

Series 400: Land Divisions

Chapter 400 General Provisions

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400.01 Introductory Provisions

- (a) **Citation and Authority.** This Series is enacted pursuant to the provisions of Division 2 of Title 7 of the Government Code of the State of California, referred to herein as the “Subdivision Map Act.”
- (b) **Purpose.** Series 400, Land Divisions, is adopted to preserve, protect and promote the public health, safety, convenience, prosperity and general welfare. More specifically, this Series is adopted in order to achieve the following objectives:
- (1) To aid in the implementation of the General Plan, and elements thereof, as adopted by the City Council.
 - (2) To provide lots of sufficient size and appropriate design for the purposes for which they are to be used.
 - (3) To provide streets of adequate capacity for the anticipated traffic which would utilize them, and to ensure that they are designed to promote a safe vehicular and pedestrian traffic circulation system.
 - (4) To accommodate new development in a manner which will preserve and enhance the city’s living environment.
 - (5) To provide for water supply, sewage disposal, storm drainage, and other utilities and facilities which are required by conditions of an urban environment.
 - (6) To ensure that the costs of providing rights-of-way, street improvements, utilities and public areas and facilities needed to service new developments are borne fairly and equitably by the subdivider, rather than by property owners of the city at large.

- (c) **Scope.** Series 400, Land Divisions, is enacted for the purpose of regulating subdivision of land in accordance with the Subdivision Map Act of the State of California, and any future amendments thereto, and repeals all other regulations of the City of Porterville in conflict with this Series; provided, however, that such repeal shall not affect any agreement, contract, or bond executed pursuant to such regulations or any rights of action accruing thereunder. The regulations contained in this Series shall apply to all subdivisions and parcel maps or parts of subdivisions and parcel maps hereafter made entirely or partially within the City of Porterville. The provisions of this Series shall be in addition to and shall be considered as supplemental to the provisions of the Subdivision Map Act of the State of California, as now in effect or hereinafter amended.
- (d) **Exclusions.** These standards shall not apply to those divisions of land excluded by Section 66412 of the Subdivision Map Act.

400.02 General Responsibilities

- (a) **City Attorney.** The City Attorney shall be responsible for approving as to form all subdivision improvement agreements and improvement securities.
- (b) **City Council.** The City Council shall review and approve, conditionally approved or disapprove tentative and final subdivision maps and parcel maps when the parcel map is in coordination with a discretionary permit and/or multi-application projects. The City Council shall have final jurisdiction in the approval of final maps and improvement agreements and the acceptance by the city of lands and/or improvements as may be proposed for dedication to the city for final maps. The City Council shall act as the final appeal board for hearing appeals of the approval, conditional approval or disapproval for parcel maps.
- (c) **City Engineer or Public Works Director.** The City Engineer or Public Works Director shall be responsible for:
 - (1) Establishing design and construction details, standards and specifications.
 - (2) Determining if proposed subdivision improvements comply with the provisions of this Series and the Subdivision Map Act and for reporting the findings together with any recommendations for approval, or conditional approval, of the tentative map to the Zoning Administrator for tentative subdivision maps and parcel maps.
 - (3) The processing of final maps, reversion to acreage maps and amended maps; the processing and approval of subdivision improvement plans, lot line adjustments, mergers, and certificates of compliance.
 - (4) Examining and stating that final maps are in substantial conformance with the approved tentative map.
 - (5) The inspection and approval of subdivision improvements.
 - (6) On behalf of the City Council, accept the dedication of streets, alleys, including access rights and abutter's rights, drainage easements, elementary school sites, parks, and other easements and parcels of land intended for public use.
 - (7) The collection of all required deposits and fees.

- (d) **Zoning Administrator.** The Zoning Administrator shall be responsible for design analysis for conformity with the General Plan and this Ordinance; for the environmental quality of the subdivision design; and for the expedient processing of subdivision maps, parcel maps, and reports, as provided herein.
- (e) **Project Review Committee.** The Project Review Committee shall be responsible for reviewing and commenting on preliminary maps that show the general characteristics of the proposed subdivision.
- (f) **Parcel Map Committee.** The Parcel Map Committee shall be the designated advisory agency for parcel map subdivisions and shall have the authority to approve, conditionally approve, or deny tentative parcel maps. The Parcel Map Committee may impose conditions upon a tentative map, as appropriate, to determine compliance with general engineering or surveying practices.
- (g) **Subdivider.** The subdivider shall prepare maps consistent with the standards contained herein, and design public improvements consistent with the public improvement standards of the City of Porterville. The subdivider shall process said maps in accordance with the regulations set forth herein.

400.03 Appeals

- (a) The subdivider or any interested person adversely affected may appeal any decision, determination or requirement of the City Engineer, Zoning Administrator or Parcel Map Committee consistent with the provisions of Chapter 612, Appeals.
- (b) When the Parcel Map Committee has acted on an application for an exception, in accordance with the provisions of this Series, any interested person may appeal to the City Clerk pursuant to the procedures and within the time limits set forth in Chapter 612, Appeals. City Council decisions are final upon adoption of the resolution.

400.04 Grounds for Denial

- (a) A tentative map or parcel map shall be denied approval or conditional approval in the event any one (1) of the following findings is found to prevail by the legislative body:
 - (1) That the proposed map is not consistent with applicable general and specific plans.
 - (2) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.
 - (3) That the site is not physically suitable for the type of development.
 - (4) That the site is not physically suitable for the proposed density of development.
 - (5) 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.
 - (6) That the design of the subdivision or type of improvements is likely to cause serious public health problems.

- (7) 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 governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction, and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

400.05 Authority to Vary Regulations

- (a) The Parcel Map Committee/City Council, with respect to tentative parcel maps and tentative subdivision maps, respectively, can modify any of the requirements and regulations set forth in this Series as it pertains to lot design, subject to the approval of a conditional use permit. Variation of regulations is applicable when there are natural features such as topographic constraints and soils conditions that may warrant modified standards. Application for any such modification shall be made in writing by the subdivider in the form of a conditional use permit application, stating fully the grounds of the application and the facts relied upon by the subdivider. Such application shall be filed with the tentative map of the proposed land division. If in the opinion of the Zoning Administrator and Public Works Director/City Engineer the on- and/or off-site improvements, phasing and/or type of improvements necessitate it, a development agreement may be required between the City and the subdivider. In order for the property referred to in the application to come within the provisions of this section, it shall be necessary that the City Council or Parcel Map Committee find the following facts with respect thereto:
 - (1) There are special circumstances or conditions affecting the property that make it impractical to conform to all of the provisions prescribed by this Series provided, however, that no exceptions may be granted to any requirements imposed by the Subdivision Map Act or any other applicable provision of State law;
 - (2) That the modification is necessary for the preservation and enjoyment of a substantial property right of the petitioner;
 - (3) That the granting of the modification will not be detrimental to the public welfare or injurious to other property in the territory in which such property is situated;
 - (4) That the exception is appropriate for the proper design and/or function of the subdivision; and
 - (5) That the granting of the exception is consistent with the General Plan.
- (b) **Exception to Conditional Use Permit Requirement.** As it pertains to tentative parcel maps and tentative subdivision maps, exceptions to regulations pertaining to lot depth, reverse corner lots, street length and width, and double frontage lots or for minor exceptions as determined by the Zoning Administrator, shall be processed with the tentative map and shall not be subject to a conditional use permit per the above section (a). Exceptions from additional subdivision design standards and/or standards pertaining

to the lot design within particular zones shall be subject to the approval of a conditional use permit.

- (c) **Action on Exceptions.** In the event that the proposed exceptions represent more than exceptions from lot depth, reverse corner lots, street length, and double frontage lots, the City Council shall approve, conditionally approve or disapprove the application for a conditional use permit pertaining to a tentative map in a public hearing held concurrently with the proposed tentative map. The Parcel Map Committee shall consider the exceptions not subject to a conditional use permit during the public hearing at which it considers the tentative parcel map.

400.06 Maps Required

- (a) **General.** The necessity for tentative maps, or vesting tentative maps, parcel maps, and final maps shall be governed by the provisions of this Series. A designated remainder lot shall not be counted as a parcel for the purpose of determining whether a parcel or final map is required.
- (b) **Final Map.** A tentative or vesting tentative and final map shall be required for all divisions of land creating five (5) or more parcels, five (5) or more condominiums as defined in Section 783 of the State Civil Code, a community apartment project containing five (5) or more parcels, or for the conversion of a dwelling to a stock cooperative containing five (5) or more dwelling units, except where:
- (1) The land before division contains less than five (5) 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
 - (2) Each parcel created by the division has a gross area of twenty (20) acres or more and has an approved access to a maintained public street or highway; or
 - (3) 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
 - (4) Each parcel created by the division has a gross area of not less than 40 acres or is not less than one quarter of a quarter section.
 - (5) The land being subdivided is solely for the creation of an environmental subdivision pursuant to Section 66418.2 of the Subdivision Map Act.
 - (6) The subdivisions described in paragraphs (1), (2), (3), (4) or (5) shall require a parcel map.
- (c) **Parcel Map.** A tentative map, vesting tentative map, and parcel map shall be required for all divisions of land into four (4) or fewer parcels, and for divisions of land into five (5) or more parcels that are classified as a parcel map in subsection (b) above, except that a tentative map and parcel map shall not be required for:
- (1) **Right-of-Way Subdivisions.** Subdivisions of a portion of the operating right-of-way of a railroad corporation, defined by Section 230 of the Public Utilities Code

that are created by short-term leases terminable by either party on not more than 30 days' notice in writing.

- (2) ***Conveyances.*** 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 the public utility for rights-of-way, unless a showing is made in individual cases, upon substantial evidence, that public policy necessitates a parcel map.
- (3) ***Lot Line Adjustments.*** Lot line adjustments that meet the requirements of Section 406.03, Lot Line Adjustments.

Chapter 401 Preliminary Map

Sections:

- 401.01 Form of Preliminary Map
- 401.02 Project Review Committee

401.01 Form of Preliminary Map

- (a) Prior to the filing of a map, the subdivider shall submit to the Zoning Administrator an application for Project Review Committee and nine (9) copies of a preliminary map to indicate the essential characteristics of the subdivision. The preliminary map shall be eighteen by twenty-six inches (18" X 26"), be legibly drawn, in pencil or ink, and shall use a decimal or an engineer's scale of not less than one inch equals one hundred feet (1" = 100') and shall contain the following minimum information:
 - (1) Key map showing adjacent property, subdivisions and roads or streets, proposed street in the subdivision, and other development that would affect the subdivision.
 - (2) Name and address of the owner of record, subdivider and engineer or surveyor.
 - (3) Date, north point and scale showing the general topography contours and features.
 - (4) Approximate location and widths of proposed and existing street rights-of-way.
 - (5) Approximate location, average size, and number of lots.
 - (6) Approximate acreage of proposed tract.
 - (7) The intended land use and information on utilities, sanitary sewers, drainage, water and other improvements.

401.02 Project Review Committee

- (a) The Zoning Administrator will schedule a meeting of the Project Review Committee, in compliance with Chapter 601.03, with the subdivider on the preliminary map. The Project Review Committee will make such general recommendations to the subdivider as shall seem proper regarding such preliminary map and shall recommend consultations by the subdivider with such other public or private agencies as it shall designate. The Project Review Committee shall furnish written copies of its recommendations to the subdivider and to all other public or private agencies which may be interested.

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Chapter 402 Tentative Maps

Sections:

- 402.01 Map Filing Procedure and Requirements
- 402.02 Form of Map and Content
- 402.03 Expiration of Maps and Extensions of Time

402.01 Map Filing Procedure and Requirements

- (a) The subdivider shall file with the Zoning Administrator ten (10) copies, one (1) photo-ready master (11" X 17" maximum) and one (1) copy of the owner's statement (if not included on the tentative map), all in accordance with the requirement of this Series, of each proposed subdivision. Said tentative map shall be accompanied with filing fees per resolution adopted by the City Council. The Zoning Administrator shall indicate upon all copies of the tentative map and accompanying data the date of filing, which shall be the date on which all required maps, masters, and accompanying data are deposited in the office of the Zoning Administrator. The Zoning Administrator may refuse to accept a tentative map which is inaccurate, illegible, incomplete, or which fails to comply with the requirements of this Series.
- (b) **Department Review and Referral**
 - (1) **Determination of Complete Application.** Not later than thirty (30) days after receipt of an application for a tentative map approval, the Zoning Administrator shall determine in writing whether such application is complete, and shall immediately transmit such determination to the applicant for the tentative map. In the event that the application is determined not to be complete, the Zoning Administrator's determination shall identify those parts of the application which are complete, and shall specify those parts of the application which are incomplete, and shall indicate the manner in which they can be made complete. Zoning Administrator may, in the course of processing the application, request the applicant to clarify, amplify, correct, or otherwise supplement the information required for the application.
 - (2) **Referral.** Within ten (10) days of acceptance of a tentative map of a subdivision, the Zoning Administrator shall transmit the requested number of copies of such map, together with accompanying data, to such public agencies and utilities as may be concerned. Each of the public agencies and utilities may, within fifteen (15) days after distribution of the tentative map, forward to the Zoning Administrator a written report of their findings and recommendations thereon. The Zoning Administrator shall prepare a written report on the conformity of the tentative map to the provisions of the General Plan, the Development Ordinance, and all other applicable requirements of this and other ordinances and regulations of the City of Porterville. Such public agencies and utilities include, but are not limited to:
 - a. Public Works Director/City Engineer;

- b. Chief Building Official;
 - c. Police Department;
 - d. Fire Department;
 - e. Field Services Manager;
 - f. Office of Intergovernmental Management as required by the Government Code;
 - g. Southern California Edison or other affected electric company;
 - h. The Gas Company or other affected gas company;
 - i. Telephone company or other affected phone company;
 - j. Cable TV companies affected;
 - k. School Districts as required by Section 66455.7 of the Map Act;
 - l. Water supplier that is or may become a public water system as required by Section 66455.3 of the Map Act; and
 - m. Affected owner of irrigation ditches or canals, and any other public agency or public utility affected by the subdivision.
- (c) **Consideration of Tentative Maps.** The Zoning Administrator shall prepare a written report on the conformity of the tentative map to the provisions of the General Plan and all other applicable requirements of this and other ordinances and regulations of the City of Porterville. The report shall include a recommendation for action, including any requirements or conditions deemed necessary to ensure that the map will comply with the General Plan and any applicable city regulations. The Public Works Director/City Engineer shall prepare a written report of recommendations on the tentative map in relation to the public improvement requirements of this chapter and the provisions of the Map Act.
- (d) **Notification Procedures for Public Hearings.** Notice of the time and place of any public hearing shall be given in conformance with the provisions of Section 601.05, Public Notification.
- (e) **Action.** Within the timeframes established in the Permit Streamlining Act, the City Council shall act on the tentative map for subdivisions and the Parcel Map Committee shall act on the tentative parcel map, unless an extension is agreed upon by the subdivider as provided for in the Permit Streamlining Act. If the City Council/Parcel Map Committee find that the proposed map complies with the requirements of this chapter and the Map Act, it shall approve the map. If the City Council/Parcel Map Committee finds that the proposed map does not meet the requirements of this chapter and the Map Act, it shall conditionally approve or disapprove such map.
- (f) **Notice of Action.** Within ten (10) days following the action by the City Council or Parcel Map Committee, as appropriate, the Zoning Administrator shall transmit a letter containing the record pertaining to such action to the party submitting the tentative map. Upon approval, the tentative shall be so marked and all conditions of approval and required dedications and improvements clearly specified on or with the map. Copies of

the approved tentative map shall be filed with the Zoning Administrator and the City Engineer.

402.02 Form of Map and Content

- (a) The subdivider shall cause the tentative map of the land proposed to be subdivided to be prepared by a registered civil engineer or a licensed land surveyor. The size of each sheet shall be eighteen by twenty-six inches (18" X 26"). The tentative map shall be legibly drawn, in pencil or ink, and shall use a decimal or an engineer's scale of not less than one inch equals one hundred feet (1" = 100'), or as approved by the Zoning Administrator.

The tentative map shall clearly show the following information:

- (1) The tract name or number, date, north point, scale and sufficient description to define the location and boundaries of the proposed tract.
- (2) Names, addresses, and phone numbers of record owner(s), subdivider, and engineer or surveyor.
- (3) Partial legal description (1/4 section, township/range).
- (4) The tentative map shall include enough sheets to show details at the scale of the map. The number of the sheet and the total number of sheets comprising the tentative map shall be stated on each of the sheets and its relation to each adjoining sheet shall be clearly shown.
- (5) Location, names, present right-of-way and physical dimension, and approximate grades of adjacent roads, streets, highways or ways, names and dimensions of abutting subdivisions and properties.
- (6) The locations, names, widths, and proposed grade of all streets in the proposed subdivision.
- (7) Radius of each curve (in accordance with Section 407.03, Design and Construction Standards).
- (8) Typical cross sections of any non-standard streets.
- (9) The outline of any existing buildings and their locations in relation to existing or proposed street and lot lines. The location of existing wells and sewage disposal facilities and the proposed disposition of same.
- (10) Contour lines having the following intervals (Development within the Hillside Zone shall comply with Chapter 501, Hillside Zone Overlay District):
 - a. One (1) foot contour interval for ground slopes between level and five (5) percent.
 - b. Five (5) foot contour intervals for ground slopes exceeding five (5) percent.
- (11) The approximate widths, location and purpose of all existing or proposed easements.
- (12) Approximate lot layout and approximate dimensions of each lot, and each to be numbered.

- (13) The area of the subdivision in gross area and net area (excluding streets and other proposed public uses).
 - (14) Approximate location of all areas subject to inundation or storm water overflow and the location, width, grade and direction of flow of all watercourses and the location of all floodplain lines.
 - (15) Public areas proposed.
 - (16) City limit lines.
 - (17) Vicinity map showing the proposed subdivision and surrounding streets within one-fourth (1/4) mile radius of the proposed subdivision.
 - (18) Location of trees to remain in place and landscaping proposed to remain in public right-of-way.
 - (19) Show all proposed dedications and irrevocable offers of dedication on the tentative map or to be made by separate instrument.
 - (20) The location and sizes of existing and proposed utility lines and structures.
 - (21) The elevation of sewers at the proposed connection.
 - (22) Any other drawings, data or information as deemed necessary by the Zoning Administrator and/or the City Engineer.
 - (23) The Zoning Administrator may waive any of the above tentative map requirements if the location and nature of the proposed subdivision or existing documentation demonstrate that a waiver is justified.
- (b) **Owner's Statement and Accompanying Data.** Additional information relating to the subdivision which may not practicably be shown on the tentative map shall be contained in similar supplemental maps or written owner's statement which shall accompany the tentative map and include the following information. Any information that is engineering in nature shall be provided by a Civil Engineer.
- (1) Existing use or uses of the property, present zoning, and General Plan designation.
 - (2) Proposed uses of the property indicating respective proportion of the total area of the subdivision represented by each.
 - (3) General outline of proposed water system.
 - (4) Provisions for sanitary sewage disposal and general outline of proposed system.
 - (5) Plan for surface drainage and flood control and general outline of proposed system.
 - (6) Proposed street improvements for sidewalk, curb and gutter, and paving of public ways, as required, indicating approximate location and dimensions of the proposed system.
 - (7) If developed in increments, maps shall indicate approximate sequence of development.
 - (8) Environmental Information Form.

