



**Council Date: November 24, 2009**

**SUBJECT: Sunnyvale Municipal Code Chapters 18.10 and 19.74 Relating to Park Dedication: Consider Raising the Park Facility Standard from 1.25 Acres per 1,000 Population to 3.0 Acres per 1,000 Population**

**BACKGROUND**

City Municipal Code Title 18 (Subdivisions) Chapter 18.10, Parks and Open Space Dedication, was adopted in 1986 and requires developers of specified subdivisions to either dedicate a certain amount of land equivalent to 1.25 acres per additional 1,000 new residents for recreation and open space purposes or to pay an in-lieu fee equivalent to the cost of purchasing the corresponding required acreage. City Municipal Code Title 19 (Zoning) Chapter 19.74, Park Dedication Fees for Rental Housing Projects, was adopted in 1991, makes the determination that multifamily/rental housing developments also have a significant effect on the use and availability of parks and recreation space and facilities, and has a similar requirement for apartment developments.

The City of Sunnyvale initiated the Parks of the Future (POTF) study process in the fall of 2007 to create a community-supported blueprint for providing high-quality parks and recreation facilities for all residents. RTC 09-183, Consideration of Parks of the Future Study, reviewed by Council on July 14, 2009, presented a menu of actions for Council consideration to address Sunnyvale's parks and open space needs for the next twenty years, including potential amendments to the City's Park Dedication regulations, due to findings that the facility standard of 1.25 acres was lower than the minimum standard allowed under the enabling legislation as well as lower than the standards used by neighboring cities. The City Council took action to direct staff to prepare amendments to Chapter 18.10 and Chapter 19.74 increasing the facility standard used in these ordinances from the current level of 1.25 acres per 1,000 additional population to 3.0 acres per 1,000 additional population in a specified, phased approach.

**EXISTING POLICY**

*Sunnyvale Municipal Code Chapter 18.10 (Parks and Open Space Dedication) of Title 18 (Subdivisions)*

- Section 18.10.030 Land Requirement
- Section 18.10.040 Density Formula
- Section 18.10.060 Calculation of Fair Market Value
- Section 18.10.070 Calculation of Requirement

*Sunnyvale Municipal Code Chapter 19.74 (Park Dedication Fees for Rental Housing Projects) of Title 19 (Zoning)*

- Section 19.74.030 Land Requirement
- Section 19.74.040 Density Formula
- Section 19.74.060 Calculation of Fair Market Value
- Section 19.74.070 Calculation of Requirement

*Open Space and Recreation Sub-Element*

Goal 2.2A. Open Space: The City strives to provide and maintain adequate and balanced open space and recreation facilities for the benefit of maintaining a healthy community based on community needs and the ability of the city to finance, construct, maintain, and operate these facilities now and in the future.

*Fiscal Management Sub-Element*

7.1B.1.4. When considering a new tax or revenue source or an increase in an existing tax or revenue source, the following criteria should be considered:

- Community/voter acceptance
- Competitiveness with surrounding communities
- Efficiency of revenue collection and enforcement
- Effectiveness in generating sufficient revenues in the short and long-term to justify its establishment
- Enhancement of revenue diversity to promote stability and provide protection from downturns in business cycles
- Equity/Fairness in distribution of the revenue burden on various segments of the community

**DISCUSSION**

In considering an increase to the facility standard used in the Municipal Code Chapter 18.10 and Chapter 19.74 from 1.25 acres per 1,000 new residents to 3.0 acres per 1,000 new residents, several Councilmembers were concerned that the increased standard, and resulting increase in costs to developers, would negatively impact development in Sunnyvale. Therefore, staff was directed to phase in the increase in facility standard as follows: 1.75 acres per 1,000 population as soon as practical; increase to 2.25 acres per 1,000 population as of July 1, 2010; and increase to 3.0 acres as of July 1, 2011. Language has been drafted to amend both Chapter 18.10 and Chapter 19.74 accordingly (Attachment A, Proposed Ordinance Amending Municipal Code Chapters 18.10 and 19.74).

