

Part IV: Land Divisions

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Article 31 General Provisions

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15-3101 Introductory Provisions

- A. **Citation and Authority.** Chapter 15, Part IV of the Fresno Municipal Code shall be known and cited as the Subdivision Ordinance of the City. Authority for this Part is found in Title 7, Division 2 of the California Government Code, which is referred to as the Subdivision Map Act (Map Act; Sections 66410 *et. seq.* of the California Government Code).
- B. **Purpose.** The purpose of this Subdivision Ordinance is to regulate the division of land within the city. These provisions implement and supplement the requirements of the Map Act concerning the design and improvement of subdivisions and regulating other divisions of land within the city including the form and content of all maps and the procedure to be followed in securing official approval. This Ordinance is intended to protect and preserve public health,

safety, and general welfare and promote orderly growth and development. The provisions of this Subdivision Ordinance are more specifically intended to:

1. Ensure that the design and improvement of subdivisions is consistent with and promotes the goals and policies of the General Plan and applicable operative plans;
2. Provide for adequate access and circulation across all modes of transportation;
3. Ensure the availability of adequate public facilities;
4. Provide options for the future development of adjacent properties; and
5. Protect and enhance property values.

15-3102 Applicability

- A. **Applicability.** This Subdivision Ordinance shall apply to all, or parts of subdivisions or Parcel Modifications within the city.
- B. **Subdivision Approval Required.** The regulations set forth in this Subdivision Ordinance apply to all parts of subdivisions within the city and to the preparation of subdivision maps and to other maps provided for by the Map Act. Each subdivision and each part thereof lying within the city shall be made and each map shall be prepared and presented for approval as provided for and required by this Subdivision Ordinance.
- C. **Compliance with Other Regulations.**
 1. Per the Map Act (Section 66473.5), a map may only be approved if the proposal complies with the General Plan and operative plan, if applicable.
 2. The approval or conditional approval of a subdivision map, Lot Line Adjustment, or Parcel Merger shall not authorize an exception or deviation from any zoning regulation or operative plan, or as an approval to proceed with any development in violation of other applicable provisions.
- D. **References to the Map Act.** Where the Subdivision Ordinance references applicable provisions of the Map Act, the reference shall be interpreted to be to the applicable Map Act provisions as they may be amended from time to time.
- E. **Map Act Reference Numbers.** Map Act section numbers provided in references to the Map Act are for the convenience of readers. Numbers may be superseded by more recent Map Act amendments.
- F. **Conflicts with the Map Act.** In the event of any conflicts between the provisions of this Subdivision Ordinance and the Map Act, the Map Act shall govern.
- G. **Definitions.** Refer to Section 15-6802 and the Map Act. In the event of any conflicts between the definitions of this Subdivision Ordinance and the Map Act, the Map Act shall govern.
- H. **Pre-Annexation Filing of a Subdivision.** In accordance with the Map Act (Section 66454), an application for a proposed subdivision of unincorporated territory adjacent to the city within the Sphere of Influence may be filed with the City pursuant to the Memorandum of Understanding between the City and County. The map, in the discretion of the City, may be acted upon as outlined in the Map Act (Section 66452), except that if it is approved, such approval shall be conditioned upon annexation of the property to the city.

I. Determining the Legality of Parcels.

1. *Parcels Created Before January 1, 1968.*

- a. *Incorporated.* Parcels created before January 1, 1968 shall be deemed to be legally created if the parcel was created in compliance with the City's Parcel Map Ordinance in effect at that time.
- b. *Unincorporated.* Refer to the Map Act (Section 66412.6).

2. *Parcels Created Before March 4, 1972.* Parcels shall be deemed to be legally created if the parcel was created in compliance with the City of Fresno's Parcel Map Ordinance in effect at that time.

3. *Parcels Created After March 4, 1972.* Parcels created after March 4, 1972 shall be deemed to have been legally created if the parcel was created in compliance with the Subdivision Map Act.

4. *Substandard Parcels.*

- a. Substandard parcels that were created after 1956 and for which a City permit was issued and created in conformance with the Subdivision Ordinance in effect at that time is considered to be a legal parcel.
- b. Substandard parcels shall not be deemed legal parcels unless evidence can be provided to the City that they were created pursuant to City-issued permits, approvals, and/or the Map Act.
- c. Substandard parcels which are deemed to be illegal parcels shall submit a Conditional Certificate of Compliance to be reviewed and approved by the Development Services Division.

J. **Grading and Erosion Control.** Every map approved pursuant to this Ordinance shall be conditioned on compliance with the requirements for grading and erosion control, including the prevention of sedimentation or damage to off-site property, set forth in the Fresno Municipal Code.

K. **Fees.** All persons submitting maps and other documents required by the Subdivision Ordinance shall pay all required fees at the time of application and/or when environmental documentation is filed, whichever occurs first. Fees shall be established by the City pursuant to the Map Act (Section 66451.2) and the Mitigation Fee Act (Sections 66000 to 66025 of the Government Code).

15-3103 Interpretation

None of the provisions in the Subdivision Ordinance or in any other ordinance or resolution of the City, or in any rule or regulation promulgated pursuant thereto, whether pre-existing, existing, or in the future, are intended to create or to be construed to create an imposition of civil liability on the City, its Council, commissioners, officers, or employees while acting in accordance with such provisions.

15-3104 Severability

The sections, paragraphs, sentences, clauses and phrases of the Subdivision Ordinance are severable. If any phrase, clause, sentence, paragraph, or section of the Subdivision Ordinance is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such

unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of the Subdivision Ordinance.

15-3105 Administration and Common Procedures

- A. **Responsibility for Administration.** The Director and City Engineer are authorized and directed to administer and enforce the provisions of this Subdivision Ordinance and applicable provisions of the Map Act for subdivisions within the city.
- B. **Powers and Responsibilities.**
1. **Council.** The Council shall:
 - a. Act as the final appeal board for hearing appeals of the approval, conditional approval, or denial of maps for all land divisions and adjustments;
 - b. Consider all dedications in the event that the City Engineer does not take action;
 - c. Take action on Final Maps pursuant to the Map Act (Section 66458);
 - d. Consider actions on Appeal. The Council shall take action on items brought before the Council on appeal of the Commission decision, which may include, Tentative Maps, Vesting Tentative Maps, Parcel Maps, Lot Line Adjustments, and Voluntary Parcel Mergers. For actions on appeal, the Council may approve, conditionally approve, or deny the above submissions, subject to the requirements of the Map Act; and
 - e. Accept dedications and improvements for subdivisions and offsite dedications lying outside a subdivision boundary that require a separate grant deed.
 2. **Planning Commission.** The Planning Commission shall:
 - a. Approve, conditionally approve, or deny Tentative Maps and impose requirements or conditions thereon per the Map Act (Section 66474.7); and
 - b. Where provided by this Code, the Commission shall serve as the appeal body for decisions of the Director and City Engineer.
 3. **Director.** The Development and Resource Management Department Director (the "Director") shall:
 - a. Determine if application is complete and provide notification to applicant;
 - b. Approve, conditionally approve, or deny Parcel Maps;
 - c. Report the findings together with any recommendations for approval, or conditional approval, to the Commission for Tentative Maps;
 - d. In consultation with the City Engineer, determine if proposed subdivision improvements comply with the provisions of this Subdivision Ordinance and the Map Act; and
 - e. In consultation with the City Engineer, determine if Final Maps are in substantial conformance with approved Tentative Maps.

4. **City Engineer.** The City Engineer shall:
 - a. Establish design and construction details, standards, and specifications;
 - b. Approve, conditionally approve, or deny Lot Line Adjustments and Voluntary Parcel Mergers;
 - c. Determine that all public facilities and improvements required of land divisions are adequate are provided per City standards;
 - d. Process Final Maps, reversion to acreage maps; the processing and approval of subdivision improvement plans, and certificates of compliance;
 - e. Examine and conclude that Final Maps are in substantial conformance with the approved Tentative Map;
 - f. Inspect and approve of subdivision improvements; and
 - g. Record a notice of completion of private subdivision improvements when not to be maintained by the City.

5. **Subdivision Review Committee (SRC).**
 - a. **SRC Members.** The Subdivision Review Committee (SRC) shall be comprised of public service providers, City staff, and others the Director determines should comment on proposed maps.
 - b. **SRC Review.**
 - i. The SRC shall review all Tentative Maps, while the Director at his/her discretion, may also refer Tentative Parcel Maps to the SRC.
 - ii. The SRC shall review maps for:
 - (1) Compliance and consistency with applicable provisions of this Development Code, the Municipal Code, the General Plan, operative plan (if applicable), utility plan, the City's standard specifications and plans, and the Map Act;
 - (2) Conditions necessary for the map to comply with the above requirements; and
 - (3) Basis for determining that the map complies with the required findings in Section 15-3310, Required Findings for Tentative Parcel Maps and Tentative Maps.
 - c. **SRC Role.** The SRC shall provide pre-application consultation in accordance with Section 15-3304 of this Code and advise the Director and City Engineer.

6. **Planning Division.** The Planning Division shall:
 - a. Collects fees related to the processing of Tentative Maps and Tentative Parcel Maps;
 - b. Process Tentative Maps and Tentative Parcel Maps; and
 - c. Investigate proposed subdivisions for conformity to the General Plan, Specific and operative plans, and the Zoning Ordinance, and reporting findings together with recommendations for approval, conditional approval, or denial of Tentative Maps.

7. **Public Works Department:** The Public Works Department shall:
 - a. Be responsible for the processing of Final Maps; and
 - b. Process Lot Line Adjustments and Mergers.

15-3106 Review Authorities for Subdivision Decisions

Pursuant to the Map Act (Sections 66415, 66452.1, & 66458) Table 15-3106 identifies the City official or authority responsible for reviewing and making decisions on each type of subdivision application and other decision required by this Subdivision Ordinance. Any reference to a City official or authority shall include their authorized representative(s).

TABLE 15-3106: REVIEW AUTHORITIES FOR SUBDIVISION DECISIONS						
<i>Type of Subdivision Application</i>	<i>Role of Review Authority</i>					<i>Reference</i>
	<i>Director</i>	<i>City Engineer</i>	<i>Subdivision Review Committee</i>	<i>Commission</i>	<i>Council</i>	
Parcel Maps (four or fewer parcels)¹						
Parcel Map Waivers	Recommend	Decision		Appeal	Appeal	Article 35
Tentative Parcel Maps	Decision	Recommend	Advise	Appeal	Appeal	Article 33
Parcel Maps	Recommend	Decision		Appeal	Appeal	Article 35
Tentative Parcel Map Time Extensions	Decision			Appeal		Article 33
Tentative Maps (more than four parcels)¹						
Tentative Maps	Recommend		Advise	Decision	Appeal	Article 33
Final Maps	Advise	Recommend			Action	Article 36
Tentative Map Time Extensions	Recommend		Advise	Decision	Appeal	Article 33
Adjustments/Mergers/Reversions/Condominium Conversions						
Lot Line Adjustment	Recommend	Decision			Appeal	Article 42
Voluntary Parcel Merger	Recommend	Decision			Appeal	Article 42
Reversion to Acreage	Recommend	Decision			Appeal	Article 42
Condo Conversion				Recommend	Decision	Article 39
¹ Refer to the Map Act for the various map categories (Section 66426)						

Article 32 Required Maps

Sections:

- 15-3201 Purpose
- 15-3202 Required Maps
- 15-3203 Exceptions from Subdivision Approval Requirements

15-3201 Purpose

The provisions of this article shall determine the need for Tentative or Vesting Tentative Maps, Final Maps, Tentative Parcel, and Parcel Maps.

15-3202 Required Maps

Any subdivision of land shall require the filing and approval of either a Tentative Map and Final Map or Tentative Parcel Map and Parcel Map, except as provided by the Map Act (Section 66426) and/or Section 15-3203, Exemptions from Subdivision Approval Requirements.

- A. **Tentative Parcel Map and Parcel Maps (Four or Fewer Parcels).** Tentative Parcel and Parcel Maps shall be required for the following:
1. Parcel Maps, as authorized by the Map Act (Section 66248; four or fewer parcels).
 2. Divisions of land into five or more parcels that meet any of the following criteria and are consistent with the Map Act (Section 66426):
 - a. The land before division contains less than five acres, each parcel created by the division abuts upon a maintained public street or highway, and no dedications or improvements are required.
 - b. Each parcel created by the division has a gross area of 20 acres or more and has an approved access to a public street or highway.
 - c. The land consists of a parcel or parcels of land having approved access to a public street or highway, which comprises part of a tract of land zoned for industrial or commercial development, and which has the approval of the City as to street alignments and widths.
 - d. Each parcel created by the division has a gross area of not less than 40 acres or is not less than one quarter of a quarter section.
 - e. The land being subdivided is solely for the creation of an environmental subdivision pursuant to Map Act (Section 66418.2).
 3. **Exceptions.** Pursuant to the Map Act (Sections 66411, 66412, 66412.1, 66412.2, and 66426.5) a subdivision map shall not be required for:
 - a. *Public/Government Agency or Utility Conveyances.* Any conveyance of land, including a fee interest, an easement, or a license, to or from a governmental agency, public entity, public utility, or a subsidiary of a public utility for rights-of-way, unless the Director determines, based on substantial evidence, that public policy necessitates a Parcel Map in an individual case;

- b. *Rail Right-of-Way Leases.* Subdivisions of a portion of the operating right-of-way of a railroad corporation as defined by California Public Utilities Code Section 230, which are created by short-term leases (terminable by either party on not more than 30 days' notice in writing); or
- c. *Waived Parcel Map.* A subdivision that has been granted a waiver of Parcel Map requirements in compliance with Section 15-3503, Waiver of Parcel Map.

B. **Tentative Maps and Final Maps (Five or More Parcels).** Tentative Maps and Final Maps shall be required for subdivisions of five or more parcels that do not meet the criteria for Tentative Parcel Maps and Parcel Maps listed in Subsection A above.

15-3203 Exceptions from Subdivision Approval Requirements

The requirements for a Tentative Map, Parcel Map, or Final Maps shall not apply to the exclusions enumerated in the Map Act (Sections 66412, 66412.1, 66412.2, 66412.5 and 66426.5).

Article 33 Tentative Parcel and Tentative Map Filing and Processing

Sections:

- 15-3301 Purpose
- 15-3302 Form and Contents
- 15-3303 Concurrent Processing of Related Applications
- 15-3304 Pre-Application Consultation
- 15-3305 Application Filing and Completeness Review
- 15-3306 Applicable Standards
- 15-3307 Referrals and Review
- 15-3308 Decision
- 15-3309 Required Findings
- 15-3310 Grounds for Denial
- 15-3311 Conditions of Approval
- 15-3312 Automatic Approval if No Action
- 15-3313 Applicant Notification
- 15-3314 Appeals
- 15-3315 Effective Date of Approval
- 15-3316 Time Limits and Expiration of Approved Maps
- 15-3317 Termination
- 15-3318 Compliance with Conditions, Improvement Plans
- 15-3319 Parcel or Final Map Preparation, Filing and Recordation
- 15-3320 Approved Map to Run with the Land

15-3301 15-3321 Subsequent Tentative Maps Purpose

This article establishes the application requirements, submittals, review, and required findings for approval and disapproval of Tentative Parcel Maps and Tentative Maps, consistent with the requirements of the Map Act.

15-3302 Form and Contents

- A. **Application Requirements.** Tentative Parcel Map and Tentative Map application submittals shall include:
1. Application forms as required by the City.
 2. Maps shall be prepared in compliance with all applicable City standards and specifications and the Map Act.
 3. Maps shall be clearly and legibly drawn, printed, or reproduced and shall contain the information specified by the City Engineer and Director and shall be prepared pursuant to the Map Act (Sections 66434 *et. seq.* and 66444 *et. seq.*).
 4. If the subdivider plans to develop the site in phases such that multiple Final Maps will be filed following the approval of a single Tentative Map in compliance with the Map Act (Section 66456.1).

- B. **Accompanying Data and Reports.** Applications for Tentative Maps and Tentative Parcel Maps shall be accompanied by the following data or reports:
1. **Title Report.** A preliminary title report, showing the legal owners at the time of filing the Tentative Map.
 2. **Environmental Assessment.** The subdivider shall provide data and information as may be required for the preparation and processing of environmental documents pursuant to the California Environmental Quality Act.
 3. **Soils Report.** The City Engineer may require the preparation of a preliminary soils report. If a preliminary soils report indicates the presence of critically expansive soils or other soil problems which, if not corrected, could lead to structural defects, the soils report accompanying the final map shall contain an investigation of each lot within the subdivision. The City Engineer may require additional information or reject the report if it is found to be incomplete, inaccurate, or unsatisfactory. The preliminary soils report may be waived if the City Engineer determines that, due to knowledge of the soil qualities in the subdivision, no preliminary analysis is necessary.
 4. **Geotechnical Report.** For subdivisions within the Alquist-Priolo Fault Zone or other area with geologic or seismic hazards per State Hazard Mapping Act or the General Plan, a preliminary geotechnical report that evaluates seismic hazards and recommends appropriate mitigation measures, prepared in compliance with the requirements of the State Seismic Hazard Mapping Act, shall be submitted with the Tentative Map. The report shall identify mitigation measures that will be incorporated in design of the subdivision to mitigate hazards from liquefaction and other seismic hazards. If this preliminary report identifies hazards, an engineering report on each lot in subdivision must be submitted with Final Map.
 5. **Other Reports.** Any other data or reports deemed necessary by the City (refer to Section 15-3305, Application Filing and Completeness Review).

15-3303 Concurrent Processing of Related Applications

- A. **Related Applications.** Other applications required by this Code that are related to a Tentative Map and/or Tentative Parcel Map may be submitted prior to or concurrently with the Tentative Map and Tentative Parcel Map application(s) and shall contain clear, legible, and accurate information. Each application shall accurately reference other applications.
- B. **Approval of Related Application(s).**
1. Concurrent processing of other applications required by this Code that are related to a Tentative Map and/or Tentative Parcel Map application(s) shall occur in accordance with the provisions and requirements included within Section 15-5018 of this Code.
- C. **Time Limit Waiver/Extensions by Mutual Consent.** Time limits may be extended or waived by mutual consent of the City and the applicant for the processing of a Tentative Map and/or Tentative Parcel Map for the purpose of permitting concurrent processing of related entitlement applications or an environmental review of the same project per the Map Act (Section 66451.1).

15-3304 Pre-Application Consultation

Prior to filing an application for a Tentative Map and/or Tentative Parcel Map, the prospective subdivider shall meet with Planning staff and the Subdivision Review Committee, to review the proposed subdivision design, including a discussion of the location of open space, connectivity to surrounding streets and/or property, trails, safe routes to school, bus stops, dedication requirements, applicable processing procedures, etc.

15-3305 Application Filing and Completeness Review

- A. **Filing.** The Director shall maintain application forms and lists that specify the information that will be required from applicants for maps.
- B. **Initial Application Review.**
 - 1. The Director shall review and evaluate each Tentative Map or Tentative Parcel Map as to its compliance and consistency with applicable provisions of this Development Code, the General Plan, any operative plan or master utility plan, and the Map Act; and
 - 2. The Director may determine the extent to which the proposed subdivision complies with the findings identified in Section 15-3309, Required Findings.
- C. **Complete and Accepted for Processing.** Staff shall provide written notification to the applicant whether the application is complete and accepted for processing within 30 days of receipt of a filed application. In the course of processing the application, the City may require the applicant to clarify, amplify, correct, or otherwise supplement the information required for the application.
- D. **Incomplete.** Staff shall notify the applicant that the application is incomplete and has not been accepted for processing and shall notify the applicant of the manner in which the application may be made complete. If the applicant fails to provide requested information within 30 days of notification, the application shall be deemed incomplete, processing shall be suspended, and application shall be returned to applicant less fees to cover initial review.

15-3306 Applicable Standards

The approval, conditional approval, or denial of a Tentative Map and/or Tentative Parcel Map shall be based on the ordinances, policies, and standards in effect on the date of notification to the developer of the determination that the application is complete according to Section 15-3305, Application Filing and Completeness Review. If the City has initiated formal proceedings and published notice of an ordinance or resolution amending ordinances, policies, and standards applicable to the developer's project prior to acceptance of a complete application, the amended ordinances, policies, and standards in effect on the date of tentative map approval shall apply. If the developer requests changes in applicable ordinances, policies, and standards, and they are adopted, the changes shall apply.

