

ORDINANCE NO, 1149

AN ORDINANCE OF THE CITY OF LODI TO PROVIDE FOR THE DEDICATION OF LAND OR FEES OR BOTH AS A CONDITION TO THE APPROVAL OF NEW RESIDENTIAL DEVELOPMENTS, FOR THE PURPOSE OF PROVIDING CLASSROOM FACILITIES WHERE CONDITIONS OF OVERCROWDING EXIST IN A PUBLIC SCHOOL ATTENDANCE AREA,

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

SECTION 1. A new Chapter is hereby added to
the City of Lodi Code to read as follows:

CHAPTER _____

RESIDENTIAL DEVELOPMENTS IN
OVERCROWDED PUBLIC SCHOOL
ATTENDANCE AREAS,

ARTICLE ONE, GENERAL PROVISIONS

SEC. 1A. TITLE AND PURPOSE, This Article shall be
known as the "School Facilities Dedication Ordinance". The
purpose of this Article is to provide a method for financing
interim school facilities necessitated by new residential devel-
opments causing conditions of overcrowding.

SEC. 1B. AUTHORITY AND CONFLICT, This Article is
enacted pursuant to Chapter 4.7 (commencing with Section
65970) of Division 1 of Title 7 of the Government Code. In the

case of any conflict between the provisions of this Article and those of Chapter 4.7, the latter shall prevail.

SEC, 1C. GENERAL PLAN. The City's General Plan provides for the location of public schools. Interim school facilities to be constructed from fees or land required to be dedicated, or both, shall be consistent with the General Plan.

SEC, 1D. REGULATIONS. The Council may from time to time, by resolution, issue regulations to establish administration, procedures, interpretation and policy direction for this Article.

ARTICLE TWO. DEFINITIONS

SEC, 2A. GENERALLY. Except where the context otherwise requires, the definitions given in this section govern the construction of this Article.

SEC, 2B. DEVELOPER. The term "developer" includes every person, firm, corporation, or other business entity constructing or installing a new dwelling unit or mobile home space, either directly or through the services of any employee, agent, or independent contractor.

SEC, 2C. DWELLING UNIT. The term "dwelling unit" includes each single family dwelling and each unit of a multiple

unit dwelling structure designed as a separate habitation for one or more occupants. The term "dwelling unit" also includes a new factory built housing installed in accordance with Section 19960 et seq. of the Health and Safety Code of the State of California.

SEC, 2D. MOBILE HOME SPACE, The term "mobile home space" includes each space in a mobile home park designed to be used for parking a mobile home on a temporary, semi-permanent or permanent basis.

SEC, 2E. SCHOOL DISTRICTS,, The term "School Districts" includes all school districts located in whole or in part within the City of Lodi.

SEC. 2F. CONDITIONS OF OVERCROWDING. "Conditions of Overcrowding" means that the total enrollment of a school, ~~including enrollment from proposed development, exceeds the~~ capacity of such school as determined by the governing body of the district.

SEC, 2G. REASONABLE METHODS FOR MITIGATING CONDITIONS OF OVERCROW-DING, "Reasonable methods for mitigating conditions of overcrowding" shall include, but are not limited to:

(a) Any agreements entered into by the affected school district which would alleviate conditions of overcrowding caused by new residential development;

(b) The use of relocatable structures, student transportation, and school boundary realignments;

(c) The use of available bond or state loan revenues to the extent authorized by law;

(d) The use of funds which could be available from the sale of surplus school district real property and funds available from other appropriate sources, as determined by the governing body of affected school districts;

(e) Agreements between a subdivider or other developer of residential developments in the affected school district whereby temporary-use buildings will be leased to or for the benefit of the school district or temporary-use buildings owned by the school district will be used.

SEC. 2H. RESIDENTIAL DEVELOPMENT. "Residential development" means a project containing residential dwellings, including mobile homes, ~~of one or more units, or a division of land for the purpose of constructing~~ one or more residential dwelling units. Residential development includes, but is not limited to, a preliminary or final development plan, a subdivision tentative map, a parcel map, conditional use permit, or any other discretionary permit for new residential dwelling use.

