

## TITLE 18: SUBDIVISIONS\*

\* Prior ordinance history: Ords. 47 (revised), 47(a), 47(b), 485, 568, 581, 588, 793, 882, 1179, 1202, 1286, 1328, 1347 and 1382.

Title 18 was completely renumbered during the December 1995 supplement to conform with the overall style of the code.

### CHAPTER 18.04: GENERAL PROVISIONS

#### 18.04.010 Citation and Authority.

This title is adopted to supplement and implement the Subdivision Map Act, Section 66410 et seq. of the Government Code ("Map Act"), and may be cited as the Subdivision Ordinance of the City.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.04.020 Purpose.

It is the purpose of this title to regulate and control the division of land within the City and to supplement the provisions of the Map Act concerning the design, improvement and survey data of subdivisions, the form and content of all maps provided for by the Subdivision Map Act and the procedure to be followed in securing the official approval of the Planning Commission, the City Engineer, the Department of Community Development and City Council regarding such maps. To accomplish this purpose, the regulations outlined in this title are determined to be necessary for the preservation of the public safety and general welfare, to promote orderly growth and development and to promote open space, conservation, protection, and proper use of land and to insure provisions for adequate traffic circulation, utilities and services.

(Ord. 21-2234, Att. A (§ 9, part), 2021; Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.04.030 Conformity to General Plan, Specific Plan and Zoning Ordinances.

A. No land shall be subdivided and developed for any purpose which is not in conformity with the General Plan and any specific plan of the City permitted by the zoning title or other applicable provisions of the City.

B. The type and intensity of land as shown on the General Plan shall determine the type of streets, roads, highways, utilities and public services that shall be provided by the subdivider.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.04.040 Application.

The regulations set forth in this title shall apply to all subdivisions or parts thereof, including the conversions of existing multiple-family rental housing to condominiums, community apartments or stock cooperatives within the City, and to the preparation of subdivision maps thereof and to other maps provided for by the Map Act. Each subdivision and each part thereof lying within the City shall be made and each map shall be prepared and presented for approval as provided.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.04.050 Modification of Requirements.

Whenever, in the opinion of the Director of Community Development, the land involved in any subdivision is of size or shape, or is subject to title limitations of record, or is affected by such topographical location or conditions, or is to be devoted to a use that it is impossible or impracticable in the particular case for the subdivider to conform fully to the regulations contained in this title, the Director of Community Development may make modifications as, in his or her opinion, are reasonably necessary or expedient and in conformity with the Map Act.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

## CHAPTER 18.08: DEFINITIONS AND RESPONSIBILITIES

#### 18.08.010 Definitions.

"Average slope" is obtained by use of the following mathematical equation.

$$S = I \times L \times 100$$

A

S = Average slope of ground in percent;

I = Contour interval in feet;

L = Combined length in feet of all contours in parcel;

A = Area of parcel and square feet.

"Benefitted property" means a parcel of real property, or any part thereof, which adjoins a street facility which was installed by an initial developer.

"Condominium" means an estate in real property consisting of an undivided interest in common in a portion of a parcel or real property together with a separate interest in space as more particularly described in Civil Code Sections 783 and 1351.

"Conversion" means the creation of separate ownership of existing real property together with a separate interest in space of residential, industrial or commercial buildings.

"Design" means: 1. Street alignments, grades and widths; 2. Drainage and sanitary facilities and utilities, including alignments and grades thereof; 3. Location and size of all required easements and rights-of-way; 4. Fire roads and fire breaks; 5. Lot size and configuration; 6. Traffic access; 7. Grading; 8. Land to be dedicated for park or recreational purposes; and 9. Other specific physical requirements in the plan and configuration of the entire

subdivision that are necessary to insure conformity with or implementation of the General Plan or any adopted specific plan.

"Environmental Impact Report (EIR)" means a detailed statement setting forth the environmental effects and consideration pertaining to a project as specified in the California Environmental Quality Act, Public Resources Code Section 21000 et seq., and may mean either a draft or a final EIR.

"Final map" means a map showing a subdivision for which a tentative and final map is required by the Map Act or this title, prepared in accordance with the provisions of this title and the Map Act designed to be recorded in the office of the County Recorder.

"Improvement" means and refers to street work, storm utilities and landscaping to be installed, or agreed to be installed, by the subdivider on the land to be used for public or private streets, highways, ways, easements, subdivision as are necessary for the general use of the lot owners of the subdivision and local neighborhood traffic and drainage needs as a condition precedent to the approval and acceptance of the final map; or to other specific improvements or types of improvements, the installation of which, either by

the subdivider, by public agencies, by private utilities by any other entity approved by the local agency or by a combination thereof, is necessary or convenient to insure consistency with or implementation of the General Plan or any adopted specific plan.

"Initial developer" means any person, including the City, who installs off-site street facilities which benefit other parcels incident to or as a condition of the approval of a final map, final parcel map or conditional certificate of compliance.

"Lot" means a parcel or portion of land separated from other parcels or portions by description, as on a subdivision or record of survey map, or by metes and bounds, for purpose of sale, lease or separate use.

"Lot line adjustment" means a minor shift of an existing lot line where land is taken from one parcel and added to an adjoining parcel or other adjustments where a greater number of parcels than originally existed is not created, as approved by the City Engineer or authorized representative.

"Merger" means the joining of two or more contiguous parcels of land under one ownership into one parcel.

"Map Act" means the Subdivision Map Act Government Code Section 66410–66499.58 of the State of California.

"Parcel map" means a map showing a division of land of four or less parcels as required by this title, prepared in accordance with the provisions of this title and the Map Act.

"Remainder" means that portion of an existing parcel which is not included as part of the subdivided land. The remainder is not considered as part of the subdivision but must be shown on the required maps as part of the area surrounding subdivision development. A remainder shall not be counted as a parcel for the purpose of determining whether a parcel map is required or final map is required. A remainder may be sold without further requirement of its filing of a parcel map or final map; provided, however, that the owner must obtain from the City a certificate of compliance or conditional certificate of compliance as provided for in Chapter 18.48.

"Reversion to acreage" means the dissolution of a previously approved and recorded subdivision. A reversion to acreage shall result in the merger of all lots created by the subdivision and reestablishment of the lot lines as they existed prior to the subdivision. Any modification of lot lines or merger of parcels comprising less than the whole of the parcel originally subdivided, or establishing any lot lines other than those existing prior to the subdivision, shall be deemed a new subdivision and not a reversion to acreage.

"Street facilities" means a public street installed within the City or any part thereof including, but not limited to the street surface, street base, street sub-base, sidewalks, curbs, gutters, storm drains, street

lights, street signs, landscaping, sound walls and other facilities necessary and appurtenant thereto.

"Subdivider" means a person, firm, corporation, partnership or association who proposes to divide, divides, or causes to be divided real property into a subdivision for itself or for others; except that employees and consultants of such persons or entities, acting in such capacity, are not subdividers.

"Subdivision" means the division, by any subdivider, of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized county assessment roll as a unit or as contiguous units, for the purpose of sale, lease or financing, whether immediate or future. Property shall be considered as contiguous units, even if it is separated by roads, streets, utility easements or railroad rights-of-way. "Subdivision" includes a condominium project, as defined in Civil Code Section 1351(f), a community apartment project, as defined in Civil Code Section 1351(m), or the conversion of five or more existing dwelling units to a stock cooperative, as defined in Section 11003.2 of the Business and Professions Code.

"Subdivision improvement standards" means standard details, standard specifications, and other standards approved by the City Engineer that shall govern the improvements to be constructed pursuant to this title and the Map Act.

"Tentative map" means and refers to a map made for the purpose of showing the design and improvements of a proposed subdivision and the existing conditions in and around it and need not be based upon an accurate or detailed final survey of the property.

"Vesting tentative map" means a tentative map in compliance with Government Code Section 66498.1 et seq. for a residential subdivision, as defined in this title, that shall have printed conspicuously on its face the words "Vesting Tentative Map" at the time it is filed in accordance with Section 18.28.040, and is thereafter processed in accordance with the provisions hereof.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.08.020 City Attorney–Responsibilities.

The City Attorney shall be responsible for approving as to form all subdivision improvement agreements.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.08.030 City Council–Responsibilities.

The City Council shall have final jurisdiction in the approval or denial of tentative subdivision maps and final maps and improvement agreements and the acceptance by the City of such lands and/or improvements as may be proposed for dedication to the City for subdivisions.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.08.040 City Engineer–Responsibilities.

The City Engineer shall be responsible for:

- A. Establishing design and construction details, standards and specifications;
- B. Determining if proposed subdivision improvements comply with the provisions of this title and the Map Act and for reporting the findings together with any recommendations for approval, conditional approval or denial of the tentative map to the Director of Community Development;
- C. The processing and certification of final maps, reversion to acreage maps, and amended maps; the processing and approval of subdivision improvement plans, lot line adjustments and certificates of compliance;
- D. Examining and certifying that final maps are in substantial conformance to the approved tentative map;
- E. The inspection and approval of subdivision improvements;
- F. The City Engineer shall have final jurisdiction in the approval or denial of the following for applications involving the subdivision of one parcel into four or less parcels:
  - 1. Final parcel maps;
  - 2. Improvement agreements; and
  - 3. The acceptance by the City of such lands and/or improvements as may be proposed for dedication to the City.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.08.050 Department of Community Development–Responsibilities.

The Department of Community Development shall be responsible for:

1. The processing of tentative maps and tentative parcel maps and mergers;
2. Approval authority for tentative parcel maps involving the subdivision of one parcel into four or less parcels; and
3. Approval authority for tentative parcel maps involving consolidation of four or less parcels into one parcel.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.08.060 Planning Commission–Responsibilities.

Except as otherwise provided, the Planning Commission shall be responsible for recommending approval or denial to the City Council for tentative subdivision maps.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

## CHAPTER 18.12: MAPS REQUIRED

#### 18.12.010 General–Exclusions.

The necessity for tentative maps, final maps and parcel maps shall be governed by the Map Act and the provisions of this chapter. Maps are not required for the following:

- A. Short-term leases (terminable by either party on not more than thirty days' notice in writing) of a portion of the operating right-of-way of a railroad corporation defined by Public Utilities Code Section 230, unless a showing is made in individual cases, under substantial evidence, that public policy necessitates the application of such regulations to such short-term leases in such individual cases;
- B. The financing or leasing of apartments, offices, stores, or similar space within apartment buildings, industrial buildings, commercial buildings, mobile home parks or trailer parks;
- C. Mineral, oil or gas leases;
- D. Land dedicated for cemetery purposes under the Health and Safety Code;

E. Lot line adjustments between four or fewer existing adjacent parcels where land taken from one parcel is added to the adjoining parcel, and where a greater or lesser number of parcels than originally existed is not thereby created, and provided that the lot line adjustment is reviewed and approved by the City Engineer, subject to appeal to the City Council, within fourteen days of decision. The review is limited to a determination of whether or not the parcels resulting from the lot line adjustment will conform to the City's zoning and building ordinances and any conditions imposed thereby shall be limited to those which are required for conformance to the City's zoning and building ordinances, or to facilitate the relocation of existing utilities, infrastructure or easements and the lot line adjustment shall be recorded in a deed;

F. Boundary line or exchange agreement to which the State Lands Commission or other agency holding a trust grant of tide and submerged lands is a party;

G. Any separate assessment under 2188.7 of the Revenue and Tax Code;

H. Unless a parcel or final map was previously approved by the City or its predecessor jurisdiction, the conversion of a community apartment project, or a stock cooperative to a condominium as specified in Government Code Section 66412(g) and (h);

I. The leasing of, or the granting of an easement to, a parcel of land, or any portion thereof, in conjunction with the financing, erection, and sale or lease of a wind-powered electrical generation device on the land, if the project is subject to other discretionary approval by the City;

J. The leasing or licensing of a portion of a parcel, or the granting of an easement, use permit, or similar right on a portion of parcel, to a telephone corporation as defined in Section 234 of the Public Utilities Code, exclusively for the placement and operation of cellular radio transmission facilities, including, but not limited to, antennae support structures, microwave dishes, structures to house cellular communications transmission equipment, power sources, and other equipment incidental to the transmission of cellular communications, if the project is subject to discretionary action by the advisory agency or legislative body;

K. Leases of agricultural land for agricultural purposes. As used in this subdivision, "agricultural purposes" means the cultivation of food or fiber or the grazing or pasturing of livestock;

L. The leasing of, or granting of an easement to, a parcel of land, or any portion or portions thereof, in conjunction with the financing, erection, and sale or lease of a solar electrical generation device on the land, if the project is subject to review under City ordinances regulating design and improvement or, if the project is subject to review under other local agency ordinances regulating design and improvement or, if the project is subject to other discretionary action by the City;



M. The leasing of, or granting of an easement to, a parcel of land or any portion or portions of land in conjunction with a biogas project that uses, as part of its operation, agricultural waste or byproducts from the land where the project is located and reduces overall emission of greenhouse gases from agricultural operations on the land if the project is subject to review under other local agency ordinances regulating design and improvement or if the project is subject to discretionary action by the City.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.12.020 Division of Land—Five or More Parcels.

A. A tentative map and final map shall be required for all subdivisions of land creating five or more parcels, five or more condominiums as defined in Civil Code Section 783 and 1351, a community apartment project containing five or more parcels, or for the conversion of a dwelling to a stock cooperative containing five or more dwelling units, except where:

1. The land before division contains less than five acres, each parcel created by the division abuts upon a maintained public street or highway and no dedications or improvements are required by the legislative body; or
2. Each parcel created by the division has a gross area of twenty 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 forty acres or is not less than a quarter of a quarter section; or
5. The land being subdivided is solely for the creation of an environmental subdivision pursuant to Government Code Section 66418.2.

B. A parcel map shall be required for subdivisions described in subsections A(1) – (4).

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.12.030 Division of Land—Four or Less Parcels.

A. A parcel map shall be required for all subdivisions of land creating four or less parcels. A parcel map shall not be required for land conveyed to or from a governmental agency, public entity, public utility, or for land conveyed to a subsidiary of a public utility for conveyance to such public utility for rights-of-way, unless a showing is made in individual cases, upon substantial evidence, that public policy necessitates such a parcel map.

B. The City Engineer may waive the parcel map upon making a finding that the proposed division of land complies with City requirements as to area, improvement and design, flood water drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection, and other requirements of any City ordinance and the Map Act.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.12.040 Fees and Deposits.

All persons submitting maps as required by this title shall pay all fees and/or deposits as provided by the City's resolution establishing fees and charges, or as provided by this title.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

## CHAPTER 18.16: SUBDIVISION MAPS (FIVE OR MORE PARCELS)

### Article I. Tentative Subdivision Maps.

#### 18.16.010 Form and Contents.

The tentative map shall be prepared in a manner acceptable to the Department of Community Development, shall be prepared by a registered civil engineer or licensed surveyor, and shall be accompanied by those data and reports required by the Department of Community Development.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.16.020 Submittal to Department of Community Development.

A. The tentative map shall be considered for filing only when such map conforms to Section 18.16.010 and when all accompanying data or reports, as required by the Department of Community Development have been submitted and accepted by the Department of Community Development.

B. The subdivider shall file with the Department of Community Development the number of tentative maps the Director of Community Development may deem necessary.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.16.030 Department of Community Development Action.

