



City of Sunnyvale

Agenda Item

22-0833

Agenda Date: 9/14/2022

REPORT TO PARKS AND RECREATION COMMISSION

SUBJECT

Forward a Recommendation to City Council to Introduce an Ordinance Amending Section 9.62.090 (Loitering Prohibited During Certain Hours) of Chapter 9.62 (Public Parks) of the Sunnyvale Municipal Code

BACKGROUND

In an effort to clarify an existing provision of the Sunnyvale Municipal Code, the Parks and Recreation Commission is being asked to review and recommend approval of an amendment to Section 9.62.090 (Loitering Prohibited During Certain Hours) of Chapter 9.62 (Public Parks) of the Sunnyvale Municipal Code. The proposed Ordinance would grant the Director of Public Works the authorization to set park hours for each park in Sunnyvale. In addition, the proposed Ordinance would remove the prohibition against loitering in public parks, and proposes to clarify the prohibition to prohibit remaining in a public park during park closure hours.

The City Council is scheduled to consider this item on September 27, 2022.

EXISTING POLICY

General Plan

Chapter 4, Community Character, Policy CC-1.6, Maintain City neighborhoods as safe, healthy places to live.

Chapter 6, Safety and Noise, Policy SN-4.2, Provide for assessment of changing community needs and expectations.

Chapter 6, Safety and Noise, Goal SN-1, Acceptable Levels of Risk for Natural and Human-Caused Hazards. Ensure that natural and human-caused hazards are recognized and considered in decisions affecting the community and that land uses reflect acceptable levels of risk based on identified hazards and occupancy.

ENVIRONMENTAL REVIEW

The action being considered is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15061(b)(3) as the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

DISCUSSION

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Historically, Sunnyvale parks have been closed to the public from 9:00 p.m. to 6:00 a.m. of the following day. In some cases, such as sports fields and courts with lighting, many parks in Sunnyvale are now accessible and regularly used after 9:00 p.m. The proposed ordinance would grant the Director of Public Works the authorization to set park hours for each park. For example, Washington Park which has lit ballfields and a basketball court could have different hours than Las Palmas Park which currently has no lighted features. Staff would place signs in every park accordingly, providing greater clarity to park users and Public Safety officers regarding the hours of operation at Sunnyvale parks.

Additionally, language in Section 9.62.090 of the Municipal Code is proposed regarding remaining in a public park after closure, or loitering. The current language does not provide enough clarity around what is permitted or not permitted after the park is closed such that the ordinance may be subject to a legal challenge.

The Ordinance currently reads:

9.62.090. Loitering prohibited during certain hours.

No person shall remain, stay, or loiter in any public park, between the hours of nine p.m. and six a.m. of the following day without approval from the director. (Ord. 1542-69 § 1, 1969; prior code § 4-11.09).

The new proposed Ordinance would read:

9.62.090. Operational hours of city parks.

- (a) The Director has the authority to establish the hours during which any park, and park buildings, roads, grounds, or other facilities are open to the public.
- (b) Notice of hours of operation shall be conspicuously posted at the park, or park building, road, ground, or facility.
- (c) No person shall enter or remain in any park, or park facility, building, road, or grounds, during those hours of the day or night when they are closed to the public pursuant to this section, unless authorized by the Director.

FISCAL IMPACT

Staff anticipates that the amendment to the Sunnyvale Municipal Code will require additional signage at City parks reflecting accurate park hours, which can be absorbed by the current operating budget. Staff does not anticipate any additional costs as operations will largely remain unchanged.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Public Library, Senior Center, Community Center and in the Department of Public Safety Lobby. In addition, the agenda and report are available at the Sunnyvale Public Library, Office of the City Clerk, and on the City's website.

ALTERNATIVES

1. Forward a Recommendation to City Council to Introduce an Ordinance to Amend Sunnyvale Municipal Code Section 9.62.090 (Loitering Prohibited During Certain Hours) of Chapter 9.62 (Public Parks) of the Sunnyvale Municipal Code.

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2. Forward a Recommendation to City Council to Introduce an Ordinance to Amend Sunnyvale Municipal Code Section 9.62.090 (Loitering Prohibited During Certain Hours) of Chapter 9.62 (Public Parks) of the Sunnyvale Municipal Code, with modifications.
3. Do not Forward a Recommendation to City Council to Introduce an Ordinance to Amend Sunnyvale Municipal Code Section 9.62.090 (Loitering Prohibited During Certain Hours) of Chapter 9.62 (Public Parks) of the Sunnyvale Municipal Code.

STAFF RECOMMENDATION

Alternative 1: Forward a Recommendation to City Council to Introduce an Ordinance to Amend Sunnyvale Municipal Code Section 9.62.090 (Loitering Prohibited During Certain Hours) of Chapter 9.62 (Public Parks) of the Sunnyvale Municipal Code.

Prepared by: Jim Stark, Superintendent of Parks
Reviewed by: Chip Taylor, Director of Public Works
Reviewed by: Teri Silva, Assistant City Manager
Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. Reserved for Report to Council
2. Draft Ordinance