

# REPORT

To the Honorable Mayor and City Council  
From the City Manager

October 8, 2007

## SUBJECT

Introduction of Quimby Act Implementation Ordinance and Parks Impact Fee Ordinance

## RECOMMENDATION

1. Introduce an ordinance adding Article XVI to Chapter 18 (Local Improvements And Planning) of the City Code Regarding the Parks Impact Fee and Setting the Rates for Such Fee at 50% of the possible maximum
2. Introduce an ordinance adding Article XII to Chapter 30 of the City Code regarding Park Dedication Requirements (Quimby)

## BACKGROUND

The Quimby Implementation Act Ordinance and the Park Impact Fee Ordinance are presented to you again for a first reading in order to make two minor but substantive corrections to each ordinance, which were not identified by legal counsel until after the Council presentation on September 10, 2007.

The corrections to the Quimby Implementation Act Ordinance are as follows:

1. Section 30.145(B) incorrectly states the site improvement costs as \$432,670, which lead to the incorrect statement of the cost per acre of land acquisition and site improvements as \$2,327,530. The site improvement costs correctly stated is \$32,670, and the total land acquisition cost and site improvement cost correctly stated is \$1,927,530.
2. Section 30.146(C) incorrectly states the amount of credit per 1 acre of land as \$2,327,530. The correct amount of credit granted at a rate of 1 acre of credit is correctly stated as \$1,927,530.

The corrections to the Park Impact Fee Ordinance are as follows:

1. Section 18.265 did not include that a Development, subject to both the land dedication requirement and impact fee requirement, shall not only be exempt from the portion of the Impact Fee for the acquisition of land costs, but shall also be exempt from the portion of the Impact Fee for the site improvement costs.
2. Section 4 discusses the Initial Rate for the Impact Fee and sets that Initial Rate at 50%. When discussing the component parts of the Initial Rate that comprise the parkland dedication requirement discussed in Section 18.265, the wrong component costs (site improvement costs and park improvement costs) per acre are referenced, resulting in the wrong percentage of 17.2% being stated as the percentage of the Impact Fee that represents the parkland dedication requirement. The correct component costs to be referenced are the land

acquisition costs and site improvement costs. These two component costs represent 82.8% of the Impact Fee for the acquisition of land costs and site improvement costs.

Lastly, there is one minor correction to be made to Section 1 of each ordinance. The Study referenced is not entitled "Revised Technical Memorandum," the correct title is "Final Technical Memorandum."

These corrections have been made to the corresponding sections of each Ordinance, and each correction is italicized for ease of identification. The actual ordinance to be adopted will neither incorporate nor exhibit the italicization.

#### **ALTERNATIVES**

There are many alternatives available to the Council from not moving forward with the dedication, in-lieu fee, and/or impact fee requirements at all, to changing the percentage of the park fee to be charged or otherwise modifying the recommendations of the Finance Committee.

#### **FISCAL IMPACT**

Funding received would be placed in a special Capital Improvement Program (CIP) fund for purchase of land and/or creation of additional park capacity. This fee does not prevent Council from using other CIP monies to purchase park lands.



Corinne Centeno  
Parks, Recreation & Community  
Services Director



Ed Everett  
City Manager

#### **ATTACHMENTS**

1. Quimby Act Implementation Ordinance
2. Parks Impact Fee Ordinance

#### **RELATED DOCUMENTS IN CITY CLERK'S OFFICE**

Final Technical Memorandum dated March 8, 2007

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

**AN ORDINANCE OF THE CITY OF REDWOOD CITY, CALIFORNIA,  
ADDING ARTICLE XVI TO CHAPTER 18 (LOCAL IMPROVEMENTS  
AND PLANNING) OF THE CITY CODE REGARDING THE PARKS  
IMPACT FEE AND SETTING THE RATES FOR SUCH FEE**

**THE CITY COUNCIL OF THE CITY OF REDWOOD CITY DOES ORDAIN AS  
FOLLOWS:**

**Section 1. Findings.** The City Council finds and declares that:

(a) In order to provide services to future development in the City, the City must expand and improve its system of parks, parkland, and recreation facilities.

(b) The City has engaged Economic & Planning Systems to prepare a study, entitled "Final Technical Memorandum" and dated March 8, 2007 by Economic & Planning Systems (EPS) (the "Study"), describing new and improved facilities that are needed to mitigate the anticipated demands of new development (the "Program"). The Study, which is on file in the Office of the City Clerk, is incorporated herein by reference.

(c) The Mitigation Fee Act (Section 66000 *et seq.* of the California Government Code) and Article XI, Section 7 of the California Constitution authorizes the City to levy a fee upon development projects to defray all or a portion of the costs of public facilities (including public improvements and public amenities) related to the development project.

(d) The City desires to impose a fee, to be known as the "Parks Impact Fee," upon development projects, for the purpose of funding the costs of the Program (the "Fee"). The Fee, its methodology, and the calculations supporting its methodology, are set forth in this Ordinance and more completely analyzed in the Study.

(e) The Study estimates the costs of each element of the Program and substantiates a methodology for the Fee that will charge each new development projects only for the portion of the costs of the Program necessary to mitigate the impacts expected to be caused by that development project.

