

STAFF REPORT*CITY OF OCEANSIDE*

DATE: May 4, 2011
TO: Honorable Mayor and City Councilmembers
FROM: Development Services Department
SUBJECT: **UTILITY UNDERGROUNDING EXEMPTION**

SYNOPSIS

This item to introduce an Ordinance amending Ordinance 91-08 to include an underground utility conversion exemption for residential projects of four or fewer lots is being presented pursuant to City Council direction on February 2, 2011.

BACKGROUND

A requirement to underground all overhead utilities within or abutting a proposed development may be imposed by the City, as a condition of approval through the land development process. The City's authority to impose improvement conditions is granted through the Subdivision Map Act (Government Code § 66410 et seq.). The City's Zoning Ordinance (Part IV, Article 30, Section 3023) and the Subdivision Ordinance (Article IX, Section 901G), require existing and proposed utilities for development projects to be placed underground.

Historically, the City's goal has been to beautify new and existing neighborhoods by underground conversion of overhead utilities, primarily through developing properties.

On February 2, 2011, City Council directed City staff to prepare a utility undergrounding amendment to the Subdivision Ordinance. The intent of the amendment is to reduce financial burden on residential projects, thus stimulating local residential development for projects containing four or fewer lots.

The subject amendment will apply to all residential development constructed on four or fewer lots including single-family detached, single-family attached, multiple-family dwelling units (DU), and development plans which have no associated subdivision of land. Project development densities may vary between 0.5 DU per acre to 43.0 DU per acre, within these identified residential land use designations.

ANALYSIS

The importance placed on beautification of the public right-of-way, through underground relocation of overhead utilities, is established by City Council. The present policy on utility conversion is set by ordinance and was adopted on February 27, 1991.

There are currently a number of approved projects, with four or fewer residential lots, which have been conditioned to underground overhead facilities. Exhibit 1 is attached to provide an approximate cost estimate concerning utility undergrounding requirements that will be removed as a result of the subject amendment. A specific impact of this ordinance amendment is the reduction of in-lieu utility undergrounding funds and will relieve small developments from converting overhead to underground. Since this reduction in funds will further postpone the 20B overhead utility conversion on Crouch Street, staff will actively seek alternative funding options in order to proceed with the project.

The requested exemption is identified to apply to all proposed, future, and approved (but not yet constructed) residential land development projects of four or fewer lots. The amendment will apply only to overhead utilities located within the public right-of-way which are adjacent to the project boundary; all utility lines within the boundary of the project shall be placed underground.

FISCAL IMPACT

There is no direct fiscal impact to the City. In the event that a neighborhood or the City Council wishes to underground within a specific area, the foremost option will be an assessment district with costs paid by the property owners of that given neighborhood.

COMMISSION OR COMMITTEE REPORT

Does not apply.

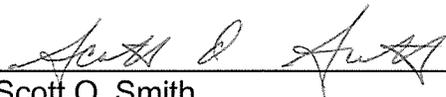
CITY ATTORNEY'S ANALYSIS

The referenced documents have been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

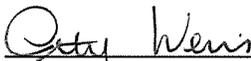
This item to introduce an Ordinance amending Ordinance 91-08 to include an underground utility conversion exemption for residential projects of four or fewer lots is being presented pursuant to City Council direction at their February 2, 2011, regular meeting.

PREPARED BY:



Scott O. Smith
City Engineer

SUBMITTED BY:

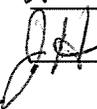


Peter A. Weiss
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager
George Buell, Development Services Director
Jerry Hittleman, City Planner





ATTACHMENTS:

1. Ordinance
2. Exhibit 1

1 The Underground Utility Conversion requirements set forth in Section 3023 of the Oceanside
2 Zoning Ordinance and in Section 901G of the City's Subdivision Ordinance shall not apply to
3 Residential land development projects of four or fewer lots.

4 SECTION 5. Facility Type Exempt from the Underground Utility Conversion
5 Requirement.

6 The exemption from Underground Utility Conversion requirements shall apply only to overhead
7 utilities located within the portion of the public right-of-way abutting the project boundary.

8 SECTION 6. Project Area Not Exempt from the Underground Utility Conversion
9 Requirement.

10 The exemption from Underground Utility Conversion requirements shall not apply to:

11 (a) Existing or proposed overhead utility lines within the
12 subdivision/development/project boundary.

13 (b) Any new extension service for the development project, including but not limited
14 to electrical, telephone, and cable.

15 SECTION 7. This Ordinance shall not be codified.

16 SECTION 8. The City Clerk of the City of Oceanside is hereby directed to publish the
17 title of this Ordinance once within fifteen (15) days after its passage in the North County Times,
18 a newspaper of general circulation published in the City of Oceanside. This Ordinance
19 Amendment shall take effect and be in force on the thirtieth (30th) day from and after its final
20 passage.

21 INTRODUCED at a regular meeting of the City Council of the City of Oceanside,
22 California, held on the ____ day of _____, 2011, and, thereafter,

23 //
24 //
25 //
26 //
27 //

1 PASSED AND ADOPTED at a regular meeting of the City Council of the City of
2 Oceanside, California, held on the ____ day of _____, 2011, by the following vote:

3 AYES:

4 NAYS:

5 ABSENT:

6 ABSTAIN:

7
8 MAYOR OF THE CITY OF OCEANSIDE

9 ATTEST:

APPROVED AS TO FORM:

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11 _____
12 CITY CLERK

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CITY ATTORNEY

**Exhibit 1 - Undergrounding of Utilities
(Approved to Provide In-Lieu Payment)**

Project #	Project Type	Project Name/Address	Owner/Developer	Approximate Cost of In-Lieu Payment for Undergrounding
1 ADP10-00001	Single Family Dwelling	Levi Casias @ Indian View Dr	Levi & Anita Casias	\$124,160.00
2 P-13-2008	2-unit Condo	Tait Street Condo 916 Tait St	Ryan & Sarah Zajda	\$51,840.00
3 P-10-00005	2 Single Family Dwellings	Bergna Residences 1801 S Myers	Louis & Dana Bergna	\$67,866.00
4 P-7-2008	2-unit Single Family Dwellings	Hahn Parcel 1945 Fire Mountain	Andreas & Steffanie Hahn	\$63,500.00
5 P-18-2004	4 Single Family Dwellings	Taylor Subdivision 1763 Yucca Rd	John P Taylor	\$110,095.00
6 RC-3-2005	2-unit Condo	Smith/Spitz Residence 1925 S Myers	James Smith/Mary Spitz	\$58,200.00
7 D-4-2006	4-unit Apartment	Marchi Apartments 2030 S Broadway	Fabio Marchi	\$48,650.00
8 P-18-2005	2 Single Family Dwellings	S Tremont St Row Homes 415 S Tremont St	Greg Eaton	\$10,200.00
9 P-4-2004	3-unit Condo	1620 S Broadway	Kevin Turner	\$58,200.00
10 P-207-2007	3-unit Condo	517 N Freeman St	Debbie & Greg Sphren	\$41,225.00
11 P-6-2004	3-unit Condo	1828 S Broadway	Sean Bielawski	\$58,200.00
12 P-1-2004	2 Single Family Dwellings	Ditmar Residence	Barbara Thomas & Danette Dills	\$24,250.00
13 P-13-2005	4-unit Apartment	1007 S Cleveland St	1007 Investment, LLC	\$58,200.00
14 P-206-2006	2-unit Condo	602 S Myers St.	802 Investment, LLC	\$24,250.00
15 ADP-10-2006	2-unit Apartment	Francies Property 614 S Cleveland St	Dennis Francies	\$58,200.00
			Subtotal	\$857,036.00

**Exhibit 1 - Undergrounding of Utilities
(Project Conditioned to Construct)**

Project #	Project Type	Project Name/Address	Owner/Developer	Approximate Cost of Undergrounding Construction
16 P-2-2005	4 lot single family dwellings	Avocado Parcel Map 1814 Avocado Rd	Graham & Ann Fraser	\$53,350.00
17 P-201-2006	2-unit Condo	Chapman Condos 416 S Myers St	Dwayne Chapman	\$24,250.00
18 P-203-2006	3 single family dwellings	Windward Homes 212-216 Windward Way	Pacific Windward Ventures, LLC	\$34,400.00
19 P-24-2006	4 lot single family dwellings	California Row Homes 613 & 617 N Horne	Jenna Scimane	\$58,200.00
			Subtotal	\$170,200.00

Subtotal (In-Lieu Payment)	\$857,036.00
Subtotal (Construction)	\$170,200.00
Grand Total	\$1,027,236.00

ORDINANCE NO. 091-08

AN ORDINANCE OF THE CITY OF OCEANSIDE REVISING
CHAPTER 32 OF THE OCEANSIDE CITY CODE
REGARDING SUBDIVISIONS

WHEREAS, Chapter 32 of the Oceanside City Code implements the Subdivision Map Act pursuant to the enabling legislation contained in Government Code Section 66410, et seq.; and

WHEREAS, the City deems it advisable to revise Chapter 32 to comply with the Subdivision Map Act and the General Plan of the City; and

WHEREAS, the Planning Commission, after giving the required notice, did on the 28th day of January, 1991, conduct a duly advertised public hearing as prescribed by law to consider said revisions; and

WHEREAS, the Planning Commission reviewed the proposed revisions and recommended said revisions to the City Council; and

WHEREAS, the City Council, after giving the required notice, did on the 13th day of February, 1991, conduct a duly advertised public hearing as prescribed by law to consider said revisions.

NOW, THEREFORE, the City Council of the City of Oceanside HEREBY ORDAINS as follows:

SECTION ONE. The City Council of the City of Oceanside finds as follows:

1) That the proposed revisions are in compliance with the California Environmental Quality Act, and

2) That the proposed revisions are required to supplement and implement the California Subdivision Map Act, and

3) That the proposed text revisions are consistent with the General Plan of the City of Oceanside.

1 SECTION TWO. Articles I through V of Chapter 32 of the
2 Oceanside City Code are hereby repealed.

3 SECTION THREE. The Subdivision Ordinance of the City of
4 Oceanside, attached hereto as Exhibit "A" and incorporated herein
5 by this reference, is hereby approved.

6 SECTION FOUR. This ordinance shall not be codified, except
7 to the extent necessary to modify Chapter 32 of the Oceanside City
8 Code to reflect this Ordinance.

9 SECTION FIVE. The City Clerk of the City of Oceanside is
10 hereby directed to publish a summary of this ordinance once within
11 fifteen (15) days after its passage in the Blade Citizen, a
12 newspaper of general circulation published in the City of
13 Oceanside.

14 SECTION SIX. This ordinance shall take effect and be in force
15 on the thirtieth (30th) day from and after its final passage.

16 PASSED, ADOPTED AND ORDERED PUBLISHED by the City Council of
17 the City of Oceanside, California, this 27th day of February,
18 1991, by the following vote:

19 AYES: BAGLEY, WILLIAMSON, BISHOP, YORK, RODEE
20 NAYS: NONE
21 ABSENT: NONE
22 ABSTAIN: NONE

23 Melba Bishop
24 Deputy Mayor of the City of Oceanside

25 ATTEST:
26 Richard K. DeLong
27 City Clerk

28 APPROVED AS TO FORM:
 OFFICE OF THE CITY ATTORNEY
 By Debra E. Corbett
 Assst. City Attorney

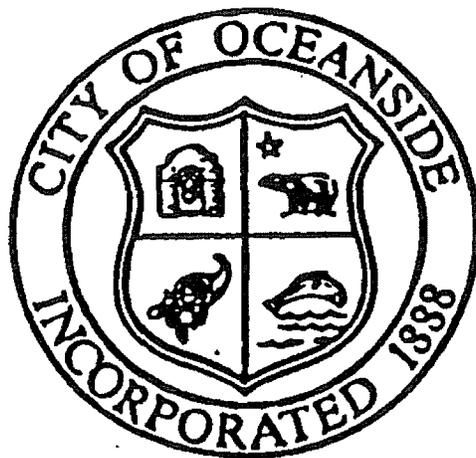
SUBDIVISION ORDINANCE
OF THE
CITY OF OCEANSIDE

ADOPTED 2/27/91

Subdivision Ordinance

of the

CITY OF OCEANSIDE



Adopted
2/27/91

INTRODUCTION

This Ordinance is designed to supplement and implement the California Subdivision Map Act as well as complement the City Zoning Ordinance and General Plan. Any inconsistencies shall be resolved primarily in favor of the Zoning Ordinance and secondarily by the Subdivision Map Act.

This Ordinance sets forth regulations relating to the processing of maps, plans, and other related documents through the development departments of the City of Oceanside.

This Ordinance was prepared with the assistance and input of many members of the public, development community and City staff. The City would like to extend its appreciation to all who participated.