	<b>Facility Standard per 1,000 Population</b>	<b>Effective</b>
<b>Existing Facility Standard</b>	1.25	Existing
<b>Phase1 Facility Standard</b>	1.75	Time of Adoption of Amendment Until 06/30/10
<b>Phase 2 Facility Standard</b>	2.25	07/01/2010 – 06/30/2011
<b>Final Phase Facility Standard</b>	3.00	07/01/2011 and thereafter

In determining dedication or in lieu fee payment requirements, the following table shows the acreage requirements per dwelling unit under the phased approach identified. These are derived from density assumptions of the general plan and prevailing household sizes.

**Comparison of Acreage and Fee Requirement for Each Phase of Implementation of Increased Park Dedication Facility Standard**

<b>BASIS</b>	<b>ACRES</b> (Equivalency per du)	<b>SQ. FT</b> (Equivalency per du)	<b>FEE Per d.u.</b> (Using 2008/09 Land Values of \$96/sq. ft.)
<b>Low Density Residential: 0 – 7 du/acre (assumes 2.75 persons per du)</b>			
Existing	0.0034375	149.74	\$14,374.75
Phase 1	0.0048125	209.63	\$20,124.67
Phase 2	0.0061875	269.53	\$25,874.59
Final Phase	0.0082500	359.37	\$34,499.52
<b>Low-Medium Density Residential: &gt;7 – 14 du/acre (assumes 2.5 persons/du)</b>			
Existing	0.0031250	136.13	\$13,068.00
Phase 1	0.0043750	190.58	\$18,295.20
Phase 2	0.0056250	245.03	\$23,522.40
Final Phase	0.0075000	326.70	\$31,363.20
<b>Medium Density Residential: &gt;14 – 27 du/acre (assumes 1.8 persons/du)</b>			
Existing	0.0022500	98.01	\$9,408.96
Phase 1	0.0031500	137.21	\$13,172.54
Phase 2	0.0040500	176.42	\$16,936.13
Final Phase	0.0054000	235.22	\$22,581.50
<b>High Density Residential: &gt;27 – 45 du/acre (assumes 1.8 persons/du)</b>			
Existing	0.0022500	98.01	\$9,408.96
Phase 1	0.0031500	137.21	\$13,172.54
Phase 2	0.0040500	176.42	\$16,936.13
Final Phase	0.0054000	235.22	\$22,581.50

Note: "du" = "dwelling unit"

As an example, if a developer were to have a project in which 400 units were to be built with 12 units per acre, it would qualify as a low-medium density residential project. In assessing the appropriate amount of land to be dedicated (or upon which to base the in-lieu fee), an estimate of 2.5 persons per unit would be used, so this hypothetical project would be said to add 1,000 new residents. Using the given equivalency per dwelling as shown in the above chart, the requirement would be calculated at 400 units X 0.0031250 = 1.25 acres (under the existing requirement). In Phase 1, the calculation works out to 400 units X 0.0043750 = 1.75 acres. In Phase 2, the calculation is 400 units X

0.0056250 = 2.25 acres; and in Final Phase, the calculation is 400 units X  
0.0075000 = 3.0 acres.

Council, in its action on July 14, 2009, had specified that whatever standard was in effect on the date of the completion of the application would be the standard to use for calculating either the amount of land owed the City or the in-lieu fee to be paid. In reviewing statutory requirements as well as past practice and ease of administration, further clarification may be appropriate. The draft ordinances presented as part of this report continue the current process for assessing required park acreage and collecting fees on that acreage if the in-lieu option is selected, but include language to remove any ambiguity about these practices.

The first issue is to determine when the acreage standard should be locked into place. For Title 18 Subdivisions, the acreage standard is calculated when the tentative map is complete. However, the fair market value of that required acreage, in the case when developers pay the in-lieu fee, will be calculated at the time the fee is collected, at the time of the final map. This allows a developer to lock in for planning purposes the amount of acreage to be dedicated or the amount of acreage that will be used to determine fees early in the planning process, but it enables the City to collect the most current fair market value of that acreage at the time the project is ready to be developed.