15-3307 Referrals and Review

- A. **Referrals.** A Tentative Parcel Map or Tentative Map application shall be referred to the agencies outlined in this subsection as required by the Map Act (Section 66453), as well as any other City department, County, State, or federal agency, or other individual or group that the Director believes may be affected by the subdivision or may have information useful to the City about issues raised by the proposed subdivision.

- B. **Time Limits for Referrals.** As required by the Map Act (Section 66453(b)), referral of maps shall occur within five days of determining that the Tentative Parcel Map or Tentative Map application is deemed complete in compliance with Section 15-3305, Application Filing and Completeness Review.
- C. **Affected Agencies.** The Director shall refer Tentative Parcel Map and Tentative Map applications for review and comment to each of the following public service providers:
 - 1. **Caltrans.** The California Department of Transportation shall be referred any map located within an area shown on a territorial map filed with the City in compliance with the Map Act (Section 66455);
 - 2. **Other Cities and Local Agencies.** Other cities and other local agencies shall be referred any Map that is located within the area shown on a territorial map filed with the City in compliance with the Map Act (Section 66453); and
 - 3. **Others.** Other agencies (such as municipal service providers, city departments, and school districts), departments, groups, or individuals that the Director determines should review the project.
- D. **Subdivision Review Committee (SRC).** Tentative Maps shall be reviewed by the SRC in accordance with Section 15-3304, Pre-Application Consultation. The SRC shall advise the Director pursuant to Section 15-3105-B-5-b; and, based on the findings in Section 15-3305, Application Filing and Completeness Review.
- E. **Presumption.** Along with the subdivision application referral, the Department shall include notification that if no written response to the referral is received within 15 days of receiving a copy of the proposed project, per the Map Act (Section 66453(c)), the City shall presume that no recommendations or comments are forthcoming.

15-3308 Decision

- A. **Tentative Parcel Map.**
 - 1. **Review Authority.** The Director is the Review Authority for Tentative Parcel Maps and map exceptions identified in the Map Act (Section 66426).
 - 2. **Decision.** The Director shall approve, conditionally approve, or disapprove a Tentative Parcel Map. The Director shall:
 - a. Consider the recommendations of any agency comments on the map, and any testimony;
 - b. Consider comments received from the SRC;
 - c. Review and evaluate each Tentative Parcel Map as to its compliance and consistency with applicable provisions of this Development Code, the Municipal Code, the General Plan, any operative plan, the City's standard specifications and plans, and the Map Act;
 - d. Consider any environmental assessment, where applicable;
 - e. Approve or conditionally approve a Tentative Parcel Map only after all findings required by Section 15-3309, Required Findings, are made; and
 - f. Impose conditions of approval in compliance with Section 15-3311, Conditions of Approval.

3. **Timing/Action.** In accordance with the Map Act (Section 66452.1), the Director shall take action within 50 days after:
 - a. The Tentative Parcel Map application has been deemed complete; and
 - b. The 50-day time period shall commence after the adoption and/or certification of applicable environmental document consistent with Division 13 (commencing with Section 21000) of the Public Resources Code.
4. **Planning Commission Referral.** Alternatively, the Director, at their discretion and for good cause, may refer a Tentative Parcel Map to the Commission for consideration. The Commission shall make the findings for approval per Section 15-3309, Required Findings. The Director shall provide public notice per Section 15-3308-B.4, Notice of Hearing.

B. Tentative Map.

1. **Review Authority.** The Planning Commission is the Review Authority for Tentative Maps.
2. **Director.** The Director shall prepare a staff report to the Commission describing the conclusions of the evaluations of the map, and recommending that the Commission approve, conditionally approve, or disapprove the Tentative Map.
3. **Timing/Action.** In accordance with the Map Act (Section 66452.1), a public hearing on a Tentative Map shall be scheduled, and action shall be taken, within 50 days after:
 - a. The Tentative Map application has been deemed complete; and
 - b. The 50-day time period shall commence after the adoption and/or certification of applicable environmental document consistent with Division 13 (commencing with Section 21000) of the Public Resources Code.
4. **Notice of Hearing.** Public hearings for maps shall be noticed per the following:
 - a. **Publication.** Notice shall be given by publication once in a newspaper of general circulation publication and circulated in the City at least 10 days prior to the hearing. The notice shall be at least one-eighth page in size; and
 - b. **Public Notice.** Refer to Section 15-5007, Public Notice.
5. **Distribution of Staff Report.** In compliance with the Map Act (Section 66452.3) the staff report shall be made available at least three days before any hearing or action by the Review Authority.
6. **Planning Commission.** The Planning Commission shall:
 - a. Consider the recommendations of the Director, any agency comments, and any public comment, including written and verbal testimony;
 - b. Review and evaluate each Tentative Map as to its compliance and consistency with applicable provisions of this Development Code, the Municipal Code, the General Plan, any operative plan, or Concept Plan, and the Map Act;
 - c. Review and make a determination on the environmental document, and any public comment, including written and verbal testimony received;
 - d. Approve or conditionally approve a Tentative Map only after the Commission has first made all findings required by Section 15-3309, Required Findings; and

- e. Impose conditions of approval in compliance with Section 15-3311, Conditions of Approval.
7. **City Council.** Shall consider appeals of the Commission's action per Section 15-3314, Appeals, and pursuant to the Map Act (Section 66452.5).

15-3309 Required Findings

- A. **Findings.** The Review Authority may approve or conditionally approve a Tentative Parcel Map or Tentative Map if it makes all of the following findings:
 1. **Consistency.** The proposed subdivision, together with the provisions for its design and improvement, is consistent with the General Plan, any applicable operative plan, adopted policies or guidelines, and the Municipal Code.
 2. **Passive and Natural Heating and Cooling.** A subdivision for which a Tentative Map is required shall provide pursuant to the Map Act (Section 66473.1), to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision. Examples of passive or natural heating opportunities in subdivision design include:
 - a. Design of lot size and configuration to permit orientation of a structure in an east-west alignment for southern exposure and to take advantage of shade or prevailing breezes. Consideration shall be given to local climate, to contour, to configuration of the parcel to be divided, and to other design and improvement requirements, and such provision shall not result in reducing allowable densities or the percentage of a lot which may be occupied by a building or structure.
 - b. The requirements of this section do not apply to condominium projects that consist of the subdivision of airspace in an existing building when no new structures are added.
 - c. For the purposes of this section, "feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.
 3. **Availability of Water.** Water will be available and sufficient to serve a proposed subdivision with more than 500 dwelling units in accordance with the Map Act (Section 66473.7).
 4. **Infrastructure Capacity.** There exists sufficient infrastructure capacity for water, runoff, storm water, wastewater, and solid waste systems to serve the proposed subdivision. In cases where existing infrastructure is found to be deficient, plans shall show how sufficient capacity will be provided.
 5. **Compliance with Floodplain Regulations.** The proposed subdivision is compliant with the City of Fresno Floodplain Management Ordinance and the State of California Code of Regulations Title 23, as well as any other applicable State or federal law.
- B. **Supplemental Findings.** In addition to the findings required for approval of a Tentative Map or Tentative Parcel Map by Subsection A above, the Review Authority shall not approve a Tentative Parcel Map or Tentative Map unless it can also make the following findings, when they are applicable to the specific subdivision proposal.
 1. **Construction of Improvements.** It is in the interest of public health and safety, and it is necessary as a prerequisite to the orderly development of the surrounding area, to require the construction of improvements within a specified time after recordation of a Parcel Map of four or fewer parcels where improvements are required.

2. ***Condominiums.*** Any applicable findings required by Section 15-3913, Findings, for Condominium Conversions.
3. ***Dedications or Exactions.*** Any applicable findings required by Article 37, Dedications and Reservations, if dedications or exactions are required.
4. ***Waiver of Parcel Map.*** The findings required by Section 15-3503, Waiver of Parcel Map, if waiver of a Parcel Map has been requested with the Tentative Map application.

15-3310 Grounds for Denial

In accordance with the Map Act (Section 66474), the Review Authority shall deny approval of a Tentative Map and/or Tentative Parcel Map if it makes any of the following findings:

- A. The proposed map, including design and improvements, is not consistent with the General Plan, any applicable operative plan, adopted policies/guidelines, or any applicable provision of this Code.
- B. The design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat unless an environmental impact report was prepared for the project and a finding has been made pursuant to Section 21081 (3)(a) of the Public Resources Code that specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives that the environmental impact report identified.
- C. The site is not physically suitable for the type of development proposed.
- D. The site is not physically suitable for the proposed density of development.
- E. The design of the subdivision or the type of improvements are likely to cause serious public health problems.
- F. The design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the City may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.
- G. The site is subject to a contract under the Williamson Act and the resulting parcels following subdivision would be too small to sustain agricultural use and the land meets all the requirements of the Map Act (Section 66474.4).
- H. The subdivision is located in a State responsibility area or very high fire hazard zone as defined in Section 51177 of the Government Code and the Review Authority is unable to make the findings required by the Map Act (Section 66474.02).
- I. The subdivision is located within a flood zone pursuant and design of the subdivision would not provide for compliance with State and federal floodplain regulations (Section 66474.5).
- J. The waste discharge into the City sewer system from the proposed subdivision would add to, or result in, violations of requirements imposed by the California Regional Water Quality Control Board (Section 66474.6).

- K. **Exceptions.** To the extent permitted by State law, the Review Authority may make exceptions to the standards set forth in this section provided that it makes the following findings based on information in the record:
1. That the strict application of any such standard would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of this section;
 2. That there are exceptional circumstances or conditions applicable to the property involved or to the intended use or development of the property being re-subdivided; and
 3. That the granting of the exception will not be materially detrimental to the public welfare nor injurious to the property or improvements in the immediate vicinity.

15-3311 Conditions of Approval

In approving an application for a Tentative Map and/or Tentative Parcel Map, the Review Authority may impose any conditions necessary to make the findings required in Section 15-3309, Required Findings, and to meet the requirements of this Ordinance. Along with the approval of a Tentative Parcel Map or Tentative Map, the adoption of conditions of approval shall occur in compliance with this section, provided that all conditions shall be consistent with the requirements of the Map Act.

- A. **Authority and Limitations.** The Review Authority may modify or delete any recommended conditions of approval, except conditions required by City ordinance or by the City Engineer related to public health and safety or to standards approved by the City Engineer.
- B. **Indemnification of the City.** Whether or not such a condition is explicitly listed as a condition of approval, every approved Tentative Map and Tentative Parcel Map shall be deemed to include a condition requiring the subdivider to defend, indemnify, and hold harmless the City and its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attach, set aside, void, or annul an approval of the Director, Commission, or Council concerning a subdivision per the Map Act (Section 66499.37).
- C. **Mandatory Conditions.** The Review Authority shall adopt conditions of approval that:
1. Require that parcels, easements or rights-of-way be provided for streets, water supply and distribution systems, sewage disposal systems, storm drainage facilities, solid waste disposal, and public utilities providing electric, gas, and communications services, as may be required to properly serve the subdivision. Easements for public utilities shall be limited to those needed to provide service to present and future development;
 2. Mitigate or eliminate environmental impacts to the extent feasible as identified through the environmental review process, except where a statement of overriding consideration has been adopted in compliance with CEQA;
 3. Carry out the specific requirements of Article 38, Improvements and Security.
 4. Secure compliance with the requirements of this Development Code, the General Plan and any applicable operative plans;
 5. Require public access through the subdivision to public waterways, rivers, streams, shorelines, lakes, and reservoirs, and the dedication of public easements along the banks of rivers and streams, in compliance with the Map Act (Section 66478.1); and
 6. Require the waiver of direct access rights to any existing or proposed streets in compliance with the provisions of the Development Code, General Plan, operative plan, and/or as required by the Director pursuant to the Map Act (Section 66476).
 7. Ensure long-term maintenance of adequate clean water resources.

- D. **Optional Conditions.** The Review Authority may also include as conditions of approval:
1. Any fees or charges related to the transportation impacts;
 2. Dedications of land required to satisfy all or part of the required fee or for transportation improvements such as bicycle paths and transit facilities;
 3. The reservation or dedication of sites for public facilities, including fire stations, parks, libraries, and other public uses in compliance with the Map Act (Chapter 4, Article 3; commencing with Section 66475);
 4. Time limits or phasing schedules for the completion of conditions of approval, when deemed appropriate;
 5. Any other conditions deemed necessary by the Review Authority to:
 - a. Promote orderly growth;
 - b. Achieve compatibility between the proposed subdivision, its immediate surroundings, and the community;
 - c. Achieve consistency with City planning policies, design guidelines, ordinances or State law;
 - d. Ensure that the open space meets the needs of future residents and that it is properly located and accessible;
 - e. Ensure safe routes to schools, trails, connectivity to surrounding streets, bus stops, etc.; or
 - f. Require the formation of a maintenance entity to maintain those improvements included in Government Code Section 22500, also known as the Landscaping and Lighting Act of 1972.

15-3312 Automatic Approval if No Action

If no action is taken by the Director, Commission, or Council within the specified time limits, the map shall be deemed to be approved by the Commission if it complies with other applicable provisions of the Map Act, this Subdivision Ordinance, other City ordinances and the General Plan pursuant to the Map Act (Section 66452.4). The appeal period to the Council shall begin on the date of such certification.

15-3313 Applicant Notification

The Planning Division shall notify the applicant in writing of the Review Authority's decision. If the Tentative Map is denied, the Director shall notify the subdivider of the denial together with a statement of the reasons for such denial. If appealed, the Director shall notify the applicant of the appeal hearing.

15-3314 Appeals

- A. **Decision Final Unless Appealed.** The decision of the Review Authority shall be considered final unless an appeal is filed.
- B. **Time of Appeals.** Appeals shall be filed within 10 days after the action of the Review Authority (Map Act Section 66452.5).
- C. **Right to Appeal.** Any interested person may file an appeal of the Review Authority's action per the Map Act (Sections 66473.5, 66474, 66474.1 and 66474.6) to the Council.

- D. **Form of Appeal.** The written appeal form shall include the appellant's interest in or relationship to the subject property, the action or decision appealed, and specific reasons why the appellant believes the action or decision appealed from should not be upheld.
- E. **Hearing Date.** Shall be held within 30 days after the notice of filing the appeal per the Map Act (Section 66452.5).
- F. **Notice of Hearing.** Notice shall be given per Section 15-5007, Public Notice, for appeal hearings for either Tentative Maps or Tentative Parcel Maps.
- G. **Withdrawal of Appeal.** Refer to Section 15-5017, Appeals.

15-3315 Effective Date of Approval

The approval of a Tentative Map or Tentative Parcel Map shall become effective for the purposes of filing a Parcel or Final Map, including compliance with conditions of approval, on the 11th day following the date the public/final decision is rendered by the applicable Review Authority, provided that an appeal of the Review Authority's decision has not been filed in compliance with Section 15-5017, Appeals.

15-3316 Time Limits and Expiration of Approved Maps

- A. **Time Limits.** An approved Tentative Map or Tentative Parcel Map is valid for 24 months after its effective date, except as otherwise provided by the Map Act (Sections 66452.6, 66452.11, 66452.13, 66452.21, 66452.22, 66452.23, 66452.24 and/or 66463.5).
- B. **Expiration.** At the end of the time period per Subsection A of this section, the approval shall expire and become void unless:
 - 1. A signed Parcel or Final Map has been timely filed with the City. The City may process, approve, and record the map if it is prepared in accordance with the approved tentative map, subject to the limitations and requirement of the Map Act.
 - 2. An extension of time has been granted in compliance with this section.
- C. **Extensions of Time.**
 - 1. When a subdivider has not completed all Tentative Map or Tentative Parcel Map conditions of approval and filed a Parcel or Final Map with the City within the time limits established by Subsection A of this section, an extension of the expiration date may be granted in compliance with this section.
 - 2. The subdivider may request an extension of the map by filing a written application with the Director at least 60 days, but no more than six months prior, to the expiration of the approval per the Map Act (Sections 66452.6, 66452.11, 66452.13, 66452.21, 66452.22, 66452.23, 66452.24, and/or 66463.5). The granting of extension to the initial time limit may occur only after the Review Authority finds that:
 - a. There have been no changes to the provisions of the General Plan or any operative plan, or development plan that would cause the map to no longer be in conformity with the General Plan, operative plan, or development plan;
 - b. There have been no changes to the provisions of this Development Code that would cause the map to no longer be in conformity with this Development Code;

- c. There have been no changes in the character of the site or its surroundings that affect how the policies of the General Plan or other standards of this Development Code apply to the project; and
 - d. There have been no changes to the capacities of community resources, including roads, schools, sewage treatment or disposal facilities, or water supply, so that there is no longer sufficient remaining capacity to serve the project.
- D. **Amendments to Conditions for Map Extensions.** The City may impose conditions on map extensions in accordance with Article 43, Corrections and Amendments of Maps.
- E. **Amendments to Approved Tentative Maps.** The City may amend an approved Tentative Map in accordance with Article 43, Corrections and Amendments of Maps. However, under no circumstances shall an amendment be approved for an expired map.

15-3317 Termination

The expiration of an approved or conditionally approved Tentative Parcel Map or Tentative Map shall terminate all proceedings.

15-3318 Compliance with Conditions, Improvement Plans

After approval of a Tentative Map or Tentative Parcel Map and the filing of a Final or Parcel Map in compliance with this article, the developer shall proceed to fulfill the conditions of approval within the time limits specified by the conditions and the expiration of the map. Where applicable, the developer shall prepare, file, and receive approval of improvement plans in compliance with Article 38, Improvements and Security before constructing any required improvements.

15-3319 Parcel or Final Map Preparation, Filing and Recordation

Final Maps and Parcel Maps shall be prepared, filed, processed, and recorded in compliance with Article 35, Parcel Maps, and Article 36, Final Maps, to complete the subdivision, unless a Parcel Map has been waived in compliance with Section 15-3503, Waiver of a Parcel Map.

15-3320 Approved Map to Run with the Land

A Tentative Map or Tentative Parcel Map that is valid and in effect, and was granted in compliance with the provisions of this Development Code, shall run with the land and continue to be valid if there is any change in ownership of the land.

15-3321 Subsequent Tentative Maps

A subdivider may file as many maps as desired for the same property. The most recent map approval shall supersede previous map approvals. Previous map approvals shall become null and void if superseded.

Article 34 Vesting Tentative Maps

Sections:

- 15-3401 Vesting Tentative Maps
- 15-3402 Findings for Approval
- 15-3403 Expiration of Vesting Tentative Map
- 15-3404 Changes to Approved Map or Conditions
- 15-3405 Development Rights of Vested Maps

15-3401 Vesting Tentative Maps

A. General Provisions.

1. Whenever this Development Code requires that a Tentative Map or Tentative Parcel Map be filed, a Vesting Tentative Map or Vesting Tentative Parcel Map may instead be filed, provided that the Vesting Tentative Map or Vesting Tentative Parcel Map is prepared, filed, and processed in compliance with this article and the Map Act (Chapter 4.5; commencing with Section 66498.1).
2. A Vesting Tentative Map or Vesting Tentative Parcel Map may be filed for residential, commercial, or industrial developments.
3. If a subdivider does not seek the rights conferred by a Vesting Tentative Map, the filing of a Vesting Tentative Map shall not be a prerequisite to any approval for any proposed subdivision, permit for construction, or work preparatory to construction.

B. Filing and Processing. A Vesting Tentative Map or Vesting Tentative Parcel Map shall be filed in the same form, have the same contents and accompanying data and reports and, shall be processed in the same manner identified in this chapter as a Tentative Map, except as hereinafter provided:

1. **Application Content.** The Vesting Tentative Map or Vesting Tentative Parcel Map shall include the following information in addition to that required by Section 15-3302, Form and Contents.
2. **Title.** At the time a Vesting Tentative Map is filed it shall have printed conspicuously on its face the words “Vesting Tentative Map” while a Parcel Map shall have “Vesting Tentative Parcel Map” per the Map Act (Section 66452).

