# Chapter 12.20 PARK DEDICATION REQUIREMENTS[1]

**Sections:**

## *Article I Introduction*

### 12.20.010 Title.

This chapter shall be called the "Park Dedication Ordinance of Alameda County."

(Ord. 2004-81 § 1 (part))

### 12.20.020 Authority.

This chapter is enacted pursuant to authority granted by Sections 66000 et seq. and 66477 of the Government Code of the state of California and pursuant to the authority in the field of municipal affairs granted to the county of Alameda by its Charter and by the Constitution of the state of California.

(Ord. 2004-81 § 1 (part))

### 12.20.030 Purpose and intent.

The purpose and intent of the park dedication requirement is to assure that each new residential unit in the unincorporated area bears the burden of its individual, incremental share of improvements needed to accommodate the cumulative demand for park and recreation facilities caused by all new residential development, and to ensure that the current level of park and recreation facilities is maintained. It is specifically not the purpose or intent of this requirement to increase the level of park and recreation facilities in the unincorporated area.

(Ord. 2004-81 § 1 (part))

### 12.20.040 Findings.

In establishing the requirements set out in this chapter, the Board of Supervisors finds and determines as follows:

A. All new residential development contributes to the demand for park and recreation facilities, which are significant, widespread, and reflective of the increased financial burden being placed on local park agencies to mitigate this demand.

B. In providing for the general health and welfare, it is in the public interest to require all new residential development, except as may be exempted from the requirement or for which the requirement may be waived to set aside and improve land and/or pay fees in lieu of dedicating and improving land to provide for park and recreational facilities serving the area where the development occurs.

[1]Prior code history: §§ 8-301.01—8-301.05, 8-302.01—8.302.09 and 8-303.01—8-303.11.

C. The county has completed background studies in the form of staff analyses entitled Park Dedication Policies Review, dated May 18, 1992, February 2, 2004, addendum February 2, 2004, March 1, 2004, April 5, 2004, and addendum April 5, 2004, (all on file with the Board of Supervisors and the planning department) that identify the method for determining the park dedication requirement, including park and recreation facilities in the unincorporated area, the population of the unincorporated area, the per capita acreage of park and recreation facilities, current land costs, and the rationale for including residential development which is exempt from the Quimby Act

D. The county does not provide local park and recreational facilities or services for the unincorporated areas; however these services are provided to residents of the unincorporated area by local park agencies, including local park and recreation districts and cities.

E. There are certain cases where the demand which new residential construction places on local park and recreation facilities is minimal by reason of location or other factors; there are certain geographical areas of the county where no agency exists to provide local park and recreation facilities; and there are certain cases where other county policies outweigh the need for provision of local park and recreation facilities.

F. The requirement is consistent with the Alameda County general plan.

G. Pursuant to Government Code Section 65913.2, the Board of Supervisors has considered the effects of the requirement, including in-lieu fees, with respect to the county's housing needs as established in the housing element of the Alameda County general plan, and finds that it does not render infeasible the development of housing for any and all economic segments of the community.

(Ord. 2004-81 § 1 (part))

## 12.20.050 Definitions.

For purposes of this chapter, certain words and phrases are defined and shall be construed as set out in this section unless it is apparent from the context that they have a different meaning. Words or phrases not defined below shall have the meaning given to them in other sections of this title, or, if not defined therein, shall have the meaning commonly ascribed to them by professional or general usage in the context of this chapter.

"Affordable housing" means a rental housing unit with rent restricted for fifty-five (55) years to be affordable to households with incomes of no more than sixty (60) percent of area median income, adjusted for household size, or an ownership housing unit with price restricted for forty-five (45) years to be affordable to households with incomes of no more than eighty (80) percent of area median income, adjusted for household size, as defined by the U.S. Department of Housing and Urban Development or a successor agency designated by the director of community development.

"Agricultural caretaker's unit" means an agricultural caretaker's unit as defined in the zoning ordinance or any second or subsequent unit including but not limited to additional dwellings for persons employed in the agricultural use on the property under Section 17.06.040(A) of the zoning ordinance and occupancy of a mobile home by persons directly related to an on-site agricultural use or for security purposes under Section 17.06.040(M).