Adopted
2/27/91

Article V **Final Subdivision Maps -- Five or More Parcels**

- Sec. 500 General
- Sc. 501 Phasing
- Sec. 502 Survey Required
- Sec. 503 Form
- Sec. 504 Contents
- Sec. 505 Preliminary Submittal for City Approval
- Sec. 506 Review by City Engineer
- Sec. 507 Approval by City Engineer
- Sec. 508 Approval by City Council
- Sec. 509 Filing with the County Recorder

Article VI **Subdivision of Four or Fewer Parcels**

- Sec. 600 General
- Sec. 601 Form and Contents, Accompanying Data and Reports
- Sec. 602 Department Review
- Sec. 603 Action by City Engineer
- Sec. 604 Extension of Time for City Engineer Action
- Sec. 605 Appeals of City Engineer Action
- Sec. 606 Expiration and Extensions
- Sec. 607 Amendments to approved or conditionally Approved
Tentative map
- Sec. 608 Waiver of Parcel Map Requirements
- Sec. 609 Final Parcel Maps

Article VII **Vesting Tentative Maps**

- Sec. 700 Authority and Purpose
- Sec. 701 City Council Approval Required
- Sec. 702 Application
- Sec. 703 Filing and Processing
- Sec. 704 Fees
- Sec. 705 Expiration; Request for Time Extension
- Sec. 706 Rights of a Vesting Tentative Map
- Sec. 707 Amendment to Approved Testing Tentative Map
- Sec. 708 Consistency with Zoning and the General Plan
- Sec. 709 Applications Inconsistent with Current Policies

Article VIII **Dedications**

- Sec. 800 Dedication of Streets, Alleys and Other
Public Rights-of-Way or Easements
- Sec. 801 Waiver of Direct Access Rights
- Sec. 802 Dedications
- Sec. 803 Public Facilities Dedication and Impact Fee
Requirements

Article IX Improvements
Sec. 900 General
Sec. 901 Improvements Required
Sec. 902 Deferred Improvement Agreements
Sec. 903 Design
Sec. 904 Access

Article X Reversions to Acreage
Sec. 1000 General
Sec. 1001 Initiation of Proceedings
Sec. 1002 Contents of Petition
Sec. 1003 Submittal of Petition to the City Engineer
Sec. 1004 City Council Approval
Sec. 1005 Filing with County Recorder

Article XI Parcel Mergers and Unmergers
Sec. 1100 Mergers Required
Sec. 1101 Notice of Intention to Determine Status
Sec. 1102 Hearing on Determination of Status
Sec. 1103 Determination of Merger
Sec. 1104 Appeals
Sec. 1105 Mergers Under Prior Law
Sec. 1106 Determination When No Hearing is Requested
Sec. 1107 Request to Merge by Property Owner
Sec. 1108 Unmerger Parcels
Sec. 1109 Request for Determination by Owner
Sec. 1110 Fee for Mergers and Unmergers

Article XII Correction and Amendments of Maps
Sec. 1200 Requirements
Sec. 1201 Form and Contents
Sec. 1202 Submittal and Approval by City Engineer
Sec. 1203 Filing with the County Recorder

Article XIII Enforcement
Sec. 1300 Prohibition
Sec. 1301 Remedies
Sec. 1302 Certificate of Compliance
Sec. 1303 Notice of Violation
Sec. 1304 Appeals of City Engineer Action

Adopted
2/27/91

ARTICLE I GENERAL PROVISIONS

Sec. 100 Citation and Authority

This Ordinance is adopted pursuant to Article XI, Section 7 of the California Constitution and to supplement and implement the Subdivision Map Act, Section 66410 et seq. of the Government Code, and may be cited as the Subdivision Ordinance of the City of Oceanside.

Sec. 101 Purpose

The purpose of this Ordinance and any rules, regulations and specifications adopted pursuant thereto is to regulate and control the division of land within the City of Oceanside and to supplement the provisions of the Subdivision Map Act concerning the design, improvement, and survey data of subdivisions, the form and content of all required maps provided by the Subdivision Map Act, and the procedure to be followed in securing the official approval of the City regarding the maps. To accomplish this purpose, the regulations contained in this Ordinance are determined to be necessary to preserve the public health, safety and general welfare; to promote orderly growth and development that is compatible with the surrounding neighborhood character and to promote open space, conservation, protection, and proper use of land; and to ensure provision for adequate traffic circulation, utilities, and other services in the City.

Sec. 102 Consistency

No land shall be subdivided and developed for any purpose which is inconsistent with the Oceanside General Plan or any applicable specific plan of the City or which is not permitted by the City Code, the Zoning Ordinance, or other applicable provisions of this Ordinance.

The type and intensity of land use as shown on the General Plan and any applicable specific plan shall determine, together with the requirements of the Subdivision Map Act and this Ordinance, the type of streets, roads, highways, utilities, and other public services that shall be provided by the subdivider.

No subdivision of land shall be approved unless it is established that the subdivision and construction of improvements will be appropriately timed and phased such that the development will be supported by adequate public facilities and services. All subdivision maps for residential development shall be subject to the provisions of Ordinance 32A of the City Code.

Sec. 103 Application

The regulations set forth in this Ordinance shall apply to all or parts of subdivisions within the City and to the preparation of subdivision maps and to other maps provided for by the Subdivision Map Act and this Ordinance after the effective date of this Ordinance. All subdivisions and any part thereof lying within the City shall be made and all subdivision maps shall be prepared and presented for approval as provided for in this Ordinance.

Sec. 104 Exceptions

This Ordinance shall not apply to:

- A. The financing or leasing of apartments, offices, stores or similar space within apartment buildings, industrial buildings, commercial buildings, mobile-home parks or trailer parks;
- B. Mineral, oil or gas leases;
- C. Land dedicated for cemetery purposes under the California Health and Safety Code;
- D. A lot line adjustment between two or more existing adjacent parcels, where the land taken from one parcel is added to an adjacent parcel, and where a greater number of parcels than originally existed is not thereby created, provided that, subject to the provisions of Section 66412(d) of the Subdivision Map Act, the lot line adjustment is approved pursuant to 302(C);
- E. Boundary line or exchange agreements to which the State Lands Commission or a local agency holding a trust grant of tide and submerged lands is a party;
- F. Any separate assessment under Section 2188.7 of the State Revenue and Taxation Code;
- G. Subject to the requirements of Section 66412(g) and 66412(h) of the Subdivision Map Act and the City's Zoning Ordinance, the conversion of a community apartment project or a stock cooperative to a condominium;
- H. The leasing of, or the granting of an easement to, a parcel of land, or any portion or portions thereof, in conjunction with the financing, erection, and sale or lease of a wind-powered electrical generation device on the land, if the project is subject to discretionary action by the City;

- I. The financing or leasing of any parcel of land, or any portion thereof, in conjunction with the construction of commercial or industrial buildings on a single parcel, unless the project is not subject to review under other City ordinances regulating design and improvements;
- J. The financing or leasing of existing separate commercial or industrial buildings on a single parcel;
- K. The construction, financing or leasing of dwelling units pursuant to Section 65852.1 or second units pursuant to Section 65852.2 of the Government Code; but this Ordinance shall apply to the sale or transfer, but not leasing of those units;
- L. Leasing for agricultural purposes, cultivation of food or fiber, and grazing or pasturing of livestock;
- M. Subdivisions of four parcels or less for construction of removable commercial buildings having a floor area of less than 100 square feet.

Sec. 105 Public Hearings; Notice

- A. Whenever a public hearing is held by the City Engineer, the Planning Commission or the City Council, pursuant to this Ordinance, notice of the time and place thereof, including a general description of the subject matter shall be given at least 10 days before the hearing. Such notice shall be given by accordance with Section 406.A.
- B. In addition, in the case of a proposed conversion of residential real property to a condominium, community apartment, or stock cooperative project, notice shall be given in accordance with Section 66451.3 of the Subdivision Map Act.

Sec. 106 Public Hearings; When Required

The Planning Commission and the City Engineer shall hold public hearings as required by State Law, the Zoning Ordinance, and any applicable sections of this Ordinance.

Sec. 107 Fees and Deposits

All applicants submitting maps as required by this Ordinance shall pay all fees and/or deposits as provided by this Ordinance and by the City Council's resolution or resolutions establishing applicable fees and charges.

ARTICLE II DEFINITIONS AND RESPONSIBILITIES

Sec. 200 Definitions

For the purposes of this Ordinance, unless otherwise apparent from the context, certain words and phrases used in this Ordinance are defined in this article as set forth below. All definitions provided in Article I (General Provisions) of this Code and all definitions provided in the Subdivision Map Act shall also be applicable to this Ordinance and said definitions are hereby incorporated by this reference as though fully set forth herein.

- A. "Acceptance of Improvements" shall mean adoption of a resolution by the City Council, accepting of the improvements into City maintenance or written acceptance by the City Engineer where authorized by the City Council.
- B. "Acreage" shall mean any parcel of land which is not a lot, as defined in this article, and those areas where a legal subdivision has not been made previously, or where a legal subdivision has declared such parcel as acreage.
- C. "Block" shall mean the area of land within a subdivision, which area is entirely bounded by streets, highways or ways, except alleys, or the exterior boundary or boundaries of the subdivision.
- D. "City Engineer" means the City Engineer of the City of Oceanside.
- E. "Collector Street" shall mean a street, intermediate in importance between a local street and either a major or secondary thoroughfare, which has the purpose of collecting local traffic and carrying it to a thoroughfare. This definition shall include the term "local collector" when used within this ordinance.
- F. "Community Apartment Project" shall be defined as provided in Section 11004 of the Business and Professions Code.
- G. "Condominium" shall mean an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential, industrial or commercial building on the real property, such as an apartment, office or store. A condominium may include, in addition, a separate interest in other portions of the real property.
- H. "Conversion" shall mean the creation of separate ownership of existing real property together with a separate interest in space of residential, industrial or commercial buildings.

- I. "Day" shall mean calendar day unless otherwise specified. If a deadline falls on a weekend or holiday, it shall be extended to the next working day.
- J. "Department" shall mean Community Development consisting of the Planning, Engineering, Building and Housing Departments of the City of Oceanside.
- K. "Design" shall mean alignment, grade, size, and other details of construction for the sanitary sewer, water, and storm-drainage systems, roadway and other miscellaneous improvements as required by the City Engineer and such other specific physical requirements in the plan and configuration of the entire subdivision as may be necessary to ensure consistency with, or implementation of, the Oceanside General Plan, any applicable specific plan, the Subdivision Map Act, or the City's Design Engineering Manual.
- L. "Development" shall mean the uses to which the land which is the subject of a map shall be put, the buildings to be constructed on it, and all alterations of the land and construction incident thereto.
- M. "Easement" shall mean a strip of land dedicated to the City, which shall be continuing and irrevocable unless formally vacated by the City, and any other easement whether owned by a public entity, public utility, or private party.
- N. "Environmental Review" shall mean compliance with the California Environmental Quality Act, Public Resources Code, Section 21000 et seq, the California Environmental Quality Act (CEQA) Guidelines promulgated by the State Secretary of Resources and any local implementing regulations.
- (1) "Environmental Impact Report (EIR)" shall mean a report complying with the requirements of the California Environmental Quality Act (CEQA).
 - (2) "Negative Declaration" shall mean written statement by the Lead Agency briefly describing the reasons that a proposed project, not exempt from CEQA, will not have a significant effect on the environment and therefore does not require the preparation of an EIR. The contents of a Negative Declaration are described in Section 15071 of the CEQA Guidelines.
 - (3) "Categorical Exemption" shall mean an exemption from CEQA for a class of projects based on a finding by the Secretary for Resources that the class of projects does not have a significant effect on the environment.

- O. "Final Parcel Map" shall mean a map showing a subdivision of four or fewer lots, prepared in accordance with the provisions of the Subdivision Map Act and this Ordinance.
- P. "Final Tract Map" shall mean a map showing a subdivision of five or more lots, prepared in accordance with the provisions of the Subdivision Map Act and this Ordinance.
- Q. "Frontage Street" shall mean an existing right-of-way contiguous to the exterior boundary of a subdivision.
- R. "General Plan" shall mean the General Plan of the City of Oceanside and all amendments thereto.
- S. "Grading Ordinance" shall mean the Grading Ordinance of the City of Oceanside and all amendments thereto.
- T. "Improvements" shall include but not be limited to street work, sidewalks, curbs, gutters, driveways, storm-drainage facilities, water mains, sanitary sewers and facilities, public utilities including existing overhead utilities required to be underground, landscaping and fences to be installed by the subdivider on the land to be used for public right-of-way, private streets and easements, and/or any other improvements as defined by Section 66419 of the Subdivision Map Act.
- U. "Lot" shall mean a parcel or portion of land separate from other parcels or portions by description, as on a subdivision map or parcel map, or by such other map approved by the County or by the City under the provisions of the Subdivision Map Act and of City Ordinances in effect at the time of such approval, for the purpose of sale, lease, or financing.
- V. "Lot Line Adjustment" shall mean a minor shift or rotation of an existing lot line or other adjustment where a greater number of parcels than originally existed is not created, as approved by the City Engineer pursuant to 302(C).
- W. "Merger" shall mean the joining of two or more contiguous parcels of land under one ownership into one parcel.
- X. "Planning Director" means the Planning Director of the City of Oceanside.
- Y. "Private Street" shall mean any street, accessway, or the like, lying in whole or in part within a subdivision which is privately held and maintained, and which is utilized as access to a development.

