

**ORDINANCE 2007-01**  
**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LEMOORE**  
**ADDING ARTICLE 'L' TO CHAPTER 7, TITLE 8 TO THE LEMOORE**  
**MUNICIPAL CODE REQUIRING THE DEDICATION OF PARKLAND OR**  
**PAYMENT OF FEES IN LIEU THEREOF AS A CONDITION OF APPROVAL**  
**OF RESIDENTIAL SUBDIVISIONS**

The City Council of the City of Lemoore does ordain as follows:

Section 1. Section 8-7-L is added to the Lemoore Municipal Code to read:

“SECTION 8-7-L. DEDICATION OF LANDS FOR PARK AND RECREATION PURPOSES.

1. Authority: This Section is enacted pursuant to authority granted by Section 66477 of the Government Code of the State of California ("Quimby Act").
2. Requirement: Each subdivider of land classified by the City zoning ordinance for, or otherwise proposed for, residential use shall, as a condition to filing a final subdivision map, dedicate or reserve lands, pay fees in lieu thereof, or a combination of both, for park or recreational purposes. In accordance with Government Code Section 66477(b), land or fees required under the Section shall be conveyed or paid directly to the City, which provides park and recreational services on a community wide level and to the area within which the proposed development will be located, if the City elects to accept the land or fee, upon approval of the final map.
3. Limitations:
  - a. In accordance with Government Code Section 66477(a)(1), the requirements imposed by subdivision (2) of this Section, shall apply only to subdivision maps filed 30 days or more after this Section became effective.
  - b. In accordance with Government Code Section 66477(a)(3), the land, fees, or combination thereof are to be used only for the purpose of developing new or rehabilitating existing neighborhood or community parks or recreational facilities, including open space, to serve the subdivision.
  - c. In accordance with Government Code Section 66477(a)(5), the amount and location of land to be dedicated or the fees to be paid shall bear a reasonable relationship to the use of the park and recreational facilities by the future inhabitants of the subdivision.

- d. In accordance with Government Code section 66477(a)(6), the City shall develop a schedule specifying how, when, and where it will use the land, fees, or both, to develop park or recreational facilities to serve the residents of the subdivision in a manner consistent with the limitations of this Section and the Subdivision Map Act (Government Code Section 66410*et seq.* ). Any fees collected under this Section shall be committed within five years after the payment of the fees or the issuance of building permits on one-half of the lots created by the subdivision, whichever occurs later. If the fees are not committed, they, without any deductions, 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 within the subdivision.
- e. In accordance with Government Code Section 66477(a)(4), park and recreational facilities shall be in accord with principles and standards of the current General Plan of the City of Lemoore ("General Plan").
- f. In accordance with Government Code Section 66477(a)(7), only the payment of fees may be required in subdivisions containing fifty (50) parcels or less; except that dedication or reservation of land may be required of condominium projects, stock cooperatives, or community apartment projects, as defined in Civil Code Section 1351, that exceed 50 dwelling units, notwithstanding that the number of parcels in such subdivisions may be less than 50.
- g. In accordance with Government Code Section 66477(a)(8), the requirements imposed by subdivision (2), above, shall not apply to subdivisions containing fewer than 5 parcels; however, a condition may be placed on the approval of the parcel map for such subdivisions that if a building permit is requested for construction of a residential structure or structures on one or more of the parcels within four years, the fee described in subdivision (e) of this Section may be required to be paid by the owner of each parcel as a condition of the issuance of the building permit.
- h. In accordance with Government Code Section 66477(d), the provisions of this Section do not apply to condominium projects or stock cooperatives that consist of the subdivision of airspace in an existing apartment building that is more than five (5) years old when no new dwelling units are added.
4. Amount of Land to Be Dedicated: In accordance with Government Code Section 66477(a)(2) and the General Plan, five (5) acres of land for each one thousand (1,000) persons residing in a subdivision within the City subject to the Section shall be devoted to local park and recreational purposes. In accordance with Government Code Section 66477(a)(5), the amount of land to be dedicated or fees to be paid in lieu thereof shall bear

a reasonable relationship to the use of the park and recreation facilities by the future inhabitants of the subdivision. In accordance with Government Code Section 66477(a)(2), the amount of land to be dedicated shall be calculated according to the following formula:

LAND TO BE DEDICATED = A x B

For the purposes of said formula:

a. "A" means the park and recreation area required per dwelling unit, based on the type of dwelling units of the proposed subdivision and the park area per one thousand (1,000) City residents, which is calculated as follows:

- The park area of the City is determined to be 5 acres per 1,000 people, or .005 acres per person.

- The park and recreation area required per dwelling unit is established as follows:

-*Single-Family development.* For dwelling units to be constructed on property zoned RA-40, RA-20, R-1-10, R-1-7, each unit is assigned 3.21 people.

Therefore,  $A = 3.21 \times .005 = 0.01605$  acres per unit

-*Multi-Family development.* For dwelling units to be constructed on property on property zoned RM-2.0, RM-2.5, RM-3.0, each unit is assigned 2.56 people.