15-3402 Findings for Approval

The Review Authority shall determine that the intended development of the subdivision is consistent with the zoning regulations applicable to the property at the time of filing, in addition to all other findings required for Tentative Map or Tentative Parcel Map approval by Section 15-3309, Required Findings.

15-3403 Expiration of Vesting Tentative Map

The development rights vested by this section shall expire if a Parcel Map or Final Map is not approved before the expiration of the Vesting Tentative Map or Vesting Tentative Parcel Map in compliance with

Section 15-3316, Time Limits and Expiration of Approved Maps. If the Parcel or Final Map is approved and recorded, the development rights shall be vested for:

- A. An initial time period of 24 months from the date of recordation of the parcel or Final Map. Where several Final Maps are recorded on various phases of a project covered by a single Vesting Tentative Map, this initial time period shall begin for each phase when the Final Map for that phase is recorded.

15-3404 Changes to Approved Map or Conditions

The developer may apply for an application to amend the Vesting Tentative Map or Vesting Tentative Parcel Map or conditions of approval at any time before the expiration of the Vesting Tentative Map or Vesting Tentative Parcel Map. An amendment request shall be considered and processed through the same procedures as a new application, in compliance with Article 43, Corrections and Amendments of Maps and in compliance with the Map Act (Section 66498.2).

15-3405 Development Rights of Vested Maps

- A. The approval of a Vesting Tentative Map or Vesting Tentative Parcel Map shall confer a vested right to proceed with development of the subdivided parcels in substantial compliance with the ordinances, policies, and standards as identified in the Map Act (Section 66498.1).
- B. Fees charged for building or land use permits, filed after the approval of a Vesting Tentative Map or Vesting Tentative Parcel Map shall be as required at the time the subsequent permit applications are filed. Building or land use permit application contents shall comply with City requirements in effect at the time the subsequent application is filed.

Article 35 Parcel Maps

Sections:

15-3501	Applicability
15-3502	Timing of Filing a Parcel Map
15-3503	Waiver of a Parcel Map
15-3504	Preparation
15-3505	Form and Content
15-3506	Filing with the City Engineer
15-3507	Processing of Parcel Maps
15-3508	Recording a Final Map

15-3501 Applicability

A Parcel Map shall be prepared, filed, and processed as set forth in this article for all divisions of land that require a Tentative Parcel Map and Parcel Map pursuant to Article 32, Required Maps for a subdivision of four or fewer parcels, except when the requirement for a Parcel Map is waived in compliance with this article.

15-3502 Timing of Filing a Parcel Map

Upon the approval of the Tentative Parcel Map, the subdivider may file a Parcel Map which substantially conforms to the approved Tentative Parcel Map and which is in the form required by the Map Act.

15-3503 Waiver of a Parcel Map

A subdivider may request the waiver of the requirement for a Parcel Map, and the waiver may be granted, in compliance with the Map Act (Section 66428), provided that the Director shall first find that the proposed subdivision complies with all applicable requirements of this Development Code and the Map Act as to area, improvement and design, floodwater drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection, and all other applicable requirements of this Development Code and the Map Act.

15-3504 Preparation

A Parcel Map shall be prepared by or under the direction of a person authorized to do so under the Map Act. Parcel Map submittals shall include all information and other materials as required by City policies, adopted standards, and the Map Act.

15-3505 Form and Content

- A. Parcel map submittals shall include information and other material prepared as required by the City Engineer, City policies, adopted standards, and the Map Act. This includes, but is not limited to, sheet sizes, scope of area depicted on the map, scale of the map, border size, affidavits, certificates, mathematical information, and data necessary to locate monuments, interior and exterior boundary lines, titles, title sheet, and other information deemed necessary by the City Engineer.

- B. The Parcel Map shall be based upon a field survey.

15-3506 Filing with the City Engineer

After receipt of the action of the review authority approving or conditionally approving the Tentative Parcel Map, the subdivider may cause the real property included within the map, or any part thereof, to be surveyed and a Parcel Map prepared in compliance with the approved or conditionally approved Tentative Parcel Map application. All documents necessary for adequate review of the Parcel Map shall be submitted to the City Engineer. The subdivider shall submit the following documents:

- A. **Dedications.** All dedications or offers of dedication shall have been accomplished or shall be made by notation and a certificate on the map. Dedications or offers of dedication made on the map may be accepted, accepted subject to improvement, or rejected at the time the map is approved. The City Clerk shall certify the City Engineer's action with regard to such dedications or offers of dedication.
- B. **Improvements.** All required improvements shall have been made, or an agreement providing for the construction of such improvements shall have been entered into with the City.
- C. **Additional Documents.** The subdivider shall file the following documents with the City Engineer:
 - 1. A statement from the County Officer computing redemptions, that according to the records of their office there are no liens for unpaid municipal taxes or special assessments collected as taxes, except taxes or special assessments not yet payable, against said subdivision or any part thereof, and as to the latter, an estimate of taxes and assessments which are a lien, but not yet payable.
 - 2. In the event of any proposed dedication for public use, a certificate of title, a subdivision guarantee, or a dedication letter in the name of the owner of the land, issued to or for the benefit and protection of the City by a title company authorized by the laws of the State to write the same, showing all parties whose consent is necessary to pass clear title to the land being subdivided, together with the nature of their interests therein except where the land contained in such subdivision is registered under the Land Registration Act (i.e. Torrens Act) in which latter case a certified copy of the certificate of title shall be furnished.
 - 3. Whenever property is subdivided with the intention that it shall have a use other than designated on the then existing zoning map, such use shall be stated, and the building setback lines and other regulations affecting such other use shall be shown and noted on the plot.

15-3507 Processing of Parcel Maps

- A. **Documents Required for Review.** The document package submitted for review shall include a copy of the Parcel Map, survey closure calculations, and any other documents required by the City Engineer and/or identified in the Tentative Parcel Map conditions of approval.
- B. **Review of Parcel Map for Condition and Government Code Compliance.** The City Engineer shall be responsible for seeing that the conditions of approval and applicable provisions of the Government Code have been fulfilled. The City Engineer shall transmit maps to and request written reports from the City departments which have submitted conditions on the approved Tentative Parcel Map.

- C. **Examination by City Engineer.** The City Engineer shall examine it as to sufficiency of affidavits and acknowledgements, correctness of surveying data, mathematical data and computations, and other matters which may require checking to ensure compliance with the provisions of the Map Act, this Division, and applicable City standards. If the Parcel Map does not conform as required above, the subdivider shall be notified, and given the opportunity to make necessary changes and resubmit the Parcel Map, together with all required data, if the Tentative Parcel Map has not expired.
- D. **Filing Official Copy of Parcel Map.** If the Parcel Map and accompanying documents have been found satisfactory by the Director, the subdivider shall cause the Parcel Map to be officially filed with the City Engineer at least 20 days before the expiration of the approved or conditionally approved Tentative Parcel Map or any approved extension of time granted. The Parcel Map shall not be officially filed until the engineer or surveyor has received notification from the City Engineer that all provisions of the Tentative Parcel Map approval, the Map Act, this Development Code, the Municipal Code, and applicable City standards have been complied with. The filing of the official copy of the Parcel Map with the City Engineer shall constitute the timely filing of the Parcel Map.
- E. **Improvement Agreements and Security Requirements.** The filing and recording of a Parcel Map shall be subject to the requirements of Section 15-3806, Improvement Agreements and Security.

15-3508 Recording a Final Map

After determining that the Parcel Map is technically correct and in full compliance with this article, the City Engineer may approve the Parcel Map in compliance with the Map Act (Section 66463(b)) or, if deemed appropriate, forward it to the Council for approval or disapproval. After approval, the Parcel Map shall be transmitted by the City Engineer to the office of the County Recorder for recordation in compliance with the Map Act (Section 66450).

Article 36 Final Maps

Sections:

- 15-3601 Final Maps
- 15-3602 Timing of Filing of a Final Map
- 15-3603 Submittal by Units
- 15-3604 Preparation
- 15-3605 Form and Content
- 15-3606 Filing with the City Engineer
- 15-3607 Processing of the Final Map
- 15-3608 Action on Final Maps
- 15-3609 Recording of Final Map

15-3601 Final Maps

A Final Map shall be filed and approved to complete the subdivision process for a subdivision of five or more parcels.

15-3602 Timing of Filing of a Final Map

Upon the approval of the Tentative Map, the subdivider may file a Final Map which substantially conforms to the approved Tentative Map and which is in the form required by the Map Act.

15-3603 Submittal by Units

- A. Multiple Final Maps relating to an approved or conditionally approved Tentative Map may be filed prior to the expiration of the Tentative Map if the subdivider, at the time the Tentative Map is filed, informs the City Engineer in writing of the subdivider's intention to file multiple Final Maps on the Tentative Map, or after the filing of the Tentative Map the subdivider and City Engineer concur in the filing of multiple Final Maps.
- B. The Commission or Council, acting on an appeal, shall approve the sequence of map approvals. The filing of a Final Map on a portion of an approved or conditionally approved Tentative Map shall not invalidate any part of the Tentative Map. Each Final Map that constitutes a part, or unit, or the approved or conditionally approved Tentative Map shall have a separate subdivision number. The public improvement agreement executed by the subdivider shall provide for the construction of improvements as required to constitute a logical and orderly development of the whole subdivision.

15-3604 Preparation

A Final Map shall be prepared by or under the direction of a person authorized to do so under the Map Act. Final Map submittal shall include all information and other materials as required by City policies, adopted standards, and the Map Act.

15-3605 Form and Content

- A. Final map submittals shall include information and other material prepared as required by the City Engineer, City policies, adopted standards, and the Map Act. This includes, but is not limited to, sheet sizes, scope of area depicted on the map, scale of the map, border size, affidavits,

certificates, mathematical information and data necessary to locate monuments, interior and exterior boundary lines, titles, title sheet, and other information deemed necessary by the City Engineer.

- B. The Final Map shall be based upon a field survey.

15-3606 Filing with the City Engineer

After receipt of the action of the Review Authority approving or conditionally approving the Tentative Map, the subdivider may cause the real property included within the map, or any part thereof, to be surveyed and a Final Map prepared in compliance with the approved or conditionally approved Tentative Map application. All documents necessary for adequate review of the Final Map shall be submitted to the City Engineer. Documents required for review include the following:

- A. **Dedications.** All dedications or offers of dedication shall have been accomplished or shall be made by notation and a certificate on the map. Dedications or offers of dedication made on the map may be accepted, accepted subject to improvement, or rejected at the time the map is approved. The City Clerk shall certify the City Engineer's action with regard to such dedications or offers of dedication.
- B. **Improvements.** All required improvements shall have been made, or an agreement providing for the construction of such improvements shall have been entered into with the City.
- C. **Additional Documents.** The subdivider shall file the following documents with the City Engineer:
 - 1. A statement from the County Officer computing redemptions, that according to the records of their office there are no liens for unpaid municipal taxes or special assessments collected as taxes, except taxes or special assessments not yet payable, against said subdivision or any part thereof, and as to the latter, an estimate of taxes and assessments which are a lien, but not yet payable.
 - 2. In the event of any proposed dedication for public use, a certificate of title, a subdivision guarantee, or a dedication letter in the name of the owner of the land, issued to or for the benefit and protection of the City by a title company authorized by the laws of the State to write the same, showing all parties whose consent is necessary to pass clear title to the land being subdivided, together with the nature of their interests therein except where the land contained in such subdivision is registered under the Land Registration Act (i.e. Torrens Act) in which latter case a certified copy of the certificate of title shall be furnished.
 - 3. Whenever property is subdivided with the intention that it shall have a use other than designated on the then existing zoning map, such use shall be stated, and the building setback lines and other regulations affecting such other use shall be shown and noted on the plot.

15-3607 Processing of the Final Map

- A. **Review of Final Map.** The City Engineer shall be the primary coordinator in seeing that conditions of approval of the Tentative Map have been fulfilled.
- B. **Review of Final Map for Condition and Government Code Compliance.** The City Engineer shall be responsible for seeing that the conditions of approval and applicable provisions of the Government Code have been fulfilled. The City Engineer shall transmit maps to and request

written reports from the City departments which have submitted conditions on the approved Tentative Map.

- C. **Examination by the City Engineer.** Upon receipt of the Final Map, the City Engineer shall examine it as to sufficiency of affidavits and acknowledgements, correctness of survey data, mathematical data and computations, and other matters which may require checking to ensure compliance with the provisions of the Map Act, this Division, and applicable City standards. If the Final Map is found to be in substantial compliance with the Tentative Map and is to form, the matters shown on the map are sufficient, and the City Engineer is satisfied that all of the conditions of approval have been met, the City Engineer shall endorse approval of the Final Map.
- D. **Filing of Official Copy of Final Map.** If the Final Map and the accompanying documents have been found satisfactory by the City Engineer, the subdivider shall cause the Final Map to be officially filed with the City Engineer at least 20 days before the expiration of the approved or conditionally approved Tentative Map or any approved extension of time granted. The Final Map shall not be officially filed until the engineer or surveyor has received notification from the City Engineer that all provisions of the Tentative Map approval, the Map Act, this Development Code, the Municipal Code, and applicable City standards have been complied with. The filing of the official copy of the Final Map with the City Engineer shall constitute the timely filing of the Final Map.

15-3608 Action on Final Maps

The City Engineer shall submit the final map to the Council per the Map Act (Section 66474.1) for action as follows:

- A. **Referral to the Council.** Upon receipt of the Final Map, the City Engineer shall check it as to correctness of surveying data, plans, profiles, and specifications of improvements, certificates of dedication, acceptance of dedication, and acknowledgments, and such other matters as require checking to ensure compliance with the provisions of law and of this article.
- B. **Criteria for Approval.** If the map conforms to all of the requirements of the Map Act and this Code, the Council shall approve the map. If the map does not conform, the Council shall disapprove the map.
- C. **Timing of Council's Review.** The Council shall take action not more than 10 days after the filing of the Final Map, or at the next available hearing date.
- D. **City Engineer's Certificate.** Following approval by the Council, the City Engineer shall execute the City Engineer's certificate.
- E. **Map with Dedications.** If a dedication or offer of dedication is required on the Final Map, the Council shall accept, accept subject to improvements, or reject any or all offers of dedication, at the same time as it takes action to approve the Final Map. If the Council rejects the offer of dedication, the offer shall remain open and may be accepted by the Council at a later date in compliance with the Map Act (Section 66477.2). Any termination of an offer of dedication shall be processed in compliance with the Map Act (Section 66477.2) and the street vacation procedures in the Streets and Highways Code (Sections 8300 et seq.).
- F. **Improvement Agreements and Security Requirements.** If improvements required by this Development Code, conditions of approval, or by law have not been completed at the time of approval of the Final Map, the Council shall require the developer to enter into an agreement

with the City as specified in the Map Act (Section 66462), and Article 37, Dedications and Reservations, as a condition precedent to the approval of the Final Map.

15-3609 Recording of Final Map

- A. **Transmittal to Recorder.** After approval of the Final Map by the Council, and after the required signatures and seals have been affixed, the City Engineer shall transmit the Final Map to County Recorder for filing, in compliance with Section 15-3609-B, Recordation of Maps.
- B. **Recordation of Maps.** At the time of filing of a Parcel or Final Map with the County Recorder, the subdivider shall present to the County Recorder evidence that, at the time of filing the map, the parties consenting to the filing are all parties having vested fee interest in the property being subdivided and are parties required to sign the certificate described in the Map Act (Section 66445(e)).

Article 37 Dedications and Reservations

Sections:

- 15-3701 Dedications and Reservations
- 15-3702 Acceptance of Dedications
- 15-3703 Reservations

15-3701 Dedications and Reservations

- A. **Purpose.** The purpose of this article is to establish the dedications and reservations that may be imposed as a condition for approval of a Tentative Map or a Tentative Parcel Map.
- B. **Streets, Alleys, and Other Public Rights-of-Way or Easements.** When required as a condition for approval of a map, the subdivider shall dedicate or make an irrevocable offer of dedication of land within the subdivision that is needed for streets and alleys, including access rights and abutters' rights, drainage, open space, scenic easements, public utility easements, and other public easements according to City standards. In addition, the subdivider shall improve or agree to improve all streets and alleys, including access rights and abutters' rights, drainage, public utility easements and other public easements as follows:
 - 1. **Streets.** The subdivider shall dedicate land for streets according to adopted City standards.
 - 2. **Alleys.** The subdivider shall dedicate land or easements for alleys according to adopted City standards.
- C. **Public Utilities and Utility Easements.** Public utilities, including electricity, gas, water, sewer, storm drains, telecommunications services, cable television, and traffic signal detector loops shall be installed as part of the improvements within all subdivisions as provided by this section.
 - 1. **Width.** A minimum of 10 feet, unless a greater distance is required, as determined by the City Engineer.
 - 2. **Overhead Lines.** New overhead utility lines shall not be permitted, while existing overhead lines shall be placed underground, unless otherwise waived and/or deferred by the City Engineer or otherwise provided for in this Ordinance.
 - a. **Exceptions.** The undergrounding of existing overhead wires and associated overhead structures used for conveyance of electrical energy at transmission voltages, nominally in excess of 21,000 volts, or major transmission trunk communication lines shall not be required.
 - 3. **Installation.** Lateral connections to all underground utilities, water lines, and sanitary sewers shall be laid to sufficient lengths to avoid the need for disturbing the street improvements when service connections are made.
- D. **Bicycle Paths/Trails.** When required as a condition for approval, the subdivider shall dedicate or make an irrevocable offer of dedication of land that is needed to provide bicycle paths/trails for the use, safety, and benefit of the residents of the subdivision.

- E. **Pedestrian Paths/Paseos.** When required as a condition for approval, the subdivider shall dedicate or make an irrevocable offer of dedication of land that is needed to provide pedestrian paths/paseos for the use, safety, and benefit of the residents of the subdivision.
- F. **Access to Public Resources.** When required as a condition of approval, the subdivider shall dedicate or make an irrevocable offer of land that is needed to provide access to public natural resources and rivers and streams per the Map Act (Sections 66478.3 through 66478.6).
- G. **Transit Facilities.** When required as a condition for approval, the subdivider shall dedicate or make an irrevocable offer of dedication of land for local transit facilities such as bus turnouts, benches, shelters, landing pads, and similar items that directly benefit the residents of a subdivision.
- H. **Watercourses and Drainage Facilities.** The subdivider shall provide the necessary right-of-way dedication or easements for buffer areas and setbacks for watercourses, streams, and storm drains as required by the City Engineer and the following:
 - 1. Except as may be approved by the Commission, there shall be sufficient right-of-way dedicated to the City to maintain a natural channel, floodplain, or open space as may be shown the General Plan, or operative plan, if applicable, including right-of-way for a trail as may be shown on the City's Trails Master Plan.
 - 2. Drainage facilities shall be installed in accordance with the appropriate Flood Control District and City requirements.
 - 3. Storm drain easements not less than 10 feet in width shall be provided by the subdivider where required for construction and maintenance purposes.
- I. **School Site Dedication.** A subdivider may be required to dedicate land necessary to construct an elementary school necessary to ensure adequate public school service to the residences of the subdivision in compliance with the Map Act (Section 66478).
- J. **Dedication of Land or Payment of Fees for Park and Recreation Purposes.**
 - 1. **Authority.** This section is enacted pursuant to authority granted by the Map Act (Section 66477, "Quimby Act").
 - 2. **Identifying Open Space.** At the time of submittal of a Tentative Map, the applicant shall clearly depict the location and the amount of open space being proposed.
 - 3. **Requirement.** Each subdivider of land classified by the City for, or otherwise proposed for, residential use shall, as a condition to filing a final subdivision map, dedicate or reserve lands, pay fees in lieu thereof, or a combination of both, for park or recreational purposes. In accordance with the Map Act (Section 66477(b)), land or fees required under this section shall be conveyed or paid directly to the City.
 - 4. **Accepting Land.** The City shall determine if it will accept the proposed land, in fee, for meeting the provisions of this Code.
 - 5. **Suitability.** Each park site proposed for dedication in compliance with this section shall be physically suited for the intended use and shall meet all criteria established by the City.
 - 6. **Limitations.** For limitations and exclusions from this article, refer to the Map Act (Section 66477).
 - 7. **Amount of Land to Be Dedicated.** The amount of land to be dedicated or fees to be paid in lieu thereof shall bear a reasonable relationship to the use of the park and

recreation facilities by the future inhabitants of the subdivision (Map Act Section 66477).

