



City of Newark

I, Sheila Harrington, City Clerk of the City of Newark, State of California, hereby certify under penalty of perjury the foregoing instrument to be a full, true and correct copy of the original now on file in my office.

City Clerk's Office
37101 Newark Boulevard
Newark, CA 94560

Date:

10/31/2023

Sheila Harrington - City Clerk

42 pages

By:

Deputy City Clerk

**PUBLIC NOTICE
OF AN ORDINANCE TO BE CONSIDERED
FOR ADOPTION BY THE
CITY COUNCIL OF THE CITY OF NEWARK**

NOTICE IS HEREBY GIVEN that the attached ordinance will be considered for adoption at the regular meeting of the Newark City Council to be held on Thursday, November 9, 2023 at 7:00 p.m., in the City Council Chambers, David W. Smith City Hall, 37101 Newark Boulevard, Newark, California.

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWARK
REPEALING AND REPLACING TITLE 16 "SUBDIVISIONS" OF
OF THE CITY OF NEWARK MUNICIPAL CODE IN ITS ENTIRETY**

WHEREAS, the California Constitution, Article XI, Section 7, provides cities and counties with the authority to enact ordinances and regulations not in conflict with general laws; and

WHEREAS, the Subdivision Map Act, Sections 66411 *et. seq.* of the Government Code, allows cities with flexibility in enacting local subdivision ordinances; and

WHEREAS, Title 16 "Subdivisions" of the City of Newark Municipal Code ("NMC") regulates and control the division of land and each part thereof within the City, supplements the provisions of the Subdivision Map Act, and sets forth the procedure to be followed in securing the official approval of the planning director, city engineer, public works director, city manager, planning commission and city council regarding divisions of land; and

WHEREAS, Title 16 was last significantly updated in 1977 pursuant to Ordinance No. 143; and

WHEREAS, the City Council, on the recommendation of the City Manager and the City Attorney, desires to repeal and replace Title 16 to update and revise the local subdivision ordinance; and

WHEREAS, the amendments to the Municipal Code propose to repeal and replace Title 16 "Subdivisions" of the NMC in its entirety, as shown in Exhibit A, which is attached hereto and incorporated herein by reference.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NEWARK DOES ORDAIN AS FOLLOWS:



510.578.4266



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SECTION 1. Recitals. The above recitals are true and correct and made a part of this Ordinance.

SECTION 2. CEQA. The subdivision ordinance update is exempt from environmental review under the general exemption in California Environmental Quality Act (CEQA) Guidelines section 15061(b)(3) for projects where it can be seen with certainty that there is no potential for significant environmental effects. The subdivision ordinance update does not approve any development project or other physical activity; nor does it change any land use or density designations that would affect development potential. Instead it updates the policies, standards and procedures through which subdivision applications for development would be considered. Any future development application would be reviewed for compliance with CEQA.

SECTION 3. Municipal Code Amendment. The City Council hereby approves the amendments to the NMC, more particularly, repealing Title 16 “Subdivisions” of the NMC in its entirety, and replacing it with the text shown in attached Exhibit A, which is attached hereto and incorporated herein by reference and available for review in the City Clerk’s office during normal business hours.

SECTION 4. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION 5. Publication and effective date. Within fifteen (15) days from and after adoption, this Ordinance shall be published once in the Tri-City Voice, a newspaper of general circulation printed and published in Alameda County and circulated in the City of Newark, in accordance with California Government Code Section 36933. This Ordinance shall take effect and be enforced thirty (30) days after its adoption.

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Chapter 16.04 General Provisions

16.04.010 Title

This title shall be known as the Subdivision Ordinance of the city of Newark.

16.04.020 Purpose and Authority

This title shall regulate and control the design and improvement of subdivisions of land within the city and supplement the provisions of the Subdivision Map Act of the State of California set forth at Government Code Sections 66410 *et seq.* 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 city regarding the maps.

16.04.030 Intent

The intent of this title is to promote the public health, safety and general welfare; to promote orderly growth and development within the city; to coordinate lot design, street patterns, rights-of-way, traffic circulation, utilities and public facilities with the general plan and any specific plans; to assure that areas dedicated for public purposes will be properly improved initially so as not to be a future burden upon the community; to preserve natural resources and prevent environmental damage; to maintain suitable standards to ensure adequate, safe building sites; and to prevent hazard to life and property.

16.04.040 Consistency

No land shall be subdivided for any purpose that is inconsistent with the city's general plan or any applicable specific plan of the city or that is not permitted by the zoning ordinance (Title 17) or other applicable provisions of this Code. It is the intent of this title to comply in every regard to the latest edition of the Subdivision Map Act. If any provision of this title is in conflict with the Subdivision Map Act, the provisions in the Subdivision Map Act shall prevail.

The type and intensity of land use as shown on the general plan and any applicable specific plan shall determine the type of streets, roads, highways, utilities and public services, and other public improvements that shall be provided by the subdivider.

16.04.050 Application of Title

The regulations set forth in this title shall apply to all or parts of subdivisions within the city and to the preparation of subdivision maps and to other maps provided for by the Subdivision Map Act and this title. All subdivisions and any part thereof lying within the city shall be made and all subdivision maps shall be prepared and presented for approval in accordance with this title.

16.04.060 Exclusions

This title shall not apply to actions exempted by Government Code Section 66412 and any others specifically exempted by the State Subdivision Map Act, except that the procedures for the application, review and approval of lot line adjustments shall be as outlined in Chapter 16.52.

