

Chapter 15



Government Land Use & Zoning

Chapter 15 Goals:

- Understand the different rules and regulations the government can use to control land use
- Recognize the major subdivision laws and the purpose of each law
- Understand provisions of a general plan for development
- Recognize the difference between federal and state fair housing laws and their impact on housing policies
- Understand the various forms of common interest subdivisions
- Introduce and explain state and federal fair housing laws

Chapter 15: Government Land Use & Zoning

Key Terms

Alquist-Priolo Earthquake Fault Zoning Act assessor's parcel number (APN) base lines bounds coastal zone Coastal Zone Conservation Act commercial acre commercial land use common interest subdivision community apartment project Community Redevelopment Agency (CRA) condemnation conditional use permit condominium correction line earthquake fault zone eminent domain Environment Impact Report (EIR) final map form-based codes	general plan guide meridian homeowners association (H.O.A.) industrial land use inverse condemnation legal description limited equity housing cooperative lot and block system mixed use metes metes and bounds mortgage revenue bonds negative declaration nonconforming use parcel map planned unit development (PUD) point of beginning police power final subdivision public report preliminary subdivision public report	R1 R2 R3 R4 Rangeland, Grazing Land, and Grassland Protection Act rectangular survey system residential land use rezoning Seismic Hazards Mapping Act specific plan standard subdivision stock cooperative subdivision Subdivided Lands Law Subdivision Map Act tax increment funding tentative map townships undivided interest subdivision variance zoning zoning ordinance
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General Plan

A **general plan** is a city's comprehensive master plan that outlines its short- and long-term goals for development, growth, and sustainability. The plan puts forth both broad and specific guidelines that regulate land use policy and zoning laws.

A city's general plan takes into consideration current economic levels, projected economic levels, and the state's general plan. A city must adhere to a state's general plan unless it is exempted.

A city's general plan includes provisions related to:

- Land use and population density

- Housing for various income levels
- Public safety from fire, earthquakes, landslides, and mudslides
- Public transportation
- Construction of roads, freeways, and bridges
- Division of neighborhoods
- Division of commercial and residential real estate
- Natural resource conservation
- Noise problems, including drilling, factories, and natural land
- Trash disposal
- Preservation of historic landmarks, buildings, and destinations

As every county has unique economic, geographic, and demographic factors, every county's general plan is different.

For example, a developed county with high-volume traffic may include plans for a future local airport and designate land for building airport terminals, landing strips, and air traffic controller offices.

A **specific plan** lays out the particular, short-term tasks required to fulfill a general plan's long-term goals. For example: street planning, electrical wiring, sewage systems, and building construction requirements.

A specific plan analyzes current and projected economic data, population growth, environmental factors, and other factors to determine the order in which tasks should be completed.

Planning Commission

A city's planning commission is typically required to review a proposed general plan and any changes, alterations, or amendments.

Traditionally, the different departments within a city planning office made independent general plan recommendations. However, the passage of Assembly Bill 1268 in July 2004 encouraged specialists from multiple departments to combine their expertise to create a more effective general plan.

A majority of a planning commission must vote in favor of a general plan before it is adopted.

Zoning

Zoning refers to the control of land use for the purpose of promoting a city's overall health, welfare, and economic development.

Zoning laws are the primary tools used to implement a state's general plan. A state's constitution authorizes the use of zoning laws to prevent or promote specific types of land use and their development in certain areas.

The various categories of land use include:

- Residential
- Commercial
- Industrial
- Farm
- Mixed use
- Public use

Zoning laws also set forth building requirements.

Zoning Categories

Zoning categories are described through a system of letters and numbers. For example, residential is categorized as “R”, commercial as “C”, and industrial as “I”. These letters usually have a corresponding number that indicates the amount of units that can be built, their use, and the maximum permitted square footage size.

Zoning Ordinances

A **zoning ordinance** is a regulation or law that designates how a property in a specific zone can be used. An ordinance may relate to the following:

- Parcel size
- Permitted use
- Height limitations
- Required setbacks
- Lot-to-property-size ratio
- City or town density
- Safety requirements

Conversely, **form-based codes** regulate development by controlling building form (i.e. scale, design, placement) rather than building use.

Symbols That Represent Various Zoning Classifications

- A - Agriculture
- C - Commercial
- M - Manufacturing
- P - Public Uses
(like parking lots and parks)
- R - Residential



A - Agriculture

- R1 - Single-family home
- R2 - Duplex
- R3 - Multiple residential units
- R4 - Four units or higher density dwellings
- PD - Planned Development



C - Commercial



R2 - Duplex



R4 - Four Units or Higher



R - Residential



M - Manufacturing



R3 - Multiple residential units



PD - Planned Development



P - Public Use



R1 - Single-family home

Residential Zoning Classifications

Zone R-1: Single-Family Residence

Permitted Uses:

Single-family residences (22.20.070 - 22.20.100)

Minimum Required Area:

Unless otherwise specified: 5,000 sq. ft./lot (22.52.100, 22.52.250)

Maximum Height Limit:

35 feet from existing or excavated grade (22.20.110) (unless modified by special standards district)

Minimum Required Parking:

Two covered parking spaces per single-family residence (22.52.1180)

Standard Yard Requirements:

Front Yard: 20 feet (22.20.120), except as provided in special standards district

Rear Yard: 15 feet or 20% of average depth of shallow lot, but not less than ten feet (22.20.120 and 22.48.110)

Side Yards:

-Interior Lot: Five feet or 10% of average width of narrow lot, but not less than three feet (22.20.120 and 22.48.100)

-Corner Lot: Five feet

-Reversed Corner Lot: Ten feet (22.20.120)

Zone R-2: Two Family Residence

Permitted Uses:

Two family residences (duplex) and single-family residences (22.20.170 - 22.20.200)

Minimum Required Area (unless otherwise specified):

5,000 sq. ft./lot (22.52.100)

2,500 sq. ft./unit (22.52.270)

Maximum Height Limit:

35 feet from existing or excavated grade (22.20.210) (unless modified by special standards district)

Minimum Required Parking:

Two-family residence (duplex): 1-1/2 covered spaces + 1/2 uncovered space per unit

Single-family residence: same as in R-1 zone (22.52.1180)

Standard Yard Requirements:

Front Yard: 20 feet (22.20.220)

Rear Yard: 15 feet or 20% of average depth of shallow lot, but not less than ten feet (22.20.220 and 22.48.110)

Side Yards:

-Interior lot: Five feet or 10% of average width of narrow lot, but not less than three feet (22.20.220 and 22.48.100)

-Corner lot: Five feet

-Reversed Corner Lot: Ten feet (22.20.220)

Zone R-3: Limited Multiple Residence*Permitted Uses:*

Apartment houses and uses permitted in Zone R-1 and R-2 (22.20.260 - 22.20.290)

Minimum Required Area (unless otherwise specified):

5000 sq. ft./lot (22.52.100)

1452 sq. ft./unit, or as otherwise limited by the general plan (22.20.310 and 22.20.060)

Maximum Height Limit:

35 feet from existing or excavated grade (22.20.300)

Minimum Required Parking:

Each bachelor apartment unit: one covered space

Each efficiency or one-bedroom apartment: 1 1/2 covered spaces

Each two-bedroom apartment: 1-1/2 covered + 1/2 uncovered spaces
See R-1 and R-2 zones

Guest parking required for apartments with a minimum of ten units at a ratio of one space per four units (22.52.1180 and 22.20.330)

Standard Yard Requirements:

Front Yard: 15 ft., except as provided (22.20.320)

Rear Yard: 15 ft. or 20% of average depth of lot. Not less than ten ft. (22.20.320 and 22.48.110)

Side Yards:

- Interior Lot: Five feet or 10% of the average width of narrow lot, but not less than three feet (22.20.320 and 22.48.100)
- Corner Lot: Five feet
- Reversed Corner Lot: 7-1/2 feet (22.20.320)

Zone RPD: Residential Planned Development

Permitted Uses:

- Single-family residences (22.20.460A)
- Planned unit development with approved CUP (22.20.460B)

Minimum Required Area (unless otherwise specified):

- 5000 sq. ft./lot (22.52.100, 22.52.250)
- Five acres/development project (22.20.460B1)
- Density as established by CUP & zoning (22.20.460B2)

Maximum Height Limit:

- 35 feet (22.20.460)
- As established by CUP (22.20.460)

Minimum Required Parking:

- Same as R-1 (22.52.1180)
- Same as R-1 through R-4, depending on type of structure or as required by CUP (22.20.460)

Density:

- As established by CUP and zoning (22.20.460 B2)

Standard Yard Requirements and Development Standards:

- All yards: same as R-1 (22.20.460A)

Note: The Regional Planning Commission, in approving a CUP for a planned development, may modify or require greater yards than those required in a

normal single-family residential development. Building separation is a minimum of ten feet for one and two stories. Add two feet for each story above two stories (22.20.460B)

Commercial Zoning Classifications

Zone C-1: Restricted Business

Permitted Uses:

Zone C-H uses, commercial services, retail sales of new goods and genuine antiques (22.28.080)

Minimum Required Area:

No minimum required area. (But see 21.24.240 of L.A. County Code – Subdivisions)

Maximum Height Limit:

35 feet, or as provided in community standards district (22.28.120)

Minimum Required Parking:

General commercial and medical offices: one parking space for each 250 sq. ft. of floor space.

Other office uses: one parking space per each 400 sq. ft. of floor space (22.52.1100). (See applicable use: Part 11, Chapter 22.52)

Eating/drinking establishments: one parking space for each three persons, based on occupant load determined by Public Works Department (minimum of ten parking spaces). (22.52.1110)

Building Setback:

20 feet for front or corner side yards where property adjoins a parkway, major or secondary highway. On local streets, same as the adjoining residential or agriculture-zoned property (22.28.120)

Maximum Lot Coverage:

90% of net area of lot

10% of net area must be landscaped (22.28.120)

Zone C-2: Neighborhood Business

Permitted Uses:

Zone C-1 uses, rentals, outdoor advertising, tailor shops (22.28.130)

Minimum Required Area:

No minimum required area. (But see 21.24.240 of L.A. County Code – Subdivisions)

Maximum Height Limit:

35 feet, or as provided in community standards district (22.28.170)

Minimum Required Parking:

General commercial: one parking space for each 250 sq. ft. of floor space

Non-medical office uses: one parking space for each 400 sq. ft. of floor space. (See applicable use: Part 11, Chapter 22.52)

Eating/drinking establishments: one parking space for each three persons, based on occupant load determined by Public Works Department (minimum of ten parking spaces)

Building Setback:

No building setback required

Maximum Lot Coverage:

90% of net area of lot

10% of net area must be open and landscaped (22.28.170)

****Zone C-3: Unlimited Commercial*******Permitted Uses:***

Zone C-2 uses, secondhand stores (22.28.180)

Minimum Required Area:

No minimum required area. (But see 21.24.240 of L.A. County Code – Subdivisions)

Maximum Height Limit:

13 times buildable area, except as otherwise provided in community standards district (22.52.050)

Minimum Required Parking:

General commercial: one parking space for each 250 sq. ft. of floor space

Non-medical office uses: one parking space for each 400 sq. ft. of floor space. (See applicable use: Part 11, Chapter 22.52)

Eating/drinking establishments: one parking space for each three persons, based on occupant load determined by Public Works Department (minimum of ten parking spaces)

Building Setback:

No building setback required

Maximum Lot Coverage:

90% of net area of lot

10% of net area must be landscaped (22.28.220)

****Zone C-H: Commercial Highway*******Permitted Uses:***

Community and financial services, parks and play grounds, business/professional offices. No retail sales (22.28.030).

