



**Council Meeting: August 11, 2009**

**SUBJECT: Follow-up to Council Study Issue (RTC 09-090): Determine Enforceability of CC&Rs for Violations to City Code and Project Approvals**

**DISCUSSION**

The attached report (Attachment 4, RTC 09-164) was reviewed and discussed by the Planning Commission on July 13, 2009, as directed by the City Council. During the hearing, the Planning Commission discussed general issues homeowners typically face living in a common interest development, such as parking (see Attachment 1 for minutes from the Planning Commission hearing). The Planning Commission also expressed support for the education plan discussed in RTC 09-164.

Staff has also completed a handout of parking management tools (Attachment 2) for homeowners associations and property managers of common interest developments, as discussed in RTC 09-164.

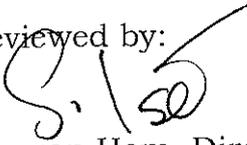
**PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's Web site. A courtesy notice about the hearing was also sent to members of the public that expressed an interest in the study issue.

**RECOMMENDATION**

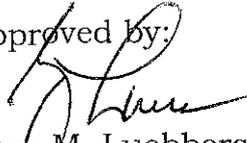
Staff recommends Council to discuss the sufficiency of the education plan as described in RTC 09-164 and to make modifications, if necessary.

Reviewed by:



Hanson Hom, Director, Community Development Department  
Prepared by: Rosemarie Zulueta, Assistant Planner

Approved by:



Gary M. Luebbers  
City Manager

**Attachment**

1. Minutes from the Planning Commission Public Hearing on July 13, 2009
2. Parking Management Tools Handout
3. Memo to Planning Commission from Staff
4. RTC 09-164

2009-08-11 10:21

113  
114

# **Attachment 1**

**PLANNING COMMISSION MINUTES OF JULY 13, 2009**

Council Referral of: **Follow-up to Council Study Issue (RTC 09-090):** Determine Enforceability of CC&Rs for Violations to City Code and Project Approvals - RZ (*Referred from the June 23, 2009 City Council meeting, RTC 09-164.*)

**Trudi Ryan**, Planning Officer, presented the staff report. She said the Council would like the Planning Commission to review this report, primarily the education of Homeowner Associations (HOAs) portion, provide comment, and return the comments back to the Council.

**Comm. Rowe** discussed with staff parking violations, access lanes, examples of parking issues that occur in developments, and the ability of the City to access private property when problems occur. **Rebecca Moon**, Assistant City Attorney, said there would need to be a legal violation for the City police to enter the property to enforce parking problems. **Trudi Ryan**, Planning Officer, commented that staff may not have evaluated the specific situations mentioned by Comm. Rowe and that staff looks primarily at fire lane access in regards to parking. Comm. Rowe asked further about City police coming on to private property and what laws exist regarding this. Comm. Rowe asked about the consequences of violations to the CC&Rs (covenants, conditions, and restrictions), and commented that City should help HOAs with options to solve problems. Comm. Rowe said she is glad to see the City becoming involved in educating the HOAs regarding their CC&Rs. Comm. Rowe discussed HOA enforcement challenges, including grandfathering-in existing HOAs with Ms. Ryan saying that existing HOAs cannot be grandfathered in. Comm. Rowe and staff discussed Project Sentinel as possible mediation assistance noting that it is currently free to homeowners. Comm. Rowe said she would like to see included in the materials that if a lawyer becomes involved with HOA issues that it be a lawyer versed in homeowner related issues. Ms. Ryan said that staff is recommending the creation of a website that HOAs can use as a resource.

**Comm. Klein** commented that he thinks the parking issues are covered by the document, and discussed with staff options for including a condition that parking shall only be allowed in designated parking areas and that short driveways are not considered parking areas.

**Chair Chang** opened the public hearing.

**Jim Griffith**, a Sunnyvale resident, discussed HOAs and that the Conditions of Approval (COAs) are created by the City, however the developer and the management company are often left with the role of explaining what the

conditions mean, which creates problems. He discussed a parking problem he had with his own HOA and said that developers tend to interpret the conditions, which often ends up with the intent of the City not being met. He said by adding in a requirement of the City to meet with the HOA two years down the road, the City can properly provide the intent of the COAs and help direct the HOA to existing resources. Mr. Griffith said he felt it was important to understand some of the background on the CC&R Study Issue.

