

ORDINANCE # 513-23

The City Council of the City of Chowchilla Does Ordain as Follows:

SECTION 1. Amend Title 17.40 – Park and recreation fees, adopting the following:

17.40.010 - Park and recreation fees.

The council may impose a fee for applicable Parks and Recreation Fees pursuant to Section 17.42.

SECTION 2. Adopt Title 17.42 as follows:

Chapter 17.42 - PARK LAND DEDICATION AND IN-LIEU FEES

Sections:

- 17.42.010 - Park Land Dedication and In-Lieu Fees
- 17.42.020 - Definitions
- 17.42.030 - Formulas for Determining Park Land Dedication Requirement and In-Lieu Fees.
- 17.42.040 - Determination of Dedication, In-Lieu Fee or Combination
- 17.42.050 - Credit for Park and Recreational Improvements Provided by the Sub-divider
- 17.42.060 - Credit for Private Open Space Within a Common Interest Development
- 17.42.070 - Time of Dedication or Payment of In-Lieu Fees
- 17.42.080 - Disposition of Dedicated Land and In-Lieu Fee
- 17.42.090 - Exemptions

17.42.010 - Park Land Dedication and In-Lieu Fees.

- A. Authority. This section is enacted pursuant to the authority granted by California Government Code Section 66477 (the Quimby Act) and shall be interpreted consistent with the provisions thereof.
- B. Dedication of Land or Payment of In-lieu Fees Required. As a condition of approval of a final map, parcel map or parcel map waiver certificate, the sub-divider shall dedicate land, pay a fee in lieu of dedication or a combination of both for park or recreational purposes at the time and according to the standards and formulas set forth in this section. This condition shall apply only to land subdivided for residential development.
- C. General Standard. A general standard of three (3) acres per 1,000 persons expected to reside within a subdivision shall be used to determine the amount of land to dedicated by a sub-divider for park or recreational purposes, or the in-lieu fees to be paid by the sub-divider pursuant to this chapter.

17.42.020 - Definitions

- A. "Park" means a parcel or contiguous parcels of land owned, operated or maintained by the city which provides land and facilities for active or passive recreational use by the city's residents and visitors. Within the meaning of this chapter, parks include community and neighborhood parks providing landscaped open space, playgrounds, picnic areas, sports fields or courts, walkways, restrooms and/or other recreational amenities.
- B. "Recreation facility" means a community center, recreation center, cultural center, gymnasium, swimming pool or aquatic center, athletic facility or other facility intended for recreation or enrichment activities, which may or may not be located within a park.

17.42.030 - Formulas for Determining Park Land Dedication Requirement and In-Lieu Fees.

- A. Formula for Determining Park Land Dedication Requirement. The maximum area of land that may be required to be dedicated by a sub-divider for park or recreational purposes shall be determined using the following formula:
1. Acres to be dedicated = [number of residential lots or units] X [population per unit] X [0.003].
- B. Where the number of lots or dwelling units is as shown on the final subdivision map or parcel map and the population per unit is as follows:
1. Population per unit for single-family lot subdivisions = 3.2.
 2. Population per unit for attached unit subdivisions = 2.4.
 - a. Example: the area to be dedicated for 100-lot single-family subdivision = $100 \times 3.2 \times 0.003 = 0.96$ acres.
 - b. Example: the area to be dedicated for 25-lot attached unit subdivision = $25 \times 2.4 \times 0.003 = 0.18$ acres.
- C. Formula for Calculating Fee in Lieu of Land Dedication.
1. The amount of the in-lieu fee to be paid by a sub-divider to satisfy the requirements of this chapter shall be determined using the following formula:
 - a. In-lieu fee = [required acres] X [fair market value per acre].
 2. In the formula above, required acres means the number of acres to be dedicated as determined using the formula in Section A. When the city requires the sub-divider to satisfy the requirements of this Chapter through a combination of land dedication and payment of in-lieu fees, the required acres in the in-lieu fee formula shall be reduced by the number of acres to be dedicated by the sub-divider.
 3. The fair market value per acre to be used in calculating the in-lieu fee shall be based on the fair market value of the land to be subdivided as determined by a current appraisal of the property. The appraisal shall be made at the sub-divider's expense, payable to the city in advance, by a person on the city's list of approved appraisers, who will be qualified as a certified general real estate appraiser by the California Office of Real Estate Appraisers and shall meet the standards specified in the uniform standards of professional appraisal practice. The appraiser shall appraise the property at its unencumbered (free and clear) value, as if at the approved tentative map stage of development and as if any assessments or other encumbrances to which the property is subject had been paid off in full prior to the date of appraisal. Factors to be considered during the evaluation shall include the following:
 - a. The general plan.
 - b. Zoning and density.
 - c. Property location.
 - d. Off-site improvements facilitating use of the property.
 - e. Site characteristics of the property.
 - f. Existing public improvements.
 4. The appraisal shall value the property as of a date no earlier than ninety days prior to the recording of the final map, or payment of the fee, whichever occurs later. The appraisal shall clearly state the fair market value of the entire property to be subdivided. The in-lieu fee calculation shall be based on the average fair market value per acre of that property.

5. Alternatively, the sub-divider may disclose to the city the market price paid for the land if the land has been purchased in the past one year, and the city has the option of accepting that price as the basis for determining an in-lieu fee.

