

RESOLUTION NO. 1987-34

A RESOLUTION OF THE CITY COUNCIL OF  
THE CITY OF BEAUMONT, CALIFORNIA,  
ESTABLISHING PROCEDURES AND REQUIREMENTS  
FOR CONSIDERATION OF DEVELOPMENT AGREEMENTS  
UNDER GOVERNMENT CODE, SECTIONS 65864-65869.5

WHEREAS, Government Code, Sec. 65864-65869.5 authorize cities and counties to enter into binding development agreements with person having legal or equitable interests in real property for the development of such property and authorize the City of Beaumont to establish procedures for consideration of applications for such agreements;

WHEREAS, it is in the public interest to do so and the public health, safety and welfare will be promoted thereby,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BEAUMONT, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

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Article 1 Applications  
Article 2 Notices and Hearing  
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**ARTICLE 1 Applications**

Section 101 Authority for adoption  
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Section 105 Proposed form of agreement  
Section 106 Review of application

Section 101. Authority for adoption. These regulations are adopted under the authority of Government Code

Sections 65864-65869.5. The City of Beaumont, a Municipal Corporation, shall hereinafter be referred to as the "City".

Section 102. Forms and information.

(a) The Planning Director shall prescribe the form for each application, notice and documents provided for or required under these regulations for the preparation and implementation of development agreements.

(b) The Planning Director may require an applicant to submit such information and supporting data as the Planning Director considers necessary to process the application.

Section 103. Fees. The applications and documents provided for or required under these regulations shall be accompanied by non-refundable fees and charges for filing and processing in amounts determined by the City Council through a separate resolution, alone or in conjunction with setting other land use fees.

Section 104. Qualification as an applicant. Only a qualified applicant may file an application to enter into a development agreement. A qualified applicant is a person who has legal or equitable interest in the real property which is the subject of the development agreement. Applicant includes authorized agent. The Planning Director may require an applicant to submit proof of his interest in the real property and of the authority of the agent to act for the applicant. Before processing the application, the Planning Director shall obtain the opinion of the City Attorney as to the sufficiency of the applicant's interest in the real property to enter into the agreement.

Section 105. Proposed form of agreement. Each application shall be accompanied by the form of development agreement proposed by the applicant. This requirement may be met by designating the City's standard form of development agreement and including specific proposals for changes in or additions to the language of the standard form.

Section 106. Review of application. The Planning Director shall endorse on the application, the date it is received. He shall review the application and may reject it if it is incomplete or inaccurate for processing. If he finds that the application is complete, he shall accept it for filing. The director shall review the application and determine the additional requirements necessary to complete the agreement. After receiving the required information, he shall prepare a staff report and recommendation and shall state whether or not the agreement proposed or in an amended form would be consistent with the general plan and any applicable specific plan.

**ARTICLE 2. Notices and Hearing**

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|-------------|---|
| Section 201 | Duty to give notice   |
| Section 202 | Requirements for form and time of notice of intention to consider adoption of development agreement |
| Section 203 | Failure to receive notice   |
| Section 204 | Rules governing conduct of hearing  |
| Section 205 | Irregularity in proceedings   |

Section 201. Duty to give notice. Upon receipt of an application, the Planning Commission shall set a date for and

hold a public hearing. The Planning Director shall give notice as required by Section 202 of intention to consider adoption of development agreement.

Section 202. Requirements for form and time of notice of intention to consider adoption of development agreement. Any public hearing held pursuant to the provisions of this Chapter shall be noticed in the following manner:

(a) Form of notice. The form of notice of intention to consider adoption of development agreement shall contain:

- (1) The time and place of the hearing;
- (2) A general explanation of the matter to be considered, including a general description of the area affected; and
- (3) Other information required by specific provision of these regulations or which the Planning Director considers necessary or desirable.