**Chair Chang closed the public hearing.**

**Comm. Rowe** discussed with staff concerns about street parking, parking in the interior of developments, and the consideration taken for the larger developments that have more interior parking and are not able to park on the street. Ms. Ryan said that the City's goal is that the on-site parking be sufficient for a development and that street parking spaces would not be counted towards the spaces required for a development. Comm. Rowe said she would like to see some additional thought put into larger developments that have no street parking. Ms. Ryan discussed examples with larger developments. Comm. Rowe discussed with staff the City's position on renting or selling parking spaces. Comm. Rowe discussed with staff about residents parking vehicles like mopeds, boats or other non-cars in their garages and then parking their cars on the street. Ms. Ryan said that some people's primary vehicle is a motorcycle or moped so it would be hard to exclude residents from parking a motorcycle or moped in the garage. Comm. Rowe said she thinks the proposed education program will be a big help.

**Comm. McKenna** said that since this item is not an item to be voted on that she wants to express her support of items 1.a, 1.b, and 2 on page 1 of the RTC 09-164. She said she thinks these items will be wonderful additions to the other recommendations previously discussed.

**Ms. Ryan** said the information considered this evening would be discussed with the City Manager and the minutes of the discussion tonight would be provided to the City Council. She said the City Council date for consideration of this item is to be determined, and that staff will advise the Planning Commission when a date is scheduled.

**ACTION: Planning Commission provided comments on the report. Trudi Ryan, Planning Officer, said that the discussion and recommendations noted from this evening would be forwarded to City Council and that the Planning Commission would be advised of the date the Council would be considering this item.**

## **Attachment 2**



# PARKING MANAGEMENT

To assist homeowners associations and property managers, the City has compiled a list of tools and information regarding parking management and enforcement.

## PARKING MANAGEMENT TOOLS

Developments in the City are designed to accommodate parking demands on the site. Often, ineffective management of parking spaces prevents developments from meeting that standard. The following is a list of tools homeowners associations or property managers can tailor and use to manage parking in their community, and avoid spillover of vehicles on both private and public streets.

- **Communicate the Rules** - Remind residents of important community rules through newsletters, postings and the association website if there is one. Clearly notify potential residents the number of parking spaces provided for each unit on-site.
- **Define "Guest"** - Determine a definition and a parking time restriction for "guest" that is appropriate for the community to encourage a higher turnover of unassigned/guest spaces. Mark time restrictions on unassigned/guest spaces to further encourage turnover of spaces.
- **Keep Unassigned Spaces Unassigned** - Renting unassigned spaces could prevent those spaces from being used and cause more cars to park on the street. The community could specify a specific number of unassigned spaces for guests only and the rest could be allowed for all residents to use. Time restrictions could be placed on unassigned resident spaces to encourage turnover. *Generally, renting unassigned spaces has been prohibited in newer residential developments.*
- **Maintain Garage/Carport Spaces for Parking** - Require residents to maintain garage and carport spaces for parking at all times, and discourage residents from parking on the street or in the guest/unassigned spaces. The association or property manager could conduct periodic garage inspections (with advance notice) to assure garages are being used for parking.
- **Car Registration** - Require every resident car to be registered with the association and require parking tags/stickers to keep track of them.
- **Maintain Parking Space Markings** - Clearly mark all assigned, guest, and compact spaces, and maintain all parking lot striping and markings.
- **Parking Patrol** - Hire a parking patrol to monitor parking. This may be a good option for communities where residents are uncomfortable or not as willing to enforce community rules about parking.
- **Prohibit Large Recreational Vehicles** - Do not allow tenants to park RV's, trailers, or any other oversized recreational vehicles in parking spaces. These vehicles may take up more space than is provided by one parking space, making it more difficult for other vehicles to park in adjacent spaces, and reduce spaces for daily parking.
- **Pool Vehicle Program** - Create a pool vehicle program for residents along with an online registration system for convenience. The HOA could purchase a truck, van or large SUV that residents may need sometimes but not on a daily basis, or a mid-sized car for daily use. This could reduce the amount of large vehicles occupying parking spaces, or even reduce the need for cars for individuals.
- **Eco Passes** - Provide residents with Santa Clara Valley Transportation Authority (VTA) Eco Passes for transportation alternatives. The Eco Pass provides unlimited rides on VTA Bus and Light Rail seven days a week and is offered at discounted rates to housing developments.

