

**ORDINANCE NO. 2016-04**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON AMENDING THE MUNICIPAL CODE CHAPTER 18.44 TO UPDATE THE PARK DEDICATION STANDARD PERSON PER DWELLING UNIT FACTOR TO REFLECT THE CURRENT US CENSUS ESTIMATE, AMEND THE ORDINANCE WITH TECHNICAL CORRECTIONS THAT IMPROVE CLARITY AND REMOVE ARCHAIC LANGUAGE, AND ENABLE THE CITY COUNCIL DISCRETION TO REQUIRE PARKLAND AND RECREATIONAL FACILITY CONSTRUCTION TIMING TO BE DECIDED IN CONJUNCTION WITH THE TENTATIVE MAP APPROVAL PROCESS**

**WHEREAS**, the City of American Canyon ("City") seeks to ensure that the City's zoning laws are consistent with the goals, policies, and standards set forth in the City General Plan; and

**WHEREAS**, Chapter 18.44 addresses parkland dedication standards and these standards require a ratio of five acres of parkland for every one thousand residents anticipated in the subdivision; and

**WHEREAS**, the estimated number of persons per house has not been updated since 1998 and no longer reflects the current US Census estimate; and

**WHEREAS**, the person per household factor is the same for each dwelling unit type because the Census provides an overall factor for the City and does not disaggregate it into each dwelling unit type; and

**WHEREAS**, the Housing Unit Type description for Mobile home is proposed to be changed to Manufactured homes to reflect the fact that all Mobile homes are a type of Manufactured home; and

**WHEREAS**, the person per dwelling unit factor for Manufactured homes and Residential hotels was amended to be the same as other housing unit types because they have the same capacity to accommodate the average family size as any other housing type; and

**WHEREAS**, the upward adjustment of person per dwelling unit factors would apply to new residential subdivision applications. They would not be applied retroactively to older subdivisions that were developed under a lesser population density factor; and

**WHEREAS**, in conjunction with the updated population density factors, staff has added a definition to each housing unit type to help avoid confusion that unusual or hybrid housing unit types that may be described differently, but are functionally the same as the housing unit types identified in the subdivision ordinance also require park dedication (ie: a housing cooperative or a live/work loft dwelling unit); and

**WHEREAS**, residents are usually interested to know when the new parks would be constructed, so the ordinance amendment provides the City Council with discretion to include a condition of approval tentative subdivision maps to require designated parks and recreational facilities to be constructed by a certain timeframe; and

**WHEREAS**, the current ordinance includes older “legalese” language that is better to rewrite into “plain language” so that it is simpler to understand to residents who may not be familiar with legal terms and legalistic sentence structure; and

**WHEREAS**, on December 17, 2015, City of American Canyon Planning Commission considered the proposed ordinance and unanimously recommended its approval; and

**WHEREAS**, a duly-noticed public hearing was held by the City of American Canyon City Council on January 19, 2016 on the subject application, at which time all those in attendance were given the opportunity to speak on this proposal; and

**WHEREAS**, the City Council has considered all of the written and oral testimony presented at the public hearing in making its decision.

**NOW, THEREFORE, BE IT ORDAINED**, by the City Council of the City of American Canyon to amend Chapter 18.44 of the Municipal Code as follows:

**SECTION 1.** Ordinance Amendments

**18.44.010 Findings.**

The city council finds, determines and declares as follows:

A. In 1965, the Legislature of the state of California amended the Subdivision Map Act (Section 11500 et seq., of the Business and Professions Code) so as to enable cities and counties to require either the dedication of land, the payment of fees, or a combination of both, for park or recreational purposes as a condition of approval of a subdivision map; and

B. Before a city or county may avail itself of said Act, it must have a general plan containing a recreational element with definite principles and standards for the park and recreational facilities to serve the residents of the city or county; and

C. The city council has adopted a general plan, including amendments thereto, containing such recreational element. (Ord. 98-10 § 1, 1998)

**18.44.015 Dedication by subdivider.**

Every subdivider who subdivides land shall, at the option of the city, dedicate a portion of such land, pay a fee, or do both, as set forth in this chapter, for the purpose of providing park and recreational facilities to serve residents of the city. Only the payment of fees may be required in subdivisions containing fifty parcels or fewer. (Ord. 98-10 § 1, 1998)