Therefore,  $A = 2.56 \times .005 = 0.0128$  acres per unit

b. "B" means the number of dwelling units in the proposed subdivision. For the purpose of this section, the number of dwelling units in the proposed subdivision shall be determined as follows: In areas zoned for one (1) dwelling unit per lot or parcel, the number of dwelling units shall equal the number of parcels indicated on the final map. When the subdivision is located in an area zoned for multiple dwelling units per parcel, the number of dwelling units shall equal the maximum number of dwelling units allowed under that zone. For residential condominium projects, the number of dwelling units shall equal the number of condominium units indicated on the final map, or the maximum number of dwelling units allowed under that zone if the final map does not indicate the number of units.

5. Calculation of In-Lieu Fees: If fees are paid in lieu of land dedication, such fees shall be equal to the then-current Parkland Dedication In-Lieu Fee, as set forth from time to time by resolution duly adopted by the City.

6. Credits:

a. In accordance with Government Code Section 66477(a)(9), if a subdivider provides park and recreational improvements to the dedicated land, as authorized by the City, the value of the park and recreational improvements, together with any equipment located thereon, as approved by the City, shall be a credit against the payment of fees or dedication of land otherwise required by this Section. To be authorized and approved by the City, park and recreational improvements and equipment provided by subdividers pursuant to this section shall be generally consistent, as determined by the City, with applicable principles and standards for local and neighborhood parks contained in the General Plan.

b. In accordance with Government Code Section 66477(e), common interest developments such as community apartments, condominiums, and stock cooperatives, as defined in Section 1351 of the Civil Code, shall be eligible to receive a credit not to exceed 25%, as determined by the City, against the land required to be dedicated, or the amount of the fee imposed pursuant to this Section, for the value of private open space within the development which is usable for active recreational uses. For the purposes of this section, private open space usable for active recreational uses means private open space that is:

(i) At least 3/4 (three-quarters) of an acre in area with the smallest dimension being at least one hundred (100) feet clear excluding yards and setbacks normally required by zoning provisions;

(ii) Owned and maintained by a homeowners' association, or similar instrument, available to all residents of the subdivision without restriction, and designated for park and recreational purposes by recorded covenants which run with the land and cannot be defeated or eliminated without consent of the City Council;

(iii) Suitable for active park and recreation purposes taking into consideration such factors as shape, topography, access, and improvements proposed; and

(iv) Generally consistent as determined by the City with applicable principles and standards for parks contained in the City's General Plan.

7. Procedures:

a. Prior to approval of a subdivision subject to the requirements of this Section, the Commission shall consider the report and recommendation from City staff regarding the following:

- (i) The amount of land required; or
- (ii) That a fee be charged in lieu of land; or
- (iii) That a combination of land and fee be required; and
- (iv) The location of the park land and, where appropriate, the siting and conceptual design of the park facilities appurtenant thereto, to be dedicated or used in lieu of fees.

b. At the time of approval of a subdivision subject to the requirements of this Section, the Planning Commission shall determine whether land, in-lieu fees, or a combination of land and fees shall be dedicated and/or paid by the subdivider.

c. The Planning Commission may approve, modify or disapprove the recommendations of City staff; provided, however, that any modification of the recommendation not previously considered shall first be referred back to City staff for further report and recommendation. City staff shall report back to the Planning Commission within thirty (30) days. After the receipt and consideration of the report, or after thirty (30) days have passed in the event no report is received, the Planning Commission may take action on the modification.

8. Off-site Dedication: Dedication of land outside of the subdivision may be authorized by the City, in consultation with the Planning Commission, by action on the tentative map and be credited toward the developer's park land dedication requirement pursuant to this Section.

Section 2: The City Clerk is authorized and directed to cause this ordinance or a summary of this ordinance to be published in a newspaper of general circulation published and circulated in the City of Lemoore, within 15 days after its adoption. If a summary of the ordinance is published, then the City Clerk shall cause a certified copy of the full text of the proposed ordinance to be posted in the office of the City Clerk at least five days prior to the Council meeting at which the ordinance is adopted and again after the meeting at which the ordinance is adopted. The summary shall be approved by the City Attorney. This ordinance shall become effective 30 days after its adoption.

\* \* \* \*

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Lemoore held on 16<sup>th</sup> day of January, 2007, and was passed and

adopted at a regular meeting of the City Council held on \_\_\_\_ day of \_\_\_\_\_,  
2007, by the following roll vote:

Ayes:

Noes:

Abstain:

Absent:

APPROVED:

---

John F. Murray, Mayor

ATTEST:

---

Nanci C. O. Lima, City Clerk

CERTIFICATE

STATE OF CALIFORNIA

COUNTY OF KINGS

CITY OF LEMOORE

I, Nanci C. O. Lima, City Clerk of the City of Lemoore, do hereby certify the foregoing Ordinance was duly introduced at a Regular Meeting of the City Council of the City of Lemoore held on the 16th day of January, 2007 and passed and adopted at a Regular Meeting of the City Council held on the \_\_\_\_\_ day of \_\_\_\_\_, 2007.

DATED:

---

Nanci C. O. Lima, City Clerk