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GOVERNMENT CODE - GOV

TITLE 7. PLANNING AND LAND USE [65000 - 66499.58] (Heading of Title 7 amended by Stats. 1974, Ch. 1536.)

DIVISION 2. SUBDIVISIONS [66410 - 66499.41] (Division 2 added by Stats. 1974, Ch. 1536.)

CHAPTER 4. Requirements [66473 - 66498] (Chapter 4 added by Stats. 1974, Ch. 1536.)

ARTICLE 3. Dedications [66475 - 66478] (Article 3 added by Stats. 1974, Ch. 1536.)

66475. There may be imposed by local ordinance a requirement of dedication or irrevocable offer of dedication of real property within the subdivision for streets, alleys, including access rights and abutter's rights, drainage, public utility easements and other public easements. Such irrevocable offers may be terminated as provided in subdivisions (c) and (d) of Section 66477.2.

(Added by Stats. 1974, Ch. 1536.)

66475.1. Whenever a subdivider is required pursuant to Section 66475 to dedicate roadways to the public, the subdivider may also be required to dedicate additional land as may be necessary and feasible to provide bicycle paths for the use and safety of the residents of the subdivision.

(Amended by Stats. 2001, Ch. 873, Sec. 4. Effective January 1, 2002.)

66475.2. (a) There may be imposed by local ordinance a requirement of a dedication or an irrevocable offer of dedication of land within the subdivision for local transit facilities such as bus turnouts, benches, shelters, landing pads, and similar items that directly benefit the residents of a subdivision. The irrevocable offers may be terminated as provided in subdivisions (c) and (d) of Section 66477.2.

(b) Only the payment of fees in lieu of the dedication of land may be required in subdivisions that consist of the subdivision of airspace in existing buildings into condominium projects, stock cooperatives, or community apartment projects, as those terms are defined in Sections 4105, 4125, and 4190 or Sections 6542 and 6566 of the Civil Code.

(Amended (as amended by Stats. 2012, Ch. 181, Sec. 60) by Stats. 2013, Ch. 605, Sec. 34. (SB 752) Effective January 1, 2014.)

66475.3. For divisions of land for which a tentative map is required pursuant to Section 66426, the legislative body of a city or county may by ordinance require, as a condition of the approval of a tentative map, the dedication of easements for the purpose of assuring that each parcel or unit in the subdivision for which approval is sought shall have the right to receive sunlight across adjacent parcels or units in the subdivision for which approval is sought for any solar energy system, provided that such ordinance contains all of the following:

- (1) Specifies the standards for determining the exact dimensions and locations of such easements.
- (2) Specifies any restrictions on vegetation, buildings and other objects which would obstruct the passage of sunlight through the easement.
- (3) Specifies the terms or conditions, if any, under which an easement may be revised or terminated.
- (4) Specifies that in establishing such easements consideration shall be given to feasibility, contour, configuration of the parcel to be divided, and cost, and that such easements shall not result in reducing allowable densities or the percentage of a lot which may be occupied by a building or a structure under applicable planning and zoning in force at the time such tentative map is filed.
- (5) Specifies that the ordinance is not applicable to condominium projects which consist of the subdivision of airspace in an existing building where no new structures are added.

For the purposes of this section, "solar energy systems" shall be defined as set forth in Section 801.5 of the Civil Code.

For purposes of this section, "feasibility" shall have the same meaning as set forth in Section 66473.1 for the term "feasible".

(Added by Stats. 1978, Ch. 1154.)

66476. There may be imposed by local ordinance a requirement that dedications or offers of dedication of streets include a waiver of direct access rights to any such street from any property shown on a final or parcel map as abutting thereon and if the dedication is accepted, any such waiver shall become effective in accordance with its provisions.

(Added by Stats. 1974, Ch. 1536.)

66477. (a) The legislative body of a city or county may, by ordinance, require the dedication of land or impose a requirement of the payment of fees in lieu thereof, or a combination of both, for park or recreational purposes as a condition to the approval of a tentative map or parcel map, if all of the following requirements are met:

(1) The ordinance has been in effect for a period of 30 days prior to the filing of the tentative map of the subdivision or parcel map.