(f) There is a reasonable relationship between the need for the Program and the development projects on which the Fee will be imposed because such new development projects will create an additional demand on City services, requiring the expansion of the facilities to provide such services.

(g) There is a reasonable relationship between the Fee's use and development projects on which the Fee will be imposed because the Fee will only fund the portion of Project costs necessitated by each new development.

(h) The Fee does not exceed the estimated reasonable cost of providing the facilities for which the Fee is imposed. The Fee is not levied, collected or imposed for

general revenue purposes, but is levied specifically to fund facilities of the types set forth in the Study.

**Section 2. Approval of Study.** The Study, and each finding contained therein, is hereby adopted by the City Council. With respect to any inconsistency between this Ordinance and the Study, the terms of this Ordinance shall control.

**Section 3. Municipal Code Amendment.** Article XVI is hereby added to Chapter 18 of the City Code of the City of Redwood City to read as follows:

**“Article XVI**

**Parks Impact Fee**

Sections:

|        |   |
|--------|---|
| 18.256 | Short Title, Authority and Applicability          |
| 18.257 | Definitions                                       |
| 18.258 | Imposition and Payment of Parks Impact Fee        |
| 18.259 | Calculation of Parks Impact Fee                   |
| 18.260 | Use of Funds                                      |
| 18.261 | Refund of Fees Paid                               |
| 18.262 | Appeals   |
| 18.263 | Exemptions  |
| 18.264 | Violation-- Penalties                             |
| 18.265 | Interaction with Parkland Dedication Requirements |

**18.256 Short Title, Authority and Applicability**

A. This Article shall be known and may be cited as the “Parks Impact Fee Ordinance.”

B. The fees established pursuant to this Article are development fees authorized by the Mitigation Fee Act (California Government Code section 66000 *et seq.*).

C. This Article shall apply to the extent permitted by the statutes and laws of the State of California.

**18.257 Definitions**

The following words and terms as used in this Article shall have the meaning respectively ascribed thereto:

**ADMINISTRATOR:** Means the Director of Parks, Recreation and Community Services, or his or her designee, who shall administer the provisions of this Article.

**AFFORDABILITY AGREEMENT:** Means an agreement, to which the City is a party, that (i) identifies itself as an Affordability Agreement pursuant to this Section, (ii) restricts

ownership (in the case of owner occupied housing) or tenancy (in the case of rental housing) to persons at or below a specified income level, (iii) restricts purchase price or rental costs to a level affordable to such owners or tenants, using the affordability calculations applicable to expenditures of moneys from the low and moderate income trust funds established pursuant to the Community Redevelopment Act, (iv) has a term of not less than 50 years; and (v) is determined by the City Manager to contain sufficient provisions to permit enforcement of these restrictions by the City and recapture of any credit granted pursuant to Section 18.259(C) of this Code in the event of breach of the Agreement.

**APPLICANT:** Means the owner of real property proposed for development, or the Applicant's authorized agent.

**DEVELOPMENT:** Means a proposal for the construction, alteration, addition, or change of use of any wholly or partially residential building or structure in or upon real property in the City that requires any entitlement from or by the City including, without limitation, a building permit, use permit, zoning or rezoning approval, subdivision or re-subdivision map approval, lot line adjustment, architectural permit, general plan amendment, specific plan approval, or any other entitlement or approval.

**DWELLING UNIT:** A room or group of rooms (including sleeping, eating, cooking, and sanitation facilities, but not more than one kitchen), which constitutes an independent housekeeping unit, occupied or intended for occupancy by one household on a long-term basis.

**ENR:** Means the construction cost index published in the Engineering News Record, or if such index is no longer published, its successor.

**IMPACT FEE OR FEES:** Means the fee or fees imposed on a development pursuant to this Article.

**IMPACT FEE PROJECT LIST:** Means those Park Improvements, funded in part or in whole by Impact Fees, approved by resolution of the Council and maintained on file in the office of the Administrator.

**IMPACT FEE SCHEDULE:** Means the schedule of impact fee rates per development unit for specific land uses or land use categories approved by resolution or ordinance of the City Council and maintained on file in the office of the Administrator.

**LOW INCOME HOUSING UNIT:** Means a Dwelling Unit that is restricted, by means of an Affordability Agreement, to be affordable to persons with income of not more than 80% of area median income and to be owned (in the case of owner-occupied housing) or leased (in the case of rental housing) only by such persons.

**MODERATE INCOME HOUSING UNITS:** Means a Dwelling Unit, other than a Low Income Housing Unit, that is restricted, by means of an Affordability Agreement, to be affordable to persons with income of not more than 120% of area median income and to

be owned (in the case of owner-occupied housing) or leased (in the case of rental housing) only by such persons.

**PARK IMPROVEMENT:** Includes the planning, design, construction, acquisition, installation, improvement or expansion of any mini parks, neighborhood parks, community parks and special use parks, including associated or appurtenant recreational facilities and equipment and acquisition of land necessary for any Park Improvement

**RESIDENTIAL USE:** Means a "Dwelling", as that term is defined in Section 2.32 of the Zoning Code.

### **18.258 Imposition and Payment of Parks Impact Fee**

A. The Impact Fee is hereby imposed as a condition of the issuance of any permit for any Development, unless expressly exempted by this chapter. The rate of the Impact Fee shall be calculated pursuant to Section 18.259 of this Code.