**CITY CODES VS. CC&Rs**  
*CC&Rs govern all present and future owners' use of property. CC&Rs may have rules and regulations that are stricter or more specific than city codes, such as the use of unassigned/guest spaces. Although they may contain higher maintenance standards than city codes, CC&Rs still have to abide by federal, state and local laws.*

**WHICH TOOLS SHOULD BE USED IN MY COMMUNITY?**  
*Please note that every community is different and has varying needs, so one strategy may not work as effectively in one community as it may in another. It is important to communicate with all residents to assess what the parking issues are in the community and determine which tools are most appropriate.*

## PARKING VIOLATIONS

**Commercial vehicles** (other than pick-up trucks, station wagons or similar vehicles of a size similar to an ordinary passenger vehicle) may not be parked in residential zoning districts for more than 5 hours at any one time.

**Vehicles parked on the public street** must be currently registered and operable, and cannot be stored on the street. A vehicle parked on the public street in excess of 72 hours (3 days) without being driven is considered being stored. Vehicles parked on the public street must be driven at least 1.0 mile every 72 hours (3 days) in order to avoid a citation and/or tow-away.

**Inoperable vehicles** parked on private property and visible from the street or other public or private property cannot be left for longer than 72 consecutive hours (3 days). After 72 consecutive hours (3 days), an inoperable vehicle must be relocated to a garage, out of public view. If a vehicle is abandoned or inoperable in the public view, the City can issue a citation and/or remove the vehicle through an abatement process. Once a vehicle is abated, it cannot be reclaimed by the owner.

**Vehicles parked in legally marked fire access lanes or handicap accessible parking spaces** on private property can be cited by the City.

**Vehicles blocking public or private sidewalks and driveways** can be cited by the City.

## WHAT DOES THE CITY NOT ENFORCE?

Any other parking restrictions stated in the CC&Rs (conditions, covenants and restrictions) for your community, such as prohibiting parking on private streets even if it is wide enough to accommodate on-street parallel parking, or restricting handicap accessible parking spaces for guest use only, are enforceable only by homeowners associations and property owners. For example, the City will not undertake enforcement of a handicap accessible parking space that is occupied by a vehicle if it is displaying a legal disabled person parking license plate or placard.

## REPORTING A VIOLATION

If you wish to report a violation in your neighborhood, contact the Department of Public Safety, Abandoned/Nuisance Vehicle Hot Line (anonymous line) at (408) 730-7706.

### **OPERABLE AND INOPERABLE VEHICLES**

*An operable vehicle is a vehicle that can move under its own power and which can operate legally and safely on the highways of the state. If the vehicle does not meet these requirements it is considered inoperable.*

### **CAR REMOVAL**

*Certain local tow truck companies or nonprofit donation agencies can remove unwanted vehicles, most times for free.*

# **Attachment 3**



**COMMUNITY DEVELOPMENT DEPARTMENT  
OFFICE MEMORANDUM**

DATE: **July 13, 2009**

TO: **Planning Commission**

FROM: **Trudi Ryan, Planning Officer** *Trudi Ryan*

RE: **Follow-up to Council Study Issue:  
Determine Enforceability of CC&Rs for Violations to City Code  
and Project Approvals (RTC 09-090)**

---

The attached report (RTC 09-164) was presented to the City Council on June 23, 2009 as an Information Only Report/Item. The Council has referred the item back to the Planning Commission for review and recommendations.

Planning Commission should make a recommendation to the City Council on the sufficiency of the education plan for common interest developments.

Attachments:

A. RTC 09-164

## **Attachment 4**



Council Meeting: June 23, 2009

**SUBJECT: Follow-up to Council Study Issue (RTC 09-090): Determine Enforceability of CC&Rs for Violations to City Code and Project Approvals (Information Only)**

**DISCUSSION**

On April 7, 2009, the City Council made a series of policy decisions as part of a study to determine the enforceability of covenants, conditions and restrictions (CC&Rs) for violations to City Code and project approvals and ways to aid homeowners associations in managing their communities (RTC 09-090). The Action Plan Checklist adopted by Council is included in Attachment A.

