



**Council Meeting: May 24, 2011**

**SUBJECT: Introduction of an Ordinance to Amend Certain Sections of Sunnyvale Municipal Code Title 18 and Title 19 to Clarify Phasing of Parkland Dedication Requirements for Housing Projects**

**BACKGROUND**

On April 26, 2011, Council approved an increase in the parkland dedication requirement for housing projects to up to 5 acres per 1,000 persons (RTC 11-083) over the course of three years. Each incremental increase takes effect on July 1 of each year until 2014.

During the public hearing, Council asked staff how the phased increase would affect project applications currently being processed and future applications as they are received. Under the current code (Title 18), subdivision projects are subject to the acreage requirement effective at the time a "complete tentative map application is received," which has been interpreted to be when a tentative map application has been deemed complete. All housing project applications currently in the pipeline that have been deemed complete will not be subject to the regulations approved on April 26, 2011. For rental housing projects, the current code (Title 19) states that the acreage requirement is determined at the time of building permit application submittal. Staff stated that these requirements could be further clarified and/or changed should Council decide to introduce the ordinance before them that night.

**DISCUSSION**

Following up on the discussion during the public hearing, staff has prepared an ordinance (see Attachment A) to clearly state under Title 18 (Subdivisions) that subdivisions are subject to the acreage requirement effective at the time the tentative map application is deemed complete. The proposed ordinance also includes revisions to Title 19 (Zoning), stating that rental housing projects are subject to the acreage requirement effective at the time the planning permit application is deemed complete, to align with the requirements in Title 18.

This ordinance does not change the increase in the parkland standard and timetable that Council approved at the hearing of April 26, 2011. It is also important to note that this ordinance does not change when the fee in-lieu of the parkland requirement is to be calculated and paid. For subdivision projects, the park in-lieu fee is calculated and paid upon approval of the final

map. For rental housing projects, the park in-lieu fee is calculated and paid upon building permit application submittal.

**FISCAL IMPACT**

No fiscal impact is expected.

**ENVIRONMENTAL IMPACT**

Pursuant to Section 15378 of the California Code of Regulations, this ordinance is not a project, in that it does not have the potential for causing a direct or indirect physical change in the environment, and is therefore exempt from CEQA.

**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.

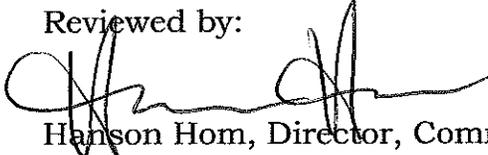
**ALTERNATIVES**

1. Introduce the proposed ordinance in Attachment A.
2. Introduce the proposed ordinance in Attachment A, with modifications.
3. Take no action.

**RECOMMENDATION**

Staff recommends Alternative 1, to introduce the proposed ordinance to amend Sections 18.10.030 and 19.74.030 to clarify residential housing projects are subject to the parkland dedication requirement effective at the time the development application is deemed complete.

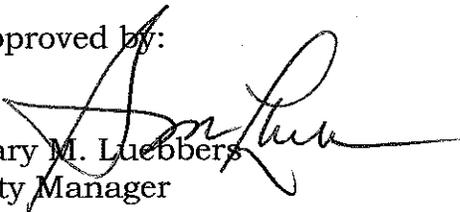
Reviewed by:



Hanson Hom, Director, Community Development

Prepared by: Rosemarie Zulueta, Assistant Planner

Approved by:



Gary M. Luebbers  
City Manager

**Attachments**

A. Draft Ordinance

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

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

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

SECTION 1. SECTION 18.10.030 AMENDED. Section 18.10.030 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 acres of property, as prescribed below, 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~~ 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 application at the time the complete tentative map application is received. The table below prescribes the acreage requirements and their effective dates.~~ Subdivisions are subject to the acreage requirement in effect at the time the tentative map application is deemed complete.

| <b>Effective Date</b>        | <b>Acres of Property Per One Thousand Persons</b> |
|------------------------------|---|
| Until June 30, 2010          | 1.75 acres  |
| July 1, 2010 – June 30, 2011 | 2.25 acres  |
| July 1, 2011 – June 30, 2012 | 3.00 acres  |
| July 1, 2012 – June 30, 2013 | 3.5 acres   |
| July 1, 2013 – June 30, 2014 | 4.25 acres  |
| July 1, 2014 and thereafter  | 5.00 acres  |

SECTION 2. SECTION 18.10.060 AMENDED. Section 18.10.060 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 and payment of in-lieu fees.**

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 fee in effect at the time~~ the final map is complete. The calculation of all park in-lieu fees shall be applied and payable upon approval of the final map.

**SECTION 3. SECTION 19.74.030 AMENDED.** Section 19.74.030 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 sub-element of the general plan, it is found and determined that the public interest, convenience, health, welfare and safety require that acres of property, as prescribed below, 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.~~ The table below prescribes the acreage requirements and their effective dates. Multifamily residential housing projects are subject to the acreage requirement in effect at the time the planning permit application is deemed complete.

| <b>Effective Date</b>        | <b>Acres of Property Per<br/>One Thousand Persons</b> |
|------------------------------|---|
| Until June 30, 2010          | 1.75 acres  |
| July 1, 2010 – June 30, 2011 | 2.25 acres  |
| July 1, 2011 – June 30, 2012 | 3.00 acres  |
| July 1, 2012 – June 30, 2013 | 3.5 acres   |
| July 1, 2013 – June 30, 2014 | 4.25 acres  |
| July 1, 2014 and thereafter  | 5.00 acres  |

**SECTION 4. SECTION 19.74.060 AMENDED.** Section 19.74.060 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 and payment of in-lieu fees.**

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 shall be applied~~ to the calculation of all park in-lieu fees ~~for projects shall be based on the fee in effect at the time of complete building permit application submittal.~~ The calculation of all park in-lieu fees shall be applied at and paid at the time of building permit application submittal and payable prior to building permit issuance.

**SECTION 5. CEQA - EXEMPTION.** The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15378, 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 \_\_\_\_\_, 2011, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on \_\_\_\_\_, 2011, 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