



Covenant For Issuance of Early Model Home Building Permits

Development & Resource Management Department
Development Services Division
2600 Fresno Street, 3rd Floor, Rm 3076
Call (559) 621-8277 for an appointment or visit www.fresno.gov for information

Policy and Procedure No.

R-001

Date: Sept. 13, 2010

Target Audience: Residential Developers, Construction Industry, Professional Engineers, Development and Resource Management Department Staff

Purpose: To establish a clear and consistent process for initiating, processing and executing a covenant for the issuance of an early model home building permit for constructing a residential structure for display and sales activities associated with marketing home builders' products, prior to City Council approval and recordation of a Final or Parcel Map.

Policy: This policy sets forth the maximum allowable number of residential structures (model homes), which can be approved and permitted by Building & Safety Services Section. The maximum number of permitted model homes shall not exceed 10% of the total buildable lots of the subdivision map¹ excluding outlots. For example, an approved one-hundred lot single family residential subdivision may be allowed a maximum of ten model home building permits.

Additionally, the model homes must be clustered and/or located on abutting lots within the subdivision development.

If a developer chooses to phase the construction of the development, the number of early model home building permits shall not exceed 10% of the total buildable lots of that particular phase, excluding outlots. The approved number of model homes to be permitted must be clustered and/or located on abutting lots within the proposed subdivision map. All phased development is subject compliance with the requirements set forth in this policy, the ensuing "Covenant for Issuance of Early Model Home Building Permits", and the California Building Code at the time of construction permitting.

The basis for this policy is found in Government Code Sections 66499.30(a) & (b), which prohibits the sale, lease or financing of parcel(s) or commencement of the construction of any building for sale, lease or financing thereon except for model homes, or to allow occupancy thereof for which a Final Map or Parcel Map is required. The issuance early model home building permits is authorized pursuant to and upon recordation of an "Covenant for Issuance of Early Issuance of Model Home Building Permits".

The "Covenant for Issuance of Early Model Home Building Permits" is an instrument developed to allow for the construction of a residential structure for display and sales activities associated with marketing home builders' product, prior to approval and recordation of the Final Map or Parcel Map. The amount of \$1,000 per model home is set by the Director and required to be provided as a security deposit to guarantee the removal of a model home.

Definitions:

MODEL HOME: a residential structure constructed for display and sales activities associated with marketing home builders' products, pursuant to Fresno Municipal Code Sections 12-105-M-8 and 12-306-N33. Model homes which are not situated on legally created lots of record are not available for sale, lease, financing or occupancy.

EARLY MODEL HOME BUILDING PERMIT: an early model home building permit authorizes the construction of a Model Home on a parcel of land which is pending approval and recording of a Final Map

¹ Subdivision map' refers to the Final Map or Parcel Map and not the Tentative Map.

or Parcel Map. Such building permit is issued pursuant to the approved building plan on file with the Building & Safety Services Division and Development Services Division, Development & Resource Management Department and the California Building Code in effect at the time of permitting. The issuance of an early model home building permit is subject to all of the provisions of the recorded Covenant for Early Issuance of Model Home Building Permits (hereinafter called "Covenant") and the Early Issuance of Model Home Building Permits for the specified subdivision map.

COVENANT FOR EARLY ISSUANCE OF MODEL HOME BUILDING PERMITS: an instrument which identifies the specific number of model homes approved to be constructed, the specific model home lots and official addresses, the applicable fees, the security deposit amount and required insurance certificates; and when recorded, authorizes the issuance of early model home building permits for the specified subdivision map.

Procedures:

1. Developer shall submit a letter to the Land Division & Engineering, Development and Resource Management Department (DARM) requesting the issuance of early model home building "Covenant". This letter must clearly identify the lot(s) by lot number, APN, and/or street address of the lot to be constructed. If necessary, Staff will notify the Developer that the model homes must be clustered or situated on abutting lots and/or clusters of abutting lots. The Developer is also advised that an Covenant for the Issuance of Model Home Building Permits must be recorded before building permits can be issued.
2. Land Division & Engineering staff will determine the maximum number of model home building permits which can be approved in accordance with this policy. If there is an existing early model home building permit covenant for the subdivision, staff will then determine the maximum number of model home building permits which could be approved for permitting.
3. Land Division & Engineering staff will compute the structure removal security deposit amount, determine and compute applicable fees, and initiate preparation of the "Covenant".
4. If an official address has not been assigned to the subdivision, Land Division & Engineering staff will request that Development Services staff assign official addresses to the subdivision. The input of addressing through GIS is coordinated through Development Service, Land Division & Engineering and ISD. The official addresses are essential inputs to tie together the associated building permits and applicable fees in HTE.
5. Developer is notified of the following requirements to facilitate the preparation of the "Covenant" package, which would include payment of the preparation fee (\$640); copy of the grant deed for the property on which the proposed model home lots will be situated; preliminary title report; names & title of signing officers; signing authorizations for such officers; a list of the proposed model home lot numbers, and a legal description of the subject properties in a WORD format.
 - a. If all required documents as described above are complete and accurate, the "Covenant" will be prepared and provided to the Developer in 10 working days.
6. Land Division & Engineering staff routes the prepared "Covenant" to the Developer with instructions for signing officers, notaries and subordinations, submittal of the security deposit in the form of Certificate of Deposit (CD) in compliance with the Finance Department CD policy, payment for applicable fees and submittal of the required insurance certificates.
7. Upon receipt of the Developer's executed "Covenant", staff confirms completeness and accuracy of submittal, including required fees, security deposit, signing documentation and insurance certificates.

8. *Staff routes the various documents to the appropriate Department for review and approval.*
 - a. *The insurance certificate is routed to the Senior HR/Risk Analyst, Human Resources Department, for review and approval. If the certificate is found to be unacceptable, the certificate is returned to Land Division & Engineering with correction instructions. The Land Division & Engineering is responsible for transmitting this information to the Developer. Timely approval is based upon the Developer's resubmittal of corrected documents.*
 - b. *The security deposit, if by Certificate of Deposit (CD) is routed to the Finance Department for review and approval, to determine compliance with the Finance Department CD policy. If the CD is found to be unacceptable, the CD is returned to the Land Division & Engineering with correction instructions. The Land Division & Engineering is responsible for transmitting this information to the Developer. Any deviation from the CD policy must be as approved by the Assistant Controller or Treasury Officer, Finance Department. Timely approval is based upon the Developer's resubmittal of corrected documents.*
 - c. *Cash payment of applicable fees and security deposit are submitted to and processed through cashiering.*
 - d. *The "Covenant" package is routed to the City Attorney for approval as to form. Land Division & Engineering staff does provide the status of the required fee payments and security deposits. The City Attorney's office policy for the review of documents requires a minimum 7-10 day review period. If not approved, Staff coordinates corrections with the Developer until City Attorney approves to form.*
9. *Upon approval of the "Covenant" by the various Departments, Land Division & Engineering staff routes the "Covenant" to the Director, Development and Resource Management Department for signature. Once all parties have signed the "Covenant", Land Division & Engineering staff hand carries the "Covenant" to the City Clerk for certification of the signing city official.*
10. *The conformed copy is scanned to GIS on Helium (h:/images/subdivdocs/**the specific subdivision map folder**) by Land Division & Engineering staff. The conformed copy and insurance certificates are routed to the Records Section for filing in the job address file for Lot 1 of the subdivision; and the CD (if applicable) is routed to the finance Department using the Finance Department's security transmittal form.*
11. *Land Division & Engineering staff delivers the fully executed "Covenant" (original and conformed copy) to the County Recorder for recording. The recording of this document is subject to payment of County of Fresno recording fees; additional fees may be charged if the document includes subordination(s).*
12. *Staff notifies the Developer by email (copy to Building & Safety Services Section) that the "Covenant" has been recorded and attaches the scanned conformed copy of the "Covenant".*

Review and Responsibility:

Land Division & Engineering Section staff is responsible for review, preparation, coordination and recordation of "Covenant for Issuance of Early Model Home Building Permits."

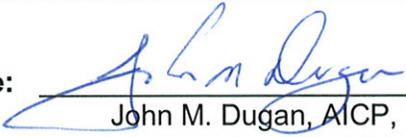
A release of Covenant for Early Issuance of Model Home Building Permits is not required. During the subdivision map review process, the Developer's engineer/title company is directed not to list the recorded covenant as an encumbrance of the subdivision map on the basis that the terms of the covenant provide that the is no longer in force or effect upon the approval and recording of the subdivision map.

The Developer is responsible to request the release of the security deposit upon recordation of a Final or Parcel Map. The release of the security deposit(s) are subject to processing fees published in the Master Fee Schedule.

Land Division & Engineering Section staff is responsible for periodic review and modification of this policy.

Forms (attached): *Include any forms needed, web-linked*

See city of Fresno Web site, Sample Form is posted on the web.

Signature:  _____
John M. Dugan, AICP, Director

Dated: 10/4/10