ORDINANCE NO. 2016-193

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MENIFEE, CALIFORNIA, AMENDING CHAPTER 9.55 (PARKLAND DEDICATION OR QUIMBY FEE REQUIREMENTS FOR RESIDENTIAL DEVELOPMENT REQUIRING A TENTATIVE MAP OR PARCEL MAP) TO THE MENIFEE MUNICIPAL CODE TO ADD SECTION 9.55.115 TO ALLOW CREDIT FOR EXCESS PARK DEDICATION

WHEREAS, Government Code Section 66477 (also known as the "Quimby Act") authorizes the legislative body of a city to, by ordinance, require the dedication of land or payment of fees in lieu thereof ("Quimby Fees"), or a combination of both, for park and recreational purposes as a condition to the approval of any tentative map; and

WHEREAS, through the adoption of Ordinance No. 2014-160, the City Council of the City of Menifee ("City Council" or "City," as applicable) added Chapter 9.55 to the Menifee Municipal Code to require developers to improve and dedicate land for park and recreational purposes, or pay Quimby Fees, or a combination of both, as a condition to the approval of a residential development project requiring a tentative tract map or parcel map; and

WHEREAS, an ordinance imposing parkland dedication and Quimby Fee requirements pursuant to the Quimby Act must include definite standards for determining the proportion of subdivision to be dedicated and the amount of any Quimby Fees based upon a ratio of residential density (*i.e.*, the number of people expected to reside in the subdivision) to acreage (*i.e.*, the area of the subdivision); and

WHEREAS, if adopted, the proposed Code Amendment (DCA 2016-193) set forth in Exhibit "A," attached hereto, would not impose new parkland dedication and Quimby Fee requirements beyond the requirements that have already been established and imposed through the adoption of Ordinance No. 2014-160 (adding Chapter 9.55 to the Menifee Municipal Code) and City Council Resolution No. 15-406 (establishing the amount of Quimby Fees); and

WHEREAS, if adopted, the proposed Code Amendment (DCA 2016-193) would merely add a new section to Chapter 9.55 of the Menifee Municipal Code to allow a subdivider to receive credit for excess park dedications under certain circumstances; and

WHEREAS, with the proposed Code Amendment (DCA 2016-193), Chapter 9.55 of the Menifee Municipal Code would continue to contain definite standards for determining the proportion of a subdivision to be dedicated for parks and recreational facilities and the amount of any Quimby Fees; and

WHEREAS, pursuant to Section 15168(c)(2) of Title 14 of the California Code of Regulations, the proposed Code Amendment (DCA 2016-193) does not require additional review under the California Environmental Quality Act, Public Resources Code Section 21000 et seq. ("CEQA") because the proposed amendments to the Municipal Code are

within the scope of the project covered by the Environmental Impact Report for the City's General Plan (State Clearinghouse No. 2012071033); and

WHEREAS, because the proposed Code Amendment (DCA 2016-193) includes amendments to Title 9 of the Menifee Municipal Code (Planning and Zoning), it has been processed pursuant to Government Code Sections 65853 through 65857; and

WHEREAS, on May 11, 2016, the Planning Commission held a duly noticed public hearing to receive public testimony on the proposed Code Amendment (DCA 2016-193) and to appraise all relevant information pertaining thereto, and after considering all relevant public testimony as well as all materials in the staff report and accompanying documents, the Planning Commission recommended to the City Council approve the proposed Code Amendment (DCA 2016-193) and recommended that the Council find the proposed Code Amendment (DCA 2016-193) does not require further environmental review under CEQA; and

WHEREAS, the Parks, Recreation and Trails Commission also reviewed the proposed Code Amendment (DCA 2016-193) at its regular meeting on April 7, 2016, and after considering all relevant public testimony as well as all materials in the staff report and accompanying documents, the Parks, Recreation and Trails Commission recommended to the City Council approval of the proposed Code Amendment (DCA 2016-193); and

WHEREAS, on June 1, 2016, the City Council held a duly noticed public hearing to receive public testimony on the proposed Code Amendment (DCA 2016-193) and to appraise all relevant information pertaining thereto, and considered all public testimony as well as all materials in the staff report and accompanying documents.

