

ORDINANCE NO. 1099

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF BEAUMONT ADDING CHAPTER 16.68 TITLED
"DEDICATION OF LAND FOR PARK AND
RECREATIONAL PURPOSES AND PAYMENT OF IN-
LIEU FEES" TO TITLE 16 SUBDIVISIONS OF THE
BEAUMONT MUNICIPAL CODE**

WHEREAS, the Quimby Act (the "Act", Government Code section 66477) applies to the provision of community and neighborhood parks with respect to subdivisions; and

WHEREAS, the Act provides that the City Council 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 and recreational purposes as a condition to the approval of a tentative map or a parcel map; and

WHEREAS, the Act provides that, prior to adoption of such an ordinance, the City Council must have 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; and

WHEREAS, The General Plan Section 4.3 contains policies and standards for parks and recreational facilities; and

WHEREAS, the adoption of this ordinance complies with the California Environmental Quality Act.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BEAUMONT
DOES ORDAIN AS FOLLOWS:**

Section 1. TITLE

This ordinance shall be known as the "Quimby Act Ordinance."

Section 2. ADDING CHAPTER 16.68 TO THE MUNICIPAL CODE

Chapter 16.68 "Dedication of Land for Park and Recreational Purposes and Payment of In-Lieu Fees" shall be added to Title 16 "Subdivisions" of the Beaumont Municipal Code and shall read as provided in Exhibit "A", attached hereto and made a part hereof by this reference.

Section 3. **ENVIRONMENTAL FINDINGS**

The City has complied with the California Environmental Quality Act in the approval of the subject regulations in that the adoption of this Ordinance establishing regulations for the payment of fees for park and recreational purposes creates and/or modifies a government funding mechanism which is not a physical change in the environment and therefore, is not a project under CEQA. 14 Cal. Code of Regulations §§ 15378(b)(4).

Section 4. **SEVERABILITY**

The City Council declares that, should any provision, section, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this ordinance as hereby adopted shall remain in full force and effect.

Section 5. **REPEAL OF CONFLICTING PROVISIONS**

All the provisions of the Beaumont Municipal Code as heretofore adopted that are in conflict with the provisions of this ordinance are hereby repealed.

Section 6. **EFFECTIVE DATE AND PUBLICATION.**

The Mayor shall sign and the City Clerk shall certify to the passage of this Ordinance and cause the same or a summary thereof to be published within 15 days after adoption in accordance with Government Code Section 36933. This Ordinance shall take effect 30 days after adoption in accordance with Government Code Section 36937.

NOW, THEREFORE, BE IT ORDAINED that the City Council of the City of Beaumont, California, approves this amendment to the City Code.

INTRODUCED AND READ for the first time and ordered posted at a regular meeting of the City Council of the City of Beaumont, California, held on the 2nd day of January, 2018, by the following roll call vote:

AYES: Santos, White, Lara, Martinez, Carroll

NOES:

ABSENT:

ABSTAIN:


PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Beaumont, California, held on the 16th day of January, 2018, by the following roll call vote:

AYES: White, Lara, Martinez, Carroll

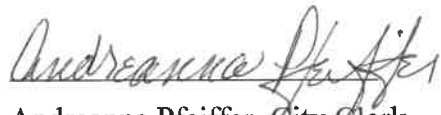
NOES

ABSENT: Santos

ABSTAIN


Nancy Carroll, Mayor

Attest:


Andreanna Pfeiffer, City Clerk

Approved as to form:



John O. Pinkney, City Attorney

EXHIBIT “A”

CHAPTER 16.68

Dedication of Land for Park and Recreational Purposes and Payment of In-Lieu Fees

16.68.000 Authority, Purpose and Intent

This chapter is enacted pursuant to the authority granted by California Government Code section 66477 (the “Quimby Act”) which specifically authorizes the City to require dedication of parkland or the payment of fees in-lieu of such dedication in set amounts to meet the needs of the citizens of the community for parkland and to further the health, safety and general welfare of the community. The purpose of this chapter is to establish the procedures for requiring the dedication of land, the payment of fees in-lieu thereof (or a combination of both) to serve new subdivisions in accordance with the requirements of the City’s General Plan, and applicable portions of the City of Beaumont Development Fee Impact Fee Study dated September 28, 2017, or any amended or subsequent fee study and the requirements of the Quimby Act.