Minimum Required Area:

No minimum required area. (But see 21.24.240 of L.A. County Code – Subdivisions)

Maximum Height Limit:

35 feet, or as provided in community standards district (22.28.070)

Minimum Required Parking:

Banks, post offices, medical offices: one parking space per each 250 sq. ft. of floor space

Other office uses: one parking space per each 400 sq. ft. of floor space (22.52.1100)

Building Setback:

20 feet for front or corner side yards where property adjoins a parkway, major or secondary highway. On local streets, same as adjoining residential or agriculture-zoned yard (22.28.070)

Maximum Lot Coverage:

90% of net area of lot

10% of net area must be open and landscaped (22.28.070)

****Zone C-M: Commercial Manufacturing*******Permitted Uses:***

Zone C-3 uses, plus limited manufacture and assembly (22.28.230)

Minimum Required Area:

No minimum required area. (But see 21.24.240 of L.A. County Code – Subdivisions)

Maximum Height Limit:

13 times buildable area, except as otherwise provided in community standards district (22.52.050)

Minimum Required Parking:

General commercial: one parking space for each 250 sq. ft. of floor space

Non-medical office uses: one parking space for each 400 sq. ft. of floor space.
(See applicable use: Part 11, Chapter 22.52)

Eating/drinking establishments: one parking space for each three persons,
based on occupant load determined by Public Works Department (minimum of
ten parking spaces)

Building Setback:

No building setback required

Maximum Lot Coverage:

90% of net area of lot

10% of net area must be landscaped (22.28.270)

Zone CPD: Commercial Planned Development***Permitted Uses:***

One R-A uses (22.28.340)

Non-residential C-1 uses with approved CUP (22.28.340)

Minimum Required Area:

5000 sq. ft. (22.28.340 and 22.52.100)

Maximum Height Limit:

35 feet (22.28.170)

13 times buildable area (22.52.050)

Minimum Required Parking:

Same as zones R-A and C-1 (22.28.340, 22.20.130, 22.52.1180)

As required by CUP (22.28.340)

Building Setback:

Same as R-A (22.28.340, 22.20.450, 22.20.120)

Subject to the provisions of the CUP

Maximum Lot Coverage:

Does not apply

40% of gross area of the lot (22.28.340)

Combined Zoning Classifications

Zone () - CRS: Commercial- Residential

Permitted Uses:

Uses permitted in basic zone (22.40.550)

With Director's approval, any residential use, separate or in combination with a permitted commercial use (22.40.570)

Minimum Required Area:

Per basic zone

Maximum Height Limit:

Per basic zone, except as otherwise provided in community standards district

Minimum Required Parking:

See applicable use: Part 11, Chapter 22.52

Building Setback:

Per basic zone

Maximum Lot Coverage:

Per basic zone

Zone () - DP: Development Program

Permitted Uses:

A specific development proposal in basic zone. CUP required. Must be consistent with development proposal at time of rezoning (22.40.040)

Minimum Required Area:

Per basic zone and CUP

Maximum Height Limit:

Per basic zone and CUP

Minimum Required Parking:

See applicable use: Part 11, Chapter 22.52 and CUP

Building Setback:

Per basic zone and CUP

Maximum Lot Coverage:

Per basic zone and CUP

Zone () - PO: Unlimited Residence-Professional Office

Permitted Uses:

Any use permitted in the basic zone (22.40.620)

Any use permitted in the basic zone and/or any professional office use provided a CUP has been approved (22.40.650)

Minimum Required Area:

Per basic zone

Maximum Height Limit:

Per basic zone

Minimum Required Parking:

See applicable use: Part 11, Chapter 22.52 and CUP, if any

Building Setback:

Per basic zone

Maximum Lot Coverage:

Per basic zone

Zoning Amendments & Exemptions

Although zoning laws are typically permanent, landowners may be able to alter the standard zoning rules in certain instances. The process of changing zoning policy is known as **rezoning**.

Rezoning takes a significant amount of time and may require neighborhood approval. If a city proposes altering zoning provisions, it will likely hold a public meeting. At the meeting, neighbors, residents, and property owners will have the ability to give input and suggestions on the proposed changes.

Any changes to zoning laws must adhere to a city's general plan. If a zoning dispute arises between a citizen and the state, a general plan will take precedence over zoning laws.

Variance

A **variance** is a request to be exempt from local zoning ordinances.

Property owners may submit a variance in order to develop a type of property that does not conform to local zoning ordinances. A variance may be accepted if "the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in vicinity and under identical zoning application."

Most amendments to current zoning laws require some element of increased enjoyment. In many instances, the purpose of a variance is to improve a property and ultimately, to help increase economic opportunity for the property owner and the community.

To appeal a zoning ordinance, a property owner must go to the Building and Safety Office at the local city hall and file an appeal with a zoning administrator.

Example

Question: Ezekiel's property is situated in the prestigious Upper Hills. His property has one of the smallest backyards in the neighborhood. Ezekiel wishes to extend the deck that comprises his backyard in order to increase his square footage. Current zoning laws do not allow property owners to increase the setback of a property. However, an engineer reviews Ezekiel's plan and finds that the project will not endanger the integrity of the property or affect wildlife. Under these circumstances, what can Ezekiel do to potentially build the deck?

Answer: *Ezekiel can apply for a variance with the intent of adjusting the current zoning ordinance to increase the setback of his property. The fact that Ezekiel's engineer discovered that pushing back the property would not threaten its integrity or wildlife means that the city will likely consider the proposal. The extension of the property would also allow Ezekiel to better enjoy his property. For this reason, the city would likely approve the variance.*

Conditional Use Permit

A **conditional use permit** – also known as a special-use permit – allows property owners to develop their property beyond the scope of existing zoning ordinances.

A conditional use permit allows for the construction of a nonconforming use building. **Nonconforming use** refers to a land use that was allowed under zoning laws at the time it was established, but is no longer allowed due to subsequent changes in those regulations.

For example, a business may receive a conditional use permit to build in a residential zone.

Redevelopment

The California legislature has passed numerous redevelopment laws aimed at improving and updating properties within a community.