(2) The ordinance includes definite standards for determining the proportion of a subdivision to be dedicated and the amount of any fee to be paid in lieu thereof. The amount of land dedicated or fees paid shall be based upon the residential density, which shall be determined on the basis of the approved or conditionally approved tentative map or parcel map and the average number of persons per household. There shall be a rebuttable presumption that the average number of persons per household by units in a structure is the same as that disclosed by the most recent available federal census or a census taken pursuant to Chapter 17 (commencing with Section 40200) of Part 2 of Division 3 of Title 4. However, the dedication of land, or the payment of fees, or both, shall not exceed the proportionate amount necessary to provide three acres of park area per 1,000 persons residing within a subdivision subject to this section, unless the amount of existing neighborhood and community park area, as calculated pursuant to this subdivision, exceeds that limit, in which case the legislative body may adopt the calculated amount as a higher standard not to exceed five acres per 1,000 persons residing within a subdivision subject to this section.

(A) The park area per 1,000 members of the population of the city, county, or local public agency shall be derived from the ratio that the amount of neighborhood and community park acreage bears to the total population of the city, county, or local public agency as shown in the most recent available federal census. The amount of neighborhood and community park acreage shall be the actual acreage of existing neighborhood and community parks of the city, county, or local public agency as shown on its records, plans, recreational element, maps, or reports as of the date of the most recent available federal census.

(B) For cities incorporated after the date of the most recent available federal census, the park area per 1,000 members of the population of the city shall be derived from the ratio that the amount of neighborhood and community park acreage shown on the maps, records, or reports of the county in which the newly incorporated city is located bears to the total population of the new city as determined pursuant to Section 11005 of the Revenue and Taxation Code. In making any subsequent calculations pursuant to this section, the county in which the newly incorporated city is located shall not include the figures pertaining to the new city which were calculated pursuant to this paragraph. Fees shall be payable at the time of the recording of the final map or parcel map, or at a later time as may be prescribed by local ordinance.

(3) (A) The land, fees, or combination thereof are to be used only for the purpose of developing new or rehabilitating existing neighborhood or community park or recreational facilities to serve the subdivision, except as provided in subparagraph (B).

(B) Notwithstanding subparagraph (A), fees may be used for the purpose of developing new or rehabilitating existing park or recreational facilities in a neighborhood other than the neighborhood in which the subdivision for which fees were paid as a condition to the approval of a tentative map or parcel map is located, if all of the following requirements are met:

(i) The neighborhood in which the fees are to be expended has fewer than three acres of park area per 1,000 members of the neighborhood population.

(ii) The neighborhood in which the subdivision for which the fees were paid has a park area per 1,000 members of the neighborhood population ratio that meets or exceeds the ratio calculated pursuant to subparagraph (A) of paragraph (2), but in no event is less than three acres per 1,000 persons.

(iii) The legislative body holds a public hearing before using the fees pursuant to this subparagraph.

(iv) The legislative body makes a finding supported by substantial evidence that it is reasonably foreseeable that future inhabitants of the subdivision for which the fee is imposed will use the proposed park and recreational facilities in the neighborhood where the fees are used.

(v) The fees are used within a specified radius that complies with the city's or county's ordinance adopted pursuant to subdivision (a), and are consistent with the adopted general plan or specific plan of the city or county. For purposes of this clause, "specified radius" includes a planning area, zone of influence, or other geographic region designated by the city or county, that otherwise meets the requirements of this section.

(4) The legislative body has adopted a general plan or specific plan containing policies and standards for parks and recreational facilities, and the park and recreational facilities are in accordance with definite principles and standards.

(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.

(6) (A) The city, county, or other local public agency to which the land or fees are conveyed or paid 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. Any fees collected under the ordinance 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.

(B) The city, county, or other local agency to which the land or fees are conveyed or paid may enter into a joint or shared use agreement with one or more other public districts in the jurisdiction, including, but not limited to, a school district or community college district, in order to provide access to park or recreational facilities to residents of subdivisions with fewer than three acres of park area per 1,000 members of the population.

(7) Only the payment of fees may be required in subdivisions containing 50 parcels or less, except that when 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 50 dwelling units, dedication of land may be required notwithstanding that the number of parcels may be less than 50.

(8) Subdivisions containing less than five parcels and not used for residential purposes shall be exempted from the requirements of this section. However, in that event, a condition may be placed on the approval of a 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 four years, the fee may be required to be paid by the owner of each parcel as a condition of the issuance of the permit.

(9) If the subdivider provides park and recreational improvements to the dedicated land, the value of the improvements together with any equipment located thereon shall be a credit against the payment of fees or dedication of land required by the ordinance.

