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Chapter 6-16: Dedication of Parkland and Park Facilities and Payment of Fees for Park, Trail and Recreation Purposes

Parkland Dedication Ordinance No. 575

- Article 1. General Provisions
 - 6-1601 Authority.
 - 6-1602 Compliance with parks, trails and recreation element of general plan.
 - 6-1603 Supplemental regulations.
 - 6-1604 Definitions.

- Article 2. Requirements for Parkland Dedications, Park Facilities, and Fees
 - 6-1611 Requirements for subdivisions.
 - 6-1612 Requirements for single parcel development.
 - 6-1613 Requirements for planned unit developments.
 - 6-1614 General standard for dedication of parkland, park facilities, or payment of fee.
 - 6-1615 Standards and formula for dedication of land and payment of fees in lieu of dedication of land.
 - 6-1616 Standards and formula for park facilities fees and park facilities on dedicated parkland.
 - 6-1617 Partial credit for private open land, trails and recreation facilities.
 - 6-1618 Credit for public facilities, open land areas, and park facilities.
 - 6-1619 Limitations on the use of land, park facilities, and fees.
 - 6-1620 Administration fee.

- Article 3. Procedures and Administration
 - 6-1621 Establishment and development time.
 - 6-1622 Refunds.
 - 6-1623 Sale of dedicated land.
 - 6-1624 Proposal as to dedication of land, park facilities or payment of fees.
 - 6-1625 Decision of planning commission on requirement for land dedication, park facilities or payment of fees.
 - 6-1626 Time and manner of satisfying requirement.
 - 6-1627 Exemptions.
 - 6-1628 Development of facilities--Specific schedule.
 - 6-1629 Administration.

*Prior ordinance history: Ord. 91, 104, 109 196, and 400, and 575.

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Article 1. General Provisions.

6-1601 Authority.

This chapter is adopted under Government Code Sections 66000 et seq., 66477, and the city's general police power. (Ord. 575 § 2, 2008; Ord. 400 § 1, 1993)

6-1602 Compliance with parks, trails and recreation element of general plan.

The parkland and recreation facilities for which land or the payment of a fee, or both, are required shall be in accordance with the parks, trails and recreation element of the city general plan. (Ord. 575 § 2, 2008; Ord. 400 § 1, 1993)

6-1603 Supplemental regulations.

The city council shall adopt regulations to establish fees, administration, procedures, implementation, interpretation and policy considered necessary or desirable to carry out this chapter by resolution. (Ord. 575 § 2, 2008; Ord. 400 § 1, 1993)

6-1604 Definitions.

As used in this chapter, unless context otherwise requires:

- (a) "Development" means:
 - (1) The rezoning of land to the planned (P-1) land use district, when residential uses are involved (a "planned unit development").
 - (2) In any residential land use district (whether single-family, two-family or multiple family):
 - (A) The division of land into two or more parcels,
 - (B) The conversion of an existing structure to create one or more additional dwelling units,
 - (C) The construction of new dwelling units,
 - (D) Enlargement of the habitable area of existing dwelling units except as set forth in Section 6-1627.
 - (3) Approval of the construction of a residential unit in a land district other than residential.
- (b) "Owner" means and includes the agent, representative, subdivider, developer or applicant.
- (c) "Park facilities" means new or upgraded trails, paths, bridges, sport fields, recreational courts, children play areas, picnic areas, restrooms, parking lots and any other facility or structural improvements contained in an approved development plan for a designated park or a planned upgrade for a designated park. (Ord. 575 § 2, 2008; Ord. 400 § 1, 1993)

Article 2. Requirements for Parkland Dedications, Park Facilities, and Fees

6-1611 Requirements for subdivision.

As a condition of approval of a tentative map or parcel map (referred to in this chapter as development) the owner of land for residential use, excluding that land which is exempt as provided in the Subdivision Map Act, shall:

- (1) Dedicate land for park, trail or recreational purposes, pay a fee in lieu thereof, or do a combination of both; and
- (2) Pay a park facilities fee, provide park facilities in conjunction with a parkland dedication, or do a combination of both. (Ord. 575 § 2, 2008; Ord. 400 § 1, 1993)

6-1612 Requirements for single parcel development.