Redevelopment improves building safety and enhances property appeal. Such efforts contribute to employment in local construction industries, spur economic growth, maximize property values, and increase tax collection to be funneled back into a community.

To incentivize the redevelopment of underdeveloped cities, California created the Community Redevelopment Agency. The **Community Redevelopment Agency (CRA)** is a government agency whose main initiatives are to rehabilitate real estate structures and develop new ones.

The CRA board of governors is comprised of city council members. The CRA board has the ability to influence redevelopment decision-making. However, their decisions must adhere to the goals set forth in a city's general plan.

The CRA board also has the ability to borrow money from state programs in order to fund its redevelopment efforts. This funding is derived from tax and bond sources.

Tax increment funding is a public financing method that subsidizes local redevelopment projects. The CRA board has the ability to divert future property tax increases from developed areas to finance a redevelopment project in the community.

Mortgage revenue bonds are a method of financing used to pay for the costs of redevelopment. Mortgage revenue bonds are tax-exempt. They are issued through various housing financial agencies to assist first-time homebuyers in qualifying for mortgages.

Government Confiscation

Police power refers to the government's right to enforce laws that promote the well-being of the public. This includes issues relating to health, safety, and housing.

The government can confiscate private property from citizens or corporations to serve the public interest, such as to build a hospital, police department, or road. This is called **eminent domain**. Eminent domain may be necessary to meet the growing demands of an expanding neighborhood or city.

A common example of eminent domain is when a government seizes private land in order to construct a freeway. As a freeway serves the interests of the wider public, the

government has the right to claim eminent domain over all or a portion of the property being used for the freeway's construction.

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 entitles victims of eminent domain to financial assistance for their loss. The government must compensate the owner of a confiscated property for the fair market value of the property. The process of compensating a private citizen or corporation for the confiscation of his or her land is known as **condemnation**.

If only a portion of a property is taken, compensation is calculated based on the price per square foot.

If a confiscated property is a residential rental property, the government must pay current tenants for relocation assistance.

If the confiscated property is a factory, the government must consider the loss of income incurred by a third party who has hired the factory's services. For example, if a company has already made an advance payment to a factory for the production of goods, the government may have to compensate the company for the advance payment.

The government must also consider the costs associated with a property owner moving or cancelling a mortgage (i.e. prepayment penalties).

The Tucker Act of 1887 is a federal law that allows property owners to sue the federal government for making structural changes to an area in which a property owner holds title. If a property owner can prove that his or her property value was diminished due to partial government confiscation, the federal government may be responsible for paying for the loss. A lawsuit brought forward by a property owner against the federal government is known as **inverse condemnation**.

Subdivisions



A **subdivision** refers to land that has been subdivided into smaller parcels, usually for the purpose of renting or selling separate residential homes or commercial businesses.

Land must be subdivided according to local and state government standards and their existing general plans.

Two specific laws govern a developer's ability to subdivide land:

- Subdivided Lands Law

- Subdivision Map Act

Subdivided Lands Law

The **Subdivided Lands Law** protects the interests of buyers in the sale of subdivided property of five or more parcels. Its primary purpose is to protect consumers from misrepresentation and fraud.

Under the law, sellers must disclose all information regarding the condition of the property to the Real Estate Commissioner. This includes:

- Property address, including where a property begins and ends
- Property use (i.e. natural resources, ranching)
- Size
- Process for payments, taxes, and necessary assessments
- Expenses related to the closing of a transaction
- Permit requirements
- Environmental issues (i.e. mold, oil, gas, minerals)
- Conditions of property
- Restrictions of property
- Easements, rights of way, and information pertaining to rights of ownership

Such disclosures allow prospective buyers to review the specifics of the property.

The Real Estate Commissioner will then issue a preliminary subdivision report. A **preliminary subdivision public report** – otherwise known as a “pink slip” or “pink report” – gives a seller the ability to advertise and to collect deposits for the sale of subdivided land.

The Commissioner and the Department of Real Estate have instituted a set of guidelines regarding the proper advertisement and promotion of a subdivision. Any advertising deemed misleading or false is prohibited.

A **final subdivision public report** – also known as a “white slip” or “white report” – authorizes a seller/developer to sell or lease subdivided land. Before issuing the report, the Commissioner will consider the financial standing of the property and any changes that are going to be made (i.e. construction, renovation, drilling). No subdivided properties can be sold until the Real Estate Commissioner has issued a final subdivision public report.

In the event that changes are made to a property during the period the Commissioner took to create the public report, the property owner must inform the Commissioner.

Typically, the most difficult and time-consuming of all public reports are common interest subdivisions. This is because they affect many people and the review process is very lengthy. (Common interest subdivisions will be discussed below.)

Public reports on subdivided land are usually valid for five years. If individual parcels of land have not been sold within five years of the original report, the property owner must renew the report.

Subdivision Map Act

The **Subdivision Map Act** confers autonomy to local governments to make decisions regarding the subdivision of land. The Act allows the government to:

- Organize the layout of a city
- Divide land appointed for public and private use

This includes designing sewer/drainage systems, trash systems, the directions of streets, and the location of vital services and utilities (i.e. street lights, stop signs).

The Subdivision Map Act also requires subdivision developers to provide the city with two types of maps:

- Tentative map
- Final map

Tentative Map

A **tentative map** is a developer's preliminary plan for a proposed subdivision.

A tentative map should include the following:

- Legal description of property (i.e. property's boundaries begin and end)
- Proposed property use
- Tentative lot layout, including dimensions
- Streets that run through, counter, parallel, and perpendicular to property
- Existing drainage, sewer, and utility areas
- Easements, rights-of-way, and other interests in the property that affect the public or prospective buyers
- Proposed changes to the drainage, sewer, and utility areas
- Source of water supply

A proposed subdivision must also adhere to any existing standards for its proposed land use. For example, if land is being subdivided for gas exploration, it must be adhere to all health and environmental standards.