ARTICLE THREE. PROCEDURE

SEC. 3A. NOTIFICATION OF CONDITIONS OF OVER-CROWDING. The governing body of a school district which operates, in whole or in part, within the City of

Lodi may at any time pursuant to Government Code Section 65971, notify the City Council that it has found that: (1) conditions of overcrowding exist in one or more attendance areas within the district which will impair the normal functioning of educational programs including the reason for such conditions existing; (2) all reasonable methods of mitigating conditions of overcrowding have been evaluated; and (3) no feasible methods for reducing such conditions exist. Such notification shall remain in effect until withdrawn in writing by the governing body of the school district.

SEC, 3B. FINDINGS - REQUIREMENTS, The notice shall be in writing and shall set forth the clear and convincing evidence upon which such findings are based. It shall specify:

- (1) The findings listed in Section 3A.
- (2) The findings of fact and a summary of the evidence upon which the findings in Section 3A were based;
- (3) The mitigation measures and methods, including those listed in Section 2G, considered by the school district in any determination made concerning them by the district;
- (4) The precise geographic boundaries of the overcrowded attendance area or areas;
- (5) Such other information as may be required by council regulation.

SEC. 3C. DESIGNATION OF OVERCROWDED SCHOOL.

Upon receipt of a notice as described in Section 3A, the City Council shall schedule and conduct a public hearing on the notification for the purpose of allowing interested parties to comment on the matter. Following such hearing, the City Council shall determine whether it concurs in such finding. If the City Council concurs, it shall by resolution designate the school as an overcrowded school.

SEC, 3D. ACTIONS AFFECTING RESIDENTIAL DEVELOPMENTS, Within the attendance area where it has

been determined pursuant to Section C that conditions of overcrowding exist, the City's planning agency shall not thereafter approve a residential development as defined in Section 2H unless the planning agency makes one of the following findings:

(1) That pursuant to this ordinance, provision has been made for payment of fees, dedication of land, or both, or some ~~other provision has been agreed upon by the applicant and the~~ school district for a residential development to mitigate the conditions of overcrowding within that attendance area; or

(2) There exists specific overriding fiscal, economic, social or environmental factors which, in the judgment of the City planning agency, would benefit the community as a whole, thereby justifying the approval of a residential development otherwise subject to the provisions of this ordinance without

requiring the payment of fees or the dedication of land or other alternative provisions of this Article.

SEC. 3E. EXEMPTIONS. Residential developments shall be exempt from the requirements of this Article when they consist only of the following:

(1) Any modification or remodeling of an existing legally established dwelling unit that does not create an additional dwelling unit.

(2) The proposed development is located within a redevelopment area designated by a redevelopment agency pursuant to the Community Redevelopment Law, Health and Safety Code Section 33000; or

(3) A condominium project converting an existing apartment building into a condominium where no new dwelling units are added.

(4) Any rebuilding of a legally established dwelling unit destroyed or damaged by fire, explosion, act of God or other accident or catastrophe.

(5) Any rebuilding of an historical building recognized, acknowledged and designated as such by the planning agency.

SEC. 3F. DISTRICT SCHEDULE. Following the decision of the City to require the dedication of land or the payment of fees, or both, the governing body of the school district shall submit a

schedule specifying how it will use the land or fees, or both, to solve the conditions of overcrowding. The schedule shall include the school sites to be used, the classroom facilities to be made available, and the time when such facilities will be available. In the event the governing body of the school district cannot meet the schedule, it shall submit modifications to the City Council and the reasons for the modifications.

SEC. 3G. APPLICATION BY DEVELOPER. At the time of filing an application for the approval of a proposed residential development located in an attendance area where the Council has concurred with the findings of the School District as provided in this Chapter, the applicant shall, as part of such filing, indicate whether he prefers to dedicate land for interim school facilities or to pay a fee in lieu thereof or do a combination of these. If the applicant prefers to dedicate land, he shall describe the specific land.

SEC. 3H. DECISION. At the time of initial residential development or building permit approval, the planning agency shall determine whether to require a dedication of land within the development, payment of a fee in lieu thereof, or a combination of both. In making this determination, the agency shall consider the following factors:

- (a) Whether lands offered for dedication will be consistent with the General Plan;

(b) The topography, soils, soil stability, drainage, access, location and general utility of land in the development available for dedication.