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

Section 1. Recitals.

The above recitals are true and correct and incorporated herein.

Section 2. The City Council has read and considered the proposed amendments to Chapter 9.55 of the Menifee Municipal Code (Park and Recreation Mitigation Fees for Residential Development Requiring a Tentative Map or Parcel Map) referred to herein as "Code Amendment (DCA 2016-193)," as set forth in Exhibit "A".

Section 3. Findings.

After considering the proposed Code Amendment (DCA 2016-193), the recommendations of the Parks, Recreation and Trails Commission and Planning Commission, staff recommendations, public testimony and correspondence, and reports thereon, the City Council hereby makes the following findings:

1. The proposed amendments to the Municipal Code are consistent with the Quimby Act (Government Code § 66477) because:

a. The parkland dedication and Quimby Fee requirements only apply to residential developments that require the approval of a tentative map or parcel map;

b. With the proposed amendments, Chapter 9.55 of the Municipal Code continues to contain definite standards for determining the proportion of a subdivision to be dedicated for parks and recreational facilities and the amount of any Quimby Fees;

c. The Open Space and Conservation Element of the City's General Plan provides policies and standards for parks and recreational facilities the dedication and fee requirements will ultimately provide;

d. Unless the City complies with the findings and public hearing requirements set forth at Government Code Section 66477(a)(3)(B), the land, fees, or combination thereof (excluding excess park and recreational facilities dedicated at the discretion of the subdivider) will only be used for the purpose of developing new or rehabilitating existing park and recreational facilities to serve the residential development for which the dedication and fee requirements are imposed;

e. There is a reasonable relationship between the amount and location of land to be dedicated and/or fees to be paid and the use of the park and recreational facilities provided by that land and/or those fees by the future inhabitants of the residential development for which the dedication and fee requirements were imposed;

f. As set forth in more detail in the Open Space and Conservation Element of the City's General Plan, the amount of existing park area in the City exceeds three acres of park area per 1,000 City residents; thus, the Quimby Act authorizes the City to require developers to provide up to five acres of park area (and/or Quimby Fees) per 1,000 subdivision residents, and the parkland dedication and Quimby Fee requirements in the proposed amendments to the Municipal Code do not exceed this limit; and

g. It continues to be in the public interest, convenience, health, welfare and safety to require five acres of park area (and/or Quimby Fees) per 1,000 subdivision residents be devoted to neighborhood and community parks as a condition of approval of a residential development requiring a tentative tract or parcel map.

2. The proposed amendments to the Municipal Code are consistent with the City's General Plan and, in particular, the Open Space and Conservation Element, which contemplates the City will adopt an ordinance pursuant to the Quimby Act requiring that developers set aside land, donate conservation easements, or pay fees for park improvements.

3. The City Council of the City of Menifee finds that the proposed Code Amendment by way of DCA 2016-193 is consistent with the requirements

of the Menifee Municipal Code regarding the process of amending the Municipal Code.

4. Pursuant to 14 C.C.R. § 15168(c)(2), the proposed amendments to the Municipal Code do not require additional review under CEQA because the proposed amendments to the Municipal Code are within the scope of the project covered by the Environmental Impact Report for the City's General Plan (State Clearinghouse No. 2012071033).

Section 4. The City Council hereby accepts the recommendation of the Planning Commission.

Section 5. Section 9.55.115 to the Menifee Municipal Code.

The City Council hereby adopts Code Amendment (DCA 2016-193). Section 9.55.115 ("Procedure for Credit of Excess Park Dedication") is hereby added to Chapter 9.55 ("Parkland Dedication or Quimby Fee Requirements for Residential Development Requiring a Tentative Map or Parcel Map") to the Menifee Municipal Code as set forth in Exhibit "A."