After a developer creates a tentative map, he or she must submit it to his or her city's Planning Department for approval.

Each city has its own guidelines that dictate the subdivision process. After a developer submits his or her tentative map, the city will assign him or her a point of contact in the Department to assist in the process.

After the Planning Department finishes its review of the tentative map, the city will hold a public hearing regarding the proposed development. The purpose of the hearing is to allow the public to voice opinions, suggestions, and/or concerns.

The Planning Department must issue an approval or denial of a tentative map within 50 days of a developer submitting it. If the city has received all the required paperwork and does not issue a decision within the 50-day period, the tentative map is considered approved.

Final Map

A final map – also known as a **parcel map** – must be prepared under the direction of a licensed engineer or land surveyor.

A parcel map indicates the boundaries of each parcel in a proposed subdivision. Each parcel must be clearly labeled and include where each parcel begins and ends.

A **commercial acre** is a land measurement unit that describes a 36,000 square feet portion of land. The term is typically used to describe subdivided land.

Such maps allow the government to accurately charge property taxes. They also provide authentic information about local real estate to the public.

The engineer or surveyor must sign a certificate verifying that all of the submitted information is accurate.

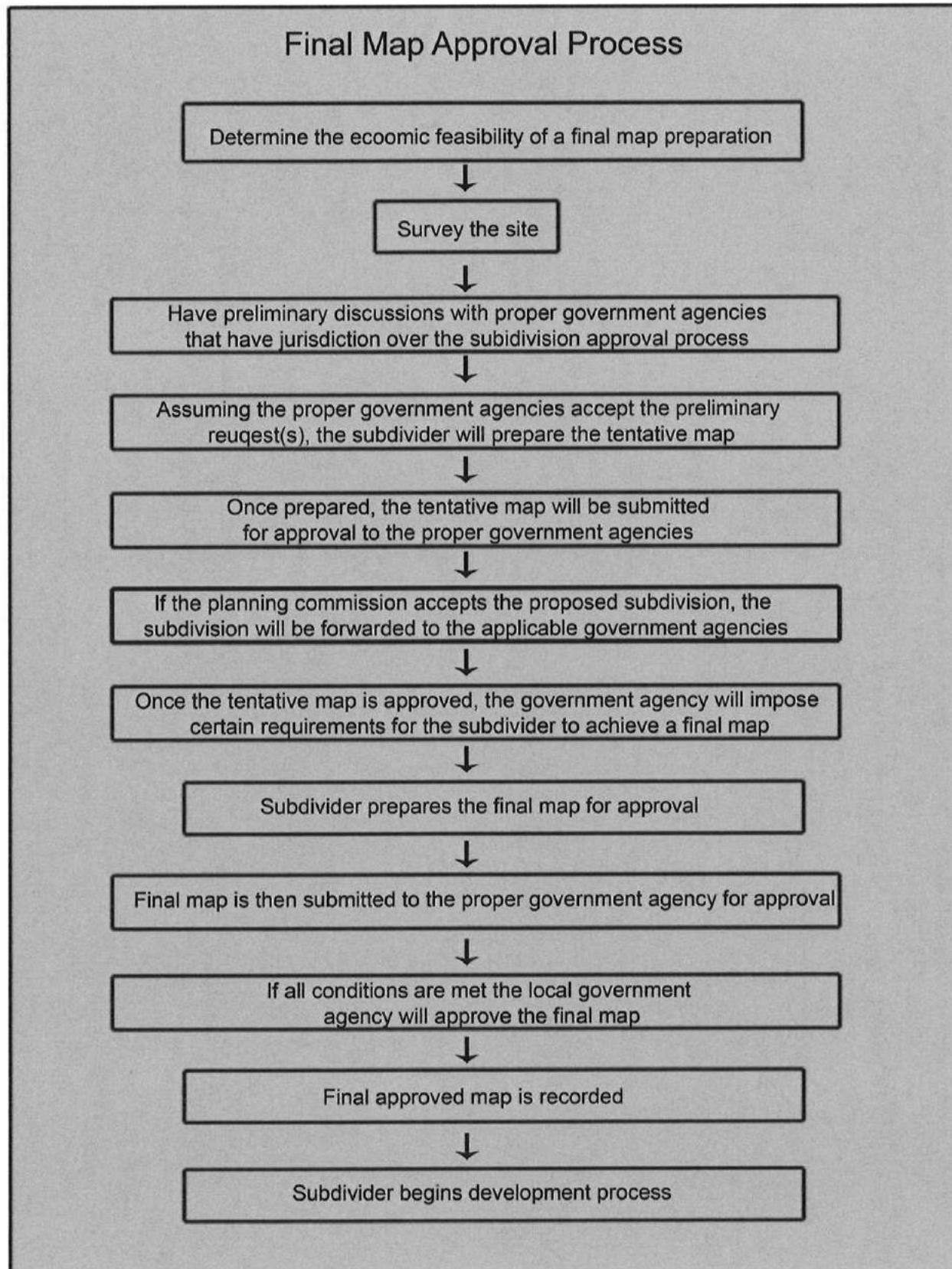
A developer must meet all of the requirements of the Subdivision Map Act before his or her tentative map expires. These requirements include:

- *A subject property's taxes must be current.* Should there be any unpaid property taxes on a property being developed for a subdivision, the developer must submit paperwork indicating that he or she has the finances required to pay them.

- *Developers must also pay for any aspects of the development that relate to public use.* This is done so that costs are not passed onto taxpayers.

If all of the requirements are met, a developer submits his or her final map and all proper documentation to the Planning Department. Failure to provide all of the necessary documentation can lead to a lengthy process or a denial.

If the Planning Department approves a developer's final map, a property is ready to be subdivided.



Environmental Impact Report (EIR)

An **Environmental Impact Report (EIR)** is an additional report that must be prepared if a subdivision will pose a risk to the environment.