17.42.040 - Determination of Dedication, In-Lieu Fee or Combination

- A. The city, in its sole discretion, shall determine whether a sub-divider may satisfy the requirements of this chapter by dedicating land or paying an in-lieu fee or a combination of the two. In the event that the sub-divider is required to both dedicate land and pay an in-lieu fee, the aggregate value of the land and fees shall not exceed the equivalent value of the amount of land required to be dedicated under the formula shown in the previous section.
- B. The city may choose to accept dedication of land for park and recreational use as opposed to the payment of in-lieu fees if the land proposed for dedication is suitable for that purpose in consideration of the following:
 1. Property location.
 2. Property size.
 3. Topography, geology and soil type.
 4. Accessibility.
 5. Availability of utilities.
 6. Consistency with policies contained in the general plan and park and recreation master plan.
- C. For any subdivision of 50 parcels or less, only payment of in-lieu fees rather than dedication of land shall be required, except that when a subdivision involving a condominium project, stock cooperative or community apartment project, as those terms are defined in Sections 4105, 4125 and 4190 of the Civil Code exceeds fifty dwelling units, dedication of land may be required notwithstanding that the number of parcels may be less than 50.

17.42.050 - Credit for Park and Recreational Improvements Provided by the Sub-divider

- A. If the sub-divider provides park and recreational improvements to land dedicated pursuant to this chapter, the value of the improvements together with any equipment located thereon shall be credited against the payment of fees or dedication of land required by this chapter, provided that the improvements and equipment have been made or installed with the prior approval of the city.
- B. The amount of the credit for privately provided park and recreational improvements shall not exceed the documented actual cost of the improvements and equipment provided by the sub-divider.

17.42.060 - Credit for Private Open Space Within A Common Interest Development

- A. Where private open space suitable for active recreational uses is provided within a common interest development subject to the requirements of this chapter, the sub-divider shall be eligible to receive a credit, as determined by the city council, against the amount of land required to be dedicated or the in-lieu fees to be paid pursuant to this chapter.
- B. The amount of open space that qualifies for a credit shall be not more than one-third of the total acres of park land required to be dedicated by this chapter.
- C. The following areas or subdivision design features shall not be eligible for private open space credit: required setbacks, yards, courts, subdivision entries, walking, cycling or equestrian trails, greenbelts, streams or ponds.
- D. Any credit provided for private open space within a common interest development requires that the following standards are met:
 1. That the private ownership and maintenance of the open space is adequately provided for by recorded written agreement, conveyance, or restrictions; and,

2. That the use of the private open space is restricted for park and recreational purposes by recorded covenant, which runs with the land in favor of the future owners of the property and which cannot be defeated or eliminated without the consent of the city or its successor; and,
3. That the proposed private open space is reasonably suitable and improved for active recreational uses.

17.42.070 - Time of Dedication or Payment of In-Lieu Fees

At the time of approval of the tentative subdivision map, the council shall determine the amount of land to be dedicated and/or fees to be paid by the sub-divider. In conjunction with the filing of the final subdivision map, the sub-divider shall dedicate the land or pay the fees as previously determined by the city council. Open space covenants for private park or recreational facilities shall be submitted to the city prior to approval of the final subdivision map and shall be recorded contemporaneously with the final subdivision map.

17.42.080 - Disposition of Dedicated Land and In-Lieu Fee

- A. Any land dedicated, or in-lieu fees paid, pursuant to this chapter shall be used only for the purpose of developing new or rehabilitating existing neighborhood or community park or recreational facilities bearing a reasonable relationship to the use of park and recreational facilities by the future inhabitants of the subdivision for which the land is dedicated and/or in-lieu fees are paid.
- B. The city shall develop a schedule specifying how, when and where it will use the land or fees, or both to develop park or recreational facilities to serve the residents of the subdivision for which the land is dedicated and/or in-lieu fees are paid. Any fees collected pursuant to this chapter shall be committed within five years after the payment of the fees or the issuance of building permits on 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.

17.42.090 - Exemptions

- A. The provisions of this chapter shall not apply to commercial or industrial subdivisions or to condominium projects which consist of the subdivision of airspace in an existing apartment building which is more than five years old when no new dwelling units are added.
- B. Subdivisions containing fewer than five parcels and not used for residential purposes shall be exempted from the requirements of this chapter. However, in such cases, the city may place a condition on the approval of the parcel map such that if a building permit is requested for construction of a residential structure on one or more of the parcels within four years following approval of the map, a pro rata in-lieu fee may be required to be paid by the owner of each parcel as a condition of issuance of the permit.

SECTION 3. This ordinance shall take effect thirty (30) days after the date of its adoption.

The foregoing Ordinance was introduced at a Regular Meeting of the City Council of the City of Chowchilla held on the 14th day of March, 2023 and was passed and adopted at the Regular Meeting of the City Council held on the 28th day of March, 2023 by the following vote to wit:

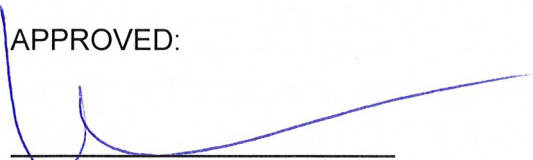
AYES: 5 – Ahmed, Troost, Chavez, Smith, Barragan

NOES: 0

ABSENT: 0


ABSTAIN: 0

APPROVED:



Mayor Ray Barragan

ATTEST:



Joann McClendon, CMC
City Clerk