- Z. "Qualified Registered Civil Engineer" shall mean an engineer registered with the State of California whose registration and experience authorizes the civil engineer to perform land surveying (Typically all engineers registered prior to January 1, 1982 (RCE 33965 and below)).
- AA. "Remainder" shall mean that portion of an existing parcel which is not designated on the required map as part of the subdivision. The remainder shall not be considered as part of the subdivision but shall be shown on the required map as part of the area surrounding the subdivision. A remainder of five acres or more need not be shown on the map and its location need not be indicated as a matter of survey, but only by deed reference to the existing boundaries of the remainder.
- BB. "Scenic/View Easement" shall mean an easement dedicated to the City or general public that protects a view from a specific location or locations to a specific visual resource by prohibiting or limiting development.
- CC. "Standard Engineering Specifications" shall mean those standard specifications for public improvements prepared by the City Engineer and adopted by the City Council and any amendments thereto commonly known as the Engineers Manual as adopted by Resolution of the City Council.
- DD. "Stock Cooperative" shall be defined as provided in the California Business and Professions Code.
- EE. "Subdivider" shall mean a person, firm, corporation, partnership, or association who proposes to divide, divides, or causes to be divided real property into a subdivision for oneself or for others. Employees and consultants of such persons or entities, acting in such capacity, are not "subdividers".
- FF. "Subdivision" shall mean the division, by any subdivider, of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized County assessment roll as a unit or as contiguous units, for the purpose of sale, lease, or financing, whether immediate or future. Property shall be considered as contiguous units, even if it is separated by roads, streets, utility easements or railroad rights-of-way. This definition shall specifically include Condominiums, Community Apartment Projects, Stock Cooperatives, and Conversions.
- GG. "Subdivision Map Act" shall mean the provisions of the California Government Code, commencing with Section 66410.

- HH. "Tentative Map" shall mean a map made for the purpose of showing the design and improvements of a proposed subdivision and the existing conditions in and around it precedent to the approval of a final map. "Tentative Map" shall include a tentative parcel map, prepared pursuant to the provisions of this Ordinance.
- II. "Vesting Tentative Map" shall mean a tentative map for a residential and non-residential subdivision(s) that has, printed conspicuously on its face, the words "Vesting Tentative Map" at the time it is filed with the City, and is processed in accord with the provisions of Article VII of this Ordinance.

Sec. 201 Responsibilities

- A. City Council. The City Council shall have final jurisdiction in the approval of final tract maps and improvement agreements and the acceptance by the City of land and/or improvements as may be proposed for dedication to the City for subdivisions of five or more parcels.

The City Council shall act as the appeal board for hearing appeals of the approval, conditional approval, or denial of tentative maps for all subdivisions.

The City Council shall also act as the appeal board for hearing appeals of other Planning Commission actions as provided in this Ordinance.

Any member of the City Council may initiate a "Call for Review" of any Planning Commission decision (or City Engineer decision with regard to parcel map approval or denial) as further described under the procedures generally described under Article 46 of the City's Zoning Ordinance.

- B. Planning Commission. The Planning Commission's responsibilities shall include approving, conditionally approving, or denying the application for tentative map approval of subdivisions of five or more parcels, and shall act as the appeal board for hearing appeals of the approval, conditional approval, or denial of subdivisions of four or fewer parcels. The Planning Commission also shall act as the appeals board for hearing appeals of the City Engineer's or the City Planner's actions as provided in this Ordinance.
- C. City Attorney. The City Attorney's responsibilities shall include approving as to form all subdivision improvement agreements and security, liability agreements and insurance, and all governing documents for a community apartment project, condominium, stock cooperative, or conversion as required or conditioned.

D. City Engineer. The City Engineer's responsibilities shall include:

1. Establishing design and construction details, standards and specifications.
2. Determining if proposed subdivision improvements comply with the provisions of the Subdivision Map Act and this Ordinance.
3. The processing and certification of final maps, reversion to acreage maps, and amended maps and the processing and approval of subdivision improvement plans.
4. The processing and approval of waivers of parcel map requirements, lot line adjustments, mergers and certificates of compliance.
5. Examining and certifying that final maps are in substantial compliance with the approved tentative map.
6. Inspection and recommendation to City Council for approval of subdivision public improvements.
7. Recommend the acceptance of dedications and public improvements for subdivisions of four or fewer parcels, and off-site dedications lying outside a subdivision boundary which require a separate grant deed.
8. Ensuring compliance with the mapping requirements under Chapter 32A of the City Code.
9. Collection of all required fees and deposits.
10. Determinations of violations of the provisions of the Subdivision Map Act or this Ordinance.
11. Examining, processing and approving certificates of corrections as required.

When necessary to carry out these responsibilities, the City Engineer may designate and authorize a representative to act on his or her behalf.

E. Planning Director. The Planning Director's responsibilities shall include:

1. Determining whether proposed subdivisions conform to the General Plan, any applicable specific plans, and the Zoning Ordinance; and making recommend-ations for approval, conditional approval, or denial to the Planning Commission for subdivision of five or more parcels and to the City Engineer for subdivision of four or fewer parcels.
2. Certifying, as Secretary of the Planning Commission, that the Planning Commission has approved, conditionally approved, or denied the tentative map for subdivisions of five or more parcels.
3. Scheduling, as Secretary of the Planning Commission, any appeal to a decision of the City Engineer on a parcel map, reversion to acreage, mergers, or lot line adjustments.

ARTICLE III MAPS REQUIRED

Sec. 300 General

For the purposes of this Ordinance, the specific requirements for tentative, final, and parcel maps shall be governed by the provisions of this article.

Sec. 301 Division of Land -- Five or More Parcels

A tentative and final map shall be required for all divisions of land when determined by the Department that such land may be divided into five or more parcels, five or more condominiums, a community apartment project containing five or more parcels, or for the conversion of a dwelling to a stock cooperative containing five or more dwelling units, except where:

- A. The land before division contains fewer than five acres, each parcel created by the division abuts upon a maintained public street or highway and no dedications or improvements are required by the legislative body; or
- B. Each parcel created by the division has a gross area of 20 acres or more and has an approved access to a maintained public street or highway; or
- 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 governing body as to street alignments and widths; or
- D. Each parcel created by the division has a gross area of not less than 40 acres or is not less than a quarter of a quarter section.

A parcel map, or final map where desired by the property owner, shall be required for those subdivisions described in paragraphs (A), (B), (C) and (D), above.

Sec. 302 Division of Land -- Four or Fewer Parcels

A tentative and final parcel map shall be required for all divisions of land into four or fewer parcels, except that maps shall not be required for:

- A. Subdivisions of a portion of the operating right-of-way of a railroad corporation, defined by Section 230 of the State Public Utilities Code, which are created by short-term leases terminable by either party on not more than 30 days, notice in writing.

- B. Land conveyed to or from a governmental agency, public entity or public utility, or for land conveyed to a subsidiary of a public utility for conveyance to such public utility for rights-of-way, unless a showing is made by the Department in individual cases, upon substantial evidence, that public policy necessitates a parcel map.
- C. Lot line adjustments, provided:
1. No additional parcels or building sites are created;
 2. The resulting parcels conform to the Zoning Ordinance and Chapter 6 (Building Construction Regulations) of the City Code;
 3. The lot line adjustment is approved by the City Engineer or by the Planning Commission on appeal; and
 4. A certificate of compliance, or deed, showing the lot line adjustment is prepared, approved, and filed in accord with the provisions of Article XII.
- D. Parcel maps waived by the City Engineer as provided by Section 609 of this Ordinance.

ARTICLE IV TENTATIVE SUBDIVISION MAPS - FIVE OR MORE PARCELS

Sec. 400 General

The form and contents, submittal, and approval of tentative maps for five or more parcels shall be governed by the provisions of this article.

Sec. 401 Form and Contents

The tentative map shall be prepared in a manner acceptable to the Department and shall be prepared by a registered civil engineer or licensed land surveyor. The tentative map shall be clearly and legibly drawn on one sheet and contain not less than the following:

- A. A title that shall contain the subdivision number, subdivision name, and type of subdivision;
- B. Name, address and signature of legal owner, subdivider, and person preparing the map, including registration number, seal and expiration date;
- C. Sufficient legal description to define the boundary of the proposed subdivision;
- D. The names and numbers of adjacent subdivisions and the names of owners of adjacent unplatted land;
- E. Date, north arrow, scale, contour interval, and source and date of existing contours;
- F. A statement of present General Plan designation, zoning classification and of existing and proposed uses of the property as well as any proposed General Plan and/or zoning changes, whether immediate or future;
- G. A vicinity map showing roads, adjoining subdivisions, and other data sufficient to locate the proposed subdivision and show its relation to the community;
- H. Existing topography of the proposed site and at least 300 feet beyond its boundary, and proposed changes in topography. The contours of the land shall be shown at intervals of not more than five feet, (or of not more than two-foot intervals where the slope of the land is less than 10 percent). The topography shall be not greater than 1 year old at the time of submittal. The City Engineer reserves the right to require both existing and proposed topography to be submitted in a manner that can be read and duplicated through the City's GIS program.

- I. Type, circumference and dripline of existing trees with a trunk diameter of 10 inches or more, measured 24 inches above existing grade. Any trees proposed to be removed shall be so indicated. Design shall attempt to save all such trees. Any recommendation to remove a tree due to structure and/or disease, shall be supported by a report from a licensed arborist. In addition, the licensed arborist shall also make recommendations on methods of grading when said proposed grading occurs within 20 feet of the dripline of any saved tree.
- J. The location and outline of existing structures identified by type. Structures to be removed shall be so marked.
- K. The approximate location of all areas subject to inundation or storm water overflow and the location, width, and direction of flow of each water course.
- L. The location, pavement and right-of-way width, grade and name of existing streets or highways.
- M. The widths, location and identity of all existing easements.
- N. The location and size of existing sanitary sewers, fire hydrants, water mains and storm drains. The approximate slope of existing sewers and storm drains shall be indicated. The location of existing overhead utility lines on peripheral streets shall be indicated.
- O. Proposed improvements to be shown shall include but not be limited to:
 1. The location, grade, centerline radius and arc length of curves vertical curve lengths, pavement, right-of-way width, and name of all streets. Typical sections of all streets shall be shown, and proposed private streets shall be clearly indicated. Street names (proposed) shall also be shown.
 2. The location and radius of all curb returns and cul-de-sacs.
 3. The location, width, and purpose of all easements.
 4. The angle of intersecting streets if such angle deviates from a right angle by more than four degrees.
 5. The proposed use of each lot, approximate lot layout, and the approximate dimensions of each lot and each building site. Engineering data shall show the approximate finished

grading of each lot, the preliminary design of all grading, the elevation of proposed building pads, the top and toe of cut and fill slopes to scale, and the number of each lot.

6. Proposed recreation sites, trails and parks for private or public use.
 7. Proposed common areas and areas to be dedicated to public open space.
 8. The location and size of existing and proposed sanitary sewers, fire hydrants, water mains and storm drains. Proposed slopes and approximate elevations of sanitary sewers and storm drains shall be indicated.
 9. A planting plan for slopes, erosion control, street trees, other landscaping fencing and walls.
 10. The name or names of any geologist or soils engineer whose services were required in the preparation of the design of the tentative map.
- P. If the subdivider plans to develop the site in phases, the proposed phases and their proposed sequence of construction shall be shown.
- Q. The City Engineer may waive any of the above tentative map requirements if the type of subdivision does not need to comply with these requirements, or if other circumstances justify a waiver. Any additional information as deemed necessary by the Department to accomplish the purposes of the Subdivision Map Act and this Ordinance may be required.
- R. All applications for a tentative map shall be accompanied by and processed with a Development Plan as set forth by the Zoning Ordinance.

Sec. 402 Accompanying Data and Reports

The tentative map and a completed application on approved forms shall be accompanied by the following data and reports:

- A. Environmental Review. Information shall be submitted as required by the Planning Department to allow a determination on environmental review to be made in accordance with the California Environmental Quality Act.

- B. Street Names. A list of potential street names for any unnamed street or alley for review by the Department. This requirement does not apply to conversions.
- C. Geotechnical Reports. Three copies of a preliminary soils report and engineering geology report, unless this requirement is waived by the City Engineer, as provided by Section 403(A).
- D. Title Report. A preliminary title report, not more than six months old and acceptable to the City Engineer, showing the legal owners at the time of filing the tentative map.
- E. Other Reports. Any other data or reports deemed necessary by the Department.