(b) Time and manner of notice. Notice shall be given at least ten calendar days before the hearing in the following manner:

- (1) Publication or posting. Publication at least once in a newspaper of general circulation, published and circulated in the City or if there is none, posting in at least 3 public places in the City; and
- (2) Mailing. Mailing of the notice to all persons shown on the last equalized assessment roll as owning real property within 300 feet of the property which is the subject of the proposed development agreement.

(c) Additional notice. The Planning Commission or City Council as the case may be, may direct that notice of the public hearing to be held before it shall be given in a manner that exceeds the notice requirements prescribed by state law.

(d) Declaration of existing law. The notice requirements referred to in subsections (a) and (b) are declaratory of existing law (Govt. Code, Sec. 65867 and Sec. 65854, 65854.5 and 65856 as incorporated by reference). If state law prescribes a different notice requirement, notice shall be given in that manner.

Section 203. Failure to receive notice. The failure of any person entitled to notice required by law or these regulations does not affect the authority of the City to enter into a development agreement.

Section 204. Rules governing conduct of hearing. The public hearing shall be conducted as nearly as may be in accordance with the procedural standards adopted under Government Code, Sec. 65804 for the conduct of zoning hearings. Each person interested in the matter shall be given an opportunity to be heard. The applicant has the burden of proof at the public hearing on the proposed development agreement.

Section 205. Irregularity in proceedings. No action, inaction or recommendation regarding the proposed development agreement shall be held void or invalid or be set aside by a court by reason of any error, irregularity, informality, neglect or omission ("error") as to any matter pertaining to petition, application, notice, finding, record, hearing, report, recommendation, or any matters of procedure whatever, unless after an examination of the entire case, including the evidence, the court is of the opinion that the error complained of was prejudicial and that by reason of the error the complaining party sustained and suffered substantial injury, and that a different result would have been probable if the error had not occurred or existed. There is no presumption that error is prejudicial or that injury was done if error is shown.

### ARTICLE 3. Standards of Review, Findings and Decision

Section 301      Determination by Planning Commission  
Section 302      Decision by City Council  
Section 303      Approval of development agreement

Section 301. Determination by Planning Commission. After the hearing by the Planning Commission, the Planning Commission shall make its recommendation in writing to the City Council. The recommendation shall include the Planning Commission's determination whether or not the development agreement proposed:

- (1) Is consistent with the objectives, policies, general land uses and programs specified in the general plan and any applicable specific plan;
- (2) Is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located;
- (3) Is in conformity with public convenience, general welfare and good land use practice,
- (4) Will be detrimental to the health, safety and general welfare,
- (5) Will adversely affect the orderly development of property or the preservation of property values.

The recommendation shall include the reasons for recommendation.

#### Section 302. Decision by City Council.

(a) After receiving the recommendation from the Planning Commission, the City Council shall hold a public hearing after giving notice as required by Section 202. After the City Council completes the public hearing, it may accept, modify or disapprove the recommendation of the Planning Commission. It may, but need not, refer matters not previously considered by the Planning Commission during its hearing back to the Planning Commission for report and recommendation. The Planning Commission may, but need not, hold a public hearing on matters referred back to it by the City Council.



Section 501. Recordation of development agreement, amendment or cancellation.

(a) Within 10 days after the City enters into the development agreement, the City Clerk shall have the agreement recorded with the County Recorder.

(b) If the parties to the agreement or their successors in interest amend or cancel the agreement as provided in Government Code, Sec. 65868, or if the City terminates or modifies the agreement as provided in Government Code Sec. 6586.1 for failure of the applicant to comply in good faith with the terms and conditions of the agreement, the City Clerk shall have notice of such action recorded with the County Recorder.

**ARTICLE 6. Periodic Review**

Section 601	Time for and initiation of review
Section 602	Notice of periodic review
Section 603	Public hearing
Section 604	Findings upon public hearing
Section 605	Procedure upon findings

Section 601. Time for and initiation of review. The City shall review the development agreement every twelve months from the date the agreement is entered into.