There will be a very real impact on developers knowing which acreage standard applies and when the fair market value of the acreage is calculated. The amount of time between when a tentative map is approved and when a project is ready to move forward with a final map and/or ready for building applications to be pulled (as the case may be), can vary significantly. In 2008 and again in 2009, State law extended the amount of time that a tentative map is valid to a total of 7 years, to be effective immediately. It is possible, therefore, for a final map to be approved as many as 7 years after approval of the tentative map. Fair market value of land is likely to increase over time. Calculating the fair market value of the required acreage at the time of the final map ensures that the fee paid to the City accurately reflects the cost to the City of purchasing an equivalent amount of land elsewhere (should the City choose to use the funds in that manner) while providing a financial incentive for developers both to submit tentative maps and to complete their final maps as soon as possible.

In the case of Chapter 19.74, tentative maps and final maps are not part of the process, so the park acreage standard is the one in place at the time any planning permit applications are complete, which is prior to building permit application. Similar to Title 18, the fair market value to be applied will be that which is in effect at the time the fees are paid.

The language contained in the draft revised ordinances, therefore, represents a continuation of the current process for assessing required park acreage and collecting fees on that acreage if the in-lieu option is selected. The ordinances presented as part of this report include language to remove any ambiguity about these practices. In drafting the requested amendments, staff took the opportunity to identify other minor changes that could be made to the language that would clarify intent to help ensure consistent application of the code sections. The attached draft amended codes include language in both Chapter 18.10 and Chapter 19.74 clarifying that developers receive credit for existing development. For example, if a developer is replacing 10 units with 15 units, the park development requirement would only be applied on the difference between existing and new development, or on a total of 5 units.

### **Environmental Review**

Section 15378(b)(4) of the California Code of Regulations related to the creation of government funding mechanisms relieves this project from California Environmental Quality Act (CEQA) provisions and City Guidelines.

### **FISCAL IMPACT**

The in-lieu fee is calculated based on a formula and is adopted annually as part of the City's fee schedule. Currently, for FY 2009/2010 the fee is based on \$96.00/square foot of land (which represents no change from FY 2008/2009), which is equivalent to  $\$96.00 \times 43,560 \text{ sq. ft.} = \$4,181,760$  per acre. This means that when the in-lieu option of the Park Dedication regulation is applied, the City collects \$5,227,200 for every 1,000 residents coming into the residential development (at the equivalent cost of 1.25 acres per 1,000 residents). Therefore, in Phase 1, when the facility standard is raised to 1.75 acres per 1,000 acres, the City will collect \$7,318,080 for every 1,000 new residents; in Phase 2, when the facility standard is 2.25 acres, the City will collect \$9,408,960 per 1,000 new residents; and in Phase 3, and the final phase, when the standard is 3.00 acres, the City will collect \$12,545,280 for each additional 1,000 residents.

The following table shows estimated 20-year aggregated revenue as included in the FY 2009/2010 Resource Allocation Plan from the parkland dedication in-lieu fee under the current standard of 1.25 acres per 1,000 population. Using the same assumptions of amount of new development and fair market value of residential property, an estimate is made of what that aggregated revenue would be if the standard were increased from 1.25 to 3.0 acres per 1,000 population in the phased approach. It is worth remembering that actual revenue received could increase or decrease, depending on a number of factors, including the standard applied, actual fair market value of residential land over the course of the 20-year planning period, and whether or not the in-lieu option is exercised or if, instead, the City requires dedication of land.