(b) Land or fees required under this section shall be conveyed or paid directly to the local public agency which provides park and recreational services on a communitywide level and to the area within which the proposed development will be located, if that agency elects to accept the land or fee. The local agency accepting the land or funds shall develop the land or use the funds in the manner provided in this section.

(c) If park and recreational services and facilities are provided by a public agency other than a city or county, the amount and location of land to be dedicated or fees to be paid shall, subject to paragraph (2) of subdivision (a), be jointly determined by the city or county having jurisdiction and that other public agency.

(d) This section does not apply to commercial or industrial subdivisions or to condominium projects or stock cooperatives that consist of the subdivision of airspace in an existing apartment building that is more than five years old when no new dwelling units are added.

(e) Common interest developments, as defined in Section 4100 of the Civil Code, shall be eligible to receive a credit, as determined by the legislative body, against the amount of 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.

(f) Park and recreation purposes shall include land and facilities for the activity of "recreational community gardening," which activity consists of the cultivation by persons other than, or in addition to, the owner of the land, of plant material not for sale.

(g) As used in this section with regard to the expenditure of fees, the term "fee" includes any interest income generated from a fee charged and collected pursuant to this section.

(h) This section shall be known, and may be cited, as the Quimby Act.

(i) This section shall become operative on January 1, 2021.

(Repealed (in Sec. 1) and added by Stats. 2015, Ch. 276, Sec. 2. (AB 1191) Effective January 1, 2016. Section operative January 1, 2021, by its own provisions.)

66477.1. (a) At the time the legislative body or the official designated pursuant to Section 66458 approves a final map, the legislative body or the designated official shall also accept, accept subject to improvement, or reject any offer of dedication. The clerk of the legislative body shall certify or state on the map the action by the legislative body or designated official.

(b) The legislative body of a county, or a county officer designated by the legislative body, may accept into the county road system, pursuant to Section 941 of the Streets and Highways Code, any road for which an offer of dedication has been accepted or accepted subject to improvements.

(Amended by Stats. 1998, Ch. 604, Sec. 3. Effective January 1, 1999.)

66477.2. (a) If at the time the final map is approved, any streets, paths, alleys, public utility easements, rights-of-way for local transit facilities such as bus turnouts, benches, shelters, landing pads, and similar items, which directly benefit the residents of a subdivision, or storm drainage easements are rejected, subject to Section 771.010 of the Code of Civil Procedure, the offer of dedication shall remain open and the legislative body may by resolution at any later date, and without further action by the subdivider, rescind its action and accept and open the streets, paths, alleys, rights-of-way for local transit facilities such as bus turnouts, benches, shelters, landing pads, and similar items, which directly benefit the residents of a subdivision, or storm drainage easements for public use, which acceptance shall be recorded in the office of the county recorder.

(b) In the case of any subdivision fronting upon the ocean coastline or bay shoreline, the offer of dedication of public access route or routes from public highways to land below the ordinary high watermark shall be accepted within three years after the approval of the final map; in the case of any subdivision fronting upon any public waterway, river, or stream, the offer of dedication of public access route or routes from public highways to the bank of the waterway, river, or stream and the public easement along a portion of the bank of the waterway, river, or stream shall be accepted within three years after the approval of the final map; in the case of any subdivision fronting upon any lake or reservoir which is owned in part or entirely by any public agency, including the state, the offer of dedication of public access route or routes from public highways to any water of the lake or reservoir shall be accepted within five years after the approval of the final map; all other offers of dedication may be accepted at any time.

(c) Offers of dedication which are covered by subdivision (a) may be terminated and abandoned in the same manner as prescribed for the summary vacation of streets by Part 3 (commencing with Section 8300) of Division 9 of the Streets and Highways Code.

(d) Offers of dedication which are not accepted within the time limits specified in subdivision (b) shall be deemed abandoned.

(e) Except as provided in Sections 66499.16, 66499.17, and 66499.18, if a resubdivision or reversion to acreage of the tract is subsequently filed for approval, any offer of dedication previously rejected shall be deemed to be terminated upon the approval of the map by the legislative body. The map shall contain a notation identifying the offer or offers of dedication deemed terminated by this subdivision.

(Amended by Stats. 1994, Ch. 458, Sec. 9. Effective January 1, 1995.)

66477.3. Acceptance of offers of dedication on a final map shall not be effective until the final map is filed in the office of the county recorder or a resolution of acceptance by the legislative body is filed in such office.

(Added by Stats. 1974, Ch. 1536.)

