

APPENDIX A

Chapter 11.20 STREET IMPROVEMENTS

11.20.010 Definitions.

"Abutting", when referring to lots, parcels, or property, means next to and having some portion of a boundary that is coterminous with the parcel proposed for development. Lots or parcels that are separated only by an alley are abutting if their property lines would be shared if they extended to the centerline of the alley.

"Block" means the property frontage located on one side of a street between the centerlines of the immediately adjacent cross streets. In the case of a cul-de-sac, "block" means the property frontage along both sides of the cu-de-sac.

"Deferred street improvement agreement" means a written agreement between the permittee and the city whereby the property owner agrees, in lieu of installing street improvements required under this chapter within one year following the date of issuance of the permit, to install said improvements within one year from the date applicant is called upon to do so by the Development Services Director or Public Works Director, unless an extension of time is granted by the city in writing. Said agreement may provide for such other covenants and conditions as may be desirable to accomplish the purposes of this chapter.

"Notice of improvement obligation" means the notice prepared by the Development Services Director or Public Works Director or their designee describing land acquired and/or improvements installed by the city for which the adjacent property owner will be required to reimburse the city upon request for a permit and describing the obligation of the permittee for the reimbursement.

"Parcel of land" means a parcel created in compliance with the Subdivision Map Act and recognized by the city and county as a legally created parcel.

"Permit" means any building permit, use permit, design review permit, planned development permit, discretionary approval, or site and architectural approval issued by the city under and pursuant to the provision of its ordinance(s).

"Permittee" means any individual, partnership, association, corporation, governmental body or unit or agency (other than the city), or any other entity owning or occupying land adjacent to any unimproved street or unimproved streets in the city who is required to have a permit from the city in order to erect, construct, add to, alter or repair any building or structure upon such land, or who is required to have any discretionary approval.

"Person" means any individual, partnership, association, corporation, governmental body or unit, or agency (other than the city), or any other entity.

"Repayment agreement" means an agreement executed between the city and a property owner for the property owner's repayment to the city for previously purchased land and/or installed improvements.

"Street improvement agreement" means a written agreement between permittee and the city whereby the permittee agrees to install street improvements required under this chapter within one year of the date of the agreement's execution, unless extended by the parties for good cause. Such an agreement may provide for such other covenants and conditions as may be desirable to accomplish the purposes of this chapter.

"Unimproved street" means any street or highway in the city which is less in width from property line to property line than the width prescribed for such street, either through the adoption of plan lines in accordance with all applicable chapters of the Los Altos Municipal Code, the city's adopted general plan or any master plan, or other ordinances of the city, or which lacks one or more of the following improvements as required by this chapter, the city's adopted general plan or other ordinances of the city: curbs and gutters, driveways, sidewalks, bicycle lanes, pedestrian crossings, street trees, street signs, water lines, fire hydrants, monumentation, retaining walls, pavement, pavement structural section, storm sewers, sanitary sewers, streetlights and pavement striping or as otherwise determined by the City Engineer in accordance with the general purpose and intent of this chapter as specified in Section 11.20.030.

11.20.020 Application.

Nothing contained in this chapter shall be construed to limit the power of the city to require the installation of street improvements as a condition of approval in accordance with the Subdivision Map Act of the state of California.

11.20.030 Purpose and Intent.

The provisions of this chapter are intended to define the policies and procedures for the acquisition of public streets and highways and public easements, and for the construction of public improvements, in connection with the development of areas and parcels of property, in order to:

- A. Ensure that lands hereafter developed are put to uses compatible with their surrounding areas, and which uses will not unduly adversely affect other persons, or land, or the general public;
- B. Cause the installation of those improvements necessary properly to serve the property developed at the time of its development, so far as may be practicable, so that the benefiting property may enjoy the use of such improvements throughout the normal life thereof;
- C. Protect the vested interest of the public in the pre-existing capacity of the city's streets and highways;

- D. Promote the installation of all necessary street improvements in the most economically feasible manner, both to city and to the owners of affected parcels of land;
- E. Protect the public safety, living standards and common welfare of the general public.

