

ORDINANCE NO. 5785-N.S.

THE BERKELEY PUBLIC PARKS AND OPEN SPACE PRESERVATION ORDINANCE: PROPOSAL FOR AN ORDINANCE TO REQUIRE THE BERKELEY CITY COUNCIL TO PRESERVE AND MAINTAIN THE PUBLIC PARKS AND OPEN SPACE WHICH EXIST IN BERKELEY, AS WELL AS TO ACQUIRE AND MAINTAIN PUBLIC PARKS AND OPEN SPACE IN THE CENSUS TRACTS AND NEIGHBORHOODS OF BERKELEY HAVING LESS THAN THE MINIMUM AMOUNT OF OPEN SPACE RELATIVE TO POPULATION (2 ACRES PER 1,000) IDENTIFIED IN THE BERKELEY MASTER PLAN OF 1977; AND TO REQUIRE THE CITY TO SUBMIT TO A POPULAR VOTE ALL PROPOSALS TO WITHDRAW FROM RECREATIONAL USE PUBLIC PARKS OR PUBLIC OPEN SPACE.

BE IT ORDAINED by the People of the City of Berkeley as follows:

FINDINGS:

WHEREAS, the Berkeley Master Plan of 1977 (hereinafter Master Plan) provides for a minimum standard of two acres of public open space per 1,000 persons and identifies specific Berkeley census tracts as having high population density and high open space demands, and attainment of the minimum standard is jeopardized by continued loss of public open spaces.

WHEREAS, the City of Berkeley is the second most densely populated City in California, undeveloped land is at a high premium in Berkeley, there are significant pressures to convert City owned or controlled open space to permanent or long-term non-park, non-open space uses and there exists a clear and present emergency in that the threatened loss of open space, parks and recreational opportunities in the neighborhoods in Berkeley will cause irreparable damage to the health and welfare of Berkeley residents.

WHEREAS, the Berkeley City Council has failed to provide and fund the Master Plan minimum standard of public parks and open space in every Berkeley neighborhood, and in particular in those census tracts having high park and open space requirements.

WHEREAS, specific procedures and directives to the Berkeley City Council are necessary to insure that the Master Plan's minimum park and open space goals are not rendered impossible through the continued loss of public open spaces;

Section 1. VOTER AUTHORIZATION PROCEDURE.

That no public parks (hereinafter defined) or public open space (hereinafter defined) owned or controlled or leased by the City of Berkeley or agency thereof, shall be used for any other purpose than public parks and open space, without The Berkeley City Council first having submitted such use to the citizens for approval by a majority of registered Berkeley voters voting at the next general election.

Section 2. **FUNDING LEVELS TO ALLOW FULL USE.**

(a) That wherever public parks and open space currently exist in Berkeley, such use shall continue and be funded at least to allow the maintenance of the present condition and services.

(b) That all undedicated or unimproved open space owned or controlled by the City of Berkeley (including land held by the City in trust) shall be retained and funded by the Berkeley City Council to enable public recreational use of those lands.

(c) That those census tracts containing less than the Master Plan provision of two acres of parks and open space per 1,000 population shall be singled out as having a high priority for funding the acquisition, development and maintenance of parks and recreational facilities.

Section 3. **DEFINITIONS.**

(a) Public Parks shall be defined as City of Berkeley parks, public school playgrounds or lands held in trust by a public entity, which have been formally dedicated to permanent recreational use by the City of Berkeley, and funded for recreational use by City of Berkeley public funds.

(b) Public open space shall be defined as all City of Berkeley parks, public school playgrounds, and vacant public land, whether dedicated formally to park use or being used de facto as open space with recreation use or potential use on or after January 1, 1985.

Section 4. **ADOPTION OF THIS ORDINANCE.**

(a) If the petition accompanying this proposed ordinance is signed by the number of voters required by the Berkeley City Charter, Article XIII, Section (3) or (4) or (5), the Berkeley City Council is hereby directed to submit this ordinance forthwith to the vote of the people pursuant to the appropriate Charter Section that applies to the highest number of voter signatures certified by the City Clerk, unless the Council passes this ordinance pursuant to the Charter, Article XIII, Section (3)(a).

Section 5. **RETROACTIVITY.**

(a) Upon passage of this initiative, all actions taken on or after January 1, 1985, by the Berkeley City Council, Housing Authority, or any agency of the City of Berkeley, which contravene the provisions herein shall be declared null and void.

(b) Upon passage of this initiative, all actions, even administrative, taken by the Berkeley City Council, or Housing Authority or agency of the City of Berkeley occurring after the date this initiative is certified for placement on the next occurring general election ballot, which actions are not in full conformity with this Ordinance, shall be declared null and void.

Section 6. **SEVERABILITY.**

If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application and, to this end, the provisions of this Ordinance are severable.

ORDINANCE NO. 5785 — N.S.

Passed ~~to print~~ by the electorate on November 6, 1986

~~Finally Adopted:~~

In Effect: December 19, 1986

At a regular meeting of the Council of the City of Berkeley, held on the _____ day of _____, this Bill was passed to print and ordered published by posting by the following vote:

Ayes: _____
Noes: _____
Absent: _____

Attest:

City Clerk and ex-officio Clerk of the Council
of the City of Berkeley, California

At a regular meeting of the Council of the City of Berkeley, held on the _____ day of _____, this Ordinance was finally adopted by the following vote:

Ayes: _____
Noes: _____
Absent: _____

Attest:

Edythe Campbell

City Clerk and ex-officio Clerk of the Council
of the City of Berkeley, California

Approved this 4th day of November, 1986

Loni Hancock

Mayor and President of the Council
of the City of Berkeley, California