As a condition of approval of a permit to build a residential structure on any parcel of land of record or to construct an additional dwelling unit an owner shall:

- (1) Dedicate land for park, trail or recreational purposes, pay a fee in lieu thereof, or do a combination of both; and
- (2) Pay a park facilities fee, provide park facilities in conjunction with a parkland dedication, or do a combination of both.

As a condition of approval of a permit to add habitable living space (including the conversion of a garage or other structures to habitable living space) an owner shall pay a per square foot parkland dedication in-lieu fee and a per square foot park facilities fee. (Ord. 575 § 2, 2008; Ord. 400 § 1, 1993)

6-1613 Requirements for planned unit developments.

The owner of land that is reclassified to the planned (P-1) district, as a condition of approval of the development plan, which provides for one or more dwelling units, including apartments or condominiums, shall:

- (1) Dedicate land for park, trail or recreational purposes, pay a fee in lieu thereof, or do a combination of both; and
- (2) Pay a park facilities fee, provide park facilities in conjunction with a parkland dedication, or do a combination of both. (Ord. 575 § 2, 2008; Ord. 400 § 1, 1993)

6-1614 General standard for dedication of parkland, park facilities, or payment of fee.

- (a) The amount of land to be dedicated for park and recreational facilities, or the payment of fee in lieu thereof, or combination of both, shall not exceed five acres per 1,000 persons residing within a subdivision subject to this chapter. The city shall adopt a resolution, which shall set forth the actual amount of parkland to be dedicated, or fee to be paid in lieu thereof, based upon the ratio of the park acreage owned by the city to the total population of the city, as shown in the most recent available federal census.
- (b) The park facilities fee shall be based upon the ratio of parkland acres per person as specified above in subsection (a), the amount of persons per dwelling unit, and the weighted average facilities cost per acre as set forth in greater detail by resolution. Park facilities may be provided on dedicated parkland to offset payment of part or all of the park facilities fee as provided in Section 6-1616.
- (c) The parkland in-lieu fee and park facilities fee for residential additions shall be based upon the size of a typical single family home, as set forth in greater detail by resolution. (Ord. 575 § 2, 2008; Ord. 400 § 1, 1993)

6-1615 Standards and formula for dedication of land and payment of fees in lieu of dedication of land.

- (a) The amount of land to be dedicated and the formula to establish the amount of land to be dedicated and the fee to be paid in-lieu of dedication shall be set forth by resolution.
- (b) All land offered for dedication shall have access to at least one existing or proposed street open for general public access. This requirement may be waived by the city council if the city council determines that public street access is unnecessary for maintenance of the park area or use thereof.
- (c) The land to be dedicated under this chapter shall be considered for approval by the city council upon recommendation of the parks, trails and recreation commission and planning commission.
- (d) Only the payment of fees, not the dedication of lands, may be required in subdivisions containing 50 parcels or less.
 - (1) When a condominium project, stock cooperative, or community apartment project, as those terms are defined in Section 1351 of the Civil Code, exceeds 50 dwelling units, notwithstanding that the number of parcels may be less than 50, dedication of land may be required.

- (2) However, nothing in this subsection precludes the dedication and acceptance of land for park and recreation purposes in subdivisions of 50 parcels or less, where the owner proposes such dedication voluntarily and the land is acceptable to the city council.
- (e) The owner may be required to, without credit against the amount of land to be dedicated:
 - (1) Provide full street improvements and utility connections pursuant to city standards to land which is dedicated under this Chapter;
 - (2) Provide improved grading and drainage through the dedicated site; and
 - (3) Provide other improvements which the approving body determines to be essential to the use of the land. (Ord. 575 § 2, 2008; Ord. 548 § 2, 3, 2005; Ord. 503 § 1, 1999; Ord. 400 § 1, 1993)

6-1616 Standards and formula for park facilities fees and park facilities on dedicated parkland.