In addition to adopting the staff recommendations listed in RTC 09-090, Council directed staff to provide, three months after the Council hearing, the following information:

1. Conditions of Approval for residential subdivision projects that relate to the study, which would be incorporated into the final CC&Rs for a given development, and which include the following revisions (Attachment B):
  - a. Require the developer to schedule a meeting between the developer, the City of Sunnyvale and the board members or officers of the homeowners association once it is transferred to the property owners to discuss the conditions of approval of the development and other applicable City requirements (1.B of Attachment B);
  - b. Require every development to provide sufficient on-site parking for residents and guests (4.A of Attachment B);
2. A plan for an education process for all existing and future homeowners associations (Attachment C).

**FISCAL IMPACT**

This an information only report. The fiscal impact was discussed in RTC 09-090.

**PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's Web site.

**RECOMMENDATION**

This is an information only report. Staff is not recommending any action to the City Council.

Reviewed by:

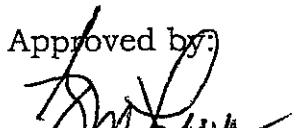


Judi Ryan

Hanson Hom, Director, Community Development Department

Prepared by: Rosemarie Zulueta, Assistant Planner

Approved by:



Gary M. Luebbers  
City Manager

**Attachment**

- A. Action Plan Checklist
- B. Template of Conditions of Approval for Residential Subdivision Projects
- C. Education Plan

ATTACHMENT 4

## **Attachment A**

**Determine Enforceability of CC&Rs for Violations to City Code and Project Approvals (RTC 09-090)****Council Adopted Options****Parking And Management Of Garage Spaces And Unassigned/Guest Parking Space**

1A. Continue to implement the Council adopted policies that resulted from the 2008 parking study, which include requiring a parking management plan for multi-family developments as a condition of approval and clarifying and confirming the responsibility of the property owner or homeowners association to enforce its provisions.

*This is incorporated into the template of Conditions of Approval for residential subdivision projects (Attachment B, 4.A – 4.C).*

1B. Continue to develop a handout with a variety of tools to assist new and existing multifamily developments to manage parking.

- o Inform CID residents what types of parking violations the City may enforce, such as parking in legally marked fire access lanes.
- o Maintain a file of parking management plans as a reference source for HOAs.

*This is part of the education plan (Attachment C).*

1C. HOAs could address parking concerns by using the following techniques:

- o Require every car to be registered with the association and require parking tags to keep track of them;
- o Time restrictions on unassigned/guest spaces to encourage turnover of spaces;
- o Hire parking patrol to monitor parking or do inspections at random; and/or
- o Advance notice of garage inspections to assure garages are being used for parking.

*This is part of the education plan (Attachment C).*

**Trash Containers In Public View**

2B. Advise existing CIDs to amend their CC&Rs to have stricter provisions on the maintenance of containers, including implementing administrative fines and penalties.

*This is part of the education plan (Attachment C).*

**Determine Enforceability of CC&Rs for Violations to City Code and Project Approvals (RTC 09-090)**

2C. Require proper trash bin placement and specified storage space as a condition of approval of new developments.

- This is incorporated into the template of Conditions of Approval for residential subdivision projects (Attachment B, 5.A).*

Minor Modifications to Individual Properties

3B. Circulate informational handouts or provide information on the City website to inform communities of City requirements regarding physical modifications within a CID.

- This is part of the education plan (Attachment C) and is incorporated into the template of Conditions of Approval for residential subdivision projects (Attachment B, 1.A and 1.D).*

3C. Advise CIDs to create architectural review committees (ARC), or similar.

- o The ARC could conduct a periodic walk-through of the community to identify any unpermitted architectural modifications or other violations.

- This is part of the education plan (Attachment C).*

Installation of Exterior Mechanical Equipment

4A. Continue to require new developments to determine locations of air conditioning units at the planning stage and to choose locations that would minimize visual and noise impacts, and ensure adequate usable open space.

- This is incorporated into the template of Conditions of Approval for residential subdivision projects (Attachment B, 3.A – 3.B).*

4B. Continue to follow current staff procedures for review of exterior mechanical equipment and air conditioning unit installations in existing CIDs.