Section 6. Notice of Adoption.

The City Clerk of the City of Menifee shall certify to the adoption of this Ordinance.

Section 7. Effective Date.

Code Amendment (DCA 2016-193), adding Section 9.55.115 to the Menifee Municipal Code, shall take effect and be in full force and operation thirty (30) days after the adoption of this ordinance by the City Council.

Section 8. Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or the application thereof to any person or circumstance 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 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 section, subsection, sentence, clause, phrase or portion thereof be declared invalid or unconstitutional.

Section 9. City Clerk Action.

The City Clerk of the City of Menifee is authorized and directed to cause this Ordinance to be published within fifteen (15) days after its passage in a newspaper of general circulation and circulated within the City in accordance with Government Code Section 36933(a) or, to cause this Ordinance to be published in the manner required by law using the alternative summary and posting procedure authorized under Government Code Section 36933(c).

Ordinance No. 2016-193
Credit for Excess Park Dedication (QUIMBY)

This Ordinance was introduced and read on the 1st day of June, 2016 and PASSED, APPROVED AND ADOPTED THIS 15th day of June, 2016.

Scott A. Mann, Mayor

Approved as to form:

Jeffrey T. Melching, City Attorney

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, SARAH A. MANWARING, City Clerk of the City of Menifee, do hereby attest to and certify the attached Ordinance No. 2016-193 to be the original ordinance adopted by the City Council of the City of Menifee on June 15, 2016 and that said Ordinance was published in accordance with the law on a vote as follow:

Date: 10/16/2016

Sarah A. Manwaring, City Clerk

Vote:
Ayes:
Noes:
Abstain:
Absent:

Scott A. Mann
Mayor

Greg August
Mayor Pro Tem

John V. Denver
Councilmember

Matthew Liesemeyer
Councilmember

Lesa Sobek
Councilmember

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss
CITY OF MENIFEE)

I, Sarah Manwaring, City Clerk of the City of Menifee, do hereby certify that the foregoing Ordinance No. 2016-193 was duly adopted by the City Council of the City of Menifee at a meeting thereof held on the 15th day of June, 2016 by the following vote:

Ayes:	August, Denver, Liesemeyer, Mann, Sobek
Noes:	None
Absent:	None
Abstain:	None

Sarah A. Manwaring, City Clerk

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Menifee, CA 92586
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EXHIBIT A

Chapter 9.55 Parkland Dedication or Quimby Fee Requirements for Residential Development Requiring a Tentative Map or Parcel Map

Sections:

9.55.010 Purpose and Findings
9.55.020 Authority
9.55.030 Definitions
9.55.040 Parkland Dedication Standard
9.55.050 Parkland Dedication and/or Quimby Fee Requirements
9.55.060 Formulas for Calculating Amount of Parkland Dedication and/or Quimby Fees
9.55.070 Public Improvements on Dedicated Parkland
9.55.080 Criteria for Requiring Combination of Parkland Dedication and Quimby Fees
9.55.090 Criteria for requiring Both Dedication and Quimby Fees
9.55.100 Procedure for Making Payment or Dedication
9.55.110 Procedure for Merchant Builders
9.55.115 Procedure for Credit of Excess Park Dedication
9.55.120 Time for Constructing Improvements and Amenities
9.55.130 Developments Annexed to the City
9.55.140 Exception for Commercial and Industrial Developments

9.55.010 Purpose and Findings

A. Purpose

This Chapter is adopted to implement the provisions of the Quimby Act, which authorize a city to require the dedication of land for park or recreation facilities, or payment of fees in-lieu thereof (or a combination of both), incident to and as a condition of approval for a tentative map or parcel map.

The park and recreational facilities for which dedication of land and/or payment of a fee in-lieu thereof is required by this Chapter are in accordance with the Open Space and Conservation Element of the General Plan of the City, and shall supersede any previously adopted plan to the extent of any inconsistency.

