

ORDINANCE NO. 1848

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF CHULA VISTA, AMENDING CHAPTER 17.11 OF THE
CHULA VISTA MUNICIPAL CODE, ALL RELATING TO
THE PROVISION OF INTERIM SCHOOL FACILITIES

By a unanimous vote of the City Council, the ordinance was adopted which implements the provisions of Section 65974 of the Government Code of the State of California to provide interim school facilities through the dedication of land or payment of fees in lieu thereof as may be required by the Chula Vista City School District or the Sweetwater Union High School District. The ordinance provides procedures and authority whereby the City of Chula Vista, the affected school districts and applicants for land development approvals, may undertake such reasonable steps as would alleviate the overcrowding of school facilities. Copies of the ordinance are available from the office of the City Clerk, City Hall, 276 Fourth Avenue.

Dated: January 2, 1979


Jennie M. Fulasz, CMC, City Clerk

Sec. 17.11.030 Findings and Declarations.

The City Council of the City of Chula Vista finds and declares as follows:

- A. Adequate school facilities should be available for children residing in new residential developments.
- B. Public and private residential developments may require the expansion of existing public schools or the construction of new school facilities.
- C. In many areas of the City, the funds for the construction of new classroom facilities are not available when new development occurs, resulting in the overcrowding of existing schools.
- D. New housing developments frequently cause conditions of overcrowding in existing school facilities which cannot be alleviated under existing law within a reasonable period of time.
- E. That, for these reasons, new and improved methods of financing for interim school facilities necessitated by new development are needed in the City of Chula Vista.

Sec. 17.11.040 Definitions.

- A. "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.
- B. "Dwelling Unit" means a building or a portion thereof, or a mobilehome, designed for residential occupation by one person or a group of two or more persons living together as a domestic unit.
- C. "Reasonable Methods for Mitigating Conditions of Overcrowding" may include, but are not limited to agreements between a subdivider and the affected school district whereby temporary-use buildings will be leased to the school district or temporary-use buildings owned by the school district will be used.
- D. "Residential Development" means a project containing residential dwellings, including mobilehomes, of one or more units or a subdivision 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 or final map, a parcel map, conditional use permit, a building permit, and any other discretionary permit for residential use. It shall also include a privately proposed amendment to the General Plan which would allow an increase in authorized residential density and where no further discretionary action for residential development need be taken by a decision-making body prior to application for a building permit or any privately proposed specific plan or amendment to a specific plan which would allow an increase in authorized residential density.

Sec. 17.11.050 General Plan.

The General Plan 1990 of the City of Chula Vista has heretofore been amended by Resolution Nos. 6671 and 6762 to require, under Part III thereof, indicating the goals of the Plan, the provision of adequate school facilities in order to satisfy the educational needs for newly developed areas in accordance with the level of educational services as established by standards and criteria adopted by the school districts operating within the City of Chula Vista. Further, the General Plan, in Part IV thereof carrying out the General Plan, establishes requirements for the regulation of rezoning, subdivision approval and the granting of building permits to insure the adequacy of public facilities, including public schools. The General Plan Map, as adopted by Resolution No. 5878, indicates proposed locations for elementary, junior high and high schools. Those interim school facilities to be constructed from fees paid or those lands required to be dedicated for the location of school facilities, as required pursuant to the procedures established by this chapter, shall be consistent with the General Plan of the City of Chula Vista.

Sec. 17.11.060 Notification to School Districts.

The City shall notify each of the school districts of a request for approval of any residential developments, at the time any tentative map is submitted, rezoning, or discretionary permit requested.

Sec. 17.11.070 Overcrowded Attendance Areas - School District Findings.

A. Findings of Conditions of Overcrowding.

If the governing body of a school district which operates an elementary, junior high or high school, in the City of Chula Vista, makes a finding supported by clear and convincing evidence that: (a) conditions of overcrowding exist in one or more attendance areas within the district which will be impacted by the proposed residential development because of the additional student enrollment in one or more attendance areas to which such students may be assigned, which will impair the normal functioning of educational programs including the reason for such conditions existing and (b) that all reasonable methods of mitigating conditions of overcrowding have been evaluated and no feasible method for reducing such conditions exist, the governing body of the school district shall notify the City Council of the City of Chula Vista. The notice of findings sent to the City shall specify the mitigation measures considered by the school district.