"Canyonlands" means those portions of the Hayward area park and recreation district outside and to the north, east, and southeast of the census designated places of Castro Valley and Fairview and the city of Hayward, including but not limited to those areas known as Cull, Crow, Norris, Eden, Hollis, Palomares, and Stony Brook Canyons.

"Developer" means a person, firm, corporation, or public agency responsible for construction of a dwelling unit directly or through the services of any employee, agent, or independent contractor.

"Development" means the construction or establishment of one or more dwelling units as a unified project.

"Housing for the disabled" means an affordable housing unit with occupancy restricted to people with disabilities for a period of not less than fifty-five (55) years for rental housing and forty-five (45) years for ownership housing, as defined by the U.S. Department of Housing and Urban Development or a successor agency designated by the director of community development.

"In-lieu fees" means fees paid or required to be paid to a local park agency under this chapter in lieu of dedicating or improving land for park and recreation purposes.

"Local park agency" means an agency established or authorized to provide park and recreation facilities, including the Hayward area recreation and park district, the Livermore area recreation and park district, any other special district established under the provisions Section 5780 et seq. of the California Public Resources Code, a city or a community services district as defined by the California Government Code and which is established to provide park and recreation services. "Local park agency" does not include the East Bay regional park district or any other special district established under the provisions of Section 5500 et seq. of the California Public Resources Code.

"Multiple" or "multiple unit" means a two-family dwelling or multiple dwelling as defined by Section 17.04.010 of this code.

"Ordinance" or "this ordinance" means the Park Dedication Ordinance of Alameda County.

"Park dedication requirement" or "requirement" means the requirement to provide for park and recreation facilities by dedicating or making improvements to land or paying money for construction of all new dwelling units.

"Secondary (or accessory dwelling) unit" means, for the purpose of this chapter, a second or secondary unit as allowed under the zoning ordinance or other adopted county policy regarding such units, which is either attached or detached and which is not fully contained within the existing space of an existing single-family residence or accessory structure. "Accessory dwelling unit" does not mean an agricultural caretaker's unit.

"Senior housing" means a rental housing unit which meets the definition of senior housing as defined by the U.S. Department of Housing and Urban Development, with rent restricted for fifty-five (55) years to be affordable to households with incomes of no more than sixty (60) percent of area median income, or an ownership housing unit with price restricted to forty-five (45) years to be affordable to households with incomes of no more than eighty (80) percent of area median income, adjusted for household size, as defined by the U.S. Department of Housing and Urban Development or a successor agency designated by the director of community development.

"Secondary unit" means a second or secondary unit as allowed under the Zoning Ordinance or other adopted county policy regarding such units. "Secondary unit" also means an agricultural caretakers unit as defined in the Zoning Ordinance or any second or subsequent unit including but not limited to additional dwellings for persons employed in the agricultural use on the property under Section 17.06.040(A) of the Zoning Ordinance and occupancy of a mobile home by person directly related to an on-site agricultural use or for security purposes under Section 17.06.040(M).

"Single-family" or "Single-family unit" means a one-family dwelling as defined by Section 17.04.010 of this code.

( Ord. No. 2017-13 , § 2(Pt. 1), 4-25-17)

## *Article II Requirements*

## 12.20.060 Requirement.

All developers of new dwelling units constructed after the effective date of this requirement as indicated in Section 12.20.080 shall be required to dedicate and/or improve land, pay fees in lieu of dedicating or improving land, or any combination thereof, for park and recreation purposes as set out in this chapter, except as may be exempt under Section 12.20.090, or for which the requirement may be waived under Section 12.20.110. The county may not require dedication of land for developments of less than fifty (50) dwelling units; however in such developments land may be dedicated in total or partial fulfillment of the requirement upon mutual agreement of the planning director, the local park agency, and the developer. Where a developer dedicates land to fulfill this requirement, the developer shall also be liable for improvement of the land either by payment of in-lieu fees or as otherwise provided in this chapter. A developer may dedicate additional land on a dollar for dollar basis to meet this requirement.