The land, fees, or combination thereof that are dedicated pursuant to this Chapter are to be used only for the purposes of developing new or rehabilitating existing neighborhood or community park or recreational facilities to serve the subdivision that prompts the dedication, and the amount and location of land to be dedicated or the fees to be paid will bear a reasonable relationship to the use of the park and recreational facilities by future inhabitants of the subdivisions subject to this Chapter.

B. Findings

The amount of existing park area in the City exceeds three acres of park area per 1,000 City residents. The enactment of this Chapter prevents new residential development from reducing the quality and availability of public services provided to residents of the City by requiring new residential development to contribute to the cost of expanding the availability of park and recreational facilities and amenities in the City.

9.55.020 Authority

This Chapter is enacted pursuant to the authority granted by the Quimby Act.

9.55.030 Definitions

For the purposes of this Chapter, the terms and words shall have the meaning as defined in Chapter 9.118 "Glossary", except that the following words shall have the meanings set forth below:

A. "Average Number of Persons Per Dwelling Unit" shall mean average number of persons per household, based on the most recent data available in the form of the federal census and study on the population density in the City. The most recent Average Number of Persons Per Dwelling Unit may be reflected in a City Council Resolution.

B. "City" shall mean the City of Menifee.

C. "Dwelling unit" shall include each single family dwelling, multifamily dwelling, or each mobile home space designed to contain a mobile home trailer on a semi-permanent or permanent basis. Single-family residential units, multifamily residential units, and mobile home units shall be defined according to the latest decennial U.S. or state department of finance census.

D. "Land Acquisition Cost Per Acre" shall mean the estimated per acre value of vacant residential land costs in the City as determined by the City Council based upon receipt sale records or appraisal. The most recent Land Acquisition Cost Per Acre may be reflected in a City Council Resolution. If the subdivider objects to such a valuation, the subdivider, at its own expense, may obtain an appraisal of the property by a qualified appraiser approved by the City, whose appraisal may be accepted by the City if found reasonable.

E. "Merchant Builder" shall mean an individual, company, partnership, corporation or similar entity that obtains land previously subdivided for the purpose of constructing new residential units upon the subdivided land.

F. "Number of Dwelling Units" shall mean the number of dwelling units as determined by the City based upon the number of units allowed pursuant to the standards of the City's Zoning Code or as otherwise specified by the City on the property included in the subdivision at the time the tentative map or parcel map is filed for approval.

G. "Park Development Agreement" shall mean an agreement entered pursuant to Section 9.55.130 of this Chapter.

H. "Quimby Act" shall mean Section 66477 of the California Government Code, as amended from time to time, or any successor statute.

I. "Quimby Fees" shall mean fees paid as a condition to the approval of a tentative map or parcel map pursuant to this Chapter and the Quimby Act in lieu of dedicating land to the City for park and recreational purposes.

J. "Residential development" shall mean any development that creates new or increases the number of existing dwelling units on a property.

K. "Subdivision Map Act" shall mean Section 66410, et seq. of the California Government Code, as amended from time to time, or any successor statute.

9.55.040 Parkland Dedication Standard

All standards for park dedication shall comply with the Quimby Act, the California Subdivision Map Act, and the Open Space and Conservation Element of the City's General Plan. The dedication of land and/or Quimby Fees for park or recreational purposes shall be at the rate of five (5) acres per 1,000 residents.

9.55.050 Parkland Dedication and/or In-Lieu Fee Requirements

As a condition of approval of any tentative map or parcel map, the City shall require the dedication of land and/or improvements/amenities, or payment of a fee in-lieu thereof, or a combination of both, at the option of the City, for park or recreational purposes to serve the future residents of the subdivided property.

A. This requirement shall apply to all residential subdivisions, except those exempted by the Quimby Act.

B. Except as provided in subsection (C), below, if the proposed subdivision contains fifty (50) parcels or less, the subdivider shall not be required to dedicate any land for park and recreational purposes without his or her consent, but shall pay a fee in accordance with Section 9.55.060(B), below.