Sec. 403 Geotechnical Reports

- A. A preliminary soils and/or geology report may be waived by the City Engineer provided the City Engineer finds that, due to the knowledge the City has as to the soil and geologic conditions in the subdivision, no preliminary analysis is necessary. Such knowledge would include the nature, distribution, and strength of the existing soils, and the necessary grading procedures and design criteria for corrective measures, and the geology of the site and the effect of geologic conditions on the proposed development.
- B. If the City Engineer has knowledge of, or the preliminary soils and geology reports indicate, the presence of soil or geologic conditions which, if corrective measures are not taken, would lead to structural defects, a soils and/or geologic investigation of each lot in the subdivision may be required by the City Engineer. Such soils and/or geologic investigation shall address the adequacy of the sites to be developed by the proposed grading and the effect of the soil or geologic conditions on the proposed development. The City may approve the subdivision, or portion thereof, where soils or geologic problems exist if the City Engineer determines that the recommended actions provide for acceptable procedures and design criteria for corrective measures. A condition of the issuance of any foundation permit will require that the approved recommended action be completed and certified as having been done in compliance with the report and all other requirements of the City's Grading Ordinance.
- C. When preliminary soils and/or geology reports are prepared, final reports shall be submitted prior to the acceptance of the improvements or the release of occupancy permits indicating the

specific actions taken pursuant to the preliminary report recommendations. Such reports shall contain complete and sufficient field data to indicate full compliance with the preliminary report or subsequent progress report recommendations as they were applied to specific areas or improvements.

Sec. 404 Street Names

Each proposed public street that is a continuation of, or approximately the continuation of, any existing dedicated street shall be given the same name as the existing street. Where any such street forms a portion of any proposed street ordered by the Council to be surveyed, opened, widened, or improved, and such street is shown on the final map, the name of such street shall be the same as the name contained in the order of the Council. The words "Avenue", "Boulevard", "Place", "Way", "Court" or other designations of any street shall be spelled in full on the map, and such terms shall be approved by the City. All streets ending in a cul-de-sac shall be designated as "Courts." Specific guidelines for designation shall be as per the Standard Engineering Specifications. However, the use of the designations "Via" and "Villa" shall be prohibited due to inability to distinguish the difference on emergency radio operations.

Sec. 405 Department Review and Referral

The tentative map shall be accepted for filing only when the map conforms to Section 401 and when all accompanying data or reports, as required by Section 402 and all fees and/or deposits as required by Section 107 have been submitted and accepted by the Department. The subdivider shall file with the Planning Department the number of tentative maps the Department may deem necessary. The Department shall forward copies of the tentative map to the affected public agencies and utilities which may, in turn, forward to the Department their findings and recommendations.

Sec. 406 Planning Commission Action

- A. Notice of Public Hearings. Upon receipt of an application that is accepted as complete, the Department shall set a date for a public hearing before the Planning Commission, provide notice as required by State and local law and prepare a report with recommendations. A copy of the Department report shall be forwarded to the subdivider at least three days prior to the public hearing, as required by law. Neighborhood notices shall be provided as set forth by City Council policy.
- B. Planning Commission Action. The Planning Commission shall approve, conditionally approve, or deny the tentative map, and the Department shall report its decision to the subdivider within 50

days after the tentative map has been accepted as complete for filing. If an environmental impact report is prepared, the decision shall be made within 45 days after certification of the environmental impact report.

C. Approval. The tentative map may be approved or conditionally approved by the Planning Commission if it makes the following findings:

1. That the proposed map is consistent with the General Plan or any applicable specific plan, or other applicable provisions of this Ordinance;
2. That the site is physically suitable for the type of development;
3. That the site is physically suitable for the proposed density of development;
4. That the design of the subdivision or the proposed improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. (Notwithstanding the foregoing, the Planning Commission may approve such a tentative map if an environmental impact report was prepared and approved and findings of overriding considerations are made in accordance with the CEQA).
5. That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. (In this connection the Planning Commission may approve a map if it finds that alternative 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 the Planning Commission to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.
6. Complies with all other applicable ordinances, regulations and guidelines of the City of Oceanside, including but not limited to the Local Coastal Plan, Hillside regulations, and the Local Floodplain Ordinance.

The Planning Commission may modify or delete any of the conditions of approval recommended in the Department's report, except conditions required by the City Code, this Ordinance or related to public health and safety issues. The Planning Commission may add additional requirements as a condition of its approval.

- D. Denial. The tentative map may be denied by the Planning Commission on any of the grounds provided by the Subdivision Map Act or this Ordinance. The Planning Commission shall deny approval of the tentative map if it makes any of the following findings:
1. That the proposed map is inconsistent with the General Plan, any applicable specific plan, or other applicable provisions of the City Code and applicable ordinances;
 2. That the site is not physically suitable for the type of development or is incompatible with the surrounding neighborhood character;
 3. That the site is not physically suitable for the proposed density of development;
 4. That the design of the subdivision or the proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat;
 5. That the design of the subdivision or the type of improvements is likely to cause serious public health problems;
 6. That 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 Planning Commission 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 the Planning Commission to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision; and
 7. Subject to Section 66474.4 of the Subdivision Map Act, that the land is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (commencing with Section 51200 of the Government Code) and that the resulting parcels following a subdivision of the land would be too small to sustain their agricultural use.

Sec. 407 Extension of Time for City Engineer or Planning, Commission Action

Any applicable time limits for acting on the tentative map may be extended by mutual consent of the subdivider and the City Engineer, for four or less parcels, or the Planning Director for five or greater parcels. A waiver of applicable time limits may be required to permit concurrent processing of related project approvals (i.e. Development Plans, CUP's, Variance, etc.) or environmental review on the same development project.

Sec. 408 Expiration

The expiration of a tentative map shall be as governed by Section 607 the Subdivision Map Act.

Sec. 409 Extensions

- A. Request by Subdivider. The subdivider may request an extension of the expiration date of the approved or conditionally approved tentative map by written application to the Department. The application, meeting all the requirements of this ordinance, and any required fee shall be filed not more than 90 days nor less than 30 days before the map is scheduled to expire and shall state the reasons for requesting the extension.
- B. Planning Commission Action. The Department shall review the request, set a public hearing, and submit the application for the extension, together with a report, to the Planning Commission for approval, conditional approval, or denial. A copy of the Department's report shall be forwarded to the subdivider prior to the Planning Commission meeting on the extension. After conducting a public hearing or reviewing the request, the Planning Commission may approve or deny the requested extension.
- C. Time Limit of Extensions. The time at which the tentative map expires may be extended by the Planning Commission for a period or periods up to but not exceeding a total of three years from the original expiration date.
- D. Appeal of Extension. The subdivider or any interested person adversely by the decision of the Planning Commission may, within ten (10) days after the decision, file an appeal to the City Council in writing to the City Clerk accompanied by the appropriate fee. The decision of the City Council shall be final.

Sec. 410 Modifications to Approved or Conditionally Approved
Tentative Map

Minor modifications to the approved or conditionally approved tentative map or conditions of approval may be approved by the Department upon application by the subdivider for substantial conformity based on the latest guidelines as approved by the City Council. The modifications, if approved, shall be indicated on the approved or conditionally approved tentative map and certified by the City Engineer. Modifications to the tentative map conditions of approval which, in the opinion of the Department are not minor in nature and do not comply with the guidelines noted above, shall be required to file an application, with the appropriate fees, for a revision to the previously approved tentative map. Processing shall be in accordance with the provisions for processing a tentative map as set forth in this Ordinance. Any approved revision shall not alter the expiration date of the tentative map.

ARTICLE V FINAL SUBDIVISION MAPS -- FIVE OR MORE, PARCELS

Sec. 500 General

The form, contents, accompanying data, and filing of the final map shall conform to the provisions of the Subdivision Map Act and this Ordinance.

The final map shall be prepared by or under the direction of a qualified registered civil engineer or licensed land surveyor.

Sec. 501 Phasing

- 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:
 - 1. The subdivider, at the time the tentative map is filed, notifies the City Planner and the City Engineer in writing of the subdivider's intention to file multiple final maps on the tentative map and is authorized to be phased by conditions of the map; or
 - 2. After approval of the tentative map, the City Planner and the City Engineer and the subdivider concur in the filing of multiple final maps.
- B. The City may impose reasonable conditions relating to the filing of multiple final maps.
- C. 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 which constitutes a part, or unit, of the approved or conditionally approved tentative map shall have a separate subdivision number. The subdivision 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.

Sec. 502 Survey Required

An accurate and complete survey of the land to be subdivided shall be made by a qualified registered civil engineer or licensed land surveyor. All monuments, property lines, centerlines of streets, alleys and easements adjoining or within the subdivision shall be tied into the survey. The allowable error of closure on any portion of the final map shall not exceed 1:10,000 for field closures and 1:20,000 for calculated closures.

At the time of making the survey for the final map, the engineer or surveyor shall set sufficient durable monuments, conforming with the standards of the Business and Professions Code, so that another engineer or surveyor may readily retrace the survey. At least one exterior boundary line shall be monumented prior to recording the final map. Other monuments shall be set as required by the City Engineer and the Standard Engineering Specifications.

Sec. 503 Form

The form of the final map shall conform to the Subdivision Map Act and as follows:

The final map shall be legibly drawn, printed, or reproduced by a process guaranteeing a permanent record in black on tracing cloth or polyester base film. Certificates, affidavits and acknowledgments may be legibly stamped or printed upon the map with opaque ink. If ink is used on polyester base film, the ink surface shall be coated with a suitable substance to assure permanent legibility.

The size of each sheet shall be 18 inches by 26 inches. A marginal line shall be drawn completely around each sheet, leaving an entirely blank margin of one inch. The scale of the map shall be not less than 1"=100' or as may be necessary to show all details clearly, and enough sheets shall be used to accomplish this end. The particular number of the sheet and the total number of sheets comprising the map shall be stated on each of the sheets, and its relation to each adjoining sheet shall be clearly shown. When four or more sheets including the certificate sheet are used, a key sheet shall be included. All printing or lettering on the map shall be of 1/8-inch minimum height and of such shape and weight as to be readily legible on prints and other reproductions made from the original drawings. The final form of the final map shall be as approved by the City Engineer.

Sec. 504 Contents

The contents of the final map shall conform to the Subdivision Map Act and as follows:

- A. **Boundary.** The boundary of the subdivision shall be designated by a heavy black line, 1/16th-inch thick, in such a manner as not to obliterate figures or other data.
- B. **Title.** Each sheet shall have a title showing the subdivision number and name and the location of the property being subdivided with reference to maps which have been previously recorded, or by reference to the plat of a United States Survey. The following words shall appear in the title, "City of Oceanside, San Diego County, California."

- C. Certificates and Acknowledgments. All certificates and acknowledgments shall be made as required by the Subdivision Map Act (Sections 66433 et. seq.) and shall appear only once on the cover sheet.
- D. Scale, North Point and Basis of Bearings. There must appear on each map sheet the scale, the north point and the basis of bearings based on the California Coordinates, and the equation of the bearing to true north. The basis of bearings shall be approved by the City Engineer.
- E. Linear, Angular and Radial Data. Sufficient linear, angular and radial data shall be shown to determine the bearings and lengths of monument lines, street centerlines, the boundary lines of the subdivision, the boundary lines on every lot and parcel which is a part of the subdivision, and ties to existing monuments used to establish the boundary. Arc length, radius and total central angle and radial bearings (where necessary) of all curves shall be shown. Ditto marks shall not be used in the dimensions and data shown on the map.
- F. Monuments. The location and description of all existing and proposed monuments shall be shown. Standard City monuments shall be set at, or on City Engineer approved offsets, the following locations:
1. The intersection of street centerlines;
 2. Beginning and end of curves;
 3. At other locations as may be required by the City Engineer.
- G. Lot Numbers. Lot numbers shall begin with the number one in each subdivision and shall continue consecutively with no omissions or duplications except where contiguous lands, under the same ownership, are being subdivided in successive units, in which event lot numbers may begin with the next consecutive number following the last number in the preceding unit. Each lot shall be shown entirely on one sheet of the final map, unless approved by the City Engineer.
- H. Adjoining Properties. The adjoining corners of all adjoining subdivisions shall be identified by subdivision number, or name when not identified by official number, and reference to the book and page of the filed map showing such subdivision; and if no subdivision is adjacent, then by the name of the owner and reference to the recorded deed by book and page number for the last record owner.

- I. City Boundaries. City boundaries which cross or join the subdivision shall be clearly designated.
- J. Street Names. The names of all streets, alleys, or highways within or adjoining the subdivision shall be shown.
- K. Easements and Dedications. Easements and dedications for roads or streets, paths, water mains, storm water drainage, sanitary sewers or other public use as may be required, shall offer for dedication to the public for acceptance by the City or other public agency, and the use shall be specified on the map. If at the time the final map is approved, any streets, paths, alleys or storm drainage easements are not accepted by the City Council, the offer of dedication shall remain open and the City Council may, by resolution at any later date, accept and open the streets, paths, alleys or storm drainage easements for public use, which acceptance shall be recorded in the office of the County Recorder.

The City may accept any dedications lying outside the subdivision boundary which require a separate grant deed. The acceptance shall be recorded in the office of the County Recorder.