B. Except as otherwise required by Government Code Section 66007, the Impact Fee shall accrue when the first discretionary approval is given for a Project after the effective date of this section, or, if no such discretionary approval is required subsequent to the effective date of this Section, when an application is submitted for a building permit for that Project. In either case, the Impact Fee shall be payable when an application is submitted for a building permit for the Project. An Impact Fee shall be calculated at the rate in effect when the Impact Fee accrues.

C. Payment of the Impact Fee may be deferred to the date of approval of the final building inspection of the development, provided the owner of the real property for which the fees are required enters into a recordable agreement with the city prior to issuance of the building permit for the development, which shall constitute a lien on the property from the date of recordation and shall be enforceable against successors in interest to the property owner. The agreement shall provide that approval of the final building inspection shall not be granted until the Impact Fee is paid. The agreement shall also provide that, in any action to collect the Impact Fee or any portion thereof, the city shall be entitled to all of its costs of enforcement and collection, including reasonable attorney's fees. The city manager may execute such agreements on behalf of the city in a form acceptable to the city attorney. Any deferral granted pursuant to this paragraph (b) shall be consistent with the requirements of Government Code Section 66007.

D. Except to the extent a credit is granted pursuant to Article 12 of Chapter 30 of this Code, a credit against the Impact Fee may be given for dedications of Park Improvements constructed or provided at private expense and for the value of land dedicated to the City that is necessary or useful to a Park Improvement. Such credit will be granted only if, prior to dedication, the city council determines (i) that the dedicated land or improvement is included on the Impact Fee Project List and (ii) that the grant of the credit, in lieu of the fee, will not cause the city to delay the implementation of

elements of the Program that are of higher priority, in the judgment of the city council, than the land or Eligible Facility to be dedicated. At the time the City Council makes these determinations, it must also make a determination of the maximum credit that will be allowed for the dedication, which maximum credit shall not exceed the City Council's reasonable estimate of the fair market value of the Park Improvement and/or land. The credit shall be applied when the city accepts the land or Park Improvement. If the city council has made the determinations required by this subdivision, payment of a portion of the Impact Fee equal to the amount of an expected credit against the Impact Fee may be deferred to the date of approval of the final building inspection of the development, provided the owner of the real property for which the Fee is required enters into a recordable agreement with the city prior to issuance of the building permit for the development, which shall constitute a lien on the property from the date of recordation and shall be enforceable against successors in interest to the property owner. The agreement shall provide that approval of the final building inspection shall not be granted until the Impact Fee is paid or the credit issued. The agreement shall also provide that, in any action to collect the Impact Fee or any portion thereof, the city shall be entitled to all of its costs of enforcement and collection, including reasonable attorney's fees. The city manager may execute the agreement on behalf of the city in a form acceptable to the city attorney. Any deferral granted pursuant to this paragraph (c) shall be consistent with the requirements of Government Code Section 66007. The amount of any credit granted pursuant to this paragraph shall not exceed the lesser of (i) the actual documented construction costs for the dedicated improvement plus the value of any dedicated land as supported by a professional appraisal produced by an independent consultant selected by the City and paid for by the Applicant or (ii) the maximum credit approved by the City Council pursuant to this paragraph.

#### **18.259 Calculation of Parks Impact Fee**

A. The Impact Fee imposed upon a Development shall be calculated by subtracting any Pre-Existing Impact Credits for that Development (calculated pursuant to subdivision (C) of this Section) and any Affordable Housing Credit (calculated pursuant to subdivision (D) of this Section) from the sum of the Base Amounts (calculated pursuant to subdivision (B) of this Section) for all uses constituting that Development. If the Pre-Existing Impact Credits for a Development exceed the Base Amounts for that Development, then the Fee shall be zero.

B. A Base Amount shall be calculated for each Residential Use included in a Development. With respect to any residential use, the Base Amount shall be calculated by multiplying the planned number of Dwelling Units (after the completion of the Project) on the parcels comprising the Development by the then-applicable rate for that Use as set forth in the Impact Fee Schedule.

C. The Existing Impact Credit for a Development shall be the sum of the Base Amounts that would be imposed on a project comprised of the structures that existed on the parcels comprising the Development prior to the construction proposed in connection with the Development.

D. The Affordable Housing Credit for a Development shall be the equal to (i) the Base Amounts that would be imposed upon a project comprised of only the Low Income Housing Units that are a part of the Development; PLUS (ii) 50% of the Base Amounts that would be imposed upon a project comprised of only the Moderate Income Housing Units that are a part of the Development; MINUS (iii) the Existing Impact Credit for the Development as calculated pursuant to subdivision (C) of this Section. If this calculation yields an amount less than zero, then the Affordable Housing Credit for the Development shall be zero.

E. The rate of the Fee shall be established from time to time by resolution or ordinance of the city council in the manner required by Government Code Sections 66004 and 66018 and other applicable law.