C. When a condominium, stock cooperative, or community apartment project exceeds fifty (50) dwelling units, dedication of land may be required notwithstanding that the number of parcels may be less than fifty (50).

D. Notwithstanding the requirement in this Section that fees be used to serve the subdivision for which the fees were paid, fees may be used for the purpose of developing new or rehabilitating existing park or recreational facilities in a neighborhood other than the neighborhood in which the subdivision for which fees were paid as a condition to the approval of a tentative map or parcel map is located, if all of the following conditions are met:

1. The neighborhood in which the fees are to be expended has fewer than three acres of park area per 1,000 members of the neighborhood population.

2. The neighborhood in which the subdivision for which the fees were paid has a park area per 1,000 members of the neighborhood population that meets or exceeds the ratio calculated pursuant to this Chapter.

3. The City Council holds a public hearing before using the fees pursuant to this Chapter, and at that public hearing, makes a finding supported by substantial evidence that it is reasonably foreseeable that future inhabitants of the subdivision for which the fee is imposed will use the proposed park and recreational facilities in the neighborhood where the fees are used.

4. The fees shall be used within the geographic boundaries of the City, so long as a reasonable relationship can be demonstrated between the location of the use of the fees and the subdivision for which the fees were paid.

5. The fees shall be used in a manner consistent with the Open Space and Conservation Element of the City's General Plan and any policy, standard, principle or guideline adopted in accordance therewith.

9.55.060 Formulas for Calculating Amount of Parkland Dedication and/or Quimby Fees

A. Formula for calculating the **"Dedication of Land"**: Where the requirements of this Chapter are complied with solely on the basis of providing parkland, the minimum amount of land measured in acres to be provided shall be based on:

Number of Dwelling Units	**X**	Average Number of Persons Per Dwelling Unit	**X**	.005 (5 Acres Per 1,000 Residents)	=	Number of Acres to be Dedicated

Whenever land is dedicated pursuant to this Chapter, the subdivider shall provide the public improvements, as set forth in Section 9.55.070 of this Chapter.

B. Formula for calculating the fee amount "**Quimby Fees**": Where the requirements of this Chapter are solely complied with on the basis of the payment of in-lieu fees, such fees shall be calculated, on a per residential unit basis, as follows:

Number of Dwelling Units	**X**	Average Number of Persons Per Dwelling Unit	**X**	.005 (5 Acres Per 1,000 Residents)	**X**	Land Acquisition Cost Per Acre	=	Total Quimby Fee

The amount of the Quimby Fees per Dwelling Unit may be adopted by Resolution of the City Council. The Council may adopt and/or revise the fee amount as often as on an annual basis.

C. Formula for calculating a **combination of Dedicated Land and Quimby Fees**: Where the requirements of this Chapter are complied with by both the provision of parkland and payment of Quimby Fees, the amount of the Quimby Fees shall be computed by determining the required amount of parkland in accordance with the provisions of subsection (A) and subtracting the amount of parkland actually provided. The remainder shall be converted to a fee in accordance with the provisions of subsection (B).

9.55.070 Public Improvements on Dedicated Parkland

The subdivider shall provide utility and full street improvements consistent with the Circulation Element of the adopted General Plan, including but not limited to curbs, gutters, sidewalks, street paving, sewer, water and drainage improvements. The full cost of such improvements shall be borne by the subdivider and shall not be deducted from or credited against any fees or other amounts due the City under this Chapter or otherwise. The land to be dedicated and improvements to be made pursuant to this Chapter shall be approved by the City.

9.55.080 Criteria for Requiring Combination of Parkland Dedication and Quimby Fees

For subdivisions exceeding fifty (50) parcels, the subdivider shall both dedicate land and pay Quimby Fees on the following basis:

A. *General Plan requirements.* When only a portion of the subdivision is proposed for a future park site(s) in conformance with this Chapter, such portion shall be dedicated to the City for park and recreational purposes pursuant to the dedication standards set forth in Section 9.55.040, and any remaining parkland dedication requirements shall be satisfied through Quimby Fees computed pursuant to Section 9.55.060(C).