16.68.010 Definitions

For the purpose of this chapter, unless otherwise apparent from the context, the following terms, phrases, words and their derivations shall have the meanings respectively ascribed to them by this section:

"Act" means the Quimby Act, Government Code section 66477.

"Common Interest Development" means the type of development project defined at section 4000 et seq of the California Civil Code.

"Community Park" means a park that generally services an area within a five mile radius and is usually twenty acres or larger. This type of park will generally allow for a greater variety of passive and active recreation opportunities and areas or buildings for community festivals and civic events, as well as for organized indoor sport and athletic competitions.

"Dwelling Unit" means each single-family dwelling, each dwelling unit in a duplex, apartment house or dwelling, condominium, mobile home unit, and any other place designed, occupied or intended for occupancy as a separate living quarter by one or more persons for living, sleeping, cooking and eating.

"Fair Market Value" means the fair market value of undeveloped residential real property as applicable for the density classifications established by the City Council for the implementation of this chapter.

"Neighborhood Park" means a park that generally services an area within a one and one-half mile radius and is generally five to ten acres. This type of park is designed for a variety of active and passive recreation opportunities.

"Park" means a parcel or contiguous parcels of land that provides recreational land and facilities for the benefit and enjoyment of the residents and visitors of the City.

"Recreational Facilities" means those improvements to parks which provide a recreational opportunity for the user, including, but not limited to, ball fields, lighting, swimming pools, tennis courts, picnic shelters, trails, play/tot lots, and community buildings.

"Subdivider" means a person, firm, corporation, partnership or association who proposes to divide, divides or causes to be divided real property into a subdivision for himself herself or for others.

"Subdivision" means that definition contained in Government Code Section 66424 and shall include any division of land governed by the provisions of the Subdivision Map Act (commencing with Government Code Section 66410).

16.68.020 Applicability; Exceptions

A. Every subdivider who subdivides land for residential purposes shall dedicate a portion of such land, pay a fee, or a combination of both, at the option of the City as set forth in this chapter.

B. The provisions of this chapter do not apply to industrial and commercial subdivisions, or to condominium projects or stock cooperatives that consist of the subdivision of air space in an existing apartment building that is more than five years old when no new dwelling units are being added.

C. The provisions of this chapter do not apply to subdivisions containing less than five parcels and not used for residential purposes; provided however, that a condition may be placed on the approval of a parcel map, that if a building permit is requested for the 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 such parcel as a condition to the issuance of the permit.

16.68.030 Park Acreage Standard

The public interest, convenience, health, welfare, and safety require that three point three five (3.35) net acres of useable parkland for each one thousand (1,000) persons residing within a subdivision shall be devoted to parks.

16.68.040 Subdivider's Notice to Dedicate Land, Pay In-lieu Fee, or Both

A At the time of filing a tentative tract map or parcel map subject to this ordinance, the subdivider of the property shall indicate whether he or she desires to dedicate property for park and recreational purposes, pay the in-lieu fee or a combination of both dedication and payment.

B. If the subdivider desires to dedicate land within the subdivision pursuant to this chapter, the location of the land proposed to be dedicated shall be indicated on the map.

C. If the subdivider desires to dedicate land outside of the subdivision pursuant to this chapter, at the time of filing the tentative tract or parcel map, the subdivider of the property shall submit the following to the City:

1. An environmental assessment for the land proposed to be dedicated prepared in compliance with the California Environmental Quality Act and as required by the Planning Director.

2. A schematic site plan, which shall include but not be limited to, identifying the boundaries of the dedicated land, site access and improvements.

16.68.050 Dedication of Land or Payment of Fees or a Combination of Both

A. Upon consideration of a tentative parcel map or a tentative tract map involving fifty or fewer parcels, a condition of approval shall be placed on the map that the subdivider shall pay an in-lieu fee for park or recreational purposes pursuant to this chapter.

B. Upon consideration of a tentative tract map involving more than fifty (50) parcels, a condition of approval shall be placed on the map that the subdivider shall do one of the following:

1. Dedicate land for park or recreational purposes pursuant to this chapter;
2. Pay an in-lieu fee for park or recreational purposes pursuant to this chapter;
or
3. Both dedicate land and pay an in-lieu fee for park or recreational purposes pursuant to this chapter.