F. Beginning July 1, 2008, and on each July 1 thereafter, the rate of the fee shall increase without further action by the city according to the following formula:

$$\text{Council-Approved Rate} * \frac{\text{Most Recent ENR}}{\text{ENR at Council-Approval}}$$

Where the "Council-Approved Rate" is the rate most recently adopted Impact Fee Schedule, "Most Recent ENR" is the most recently published Construction Cost Index for the San Francisco Bay Area in the Engineering News Record when the calculation is made and "ENR at Council-Approval" is the Construction Cost Index published for the month in which the Council adopted the Impact Fee Schedule including the "Council-Approved Rate." The Administrator shall calculate the increased fee annually and give notice of that calculation in the manner required by law for the publication of ordinance of the City Council.

**18.260 Use of Funds**

A. There is hereby established a special fund, entitled the "Parks Impact Fund," into which all Fee proceeds and any interest thereon shall be deposited. The fund shall be maintained as required by Government Code Section 66006. Revenues from Impact Fees shall be used exclusively for the installation, acquisition, construction and improvement of Park Improvements listed in the Impact Fee Project List, including the acquisition of land necessary for such improvements.

B. No such revenues shall be used for periodic or routine maintenance of facilities.

C. In the event that bonds or similar debt instruments are issued for construction of land or improvements for which impact fees may be expended, impact fees may be used to pay debt service.

D. At least annually, and as required by Government Code Section 66006, the Administrator shall review the estimated cost of the public improvements to be funded by the Fee, the continued need for those improvements and the reasonable relationship between such need and the impacts of pending or anticipated new development. The Administrator shall report his or her findings to the city council at a noticed public hearing and recommend any adjustment to the Impact Fee or such other action as he or she may deem appropriate.

E. Impact fee revenues may be used to provide refunds pursuant to this Article.

F. Pursuant to section 66001 of the Government Code, in the fifth fiscal year following the first receipt of impact fees, and every five years thereafter, the Administrator shall make the following findings or determinations with respect to the unexpended portion of such fees, whether committed or uncommitted:

1. The purpose to which the fees are to be put;
2. The relationship between the fee and the purpose for which they are imposed;
3. The sources and amounts of funding corresponding to the capital improvements described in the impact fee project list; and
4. The approximate dates on which the funding referenced to in subsection (F)(3) of this Section, is expected to be deposited into the impact fee account.

#### **18.261 Refund of Fees Paid**

A. If a building permit or other entitlement for a Development expires without commencement of construction, then the applicant shall be entitled to a refund, without interest, of the impact fee paid as a condition for its issuance, except that the City shall retain two percent (2%) of the fee to offset a portion of the costs of collection and refund. The applicant shall apply in writing for such a refund within thirty (30) calendar days of the expiration of the permit; provided, that the Administrator may extend such period for good cause, not to exceed six (6) months.

B. The City Council may additionally authorize refunds as required or permitted by Government Code Section 66001(e).

#### **18.262 Appeals**

A. An Applicant may either file an appeal and pay the Impact Fee imposed pursuant to this Article under protest, or appeal the Impact Fee before the building permit or other entitlement for the development to which the fee pertains has been issued.

B. An appeal may be filed from the following determinations of the Administrator:

1. The applicability or amount of the impact fees calculated pursuant to Section 18.259;
2. Calculation of a credit, disapproval of a credit, or disapproval of an exemption pursuant to Sections 18.258 and 18.263;
3. Any other determination, which the Administrator is authorized to make under this Article.

C. An appeal shall be in writing and shall be accompanied with the appeal fee established by the Council prior to the issuance of a building permit or other entitlement for the development to which the appeal pertains. The written appeal shall set forth the grounds for the appeal and contain technical information and specific supporting data to the extent applicable to the determination to be made in the appeal.

D. The filing fee for appeals shall be the same as that for appeals from determinations of the Zoning Administrator under the Zoning Ordinance (Ord. No. 1130, as amended).

E. The Council shall hear the appeal within sixty (60) days of the date of filing, at which hearing the Administrator shall submit to the Council:

1. The written appeal and any supporting information submitted by the appellant;
2. The Administrator's determination and the record upon which it is based; and
3. The Administrator's analysis of the information and materials submitted by the Applicant on the appeal of Impact Fees paid.

#### **18.263 Exemptions**

The provisions of this chapter shall not apply to any Development that is exempt from the Impact Fee by virtue of the Constitutions of the United States or California or by virtue of other applicable state or federal law. The amount of the fee calculated pursuant to this Section shall not exceed that permitted by applicable law.

#### **18.264 Violations—Penalties**

Any person, corporation, or other business entity violating or causing the violation of any of the provisions of this Article shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable in accordance with Section 1.7A of this Code. Notwithstanding, the foregoing, the provisions of this Article may also be enforced by legal or equitable action, or both such actions, all such remedies being cumulative.

## 18.265 Interaction with Parkland Dedication Requirements

Where a Development would otherwise be subject both to the requirements of Article 12 of Chapter 30 of this Code and a requirement of payment of Impact Fee, the Development shall be exempt from the portion of the Impact Fee for land acquisition and site improvements, but not from any other portion of the Fee, and shall be subject to the requirements of Article 12 of Chapter 30 of this Code.”