All easements of record shall be shown on the map, together with the name of the grantee and sufficient recording data to identify the conveyance, e.g., recorder's serial number and date, or book and page of official records.

Easements not disclosed by the records in the office of the County Recorder and found by the surveyor or engineer to be existing, shall be specifically designated on the map, identifying the apparent dominant tenements for which the easement was created.

The sidelines of all easements of record shall be shown by dashed lines on the final map with the widths, lengths and bearings of record when available. The width and location of all easements shall be approved by the City Engineer.

- L. Open Space Areas. Open space areas, including greenbelts and open space corridors, may be shown, subject to the approval of the City. Such areas shall be offered as open space easements unless otherwise specified in the approval of the tentative map. Should the City accept the offer of dedication the subdivider shall agree and pay the appropriate fees and assessments to allow such land to be included within an open space maintenance assessment district. Should the City not include the open space within a maintenance district, the open space shall be granted to the subdivision's homeowner's association for their maintenance.

Sec. 505 Preliminary Submittal for City Approval

The subdivider shall submit prints of the final map to the City Engineer for checking. The preliminary prints shall be accompanied by the following data, plans, reports, and documents in a form as approved by the City Engineer and, where applicable, the City Attorney:

- A. Improvement Plans. Improvement plans as required by Section 905 of this Ordinance.
- B. Soil Report. A soils report prepared in accordance with the Grading Ordinance of the City of Oceanside.
- C. Title Report. A title report not more than thirty (30) days old, showing the legal owners at the time of submittal of the final map.
- D. Tax Certificate. A certificate from the County Tax Collector stating that all taxes due have been paid or that a tax bond or other adequate form of security assuring payments of all taxes that are a lien but not yet payable has been filed with the County. Tax Certificate shall be less than 30 days old.
- E. Deeds for Easements or Rights-of-Way. Deeds for off-site easements or rights-of-way required for road or drainage purposes which have not been dedicated on the final map. Written evidence acceptable to the City in the form of rights of entry or permanent easements across private property outside of the subdivision permitting or granting access to perform necessary construction work and permitting the maintenance of the facility.
- F. Traverse Closures. Traverse closures for the boundary blocks, lots, easements, street centerlines and monument lines.
- G. Hydrology and Hydraulic Calculations. Complete hydrology and hydraulic calculations of all storm drains.
- H. Governing Documents. For a cooperative apartment project, condominium, stock cooperative, or conversion, the proposed Declaration of Covenants, Conditions and Restrictions containing the provisions described in Section 1353 of the Civil Code, and all other governing documents for the subdivision, as are appropriate pursuant to Section 1363 of the Civil Code; for all other subdivisions any Declaration of Covenants, Conditions and Restrictions proposed in connection therewith. All governing documents shall be subject to review and approval by the City Engineer and City Attorney.
- I. Guarantee of Title. A guarantee of title, in a form acceptable to the City Engineer and City Attorney, shall be issued by a competent title company to and for the benefit and protection of the City and shall be continued complete up to the instant of recording of the final map, guaranteeing that the names of all persons whose consent

Adopted
2/27/91

is necessary to pass a clear title to the land being subdivided, and all public easements being offered for dedication, and all acknowledgments thereto, appear on the proper certificates and are correctly shown on the map, both as to consents as to the making thereof and affidavits of dedication where necessary.

J. Improvement Agreement. In the event drainage structures, grading, paving, or other required improvements have not been completed prior to the presentation of the final map, an agreement in accordance with the requirements of the Standard Engineering Specifications shall be filed for the improvement thereof. The subdivider shall secure the performance of the agreement in accordance with the requirements of the Standard Engineering Specifications.

K. Liability Agreement and Insurance.

1. A hold-harmless agreement acceptable to the City Engineer, Risk Manager and City Attorney obligating the subdivider to hold the City and its officers, agents and employees harmless from any liability for damages or claims for damages for personal injury or death which arise from the operations of the subdivider and/or the subdivider's subcontractors in connection with the subdivision.
2. A certificate of insurance or contractual liability endorsement acceptable to the City Attorney naming the City as additional insured and reporting to the City the amount of insurance the subdivider carries for the subdivider's own liability for damages or claims for damages for personal injury or death which arise from the operations of the subdivider or his subcontractors in connection with the subdivision. The insurance shall provide for a minimum of \$1 million per occurrence. Such insurance policies shall not be cancelled or materially changed without 30 days advance written notice to the City Attorney.

L. Other Information.

1. Any additional data, reports, or information as required by the Department or City Attorney.
2. All requirements as covered within the Standard Engineering Specifications.

Sec. 506 Review by City Engineer

The City Engineer shall review the final map, and the subdivider shall make corrections and/or additions until the map is acceptable to the City Engineer. Only upon complete submittal, including all agreements, plans, securities and easements, of the final map acceptable to the City Engineer shall a timely filing be considered to have been made.

Sec. 507 Approval by City Engineer

The subdivider shall submit to the City Engineer the original tracing of the map, corrected to its final form and signed by all parties required to execute the certificates on the map. Original signatures shall appear on the original drawing and on any duplicates. Upon receipt of all required certificates and submittals, the City Engineer and the Planning Director shall sign the appropriate certificates.

Sec. 508 Approval by City Council

The final map approved by the City Engineer and Planning Director as complying with the approved or conditionally approved tentative map shall be filed with the City Council for approval after all required certificates have been signed. The date the map shall be deemed filed with the City Council is the date on which the City Council receives the map. The City Council shall consider approval of the subdivision improvement agreement and improvement security before approving the final map.

If the subdivision improvement agreement and final map are approved by the City Council, it shall authorize the City Manager to execute the agreement on behalf of the City.

If the subdivision improvement agreement and/or final map is unacceptable, the City Council shall make its recommended corrections, instruct the City Engineer to draft a new agreement and/or revise the final map and defer approval until an acceptable agreement and/or final map has been resubmitted.

Sec. 509 Filing with the County Recorder

Upon approval of the final map by the City Council, the City Clerk shall execute the appropriate certificate on the certificate sheet and shall, subject to the provisions of Section 66464 of the Subdivision Map Act, transmit the map, or have an authorized agent transmit the map, to the County Recorder.

ARTICLE VI SUBDIVISIONS OF FOUR OR FEWER PARCELS

Sec. 600 General

The form and contents, submittal and approval of tentative maps for four or fewer parcels shall be governed by the provisions of this article.

Sec. 601 Form and Contents, Accompanying Data and Reports

The tentative map shall be prepared in a manner acceptable to the Department and shall be prepared by a qualified registered civil engineer or licensed land surveyor. The form and contents shall comply and be consistent with the requirements of Section 401 and the accompanying data and reports shall comply with and be consistent with Section 402 through 404, inclusive.

Sec. 602 Department Review

The tentative map shall be accepted for review in accord with the provisions of Section 405.

Sec. 603 Action by City Engineer

- A. Any applications for a tentative parcel map which require concurrent processing (i.e. Development Plan, CUP's, Variance, etc.) as set forth in the Zoning Ordinance, and which require hearing(s) at the Planning Commission shall automatically be referred to the Commission for hearing and action.
- B. Upon receipt of an application that is accepted as complete by the City, the Department shall prepare a report and set the matter for a public hearing before the City Engineer in accord with the provisions of Section 406.
- C. The City Engineer shall require that the public hearing be held before the Planning Commission when the proposed development raises major General Plan issues or extraordinary public concern. The hearing shall be held in accord with the provisions of Section 105.
- D. The tentative map may be approved, conditionally approved, or denied by the City Engineer in accordance with the provisions and findings set forth in Section 406.
- E. The City Engineer shall place on the Planning Commission Agenda those hearings scheduled to be held by the City Engineer prior to the next regularly scheduled Planning Commission meeting.

Sec. 604 Extension of Time for City Engineer Action

Any applicable time limits for acting on the tentative map may be extended by mutual consent of the subdivider and the City Engineer. A waiver of applicable time limits may be required to permit concurrent processing of related project approvals (i.e. Development Plan, CUP's, Variance, etc.) or environmental review on the same development project.

Sec. 605 Appeals of City Engineer Action

The subdivider or any interested person adversely affected by the City Engineer action under Section 603 may, within 10 days after the decision, file an appeal, accompanied by the required fees, to the Planning Commission in writing with the Planning Director. The Planning Commission shall consider the appeal at a duly noticed public hearing within 30 days after the date of filing of the appeal, unless the appellant consents to a continuance. Within 10 days following the conclusion of the hearing, the Planning Commission shall render its decision. The Commission may sustain, modify, reject, or overrule any recommendations or rulings of the City Engineer that are the subject of the appeal, and may make any findings that are consistent with the provisions of the Subdivision Map Act this Ordinance or other applicable City requirements.

Sec. 606 Appeal of Planning Commission Action

The subdivider or any interested person adversely affected by the decision of the Planning Commission may, within 10 days after the decision, file an appeal to the City Council in writing to the City Clerk with the appropriate fee. The decision of the City Council shall be final.

Sec. 607 Expiration and Extensions

The approval or conditional approval of a tentative map shall expire 24 months from its approval, unless this time period is extended by the provisions of Section 408 or 409. The subdivider may request an extension of the expiration date for action in accord with the provisions of Section 409. The City Engineer may approve, conditionally approve, or deny the request for an extension. The subdivider or any interested person or agency may appeal the action of the City Engineer to the Planning Commission in accord with the provisions of Section 409(D).

Sec. 608 Amendments to Approved or Conditionally Approved Tentative Map

Amendments to the approved or conditionally approved tentative map or conditions of approval shall be made in accordance with Article XII of this Ordinance.

Sec. 609 Waiver of Parcel Map Requirements

- A. The City Engineer may, at his or her discretion, waive the requirements for a parcel map for the following:
1. Division of real property or interests therein created by probate, eminent domain procedures, partition, or other civil judgments or decrees.
 2. Division of property resulting from conveyance of land or interest therein to or from the City, public entity or public utility for a public purpose, such as school sites, public building sites, or rights-of-way or easements for streets, sewers, utilities, drainage, etc.
- B. The City Engineer, in consultation with the Planning Director, shall make a finding that the proposed division of land complies with requirements as to: (1) area; (2) the City's Standard Engineering specifications for improvement and design, flood water drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, and environmental protection, (3) Zoning Ordinance; and (4) other requirements of the Subdivision Map Act and this Ordinance.
- C. Upon the waiver of the final parcel map requirement pursuant to this section, the Department shall file with the County Recorder a certificate of compliance for the land to be divided, in accordance with Section 1302(B), and a plat map showing the division. The certificate shall include a certificate by the County Tax Collector in accordance with Division 8 of the Subdivision Map Act.
- D. A waiver by the City Engineer shall be conditioned to provide for payment by the subdivider of park land dedication, drainage, and other fees by a method approved by the City Engineer.

Sec. 610 Final Parcel Maps

The form and contents, submittal, approval and filing of parcel maps shall conform to the provisions of the Subdivision Map Act and this section.

- A. Survey Required. An accurate and complete survey of the land to be subdivided shall be made by a qualified registered civil engineer or licensed land surveyor. All monuments, property lines, centerlines of streets, alleys and easements adjoining or within the subdivision shall be tied into the survey and all monuments set prior to the recordation of the parcel map. The allowable error of closure on any portion of the parcel map shall not exceed 1:10,000 for field closures and 1:20,000 for calculated closures.

- B. Form and contents. The form and contents of the parcel map shall conform to the final map form and contents requirements of Section 503 and 504. CC&R's and/or covenants for deferred improvements shall be provided as determined by conditions of approval and City requirements.
- C. Preliminary Submittal. The subdivider shall submit prints of the parcel map to the City Engineer for checking. The preliminary prints shall be accompanied by copies of the data, plans, reports and documents as required for final maps by Section 505.

The City Engineer may waive any of the provisions of this article if the location and nature of the proposed subdivision does not require compliance.

- D. Review and Approval by City Engineer. The City Engineer shall review the parcel map and the subdivider shall make corrections and/or additions until the map is acceptable to the City Engineer. The subdivider shall submit the original tracing of the map, corrected to its final form and signed by all parties required to execute the certificates on the map, to the City Engineer. The City Clerk or authorized agent shall, subject to the provisions of the Subdivision Map Act, transmit the approved parcel map to the County Recorder.

The City Engineer shall approve the parcel map if it complies with the requirements of the Subdivision Map Act, this Ordinance, the tentative map and all conditions thereof.

ARTICLE VII VESTING TENTATIVE MAPS

Sec. 700 Authority and Purpose

The purpose of this Article, enacted pursuant to the authority granted by Chapter 4.5 of the Subdivision Map Act (the Vesting Tentative Map Statute) is to establish appropriate local procedures for the implementation of this statute. To accomplish this purpose, the regulations contained in this article are determined to be necessary for the preservation of the public health, safety and general welfare, and for the promotion of orderly growth and development.

Sec. 701 Jurisdiction

The City Council shall have final authority on all Vesting Tentative Maps. The Planning Commission shall consider and recommend approval, conditional approval or denial to the City Council.