(Ord. 2004-81 § 1 (part))

## 12.20.070 Limitations.

The land, fees, or combination thereof are to be used only for the purpose of developing new or rehabilitating existing neighborhood and community park or recreational facilities bearing a reasonable relationship to use by residents of the development which generates the requirement. Park and recreational facilities shall be in accord with principles and standards of the park and recreation element of the Alameda County general plan, and with the master plan or other relevant long range plan of the appropriate local park agency. The local park agency to which the land or fees are conveyed or paid shall use the land or fees, or both, to develop park or recreational facilities to serve the residents of the development which generates the land or fees in a manner consistent with the limitations of this chapter. Any fees collected under this chapter shall be committed within five years after the payment of such fees. If such fees are not so committed, they shall be distributed and paid to the then record owners of the dwelling units. Only the payment of fees may be required in residential developments containing fifty (50) or fewer dwelling units or residential parcels.

(Ord. 2004-81 § 1 (part))

## 12.20.080 Effective date of requirement.

This requirement shall apply to all dwelling units for which a complete building permit application has been filed and fees paid on or after the sixtieth (60th) day after the ordinance codified in this chapter takes effect. Any change to the requirement shall likewise take effect and apply to all dwelling units for which a complete building permit application has been filed and fees paid on or after the sixtieth (60th) day after the effective date of the change, except that any project for which a complete application, as determined by the planning director, for variance, conditional use permit, site development review, subdivision, rezoning, or building permit has been filed prior to or on the fifty-ninth (59th) day after the effective date of the ordinance codified in this chapter shall be subject to the fees in effect at the time of filing such application, to be paid prior to occupancy and release of utilities as indicated in Section 12.20.170.

(Ord. 2004-81 § 1 (part))

## 12.20.090 Exemptions from the requirement.

This requirement shall not apply in the following cases:

A. To construction of dwelling units in a project for which a requirement for dedication of land or money for park or recreation purposes or improvements to park or recreational facilities has been made a part of the approval of the project and which requirement is specifically stated to take the place of the requirement of this chapter. This exemption may be total or partial, depending on the terms of the condition;

B. To construction of dwelling units on lots created by a tract for which a tentative map has been approved prior to the effective date of the ordinance codified in this chapter, which tentative map has required dedication of land or payment of in-lieu fees, and for which the required land has been dedicated or in-lieu fees paid prior to the effective date of this requirement, even though a final map may have not been filed;

C. To construction of dwelling units that meet the requirements of affordable housing, housing for the disabled, or senior housing;

D. To construction of dwelling units on parcels that are under a Williamson Act contract for which a notice of nonrenewal has not been filed under the provisions of Government Code Section 51245;

E. To construction of dwelling units on parcels zoned in the A (agricultural) district, or in a PD (planned development) district which is based on the A district and are twenty (20) acres or larger in size;

F. To construction of dwelling units in the Suñol area, defined as the Suñol Glen school district as of the date of the ordinance codified in this chapter;

G. To construction of dwelling units in areas not served by a local park agency, or not located within a benefit area as described in Section 12.20.180;

H. To group housing, such as a boardinghouse, convalescent or rest home, convent, medical or residential care facility, community care facility, group home, etc. However, this exemption shall not preclude the inclusion of a requirement to provide appropriate park and recreational facilities through dedication of land or payment of fees or a combination thereof as a condition of approval of a rezoning, conditional use permit, site development review, or other application for the group housing;

I. To remodeling, rehabilitation, or restoration of an existing dwelling unit, including additions or expansions thereto, or to conversion of apartment units to condominium units, so long as no new dwelling units are created;

J. To replacement of a dwelling unit which was destroyed, so long as no new dwelling unit(s) are created and the replacement unit is of the same type as the destroyed unit; and

K. To a change of the status of a nonconforming dwelling unit to conforming.

(Ord. 2004-81 § 1 (part))

## 12.20.100 Development not exempted from the requirement.

The following development is specifically not exempted from this requirement:

A. Legalization of an illegally constructed or established dwelling unit. The in-lieu fee to be paid shall be that fee in effect on the effective date of the rezoning or other action which legalizes the unit;

B. Replacement of one type of dwelling unit by another, where the replacement unit is subject to a higher requirement. The in-lieu fee to be paid shall be the difference between the two fees in effect on the date the release of utilities for the replacement unit is issued;

C. The moving of a dwelling unit and placement of it on a permanent foundation on a parcel from a parcel outside the benefit area or subarea; and

D. Construction of dwelling units on parcels that are less than twenty (20) acres in size, and that are not on property subject to a Williamson Act contract.