<b>Comparison of Estimated Park Dedication Fees                      FY 2009/2010 to FY 2028/2029                      Based on Existing Standard and Based on Phased Increase in Standard</b>		
	<b>Fees Based on                      Existing                      Standard (1.25                      acres/1,000)</b>	<b>Phased Increase in Facility                      Standard (1.75 acres/1,000 as                      of 11/09; 2.25 acres as of                      7/1/10; 3 acres as of 7/1/11)</b>
FY 2009/10	\$2,017,699	\$2,501,947
FY 2010/11	\$2,017,699	\$3,631,858
FY 2011/12 - FY 2028/29	\$22,535,638	\$54,085,531
<b>Total</b>	<b>\$26,571,036</b>	<b>\$60,219,336</b>
<b>Difference</b>		<b>\$33,648,300</b>

**PUBLIC CONTACT**

Public contact was made through posting of the Planning Commission’s and Parks and Recreation Commission’s agendas on the City’s official-notice bulletin board, on the City’s Web site, and the availability of the agendas and report in the Office of the City Clerk, Sunnyvale Public Library, Senior Center and Community Center. A legal ad for the Planning Commission and City Council public hearings was published in *The Sun* newspaper.

The Planning Commission conducted a public hearing on this item at their meeting on October 12, 2009. The Parks and Recreation Commission conducted a public hearing on this item at their meeting on October 14, 2009.

**ALTERNATIVES**

1. Council adopt the attached amendments to City Municipal Code Title 18 (Subdivisions) Chapter 18.10, Parks and Open Space Dedication, raising the facility standard from the existing standard of 1.25 acres per 1,000 to 3.0 acres per 1,000 over three years.
2. Council adopt the attached amendments to City Municipal Code Title 19 (Zoning) Chapter 19.74, Park Dedication Fees for Rental Housing Projects, raising the facility standard from the existing standard of 1.25 acres per 1,000 additional residents to 3.0 acres per 1,000 over three years.
3. Other action as determined by Council.

**RECOMMENDATION**

Staff recommends Alternative No. 1: Council adopt the attached amendments to City Municipal Code Title 18 (Subdivisions) Chapter 18.10, Parks and Open Space Dedication, raising the facility standard from the existing standard of 1.25 acres per 1,000 additional residents to 3.0 acres per 1,000 over three years. Staff also recommends Alternative No. 2: Council adopt the attached amendments to City Municipal Code Title 19 (Zoning) Chapter 19.74, Park

Dedication Fees for Rental Housing Projects, raising the facility standard from the existing standard of 1.25 acres per 1,000 additional residents to 3.0 acres per 1,000 over three years.

One important tool available to the City in its efforts to acquire open space in conjunction with new development of homes within sub-divisions is its Park Dedication requirements in Title 18 (Subdivisions) and Title 19 (Zoning). The current standard used in these regulations of 1.25 acres per 1,000 residents is significantly lower than both what the enabling legislation sets as the minimum standard (3.0 acres) and what the rest of the cities in Santa Clara County have adopted. As long as the City maintains this low standard, it will disproportionately lose ground in maintaining its current Citywide Level of Service of 5.34 acres per 1,000 residents. The phased approach taking three years to raise the facility standard to 3.0 acres per 1,000 residents will provide prospective developers with time to plan for the increased requirement and will provide an incentive for developers to complete their development plans as early as possible.

The Planning Commission reviewed a draft of this report at its meeting on October 12, 2009, and also recommends 5-0 (Commissioners McKenna and Rowe absent) that Council accept staff's recommendations, Alternatives 1 and 2, with an additional recommendation that Council direct staff to reevaluate the acreage requirements for housing densities as soon as possible when there is more current information on persons per dwelling unit. (Attachment B, Approved Minutes of the October 12, 2009, Planning Commission Meeting)

The Parks and Recreation Commission reviewed a draft of this report at its meeting on October 14, 2009, and voted unanimously 5-0 to recommend that Council accept staff's recommendations, Alternatives 1 and 2. (Attachment C, Draft Minutes of the October 14, 2009, Parks and Recreation Commission Meeting)

Reviewed by:

David A. Lewis, Director, Community Services  
Prepared by: Jenny L. Shain, Part-Time Manager, Special Projects

Mary J. Bradley, Director, Finance

Hanson Hom, Director, Community Development

Approved by:

Gary M. Luebbers  
City Manager

**Attachments**

- A. Proposed Ordinance Amending Municipal Code Chapters 18.10 and 19.74
- B. Approved Minutes of the October 12, 2009, Planning Commission Meeting
- C. Draft Minutes of the October 14, 2009, Parks and Recreation Commission Meeting