**18.44.020 Applicability.**

The provisions of this chapter shall apply to all subdivisions, as that phrase is defined in Section 66410 et seq., of the Government Code of this state except subdivisions for which vesting tentative subdivision or vesting tentative parcel maps have been filed within thirty days after July 20, 1972; industrial subdivisions; condominium projects, which consist of the subdivision of air space in an existing apartment building which is more than five years old when no new dwelling units are added; and parcel maps for a subdivision containing fewer than five parcels for a shopping center containing more than three hundred thousand square feet of gross leasable area and no residential development or uses. (Ord. 98-10 § 1, 1998)

**18.44.025 Relation of land required to population density.**

The parks and recreation element of the general plan identifies a ratio of 6.14 acres of parkland per one thousand residents. It is found and determined that the public interest, convenience, health, welfare and safety require that a minimum of five acres of property for each one thousand persons residing within the city be devoted to park and recreational purposes. (Ord. 99-08 § 2, 1999; Ord. 98-10 § 1, 1998)

**18.44.026 Definitions.**

“Dwelling unit” shall mean a building for human habitation, which is designed, intended or used for sleeping, cooking, eating, and sanitation.

“Single-family unit” shall mean a free-standing residential building that includes only one dwelling unit.

“Two to four family units” shall mean a building that includes two to four residential dwelling units

“Five or more family units” shall mean a building that includes five or more residential dwelling units

“Manufactured home” shall mean is any home factory-built in the U.S. to the HUD Title 6 construction standards (commonly known as ‘the HUD-code’).

“Residential hotels” shall mean a rental apartment building offering maid service, a dining room, and room meal service for stays longer than 30 days.

**18.44.030 Population density determination.**

A. Population density for the purpose of this chapter is determined as follows:

1. Single-family unit 3.49 persons per D.U.;
2. Two to four family units, 3.49 persons per D.U.;
3. Five or more family units, 3.49 persons per D.U.;
4. Manufactured home, 3.49 persons per D.U.;
5. Residential hotels, 1.1 persons per D.U.

B. The basis for determining the total number of dwelling units shall be the number of such units permitted by the city on the property included in the approved tentative subdivision map. If a subsequent application is made for rezoning or other action to increase the total number of dwelling units, the amount of parkland to be dedicated or in-lieu park dedication fee to be paid will be increased in accordance with the current park dedication regulations. (Ord. 98-10 § 1, 1998)

**18.44.035 Amount of land to be dedicated or fee in lieu thereof.**

A. The amount of parkland required to be dedicated by a subdivider pursuant to this chapter shall be five acres per one thousand population.

B. When a fee is to be paid in-lieu of land dedication, the amount of such fee shall be based upon the per-acre valuation set forth in Chapter 15.08 of this code, Parks and Civic Facilities Development Impact Fees, as adopted and as may be periodically amended as provided for in the ordinance for the amount of land that would be required for dedication pursuant to subsection (A) of this section. The amount of land shall be calculated by the following formula:

DU's x POP x 5 acres  
1,000 People

Definitions:

DU = Number of dwelling units in a subdivision.

POP = Population per dwelling unit.

C. Monies expended by the subdivider for actual improvement of park and recreation facilities or lands shall be credited against these fees or park land dedication requirements provided that such improvements have been approved by the city in advance and meet applicable city standards. (Ord. 99-08 § 3, 1999; Ord. 98-10 § 1, 1998)

**18.44.040 Credit for private open space.**

Where private open space for park and recreational purposes is provided in a proposed subdivision, and such space is to be privately owned and maintained by the future residents of the subdivision, such areas may be credited against the requirement of dedication for park and recreation purposes or fees paid in lieu thereof, to such an extent that the city council finds appropriate, in no event to exceed fifty percent, taking into account the mode of valuation set forth in this title, provided the city council finds it is in the public interest to do so, and that the following criteria are met:

A. That yards, court areas, setbacks and other open areas required to be maintained by the zoning and building regulations are not included in the computation of such private open space;

B. That the private ownership and maintenance of the open space is adequately provided for by written agreement;

C. That the use of the private open space is restricted for park and recreational purposes by recorded covenants which run with the land in favor of the future owners of property within the tract, and which cannot be defeated or eliminated without the consent of the city council;