8. ***Formula for Calculating Amount of Land.*** In accordance with the Map Act (Section 66477(a)(2)), the amount of land to be dedicated shall be calculated according to the following formula:

$$A \times B = \text{Land to be dedicated}$$

- a. “A” means the park and recreation area required per dwelling unit, based on the type of dwelling units of the proposed subdivision and the park area per 1,000 city residents, which is calculated as follows:
- i. The park area of the city is determined to be three acres per 1,000 people, or .003 acres per person.
 - ii. The park and recreation area required per dwelling unit is established as follows:
 - (1) ***Single-Family Development.*** For dwelling units to be constructed on property zoned RS each unit is assigned 3.11 people. Therefore, $A = 3.11 \times .003 = 0.00933$ acres per unit.
 - (2) ***Multi-Family Development.*** For dwelling units to be constructed on property zoned other than RS, each unit is assigned 2.53 people. Therefore, $A = 2.53 \times .003 = 0.00759$ acres per unit.
 - iii. “B” means the number of dwelling units in the proposed subdivision. For the purpose of this section, the number of dwelling units in the proposed subdivision shall be determined as follows:
 - (1) ***Single-Family Development.*** The number of dwelling units shall equal the number of parcels indicated on the Final Map.
 - (2) ***Multi-Family Development.*** The number of dwelling units shall equal the maximum number of dwelling units allowed under that zone.
 - (3) ***Condominium Developments.*** The number of dwelling units shall equal the number of condominium units indicated on the Final Map, or the maximum number of dwelling units allowed under that zone if the Final Map does not indicate the number of units.
9. ***In-Lieu Fees.*** If fees are paid in lieu of land dedication, such fees shall be equal to the then-current Parkland Dedication In-Lieu Fee.
10. ***Credits.***
- a. Per the Map Act (Section 66477(a)(9)), if a subdivider provides park and recreational improvements, the value of the park and recreational improvements, together with any equipment located thereon, shall be a credit against the payment of fees or dedication of land otherwise required by this section.
 - b. To be authorized and approved by the City, park and recreational improvements and equipment provided by subdividers pursuant to this section shall be

generally consistent with applicable principles and standards for local and neighborhood parks contained in the General Plan, as determined by the City.

- c. *Condominiums.* In accordance with the Map Act (Section 66477(e)), common interest developments such as community apartments, condominiums, and stock cooperatives, shall be eligible to receive a credit not to exceed 25 percent, as determined by the City, against the land required to be dedicated, or the amount of the fee imposed pursuant to this section, for the value of private open space within the development which is usable for active recreational uses. For the purposes of this section, private open space usable for active recreational uses means private open space that is:
 - i. At least 3/4 of an acre in area with the smallest dimension being at least 100 feet clear, excluding front and street side yards normally required by zoning provisions;
 - ii. Owned and maintained by a homeowners' association, available to all residents of the subdivision without restriction, and designated for park and recreational purposes by recorded covenants which run with the land and cannot be defeated or eliminated without consent of the Council;
 - iii. Suitable for active park and recreation purposes taking into consideration such factors as shape, topography, access, and improvements proposed; and
 - iv. Generally consistent, as determined by the City, with applicable principles and standards for parks contained in the General Plan.

11. ***Procedures.***

- a. Prior to approval of a subdivision, the Review Authority shall consider:
 - i. The amount of land required for open space purposes;
 - ii. That a fee be charged in lieu of land;
 - iii. That a combination of land and fee be required; and
 - iv. The location of the park land and, where appropriate, the siting and conceptual design of the park facilities appurtenant thereto, to be dedicated or used in lieu of fees.
- b. At the time of approval, the Review Authority shall determine whether land, in-lieu fees, or a combination of land and fees shall be dedicated and/or paid by the subdivider.
- c. The Review Authority may approve, modify, or disapprove the recommendations of City staff; provided, however, that any modification of the recommendation not previously considered shall first be referred back to City staff for further report and recommendation.

12. ***Off-Site Dedication.*** Dedication of land outside of the subdivision may be authorized by the City, by action on the Tentative Map and be credited toward the developer's park land dedication requirement pursuant to this section.

15-3702 Acceptance of Dedications

- A. At the time of approval by the Council, the Council shall accept, accept subject to improvement, or reject dedications and offers of dedications that are made by a statement on the map, and the City Clerk shall certify or state on the map the action taken by the Council.
- B. Acceptance of offers of dedication on a Final Map and the transfer of title to the property so accepted shall not be effective until the Final Map is duly recorded under the provisions of the Map Act (Section 66439) and this Subdivision Ordinance.
- C. As a condition precedent to the acceptance of any streets or easements, the City Engineer or the Council may require that the subdivider, at subdivider's option, to either improve or agree to improve said streets or easements in accordance with Article 38, Improvements and Security. Upon the execution by the subdivider of such an agreement and the posting of improvement security required by Section 15-3806, Improvement Agreements and Security, the map may be approved as set forth in this section and recorded in the office of the County Recorder.
- D. If at the time the Final Map is approved, any streets, paths, alleys, public utility easements, rights-of-way for local transit facilities such as bus turnouts, benches, shelters, landing pads, and similar items, which directly benefit the residents of a subdivision, or storm drainage easements are rejected, subject to Section 771.010 of the Code of Civil Procedure as may be amended, the offer of dedication shall remain open and the Council may by resolution at any later date, and without further action by the subdivider, rescind the action by the City Engineer or Council and accept and open the streets, paths, alleys, public utility easements, rights-of-way for local transit facilities such as bus turnouts, benches, shelters, landing pads, and similar items, which directly benefit the residents of a subdivision, or storm drainage easements for public use, which acceptance shall be recorded in the office of the County Recorder.
- E. If a map showing a reversion to acreage of the tract is subsequently filed for approval, any offer of dedication previously rejected shall be deemed to be terminated upon the approval of the map by the Council subject to the reversion to acreage procedures of Article 1, Chapter 6 of the Map Act. If a map showing a resubdivision is subsequently filed for approval, any offer of dedication previously rejected shall be deemed to be terminated upon approval of the map by the City Engineer pursuant to this section. The map showing a reversion to acreage or resubdivision shall contain a notation identifying the offer or offers of dedication terminated by this subsection.

15-3703 Reservations

- A. **General.** As a condition of approval of a Tentative Map, the subdivider shall reserve sites, appropriate in area and location, for parks, recreational facilities, fire stations, libraries, water wells, sewer lift stations, etc. according to the standards contained in this section.
- B. **Standards for Reservation.** Where a park, recreational facility, fire station, library, or other public use is shown on the General Plan, the subdivider may be required by the City to reserve sites determined by the City to be in accordance with the policies and standards of the Plan and the following:
 1. The reserved area must be of such size and shape as to permit the balance of the property to develop in an orderly and efficient manner;
 2. The amount of land reserved shall not make development of the remaining land held by the subdivider economically unfeasible; and

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3. The reserved area shall conform to the General Plan, and shall be in such multiples of streets and parcels as to permit an efficient division of the reserved area in the event that it is not acquired within the prescribed period.
- C. **Procedure.** Pursuant to the Map Act (Section 66480), the public agency for whose benefit an area has been reserved shall, at the time of approval of the final, enter into a binding agreement to acquire the reserved area within two years after the completion and acceptance of all improvements, unless the period of time is extended by mutual agreement.
- D. **Payment.** The purchase price shall be the market value of the reserved land at the time of the filing of the Tentative Map, plus the taxes against the reserved land from the date of the reservation and any maintenance costs incurred by the subdivider including interest costs incurred on any loan covering the reserved area.
- E. **Termination.** If the public agency for whose benefit an area has been reserved does not enter into a binding agreement, as provided for in the Map Act (Section 66480), the reservation of the area shall automatically terminate.

Article 38 Improvements and Security

Sections:

15-3801	Purpose
15-3802	Improvements Required
15-3803	Submittal and Review of Plans
15-3804	Installation of Improvements
15-3805	Inspection of Improvements
15-3806	Improvement Agreements and Security
15-3807	Form of Security
15-3808	Completion of Improvements

15-3801 Purpose

This Division provides standards for the preparation and review of improvement plans, the installation of improvements, and for security to guarantee installation of the improvements.

15-3802 Improvements Required

The subdivider shall construct or cause to be constructed all on-site and off-site improvements required as a condition of approval of any Tentative Map, Parcel Map, or other division of land subject to the provisions of this Subdivision Ordinance or the Map Act according to standards approved by the City.

- A. **Preparation and Content.** After the approval of a Tentative Map and before the construction of any improvements, the subdivider shall submit plans to the City as follows:
1. Improvement plans shall be prepared by a California registered professional engineer;
 2. Any drawings, specifications, calculations, design reports, and other information required by the City Engineer;
 3. Grading, drainage, erosion, and sediment control, and a storm water pollution prevention plan (SWPPP) for the entire subdivision; and
 4. The improvement plan/specification checking and construction inspection fees required by the City's Fee Schedule.
- B. **Requirements.** All improvements as may be required as conditions of approval of a Tentative Map, Tentative Parcel Map, or City ordinance, together with, but not limited to, the following shall be required of all subdivisions.
1. As a condition of approval of a Tentative Map or Tentative Parcel Map, there may be imposed a requirement that improvements installed by the subdivider for the benefit of the subdivision contain supplemental size, capacity, number or length for the benefit of property not within the subdivision and that those improvements be dedicated to the public, subject to the provisions of the Map Act (Sections 66485-66489).
 2. All improvements shall be constructed to meet City standards and specifications.

15-3803 Submittal and Review of Plans

- A. **Submittal.** Improvement plans shall be submitted to the City Engineer and other appropriate reviewing agencies for review and approval. Upon the approval of improvement plans, the subdivider shall also submit to the City Engineer a detailed cost estimate of all improvements, based on guidelines provided by the City.
- B. **Review and Approval.** Improvement plans shall be reviewed and approved by the applicable agency within the time limits specified by Map Act (Section 66456.2).
- C. **Effect of Approval.** The final approval of improvement plans shall be required before approval of a Parcel or Final Map. The approval of improvement plans shall not bind the City to accept the improvements nor waive any defects in the improvements as installed.

15-3804 Installation of Improvements

The subdivider shall improve, or execute a secured written agreement to improve, all streets, highways, and public ways in the subdivision. Improvements shall be installed to permanent line and grade to the satisfaction of the City Engineer in accordance with the Standard Specifications. The minimum improvements which the subdivider shall make or agree to make, prior to acceptance and approval of a Parcel Map or a Final Map, shall consist of:

- A. **Grading.** Grading of streets and alleys, installation of street lighting, drainage pipes or lines, and drainage structures.
- B. **Curbs, Gutters, and Sidewalks.** Installation of sidewalks, curbs, gutters, and driveway approaches, unless the Standard Specifications for the Street Section do not require the improvements.
- C. **Surfacing.** Surfacing of a width and quality suitable for the particular type of street or alley as established in specifications adopted therefore.
- D. **Pedestrian Ways.** Pedestrian ways, including paving, landscaping, and fences and walls as may be required.
- E. **Bikeways.** Bikeways as may be required.
- F. **Trails, Greenways, or Parks.** As may be required.
- G. **Water System.** A water system of sufficient design and capacity to furnish an adequate water supply for each lot in the subdivision and for adequate fire protection to the area, as determined by the City Engineer.
- H. **Sewer Facilities.** Sanitary sewer facilities and connections for each lot.
- I. **Utilities.** Services from all utilities for each lot, made in such manner that will avoid or minimize disturbance of completed street improvements.
- J. **Median Island Landscaping.** The installation and planting of median islands, as may be required.
- K. **Street Trees.** The planting of street trees in planting strips and landscaping in frontage road islands and in all required landscape areas, as may be required.
- L. **Street Signs.** The installation of street signs as may be required.

- M. **Street Lighting.** The installation of an underground street lighting system approved by the City Engineer, provided that undergrounding shall not be required for that portion of the system located in a public right-of-way, where the Council makes the following findings:
1. The frontage of any lot upon which the underground street lighting system would be installed is within an area in which there currently exists an adequate overhead serviced street lighting system; and
 2. The underground lighting system is not required based upon the nature of the neighborhood, the amount and type of existing development, and the existing or potential traffic in the area.
- N. **Irrigation and Drainage Canals.** All irrigation or drainage canals of a capacity which can be accommodated by a pipeline having an inside diameter of 54 inches or less shall be piped and trash racks shall be installed at all newly constructed headwalls or pipe inlets.
- O. **Railroads.** If in any subdivision there is a railroad grade crossing, adequate right-of-way, as determined by the City, shall be reserved for grade separation as determined by the City Engineer.
- P. **Drainage.** The subdivider either shall pay drainage fees at the time of the approval of the Final Map, or shall agree in the subdivision agreement to pay such sum within 30 days after the approval of the Final Map. Whenever, in the opinion of the City Engineer, the subdivision and improvements will cause a flooding or drainage problem which will not be solved within a reasonable time by the Fresno Metropolitan Flood Control District (FMFCD) or other public agency, the subdivider shall be required to dedicate or allocate sufficient land and provide temporary facilities to alleviate the flooding or drainage problem, and to provide a single payment of funds for the maintenance thereof (by depositing sufficient money with the City to reasonably cover said costs). In addition, said land and facilities shall be required to remain in such use until the water can be handled or disposed of by facilities constructed by the FMFCD or other public agency.
- Q. **Exemption from Improvements.** The following described exemptions apply only to improvements and payments required by this section at the time of the division of land described in this article and are not exemptions from any other requirement.
1. When property is divided solely because of acquisition of lands by governmental agencies for public projects, purposes or improvements, only the parcel or parcels so acquired need be provided with the improvements or be the basis for payments required by Subsection B.
 2. The improvements and payments required by this shall not be required on or in front of any undeveloped portion of a net acreage of 10 acres or more which exists after the division of land.
 3. The improvements and payments required by Subsection B are not required in whole or in part or in front of any parcel of more than four or less than 10 net acres which exists after the division of land, whenever the City Engineer in his or her discretion determines that the omission of all or part of the improvements will not be materially detrimental to the public welfare, safety, or convenience, will not adversely affect the rights of adjacent property owners or occupants, or be injurious to property or improvements in the area, and that the installation thereof would be premature in relation to the public needs of the present and immediate future.
- R. **Deferment of Improvements.** The City Engineer may permit postponement of any or all of the improvements required by Subsection B when plans have been formulated for a federally

assisted neighborhood improvement program which will accomplish or financially aid accomplishment of the installation of the improvements, and the owner enters into a recordable written agreement in a form approved by the Director waiving the parcel owner's right to protest the formation of an assessment district to construct the improvements and waiving their rights for time payment for the cost to construct improvements should the program not proceed within three years and the City Engineer causes the improvements to be installed at the owner's expense as provided for in Chapter 27 of Part 3 of Division 7 of the Streets and Highways Code.

- S. **Improvement Plans and Profiles.** The plans and profiles of all improvements to be installed by the subdivider in, over, or under any street or right-of-way, easement, or parcel of land where improvements are required or proposed, shall be approved by the City Engineer. If all plans and profiles are not filed at the time of filing the Final Map, the Improvement Security shall include a guarantee that the remaining plans and profiles will be prepared in accordance with the requirements of the City Engineer.
- T. **Agreement.** An agreement to make the improvements required under this section shall be in such form and executed in such manner as may be required by the Director, as approved by the City Attorney, and shall be secured by a bond, cash deposit, or other security as may be approved by the Director and City Attorney. The agreement may provide for improvements to be installed in phases and reasonable time limits may be placed upon any and all construction.

15-3805 Inspection of Improvements

All improvements shall be inspected by the City per adopted policies, procedures, ordinances, or under other circumstances as determined by the City Engineer.

15-3806 Improvement Agreements and Security

If all required improvements, engineering, and inspections are not satisfactorily completed before a Parcel or Final Map is approved, the subdivider shall, before the approval of the Parcel or Final Map, enter into an agreement with the City whereby in consideration of the acceptance by the Council of the streets, easements, and any other land offered for dedication, the subdivider agrees to furnish the equipment, labor, and material necessary to complete the work within the time specified in the agreement in compliance with Map Act (Section 66499.3).

- A. **Required Security.** Improvement security must be furnished to guarantee that the improvement work or act specified in the agreement or contract identified will be completed and that all stakes and monuments will be set as may be required by the City.
- B. **Performance Security.** The improvement security for faithful performance shall be:
 - 1. One hundred percent of the total estimated cost of the improvement or act to be performed; and
 - 2. Five percent of such amount shall be cash or a certificate of deposit conditioned upon the faithful performance of the act or agreement.
- C. **Payment Security.** The improvement security for payment shall be in the amount of 50 percent (minimum) of the total estimated cost of the improvement or act to be performed securing payment to the contractor, the subcontractors, and to persons furnishing labor, materials, or equipment to them for the improvement or the performance of the required act.

D. **Warranty Security.** Upon performance of the act or final completion and acceptance of the required work, the following amount, in the form of cash or a certificate of deposit, shall be retained by or furnished to the City as security for guarantee and warranty of the work for a period of one year following the completion and acceptance thereof against any defective work or labor done, or defective materials furnished:

1. Five percent of the first \$50,000 of the total estimated cost of the improvement or act to be performed; plus,
2. Three percent of the next \$50,000; plus,
3. One percent of the next \$400,000; plus,
4. Half of one percent of the total estimated cost of the improvement or act to be performed exceeding \$500,000.

15-3807 Form of Security

Security required pursuant to this article shall be in such form as may be required by the City Engineer, and approved by the City Attorney, and may include bond, or bonds by one or more duly authorized corporate sureties, certificate of deposit, or cash deposit.

15-3808 Completion of Improvements

A. Parcel Maps.

1. Requirements for the construction of improvements shall be noticed by certificate on the Parcel Map, on the instrument evidencing the waiver of such Parcel Map, or by separate instrument and shall be recorded on, concurrently with, or prior to the Parcel Map or instrument of waiver of a Parcel Map being filed for record.
2. The construction of such improvements shall be required prior to subsequent issuance of a permit or other grant of approval by the City for the development of such parcel. Any agreement shall be subject to review and approval of the City Attorney.
3. The Director may require fulfillment of such construction requirements within a reasonable time following approval of the Parcel Map and prior to the issuance of a permit or other grant of approval for the development of a parcel upon a finding by the City Engineer that fulfillment of the construction requirements is necessary for reasons of public health and safety or as a prerequisite to the orderly development of the surrounding area.

B. Final Maps.

1. If the required improvement work is not completed to the satisfaction of the City Engineer before the Final Map is filed, the owner or owners of the subdivision shall concurrently with the approval of such map enter into an agreement with the City agreeing to have the work completed within the time specified in said agreement. Said agreement may provide for the improvements to be installed in units for extensions of time under specified conditions, or for the termination of the agreement upon a reversion of the subdivision or a part thereof to acreage. The subdivider, in lieu of the agreement to construct improvements may enter into a contract with the City by which they agree within such time as may be provided in the contract to initiate and to consummate proceedings under an appropriate special assessment act for the formation

of a special assessment district covering the subdivision or part thereof for the financing and construction of designated improvements upon the streets or easements dedicated by the map.

2. Any such agreement or contract shall by its terms provide for the acceptance of the work as it progresses and for partial withdrawal of any deposit in bonds or money upon certification of the City Engineer, in a manner similar to cash payments under cash contracts and under rules established by the City.

Article 39 Common Interest Developments (Condominiums & Conversions)

Sections:

15-3901	Purpose
15-3902	Residential Condominiums
15-3903	Standards for New Condominiums and Condominium Conversions
15-3904	Required Reports for Condominium Conversions
15-3905	Site Requirements for Residential Condominiums
15-3906	Building and Mechanical Conditions
15-3907	Condition of Equipment and Appliances
15-3908	Processing and Consideration of Applications
15-3909	Notice of Intent to Convert
15-3910	Tenant and Buyer Protection
15-3911	Scheduling of Hearing(s)
15-3912	Recommendation and Decision
15-3913	Findings
15-3914	Expiration of Residential Condominium Conversion Permit
15-3915	Commercial and Industrial Condominium Conversions

15-3901 Purpose

This purpose of this article is to establish the requirements for applications for the creation of a condominium or other common interest residential development, including a community apartment project, or planned development, as provided by the Map Act (Section 66424). This article applies to the construction of a new structure and the conversion of an existing structure to a condominium, consistent with the requirements of the Map Act.