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE AMENDING CERTAIN SECTIONS OF CHAPTERS 18.10 (PARKS AND OPEN SPACE DEDICATION) OF TITLE 18 (SUBDIVISIONS) AND 19.74 (PARK DEDICATION FEES FOR RENTAL HOUSING PROJECTS) OF TITLE 19 (ZONING) OF THE SUNNYVALE MUNICIPAL CODE PERTAINING TO PARK DEDICATION**

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

SECTION 1. SECTIONS 18.10.030 and 18.10.040 AMENDED. Sections 18.10.030 (“Land Requirement”) and 18.10.040 (“Density Formula”) of Chapter 18.10 (“Parks and Open Space Dedication”) of Title 18 (Subdivisions) of the Sunnyvale Municipal Code are hereby amended to read as follows:

**18.10.030. Land requirement.**

In accordance with the open space and recreation subelement of the general plan, it is hereby found and determined that the public interest, convenience, health, welfare and safety require that effective until June 30, 2010, 1.75 acres; effective July 1, 2010, 2.25 acres; and effective July 1, 2011, 3.00 ~~1.25~~ acres of property for each one thousand persons residing within each neighborhood planning area within the city of Sunnyvale be devoted to public park and recreational facilities, with the exception that the Murphy planning area shall be divided by Fair Oaks Avenue into two sections to be designated Murphy West and Murphy East. The following table depicts the annual acreage requirements applicable for project applications at the time the complete tentative map application is received:

<u>Effective Date</u>	<u>Acres of property per one thousand persons</u>
<u>Until June 30, 2010</u>	<u>1.75 acres</u>
<u>July 1, 2010</u>	<u>2.25 acres</u>
<u>July 1, 2011 and thereafter</u>	<u>3.00 acres</u>

**18.10.040. Density formula.**

In determining dedication or in lieu fee payment requirements under this chapter, the following table, derived from density assumptions of the general plan and prevailing household sizes, shall apply:

Dwelling Category	Dwelling Units Per Net Acre	Acreage Requirement Per Dwelling Unit Within Subdivision		
		<u>Until 06/30/10</u>	<u>07/01/10 to 07/01/11</u>	<u>07/01/11 and thereafter</u>
Low density residential	7 or <del>Less</del> <u>fewer</u>	<u>0.0048125</u>	<u>0.0061875</u>	<u>0.0082500</u>
Low-medium density residential	Over 7 to 14	<u>0.0043750</u>	<u>0.0056250</u>	<u>0.0075000</u>
Medium density residential	Over 14 to 27	<u>0.0031500</u>	<u>0.0040500</u>	<u>0.0054000</u>
High density residential	Over 27 to 45	<u>0.0031500</u>	<u>0.0040500</u>	<u>0.0054000</u>

A deduction for the number of existing dwelling units will be allowed in calculating the land dedication or in-lieu fees required pursuant to this chapter as set forth in Section 18.10.070.

The value of any park and recreational improvements and equipment to the dedicated land shall be credited against the payment of fees or dedication of land required pursuant to this chapter.

**SECTION 2.** SECTIONS 18.10.060 and 18.10.070 AMENDED. Sections 18.10.060 (“Calculation of Fair Market Value”) and 18.10.070 (“Calculation of Requirement”) of Chapter 18.10 (“Parks and Open Space Dedication”) of Title 18 (Subdivisions) of the Sunnyvale Municipal Code are hereby amended to read as follows:

**18.10.060. Calculation of fair market value.**

Annually, on a fiscal year basis, the director of community development shall determine the fair market value for an acre of land in the city. The fair market value amount shall be included in the fee resolution adopted by the city council. The fair market value applicable to the calculation of all park in-lieu fees shall be based on the fiscal year when the final map is complete. The calculation of all park in-lieu fees shall be applied and payable upon approval of the final map. The fair market value shall be applied to the calculation of all park in-lieu fees for project applications deemed complete.