A. The Department of Community Development shall forward copies of the tentative map to the affected public agencies which may, in turn, forward to the Department of Community Development their findings and recommendations thereon. Public utilities and agencies shall certify that the subdivision can be adequately served.

B. Within five days of the tentative map application being determined to be complete pursuant to Government Code Section 65943, the local agency shall send a notice of this determination to the governing board of any elementary school, high school or unified school district within the boundaries of which the subdivision is proposed to be located. The notice shall identify information about the location of the proposed subdivision, the number of units, density and any other information which would be relevant to the affected school district. Within fifteen days of receiving the notice the school district may make recommendations to the City regarding the effects of the proposed subdivision upon the school district. If the school district fails to respond within fifteen days, the failure to respond shall be deemed approval of the proposed subdivision by the school district. The City shall consider any recommendations from the school district before acting on the map.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.16.040 Action of Community Development Director–Notice of Public Hearings.

A. Upon receipt of a valid application, the Director of Community Development shall set the matter for public meeting. At least ten calendar days before the public meeting, he or she shall cause notice to be given of the time, date and place of the meeting including a general explanation of the matter to be considered and a general description of the area affected, and the street address, if any, of the property involved.

B. The notice shall be published at least once in a newspaper of general circulation, published and circulated in the City.

C. In addition to notice by publication, the City shall give notice of the meeting by mail or delivery to all persons, including businesses, corporations or other public or private entities, shown on the last equalized assessment roll as owning real property within three hundred feet of the property which is the subject of the proposed changes.

D. In addition, in the case of a proposed conversion of residential real property to a condominium project, community apartment project or stock cooperative project, notice shall be given as required by Government Code Section 66451.3(d).

E. In addition, notice shall be given by first class mail to any person who has filed a written request with the Department of Community Development. The City may impose a reasonable fee on persons requesting such notice for the purpose of recovering the cost of such mailing.

F. Substantial compliance with these noticing provisions shall be sufficient and a technical failure to comply shall not affect the validity of any action taken pursuant to the procedures set forth in this chapter.

G. The Planning Commission shall recommend approval, conditional approval or denial of the tentative map and shall report its decisions to the City Council and the subdivider within fifty days after the tentative map has been filed, unless the project requires an Environmental Impact Report or Negative Declaration.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.16.050 Action of Planning Commission–Recommending Approval–Required Findings.

A. In approving or conditionally approving the tentative subdivision map, the Planning Commission shall find that the proposed subdivision, together with its provisions for its design and improvements, is consistent with applicable general or specific plans adopted by the City.

B. The Planning Commission may modify or delete any of the conditions of approval recommended in the Department of Community Development's report, except conditions required by City ordinance, related to public health and safety or standards required by the City Engineer, or add additional requirements as a condition of its approval.

C. If no action is taken by the Planning Commission within the time limit as specified, the tentative map as filed shall be deemed to be approved, insofar as it complies with other applicable provisions of the Map

Act and other applicable case law, this title or other City ordinances, and it shall be the duty of the City Clerk to certify the approval.

D. This provision does not apply to condominium projects or stock cooperatives which consist of the subdivision of air space in an existing structure unless new units are to be constructed or added.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.16.060 Action of Planning Commission—Recommending Denial upon Certain Findings.

A. The tentative subdivision map may be recommended for denial by the Planning Commission on any of the grounds provided by City ordinances or the State Subdivision Map Act.

B. The Planning Commission shall deny approval of the tentative map if it makes any of the following findings:

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 are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat; provided, however, the City may approve a tentative subdivision map if an environmental impact report was prepared with respect to the proposed subdivision and detailed findings were made pursuant to Public Resources Code Section 21081(a)(3) that specific economic, social, or other considerations make infeasible the mitigation measure or project alternatives identified in the environmental impact report;
6. That the design of the subdivision or the 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. This provision does not apply to condominium projects or stock cooperatives which consist of the subdivision of air space in an existing structure unless new units are to be constructed or added.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.16.070 Action of City Council.

If a tentative map is recommended for approval or denial by the Planning Commission, the Department of Community Development shall make a written report to the City Council. This report shall be placed on the City Council agenda at the next regular meeting following receipt of the report, unless the subdivider consents to a continuance. The Council may review the map and the conditions imposed by the Planning Commission. The City Council may deny the tentative map on any of the grounds contained in Section 18.16.060.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.16.080 Extension of Time for Planning Commission or City Council Action.

The time limits set forth above for acting on the tentative map may be extended by mutual consent of the subdivider and the recommending body or the City Council.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.16.090 Expiration.

A. The approval or conditional approval of a tentative subdivision map shall expire thirty-six months from the date of City Council approval. An extension or extensions may be approved as provided in Section 18.16.100, or when required by the Map Act.

B. The period of time specified hereinabove shall not include any time during which a development moratorium is in effect as specified in Section 66452.6(b) of the Map Act nor shall include any period which involves litigation as described in Section 66452.6(c) of the Map Act.

C. Notwithstanding any provision to the contrary, if a subdivider is subject to a requirement of two hundred thirty-six thousand, seven hundred and ninety dollars or more to construct or improve or finance the construction of or improvement of public improvements outside the boundaries of the tentative map, each filing of a final map authorized by Government Code Section 66456.1 (multiple final maps), shall extend the expiration of the approval or conditionally approved tentative map by thirty-six months from the date of its expiration or the date of the previously filed final map, whichever is later; provided, however, the extension shall not extend the tentative map more than ten years from its approval.

D. Commencing January 1, 2012, and each calendar year thereafter, the amount of two hundred thirty-six thousand, seven hundred and ninety dollars shall be annually increased by operation of law according to the adjustment for inflation set forth in the Statewide cost index for class B construction, as determined by the State Allocation Board at its January meeting. The effective date of each annual adjustment shall be March 1. The adjusted amount shall apply to tentative and vesting tentative maps whose applications were received after the effective date of the adjustment.

E. Notwithstanding any provision to the contrary, a tentative map on property subject to a development agreement authorized by Government Code Section 65865 et seq. may be extended for the period of time provided for in the agreement, but not beyond its duration.

F. 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 without first processing a new tentative map.

(Ord. 2085, § 2 (part), 2011; Ord. 1433, (part), 1988; Ord. 1384, Exhibit A (part), 1986)

#### 18.16.100 Extensions.

A. Request by Subdivider. Upon application of the subdivider filed prior to the expiration of the tentative map, the time at which the map expires may be extended by the Director of Community Development for a period or periods not to exceed a total of six years. Prior to the expiration of a tentative map, upon an application by the subdivider to extend that map, the map shall automatically be extended for sixty days or until the application is approved or denied, whichever occurs first.

B. Planning Commission Action. The Director of Community Development shall review the request and submit the application for the extension, together with a report, to the Planning Commission for approval or denial. A copy of the Planning Director's report shall be forwarded to the subdivider prior to the Planning Commission meeting on the extension. The resolution adopted by the Planning Commission approving an extension shall specify the new expiration date of the tentative subdivision map. If the

Planning Commission denies a subdivider's application for extension, the subdivider may appeal to the City Council within fourteen days after denial.

(Ord. 2085, § 2 (part), 2011; Ord. 1433, (part), 1988; Ord. 1384, Exhibit A (part), 1986)

#### 18.16.110 Amendments to Approved Tentative Map.

A. Minor changes in the tentative map may be approved by the Director of Community Development upon application by the subdivider or on its own initiative, provided:

1. No lots, units or building sites are added;
2. The changes are consistent with the intent and spirit of the original tentative map approval;
3. There are no resulting violations of the City of Cupertino Municipal Code.

B. Any revision shall be approved by the Director of Community Development and the City Engineer. The amendment shall be indicated on the approved map and certified by the Director of Community Development and the City Engineer.

C. Amendments of the tentative map other than minor shall be presented to the original approval authority for approval. Processing shall be in accordance with Sections 18.16.030 through 18.16.080.

D. Any approved amendment shall not alter the expiration date of the tentative map.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### Article II. Final Maps.

##### 18.16.120 General.

A. The form, contents, accompanying data, and the filing of the final map shall conform to the provisions of this chapter.

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

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)



#### 18.16.130 Survey Required.

A. An accurate and complete survey of the land to be subdivided shall be made by a registered civil engineer or licensed land surveyor. All monuments, property lines, centerlines of streets, alleys and easements adjoining or within the subdivision shall be tied into the survey. The allowable error of closure on any portion of the final map shall not exceed one part in ten thousand for field closures and one part of twenty thousand for calculated closures.

B. At the time of making the survey for the final map, the engineer or surveyor shall set sufficient durable monuments to conform with the standards described in Section 8771 of the Business and Professions Code so that another engineer or surveyor may readily retrace the survey. At least one exterior boundary line shall be monumented prior to recording the final map. Other monuments shall be set as required by the City Engineer. Within five days after the final setting of all monuments has been completed, the engineer or the surveyor shall give written notice to the subdivider, and to the City Engineer, that the final monuments have been set.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.16.140 Form.

The form of the final map shall conform to the Subdivision Map Act and as provided in this section:

A. The final map shall be legibly drawn, printed or reproduced by a process guaranteeing a permanent record in black on tracing cloth or polyester base film. Certificates, affidavits and acknowledgements 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 suitable substance to assure permanent legibility.

B. The size of each sheet shall be eighteen by twenty-six inches. A marginal line shall be drawn completely around each sheet, leaving an entirely blank margin of one inch. The scale of the map shall be not less than one inch equals one hundred feet or as may be necessary to show all details clearly, and enough sheets shall be used to accomplish this end. The particular number of the sheet and the total number of sheets composing the map shall be stated on each of the sheets, and its relation to each adjoining sheet shall be clearly shown. When four or more sheets including the certificate sheet are used, a key sheet will be included.

C. All printing or lettering on the map shall be of one-eighth inch minimum height and of such shape and weight as to be readily legible on prints and other reproductions made from the original drawings.

D. 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 that may be necessary to determine the location of the centers of curves and ties to existing monuments used to establish the subdivision boundaries.

E. Each parcel shall be numbered or lettered and each block may be numbered or lettered. Each street shall be named or otherwise designated. The subdivision number shall be shown together with the description of the real property being subdivided.

F. The final form of the final map shall be approved by the City Engineer.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.16.150 Contents.

The contents of the final map shall conform to the Subdivision Map Act and as provided in this section.

A. Boundary. The boundary of the subdivision shall be designated by a heavy black line in such a manner as not to obliterate figures or other data.

B. Title. Each sheet shall have a title showing subdivision number and name and the location of the property being subdivided with reference to maps which have been previously recorded, or by reference to the plat of a United States Survey. The following words shall appear in the title, "In the City of Cupertino."

C. Certificates. The following certificates appear only once on the cover sheet:

1. Owner's Certificate. A certificate, signed and acknowledged by all parties having record title interest in the land subdivided, excepting those parties having rights-of-way, easements, or other interests which cannot ripen into a fee, or exceptions provided by the Subdivision Map Act consenting to the preparation and record of the map and offering for dedication to the specific certain specific parcels of land.

2. Trustee's Certificate. A certificate, signed and acknowledged by any trustees of record at time of City Council or City Engineer approval of the final map, consenting to the recording of the map and any offers of dedication.

3. Engineer's or Surveyor's Certificate.

a. The following certificate shall appear on the final map:

This map was prepared by me or under my direction and is based upon a field survey in conformance with the requirements of the Subdivision Map Act and local ordinances at the request of (name of person authorizing map) on (date). I hereby state that all the monuments are of the character and occupy the positions indicated or that they were set in those positions before (date), and that the monuments are, or will be, sufficient to enable the survey to be retraced, and that this final map substantially conforms to the conditionally approved tentative map.

(Signed) \_\_\_\_\_

R.C.E. (or L.S.) No. \_\_\_\_\_

b. Recorder's certificate or statement.

Filed this \_\_\_ day of \_\_\_, 20\_, at \_\_\_ m. in Book \_\_ of \_\_\_, at page \_\_, at the request of \_\_\_\_\_.

Signed \_\_\_\_\_

County Recorder

4. City Engineer's Certificate/Surveyors Certificate.

a. A certificate by the City Engineer stating that the map has been examined and that it is in accord with the tentative map and any approved alteration thereof, and complies with the Map Act and any local ordinances applicable at the time of the approval of the tentative map have been complied with.

b. If the City Engineer was registered as a civil engineer before January 1, 1982, he or she may also certify that the map is technically correct. Otherwise, the certification of the technical correctness of the map must be separately attached to the map by a person authorized to practice land surveying pursuant to Section 8700 et seq. of the California Business and Professions Code.

5. Director of Community Development Certificate. A certificate by the Community Development Director stating that the tentative map was approved by resolution of the Planning Commission. The date and number of the resolution shall appear in the certificate.

6. City Clerk's Certificate. A certificate for execution by the City Clerk stating the date and number of the resolution adopted by the City Council approving the final map and stating that the City Council accepted, accepted subject to improvement or rejected on behalf of the public, any real property offered for dedication for public use in conformity with the terms of the offer of dedication.

7. Certificate of Soils and Geologic Report. When a soils report, a geologic report, or soils and geologic reports have been prepared specifically for the subdivision, the fact shall be noted on the final map, together with the date of the report or reports, and the name of the engineer making the soils report and geologist making the geologic report and the location where the reports are on file. The certificate shall read, "A soils and/or geologic report for Subdivision No. \*\*\* was prepared by me or under my direction and was filed with the City on \*\*\* date."

8. County Recorder's Certificate.

a. A certificate to be executed by the County Recorder stating that the map has been accepted for filing; that the map has been examined and that it complies with the provisions of State laws and local ordinances governing the filing of final maps.

b. The certificate shall show who requested the filing of the map, the time and date the map was filed, and the book and page where the map was filed.

9. Scale, North Point and Basis of Bearings. There must appear on each map sheet the scale, the north point and the basis of bearings based on Zone 3 of the California Coordinates, and the equation of the bearing to true north. The basis of bearings shall be approved by the City Engineer.

E. Linear, Angular and Radial Data. Sufficient linear, angular, and radial data shall be shown to determine the bearings and lengths of monument lines, street centerlines, the boundary lines of the subdivision and of the boundary lines on every lot and parcel of the subdivision and ties to existing monuments used to establish the boundary. Length, radius and total central angle or radial bearings of all curves shall be shown. Ditto marks shall not be used in the dimensions and data shown on the map.

F. Monuments. The location and description of all existing and proposed monuments shall be shown. Standard City monuments shall be set at (or from offsets as approved by the City Engineer) the following locations:

1. The intersection of street centerlines;
2. Beginning and end of curves in centerlines;
3. At other locations as may be required by the City Engineer.

G. Lot Numbers. Lot numbers shall begin with the number one in each subdivision and shall continue consecutively with no omissions or duplications except where contiguous lands, under the same ownership, are being subdivided in successive units, in which event lot numbers may begin with the next

consecutive number following the last number in the preceding unit. Each lot shall be shown entirely on one sheet of the final map, unless approved by the City Engineer.

H. Adjoining Properties. The adjoining corners of all adjoining subdivisions shall be identified by subdivision number, or name when not identified by official number, and reference to the book and page of the filed map showing subdivision; and, if no such subdivision is adjacent, then by the name of the owner and reference to the recorded deed by book page number for the last recorded owner of adjacent property.

