction, additions, changes to the exterior of a building or other site modifications is subject to design review. If the project is not subject to the required review procedures in Section 19.80.040 (Procedures and decisions), or subject to another planning permit, design review shall be conducted through the building plan check process.

(c) Residential Uses.

(1) Single-Family and Two-Family Dwellings.

(A) The following single-family and two-family projects require a design review permit:

i. Construction of one or more new dwellings units.

ii. First-story addition of new floor area to an existing dwelling exceeding 50 percent of the gross floor area (including attached covered parking areas and excluding porches, unenclosed patios and accessory dwelling units) of the existing dwelling.

iii. Second-story addition of new floor area, regardless of size.

iv. New, expanded, or design modifications to second floor balconies or decks.

v. New, relocated, or enlarged second-story windows on building elevations excluding those facing a public street.

vi. Significant exterior modifications, which consist of:

1. New and expanded front yard or reducible front yard entry porches for an existing single-family or two-family dwelling.

2. Additions to the front yard or reducible front yard elevations that span over 75% of the existing front or reducible front elevation length.

3. Second-story exterior modification to an existing dwelling including different exterior materials.

(B) Single-family and two-family dwelling projects that do not meet the criteria in Section 19.80.030(c)(1)(A), and do not exceed the floor area ratio (FAR) threshold established in Section 19.32.020, are exempt from the

procedures required under Section 19.80.040 and only require a building permit.

(2) Multi-Family Dwellings. The following multi-family projects require a design review permit:

(A) New three or more multi-family dwellings in the R-2, R-3, R-4, R-5 and R-MH zoning districts and which are not subject to any other discretionary permit under this title.

(B) Addition of new floor area to existing multi-family dwelling in the R-2, R-3, R-4, R-5 and R-MH zoning districts and which are not subject to any other discretionary permit under this title.

19.80.040 Procedures and Decisions.

(a) Design Review without Public Notice or Hearing by Director. For design review applications listed in this subsection, the director of community development may, without public notice or hearing, approve the application as requested or as changed, modified or conditioned by the director or deny the design review application based on Section 19.80.050 (Finding). The following design review applications shall require design review without public notice or hearing:

(1) New construction of a one-story single-family or two-family dwelling in the R-0, R-1 or R-2 zoning district which does not exceed the FAR threshold established in Section 19.32.020;

(2) First-story addition of new floor area to an existing single-family or two-family dwelling exceeding 50 percent of the gross floor area (including attached covered parking areas) of the existing structure in the R-0, R-1 or R-2 zoning district and which does not exceed the FAR threshold established in Section 19.32.020; and

(3) New construction or additions to a main building of a permitted nonresidential use, not adjacent to a residential zoning district, and which is not subject to any other discretionary permit in this title; and

(4) First story addition of new floor area to an existing multi-family dwelling in the R-2, R-3, R-4, R-5 and R-MH zoning districts and which are not subject to any other discretionary permit or action by this title and which does not exceed the FAR threshold established in Section 19.32.020.

(b) Design Review with Public Notice and No Hearing by Director. For design review applications listed in this subsection, the director of community development may, after providing public notice as described in Chapter 19.98 (General Procedures) and a 14 day public comment period, approve the application as requested or as changed, modified or

conditioned by the director, or deny the design review application based on Section 19.80.050 (Finding). On-site postings for single-family or two-family dwelling new construction or addition projects shall include a streetscape elevation showing the proposed home and one adjacent home on each side as viewed from the front elevation. The following design review applications shall require design review with public notice and no hearing:

(1) Construction of a two-story single-family or two-family dwelling in the R-0, R-1 or R-2 zoning district which does not exceed the FAR or threshold established in Section 19.32.020;

(2) Second-story addition of new floor area to an existing single-family or two-family dwelling in the R-0, R-1 or R-2 zoning district which does not exceed the FAR or threshold established in Section 19.32.020;

(3) New, expanded, or design modifications to second floor balconies or decks;

(4) New, relocated, or enlarged second-story windows excluding those facing a public street;

(5) New nonresidential building adjacent to residential zoning district and which is not subject to any other discretionary permit in this title;

(6) Addition of new floor area to a nonresidential building adjacent to a residential zoning district and which is not subject to any other discretionary permit in this title; and

(7) Second-story or above floor area addition to an existing multi-family dwelling in the R-2, R-3, R-4, R-5 and R-MH zoning districts and which are not subject to any other discretionary permit or action by this title and which does not exceed the FAR threshold established in Section 19.32.020.

(c) Appeal of Decision by Director. A decision by the director of community development on a design review pursuant to subsections (a) and (b) may only be appealed by the applicant, the owner of the subject property, or the owner of a property within the required noticing radius as described in Chapter 19.98 (General Procedures). After receiving an appeal of the decision of the director, and following a public hearing, the planning commission, whose decision shall be final, by the affirmative vote of a majority of its voting members may:

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

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

(d) Design Review with Public Hearing by Planning Commission. For design review applications listed in this subsection, the planning commission may, after holding a public hearing, approve the application as requested or as changed, modified or conditioned by the commission, or deny the design review application based on Section 19.80.050 (Finding). On-site postings for single-family or two-family dwelling new construction or addition projects shall include a streetscape elevation showing the proposed home and one adjacent home on each side as viewed from the front elevation. The following design review applications shall require design review at a public hearing by the planning commission:

(1) New single-family or two-family dwellings in the R-0, R-1 or R-2 zoning district which exceeds the FAR threshold established in Section 19.32.020;

(2) Addition to a single-family or two-family dwellings in the R-0, R-1 or R-2 zoning districts which exceeds the FAR threshold established in Section 19.32.020;

(3) New three or more multi-family dwellings in the R-2, R-3, R-4, R-5 and R-MH zoning districts and which are not subject to any other discretionary permit or action by this title; and

(4) Addition to an existing multi-family dwelling in the R-2, R-3, R-4, R-5 and R-MH zoning districts and which are not subject to any other discretionary permit or action by this title and exceed the FAR threshold established in Section 19.32.020.

(e) Appeal of Decision by Planning Commission. A decision by the planning commission on a design review pursuant to subsection (d) may only be appealed by the applicant, the owner of the subject property, or the owner of a property within the required noticing radius as described in Chapter 19.98 (General Procedures). After receiving an appeal from the decision of the planning commission, and following a public hearing, the city council by the affirmative vote of a majority of its voting members may:

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

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

19.80.050 Findings.

The director, planning commission or city council, as applicable, may approve any design review upon such conditions, in addition to those expressly provided in other applicable provisions of this code, as it finds desirable in the public interest, upon finding that the project's design and architecture will conform with the applicable criteria and design guidelines and design standards established by the city council.

For a housing development project for very low, low-, or moderate-income households, or an emergency shelter, the decision making official or body shall not deny or condition approval in a manner that renders the project infeasible, including through the use of design review standards, unless it makes one of the written findings, based on a preponderance of evidence, set forth in Government Code Section 65589.5(d).