- (9) Additional data and information, including fees, as may be required for the preparation and processing of environmental documents pursuant to the California Environmental Quality Act.
- (10) Any other data or reports deemed necessary by the Zoning Administrator and/or the City Engineer.

402.03 Expiration of Maps and Extensions of Time

- (a) **Expiration.** When a timely filing is made prior to expiration, subsequent actions of the City Council or Parcel Map Committee, as appropriate, including, but not limited to, processing, approval, and recordation, may lawfully occur after the date of expiration of the tentative map. Delivery to the City Engineer shall be deemed a timely filing for purposes of this section. The effective life of an approved tentative parcel map or tentative subdivision map shall comply with the provisions of Section 66463.5 and 66452.6 of the Map Act, respectively. The expiration of an approved or conditionally approved tentative map shall terminate all proceedings and no final map or parcel map of all or any portion of the real property included within the tentative map shall be filed with the City Council or Parcel Map Committee, as appropriate, without first processing a new tentative map.
- (b) **Extension.** Extensions for tentative parcel maps and tentative subdivision maps may be granted pursuant to the provisions of Section 66463.5 and 66452.6 of the Map Act, respectively. Upon application of the subdivider, prior to the expiration of the approved or conditionally approved tentative map, the time at which the map expires may be extended by the Parcel Map Committee or by the City Council.
 - (1) **Request for Extension.** Prior to the expiration of an approved or conditionally approved tentative map, upon receipt of a written application by the subdivider to extend that map, the map shall automatically be extended for sixty (60) days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first. A written application to extend an approved or conditionally approved tentative map shall be submitted to the Zoning Administrator prior to expiration of the tentative map, who shall forward such to the City Council or Parcel Map Committee, as appropriate. If the Parcel Map Committee denies a subdivider's application for an extension, the subdivider may appeal, in writing, to the City Council within ten (10) days after the Parcel Map Committee has denied the extension.
 - (2) **Consideration of Extension Request.** Consideration of an application for an extension of time shall be limited to the mandatory findings of significance contained in the original Parcel Map Committee conditions or City Council resolution which approved or conditionally approved the tentative map. If it can be reasonably demonstrated that any one (1) of the original mandatory findings of significance used to justify approval or conditional approval of the tentative map, as specified in the original resolution has changed to the extent it can be considered a cause for denial, then such request for extension may be denied.
 - (3) **Companion Permits.** When a tentative map is approved or conditionally approved in conjunction with a Conditional Use Permit or other discretionary

permit, such permit shall expire at the same time as the tentative map unless the permit states a different expiration date approved by the City Council. Extensions of time of tentative maps approved with companion Conditional Use Permits or other discretionary permits may also include extensions of time for such companion permits to exceed the maximum appropriate time limit permitted by this section.

Chapter 403 Vesting Tentative Maps

Section:

- 403.01 Vesting Tentative Maps
 403.02 Vesting of Development Rights

403.01 Vesting Tentative Maps

- (a) **Citation and Authority.** This section is enacted pursuant to the authority granted by Chapter 4.5 (commencing with Section 66498.1) of Division 2 of Title 7 of the Government Code of the State of California (hereinafter referred to as the vesting tentative map statute).
- (b) **Purpose.** It is the purpose of this section to establish procedures necessary for the implementation of the vesting tentative map statute, and to supplement the provisions of the Subdivision Map Act.
- (c) **Consistency.** No land shall be subdivided and developed pursuant to the vesting tentative map for any purpose which is inconsistent with the General Plan and any applicable specific plan, or not permitted by this Ordinance or other applicable provisions of the Municipal Code, which were in effect at the time the vesting tentative map was approved or conditionally approved.
- (d) **Application**
- (1) Whenever a provision of the Map Act, as implemented and supplemented by this Series, requires the filing of a tentative map, a vesting tentative map may instead be filed, in accordance with the provisions hereof.
 - (2) 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.
- (e) **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 Series for a tentative map, except as hereinafter provided:
- (1) At the time a vesting tentative map is filed it shall have printed conspicuously on its face the words “vesting tentative map.”
 - (2) At the time a vesting tentative map is filed, a subdivider may be required to supply the following information in addition to the requirements set forth in Section 402.02, Form of Map and Content:
 - a. Height, size, and location of buildings.
 - b. Geological studies.
 - c. Architectural plans.

- d. Any other studies that are normally deferred to the building permit stage.
- (f) **Expiration.** The approval or conditional approval of a vesting tentative map shall expire at the end of the same time period, and shall be subject to the same extensions established by 402.03 Expiration of Maps and Extensions of Time for the expiration of the approval or conditional approval of a tentative map.

403.02 Vesting of Development Rights

(a) Review Authority Action

- (1) 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 Government Code Section 66474.2. However, if Section 66474.2 of the Government Code 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.
 - (2) Notwithstanding paragraph (1) above, a permit, approval, extension or entitlement may be made conditional or denied if any of the following are determined:
 - a. 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.
 - b. The condition or denial is required, in order to comply with state or federal law.
- (b) **Time Limits and Extensions of Time on Vesting Tentative Maps.** The rights referred to herein shall expire if a final map is not approved prior to the expiration of the vesting tentative map as provided below. If the final map is approved, these rights shall last for the following periods of time:
- (1) An initial time period of two (2) years. Where several final maps are recorded on various phases of a project covered by a single vesting tentative map, this initial time period shall begin for each phase when the final map for that phase is recorded.
 - (2) The initial time period set forth in paragraph (1) above shall be automatically extended by any time used for processing a complete application for a grading permit or for design or architectural review, if such processing exceeds thirty (30) days, from the date a complete application is filed.
 - (3) A subdivider may apply for a one (1) year extension at any time before the initial time period set forth in paragraph (1) above expires.
 - (4) If the subdivider submits a complete application for a building permit during the periods of time specified in paragraphs (1), (2), and (3) above, the rights referred to herein shall continue until the expiration of that period, or any extension of that permit.

(c) **Development Inconsistent with Zoning Conditional Approval**

- (1) Whenever a subdivider files a vesting tentative map for a subdivision whose intended development is inconsistent with this Ordinance, that inconsistency shall be noted on the map. The city may deny such a vesting tentative map or approve it conditioned on the subdivider/applicant obtaining the necessary change in the Ordinance to eliminate the inconsistency. If the change in the Ordinance is obtained, the approved or conditionally approved vesting tentative map shall, notwithstanding subsection (a)(1) above, confer the vested right to proceed with the development in substantial compliance with the change in the Ordinance and the map, as approved.
- (2) The rights conferred by this subdivision shall be for the time periods set forth in subsection (b) above.

(d) **Applications Inconsistent with Current Policies.** Notwithstanding any provision of this section, the applicant may seek approvals or permits for development which depart from the ordinances, policies and standards and local agencies may grant these approvals or issue these permits to the extent that the departures are authorized under applicable law.

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Chapter 404 Final Maps

Section:

404.01	Filing Final Map
404.02	Form of Map and Content
404.03	Approvals

404.01 Filing Final Map

- (a) Within the time limit designated in Section 402.03, Expiration of Maps and Extensions of Time, and upon the accomplishment of all dedication by certification on the map and required construction of all public improvements, or the execution of an agreement and provision of surety providing therefore and the payment of all applicable fees and charges, the applicant may file with the City Engineer, who shall approve, a final map which shall substantially conform to the approved tentative map and all applicable provisions of the Map Act. The appropriate statements as provided by the applicant in accordance with the provisions of the Map Act, shall be signed by the City Engineer upon the final map; and the final map shall be transmitted to the Clerk of the County Board of Supervisors for ultimate transmittal to the county recorder.
- (1) **Multiple Final Maps.** Multiple final maps shall be filed if the subdivider informs the Zoning Administrator in writing of his or her intention to file multiple final maps, at the time the tentative map is filed or, if the Zoning Administrator and the subdivider concur to the filing of multiple final maps after the filing of the tentative map.
 - (2) **Effect of Multiple Final.** The filing of a final map on a portion of an approved or conditionally approved tentative map shall not invalidate any part of the requirements to provide for the construction of improvements as required to constitute a logical and orderly development of the whole subdivision.
- (b) The subdivider shall file the original and three (3) copies of the final map and required accompanying data with the City Engineer. The said final map shall be accompanied by filing fees as specified in the comprehensive fee schedule. When a final map is submitted to the City Engineer in accordance with this Series, it shall be accompanied by the following documents:
- (1) **Improvement Plans.** The original tracings of detailed plans, cross sections and profiles of all improvements proposed to be installed as required by the provisions of this Series, and of all other improvements proposed to be installed by the subdivider in, on, over, or under any street, right-of-way, easement or parcel of land dedicated by the map or previously dedicated, including the estimated cost thereof, shall be filed with the City Engineer or Public Works Director for his approval and signature. All such plans shall be prepared in accordance with the requirements of the City Engineer or Public Works Director. Plan sheets shall be twenty-four inches by thirty-six inches (24" X 36") and a plan and profile drawn to a scale of one inch equals fifty feet (1" = 50'), or an appropriate scale previously approved by the City Engineer.

- (2) **Traverse Sheets.** Calculation and traverse sheets in a form approved by the City Engineer giving bearings and distances, coordinates, error of closure and areas within the boundary of the subdivision and blocks and lots therein shown on the final map.
- (3) **Design Data.** Design data, assumptions and computations for proper analysis in accordance with sound engineering practice.
- (4) **Report and Guarantee of Title.** The final map shall be accompanied by a current (within six (6) months of the final map filing date) report prepared by a duly authorized title company naming the persons whose consent is necessary for the preparation and recordation of such map, and for dedication of the streets, alleys and other public places shown on the map and certifying that, as of the date of the preparation of the report, the persons wherein named are all the persons necessary to give clear title to such subdivision. At the time of recording said map, following approval by the City Council, there shall be filed with the County Recorder a guarantee executed by a duly authorized title company for the benefit and protection of the city showing that the persons consenting to the preparation and recordation of such map and offering for dedication the streets, alleys and other public places shown thereon are all the persons necessary to pass clear title to such subdivision and to the dedications shown thereon. The report should also include a statement of explanation of why any right-of-way or easement holders across the subdivision need not sign the map if they are not included as needed to pass a clear title.
- (5) **Preliminary Soils Report.** A preliminary soil report prepared by a civil engineer registered by the State of California, based upon adequate test borings or excavations. The fact that a soil report has been prepared shall be kept on file for public inspection by the city. The preliminary soil report may be waived by the City Engineer or Public Works Director if adequate existing data is available as to the soil qualities of the soils of the subdivision. If the preliminary soil report indicates the presence of critically expansive soils or other soil problems which, if not corrected, would lead to structural defects, a soil investigation of each lot in the subdivision may be required, prepared by a civil engineer registered by the State of California. The soil investigation shall recommend corrective action intended to prevent structural damage to each dwelling proposed to be constructed on expansive or unstable soil. The report shall be filed with the Building Department. If the preliminary soils report indicates the presence of naturally-occurring asbestos, a construction dust management plan shall be prepared.
- (6) **Utility Statements.** Statements from the various public utility companies authorized to serve in the area of the subdivision or division of land certifying that satisfactory provisions have been made to accommodate their facilities.
- (7) **Improvement Agreements.** With final review; all agreements, improvement security required by state law or this Ordinance, and offer(s) of dedication.

404.02 Form of Map and Content

- (a) The final map shall be prepared by or under the direction of a registered civil engineer authorized to practice land surveying or licensed land surveyor, shall be based upon a survey, and shall conform to all of the following provisions:
- (1) It shall be legibly drawn, printed, or reproduced by a process guaranteeing a permanent record in black on tracing cloth or polyester base film. Statements, 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.
 - (2) The size of each sheet shall be eighteen inches by twenty-six inches (18" X 26") inches or four hundred sixty by six hundred sixty (460 X 660) millimeters. A marginal line shall be drawn completely around each sheet, leaving an entirely blank margin of one (1) inch or twenty-five (25) millimeters. The scale of the map shall be large enough 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.
 - (3) All survey and mathematical information and data necessary to locate all monuments and to locate and retrace any and all interior and exterior boundary lines appearing on the map shall be shown, including bearings and distances of straight lines, and radii and arc length or chord bearings and length for all curves and any information which may be necessary to determine the location of the centers of curves and ties to existing monuments used to establish and subdivision boundaries.
 - (4) Each lot shall be numbered. Each street shall be named or otherwise designated. The subdivision name/number shall be shown together with the description of the real property being subdivided.
 - (5) Exterior boundary of the land included within the subdivision shall be indicated by distinctive symbols and clearly so designated. The map shall show the definite location of the subdivision, and particularly its relation to surrounding surveys. If the map includes a "designated remainder" parcel, and the gross area of the "designated remainder" parcel or similar parcel is five (5) acres or more, that remainder parcel need not be indicated as a matter of survey, but only by deed reference to the existing boundaries of the remainder parcel. A parcel designated as "not a part" shall be deemed to be a "designated remainder" for purposes of this section.
 - (6) On and after January 1, 1987, no additional requirements shall be included that do not affect record title interests. However, the map shall contain a notation or reference to additional information required by a local ordinance adopted pursuant to Section 66434.2.
 - (7) Any public streets or public easements to be left in effect after the subdivision shall be adequately delineated on the map. The filing of the final map shall constitute abandonment of all public streets and public easements not shown on the map, provided that a written notation of each abandonment is listed by

reference to the recording data or other official record creating these public streets or public easements and certified to on the map by the clerk of the legislative body or the designee of the legislative body approving the map. Before a public easement vested in another public entity may be abandoned pursuant to this section, that public entity shall receive notice of the proposed abandonment. No public easement vested in another public entity shall be abandoned pursuant to this section if that public entity objects to the proposed abandonment.

(b) **Survey Requirement.** At the time of making a survey for final map, the engineer or surveyor shall set sufficient durable monuments to conform with City Standards so that another engineer or surveyor may readily retrace the survey. At least one (1) exterior boundary line of the land being subdivided be adequately monumented or referenced before the map is recorded.

(1) The monuments shall be approved by the City Engineer and shall be per City Standards. Any monument or bench mark, as required by this section, which is disturbed or destroyed before acceptance of all improvements shall be replaced by the subdivider. The monuments shall be set at each corner and angle point in the exterior and interior boundaries (lot corners) of the subdivision, except wherein such monuments already exist in their proper positions. Monuments shall be set on street and alley center lines or offsets thereto at all street intersections, beginnings and end of curves, angle points or as otherwise directed by the City Engineer.

(2) Interior monuments need not be set at the time of the map is recorded, if the engineer or surveyor certifies on the map that monuments will be set on or before a specified date, and if the subdivider furnishes to the city security guaranteeing payment of the cost of setting such monuments in accordance with Section 66496 of the Map Act.

(3) Within five (5) days after the final setting of monuments has been completed, the engineer or surveyor shall give written notice to the subdivider and to the City Engineer that the final monuments have been set in accordance with Section 66497 of the Map Act.

(c) **Statements and Acknowledgment.** The title sheet of the map, below the title, shall show the name of the engineer or surveyor together with the date of the survey, the scale of the map and the number of sheets. The following statements, certificates, acknowledgments and description shall appear on the title sheet of final maps, and such statements may be combined where appropriate:

(1) **Statement by parties holding title.** A statement in accordance with the provisions of Section 66436 and 66445 of the Map Act.

(2) **Dedication Statement.** A statement in accordance with Section 66439 of the Map Act.

(3) **Engineer's or Surveyor's Statement.** A statement in accordance with Section 66441 of the Map Act.

(4) **Soil Engineer's Statement.** A statement referring to preliminary soils reports on file with the city in accordance with Section 66434.5 of the Map Act.

- (5) ***Statement to be executed.*** A statement for execution by each of the following, as applicable:
- a. City Engineer;
 - b. Surveyor;
 - c. Soil Engineer;
 - d. Zoning Administrator;
 - e. City Council;
 - f. City Clerk;
 - g. County Board of Supervisors;
 - h. County Recorder;
 - i. Owner.
- (6) ***Notation or Reverence.*** Notation or reference to survey and map information required pursuant to Section 66434.2 of the Map Act.

(d) **Information on Final Maps**

- (1) Each parcel shall be consecutively numbered. Each parcel shall have its area shown to the nearest one-hundredth (1/100) of an acre or nearest square foot. The exterior boundary of the land included within the parcel or parcels being created shall be indicated by a distinctive border applied to the reverse side of the tracings. Such border shall not interfere with the legibility of figures or other data. The map shall show the definite location of such parcel or parcels, and particularly the relationship to existing surveys.
- (2) The final map shall also contain the following information:
- a. The tentative map number or vesting tentative map number, resolution number and date of preparation, printed on the upper right hand corner of the face sheet.
 - b. The net dimensions of each lot. No ditto marks shall be used.
 - c. The names, locations and right-of-way widths of all abutting public streets.
 - d. The proposed location, purpose and width of all proposed public roads and private access easements.
 - e. The boundaries of any private easement, whether an easement or record or a prescriptive easement, shall be shown by means of a dotted line; and the name of the person owning the easement shall be shown on the map.
 - f. Location and widths of easements for public utilities, if required.
 - g. The location and widths of watercourses and areas subject to inundation, and location of selected flood lines within the parcels being created.
 - h. Building setback lines, if applicable.
 - i. A north point and graphic scale.

- j. Location or vicinity map at a minimum scale of one (1) inch equals one (1) mile.
- k. Names and addresses of the owners of the property being divided.

404.03 Approvals

- (a) **Approval by City Engineer.** Upon receipt of the final map and other data submitted therewith, the City Engineer shall examine such to determine that the subdivision as shown is substantially the same as it appeared on the tentative map, and any approved alterations thereof, that all provisions of this Series or any other ordinance and the Map Act applicable at the time the application for the tentative map is deemed complete, and that he is satisfied that the map is technically correct. If the City Engineer shall determine the final map is not in full conformity with the tentative map, he shall advise the subdivider of the changes or additions that must be made for such purposes, and shall afford the subdivider an opportunity to make such changes or additions. If the City Engineer determines that full conformity therewith has been made, he shall transmit said map to the City Council for approval in the case of a final map.
- (b) **City Council Approval – Final Map**
 - (1) The City Council shall, at the meeting at which it receives the final map for approval, or at its next regular meeting after the meeting at which it received the map, approve the map if it conforms to all the requirements of this Series and the Map Act applicable at the time of approval or conditional approval of the tentative map and any rulings made thereunder.
 - (2) The Council may reject any or all offers of dedication. In the event that all improvements required or conditions imposed upon approval under the terms of this Series or by law are not completed before the filing of the final map, the Council may enter into an agreement with the subdivider for posting improvement security as provided in this Series. The City Engineer, upon the approval of the final map by the City Council, shall transmit the map to the Clerk of the Board of Supervisors, who shall record same.