(c) Whether the location and amount of lands proposed to be dedicated or the amount of fees to be paid, or both, will bear a reasonable relationship and will be limited to the needs of the community for interim elementary and/or high school facilities including all mandated educational programs and will be reasonably related and limited to the need for schools caused by the development.

(d) Any recommendations made by affected school districts concerning the location and amount of lands to be dedicated.

(e) If only a subdivision is proposed, whether it will contain fifty (50) parcels or less.

SEC. 3I. LAND DEDICATION. ~~When the dedication of land is~~ required, the developer shall make a written offer of dedication to the affected school district, which shall then have 30 days in which to formally accept or reject the offer. If the school district rejects the offer of dedication, it shall notify the City Council in writing of its reasons for so doing. The City Council shall then determine whether to assess fees in lieu of dedication or require the dedication of other land within the proposed development. If the school district

takes no action within 30 days of receiving the written offer, such offer shall be deemed to have been rejected.

SEC. 3J. FEE PAYMENT. If the payment of fees is required, such payment shall be made at the time the building permit is issued. Only the payment of fees may be required in subdivisions or developments containing fifty (50) parcels or less.

ARTICLE FOUR, STANDARDS FOR LAND AND FEES

SEC. 4A. GENERAL STANDARD. The location and amount of land to be dedicated or the amount of fees to be paid, or both, shall bear a reasonable relationship and will be limited to the need for interim school facilities caused by the development. The location of land to be dedicated shall be consistent with the City's general plan.

SEC. 4B. AMOUNT OF FEES OR LAND. The Council shall ~~by resolution establish the amount of fees to be paid when required~~ pursuant to the terms of this Article. The rate for mobilehomes shall be established by dwelling unit. The rate for all other dwelling units shall be established on a per bedroom basis. Any room designed for sleeping which has a closet is a bedroom for the purposes of this Article. The total land area required to be dedicated pursuant to this Article shall be at least equal in monetary value to the fees which would be otherwise required. The planning agency shall determine and establish the monetary value of land area for the

purposes of this section.

ARTICLE. FIVE. LIMITATIONS

SEC, 5A. USE OF LAND AND FEES,, All land or fees, or both, collected pursuant to this Article and transferred to a school district shall be used only for the purpose of providing interim elementary or high school classroom or related facilities.

SEC, 5B. ACCOUNTING, Any school district receiving funds pursuant to this Article shall remain a separate account for any fees paid and shall file a report with the City Council on the balance in the account at the end of the previous fiscal year and the facilities leased, purchased, or constructed during the previous fiscal year. In addition the report shall specify which attendance areas will continue to be overcrowded when the fall term begins and where conditions of overcrowding will no longer exist. Such report shall be ~~filed by August 1 of each year and shall be filed more frequently at~~ the request of the City Council.

SEC. 5C. TERMINATION, If overcrowded conditions no longer exist, the City shall cease levying any fee or requiring the dedication of any land pursuant to this Article.

SEC. 5D. DETERMINATION OF CAPACITIES. The governing body of each school district shall, no later than May 1st of each year, determine the capacity of each school in the district and project

'the enrollment expected in each school for the next succeeding school year. This information shall be kept on file at the district offices and shall be made available to the public pursuant to the Public Records Act. The determination of capacity shall set forth the formulas or other methods employed by the governing body in making its determination.

SECTION 2. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance, The City Council of this City hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases or portions be declared ~~invalid or unconstitutional.~~

SECTION 3. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its adoption and prior to the expiration of fifteen (15) days from the passage thereof, shall be published once in the Lodi News Sentinel, a newspaper published in the City of Lodi, County of San Joaquin, State of California.

Approved this 2nd day of August 1978

JAMES W. PINKERTON, JR.
MAYOR

Alice M. Reimche
Attest: ALICE M. REIMCHE
CITY CLERK

State of California
County of San Joaquin, ss.

I, Alice M. Reimche, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1149 was introduced at a regular meeting of the City Council of the City of Lodi held July 19, 1978 and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held August 2, 1978 by the following vote:

Ayes: Councilmen - Hughes, Katnich and
Katzakian

Noes: Councilmen - McCarty and Pinkerton

Absent: Councilmen - None

I further certify that Ordinance No. 1149 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

Alice M. Reimche
ALICE M. REIMCHE
CITY CLERK