C. The Planning Director shall base his or her recommendation under this section upon the following:

1. The requirements of the Quimby Act.
2. The City's General Plan;
3. The topography, geology, access, and location of the land in the subdivision available for dedication;
4. The size and shape of the subdivision and the land available for dedication;
5. The location of existing or proposed park sites and recreational facilities; and
6. The desirability of developing the land proposed for dedication for park and recreational purposes as determined by a schematic site plan submitted by the subdivider.

D. The determination of the Planning Director as to whether the subdivider shall dedicate land, pay the in-lieu fee or a combination thereof, shall be final and conclusive but may be appealed pursuant to the appeals procedure contained in Section 16.24.060.

16.68.060 Timing, Standards and Formula for Land Dedication; Required Improvements

The following shall apply when a subdivider is conditioned to dedicate land pursuant to this chapter.

A. As condition of approval of a final subdivision tract map or final parcel map, the subdivider shall dedicate all required lands and improvements to the City pursuant to section

16.68.070. The amount of land to be dedicated by a subdivider shall be determined as follows:

1. The Planning Director shall determine the number of dwelling units per gross acre to be constructed. The City shall determine the average number of persons per dwelling unit, which shall be based upon the average household size for the dwelling units to be constructed, as disclosed by the most recent available Federal census figures.

2. The amount of land to be dedicated shall be computed by multiplying the product of (i) the number of proposed dwelling units, (ii) the average number of persons per dwelling unit within the density classification appropriate for the subdivision in question, and (iii) the park acreage standard of three point three five (3.35) net acres per 1,000 residents of the subdivision.

3. The following formula demonstrates the method of calculating the amount of land to be dedicated:

| | | | | | | |
|--|---|--|---|---|---|---------------------------------|
| Number of Dwelling Units Based on Proposed Map | x | Average Number of Persons Per Dwelling | x | 3.35 Acres 1,000 residents of the subdivision | = | Number of acres to be dedicated |
|--|---|--|---|---|---|---------------------------------|

B. The conditions of approval for land dedication under this chapter shall be based on the following:

1. The natural features of the area, including the topography and geology;
2. The availability of access;
3. The location;
4. The size and shape of the subdivision;
5. The land available to dedication and the feasibility of dedication;
6. The availability of park sites for acquisition, development, improvement, or rehabilitation, in case land dedication is considered not feasible;
7. The location of existing and proposed park sites;
8. The suitability for patrol, supervision and maintenance; and

9. The compatibility of dedication with the City's general plan and other adopted plans pertaining to parks and recreation.

C. When the Planning Director has required the dedication of land pursuant to this chapter, the subdivider shall, without credit, as a further condition of such approval, construct and install the following public improvements within the dedicated land and adjoining public rights-of-way, which are in addition to any parks and recreation facilities and improvements impact fees imposed upon the project:

1. Full street improvements and utility connections including, but not limited to, curbs, gutters, relocation of existing public utility facilities, street paving, traffic control devices, street trees, and sidewalks to the dedicated land.
2. Fencing consistent with City improvement standard along the property lines that are contiguous to the park.
3. Improve the drainage through the park site.
4. Minimal physical improvements, not including recreational facilities, building or equipment, which the City determines are necessary for acceptance of the land for park and recreational purposes.
5. Access from the park and recreational facilities to an existing or proposed public street, unless the city determines that such access is unnecessary for maintenance of the park area or use of the park.
6. Water, sewer, grading and drainage improvements, in addition to those grading, drainage, irrigation and planting improvements required under other City ordinances.
7. Any other public improvements that the City determines are necessary in order to make the dedicated land suitable for development as a park or recreation facility.

16.68.070 Dedication of Land

A. The dedication of land to the City pursuant to this chapter shall be accomplished in accordance with the provisions of the Subdivision Map Act.

B. Real property dedicated to the City pursuant to the provisions of this chapter shall be:

1. Conveyed by grant deed in fee simple or irrevocably offered for

dedication to the City by the subdivider free and clear of all encumbrances, except those which are not monetary liens, those which will not interfere with the use of the property for park and recreational purposes and which the City agrees to accept;

2. Restricted to park and recreational purposes; and

3. Permanently devoted or dedicated to use by the general public, unless a satisfactory substitute is approved by the Planning Director. Where fees are required, they shall be deposited with the City at the time prescribed by Section 16.68.080, paragraph A.