15-3902 Condominiums

- A. **Condominium Application.** When a structure is proposed at the time of construction as a condominium, community apartment project, or stock cooperative, a Tentative Map for the project shall be filed in the same form, have the same contents and accompanying data and reports and shall be processed, approved or disapproved in the same manner as a subdivision per Article 33, Tentative Parcel and Tentative Map Filing and Processing.
- B. **Condominium Conversion Application.** A conversion shall require the approval of:
1. ***Parcel Map.*** A Parcel Map may be waived for a condominium conversion in compliance with the Map Act (Section 66428(b)), or for the conversion of a mobile home park in compliance with the Map Act (Section 66428.1). If a Parcel Map is waived, a Tentative Map shall be required.
 2. ***Application for Tentative Map.*** An applicant shall submit a Tentative Map or Tentative Parcel Map for a residential condominium conversion project which shall include the items identified in Section 15-3904, Required Reports for Condominium Conversions.
 3. ***Conditional Use Permit.*** A Conditional Use Permit shall be filed which shall constitute a Condominium Conversion Permit.

15-3903 Standards for New Condominiums and Condominium Conversions

A. Warranty and Reserves.

1. **Warranty for Improvements.** The subdivider shall provide to the condominiums' association and/or purchaser a one-year warranty on all physical improvements required under this article.
2. **Long Term Reserves.** Prior to approval of the Final Map, or Parcel Map if no Final Map is required, the subdivider shall provide evidence to the City that a long-term reserve fund for replacement has been established in the name of the condominiums' association. Such fund shall equal two times the estimated monthly condominium's assessment for each unit.

B. Covenants, Conditions, and Restrictions.

Project covenants, codes, and restrictions (CC&Rs) in accordance with Article 40, Covenants, Conditions, and Restrictions, shall be developed, and shall be reviewed and approved by the City Attorney and Director prior to approval of the Final Map or Parcel Map.

C. Budget for Maintenance.

The subdivider shall provide to the condominiums' association and/or purchaser a copy of the approved proposed budget for maintenance and operation of common facilities, plus reserves, including the estimated monthly costs to the owner of each unit, projected over a five-year period. Such budget shall be reviewed or prepared by a professional management firm or by a qualified individual familiar with costs of similar properties, and that firm or person shall provide a statement of recommendations on the budget, together with a statement of professional qualifications.

D. Relocation Assistance Program.

For residential condominium conversions where the residential units are more than six months old, the applicant shall prepare a Relocation Assistance Program (RAP) detailing the relocation assistance which will be provided. The RAP shall be prepared in a manner which is responsive to tenant composition, sales policy to tenants, lengths of tenancies, and number of tenants willing to purchase a unit in the project. The program shall include, but not be limited to, the following items and additional items required in the Map Act:

1. A relocation fee equal to a minimum of two months' rent for each unit which is vacated due to the conversion, after receipt of the 180 day notice of conversion prior to termination of tenancy required by the Map Act (Section 66427.1);
2. Lifetime leases for elderly tenants (ages 62 years and older) and extended leases for student tenants, of the unit occupied by any such tenant, at the rate in existence at the time the Final Map is approved. The rental rate may be increased during the term of the lease only in the manner provided in detail by the subdivider in the program and approved by the Council at the time the tentative subdivision map is approved, provided that in no event shall any such increase be greater than eight percent per year.
 - a. Extended leases for students shall be required for the period of time of enrollment in courses totaling at least two-thirds of the units/credits required to be considered a full time student, during the school year;
 - b. Extended leases for family with school-aged children until 14 days after the start of summer break.

3. A report describing the following:
 - a. The extent that tenants will be reimbursed for the expenses of moving;
 - b. The extent that tenants will be individually assisted in finding replacement housing;
 - c. The extent that assistance payments will be made to those tenants who are unable to find comparable replacement housing, and the conditions of such assistance payments;
 - d. The extent that long-term leases or extra time to locate housing will be allowed to tenants;
 - e. The number of lifetime leases secured by elderly tenants.
 - f. Any other plans of the subdivider to provide for assistance to low-income tenants, families with children in school, students, elderly tenants, tenants with disabilities, or long-term tenants; and
 - g. The extent that the provisions of the RAP will be applicable to tenants who begin their tenancies after and with knowledge of the filing by the applicant of the notice of intent to convert.
 4. The developer/owner/applicant must file the required relocation assistance plan and a summary of all assistance provided demonstrating compliance with required relocation assistance plan prior to new Condo occupancy.
- E. **Restriction of Rent Increases.** While an application for a condominium conversion is pending, the rental rate for existing residential units shall not be increased.

15-3904 Required Reports for Condominium Conversions

- A. **Pre-Application Inspection Report.** The following shall occur prior to an application being submitted for a conversion:
1. The subdivider shall apply to the Building Official for an inspection of the proposed residential condominium conversion project. The inspection shall cover the applicable building, safety, and housing requirements of Section 15-3904-B, Physical Elements.
 2. The subdivider shall include with the building inspection application a complete set of building plans, including electrical wiring and plumbing diagrams, of the buildings of the project as they presently exist.
 3. The Building Official shall perform a complete inspection and shall make a written report of their findings as to compliance or noncompliance with the requirements of Section 15-3903, Standards for New Condominiums and Condominium Conversions.
 4. The final report prepared by the Building Official shall be submitted with the application.
- B. **Physical Elements.** A report shall be provided, detailing the following:
1. The structural condition of all physical elements as they exist at the time of application.
 2. Report of proposed improvements as they are to be made by the subdivider prior to the sale of any units in order to refurbish and restore the project and to achieve a high degree of appearance, safety, comfort, and utility. Such elements include, but are not

limited to: foundations, interior and exterior walls, ceilings, floors, roofs, insulation, sound transmission characteristics, water heaters, furnaces, air conditioners, recreational facilities and equipment, and maintenance equipment. Regarding each such element, the report shall state the age and present condition, the cost of maintenance and replacement, and the proposed means of paying for the maintenance or replacement of the element.

C. **Project Plan.** A plan prepared by a licensed civil engineer or architect, containing the following information pertaining to the project as it exists at the time of application and as it is proposed:

1. Site and structure information, including all buildings, structures, and number and sizes of residential dwelling units;
2. Accessory facilities information showing the locations and describing the nature and extent of recreation facilities, laundry facilities, maintenance facilities, office areas, and storage areas;
3. Easement information showing the locations and dimensions of public utility, water, sewer, and drainage easements;
4. Parking and access information, showing access, the locations, dimensions, and total number of covered and/or uncovered parking spaces provided, and the dimensions and locations of all aisles, driveways, turning areas, and obstructions, which may include columns, poles, walls, and trees;
5. Open space and yards, including pools and recreational facilities;
6. Landscaping;
7. Refuse collection facilities;
8. On-site lighting; and
9. Fencing.

D. **Residential Tenant Information.** A report shall be submitted containing the name and address of each tenant and general information about the tenants of the proposed project including, but not limited to:

1. Total number of occupants;
2. Makeup of existing tenant households, including:
 - a. Size of households;
 - b. Lengths of residence;
 - c. Ages of tenants;
 - d. Number of tenants estimated to be receiving federal or State rent subsidies;
 - e. Number of tenants with disabilities; and
 - f. Number of elderly tenants, and number of student tenants.
3. Detailed history of the project, including vacancy rates, rents, and rent increases applicable to each unit during the 24 months preceding the application; and
4. Proof of compliance with the provisions of the Map Act relating to noticing of tenants and future tenants of intention to convert.

- E. **Residential Sales Information.** The following information regarding unit sales shall be provided:
1. Proposed sales price of units;
 2. Proposed owners' association fees;
 3. Statement regarding policy of sales to families with minor children; and
 4. Terms of sale and discounts, if any, to be offered to existing tenants.
- F. **Project Documents.** The applicant shall submit the proposed declaration of covenants, conditions, and restrictions to be applied to the project. The declaration shall include, but not be limited to, the information required pursuant to Article 40, Covenants, Conditions, and Restrictions, and the following information:
1. An agreement providing for common area maintenance including recreational facilities, landscaping of the project and all public right-of-way abutting the project, and all structural, mechanical, and utility elements of the proposed project, together with an estimate of initial assessment fees anticipated for the initial and future maintenance and replacement of such facilities and elements.
 2. A requirement that the owners' association maintain all private water, sewer, and storm drainage lines serving the project, and pay all charges for water, sewer, and waste collection service for the project.
 3. A provision granting emergency access to the project site by, and right of entry to, the City.
 4. A provision granting to the City the right to enforce the declaration.
 5. The assignment of parking and storage spaces.
 6. A grant of all easements and cross-easements for access, utilities, and maintenance necessitated by the conversion.
 7. A requirement that the owners' association provide or require adequate fire insurance protection for the project, including each structure, each unit and its contents, and the common area and facilities.
 8. A provision prohibiting the alteration of any party wall or fixture along any party wall, or the doing of anything which may impair its integrity as a fire wall.
 9. A provision granting the City the right to veto any amendment to the declaration with respect to any of the requirements of this subsection.
 10. ***Additional Information.*** Any other information deemed necessary by the Director that will assist in determining whether the proposed project will be consistent with the purposes of this article.
 11. ***Unavailability of Information.*** When the applicant can demonstrate that information required by this section is not available, this requirement may be modified by the Director if they determine that such modification is consistent with the purposes of this article.
- G. **Mobile Home Parks.** Reporting on the conversion of Mobile Home Parks shall comply with Section 66427.5 of the Map Act.

15-3905 Site Requirements for Residential Condominiums

The following requirements shall be satisfied prior to the approval of the Final Map; provided, however, that the Final Map may be approved subject to an agreement between the subdivider and the City guaranteeing the performance of the requirements and conditions prior to the sale of the first unit. These standards shall be required in all circumstances. If the site does not meet the strict application of the following standards, they shall be made conditions of project approval.

The following subsections (A-L) shall apply to new condominiums and Condominium Conversions.

- A. **Building Materials.** Exterior cladding materials shall be brought into compliance with the standards of the Base District.
- B. **Parking.** Parking shall be provided in accordance Article 24, Parking and Loading.
 - 1. **Exceptions.** Uncovered parking may count towards the satisfaction of the off-street parking requirements, however the overall number of stalls may not be decreased to less than prescribed in Article 24, Parking and Loading.
- C. **Lighting.** An exterior lighting plan shall be submitted. All parking areas, drive aisles, walkways, and communal areas shall be properly lit per Section 15-2015, Outdoor Lighting and Illumination. If the site abuts an alley, alley lighting shall also be provided.
- D. **Fences/Walls.**
 - 1. Fences and walls shall comply with Section 15-2006, Fences, Walls, and Hedges.
 - 2. Screen walls shall be required between all residential uses and the subject site.
- E. **Open Space/Landscaping.** Common Open Space and Landscaping (including trees), including irrigation systems, shall comply with the base district and with Article 23, Landscape.
- F. **Private Open Space.** In addition to the required common open space, a minimum of 75 percent of all dwelling units must have a minimum 50 square feet of private, exterior, usable open space directly accessible from the unit, with no dimension less than five feet. This private open space may be located in a required front, street side or rear yard, but shall be no closer than nine feet to the lot line. At grade private patios shall be provided with an irrigation system and/or a hose bib. Private open space areas shall provide a minimum of one exterior light.
- G. **Laundry Facilities.** A laundry room shall be provided in each unit, or if common laundry areas are provided, such facilities shall consist of not less than one automatic washer and dryer for each five units or fraction thereof.
- H. **Private Storage Space.** Each dwelling unit shall have at least 120 cubic feet of enclosed, weather-proofed, and lockable private storage. Such space shall be in addition to closet space (i.e., bathroom, linen/coat closet, bedroom closet) normally expected within each unit. The storage units shall be attached to the dwelling unit and shall be constructed of similar material of the unit. If the unit provides a garage, the garage shall satisfy this requirement.
- I. **Pedestrian Access.** Pedestrian access shall be provided to Major Streets, trails, schools, on-site amenities, etc.
- J. **Parking Lot Shading.** Parking Lot Shading shall comply with Article 24, Parking and Loading.
- K. **Rooftop Equipment.** Rooftop equipment shall be incorporated into the design of the roof and/or screened by a parapet that is architecturally integral to the building.

- L. **Refuse Collection Areas.** Refuse Collection Areas shall comply with Section 15-2016, Trash and Refuse Collection Areas. Refuse areas shall be strategically located to best serve the residents.

15-3906 Building and Mechanical Conditions

The following shall be inspected and approved by the Building Official.

- A. **Housing Regulations.** The project shall conform to the applicable standards of the City Housing Code.
- B. **Electrical Requirements.**
1. All indoor and outdoor receptacles shall have three-wire grounding.
 2. Ground-fault circuit interrupters shall be provided in areas as required by the Building Official.
 3. All bedrooms shall have at least four receptacles.
 4. The combined living and dining room area shall be provided with at least four receptacles.
 5. A receptacle shall be provided for kitchen counter space of more than 30 linear inches.
 6. Separate electrical meters and overcurrent devices shall be provided for each unit.
 7. Any other electrical systems deemed necessary.
- C. **Plumbing Requirements.** All cross-connections shall be corrected.
- D. **Building Requirements.**
1. Access shall be provided for the entire attic area.
 2. Draft stops shall be provided in the attic area.
 3. All glass doors and panels subject to human impact shall comply with Federal Glazing Standards.
 4. All applicable provisions of the Municipal Code relating to stairs, exits, and occupant loads, and to fire extinguishing systems.
 5. Smoke/Carbon Monoxide alarms, of a type and in numbers and locations as per the Building Code as approved by the Building Official, shall be installed.
 6. Each sleeping area shall be provided with a window of a size and in a location which will allow its use as an emergency exit.
 7. Compliance with the applicable provisions of the California Fire Code, as adopted in Chapter 10, Article 5 of the Fresno Municipal Code, shall be required. The installation of fire sprinklers is required in accordance with NFPA 13R for multi-family residential buildings. For buildings with existing fire sprinkler systems, all portions of the system shall be inspected, repaired as necessary, and certified as to full compliance with applicable standards by a licensed fire sprinkler contractor.
 8. The applicable provisions of relevant State and local codes.
- E. **Mechanical Requirements.** All combustion air for water heaters, furnaces, and clothes dryers shall be provided from outside the building.

F. **Energy Requirements.**

1. R-11 wall insulation and R-19 ceiling insulation shall be provided for each unit.
2. All exterior doors and windows shall be weather-stripped.
3. Heating and cooling air ducts shall be insulated according to the requirements of the Uniform Mechanical Code.
4. Heating and cooling air duct joints shall be sealed with pressure-sensitive tape.
5. Heat pumps with electric resistance back-up shall be controlled with a two-stage thermostat.

G. **Noise Requirements.** An interior noise level of no more than 45 dB CNEL attributable to exterior sources shall be allowable in any dwelling unit.

15-3907 Condition of Equipment and Appliances.

- A. **Identification of Equipment.** Mechanical equipment shall be permanently identified as to the area or space served.
- B. **Condition of Equipment.** The subdivider shall provide written certification to the buyer of each unit at the close of escrow that any dishwashers, garbage disposals, stoves, refrigerators, hot water tanks, furnaces, and air conditioners which are provided are in operable working condition as of the close of escrow, and shall state specifically the warranty provisions which are included. At such time as the owners' association takes over management of the project, the subdivider shall provide written certification to the association that any swimming pool and pool equipment and any appliances and mechanical equipment to be owned by the association are in operable working condition, and shall specifically include the warranty to be applied thereto.

15-3908 Processing and Consideration of Applications

- A. **Pre-Application, Application Filing, and Completeness Review.** Refer to Section 15-3302, Form and Contents, 15-3304, Pre-Application Consultation, and 15-3305, Application Filing and Completeness Review.
- B. **Referrals and Review.** Refer to Section 15-3307, Referrals and Review.

15-3909 Notice of Intent to Convert

- A. **Obligation to Provide Notice of Intent to Convert Residential Real Property.** The subdivider shall provide notice of intent to convert to all existing and/or prospective tenants and sublessees, at the subdivider's expense, in compliance with this section and Sections 66452.9 and 66452.51 of the Map Act.
- B. **Approval of Notice.** The Director shall approve the notice of intent to convert before it is sent to the tenants.
- C. **Contents of the Notice of Intent to Convert.** The notice of intent to convert shall be submitted with the application for a residential condominium conversion. The form of the notice shall be as approved by the Director and shall contain not less than the following:
1. Name and address of current owner;
 2. Name and address of the proposed subdivider;

3. Approximate date on which the Tentative Map is proposed to be filed;
 4. Approximate date on which the Final Map is expected to be filed;
 5. Approximate date on which the unit is to be vacated by nonpurchasing tenants;
 6. Tenant's right to oppose the proposed project by petition to, and appearance and testimony before the Commission and/or Council;
 7. Tenant's right to purchase;
 8. Tenant's right of written notification to vacate;
 9. Tenant's right to terminate lease;
 10. Statement regarding rent increase limitation;
 11. The Relocation Assistance Program required by Section 15-3903-D;
 12. The sales information required by Section 15-3904-E;
 13. A copy of Section 15-3913, Findings;
 14. A list of resources for tenant relocation support; and
 15. A list of nearby and comparable vacant residential units.
- D. **Verification.** The subdivider shall provide the Director with satisfactory proof that the notice was given in compliance with this section.

15-3910 Tenant and Buyer Protection

- A. **Right to Purchase.** As provided by the Map Act (Section 66427.1(b)), tenants, at the time the application is filed, shall be given a nontransferable right of first refusal to purchase the unit occupied by the tenant at a price no greater than the price offered to the general public; provided, however, that the subdivider may reserve the right to repurchase the unit at the same price if the subdivider offers a discount or special terms of sale to tenants, and the tenant sells or offers for sale the unit within six months of the date of the close of escrow for such unit.
- B. **Rent Increase Limitation.** A tenant's rent shall not be increased more than eight percent per year from the time of filing of the application for a Tentative Map until relocation takes place, the subdivision is denied, the approved Tentative Map expires, or the subdivision is reverted to acreage.
- C. **Conditions of Map Approval.** The information required by this article shall be conditions of any approved Tentative Map and requirements of the Final Map. The RAP shall specify that the plan will become effective upon the occurrence of the approval Final Map by the City, or the receipt by any tenant of a notice that tenancy will be terminated for purposes of conversion, whichever is earlier. Failure to comply with such conditions or any notice requirement as set forth in this article shall be grounds for denial of the Final Map and for denial of occupancy permits for individual units. In addition to any other findings required by law, no Final Map shall be approved unless the Council makes the findings required by the Map Act (Section 66427.1) relating to tenant noticing. Tenant concerns regarding the subdivider's failure to comply with conditions of the map approval and requirements of this article shall be investigated by the Department of Housing and Community Development.
- D. **Buyer Information.** Prior to the execution of any agreement for sale, the subdivider shall provide each purchaser with a copy of the information required by this article. Copies of the report shall be made available at all times at the project sales office.

- E. **Cooling Off Period.** Any tenant or other prospective buyer who signs a binding agreement for purchase shall be released without penalty from that obligation if, within 96 hours, the buyer notifies the seller in writing of his or her desire to rescind the agreement.
- F. **Pest Report.** Prior to the signing of any binding agreement for purchase, a structural pest report shall be made available to the prospective purchaser.