Chapter 405 Parcel Maps

Section:

- 405.01 Filing
- 405.02 Form and content
- 405.03 Final Parcel Map
- 405.04 Waiver of Requirements for Parcel Maps

405.01 Filing

- (a) Ten (10) copies of the tentative parcel map and one (1) photo-ready master (11”X17” maximum) shall be filed with the Zoning Administrator.
- (b) The tentative parcel map shall be accompanied by an application fee as established by City Council resolution.
- (c) The Zoning Administrator may refuse to accept a tentative parcel map which is inaccurate, illegible, incomplete, or which fails to comply with the requirements of this article.

405.02 Form and Content

- (a) The subdivider shall cause the tentative parcel map of the land proposed to be subdivided to be prepared by a registered civil engineer authorized to practice surveying or licensed land surveyor. The size of each sheet shall be eighteen by twenty-six inches (18” X 26”). The tentative parcel map shall be legibly drawn, in pencil or ink, and shall use a decimal or an engineer’s scale of not less than one inch equals one hundred feet (1” = 100’), unless the Zoning Administrator determines that a different scale will be adequate and appropriate for the tentative map.
- (b) The tentative map shall clearly show the following information:
 - (1) A key map showing the location of the subject property, adjacent property, subdivisions, streets or roads and other development which would affect the tentative map.
 - (2) Names, addresses, and phone numbers of record owner(s), subdivider, and engineer or surveyor.
 - (3) Partial legal description (1/4 section, township/range).
 - (4) The tentative map shall include enough sheets to show details at the scale of the map. The number of the sheet and the total number of sheets comprising the tentative map shall be stated on each of the sheets and its relation to each adjoining sheet shall be clearly shown.
 - (5) Location, names, present right-of-way and physical dimension, and approximate grades of adjacent roads, streets, highways or ways, names and dimensions of abutting subdivisions and properties.

- (6) The locations, names, widths, and proposed grade of all streets in the proposed subdivision.
 - (7) Radius of each curve (in accordance with Section 407.03 Design and Construction Standards).
 - (8) Typical cross sections of any non-standard streets.
 - (9) The outline of any existing buildings and their locations in relation to existing or proposed street and lot lines. The location of existing wells and sewage disposal facilities and the proposed disposition of same.
 - (10) Contour lines shall have the following intervals (Development within the Hillside Zone shall comply with Chapter 501, Hillside Zone Overlay District):
 - a. One (1) foot contour interval for ground slopes between level and five (5) percent.
 - b. Five (5) foot contour intervals for ground slopes exceeding five (5) percent.
 - (11) The approximate widths, location and purpose of all existing or proposed easements.
 - (12) Approximate lot layout and approximate dimensions of each lot, and each to be numbered.
 - (13) The area of the subdivision in gross area and net area (excluding streets and other proposed public uses).
 - (14) Approximate location of all areas subject to inundation or storm water overflow and the location, width, grade and direction of flow of all watercourses and the location of all floodplain lines.
 - (15) City limit lines.
 - (16) Vicinity map showing the proposed subdivision and surrounding streets within one-fourth (1/4) mile radius of the proposed subdivision.
 - (17) Location of trees to remain in place and landscaping proposed to remain in public right-of-way.
 - (18) Show all proposed dedications and irrevocable offers of dedication on the parcel map or to be made by separate instrument.
 - (19) The location and sizes of existing and proposed utility lines and structures.
 - (20) The elevation of sewers at the proposed connection
- (c) **Owner's Statement and Accompanying Data.** Additional information relating to the subdivision which may not practicably be shown on the tentative map shall be contained in similar supplemental maps or written owner's statement which shall accompany the tentative map and include the following information.
- (1) Existing use or uses of the property, present zoning, and General Plan designation.
 - (2) Proposed uses of the property indicating respective proportion of the total area of the subdivision represented by each.

- (3) General outline of proposed water system.
- (4) Provisions for sanitary sewage disposal and general outline of proposed system.
- (5) Plan for surface drainage and flood control and general outline of proposed system.
- (6) Proposed street improvements for sidewalk, curb and gutter, and paving of public ways, as required, indicating approximate location and dimensions of the proposed system.
- (7) Environmental Information Form.
- (8) Additional data and information, including fees, as may be required for the preparation and processing of environmental documents pursuant to the California Environmental Quality Act.
- (9) Any other data or reports deemed necessary by the Zoning Administrator and/or the City Engineer.

(d) **Transmittal of maps to public agencies and utilities.**

- (1) When the tentative map is received and filed under the provisions of this title, the Zoning Administrator shall, within ten (10) days thereafter, transmit the tentative map to each of the following:
 - a. Public Works Director/City Engineer
 - b. Chief Building Official
 - c. Police Department
 - d. Fire Department
 - e. Field Services Manager
 - f. Office of Intergovernmental Management as required by the Government Code
 - g. Southern California Edison or other affected electric company
 - h. The Gas Company or other affected gas company
 - i. Telephone Company or other affected phone company
 - j. Cable TV companies affected
 - k. School Districts as required by Section 66455.7 of the Map Act
 - l. Affected owner of irrigation ditches or canals, and any other public agency or public utility affected by the subdivision.
- (2) Such public utility companies and public utilities shall review the parcel map and transmit any report or recommendations thereon to the Zoning Administrator who shall incorporate them into the report and recommendations to the advisory agency.
- (3) The departments of the city to which the map is transmitted shall file with the Zoning Administrator within ten (10) days of receipt thereof its approval thereof or a report showing what changes are necessary to make such map conform to the

requirements of this title and the Map Act coming within the jurisdiction of such department.

- (e) **Consideration of tentative parcel maps.** Not later than thirty (30) calendar days after the Zoning Administrator has received an application for a tentative map approval, the Zoning Administrator shall determine in writing whether such application is complete, and shall immediately transmit such determination to the applicant for the tentative map. In the event that the application is determined not to be complete, the Zoning Administrator's determination shall specify those parts of the application which are complete and shall specify those parts of the application which are incomplete and shall indicate the manner in which they can be made complete. The Zoning Administrator may, in the course of processing the application, request the applicant to clarify, amplify, correct, or otherwise supplement the information required for the application.
 - (1) The Parcel Map Committee shall review and approve, conditionally approve or disapprove the tentative parcel map within thirty (30) days after the date of acceptance of a complete application by the Zoning Administrator. Notice of the time and place of any public hearing shall be given in conformance with the provisions of Section 601.05, Public Notification.
 - (2) If the Parcel Map Committee determines that the tentative parcel map complies with all of the provisions of this article, General Plan, zoning ordinance, and the Map Act, it shall approve the map.
 - (3) If the tentative parcel map fails to meet one or more requirements set forth in this article, the Parcel Map Committee may approve the map subject to such conditions as may be necessary to conform to such requirements.
 - (4) When approving or conditionally approving the tentative parcel map, the Parcel Map Committee shall specify the dedications and improvements to be made by the owner.
 - (5) Within seven (7) days after the action by the Parcel Map Committee, written notice of the action by the Parcel Map Committee shall be mailed to the applicant.
 - (6) Upon approval of the tentative parcel map by the Parcel Map Committee, the tentative parcel map shall be so marked and all conditions of approval and required dedications and improvements clearly specified on or with the map. Copies of the approved tentative parcel map shall be filed with the Zoning Administrator and the City Engineer.
- (f) **Appeals.** Tentative parcel map decisions by the Parcel Map Committee are subject to the provisions of Section 400.03 Appeals.
- (g) **Time limits and extensions of time on tentative parcel maps.** Findings, time limits and extensions of time for tentative parcel maps shall be the same as provided for by 402.03, Expiration of Maps and Extensions of Time of this Series.
- (h) **Improvements.** Pursuant to the provisions of the Map Act, the subdivider shall install, construct and/or provide all on- or off-site improvements as required by the Parcel Map

Committee; and such improvements shall be in conformance with all applicable provisions of 407.02, Improvements of this Series.

- (i) **Right-of-way dedications.** Pursuant to the Map Act, the subdivider shall provide such dedication of right-of-way or easements as may be required by the Parcel Map Committee.
- (j) **Final parcel maps.** Within the time limit designated in 402.03, Expiration of Maps and Extensions of Time of this Series, and upon the accomplishment of all dedication by certification on the map and required construction of all public improvements, or the execution of an agreement and provision of surety providing therefore and the payment of all applicable fees and charges, the applicant may file with the City Engineer, who shall approve, a final parcel map which shall substantially conform to the approved tentative parcel map and all applicable provisions of the Map Act. The appropriate statements as provided by the applicant in accordance with the provisions of the Map Act, shall be signed by the City Engineer upon the parcel map; and the final parcel map shall be transmitted to the Clerk of the County Board of Supervisors for ultimate transmittal to the county recorder.
- (k) **Survey requirement.** In all cases where a parcel map is required, the parcel map shall be based on a field survey of the land conducted in accordance with the Land Surveyor's Act of the State of California. All new lot corners shall be monumented and based on a field survey. At the discretion of the City Engineer, a parcel map may be compiled from recorded or filed data when sufficient recorded or filed data when sufficient recorded or filed survey monumentation presently exists to enable to retracement of the exterior boundary lines of the parcel map and the establishment of the interior parcel or lot lines of the parcel map.

405.03 Final Parcel Map

- (a) **Information on final parcel map.** Each parcel shall be consecutively numbered. Each parcel shall have its area shown to the nearest one-hundredth (1/100) of an acre or nearest square foot. The exterior boundary of the land included within the parcel or parcels being created shall be indicated by a distinctive border applied to the reverse side of the tracings. Such border shall not interfere with the legibility of figures or other data. The map shall show the definite location of such parcel or parcels, and particularly the relationship to existing surveys.
- (b) The final parcel map shall also contain the following information:
 - (1) The tentative parcel map number or vesting parcel map number, resolution number, and date of preparation, printed on the upper right hand corner of the face sheet.
 - (2) The net dimensions of each lot. No ditto marks shall be used.
 - (3) The names, locations and right-of way widths of all abutting public streets.
 - (4) The proposed location, purpose, and width of all proposed public roads and private access easements.

- (5) The boundaries of any private easement, whether an easement or record or a prescriptive easement, shall be shown by means of a dotted line; and the name of the person owning the easement shall be shown on the map.
- (6) Location and widths of easements for public utilities, if required.
- (7) The location and widths of watercourses and areas subject to inundation, and location of selected flood lines within the parcels being created.
- (8) Building setback lines, if applicable.
- (9) A north point and graphic scale.
- (10) Location of vicinity map at a minimum scale of one (1) inch equals one (1) mile. Names and addresses of the owners of the property being divided.

(c) **Required statements**

- (1) All required dedications of rights-of-way or easements shall be certified on the final parcel map by appropriate statements in accordance with Section 66447 of the Map Act.
- (2) All parties having any record title interest in the real property subdivided shall sign a statement on the final parcel map in accordance with Subsections 66436 and 66445 of the Map Act.
- (3) A statement of the registered civil engineer or licensed land surveyor who prepared the survey and the parcel map in compliance with Section 66449 of the Map Act.
- (4) A statement of execution by the City Engineer which complies with Section 66450 of the Map Act.
- (5) A statement of execution by the Zoning Administrator on behalf of the Parcel Map Committee certifying that the final parcel map conforms to the approved tentative parcel map.
- (6) Additional information to be filed or recorded with the final parcel map as required in accordance with Section 66434.2 of the Map Act.

405.04 Waiver of Requirements for Parcel Maps

- (a) The requirement for a parcel map may be waived if a finding is made by the Parcel Map Committee that the proposed division of land complies with all requirements of this Ordinance as to area, improvement and design, drainage control, street dedications and improvements, sewer and water supply availability and environmental protection. No parcel map will be required for tentative maps approved under this section.
- (b) Approval of an application for a waiver of the requirement of a parcel map shall automatically constitute approval for the issuance of a certificate of compliance pursuant to the provisions of Section 66499.35 of the Map Act. When approval has been given to an application for a waiver of the requirement of a parcel map, the Zoning Administrator and City Engineer shall issue a resolution approving the waived parcel map, and shall cause said resolution to be filed with the county recorder.

Chapter 406 Reversions, Mergers, and Lot Line Adjustments

Sections:

- 406.01 Reversion to Acreage
- 406.02 Mergers
- 406.03 Lot Line Adjustments

406.01 Reversion to Acreage

- (a) **Purpose.** The purpose of this section is to establish procedures and standards, consistent with the requirements of the Subdivision Map Act, for the reversion of previously subdivided property to acreage.
- (b) **Initiation of Proceedings.** Proceedings for reversion to acreage may be initiated by the Parcel Map Committee on its own motion or by petition of all of the owners of record of the real property within the subdivision.
- (c) **Contents of Petition.** The petition shall be in a form prescribed by the Zoning Administrator and shall contain the following:
 - (1) Adequate evidence of title to the real property within the subdivision.
 - (2) Sufficient data to enable the legislative body to make all of the determinations and findings required by this Series, including a three hundred (300) foot radius map and property owners list.
 - (3) A final map which delineates dedications which will not be vacated and dedications which are a condition to reversion if applicable and which sufficiently describes all property to be reverted to acreage.
 - (4) Such other pertinent information as may be required by the Zoning Administrator and City Engineer.
- (d) **Public Hearing.** A public hearing shall be held on the proposed reversion to acreage. Notice of the time and place of any public hearing shall be given in conformance with the provisions of Section 601.05, Public Notification.
- (e) **Required Findings.** Subdivided real property may be reverted to acreage and a final map approved for recordation only if the Parcel Map Committee finds 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 if applicable. Such determination regarding dedicated public streets shall be made by the City Council in accordance with Division 9, Part 3 of the Streets and Highways Code of the State of California.
 - (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 have been made within two (2) 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 the later; or
 - c. No lots shown on the final map or parcel map have been sold within five (5) years from the date such map was filed for record.
- (f) **Conditions of Approval.** As conditions of reversion, the following shall be required:
- (1) Dedications or offers of dedication necessary for the purposes specified by city ordinance following reversion.
 - (2) Retention of all previously paid fees if necessary to accomplish the purposes of this Ordinance adopted pursuant thereto.
 - (3) Retention of any portion of required improvement security or deposits if necessary to accomplish the purposes of this Ordinance adopted pursuant thereto.
- (g) **Effective Date.** Reversion shall be effective upon the final map being filed for record by the county recorder, and thereupon all dedications and offers of dedication not shown thereon shall be of no further force or effect.
- (h) **Deposits and Securities.** When a reversion is effective, all fees and deposits shall be returned and all improvement security released, except those retained pursuant to applicable city ordinance, including the stipulations of this Series.

406.02 Mergers

- (a) **Required Mergers.** Two (2) or more contiguous parcels or units of land which have been subdivided under the provisions of the Map Act or any prior law regulating the division of land or a local ordinance enacted pursuant thereto, or which were not subject to such provisions at the time of their creation, shall not merge simply by virtue of the fact such contiguous parcels or units are held by the same owner. No further proceeding under the provisions of the Map Act or this Series enacted pursuant thereto shall be required for the purpose of sale, lease or financing of such contiguous parcels or units, except, however, the city may provide for the merger of a parcel or unit with a contiguous parcel or unit held by the same owner if all of the following requirements are satisfied:
- (1) At least one (1) of the affected parcels is not developed with a structure, other than an accessory structure, for which a building permit was issued by the local agency, or which was built prior to the time such permits were required by the local agency.
 - (2) With respect to any affected parcel, one (1) or more of the following conditions exists:
 - a. Comprises less than five thousand (5,000) square feet in area at the time of the determination of merger.
 - b. Was not created in compliance with applicable laws and ordinances in effect at the time of its creation.

- c. Does not meet current standards for sewage disposal and domestic water supply.
 - d. Does not meet slope stability standards.
 - e. Has no legal access which is adequate for vehicular and safety equipment access and maneuverability.
 - f. Its development would create health or safety hazards.
 - g. Is inconsistent with the applicable General Plan and any applicable specific plan, other than minimum lot size or density standards.
- (b) **City Initiation Merger.** Notification of Intention to Merge. Prior to recording a notice of merger, the Zoning Administrator shall cause to be mailed by certified mail to the current record owner of the property a notice of intention to determine status, notifying the owner that the affected parcels may be merged pursuant to standards specified in the merger ordinance, and advising the owner of the opportunity to request a hearing on determination of status and to present evidence at the hearing that the property does not meet the criteria for merger. The notice of intention to determine status shall be filed for record with the Tulare County Recorder on the date that notice is mailed to the property owner.
- (1) ***Request for Hearing.*** At any time within thirty (30) days after recording of the notice of intention to determine status, the owner of the affected property may file with the Zoning Administrator a request for a hearing on determination of status.
 - (2) ***Procedure for Hearing.*** Upon receiving a request for a hearing on determination of status, the Zoning Administrator shall fix a time, date and place for a hearing to be conducted by the City Council, and shall so notify the property owner by certified mail. The hearing shall be conducted not less than thirty (30) days following the receipt of the property owner's request therefor, but may be postponed or continued with the mutual consent of the Zoning Administrator and the property owner.
 - (3) ***Procedure for Determination Following Hearing.*** At the hearing, the property owner shall be given the opportunity to present any evidence that the affected property does not meet the standards for merger specified in the merger ordinance. At the conclusion of the hearing, the City Council shall make a determination that the affected parcels are to be merged or are not to be merged and shall so notify the owner of its determination. A determination of nonmerger may be made whether or not the affected property meets the standards for merger specified in paragraphs (1) and (2) above. A determination of merger shall be recorded within thirty (30) days after conclusion of the hearing.
 - (4) ***Determination When No Hearing is Requested.*** If, within the thirty (30) day period specified in paragraph (1) above, the owner does not file a request for a hearing, the Zoning Administrator may, at any time thereafter, make a determination that the affected parcels are to be merged or are not to be merged. A determination of merger shall be recorded with the Tulare County Recorder which specifies the names of the property owners and particularly describes the real property in question no later than ninety (90) days following the mailing of the notice required by paragraph (2) above.