- This is incorporated into the template of Conditions of Approval for residential subdivision projects (Attachment B, 3.A – 3.B).*

4C. Address noise issues associated with exterior mechanical equipment with the update of the Noise Sub-Element and revision to the City's noise ordinance in 2010.

**Determine Enforceability of CC&Rs for Violations to City Code and Project Approvals (RTC 09-090)**

- Noise issues will be considered as part of the Noise Sub-Element update, as directed by Council.*

HOA Enforcement Challenges

5C. The City could develop tools for HOA education and assistance. These tools may include:

- Informational materials (handouts, web-based information, etc.) regarding City processes, i.e. City permit requirements for architectural modifications, etc.
- Encourage existing HOAs to register with the City and to maintain current officers' names and contact information.
  - Develop incentives similar to those of the City's Neighborhood Association Registry Program (Neighborhood and Community Resources Division).
- Require in the COAs that future HOAs shall register with the City and to maintain current officers' names and contact information.
- These are part of the education plan (Attachment C) and are incorporated into the template of Conditions of Approval for residential subdivision projects (Attachment B, 1.C).*
- Continue to include COAs for HOA issues:
  - Continue to implement the new parking code provisions and require a parking management plan.
  - Require a trash bin placement plan for projects with individual trash containers.
  - Continue to require the exterior mechanical equipment and air conditioning units locations and noise specifications to be included as part of the development plan for planning approval, and require future installations to meet those criteria.
- This is incorporated into the template of Conditions of Approval for residential subdivision projects (Attachment B, 3.A - 3.B, 4.A - 4.C and 5.A).*
- Continue to refer CID homeowners to readily available mediation services (e.g., Project Sentinel, which is a free service provided by the City) and strongly encourage them to use mediation services when disputes arise within their communities.
- Support HOAs through a list of resources and/or web links; include information about organizations and agencies that aim to provide

**Determine Enforceability of CC&Rs for Violations to City Code and Project Approvals (RTC 09-090)**

education (classes and seminars) and other resources to homeowners, builders and other professional resources, such as:

- The State of California Department of Real Estate (DRE)
- Executive Council of Homeowners (ECHO) in California
- Community Associations Institute (CAI)
- o Advise HOAs of techniques other communities have used to increase awareness of rules and regulations and to limit conflicts between neighbors, in addition to the techniques used to address common enforcement problems described in the previous section:
  - Create a website for the community.
    - Contain important information
    - Identify answers to common questions
    - Identify board members and who to contact when issues arise
  - Hold community forums.
    - Periodic meetings where residents can discuss concerns and possible solutions

- These tools, as well as those discussed in the previous sections, are incorporated into the education plan (Attachment C).*

Additional Council Action Items

1. Within three months, staff shall provide Council with a complete list of COAs to be incorporated into the CC&Rs.
 

*Please see Attachment B for template of Conditions of Approval.*
2. Include a standard COA for the developer, City of Sunnyvale, and new HOA when the HOA is transferred to the property owners to meet and discuss COAs for the project.
 

*This is incorporated into the template of Conditions of Approval for residential subdivision projects (Attachment B, 1.B).*
3. Prepare an education plan for HOAs in the City.
 

*Please see Attachment C.*
4. Include a standard COA the policy that every development shall provide all of its parking on the site.

**Determine Enforceability of CC&Rs for Violations to City Code and Project Approvals (RTC 09-090)**

- This is incorporated into the template of Conditions of Approval for residential subdivision projects (Attachment B, 4.A).*

ATTACHMENT 4

**Attachment B**

**TEMPLATE OF CONDITIONS OF APPROVAL FOR RESIDENTIAL  
SUBDIVISION PROJECTS THAT RELATE TO RTC 09-090**

*This list has been edited to include only those conditions that relate to RTC 09-090 (Study Issue to Determine the Enforceability of CC&Rs for Violations to City Codes and Project Approvals). Items highlighted are new or revised conditions resulting from the study issue.*

**Recommended Conditions of Approval - Special Development Permit /Use Permit**

---

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

Unless otherwise noted, all conditions shall be subject to the review and approval of the Director of Community Development.