(Ord. 2004-81 § 1 (part))

## 12.20.110 Waivers.

The planning director may waive all or part of the requirement if any of the following findings can be made:

A. The dwelling unit will have no impact on local park and recreational facilities; or

B. The dwelling unit meets other county policies, such as but not limited to provision of affordable housing, senior housing, or housing for the disabled that may not meet the definitions in this chapter, or provision of housing for other targeted groups, which outweigh the need to provide park and recreational facilities.

Where a waiver is granted under subsection B, the planning director, in consultation with the local park agency and the appropriate advisory committee as set out in Section 12.20.190, shall make a further finding that the dwelling unit for which the waiver is made shall be restricted to that use for a minimum of fifty-five (55) years. Developers of housing which is granted a waiver under subsection B shall enter into a regulatory agreement with the county of Alameda which shall guarantee the use, affordability, and term of affordability.

(Ord. 2004-81 § 1 (part))

## 12.20.120 Standards.

The park dedication requirement shall be based on a figure of five acres of land per one thousand (1,000) persons or two hundred eighteen (218) square feet per person except as may be indicated below. The requirement shall consist of dedication or improvement of land, payment of fees in lieu of dedication of land or improvement of facilities or a combination thereof. Where a developer improves land as part of the requirement, such improvements shall be done to the standards of the appropriate local park agency. In-lieu fees shall be rounded to the nearest twenty-five dollars ($25.00). Until June 30, 2005, the Requirement shall be as follows:

| Type of Unit | Sq. ft./ Unit | $ In-Lieu Fee | |
|---|---|---|---|
| | | Total | Development Increment |
| Single-family | 592 | $7,400.00 | $1,225.00 |
| Multiple | 504 | 6,300.00 | 1,050.00 |
| Secondary Unit | 298 | 3,725.00 | 625.00 |
| Mobilehome | 360 | 4,500.00 | 750.00 |

Subsequent to July 1, 2005, and until June 30, 2006, the requirement shall be as follows:

| Type of Unit | Sq. ft./ Unit | $ In-Lieu Fee | |
|---|---|---|---|
| | | Total | Development Increment |
| Single-family | 545 | $8,650.00 | $1,550.00 |

| | | | |
|---|---|---|---|
| Multiple | 477 | 7,600.00 | 1,350.00 |
| Secondary Unit | 272 | 4,325.00 | 775.00 |
| Mobilehome | 377 | 5,975.00 | 1,075.00 |

Subsequent to July 1, 2006, the requirement shall be as follows:

| Type of Unit | Sq. ft./ Unit | $ In-Lieu Fee | |
|---|---|---|---|
| | | Total | Development Increment |
| Single-family | 628 | $11,550.00 | $2,175.00 |
| Multiple | 555 | 10,200.00 | 1,900.00 |
| Secondary unit | 314 | 5,775.00 | 1,075.00 |
| Agricultural caretaker's unit | 314 | 5,775.00 | 1,075.00 |
| Mobilehome | 434 | 7,975.00 | 1,500.00 |

(Ord. 2004-81 § 1 (part))

( Ord. No. 2017-13 , § 2(Pt. 1), 4-25-17)

## 12.20.130 Credits—Private facilities.

Where a private park or recreation area is provided in a development, the planning director may allow the value of improvements to be a credit against the park dedication requirement if the planning director finds that it is in the public interest to do so. To receive a credit, qualifying private park or recreation areas shall equal at least twenty-five percent (25%) of the total requirement for the development or two thousand four hundred (2,400) square feet, whichever is the greater amount. The amount of the credit is based on the percentage of the required parkland that is provided through private park and recreational areas, as determined by the planning director after consultation with the appropriate local park agency, but shall not exceed fifty percent (50%) of the requirement, provided that:

A. Private open space or recreation facilities are owned and maintained by a homes association, are available to all residents of the subdivision without restriction, and are designated for park and recreational purposes by recorded covenants which run with the land.