I. City Boundaries. City boundaries which cross or join the subdivisions shall be clearly designated.

J. Street Names. The names of all streets, alleys or highways within or adjoining the subdivision shall be shown.

K. Easements.

1. Easements for roads or streets, paths, storm-water drainage, sanitary sewers, energy utilities and/or public utilities, water utilities, or other public use as may be required, shall be dedicated to the public for acceptance by the City or other public agency, and the use shall be specified on the map. If, at the time the final map is approved, any streets, paths, alleys or storm drainage easements are not accepted by the City Council or City Engineer, the offer of dedication shall remain open and the City Council or City Engineer may, by resolution at any later date, accept and open the streets, paths, alleys or storm drainage easements for public use, which acceptance shall be recorded in the office of the County Recorder.

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

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

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

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

(Ord. 2085, § 2 (part), 2011; Ord. 1609, § 1 (part), 1992; Ord. 1384, Exhibit A (part), 1986)

#### 18.16.160 Submittal for City Approval–Preliminary Submittal.

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

A. Improvement Plans. Improvement plans as required by Article VI of Chapter 18.32 of this title;

B. Soils Report. A soils report prepared in accordance with Chapter 16.12 of this code;

C. Title Report. A title report showing the legal owners at the time of submittal of the final map;

D. Improvement Bond Estimate. The improvements bond estimate shall include all improvements within public rights-of-way, easements, or common areas and utility trench backfill as provided by the developer, except for those utility facilities installed by a utility company under the jurisdiction of the California Public Utilities Commission;

E. Deeds for Easements or Rights-of-way. Deeds for easements or rights-of-way required for road or drainage purposes which have not been dedicated on the final map. Written evidence acceptable to the City in the form of rights of entry or permanent easements across private property outside of the subdivision permitting or granting access to perform necessary construction work and permitting the maintenance of the facility;

F. Joint Use of Right-of-way Agreement. Agreements, acceptable to the City, executed by all owners of all utility and other easements within the proposed rights-of-way consenting to the joint use of the rights-of-way, as may be required by the City for public use and convenience of the road shall be required. These owners shall join in the dedication and subordinate their rights to the right of the public in the road;

G. Traverse Closures. Traverse closures for the boundary blocks, lots, easements, street centerlines and monument lines.

The error of field closures in the traverse around the subdivision and around the interior lots or blocks shall not exceed one part in twenty thousand;

H. Hydrology and Hydraulic Calculations. Complete hydrology and hydraulic calculations of all storm drains;

I. Organization Documents. The submittal of the final map or parcel map shall include the proposed declaration of covenants, conditions and restrictions, and all other organizational documents for the

subdivision in a form as defined by Civil Code Section 1351. All documents shall be subject to review by the City Engineer and City Attorney;

J. Any additional data, reports or information as required by the City Engineer.

(Ord. 2085, § 2 (part), 2011; Ord. 1609, § 1 (part), 1992; Ord. 1384, Exhibit A (part), 1986)

#### 18.16.170 Submittal for City Approval–City Engineer's Review.

The City Engineer shall review the final map and the subdivider's engineer or surveyor shall make corrections and/or additions until the map is acceptable to the City Engineer.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.16.180 Submittal for City Approval–Approval by the City Engineer.

A. Upon receipt of an approved print, the subdivider shall submit the original tracing of the revised map, prepared in accordance with the Map Act and this title and corrected to its final form, and signed by all parties required by the Map Act and this title to execute the certificates on the map, to the City Engineer.

B. The City Engineer and Director of Community Development shall sign the appropriate certificates and transmit the original to the City Clerk.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.16.190 Submittal for City Approval–Approval by City Council.

A. The final map, upon approval by the City Engineer and Director of Community Development, together with the subdivision improvement agreement, shall be placed on the Council agenda for their approval. The City Council shall consider the final map for approval within ten days after filing with the City Clerk, or at its next regular meeting at which it receives the map, whichever is later. The City Council shall have approved the subdivision improvement agreement before approving the final map. In the alternative, the City Engineer may hold a public meeting and approve the Final Map. The City Manager may approve the subdivision improvement agreement, following approval by the City Engineer, Director of Community Development and City Attorney. The City Engineer may reject the final map and defer approval until an acceptable agreement and/or final map has been resubmitted.

B. If the subdivision improvement agreement and final map are approved by the City Manager, he or she shall instruct the City Engineer to execute the agreement on behalf of the City. If the subdivision improvement agreement and/or final map is unacceptable, the City Manager shall make their recommended corrections, instruct the City Engineer to draft a new agreement and/or revise the final map and defer approval until an acceptable agreement and/or final map has been resubmitted.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

18.16.200 Submittal for City Approval–Denial by the City Council or City Engineer.

A. The City Council or City Engineer shall deny approval of the final map upon making any of the findings contained in Section 18.16.060.

B. The City Council or City Engineer shall not deny approval of the final map if it has previously approved a tentative map for the proposed subdivision and if it finds that the final map is in substantial compliance with the previously approved tentative map.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

18.16.210 Submittal for City Approval–Filing with the County Recorder.

If the final map is not subject to Section 66493 of the Government Code (relating to security for taxes and special assessments not yet payable), upon approval by the City Council or City Engineer and receipt of the improvement security by the City Engineer, the City Clerk shall execute the appropriate certificate on the certificate sheet and forward the map, to the County Recorder. If a final map is subject to Section 66493 of the Government Code, the City Clerk shall forward the map to the Clerk of the Board of Supervisors for processing under Government Code Section 66464(b) .

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

18.16.220 Submittal for City Approval–Submittal by Units.

Multiple final maps relating to an approved or conditionally approved tentative map may be filed prior to the expiration of the tentative map if:

(a) The subdivider, at the time the tentative map is filed, informs the Director of Community Development of the subdivider's intention to file multiple final maps on such tentative map, or



(b) After filing of the tentative map, the local agency and the subdivider concur in the filing of multiple final maps. In providing such notice, the subdivider shall not be required to define the number or configuration of the proposed multiple final maps. The filing of a final map on a portion of an approved or conditionally approved tentative map shall not invalidate any part of the tentative map.

Each final map which constitutes a part, or unit, of the approved subdivision improvement agreement to be executed by the subdivider shall provide for the construction of improvements as may be required to constitute a logical and orderly development of the whole subdivision by units.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

## CHAPTER 18.20: PARCEL MAPS (FOUR OR LESS PARCELS)

### Article I. Tentative Parcel Map.

#### 18.20.010 Form and Content.

The tentative parcel map shall be clearly and legibly drawn on one sheet in a manner acceptable to the Department of Community Development, shall be prepared by a registered civil engineer or licensed land surveyor, and shall contain such information as required by the Department of Community Development.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.20.020 Submittal to Department of Community Development.

Any person making a division of land for which a parcel map is required shall, in accordance with the provisions of this chapter, file an application, together with copies of the map, plan checking deposits and review fees as may be required.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.20.030 Review and Notice of Public Hearings.

- A. Upon receipt of a valid application by the Department of Community Development, the Director of Community Development shall set the matter for public meeting. At least ten calendar days before the public meeting, he or she shall cause notice to be given of the time, date and place of such hearing including a general explanation of the matter to be considered and a general description of the area affected, and the street address, if any, of the property involved.
- B. The notice shall be published at least once in a newspaper of general circulation, published and circulated in the City.
- C. In addition to notice by publication, the City shall give notice of the hearing by mail or delivery to all persons, including businesses, corporations or other public or private entities, shown on the last equalized assessment roll as owning real property within three hundred feet of the property which is the subject of the proposed change.
- D. In addition, in the case of a proposed conversion of residential real property to a condominium, community apartment or stock cooperative project, notice shall be given as required by Section 66427.1 of the Map Act.
- E. In addition, notice shall be given by first class mail to any person who has filed a written request with the Department of Community Development. The City may impose a reasonable fee on persons requesting such notice for the purpose of recovering the cost of such mailing.
- F. Substantial compliance with these provisions therewith to notice shall be sufficient and a technical failure to comply shall not affect the validity of any action taken pursuant to the procedures set forth in this chapter.
- G. The Director of Community Development shall approve or deny the tentative parcel map within fifty days after the tentative parcel map has been accepted for filing.
- H. If no action is taken by the City within the time limit as specified, the tentative map as filed shall be deemed to be approved, insofar as it complies with other applicable provisions of the Map Act, this title and all local ordinances, and it shall be the duty of the City Clerk to certify the approval.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.20.040 Approval–Required Findings.

- A. In approving or conditionally approving the tentative parcel map, the Director of Community Development shall find that the proposed subdivision, together with its provisions for its design and

improvements, is:

1. Consistent with applicable general or specific plans adopted by the City and
2. Designed for future passive solar in accordance with Government Code Section 66473.1.

B. The Director of Community Development may modify or delete any of the conditions of approval recommended in the Department of Community Development's report, except conditions required by City ordinance, related to public health and safety or standards required by the City Engineer, or impose additional requirements as a condition of approval.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.20.050 Denial Upon Certain Findings.

A. The tentative parcel map may be denied by the Director of Community Development on any of the grounds provided by City ordinance or the Map Act.

B. The Director of Community Development shall deny approval of the tentative parcel map if it makes any of the following findings:

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 the 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 Director of Community Development 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.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.20.060 Appeals.

A. Any interested person adversely affected by any action by the Director of Community Development with respect to the tentative map may, within fourteen days of the Director of Community Development's decision, appeal the action to the Planning Commission in accordance with Section 18.20.070.

B. If an appeal is not filed, the Director of Community Development's decision shall be final.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.20.070 Appeals of Decisions–Procedure.

The Planning Commission shall consider the appeal within thirty days. This appeal shall be a public hearing with notice being given pursuant to Section 18.16.040, and with additional notices to be given to the subdivider and to the appellant. Upon conclusion of the public hearing, the Planning Commission shall within seven days declare its findings. The Planning Commission may sustain, modify, reject, or overrule any recommendations or rulings of the Director of Community Development and may make such findings as are not inconsistent with the provisions of this title or the Map Act. The decision of the Planning Commission is final unless appealed to the City Council. The provisions and procedures for appeals to the City Council shall be pursuant to this section.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.20.080 Expiration and Extensions.

A. The expiration of a tentative parcel map and any extensions granted thereon are governed by the provisions relating to the expiration and extensions of tentative subdivision maps as described in Sections 18.16.090 and 18.16.100.

B. Director of Community Development Action. Upon receipt of an application for extension of a parcel map, the Director of Community Development shall review the request and either approve or deny the application. The Director of Community Development shall endeavor to forward a report to the Planning

Commission and the City Council about his or her decision. If the Director of Community Development denies a subdivider's application for extension, an appeal may be filed pursuant to Section 18.20.060.

(Ord. 2085, § 2 (part), 2011; Ord. 1433, (part), 1988; Ord. 1384, Exhibit A (part), 1986)

## Article II. Parcel Maps.

### 18.20.090 General.

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

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

### 18.20.100 Survey Required.

An accurate and complete survey of the land to be subdivided shall be made by a registered civil engineer or licensed land surveyor. All monuments, property lines, centerlines of streets, alleys and easements adjoining or within the subdivision shall be tied into the survey.

The allowable error of closure on any portion of the parcel map shall not exceed one part in ten thousand for field closures and one part in twenty thousand for calculated closures.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

### 18.20.110 Form and Contents.

A. The form and contents of the parcel map shall conform to final map form and content requirements as specified by Article II of Chapter 18.16 of this title and as modified herein.

B. Certificates shall be in accordance with Section 66449 of the Government Code with the addition of the trustee's certificate according to Section 18.16.150(C).

C. Lots shall be designated by letters commencing with A.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.20.120 Preliminary Submittal.

A. The subdivider shall submit three sets of prints of the parcel map to the City Engineer for checking. The preliminary prints shall be accompanied by two copies of the data, plans, reports and documents as required for final maps by Section 18.16.160, and as modified herein.

B. The City Engineer may waive any of the requirements upon finding that the location and nature of the proposed subdivision is such as not to necessitate compliance with the requirements of Article II of Chapter 18.16.

C. Any additional information or documents required shall be as specified with the conditions of approval of the tentative map.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.20.130 Review by City Engineer.

The City Engineer shall review the parcel map and the subdivider's engineer shall make corrections and/or additions until the map is acceptable to the City Engineer.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.20.140 Approval by City Engineer.

Upon receipt of an approved print, the subdivider shall submit the original tracing of the revised map, prepared in accordance with the Map Act and this title and corrected to its final form, and signed by all parties required by the Map Act and this title to execute the certificates on the map, to the City Engineer.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.20.150 Filing with the County Recorder.

The City Clerk shall transmit the approved parcel map directly to the County Recorder.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.20.160 Waiver of Parcel Map Requirements.

A. The City Engineer, upon concurrence of the Director of Community Development, may waive the parcel map requirement for division of real property or interests therein created by probate, eminent domain procedures, partition, or other civil judgments or decrees.

B. Upon waiving the parcel map requirement, a plat map, in a form as required by the City Engineer shall be required for lot line adjustments, mergers, certificates of compliance and parcel map waivers.

C. Upon waiving the parcel map requirement, the City Engineer shall also cause to be filed with the County Recorder a Certificate of Compliance for the land to be divided.

D. A parcel map waived by the City Engineer may be conditioned to provide for payment of parkland, drainage, and other fees as required by City ordinances or resolutions.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.20.170 Ministerial Approval of Urban Lot Splits.

A. The Director of Community Development shall ministerially approve a parcel map application for an urban lot split if it meets the requirements of Government Code Section 66411.7 and conforms to all applicable objective requirements of the Subdivision Map Act (commencing with Government Code Section 66410). No public hearing shall be required. Notice shall be provided to adjacent property owners (including those across any public or private street) fourteen days prior to any action on the proposed project. The decision of the Director of Community Development shall be final.

B. The Director of Community Development shall require an urban lot split pursuant to this section to comply with objective zoning standards, objective subdivision standards, and objective design review standards applicable to the parcels created pursuant to this Section, to the extent that such standards do not conflict with Government Code Section 66411.7, including but not limited to the objective subdivision standards in Paragraph G.

C. Notwithstanding Paragraph A, the Director of Community Development may deny an urban lot split proposed pursuant to this Section, if the Building Official makes a written finding, based upon a preponderance of the evidence, that any housing development project proposed in connection with the lot split would have a specific, adverse impact, as defined and determined in Government Code Section

65589.5(d)(2), upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

D. In addition to any other conditions established in accordance with this Section, the Director of Community Development may require any of the following conditions when considering an application for a parcel map for an urban lot split pursuant to this Section:

1. Easements required for the provision of public services and facilities.
2. A requirement that the parcels have access to, provide access to, or adjoin the public right-of-way.

E. Any lot created pursuant to this Section shall be limited to residential uses.

F. An applicant for an urban lot split shall provide proof, to the satisfaction of the Director of Community Development, that the property has not been occupied by a tenant in the three years preceding the submission of an application.

G. An applicant for an urban lot split pursuant to this Section shall sign an affidavit stating that the applicant intends to occupy a housing unit on one of the lots created as their principal residence for a minimum of three years from the date of the approval of the urban lot split; provided, however, that this Paragraph shall not apply to an applicant that is a community land trust, as defined in Revenue and Taxation Code Section 402.1(a)(11)(C)(ii), or is a qualified nonprofit corporation, as described in Revenue and Taxation Code Section 214.15.