- (5) **Notice of Intention for Nonmerger.** If, in accordance with paragraph (3) or (4) above, the Zoning Administrator or City Council determines that the subject property shall not be merged, it shall cause to be recorded a release of the notice of intention to determine status, and shall mail a clearance letter to the current owner of record.
- (c) **Property Owner Initiated Merger of Contiguous Parcels.** Pursuant to Government Code Section 66499.20 ³/₄, a property owner owning contiguous parcels is authorized to merge those contiguous legal parcels without requiring the property to be reverted to acreage. Such merger shall be accomplished in accordance with the following procedures:
 - (1) The property owner shall file an application for merger with the Zoning Administrator, submit evidence of title to all parcels to be affected, submit a proposed certificate of compliance, and pay the processing fee established by resolution of the City Council. Mergers shall be in the form and contain the information required of a tentative map together with a legal description of the merged parcel.
 - a. The Zoning Administrator and City Engineer shall consider and approve the application if it is found that the parcel created by the merger will conform to the requirements of this code and applicable state law.
 - b. The merger shall be evidenced by recording a certificate of compliance which lists the parcel numbers affected and is signed by the Zoning Administrator and City Engineer. The certificate of compliance shall be recorded concurrently with any deed of easement regarding the relocation or elimination of applicable easements. The certificate of compliance shall be recorded against each parcel that is merged.
- (d) **Certificate of Compliance**
 - (1) Any person owning real property may request, and the Zoning Administrator shall determine, whether such real property complies with the provisions of the Map Act and of this Series. Upon making such a determination, the Zoning Administrator shall cause a certificate of compliance to be filed for record with the county recorder. The certificate of compliance shall identify the real property and shall state that the division thereof complies with applicable provisions of the Map Act and of this Series. The Zoning Administrator may impose a reasonable fee to cover the cost of issuing and recording the certificate of compliance.
 - (2) If the Zoning Administrator determines that such real property does not comply with the provisions of the Map Act or of this Series, he may, as a condition to granting a certificate of compliance, impose such conditions as would have been applicable to the division of the property at the time the current owner of record acquired the property and which had been established at such time by the Map Act or this Series. Upon making such a determination and establishing such conditions, the Zoning Administrator shall cause a conditional certificate of compliance to be filed for record with the county recorder. Such certificate shall serve as notice to the property owner who has applied for the certificate pursuant to this section, a grantee of the property owner, or any subsequent transferee or

assignee of the property that the fulfillment and implementation of such conditions shall be required prior to subsequent issuance of a permit or other grant of approval for development of the property. 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.

406.03 Lot Line Adjustments

- (a) **Lot Line Adjustment.** Pursuant to Government Code Section 66412(d), a lot line adjustment between four (4) or fewer existing adjoining parcels, where the land taken from one (1) parcel is added to an adjoining parcel, and where a greater number of parcels than originally existed is not thereby created, may be approved by the City Engineer and Zoning Administrator or authorized representatives without the approval and filing of a parcel map. Such lot line adjustments shall be accomplished in accordance with the following procedures:
- (1) Applications for lot line adjustments shall be filed with the Zoning Administrator and shall be in the form and contain the information required of a tentative map together with legal descriptions of each parcel.
 - (2) The property owner(s) or agent shall file an application for a lot line adjustment with the city, submit evidence of title to all parcels to be affected, submit a proposed lot line adjustment map and legal description, and pay the processing fee established by resolution of the City Council.
 - (3) The Zoning Administrator and City Engineer shall consider and approve the application if it is found that the parcels created by the lot line adjustment will conform to the requirements of this Ordinance and applicable state law. Criteria to be considered includes, but is not limited to, standards relating to lot width and depth and minimum lot area.
 - (4) The lot line adjustment shall be evidenced by recording a deed describing each affected parcel and a city resolution signed by the Zoning Administrator and City Engineer. The deed and resolution shall be recorded concurrently with any easement deed regarding the relocation or elimination of applicable easements.
- (b) The City Engineer shall not impose any conditions on the approval of a lot line adjustment except to comply with the requirements of subsection (a) above. Any improvements that are required to be installed or constructed shall be constructed pursuant to the requirements of this chapter.

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Chapter 407 Dedications, Reservations and Improvements

Sections:

407.01	Dedications
407.02	Improvements
407.03	Design and Construction Standards

407.01 Dedications

- (a) **Purpose.** The purpose of this chapter is to establish the dedications and reservations that the city may impose on a subdivider as a condition for approval of a tentative map.
- (b) **Required Dedications.** When required as a condition for approval of a tentative map, the subdivider shall dedicate or make an irrevocable offer of dedication of land within the subdivision that is needed for streets, alleys, including access rights and abutter's rights, drainage easements, elementary school sites, parks, and other easements and parcels of land intended for public use according to the standards listed below. In addition, the subdivider shall improve or agree to improve all streets and alleys, including access rights and abutters' rights, drainage, public utility easements and other public easements.
- (1) **Streets.** The subdivider shall dedicate land for streets according to adopted City Standards. Partial streets shall be discouraged in developments except in those situations where warranted and when approved by the City Engineer in accordance with the following:
- Where a full pavement street is constructed along the perimeter of a subdivision, the subdivider be compensated for this construction by reimbursement agreement between the subdivider, the city and the adjoining property owner when development occurs on his property.
 - Where a partial street configuration is allowed, the outside edge shall be a thickened design approved by the City Engineer, and that when the other portion of the street is constructed by development, the subdivider shall be required to overlay the existing partial street with pavement (making for a smooth transition at the center and a smoother traveled way). No parking signs shall be posted by the subdivider if there are no lots fronting on the partial street.
 - When there are lots fronting on the partial street the dedication and improvement shall be wide enough to permit two (2) lanes of traffic and on-street parking on one (1) side.
- (2) **Waiver of Direct Access Right.** The City Engineer or Public Works Director may require that offers of dedication of streets include a waiver of direct access rights from any property shown on the final map as abutting thereon.
- (3) **Public Easements.** The subdivider shall dedicate easements of at least ten (10) feet in width for public utility, sanitary sewer and drainage purposes on each side of rear lot lines, along side lot lines, and in planting strips wherever necessary.

Easements of different width may be required, based on the Public Works Director's determination.

- (4) **Drainage Facilities.** In accordance with Government Code Section 66483, the city, as appropriate and as permitted by law, shall require payment of fees for purposes of defraying the costs of constructing planned drainage facilities if any part of the land division is located within a planned drainage area. If the subdivider installs planned drainage facilities, fees shall be reduced accordingly. Fees required pursuant to this section and associated with residential development shall be paid consistent with the provisions of Section 66007 of the California Government Code.
- (5) **Bicycle Paths.** When required as a condition for approval of a tentative map, the subdivider shall dedicate or make an irrevocable offer of dedication of land that is needed to provide bicycle paths for the use, safety, and benefit of the residents of the subdivision.
- (6) **Bridges and Major Thoroughfares.** If a land division or any portion thereof lies within an area of benefit established in accordance with this Ordinance or any other city ordinance adopted in accordance with Section 66484 of the Subdivision Map Act, the subdivider shall pay to the city the apportioned fees applicable to that portion of the land division lying within such area of benefit, in accordance with the requirements of subparagraph d below.
 - a. **Considerations In Lieu of Fees.** The City Council may allow any subdivider to furnish a consideration in lieu of payment of the fees mentioned in the preceding paragraph, if the Council finds that such consideration has a value not less than the fees that would otherwise be payable. The form of consideration in lieu of fees may include, but shall not be limited to, any of the following or a combination thereof:
 1. Construction of all or part of a bridge project or major thoroughfare project, as the case may be, for which the area of benefit was established.
 2. Dedication or conveyance of all or part of the site or right-of-way required for major construction of a bridge project or major thoroughfare project, as the case may be, for which the area of benefit was established.
 - b. **Value In Excess of Fees.** If the City Council finds that the consideration in lieu of fees has a value in excess of the amount of fees that would be otherwise payable, the Council may enter into an agreement with the party furnishing such consideration for reimbursement of the amount of such excess from moneys, then in or which may later accrue to, the fund into which such party would have been required to pay fees but for such consideration in lieu of fees, and to reimburse such party from such fund in accordance with such agreement.
 - c. **Requirement to Construct Facilities.** The city shall require a subdivider to construct any necessary bridge facilities, major thoroughfares, parts thereof, or contribute to bridge facility or major thoroughfare costs if the City Council finds that:

1. The subdivider's cost or contribution would not exceed the cost of a local facility in lieu of such bridges or major thoroughfares; or
 2. A proceeding has been commenced for establishing an area of benefit for such bridge project or major thoroughfare project and has been abandoned by reason of majority protest, and that there is a reasonable probability that use of a local facility in lieu of such bridge would by reason of traffic, including but not limited to traffic which may be generated by such land division, constitute a hazard to public safety.
- d. *Establishing Area of Benefit.* An area of benefit as referred to in this section shall be established in the following manner:
1. The City Council shall hold a public hearing for each area of benefit to be established. Notice of such hearing shall be given in accordance with Government Code Section 65091. Such notice shall contain preliminary information related to the boundaries of the proposed area of benefit, the estimated cost of the bridge project or major thoroughfare project, as the case may be, the proposed allocation to the area of benefit, and the proposed method of fee appointment. Such notice shall also state the date, time and place of the public hearing, and that written protests may be filed as provided in this section.
 2. Owners of property within the proposed area of benefit may file written protests with the City Clerk at any time prior to the date and time fixed for such public hearing. Any protest may be withdrawn by the owner of the land making the protest by a request in writing filed with the City Clerk at any time prior to conclusions of such public hearing.
 3. If a written protest by the owners of more than one-half (.5) of the area of the property to be benefited by the improvement, against establishment of such area of benefit or against the proposed improvements or acquisitions, is not withdrawn prior to the conclusion of the hearing, then the proceedings shall be abandoned. In such event, the City Council shall not, for at least one (1) year from the date of such hearing, commence or carry on any proceedings for establishment of an area of benefit for the same improvements or acquisitions.
 4. If a written protest by the owners of more than one-half (.5) of the area of the property to be benefited by the improvement, is not withdrawn prior to the conclusion of the hearing, against only a portion of the proposed improvement or acquisition, then the proceedings shall be abandoned with respect to the proposed improvement or acquisition that has been protested against. In such event, the City Council shall not, for at least one (1) year from the date of such hearing, commence or carry on any proceedings for the establishment of an area of benefit for the

improvement or acquisition so protested against. Nothing in this subsection shall be deemed to prohibit the Council, within such one (1) year period, from commencing or carrying on new proceedings for the establishment of an area of benefit for the part of the improvement or acquisition protested, if it finds by the affirmative vote of at least four-fifths (4/5) of its members, that the owners of more than one-half (.5) of the area of the property to be benefited are in favor of going forward with such portion of the improvement or acquisition.

5. At such public hearing, the City Council shall determine whether to establish such area of benefit, and if so, shall adopt a resolution prescribing the boundaries of the area of benefit, stating the cost, whether actual or estimated, a fair method of allocation of costs to the area of benefit, and a fair apportionment of fees. A certified copy of such resolution shall be filed for record with the county recorder.
6. In case of a requirement for any bridge, the City Council shall find that, prior to said public hearing, the city has adopted at least thirty (30) days prior to the filing of any tentative map, a circulation element as part of the General Plan, which identifies railways, freeways, streams or canyons for which bridge crossings are required, and that the bridge or each bridge for which such area of benefit is established is one necessary to satisfy such bridge crossing requirement in such element or provisions of the general plan.
7. In case of a requirement for any major thoroughfare, the City Council shall find that, prior to said public hearing, the city has adopted at least thirty (30) days prior to the filing of any tentative map, a circulation element as part of the General Plan that identifies those major thoroughfares whose primary purpose is to carry through traffic and provide a network connecting to the state highway system, and that the major thoroughfare or section thereof for which such area of benefit is established is one so identified in such circulation element.
8. The resolution adopted by the City Council shall require that the apportioned fees shall be applicable to all property within the area of benefit and shall be payable as a condition of approval of any final map or any parcel map or a condition to issuing a building permit thereon, consistent with the provisions of Section 53077.5 of the Government Code.
9. The area of benefit may include land or improvements in addition to the land or improvements that are the subject of any map or building permit application considered at such hearing.
10. Where the area of benefit includes lands not subject to the payment of fees pursuant to this section, the City Council shall

make provisions for payment of the share of improvement costs apportioned to such lands from other sources.

11. In the case of major thoroughfares, the method of fee apportionment shall not provide for higher fees on land that abuts the proposed improvement, except where the abutting property is provided direct usable access to the major thoroughfare.
 12. In case of major thoroughfares, the payment of fees shall not be required unless the major thoroughfare is in addition to, or a reconstruction of, any existing major thoroughfares serving the area at the time of establishment of the zone of benefit.
 13. In the case of a planned bridge facility, the payment of fees shall not be required unless the planned bridge facility is an original bridge serving the area of benefit or is an addition to an existing bridge facility serving such area at the time of establishment of the zone of benefit. No fees contributed shall be expended to reimburse the cost of construction of any bridge existing at the time of establishment of the zone of benefit.
- e. *Planned Bridge Facility Fund.* A planned bridge facility fund shall be established for a bridge project within an area of benefit, or if the area of benefit is one in which more than one (1) bridge is required to be constructed, a fund shall be established covering all such bridge projects. Fees paid pursuant to this section on account of a bridge or bridges within an area of benefit shall be deposited into the fund for such area.
 - f. *Planned Major Thoroughfare Fund.* A planned major thoroughfare fund shall be established for each planned major thoroughfare project and each particular area of benefit which it benefits. Fees paid pursuant to this section on account of a major thoroughfare project within an area of benefit shall be deposited into the fund for such area.
 - g. *Expenditure of Bridge and Major Thoroughfare Facility Funds.* Moneys in such funds shall be expended solely for the construction of the improvement project serving the area to be benefited as follows:
 1. To reimburse the city for costs advanced or incurred by it for construction of such improvement project or any portion thereof; and
 2. To reimburse any subdivider for the agreed portion of his or her costs of construction of such improvement project, or portion thereof, in accordance with a reimbursement agreement entered into with the city, as mentioned in subparagraph b above.
 3. In the event that monies in such funds are insufficient to accomplish all of the purposes that this section lists, such monies in the fund shall be apportioned to each such purpose on a pro rata basis.
 - h. *Project Completion.* After completion of all bridge facility projects for which a planned bridge facility fund has been established or all major

thoroughfare projects for which a planned major thoroughfare fund has been established, or in the event of abandonment of any such project, and after reimbursement of the city and each subdivider entitled thereto under a reimbursement agreement, as mentioned in subparagraph b above, the City Council shall determine by resolution the amount of the surplus, if any, remaining in any such funds or as may accumulate in such funds from time to time. The City Council shall order any such surplus refunded as follows:

1. There shall be refunded to the current owners of property for which a fee was previously collected the balance of such monies in the same proportion which each individual fee collected bears to the total of all individual fees collected from the particular area of benefit. For the purposes of this paragraph, the term "property for which a fee was previously collected" shall be deemed to include land within any land division with respect to which such fees were paid as a condition to its approval and any building with respect to which such fees were paid as a condition to issuing a building permit therefor. For purposes of this paragraph, the term "fee collected" shall include, in the case of a subdivider who has entered into a reimbursement agreement with the city, the aggregate amount of cash fees and the value of the consideration in lieu of fees furnished by such subdivider.
 2. Where property for which a fee was previously collected has subsequently been subdivided into more than one (1) lot, each current owner of a lot shall share in the refund payable to the owners of the property for which a fee was previously collected in the same proportion which the area of each individual lot bears to the total area of the property for which a fee was previously collected.
 3. There shall be transferred to the city general fund any remaining portion of the surplus that has not been paid to or claimed by the persons entitled thereto within two (2) years from the date of adoption of the resolution declaring a surplus.
 4. For the purposes of this paragraph, the term "fee collected" or any variation thereof, shall also be deemed to include the amount of fees that would have been payable by a subdivider but for furnishing consideration in lieu of fees.
- i. *Advances and Voluntary Contributions.* The City Council may authorize advancement of money from the city general fund or from the road fund to pay the cost of constructing any bridge project or major thoroughfare project and may reimburse such fund or funds for such advances from the planned bridge facility fund or the planned major thoroughfare fund established to finance the construction of such improvements.

1. Nothing in this section shall be deemed to preclude the city from providing funds for the construction of bridge facilities or major thoroughfares to defray costs not allocated to an area of benefit.
 2. Nothing in this section shall be deemed to preclude the subdivider from volunteering to construct a bridge or major thoroughfare or part thereof, or to contribute to the cost thereof, in excess of the cost of a local facility, nor to preclude the city from participating in such construction or carrying out such construction using money so contributed.
- (7) **Transit Facilities.** When required as a condition for approval of a tentative map, the subdivider shall dedicate or make an irrevocable offer of dedication of land within the subdivision for local transit facilities such as bus turnouts, benches, shelters, landing pads and similar items that directly benefit the residents of a subdivision.
- (8) **Railroad and Grade Crossings.** The City Council or the Parcel Map Committee shall review proposed subdivision plans with respect to existing railroad crossings and proposed or likely grade separations or other such facilities and shall require such changes as may be necessary to ensure that the design and improvement of the subdivision does not interfere with such future grade separations or other measures. The subdivider shall dedicate or make an irrevocable offer for dedication of the rights-of-way required for any grade separation or similar improvement that the General Plan Circulation Element proposes.
- (9) **Solar Access Easements.** At such time as the city has adopted solar access standards, and when required as a condition for approval of a tentative map, the subdivider shall dedicate or make an irrevocable offer of dedication of easements for the purpose of assuring that each parcel or unit in the subdivision for which approval is sought has the ability to receive sunlight across adjacent parcels or units in the subdivision for any solar energy system. The dimensions and locations of such easements shall be in accord with any standards for solar access adopted by the City Council.
- (10) **Parkland.** As a condition of approval of a tentative map, the city shall require the subdivider to dedicate or make an irrevocable offer of dedication of land, to pay a fee in lieu thereof, or a combination of both, for neighborhood and community open space, park and recreational purposes. In order to conform to the policies of the General Plan and maintain existing standards for parks and recreation facilities, the park area required to be dedicated shall be equal to the ratio of the ultimate population of the subdivision to the current population of the city multiplied by the total park area within the city's planning area at the time of filing of the tentative but in no case shall be less than three (3) acres of park area per one thousand (1,000) persons nor more than five (5) acres per one thousand (1,000) persons who will live in the subdivision, calculated as follows:
- a. The ultimate population of the subdivision is based upon the approved residential density and the average household size for the type of unit;

- b. Total population of the city shall be as reported in the most recent available federal census;
 - c. Current park acreage shall be the amount of neighborhood and community park acreage identified in the General Plan or any more recent records, maps, or reports.
- (11) **Elementary School Sites.** As a condition of approval of a final subdivision map, a subdivider who develops or completes the development of one (1) or more subdivisions within one (1) or more school districts maintaining an elementary school may be required to dedicate to the school district or districts such lands as the district shall deem necessary for the purpose of constructing elementary schools necessary to assure the residents of the subdivision adequate elementary school service.
- a. **Procedure.** The requirement of dedication shall be imposed at the time of approval of the tentative map. If within thirty (30) days after the requirement of dedication is imposed by the city the school district does not offer to enter into a binding commitment with the subdivider to accept the dedication, the requirement shall be automatically terminated. The required dedication may be made any time, before, concurrently with, or up to sixty (60) days after the filing of the final map on any portion of the subdivision.
 - b. **Payments to Subdivider.** The school district shall, if it accepts the dedication of land, repay the subdivider the original cost of the dedicated land, plus a sum equal to the total of the following:
 - 1. **Improvement Costs.** The cost of any improvements to the dedicated land since acquisition by the subdivider;
 - 2. **Assessed Taxes.** The taxes assessed against the dedicated land from the date of the school district's offer to enter into the binding commitment to accept the dedication;
 - 3. **Other Costs.** Any other costs incurred by the subdivider to maintain the dedicated land, including interest costs incurred on any loan on the land.
 - c. **Exceptions.** The requirements for dedication shall not apply to a subdivider who has owned the land being subdivided for more than ten (10) years prior to the filing of the tentative map.
- (c) **Acceptance of Dedications.** At the time the city approves a final map or parcel map, the city shall also accept subject to improvement, or reject, any offer of dedication. The Council or the City Engineer, on behalf of the City Council pursuant to Section 1806 (c) of the Streets and Highways Code, may accept said dedications. The City Clerk shall certify or state on the map the city's action.
- (1) **Offers of Dedication.** If at the time the final map is approved, any streets, paths, alleys, or storm drainage easements are rejected, the offer shall remain open and the Council or the City Engineer may, by resolution at any later date and without any further action by the subdivider, rescind the city's action and accept and open

the streets, paths, alleys or storm drain easements for public use which acceptance shall be recorded in the office of the county recorder. Dedications and acceptance or rejection of parcels of land for elementary school sites, public utility and other easements on parcels of land not previously specified shall be in accordance with the provisions of the Map Act.