**Section 4. Initial Rate.** The initial impact fee schedule for the fee imposed pursuant to Section 18.258 of the City Code, as adopted hereby, shall be as shown in Table 11 of the Final Technical Memorandum dated March 8, 2007, which is attached hereto and incorporated herein as Attachment “A”, except that each amount shown in such table shall be multiplied by a factor of 50%. For purposes of Section 18.265 of the City Code, 82.8% of each such rate shall be deemed the portion of the fee for the land acquisition and site improvements. These rates may be revised by resolution or ordinance of the city council and shall be subject to automatic annual adjustment as provided in Section 18.259 of the Redwood City Code adopted hereby.

**Section 5. CEQA Finding.** Based on the Planning Commission’s adoption of the Initial Study and Negative Declaration (IS/ND) prepared by the City for the Active Parkland Standard and Parkland Dedication and In-Lieu Ordinance on April 3, 2007, the City Council finds that adoption of the proposed Parks Impact Fee Ordinance will not have a significant effect on the environment.

No specific park projects are associated with the establishment of an Active Parkland Standard and adoption of parkland dedication and in-lieu fee ordinances. The proposed project is policy-oriented and would establish a park standard and create a funding mechanism for future park development. When and if specific park projects are developed and proposed for implementation, the environmental impacts of such facilities would be evaluated in accordance with CEQA and City practice.

**Section 6. Relationship to Prior Law.** The terms of this Ordinance shall apply to all Developments (as that term is defined in section 18.257 of the City Code as adopted hereby) in the City, except with respect to any portion of a project for which a building permit has been issued.

**Section 7. Severability.** If any provision, section, paragraph, sentence or word of this Ordinance, or the application thereof to any person or circumstance, is rendered or declared invalid by any court of competent jurisdiction, the remaining provisions, sections, paragraphs, sentences or words of this Ordinance, and their application to other persons or circumstances, shall not be affected thereby and shall remain in full force and effect and, to that end, the provisions of this Ordinance are severable.

**Section 8. Effective Date.** This Ordinance shall become effective sixty days after the date of its adoption.

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

**AN ORDINANCE OF THE CITY OF REDWOOD CITY, CALIFORNIA,  
ADDING ARTICLE XII TO CHAPTER 30 OF THE CITY CODE  
REGARDING PARK DEDICATION REQUIREMENTS**

**THE CITY COUNCIL OF THE CITY OF REDWOOD CITY DOES ORDAIN AS  
FOLLOWS:**

**Section 1. Findings.** The City Council finds and declares that:

(a) In order to provide services to future development in the City, the City must expand and improve its system of parks, parkland, and recreation facilities.

(b) The City has engaged a consultant to prepare a study, entitled "Final Technical Memorandum" and dated March 8, 2007 by Economic & Planning Systems (EPS) (the "Study"), describing new and improved facilities that are needed to mitigate the anticipated demands of new development (the "Program"). The Study, which is on file in the Office of the City Clerk, is incorporated herein by reference.

(c) Section 66477 of the California Government Code authorizes the City to establish a standard for neighborhood and community parks and recreation facilities and to require that subdividers make dedications and/or pay fees sufficient to meet this standard.

(d) It is found and determined that the public interest, convenience, health, welfare and safety require that three acres of property for each one thousand persons residing within this city be devoted to neighborhood and Community Park and recreational purposes.

**Section 2. Municipal Code Amendment.** Article XII is hereby added to Chapter 30 of the City Code of the City of Redwood City to read as follows:

**Article XII**

**Parks Dedication**

Sections:

|        |  |
|--------|--|
| 30.140 | Short Title, Authority and Applicability |
| 30.141 | Definitions                              |
| 30.142 | Requirements                             |
| 30.143 | Parkland Standard                        |
| 30.144 | Required Dedication                      |
| 30.145 | Required Fee                             |
| 30.146 | Miscellaneous Credits                    |
| 30.147 | Use of Fees and Dedicated Land           |
| 30.148 | Timing of Payment                        |
| 30.149 | Violation-- Penalties                    |

**30.140 Short Title, Authority and Applicability**

A. This Article shall be known and may be cited as the "Redwood City Quimby Act Implementation Ordinance."

B. The requirements of this Article are imposed upon subdivisions pursuant to the authority granted by the Quimby Act (Government Code Section 66477).

C. This Article shall apply to the extent permitted by the statutes and laws of the State of California.

**30.141 Definitions**

The following words and terms as used in this Article shall have the meaning respectively ascribed thereto:

**ADMINISTRATOR:** Means the Director of Parks, Recreation and Community Services, or his or her designee, who shall administer the provisions of this Article.

**AFFORDABILITY AGREEMENT:** Means an agreement, to which the City is a party, that (i) identifies itself as an Affordability Agreement pursuant to this Section, (ii) restricts ownership (in the case of owner occupied housing) or tenancy (in the case of rental housing) to persons at or below a specified income level, (iii) restricts purchase price or rental costs to a level affordable to such owners or tenants, using the affordability calculations applicable to expenditures of moneys from the low and moderate income trust funds established pursuant to the Community Redevelopment Act, (iv) has a term of not less than 50 years; and (v) is determined by the City Manager to contain sufficient provisions to permit enforcement of these restrictions by the City and recapture in-lieu fee credit in the event of breach of the Affordability Agreement.