H. Objective Subdivision Standards for Ministerially Approved Lot Splits. In addition to any applicable objective subdivision standards in this Title or the Subdivision Map Act and the requirements of Government Code Section 66411.7, a lot split approved pursuant to this Section must, to the maximum extent permissible under Government Code Section 66411.7, comply with the objective standards including but not limited to objective standards for urban lot splits set forth in Sections 19.28.060 and 19.40.050.

I. This Section shall remain in effect until such time as Government Code Section 66411.7 is repealed or superseded or its requirements for ministerial approval of lot splits are materially amended, whether by legislation or initiative, or are held to be unenforceable by a court of competent jurisdiction, at which time this Section shall become null and void.

(Ord. 22-2246, § III (part), 2022; Ord. 22-2238, § 3.1, 2022; Ord. 21-2235, § 3.1, 2021)



## CHAPTER 18.24: DEDICATIONS AND RESERVATIONS

### Article I. Dedication of Streets, Alleys, Rights-of-Way and Easements.

#### 18.24.010 Dedication of Streets, Alleys, and Other Public Rights-of-way or Easements.

A. As a condition of approval of a final map or parcel map, the subdivider shall dedicate or make an irrevocable offer of dedication of all parcels of land within the subdivision that are needed for streets and alleys, including access rights and abutters' rights; drainage; public utility easements; bicycle paths, transit facilities, solar access easements, park land, fire stations, libraries, access to public resources and other public easements as required.

B. Improvements shall be in accordance with Chapter 18.32 of this title.

(Ord. 14-2125, § 2 (part), 2014; Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

### Article II. Park Land Dedication.

#### 18.24.020 Purpose.

This section is enacted pursuant to the authority granted by the Government Code. The park and recreational facilities for which dedication of land and/or payment of a fee is required by this chapter are in accordance with the open space and conservation element of the adopted General Plan of the City of Cupertino, and any amendments.

(Ord. 19-2192, § 3 (part), 2019; Ord. 14-2125, § 2 (part), 2014; Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.24.030 Requirements.

A. As a condition of approval of a final subdivision map or parcel map, the subdivider shall dedicate land, pay a fee in lieu thereof, or a combination of both for park or recreational purposes at the time and according to the standards and formula contained in Chapter 13.08. The City has the discretion to determine which of the three options shall be required.

B. The provisions of this chapter are not applicable to the following land use categories:

1. Commercial or industrial subdivisions;
2. Condominium conversion projects or stock cooperatives which consist of the subdivision of air space in an existing apartment building which is more than five years old when no new dwelling units are added;
3. Convalescent hospitals and similar dependent care facilities; and
4. Subdivisions containing less than five parcels and not used for residential purposes.

(Ord. 19-2192, § 3 (part), 2019; Ord. 14-2125, § 2 (part), 2014; Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.24.040 General Standard.

The Park Land Dedication shall be as identified in the City's General Plan and Chapter 13.08.

(Ord. 19-2192, § 3 (part), 2019; Ord. 14-2125, § 2 (part), 2014; Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.24.050 Dedication of Land.

A. Where dedication of land is required, the subdivider shall dedicate park land in compliance with the formula set out in Section 13.08.050.

(Ord. 19-2192, § 3 (part), 2019; Ord. 14-2125, § 2 (part), 2014; Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.24.060 Fees in Lieu of Land Dedication.

A. Fees in Lieu of Land Required. Where fees in lieu of park land are required, the subdivider shall pay such fees in compliance with Section 13.08.060.

(Ord. 19-2192, § 3 (part), 2019; Ord. 14-2125, § 2 (part), 2014; Ord. 2085, § 2 (part), 2011; Ord. 1609, § 1 (part), 1992; Ord. 1384, Exhibit A (part), 1986)

#### 18.24.070 Criteria for Requiring Both Dedication and Fee.

The criteria for requiring subdividers to dedicate land and pay a fee in lieu thereof is set forth in Section 13.08.070 and Section 18.24.090.

(Ord. 19-2192, § 3 (part), 2019; Ord. 14-2125, § 2 (part), 2014; Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.24.080 Subdividers not within General Plan.

Where the proposed subdivision lies within an area not included but to be included within the City's General Plan, the subdivider shall dedicate land, pay a fee in lieu, or a combination of both, in accordance with the adopted park and recreational principles and standards of the City's General Plan and in accordance with the provisions of this chapter.

(Ord. 19-2192, § 3 (part), 2019; Ord. 14-2125, § 2 (part), 2014; Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.24.090 Determination of Land or Fee.

A. In addition to the standards identified in Section 13.08.070 for whether the City shall accept land dedication or elect to require payment of a fee, for subdivisions containing fifty parcels or more, or for a condominium project, stock cooperative, or community apartment project exceeding 50 dwelling units, the City shall also consider the policies contained in the Recreation, Parks, and Community Services element of the City's General Plan.

B. The determination of the City as to whether land shall be dedicated, or whether a fee shall be charged, or a combination thereof, shall be final and conclusive.

(Ord. 19-2192, § 3 (part), 2019; Ord. 14-2125, § 2 (part), 2014; Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.24.100 Credit for Private Recreation or Open Space.

Where private open space for park and recreational purposes is provided in a proposed subdivision, a credit shall be given against the requirement of land dedication or payment of fees in lieu thereof, pursuant to requirements of Section 13.08.080.

(Ord. 19-2192, § 3 (part), 2019; Ord. 14-2125, § 2 (part), 2014; Ord. 2085, § 2 (part), 2011; Ord. 1674, 1995; Ord. 1384, Exhibit A (part), 1986)

#### 18.24.110 Credit for Existing Residential Units.

Where any proposed subdivision contains existing residential units, a credit shall be given against the requirement of land dedication or payment of fees in lieu thereof for each lot which contains residential unit or units. As used herein, the term "existing" refers to a residential unit or units which exist at the time of the recordation of a final map or which were demolished within one year prior of the tentative map application, for which previously park land dedication or fees in lieu have been collected.

(Ord. 19-2192, § 3 (part), 2019; Ord. 14-2125, § 2 (part), 2014; Ord. 2085, § 2 (part), 2011; Ord. 1853, § 2, 2000)

#### 18.24.120 Procedure.

A. At the time of approval of the tentative subdivision map, the City Council shall determine whether land is to be dedicated and/or fees to be paid, or a combination of both, by the subdivider pursuant to Chapter 13.08.

B. At the time of the filing of the final subdivision map, the subdivider shall dedicate the land and/or pay the fees.

C. Open space covenants for private park or recreational facilities shall be submitted to the City prior to approval of the final subdivision map and shall be recorded simultaneously with the final subdivision map.

D. The City will provide a credit to the Developer for the value of any improvements installed by the Developer. This credit shall include a reduction in the amount of land dedicated or fees in-lieu thereof. Improvements and installations performed by the developer for which credits are given must be designed and constructed prior to occupancy of the development.

(Ord. 19-2192, § 3 (part), 2019; Ord. 14-2125, § 2 (part), 2014; Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.24.130 Commencement of Development.

At the time of approval of the final subdivision map, the City Council shall specify when development of the park or recreational facilities shall be commenced.

(Ord. 19-2192, § 4 (part), 2019; Ord. 14-2125, § 2 (part), 2014; Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

### Article III. School Site Dedication.

#### 18.24.140 General.

Unless otherwise prohibited by law, as a condition of approval of a final subdivision map, a subdivider who develops or completes the development of one or more subdivisions within a school district shall dedicate to the school district such lands as the City Council shall deem to be necessary for the purpose of constructing thereon schools necessary to assure the residents of the subdivision adequate elementary school service.

(Ord. 14-2125, § 2 (part), 2014; Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.24.150 Procedure.

The requirement of dedication shall be imposed at the time of approval of the tentative map. If within thirty 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 days after the filing of the final map on any portion of the subdivision.

(Ord. 14-2125, § 2 (part), 2014; Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.24.160 Payments to Subdivider for School Site Dedication.

The school district shall, if it accepts the dedication, repay to the subdivider or his or her successors the original cost to the subdivider of the dedicated land, plus a sum equal to the total of the following amounts:

A. The cost of any improvements to the dedicated land since acquisition by the subdivider;

B. 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;

C. Any other costs incurred by the subdivider in maintenance of such dedicated land, including interest costs incurred on any loan covering such land.

(Ord. 14-2125, § 2 (part), 2014; Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.24.170 Exemptions.

The provisions of this article shall not be applicable to a subdivider who has owned the land being subdivided for more than ten years prior to the filing of the tentative maps.

(Ord. 14-2125, § 2 (part), 2014; Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

### Article IV. Reservations.

#### 18.24.180 General.

As a condition of approval of a 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 article.

(Ord. 14-2125, § 2 (part), 2014; Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.24.190 Standards for Reservation of Land.

Where a park, recreational facility, fire station, library, or other public use is shown on an adopted specific plan or adopted general plan containing a community facilities element, recreation and parks element and/or a public building element, the subdivider may be required by the City to reserve sites as so determined by the City or County in accordance with the definite principles and standards contained in the above specific plan or General Plan. The reserved area must be 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. The amount of land to be reserved shall not make development of the remaining land held by the subdivider economically unfeasible. The reserved 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.

(Ord. 14-2125, § 2 (part), 2014; Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.24.200 Procedure.

The public agency for whose benefit an area has been reserved shall, at the time of approval of the final map or parcel map, enter into a binding agreement to acquire reserved area within two years after the completion and acceptance of all improvements, unless the period of time is extended by mutual agreement.

(Ord. 14-2125, § 2 (part), 2014; Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.24.210 Payment to Subdivider.

The purchase price shall be the market value 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 the reserved area, including interest costs incurred on any loan covering the reserved area.

(Ord. 14-2125, § 2 (part), 2014; Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.24.220 Termination.

If the public agency for whose benefit an area has been reserved does not enter into a binding agreement, the reservation of the area shall automatically terminate.

(Ord. 14-2125, § 2 (part), 2014; Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

### Article V. Waiver of Direct Street Access.

#### 18.24.230 Waiver of Direct Street Access.

A. The City may require as a condition of approval of any subdivision the waiver of direct access rights to proposed or existing streets from any property within the subdivision and abutting thereon.

B. Any waiver shall become effective in accordance with its provisions and shall be contained in the owner's certificate of the final map or parcel map.

(Ord. 14-2125, § 2 (part), 2014; Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

## CHAPTER 18.28: VESTING TENTATIVE SUBDIVISION MAPS

### 18.28.010 General.

The form, contents, submittal and approval of vesting tentative subdivision maps shall be governed by the provisions of this chapter.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

### 18.28.020 Consistency.

No land shall be subdivided and developed pursuant to a vesting tentative map for any purpose which is inconsistent with the General Plan and any applicable specific plan or not permitted by the Zoning Ordinance or other applicable provisions of the Municipal Code.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

### 18.28.030 Application.

A. Whenever a provision of the Map Act, as implemented and supplemented by other provisions of this title, requires filing of a tentative map or tentative parcel map, a vesting tentative map may instead be filed, in accordance with these provisions.

B. If a subdivider does not seek the rights conferred by the Vesting Tentative Map Statute, the filing of a vesting tentative map shall not be a prerequisite to any approval for any proposed subdivision, permit for construction, or work preparatory to construction.

(Ord. 2085, § 2 (part), 2011; Ord. 1948, (part), 2004; Ord. 1384, Exhibit A (part), 1986)



#### 18.28.040 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 the other provisions of this title for a tentative map except as follows:

- A. At the time a vesting tentative map is filed it shall have printed conspicuously on its face the words "Vesting Tentative Map."
- B. A conceptual zoning plan must be adopted and in effect and a planned development permit must be approved and in force prior to the filing of a vesting tentative map for property located in a planned development zone.
- C. A development zoning plan or conceptual zoning plan must be adopted as in effect prior to the filing of a vested tentative map for the subject property.
- D. At the time a vesting tentative map is filed, a subdivider shall also file these other applications, complete with required fees, plans, and other documentation that would otherwise be required for the recordation of a final map and issuance of building permits.

(Ord. 2085, § 2 (part), 2011; Ord. 2056, (part), 2010; Ord. 1948, (part), 2004; Ord. 1384, Exhibit A (part), 1986)

#### 18.28.050 Fees.

Upon filing a vesting tentative map, the subdivider shall pay the fees required by the other provisions of this title for the filing and processing of a tentative map. Unless otherwise stated in other provisions of this title and established fee schedules, the amount of the fee shall be determined at the time the final map is authorized by City Council for recordation.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.28.060 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 other provisions of this title for the expiration of the approval or conditional approval of a tentative map.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.28.070 Vesting on Approval of Vesting Tentative Map.

A. Vesting. 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.

B. Conditional or Denial. Notwithstanding subsection A of this section, a permit, approval, extension or entitlement may be made conditional or denied if any of the following are determined:

1. A failure to do so would place the residence of the subdivision or the immediate community, or both, in a condition dangerous to their health and/or safety;

2. The condition or denial is required in order to comply with State or Federal law.

C. Duration of Rights. The rights referred to in this section shall expire if a final map is not approved prior to the expiration of the vesting tentative map as provided in Section 18.28.070. If the final map is approved, these rights shall last for the following periods of time:

1. An initial time period of one year. 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 subdivision 1 of this subsection 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 days from the date a complete application is filed.

3. A subdivider may apply for a one-year extension at any time before the initial time period set forth in subdivision 1 of this subsection expires. If the extension is denied, the subdivider may appeal that denial to the legislative body within fourteen days.

4. If the subdivider submits a complete application for a building permit during the periods of time specified in subdivisions 1 through 3 of this subsection, the rights referred to in this section shall continue until the expiration of that permit, or any extension of that permit.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

## CHAPTER 18.32: SUBDIVISION IMPROVEMENTS

### Article I. General.

#### 18.32.010 General.

A. The subdivider shall construct all required improvements both on and off-site according to approved standards.

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

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

### Article II. Improvements Required.

#### 18.32.020 General.

A. All improvements as may be required as conditions of approval of the tentative map or City ordinance, together with but not limited to, the following shall be required of all subdivisions.

B. Requirements for construction of on-site and off-site improvements for subdivisions of four or less parcels shall be noted on the parcel map, or waiver of parcel map or the subdivision improvement agreement recorded prior to or concurrent with the parcel map.

C. Completion of improvements shall be in accordance with Article XII of this chapter.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.32.030 Frontage Requirements.

The frontage of each lot shall be improved to its ultimate adopted geometric section, including street structural section, curbs, sidewalks, driveway approaches and transitions. Any street previously granted a

rural or semi-rural designation under the provisions of Section 14.04.040, shall be improved to the standard adopted for that street.

(Ord. 2085, § 2 (part), 2011; Ord. 1925, (part), 2003; Ord. 1384, Exhibit A (part), 1986)

#### 18.32.040 Storm Drainage.

Stormwater runoff from the subdivision shall be collected and conveyed by an approved storm drain system. The storm drain system shall be designed for ultimate development of the watershed. The storm drain system shall provide for the protection of abutting and offsite properties that would be adversely affected by any increase in runoff attributed to the development; off-site storm drain improvements may be required to satisfy this requirement.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.32.050 Sanitary Sewers.

Each unit or lot within the subdivision shall be served by an approved sanitary sewer system.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.32.060 Water Supply.