A subdivision of land may be denied if it:

- Poses a significant risk to the environment
- Poses a significant risk to wildlife (i.e. fish, grazing animals)
- Poses a significant risk to public health

An EIR should be drafted prior to the creation of a tentative map when there is substantial evidence that a subdivision project poses such risks.

The government will issue a **negative declaration** if it deems that a subdivision does not pose a significant environmental or health risk. If the government issues a negative declaration, an EIR may not be necessary. However, the presence of an EIR drastically reduces the possibility of a denial.

Measuring & Defining Land

In the past, property owners would thrash the corners of their land as a method of defining its boundaries. These thrashed corners were meant to provide a clear division of one property from another.

These days, however, it is important to distinguish land borders in a clearer manner. Buyers, sellers, and tenants must understand a subject property's borders in order to avoid legal disputes and to accurately price a property for sale.

The task of identifying land can become more difficult than simply having the property address. This is because:

- Street names can be altered
- Land can be subdivided and lot sizes changed
- Alleys or driveways may be moved
- Development may alter a property's landscape

There are three methods used to define, describe, and set boundaries for land:

- Metes and bounds system
- Rectangular survey system
- Lot and block system

Metes and Bounds

Metes and bounds is a real property measurement system used to determine a property's boundaries.

In the metes and bounds system, land is marked using the land's physical features (i.e. rivers, lakes, rocks, boulders, trees) and monuments/markers (i.e. fences, gates, doors, sheds, backhouses).

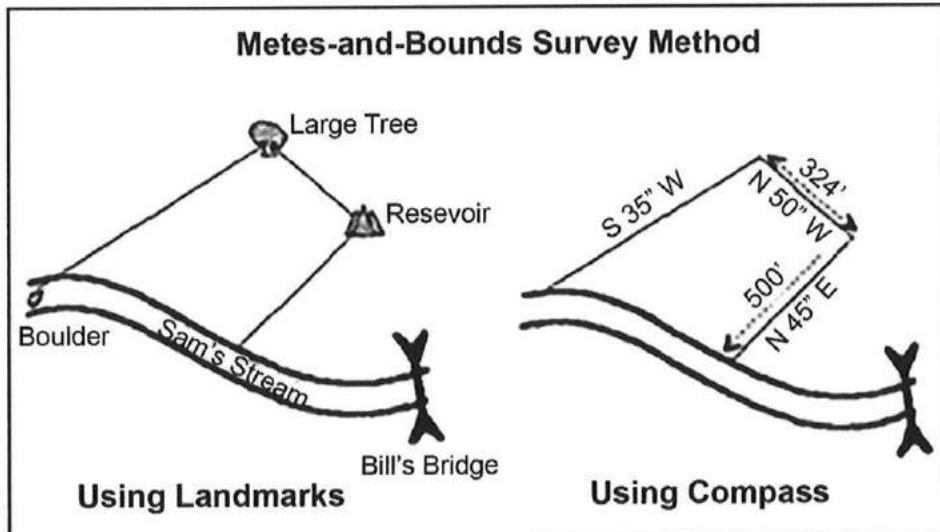
Bounds refer to natural features, such as a roadway or tree. These features are used to define distances and directions on a property. **Metes** refer to the distance from one part of the property to the other. When defining an angle, measurements are given using north and south.

A metes and bounds assessment begins by choosing the feature on which the directions will be based, known as the **point of beginning**. Using the point of beginning as a point of reference, surveyors follow the distance, direction, and angle to other features in order to measure the property.

Sample Metes and Bounds Description

"Beginning at the corner of the two largest oak trees near the lake on the south side of the backhouse half a mile from East Highway 91; then 50 degrees north of west for 60 rods* to the end of the brick wall nearing the horse stable; then 25 degrees west of north for 50 yards, then following the lake 150 rods."

*1 rod = 5.5 yards



One problem with the metes and bounds system is that physical features, monuments, and markers may change over time. For example, old trees may decompose or be removed. This subsequently affects the original description and can make the task of defining a property with the metes and bounds system impossible. Should physical features change over time, distances take precedent in defining land boundaries.

Using a complex series of directions can also be very confusing and may leave more room for error than other methods. Using this system increases the potential for litigation dramatically.

Only professional surveyors have the ability to understand a metes and bounds description, making this method useless to buyers and sellers.

California does not typically utilize the metes and bounds system to define property. It may be used as a supplement to other systems, but by and large, it is rarely used.

It may still be applied to the assessment of larger properties where absolute precision is not required.

For example, the boundaries of a large community or political subdivision would be too expensive to define using highly precise methods. Therefore, a town may use the metes and bounds system to save on costs.

Rectangular Survey System

The **rectangular survey system** – also known as the public land survey system, section and township system, or U.S. government survey system – is the primary land measurement system used by the United States government to define public land.

Thomas Jefferson knew that the government would be responsible for dividing newly acquired land amongst soldiers and private citizens after the Revolutionary War. He proposed the idea of a rectangular survey system and it was enacted through the Land Ordinance of 1785.

The rectangular survey system measures land using square miles. It is used on 24-square mile units of land.