- (2) **Termination of Offers.** Offers of dedications may be terminated and abandoned in the same manner as prescribed for the summary vacation of streets by Part 3 (commencing with Section 8300) of Division 9 of the Streets and Highways Code.
- (d) **Recording Dedications.** The city shall record a certificate with the county recorder for any dedication in fee for public purpose or for making public improvements or constructing public facilities, other than for open space, parks, or schools. The certificate shall be attached to the map and shall contain all of the following:
- (1) The name and address of the subdivider dedicating the property.
 - (2) A legal description of the real property being dedicated.
 - (3) A statement that the city shall reconvey the property to the subdivider if the city makes a determination that the same public purpose for which the property was dedicated does not exist, or the property or any portion thereof is not needed for public utilities.
- (e) **Reservations**
- (1) **General.** As a condition of approval of a tentative map, the subdivider shall reserve sites, appropriate in area and location, for parks, recreational facilities, fire stations, libraries or other public uses according to the standards and formula contained in this section.
 - (2) **Standards for Reservation.**
 - a. Such requirement is based upon an adopted specific plan or an adopted General Plan containing policies and standards for those uses, and the required reservations are in accordance with those policies and standards.
 - b. The ordinance has been in effect for a period of at least thirty (30) days prior to the filing of the tentative map.
 - c. The reserved area is of such size and shape as to permit the balance of the property within which the reservation is located to develop in an orderly and efficient manner.
 - d. The amount of land reserved will not make development of the remaining land held by the subdivider economically unfeasible. The reservation area shall conform to the adopted specific plan or General Plan and shall be in such multiples of streets and parcels as to permit an efficient division of the reserved area in the event that it is not acquired within the prescribed period; in such event, the subdivider shall make those changes as are necessary to permit the reserved area to be developed for the intended purpose consistent with good subdividing practices.

- (3) **Procedure.** The city shall, at the time of approval of the final map or parcel map, enter into an agreement to acquire such reserved area within two (2) years after completion and acceptance of all improvements required as a condition of such map, unless such period of time is extended by mutual agreement.
- (4) **Payment.** The purchase price shall be the market value thereof at the time of the filing of the tentative map plus the taxes against such reserved area from the date of the reservation and any other costs incurred by the subdivider in the maintenance of such reserved area, including interest costs incurred on any loan covering such reserved area.
- (5) **Termination.** If the city does not enter into the agreement required, the reservation of such area shall automatically terminate.

407.02 Improvements

- (a) **General Requirements.** The subdivider shall install improvements in accord with the general requirements set forth in this chapter; provided, however, the City Engineer or Public Works Director may require changes in typical sections and details if unusual conditions arise to warrant such changes.
- (b) **Standard Specifications.** All improvements shall conform to the requirements contained in the City of Porterville Standard Plans and Specifications, Standard Specifications for Public Works Construction, Caltrans Standard Specifications for street structural section components, and Work Area Traffic Control Handbook, as all of same now exist or are subsequently amended. Copies shall be maintained on file in the office of the City Clerk and the City Engineer or Public Works Director.
- (c) **Improvement Plans.** Construction of improvements shall not commence until calculations, plans, profiles, and specifications for such work have been submitted to and approved by the City Engineer. Such items shall be approved prior to recording the final map. Construction of all improvements shall conform to the approved improvement plans and specifications and approved amendments thereto. After construction is completed, the subdivider's engineer shall show all changes made on the original set of plans and provide them to the city marked "as built plans."
- (d) **Improvement Construction Inspection and Supervision.** All improvements shall be inspected and approved by the City Engineer or Public Works Director or his authorized representative. The subdivider shall be responsible for the actions of his contractor. Twenty-four (24) hours minimum notice will be required prior to an inspection by city personnel.
- (e) **Plan Check and Inspection Fees.** Subdivider shall be required to pay a plan check and inspection fee which shall include all charges for engineering and inspection services and rendered by the city including the cost of recording maps. The plan check and inspection fee shall be as indicated in the City Comprehensive Fee Schedule.

The plan check fee shall be paid prior to commencement of plan checking by the city. The inspection fee shall be paid prior to any construction work requiring inspection.

- (f) **Required Improvements Enumerated.** The subdivider shall improve, or agree to improve, all streets, highways, or ways in or adjacent to the subdivision. All improvements shall be installed to permanent line and grade in accordance with the approved improvement plans for that subdivision on file with the City Engineer or Public Works Director. Improvements which the subdivider shall make, or agree to make, at the cost of the subdivider, shall be as follows:
- (1) ***Underground Utilities.*** All utility distribution facilities, including but not limited to electric, communication, and cable television lines installed in and for the purpose of supplying service to any subdivision, shall be placed underground in accordance with the utility's rules and regulations on file with the California Public Utilities Commission. Equipment appurtenant to underground facilities, such as surface-mounted transformers, street light poles, pedestal mounted terminal boxes and meter cabinets and concealed ducts may be installed above the surface of the ground. The subdivider is responsible for complying with the requirements of this section and shall make the necessary arrangements with the utility companies involved for the installation of said facilities. All underground utilities, sanitary sewers, and storm drains installed in streets, service roads, alleys or highways shall be constructed in accordance with the standard specifications prior to the surfacing of such street, service road, alley or highway. Service connections for all underground utilities and sanitary sewers shall be placed in such length as will obviate the necessity for disturbing the street or alley improvements when service connections thereto are made.
 - (2) ***Streets.*** All streets shall be graded and surfaced to cross sections and grades approved the City Engineer or Public Works Director.
 - (3) ***Structures.*** Structures shall be installed as required for drainage, access and/or public safety. Such structures shall be placed to grades and shall be of a design approved by the City Engineer or Public Works Director.
 - (4) ***Grading and Drainage.*** Site grading and drainage taking into consideration the drainage pattern of adjacent improved and unimproved property and treating upstream areas, where appropriate, as though fully improved.
 - (5) ***Sidewalks, Curbs, Gutters and Driveway Approaches.*** Curbs, gutters, sidewalks and driveway approaches shall be installed to grades approved by the City Engineer or Public Works Director.
 - (6) ***Sanitary Sewers.*** Sanitary sewer facilities connecting with the existing city sewer system shall be installed to serve each lot and to grades, locations, design and size approved by the City Engineer or Public Works Director. No septic tanks or cesspools shall be permitted.
 - (7) ***Storm Drains.*** Storm water sewers shall be installed as required by the City Engineer or Public Works Director.
 - (8) ***Water Supply.*** Each unit or lot within the subdivision shall be served by an approved domestic water system.
 - (9) ***Fire Flow and Fire Hydrants.*** As provided in the California Fire Code, an approved water supply capable of supplying required fire flow for fire protection shall be provided to all premises upon which buildings or portions of buildings

are hereafter constructed. The required fire flow shall be determined by the Fire Chief.

- a. The location, number, and type of fire hydrants connected to a water supply capable of delivering the required fire flow shall be provided on the public street or on the site of the premises to be protected as required and approved by the Fire Chief. All hydrants shall be accessible to the Fire Department by access roadways meeting California Fire Code requirements for "Access Roadways for Fire Apparatus". Such fire protection facilities including all surface access roads shall be installed and made serviceable by the subdivider prior to the time of construction.
- b. When fire hydrants density, as determined by the hydrant spacing requirement, is not sufficient to provide the required fire flow, additional fire hydrants may be required by the Chief.
- c. Design, locations, and layout of water mains and fire hydrants shall be approved by the City Engineer and the Fire Chief, and shall be installed by the subdivider.
- d. The location, number and type of fire hydrants connected to a water supply capable of delivering the required fire flow shall be provided on the public street or on the site of the premises to be protected as required and approved by the chief. All hydrants shall be accessible to the fire department apparatus by access roadways meeting California Fire Code requirements for Access Roadways for Fire Apparatus. Such fire protection facilities, including all surface access roads, shall be installed and made serviceable by the subdivider prior to the time of construction.

(10) **Subdivision Trees.** Subdivision trees and landscaping design shall be approved by the city and shall be planted at a time and in locations approved by the City Director of Parks and Leisure Services, all in general accord with the requirements of the Porterville Municipal Code.

- a. At least one (1) tree shall be planted on each residential lot. Five (5) gallon trees shall be installed upon all lots abutting interior, local and collector street, and fifteen (15) gallon trees shall be planted upon parcels having frontage on arterial thoroughfares.
- b. The subdivider shall be required to plant street trees at thirty-five (35) feet on center along all parkways within and/or bordering the subdivision.

(11) **Street Signs.** Street signs shall be installed by the city at the subdivider's expense. Any required barricades to prevent traffic access at dead-end streets shall be provided by the subdivider in accord with the standard specifications.

(12) **Street Lights.** Street lights shall be installed by the subdivider at locations designated by the City Engineer.

(13) **Railroad Crossings.** Provisions shall be made for any and all railroad crossings necessary to provide access to, or circulation with, the proposed subdivision, including the preparation of all documents necessary for application to the Public

Utilities Commission of the State of California for the establishment and improvement of such crossing.

- (14) **Lot Corners.** The subdivider's engineer shall set at all lot corners a marker consisting of a one (1) inch diameter iron pipe twenty-four (24) inches long, with the surveyor or engineer's marker thereon.
 - (15) **Benchmarks.** The subdivider's engineer shall set at least two (2) bench marks in the subdivision tied to North American Vertical Datum of 1988.
 - (16) **Temporary Drainage Reservoir lots.** Temporary drainage reservoir lots, when approved, shall be designed and constructed to the requirements of the City Engineer or Public Works Director and the Director of Parks and Leisure Services.
 - (17) **Others.** Other improvements deemed necessary by the City Council for the public health, safety or welfare.
- (g) **Agreement for Installation of Improvements.** Prior to the approval by the City Council of the final map, the subdivider shall execute and file an agreement between the subdivider and the city, specifying a period of time, agreeable to the City Engineer or Public Works Director, which shall be not greater than one (1) year, within which he shall complete all improvement work to the satisfaction of the City Engineer or Public Works Director, and providing that if the subdivider shall fail to complete such work within such period, the city may complete the same and recover the full cost and expense thereof from the subdivider. The agreement shall also provide for inspection of all improvements by the City Engineer or Public Works Director or his authorized representative and reimbursement to the city by the subdivider for the cost of such inspection. Such agreements may also provide:
- (1) For the construction of the improvements in units.
 - (2) For an extension of time under conditions therein specified.
 - (3) For the termination of the agreement upon the completion of proceedings under an assessment district act for the construction of improvements deemed by the City Engineer or Public Works Director to be at least the equivalent of the improvements specified in such agreement and required to be constructed by the subdivider.
 - (4) For progress payments to the subdivider, or his order, from any deposit money which the subdivider may have made in lieu of providing a surety bond, as provided in this chapter; provided, however, that no such progress payment shall be made for more than ninety (90) percent of the value of any installment of work, and provided that each such installment of work shall be completed to the satisfaction of the City Engineer or Public Works Director.
 - (5) The subdivider to arrange a preconstruction conference with the city, involving representative(s) of all contractors who are to work on the improvements, one (1) week prior to the initial start of construction.
 - (6) The subdivider to give the city twenty-four (24) hours' notice to restarting work if no construction work has been done for two (2) or more prior work days.

(h) **Construction of Improvements Absent Subdivision Agreement.** If the subdivider chooses to construct improvements absent a subdivision agreement, pertaining to the improvements to be constructed, as specified in Section 407.02(g), Agreement for Installation of Improvements, then the subdivider shall execute and file a preliminary subdivision agreement between the subdivider and the city. The preliminary subdivision agreement shall specify a period of time, not to exceed one (1) year, within which all improvements shall be completed, and providing that if the subdivider shall fail to complete such work within such period, the city may increase inspection fees to recover any additional inspection costs incurred by the city. Such agreements may also provide for:

- (1) The subdivider to arrange a preconstruction conference with the City, involving representative(s) of all contractors who are to work on the improvements, one (1) week prior to the initial start of construction.
- (2) The subdivider to give the City twenty-four (24) hours' notice to restarting work if no construction work has been done for two (2) or more prior work days.

(i) **Improvement Security**

- (1) **Security.** The subdivider shall file with the agreement required by the provisions of subsections (g) and (h) above, to assure his full and faithful performance thereof, a bond or security for such sum as the City Engineer deems sufficient to cover the cost of the improvements.
- (2) **Security, Form, and Amount.** Such security shall be in the manner, form, and kind provided by the Map Act and acceptable to the city attorney. The security shall be in the amount of one hundred (100) percent of the estimated cost of the improvements, conditioned upon the faithful performance of his agreement by the subdivider, and in the additional amount of one hundred (100) percent of such sum securing the payment by the subdivider to his contractor, his subcontractors, and to persons renting equipment or furnishing labor or materials to them for improvements. The security provided shall guarantee maintenance and/or repair of all defects in required public improvements for a period of one (1) year following acceptance of said improvements by the city. In lieu of a one hundred (100) percent performance bond and one hundred (100) percent labor and materials bond, surety may be assured by the filing of a letter of credit, cash deposit, or deposit of negotiable bonds, which creates a trust fund in an amount equal to one hundred and ten (110) percent of the cost of the work estimated by the City Engineer or Public Works Director. Said trust fund shall be maintained in a financial institution subject to regulation by the state and federal government with the trust fund limited to the following conditions:
 - a. Ten (10) percent of the cost, representing a labor and materials deposit, to be retained for thirty-five (35) days after the filing of the notice of completion.
 - b. Funds may be discharged from the balance of the surety account from time to time as work is completed, up to ninety (90) percent of value of work completed, with authorization of the City Engineer until all work is

completed and the notice of completion is filed; at which time the remaining funds shall be released thirty-five (35) days thereafter.

- c. Prior to final acceptance by the city of improvements, the subdivider shall provide the city with a one (1) year maintenance bond in the amount of five (5) percent of the estimated cost of improvements.

- (3) ***Completion of Work by City.*** In the event the subdivider shall fail to complete all improvement work in accordance with the provisions of this Series and the city shall have completed the same, or if the subdivider shall fail to reimburse the city for the cost of incidental expenses or to cover the cost of replacement and the repair of existing streets or other improvements damaged in the development of the subdivision or requiring repair or replacement during the one (1) year guarantee period, the city shall demand performance of the agreement by the subdivider to do such work and reimburse itself for the cost of work agreed to be performed by the subdivider. If the amount of the surety bond or cash deposit exceeds all costs and expenses incurred by the city, the city shall release the remainder of such bond or certification, less the cost and expense incurred by the city. The subdivider shall be liable to the city for any costs additional to those secured in an action to be brought therefore by the city.

(j) **Supplemental Improvements**

- (1) ***Required.*** The subdivider may be required to install improvements for the benefit of the subdivision which may contain supplemental size, capacity or number for the benefit of property not within the subdivision as a condition precedent to the approval of a subdivision or parcel map, and thereafter to dedicate such improvements to the public. Supplemental size, capacity or number shall mean that size, capacity or number in excess of the minimum standard city requirements.
- (2) ***Improvement Security.*** When constructing off-site improvements, the subdivider shall file a bond or security in accordance with subsection (i) above for such sum as the City Engineer deems sufficient to cover the cost of the improvements to assure his full and faithful performance thereof.
- (3) ***Reimbursement Agreement.*** The city shall enter into an agreement for reimbursement to the subdivider. However, the subdivider shall be reimbursed only for that portion of the cost of such improvements equal to the difference between the amount it would cost the subdivider to install improvements to serve the subdivision only, and the actual cost of oversize improvements or in the case of Master Plan facilities, the subdivider is entitled to one hundred (100) percent of the reimburse cost.
- (4) ***Non-Master Plan Reimbursement Procedures.*** The subdivider shall submit a written request, along with supporting documentation to the City Engineer within 45 days of completion of the improvements. To pay the cost of such reimbursement, the City Council may at its discretion:
 - a. Immediately reimburse the subdivider for the entire cost of oversizing and thereafter levy a charge upon the real property benefitted thereby; or

- b. Collect a reasonable use charge for the account of the subdividers from persons not within the subdivision using the oversized improvements.
- (5) **Reimbursement Procedures.** Upon the expiration of thirty (30) days from the date of the notice of completion and upon full occupancy of the development or phased development, money shall be disbursed from the master facilities construction fund to pay for or to reimburse others for the cost of all the work referred to in said notice of completion; said money disbursed shall be the actual value of the work completed, as determined by the City Engineer. The developer shall submit all documentation necessary to support final payment within ninety (90) days of full occupancy of the development or phased development. Failure to do so shall void developer's right to request reimbursements.

(k) **Utility Fees and Off-Site Charges**

- (1) The subdivider shall pay utility fees for sewer, water and storm drainage as may be required by applicable Council resolution or ordinance.
- (2) Engineering plan checking, inspection fees, acreage fees and off-site charges, i.e., street signs, subdivision trees, etc., shall be paid prior to approval of the subdivision agreement by the City Council.

407.03 Design and Construction Standards

(a) **Streets and Highways**

- (1) The street and highway design shall conform both in width and alignment with any general plan circulation element, precise street plans and other precise plans adopted by the City Council, and right-of-way for any such street or highway indicated on the General Plan or precise plans shall be dedicated to the city by the subdivider.
- (2) Streets and highways not otherwise designated on the Circulation Element of the General Plan shall not be less than those set forth in this section, except where it can be shown by the subdivider that the topography of the land is such as to justify narrower width. Increased widths may be required for bicycle lanes and, when determined necessary, by the City Council in the public interest. Approval or determination of street classification shall be made by the City Council.
 - a. Major arterial rights-of-way shall not be less than one hundred sixteen (116) feet in width.
 - b. Minor arterial rights-of-way shall not be less than ninety-four (94) feet in width.
 - c. Collectors without on-street parking rights-of-way shall not be less than fifty-three (53) feet in width.
 - d. Collectors with median and without on-street parking rights-of-way shall not be less than sixty-five (65) feet in width.
 - e. Collectors with on-street parking rights-of-way shall not be less than sixty-seven (67) feet in width.

