

## CHAPTER 7.75 PARKLAND DEDICATION AND FEES

### SECTIONS

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#### 7.75.010 Purpose

This chapter establishes criteria for the dedication of land or payment of in-lieu fees for the development of new, or rehabilitation or enhancement of existing community parks or recreational facilities in accordance with Government Code Section 66477 and other applicable law.

#### 7.75.020 Applicability

As a condition of approval of a final map or parcel map, the subdivider shall dedicate land, pay a fee in lieu thereof, or both, at the option of the City, for neighborhood and community park or recreational purposes in accordance with the standards herein, the General Plan, the Trails, Parks, Open Space & Recreation Master Plan, and the formulas contained in this section.

#### 7.75.030 General Standard

The City Council finds that the amount of existing neighborhood and community park areas exceeds 3 acres per 1,000 persons residing in the city, and that the public interest, convenience, health, welfare, and safety require that 5 acres of property for each 1,000 persons residing in Menifee be devoted to neighborhood and community park recreational purposes.

#### 7.75.040 General Dedication Requirements

- A. Whenever a tentative map that is subject to the provisions of this section is submitted to the City, the developer shall consult with the Director of Community Services to determine whether parkland, in-lieu fees, or a combination of both shall be dedicated for parks and recreational purposes.
- B. The conditions of approval of a tentative map subject to the provisions of this section shall require the dedication of land, the payment of in-lieu fees, or a combination of both for parks and recreational purposes at the discretion of the City pursuant to Section 7.75.020 (Applicability). If the land is to be dedicated, conceptual plans for the park improvements shall be reviewed by the Director of Community Services, and the proposed dedication shall be identified on the tentative map as a separate numbered lot.
- C. The amount and location of the property to be dedicated and/or the amount of any fees to be paid shall be determined by the Director of Community Services pursuant to the provisions of this chapter.

- D. Whenever subsequent development occurs on property for which fees have already been paid or land dedicated, no additional fees or dedications shall be required except as to any additional lots or dwelling units that were not subject to a prior fee or dedication requirement.
- E. If parkland is to be dedicated, park improvement plans shall be reviewed and approved by the Director of Community Services and the City Engineer prior to final map approval. An agreement and securities shall be posted prior to approval of the final map to guarantee construction of the park to City standards.
- F. Upon completion of the park improvements to City standards and acceptance by the City Council, land to be dedicated shall be conveyed in fee to the City by grant deed and accepted by resolution, if not already indicated for dedication on the final map. Such parkland shall be free and clear of all encumbrances except those that the City accepts in writing. An environmental site assessment report shall be required for all park areas to determine that the land is free from toxic or hazardous materials. The subdivider shall provide all fees and instruments necessary to convey the land and shall include a preliminary title report and title insurance in favor of the City in an amount approved by the City.
- G. Unless otherwise specified through conditions or approval or other agreement, whenever fees are to be paid pursuant to this chapter, the fees shall be paid prior to recordation of the final map, or in the instance of maps consisting of four or fewer parcels, prior to issuance of Building Permits, as determined by the City. If the payment of fees is deferred to Building Permit, the City shall determine whether the fees shall be paid on a pro rata basis for each dwelling unit prior to the issuance of a building permit, or on a pro rata basis for certain percentages of the dwelling units prior to the issuance of Building Permits.
- H. Whenever land has been conveyed or fees paid to the City and a final map is never recorded or, if recorded, is reverted to acreage, the City shall, at its option, either reconvey all land dedicated to it, repay all fees paid pursuant to this chapter without interest, allow the developer a credit for any land dedicated or fees paid to be applied only to a new subdivision on the same property, or make other arrangements with the subdivider.

#### **7.75.050 Determination of Land or Fee**

In considering whether the City accepts land dedication or elects to require payment of a fee in lieu thereof, or a combination of both, the analysis shall consider the following:

- A. The minimum park size acceptable for dedication to the City as a provision of this section shall be 3 usable acres, unless approved by the Director of Community Services.  
  
Usable acreage for parklands is defined as follows: Proposed parkland must have a maximum slope of 3 percent over 90 percent of the total area of the park. The remaining 10 percent may contain slopes greater than 3 percent if approved by the Director of Community Services. The proposed park must have a length to width ratio no greater than 2:1. A minimum of two sides of the park must abut public streets. Sewer, water, electricity, and storm drain connections must be available at the park. The Director of Community Services must approve any deviation from these standards.
- B. The natural features, access, and location of the proposed park site within the subdivision available for dedication that are compatible with the location of existing proposed park sites and trail ways and

the compatibility of dedication with the City's General Plan and the Trails, Parks, Open Space & Recreation Master Plan.

- C. For subdivisions containing 50 parcels or fewer, the City may allow the subdivider to only pay fees; provided, however, that when a condominium project, stock cooperative, or community apartment project exceeds 50 dwelling units, the dedication of land may be required even though the number of parcels may be fewer than 50. Nothing herein shall prevent the City from accepting the voluntary dedication of land by a subdivider for a subdivision containing fewer than 50 parcels if the dedication meets the other requirements of this section.
- D. Whenever the actual amount of land to be dedicated is less than the amount of land required to be dedicated, the subdivider shall pay fees for the value of any additional land that otherwise would have been required to be dedicated.
- E. Nothing in this section shall be interpreted to prohibit, or limit in any manner, the City from determining the location and configuration of land to be dedicated. 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.