Each unit or lot within the subdivision shall be served by an approved domestic water system.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.32.070 Undergrounding Utilities.

A. Each unit or lot within the subdivision shall be served by gas (if required), electric, telephone and cablevision facilities. All utilities within the subdivision and along peripheral streets shall be placed underground in accordance with Chapters 14.20 and 14.24, of this code, except those facilities exempted by the Public Utilities Commission regulations. Undergrounding shall be required for overhead lines on both sides of peripheral streets.

B. For subdivisions of five or more parcels, the subdivider may request that the undergrounding requirement along peripheral streets be waived by the Planning Commission. The Planning Commission may, at its discretion, accept a fee in lieu of the undergrounding. The amount of fee shall be determined by the City Engineer and shall be one-half of the normal cost of undergrounding existing utilities on residential streets. The requirement for undergrounding or the acceptance of an in-lieu-of-undergrounding fee shall be made a condition of approval of the tentative map.

C. For subdivision of five or more parcels the developer may appeal the undergrounding requirement along peripheral streets to the City Council. Such appeal shall be in accordance with Section 18.20.070 of this title. The appeal shall be accompanied by an estimate from each utility company for the approximate cost per lineal foot and total cost to underground its facilities along the peripheral street.

The developer shall pay all fees as may be charged by each utility company to make the required estimate.

D. The City Council or City Engineer, as the case may be, may, at its discretion, accept a fee in lieu of the undergrounding of existing facilities along peripheral streets.

The amount of fee shall not be less than the amount established by the City Engineer for the normal cost of undergrounding of existing utilities along residential streets.

E. In-lieu fees shall be deposited in a special undergrounding account to be used as approved by the City Council for future undergrounding of utilities throughout the City.

F. For subdivisions of four or less parcels, undergrounding requirements may be waived or modified by the City Engineer upon finding:

1. The subdivision is within an area where existing utilities have not been undergrounded;
2. Overhead utilities will have no significant visual impact.

G. If the undergrounding requirement is waived as allowed by subsections F1 and 2 of this section, the in-lieu fee as established by the City Engineer shall be paid as a condition of approval of the tentative map.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

### Article III. Deferred Improvement Agreements.

#### 18.32.080 Subdivisions of Four or Less Parcels.

A. The frontage improvements along existing peripheral streets may be deferred when deemed necessary by the City Engineer.

Deferral will be allowed when the City Engineer finds that construction is impractical due to physical constraints, or the surrounding neighborhood is absent of similar improvements. When improvements are deferred, the subdivider shall enter into an agreement with the City for the installation of all frontage improvements at such time in the future as required by the City. The agreement shall provide:

1. Construction of such improvements shall commence within six months of the receipt of the notice to proceed from the City;
2. That in event of default by the owner, his or her successors or assigns, that City is authorized to cause such construction to be done and charge the entire cost and expense to the owner, his or her successors or assigns, including interest from the date of notice of the cost and expense until paid;
3. That this agreement shall be recorded in the office of the Recorder of Santa Clara County, California, at the expense of the owner and shall constitute notice to all successors and assigns of the title to such real property of the obligation herein set forth, and also a lien in such amount as will fully reimburse the City, including interest as hereinabove set forth, subject to foreclosure in event of default in payment;
4. That in event of litigation occasioned by any default of the owner, his or her successors or assigns, the owner, his or her successors or assigns agree to pay all costs involved, including reasonable attorney's fees, and that the same shall become a part of the lien against such real property;
5. That the term "owner" shall include not only the present owner but also his or her heirs, successors, executors, administrators and assigns, it being the intent of the parties hereto that the obligations herein undertaken shall run with such real property and constitute a lien there against.

B. The agreement shall not relieve the owner from any other requirements specified herein. The construction of deferred improvements shall conform to the provisions of this title and all applicable articles of the Municipal Code in effect at the time of construction.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.32.090 Remainders/Omitted Units.

A. The subdivider may designate as a remainder that portion which is not divided for purpose of sale, lease or financing.

Alternatively, the subdivider may omit entirely that portion of any unit or improved or unimproved land which is not divided for the purpose of sale, leasing or financing. In all cases, the remainder or omitted unit shall not be counted as a parcel for the purpose of determining whether a parcel map or a final subdivision map is required under this title.

B. For a designated remainder or omitted unit described herein, the fulfillment of construction requirements for improvements, including the payment of fees associated with any deferred improvements, shall not be required until a building permit is issued by the City for development or redevelopment of such remainder or omitted unit, or until the construction of the improvements, including the payment of fees associated with any deferred improvements, is required pursuant to an agreement between the subdivider and the City.

C. In the absence of such an agreement described above, the City may require fulfillment of such construction requirements, including the payment of fees associated with any deferred improvements, within a reasonable time following approval of a final map and prior to the issuance of the remainder or omitted unit upon a finding by the City Council that the fulfillment of the construction requirements is necessary for reasons of:

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

D. The provisions above described providing for a deferral of the payment of fees associated with any deferred improvements shall not apply if the designated remainder or omitted unit is included within the boundaries of a benefit assessment district or community facilities district.

E. Any designated remainder or omitted unit may subsequently be sold without the requirement of the filing of any parcel or final subdivision on condition that either the seller or the buyer obtain a certificate of compliance or conditional certificate of compliance from the City Engineer.

(Ord. 2085, § 2 (part), 2011; Ord. 1609, § 1 (part), 1992; Ord. 1384, Exhibit A (part), 1986)

#### Article IV. Design.

#### 18.32.100 General.

The design and layout of all required improvements both on and off-site, private and public, shall conform to generally acceptable engineering standards and to such standards as approved by the City Engineer. If the subdivider or the subdivider's engineer disagrees with the standards applied in interpreting the tentative map conditions of approval by the City Engineer, the interpretation may be appealed to the Planning Commission according to procedures set forth in Section 18.20.070.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.32.110 Energy Conservation.

A. The design of a subdivision for which a tentative map is required, pursuant to Chapter 18.12 of this title, shall provide, to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision.

B. Examples of passive or natural heating opportunities in subdivision design include design of lot size and configuration to permit orientation of a structure in an east-west alignment for southern exposure.

C. Examples of passive or natural cooling opportunities in subdivision design include design of lot size and configuration to permit orientation of a structure to take advantage of shade or prevailing breezes.

D. In providing for future passive or natural heating or cooling opportunities in the design of a subdivision, consideration shall be given to local climate, to contour, to configuration of the parcel to be divided, and to other design and improvement requirements, and such provision shall not result in reducing allowable densities or the percentage of a lot which may be occupied by a building or structure under applicable planning and zoning in force at the time the tentative map is filed.

E. The requirements of this section do not apply to condominium projects or stock cooperatives which consist of the subdivision of airspace in an existing building when no new structures are added.

F. For the purpose of this section, "feasible" means capable of being accomplished in a successful manner within a reasonable period of time taking into account economic, environmental, social and technological factors.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

Article V. Access.



### 18.32.120 Access.

A. The subdivision shall abut upon or have an approved access to a public street. Each unit or lot within the subdivision shall have an approved access to a public or private street. Flag lot access shall be a minimum of twenty feet in width unless approved by the City Engineer.

B. Street layout shall be designed to provide for future access to, and not impose undue hardship upon, property adjoining the subdivision.

C. Reserve strips, or nonaccess at the end of streets or at the boundaries of subdivisions, shall be dedicated unconditionally to the City when required.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

## Article VI. Improvement Plans.

### 18.32.130 General.

A. Improvement plans shall be prepared under the direction of and signed by a registered civil engineer licensed by the State of California.

B. Improvement plans shall include but not be limited to grading, storm drains, landscaping, streets and related facilities.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

### 18.32.140 Form.

A. Plans, profiles and details shall be legibly drawn, printed or reproduced on twenty-four-inch by thirty-six-inch sheets. A border shall be made on each sheet providing one-half inch at top, bottom and right side and one-and-one-half inches on the left side.

B. A suitable title block shall be placed in the lower right corner or along the right edge and provide adequate space for approval by the City Engineer and for approval of plan revisions.

C. Plan and profiles shall be drawn to the scale of one inch equals forty feet or larger unless approved by the City Engineer. Details shall be drawn to such scale that clearly shows the facility being constructed. The scales for various portions of the plans shall be shown on each sheet.

D. A vicinity map shall be shown on the first sheet of all sets of plans.

E. A north arrow shall be shown on each sheet when applicable.

F. Plans shall be laid out to orient north to the top or right edge of the sheet unless approved otherwise by the City Engineer.

G. All lettering shall be one-eighth inch minimum.

H. If the plans include three or more sheets, a cover sheet showing the streets, lots, easements, storm drains, index and vicinity map shall be included.

I. The form of all plans shall conform to such additional requirements as may be established by the City Engineer. The final form of all plans shall be as approved by the City Engineer.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.32.150 Contents.

A. The improvement plans shall show complete plans, profiles and details for all required improvements to be constructed, both public and private (including common areas).

B. Reference may be made to the City of Cupertino, Santa Clara County or State standard plans in lieu of duplicating the drawings thereon.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.32.160 Supplementary Plans and Calculations.

Hydrology, hydraulic plans and calculations, bond estimates and any structural calculations as may be required, shall be submitted with the improvement plans to the City Engineer. All calculations shall be legible, systematic and signed and dated by a registered civil engineer licensed by the State of California and in a form as approved by the City Engineer.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.32.170 Review by the City Engineer.

The subdivider shall submit two sets of improvement plans and two copies of all computations to the City Engineer for review. Upon completion of his or her review, one set of the preliminary plans, with the required revisions indicated thereon, will be returned to the subdivider's engineer.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.32.180 Approval by the City Engineer.

- A. After completing all required revisions, the subdivider's engineer shall transmit the originals of the improvement plans to the City Engineer for his or her signature.
- B. Upon finding that all required revisions have been made and that the plans conform to all applicable City ordinances, design review requirements and conditions of approval of the tentative map, the City Engineer shall sign and date the plans. The originals will be returned to the subdivider's engineer.
- C. Approval of the improvement plans shall not be construed as approval of the sanitary sewer or water construction plans or compliance with County, State or Federal laws.
- D. Approval by the City Engineer shall in no way relieve the subdivider or his or her engineer from responsibility for the design of the improvements and for any deficiencies resulting from the design thereof or from any required conditions of approval for the tentative map.
- E. Prior to the start of work, the subdivider's engineer shall submit all required microfilm, sepia and copies of both maps and improvement plans to the City.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.32.190 Revisions to Approved Plans–By Subdivider.

Requests by the subdivider or the engineer for revisions to the approved plans appearing necessary or desirable during construction shall be submitted in writing to the City Engineer or his or her appointee and shall be accompanied by two sets of revised drawings showing the proposed revision. If the revision is acceptable, the originals shall be submitted to the City Engineer's office for initialing. The originals shall be returned to the subdivider's engineer and two sets of the revised plans shall be immediately transmitted to the City Engineer.

Construction of any proposed revision will not be permitted to commence until revised plans have been received and forwarded to the City's Public Works Inspection Division.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.32.200 Revisions to Approved Plans–By City Engineer.

A. When revisions are deemed necessary by the City Engineer to protect public health and safety, or as field conditions may require, a request in writing shall be made to the subdivider and his or her engineer. The subdivider's engineer shall revise the plans and transmit the originals to the City Engineer for initialing within such time as specified by the City Engineer. Upon receipt of the initialed originals, the subdivider's engineer shall immediately transmit two sets of revised drawings to the City Engineer. Construction of all or any portion of the improvements may be stopped by the City Engineer until revised drawings have been submitted.

B. The subdivider may appeal revisions required by the City Engineer to the City Council by filing an appeal with the City Clerk within two working days following receipt of the request to revise the plans.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.32.210 Revisions to Approved Plans–Plan Checking and Inspection Costs.

Costs incurred by the City for the checking of plans or calculations or inspection as a result of revisions to the approved plans shall be borne by the subdivider.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

### Article VII. Improvement Agreement.

#### 18.32.220 Improvement Agreement.

The agreement shall be prepared and signed by the City Engineer and approved as to form by the City Attorney. The agreement shall provide for:

- A. Construction of all improvements per the approved plans and specifications;
- B. Completion of improvements within the time specified by Article XII of this chapter;
- C. Right by City to modify plans and specifications;

- D. Warranty by subdivider that construction will not adversely affect any portion of adjacent properties;
- E. Payment of inspection fees in accordance with the City's resolution establishing fees and charges;
- F. Payment of in-lieu fees for undergrounding of utilities on peripheral streets; payment of in-lieu fees for parkland dedication;
- G. Payment of drainage district or area fees;
- H. Improvement security as required by this chapter;
- I. Maintenance and repair of any defects or failures and causes thereof;
- J. Release of the City from all liability incurred by the development and payment of all reasonable attorney's fees that the City may incur because of any legal action arising from the development;
- K. Any other deposits, fees or conditions as required by City ordinance or resolution and as may be required by the City Engineer.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

## Article VIII. Improvement Security.

### 18.32.230 General.

- A. Any improvement agreement, contract or act required or authorized by the Subdivision Map Act, for which security is required, shall be secured in accordance with Section 66499 of the Government Code and as provided herein.
- B. No final map or parcel map shall be signed by the City Engineer or recorded until all improvement securities required by this article have been received and approved.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

### 18.32.240 Form of Security.

The form of security shall be one or the combination of the following at the option and subject to the approval of the City.

- A. Bond or bonds by one or more duly authorized corporate sureties;
- B. A deposit, either with the local agency or a responsible escrow agent or trust company, at the option of the local agency, of money or negotiable bonds of the kind approved for securing deposits of public moneys;
- C. An instrument of credit from one or more financial institutions subject to regulation by the State or Federal government and pledging that the funds necessary to carry out the act or agreement are on deposit and guaranteed for payment, or a letter of credit issued by such a financial institution;
- D. A lien upon the property to be divided, created by contract between the owner and the local agency, if the local agency finds that it would not be in the public interest to require the installation of the required improvement sooner than two years after the recordation of the map.

The provisions of the bond or bonds shall be in accordance with Sections 66499.1 and 66499.2 of the Government Code.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.32.250 Amount of Security.

- A. A performance bond or security in the amount of one hundred percent of the estimated construction cost to guarantee the construction or installation of all improvements shall be required of all subdivisions. An additional amount of one hundred percent of the estimated construction cost shall be required to guarantee the payment to the subdivider's contractor, subcontractors, and to persons furnishing labor, materials or equipment for the construction or installation of improvements.
- B. The estimate of improvement costs shall be as approved by the City Engineer and shall provide for:
  - 1. Ten percent of the total construction cost for contingencies;
  - 2. All utility installation costs or a certification acceptable to the City Engineer from the utility company that adequate security has been deposited to insure installation;
  - 3. In addition to the full amount of the security, there shall be included costs and reasonable expenses and fees, including attorney's fees, incurred in enforcing the obligation secured.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.32.260 Maintenance Deposit.

The developer shall deposit with the City not less than one thousand dollars cash for subdivisions of four or less parcels, and three thousand dollars for other subdivisions, or such additional amount as required by the City Engineer, not to exceed one percent of the construction cost. The deposit may be used at the discretion of the City to correct deficiencies and conditions caused by the subdivider or his or her contractor that may arise during or after the construction of the subdivision. Any unexpended amount will be returned to the developer at the time all bonds are released.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.32.270 Warranty Security.