**18.10.070. Calculation of requirement.**

For the purposes of the formula established by this section, the following definitions shall apply:

A — the acreage required per dwelling unit within the proposed subdivision for park and recreational facilities from Section 18.10.040.

B — the number of dwelling units in the proposed subdivision.

C — the fair market value per acre of land from Section 18.10.060.

D — the number of existing dwelling units.

L — the land required for dedication in proposed subdivision.  
F — the fee required.

The following formula shall be used in calculating land required for dedication under this section:

$$\text{---} A \times (B-D) = L \text{ (Land required for dedication in proposed subdivision)}$$

The following formula shall be used in calculating in lieu of fees required to be paid under this article:

$$A \times (B-D) \times C = F \text{ (F = Fee required).}$$

**SECTION 3. SECTIONS 19.74.030 and 19.74.040 AMENDED.** Sections 19.74.030 (“Land Requirement”) and 19.74.040 (“Density Formula”) of Chapter 19.74 (“Park Dedication Fees for Rental Housing Projects”) of Title 19 (Zoning) of the Sunnyvale Municipal Code are hereby amended to read as follows:

**19.74.030. Land requirement.**

In accordance with the open space and recreation subelement of the general plan, it is found and determined that the public interest, convenience, health, welfare and safety require that 1.25 until June 30, 2010, 1.75 acres; effective July 1, 2010, 2.25 acres; and effective July 1, 2011, 3.00 acres of property for each one thousand persons residing within each neighborhood planning area within the city be devoted to public park and recreational facilities. The Murphy planning area shall be divided by Fair Oaks Avenue into two sections, to be designated Murphy West and Murphy East. The following table depicts the annual acreage requirements applicable for projects at the time of building permit application submittal:

<u>Effective Date</u>	<u>Acres of property per one thousand persons</u>
<u>Until June 30, 2010</u>	<u>1.75 acres</u>
<u>July 1, 2010</u>	<u>2.25 acres</u>
<u>July 1, 2011 and thereafter</u>	<u>3.00 acres</u>

**19.74.040. Density formula.**

In determining dedication or in-lieu fee payment requirements under this chapter, the following table, derived from density assumptions of the general plan and prevailing household sizes, shall apply:

<b>Dwelling Category</b>	<b>Dwelling Units Per Net Acre</b>	<u>Acreage Requirement Per Dwelling Unit Within Housing Project</u>		
		<u>Until 06/30/10</u>	<u>07/01/10 to 07/01/11</u>	<u>07/01/11 and thereafter</u>
Low density residential	7 or <del>less</del> fewer	<u>0.0048125</u>	<u>0.0061875</u>	<u>0.0082500</u>

Dwelling Category	Dwelling Units Per Net Acre	<u>Acreage Requirement Per Dwelling Unit Within Housing Project</u>		
		<u>Until 06/30/10</u>	<u>07/01/10 to 07/01/11</u>	<u>07/01/11 and thereafter</u>
Low-medium density residential	Over 7 to 14	<u>0.0043750</u>	<u>0.0056250</u>	<u>0.0075000</u>
Medium density residential	Over 14 to 27	<u>0.0031500</u>	<u>0.0040500</u>	<u>0.0054000</u>
High density residential	Over 27	<u>0.0031500</u>	<u>0.0040500</u>	<u>0.0054000</u>

A deduction for the number of existing dwelling units will be allowed in calculating the land dedication or in-lieu fees required pursuant to this chapter as set forth in Section 19.74.070.

**SECTION 4. SECTIONS 19.74.060 and 19.74.070 AMENDED.** Sections 19.74.060 (“Calculation of Fair Market Value”) and 19.74.070 (“Calculation of Requirement”) of Chapter 19.74 (“Park Dedication Fees for Rental Housing Projects”) of Title 19 (Zoning) of the Sunnyvale Municipal Code are hereby amended to read as follows:

**19.74.060. Calculation of fair market value.**

Annually, on a fiscal year basis, the director of community development shall determine the fair market value for an acre of land in the city. The fair market value amount shall be included in the fee resolution adopted by the city council. The fair market value shall be applied to the calculation of all park in-lieu fees for projects and paid at the time of building permit application submittal applications deemed complete.