- (a) The standards and formula for setting the park facilities fee shall be set forth by resolution.
- (b) Park facilities may be provided under this chapter on parkland that is being dedicated to the city. Part or all of the park facilities fee may be offset based on the cost of the facilities provided. (Ord. 575 § 2, 2008; Ord. 548 § 4, 5, 2005; Ord. 503 § 2, 1999; Ord. 400 § 1, 1993)

6-1617 Partial credit for private open land, trails and recreation facilities.

- (a) In common interest developments (as defined in Section 1351, of the Civil Code), partial credits may be available for private open land, trails or recreation facilities within the development usable for active recreational uses are provided and meet the standards specified below. Partial credits cannot exceed 50 percent against the requirement of land dedication or payment of in-lieu fees for land dedication.
- (b) An application for partial credit must be submitted to the city manager who will forward it to the parks, trails and recreation commission, with a copy to the planning commission, no later than at the time the tentative map is submitted for the official city review. Following action by the planning commission on the tentative map, the question of partial credit shall be scheduled for consideration by the city council based upon the recommendations of the parks, trails and recreation commission and the planning commission. Partial credit may be given only if the city council finds that it is in the public interest to do so and that the standards set forth in the next paragraphs are met.
- (c) The standards for partial credit for provision of private land against parkland dedication or in-lieu fees are as follows:
 - (1) Yards, median strips, setbacks and other open areas or landscaping required to be maintained by the zoning and building ordinances and regulation shall not be included in the computation of such credit; and
 - (2) The private ownership and maintenance of the area, is adequately provided for by recorded written agreement (to which the city is a party), covenants or restrictions that bind future owners to maintaining the area and the facilities; and
 - (3) The use of the private open land and recreation facilities is restricted for park and recreational purposes by recorded covenants which run with the land in favor of the future owners of the property within the tract and which cannot be amended or eliminated without the consent of the city or its successor; and
 - (4) Those elements and facilities proposed for the area are in substantial accordance with the provisions of the open space, parks, school and utilities element of the general plan; and
 - (5) The proposed private land is reasonably adaptable for use for park and recreational purposes, taking into consideration such factors as size, shape, land use compatibility, slope, topography, geology, natural setting, access and location; and
 - (6) The private land areas for which credit may be given may include the following:

<u>Item</u>	<u>Minimum Area Size</u>
Children's play area	0.50 acre
Passive park area	0.50 acre
Group picnic area	0.25 acre
Recreational court area	0.25 acre
Turf playfield area	1.00 acre
Swimming pool area	0.25 acre
Bicycle trail (linear feet)	1,000 feet
Hiking and/or equestrian trail (linear feet)	2,000 feet

Bicycle, hiking and/or equestrian trails refer to neighborhood trails that may join a community or regional trail system. (Under California Government Code 66475.1, a developer of over 200 parcels may be required to dedicate bicycle paths.);

- (d) If park facilities are provided on the private land that is accepted as a partial credit against the parkland dedication or in-lieu fee requirement, an offset of up to 50 percent of the park facilities fee requirement may be granted based upon the cost of such park facilities. The amount of the offset shall be subject to approval by the city council upon recommendation of the parks, trails and recreation commission and the planning commission. An offset may be given only if the city council finds that it is in the public interest to do so. (Ord. 575 § 2, 2008; Ord. 400 § 1, 1993)

6-1618 Credit for public facilities, open land areas, and park facilities.

- (a) The city council upon recommendations from the parks, trails and recreation commission and planning commission may give full or partial credit against the requirement of land dedication, payment of fees in-lieu of parkland dedication, or park facilities fees for on-site and off-site public park, trail and open space projects that the council finds are of major benefit to the entire community and that are dedicated for public use. Public trails as used in this section are those used on a regional or community-wide basis or which serve as a major artery for a community or regional trail system, and which are used primarily by residents living outside the subdivision.
- (b) An application for credit must be submitted to the city manager who will forward it to the parks, trails and recreation commission, with a copy to the planning commission, no later than at the time the tentative map is submitted for the official city review. Following action by the planning commission on the tentative map, the question of credit shall be scheduled for consideration by the city council based upon the recommendations of the parks, trails and recreation commission and the planning commission. Credit may be given only if the city council finds that it is in the public interest to do so. (Ord. 575 § 2, 2008; Ord. 400 § 1, 1993)

6-1619 Limitations on the use of land, park facilities, and fees.