- f. Local residential rights-of-way shall not be less than forty-seven (47) feet in width.
 - g. Local commercial street rights-of-way shall not be less than sixty (60) feet in width.
 - h. Cul-de-sac or other dead-end street serving less than ten (10) homes shall not be less than forty-seven (47) feet in width.
- (3) **Relationship to Existing Streets.** The street system in the proposed subdivision shall relate functionally to the existing streets in the area adjoining the subdivision and be designed to maximize access points to existing local and collector streets.
- (4) **Center Lines.** The center lines of all streets, wherever practicable, shall be the continuations of the center lines of existing streets, or shall be offset at least one hundred fifty (150) feet.
- (5) **Intersections.** Each street intersection shall be as near to a right angle as is practicable, and no intersection of streets at angles less than sixty (60) degrees shall be approved, unless necessitated by topographical conditions as determined by the City Engineer.
- (6) **Corner Cut-Offs.** At street intersections, the block corners shall have a corner cut-off sufficient to accommodate a City Standard Street Intersection Return, inclusive of a wheelchair ramp.
- (7) **Cul-de-Sac or Dead-End Streets.** Cul-de-sac or dead-end street shall be no more than six hundred (600) feet in length and shall have a turnaround having a minimum radius of 47 feet, measured to the property line, and minimum of forty (40) feet to curb face unless the City Engineer determines that such turnaround is not necessary.
- a. Culs-de-sac and dead end streets shall be prohibited in R districts except where necessary to give access to or permit satisfactory future development of adjoining land. If culs-de-sac and dead end streets cannot be avoided, bicycle and pedestrian connections shall be provided from the cul-de-sac or dead end street to nearby public areas and main streets.
 - b. Culs-de-sac and dead end streets shall be avoided in all other districts. If culs-de-sac and dead end streets cannot be avoided, bicycle and pedestrian connections shall be provided from the cul-de-sac or dead end street to nearby public areas and main streets.
- (8) **Curve Radius.** The center line curve radius on all streets shall be designed in accordance with acceptable safe engineering practices. In no case shall the curve radius for an arterial be less than five hundred (500) feet. Center line curve radius on all other streets shall not be less than two hundred (200) feet.
- (9) **Frontage Streets.** When any lots front or side on any arterial, collector, expressway or freeway, the subdivider may be required to dedicate and improve a frontage street to provide ingress to and egress from such lots. Residential properties shall not take access to/from arterial or collector streets.

- (10) **Private Roads and Alleys.** Private roads and alleys shall not be permitted unless a Conditional Use Permit is approved by the City Council and, if approved, all private roads or alleys shall be constructed to city standards. Private roads and alleys shall also comply with Section 408.01(e) Warranty and Reserves.
- (11) **Grades of Streets.** Streets shall not be less than 0.2 percent and not greater than seven (7) percent, unless because of topographical conditions or other exceptional conditions the City Engineer determines that a grade less than 0.2 percent, or in excess of seven (7) percent, is necessary.
- (12) **Fire Hydrants.** The position of any street within twenty (20) feet of a fire hydrant shall not have a grade in excess of seven (7) percent to allow for the positioning of a fire suppression unit.
- (13) **Access on Arterials.** Arterial streets shall not be used to provide direct access to individual single-family residential lots. When the rear or side of any lot borders an arterial, the subdivider may be required to execute and deliver to the city an instrument prohibiting the right of vehicular ingress and egress from said arterial to said lot.
- (14) **Access on Collectors.** The use of a collector as primary direct access to individual single-family residential lots shall not be allowed.

(b) **Alleys**

- (1) The City Council, for any one (1) of the following reasons, may require alleys (if alleys are required, they shall be constructed to city standards):
 - a. Unusual size, shape or topographical character of the property to be subdivided.
 - b. The relationship to existing or proposed commercial, industrial or high density residential development or adjacent railroad right-of-way.
 - c. The special nature of the design or density of a residential subdivision where dwellings are grouped in such a manner as to require access from other than the street frontage.
 - d. The need to maintain continuity of existing alleys where the property to be subdivided is located immediately between existing residential blocks where alleys are provided.
- (2) Residential alleys shall have a minimum dedicated width of twenty (20) feet.
- (3) Alleys shall be provided where needed to serve existing or proposed commercial or industrial areas, and shall have a minimum dedicated width of thirty (30) feet, with adequate provisions for ingress and egress.
- (4) A twenty (20) foot corner diagonal cutoff, measured along the property lines from the point of intersection, will be required where two (2) alleys intersect. An ADA compliant accessibility ramp shall be constructed pursuant to the city design standards.
- (5) Alleys shall be so laid out and aligned as to provide reasonable access for utilities and other services.

(6) Dead-end alleys shall be prohibited.

(c) **Pedestrian Ways**

(1) Pedestrian ways ten (10) feet or more in width may be required:

- a. Through the middle of blocks that are more than six hundred (600) feet in length;
- b. To connect culs-de-sac;
- c. To provide access to playgrounds, parks, schools, shopping centers, or similar community facilities; and/or
- d. To provide access to trails or bikeways shown in the General Plan.

(2) The subdivider shall install paving, landscaping, and fences as approved by the City Council or Parcel Map Committee unless otherwise waived.

(d) **Bikeways.** Bikeways shall be required in all locations shown in the General Plan or as approved by the City Council or Parcel Map Committee. Bikeway width, paving, landscaping, fencing, and signs shall be as approved by the City Council or Parcel Map Committee.

(e) **Street Names**

(1) All street names shall be approved by the City Council. Duplication of existing names shall not be allowed, unless the streets are approximately in alignment with existing streets and not so far removed as to be confusing.

(2) Names of through streets in a north-south alignment shall be followed by the designation "street," and the names of through streets in an east-west alignment shall be followed by the designation "avenue."

(3) Cul-de-sac streets in a north-south alignment shall be followed by the designations of either "place," "way" or "drive," and cul-de-sac streets in an east-west alignment shall be followed by the designations of either "lane," "circle" or "court."

(f) **Blocks**

(1) **Block Length.** Blocks shall not exceed six hundred (600) feet in length, unless existing adjacent property alignment, topographic, or traffic conditions justify a variation. Blocks longer than six hundred (600) feet in length shall provide mid-block pedestrian crossings so that there is no more than six hundred (600) feet of continuous block without a pedestrian crossing. Blocks in the HZ Overlay zone are exempt from the block length limitations and requirement for mid-block crossings.

(2) **Block Width.** The width of each block shall be sufficient for an ultimate layout of two (2) tiers of lots, therein of a size required by the provisions of this chapter, unless the conditions justify or make necessary a variation from this requirement.

(g) **Lots**

- (1) **Lot Width.** Each residential lot or parcel shall have frontage width of not less than that required by this Ordinance except as approved by the City Council as provided for in Section 400.05, Authority to Vary Regulations.
- (2) **Lot Depth.** Lot depths shall not exceed two and one-half (2.5) times the proposed lot width except where existing topography makes such dimensions infeasible.
- (3) **Lot Area.** The area of all lots shall comply with the requirements of this Ordinance relative to each particular zoning district.
- (4) **Lot Frontage.** Lots shall have a single frontage on a street; double frontage lots or lots without street frontage will not be permitted except where, in the opinion of the City Council, topographic or unusual physical conditions justify a deviation from this rule.
- (5) **Flag Lot.** Residential flag lots may be permitted with a Parcel Map, if it meets the standard requirements for lot width and lot depth.
- (6) **Side Lines.** The side lines of lots shall, wherever practicable, be required to run at right angles or radially to the street upon which the lot faces.
- (7) **Lot Numbering.** Lot numbers shall begin with the numeral "1", and shall continue consecutively through all of the units of the tract with no omissions or duplications, and no block numbers shall be used.
- (8) **Division of Lots.** No lot shall be divided by a county, city, school, or any other taxing district boundary lines.
- (9) **Suitability of Lots.** All lots shall be suitable for the purpose for which they are intended to be used. Land subject to flooding or deemed by the Parcel Map Committee or City Council to be uninhabitable shall be indicted on the final map.
- (10) **Land Remnants.** All remnants of below-minimum size left over after the subdivision of a larger tract must be added to adjacent lots rather than allowed to remain as unusable parcels.

(h) **Access Limitation Strips**

- (1) A one (1) foot access limitation strip shall be provided at the dead end of a stubbed street or at the edge of a partial width street, and shall be offered for dedication to the city for future street purposes.
- (2) Access limitation strips shall be designated on the final map of the subdivisions and shall be specifically referred to in dedication and acceptance certificates.

- (i) **Landscaping and Lighting Maintenance Districts.** Each subdivision shall be subject to the creation of a Landscaping and Lighting Maintenance District in compliance with the Landscaping and Lighting Act of 1972 (Streets and Highways Code §22500 et. Seq.) to address the extension of improvements such as but not limited to lighting, common landscape areas, including pocket parks, perimeter walls, drainage systems beneficial to specific subdivision, drainage reservoirs, and open space areas, and the maintenance of

such facilities through appropriate mechanisms as approved by the City Attorney. If a Landscaping and Lighting Maintenance District, Benefit Assessment District, or similar district is required, the following standards apply:

- (1) Prior to the approval of improvement plans for a development, the applicant shall submit the following information for the establishment of a landscaping and lighting maintenance district, the extension of the subject improvements into the assessment area, and the maintenance of the improvements once constructed:
 - a. A petition on a form provided by the city requesting to have the subdivision placed in a district at the time the final map is approved by the city.
 - b. Completed and approved landscaping and lighting improvement plans, and legal description.
 - (2) The district shall be established, or the annexation into an existing district concluded, and improvements completed and accepted concurrently with the other improvements in the subdivision.
 - (3) Exclusive of assessments for a district, the applicant shall pay all service fees and maintain all new district improvements in a safe and healthy manner for the greater of a ninety (90) day plant establishment period following acceptance of the subdivision improvements, or until assessment begins for the district.
- (j) **Waiver of Right to Protest District Formation.** Prior to final map approval, each subdivider shall record a document waiving their right to protest a new assessment or an assessment increase equal to or less than a CPI adjustment for a city-wide Landscaping and Lighting Maintenance District or other maintenance district when at least fifty-one (51) percent of the city is already in such district under the provisions of Government Code Section 53753.
- (k) **Grading and Erosion Control.** Every map approved pursuant to this Series shall be conditioned on compliance with the requirements for grading and erosion control, including the prevention of sedimentation or damage to off-site property, set forth in Appendix J of California Building Code of the most recently adopted edition. Steep terrain and other topographical features may limit the abilities of a subdivider to perform mass grading operations. At the discretion of the City Engineer or Public Works Director, individual grading plans for each individual lot may be submitted with the building permit in lieu of a mass grading plan normally submitted with the improvement plans.
- (l) **Protection of Natural Features and Trees**
- (1) **Natural Features.** Significant rock outcroppings and other unusual land forms shall be shown and identified on the tentative map and on improvement and landscape plans. Such features shall be preserved as required by the Parcel Map Committee or City Council.
 - (2) **Trees.**
 - a. All existing trees six (6) inches in diameter or over shall be shown on the tentative map with a notation as to the size, species and dripline. Trees that are part of an agricultural crop may be shown as the outer extent of

the planting with a notation as to the species and average tree size and dripline.

- b. Existing trees six (6) inches or over in diameter may be required to be preserved. In cases where tree preservation is required, all grading and necessary tree trimming shall be conducted in accordance with an arborist's recommendations for tree preservation.
- c. Trees within a proposed public right-of-way shall be removed only for good cause to protect the public safety or to allow the installation of adequate public facilities as may be approved by the City Engineer and the Zoning Administrator.

(m) **Storm Water Management Plan.** Every map approved pursuant to this Series shall be conditioned to comply with the requirements of the City's Storm Water Management Plan, which includes measures that control construction site run-off and post-construction run-off.

(n) **Watercourses**

(1) In accordance with Sections 66478.1 through 66478.10 inclusive of the Subdivision Map Act, if the land division will front upon a public waterway, river, or stream, as defined in Section 66478.4(c), access routes and easements along the bank shall be provided as follows:

- a. The land division shall provide, or have available, reasonable public access by fee or easement from a public highway to that portion of the bank of such river or stream bordering or lying within the proposed land division, as determined by the Parcel Map Committee or City Council in accordance with Section 66478.5 of the California Government Code;
- b. The land division shall provide for a dedication of a public easement along a portion of the bank of such river or stream bordering or lying within the proposed land division, as determined by the City Council in accordance with Section 66478.5 of the California Government Code; and
- c. The Parcel Map Committee or City Council shall determine the governmental entity to which such access route or easement shall be dedicated, and all dedications shall be in accordance with Section 66478.6 of the California Government Code.

(2) In accordance with Section 66478.12 of the California Government Code, if the land division will front upon any lake or reservoir that is owned in part or entirely by any public agency, including but not limited to the United States, State of California, or the City of Porterville, the land division shall be provided with or have available reasonable access by fee or easement from public highways to the water of the lake or reservoir upon which the land division borders either within the land division or a reasonable distance from the land division, as determined by the City Council or the Parcel Map Committee, as appropriate, in accordance with said statute. The Parcel Map Committee or City Council shall determine the governmental entity to which such dedication shall be made.

- (3) If a land division is traversed by a river, stream, or creek, the subdivider shall leave such river, stream, or creek in its natural condition whenever practical. Sufficient right-of-way shall be dedicated to the city or other public entity and improved for flood control purposes as necessary to accommodate flows of water that would be generated by a flood of one hundred (100) year frequency. In the event that a land division is to front upon a river, stream, or creek, the provisions of this paragraph shall apply to that portion of the bank thereof bordering or lying within the proposed land division. The Parcel Map Committee or City Council shall determine the governmental entity to which such dedication shall be made.
- (4) The City Council may disapprove a tentative map because of flood hazard and inundation, and require protective improvements to be constructed as a condition precedent to approval of the map.

(o) **Drainage Reservoirs**

- (1) Temporary drainage reservoirs will only be allowed in areas where it has been determined by the City Engineer or Public Works Director that it is not practical to implement the intent of the latest adopted version of the Storm Drain Master Plan. Landscape and irrigation systems shall be installed as approved by the Director of Parks and Leisure Services. Maintenance of these facilities shall be part of the maintenance district created for the benefit of the subdivision.
- (2) Temporary drainage reservoirs may be approved until such time as Storm Drain Master facilities are available for connection and shall be dedicated to the city as an easement.
- (3) Drainage Reservoirs designated in the Storm Drain Master Plan shall be considered permanent facilities and title of the land shall be held by the city in fee. Property acquisitions shall be in the form of a dedication or purchased in accordance with the City's Storm Drain Master Plan and City's Property and Right-of-Way Acquisitions Policy and Procedures Manual. Landscaping and irrigation systems shall be installed as approved by the Director of Parks and Leisure Services.

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Chapter 408 Common Interest Developments (Condominiums)

Sections:

408.01	New Residential Condominiums
408.02	Residential Condominium Conversions
408.03	New Commercial and Industrial Condominiums
408.04	Commercial and Industrial Condominium Conversions

408.01 New Residential Condominiums

- (a) **Purpose.** The ownership of residential condominiums is distinguished by a sharing of responsibility that is not common to most other types of residential development. As a result, the purpose of this Series is to establish criteria for the construction of new residential condominiums to prevent problems inherent in community ownership that might be detrimental to the health, safety, and welfare of residents of such projects and the community at large.
- (b) **Applicability.** The regulations set forth in this Series shall apply to the construction of new residential condominiums.
- (c) **Conditional Use Permit and Maps Required.** A conditional use permit and tentative map approved by the City Council is required for all residential condominium applications.
- (d) **Application and Fees.** The applicant of a proposed condominium project shall submit the required number of copies of the Conditional Use Permit application and tentative maps to the Zoning Administrator, together with the requested filing and inspection fees. In addition to the required permit and map submittals, the applicant shall submit:
- (1) **Development Plan.** Schematic development plans with dimensions, consisting of at least a site plan, parking plan, typical floor plan, and building elevations showing natural and proposed grades;
 - (2) **Landscaping Plan.** A preliminary landscaping plan of the project indicating the types and sizes of landscaping materials and permanent irrigation facilities;
 - (3) **Department of Real Estate Application.** A copy of the project application submitted to the State of California's Department of Real Estate for a subdivision public report;
 - (4) **Conditions, Covenants, and Restrictions.** The proposed conditions, covenants, and restrictions (CC&Rs); and
 - (5) **Additional Information.** Any other information the Zoning Administrator finds necessary to evaluate the project.
- (e) **Warranty and Reserves**
- (1) **Warranty for Improvements.** The subdivider shall provide to the Homeowners' Association and/or purchaser a one (1) year warranty on all physical improvements required under this Ordinance.

- (2) **Long Term Reserves.** Prior to approval of the final map, or parcel map if no final map is required, the subdivider shall provide evidence to the city that a long-term reserve fund for replacement has been established in the name of the homeowners' association. Such fund shall equal two (2) times the estimated monthly homeowner's assessment for each dwelling unit.
- (f) **Covenants, Conditions, and Restrictions.** Project covenants, codes, and restrictions (CC&Rs) shall be developed, and shall be reviewed and approved by the City Attorney and Zoning Administrator prior to approval of the Final or Parcel Map. In addition to the following provisions, the CC&Rs shall reference by incorporation the approved Conditions of Approval, and shall be recorded in conjunction with the Final or Parcel Map.
 - (1) **Conveyance of Private Open Space.** The surface area and appurtenant air space of Private Open Space areas, including but not limited to the patio, deck, balcony, solarium, or atrium and any integral portion of that space that may exceed the minimum area requirements, shall be described and conveyed in the grant deed as an integral part of the unit.
 - (2) **Assignment and Use of Required Parking Spaces.** Required parking spaces shall be permanently and irrevocably specifically assigned to particular units within the project. To the maximum practicable extent, the spaces assigned to each unit shall be contiguous. In no case shall the private storage area of one (1) unit overhang or take its access from the required parking space of another unit. All studio and one (1) bedroom units shall be assigned one (1) parking space and may rent additional spaces from the Homeowners' Association. An occupant of a unit with two (2) or more bedrooms may rent one (1) parking space back to the Homeowners' Association. All parking spaces, except those specifically designated for recreational vehicles, shall be used solely for the purpose of parking motor vehicles as defined by the California Vehicle Code, and shall not be used for trailers, unmounted campers, boats, or similar recreational vehicles.
 - (3) **Right of Public Entry to Common Area.** Officers, agents, and employees of the city, the County, the State, and the United States Government, and any department, bureau, or agency thereof, shall have the right of immediate access to all Common Areas at all times for the purpose of preserving the public health, safety, and welfare, except in those instances where a Common Area is accessible only through a private unit.
 - (4) **Maintenance of Common Area.** Provision shall be made both for annual assessments of the owners for maintenance and special assessments for capital improvements. The amount of the regular annual assessment and the procedure for its change shall be specified. The manner in which special assessments may be levied for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon the Common Area shall be specified. Both annual and special assessments may be collected on a monthly basis. The remedies which the Homeowners' Association may bring for the nonpayment of assessments shall be specified and may include penalties for late payment. Assignment of the maintenance

responsibilities of all improvements and utility systems for each unit shall be specified.