15-3911 Scheduling of Hearing(s)

- A. **Notice and Hearing(s).** Following the review and recommendation by the Director, who shall consult the SRC, the Commission and Council shall conduct public hearings. Notice and conduct of the hearings shall comply with Section 15-3309, Decision. The City shall mail written notice of all public hearings conducted for the project to residents within the proposed project area.
- B. **Timing.** In compliance with the Map Act (Section 66452.1), a public hearing on a Tentative Map shall be scheduled, and action shall be taken, within 50 days after:
 - 1. The Tentative Map application has been deemed complete; and
 - 2. The 50 day time period shall commence after certification of the environmental impact report, adoption of a negative declaration, or an environmental assessment that the project is exempt from the requirements of Division 13 (commencing with Section 21000) of the Public Resources Code.
- C. **Distribution of Staff Report.**
 - 1. In compliance with the Map Act (Section 66452.3), the staff report shall be made available and served to the subdivider and tenants of subject property at least three days before any hearing or action on the Tentative Map by the Commission.
 - 2. Wherever the Map Act requires that each tenant be notified of either an upcoming hearing and/or a copy of a report of the pending conversion, the applicant, at their own expense, shall be responsible for providing such notification. Proof shall be provided to the City.

15-3912 Recommendation and Decision

- A. **Commission.** The Commission shall:
 - 1. Consider the recommendations of the Director, any agency comments, and any public comment, including written and verbal testimony;
 - 2. Review and evaluate each conversion as to its compliance and consistency with applicable provisions of this Development Code, the Municipal Code, the General Plan, any operative plan, or development plan, and the Map Act. The Commission's evaluation shall be based on the staff report, information provided by an environmental assessment, and any public comment, including written and verbal testimony received;
 - 3. Make a recommendation on the proposed conversion to the Council.
- B. **Council.** The Council shall take action on all application(s) and shall approve, conditionally approve, or deny the application.

15-3913 Findings

- A. **Grounds for Approval.** In addition to the findings required by this Subdivision Ordinance, the Council shall make all of the following findings:
1. The proposed conversion complies with State regulations.
 2. The proposed conversion is consistent with the General Plan and any applicable operative plan;
 3. The conversion is consistent with the purposes of this article;
 4. The proposed conversion complies with the strict application of this article, including the Property Development Standards; and
 5. Each tenant has received or will receive a notice of the pending conversion in accordance with this article and the Map Act (Sections 66427.1 and 66452.3).
- B. **Grounds for Denial.** The Council may deny an application for a residential condominium conversion upon making one or more of the following findings:
1. The overall design and physical condition of the condominium conversion do not achieve a high degree of appearance, safety, comfort, and utility;
 2. The cumulative effect of the proposed conversion will cause a significant percentage of low- and moderate-income rental units to be removed from the city's housing stock;
 3. The RAP proposed by the subdivider, will not sufficiently reduce the detrimental impact of the conversion on the tenants.
 4. Vacancies in the project have been caused by the subdivider for the purpose of preparing the project for conversion, from and after the 24-month period preceding the application for the conversion, by means of substantive rent increases or substantive increases in the number of evictions or tenancies terminated by the subdivider;
 5. Approval of the proposed project would cause the displacement of any of the following in an area where sufficient available comparable replacement housing does not exist:
 - a. Families having minor children;
 - b. Elderly tenants;
 - c. Tenants with disabilities;
 - d. Low-income tenants; or
 - e. Student tenants during the school year.
 6. The subdivider has engaged in discriminatory rental practices against persons within the groups referred to in Subparagraph 5 of this subsection. Discriminatory rental practices include, but are not limited to, refusal to enter into a lease, termination of an existing lease, and eviction from a leasehold.
 7. Based upon information contained in the application, the report, and recommendations of the Director; or presented at the hearing, approval of the residential condominium conversions would be inconsistent with the purposes of this article and with the general health and well-being of the residents of the city.

15-3914 Expiration of Residential Condominium Conversion Permit

A condominium conversion permit shall lapse and become void 36 months after the date on which the permit became effective, unless a certificate of occupancy is issued prior to the expiration date. A condominium conversion permit may be extended by the Council upon the written request of the permittee prior to the initial expiration date.

15-3915 Commercial and Industrial Condominium Conversions

- A. **Purpose.** The ownership of commercial and industrial condominiums is distinguished by a sharing of responsibility that is not common to most other types of development. As a result, the purpose of this section is to establish criteria for the conversion of existing buildings to commercial or industrial condominiums to prevent problems inherent in community ownership that might be detrimental to the health, safety, and welfare of residents of such projects and the community at large.
- B. **Applicability.** The regulations set forth in this section shall apply to the conversion of existing buildings into commercial or industrial condominiums. If a commercial or industrial condominium conversion is proposed in combination with a residential condominium conversion, the requirements of this section and Section 15-3902, Residential Condominiums, shall be read together, with the relevant requirements applying to the portions of the project.
- C. **Application.** In addition to other required permit application material, the applicant of a proposed commercial or industrial condominium conversion project shall submit:
1. **Physical Elements Report.** A report shall be provided, detailing the structural condition of all physical elements of the proposed project as they exist at the time of application and as they are to be made by the subdivider prior to the sale of any units in order to refurbish and restore the project and to achieve a high degree of appearance, safety, comfort, and utility. Such elements include, but are not limited to: foundations, interior and exterior walls, ceilings, floors, roofs, insulation, sound transmission characteristics, water heaters, furnaces, air conditioners, recreational facilities and equipment, and maintenance equipment. Regarding each such element, the report shall state the age and present condition, the approximate useful remaining life, the cost of maintenance and replacement, and the proposed means of paying for the maintenance or replacement of the element.
 2. **Project Plan.** A complete plan certified as to accuracy by a licensed civil engineer or architect, containing the following information pertaining to the project as it exists and as it is proposed:
 - a. Site and structure information, including all buildings, structures, yards, landscaping, open spaces, signs, and number and sizes of buildings;
 - b. Accessory facilities information showing the locations and describing the nature and extent of recreation facilities, laundry facilities, maintenance facilities, office areas, storage areas, and trash storage areas;
 - c. Easement information showing the locations and dimensions of public utility, water, sewer, and drainage easements; and
 - d. Parking and access information, showing all points of regular access and emergency vehicle access, the locations, dimensions and total number of covered and uncovered parking spaces provided for employees and guests, and the

dimensions and locations of all aisles, driveways, turning areas, and obstructions, including, but not limited to, columns, poles, walls, and trees.

3. **Site Amenities.** A report outlining the condition and responsibility of the parking lot, landscaping, signs, communal areas, etc.
4. **Notice to Tenants.** Evidence of written notice provided to each tenant explaining that the owner intends to apply to the City for a condominium conversion. The notice to tenants must be sent at least six months before the application is submitted to the City, and further notice must be given to any tenant who occupies the building after the original notice was sent.
5. **Project Documents.** The applicant shall submit the proposed declaration of covenants, conditions, and restrictions to be applied to the project. The declaration shall include, but shall not be limited to, the following information:
 - a. An agreement providing for common area maintenance including recreational facilities, landscaping of the project and all public right-of-way abutting the project, and all structural, mechanical, and utility elements of the proposed project, together with an estimate of initial assessment fees anticipated for the initial and future maintenance and replacement of such facilities and elements;
 - b. A requirement that the owners' association maintain all private water, sewer, and storm drainage lines serving the project, and pay all charges for water, sewer, and waste collection service for the project;
 - c. A provision granting emergency access to the project site by, and right of entry to, the City;
 - d. A provision granting to the City the right to enforce the declaration;
 - e. The assignment of parking and storage spaces;
 - f. A grant of all easements and cross-easements for access, utilities, and maintenance necessitated by the conversion;
 - g. A requirement that the owners' association provide or require adequate fire insurance protection for the project, including each structure, each unit and its contents, and the common area and facilities;
 - h. A provision prohibiting the alteration of any party wall or fixture along any party wall, or the doing of anything which may impair its integrity as a fire wall; and
 - i. A provision granting the City the right to veto any amendment to the declaration with respect to any of the requirements of this subsection.
6. **Unavailability of Information.** When the applicant can demonstrate that information required by this section is not available, this requirement may be modified by the Director if they determine that such modification is consistent with the purposes of this article.
7. **Additional Information.** Any other information shall be submitted by the applicant which, in the opinion of the Director, will assist in determining whether the proposed project will be consistent with the purposes of this article.

Article 40 Covenants, Conditions, and Restrictions

Sections:

- 15-4001 Purpose
- 15-4002 When Required
- 15-4003 Requirements
- 15-4004 Additional Requirements for Common Interest Developments
- 15-4005 Conditions of Approval

15-4001 Purpose

This article outlines the requirements for Covenants, Conditions, and Restrictions (CC&Rs) that are required for various approvals of land divisions.

15-4002 When Required

Whenever a subdivision includes area under common ownership, the use and operation of which is administered by an owners' association, it shall be regulated by Covenants, Conditions, and Restrictions (CC&Rs).

15-4003 Requirements

CC&Rs shall incorporate the following provisions:

- A. Applicable State regulations;
- B. The City shall be granted the right of immediate access to all portions of the common areas for the purpose of preserving the public health, safety, and welfare;
- C. The association shall have the duty to maintain and repair all on-site sewer, water, and storm drainage facilities, unless the City or Flood Control District have determined that a particular facility should be public to provide necessary system completion or otherwise protect public health, safety, and welfare;
- D. The association shall have the duty to pay all utility and waste collection charges which are not separately metered and billed, including, but not limited to, charges for sewer, water, gas, solid waste, sanitation, and electric service;
- E. Should public utilities, including, but not limited to, sewer and water be located underneath private streets, or should the street be public while said utilities be private, language shall be provided indicating that the City shall not be responsible for private pavement repairs beyond the minimum amount this is directly related to the future utility main repair work.
- F. No property owner shall alter, modify, reconstruct, or do any other thing to any party wall or to any plumbing, electrical, or mechanical fixture located along such wall which will impair the integrity of the wall as a fire separation without the review and approval of the Building Official;
- G. Landscaping shall be provided and maintained by the association in those common areas adjacent to public streets and highways. The association shall provide and maintain the landscaping in such areas in a manner compatible with the requirements of the Development Code, and shall not decrease the amount of assessments charged against members of the

association if such decrease will adversely affect the ability of the association to perform this maintenance; and

- H. The association shall be responsible to provide street sweeping/cleaning within the common areas. The association shall be responsible for the cost(s).
- I. Any amendment by the association to the above provisions or any other provision specifying any right of the City shall require the prior written consent of the City.

15-4004 Additional Requirements for Common Interest Developments

In addition to the above provisions, CC&Rs for Common Interest Developments (Condominiums) shall incorporate the following provisions:

- A. **Enforcement.** The Association shall be responsible for enforcing and implementing its CC&Rs.
- B. **Conveyance of Private Open Space.** The surface area and appurtenant air space of private open space areas, including, but not limited to, the patio, deck, balcony, solarium, or atrium and any integral portion of that space that may exceed the minimum area requirements, shall be described and conveyed in the grant deed as an integral part of the unit.
- C. **Assignment and Use of Required Parking Spaces.** Required parking spaces shall be permanently and irrevocably specifically assigned to particular units within the project. To the maximum practicable extent, the spaces assigned to each unit shall be contiguous. In no case shall the private storage area of one unit overhang or take its access from the required parking space of another unit.
- D. **Right of Public Entry to Common Area.** Officers, agents, and employees of the City, the County, the State, and the United States Government, and any department, bureau, or agency thereof, shall have the right of immediate access to all common areas at all times for the purpose of preserving the public health, safety, and welfare, except in those instances where a common area is accessible only through a private unit.
- E. **Maintenance of Common Area.** Provision shall be made both for annual assessments of the owners for maintenance and special assessments for capital improvements. The amount of the regular annual assessment and the procedure for its change shall be specified. The manner in which special assessments may be levied for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon the common area shall be specified. Both annual and special assessments may be collected on a monthly basis. The remedies which the condominiums' association may bring for the nonpayment of assessments shall be specified and may include penalties for late payment. Assignment of the maintenance responsibilities of all improvements and utility systems for each unit shall be specified.
- F. **Utility Easements over Private Streets and Other Areas.** Required public utility easements shall be referenced as well as any required access routes necessary to assure that firefighting or emergency equipment can reach and operate efficiently in all areas.
- G. **Access for Construction, Maintenance, or Repairs.** Each owner and the condominiums' association shall have an easement for entry upon any privately owned unit, where necessary, in connection with construction, maintenance, or repair for the benefit of the common area or the owners of the units in common.
- H. **Right to Terminate Management and Maintenance Contracts.** Unless otherwise prohibited by law, or any local, State, or federal regulation, reference shall be made to the condominiums' association's right to terminate the contract of any person or organization engaged by the

developer to perform management or maintenance duties three months after the condominiums' association assumes control of the project, or at that time renegotiate any such contracts.

- I. **Fire Access.** The condominium association shall be responsible for enforcing fire lane parking restrictions, maintaining fire access gates, and for the maintenance and repair of fire hydrant, fire sprinkler, and other fire protection systems and devices. The condominium association shall notify the Fire Dept. within 72 hours of any change to responsible party contact information regarding property maintenance and parking enforcement.

15-4005 Conditions of Approval

CC&Rs shall reference by incorporation any Conditions of Approval approved by the Review Authority.

Article 41 Subdivision Design Standards

Sections:

- 15-4101 Purpose
- 15-4102 Applicability
- 15-4103 Intensity and Location of Uses
- 15-4104 Blocks
- 15-4105 Lots
- 15-4106 Street Dedications
- 15-4107 Connectivity
- 15-4108 Street Design
- 15-4109 Incorporation of Site Constraints
- 15-4110 Gated Subdivisions
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15-4101 Purpose

This article establishes standards for the design and layout of subdivisions, and the design of subdivisions. The purpose of these standards is to ensure, through careful site evaluation and design, the creation of new usable parcels that are consistent with the General Plan, any applicable operative plan, and zone-specific standards.

15-4102 Applicability

The following design and improvement standards apply to all subdivisions and shall be imposed on a subdivider as a condition of approval of a tentative map or parcel map. Exceptions to design standards may be approved if the City finds that an alternative design substantially conforms to the intent of the standards of this article, the General Plan, and/or applicable operative plans.

15-4103 Intensity and Location of Uses

- A. When a variety of housing types and lot sizes are proposed, more intense residential development such as small lot single family, townhomes, row-housing, and apartments, should generally be located along Connector streets and Major Streets, while less intense residential land uses, such as larger lot single family homes, should generally be located in the interior of the neighborhood.

15-4104 Blocks

- A. **Length.** Residential blocks shall be no less than 200 feet in length and no more than 600 feet in length. A deviation from this requirement may be allowed if the alignment of existing streets on adjacent properties justify it, at the discretion of the Review Authority.

- B. **Width.** Residential block widths shall be of such dimension as to allow an ultimate layout of two tiers of lots therein of a size required by the provisions of this article, unless:
1. The subdivision provides a trail and homes would front onto the said amenity or other communal space.
 2. Topographic conditions justify a variation from this requirement; or
 3. The proposed homes would back onto a non-residential district or a Major Street.

15-4105 Lots

- A. **Lot Size and Dimensions.** Lots shall comply with the minimum size and dimension requirements of the base zoning district.
1. **Exceptions.** In any Residential subdivision of five or more lots, up to 25 percent of lots may be up to 20 percent smaller in area and/or width than the normally required minimum lot area and width of the applicable base zoning district, as long as the average lot area and width for the subdivision are no less than the required minimum for the district.
- B. **Oversize Lots.**
1. When a subdivision is divided into lots of a size substantially larger than those allowed in any applicable zoning district, the lots shall be designed to provide for the extension of streets, and the later division of any parcel into lots of the probable legal minimum size. This requirement may be waived when plans submitted and approved by the Commission indicate restrictions on future sub-dividing such as topography or other natural and man-made features.
 2. A covenant shall be recorded against oversized lots that have the potential to be further divided that may cause the original subdivision to exceed the permitted residential density requirements of the underlying planned land use designation.
- C. **Lot Consolidation.** Lot consolidation is encouraged when such consolidation results in a superior subdivision that includes some of the elements of a complete neighborhood such as a range of housing opportunities, connectivity, open space, and a well landscaped streetscape. Lot consolidation that does not include such elements is discouraged.
- D. **Side Lines.** The side lines of any lot, so far as is practicable, shall be at right angles to the street which the lot faces, or radial if the street is curved.
- E. **Lot Frontage.** Every lot shall have frontage on a public street, except under the following circumstances:
1. Adequate internal circulation is provided by a private street or streets in an approved Planned Unit Development;
 2. Lots have access via a rose garden or paseo in a subdivision served by communal parking spaces or an alley; or
 3. The lots are within a C or E District and the following conditions are met:
 - a. Execution and recordation of a covenant with the City which, at minimum, creates mutual easements and reciprocal use agreements for cross-access, cross-drainage and shared public utility services or fire suppressions systems in a manner which affords adequate access, drainage and public services to/from a

dedicated public street for the benefit of any/all lots proposed to be created without frontage on a public street.

The Mutual Easement and Reciprocal Use Agreement shall include provisions identifying obligations and responsibilities for retention and maintenance of any common or easement areas, shared utility services, systems, facilities and/or improvements which are required for the benefit of lots proposed to be created without frontage on a public street.

- b. When a lot which does not have public street frontage is proposed to be created for developed land, the subdivider shall submit a revised site plan depicting the location of proposed lot lines and the locations of all existing or proposed structures and improvements for review and approval in conjunction with the tentative or tentative parcel map.

F. Double Frontage Lots.

1. Double frontage residential lots are discouraged, however may be approved where conditions warrant.
2. **Major Street.** If a Double Frontage lot abuts a Major Street, access shall be relinquished along the Major Street, and:
 - a. A minimum 10 foot landscape area shall be provided with a minimum six-foot masonry wall at the rear thereof.
 - b. Should an operative plan require a greater landscape area, the wall shall be placed at the rear of the landscape setback.
 - c. A greater landscape area may be required to ensure that visibility is maintained for adjacent properties. This includes, but is not limited to, driveway and garage locations, fences, trees, etc. of neighboring properties.
 - d. A greater landscape area may also be required by the Review Authority, when in the opinion of the Review Authority, a greater landscape area would be more in harmony and would add visual interest to the streetscape when adjacent properties also face a Major Street.
3. **Local Street.** Double frontage lots which abut two approximately parallel streets and have a depth of less than 200 feet shall only be approved when access rights to one of streets is relinquished. In all cases, both sides of a Double Frontage Lot shall be considered front yards.

G. Corner Lots.

1. **Major Street.** A corner lot on the intersection of a Major Street shall have a property line radius as determined by the City Engineer.
2. **Local Street.**
 - a. When a Local Street intersects a Major Street and the corner lot sides onto the Local Street, the corner lot shall provide ten foot landscape easement. A minimum six-foot masonry wall shall be placed at the rear of the landscape easement. A greater landscape easement may be necessary for visibility purposes. In the case of the latter, such cases shall be reviewed on a case-by-case basis.

- b. When the street side yard faces the front yard of a home across the street, a minimum landscape easement of four feet is required, unless a four foot park strip is provided between the curb and sidewalk. A minimum six-foot masonry wall shall be placed at the rear of the landscape easement. An opening in the masonry wall may be permitted to provide a gate for access if approved by the Public Works Director.

H. **Lot Access.**

1. ***Street Frontage Required.*** Each proposed parcel shall have frontage on a public street. The frontage width shall be at least the minimum parcel width required by the applicable zoning district. The Review Authority may exempt parcels created under a Planned Unit Development or pursuant to Section 15-4105-E from the requirements of this subsection.
2. ***Single-Family Homes on Major Streets.*** Lots may front a Major Street if a Frontage Road is provided, to protect a natural resource, or:
 - a. The majority of the homes on the block face the Major Street and it is unlikely that the existing homes will be redeveloped with more urban uses;
 - b. The backing of the home could potentially cause visibility issues for neighboring properties which are attempting to access the Major Road;
 - c. The subdivision layout is considered superior in comparison to what could otherwise be developed with homes backing onto the Major Street;
 - d. The site provides a circular driveway or access is provided via an alley or private easement; and
 - e. The Public Works Director approves of the parcel configuration.
3. ***Multi-Family.***
 - a. ***Existing Multi-Family Lots.*** May access a Major Street, however lots shall provide an on-site turnaround.
 - b. ***New Multi-Family Lots.*** Shall only be approved if an on-site turnaround is provided or if served by a public alley.
 - c. ***Multi-Family Private Access Easements.***
 - i. Private easements and access drives that only serve multi-family lots are prohibited. For such development, access shall be from a dedicated public alley and/or public street.
 - (1) An exception may be made if the number of multi-family homes served by the private alley, easement, or street account for less than 20 percent of the total number of units within the subdivision. The maintenance of any private road or easement shall be the responsibility of the Homeowner's Association or shall be incorporated by the City's Community Facility District.