D. That the percentage of credit recognized for private open space shall take into account such factors as size, shape, topography, geology, access and locations and the parcel's suitability for use for park or recreational purposes, as distinguished from inactive or primarily aesthetic open space; and

E. That the facilities proposed for the open space are in substantial accordance with the provisions of the recreational element of the general plan, and are approved by the city council. (Ord. 98-10 § 1, 1998)

**18.44.045 Dedication of and/or fee or both—Procedures.**

A. Procedure. The procedure for determining whether the subdivider is to dedicate land, pay a fee, or both shall be as follows:

1. Subdivider. At the time of filing a tentative parcel or subdivision map application is filed, the owner of the property shall designate property for park and recreational purposes on the map or submit a justification to pay an in-lieu parkland dedication fee.

2. Action of Advisory Bodies. Among its recommendations to the city council on the tentative subdivision map, the planning commission shall recommend approval, disapproval or modification of the property owner's park dedication proposal;

3. Action of City Council. At the time of the tentative subdivision map approval, the city council shall determine, as a part of such approval, whether to require parkland dedication within the subdivision, payment of an in-lieu parkland dedication fee, or a combination of both;

4. Prerequisites for Approval of Final Map. Where parkland dedication is required, it shall be accomplished in accordance with the provisions of the subdivision map act and any additional requirements of the city. Where park in-lieu fees are required, the same park in-lieu fees shall be deposited with the city prior to the approval of the final tract map. Open space covenants for private park or recreational facilities shall be submitted to the city prior to approval of the final map and shall be recorded in conjunction with the final map.

B. Determination. The city council shall accept parkland dedication payment of an in-lieu park dedication fee, or a combination of both in accordance with the following criteria:

1. Recreation element of the city's general plan; and
2. Topography, geology, access and location of land in the subdivision available for dedication; and
3. Size and shape of the subdivision and land available for dedication.

The determination of the city council as to whether land shall be dedicated, or whether a fee shall be charged, or a combination thereof, shall be final and conclusive. (Ord. 98-10 § 1, 1998)

**18.44.050 Time of commencement to be designated.**

At the time the tentative map is approved, the city council shall designate the time when development of the park and recreational facilities shall be commenced. Park and recreational facility construction timing may be designated as a date certain or as conditional upon the occurrence of one or more events affecting such development such as the formation of an assessment district, the approval of a bond issue, the completion of a capital improvement program for other facilities in the area, or similar event. (Ord. 98-10 § 1, 1998)

**18.44.055 Limitation on use of land and fees.**

The land and fees received under this chapter shall be used for the purpose of providing park and recreational facilities to serve residents of the city. (Ord. 98-10 § 1, 1998)

**18.44.060 Applicability to minor divisions of land.**

The requirements of this chapter shall apply to all lot splits and other divisions of land into four or fewer lots or parcels which do not constitute a subdivision of land under the provisions of state law. (Ord. 98-10 § 1, 1998)

**SECTION 2:** Any provision of the American Canyon Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

**SECTION 3:** If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of American Canyon hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

**SECTION 4:** Severability. If any section, sub-section, subdivision, paragraph, clause or phrase in this Ordinance, or any part thereof, is for any reason held to be invalid or unconstitutional, such decision shall

not affect the validity of the remaining sections or portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, sub-section, subdivision, paragraph, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more sections, sub-sections, subdivisions, paragraphs, sentences, clauses or phrases may be declared invalid or unconstitutional.


**SECTION 5:** Effective Date. This Ordinance shall become effective thirty (30) days following adoption.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of American Canyon, State of California, held on the 19<sup>th</sup> day of January, 2016, by the following vote:

AYES: Council Members Joseph, Leary, Ramos, Vice Mayor Bennett, and Mayor Garcia  
NOES: None  
ABSTAIN: None  
ABSENT: None

The foregoing Ordinance was adopted at a regular meeting of the City Council of the City of American Canyon, State of California, held on the 2<sup>nd</sup> day of February, 2016 by the following vote:

AYES: Council Members Joseph, Leary Ramos, Vice Mayor Bennett, and Mayor Garcia  
NOES: None  
ABSTAIN: None  
ABSENT: None

  
\_\_\_\_\_  
Leon Garcia, Mayor

ATTEST:



Cherri Walton, CMC, Deputy City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
William D. Ross, City Attorney