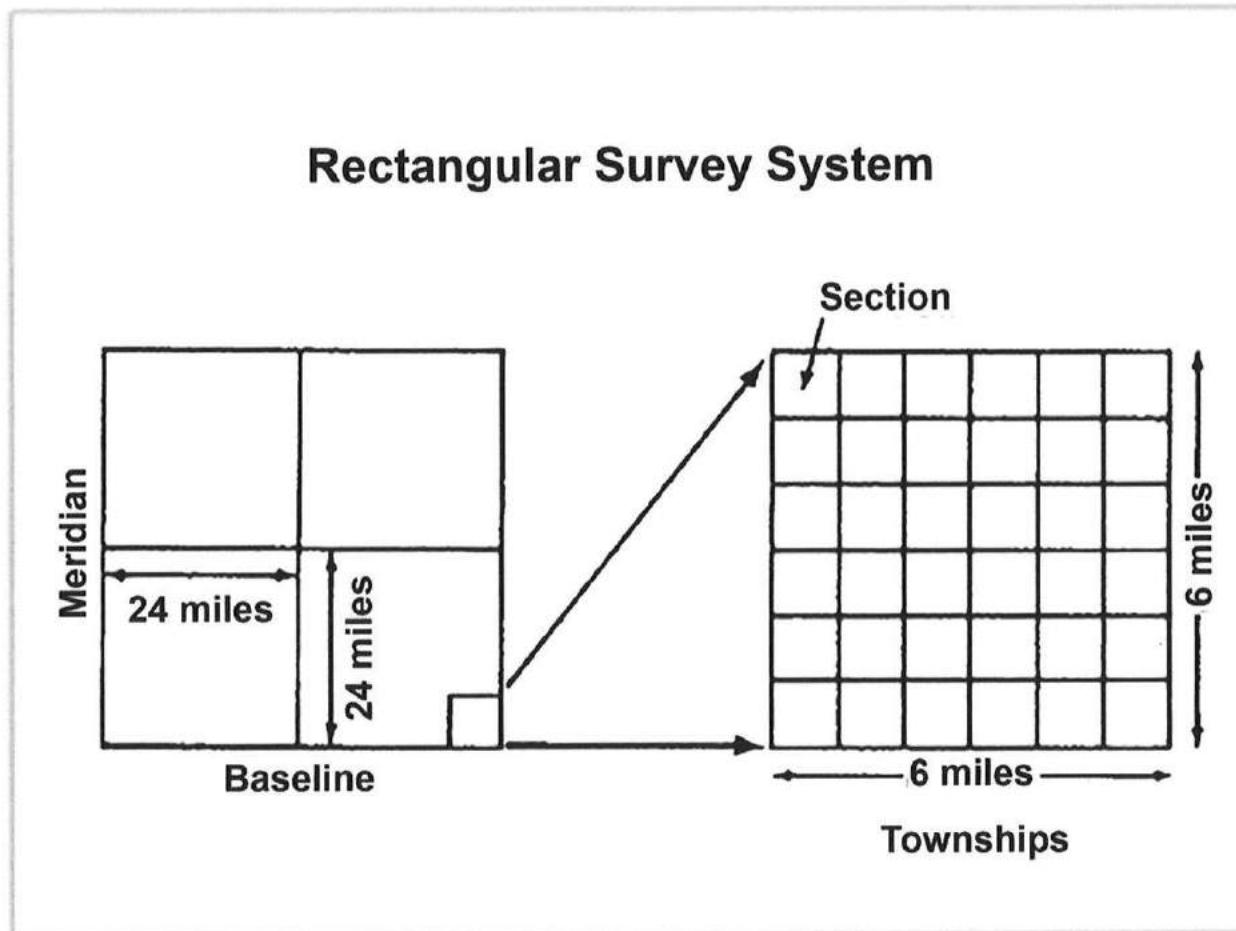
When using the rectangular survey system, a surveyor begins with a starting point on which the rest of the survey is based. The starting point is used to define the boundaries of the land.

These boundaries are formed by **base lines** that run east and west and the **guide meridian** that runs north and south. The base lines and guide meridian run

perpendicular to each other. A physical marker is typically installed into the ground to indicate the presence of a boundary.

The 24-square mile area is split into six square mile portions of land called **townships**. A six-square mile township is then divided into 36 sections. Each is equivalent to one square mile. One square mile is equivalent to 640 acres.

The six-square mile portions are numbered according to whether they are east or west of the guide meridian. This means the first township that is north of the base line and east of the meridian is labeled Township 1 North, Range 1 East. The proceeding townships are labeled Township 2 North, 2 East; Township 3 North, 3 East; etc.



Further subdivision may divide the land into quarter sections, quarter-quarter sections, or irregular government lots.

The earth's natural curvature does not allow an equal system where all townships are parallel to one another. Therefore, a surveyor utilizes a **correction line** between every four townships to properly establish boundaries.

The disadvantages of a rectangular survey system include the fact that property shapes are often irregular and physical features may change over time, changing what is included in which square mile.

Lot and Block System

A **lot and block system** – also known as a recorded plat survey or a recorded map survey – is the most commonly used land measurement system.

The lot and block survey system is particularly used in urban areas that are densely populated.

Measurement of a property using the lot and block system starts out with a large piece of land. This original large piece of land is then subdivided into smaller tracts at which point a plat map would be drawn up. After land is divided into smaller sections, the plat map is recorded with the county building office and is identified with a letter, number, or combination of both.

After the map is submitted to the county building office, the plan acts as the legal description of each individual lot. Once the larger portion of the land has been divided, the lot and block system will further reduce the property into smaller segments.

The purpose of using the lot and block system is to divide large tracts of land into smaller ones. It does not serve to provide a specific square footage.

Each subdivided lot will then be given its own **legal description**. A legal description includes:

- City name
- County name
- Assessor's parcel number (APN)
- Street name and number
- Legal description of the property's boundaries
- The location of the recording of the description (i.e. the book and page number of the county recorder's book of records)

An **assessor's parcel number (APN)** is a number assigned to real property by a particular jurisdiction's tax assessor for the purpose of identification and record

keeping. An APN may also be referred to as a Property Identification Number, Property Account Number, or a Tax Account Number.

The county recorder's office must approve the measurements and then records them for public record.

Unlike the other two methods, which often rely on ambiguous estimates or descriptions, the lot and block system makes it easy for the average consumer to understand land measurements. It is also able to accurately describe a subject property in a highly detailed manner.

This is why the lot and block system is the most common method for residential real estate in metropolitan and suburban communities. Most county recorder's offices also utilize it as the standard land measurement tool.

Example

Prospective buyer Sam wishes to purchase a property on Elm Street as his primary residence. Sam's dream is to grow a huge garden in the backyard. However, he is unsure of how much of the backyard would be his versus how much would belong to his neighbor. How would the property seller obtain the official legal description of the property for him?