The land, park facilities and fees collected, or a combination thereof, shall be used only for the purpose of developing new or upgrading existing city-owned park or recreation facilities. (Ord. 575 § 2, 2008; Ord. 400 § 1, 1993)

6-1620 Administration fee.

An administration fee shall be charged to cover the administration costs associated with the dedication of parkland and facilities, the parkland fee, and park facilities fee. The administration fee shall be paid in conjunction, and at the same time, with the dedication of land and park facilities, the payment of fees or a

combination of both as provided in this Chapter. This administration fee shall be set forth by resolution of the city council. (Ord. 575 § 2, 2008)

Article 3. Procedures and Administration

6-1621 Establishment and development time.

Before city approval of a final map, the parks, trails and recreation commission shall have recommended and the city council shall have established a schedule specifying how, when and where the city will use the land or fees, or both, to develop park or recreational facilities. (Ord. 575 § 2, 2008; Ord. 400 § 1, 1993)

6-1622 Refunds.

All land dedicated, park facilities provided, or fees paid shall be held by the city only for the purposes described in Section 6-1619.

- (a) Parkland dedication fees collected under this chapter shall be committed within five years after the payment of such fees or the issuance of building permits on one-half of the lots created by a subdivision, whichever occurs later. If such fees are not committed, such uncommitted funds shall be distributed among 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. For the purpose of this chapter, “committed” means that the fees have been encumbered by contract, conveyed or paid for a specific project, to accomplish a specific purpose with the scope of Section 6-1619.
- (b) Except when administrative costs of refunding the unexpended revenues exceed the amount to be refunded, when sufficient funds have been collected for park facilities, as provided for in the Mitigation Fee Act, Section 66006(b)(1)(F) of the Government Code, to complete financing on incomplete public facilities and the public facilities remain incomplete, the city shall identify, within 180 days of the determination that sufficient funds have been collected, an approximate date by which the acquisition and installation of the parkland facilities will be commenced, or shall refund to the then current record owner or owners of the lots or units, as identified on the last equalized assessment roll, of the development project or projects on a prorated basis, the unexpended portion of the park improvement fee, and any interest accrued thereon. (Ord. 575 § 2, 2008; Ord. 400 § 1, 1993)

6-1623 Sale of dedicated land.

If, during the ensuing time between dedication of land for park purposes and commencement of first stage development, circumstances arise which indicate that another site would be more suitable for local park, trail or recreational purposes (such as receipt of a gift of additional park and or a change in school location), the land may be sold upon the approval of the city council with the resultant funds being used for the purchase of a more suitable site. (Ord. 575 § 2, 2008; Ord. 400 § 1, 1993)

6-1624 Proposal as to dedication of land, park facilities or payment of fees.

- (a) At the time of the submittal of a tentative map for official city review or an application for a building permit when no map is required, the owner shall indicate a preference for dedicating land, paying a fee, or a combination of both. If the owner prefers to dedicate land, the owner shall designate it and clearly identify those elements for which the owner is requesting partial credit. Additionally, the owner shall provide evidence of how the dedicated land is to be maintained to a standard acceptable to the approving body.
- (b) At the time of the submittal of a tentative map for official city review or an application for a building permit when no map is required, the owner shall indicate a preference for paying a park facilities fee, providing park facilities on dedicated parkland, or a combination of both. If the owner prefers to provide park facilities, the owner shall identify the park facilities and clearly

identify those elements for which the owner is requesting an offset of the fees. Additionally, the owner shall provide evidence of how the park facilities are to be maintained to a standard acceptable to the approving body. (Ord. 575 § 2, 2008; Ord. 400 § 1, 1993)

6-1625 Decision of planning commission on requirement for land dedication, park facilities or payment of fees.