The time for review may be modified either by agreement between the parties or by initiation in one or more of the following ways:

- (1) Recommendation of the planning staff;
- (2) Affirmative vote of at least three members of the Planning Commission;
- (3) Affirmative vote of at least three members of the City Council

Section 602. Notice of periodic review. The Planning Director shall begin the review proceeding by giving notice that the Planning Commission intends to undertake a periodic review of the development agreement to the property owner. He shall give notice at least ten days in advance of the time at which the matter will be considered by the Planning Commission.

Section 603. Public hearing. The Planning Commission shall conduct a public hearing at which the property owner must demonstrate good faith compliance with the terms of the agreement. The burden of proof on this issue is upon the property owner.

Section 604. Findings upon public hearing. The Planning Commission shall determine upon the basis of substantial evidence whether or not the property owner has, for the period under review, complied in good faith with the terms and conditions of the agreement.

Section 605. Procedure upon findings.

(a) If the Planning Commission finds and determines on the basis of substantial evidence that the property owner has complied in good faith with the terms and conditions of the agreement during the period under review, the review for that period is concluded.

(b) If the Planning Commission finds and determines on the basis of substantial evidence that the property owner has not complied in good faith with the terms and conditions of the agreement during the period under review, the Planning Commission may modify or terminate the agreement.

(c) The Planning Commission shall make its decision within 20 days after the close of the public hearing. Notice of the decision shall be filed by the Planning Director with the City Clerk, together with a report of the proceedings, not more than 10 days after the decision. A copy of the notice of decision shall be mailed by registered mail to the applicant. If the Planning Commission is unable to make a decision, that fact shall be reported to the City Council in the same manner for reporting decisions and the failure to make a decision shall constitute a denial of the application. The decision of the Planning Commission shall be final unless, within 15 days of the mailing of said decision, the applicant or any interested person files an appeal accompanied by the fees set forth in the fee schedule with the City Clerk or unless the Council orders the matter set for public hearing.

**ARTICLE 7. Modification or Termination.**

Section 701 Proceedings upon modification or termination

Section 702 Hearing on modification or termination

Section 701. Proceedings upon modification or termination. If, upon a finding under Section 605(b), the City determines to proceed with modification or termination of the agreement, the City shall give notice referred to in Section 605 (c) to the property owner of its intention so to do. The notice shall contain:

- (1) The time and place of the hearing;
- (2) A statement as to whether or not the City proposes to terminate or to modify the development agreement;
- (3) Other information which the City considers necessary to inform the property owner of the nature of the proceeding.

Section 702. Hearing on modification or termination. At the time and place set for the hearing on modification or termination, the property owner shall be given an opportunity to be heard. The City Council may refer the matter back to the Planning Commission for further proceedings or for report and recommendation. The City Council may impose those conditions to the action it takes as it considers necessary to protect the interests of the City. The decision of the City Council is final.

NOW THEREFORE, IT IS HEREBY RESOLVED as follows:

The City Council of the City of Beaumont, California does hereby approve the procedures and requirements of development agreements.

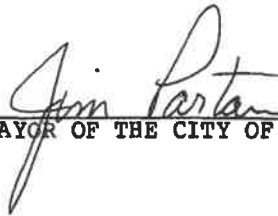
MOVED, PASSED AND ADOPTED this 11th day of May, 1987, by the following vote:

AYES: Council Member Connors, Shaw, Waller and Mayor Partain.


NOES: None.

ABSTAIN: None.

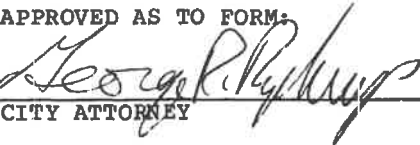
ABSENT: None.

  
MAYOR OF THE CITY OF BEAUMONT

ATTEST:


  
CITY CLERK

APPROVED AS TO FORM:

  
CITY ATTORNEY

**CERTIFICATION**

The foregoing is certified to be a true copy of Resolution No. 1987- 34, duly adopted by said City Council on the date herein set forth.

  
CITY CLERK, CITY OF BEAUMONT