15-4106 Street Dedications

All land lying within the alignment of any street shown on the circulation element of the General Plan, the City's Official Maps for a system of streets, or shown on any precise or other plan of streets adopted by the Council or other legally constituted body of the city, county, or state, or within the alignment of

any local street approved by the Public Works Director, shall be dedicated consistent with the proposed alignment of said streets and with the ownership of said land.

15-4107 Connectivity

Subdivisions of one-half acre or more in non-residential districts or resulting in five or more residential lots shall provide vehicular, bicycle, and pedestrian connectivity to all uses within a subdivision, to adjacent development, and to the surrounding street system in accordance with the following:

- A. **Continuous Street System.** All streets, alleys, bicycle facilities, and pedestrian ways shall connect to other streets, alleys, bicycle facilities, and pedestrian ways to form a continuous vehicular, bicycle, and pedestrian network with numerous connections within the subdivision and to adjacent development.
- B. **Connector Streets.** Connector Streets (refer to Section 15-4108, Street Design) connecting Major Streets shall be provided within quarter sections or other area of roughly 160 acres and surrounded by major streets.
 1. One Connector Street shall be provided approximately through the center of the quarter section which runs north to south, linking the northern and southern Major Streets. A second Connector Street shall be provided approximately through the center of the quarter section which runs east to west, linking the eastern and western Major Streets.
 2. Should the alignment of a Connector Street be impractical due to an existing feature, it shall be developed as close as reasonably possible to the alignment described in item 15-4107-B.1 above.
 3. At the discretion of the Review Authority, Connector streets may be designed with some curves and bends in order to calm traffic.
 4. Connector Streets are not required for Industrial Districts.
- C. **Non-Contiguous Sites.** Subdivisions that are not contiguous with other subdivisions shall provide stub streets and other potential vehicular and non-vehicular connection points to non-contiguous subdivisions within the same 160 acre quarter section. These connection points shall be within the public right-of-way and private easements when necessary.
- D. **Connections to Adjacent Areas.**
 1. ***Connections to Existing Subdivisions.***
 - a. Connections shall be provided to all stub streets in all adjacent subdivisions.
 2. ***Connections to Future Subdivisions.***
 - a. Where the subdivision adjoins unsubdivided land, stub end streets in the subdivision shall be extended to the adjacent unsubdivided land to provide access to the unsubdivided land in the event of its future subdivision. There shall be one such connection for every 600 feet of adjacency.
 - b. In the case of stub end streets extending to the boundary of the property, a barricade, the design to be approved by the City Engineer, shall be constructed at the end of the stub end street, pending the extension of the street into adjacent property. A temporary connection to another street, or a temporary turnaround, may be required by the Review Authority.
- E. **Emergency Vehicle Access.** Emergency vehicle access shall be determined on a case-by-case basis by emergency responders.

- F. **Access Points to a Major Street.** Ingress and egress into a subdivision from a Major Street to a local or connector street shall be provided at a spacing of no less than 600 feet.
- G. **Pedestrian and Bicycle Paths.** Continuous and convenient bicycle and pedestrian access shall be provided from every home within a subdivision area to the nearest neighborhood center, school, and park.
 - 1. **Safe Routes to Schools.** Pedestrian and bicycle routes to schools shall be identified at the time of project submittal.
 - 2. **Barriers.** Fencing, sound walls, and other barriers between residential and non-residential uses shall provide openings or other mechanisms to allow bicycle and pedestrian access between uses. If the residential use is a private, gated community, such openings may be locked if all residents have a code, key, or other means of access.
 - 3. **Links between Residential and Non-Residential Areas.** Pedestrian paths from residential areas shall be provided to adjacent Commercial, Mixed-Use, and Office districts. Pedestrian paths shall be a minimum of 15 feet in width, lit, and provided at a rate of approximately 1 per 600 feet. The exact locations may be adjusted at the discretion of the Review Authority based on site conditions, safety, and pedestrian convenience. If existing development blocks all possible access points to adjacent Commercial, Mixed-Use, and Office districts, this section shall not apply.
 - 4. **Access to Major Streets.** For subdivisions adjacent to a Major Street, a pedestrian path (including sidewalks and trails) to the Major Street shall be spaced no more than 600 feet apart. For dead-end streets, except where there's no existing or planned pedestrian facilities, refer to Subsection 15-4108-K, Cul-de-Sacs and Dead-End Streets.
 - 5. **Access to Bus Stops.** For subdivisions adjacent to a Major Street, future bus stops locations shall be identified and pedestrian access shall be identified to minimize circuitous routes for pedestrians except in locations with no existing or planned pedestrian access.

15-4108 Street Design

Streets shall be designed and constructed consistent with the City's Standard Drawings and Specifications and Public Works Director approval and as provided below.

- A. **Street Orientation.** Streets shall be planned in a primarily east-west orientation in order to best implement Section 15-4113, Energy Conservation, and the Map Act (Section 66473).
- B. **Local Streets.** Local streets shall have minimum right-of-way and roadway widths in accordance with the local street details and development density criteria of the Standard Drawings and Specifications.
- C. **Connector Streets.** Connector Streets shall incorporate coordinated street trees spaced to provide continuous shade for pedestrians. Connector Streets shall be designed with non-contiguous sidewalks to allow the street trees to be planted in a landscape strip between the curb and sidewalk. The planting area shall be a minimum of four feet in width.
- D. **Major Streets.**
 - 1. Major streets shall be as shown on the circulation element of the General Plan, any operative plan or any Official Plan Line, the select system of streets, or as shown on any precise or other plan of streets adopted by the Council or by other legally constituted bodies of city, county or state.

2. All Major Streets shall be designed as Complete Streets. Complete Streets are those that provide for all users of a corridor, including pedestrians, bicyclists, transit riders, people with disabilities, senior citizens, motorists, freight providers, emergency responders, and adjacent land users. Complete Streets support all modes of transportation safely and independently in current and future conditions.
- E. **Frontage Roads.** Existing frontage roads in adjacent subdivisions shall be continued into the proposed subdivision in the same manner as related to width and design. Pedestrian sidewalks and bike paths are required with frontage roads.
- F. **Private Streets.** Private streets are prohibited except where approved as part of a Planned Unit Development or otherwise approved by the City Council. All widths and alignments of private streets shall be as shown on any precise or other plan of streets adopted by the Council and shall conform to the private street details and development criteria of the Standard Drawings and Standard Specifications. Private streets that serve multi-family units shall comply with Section 15-4105, Lot Access.
- G. **Street Intersections.**
1. All streets shall intersect each other at angles as near to right angles as is practicable.
 2. All local street intersections and all intersections with Major Streets shall have minimum curb radii as established in the Standard Drawings, except that at the intersections with State highways, the standards of the California Department of Transportation shall apply.
- H. **Curves.**
1. Unless the curve radius has been established on an adopted map, a curve radius shall be required as determined by the Public Works Director where a street deflects more than five degrees from a straight line.
 2. On all streets having reverse curves, a tangent of at least 100 feet between reverse curves shall be required. Subject to the approval of the Public Works Director, these requirements may be varied for local streets or when topography requires other treatment of streets to secure the best overall design.
- I. **Alleys.**
1. Where alleys are planned, required, or proposed, an alley with a minimum width of 20 feet shall be installed, and the alley shall be designed to conform to Public Works Standards.
 2. Where two alleys intersect or where an alley deflects with an interior angle of less than 135 degrees, corner cut-offs of 15 feet measured from the point of any interior angle shall be required.
- J. **Traffic Calming.** Traffic calming street design or devices such as bulb-outs, chokers, center islands / raised medians, traffic circles, textured pavement, and painted intersections, shall be included, if required by an operative plan, or when determined to be necessary by the City Engineer, to ensure safe conditions for all users.
- K. **Cul-de-Sacs and Dead-End Streets.**
1. The combined length of all cul-de-sacs and other dead-end streets in any subdivision shall not exceed 35 percent of the combined total length of all local residential streets within the subdivision. Cul-de-sacs that are connected by a trail shall be exempt from

this calculation. Additional exceptions may be made at the discretion of the Review Authority if any of the following circumstances apply:

- a. The average block length of all blocks in the proposed subdivision is 400 feet or less;
 - b. The applicant can demonstrate, to the satisfaction of the City Engineer, that the subdivision design will result in a rate of Vehicle Miles Travelled which is equal to or less than a subdivision which follows the cul-de-sac limit in item K-1 above;
 - c. The site is 6 acres or less in gross area;
 - d. The site is surrounded by developed properties which lack stubs to connect to;
or
 - e. The site is blocked by canals and expressways.
2. Cul-de-sacs and dead-end streets may not exceed 600 feet unless there are unforeseen issues or topographical challenges or other opportunities to promote pedestrian connectivity such as access to another street or trail.
 3. All cul-de-sacs and dead-end streets shall have a turnaround per Public Works Standards.
 4. A cul-de-sacs and or dead end street may be approved as a temporary facility, without a turnaround, provided the street is designed to provide access to adjoining land that is not yet subdivided or developed. A temporary turnaround or access may be required.
 5. Cul-de-sacs and dead-end streets shall provide pedestrian and bike connections to neighboring streets, trails, commercial centers, etc.

L. **Street Names.** Refer to Article 62, Street Names & Addressing.

M. **Sidewalks.**

1. All public streets shall have sidewalks constructed to City standards on at least one side of the street if there is connectivity to one of the following:
 - a. An adjacent street with a sidewalk;
 - b. An adjacent trail; or
 - c. An adjacent alley.
2. Streets with a sidewalk on only one side shall have two 15-gallon street trees in the front of the lot on both sides of the street.
3. Streets that do not provide any of the connections set forth in Subsection 1.a-c above shall have sidewalks constructed to City standards on both sides of the street.
4. Private streets are exempt from this section.

N. **Street Trees.**

1. Street tree species shall be selected from the Fresno Street Tree Palette.
2. Street trees shall be planted per applicable Public Works standards.
3. Street trees shall be located within a landscaped park strip of no less than four feet in width between the curb and sidewalk.

4. Trees within the front yard of adjacent parcels may be counted toward the satisfaction of this requirement at the discretion of the Review Authority, in which case the landscape strip between the curb and sidewalk will not be required and the spacing shall be one tree per lot.

O. Street Lighting.

1. ***Installation Required.*** The subdivider shall cause the installation of street lighting on all streets within the subdivision and on all streets adjacent to the subdivision unless existing lighting conforms to City standards.
2. ***Specifications.*** The type, location, and mounting heights of the luminaries shall be determined by the Public Works Director based upon the Standard Specifications and sound engineering practices consistent with the City policy for street lighting.

15-4109 Incorporation of Site Constraints

Areas with development constraints shall be incorporated into the overall subdivision design and layout to support and enhance park and open space amenities.

- A. **Major Utility Easements.** Easements for major utilities such as high-tension lines and utility trunk lines shall be integrated into the proposed subdivisions such they are incorporated as open space or recreation use and shall be developed as a regional trail system. Such easements shall be designed as part of an overall open space or recreation element. Said easements shall not be blocked by fences, yards, gates, and other similar barriers. The use and treatment of such easements is subject to the policies and restrictions of the utility provider and City.
- B. **Trails and Natural Features.** Proposed subdivisions that are adjacent to a trail or a canal shall incorporate them into the subdivision plan as a design feature in conformance with the City's trails plan and the following:
 1. Proposed subdivisions that are adjacent to a trail shall incorporate it into the subdivision plan as a design feature. Development adjacent to a trail shall be planned to provide pedestrian access to the trail(s) at intervals identified below.
 2. Homes should front onto a trail, or other communal area, unless:
 - a. Topographic conditions justify a variation from this requirement;
 - b. The proposed homes would face a Major Street; or
 - c. The Review Authority determines that there are no feasible alternatives.
 3. Development adjacent to a trail shall be planned to provide pedestrian access to the trail(s) at intervals of approximately 1 per 600 feet if homes or a commercial center back onto to the natural feature. The exact locations may be adjusted at the discretion of the Review Authority based on site conditions, safety, and pedestrian convenience. Should cul-de-sacs terminate near the feature, each cul-de-sac shall provide a path to the feature.
 4. Where development is backed onto an adjacent trail, privacy walls and security walls shall be set back from the trail by a minimum distance of 10 feet and such setback shall be landscaped to be compatible with the trail landscape.
 5. Subject to approval by the Fresno Irrigation District, where canals are piped, the area above shall be integrated into the subdivision as a trail or part of an open space and/or trail system subject to Fresno Irrigation District approval.

- C. **Safety and Environmental Zones.** Buffers, setbacks, and no-build zones associated with safety or environmental impacts such as airport safety or noise, and freeway noise and air pollution shall be integrated into the proposed subdivision plan by designating them for alternative, allowable uses. These uses may be open space, parking, recreation, or other allowed uses. The plan shall integrate these areas and uses such that they are part of an overall system of open space, parking, or recreation and not separated from the subdivision by walls or barriers unless required by the regulation agency.

15-4110 Gated Subdivisions

- A. Subdivisions with private streets may be gated provided consideration shall be given to surrounding properties to ensure that pedestrian and bicycle access is maintained, in particular along tails and natural features.
- B. Should a gated subdivision be conditioned to dedicate and/or incorporate, as a public right-of-way, a Regional Trail (e.g., Class 1) pedestrian and other non-motorized traffic shall have the ability to move freely through the trail. Access into the residential areas may be fenced and gated, but access to the trail shall be unimpeded.
- C. Should a gated subdivision be proposed that abuts a street that was previously dedicated to provide access to the parcel where the subdivision is being proposed, the subdivider of the gated subdivision shall:
1. Construct a cul-de-sac to provide turn-around access. Emergency access shall be provided via the cul-de-sac. Fencing shall be provided behind a minimum 10 foot landscape setback. The landscaping and the fencing shall be maintained by the Homeowner's Association of the gated subdivision, unless it is accepted into the City's Community Facilities District; or
 2. In situations where there are no driveways from said stub street, the developer may petition the City to vacate the stub street to the adjoining parcels, provided the owners are willing to accept the property and the developer bears all cost(s) associated with fulfilling the conditions of the vacation. Moreover, all indications of a street, such as curb, gutter, sidewalk, etc., shall be removed by the petitioner and shall be converted to private ownership.

15-4111 Restricted Access Barriers

Restricted access barriers controlling the access to other streets or other public right-of-way from adjoining property shall not be approved unless such barriers are necessary for the protection of the public welfare or of substantial property rights, and in no case will they be approved unless and until the control and disposition of the land comprising such strips are dedicated to the City under conditions approved by the Review Authority.

15-4112 Parks and Playgrounds

Subdivisions shall reserve land for pedestrian-accessible parks and playgrounds. The size and location of such reserved land shall be consistent with the General Plan's park and open space policies and policies and standards of other adopted applicable planning documents.

- A. **Standards for Reservations.**

1. The reserved area is of such size and shape as to permit the balance of the land within which the reservation is located to develop in an orderly and efficient manner.
 2. The amount of land shall be determined per Article 37, Dedications and Reservations and the Open Space Design Guidelines.
- B. **Park Frontage.** A minimum of 50 percent of the perimeter of any public park must abut a street, external trail, internal lit trail that connects to an external trail or sidewalk, sidewalk, or similar facility that is accessible and visible to people traversing the neighborhood. Homes shall generally face or side the park.
- C. **Park Accessibility.** Park sites shall be centrally located, providing access within a half-mile walking distance to new residential development. Multiple Pocket and Neighborhood parks may serve to satisfy this requirement.
- D. **Pocket Parks.** Pocket parks shall be distributed throughout the subdivision.
- E. **Detention Basins.** In coordination with the Flood Control District, detention basins that serve residential neighborhoods shall be designed to accommodate recreational uses and shall be treated as an aesthetic amenity.

15-4113 Energy Conservation

Per the Map Act (Section 66473), the subdivision design shall provide for passive or natural heating or cooling opportunities and for other measures that conserve nonrenewable energy resources, consistent with the General Plan. Design measures to accomplish these objectives may include, but are not limited to, the arranging of streets, lots, buildings and landscaping. The purpose of such design measures shall be to provide solar access for active solar water and space heating systems and passive space heating, minimize solar heat gain in the summer, and take advantage of prevailing breezes.

- A. **Design Guidance; No Reduction in Density.** In providing for future passive or natural heating or cooling opportunities in the design of a subdivision, consideration shall be given to local climate, to contour, to configuration of the parcel to be divided, and to other design and improvement requirements, and such provision shall not result in reducing the maximum allowable densities or the percentage of a lot that may be occupied by a building or structure under applicable standards of this Code in force at the time the tentative map is filed.
- B. **Exemptions.** The requirements of this section do not apply to condominium conversion projects which consist of the subdivision of airspace in an existing building when no new structures are added.

15-4114 Underground Utilities

All existing utilities, including electrical systems, and communication systems, and street lighting distribution systems shall be placed underground throughout a subdivision, which includes a tract or parcel map, except as follows:

- A. **Existing Major Lines.** Undergrounding of existing overhead wires and associated overhead structures used for conveyance of electrical energy at transmission voltages, nominally in excess of 21,000 volts, or major transmission trunk communication lines shall not be required.
- B. **Existing Utilities in Industrial Districts.** Undergrounding of existing overhead wires and associated overhead structures used for the distribution of electrical energy or communication lines within certain industrial zone districts shall not be required provided the subdivider shall:

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1. Execute a covenant, which shall be recorded and run with the land, agreeing to participate and support any improvement district formed for the purpose of undergrounding the existing overhead utilities; and
 2. Install or agree to install conduit of sufficient number and size, as determined by the utility company, to accommodate the future undergrounding of existing overhead utilities.
- C. **Appurtenant Equipment.** Equipment appurtenant to underground facilities, such as transformers, terminal boxes, amplifiers, splice boxes, meter cabinets and concealed ducts, may be surface-mounted provided that such equipment is located in utility easements outside the street right-of-way.
- D. **Waiver by Public Works Director.** The Public Works Director may waive the requirement to underground existing overhead services to street lighting or other utility systems as a condition of approval of any subdivision as provided below:
1. ***Required Findings.***
 - a. The property is located in an area where 90 percent or more of the surrounding properties have overhead utilities; and
 - b. The property is not in a Growth Area as defined by the General Plan.
 2. ***Stipulations.*** If a waiver is granted, the subdivider shall:
 - a. Execute a Covenant, which shall be recorded and run with the land, agreeing to participate in and support any improvement district or underground utility district formed for the purpose of undergrounding the existing overhead utilities; and
 - b. Install or agree to install conduit of sufficient number and size, as determined by the utility company, to accommodate the future undergrounding of existing overhead utilities.
- E. **Utility Operator Objection.** The requirement to place utilities underground may be waived at the discretion of the Review Authority if the entity which operates the utility finds the underground placement to be infeasible.

15-4115 Maintenance of Improvements

Maintenance of landscaping, trails, open space, lighting, street furniture, local street improvements, etc., outlined in this article shall be included in the Community Facility District and/or Homeowner's Association as determined by the City.

Article 42 Lot Line Adjustments, Mergers, and Reversions

Sections:

- 15-4201 Purpose
- 15-4202 Lot Line Adjustments
- 15-4203 Voluntary Parcel Mergers
- 15-4204 Reversion to Acreage

15-4201 Purpose

This article provides for the adjustment of the size and configuration of lots through a Lot Line Adjustment or Lot Merger. This includes the procedures for the preparation, filing, processing, and approval or denial of Lot Line Adjustment applications, consistent with the policies of the General Plan, the requirements of the Map Act (Section 66412(d)), and the procedures for voluntary Parcel Mergers.