**1. GENERAL CONDITIONS**

- A. Project shall be in conformance with the plans and Conditions of Approval approved at the public hearing(s). **Any proposed amendments to the approved plans or Conditions of Approval are subject to review and approval by the City.** Minor changes may be approved by the Director of Community Development; major changes may be approved at a public hearing.
- B. **At the time the homeowners association is transferred from the developer to the individual property owners (typically at election of board members or officers), the developer shall schedule a meeting between the board members or officers, the City of Sunnyvale and the developer to review the Conditions of Approval of the development and other applicable City requirements.**
- C. **The developer shall submit to the City the names, addresses and telephone numbers of the officers of the homeowners association, architectural review committee or similar committee, at the time the organization is granted autonomy. Until such information is supplied to the City, the developer shall remain a Responsible Person for purposes of maintaining all common property. The chairperson, secretary or principal officer of any committee or association shall notify the City of any change in officers and provide the names, addresses and telephone numbers of the new officers within thirty (30) days after the change becomes effective.**

**TEMPLATE OF CONDITIONS OF APPROVAL FOR RESIDENTIAL  
SUBDIVISION PROJECTS THAT RELATE TO RTC 09-090**

**D. In common interest developments, any future applications to the City for physical modifications on commonly owned property shall require consent of the board of directors of the homeowners association, architectural review committee or similar committee; applications for physical modifications on privately owned property shall require the individual property owner's signature. Individual property owners submitting an application for physical modifications on private property shall comply with any approval processes outlined as such in the conditions, covenants & restrictions (CC&Rs) of their respective development.**

**2. CC&R's (CONDITIONS, COVENANTS AND RESTRICTIONS)**

- A. Any proposed deeds, covenants, restrictions and by-laws relating to the subdivision are subject to review and approval by the Director of Community Development and the City Attorney.
- B. The developer/Owner shall create a Homeowner's Association that comports with the state law requirements for Common Interest Developments. Covenants, conditions and restrictions (CC&Rs) relating to the development are subject to review for consistency with the Conditions of Approval by the City Attorney and Director of Community Development prior to approval of the Final Map. The Conditions of Approval shall be attached as an exhibit to the CC&Rs created for this subdivision.
- C. In addition to requirements as may be specified elsewhere, the CC&R's shall include the following provisions:
  - 1. Membership in and support of an association controlling and maintaining all common facilities shall be mandatory for all property owners within the development.
  - 2. The homeowners association shall obtain approval from the Director of Community Development prior to any modification of the CC&R's pertaining to or specifying the City.
  - 3. All property owners and residents shall be provided the most recently updated CC&Rs (including the Conditions of Approval and any amendments therein) of the project at any given time.
  - 4. The developer shall maintain all utilities and landscaping for a period of three years following installation of such improvements or until the improvements are transferred to a homeowners

**TEMPLATE OF CONDITIONS OF APPROVAL FOR RESIDENTIAL  
SUBDIVISION PROJECTS THAT RELATE TO RTC 09-090**

association, following sale of at least 75% of the units, whichever comes first.

5. The Conditions of Approval of this \_\_\_\_\_ Permit and \_\_\_\_\_ Map [*File Number*], and any subsequent amendments shall be incorporated into the CC&Rs as an exhibit or attachment.

D. The CC&Rs shall contain the following language:

1. "Right to Remedy Failure to Maintain Common Area. In the event that there is a failure to maintain the Common Area so that owners, lessees, and their guests suffer, or will suffer, substantial diminution in the enjoyment, use, or property value of their Project, thereby impairing the health, safety and welfare of the residents in the Project, the City, by and through its duly authorized officers and employees, will have the right to enter upon the subject Property, and to commence and complete such work as is necessary to maintain said Common Area. The City will enter and repair only if, after giving the Association and Owners written notice of the failure to maintain the Common Area, they do not commence correction of such conditions in no more than thirty (30) days from the giving of the notice and proceed diligently to completion. All expenses incurred by the City shall be paid within thirty (30) days of written demand. Upon a failure to pay within said thirty (30) days, the City will have the right to impose a lien for the proportionate share of such costs against each lot in the Project.
2. It is understood that by the provisions hereof, the City is not required to take any affirmative action, and any action undertaken by the City will be that which, in its sole discretion, it deems reasonable to protect the public health, safety and general welfare, and to enforce it and the regulations and ordinances and other laws.
3. It is understood that action or inaction by the City, under the provisions hereof, will not constitute a waiver or relinquishment of any of its rights to seek redress for the violation of any of the provisions of these restrictions or any of the rules, regulations and ordinances of the City, or of other laws by way of a suit in law or equity in a court of competent jurisdiction or by other action.
4. It is further understood that the remedies available to the City by the provision of this section or by reason of any other provisions