- (a) At the time of approval of the development, the planning commission upon recommendation of the parks, trails and recreation commission shall determine whether to require the dedication of land within the development or the payment of a fee instead, or a combination of both. In making this determination, the planning commission shall consider the following factors:
 - (1) Whether or not the land offered for dedication substantially complies with the park and recreation, open space, schools and utilities elements of the general plan; and
 - (2) The topography, soils, soil stability, drainage, access, location and general utility of the land proposed for dedication; and
 - (3) The size and shape of the development and land proposed to be dedicated; and
 - (4) The availability of school playgrounds, public parklands and recreational trails in the area and whether or not these can be combined with the land proposed to be dedicated for park and recreational facilities; and
 - (5) Privately owned park and recreational facilities permanently available and maintained for use by future residents of the development, including any partial credit to be applied pursuant to Section 6-1617 that has been approved by the city council; and
 - (6) Credit to be applied pursuant to Section 6-1618 that has been approved by city council.
- (b) At the time of approval of the development, the planning commission upon recommendation of the parks, trails and recreation commission shall also determine whether the provision of park facilities on dedicated parkland, or the payment of a fee, or a combination of both, is acceptable, including any private facility partial credit (Section 6-1617) or public facility credit (Section 6-1618) approved by the city council. (Ord. 575 § 2, 2008; Ord. 400 § 1, 1993)

6-1626 Time and manner of satisfying requirement.

The time and manner for satisfying the requirements imposed by this chapter upon the development of land are as follows:

- (a) When land is to be dedicated, it shall be offered for dedication in substantially the same manner as property offered for dedication for street and other public purposes.
- (b) When park facilities are to be provided, they shall be offered to the city at the time of recording of the final map or parcel map or issuance of the building permit, whichever occurs first.
- (c) When a fee is required, it shall be paid to the city at the time of the recording of the final map or parcel map or issuance of the building permit, whichever occurs first. (Ord. 575 § 2, 2008; Ord. 400 § 1, 1993)

6-1627 Exemptions.

- (a) A permit to rebuild a dwelling unit damaged or destroyed by act of God, fire or other natural disaster, is exempt from this chapter if the permit to rebuild is applied for by the owner within one year of the damage or destruction caused by the natural disaster. If the habitable area of the new unit exceeds that of the unit destroyed or damaged, then the owner shall pay the fee as if the increased area were an addition.
- (b) This chapter does not apply to subdivisions containing less than five parcels and not used for residential purposes. However, the city shall place the following condition on the parcel map approval of subdivision: If, within four years, a building permit is requested for construction of a residential structure on one or more of the parcels, the owner of each such parcel is required to comply with this chapter before the permit is issued.

- (c) This chapter does not apply to commercial or industrial subdivisions; nor does it apply to condominium projects or stock cooperatives which consist of the subdivision of airspace in an existing apartment building if that building is more than five years old and no new dwelling units are added.
- (d) No fee, land dedication, nor park facility is required on a parcel for which the requirements of this chapter have previously been met, unless the owner proposes to build a residential structure to add habitable floor area to an existing dwelling unit or to build a second unit on the parcel. If a lesser fee was paid when a subdivision map was recorded the owner shall pay the difference between the amount previously paid and the amount required by the currently approved city fees.
- (e) No fee is required for additions to residences of less than 120 square feet of habitable space. (Ord. 575 § 2, 2008; Ord. 400 § 1, 1993)

6-1628 Development of facilities--Specific schedule.

The applicant shall provide a report on the schedule of development to the planning commission and parks, trails and recreation commission when submitting the final map to the city. At the time the city approves the final map, parcel map or building permit, the city shall designate when the owner must begin and complete development of the park, trails and recreational facilities, including either on-site or off-site park facilities. (Ord. 575 § 2, 2008; Ord. 400 § 1, 1993)

6-1629 Administration.

The fees and interest earned thereon shall be accounted for accordingly in a separate parkland dedication fund and park facilities fund by the city manager until committed by the city. (Ord. 575 § 2, 2008; Ord. 400 § 1, 1993)