B. *Remainder dedications.* When a major portion of a park or recreational site/facility serving the proposed subdivision has already been acquired by the City, and only a portion of additional land is needed from the subdivision to complete the site/facility, such remaining portion shall be dedicated to the City pursuant to the standards set forth in Section 9.55.040, and any remaining parkland dedication requirements shall be satisfied through Quimby Fees computed pursuant to Section 9.55.060(C). Such fees may be used for either the improvement of the existing park and recreational site/facility or for the improvement of other park and recreational sites/facilities serving the subdivision at the sole discretion of the City.

9.55.090 Determination as to Requirement for Fee or Dedication

A. Whether the City accepts land dedication or elects to require payment of Quimby Fees, or a combination of both, shall be determined by consideration of the following:

1. *Reasonable Relationship.* That the amount and location of land to be dedicated or the fees to be paid shall bear a reasonable relationship to the

use of the park and recreational facilities by the future inhabitants of the subdivision.

2. *Compatibility.* Compatibility of dedication with the Open Space and Conservation Element of the City's General Plan and any policy, standard, principle or guideline adopted in accordance therewith.

3. *Physical characteristics.* Topography, geology, access and location of land in the development available for dedication.

4. *General suitability.* Suitability for patrol, supervision and maintenance.

5. *Geographic dimensions.* Size and shape of the development and land available for dedication.

6. *Feasibility.* The feasibility of dedication.

7. *Alternative and additional parkland in the vicinity.* Availability of previously acquired park property.

B. The determination of the Planning Commission upon the recommendation of the Parks, Recreation and Trails Commission, as to whether land shall be dedicated or whether Quimby Fees shall be paid, or a combination of both, shall be final and conclusive, unless timely appealed to the City Council pursuant to Section 2.20.150 "Appeal Procedures" of the Menifee Municipal Code.

9.55.100 Procedure for Making Payment or Dedication

A. Application by Subdivider.

At the time of filing a tentative map or parcel map application, the subdivider shall, as part of such filing, state in writing whether it desires to dedicate property for park and recreational purposes, or to pay Quimby Fees, or a combination of both. If the subdivider desires to dedicate land for this purpose, the area shall be designated on the tentative tract map or parcel map as submitted.

B. Action of City.

At the time of the tentative tract map or parcel map approval and in accordance with the criteria set forth in this Chapter, the Quimby Act, the California Subdivision Map Act, the Open Space and Conservation Element of the City's General Plan and any policy, standard, principle or guideline adopted in accordance therewith, the City shall determine as part of such approval, whether to require a dedication of the land within the subdivision, payment of Quimby Fees, or a combination of both. The conditions of approval of any

applicable tentative map or a parcel map shall require the dedication of land, the payment of Quimby Fees, or a combination of both for park and recreational purposes to serve the future inhabitants of the subdivision. If the land is to be dedicated, the proposed dedication shall be shown on the approved tentative map or parcel map.

C. Payment of In-Lieu Fees.

Prior to the issuance of a building permit, the City Manager or his/her designee shall determine the amount of land to be dedicated and/or Quimby Fees to be paid by the subdivider. Any fee required under this Chapter shall be paid directly to the City prior to the issuance of the first certificate of occupancy of any dwelling unit in the subdivision. The fees shall be placed in a specially designated fund and are used only for the acquisition and development of new, or improvement and/or rehabilitation of existing, park and recreational facilities. Any fees collected under this Chapter shall be committed within five years after the payment of such fees or the issuance of building permits on one half of the lots created by the subdivision, whichever occurs later. If such fees are not committed, they shall be distributed and paid to the then record owners of the subdivision in the same proportion that the size of their lot bears to the total area of all lots within the subdivision.