Upon acceptance of the subdivision improvements by the City Council, the subdivider shall provide security in the amount as required by the City Engineer to guarantee the improvements throughout the warranty period. The amount of the warranty security shall be not less than ten percent of the cost of the construction of the improvements, including the cash bond which shall be retained for the one-year warranty period. In hillside areas, the warranty security shall be not less than fifty percent of the construction cost of improvement.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.32.280 Reduction in Performance Security.

The City Engineer may authorize in writing the release of a portion of the security in accordance with Government Code Section 66499.7.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

### Article IX. Release of Improvement Securities.

#### 18.32.290 Performance Security.

A. The performance security shall be released only upon acceptance of the improvements by the City and when an approved warranty security has been filed with the City Engineer.

B. If warranty security is not filed, performance security shall be released twelve months after acceptance of improvements and correction of all warranty deficiencies.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.32.300 Material and Labor Security.

Security given to secure payment to the contractor, subcontractors and to persons furnishing labor, material or equipment may, six months after the completion and acceptance of the improvements by the City Council, be reduced to an amount equal to the amount of all claims therefor filed and of which notice has been given to the City Council. The balance of the security shall be released upon the settlement of all such claims and obligations for which the security was given.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.32.310 Warranty Security.

The warranty security shall be released upon satisfactory completion of the warranty period provided:

A. All deficiencies appearing on the warranty deficiency list for the subdivision have been corrected;

B. Not less than twelve months have elapsed since the acceptance of the improvements by the City Council.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

### Article X. Construction.

#### 18.32.320 Construction.

A. The construction methods and materials for all improvements shall conform to the standard specifications of the City, as adopted by Council resolution. The general provisions of the City's standard specifications shall apply to the developer where applicable.

B. Construction shall not commence until required improvement plans have been approved by the City Engineer and all required microfilm, sepia and copies of both maps and improvement plans have been



received by the City.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

## Article XI. Construction Inspection.

### 18.32.330 General.

All improvements are subject to inspection by the City Engineer or authorized personnel in accordance with the City's standard specifications.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

### 18.32.340 Preconstruction Conference.

Prior to commencing any construction, the developer shall arrange for a preconstruction conference with the Public Works Inspector.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

### 18.32.350 Final Inspection and Deficiency List.

A. Upon completion of the subdivision improvements, the developer shall apply in writing to the Public Works Inspector for a preliminary final inspection. The Public Works Inspector or authorized representative shall schedule a preliminary final inspection.

B. A deficiency list shall be compiled during the inspection, noting all corrections or any additional work required. If the number of items are excessive or the subdivision appears incomplete, the preliminary final inspection may be halted and rescheduled on a date as determined by the Public Works Inspector or authorized representative.

C. Upon having completed all corrections or additional work as outlined by the deficiency list, the developer shall certify in writing that all corrections have been completed satisfactorily and request a final inspection. The Public Works Inspector or authorized representative shall then make a final inspection.

D. Upon finding that all items on the deficiency list have been corrected and receipt of as-built improvement plans, the subdivision shall be placed on the Council agenda for acceptance.

E. The completion of corrections indicated by the deficiency list shall not relieve the developer from the responsibility of correcting any deficiency not shown on the list that may be subsequently discovered.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

## Article XII. Completion of Improvements.

### 18.32.360 Subdivisions of Five or More Parcels.

A. The subdivision improvements shall be completed by the developer within eighteen months, or such time as approved by the City Engineer, not to exceed a period of twenty-four months, from the recording of the final map, unless an extension is granted by the City Council.

B. Should the subdivider fail to complete the improvements within the specified time, the City may, by resolution of the Council and at its option, cause any or all uncompleted improvements to be completed and the parties executing the surety or sureties shall be firmly bound for the payment of all necessary costs.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

### 18.32.370 Subdivisions of Four or Less Parcels.

A. Completion of improvements will not be required until such time as a permit or other grant approval for the development of any parcel within the subdivision is applied for. Improvements shall be completed prior to final building inspection or occupancy of any unit within the subdivision.

B. The completion of the improvements may be required by a specified date by the City when the completion of such improvements are found to be necessary for public health or safety or for the orderly development of the surrounding area. This finding shall be made by the City Engineer or authorized representative. Such specified date, when required, shall be stated in the subdivision improvement agreement.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

### 18.32.380 Extensions.

A. The completion date may be extended by the City Council for subdivisions of five or more parcels and by the City Engineer for subdivisions of four or less parcels upon written request by the developer and the submittal of adequate evidence to justify the extension.

The request shall be made not less than thirty days prior to expiration of the subdivision improvement agreement.

B. The subdivider shall enter into a subdivision improvement agreement extension with the City. For subdivisions of five or more parcels the agreement shall be prepared and signed by the City Engineer, approved as to form by the City Attorney, executed by the subdivider and transmitted to the City Council for their consideration. If approved by the City Council, the Mayor shall execute the agreement on behalf of the City.

C. In consideration of a subdivision improvement extension agreement, the following may be required:

1. Revision of improvement plans to provide for current design and construction standards when required by the City Engineer;
2. Revised improvement construction estimates to reflect current improvement costs as approved by the City Engineer;
3. Increase of improvement securities in accordance with revised construction estimates;
4. Inspection fees may be increased to reflect current construction costs but shall not be subject to any decrease or refund.

D. The City Council may impose additional requirements as recommended by the City Engineer or as it may deem necessary as a condition to approving any time extension for the completion of improvements.

E. The costs incurred by the City in processing the agreement shall be borne by the developer at actual cost.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

### Article XIII. Acceptance of Improvements.

#### 18.32.390 General.

A. When all improvement deficiencies have been corrected and as-built improvement plans filed, the subdivision improvements shall be considered by the City Engineer for acceptance.

B. Acceptance of the improvements shall imply only that the improvements have been completed satisfactorily and that public improvements have been accepted for public use.

(Ord. 13-2109, § 2, 2013; Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.32.400 Notice of Completion.

If the subdivision has been accepted by the City, the City Clerk shall cause to be filed with the County Recorder a notice of completion.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.32.410 Acceptance of a Portion of the Improvements.

A. When requested by the subdivider in writing, the City may consider acceptance of a portion of the improvements as recommended by the City Engineer. The improvements will be accepted by the City only if it finds that it is in the public interest and such improvements are for the use of the general public.

B. Acceptance of a portion of the improvements shall not relieve the developer from any other requirements imposed by this chapter.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

### CHAPTER 18.36: REVERSIONS TO ACREAGE

#### 18.36.010 General.

Subdivided property may be reverted to acreage pursuant to provisions of this chapter and the Map Act. This chapter shall apply to final maps and parcel maps.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.36.020 Initiation of Proceedings–By Owners.

Proceedings to revert subdivided property to acreage may be initiated by petition of all of the owners of record of the property. The petition shall be in a form prescribed by the City Engineer. The petition shall contain the information required by Section 18.36.040 and such other information as required by the City Engineer.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.36.030 Initiation of Proceedings–By City Council.

The City Council, at the request of any person or on its own motion may, by resolution, initiate proceedings to revert property to acreage. The City Council shall direct the City Engineer to obtain the necessary information to initiate and conduct the proceedings.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.36.040 Contents of Petition.

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

- A. Evidence of title to the real property;
- B. Evidence of the consent to all of the owners of an interest in the property;
- C. Evidence that none of the improvements required to be made have been made within two years from the date the final map or parcel map was filed for record, or within the time allowed by agreement for completion of the improvements, whichever is later;
- D. Evidence that no lots shown on the final or parcel map have been sold within five years from the date such final or parcel map was filed for record;
- E. A tentative map in the form prescribed by Article I of Chapter 18.16 or Article I of Chapter 18.20 of this title;

F. A final or parcel map in the form prescribed by Article II of Chapter 18.16 or Article II of Chapter 18.20 of this title which delineates dedications which will not be vacated and dedications required as a condition to reversion. Final or parcel maps shall be conspicuously designated with the title, "The Purpose of this Map is a Reversion to Acreage";

G. A deposit as required by the City Engineer toward processing and plan checking costs in accordance with the City's establishing fees and charges.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.36.050 Submittal of Petition to the City Engineer.

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

B. Upon finding that the petition meets with all the requirements of this title and the Map Act, the City Engineer shall submit the final map or parcel map, together with his or her report and recommendations of approval or conditional approval of the reversion to acreage, to the City Council for their consideration.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.36.060 City Council Approval.

A. A public hearing shall be held by the City Council on all petitions for initiations for reversions to acreage. Notice to the public hearing shall be given as provided in Section 66451.3 of the Government Code. The City Engineer may give such other notice that it deems necessary or advisable.

B. The City Council may approve a reversion to acreage only if it finds and records by resolution that:

1. Dedications or offers of dedication to be vacated or abandoned by the reversion to acreage are unnecessary for present or prospective public purposes; and

2. Either:

a. All owners of an interest in the real property within the subdivision have consented to reversion, or

b. None of the improvements required to be made have been made within two years from the date the final or parcel map was filed for record, or within the time allowed by agreement for completion of the

improvements, whichever is later, or

c. No lots shown on the final or parcel map have been sold within five years from the date the map was filed for record.

C. The City Council may require as conditions of the reversion:

1. The owners dedicate or offer to dedicate streets, public rights-of-way or easements;
2. The retention of all or a portion of previously paid subdivision fees, deposits or improvement securities if the same are necessary to accomplish any of the provisions of this title.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.36.070 Filing with County Recorder.

A. Upon approving the reversion to acreage, the City Engineer shall transmit the final map or parcel map, together with the City Council resolution approving the reversion, to the County Recorder for recordation.

B. Reversion shall be effective upon the final map being filed for record by the County Recorder. Upon filing, all dedications and offers of dedication not shown on the final map for reversion shall be of no further force and effect.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

## CHAPTER 18.40: PARCEL MERGERS

#### 18.40.010 Merger Required.

A parcel of land shall be merged with a contiguous parcel of land held by the same owner if one of the contiguous parcels held by the same owner does not conform to the standards for minimum parcel size for the applicable zone within the City and if all of the following requirements are satisfied:

A. At least one of the affected parcels is not developed with a structure, other than an accessory structure, for which a building permit was issued by a local agency, or which was built prior to the time such permits were required by the applicable local agency or is developed with a single structure, other than an accessory structure, that is partially sited on a contiguous parcel or parcels;

B. With respect to any affected parcel, one or more of the following conditions exist:

1. Comprise less than five thousand square feet in area at the time of the determination of merger,
2. Was not created in compliance with applicable laws and ordinances in effect at the time of its creation,
3. Does not meet current standards for sewage disposal and domestic water supply,
4. Does not meet slope stability standards of the City,
5. Has no legal access which is adequate for vehicular and safety equipment access and maneuverability,
6. Its development would create health and safety hazards,
7. Is inconsistent with the applicable general plan and any specific plan other than minimum lot size or density standards.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.40.020 Recordation of Notice–Effective Date of Merger.

A merger of parcels becomes effective when the Director of Community Development causes to be filed for record with the County Recorder, a notice of merger specifying the names of the record owners and particularly describing the real property to be merged.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.40.030 Notice of Intent to Determine Status and Request for Hearing.

Prior to recording a notice of merger, the Director of Community Development shall cause to be mailed by certified mail to the then current record owners 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 Section 18.40.010, 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 County Recorder on the date that notice is mailed to the property owner. At any time within thirty days after recording of the notice of intention to determine status, the owner of the affected property may file with the Director of Community Development a request for a hearing on determination of status. If, within the thirty-day period, the



owner does not file a request for hearing as described, the Director of Community Development 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 as provided in Section 18.40.020, no later than ninety days following the mailing of the notice of intention to determine status.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.40.040 Hearing; Procedure.

A. Upon receiving a request for a hearing on determination of status, the Director of Community Development shall fix a time, date and place for a hearing to be conducted by the Director of Community Development, and shall so notify the property owner by certified mail. The hearing shall be conducted not less than thirty days nor more than sixty days following the City's receipt of the property owner's request therefor, but may be postponed or continued with the mutual consent of the Director of Community Development and the property owner.

B. At the hearing, the property owner shall be given the opportunity to present any evidence that the affected property does not meet the standards specified in Section 18.40.010.

C. At the conclusion of the hearing, the Director of Community Development 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 his or her determination. A determination of merger shall be recorded within thirty days after conclusion of the hearing, as provided for in Section 18.40.020. If the Director of Community Development determines that the subject property shall not be merged, he or she shall cause to be recorded in the manner specified in Section 18.40.020, a release of the notice of intention to determine status previously recorded and shall mail a clearance letter to the then-current owner of record.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.40.050 Hearing De Novo; City Council.

Any property owner of an affected property may, within ten days after notification of the Director of Community Development of his or her determination of merger as provided in Section 18.40.040, file a written request with the City Clerk for de novo hearing before the City Council. The hearing shall be held within thirty days from the filing of the request but may be postponed or continued with the mutual consent of the City Council and the property owner. The hearing will be conducted in the same manner as the hearing held before the Director of Community Development; provided, however, that the City

Council may make a determination of nonmerger regardless of whether or not the affected property meets the standards for merger specified in Section 18.40.010 as long as such determination of nonmerger is consistent with the City's general plan and any applicable specific plan.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.40.060 Effect of Previously Merged Parcels.

The ordinance codified in this chapter does not affect the validity of parcels which have previously been merged, and for which a notice of merger was recorded on or before January 1, 1984.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

## CHAPTER 18.44: CORRECTION AND AMENDMENTS OF MAPS

#### 18.44.010 Requirements.

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

- A. To correct an error in any course or distance shown thereon;
- B. To show any course or distance that was omitted therefrom;
- C. To correct an error in the description of the real property shown on the map;
- D. To indicate monuments set after the death, disability or retirement from practice of the engineer or surveyor charged with responsibilities for setting monuments;
- E. To show the proper location of any monument which has been changed in location or character, or originally was shown at the wrong location or incorrectly as to its character;
- F. To correct any other type of map error or omission as approved by the City Engineer, if the correction does not impose any additional burden on the present fee owners of the real property and does not alter any right, title, or interest in the real property reflected on the recorded map which does not affect any property right;

G. Errors and omissions may include, but not be limited to, lot numbers, acreage, street names and identification of adjacent record maps. Error does not include changes in courses or distances from which an error is not ascertainable from the data shown on the final or parcel map;

H. To make modifications when there are changes which make any or all of the conditions of the map no longer appropriate or necessary and that the modifications do not impose any additional burden on the present fee owner of the property, and if the modifications do not alter any right, title or interest in the real property reflected on the recorded map. The modification shall be set for public hearing before the City Engineer or approval authority according to Section 18.20.050.

The City Engineer or approval authority shall confine the hearing to consideration of, and action on, the proposed modification.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.44.020 Form and Contents.

The amending map or certificate of correction shall be prepared by a registered civil engineer or licensed land surveyor. The form and contents of the amending map shall conform to the requirements of Article II of Chapter 18.16 if a final map, or Article II of Chapter 18.20 if a parcel map. The certificate of correction shall set forth in detail the corrections made and show the names of the present fee owners of the property affected by the correction.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.44.030 Submittal and Approval by the City Engineer.