B. Private open space and facilities are suitable for active park and recreation purposes taking into consideration such factors as shape, topography, access and improvements proposed.

C. All of the following standards or regulations shall be complied with to receive a credit:

1. Private yards, setbacks, parking areas and other open areas required under the county's zoning and building ordinances and regulations shall not be included in computing the amount of park or recreation areas available for credit.

2. Private park or recreation areas shall be conveniently accessible to all residents and, as much as possible, shall consist of one contiguous area.

3. Where private park or recreation areas will be owned by a homeowners' association, ownership and maintenance of such areas shall be adequately provided for by recorded written agreement, covenant or restrictions, through which each owner within the development is automatically a

member of the association and may be subject to a proportionate share of maintenance expenses.

4. Developments with credit received for private park or recreation areas shall have a covenant recorded which shall run with the land that: (a) restricts such areas from being altered or eliminated without the prior consent of the planning director and, (b) requires such areas to be maintained in an attractive, usable and safe condition at all times. The covenant shall also stipulate that, if the planning director determines that a violation of any of the above requirements has occurred, the current owner(s) shall be subject, at the planning director's option, to either payment of in-lieu fees based on the amount of credit originally received for the development or any other remedy available at law or equity including but not limited to injunctive relief for specific performance. The amount of in-lieu fees shall be according to the fee schedule in effect at the time the violation is determined to have occurred.

For subdivisions, the covenant for private park or recreation land and improvements shall be submitted to the county prior to approval of the final subdivision map or parcel map and shall be recorded contemporaneously with such final documents. For all other developments, the covenant shall be submitted to the county for review and approval and then recorded with the county prior to issuance of a building permit for said developments.

5. Private park or recreation areas shall be reasonably adaptable for their intended purpose, taking into consideration such factors as size, shape, topography, geology, sun exposure, safety and security.

6. Facilities for private park or recreation areas shall be in substantial accordance with the provisions of the park and recreation element of the Alameda County general plan (or its successor document) and with the master or general plan of the local park agency.

7. Facilities shall exhibit quality workmanship and design shall be constructed with durable materials, and shall conform to standards required for public park or recreation facilities.

8. Private park or recreation areas shall contain at least two of the local park elements listed below, with the exception that a swimming pool shall provide the two required park elements:

| Recreation and Park Facility | Minimum Required Area per Facility (square feet) |
|---|---|
| Children's play apparatus area which comply with federal public playground safety guidelines | 1,200 |
| Courtyard with decorative paving and seating exclusive of general circulation areas and not exceeding three percent slope | 1,200 |
| Family picnic area and park-like areas with associated facilities, exclusive of general circulation areas and not exceeding ten percent slope | 2,400 |
| Game court area | 2,500 |
| Turf playfield | 10,800 |
| Swimming pool(s), 800 square feet minimum water surface area per pool, together with adjacent deck and/or lawn area twice that of the pool | 2,400 |
| Recreational center buildings (excluding offices, hallways, restrooms, and utility rooms) | 1,200 |
| Other facilities the county deems appropriate for private park and recreation purposes | As determined by the planning director |

All turf and planting areas offered for credit shall be completely irrigated by automatic irrigation systems.

Notwithstanding the above, credit equaling one hundred percent (100%) of the requirement may, at the planning director's discretion, be given for any of the above facilities which are open to the public on an unrestricted basis.

(Ord. 2004-81 § 1 (part))

### 12.20.140 Credits—Public facilities.

Credit may be given for an in-lieu fee on up to a dollar for dollar basis for improvements which a developer makes to land which is dedicated to fulfill this requirement or to an existing public park or recreational facility, including improvements to a school property which is under management of a local park agency and is open to the public for recreational use, or for any other such actions which the planning director determines are consistent with the intent and purpose of this chapter. Such improvements and the value thereof shall be determined by the planning director after consultation with the developer, the appropriate subarea advisory committee as established by Section 12.20.190, and the local park agency. Said improvements must be permanent in nature.