Sec. 702 Application

- A. Whenever a provision of the Subdivision Map Act, as implemented and supplemented by this Ordinance, requires the filing of a tentative map or tentative parcel map for a residential or non-residential development, a vesting tentative map may instead be filed, in accordance with the provisions of this article.
- B. If a subdivider does not seek the rights conferred by the Vesting Tentative Map Statute, 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.
- C. All applications for a Vesting Tentative Map shall be accompanied by and processed with an application for a Development Plan as set forth in the Zoning Ordinance.

Sec. 703 Filing and Processing

A vesting tentative map shall be filed in the same form and have the same contents, accompanying data and reports, and shall be processed in the same manner as set forth in this Ordinance for a tentative map except as hereinafter provided:

- A. At the time a vesting tentative map is filed, it shall have printed conspicuously on its face the words "Vesting Tentative Map."
- B. At the time a vesting tentative map is filed, the subdivider shall also provide the following additional information regarding the project:

1. A detailed plot plan for the proposed lot or lots showing dimensions and setbacks of all new structures;
 2. Architectural elevations indicating proposed height and exterior design of all new structures, building and roofing materials, colors, and information on the uses to which the buildings will be put;
 3. Floor plans of all new structures;
 4. Complete detailed design of and specifications for all on-site and off-site public and private facilities including, but not limited to, on-site and off-site sewer, water, drainage, roads (including final grade and alignments), and other on-site and off-site improvements and/or infrastructure.
 5. A rough grading plan in conformance with the City's Grading Ordinance and satisfactory to the City Engineer.
 6. A precise grading plan as required and approved by the City Engineer, assuring that the project as designed can be feasibly graded;
 7. Landscape plans in a form and content in conformance with the City Landscape Manual and satisfactory to the City Engineer, for all public and common or commonly maintained private open area;
 8. Flood-management studies in areas designated by the City Engineer;
 9. Traffic studies for projects of 100 units or more;
 10. A phasing plan for public facilities, if phasing is requested.
 11. All other requirements and specified under Section 401, 402 and 403.
- C. All applications for a vesting tentative map shall be accompanied by and processed concurrently with a development plan, and any other discretionary approvals, as set forth by the Zoning Ordinance.
- D. A vesting tentative map shall not be approved or conditionally approved unless, in addition to all other required findings, the City Council finds on the basis of the studies and reports submitted by the subdivider or required by the City that all

public facilities necessary to serve the subdivision or mitigate any impacts created by the subdivision will be available for the entire time that the vesting tentative map or vesting parcel map is valid, plus any time during which the rights conferred by Section 705 exist.

Sec. 704 Fees

- A. Upon filing a vesting tentative map, the subdivider shall pay all required fees and/or deposits for checking and processing maps, plans and reports. Any additional fees required due to changes of the maps, plans and reports shall be due and payable by the subdivider upon request by the City.
- B. The amount of all other fees required by this Ordinance for the development shall be determined at the time an application for the building permit is made.

Sec. 705 Expiration; Request for Time Extension

Expiration and request for extensions shall be pursuant to Section 408 of this Ordinance and the Subdivision Map Act. Failure to file a final map within 24 months of the original approval or the allotted time frame of any approved extension, without properly filing and receiving an extension, shall terminate all proceedings, and no final map or parcel map for all or any property included within the vesting tentative map shall be filed without first processing a new map pursuant to this Ordinance.

Sec. 706 Rights of a Vesting Tentative Map

- A. The approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards described in Section 66474.2 of the Subdivision Map Act. However, if Section 66474.2 is repealed, the approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards in effect at the time the vesting tentative map is approved or conditionally approved. Any disputes as to whether a development substantially complies with the approved or conditionally approved map, or with the ordinances, policies or standards described in this subsection, shall be resolved by the City Council.
- B. Notwithstanding Paragraph (A) above, a permit, approval, extension, or entitlement may be conditioned or denied by the City Council, if any of the following are determined:

1. A failure to do so would place the residents of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety, or both.
 2. The condition or denial is required, in order to comply with state or federal law.
- C. The rights conferred by a vesting tentative map shall expire if:
1. If a final map is not approved prior to the expiration of the vesting tentative map as provided in Section 705;
 2. The applicant has requested and the City has approved a change in the type, density, bulk or design of the development, unless an amendment to the vesting tentative map or the vesting tentative parcel map has been approved.
- D. If a final map is approved and filed, these rights conferred by Paragraph (A) shall last for the following periods of time:
1. An initial time period of one-year beyond the recording of the final map or parcel map. Where several final maps are recorded on various phases of a project covered by a single vesting tentative map, this one-year initial time period shall begin for each phase when the final map for that phase is recorded. All of said final maps or parcel maps must be recorded within the time period set forth in Section 705 or the vesting tentative map approval shall expire for those parcels for which final maps or parcel maps are not timely recorded.
 2. The one-year initial time period set forth in (D)(1) shall be automatically extended by any time used for processing a complete application for a grading permit or for any required design or architectural review, if such processing exceeds 30 days from the date a complete application is filed.
 3. A subdivider may apply to the City Council for a single one-year extension at any time before the initial time period set forth in D(1) expires. An extension may be granted only if the City Council finds that the map still complies with the requirements of this Article and all other applicable provisions of the Subdivision Ordinance and State Subdivision Map Act. The City Council may approve, conditionally approve, or deny an extension in its sole discretion.

If the subdivider submits a complete application for a building permit during the periods of time specified in subdivisions D (1-3), the rights referred to herein shall continue until the expiration of that permit, or any extension of that permit.

4. Upon the expiration of the time limits specified in subsections D(1), D(2), D(3), or D(4), all rights conferred by this Section or this Article shall cease, and the projects shall be considered as the same as any subdivision which was not processed pursuant to this Article.
5. Notwithstanding Subsection D(1), the amount of any fees that are required to be paid either as a condition of the map approval or by operation of any law shall be determined by the application of the law or policy in effect at the time the fee is paid. The amounts of the fees are not vested upon approval of the vesting tentative map or vesting tentative parcel map.

Sec. 707 Amendment to Approved Vesting Tentative Map

Amendments to the approved or conditionally approved vesting tentative map shall be made in accord with Section 410 or 608, as the case may be.

Sec. 708 Consistency with Zoning and the General Plan

No vesting tentative map or vesting tentative parcel map shall be approved if the proposed map or the design or improvement of the proposed development are not consistent with the applicable general, specific or master plans, or with the applicable provisions of the Subdivision and Zoning Ordinances. If development of the project for which a vesting tentative map or vesting tentative parcel map requires any permits or approvals pursuant to the Oceanside Zoning Ordinance, those permits or approvals shall be processed concurrently with the vesting tentative map or vesting tentative parcel map. A vesting tentative map or vesting tentative parcel map shall not be approved if all other discretionary permits or approvals have not been approved either prior to or concurrently with approval of the map.

ARTICLE VIII DEDICATIONS AND RESERVATIONS

Sec. 800 Dedication of Streets, Alleys and Other Public Rights-of-Way or Easements

As a condition of approval of a tentative map, the subdivider shall dedicate, or make an irrevocable offer to dedicate, all parcels of land within the subdivision that are needed for improvements required by Article IX, including streets, alleys, other public rights-of-way, access rights and abutters' rights. In addition, the subdivider shall construct or agree to construct all required improvements in accord with Article IX and the Standard Engineering Specifications.

Sec. 801 Waiver of Direct Access Rights

The City may require as a condition of approval of a tentative map that dedications or offers of dedication of streets include a waiver of direct access rights to any such street from any property within or abutting the subdivision. Upon acceptance of the dedication, such waiver shall be reflected in an appropriate title document, which shall be recorded, and shall become effective in accordance with its provisions.

Sec. 802 Dedications

All dedications of property to the City for public purposes shall be made in fee title, except that, at the City's discretion, the grant of an easement maybe taken for the following purposes: open space easements, emergency access easements, scenic easements or public utility easements. All dedications in fee and grants of easements shall be free of liens and encumbrances except for those which the City, in its discretion, determines would not conflict with the intended ownership and use.

The City may elect to accept an irrevocable offer of dedication in lieu of dedication of fee title.

Sec. 803 Public Facilities Dedication Requirements

- A. **General.** This section is enacted pursuant to the authority granted by the Subdivision Map Act, the Quimby Act, the general police power of the City or any local, regional, State or Federal agencies imposing the requirement. The facilities for which dedication of land and/or payment of a fee is required are to implement the policies, principles and standards contained in the General Plan and related facilities requirements documents.
- B. **Requirements.** As a condition of approval of a tentative map, the subdivider shall dedicate land, pay a fee in lieu thereof, or both, for public facilities pursuant to, and in order to implement, the provisions of state law relating to schools (whether interim or permanent facilities) and/or transit facilities, fire stations, police stations, parks, library sites or similar public facilities.

ARTICLE IX IMPROVEMENTS

Sec. 900 General

The subdivider shall construct all required improvements on-site and off-site, in accordance with Standard Engineering Specifications and other approved standards as provided by this Chapter.

No final map shall be presented to the Council or parcel map to the City Engineer for approval until the subdivider either completes the required improvements, or enters into an agreement with the City agreeing to do the work and posts the required security for the improvements.

Sec. 901 Improvements Required

- A. General. All improvements as may be required as conditions of approval of the tentative map or by City ordinance or resolution, together with, but not limited to, the required improvements set forth below shall be required of all subdivisions. Requirements for construction of on-site and off-site improvements for subdivisions of four or fewer parcels shall be noted on the parcel map, waiver of parcel map, or the subdivision improvement agreement recorded prior to or concurrent with the parcel map.
- B. Frontage Improvements. The frontage of each lot shall be improved, at a minimum, to its ultimate adopted geometric section, including street structural section, curbs, gutters, sidewalks, driveway approaches, transitions and streetlighting. Sidewalks may be deferred or waived in neighborhoods specifically designated by the City Council
- C. Storm Drainage. Storm water runoff from the subdivision shall be collected and conveyed by an approved storm drain system. The storm drain system shall be designed for ultimate development of the watershed. The storm drain system shall provide for the protection of abutting and off-site properties that would be adversely affected by any increase in runoff attributed to the development. Off-site storm drain improvements and/or detention or retention basins may be required to satisfy this requirement.
- D. Sanitary Sewers. Each unit or lot within the subdivision shall be served by an approved sanitary sewer system.
- E. Water Supply. Each unit or lot within the subdivision shall be served by an approved domestic water system.
- F. Utilities. Each unit or lot within the subdivision shall be served by gas (if required), electric, telephone and cablevision facilities.

G. Underground Utilities Conversions

1. General. All existing and proposed utilities within the subdivision and/or within any full width street or right-of-way abutting a new subdivision shall be placed underground (conversion). The subdivider is responsible for complying with the requirements of this section and shall make all the necessary arrangements with each serving and impacted company for the conversion or additional installation of such facilities. Trans-formers, terminal boxed, meter cabinets, pedestals and other facilities necessarily appurtenant to such under-ground facilities may be placed above ground except in the Redevelopment Project area where facilities shall be placed within underground vaults, unless determined to be infeasible.
2. Design. The facilities shall be designed to the following minimum standards:
 - a. Facilities shall be converted offsite to nearest existing pole when said pole is within 100 feet of property line. If the nearest existing pole is in excess of 100 feet, setting of new terminal pole(s) at property line is an acceptable alternative.
 - b. Where facilities cross an abutting existing street, the conversion shall be to the opposing side of the abutting street.
 - c. Only brace and/or guy poles/wires may be reset within the subdivision.
 - d. Facilities sharing the same poles as facilities eligible for waiver shall be converted unless the initial facilities also are specifically granted waiver.

Street lighting shall be provided on all subdivisions to the standards specified in the City's Standard Engineering Specifications. Where ornamental features/poles are required, the subdivider shall incorporate said features/poles into the subdivision's design. The subdivider shall also deposit with the City cash sufficient to pay for the energy and maintenance of such street-lighting for a period of eighteen(18) months. All such lighting on streets to be offered for dedication shall be electric and ownership shall rest with the City.

3. Waiver Provisions. The Planning Commission or City Council upon appeal, may grant a waiver to the above requirements only at the time of tentative map approval based solely on one or more of the following:

- a. The existing overhead electric lines are transmission lines in excess of thirty-four thousand five hundred volts (34.5 KV).
- b. The existing overhead communication lines are solely long distance/trunk facilities.
- c. Extreme topographic, geologic, soils or other conditions make conversion of the facilities unreasonable or impractical for the long term.

The granting of a waiver does not eliminate the requirement to convert all existing street lighting or the distribution system. Existing street lights occupying waived facilities shall be removed and new street lights meeting the City standards then in effect shall be constructed on their own pole/standards.