After the receipt of any notice of findings complying with this section, the Council shall determine whether it concurs in such school district findings. The Council may schedule and hold a public hearing on the matter of its proposed concurrence prior to making its determination. If the City Council concurs in such findings, the provisions of Section 17.11.090 shall be applicable to actions taken on residential development by such Council.

B. Statement of Resolution on Conditions of Overcrowding.

In lieu of submittal of school district findings as provided in subsection A, the school district may submit to the City Council a letter or statement indicating that conditions of overcrowding or interim school needs generated by a residential development have been satisfied.

Sec. 17.11.080 Requirements of Notice of Findings.

Any notice of findings sent by a school district to the City shall specify:

- A. The findings listed in Section 17.11.070.
- B. The reasonable mitigation measures and methods, that have been considered, including, but not limited to, those as defined herein, considered by the school district and any determination made concerning them by the district.
- C. The precise geographic boundaries of the overcrowded attendance area or areas which will be impacted by proposed student assignments from the residential development.
- D. Such other information as may be required by City regulation.

Sec. 17.11.090 Approval of Residential Developments - City Council Findings.

The City Council shall not approve an ordinance rezoning property to a residential use, grant a discretionary permit for residential use, which shall include a building permit in accordance with the General Plan of the City of Chula Vista or approve a tentative subdivision map for residential purposes for any residential developments which have been determined pursuant to Section 17.11.070 to create conditions of overcrowding impacting one or more attendance areas within the district, unless the City Council makes one of the following findings:

- A. That action will be taken pursuant to this ordinance to provide dedications of land and/or fees to mitigate conditions of overcrowding, or
- B. That there are specific overriding fiscal, economic, social, or environmental factors which in the judgment of the City Council would benefit the City, thereby justifying the approval of a residential development otherwise subject to the provisions of this ordinance for dedications of land or fees; provided, however, the City Council or the appropriate administrative or decision-making body shall perform the requested discretionary act in regard to any residential development if the school districts have notified the City by statement or letter as required in subsection B of Section 17.11.070.

Sec. 17.11.100 Requirement of Fees and/or Dedications.

For the purpose of establishing an interim method of providing classroom facilities where overcrowding conditions exist as determined necessary pursuant to Section 17.11.070, the City may require the dedication of land, the payment of fees in lieu thereof, or a combination of both, as determined by the Planning Commission or the City Council during the hearings for specific residential development projects as a condition to the approval of a residential development. Prior to imposition of the fees or dedications of land, it shall be necessary for the City Council or the Planning Commission to make the following findings:

- A. The General Plan provides for the location of public schools.
- B. The land or fees, or both, transferred to a school district shall be used only for the purpose of providing interim elementary, junior high or high school classrooms and related facilities.
- C. 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 needs of the community for interim elementary, junior high or high school facilities and shall be reasonably related and limited to the need for schools caused by the development.
- D. The facilities to be constructed from such fees or the land to be dedicated, or both, is consistent with the General Plan.

Sec. 17.11.110 Standards for Land and Fees.

- A. General Standards - The standards for the amount of dedicated land or fees to be required shall be established by the governing board of each school district where a determination has been made pursuant to Section 17.11.070 that conditions of overcrowding exist. Such standards and facts supporting them shall be transmitted to the City Council. If the City Council concurs in such standards, they shall, until revised, be used by decision-making bodies in situations where dedications of land and/or fees are required as a condition to the approval of a residential development.
- B. Specific Dedication or Fee Requirements - Nothing herein shall prevent the City Council from establishing and using standards other than those established by the school district in the event the City Council is unable to concur in those transmitted by the district. In each case where necessary findings have been made and concurred in by the City Council, the amount of land or fees to be required may be modified from that general standard approved by resolution of the City Council upon a showing that the overcrowded conditions are either more or less severe than those conditions upon which the general standard has been formulated.

Sec. 17.11.120 Payment of Fees in Smaller Subdivisions.