Mary should go to the county recorder's office and request the legal description of the property. Once she gets the legal description it will describe the property as 265 S. Elm Street, lot 14 of block 8, as shown in Book 19, Page 123, recorded on 12-12-1960.

Types of Subdivisions

There are three main types of subdivisions:

- Standard subdivision
- Undivided interest subdivision
- Common interest subdivision

Standard Subdivision

The most common type of subdivision is a standard subdivision.

A **standard subdivision** is a type of subdivision in which a large piece of land is divided into two or more parcels to be sold or rented individually. A property owner can sell all individual parcels or keep some parcels while selling or renting the rest to prospective buyers.

A parcel can be sold as land or with a structure attached.

A standard subdivision does not have common areas.

Properties must be below 160 acres to be considered subdivided land. The only exception is if the land being sold contains oil and/or gas. Under this scenario, a standard subdivision can be any size.

Undivided Interest Subdivision

An **undivided interest subdivision** refers to when individual owners hold undivided interest in a property and maintain a non-exclusive right to use or occupy that property.

Usually, owners are tenants in common and hold the same rights as the other owners.

Examples include campgrounds or recreational vehicle parks.

Common Interest Subdivision

A **common interest subdivision** refers to when individual owners hold undivided interest in the common areas of a property, but maintain an exclusive right to use a particular unit or lot on that property.

Typically, an owner's association, committee, or board represents a common interest subdivision. A **homeowners association (H.O.A.)** is created for the purpose of governing a common interest subdivision's policies (i.e. safety, property improvements, rules) and collecting fees from each individual unit owner.

An H.O.A. board comprised of a few owners typically makes decisions on behalf of the other owners. However, as decisions affect all owners, H.O.A. meetings must be open to all owners.

The Common Interest Development Open Meeting Act requires that decisions pertaining to the interests of all common interest subdivision owners be discussed in a meeting. The Act stipulates that an H.O.A. board must give its members four days advance notice of all H.O.A. meetings. It must also specify what will be discussed at those meetings.

Failure to provide advance warning or to indicate the purpose of a meeting may result in decisions that cannot be put in effect. Items that are not on the agenda cannot be discussed unless there is:

- An emergency (anything reasonably unforeseen by the board that requires immediate attention without the time to provide proper notice)
- A question posed by one of the attending members
- An announcement by one of the attending members

All owners must be given advanced written notice of any propositions prior to a vote. An attending member's proposition cannot be voted on in the same meeting at which it is presented.

Types of common interest subdivisions:

- Condominium
- Community apartment project
- Limited equity housing cooperative
- Planned unit development (PUD)
- Stock cooperative

Condominium

A **condominium** is a building complex with units that are separately owned, but surrounded by shared common areas. Common areas include hallways, the parking lot, recreation rooms, swimming pool area, and rooftops.

A condominium is the most common form of common interest subdivision.

Community Apartment Project

A **community apartment project** is similar to a condominium, except that residents share ownership of the entire property (including all units) while maintaining an exclusive right to a particular unit.

All owners of a community apartment project are tenants in common. Because the property has one address, the property will receive one property tax bill.

When property owners retain financing to buy a community apartment project, all property owners share the debt.

Limited Equity Housing Cooperative

A **limited equity housing cooperative** is a form of ownership that allows multiple buyers to buy a property (a co-op). Due to the division of costs, each owner has limited equity in the property. However, this gives buyers who would otherwise not have the necessary capital to own property the ability to do so.

A co-op is financed by the California Housing Finance Agency. It allocates homeownership benefits to each owner. Any profit in a co-op is divided based on the financial commitment of each owner.

Planned Unit Development (PUD)

A **planned unit development (PUD)** is a community of properties in one concentrated area. Properties can be of similar or differing land uses, including residential, commercial, or recreational.

For example: a gated community.

A PUD may include common areas divided between multiple residential properties or between residential and commercial properties.

Stock Cooperative

A **stock cooperative** involves the purchase of real property as an investor. Rather than purchasing a unit or a portion of a property, an investor purchases stock in the property. This gives an investor the right to occupy a property in a corporation.

Investment in a stock cooperative grants an investor the ability to use the property and to claim a portion of its income. A stockholder's interest in a property is dependent on his or her initial investment. Stockholders can also transfer their interest to collect rental income.

Subdivision Acts

Rangeland, Grazing Land, and Grassland Protection Act



California passed the **Rangeland, Grazing Land, and Grassland Protection Act** to protect the state's wildlife. The Act provides grants to maintain lands designated for the purpose of protecting naturally roaming animal populations. The grants are used to

protect existing land, restore damaged lands, and improve lands to maintain a strong wildlife population.

California Coastal Act

California has vast coastal lands stretching from San Diego to the northern shores of San Francisco. Consequently, the **Coastal Zone Conservation Act** was enacted in 1972. Its goal was to “preserve, protect, develop, and where possible, restore or enhance” coastal zones and their resources.

The Coastal Act allows the local governments of coastal areas to make policies relating to the conservation of coastal lands. It also requires developers who are developing property within a coastal zone to be approved for permits to develop the land. A **coastal zone** is an area within 1,000 yards of coastline.

Alquist-Priolo Earthquake Fault Zoning Act

The **Alquist-Priolo Earthquake Fault Zoning Act** was enacted in 1972 to improve earthquake safety by regulating development taking place in areas on, or nearing, earthquake fault zones.

An **earthquake fault zone** is the area within a quarter mile of an active fault.

The Act regulates a city’s zoning laws based on the relative risk associated with having a property in at-risk areas. This is done to prevent widespread loss.

Under the Act, developers building or improving properties within a fault zone must provide a geologic report to their city or county Building and Safety Office.

Sellers and real estate agents must disclose when a property lies within a designated fault zone. This transparency gives buyers the ability to decide whether to purchase an at-risk property.

Seismic Hazards Mapping Act

The **Seismic Hazards Mapping Act** requires a seller of a property on, or near, a seismic hazard zone to disclose this to potential buyers. Seismic hazards include naturally occurring earth motions and movements.