**TEMPLATE OF CONDITIONS OF APPROVAL FOR RESIDENTIAL  
SUBDIVISION PROJECTS THAT RELATE TO RTC 09-090**

of law will be cumulative and not exclusive of the maintenance of any other remedy. In this connection, it is understood and agreed that the failure to maintain the Common Area will be deemed to be a public nuisance and the City will have the right to abate said condition, assess the costs thereof, and cause the collection of said assessments to be made on the tax roll in the manner provided by appropriate provisions of the Sunnyvale Municipal Code or any other applicable law.

5. No Waiver. No failure of the City of Sunnyvale to enforce any of the covenants or restrictions contained herein will in any event render them ineffective.
6. Hold Harmless. Declarant, Owners, and each successor in interest of Declarant and said Owners, hereby agree to save, defend and hold the City of Sunnyvale harmless from any and all liability for inverse condemnation which may result from, or be based upon, City's approval of the Development of the subject Property."

**3. EXTERIOR EQUIPMENT**

- A. Detailed plans showing the locations of individual exterior mechanical equipment/air conditioning units shall be submitted to the Director of Community Development for review and approval prior to issuance of building permits. Proposed locations shall have minimal visual and noise impacts to neighbors and ensure adequate usable open space.
- B. Individual exterior mechanical equipment/air conditioning units shall be screened with architecture or landscaping features.

**4. PARKING**

**Multi-family Uses:**

- A. Sufficient off-street parking for both residents and guests shall be provided.
- B. A Parking Management Plan must be submitted to the Director of Community Development prior to issuance of a building permit. The Parking Management Plan shall include the following:
  1. Give the property managers/homeowner's association, with approval by the Director of Community Development, the

**TEMPLATE OF CONDITIONS OF APPROVAL FOR RESIDENTIAL  
SUBDIVISION PROJECTS THAT RELATE TO RTC 09-090**

latitude to define "guest," since ultimate enforcement is the responsibility of that entity.

2. Specify that 25% to 75% of unassigned spaces be reserved for guest use only at the discretion of the property owner or homeowner's association.
3. Require that unassigned spaces reserved for residents shall be maintained as common parking spaces, and individual spaces may not be rented or reserved for the exclusive use of residents.
4. Require tenants to use their assigned parking spaces prior to using unassigned parking spaces.
5. Do not allow tenants to park RV's, trailer, or boats in assigned spaces.
6. Clearly notify potential residents of the number of parking spaces provided for each unit on-site.

C. The parking lot shall be maintained as follows:

1. Garage and carport spaces shall be maintained at all times so as to allow for parking of vehicles.
2. Clearly mark all assigned, guest, and compact spaces. This shall be specified on the Building Permit plans and completed prior to occupancy.
3. Maintain all parking lot striping and marking.
4. Assure that adequate lighting is available in parking lots to keep them safe and desirable for the use.

**5. RECYCLING AND SOLID WASTE**

- A. Submit a detailed recycling and solid waste disposal plan to the Director of Community Development for approval. **The plan shall include proper trash bin placement and specified storage space.**
- B. All exterior recycling and solid waste shall be confined to approved receptacles and enclosures.
- C. The required solid waste and recycling enclosure shall:
  1. Match the design, materials and color of the main building.
  2. Be of masonry construction.
- D. All recycling and solid waste containers shall be metal or State Fire Marshall listed non-metallic.