Only the payment of fees shall be required in subdivisions containing fifty (50) parcels or less.

Sec. 17.11.130 School District Schedule.

Following the decision by 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 times 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.

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Sec. 17.11.140 Application Filing.

At the time of filing an application for the approval of a proposed residential development (rezoning, tentative subdivision map or discretionary permit) located in an attendance area where the findings required by Section 17.11.070 have been made, 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 suggest the specific land.

Sec. 17.11.150 Decision Factors.

At the time of initial residential development approval, the Planning Commission 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 Commission 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, junior high or high school facilities and will be reasonably related and limited to the need for schools caused by the development;
- D. If only a subdivision is proposed, whether it will contain fifty (50) parcels or less.

Sec. 17.11.160 Land Dedication.

When land is dedicated, it shall be offered to the school districts to be held in fee for school purposes subject to reversion in accordance with the trust provisions of Section 17.11.190 of this ordinance in substantially the same manner as prescribed in the subdivision ordinance for streets and public easements; provided, however, such dedicated land which subsequently is determined by the school district to be unsuitable for school purposes may be sold at the option of the school district. The funds derived therefrom must be used in accordance with the requirements of this ordinance.

Sec. 17.11.170 Fee Payment.

If the payment of a fee is required, such payment shall be made to the school districts at the time the building permit is approved and issued; provided, however, the school districts may notify the City that appropriate agreements or surety arrangements have been made which defer said payment until such time as the City issues a certificate of completion for the residential development.

Sec. 17.11.180 Use of Land and Fees.

All land or fees, or both, collected pursuant to this chapter shall be used only for the purpose of providing interim elementary, junior high or high school classrooms and related facilities. Following the action by the City Council to require the dedication of land or payment of fees, or both, the City Clerk shall notify each school district affected thereby. The governing body of the school district shall then 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 times 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. 17.11.190 Trust Land and Fees and Refunds Thereof.

Land and fees shall be held in trust by the respective school districts until utilized for the purposes set forth herein and as provided in Section 17.11.180 for the resolution of conditions of overcrowding in one or more attendance areas within the school district. If the final subdivision map, a parcel map, conditional use permit or development plan is vacated or voided, or if a building permit is cancelled or voided, and if the applicant so requests and the respective school districts have not made use of the land or fees as provided herein, the Board of Trustees of the respective school district shall order the return of the land or fees.

Sec. 17.11.200. Agreement for Fee Distribution.

Where two separate school districts operate schools in an attendance area where the City Council concurs that overcrowding conditions exist for both school districts, the City Council will enter into an agreement with the governing body of each school district for the purpose of determining the distribution of revenues from the fees levied pursuant to this chapter.

Sec. 17.11.210 Fee Fund Records and Reports.

Any school district receiving funds pursuant to this chapter shall maintain 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 11st of each year and shall be filed more frequently at the request of the City Council.

Sec. 17.11.220 Termination of Dedication Requirements.

When it is determined that conditions or overcrowding no longer exist in an attendance area, the City shall cease levying any fee or requiring the dedication of any land pursuant to this chapter for the area.

SECTION II: This ordinance shall take effect and be in full force and effect on the thirty-first day after its adoption.

Presented and Approved as to form by



George D. Lindberg, City Attorney

FIRST READ AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA, CALIFORNIA, HELD December 19, 1978, AND FINALLY PASSED AND ADOPTED AT A REGULAR MEETING THEREOF HELD January 2 1979, BY THE FOLLOWING VOTE, TO-WIT:

AYES: Councilmen : Scott, Cox, Egdahl, Hyde, Gillow
NAYES: Councilmen : None
ABSTAIN: Councilmen : None
ABSENT: Councilmen : None

Will T. Hyde

Mayor of the City of Chula Vista

ATTEST *Jennie M. Fulasz*
City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO) ss.
CITY OF CHULA VISTA)

I, JENNIE M. FULASZ, CMC, CITY CLERK of the City of Chula Vista, California, DO HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of ORDINANCE NO. _____, and that the same has not been amended or repealed.

DATED _____

(seal)

City Clerk