15-4202 Lot Line Adjustments

- A. **Applicability.** As provided by the Map Act (Section 66412(d)), a Lot Line Adjustment procedure is for the purpose of relocating lot lines between four or fewer existing adjacent parcels, where land taken from one parcel is added to an adjacent parcel and where:
1. No more parcels are created than originally existed;
 2. No additional lots or building sites are created; and
 3. The Lot Line Adjustment shall not result in the creation of an additional substandard lot, nor in a decrease in the size of an existing substandard lot.
- B. **Application.** A Lot Line Adjustment application shall include the following information as required by the City Engineer:
1. Proof of the legal status of the parcel;
 2. Plot plan showing existing lot dimensions;
 3. Deed or record of survey showing proposed lot dimensions; and
 4. Other information necessary to conform with the General Plan, Building Code, and this Code.
- C. **Criteria for Approval of Lot Line Adjustments.** The City Engineer shall approve a Lot Line Adjustment based on a determination that it will meet all of the following criteria:
1. The adjustment is between four or fewer parcels and no additional parcels are created;
 2. No street or alley dedication or improvement is necessary to adequately serve the properties affected by the proposed Lot Line Adjustment;
 3. The lots proposed in the adjustment will comply with the provisions of this article, the Subdivision Map Act, the General Plan, and the Development Code;
 4. The zoning and the Planned Land Use are consistent per the operative plan(s);

5. The lots proposed in the adjustment will comply with the provisions of the Building Code;
6. The adjustment shall not result in the creation of an any new nonconformities, including, but not limited to, signage, parking, fencing, etc.;
7. The resulting parcels do not interfere with existing utilities, infrastructure, or easements;

D. Completion.

1. ***Recording with County Recorder.*** A Lot Line Adjustment shall not be effective until a deed signed by the record owners has been recorded. The applicant shall submit the legal description to the City Engineer for review and approval of this, before recordation of the grant deed. The legal descriptions provided in the deeds shall be prepared by a person authorized to practice land surveying in the State.

15-4203 Voluntary Parcel Mergers

- A. **Required Mergers.** Pursuant to the Map Act (Section 66451.10) and the requirements of this Subdivision Ordinance, the City may initiate the merger of two or more contiguous parcels or units held by the same owner if any one of the contiguous parcels or units does not conform to the standards for minimum parcel or lot size established by the Development Code, and if the requirements as stipulated in the Map Act (Section 66451.11) are satisfied.

B. **Mergers Initiated by the Property Owner.**

1. ***Applicability.*** Upon request of the legal owners of contiguous parcels, the City Engineer, following a recommendation by the Director, may approve the merger of the property in compliance with the Map Act (Section 66499.20 3/4).
2. ***Review.*** An application shall be made to the City Engineer.
3. ***Request for Determination.*** Upon written application by the owner to the City Engineer, the City Engineer shall determine whether the affected parcels shall be merged and shall notify the owner of the determination. If the City determines that the parcels shall not be merged, the owner may file a written request for a hearing with the City Engineer pursuant to the requirements of this section. If the City determines that the parcels shall be merged, a determination of merger shall be recorded.
4. ***Recording with the County Recorder.*** Upon approval, a notice of the Lot Merger shall be filed with the County Recorder. The form and content of the notice shall be as required by the City Engineer.

C. **Mergers Initiated by the City.**

1. ***Notice of Intention to Determine Status.*** The Director shall mail, by certified mail, a notice of intention to determine status to the current record owner of the property. The notice shall state that the affected parcels may be merged, and the owner may request a hearing on the determination of status before the Planning Commission to present evidence that the property does not meet the criteria for merger. The notice of intention to determine status shall be filed for record at the County Recorder on the same day that the notice is mailed to the property owner.
2. ***Hearing on Determination of Status.*** The owner of the affected property may file a written request for a hearing with the Director within 30 days after the recording of the notice of intention to determine status. Upon receipt of the request, the Director shall

set a time, date and place for a hearing and notify the owner by certified mail. The hearing shall be conducted not more than 60 days following the receipt of the owner's request, or may be postponed or continued by mutual consent of the Director and the property owner. At the hearing, the property owner shall be given the opportunity to present any evidence that the affected property does not meet the requirements of this article.

3. **Determination of Merger.** At the conclusion of the hearing, the Commission shall determine whether the affected parcels shall be merged or not and shall notify the owner of the determination.
 - a. If the Commission makes a determination that the parcels are to be merged, the City Engineer shall record a determination of merger within 30 days of the Commission's decision unless the owner files an appeal.
 - b. If, within the 30 day period following the recording of the notice of intention to determine status, the owner did not file a request for a hearing, the Director and City Engineer shall make a determination that the affected parcels are to be merged or are not to be merged. If the Director and City Engineer determine that the parcels shall be merged, the City Engineer shall record a determination of merger within 90 days following the mailing of the notice of intention to determine status if there is no hearing.
 - c. The determination of merger shall specify the name of the record owners and a description of the property.
 - d. If the City determines that the parcels shall not be merged, the City Engineer shall record a release of the notice of intention to determine status and shall mail a clearance letter to the owner of record.
- D. **Unmerged Parcels.** A property owner may apply to the City for a determination that any parcels or units of land for which a notice of merger had not been recorded on or before January 1, 1984 are deemed not to have been merged under Section 66451.30 of the Map Act. If the Director determines that the parcels meet the standards specified in Section 66451.30, the City shall issue the owner, and record with the County Recorder, a notice of the status of the parcels and a declaration that the parcels are not merged.
- E. **Allowance for Minor Deviation.** For small, oddly shaped, and hard-to-develop lots, a greater Minor Deviation allowance may be permitted. See Section 15-5602-B.

15-4204 Reversion to Acreage

Subdivided property may be reverted to acreage in compliance with the procedures and requirements of the Map Act (Sections 66499.11 *et. seq.*).

Article 43 Corrections and Amendments of Maps

Sections:

- 15-4301 Purpose
- 15-4302 Types of Amendments to an Approved Tentative Map and or Tentative Parcel Map
- 15-4303 Processing of Amendments
- 15-4304 Findings for Approval
- 15-4305 Effect of Amendments on Time Limits
- 15-4306 Tentative Maps with Multiple Final Maps
- 15-4307 Amendments to Final and Parcel Maps after Recordation
- 15-4308 Expansion of the Map Outside of the Original Boundaries

15-4301 Purpose

The purpose of this article is to establish procedures for the correction and amendment of maps. A subdivider may request amendments to an approved Tentative Map or Tentative Parcel Map, or conditions of approval of a map.

15-4302 Types of Amendments to an Approved Tentative Map and or Tentative Parcel Map

- A. **Minor Revision.** Changes determined by the Director to be in substantial compliance and that are consistent with the intent of the approved Tentative Map or Tentative Parcel Map may be approved where:
1. The size, shape, and dimensions of lots and streets are in substantial compliance and are consistent with the Tentative Map;
 2. The number of lots, units, or building sites is not reduced to less than prescribed by the planned land use designation, zone district, or operative plan;
 3. No lots, units, building sites, or structures are added;
 4. The amount of open space is not reduced;
 5. Pedestrian connectivity to schools, trails, open space, etc. is not reduced;
 6. Changes, in the opinion of the Director, are consistent with the intent of the original Tentative Map approval;
 7. There are no significant changes in parcel size and dimensions, pedestrian connectivity, and overall design; and
 8. There are no resulting violations of the Municipal Code.
- B. **Major Revision.** Major Revisions to an approved Tentative Map, Tentative Parcel Map, or amendments to conditions of approval may be approved by filing an application with the Department, if:
1. The amendments are consistent with the intent of the original Tentative Map or Tentative Parcel Map approval;
 2. There are no resulting violations of the Municipal Code; and

3. A one-time increase in the number of lots contained in the subdivision does not exceed the following number, provided that the permitted density is not exceeded. Should the additional lots result in the preparation of a Traffic Impact Analysis, the CEQA documentation shall be recirculated and the project shall be returned to the Review Authority for consideration.
 - a. *Subdivisions of 25 Lots or Less.* No more than two additional lots.
 - b. *Subdivisions with 26-50 Lots:* No more than three additional lots.
 - c. *Subdivisions with 51-75 Lots.* No more than four additional lots.
 - d. *Subdivisions with 76-100 Lots.* No more than five additional lots.
 - e. *Subdivisions in Excess of 100 Lots.* No more than five lots for the first 100 lots plus two additional lots for each full 100 lots in excess of the first 100 lots.
- C. **Other Amendments.** Other amendments to an approved Tentative Map or Tentative Parcel Map or amendments to the conditions of approval, that in the opinion of the Director do not meet the criteria above, shall be treated as a new application.

15-4303 Processing of Amendments

- A. **Procedure for Filing an Amendment.** The subdivider shall file an application with the City, together with the following additional information:
 1. A statement identifying the features of the map or particular conditions to be changed and the changes requested, the reasons why the amendment is requested, and any facts that justify the changes; and
 2. Any additional information deemed appropriate by the Director.
- B. **Revisions to Tentative Parcel Maps.** The Director shall act as the Review Authority and may approve the modification as part of the Final Map process for either a Minor or Major Revision.
- C. **Revisions to Tentative Maps.**
 1. **Minor Revision.** The Director may act as the Review Authority and may approve the modification as part of the Final Map process. Alternatively, the Director, at his/her discretion, may refer the matter to the Commission for consideration. At the Director's discretion, they may or may not provide a Public Notice per Section 15-3308-B.4.
 2. **Major Revision to a Tentative Map.** The Director may act as the Review Authority, or the Director, at their discretion, may defer their decision to the Commission. The Director shall provide notice per the following:
 - a. *Commission Notification.* If the Director elects to approve or disapprove the map, the Director shall notify the Commission at its next meeting that the Director is reviewing the map and whether the Director intends to approve or disapprove the map. The Director shall take action after notifying the Commission.
 - b. *No Director Action.* Should the Director not take action, the Director shall refer the item to the Commission for consideration. If the matter is referred to the Commission for consideration, Public Notice shall be provided per Section 15-3308-B.4.

15-4304 Findings for Approval

- A. The Review Authority shall not amend the approved Tentative Map or Tentative Parcel Map or conditions of approval unless it first finds that:
1. There was a material mistake of fact in the deliberations leading to the original approval; and
 2. There has been a change of circumstances related to the original approval.

15-4305 Effect of Amendments on Time Limits

- A. Approved amendments to an approved Tentative Map or Tentative Parcel Map or conditions of approval shall not be considered as an approval of a new Tentative Map or Tentative Parcel Map, and shall not extend the time limits of the original approval as provided by Section 15-3316, Time Limits and Expiration of Approved Maps.

15-4306 Tentative Maps with Multiple Final Maps

The following provision regarding automatic extensions of time, or later enacted State law provisions that supersede the following, shall apply.

- A. Where a developer has expended funds outside the boundaries of the approved Tentative Map in compliance with the Map Act (Section 66452.6), each filing of a Final Map shall extend the expiration of the Tentative Map per the Map Act.

15-4307 Amendments to Final and Parcel Maps after Recordation

- A. **Amendments to Final and Parcel Maps.** A Final Map or Parcel Map that has been filed with the County Recorder may be amended by a certificate of correction or an amending map pursuant to the Map Act (Sections 66469-66472).
- B. **Amendments to Conditions of Approval.** The conditions on a Final Map or Parcel Map may be modified by a certificate of correction or an amending map pursuant to the Map Act (Section 66472.1) and this subsection.
- C. **Initiation.** An amendment to a condition of a Final Map or Parcel Map may be initiated by the Director, the City Engineer, or any subdivider or owner of the real property subject to the Final Map.
1. **Parcel Maps.** The Director, in consultation with the City Engineer, shall approve or deny amendments.
 2. **Final Maps.** The Commission shall consider amendments to a tentative map. The Commission hearing shall be noticed pursuant to the Public Noticing requirements per Subsection 15-3308-B.4.
- D. **Findings.** Amendments shall only be approved if all of the following are true:
1. There are changes in circumstances which make such conditions no longer appropriate or necessary;
 2. The amendments do not impose any additional burden(s) on the present owner(s) of the property subject to the map;
 3. The map, as amended, is not subject to disapproval under the findings in the Map Act (Section 66474) and conforms to this Subdivision Ordinance;

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4. The amendment does not affect any previous findings made under Federal and/or State environmental review;
 5. The amendments do not alter any right, title, or interest in the real property reflected on the recorded map.
 6. If located within the review area of one of the airport specific plans, the amendment shall be subject to the provisions of said plan.
- E. **Hearing.** Any hearing on the amendment of conditions shall be limited in scope to consideration and action on the proposed amendment.
- F. **Recordation.** If the amendment of the condition is approved, an amending map or certificate of correction shall be recorded with the County Recorder in the manner specified in the Map Act (Section 66472). If the amendment to the map does not require an amending map or certificate of correction, the amendment shall be memorialized in a letter to the applicant and/or record owner(s). A copy of the letter and resolution shall be placed in the official file for the map.

15-4308 Expansion of the Map Outside of the Original Boundaries

A new map shall be filed for the area that is being added.

Article 44 Enforcement and Judicial Review

Sections:

15-4401 Enforcement and Judicial Review

15-4401 Enforcement and Judicial Review

- A. **Purpose.** This article establishes procedures that the City will use to enforce the requirements of the Subdivision Ordinance, including compliance with any conditions of approval imposed to protect public health, safety, and welfare and promote development in accordance with the General Plan.
- B. **Prohibitions.** Pursuant to the Map Act (Section 66499.30):
1. ***No Sale or Lease until Final or Parcel Map is in Full Compliance.*** No person shall sell, lease, or finance any parcel of real property or begin construction of any building for sale, lease, or financing, except for model homes, or allow occupancy of any parcel or parcels for which a Final or Parcel Map is required by the Map Act or this Ordinance, until a map that is in full compliance with the provisions of this Subdivision Ordinance and the Subdivision Map Act has been filed with the Fresno County Recorder.
 2. ***No Conveyance by Parcel Number until Final Map is Filed.*** The conveyance of any part of a division of real property for which a Final or Parcel Map is required shall not be made by parcel or block number, letter, or other designation until the map has been filed for record with the County Recorder.
 3. ***Exceptions.***
 - a. This section does not apply to a parcel of a subdivision offered for sale or lease, contracted for sale or lease, or sold or leased in compliance with or exempt from any law, including this article, regulating the design and improvement of subdivisions in effect at the time the subdivision was established.
 - b. This section does not prohibit an offer or contract to sell, lease, or finance real property or to construct improvements where the sale, lease, or financing or the beginning of construction, is expressly conditioned upon the approval and filing of a Final Map or Parcel Map.
 - c. This section shall not, in any way, modify or affect the provisions of Section 11018.2 of the Business and Professions Code.
- C. **Voidability of Illegal Conveyance.** Any deed of conveyance, sale, or contract to sell made contrary to the provisions of this article is voidable at the sole option of the grantee, buyer, or person contracting to purchase, their heirs, personal representative, or trustee in insolvency or bankruptcy within one year after the date of execution of the deed of conveyance, sale, or contract to sell, but the deed of conveyance, sale, or contract to sell is binding upon any assignee or transferee of the grantee, buyer, or person contracting to purchase, other than those above enumerated, and upon the grantor, vendor, or person contracting to sell, or their assignee, heir, or advisee.

- D. **Other Legal Action.** Any grantee, or successor in interest, of real property which has been divided, or which has resulted from a division, in violation of the provisions of this Subdivision Ordinance or the Map Act may, within one year of the date of discovery of such violation, bring an action in the superior court to recover any damages suffered by reason of the division of property. The action may be brought against the person who divided the property in violation and against any successors in interest who have actual or constructive knowledge of such division of property.
- E. **Effect on City Permits and Approvals.** No commission, officer, or employee of the City shall issue any permit or certificate, or grant any approval necessary to develop any real property within the city, if it is known or suspected that the property was divided, or resulted from a division in violation of the Map Act (Section 66499.30).
- F. **Certificate of Compliance.**
1. Any person owning real property or an authorized representative of such person who is under contract of sale may request, and the Director shall determine, whether such real property complies with the provisions of the Map Act and of this Subdivision Ordinance. Upon making such a determination the Director shall cause a certificate of compliance to be filed for record with the County Recorder. The Certificate of Compliance shall identify the real property and shall state that the division thereof complies with applicable provisions of the Map Act and of this Subdivision Ordinance. The Director may impose a reasonable fee to cover the cost of issuing and recording the certificate of compliance.
 2. If the Director determines that such real property does not comply with the provisions of the Map Act or of this Subdivision Ordinance, he or she may, as a condition to granting a certificate of compliance, impose such conditions as would have been applicable to the division of the property at the time the current owner of record acquired the property, and which had been established at such time by the Map Act or this Subdivision Ordinance. Such conditions may include, but are not limited to, requiring approval of a parcel or tentative map prior to development of the property. Upon making such a determination and establishing such conditions the Director shall cause a Conditional Certificate of Compliance to be filed for record with the County Recorder.
 - a. Such Certificate shall serve as notice to the property owner who has applied for the certificate pursuant to this section, a grantee of the property owner, or any subsequent transferee or assignee of the property that the fulfillment and implementation of such conditions shall be required prior to subsequent issuance of a permit or other grant of approval for development of the property.
 - b. Compliance with such conditions shall not be required until such time as a permit or other grant of approval for development of such property is issued by the City.
 - c. Compliance with the requirements of a certificate of compliance shall not constitute a determination of compliance with all applicable approved plans or zoning requirements.
- A. **Remedies.** Any deed of conveyance, sale, or contract to sell real property which has been divided, or which has resulted from a division, in violation of the provisions of this Subdivision Ordinance or the Map Act shall be subject to the remedies provided in the Map Act (Sections 66499.32 through 66499.34).

- B. **Notice of Violation.** Whenever the Director and/or City Engineer has received information from any source that real property has been divided in violation of the Map Act or this Subdivision Ordinance, the City shall take the actions described in the Map Act (Section 66499.36).

Article 45 Surveys and Monuments

Sections:

- 15-4501 Survey Requirements
- 15-4502 Monument Material
- 15-4503 Monument Locations
- 15-4504 Monument Acceptance

15-4501 Survey Requirements

The procedure and practice of all survey work done upon any subdivision shall conform to accepted standards of the engineering profession, the Map Act (Sections 66495, 66496, and 66497) and this Ordinance.

15-4502 Monument Material

Monuments, including markings, material, length, durability, etc. shall be established by the City Engineer.

15-4503 Monument Locations

- A. Rectangular-shaped subdivisions shall have the four corners of the property marked with a durable monument. All irregular-shaped subdivisions shall have all angle and curve points in the exterior boundary of the subdivision marked with a durable monument. All boundary monuments which fall in streets shall be referred to a similar durable monument which may be set for an adjacent block or lot corner. Subdivisions having curved streets and no block corners shall have all control or angle points of the streets marked with a durable corner referenced out to an adjacent lot corner which is also marked with a durable monument;
- B. Block corners, unless otherwise marked with a durable monument, shall be marked with a semi-durable monument;
- C. All lot corners shall be marked with not less than a standard $\frac{3}{4}$ inch inside diameter steel pipe, 30 inches long solidly set in the ground six inches below the surface and may be referenced by a mark not to exceed two inches in any dimension visible in the edge of the concrete sidewalk. All monuments shall bear the engineer's or surveyor's number and exact survey point except as follows:
 - 1. In planned unit developments where lot corners are coincidental to building corners, an offset monument system may be used, provided that sufficient information is given on the map such that:
 - a. Exact lot corner can be established;
 - b. Lot surveys can be retraced; and
 - c. Offset monument system is approved by the City Engineer.
 - 2. Any other monument that is approved in writing by the City Engineer may be used.

15-4504 Monument Acceptance

- A. Before any improvements are accepted, all monuments and stakes must be set, and any monuments or stakes disturbed by said improvements shall be reset. Where no streets are to be improved, the subdivider shall post a faithful performance bond to guarantee the setting of all the above stakes and monuments;
- B. The location of any boundary corner shall be proved by surveying and by showing on the Final Map the relationship of such boundary corners to section corners involved or one-fourth section corners or other well established corners;
- C. All bearings shall be with reference to the true meridian, or with reference to an assumed bearing of a section or fractional section line monumented with durable monuments for a distance of not less than one-half mile, or a previously recorded subdivision, provided such subdivision tie is approved by the City Engineer; and
- D. All measurements and angles turned shall be made to a standard which will insure an accuracy of not less than one in 10,000.

Article 46 (Reserved)

Article 47 (Reserved)

Article 48 (Reserved)