Credit for development of park and recreation facilities may be given on up to a dollar for dollar basis for additional land which a developer dedicates to a local park agency. The amount of such credit shall be determined by the planning director, after consultation with the developer, the appropriate subarea advisory committee as established by Section 12.20.190, and the local park agency.

(Ord. 2004-81 § 1 (part))

## *Article III General Provisions*

### 12.20.150 Dedication of land.

Land dedicated in fulfillment of the park dedication requirement shall be dedicated to the appropriate local park agency as described in Section 12.20.180. Specific land to be dedicated shall be determined by mutual agreement of the planning director, the local park agency and the developer, and shall be suitable for park and recreation use by virtue of topography, size and shape, location, and other such factors.

Land to be dedicated for park purposes that is without frontage on a dedicated street shall, unless otherwise waived by the planning director, be provided by the developer with any necessary easements for public access to such land, together with such street improvements as may be necessary for the residents of the development to gain access to such land. Credit shall not be available for such easements or improvements.

In the event that the area to be dedicated is or will in the future be bounded or abutted by public street frontage, the developer shall, without credit, provide public improvements including, but not limited to, curbs, gutters, storm drains, lights, sidewalks, matching pavement, property line fencing and street trees to county standards. However, in lieu of installation of such improvements, the planning director may determine, at the time of approval of the tentative subdivision map or development plan, that the developer shall pay a fee equal to the cost of said improvements as a condition of the said map or plan. Costs of public works improvements shall be determined by the director of public works. Such fees shall be paid to the county prior to the date of final inspection or occupancy and release of utilities for the development, whichever occurs first.

When land is to be dedicated, it shall be dedicated free and clear of all liens, charges and encumbrances, except and subject to provisions as follows:

A. Where land is to be dedicated as a condition of approval of a tentative subdivision map, parcel map or other land division map, it shall be dedicated in accordance with provisions in the Subdivision Map Act of the state of California and in ordinances and regulation for land division of the county of Alameda, and it may be dedicated subject to such interests as are permitted by said laws.

B. Where land is to be dedicated in conjunction with any development not involving subdivision, it shall be dedicated prior to issuance of a building permit for the dwelling unit(s) unless otherwise agreed upon by the planning director, the local park agency and the developer. Land shall be dedicated by a duly executed and acknowledged appropriate conveyance capable of being recorded, and it may be dedicated subject to such interests as are permitted by said laws referred to above in this section.

Dedication of land outside of the land area covered by the development to meet the requirements of this chapter may be authorized by the planning director in consultation with the local park agency prior to an action on a tentative map in the case of a subdivision approval of a rezoning, site development review, conditional use permit, or issuance of a building permit in the case of any other development.

(Ord. 2004-81 § 1 (part))

## 12.20.160 Payment of in-lieu fees.

Fees paid in lieu of dedication or improvement of land shall be deposited to an interest bearing or investment account held by the county of Alameda. There shall be a separate account for each benefit area or subarea, and funds in each account shall not be commingled with any other funds. Use of funds in such accounts, including accrued interest, shall only be used for provision of park or recreation facilities under this chapter. Withdrawals from any account must be authorized by the county.

(Ord. 2004-81 § 1 (part))

## 12.20.170 Time of dedication of land or payment of in-lieu fees.

Dedication of land or payment of in-lieu fees pursuant to this chapter shall be made as indicated above on or before the date of final inspection or prior to occupancy and release of utilities for the dwelling unit. The public works agency shall not allow occupancy or release utilities for a dwelling unit for which this requirement has not been met.

(Ord. 2004-81 § 1 (part))

## 12.20.180 Benefit areas—Appropriate local park agencies.

For purposes of this chapter, the unincorporated area of the county is divided into benefit areas, as follows:

Livermore: That portion of the Livermore area recreation and park district lying outside the city of Livermore, for which that district shall be the appropriate local park agency.