- (5) ***Utility Easements over Private Streets and Other Areas.*** Required public utility easements shall be referenced and any required access routes necessary to assure that firefighting equipment can reach and operate efficiently in all areas.
- (6) ***Access for Construction, Maintenance, or Repairs.*** Each Owner and the Homeowners' Association shall have an easement for entry upon any privately owned unit, where necessary, in connection with construction, maintenance, or repair for the benefit of the Common Area or the owners of the units in common.
- (7) ***Right to Terminate Management and Maintenance Contracts.*** Unless otherwise prohibited by law, or any local, state, or federal regulation, reference shall be made to the Homeowners' Association's right to terminate the contract of any person or organization engaged by the developer to perform management or maintenance duties three (3) months after the Homeowners' Association assumes control of the project, or at that time renegotiate any such contracts.
- (8) ***CC&R Amendments.*** A statement that the CC&Rs shall not be amended, modified, or changed without first obtaining the written consent of the city.

408.02 Residential Condominium Conversions

- (a) **Purpose.** The purpose of this Series is to establish criteria for the conversion of existing multiple-family rental housing to condominiums and to reduce the impact of such conversions on residents in rental housing who may be required to relocate due to the conversion.
- (b) **Applicability.** The regulations set forth in this Series shall apply to the conversion of existing multiple-family rental housing to condominiums. This Series shall not apply to a "limited-equity housing cooperative" as defined in Section 11003.4 of the California Business and Professional Code.
- (c) **Conditional Use Permit and Maps Required.** A conditional use permit and tentative map approved by the City Council is required for all residential condominium conversion applications.
- (d) **Application and Fees.** The applicant of a proposed condominium conversion project shall submit the required number of copies of the Conditional Use Permit application and tentative maps to the Zoning Administrator, together with the requested filing and inspection fees. In addition to the required permit and map submittals, the applicant shall submit:
 - (1) ***Physical Elements Report.*** A report prepared by a registered engineer or architect or licensed qualified contractor describing the physical elements of all structures and facilities. The report shall include, but not be limited to, the following:
 - a. **Structural Condition of Elements.** A report detailing the structural condition of all elements of the property, including foundations, electrical, plumbing, utilities, walls, roofs, ceilings, windows, recreational facilities, sound transmission of each building, mechanical equipment,

- parking facilities and appliances. The report shall state, to the best knowledge or estimate of the applicant, when such element was built; the condition of each element; when said element was replaced; the approximate date upon which said element will require replacement; the cost of replacing said element; and any variation of the physical condition of said element from the current zoning and from the Building Code in effect on the date that the last building permit was issued for the subject structure. The report shall identify any defective or unsafe elements and set forth the proposed corrective measures to be employed.
- b. Pest Control. A report from a licensed structural pest control operator, approved by the city, on each structure and each unit within the structure.
 - c. Soil Conditions. A report on soil and geological conditions regarding soil deposits, faults, and groundwater in the vicinity of the project and a statement regarding any known evidence of soils problems relating to the structures. Reference shall be made to any previous soils reports for the site and a copy submitted with said report.
 - d. Repairs and Improvements. A statement of repairs and improvements to be made by the subdivider necessary to refurbish and restore the project to achieve a high degree of appearance and safety.
- (2) **Covenants, Conditions and Restrictions.** The proposed covenants, conditions and restrictions (CC&Rs).
- (3) **Demographic Characteristics.** Specific information concerning the demographic characteristics of the project, including but not limited to the following:
- a. Square footage and number of rooms in each unit;
 - b. Rental rate history for each type of unit for previous five (5) years;
 - c. Monthly vacancy rate for each month during preceding two (2) years;
 - d. Makeup of existing tenant households, including family size, length of residence, age of tenants, and whether receiving federal or state rent subsidies;
 - e. Proposed sale price of units;
 - f. Proposed homeowners' association fee;
 - g. Financing available; and
 - h. Names and addresses of all tenants.
- (4) **Notice of Intent to Convert.** Signed copies from each tenant of Notice of Intent to Convert, as specified in subsection (g) below. The subdivider shall submit evidence that a letter of notification was sent to each tenant for whom a signed copy of said notice is not submitted. This requirement shall be deemed satisfied if such notices comply with the legal requirements for service by mail.
- (5) **Additional Information.** Any other information the Zoning Administrator finds necessary to evaluate the project.

(e) **Filing and Processing**

- (1) **Acceptance of Reports.** The final form of the Physical Elements Report and other documents shall be as approved by the city. The reports in their acceptable form shall remain on file with the Community Development Department for review by any interested persons. The report shall be referenced in the subdivision report to the review authority.
- (2) **Submittal of Budget.** Prior to final map approval, the subdivider shall provide the city with a copy of the proposed budget for maintenance and operation of common facilities, including needed reserves. The budget shall show estimated monthly costs to the owner of each unit, projected over a five (5) year period, or such time as is required by the Department of Real Estate. Such budget shall be prepared or reviewed and analyzed by a professional management firm, experienced with management of condominium complexes. The management firm shall submit a statement of professional qualifications.
- (3) **Copy to Buyers.** The subdivider shall provide each purchaser with a copy of all submittals (in their final, acceptable form) required by subsection (d) above prior to said purchaser executing any purchase agreement or other contract to purchase a unit in the project, and said developer shall give the purchaser sufficient time to review said information. Copies of the submittals shall be made available at all times at the sales office and shall be posted at various locations, as approved by the city, at the project site. Copies shall be provided to the homeowners' association upon its formation.
- (4) **Final Information Submitted.** No later than six (6) months from the date the subdivider closes escrow on the first sale of a unit, the subdivider shall submit the following information to the Community Development Department:
 - a. Name, address and phone number of Homeowners' Association;
 - b. Actual sale price of units;
 - c. Actual Homeowners' Association fee;
 - d. Number of prior tenants who purchased units; and
 - e. Number of units purchased with intent to be used as rentals.

(f) **Development Standards.** All condominium conversions must conform to the Porterville Municipal Code in effect at the time of tentative map approval except as otherwise provided in this Series. The Building Official shall perform an assessment of building conditions prior to tentative map approval. A report of violations shall be specified in the tentative map staff report to the City Council, as the case may be. A physical inspection of every unit shall be required prior to final map approval or tentative map approval if no final map is required.

- (1) **Modification of Development Standards.** The base district development standard requirements of Series 200, Base Districts, may be modified by the City Council based on findings that the quality of life accommodated by the project will not be compromised and that residents will benefit from other amenities that are located in close proximity to the project site.

- (2) **Warranty for Improvements.** The subdivider shall provide to the Homeowners' Association and/or purchaser a one (1) year warranty on all physical improvements required under this section.
 - (3) **Long Term Reserves.** Prior to approval of the final map, or parcel map if no final map is required, the subdivider shall provide evidence to the city that a long-term reserve fund for replacement has been established in the name of the homeowners' association. Such fund shall equal two (2) times the estimated monthly homeowner's assessment for each dwelling unit.
- (g) **Tenant Provisions.** Notices to tenants shall be provided as required in Section 66427.1 of the Subdivision Map Act. All written notices to tenants required by this section shall be deemed satisfied if such notices comply with the legal requirements for service by mail. In addition, at least three (3) days before any hearing or action on a proposed tentative map for a conversion, the Community Development Department shall provide a copy of the staff report to the subdivider and to each tenant of the property.
- (1) **Notice of Intent.** A notice of intent to convert shall be delivered by the Subdivider to each tenant at least sixty (60) days prior to filing of the tentative map. The form of the notice shall be in the form outlined in Section 66452.9 of the Subdivision Map Act and approved by the Zoning Administrator.
 - (2) **Notice of Public Report.** Each tenant shall receive ten (10) days' written notice that an application for a public report will be or has been submitted to the Department of Real Estate and that such report will be available on request.
 - (3) **Notice of Final Map Approval.** Each tenant shall receive written notification within 10 days of approval of a final map for the proposed conversion.
 - (4) **Tenant's Right to Purchase.** Any present tenant shall be given notice of an exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant. The right shall run for a period of not less than ninety (90) days from the date of issuance of the subdivision public report unless the tenant gives prior written notice of his or her intention not to exercise the right. Evidence of receipt by each tenant shall be submitted prior to approval of the final map.
 - (5) **Vacation of Units.** Each tenant not in default under the obligations of the rental agreement or lease under which he/she occupies his/her unit shall be given one hundred eighty (180) days' written notice of intention to convert his or her unit prior to termination of tenancy. The subdivider shall notify each tenant immediately prior to the time of final map approval of the anticipated date required to vacate the unit. Evidence of receipt by each tenant shall be submitted prior to approval of the final map.
 - (6) **No Increase in Rents.** The rents charged tenants at the time when a completed tentative map application was accepted by the Community Development Department shall not be increased for two (2) years from that acceptance time, or until the unit is sold or the subdivision is denied, withdrawn or reverted to acreage. The increase in rent on a unit which has been vacated after receipt of the

application by the Community Development Department shall not be subject to control.

- (7) **Notice to New Tenants.** At least thirty (30) days prior to the filing of the tentative map, the subdivider shall give notice of the filing of the map to each person applying after such date for rental of a unit immediately prior to acceptance of any rent or deposit. The notice shall be in the form outlined in Section 66452.8(b) of the Subdivision Map Act and shall advise the prospective tenant that notice will be provided at least one hundred eighty (180) days prior to the actual conversion. If the subdivider fails to give notice in accordance with this section, he or she shall pay to each prospective tenant who becomes a tenant and who was entitled to such notice and who does not purchase his or her unit, an amount equal to two (2) times monthly rent for moving expenses.
- (h) **Covenants, Conditions, and Restrictions.** Project covenants, codes, and restrictions (CC&Rs) shall be developed, and shall be reviewed and approved by the City Attorney and Zoning Administrator prior to approval of the Final or Parcel Map. In addition to the following provisions, the CC&Rs shall reference by incorporation the approved Conditions of Approval, and shall be recorded in conjunction with the Final or Parcel Map.
- (1) **Conveyance of Private Open Space.** The surface area and appurtenant air space of Private Open Space areas, including but not limited to the patio, deck, balcony, solarium, or atrium and any integral portion of that space that may exceed the minimum area requirements, shall be described and conveyed in the grant deed as an integral part of the unit.
- (2) **Assignment and Use of Required Parking Spaces.** Required parking spaces shall be permanently and irrevocably specifically assigned to particular units within the project. To the maximum practicable extent, the spaces assigned to each unit shall be contiguous. In no case shall the private storage area of one (1) unit overhang or take its access from the required parking space of another unit. All studio and one (1) bedroom units shall be assigned one (1) parking space and may rent additional spaces from the Homeowners' Association. An occupant of a unit with two (2) or more bedrooms may rent one (1) parking space back to the Homeowners' Association. All parking spaces, except those specifically designated for recreational vehicles, shall be used solely for the purpose of parking motor vehicles as defined by the California Vehicle Code, and shall not be used for trailers, unmounted campers, boats, or similar recreational vehicles.
- (3) **Right of Public Entry to Common Area.** Officers, agents, and employees of the city, the County, the State, and the United States Government, and any department, bureau, or agency thereof, shall have the right of immediate access to all Common Areas at all times for the purpose of preserving the public health, safety, and welfare, except in those instances where a Common Area is accessible only through a private unit.
- (4) **Maintenance of Common Area.** Provision shall be made both for annual assessments of the owners for maintenance and special assessments for capital improvements. The amount of the regular annual assessment and the procedure for its change shall be specified. The manner in which special assessments may

be levied for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon the Common Area shall be specified. Both annual and special assessments may be collected on a monthly basis. The remedies which the Homeowners' Association may bring for the nonpayment of assessments shall be specified and may include penalties for late payment. Assignment of the maintenance responsibilities of all improvements and utility systems for each unit shall be specified.

- (5) **Utility Easements over Private Streets and Other Areas.** Required public utility easements shall be referenced and any required access routes necessary to assure that firefighting equipment can reach and operate efficiently in all areas.
 - (6) **Access for Construction, Maintenance, or Repairs.** Each Owner and the Homeowners' Association shall have an easement for entry upon any privately owned unit, where necessary, in connection with construction, maintenance, or repair for the benefit of the Common Area or the owners of the units in common.
 - (7) **Right to Terminate Management and Maintenance Contracts.** Unless otherwise prohibited by law, or any local, state, or federal regulation, reference shall be made to the Homeowners' Association's right to terminate the contract of any person or organization engaged by the developer to perform management or maintenance duties three (3) months after the Homeowners' Association assumes control of the project, or at that time renegotiate any such contracts.
 - (8) **CC&R Amendments.** A statement that the CC&Rs shall not be amended, modified, or changed without first obtaining the written consent of the city.
- (i) **Required Findings.** In addition to any other findings that this Subdivision Ordinance requires, the City Council shall not approve a final map for conversion unless it finds that each tenant has been given and received notice in compliance with the requirements of Section 66427.1 of the Subdivision Map Act.

408.03 New Commercial and Industrial Condominiums

- (a) **Purpose.** The ownership of commercial and industrial condominiums is distinguished by a sharing of responsibility that is not common to most other types of development. As a result, the purpose of this Series is to establish criteria for the construction of new commercial and industrial condominiums to prevent problems inherent in community ownership that might be detrimental to the health, safety, and welfare of residents of such projects and the community at large.
- (b) **Applicability.** The regulations set forth in this Series shall apply to the construction of new commercial and industrial condominiums.
- (c) If a commercial or industrial condominium is proposed in combination with a residential condominium, the requirements of this section and Section 408.01, New Residential Condominiums, shall be read together, with the relevant requirements applying to the portions of the project.

- (d) **Conditional Use Permit and Maps Required.** A conditional use permit and tentative map approved by the City Council is required for all commercial and industrial condominium applications.
- (e) **Application and Fees.** The applicant of a proposed commercial or industrial condominium project shall submit the required number of copies of the Conditional Use Permit application and tentative maps to the Zoning Administrator, together with the requested filing fee. In addition to the required permit and map submittals, the applicant shall submit:
 - (1) **Development Plan.** A development plan of the project including location and sizes of structures, exterior elevations, parking layout, and access areas;
 - (2) **Landscaping Plan.** A preliminary landscaping plan of the project indicating the types and sizes of landscaping materials and permanent irrigation facilities;
 - (3) **Reserve Fund Study.** A reserve study showing the amount which must be set aside as long-term reserves for capital and maintenance replacement.
 - (4) **Conditions, Covenants, and Restrictions.** The proposed conditions, covenants, and restrictions (CC&Rs); and
 - (5) **Additional Information.** Any other information the Zoning Administrator find necessary to evaluate the project.
- (f) **Development Standards.** In addition to the development standards contained in the applicable zoning district that permit commercial and industrial condominiums, the following development standards shall apply:
 - (1) **Sound Transmission.**
 - a. **Shock Mounting of Mechanical Equipment.** All permanent mechanical equipment, such as motors, compressors, pumps, and compactors, which is determined by the Building Official to be a source of structural vibration or structure-borne noise shall be shock mounted with inertia blocks or bases and/or vibration isolators in a manner approved by the Building Official.
 - b. **Noise Standards.** Common walls and floors between dwelling units shall comply with the Building Code provisions governing noise resistance for newly constructed common wall and floors.
- (g) **Trash and Recycling Collection Areas.** Trash and recycling collection areas shall be provided within two hundred fifty (250) feet of the units they are designed to serve, and shall comply with the City of Porterville or its contracted solid waste and recycling collector(s) specifications for trash enclosures.
- (h) **Utilities.** All units shall have separate gas and electric meters and provisions for individual shut-off of all utility valves, including water.
- (i) **Warranty for Improvements.** The subdivider shall provide to the Condominium Association and/or purchaser a one (1) year warranty on all physical improvements required under this section.

- (j) **Long Term Reserves.** Prior to approval of the final map, or parcel map if no final map is required, the subdivider shall provide evidence to the city that a long-term reserve fund for replacement has been established in the name of the condominium association. Such fund be based on a reserve study showing the amount which must be set aside monthly for the reserve account.
- (k) **Covenants, Conditions, and Restrictions.** Project covenants, codes, and restrictions (CC&Rs) shall be developed, and shall be reviewed and approved by the City Attorney and Zoning Administrator prior to approval of the Final or Parcel Map. In addition to the following provisions, the CC&Rs shall reference by incorporation the approved Conditions of Approval, and shall be recorded in conjunction with the Final or Parcel Map.
 - (1) ***Right of Public Entry to Common Area.*** Officers, agents, and employees of the city, the County, the State, and the United States Government, and any department, bureau, or agency thereof, shall have the right of immediate access to all Common Areas at all times for the purpose of preserving the public health, safety, and welfare, except in those instances where a Common Area is accessible only through a private unit.
 - (2) ***Maintenance of Common Area.*** Provision shall be made both for annual assessments of the owners for maintenance and special assessments for capital improvements. The amount of the regular annual assessment and the procedure for its change shall be specified. The manner in which special assessments may be levied for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon the Common Area shall be specified. Both annual and special assessments may be collected on a monthly basis. The remedies which the Condominium Association may bring for the nonpayment of assessments shall be specified and may include penalties for late payment. Assignment of the maintenance responsibilities of all improvements and utility systems for each unit shall be specified.
 - (3) ***Utility Easements over Private Streets and Other Areas.*** Required public utility easements shall be referenced and any required access routes necessary to assure that firefighting equipment can reach and operate efficiently in all areas.
 - (4) ***Access for Construction, Maintenance, or Repairs.*** Each Owner and the Condominium Association shall have an easement for entry upon any privately owned unit, where necessary, in connection with construction, maintenance, or repair for the benefit of the Common Area or the owners of the units in common.
 - (5) ***Right to Terminate Management and Maintenance Contracts.*** Unless otherwise prohibited by law, or any local, state, or federal regulation, reference shall be made to the Condominium Association's right to terminate the contract of any person or organization engaged by the developer to perform management or maintenance duties three (3) months after the Condominium Association assumes control of the project, or at that time renegotiate any such contracts.
 - (6) ***CC&R Amendments.*** A statement that the CC&Rs shall not be amended, modified, or changed without first obtaining the written consent of the city.

408.04 Commercial and Industrial Condominium Conversions

- (a) **Purpose.** The ownership of commercial and industrial condominiums is distinguished by a sharing of responsibility that is not common to most other types of development. As a result, the purpose of this section is to establish criteria for the conversion of existing buildings to commercial or industrial condominiums to prevent problems inherent in community ownership that might be detrimental to the health, safety, and welfare of residents of such projects and the community at large.
- (b) **Applicability.** The regulations set forth in this section shall apply to the conversion of existing buildings into commercial or industrial condominiums.

If a commercial or industrial condominium conversion is proposed in combination with a residential condominium, the requirements of this section and Section 408.03, New Commercial and Industrial Condominiums, shall be read together, with the relevant requirements applying to the portions of the project.