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

B. The City Engineer shall examine the amending map or certificate of correction and if the only changes made are those set forth in Section 18.44.010, he or she shall certify to this fact on the amending map or certificate of correction.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.44.040 Filing with the County Recorder.

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

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.44.050 Fee.

The fee for checking, processing and recording the amended map or certificate of correction shall be in accordance with the City's resolution establishing fees and charges. A deposit to be applied toward this fee may be required by the City Engineer upon submittal of the amended map or certificate of correction for his or her review.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

### CHAPTER 18.48: ENFORCEMENT OF ARTICLE PROVISIONS

#### 18.48.010 Prohibition.

A. No person shall offer to sell or lease, to contract to sell or lease, to sell or lease or to finance any parcel or parcels of real property or to commence construction of any building for sale, lease or financing thereon, except for model homes, or to allow occupancy, for which a final map or parcel map is required by this title, or the Map Act, until such map thereof, in full compliance with the provisions of this title, or the Map Act, has been filed with the County Recorder for record.

B. No person shall sell, lease or finance any parcel or parcels of real property or commence construction of any building for sale, lease or financing thereon, except for model homes, or allow occupancy, for which a parcel map is required by this title or the Map Act, until such map thereof, in full compliance with the provisions of this title and the State Subdivision Map Act, has been filed with the County Recorder for record.

C. Conveyances of any part of a division of real property for which a final or parcel map is required by this title shall not be made by parcel or block number, initial or other designation, unless and until such map has been filed with the County Recorder for record.

D. This section does not apply to any parcel or parcels of a subdivision offered for sale or lease, contracted for sale or lease, or sold or leased in compliance with or exempt from any law (including a local ordinance), regulating the design and improvement of subdivisions in effect at the time the subdivision was established.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.48.020 Remedies.

A. Any deed of conveyance, sale or contract to sell real property which has been divided, or which has resulted from a division, in violation of the provisions of this title or the Map Act, is voidable at the sole option of the grantee, buyer or person contracting to purchase, his or her heirs, personal representative or trustee in insolvency or bankruptcy within one year after the date of discovery of the violation, but the deed of conveyance, sale or contract to sell is binding upon any successor in interest of the grantee, buyer or person contracting to purchase, other than those above enumerated, and upon the grantor, vendor or person contracting to sell, or his or her assignee, heir or devisee.

B. Any grantee, or his or her successor in interest, of real property which has been divided, or which has resulted from a division, in violation of the provisions of this title or the Map Act may, within one year of the date of discovery of such violation, bring an action in the superior court to recover any damages he or she has suffered by reason of such 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.

C. The provisions of this section shall not apply to the conveyance of any parcel of real property identified in a certificate of compliance filed pursuant to Section 66499.35 of the Government Code or identified in a recorded final map or parcel map, from and after the date of recording. The provisions of this section shall not limit or affect in any way the rights of a grantee or his or her successor in interest under any other provision of law.

D. This section does not bar any legal, equitable or summary remedy to which the City or other public agency, or any person, firm or corporation may otherwise be entitled, and the City or other public agency, or person, firm or corporation may file a suit in the superior court of Santa Clara County to restrain or enjoin any attempted or proposed subdivision for sale, lease or financing in violation of this title.

E. The City shall not issue a permit or grant any approval necessary to develop any real property which has been divided, or which has resulted from a division, in violation of the provisions of this title or the Map Act if it finds that development of such 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 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 his or her interest in such real property.

F. The City, in issuing a permit or granting approval for the development of any real property, may impose those additional 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 has been established at such time by this title or local ordinance enacted pursuant thereto, except that if a conditional certificate of compliance has been filed for record under the provisions of this chapter, only conditions stipulated shall be applicable.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.48.030 Certificate of Compliance.

A. Any person owning real property within the City may request the City Engineer to determine whether such real property complies with the provisions of this title and the Map Act.

B. Upon making such determination, the City Engineer 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 of land complies with applicable provisions of the City of Cupertino Municipal Code and the Map Act.

C. If the City Engineer determines that such real property does not comply with the provisions of the Municipal Code or Map Act, he or she may, as a condition to granting a certificate of compliance, impose such conditions as would have been applicable to the division of the property at the time the current owner of record acquired the property, and which had been established at such time by ordinance. Upon making a determination and establishing conditions, the City Engineer or authorized representative shall cause a conditional certificate of compliance to be filed for record with the County Recorder. The 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 conditions shall not be required until such time as a permit or other grant of approval for development of such property is issued.

D. A recorded final map or parcel map shall constitute a certificate of compliance with respect to the parcels of real property described therein.

E. For the purposes of administration of this section, any parcel that is shown on the County Assessor's maps prior to 1960 shall be considered as a conforming parcel.

F. A fee to be charged at actual cost shall be charged to the applicant for making the determination and processing the certificate of compliance. A deposit may be required to be applied toward this fee.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

#### 18.48.040 Certificate of Noncompliance.

Whenever the City Engineer or an authorized representative has knowledge that real property has been divided in violation of the provisions of this title or the Map Act, they shall cause to be filed for record with the County Recorder a tentative notice of violation (Certificate of Noncompliance) describing the real property in detail, naming the owners thereof, and describing the violation and stating that an opportunity will be given to the owner to present evidence. At least thirty days prior to the recording of a final notice, the owner of the real property shall be advised in writing of the intention to record a final notice and specifying a time, date and place at which the owner may present evidence as to why such notice should not be recorded. If, after the owner has presented evidence, it is determined that there has been no violation, a release of the tentative notice shall be filed with the County Recorder. The tentative or final notice of noncompliance, when recorded, shall be deemed to be constructive notice of the violation to all successors in interest in such property.

(Ord. 2085, § 2 (part), 2011; Ord. 1384, Exhibit A (part), 1986)

## CHAPTER 18.52: HILLSIDE SUBDIVISIONS

#### 18.52.010 Requirements.

The hillside subdivision requirement prescribed by this chapter shall apply to subdivision of land, as defined in this title of geographical areas where the natural average slope of the land exceeds ten percent.

(Ord. 2085, § 2 (part), 2011; Ord. 1575, (part), 1991)

### 18.52.020 Purpose.

A. The hillside subdivision regulations are intended to guide parceling of hillside land in a manner which results in harmony between human development activities and the natural environment. To meet that end, the ordinance relies heavily upon the land use policies contained within the City's General Plan. A portion of the hillside subdivision regulations are discretionary in nature due to the wide variation in the natural setting of the hillside areas within the community. The hillside development philosophy of the General Plan will therefore aid the Planning Commission and City Council in their review of hillside subdivision proposals.

B. The hillside subdivision regulations pertain to the parceling of land. The Grading Ordinance, Tree Removal Ordinance, Residential Hillside Zoning Ordinance and other general and specific community ordinances also play a role in the regulation of hillside development.

(Ord. 2085, § 2 (part), 2011; Ord. 1575, (part), 1991)

### 18.52.030 Lot Design Standards.

A. General. The standards listed below shall be utilized to evaluate the lot configuration of hillside subdivision applications. The standards augment lot design requirements contained in applicable land use zoning districts.

#### B. Lot Configuration.

1. The area of each lot shall be of sufficient size to include the house together with required setbacks and yards, adequate space or access drives and off-street parking, septic tank systems, if permitted, and necessary cut and/or bells.

2. Each lot shall be reviewed for appropriate building pad locations. Appropriate building pad locations shall take into account the ridgeline visibility standards, views from open space, slope of the lot, location to riparian corridors, protection of natural vegetation, and wildlife migration. These issues shall be studied to determine the best building location and mitigate any negative environmental impacts and meet the building and setback requirements as established in Chapter 19.40, Residential Hillside Zones, of this code.

3. The manmade environment (roads, houses, fences) is shaped to a large degree by property lines. Therefore, property lines shall reflect natural land forms to the greatest extent possible. For example, lot lines should follow the natural contour of a hillside, not straight lines drawn for engineering design and surveying convenience.



## C. Clustering Development and Subdivisions.

### 1. Major Subdivisions in the Five to Twenty Acre Slope Density Designation.

a. Development lots and major subdivisions in the five to twenty acre slope density designation shall be clustered, reserving ninety percent of the land in private open space to protect the unique characteristics of the hillsides from adverse environmental impacts. The project shall keep the number of lot clusters minimized, and the open space area contiguous, to the greatest extent possible. The ninety percent private open space can be contained in individual lots regulated by an open space easement or as land held in common as dedicated open space. The project shall keep the open space area contiguous as much as possible. A lot having common ownership, containing the designated open space, will not be counted in the total dwelling unit yield.

b. Significant natural features shall be identified on the tentative map: riparian and native vegetation including trees, shrubs and ground cover; all topography and areas of slope over thirty percent watercourses; faults; landslides; views of prominent ridgelines; and views from adjacent properties.

c. As a condition of the subdivision, all development except that which is allowed in Chapter 19.88, Open Space Ordinance, of this code, shall be completely contained in the ten percent development area, which should be designed to avoid adversely impacting the natural features. The lot sizes will be determined in the review process. The use of the ninety percent open space area shall be limited to their uses allowed in Chapter 19.88, Open Space Ordinance, of this code.

### 2. Minor Subdivisions in the Five to Twenty Acre Slope Density Designation.

a. Development of lots and minor subdivisions in the five to twenty acre slope density designation are encouraged to be clustered, reserving ninety percent of the land in private open space to protect the unique characteristics of the hillsides from adverse environmental impacts. The project shall keep the open space area contiguous, and the number of lot clusters minimized, to the greatest extent possible.

The ninety percent private open space can be contained in individual lots regulated by an open space easement or as land held in common as dedicated open space. A lot having common ownership, containing the designated open space, will not be counted in the total dwelling unit yield.

b. Significant natural features shall be identified on the tentative map: riparian and native vegetation including trees, shrubs and ground cover; all topography and areas of slope over thirty percent; watercourses; faults; landslides; views of prominent ridgelines; and views from adjacent properties.

c. As a condition of the subdivision, all development, except that which is allowed in Chapter 19.88, Open Space Ordinance, of this code, shall be completely contained in the ten percent development area, which

should be designed to avoid adversely impacting the natural features. The lot sizes will be determined in the review process. The use of the ninety percent private open space area shall be limited to their uses allowed in Chapter 19.88, Open Space Ordinance of this code.

#### D. Grading.

1. Preliminary or tentative grading plans will be required as specified in Chapter 16.08, Excavations, Grading and Retaining Walls, or as part of the conditional approval of the map. The extent of grading and size of building pads shall meet the requirements as specified in Chapter 19.40, Residential Hillside Zones.
2. A final lot grading plan and quantity estimate may be required as part of the conditional approval and as a part of the tract improvement plans with guarantee by separate performance bond of one hundred percent of cost of such lot grading and construction of driveway approaches for the entire tract.
3. Retaining walls may be employed to resolve ground stability problems or minimize grading.

E. Off-Street Parking. Where lots have frontage on a public roadway or driveway having a pavement section of less than thirty feet or on a roadway or driveway which does not permit parking at the curb, each lot shall provide adequate turnaround space and four independently functional off-street parking spaces. The four parking spaces shall be in addition to the required two garage or carport spaces.

#### F. Frontage.

1. All lots shall front on a public street or private driveway as provided in Section 18.32.120.
2. Where the principal frontage of a lot is by means of a corridor, such corridor shall be at least twenty feet wide. A lesser width for a corridor may be approved when a twenty-foot width would not be practical because of existing permanent structures or topography.

However, in all cases, the corridor width must be sufficient to accommodate a safe driveway of not less than twelve feet of improved width, and if the length of the corridor is over one hundred fifty feet, the usable width must be at least eighteen feet. Where two such corridors are combined, the total access width need not exceed thirty feet if each lot has right of access over the corridor of the adjoining lot and the total paved width is not less than eighteen feet.

#### G. Watercourse Protection.

1. Any watercourse identified in Figure 6-G of the Cupertino General Plan and its existing or potential riparian vegetation must be shown on all development plans.

2. Lots in major subdivisions must be clustered so that the water course and existing or potential riparian vegetation are retained in the required ninety percent open space designation. Building site shall be set back from said watercourse or existing or potential riparian vegetation a minimum of fifty feet on lots which are less than one acre in size and one hundred feet on lots which are greater than one acre.

The setback shall be measured from the top of the bank or from existing riparian vegetation, whichever is greater. The setback from riparian vegetation will be measured from the drip-line perimeter. The precise area will be established through presentation of evidence of the existing or potential riparian vegetation and wildlife habitat and by considering their relationship to all design factors.

3. Lots in minor subdivision are encouraged to be clustered so that development does not encroach on the watercourse. Building sites shall be setback from said watercourse or existing or potential riparian vegetation a minimum of fifty feet on lots which are less than one acre in size and one hundred feet on lots which are greater than one acre. The setback shall be measured from the top of bank or from existing riparian vegetation whichever is greater. Setback from riparian vegetation shall be measured from the drip-line perimeter. The precise area will be established through presentation of evidence of the existing or potential riparian vegetation and wildlife habitat and by considering their relationship to all site design factors.

H. Trail Linkages. In subdivisions, if a trail linkage, as shown in the General Plan Trail Plan, is identified on the property being developed, a trail easement shall be granted in favor of the City prior to approval of the final map.

(Ord. 2085, § 2 (part), 2011; Ord. 1635, (part), 1993; Ord. 1575, (part), 1991)

#### 18.52.040 Street Design Standards.

A. The design of roadways in the hillsides is based upon the General Plan Policy of maintaining the natural environment setting of the hillside. In response to the General Plan Policy, public rights of way shall be aligned in a manner to avoid trees and riparian environments.

In cases where it is necessary to place rights-of-way on or near ridge tops, grading for the roadways shall be minimized to reduce visual scarring. The specific, technical road alignment and section standards described in this section are based upon the following constraints:

1. Volume of traffic;
2. Topography;

3. Public safety, particularly of fire protection;

4. Lot size and on-street parking needs;

5. Drainage requirements.

B. The specific technical standards may be modified when it can be determined by the City Engineer, as approved by the City Council, that the strict adherence to a specific standard would result in environmental hardship. The City Council shall make specific findings of fact relative to environmental degradation or economic hardship in the event a standard is waived.

(Ord. 2085, § 2 (part), 2011; Ord. 1575, (part), 1991)

#### 18.52.050 Lot Sizes More or Less 2.5 Acres–Street Design.

The General Plan provides for more flexible improvement standards for hillside developments which have an average lot size of 2.5 acres or greater. Developments that result in less than 2.5 acres per dwelling are labeled "urban fringe development." Conversely, developments that result in 2.5 acres or greater per dwelling unit shall be labeled "semirural developments." The average lot size per acre computation shall be based upon the development acreage directly used for residential purposes. Land dedicated for public or private open space use in cluster or conventional developments should not be counted in the 2.5 acre average lot size standard.

##### A. Urban Fringe Developments.

1. Generally, the street design standards for hillside developments on the valley floor fringe are comparable to the subdivision improvements within the typical urbanized portion of the community. However, because of varied topography, the right-of-way width and the improvement standards for roadway may vary to minimize degradation of the environment. Rights-of-way shall be of sufficient width to provide space for the road bed utilities and bicycle lanes and equestrian trails as designated by the General Plan.

The City shall maintain slope easements for all fill slopes. The right-of-way for a slope easement shall include an area ten feet below the toe of fill.