66477.5. (a) The local agency to which property is dedicated in fee for public purposes, or for making public improvements or constructing public facilities, other than for open space, parks, or schools, shall record a certificate with the county recorder in the county in which the property is located. The certificate shall be attached to the map and shall contain all of the following information:

(1) The name and address of the subdivider dedicating the property.

(2) A legal description of the real property dedicated.

(3) A statement that the local agency shall reconvey the property to the subdivider if the local agency makes a determination pursuant to this section that the same public purpose for which the property was dedicated does not exist, or the property or any portion thereof is not needed for public utilities, as specified in subdivision (c).

(b) The subdivider may request that the local agency make the determination that the same public purpose for which the dedication was required still exists, after payment of a fee which shall not exceed the amount reasonably required to make the determination. The determination may be made by reference to a capital improvement plan as specified in Section 65403 or 66002, an applicable general or specific plan requirement, the subdivision map, or other public documents that identify the need for the dedication.

(c) If a local agency has determined that the same public purpose for which the dedication was required does not exist, it shall reconvey the property to the subdivider or the successor in interest, as specified in subdivision (a), except for all or any portion of the property that is required for that same public purpose or for public utilities.

(d) If a local agency decides to vacate, lease, sell, or otherwise dispose of the dedicated property the local agency shall give at least 60 days notice to the subdivider whose name appears on the certificate before vacating, leasing, selling, or otherwise disposing of the dedicated property. This notice is not required if the dedicated property will be used for the same public purpose for which it was dedicated.

(e) This section shall only apply to property required to be dedicated on or after January 1, 1990.

(Added by Stats. 1989, Ch. 822, Sec. 1.)

66478. Whether by request of a county board of education or otherwise, a city or county may adopt an ordinance requiring any subdivider who develops or completes the development of one or more subdivisions in one or more school districts maintaining an elementary school to dedicate to the school district, or districts, within which such subdivisions are to be located, such land as the local legislative body shall deem to be necessary for the purpose of constructing thereon such elementary schools as are necessary to assure the residents of the subdivision adequate public school service. In no case shall the local legislative body require the dedication of an amount of land which would make development of the remaining land held by the subdivider economically unfeasible or which would exceed the amount of land ordinarily allowed under the procedures of the State Allocation Board.

An ordinance adopted pursuant to this section shall not be applicable to a subdivider who has owned the land being subdivided for more than 10 years prior to the filing of the tentative maps in accordance with Article 2 (commencing with Section 66452) of Chapter 3 of this division. The requirement of dedication shall be imposed at the time of approval of the tentative map. If, within 30 days after the requirement of dedication is imposed by the city or county, the school district does not offer to enter into a binding commitment with the subdivider to accept the dedication, the requirement shall be automatically terminated. The required dedication may be made any time before, concurrently with, or up to 60 days after, the filing of the final map on any portion of the subdivision. The school district shall, in the event that it accepts the dedication, repay to the subdivider or his successors the original cost to the subdivider of the dedicated land, plus a sum equal to the total of the following amounts:

(a) The cost of any improvements to the dedicated land since acquisition by the subdivider.

(b) The taxes assessed against the dedicated land from the date of the school district's offer to enter into the binding commitment to accept the dedication.

(c) Any other costs incurred by the subdivider in maintenance of such dedicated land, including interest costs incurred on any loan covering such land.

If the land is not used by the school district, as a school site, within 10 years after dedication, the subdivider shall have the option to repurchase the property from the district for the amount paid therefor.

The school district to which the property is dedicated shall record a certificate with the county recorder in the county in which the property is located. The certificate shall contain the following information:

(1) The name and address of the subdivider dedicating the property.

(2) A legal description of the real property dedicated.

(3) A statement that the subdivider dedicating the property has an option to repurchase the property if it is not used by the school district as a school site within 10 years after dedication.

(4) Proof of the acceptance of the dedication by the school district and the date of the acceptance. The certificate shall be recorded not more than 10 days after the date of acceptance of the dedication. The subdivider shall have the right to compel the school district to record such certificate, but until such certificate is recorded, any rights acquired by any third party dealing in good faith with the school district shall not be impaired or otherwise affected by the option right of the subdivider.

If any subdivider is aggrieved by, or fails to agree to the reasonableness of any requirement imposed pursuant to this section, he may bring a special proceeding in the superior court pursuant to Section 66499.37.

(Added by Stats. 1974, Ch. 1536.)