16.68.080 Timing, Standards and Formula for Payment of In-Lieu Fee

The following shall apply when a subdivider is conditioned to pay the in-lieu fee proposed by this chapter.

A. As a condition of approval of a final subdivision tract map or final parcel map, the subdivider shall pay the full amount of the in-lieu fee.

B. The amount of the fee the subdivider shall pay shall be determined as follows:

| | | | | | | | | |
|--|---|--|---|---|---|---------------------------------------|---|---------------------------|
| Number of Dwelling Units Based on Proposed Map | x | Average Number of Persons per Dwelling | x | 3.35 Acres per 1,000 residents of the subdivision | x | Land acquisition costs per acre | = | Total in- lieu fees |
|--|---|--|---|---|---|---------------------------------------|---|---------------------------|

16.68.090 Timing, Standards and Formula for Combination of Dedication of Land and Payment of In-Lieu Fee for Subdivisions of Fifty or More Parcels

When only a portion of the land needed to satisfy the dedication requirement meets the minimum park standards and is acceptable to the City as a park site and is located within the proposed subdivision, such portion shall be dedicated for park purposes and a fee, computed pursuant to section 16.68.080 shall be paid for the additional land that would have been required to be dedicated pursuant to section 16.68.070.

16.68.100 Use of Dedicated Land and In-Lieu Fees; Development Schedule

A. Land dedicated to and accepted by the City pursuant to this chapter shall be used for the purpose of developing parks and recreational facilities which serve the residents of the

subdivision in accordance with a development schedule adopted by the City Council. Said schedule shall specify how and when such land will be used for the development of neighborhood or community park facilities.

B. In-lieu fees paid pursuant to this chapter shall be used for the acquisition of land suitable for park and/or recreational use and the development of new and existing park and recreational facilities.

16.68.110 Refunds.

Fees paid to the City and deposited into the park acquisition and development fund shall be committed within five years after payment of such 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 shall be distributed and paid without any deductions to the then record owners of the subdivision in the same proportion as the size of their lot bears to the total area of all lots within the subdivision.

16.68.120 Disposition of Proceeds-Fund Created.

A. All proceeds from the fees collected under this chapter shall be paid into a special fund of the City entitled "Park Acquisition and Development Fund" which fund is hereby created. All sums collected pursuant to the provisions of this chapter, together with any interest income earned thereon, shall be used only for the purpose of acquiring, building, improving, expanding and/or developing City parks in accordance with the requirements of this chapter.

B. In the event that bonds or similar debt instruments are issued for the advanced provision of park and recreational facilities for which in-lieu fees may be expended, such fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type to which the fees involved relate.

C. Funds may be used to provide refunds as described in Section 16.68.110.

D. The Director of Finance shall maintain records specifically identifying the origin of the funds used for any project or improvement funded, in whole or in part, by the Park Acquisition and Development Fund. Such records shall enable the Director of Finance to trace the fees from new residential subdivisions to specific projects funded by each subdivision. Any interest accruing on account of time deposit of the fund, or otherwise, shall be deposited to the credit of the fund.

E. Upon receipt of a written application from the Planning Director for disbursement of monies from the Park Acquisition and Development Fund on account of expenditures made or proposed for the benefit or use of parks or recreational facilities, the Director of Finance shall immediately advise the City Manager (or his or her designee) and provide him or her with copies of any accompanying documents or papers that might have been submitted in support of the application. Within ten days after receipt of such notice, the City Manager shall advise the Director of Finance whether the disbursement made or proposed is consistent with this chapter. If the City Manager fails to so certify within ten days, it shall be presumed that he or she has made a positive finding therein. Within five days thereafter, the Director of Finance shall, if a positive finding has been made or presumed, approve payment as requested.

16.68.130 Controlling State Law.

The provisions of this chapter and any resolution adopted pursuant hereto shall at all times be subject and subordinate to the provisions of the Quimby Act, as the same presently exists or may hereafter be amended from time to time, to the extent the same are applicable. In the event of any conflict between the provisions of this chapter and state law, the latter shall control.

16.68.140 Implementation of Dedications and Fees.

The fees and dedications required by this Chapter shall be implemented by the City Council through the adoption of an appropriate resolution.