11.20.040 Requirements—General.

Except as provided for in Section 11.20.180 of this chapter or any other adopted city council policy, any person who proposes to erect, construct, add to, alter or repair any building or structure for which a permit is required by the city on or upon any land adjacent to an unimproved street, or who seeks a discretionary approval, or a tentative map approval from the city for land adjacent to or containing an unimproved street must improve, or agree to improve by street improvement agreement or deferred street improvement agreement such street as herein required. The permittee shall install such improvements that the City Engineer deems necessary, in accordance with the general purpose and intent of this chapter as specified in Section 11.20.030 of this chapter, which may include the following; curbs and gutters, driveways, sidewalks, ADA ramps, bicycle lanes, bike racks, pedestrian crossings, overlay, pavement structural section, pavement striping, street lights, storm sewers, stormwater treatment measures, sanitary sewers, street trees, street signs, water lines, fire hydrants, monumentation, retaining walls and, where necessary, the dedications and improvement of service roads, facilities for off-street parking, alleys, easements for public utilities, drainage, sewers, walkways, watercourses, planting strips and nonaccess facilities. Such improvements or the agreement to install such improvements shall be a condition precedent to the issuance of any required permit, or discretionary approval. The Development Services Director or Public Works Director shall have the authority to execute such agreements on behalf of the city in accordance with this chapter.

11.20.050 Deferred Street Improvement Agreements.

Deferred street improvement agreements may be allowed when the city engineer has determined that extenuating circumstances exist and the deferral of the street improvements is reasonable and appropriate, or when the following conditions are satisfied:

1. The property is not adjacent to existing improvements of the same type being required; and
2. Agreements do not exist for installation of street improvements for all properties between the subject property and existing improvements of the type being required; and
3. There are no capital improvement projects identified in the current capital improvement program for installation of the required street improvements within the next five (5) years; and

4. The deferral of the street improvements is not in conflict with any other adopted city council policy.

11.20.060 Credit—Purpose.

The owner of any parcel of land for which dedications have been made or for which improvements have been installed as required by this chapter, shall receive credit in the event that the parcel involved is subsequently included in a city assessment district proceeding as determined by the engineer's report for the applicable proceeding. No person shall receive a credit in excess of the amount of dedication required or the cost of the improvements required by this chapter.

11.20.070 Improvements installed by others—Preceding permit.

In some instances, the public welfare and convenience and the greatest economy and safety can be accomplished by the acquisition of land and the installation of improvements on unimproved streets prior to the time that a property owner or owners seek a permit. Such owners, or their successors in title, are required to contribute their fair, equitable share to the street improvements in such areas (just as permittees who seek a permit prior to the installation of improvements are required to do) when their property develops, or when they seek a permit.

In such instances where land has been acquired and improvements have been installed by the city, anyone seeking a permit with respect to the property abutting such acquired land or installed improvements, as a condition precedent to obtaining such permit shall reimburse the city for the cost of the land acquired and improvements installed as specified in the notice of improvement obligation provided for in Section 11.20.080 of this chapter.

The obligation to pay for previously installed street improvements or previously acquired land shall not be imposed as a result of the reconstruction of a building that was damaged or destroyed by earthquake, fire, flood, or other physical peril over which the owner had no control, except as follows:

1. When construction of a replacement building substantially exceeds the floor area of the damaged or destroyed building;
2. Where the damaged or destroyed building had been a nonconforming use which is prohibited from being resumed under the provision of the code; or
3. Where the damage or destruction of the building is the result of an action of the city, state, or federal government's authority under law.

If the improvements installed by the city prior to the issuance of the permit are less than the improvements required by, or authorized to be required by, this chapter, the permittee shall make, or agree to make, such other improvements, all as required by this chapter. A permittee who obtains his permit after improvements have been made shall be required to provide the equivalent of what would have been required to provide had the permit predated the improvements, as determined by the city engineer in

accordance with the general purpose and intent of this chapter as specified in Section 11.20.030.

11.20.080 Notice of Improvement Obligations.

When land is purchased or street improvements are constructed by the city in accordance with Section 11.20.070 of this chapter, the Development Services Director or Public Works Director, are authorized to execute and record a notice of improvement obligation or repayment agreement. Such notice or agreement shall describe the improvements constructed and any land purchased and define the obligation of any property owner or future property owner.

Payments for both land and improvements shall include interest at a rate equal to one-half (1.5) percent above the city's net effective portfolio yield calculated on a fiscal year basis. The interest rate on both land and improvements for each project shall be adjusted annually; and the amount of interest due shall accrue in the following manner:

1. Land Cost. Interest to be accrued from the date of acquisition to the date the permittee is required to reimburse the city;
2. Improvement Cost. Interest to accrue from the award of contract or, if installed by city forces, from the date of commencement to the date the permittee is required to reimburse the city.

