



Department of Public Works Standards for Acceptance of Land for Park Purposes

The following standards apply when the City of Sunnyvale is considering acquiring land for park purposes, whether through dedication by a developer or land purchase.

To maintain the health, welfare and safety of the general public, the City will not accept property for park purposes unless it is “Uncontaminated” and “Clear of Encumbrances.” In addition, when property is being conveyed to the City for park purposes, certain other requirements must be met as well.

“Uncontaminated” is defined as demonstrating to the satisfaction of the City, as determined by the Director of Public Works, that no user or occupant of the park will be exposed to any concentration of chemicals in soil, water, or air where such exposure would be expected to result in a lifetime incremental cancer risk greater than one-chance-in-one-million or a threat of non-cancer health effects greater than a Hazard Index of 1 (“Significant Risk”). This is the standard used by the various State and federal agencies to determine screening thresholds for contaminated substances.

“Clear of Encumbrances” means property that is free and clear of both legal and physical encumbrances.

Uncontaminated Property Requirements

1. For the City to accept property, the following is required:
 - A. Both Phase I and Phase II environmental reports conclude there are no hazardous materials or constituents of concern on the property; OR
 - B. If there are hazardous materials or constituents of concern on the property the amount or concentrations shall be below current environmental Screening Levels (SLs) published by the State of California or federal agencies. For soil contamination the concentrations must be below Residential SLs. For vapor contamination, the concentrations must be below Industrial/Commercial SLs. For groundwater contamination the concentrations must meet the drinking water standard or the use of groundwater must be prohibited. If multiple constituents of concern are present, even at concentrations below SLs, the cumulative risk must not be Significant.
 - C. If concentrations or amounts at the site exceed the relevant SLs, then they must be remediated to a non-significant level. If remediation is not feasible, as determined by the Director of Public Works, a site-specific human health risk evaluation for the proposed uses within the park shall be completed by the City’s consultant to assess whether exposure to the

property would result in a Significant Risk, and whether feasible mitigation measures would reduce the risk. If, as determined by the Director of Public Works based upon his or her review of the consultant studies, exposure to the property would not pose a Significant Risk to users, or any risk can be reduced to insignificant through specified mitigation measures, then the City may accept the property.

- D. For property that contains contaminants and that is the subject of an open file or case with any regulatory agency, the file must be closed by the agency with "no restriction" on the site in order for the City to consider accepting the property. As a rule case closure with mandatory covenants or deed restrictions, or with the need for ongoing monitoring, or remediation, is not acceptable to the City, even if the property could meet B or C above. Any exception to this standard must be directed and approved by City Council.

2. The person or entity proposing to dedicate the property is responsible for paying for and submitting the following items:

- A. Submit Phase I environmental report showing that there are no hazardous materials or constituents of concern on the property. Prepare a Phase II environmental report (Analysis) as directed by the Director of Public Works. The Analysis proposal will be reviewed and approved by the Director of Public Works prior to on-site testing occurring. The minimum requirements of the Analysis shall include, but are not necessarily limited to the following items:
- Analysis of the park-land dedication site as a separate parcel, not part of a larger development. Testing should be done on an established grid system with statistically appropriate grid sizes for the proposed park site area. Sampling should also focus on any recognized environmental conditions or environmental issues related to historical property uses.
 - Identification of any types of contaminants and constituents of concern within the proposed park site, including qualitative and quantitative measurements. Discrete samples must be used. Blending or averaging is not acceptable. Hot spots (above SLs) must be removed.
 - Proposed remediation and/or clean-up measures so that all contaminants or constituents of concern can be demonstrated to be below any applicable federal and State of California regulatory or advisory agency's respective environmental SLs.
 - Estimated costs for those remediation and/or clean-ups measures identified in bullet item above.
 - Submittal of the Analysis to the City for City's (or a third party selected by the City) peer review, paid for by developer.
 - Completion of all necessary removal/remedial actions as recommended by the Analysis and to the satisfaction of Director of Public Works.
 - Testing of the site, by the developer's environmental consultant, to

confirm that the removal or remedial work actually resulted in the area having no contaminants above the SLs or site-specific Significant Risk levels, after any removal or remedial actions.

- B. If the requirements for part A cannot be met and remediation is not feasible, Developer provides funding for the City's consultant to complete a human health risk evaluation. For the property to be acceptable the study would need to conclude that the concentrations of all constituents of concern will not individually or cumulatively result in a Significant Risk to park-land occupants, users, or workers.

Clear of Encumbrances Requirements

1. Property shall be free and clear of encumbrances of all kinds, including both physical facilities and legal or fiscal constraints, such as liens, deed restrictions, etc. Physically, the land should have no buildings, structure, or utilities, above, at, or below ground. The exception would be well-documented utilities in appropriate easements, or other utilities or structures that meet the City's goals. If any structures, utilities, or other facilities will stay in place than those physical encumbrances must also be clear of hazardous materials or constituents of concern, including the bedding and backfill material.
2. The person or entity proposing to dedicate the property is responsible for the following items:
 - a. Remove all existing buildings, structure, or utilities, above, at, or below ground except for those expressly authorized by the City to remain.
 - b. Provide a title report.
 - c. Prepare and record a grant deed (or other instrument) with notarization for transferring the property to the City.
 - d. Pay for all outstanding taxes and clear all outstanding liens as documented in the title report.
 - e. Coordinate and pay for the title insurance and escrow fees.

Other Requirements

1. Any changes to property, use of the property, storage of material or equipment on the property or other activities that could impact the property, occurring after completion of all environmental reports and analysis, are grounds to require additional investigation.
2. The site should be fenced to prevent access or illegal dumping.
3. The site should have signs prohibiting dumping or trespassing with a phone number for information that goes to the City.
4. Where the developer is required to or agrees to improve the park land, all park land work must be done to City standards, subject to City inspection, and must be maintained by and at the cost to the developer for six months following initial acceptance by the City. The developer is precluded from the determination of when and how the land will be developed as a park.