**19.74.070. Calculation of requirement.**

—(a) For the purposes of the formula established by this section, the following definitions shall apply:

—A — the acreage required per dwelling unit within the proposed residential housing project for park and recreational facilities from Section 19.74.040.

—B — the number of dwelling units in the proposed residential housing project.

—C — the fair market value per acre of land.

D — the number of existing dwelling units.

—F — the in-lieu fee required.

—L — the land required for dedication.

—(b) The following formula shall be used in calculating land required for dedication:

$$A \times (B - D) = L$$

\_\_\_\_\_(c) The following formula shall be used in calculating fees to be paid in lieu of land dedication:

\_\_\_\_\_ $A \times (B-D) \times C = F$

SECTION 5. CEQA - EXEMPTION. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15378(b)(4), and that this ordinance is not a project and thus, not subject to the requirements of the California Environmental Quality Act (CEQA).

SECTION 6. 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 7. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 8. 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 \_\_\_\_\_, 2009, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on \_\_\_\_\_, 2009, by the following vote:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

ATTEST:

APPROVED:

\_\_\_\_\_  
City Clerk  
Date of Attestation: \_\_\_\_\_

\_\_\_\_\_  
Mayor

SEAL

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
David E. Kahn, City Attorney

**PLANNING COMMISSION MINUTES OF OCTOBER 12, 2009**

**Amendment of Ordinances 18.10 and 19.74 Relating to Park Dedication:**  
Raising the Facility Standard from 1.25 Acres per 1,000 Population to 3.0 Acres over Three Years – JS, SB

**Jenny Shain**, Department of Community Services, Part-time Manager, Special Projects, presented the staff report. She said staff recommends Alternative 1 and Alternative 2.

**Comm. Sulser** asked about the phase in of the increase in the park standards. Ms. Shain said Council said to phase the increases in over three years, specified 1.75 acres right now, and also specified what date and what amount for the second and final phase.

**Comm. Klein** referred to the table on page 4 of the report and asked staff to clarify the existing ordinance and what staff is recommending regarding different densities of population. **Trudi Ryan**, Planning Officer, said that park dedication requirement is based on population. She said there would be another census taken in April of 2010. She discussed densities and dwelling units. Ms. Shain provided background on this issue. Comm. Klein asked about rapidly increasing densities and said there is no difference on the table on page 4 between medium and high density residential requirements. Ms. Ryan said information on households would be looked at after the City receives the census information and said that the density ranges on the table match the ranges in the zoning code. Comm. Klein discussed with staff how fees would be collected. Ms. Ryan discussed what the developers would be most interested in. Ms. Ryan said the acreage requirement is locked in when the application is complete and the dollar value would flex based on when a developer pays the fee.

**Chair Chang opened the public hearing.**

**Chair Chang closed the public hearing.**

**Comm. Klein made a motion to recommend to City Council: to adopt the attached amendments to City Municipal Code Title 18 (Subdivisions) Chapter 18.10, Parks and Open Space Dedication and Title 19 (Zoning) Chapter 19.74, Park Dedication Fees for Rental Housing Projects; raising the facility standard from the existing standard of 1.25 acres per 1,000 additional residents to 3.0 acres per 1,000 over three years; to adopt amendments to City Municipal Code and, to direct staff to reevaluate the acreage requirements for housing densities as soon as possible when there is more current information on persons per dwelling unit. Comm. Sulser seconded.**

**Comm. Klein** said these changes are implementing Council's wishes regarding the donation of land versus in-lieu fees. He said higher density developments have more requirements than are listed in this document and the increases being applied over the next few years help defray some of the costs as far as parks are concerned. He said he hopes that the code would be reevaluated after the next census to reflect a better contribution from developers to support the parks in the community.

**Comm. Sulser** said he supports upgrading the Park Dedication standard and the sooner we can upgrade the code to make these changes, the better.