However, the interest shall be waived if the abutting property owner dedicates or has dedicated to the city the required land for improvements.

Such notice of improvement obligation or repayment agreement shall constitute constructive notice of the obligation imposed by this chapter, but the failure to execute and record such notice or agreement shall not relieve any permittee or property owner or future property owner of the obligation. The Development Services Director or Public Works Director is authorized to execute and record a notice of satisfaction of improvement obligation when the obligation created by Section 11.20.070 of this chapter has been satisfied.

11.20.090 Rules and regulations.

The City Engineer shall have the authority to establish reasonable rules and regulations consistent with the provisions of this chapter for the purpose of its administration and enforcement. Such rules and regulations shall be effective upon approval thereof by the City Council.

11.20.100 Dedication and Improvements—Requirements.

For the purpose of determining the length and width of street rights-of-way which shall be dedicated and improved under the provisions of this chapter, the following rules shall apply:

- A. Unless otherwise required by the City Engineer, dedication and improvement shall be for the full length of the property line of each parcel or parcels abutting the street or streets for which the permit, or discretionary approval applies and any additional distance necessary to conform to existing improvements.
- B. The permittee shall be required to dedicate and improve walkways and bicycle lanes/facilities or to provide access to school, park, or other public areas.
- C. When the rear or side lines of any parcels border any major or secondary street, alleyway, highway or parkway, the permittee may be required to execute and deliver to the city an instrument deemed sufficient by the city attorney, prohibiting the right of ingress and egress to such parcels across the sidelines of such street, alleyway, highway, or parkway.
- D. The permittee shall grant easements for public utility and drainage purposes as deemed necessary by the city engineer. Dedication of easements shall be for the purpose of installing utilities and for other public purposes, as may be ordered or directed by the city engineer.
- E. The permittee shall, subject to existing water rights, dedicate a right-of-way for storm drainage purposes conforming substantially with the lines of any natural watercourse or channel, stream or creek that traverses the development, or provide by dedication further and sufficient easements or construction, or both, to dispose of such surface and stormwater as determined by the city engineer as reasonably necessary.
- F. Without limitation to any other provision of this chapter, the regulations herein contained are expressly declared to be applicable to any parcel which is abutted on one or more sides by a street, one or more of which is unimproved. The permittee shall have a separate obligation for each of such streets, to the extent that one or more shall be unimproved, and shall be required to install improvements and make provision for each of such streets in accordance with the provisions of this chapter.
- G. The permittee may be required to quitclaim all his rights and interests in, and grant to the city authorization to extract water from the underground strata lying beneath such tract or parcel.
- H. Where any dedication of land is made, and where deemed necessary by the city engineer, the applicant shall furnish the city at applicant's expense, with a preliminary title report issued by a title insurance company authorized to transact a title insurance business in the state of California.

11.20.110 Credits—Prior Improvements.

- A. Whenever a parcel of land is brought within the jurisdiction of this chapter, and a permittee or his predecessor in title has made, or paid for, any dedications of land or any of the improvements required by this chapter, by special assessment or otherwise, the extent of such dedication and/or improvements shall be credited against the obligation created. In estimating the value of such past dedication and/or improvements, the City Engineer's estimate of current land and/or

construction costs shall apply. The credit allowed for past dedications and/or improvements, however, shall not exceed the cost of the land and/or improvements required by this chapter.

- B. Whenever a parcel of land is brought within the jurisdiction of this chapter, and a permittee makes any dedication of land required by this chapter or makes or pays for any improvements required by this chapter, and said land is thereafter included in a city assessment district proceeding for the acquisition of land and the construction of some or all of the improvements of the kind required by this chapter, the permittee or his successor in title shall be entitled to a credit against such sums as the permittee shall be required to pay in the city assessment district proceeding as follows:
- i. For any land dedicated pursuant to the provisions of this chapter, a permittee or his successor in title shall be entitled to a credit equal to the value of the land as appraised by city as of the time of the assessment proceedings (i.e., as of the time of the appraisal of other land included in the assessment proceedings);
 - ii. For any improvements actually made pursuant to the provisions of the chapter, a permittee or his successor in title shall be entitled to a credit equal to the value of the improvements as appraised by the city as of the time of the assessment proceedings (i.e., as of the time of the appraisal of land included in the assessment proceedings);
 - iii. For any improvements actually paid for pursuant to the provisions of this chapter, a permittee or his successor in title shall be entitled to a credit equal to the amount paid to the city, without interest;
 - iv. Credit shall be allowed only for dedications actually made, or improvements actually made or actually paid for; no credit shall be allowed for dedications or improvements which a permittee has agreed to make or pay for, but has not made as of the date of the resolution or ordinance of intent to establish said district;
 - v. In the event a permittee has agreed to make or pay for dedication or improvements under the provisions of this chapter, but has not made or paid for said dedication or improvements as of the date of the resolution or ordinance of intent to establish said district, the permittee's contractual obligation to make or pay for said dedication or improvements shall be terminated, but only to the extent that said dedication or improvements shall be required, made and completed pursuant to said assessment district proceedings;
 - vi. In no event shall the credit allowed exceed the amount which a permittee or his successor in title shall be obligated to pay under the assessment proceedings;