**Attachment C**

**Determine Enforceability of CC&Rs for Violations to City Code and Project Approvals (RTC 09-090)**

**EDUCATION PLAN**

PRODUCT	EXPECTED COMPLETION DATE / LEAD STAFF
<p><b>Create Webpage for Homeowners Associations</b></p> <ul style="list-style-type: none"> <li>▪ <a href="http://hoas.insunnyvale.com">http://hoas.insunnyvale.com</a></li> <li>▪ Post educational handouts regarding City processes:               <ul style="list-style-type: none"> <li>- Parking Management Handout</li> <li>- Design Review/Miscellaneous Plan Permit and Use Permit brochures and other frequently requested zoning and building information</li> </ul> </li> <li>▪ List of resources and/or web links to organizations and agencies that aim to provide education (classes and seminars) and other resources to homeowners, builders and other professional resources, such as:               <ul style="list-style-type: none"> <li>- The State of California Department of Real Estate (DRE)</li> <li>- Executive Council of Homeowners (ECHO) in California</li> <li>- Community Associations Institute (CAI)</li> </ul> </li> <li>▪ Information about Project Sentinel services and contact information</li> <li>▪ Frequently Asked Questions (FAQs)</li> <li>▪ Advice/techniques to aid in tackling issues that most frequently arise within common interest developments, such as parking, trash containers, exterior equipment, minor physical modifications to properties and lack of awareness of important processes               <ul style="list-style-type: none"> <li>- Advise existing CIDs to amend their CC&amp;Rs to have stricter provisions on the maintenance of containers, including implementing administrative fines and penalties.</li> <li>- Advise CIDs to create architectural review committees (ARCs) or similar.</li> <li>- Advise HOAs of techniques other communities have used to increase awareness of rules and regulations and to limit conflicts between neighbors.</li> </ul> </li> <li>▪ Information regarding the Community Resources Program and services offered by the Neighborhood and Community Resources Division</li> </ul>	<p><b>August 3, 2009</b></p> <p><b>Planning Division (CDD) and Community Services Division (OCM)</b></p>

**Determine Enforceability of CC&Rs for Violations to City Code and Project Approvals (RTC 09-090)**

**EDUCATION PLAN**

<b>PRODUCT</b>	<b>EXPECTED COMPLETION DATE / LEAD STAFF</b>
<ul style="list-style-type: none"> <li>▪ Links to Planning, Building and Neighborhood and Community Services Division websites</li> <li>▪ Contact information for questions</li> </ul>	
<p><b>Encourage Existing HOAs to Register and Maintain Contact Information with the City</b></p> <ul style="list-style-type: none"> <li>▪ Provide information about the Neighborhood Association Registry and the Neighborhood Grant Program, which could fund community-building activities</li> <li>▪ Distribution to HOA board members/officers of community meeting notices, press releases and public hearing notices</li> <li>▪ Assistance in securing City and community speakers for meetings</li> <li>▪ Arranging/coordinating meetings with City staff or elected officials on issues of importance to specific neighborhoods</li> <li>▪ Opportunities for networking with other associations that support Sunnyvale neighborhood associations</li> <li>▪ Explore web registration so that it is easier for HOAs to register</li> </ul>	<p><b>August 3, 2009</b></p> <p><b>Community Services Division (OCM)</b></p>
<p><b>Parking Management Handout</b></p> <ul style="list-style-type: none"> <li>▪ Include the types of parking violations the City may enforce</li> <li>▪ Techniques HOAs can use to manage parking more effectively, including those that other HOAs in the community and beyond have used <ul style="list-style-type: none"> <li>– Require every car to be registered with the association and require parking tags to keep track of them;</li> <li>– Time restrictions on unassigned/guest spaces to encourage turnover of spaces;</li> <li>– Hire parking patrol to monitor parking or do inspections at random; and/or</li> <li>– Advance notice of garage inspections to assure garages are being used for parking.</li> </ul> </li> </ul>	<p><b>July 10, 2009</b></p> <p><b>Planning Division (CDD)</b></p>

**Determine Enforceability of CC&Rs for Violations to City Code and Project Approvals (RTC 09-090)****EDUCATION PLAN****METHODS OF DISTRIBUTION AND OUTREACH**

1. Create a website devoted to HOAs with information to be launched by August 3, 3009.
2. Include a list of new resources available to HOAs and website URL in the City's *Quarterly Report* when available.
3. Send, via postal mail, an informational handout to those HOA members for whom we have contact information.
4. Post an advertisement slide on KSUN.
5. Post a display advertisement in the *Sunnyvale Sun* newspaper.
6. Include an insert in residential utility bills when available.