**DWELLING UNIT:** A room or group of rooms (including sleeping, eating, cooking, and sanitation facilities, but not more than one kitchen), which constitutes an independent housekeeping unit, occupied or intended for occupancy by one household on a long-term basis.

**ENR:** Means the construction cost index published in the Engineering News Record, or if such index is no longer published, its successor.

**IMPACT FEE PROJECT LIST:** Means the list of Park Improvements, approved by resolution of the Council and maintained on file in the office of the Administrator, to be funded in part or in whole by fees levied by the City pursuant to Article XVI of Chapter 18 of this code.

**LOW INCOME HOUSING UNIT:** Means a Dwelling Unit that is restricted, by means of an Affordability Agreement, to be affordable to persons with income of not more than 80% of area median income and to be owned (in the case of owner-occupied housing) or leased (in the case of rental housing) only by such persons.

**MODERATE INCOME HOUSING UNITS:** Means a Dwelling Unit, other than a Low Income Housing Unit, that is restricted, by means of an Affordability Agreement, to be affordable to persons with income of not more than 120% of area median income and to be owned (in the case of owner-occupied housing) or leased (in the case of rental housing) only by such persons.

**PARK IMPROVEMENT:** Includes the planning, design, construction, acquisition, installation, improvement or expansion of any mini parks, neighborhood parks, community parks and special use parks, including associated or appurtenant recreational facilities and equipment and acquisition of land necessary for any Park Improvement

**RESIDENTIAL USE:** Means a "Dwelling", as that term is defined in Section 2.32 of the Zoning Code.

**SITE IMPROVEMENTS:** Means: (1) full street improvements and utility connections including, but not limited to curbs, gutters, street paving, traffic control devices, street trees and sidewalks to land which is dedicated pursuant to this section; (2) fencing along the property line of that portion of the subdivision contiguous to the dedicated land; (3) improved drainage through the site; and, (4) other minimal improvements which the city council determines to be essential to the acceptance of the land for recreation purposes.

### **30.142 Requirements**

A. As a condition of approval of a tentative or final subdivision map or parcel map, the subdivider shall dedicate land for neighborhood and Community Park or recreational purposes pay a fee for such purposes, or both, at the time and according to the standards and formulas contained in this Article.

B. At the time of approval of the tentative map or parcel map for the subdivision, the City Council shall determine the amount of land that is required to serve a subdivision and may be dedicated pursuant to Section 30.143 and the amount of the fee required by Section 30.144.

C. The requirements of this Article shall not apply to any commercial or industrial subdivision.

### **30.143 Parkland Standard**

A. It is found and determined that the public interest, convenience, health, welfare and safety require that three acres of property for each one thousand persons residing within this city be devoted to neighborhood and community, park and recreational purposes.

B. The following formula shall be used to determine the amount of parkland required to serve a subdivision:

$$[\text{required parkland (acres)}] = [\text{expected population}] * .003$$

However, the amount of parkland that must be dedicated or paid for pursuant to this Article shall be 50% of the above stated amount, and the City will maintain any additional standard using other available resources.

C. For purposes of paragraph B, above, expected population shall be calculated based on the following standard, which is derived from the most recent federal census available at the time this Section was adopted:

|   |                                |
|---|--------------------------------|
| Single Family Residences (1-7 units/acre) | 2.84 persons per dwelling unit |
| Condominiums (8-20 units/acre)            | 2.38 persons per dwelling unit |
| Rental Multifamily (8-20 units/acre)      | 2.55 persons per dwelling unit |
| Condominiums (>20 units/acre)             | 1.87 persons per dwelling unit |
| Rental Multifamily (>20 units/acre)       | 2.48 persons per dwelling unit |

D. For the purposes of paragraph C, above, there shall be the following rebuttable presumptions:

- (1) When all or part of a subdivision is located in an area zoned for one dwelling unit per parcel, the number of new dwelling units for that portion of the proposed subdivision will be the number of parcels indicated on the subdivision map.
- (2) When all or part of the subdivision is located in an area zoned for more than one dwelling unit per parcel, the number of proposed dwelling units in that portion of the proposed subdivision shall equal the maximum allowed under that zone.
- (3) In the case of a condominium project, the number of proposed dwelling units in the area so zoned shall equal the maximum allowed under that zone. In the case of a condominium project, the number of proposed dwelling units shall be the number of condominium units.

E. For purposes of paragraph C, above, dwelling units lawfully in place prior to the date on which the parcel or final map is filed shall not be included in calculations.

F. For purposes of paragraph C, above, the expected population of a Low Income Housing Unit shall be deemed to be zero and the expected population of a Moderate Income Housing Unit shall be deemed to be one-half of the expected population otherwise indicated in paragraph C. The City will provide needed parkland for such dwelling units using other available resources.