- vii. Appraisals for the purpose of determining credit shall be made by the city, and the amount thereof shall be at the sole discretion of the city and shall be binding upon a permittee or his successor in title;
- viii. The provisions of this section shall apply only to assessment proceedings under the jurisdiction, supervision, and control of the city.

11.20.120 Street Improvement Agreement—Bond—Other Security.

- A. Whenever a street improvement agreement is executed pursuant to the provisions of this chapter, the permittee shall file with the city at the time of making said agreement a faithful performance bond to assure his full and faithful performance of the agreement. The permittee shall, in addition to the faithful performance, file with the city at the time of making the agreement a labor and materials bond in a penal sum adequate to making full payment of all labor and materials required to construct said improvements. The amount of the bonds shall be as determined by the City Engineer. To assist the City Engineer in estimating such bond amount, the permittee may be required to retain the services of an engineer, whose design estimates of quantity and cost can then be checked by the City Engineer to determine their accuracy, completeness, and conformance to city standards. The bonds shall be executed by a surety company authorized to transact a surety business in the state of California. In the event that the permittee fails to faithfully perform the covenants and conditions of the agreement, the city shall call on the surety to perform the agreement or otherwise indemnify the city for the permittee's failure to do so.
- B. In lieu of a surety bond, the permittee may elect to secure any said agreement by depositing with the city:
 - i. Cash; or
 - ii. A cashier's check, or a certified check, payable to the order of the city; or
 - iii. A certificate of deposit or irrevocable letters of credit as approved by the City Attorney; or
 - iv. Any other form of security determined by the City Attorney and the City Engineer to be equivalent to the foregoing.
- C. The amount of said cash, checks, certificate of deposit or irrevocable letters of credit shall be as designated by the City Engineer and shall be the equivalent to that which would have been required had the permittee furnished the city with a surety bond. In the event that the permittee fails faithfully to fulfil the covenants and conditions of said agreements, the city may apply the proceeds of said security thereto.
- D. Provision of security in accordance with this section shall not be deemed to relieve an applicant from the obligation to install the required improvements.
- E. Provision of security shall not be required for deferred street improvement agreements pursuant to Section 11.20.050.

11.20.130 Encroachment Permit and Other Fees.

The permittee shall be required to obtain an encroachment permit for construction of the required street improvements as provided for in Section 11.20.040 and shall pay all fees, post all bonds and deposits, and comply with all the terms and conditions of the encroachment permit, including but not limited to any indirect costs such as design engineering costs and insurance premiums and any costs incurred by the city in connection with said application, and shall, prior to the issuance of any permit, pay the city or applicable agency the amount of the fees required by the City Engineer in connection therewith.

11.20.140 Standard Specifications.

- A. Except as otherwise provided by this chapter, improvements herein required shall be made in accordance with the standard specifications of the city, current at the time the improvements are made. When a required improvement is not provided for by standard specifications of the city, the nature and type of any such improvement shall be as approved by the City Engineer in accordance with accepted engineering principles.
- B. Utility installations shall be consistent with the requirements of Section 13.20.160 requiring the installation of all utility facilities underground.

11.20.150 Alternative Specifications.

In certain areas, as approved by the City Council, alternative materials and surface treatment may be utilized for construction of curbs, gutters and sidewalks and pedestrian walkways may be installed along curvilinear alignment.

11.20.160 Street and Highway Widths.

For the purposes of this chapter, the streets and highways within the city shall be deemed to have the widths set previously by the Zoning Administrator, Planning Commission or City Council along adjacent improved sections of the unimproved street, except that, where no cross-sections have been established, the roadway shall be established by the Zoning Administrator, Planning Commission or City Council.