4. Deferral Provisions. The Planning Commission, or City Council upon appeal of the tentative map, may defer all or a portion of the requirement to underground existing facilities at the time of tentative map approval based solely on one or more of the following findings:

- a. Existing facilities are within an existing alley.
- b. The subdivision contains less than ten (10) residential units.
- c. A residential subdivision has less than two hundred and fifty (250) feet of existing frontage.
- d. Facilities exist along rear property line(s) within an agricultural or residential estate zoned property.
- e. Conversion as defined above creates a net increase of three (3) or more poles over existing number of poles.
- f. Seventy percent (70%) or more of the facilities required to be undergrounded exist on opposite side of existing abutting street from the subdivision.

g. Subdivision is within the Redevelopment Project Area and;

(1) Subdivision is less than one-quarter (1/4) block in length (fronting street or alley); or

(2) Subdivider provides verification by all utility companies impacted that the subdivision's obligations can be proven to be exorbitant in cost in relation to a larger conversion project within the same area and of similar conditions.

5. In the event a deferral of the requirement for undergrounding of overhead utilities is granted pursuant to Paragraph (G) (4) above, the property owner shall make an in-lieu payment calculated based upon linear foot of utilities to be deferred at the rate then in effect as established and published by the City Engineer. Said payment shall be made prior to the recordation of the Final Map.

Deferrals may only be granted at the tentative map approval stage(s) of the project. Subsequent requests will not be considered.

H. Other Improvements. Other improvements, including but not limited to, such as street lights, fire hydrants, signs, street trees and shrubs, monuments, and smoke detectors, or fees in lieu of any of the foregoing if authorized, shall also be required as determined by the City Engineer in accord with this Code and City standards and specifications.

I. Off-Site Improvements. If subdivider is conditioned to construct off-site improvements on land in which neither subdivider nor City has sufficient title or interest to allow construction, the subdivider shall commence negotiations to obtain such title or interest. Should the subdivider after faithful and reasonable negotiation fail to obtain the necessary interest or title, then subdivider may request, at subdivider's cost, the City to commence condemnation of the land. The City shall have 120 days after payment of a deposit and submittal of an acceptable MAI appraisal to commence condemnation.

Prior to approval of the final map, the City will require the subdivider to enter into an agreement to complete the off-site improvements and acquire title or an interest in the land. The subdivider shall pay the cost of acquiring off-site land or an interest in the land required to construct the off-site improvements.

Sec. 902 Deferred Improvement Agreements

A. Subdivisions of Four or Fewer Parcels. The frontage and internal improvements along existing frontage and internal streets may be deferred when deemed necessary by the City Engineer. When improvements are deferred, the subdivider and/or owner of the real property shall enter into an agreement with the City approval by the City Council in form acceptable to the City Engineer and City Attorney, for the installation of all frontage improvements at a time in the future as specified by the City. The agreement shall provide:

1. Construction of improvements shall commence within 90 days of the receipt of the notice to proceed from the City, or as mutually agreed upon in writing;
2. That in the event of a default by the subdivider and/or owner, the City is authorized to cause construction to be done and charge the entire cost and expense to the subdivider and/or owner, including interest from the date of notice of said cost and expense until paid;
3. That the agreement shall be recorded with the County Recorder at the expense of the subdivider and/or owner and shall constitute notice to all successors and assigns of title also to the real property of the obligations set forth therein, and shall constitute a lien in such amount necessary to fully reimburse the City, including interest provided above, subject to fore-closure in the event of default in payment.
4. That in event of litigation occasioned by any default of the subdivider and/or owner, the subdivider and/or owner agree to pay all costs involved, including reasonable attorneys fees.
5. That the terms "subdivider" and "owner" shall include, respectively, not only the subdivider and the present owner of the real property but also heirs, successors, executors, administrators and assigns thereof, it being the intent of the parties that the obligations under-taken shall run with the real property.

The agreement shall not relieve the subdivider or owner from any other specific requirements of the Subdivision Map Act, this Ordinance or law. The construction of deferred improvements shall conform to the provisions of this Ordinance all applicable provisions of this Ordinance in effect at the time of construction.

B. Remainders. Where a remainder is made part of a final or parcel map, the subdivider may enter into an agreement with the City to construct improvements within the remainder at some future date and prior to the issuance of a permit or other grant of approval for the development of the remainder. The improvements shall be at the subdivider's expense. In the absence of such an agreement, the City may require fulfillment of the construction requirements within a reasonable time following approval of the map and prior to the issuance of a permit or other grant of approval for the development of the remainder, upon a finding that fulfillment of the construction requirements is necessary for reasons of:

1. The public health and safety; or
2. The required construction is a necessary prerequisite to the orderly development of the surrounding area.

Sec. 903 Design

A. General. The design and layout of all required improvements, both on-site and off-site, private and public, shall conform to generally accepted engineering standards, Standard Engineering Specifications, the Subdivision Map Act, General Plan, Zoning Ordinance, applicable provisions of this Ordinance, the City Code, and design guidelines as set forth by the City.

B. Energy Conservation. The design of a subdivision for which a tentative map is required excluding conversions, shall provide to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision. Examples of such energy conservation opportunities in subdivision design include design of lot size and configuration to permit orientation of a structure in an east-west alignment for southern exposure or to take advantage of shade or prevailing breezes.

For the purpose of this subsection, "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.

Compliance with this provision shall not result in reducing allowable densities, or the percentage of a lot which may be occupied by a building or structure under applicable planning and zoning in force at the time the application for the tentative map is deemed complete.

C. Cable Television Service. A subdivider for a residential project, excluding conversions, is required to provide one or more franchised or licensed operators serving the area an opportunity

to construct, install and maintain, on land dedicated or to be dedicated to public utility use, any equipment necessary to extend cable television services to each residential parcel in the subdivision. Compliance with Community Antenna Televisions Systems Chapter of the City Code and related regulations shall be required.

Sec. 904 Access

All lots or parcels created shall have access to a public street improved to City standards. Private streets shall not normally be permitted. However, if the Planning Commission, in the case of subdivisions of five or more parcels, or the City Engineer, in the case of subdivisions of four or fewer parcels, determines that the most logical development of the land requires that lots be created with access to private streets, such a development may be approved. The subdivider shall submit a development plan showing the alignment, width, grade, and material specifications of any proposed private street, the topography and means of access to each lot, and the drainage and sewerage of the lots served by such private streets. Private streets shall meet the current public street standards unless a gated community is provided wherein only cross sectional waivers shall be made. Construction of the private street, as approved by the City Engineer, shall be completed prior to the completion of the construction and/or occupancy of the lots. The subdivider shall be required to provide a feasible method for the maintenance of such private streets. Reserve strips, or non-access at the end of streets or at the boundaries of subdivisions, shall be dedicated unconditionally to the City when required by the City.

ARTICLE X REVERSIONS TO ACREAGE

Sec. 1000 General

Any subdivided property may be reverted to acreage pursuant to the provisions of the Subdivision Map Act and this Ordinance. Subdivisions also may be merged and resubdivided without reverting to acreage, under the provisions of Article XI.

Sec. 1001 Initiation of Proceedings

- A. By Owners. Proceedings to revert subdivided property to acreage may be initiated by petition (in a form prescribed by the Department) of all the owners of record of the property.
- B. By City Council. The City Council may, by resolution, initiate proceedings to revert property to acreage. The City Council shall direct the Department to obtain the necessary information to initiate and conduct the proceedings and to notify all property owners affected.

Sec. 1002 Contents of Petition

The petition shall contain, but not be limited to, the following:

- A. Evidence of title to the real property.
- B. Evidence of the consent of all of the owners of an interest in the property.
- C. Evidence that none of the improvements required to be made has been made within two years from the date the final or parcel map was filed for record, or within the time allowed by agreement for completion of the improvements, whichever is later.
- D. Evidence that no lots shown on the final or parcel map have been sold within five years from the date such final or parcel map was filed for record.
- E. A final or parcel map, in the form prescribed by Section 503 or Section 609 delineating dedications that will not be vacated and dedications required as a condition to reversion. Final or parcel maps shall be conspicuously designated with the title, "The Purpose of this Map is a Reversion to Acreage."

Sec. 1003 Submittal of Petition to the City Engineer

The final or parcel map for the reversion, together with all other data as required by this article, shall be submitted to the City Engineer for review.

Upon finding that the petition meets with all the requirements of the Subdivision Map Act and this Chapter, the City Engineer shall submit the final or parcel map, together with a report and recommendations of approval or conditional approval of the reversion to acreage, to the City Council for its consideration.

Sec. 1004 City Council Approval

A public hearing shall be held by the City Council on all proposed reversions to acreage. Notice of the public hearing shall be given as provided in Section 105. The Department may give such other notice that it deems necessary or advisable.

- A. The City Council may approve a reversion to acreage only if it finds and records by resolution that:
 - 1. Dedications or offers of dedication to be vacated or abandoned by the reversion to acreage are unnecessary for present or prospective public purposes; and
 - 2. Either:
 - a) All owners of an interest in the real property within the subdivision have consented to reversion; or
 - b) None of the improvements required to be made has been made within two years from the date the final or parcel map was filed for record, or within the time allowed by agreement for completion of the improvements, whichever is later; or
 - c) No lots shown on the final or parcel map or portion thereof have been sold within five years from the date such map was filed for record.

- B. The City Council may require as conditions of the reversion:
 - 1. That owners dedicate or offer to dedicate streets, public rights-of-way or easements;
 - 2. That all or a portion of previously paid subdivision fees, deposits or improvement securities be retained if the same are necessary to accomplish any of the purposes or provisions of this article; or
 - 3. Such other conditions of reversion as are necessary to accomplish the purposes or provisions of this Chapter or necessary to protect the public health, safety or welfare.

Sec. 1005 Filing with County Recorder

Upon approval of the reversion to acreage, the City Clerk shall transmit the final or parcel map, together with the City Council resolution approving the reversion, to the County Recorder for recordation. Reversion shall be effective upon the final map being filed for record by the County Recorder. Upon filing, all dedications and offers of dedication not shown on the final or parcel map for reversion shall be of no further force and effect.

ARTICLE XI PARCEL MERGERS AND UNMERGERS

Sec. 1100 Mergers Required and Unmergers

Parcel mergers and unmergers shall be considered in accordance with the provisions of Sections 900 through 904.

Two or more contiguous parcels or units held by the same owner shall be considered as merged if one of the parcels or units does not conform to the minimum parcel or lot size required by the Zoning ordinance, and if all the following requirements are satisfied:

- A. At least one of the affected parcels is undeveloped by any structure for which a building permit was issued, or for which a building permit was not required at the time of construction, or is developed only with an accessory structure or accessory structures, or is developed with a single structure, other than an accessory structure, that is also partially sited on a contiguous parcel or unit.
- B. With respect to any affected parcel, one or more of the following exists:
 - 1. Comprises less than 5,000 square feet in area at the time of the determination of merger;
 - 2. Was not created in compliance with applicable laws and ordinances in effect at the time of its creation;
 - 3. Does not meet current standards for sewage disposal and domestic water supply;
 - 4. Does not meet slope stability standards;
 - 5. Has no legal access which is adequate for vehicular and safety equipment access and maneuverability;
 - 6. Will create health or safety hazards if developed;
or
 - 7. Is inconsistent with the General Plan and any applicable specific plan, other than minimum lot size or density standards.
- C. For purposes of determining whether contiguous parcels are held by the same owner, ownership shall be determined as of the date that the Notice of Intention to Determine Status is recorded in accordance with the provisions herein.

- D. Subsection (b) shall not apply if any of the conditions stated in Section 66451.11(b)(A), (B), (C), (D) or (E) of the Subdivision Map Act exist.

Sec. 1101 Notice of Intention to Determine Status

Prior to recording a Notice of Merger, the Engineering Department (hereinafter "Department") 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 pursuant to these provisions and that, within 30 days from the date the Notice of Intention was recorded, the owner may request a hearing before the City Engineer 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 with the County Recorder by the Department on the same day that the notice is mailed to the property owner.

Sec. 1102 Hearing on Determination of Status

The owner of the affected property may file a written request for a hearing with the Department within 30 days after recording of the Notice of Intention to Determine Status. Upon receipt of the request, the Department shall set a time, date and place for a hearing before the City Engineer and notify the owner by certified mail. The hearing shall be conducted within 60 days following receipt of the owner's request, or may be postponed or continued by mutual consent of the City Engineer 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 for merger specified in this article.

At the conclusion of the hearing, the City Engineer, in consultation with the City Planner, shall determine whether the affected parcels are to be merged or are not to be merged and shall notify the owner of the determination. Such notification shall be mailed to the property owner by the Department within five days of the date of the hearing.

Sec. 1103 Determination of Merger

If the City Engineer makes a determination that the parcels are to be merged, a Notice of Merger shall be filed for record with the County Recorder by the Department within 30 days of the conclusion of the hearing, unless the decision has been appealed pursuant to Section 1104. The Notice of Merger shall specify the name of the record owner and a description of the property.

If the City Engineer makes a determination that the parcels shall not be merged, a release of the notice of Intention to Determine Status shall be filed for record with the County Recorder by the Department within 30 days after the City Engineer determination and a clearance letter shall be mailed to the owner by the Department.