- (c) **Conditional Use Permit and Maps Required.** A conditional use permit and tentative map approved by the City Council is required for all commercial and industrial condominium conversion applications.
- (d) **Application and Fees.** The applicant of a proposed commercial or industrial condominium conversion project shall submit the required number of copies of the Conditional Use Permit application and tentative maps to the Zoning Administrator, together with the requested filing fee. In addition to the required permit and map submittals, the applicant shall submit:

- (1) **Physical Elements Report.** A report prepared by a registered engineer or architect or licensed qualified contractor describing the physical elements of all structures and facilities. The report shall include, but not be limited to, the following:
 - a. **Structural Condition of Elements.** A report detailing the structural condition of all elements of the property, including foundations, electrical, plumbing, utilities, walls, roofs, ceilings, windows, recreational facilities, sound transmission of each building, mechanical equipment, parking facilities and appliances. The report shall state, to the best knowledge or estimate of the applicant, when such element was built; the condition of each element; when said element was replaced; the approximate date upon which said element will require replacement; the cost of replacing said element; and any variation of the physical condition of said element from the current zoning and from the Building Code in effect on the date that the last building permit was issued for the subject structure. The report shall identify any defective or unsafe elements and set forth the proposed corrective measures to be employed.
 - b. **Pest Control.** A report from a licensed structural pest control operator, approved by the city, on each structure and each unit within the structure.
 - c. **Soil Conditions.** A report on soil and geological conditions regarding soil deposits, faults, and groundwater in the vicinity of the project and a statement regarding any known evidence of soils problems relating to the

structures. Reference shall be made to any previous soils reports for the site and a copy submitted with said report.

- d. **Repairs and Improvements.** A statement of repairs and improvements to be made by the subdivider necessary to refurbish and restore the project to achieve a high degree of appearance and safety.
 - (2) **Notice to Tenants.** Evidence of written notice provided to each tenant explaining that the owner intends to apply to the city for a condominium conversion. The notice to tenants must be sent at least six (6) months before the application is submitted to the city, and further notice must be given to any tenant who occupies the building after the original notice was sent.
 - (3) **Plot Plan.** A plot plan of the project including location and sizes of structures, square footage of each building and unit, exterior elevations, parking layout, and access areas;
 - (4) **Budget.** A proposed budget for maintenance and operation of common facilities, including needed reserves. The budget shall show estimated monthly costs to the owner of each unit, projected over a five (5) year period. Such budget shall be prepared or reviewed and analyzed by a professional management firm, experienced with management of similar condominium complexes. The management firm shall submit a statement of professional qualifications.
 - (5) **Conditions, Covenants, and Restrictions.** The proposed conditions, covenants, and restrictions (CC&Rs); and
 - (6) **Additional Information.** Any other information the Zoning Administrator find necessary to evaluate the project.
- (e) **Filing and Processing**
- (1) **Acceptance of Reports.** The final form of the Physical Elements Report and other documents shall be as approved by the city. The reports in their acceptable form shall remain on file with the Community Development Department for review by any interested persons. The report shall be referenced in the subdivision report to the review authority.
 - (2) **Copy to Buyers.** The subdivider shall provide each purchaser with a copy of all submittals (in their final, acceptable form) required by Section 408.04(d), Application and Fees, prior to said purchaser executing any purchase agreement or other contract to purchase a unit in the project, and said developer shall give the purchaser sufficient time to review said information. Copies of the submittals shall be made available at all times at the sales office and shall be posted at various locations, as approved by the city, at the project site. Copies shall be provided to the condominium association upon its formation.
- (f) **Development Standards.** All condominium conversions must conform to the Porterville Municipal Code in effect at the time of tentative map approval except as otherwise provided in this section. The Building Official shall perform an assessment of building conditions prior to tentative map approval. A report of violations shall be specified in the tentative map staff report to the City Council. A physical inspection of every unit shall be required prior to final map approval or tentative map approval if no final map is required.

In addition to the requirements required in other sections of the Municipal Code, the conversion shall comply with the following requirements:

- (1) ***Sound Transmission***
 - a. ***Shock Mounting of Mechanical Equipment.*** All permanent mechanical equipment, such as motors, compressors, pumps, and compactors, which is determined by the Building Official to be a source of structural vibration or structure-borne noise shall be shock mounted with inertia blocks or bases and/or vibration isolators in a manner approved by the Building Official.
 - b. ***Noise Standards.*** The structure shall conform to all interior and exterior sound transmission standards of the Municipal Code. In such cases where present standards cannot reasonably be met, the applicant may be required to notify potential buyers of the noise deficiency currently existing within these units.
 - (2) ***Trash and Recycling Collection Areas.*** Trash and recycling collection areas shall be provided within two hundred fifty (250) feet of the units they are designed to serve, and shall comply with the City of Porterville or its contracted solid waste and recycling collector(s) specifications for trash enclosures.
 - (3) ***Utilities.*** All units shall have separate gas and electric meters and provisions for individual shut-off of all utility valves, including water.
 - (4) ***Warranty for Improvements.*** The subdivider shall provide to the Condominium Association and/or purchaser a one (1) year warranty on all physical improvements required under this section.
 - (5) ***Long Term Reserves.*** Prior to approval of the final map, or parcel map if no final map is required, the subdivider shall provide evidence to the city that a long-term reserve fund for replacement has been established in the name of the condominium association. Such fund be based on a reserve study showing the amount which must be set aside monthly for the reserve account.
- (g) **Covenants, Conditions, and Restrictions.** Project covenants, codes, and restrictions (CC&Rs) shall be developed, and shall be reviewed and approved by the City Attorney and Zoning Administrator prior to approval of the Final or Parcel Map. In addition to the following provisions, the CC&Rs shall reference by incorporation the approved Conditions of Approval, and shall be recorded in conjunction with the Final or Parcel Map.
- (1) ***Right of Public Entry to Common Area.*** Officers, agents, and employees of the city, the County, the State, and the United States Government, and any department, bureau, or agency thereof, shall have the right of immediate access to all Common Areas at all times for the purpose of preserving the public health, safety, and welfare, except in those instances where a Common Area is accessible only through a private unit.
 - (2) ***Maintenance of Common Area.*** Provision shall be made both for annual assessments of the owners for maintenance and special assessments for capital improvements. The amount of the regular annual assessment and the procedure

for its change shall be specified. The manner in which special assessments may be levied for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon the Common Area shall be specified. Both annual and special assessments may be collected on a monthly basis. The remedies which the Condominium Association may bring for the nonpayment of assessments shall be specified and may include penalties for late payment. Assignment of the maintenance responsibilities of all improvements and utility systems for each unit shall be specified.

- (3) **Utility Easements over Private Streets and Other Areas.** Required public utility easements shall be referenced and any required access routes necessary to assure that firefighting equipment can reach and operate efficiently in all areas.
- (4) **Access for Construction, Maintenance, or Repairs.** Each Owner and the Condominium Association shall have an easement for entry upon any privately owned unit, where necessary, in connection with construction, maintenance, or repair for the benefit of the Common Area or the owners of the units in common.
- (5) **Right to Terminate Management and Maintenance Contracts.** Unless otherwise prohibited by law, or any local, state, or federal regulation, reference shall be made to the Condominium Association's right to terminate the contract of any person or organization engaged by the developer to perform management or maintenance duties three (3) months after the Condominium Association assumes control of the project, or at that time renegotiate any such contracts.
- (6) **CC&R Amendments.** A statement that the CC&Rs shall not be amended, modified, or changed without first obtaining the written consent of the city.

Chapter 409 Amendments and Enforcement

Sections:

- 409.01 Correction and Amendments of Maps
 409.02 Enforcement and Judicial Review

409.01 Correction and Amendment of Maps

- (a) **Applicability.** The city may approve corrections and amendments to the following maps:
- (1) ***Tentative Maps***
- a. ***Minor Changes.*** Minor changes in an approved tentative map may be approved by the Zoning Administrator and City Engineer upon application by the subdivider or on the city's own initiative provided that:
 1. No lots, units or building sites or structures are added;
 2. Changes are consistent with the intent and spirit of the original tentative map approval; and
 3. There are no resulting violations of the Municipal Code.
 - b. ***Substantive Changes.*** Amendments of an approved tentative map for a subdivision that, in the opinion of the Zoning Administrator and City Engineer are not minor, shall be presented to the City Council for approval subject to the procedures for processing a tentative map set forth in Chapter 402, Tentative Maps. The Zoning Administrator and City Engineer may approve substantive changes to an approved tentative parcel map in the same manner set forth in Chapter 405, Parcel Maps.
 - c. ***Effect of Amendments.*** Any approved amendment shall not alter the expiration date of the tentative map.
- (2) ***Final Map.*** Amendments to a final map or parcel map may be made in any of the following instances without providing public notice:
- a. To correct an error in any course or distance shown on the map.
 - b. To show any course or distance that was omitted from the map.
 - 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, replacement 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 that was originally shown at the wrong location or incorrectly as to its character.
 - f. To correct any additional information filed or recorded as part of the final map in accordance with Section 66434.2 of the Subdivision Map Act, if the correction does not impose any additional burden on the present

owners of the property and does not alter any right, title, or interest in the property reflected on the recorded map.

- g. To correct any other type of map error or omission as approved by the City Engineer that does not affect any property right. Errors and omissions may include, but not be limited to, lots and 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 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:
 - 1. The modifications do not impose any additional burden on the owners of the property;
 - 2. The modifications do not alter any right, title, or interest in the real property reflected on the recorded map; and
 - 3. The city finds that the map as modified does not meet the findings in Section 400.04, Grounds for Denial.

(b) **Form and Contents.** Amendments to either tentative or final maps may be made with a certificate of correction or an amending map. 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 maps shall conform to the applicable requirements of this Series. The amending map shall set forth in detail the corrections made and show the names of the owners of the property affected by the correction or omission as of the date of the filing or recording of the original recorded map.

(c) **Review and Approval**

(1) **General Review.** The amending map or certificate of correction shall be submitted to the City Engineer for review and approval, accompanied by the required fee. The City Engineer shall examine the amending map or certificate of correction and, if the only changes are those set forth in subsection (a) above, the City Engineer shall certify to this fact on the amending map or certificate of correction.

(2) **Certificate of Correction.** The City Engineer shall have twenty (20) days to examine the certificate of correction for compliance with subsections (a) (b) above, endorse a statement on it of his or her examination and certification, and present it to the County Recorder for recordation. If the City Engineer determines that the certificate of correction fails to comply with this section, the City Engineer shall return the certificate to the applicant with a written statement of the changes necessary. The City Engineer shall have ten (10) days after resubmission and approval of the amended certificate of correction to present it to the County Recorder for recordation.

(d) **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 Tulare 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. The original map shall be deemed to have been conclusively so corrected and shall impart constructive notice of all the corrections in the same manner as though upon the original map.

409.02 Enforcement and Judicial Review

(a) **Purpose.** This section establishes procedures the City will use to enforce the requirements of this Series, including compliance with any conditions of approval imposed to protect public health, safety, and welfare and promote development in accordance with the General Plan.

(b) **Prohibition**

(1) ***No Sale or Lease Until Final Maps Are in Full Compliance.*** 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 except for model homes, or allow occupancy thereof, for which a final map is required by this Series or the Subdivision Map Act, until a map, in full compliance with the provisions of this Series and the Subdivision Map Act, has been filed with the Tulare County Recorder.

(2) ***No Conveyances Made by Parcel Number Until Final Maps are Filed.*** Conveyances of any part of a division of real property for which a final map is required shall not be made by parcel number, letter or other designation, unless and until the final map has been filed for record with the Tulare County Recorder.

(3) ***Exceptions***

a. 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 regulating the design and improvement of subdivisions in effect at the time the subdivision was established.

b. Paragraphs (1) and (2) above shall not prohibit an offer or contract to sell, lease, or finance real property or to construct improvements where the sale, lease or financing, or the commencement of construction, is expressly conditioned upon the approval and filing of a final or parcel map.

c. This section shall not, in any way, modify or affect the provisions of Section 11018.2 of the Business and Professions Code.

(c) **Remedies**

(1) ***Voidable Sale.*** Any deed of conveyance, sale or contract to sell real property that has been divided, or that has resulted from a division, in violation of the provisions of this Series or the Subdivision Map Act, is voidable at the sole option of the grantee, buyer or person contracting to purchase, any heir, personal representative, or trustee in insolvency or bankruptcy within one (1) year after the

date of discovery of the 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.

(2) **Action in Superior Court.** Any grantee, or successor in interest, of real property that has been divided, or that has resulted from a division, in violation of the provisions of this Series or the Subdivision Map Act may, within one (1) year of the date of discovery of such violation, bring an action in the superior court to recover any damages suffered by reason of the division of property. The action may be brought against the person who divided the property in violation and against any successors in interest who have actual or constructive knowledge of such division of property.

(3) **Exceptions**

a. **Certificate of Compliance.** The provisions of this section shall not apply to the conveyance of any parcel of real property identified in a certificate of compliance filed in accordance with subsection (e) below, or identified in a recorded final map, from and after the date of recording.

b. **Other Provisions of Law.** 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.

(4) **Limitation Period.** For purposes of this section, the limitation period for commencing an action, either civil or criminal, against the subdivider or owner of record at the time of a violation of this Series or the Subdivision Map Act, shall be tolled for any time period during which there is no constructive notice of the violation, because the owner of record, at the time of the violation or at any time thereafter, failed to record a deed, lease, or financing document with the County Recorder.

(d) **Effect on City Permits and Approvals**

(1) **No Issuance of Permit or Approval.** The city shall not issue a permit or grant any approval necessary to develop any real property that has been divided, or that has resulted from a division, in violation of the provisions of this Series or the Subdivision Map Act if it finds that development of the real property is contrary to the public health or the public safety. The authority to deny a permit or approval shall apply whether the applicant was the owner of the real property at the time of the violation or whether the applicant is the current owner of the real property, with or without actual or constructive knowledge of the violation at the time of the acquisition of interest in the real property.

(2) **Imposing Additional Conditions.** If the city issues a permit or grants approval for the development of any real property illegally subdivided, it may impose only those conditions that would have been applicable to the division of the property at the time the applicant acquired his or her interest in the property, and that had been established at such time by this Series. If the applicant was the owner of record 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 subsection (e) below, only those conditions stipulated in that certificate shall be applicable.

- (e) **Certificate of Compliance.** Any person owning real property or in contract of sale of the real property may request the Zoning Administrator to determine whether such property complies with the provisions of this Series and the Subdivision Map Act. A recorded final map or parcel map shall constitute a certificate of compliance with respect to the parcels of real property described.
- (1) ***Form and Contents.*** An application for a determination of compliance shall be submitted to the Community Development Department together with a plat map, required fee, and such information the city deems necessary, including, but not limited to:
- a. The name or names of owners of the parcel.
 - b. The assessor parcel number or numbers of the parcel.
 - c. The number of parcels for which the certificate of compliance or conditional certificate of compliance is being issued and recorded.
 - d. The legal description of the parcel or parcels for which the certificate of compliance or conditional certificate of compliance is being issued and recorded.
 - e. A notice stating: “This certificate relates only to issues of compliance or noncompliance with the Subdivision Map Act and local ordinances enacted pursuant thereto. The parcel described herein may be sold, leased, or financed without further compliance with the Subdivision Map Act or any local ordinance enacted pursuant thereto. Development of the parcel may require issuance of a permit or permits, or other grant or grants of approval.”
 - f. Any conditions to be fulfilled and implemented prior to subsequent issuance of a permit or other grant of approval for development of the property, as specified in the conditional certificate of compliance.
- (2) ***Determination of Compliance.*** If the Zoning Administrator determines that the real property complies with this Series and the Subdivision Map Act, the Zoning Administrator shall forward a certificate of compliance to be filed for record with the County Recorder. The certificate of compliance shall identify the real property and shall state that the division of land complies with this Series and the Subdivision Map Act.
- (3) ***Determination of Non-Compliance.*** If the Zoning Administrator determines that the real property does not comply with the provisions of this Series or the Subdivision Map Act, the Zoning Administrator may issue a conditional certificate of compliance by imposing any conditions that would have been applicable to the division of land at the time the applicant acquired his or her interest and that had been established at that time by this Series and the Subdivision Map Act.
- (4) ***Recording the Certificate.*** Upon making a determination and establishing the conditions, the Zoning Administrator shall file a conditional certificate of

compliance for record with the County Recorder. The certificate shall serve as notice to the property owner 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 the conditions shall be required prior to subsequent issuance of a permit or other grant of approval for development of the property. Compliance with these conditions shall not be required until a permit or other grant of approval for development of the property is issued.

(f) **Notice of Violation**

- (1) **Notice of Intention.** If the Zoning Administrator has knowledge that real property has been divided in violation of the provisions of this Series or the Subdivision Map Act, a notice of intention to record a notice of violation shall be mailed by certified mail to the current owner of record. The notice shall describe the property in detail, name the owner, describe the violation, and state that the owner will be given opportunity to present evidence. The notice shall specify the date, time and place for a meeting at which the owner may present evidence to the Zoning Administrator why a notice of violation should not be recorded.
- (2) **Determination by the Zoning Administrator.** The meeting shall be held no sooner than thirty (30) days and no later than sixty (60) days from the date of mailing. If, within fifteen (15) days of receipt of the notice, the owner fails to notify the Zoning Administrator objecting to the recording of the notice of violation, the Zoning Administrator shall record it. If, after the owner presents evidence, the Zoning Administrator determines that the property has in fact been illegally divided, the Zoning Administrator shall record the notice of violation. If, after the owner presents evidence, the Zoning Administrator determines that there has been no violation, the Zoning Administrator shall mail a clearance letter to the owner.
- (3) **Notice of Violation.** The notice of violation, when recorded, shall be constructive notice of the violation to all successors in interest in the property.

(g) **Penalties.** A violation of this Series by a person who is the subdivider or an owner of record, at the time of the violation, of property involved in the violation is punishable by imprisonment in the county jail not exceeding one (1) year or in the state prison, by a fine not exceeding \$10,000, or by both fine and imprisonment. Every other violation of this Series is a misdemeanor.

(h) **Judicial Action.** Any action or proceeding to attack, review, set aside, void or annul the decision of the City Engineer, Zoning Administrator, or City Council concerning a subdivision, or of any of the proceedings, acts or determinations taken, done or made prior to such decision, or to determine the reasonableness, legality or validity of any condition attached thereto, shall not be maintained by any person unless the action or proceeding is commenced and service of summons effected within ninety (90) days after the date of the decision. Thereafter, all persons are barred from any such action or proceeding or any defense of invalidity or unreasonableness of the decision or of the proceedings, acts or determinations. Any such proceeding shall take precedence over all matters of the calendar of the court except criminal, probate, eminent domain and forcible entry and unlawful detainer proceedings.

- (i) **Other Legal Action.** This Series 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 any person, firm or corporation may file a suit in the superior court of Tulare County, to restrain or enjoin any attempted or proposed subdivision for sale, lease or financing in violation of this Series or the Subdivision Map Act.

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