**30.144 Required Dedication**

A. Where a park or recreation facility has been designated in the Impact Fee Project List, and such facility is located in whole or in part within the proposed subdivision and will serve the immediate and future needs of the residents of the subdivision, the subdivider may dedicate land for a local park sufficient in size and topography that bears a reasonable relationship to serve the present and future needs of the residents of the subdivision.

B. The subdivider shall, without credit, provide Site Improvements to any land dedicated pursuant to this section.

C. The land to be dedicated and the Site Improvements to be made pursuant to this section shall be approved by the Administrator, who shall not grant approval to any proposed improvement that does not meet the standards set forth in the Impact Fee Project List.

**30.145 Fee Requirement**

A. The fee required with respect to a subdivision shall bear a reasonable relationship to the use of the park and recreational facilities by the future inhabitants of the subdivision, and shall be calculated by first subtracting the acreage dedicated pursuant to Section 30.144 from the parkland requirement for that subdivision and then multiplying the result of that calculation by a per acre land and site improvement cost calculated pursuant to paragraph B, below.

B. The cost per acre of land and site improvements for purposes of paragraph A, above, shall be \$1,927,530 per acre, which represents a land cost of \$1,894,860 and a site improvement cost of \$32,670.

C. A credit against the fee required by this Section may be given for dedications of park improvements constructed or provided at private expense and for the value of land dedicated to the City that is necessary or useful to a park improvement. Such credit will be granted only if, prior to dedication, the city council determines (i) that the dedicated land or improvement is included on the Impact Fee Project List and (ii) that the grant of the credit, in lieu of the fee, will not cause the city to delay the implementation of park improvements that are of higher priority, in the judgment of the city council, than the land or improvements to be dedicated. At the time the City Council makes these determinations, it must also make a determination of the maximum credit that will be allowed for the dedication, which maximum credit shall not exceed the City Council's reasonable estimate of the fair market value of the park improvement and/or land. The amount of any credit granted pursuant to this paragraph shall not exceed the lesser of (i) the actual documented construction costs for the dedicated improvement plus the value of any dedicated land as supported by a professional appraisal or (ii) the maximum credit approved by the City Council pursuant to this paragraph. No credit shall be given pursuant to this paragraph for any dedication

required by or made pursuant to Section 30.144, as the value of such dedications are already reflected in the calculation made pursuant to paragraph A, above.

D. Beginning July 1, 2008, and on each July 1 thereafter, each dollar amount set forth in this article shall increase without further action by the city according to the following formula:

$$\text{Council-Approved Rate} * \frac{\text{Most Recent ENR}}{\text{ENR at Council-Approval}}$$

Where the "Council-Approved Rate" is the rate set forth in this article, "Most Recent ENR" is the most recently published Construction Cost Index for the San Francisco Bay Area in the Engineering News Record when the calculation is made and "ENR at Council-Approval" is the Construction Cost Index published for the month in which the Council adopted the "Council-Approved Rate." The Administrator shall calculate the increased fee annually and give notice of that calculation in the manner required by law for the publication of ordinance of the City Council.

### **30.146 Miscellaneous Credits**

A. If a subdivider dedicates land for park purposes pursuant to Section 30.144(A) then, in lieu of any credit available pursuant to Section 30.145(C) and only to the extent required by Section 66477 of the California Government Code, the subdivider may elect to have the value of park and recreational improvements provided by the subdivider to the dedicated land credited against the dedication requirement set forth in Section 30.144(A).

B. Common interest developments, as defined in Section 1351 of the California Civil Code, shall be eligible to receive a credit against the amount of land required to be dedicated, or the amount of the fee imposed, pursuant to this section, for the value of open space within the development which is usable for active recreational uses. For purposes of this paragraph, open space shall be deemed "useable for active recreational uses" only if, in the judgment of the City Council, that space meets the following criteria:

- (i) The open space is at least 1.0 acres in size;
- (ii) At least 25% of the area of the space is developed with amenities that permit active recreation that may include, but is not limited to, swimming pools, basketball, soccer, baseball, volleyball, tennis, football or similar courts, and playground equipment; and
- (iii) At least 50% of the open space area consists of smooth grass spaces with a grade of no more than 1-foot rise in 25 feet that can be divided into rectangles each of no less than 500 square feet, with the shorter side of each rectangle being no less than 20 feet wide.

The value of such private open space shall be determined by the City Council, based upon a professional appraisal produced by an independent consultant selected by the City and paid for by the subdivider. Such appraisal shall take into account only the value of such open space in the marketplace if it were restricted to use as open space usable for active recreational uses and sold separately from the remainder of the subdivision. The valuation shall not take into account the amount the City (or any other public entity) might pay for such open space unless, in the opinion of the City Council, the City or another public entity has an established history or policy of purchasing open space in the City of similar size, configuration and use.

The credited amount shall be as follows:

- (i) 100% credit for space open to the public during normal City Park hours.
- (ii) 25% credit for space open to the residents of the subdivision only.

C. Where a credit granted pursuant to paragraphs A or B is applied to a land dedication requirement, as opposed to a fee requirement, the amount of such credit shall be calculated at a rate of 1 acre of credit for each \$1,927,530 in value of park and recreational improvements (in the case of a credit pursuant to paragraph A) or private open space useable for active recreational uses (in the case of a credit pursuant to paragraph B).