Sec. 1104 Appeals

The determination of the City Engineer may be appealed to the Planning Commission, provided that the appeal shall be filed within 10 calendar days of the date of mailing of the Notice of Determination and the Planning Commission shall hear the appeal within 60 days from the date of appeal. If, after hearing, the Planning Commission grants the appeal and determines that the affected property has not been merged pursuant to this article, the Department shall, within 30 days after the Planning Commission determination, file for record with the County Recorder a release of the Notice of Intention to Determine Status and mail a clearance letter to the owner.

Sec. 1105 Mergers Under Prior Law

Except as provided in Sections 1103 and 1104, prior to January 1, 1986, the Department shall file for record with the County Recorder a Notice of Merger for any parcel merged under the provisions of any law prior to January 1, 1984. At least 30 days prior to recording the Notice of Merger, the Department shall mail written notice to the owner of the affected parcels stating the intention to record the notice and specifying a time, date and place at which the owner may present evidence to the City Engineer why the notice should not be recorded.

If, after the hearing, the City Engineer determines that the parcels have merged, a Notice of Merger shall be filed for record with the County Recorder by the Department. The decision of the City Engineer may be appealed according to the procedures established in Section 1104.

Sec. 1106 Determination When No Hearing is Requested

If the owner does not file a request for a hearing within 30 days after recording of the Notice of Intention to Determine Status, the City Engineer may, at any time thereafter, make a determination that the parcels are or are not to be merged. If they are to be merged, a Notice of Merger shall be filed for record with the County Recorder by the Department within 90 days after the mailing of the Notice of Intention to Determine Status pursuant to Section 1102.

Sec. 1107 Request to Merge by Property Owner

If the merger of contiguous parcels or units is initiated by the record owner, the owner may waive the right to a hearing before the City Engineer and to all notices required by these provisions. Upon signing the waiver, the Department shall simultaneously file for record with the County Recorder a Notice of Intention to Determine Status, a waiver of right of hearing and notice, and a Notice of Merger.

Sec. 1108 Unmerged Parcels

Any parcel which has merged under the provisions of any law prior to January 1, 1984, and for which a Notice of Merger had not been recorded on or before that date, shall be unmerged if on that date:

- A. The parcel meets each of the following criteria:
 - 1. Contains at least 5,000 square feet in area;
 - 2. Was created in compliance with applicable laws and ordinances in effect at the time of its creation;
 - 3. Meets current standards for sewage disposal and domestic water supply;
 - 4. Meets slope density standards;
 - 5. Has legal access which is adequate for vehicular and safety equipment access and maneuverability;
 - 6. Its unmerger and development would create no health or safety hazards;
 - 7. The unmerged parcel would be consistent with the General Plan and any applicable specific plan, other than minimum lot size or density standards;

- B. And, with respect to the parcel, none of the conditions stated in Section 66451.30(b)(1), (2), (3), (4) or (5) of the Subdivision Map Act exists.

Sec. 1109 Request for Determination by Owner

Upon written application made by the owner to the Department, the City Engineer determines that the parcels have not merged, the owner shall be so notified by the Department.

If the City Engineer determines that the parcels have merged and that they meet the requirements for unmerger in Section 1108, a Notice of Status shall be issued to the owner and filed for record with the County Recorder by the Department, which shall identify each parcel and declare that they are unmerged pursuant to this article.

If the City Engineer determines that the parcels have merged and do not meet the unmerger requirements in Section 1108, a Notice of Merger specifying the record owner and description of the parcel shall be issued to the owner and filed for record with the County Recorder by the Department. The owner may appeal the decision of the City Engineer as provided in Section 1104.

Sec. 1110 Fee for Mergers and Unmergers

The fee for processing mergers and unmergers shall be charged to the owner as set by the City Council approved fee schedule.

ARTICLE XII CORRECTION AND AMENDMENTS OF MAPS

Sec. 1200 Requirements

After a final or parcel map is filed in the office of the County Recorder, it may be amended by a certificate of correction or an amending map:

- A. To correct an error in any course or distance shown thereon;
- B. To show any course or distance that was omitted therefrom;
- C. To correct an error in the description of the real property shown on the map;
- D. To indicate monuments set after the death, disability or retirement from practice of the engineer or surveyor charged with responsibilities for setting monuments;
- E. To show the proper location of any monument that has been changed in location, or character, or originally was shown at the wrong location or incorrectly as to its character.
- F. To adjust lot lines in accord with the provisions of Section 302.
- G. To correct any other type of map error or omission as approved by the City Engineer, which does not affect any property right. Errors and omissions may include, but are not limited to, lot numbers, acreage, street names and identification of adjacent record maps. Error does not include changes in courses or distances from which an error is not ascertainable from the data shown on the final parcel map.
- H. To make modifications when there are changes that make any or all of the conditions of the map no longer appropriate or necessary and that the modifications do not impose any additional burden on the present fee owner of the property, and if the modifications do not alter any right, title or interest in the real property reflected on the recorded map. The modification shall be set for public hearing by the Planning Commission, in the case of a final map, or the City Engineer, in the case of a parcel map. The Planning Commission or City Engineer shall confine the hearing to consideration of, and action on, the proposed modification as authorized by the Subdivision Map Act.

Sec. 1201 Form and Contents

The amending map or certificate of correction shall be prepared by a registered civil engineer or licensed land surveyor. The form and contents of the amending map shall conform to the requirements of Sections 504 and

505 if a final map, and Section 609 if a parcel map. The certificate of correction shall set forth in detail the corrections made and show the names of the present fee owners of the property affected by the correction.

Any request for a lot line adjustment shall be accompanied by a map showing existing boundaries and the proposed change, and all other information prescribed by Section 401 unless specifically waived by the Department. New property corner monuments shall be set at the adjusted corners (where different) unless otherwise waived in writing by the City Engineer.

Sec. 1202 Submittal and Approval by City Engineer

The amending map or certificate of correction, complete as to final form, shall be submitted to the City Engineer for review and approval.

The City Engineer shall examine the amending map or certificate of correction and if the only changes made are those set forth in Section 1200, this fact shall be certified by the City Engineer on the amending map or certificate of correction.

Sec. 1203 Filing with the County Recorder

The amending map or certificate of correction certified by the City Engineer shall be filed in the office of the County Recorder in which the original map was filed. Upon such filing, the County Recorder shall index the names of the fee owners and the appropriate subdivision designation shown on the amending map or certificate of correction in the general index and map index, respectively. Thereupon, the original map shall be deemed to have been conclusively so corrected, and thereafter shall impart constructive notice of all such corrections in the same manner as though set forth upon the original map.

ARTICLE XIII ENFORCEMENT

Sec. 1300 Prohibition

- A. No person shall sell, lease, or finance any parcel or parcels of real property or commence construction of any building for sale, lease or financing thereon, or allow occupancy thereof, for which a final map is required by the Subdivision Map Act or this Ordinance, until such a map, in full compliance with the provisions of the Subdivision Map Act and this Ordinance, and has been filed for record by the County Recorder. Exception shall be limited to model homes as set forth by City policy.
- B. No person shall sell, lease or finance any parcel or parcels of real property or commence construction of any building for sale, lease or financing thereon, or allow occupancy thereof, for which a parcel map is required by the Subdivision Map Act or this Ordinance, until such a map, in full compliance with the provisions of the Subdivision Map Act and this Ordinance and has been filed for record by the County Recorder.
- C. Conveyances of any part of a division of real property for which a final or parcel map is required by the Subdivision Map Act or this Ordinance shall not be made by parcel or block number, letter or other designation, unless and until such map has been filed for record by the County Recorder.
- D. This section does not apply to any parcel or parcels 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 Ordinance, regulating the design and improvement of subdivisions in effect at the time the subdivision was established.
- E. Nothing contained in Paragraphs (A) and (B) above shall be deemed to prohibit an offer or contract to sell, lease or finance real property or to construct improvements thereon where such sale, lease of financing, or the commencement of such construction, is expressly conditioned upon the approval and filing of a final map or parcel map, as required under the Subdivision Map Act or this article.

Sec. 1301 Remedies

- A. 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 the Subdivision Map Act or this article, is voidable at the sole option of the grantee, buyer or person contracting to purchase, any heirs, personal representative, or trustee in insolvency or bankruptcy thereof within one year after the date of discovery of such violation.

The deed of conveyance, sale or contract to sell is binding upon any successor in interest 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 his or her assignee, heir or devisee.

- B. Any grantee, or successor in interest thereof, of real property which has been divided, or which has resulted from a division, in violation of the provisions of this Ordinance or the Subdivision 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 such division of property. The action may be brought against the person who so divided the property and against any successors in interest who have actual or constructive knowledge of such division of property.
- C. The provisions of this section shall not apply to the conveyance of any parcel of real property identified in a certificate of compliance filed recorded final map or parcel map, from and after the date of recording.
- D. The provisions of this section shall not limit or affect, in any way, the rights of a grantee or successor in interest under any other provision of law.
- E. This section does not bar any legal, equitable or summary remedy to which the City or other public agency, or any person, firm or corporation may otherwise be entitled, and the City or other public agency, or such person, firm or corporation may file a suit in the superior court to restrain or enjoin any attempted or proposed subdivision or sale, Subdivision Map Act or this article.
- F. The City shall not issue a permit or grant any approval necessary to develop any real property which has been divided or which has resulted from a division, in violation of the provisions of the Subdivision Map Act or this Ordinance, if it finds that development of such real property is contrary to the public health or the public safety. The authority to deny or approve such a permit shall apply whether the applicant therefor was the owner of record at the time of such violation or whether the applicant therefor is either the current owner of record or a vendee thereof with, or without, actual or constructive knowledge of the violation at the time of the acquisition of an interest in such real property.
- G. If the City issues a permit or grants approval for the development of any real property illegally subdivided under the provisions of paragraph (F) above, the City may impose those additional conditions which would have been applicable to the division of the property at the time the current owner of record acquired the property. If the property has the same owner of record as at the

time of the initial violation, the City may impose conditions applicable to a current division of the property. If a conditional certificate of compliance has been filed for record in accordance with the provisions of Section 1302, only those conditions stipulated in that certificate shall be applicable.

Sec. 1302 Certificate of Compliance

- A. Any person owning real property or a vendee of such person pursuant to a contract of sale of such real property may request the City Engineer to determine whether the real property complies with the provisions of the Subdivision Map Act and this Ordinance. A written application for a certificate of compliance shall be accompanied by a preliminary title report not more than 30 days old that shows the legal owners of the property.
- B. If the City Engineer determines that the real property complies with the provisions of the Subdivision Map Act and this Ordinance the Department shall file a certificate of compliance for record with the County Recorder. The certificate of compliance shall identify the real property and shall state that the division thereof complies with the provisions of the Subdivision Map Act and this Ordinance.
- C. If the City Engineer determines that the real property does not comply with the provisions of the Subdivision Map Act or this Ordinance, the City Engineer may, as a condition to granting a certificate of compliance, impose conditions in accordance with Section 1301(F). Upon the City Engineer's making such a determination and establishing such conditions, the Department shall file a conditional certificate of compliance for record with the County Recorder. Such certificate shall serve as notice to the property owner or vendee who has applied for the certificate, 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.

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.
- D. A recorded final map or parcel map shall constitute a certificate of compliance with respect to the parcels of real property described therein.
- E. Subject to the provisions of Section 66499.35(E) of the Subdivision Map Act, an official map prepared pursuant to Section 66499.52(B) of the Subdivision Map Act shall constitute a certificate of compliance with respect to the parcels of real property described therein.

- F. A fee and/or deposit shall be charged to the applicant for making the determination and processing the certificate of compliance in accordance with the City Council's adopted fee schedule.

Sec. 1303 Notice of Violation

If the Department has knowledge that real property has been divided in violation of the provisions of the Subdivision Map Act or this Ordinance, a Notice of Intention to Record a Notice of Violation shall be mailed by the Department by certified mail to the current owner of record. The notice shall describe the property in detail, name the owners, describe the violation and state that the owner will be given the opportunity to present evidence. The notice shall also contain an explanation as to why the subject parcel is not lawful under Section 66412.6 (a) or (b) of the Subdivision Map Act. The notice shall specify the date, time and place for a meeting at which the owner may present evidence to the City Engineer why a notice of violation should not be recorded.

The meeting shall be held no sooner than 30 days and no later than 60 days from the date of mailing of the Notice of Intention to Record a Notice of Violation. If, within fifteen 15 days of receipt of the notice, the owner fails to file with the Department a written objection to recording the notice of violation, the Department shall file the notice of violation for record with the County Recorder. If, after the owner has presented evidence, the City Engineer determines that there has been no violation, the Department shall mail a clearance letter to the then current owner of record. If, however, after the owner has presented evidence, the City Engineer determines that the property has in fact been illegally divided, the Department shall file the notice of violation for record with the County Recorder.

The notice of violation, when recorded, shall be deemed to be constructive notice of the violation to all successors in interest in such property.

Sec. 1304 Appeals of City Engineer Action

Appeal of any City Engineer action pursuant to this Ordinance shall be made to the Planning Commission in accordance with the provisions of this Ordinance.