11.20.170 Exceptions.

- A. Upon application for an exception, the Zoning Administrator or Planning Commission may hear and recommend that the City Council authorize conditional exception to any of the requirements and regulations set forth in this chapter; provided that the following facts are found:
 - i. That there are special circumstances and conditions affecting subject property;
 - ii. That the exception is necessary for the preservation and enjoyment of a substantial property right of the developer; and,

- iii. That the granting of the exception will not be detrimental to the public welfare, or injurious to other property in the territory in which said property is situated.
- B. Zoning Administrator and Planning Commission Recommendations:
 - i. In recommending such exceptions, the Zoning Administrator or Planning Commission shall secure substantially the objectives of the regulations to which exceptions are requested, and shall act to protect the public health, safety, convenience and general welfare;
 - ii. In recommending the authorization of any exception under the provisions of this section, the Zoning Administrator and Planning Commission shall report to the City Council its findings with respect thereto, and all facts in connection therewith, and shall specifically and fully set forth the exceptions recommended, and the conditions designated.
- C. Upon receipt of such report, the City Council may accept recommendation for exception as recommended by the Zoning Administrator or Planning Commission, or the City Council can reject the recommendation for exception.
- D. Additions, alterations or repairs to any existing residential structure, (excluding construction of an accessory dwelling unit or junior accessory dwelling unit), within a five-year period that add less than fifty percent of the size of the existing primary structure, measured in square feet of habitable conditioned space only, to the existing structural coverage shall be exempt from the requirement of this chapter to install street improvements unless the contemplated additions and use of the property in question will result in an immediate danger to the public safety, as determined by the City Engineer.

11.20.180 Appeals.

- A. Any permittee aggrieved by a decision of any officer, department, or commission of the city under the provisions of this chapter may appeal such decision to the City Council by filing written notice of the appeal with the City Clerk within fourteen (14) calendar days after the date of the decision. Such appeal of a decision shall be accompanied by a filing fee in accord with the schedule of fees as established by the City Council, no part of which is refundable.
- B. Said notice of appeal must state:
 - i. The asserted error;
 - ii. The grounds upon which said appeal is taken; and
 - iii. The name and address of the permittee appealing.

Said notice of appeal must be signed by the permittee appealing, or by their agent. Said notice of appeal shall not be effective unless it is filed with the City Clerk within the time required by subsection A of this section.

- C. A public hearing shall be scheduled to be held by the City Council following the filing of the notice at the next regularly scheduled meeting and shall not be extended upon request of any appellant.
- D. Notice of the time and place of the hearing shall be given by mail, postage prepaid, and dispatched not less than ten (10) days prior to the hearing to the appellant at their address as shown upon notice of appeal.
- E. The City Council shall hear the appeal. At the conclusion of the hearing, the City Council may affirm, reverse, or modify the action appealed; subject, however, to the provisions of this chapter only. The findings and decisions of the City Council shall be entered upon the minutes of the City Council, and the decision shall be final and shall take effect as directed by the City Council.

11.20.190 Chapter Conformance Required.

All departments, officials and employees of the city vested with the duty or authority to issue permits shall conform to the provisions of this chapter, and shall not issue any permit, certificate or license for use or building, or for purposes in conflict with the provisions of this chapter. Any such permit, certificate or license issued in conflict with the provisions of this chapter shall be null and void.

11.20.200 Violation—Nuisance.

Any building or structure erected, constructed, altered, enlarged, converted, moved, or maintained, or any use of land contrary to the provisions of this chapter is declared to be unlawful and a public nuisance. The City Attorney shall, upon order of the City Council, commence action or proceeding for the abatement and removal or enjoinder thereof in the manner provided by law.

11.20.210 Violation—Utility Connection Denial.

The Development Services Department shall deny approval and acceptance of and shall refuse to allow final public utility connection to, any building or structure erected, constructed, added to, altered, or repaired, contrary to the provisions of this chapter, unless and until the provisions of this chapter are met.

11.20.220 Violation—Penalty.

Any person, or other entity, violating any provision of this chapter shall be guilty of an unlawful act, punishable pursuant to Title 1 of the Los Altos Municipal Code.

11.20.230 Cumulative Remedies.

The remedies herein contained shall be cumulative, in addition to such other remedies as are provided by law, and without limitation to the right to institute such legal action as may be necessary to enforce any agreement hereinabove provided, or to recover damages for the breach thereof against the principal or the surety.