D. Dedication of Parkland.

A dedication of parkland shall be made prior to the recordation of any applicable tentative map or parcel map. Where dedication is offered and accepted, such dedication shall be accomplished in accordance with the provisions of the Subdivision Map Act. All land dedicated to the City shall be conveyed in fee simple to the City free and clear of all encumbrances except those which will not interfere with the use of the property for its intended purposes and which the City agrees to accept.

9.55.110 Procedure for Merchant Builders

A. When a proposed subdivision is a part of a major land development project, and the owner of such land proposes to permit development by one or more merchant builders, provisions for park and recreational facilities shall be made by the major landowner through the adoption of a comprehensive plan and not by the individual merchant builders. Where park and recreation facilities have been dedicated by requirements of the City in excess of this Chapter's requirements, the major landowner may, at the discretion of the City, be given one hundred percent (100%) credit for the excess on subsequent projects within the adopted comprehensive plan.

B. For the purpose of this Chapter, a major land development project shall be a land development project exceeding forty (40) acres in size.

C. Where development is proposed for construction in increments, a schedule for providing the park and recreation facilities shall be submitted for consideration by

the City. All park facilities shall be developed consistent with any schedule approved by the City.

9.55.115 Procedure for Credit of Excess Park Dedication

A. Where park and recreation facilities have been dedicated by requirements of the City in excess of this Chapter's requirements, the subdivider may, at the discretion of the City, be given up to one hundred percent (100%) credit for the excess on subsequent projects within the approved nexus radius to the project site. Whether "banked" park credit may be used for subsequent projects is subject to the following criteria as determined by the City Manager for the City of Menifee or his/her designee, at the recommendation of the Parks, Recreation & Trails Commission:

1. "Banked" park credit may be applied to development projects within a two (2) mile radius of the center of the originating project site. Exceptions to the two (2) mile radius requirement may be made if an applicant demonstrates the originating project's park dedication (*i.e.,* the park dedication for which credits were "banked") will provide a larger regional benefit that exceeds the needs of the originating project's residents. To be eligible for this exception, an applicant must also demonstrate that the originating project's park dedication will provide a benefit to the residents of the project for which the "banked" park credits will be applied.

2. "Banked" park credits shall expire at the same time as the subdivision map for originating project for which the credits were "banked."

3. "Banked" park credit may only be transferred upon proof on conveyance by written agreement in a form acceptable to the City Attorney or his/her designee.

4. "Banked" park credit may not be exchanged for a cash refund from the City.

9.55.120 Time for Constructing Improvements and Amenities

A. A subdivider and the City may enter a Park Development Agreement that provides a schedule for the initiation, planning, design, construction, installation, completion and, where appropriate, dedication of any park and recreational improvements and/or amenities required by this Chapter. A Park Development Agreement shall:

1. Clearly state the intent of the Agreement is to establish a means to assure that park and recreational improvements and/or amenities are provided to the residents of the subdivision as required by this Chapter;

2. Specify the timing of the development of these improvements and/or amenities in relation to the development of residential dwelling units;

3. Provide sufficient surety to guarantee that the improvements and/or amenities are completed and ready for public use within the timeframes specified in the Agreement; and

4. Provide that failure to comply with any deadline for the development of the improvements and/or amenities shall halt the issuance of building permits and suspension of all building inspections for residential dwelling units within the subdivision.

B. In the absence of a Park Development Agreement, all park and recreational improvements and/or amenities required by this Chapter shall be constructed, installed, completed and ready for public use prior to the earlier of

1. The issuance of the first certificate of occupancy for any residential dwelling unit within the subdivision; or

2. The final building inspections for any residential dwelling unit within the subdivision.

9.55.130 Developments Annexed to the City

Where a proposed development lies within an area not currently within the City's corporate boundaries but intended to be annexed into the City by the subdivider, the subdivider shall dedicate land, pay Quimby Fees, or a combination of both, in accordance with the City's General Plan and in accordance with the provisions of this Chapter, and the General Plan shall be amended within 180 days following approval of the annexation.

9.55.140 Exception for Commercial and Industrial Developments

The provisions of this article shall not apply to any industrial or commercial development.