### 7.75.060 Formula for Dedication of Land

Where a park or recreation facility has been designated and is to be located in whole or in part within the proposed subdivision to serve the immediate and future needs of the residents of the subdivision, the subdivider shall dedicate land for a local park sufficient in size and topography that bears a reasonable relationship to serve the present and future needs of the residents of the subdivision. The amount of land to be provided shall be determined pursuant to the following formula:

Average number of persons per unit x 0.005 acre = acreage of parkland required per unit

Example for a single-family detached dwelling unit (DU):  $3.12 \times 0.005 = 0.0156$  acres/DU

Parkland Dedication Formula*	
Type of Dwelling	Average Population per Unit
Single-family residential (detached garage)	3.12
Single-family residential (attached garage)	2.85
Multifamily attached (two to four units)	2.48
Multifamily attached (five or more units)	2.43
Mobilehomes	2.00
*Established pursuant to Government Code Section 66477(a)	

The subdivider, in addition to the dedicated land required by this section, may be conditioned to provide park improvements, as determined by the City. In return for park improvements, the developer shall receive fee credits against the overall park land dedication requirements of this section and/or the parks and recreation component of the City's development impact fees equal to the cost of such improvements.

The land to be dedicated and the improvements to be made pursuant to this section shall be subject to the approval of the Director of Community Services and shall conform to the City's guidelines for park dedications.

### **7.75.070 Criteria for Requiring Payment of In-Lieu Fees**

Whenever a fee is to be paid in lieu of the dedication of land, the following provisions shall apply:

- A. The fee shall be based either on the fair market value of the land that would otherwise be required or on a fixed in-lieu rate established by the City Council. If no fixed in-lieu fee rate has been established, the fee shall be determined by multiplying the number of acres of land required to be dedicated pursuant to this section by the per acre fair market value of the improved value of the subdivision.
- B. The fair market value shall be determined and agreed to by the City and the subdivider. However, if an agreement on the fair market value cannot be reached, the subdivider may, at his or her own expense, obtain an appraisal of an acre of land within the subdivision based on the value of the land as a recorded map. If the City does not accept the subdivider's appraisal, it may cause an appraisal to be made of the land by an MAI appraiser, for which the subdivider pays, which appraisal shall be final and conclusive.
- C. Whenever fees are paid pursuant to this section, the City shall deposit the fees into a separate account applicable to the project. Money in the account, including accrued interest, shall be expended solely for development of parkland or improvements related thereto or the rehabilitation of existing park or recreational facilities within the subdivision except as provided in Government Code Section 66477(a)(3)(B). If the final map is withdrawn or rejected, the fees shall be returned without interest to the subdivider.
- D. The City shall commit the uses of the collected fees for parks or recreational purposes to serve residents of the subdivision within 5 years upon receipt of payment or within 5 years after the issuance of Building Permits on one half of the lots created by the subdivision, whichever occurs later. If the fees are not so committed, they shall be distributed and paid to 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 in the subdivision.
- E. The Director of Community Services shall report to the City Council at least annually on income, expenditures, and status of the subdivision park account.

### **7.75.080 Credit for Private Parks and Recreation Areas**

Where private park areas for active recreational purposes are proposed within a subdivision to be privately-owned and -maintained, the subdivider may receive up to a 50 percent credit against the requirement of land dedication or payment of in-lieu fees as follows:

- A. Yards, court areas, setbacks, and other open space areas required by the Community Development Department shall not be included in the computation of such private open space.
- B. Use of the private park or recreational area is restricted for park and recreation purposes by recorded covenants which run with the land in favor of the future owners of the property which cannot be eliminated without the consent of the City and which are submitted to the City prior to the approval of the final map.

- C. The private park or recreation area is reasonably adaptable for use for park and recreation purposes, taking into consideration such factors as size, shape, topography, geology, access, and location.
- D. The private park and recreation facilities shall be owned by the developer or a homeowners association composed of all property owners in the subdivision and incorporated as a nonprofit mutual benefit organization, operated under recorded land agreements through which each lot owner, renter, or lessee is automatically a member, and each lot is subject to a charge for a proportionate share of expenses for maintaining the facilities.
- E. Active recreational purposes shall mean, for purposes of this section:
  - 1. Park areas for active recreational pursuits, such as sports fields, court games, swimming pools, children's play areas, picnic areas, and open lawn areas having a maximum 10 percent slope.
  - 2. Recreational buildings and facilities designed for the recreational needs of the residents within the development.
- F. Active recreational uses do not include natural open space, nature study areas, open space or buffer areas, steep slopes, riding and hiking trails, scenic overlooks, water courses, drainage areas, or water bodies.

### **7.75.090 Exemptions**

This chapter shall not apply to the following land divisions:

- A. Commercial or industrial subdivisions.
- B. Subdivisions containing fewer than five parcels and not used for residential purposes; provided, however, that a condition shall be placed on the approval of a tentative parcel map that if a Building Permit is requested for construction of a residential structure or structures on one or more of the parcels within 4 years after the map is approved, a fee may be required to be paid by the owner of each parcel as a condition to the issuance of such Building Permit.
- C. Condominium projects or stock cooperatives which consist of the subdivision of airspace in an existing apartment building which is more than 5 years old when no new dwelling units are added.