**ACTION:** Comm. Klein made a motion to recommend to City Council: to adopt the attached amendments to City Municipal Code Title 18 (Subdivisions) Chapter 18.10, Parks and Open Space Dedication and Title 19 (Zoning) Chapter 19.74, Park Dedication Fees for Rental Housing Projects; raising the facility standard from the existing standard of 1.25 acres per 1,000 additional residents to 3.0 acres per 1,000 over three years; to adopt amendments to City Municipal Code and, to direct staff to reevaluate the acreage requirements for housing densities as soon as possible when there is more current information on persons per dwelling unit. Comm. Sulser seconded. Motion carried, 5-0, with Comm. McKenna and Comm. Rowe absent.

**APPEAL OPTIONS:** This recommendation will be forwarded to City Council and is scheduled to be considered at the October 27, 2009 Council meeting.



**EXCERPT FROM DRAFT MINUTES  
SUNNYVALE PARKS AND RECREATION COMMISSION  
OCTOBER 14, 2009**

The Sunnyvale Parks and Recreation Commission met in regular session in City Hall Council Chambers, at 456 W. Olive Avenue, Sunnyvale, CA 94086 at 7 p.m. with Chair Colvin presiding.

**CALL TO ORDER/SALUTE TO THE FLAG**

Chair Colvin called the meeting to order at 7 p.m.

**ROLL CALL**

**Commissioners Present:** Chair Jim Colvin  
Vice Chair Richard Oliver  
Commissioner Howard Chuck  
Commissioner Robert Harms  
Commissioner Robert Pochowski

**Commissioners Absent:** None

**Staff Present:** Community Services Director David A. Lewis  
Assistant to the Director Cathy Merrill

**Guests Present:** None

**PUBLIC HEARINGS/GENERAL BUSINESS**

2. Draft RTC - Sunnyvale Municipal Code Chapters 18.10 and 19.74 Relating to Park Dedication: Consider Raising the Park Facility Standard from 1.25 Acres per 1,000 Population to 3.0 Acres per 1,000 Population

Director Lewis presented the staff report noting that Council approved the 16<sup>th</sup> recommendation of the Parks of the Future Study Report to Council with modifications to the staff recommendation. Council directed staff to prepare an amendment to the Sunnyvale Municipal Code increasing the facility standard used from the current level of 1.25 acres per 1,000 additional population to 3.0 acres per 1,000 additional population in a specified phased approach. The amendment to the City's Park Dedication regulations requires a change in the City Ordinance; therefore, this Report to Council is a separate action and requires two public readings.

Director Lewis stated that the date the report goes before Council has been changed from October 27 to November 24, 2009.

Commissioner Chuck asked if staff has talked to the public and developers regarding impacts this may have on new development in Sunnyvale. Director Lewis noted there were public hearings and study sessions with both Council and Commission for the Parks of the Future Study where developers did raise their concerns, and he believes this input led to Council's desire to phase in the fee increase.

Commissioners inquired if staff is aware of areas with potential for large scale developments which might be affected and also asked if properties where smaller houses are on large lots and owners are adding to the size of the house, would this type of project be affected?

Chair Colvin opened the public hearing and there being no public testimonies, closed the public hearing.

Commissioner Pochowski moved to accept the recommendation and Commissioner Harms seconded the motion.

Director Lewis clarified that there are three alternatives in the report.

There was no further discussion.

Commissioner Pochowski restated the motion.

**MOTION: Commissioner Pochowski moved and Commissioner Harms seconded to recommend that Council accept staff's recommendations, Alternatives Nos. 1 and 2.**

- 1. Council adopt the attached amendments to City Municipal Code Title 18 (Subdivisions) Chapter 18.10, Parks and Open Space Dedication, raising the facility standard from the existing standard of 1.25 acres per 1,000 to 3.0 acres per 1,000 over three years.**
- 2. Council adopt the attached amendments to City Municipal Code Title 19 (Zoning) Chapter 19.74, Park Dedication Fees for Rental Housing Projects, raising the facility standard from the existing standard of 1.25 acres per 1,000 additional residents to 3.0 acres per 1,000 over three years.**

**VOTE: Motion passed unanimously 5-0.**