Pleasanton: That portion of Pleasanton Township lying south of Interstate Highway 580, for which the city of Pleasanton shall be the appropriate local park agency.

Dublin: That portion of Pleasanton Township lying north of Interstate Highway 580, for which the city of Dublin shall be the appropriate local park agency.

Eden: That portion of the Hayward area recreation and park district lying outside the city of Hayward, for which that district shall be the appropriate local park agency.

The Eden benefit area is further divided into benefit subareas as follows:

Ashland/Cherryland/San Lorenzo: That portion of the Eden benefit area lying within the boundaries of the Ashland, Cherryland, and San Lorenzo census designated places, and intervening unincorporated areas including but not limited to those areas commonly known as Hayward Acres, Hillcrest Knob, the Fairmont property, and Mt. Eden; CastroValley: That portion of the Eden benefit area lying within the boundaries of the Castro Valley census designated place and the Five Canyons County service area; and

Fairview: That portion of the Eden benefit area lying within the boundaries of the Fairview census designated place.

Eden Remainder: That portion of the Eden benefit area lying outside the boundaries of the above-defined subareas, including but not limited to that area known as the Canyonlands.

(Ord. 2004-81 § 1 (part))

## 12.20.190 Release of in-lieu fees—Advisory committee.

The in-lieu fees shall be released for use by the local park agency according to the following procedure:

~~-~~There shall be an advisory committee established for each of the benefit areas and subareas.

a) For the Ashland/Cherryland/San Lorenzo benefit subarea, this committee shall be the Eden Municipal Advisory Council

b) For the Castro Valley subarea, this committee shall be the Castro Valley Municipal Advisory Council

c) For the Fairview area, this committee shall be the Fairview Municipal Advisory Council

d) For the Eden remainder benefit area, there shall be no advisory committee.

~~a)~~e) For the Livermore, Pleasanton, and Dublin benefit areas~~, two members shall be appointed by the supervisor for the area. Members may select an alternate to act in their place; selection of such alternate shall be communicated in writing to the planning director.~~ - tbd

~~have five members, consisting of one planning commissioner for the area, appointed by the supervisors for that area; one representative each from the Ashland area community association, the Cherryland homeowners association, and the San Lorenzo homes association, or their successor organizations; and one representative from the area as a whole appointed by the supervisors for that area. For the other benefit areas or subareas, the committee shall have three members, one of whom shall be a planning commissioner who represents the area or subarea, appointed by the supervisor for the area. In addition, for the Castro Valley subarea, one member shall be the chair of the Castro Valley municipal advisory council, one shall be appointed by the supervisor for the area upon nomination by the municipal advisory council. For the Fairview subarea, two members shall be appointed by the supervisor for the area upon nomination by the community associations in the area. For the Eden remainder benefit area, there shall be no advisory committee. For the Livermore, Pleasanton, and Dublin benefit areas, two members shall be appointed by the supervisor for the area. Members may select an alternate to act in their place; selection of such alternate shall be communicated in writing to the planning director. Where a community organization as specified in this section becomes inactive and there is no successor organization, the supervisor or supervisors for that community shall appoint a representative from that community to the advisory committee for the subarea until such time as the specified community organization becomes reactivated or a successor organization is formed.~~

Prior to release of any money for a park project, the local park agency shall submit a request to the planning director for release of the money. This request shall clearly state the purpose to which the money is proposed to be put. The planning director shall consult with the appropriate advisory committee members. Upon their comment and recommendation and upon a finding that the facility is likely to be used by

residents of the area which generated the money, the planning director shall release the requested money for the specified purpose. For the Eden remainder benefit area, release of funds shall be authorized by the planning director upon the above finding.

In-lieu fees generated from the Dublin, Pleasanton, or Livermore benefit areas shall be spent on facilities in those areas which can be assumed to be used by residents of the development which generated those fees, and may be spent on facilities within city limits if they meet this requirement.