### **30.147 Use of Fees and Dedicated Land**

A. The city shall develop a schedule specifying how, when, and where it will use the land and fees accepted or collected pursuant to this Article to develop park or recreational facilities to serve the residents of the subdivisions for which such dedications or payments have been made. Any fees collected shall be committed within five years after the payment of the fees or the issuance of building permits on one-half of the lots created by the subdivision, whichever occurs later. If the fees are not committed, they, without any deductions, shall be distributed and paid to the then record owners of the subdivision in the same proportion that the size of their lot bears to the total area of all lots within the subdivision.

B. All fees collected shall be deposited into a subdivision park trust fund. Money in that fund, including accrued interest, shall be used only for the purpose of developing new or rehabilitating existing neighborhood or Community Park or recreational facilities that serve the subdivision for which the fees were paid.

C. Land and improvements accepted by the City pursuant to this Article shall be used only for the purpose of developing new or rehabilitating existing neighborhood or Community Park or recreational facilities that serve the subdivisions for which the fees were paid.

D. There is no requirement that any park or recreational facility fully or partially funded pursuant to this Article or dedicated to the City pursuant to this Article be accessible only to the residents of a specific subdivision, and all such parks and recreational facilities shall be open to the public in the manner specified by the City Council and by city policy.

E. Collected fees shall be appropriated by the City or paid for a specific project to serve residents of the subdivision in a budgetary year within five years upon receipt of payment or within five years after the issuance of building permits on one-half of the lots created by the subdivision, whichever occurs later.

### **30.148 Timing of Payment.**

A. Any fee required by this Article shall be payable with respect to the entire subdivision when any application is submitted for any building permit in the subdivision. However, payment of the portion of the fee attributable to each parcel in the subdivision may be deferred to the date of approval of the final building inspection of the building on that parcel, provided the subdivider enters into a recordable agreement with the city prior to issuance of the building permit for the development, which shall constitute a lien on the property from the date of recordation and shall be enforceable against successors in interest to the property owner. The agreement shall provide that approval of the final building inspection shall not be granted until the fee is paid. The agreement shall also provide that, in any action to collect the fee or any portion thereof, the city shall be entitled to all of its costs of enforcement and collection, including reasonable attorney's fees. The city manager may execute such agreements on behalf of the city in a form acceptable to the city attorney.

B. A credit granted pursuant to Section 30.145(C) shall be applied when the city accepts the land or improvement. If the city council has made the determinations required by Section 30.145(C), payment of a portion of the required fee equal to the amount of an expected credit against the fee may be deferred to the date of approval of the final building inspection of the development, provided the owner of the real property for which the Fee is required enters into a recordable agreement with the city prior to issuance of the building permit for the development, which shall constitute a lien on the property from the date of recordation and shall be enforceable against successors in interest to the property owner. The agreement shall provide that approval of the final building inspection shall not be granted until the fee is paid or the credit issued. The agreement shall also provide that, in any action to collect the fee or any portion thereof, the city shall be entitled to all of its costs of enforcement and collection, including reasonable attorney's fees. The city manager may execute the agreement on behalf of the city in a form acceptable to the city attorney.

C. If a building permit or other entitlement for a subdivision expires without commencement of construction, then the subdivider shall be entitled to a refund, without interest, of the in-lieu fee paid as a condition for its issuance, except that the City shall retain two percent (2%) of the fee to offset a portion of the costs of collection and

refund. The applicant shall apply in writing for such a refund within thirty (30) calendar days of the expiration of the permit; provided, that the Administrator may extend such period for good cause, not to exceed six (6) months.

### **30.149          Violations—Penalties**

Any person, corporation, or other business entity violating or causing the violation of any of the provisions of this Article shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable in accordance with Section 1.7A of this Code. Notwithstanding, the foregoing, the provisions of this Article may also be enforced by legal or equitable action, or both such actions, all such remedies being cumulative.

**Section 3.    CEQA Finding.** Based on the Planning Commission's adoption of the Initial Study and Negative Declaration (IS/ND) prepared by the City for the Active Parkland Standard and Parkland Dedication and In-Lieu Ordinance on April 3, 2007, the City Council finds that adoption of the proposed Redwood City Quimby Act Implementation Ordinance will not have a significant effect on the environment.

No specific park projects are associated with the establishment of an Active Parkland Standard and adoption of parkland dedication and in-lieu fee ordinances. The proposed project is policy-oriented and would establish a park standard and create a funding mechanism for future park development. When and if specific park projects are developed and proposed for implementation, the environmental impacts of such facilities would be evaluated in accordance with CEQA and City practice.

**Section 4.    Severability.** If any provision, section, paragraph, sentence or word of this Ordinance, or the application thereof to any person or circumstance, is rendered or declared invalid by any court of competent jurisdiction, the remaining provisions, sections, paragraphs, sentences or words of this Ordinance, and their application to other persons or circumstances, shall not be affected thereby and shall remain in full force and effect and, to that end, the provisions of this Ordinance are severable.

**Section 5.    Effective Date.** This Ordinance shall become effective sixty days after the date of its adoption.

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