2. The minimum right-of-way width and street sections for various functional categories of roads are as follows:

- a. Hillside collector right-of-way width shall be fifty feet with the pavement section to contain thirty feet with three feet of shoulders on each side.
- b. Major roadways are roads that primarily serve development fronting on the road and serving greater than ten dwelling units. The right-of-way shall be forty feet and the pavement width shall be twenty-four feet with three feet of level shoulder space on each side.
- c. Minor roadways and cul-de-sacs serving less than ten dwelling units shall be thirty feet with a twenty-foot pavement section with three feet of shoulder on each side.
- d. Private drives may be employed where five or fewer residential lots are to be served. The minimum width for a private driveway serving five or fewer dwellings is eighteen feet with three feet of shoulder on either side, with the exception that a private driveway serving one dwelling may be twelve feet.

## B. Semirural Development.

1. The street design standards for semirural development are designed to result in minimal disruption to the natural environment. The City Engineer shall have maximum flexibility to waive conventional street standards, as approved in each case by the City Council.
2. The minimum right-of-way width and street sections for various functional categories of roads are as follows:
  - a. Major roadways serving greater than ten dwelling units shall have a minimum traveled-way width of twenty-four feet. However, this may be reduced to avoid natural features such as topography, vegetation, etc.
  - b. Minor roadways and cul-de-sacs serving ten or fewer dwelling units shall have a minimum twenty feet in traveled-way width with lessening of that width permitted in consideration of natural features of the area.
  - c. Private roads serving five or fewer dwelling units shall have a minimum of eighteen feet in traveled-way width. Surface shall consist of a minimum of oil and screening and the slope shall not exceed fifteen percent. Grades exceeding fifteen percent and not greater than twenty percent for a maximum of three hundred feet shall have a minimum of asphalt or concrete surface.
  - d. Driveways serving individual dwelling units shall have a minimum of traveled-way width of twelve feet with passing turnouts as required.

Surface shall consist of a minimum of oil and screening and the slope shall not exceed fifteen percent. Grades exceeding fifteen percent and not greater than twenty percent for a maximum of three hundred feet shall have a minimum of asphalt or concrete surface.

C. Dead-end Streets. The number of dwelling units served by a cul-de-sac for an urban fringe or semirural development shall normally not exceed ten. The length shall not exceed eight hundred feet except where topographic conditions require use of longer cul-de-sacs.

In cases where the length of cul-de-sacs is greater than eight hundred feet, fire hydrants shall be placed every six hundred feet with a standard pullout located adjacent to each hydrant. A secondary means of access may be required where a dead-end street is longer than one thousand feet.

(Ord. 2085, § 2 (part), 2011; Ord. 1575, (part), 1991)

#### 18.52.060 Street and Utility Improvements.

##### A. Urban fringe developments.

1. Street Grades. All streets and highways shall be graded and surfaced to widths and grades in accordance with City standard specifications and approved by the City Engineer. The subdivider shall improve the extension of all subdivision streets, highways or public ways to the intercepting paving line of any County road, City street or State highway.

2. Structures, Drainage, Access/Public Safety. Structures for drainage, access and/or public safety shall be installed as deemed necessary by the City Engineer. Such structures shall be designed and placed to locations and grades approved by the City Engineer.

3. Curbs and Gutters. Vertical curbs and gutters shall be installed to locations and grades approved by the City Engineer.

4. Sidewalks. Sidewalks shall be installed to locations and grades approved by the City Engineer.

5. Sewers, Storm Drains. Sanitary sewer facilities shall be installed to serve each lot. No septic tanks or cesspools will be permitted.

Storm sewers shall be installed as approved by the cognizant fire department authority.

6. Water and Gas. Water mains and gas mains shall be installed as required by the City Engineer. Fire hydrants shall be installed as approved by the City Engineer.

7. Street Lighting. Street lights shall be installed by the subdivider and shall be approved by the City Engineer.

8. Electric and Telephone. Electric and telephone lines shall be installed underground as required by the City Engineer.

9. A registered landscape architect shall review grading plans and in consort with the project and City Engineer, shall submit a plan to prevent soil erosion and visually screen extensive cut and fill areas. The intent of the visual screen is to soften grading scars. A one hundred percent effect is not required.

#### B. Semirural developments.

1. Street Grades. All streets and highways shall be graded and surface to widths and grades in accordance with City standard specifications and approved by the City Engineer. The subdivider shall improve the extension of all subdivision streets, highways or public ways to the intercepting paving line of any County road, City street or State highway.

2. Structures, Drainage, Access/Public Safety. Structures for drainage, access and/or public safety shall be installed as deemed necessary by the City Engineer. Such structures shall be designed and placed to locations and grades approved by the City Engineer.

3. Curb and Gutter. Curb and gutter will not be required. Drainage swales shall be provided adjacent to roadways to contain runoff.

4. Sidewalks. Formal sidewalks will not be required. However, pedestrian and equestrian trails may be required where terrain permits.

5. Gas. Public facility will not be required in lieu of other private methods such as propane, oil, electric and new innovative system.

6. Electric. Overhead lines will be allowed with natural setting utilized as screening technique. Undergrounding will be required for the individual service drop to the structure.

7. Telephone. Lines will follow the same required as for electrical.

8. Street Lighting. Will not be required. Safety lighting may be necessary if safety hazards can be shown.

9. Water. Approved and accepted water system by the City. Private individual wells will not be accepted.

10. Sewer. Individual sanitary system approved by the County Health Department will be permitted or connection to a public sanitary sewer system.

11. Storm system. Adequate storm facilities shall be provided to control erosion, dissipate high velocity due to slopes and to properly channel water to master drainage facilities.

12. A registered landscape architect shall review grading plans and in consort with the project and City Engineer, shall submit a plan to prevent soil erosion and visually screen cut and fill areas. The intent of the visual screen is to soften grading scars. A one hundred percent screening effect is not required.

(Ord. 2085, § 2 (part), 2011; Ord. 1575, (part), 1991)

#### 18.52.070 Private Driveways for Two or More Parcels.

A. An appropriate deed restriction and covenant running with the land subject to the review and approval of the City Attorney shall be recorded for all parcels which share a common private drive or private roadway with one or more parcels. The deed restriction shall provide for the necessary reciprocal ingress/egress easements to and from the affected parcels. The easements shall be recorded at such time as interest in one or more of the affected parcels is initially sold or transferred to another party.

B. A reciprocal maintenance agreement to be reviewed and approved by the City Attorney, shall be required for all parcels which share a common private drive or private roadway with one or more other parcels within the tract. The agreement shall be recorded in conjunction with recordation of the final map.

(Ord. 2085, § 2 (part), 2011; Ord. 1575, (part), 1991)

#### 18.52.080 Scope of Regulations.

In the event that a land qualifies as a hillside subdivision as defined in this chapter, the requirements of this chapter shall apply to the provisions of this title. In the absence of regulations not established by this chapter, the provisions of the remainder of this title shall apply.

(Ord. 2085, § 2 (part), 2011; Ord. 1575, (part), 1991)

### CHAPTER 18.56: STREET FACILITY REIMBURSEMENT CHARGES

#### 18.56.010 Purpose.



This chapter is enacted in order to establish a procedure for reimbursing developers of property located within the City a portion of the costs of installing street facilities which adjoin other properties within the City, reduce the cost of any additional development occurring on the adjoining properties by eliminating the need for the installation of the street facilities at the time such development occurs, and thereby directly benefit the adjoining properties.

(Ord. 2085, § 2 (part), 2011; Ord. 1653, § 2 (part), 1994)

#### 18.56.020 Street Facility Costs Subject to Reimbursement.

A. The street facility costs which shall be subject to reimbursement in the manner provided by this chapter include all direct costs usually incurred by an initial developer who is required to install street facilities that also benefit a benefitted property, subsequent to the effective date of the ordinance codified in this chapter, incident to or as a condition of the approval of a subdivision map, parcel map or conditional certificate of compliance.

B. These reimbursable costs include, but are not limited to, costs incurred in designing street facilities, the cost of plan check fees and other fees incurred in securing City and other governmental approvals of the plans and specifications for the street facilities, the cost of the land upon which the street facilities are installed, and the cost of all labor, materials, equipment and contractors employed in installing the street facilities, except for:

1. The cost of installing temporary street facilities;
2. The cost of maintenance work performed on existing street facilities; and
3. Any portion of the cost of installing street facilities in excess of the usual cost of installing local street facilities as determined by the City Engineer in the manner provided in this chapter.

(Ord. 2085, § 2 (part), 2011; Ord. 1653, § 2 (part), 1994)

#### 18.56.030 Reimbursement Agreement.

A. As a condition of approval of a subdivision map, parcel map or conditional certificate of compliance, the initial developer shall enter into a reimbursement agreement with the City in order to receive reimbursement for the portion of street facility costs, including interest where applicable, in excess of the installation costs incurred for the initial developer's property or for the cost of the land upon which the street facilities were installed, including interest where applicable. Any reimbursement to the initial

developer shall be paid out of the revenues received by the City from the street facility reimbursement charges assessed in the manner provided by this chapter.

B. The reimbursement agreement shall be signed by the Mayor, approved as to form by the City Attorney and shall set forth the following information:

1. The name, capacity and address of the initial developer;
2. A description of the street facility costs subject to reimbursement;
3. An itemized statement, prepared by, and attested to by a licensed engineer, of the reimbursable costs to be incurred by the initial developer in installing the street facilities;
4. A legal description and assessor's parcel number for each benefitted property, excepting the initial developer's property;
5. An engineered plat depicting the street facilities and each benefitted property;
6. The total street facility costs subject to reimbursement for each particular benefitted property;
7. The City's obligation to reimburse the initial developer an amount from the street facility charge assessed upon benefitted properties and received by the City, if any, at the time and in the manner provided by this chapter;
8. Methods of acquisition of land necessary for the installation of the street facilities, imposition of costs, recovery of interest; and
9. Such additional information and documents as may reasonably be required by the City Engineer.

(Ord. 2085, § 2 (part), 2011; Ord. 1653, § 2 (part), 1994)

#### 18.56.040 Imposition of Street Facility Reimbursement Charges, Cost of Land and Interest upon Benefitted Properties.

A. Where street facilities have been installed by the City or the initial developer without cost to the benefitted property owner, the benefitted property owner, as a condition precedent to obtaining a final map, a final parcel map or a conditional certificate of compliance, shall pay the City for the cost of the land at the cost to the City or to the initial developer, and shall pay a street facility reimbursement charge for the facilities which the City or the initial developer installed on the streets abutting or on the benefitted

property in an amount equal to such benefitted property owner's share of the total cost of the street facilities as set forth in the reimbursement agreement.

Payment for both land and facilities shall include simple interest in the amount of seven percent per year, to be calculated in the following manner:

1. Land Cost. Interest to accrue from the date the street facilities are accepted by the City to the date the street facility reimbursement charge is paid, or if the land is purchased by the City for a City project, from the date of purchase to the date the charge is paid.

2. Street Facility Cost. Interest to accrue from the date the street facilities are accepted by the City to the date the street facility reimbursement charge is paid, or if installed by the City, from the date installation commenced to the date the charge is paid.

B. Provided, however, that the interest shall be waived if the benefitted property owner dedicates or has dedicated to the City land necessary for the street facilities, or where no such dedication is necessary.

C. Notwithstanding any other provision of this Code, if, upon request by the City in connection with the City's commencement of a street improvement project, a property owner dedicates to the City land necessary for such street improvement project, a property owner dedicates to the City land necessary for such street improvement project at no cost to City, the City's Director of Public Works, on behalf of the City, may provide a limited waiver of future reimbursement charges for the cost of the street improvements. The waiver shall be signed by the City Manager or his or her designee and shall be in a form as approved by the City Attorney.

(Ord. 16-2141, § 2, 2016; Ord. 2085, § 2 (part), 2011; Ord. 1653, § 2 (part), 1994)

#### 18.56.050 Disposition of Street Facility Reimbursement Charge Revenues.

The revenues received by the City from street facility charges assessed pursuant to this chapter shall be used solely for reimbursements to initial developers in the manner provided by this chapter and the reimbursement agreement. Provided, however, that in the event the City is unable to locate the initial developer after five years of due diligent searching commencing from the date the street facility reimbursement charges are paid, or upon the discovery of facts establishing that a due diligent search would be futile, the revenues collected hereunder shall be paid to the treasurer of the City for deposit in the general fund.

(Ord. 2085, § 2 (part), 2011; Ord. 1653, § 2 (part), 1994)

#### 18.56.060 Acquisition of Necessary Land, Costs, Interest.

A. Where the initial developer at its own cost acquires land for the installation of the mandated street facilities, reimbursement to the initial developer by the City for that portion of the cost of those street facilities in excess of the street facilities required for the initial developer's property shall include interest in an amount equal to the interest received by the City from the owners of benefitted properties as imposed by Section 18.56.050.

B. If the initial developer cannot purchase or otherwise acquire land necessary for the installation of the street facilities, the City shall, no later than one hundred twenty days from the filing by the initial developer of a final subdivision map or final parcel map, or in the case of a certificate of compliance, any time prior to issuance of a certificate of occupancy, acquire by negotiation or commence proceedings pursuant to California Code of Civil Procedure Section 1230.010 et seq. (including proceedings for immediate possession under Code of Civil Procedure Section 1255.410) the necessary land.

C. Where the City acquires land necessary for the installation of the street facilities in the manner provided in subsection B of this section, the reimbursement agreement shall provide that the initial developer shall reimburse the City for all costs, including litigation costs, incurred by the City in the acquisition of such land.

The reimbursement agreement shall also provide that prior to commencement of any proceedings to acquire the necessary land pursuant to the City's eminent domain powers, the initial developer shall deposit with the City an amount to be determined by the Director of Public Works, which amount shall be based on a reasonable estimate of the costs of acquisition of said land. If the deposit exceeds the actual cost of acquisition, the City shall refund the excess amount to the initial developer. If the deposit is less than the actual cost of acquisition, upon written demand by the City, the initial developer shall pay the additional sum to the City.

D. Where no dedication of land is necessary for the street facilities, or where the City is able to acquire land necessary for the street facilities at no cost pursuant to negotiations with the owner or owners of benefitted properties for which a street facility reimbursement charge is assessed under Section 18.56.050, and as part of those negotiations the City waives the requirement to pay interest on the street facility reimbursement charge, the initial developer shall not be entitled to interest on the reimbursement charges assessed those benefitted properties.

(Ord. 2085, § 2 (part), 2011; Ord. 1653, § 2 (part), 1994)

### 18.56.070 Other Street Facility Charges.

The street facility reimbursement charges assessed pursuant to this chapter shall be in addition to any street facility improvement charges assessed pursuant to Chapter 14.04, Street Improvements, of this code, as well as any street facility or other public improvement charges assessed pursuant to any other ordinance or resolution adopted by the City Council.

(Ord. 2085, § 2 (part), 2011; Ord. 1653, § 2 (part), 1994)

### 18.56.080 Rules and Regulations.

The City Engineer shall have the power to establish reasonable rules and regulations consistent with the provisions of this chapter for the purpose of its administration and enforcement. Such rules and regulations shall be effective upon approval thereof by the City Council.

(Ord. 2085, § 2 (part), 2011; Ord. 1653, § 2 (part), 1994)

## 9: ZONING