Of the in-lieu fees generated from the Eden benefit area, seventy percent (70%) shall be spent on facilities in the subarea that generated the fees and which can be assumed to be used by residents of the development that generated those fees. The remaining thirty percent (30%) may be spent on facilities in the subarea that generated the fees, or in other parts of the Eden benefit area or in the city of Hayward, which facilities can be assumed to be used by residents of the development that generated those fees. The in-lieu fees generated from the Eden remainder benefit area shall be spent on facilities either in the Eden remainder area or in other benefit areas or the city of Hayward, which facilities can be assumed to be used by residents of the development that generated those fees. Examples of facilities that can be located outside the subarea include but are not limited to ballfields, swim facilities, recreation, senior, or community centers, etc.

(Ord. 2004-81 § 1 (part))

## 12.20.200 Review of standards.

The planning department shall review the standards set out in Section 12.20.120 in July of each even numbered year to ensure that they meet contemporary standards. Such review shall consist of an inventory of existing parklands to set the basic standard, a review of population and household size, and a review of costs of land and development to set the in-lieu fee. Both the land dedication and in-lieu fee requirement shall be adjusted as appropriate.

(Ord. 2004-81 § 1 (part))

## 12.20.210 Accounting.

For each separate account established pursuant to Section 12.20.160, the county shall, within sixty (60) days of the close of each fiscal year, make available to the public the beginning and ending balance for the fiscal year and the fee, interest, and other income and the amount and purpose of expenditures and the amount of refunds made during the fiscal year. The planning commission shall review this information at the next regularly scheduled public meeting not less than fifteen (15) days after the availability of the information required by this section.

(Ord. 2004-81 § 1 (part))

## 12.20.220 Refunds.

The board of supervisors, upon recommendation of the planning commission, shall make findings once each fiscal year with respect to any portion of the fees remaining unexpended or uncommitted in any account established pursuant to Section 12.20.160 five or more years after deposit of the fee to identify the purpose to which the fee is to be put and to demonstrate a reasonable relationship between the fee and the purpose for which it was charged. The county shall refund the unexpended or uncommitted portion of the fee and any interest accrued thereon, for which need cannot be demonstrated pursuant to this section, to the then current record owner(s) of lots or units of the development project(s) on a prorated basis.

(Ord. 2004-81 § 1 (part))

## 12.20.230 Challenge to requirement.

Any person may request an audit in order to determine whether the requirement, either in land or in-lieu fees, exceeds the amount reasonably necessary to provide park and recreation facilities under this chapter for a development. If a person makes such request, the board may retain an independent auditor to conduct the audit or may cause the audit to be done by a county department or agency. Such audit shall conform to generally accepted auditing standards. Any costs incurred by the county in having an audit conducted shall be recovered from the person who requests the audit. Should the audit show that the requirement exceeds or falls short of a reasonable amount for the benefit area or subarea, the requirement for that development shall be as determined by the audit.

(Ord. 2004-81 § 1 (part))

## 12.20.240 Developments subject to chapter.

The adoption of the ordinance codified in this chapter and repeal of the pre-existing park dedication requirements in the Alameda County Subdivision Ordinance shall not affect the validity of any rights and obligations created pursuant to such pre-existing article, and all such rights and obligations shall continue in full force and effect.

(Ord. 2004-81 § 1 (part))

## 12.20.250 Appeals.

Any action of the planning director under the provision of this chapter may be appealed to the board of supervisors under Section 17.54.670 through 17.54.710 of this code. An appeal fee equal to that charged for appeal of an at cost application shall be charged the appellant to cover the costs of the appeal.

(Ord. 2004-81 § 1 (part))

## 12.20.260 Severability.

If any clause, sentence, section, or portion of this chapter, or any fee imposed upon any person or entity, is found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section, or part of this chapter, or such person or entity, and shall not affect or impair any of the remaining provisions, clauses, sentences, sections, or parts of this chapter or the effect of this chapter on other persons or entities.

It is hereby declared to be the intention of the board of supervisors of Alameda County that this chapter would have been adopted had such unconstitutional, illegal, or invalid clause, sentence, section, or part of this chapter not been included herein, or had such person or entity been expressly exempted from the application of this chapter. To this end the provisions of this chapter are severable.

(Ord. 2004-81 § 1 (part))