16.04.070 Fees and Deposits

All applicants for the approval of maps or for other approvals as required by this title shall pay all fees and/or deposits as established by City Council resolution.

16.04.080 General Responsibilities

In addition to the specific responsibilities set forth elsewhere in this title, the following agencies and officers, or their duly authorized representatives, shall have the general responsibilities hereby designated.

- A. City Attorney. The City Attorney is responsible for approving as to form all subdivision improvement agreements and security and governing documents for a common interest development.
- B. City Clerk. The City Clerk is responsible for filing and maintaining all official documents.
- C. City Council. The City Council responsibilities shall be as follows:
 - 1. The City Council shall act as the appeal board for subdivision decisions or actions of the Planning Commission.
 - 2. The City Council shall act as the appeal board for subdivision decisions or actions of the City Engineer on final maps, parcel maps, improvement agreements and/or dedications.
 - 3. When tentative maps are processed concurrently with other land use applications requiring City Council action, the City Council shall have authority for approval, conditional approval, or disapproval of the tentative map application.
- D. City Engineer. The City Engineer or their designated representative, as specified in the Subdivision Map Act, shall have the following responsibilities:
 - 1. The City Engineer shall have final approval or disapproval authority for final maps, parcel maps, improvement agreements, and the acceptance or rejection by the city of lands, easements, and/or improvements as may be offered for dedication to the city under Government Code Sections 66458, 66463, 66477.1, 66477.2 and 66477.3. The City Engineer shall sign the City Engineer's certificate, and release the map to the county clerk or a title insurance company for transmittal to the county recorder for recordation.

2. The City Engineer is responsible for determining if proposed subdivisions comply with provisions of the Subdivision Map Act and this title.
3. The City Engineer is responsible for the approval or disapproval of requests for parcel map waivers under Section 16.06.030.
4. The City Engineer is responsible for determining whether the proposed improvements are consistent with the design and improvement standards specified or referred to in this title, and for the inspection and approval of all such improvements, and for making recommendations on granting exceptions requested under Section 16.12.090.
5. The City Engineer shall, on a regular basis, report to the City Council on consideration and action on final maps, parcel maps, improvement agreements, and the acceptance or rejection by the City Engineer of lands and/or improvements offered for dedication.

E. Community Development Director. The Community Development Director responsibilities shall be as follows:

1. The Community Development Director is responsible for the approval, conditional approval or disapproval of tentative parcel maps and lot line adjustments, except for tentative parcel maps subject to concurrent processing under subsection (C)(3) of this section.
2. Reviewing, distributing, and processing tentative tract, tentative parcel map and tentative parcel map waiver applications and making a recommendation on compliance with the California Environmental Quality Act (CEQA).
3. The Community Development Director shall have the power to direct the issuance of citations, cease and desist orders and other appropriate orders involving violations of provisions of this title.
4. At any point in the review process and at their sole discretion, the Community Development Director may transfer original hearing jurisdiction to the Planning Commission because of policy implications, unique or unusual circumstances, or the magnitude of the project.

F. Planning Commission. The Planning Commission responsibilities shall be as follows:

1. The Planning Commission is responsible for the approval, conditional approval, or disapproval of tentative tract maps and discretionary extensions.
2. At any point in the review process and at its sole discretion, the Planning Commission may transfer original hearing jurisdiction to the City Council because of policy implications, unique or unusual circumstances, or the magnitude of the project.

3. The Planning Commission shall act as the appeal board for decisions of the Community Development Director.

4. When tentative maps are processed concurrently with other land use applications requiring City Council action, the Planning Commission shall make a recommendation on the maps to the City Council.

16.04.090 Definitions

All words and terms used in this title shall have the same meaning as defined in the Subdivision Map Act, except as expressly defined in this section.

“Advisory agency” means a designated official or an official body charged with the duty of reviewing the design and improvement of proposed divisions of real property, the imposing of requirements or conditions thereon, or having the authority under this title to approve, conditionally approve or disapprove maps.

“Final map” means a map showing a subdivision prepared in accordance with the provisions of this title and the Subdivision Map Act and designed to be recorded in the office of the Alameda County Recorder.

“Parcel map” means a map showing a subdivision of four or fewer parcels, prepared in accordance with the provisions of this title and the Subdivision Map Act and designed to be recorded in the office of the Alameda County Recorder. A parcel map also means a map showing a subdivision of five (5) or more parcels under the final map exemption in Government Code Sections 66426(a) through (e).

“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 him or herself 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, as 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, and as further defined in Government Code Section 66424.

“Tentative map” means a map made for the purpose of showing the design and improvement of a proposed subdivision and the existing conditions in and around it. “Tentative map” includes a tentative parcel map and a tentative tract map.

“Tentative parcel map” means a tentative map prepared in connection with a subdivision of four (4) or fewer parcels.

“Tentative tract map” means a tentative map prepared in connection with a subdivision of five (5) or more lots.

“Vesting tentative map” means a tentative map that meets the requirements set forth in Chapter 16.40.

16.04.100 Authority for Subdivision Decisions

Table 16-1 (Subdivision Review Authority) identifies the city official or authority responsible for reviewing and making decisions on each type of subdivision application or other decision required by this title.

Table 16-1 Subdivision Review Authority

Issue/Document	Applicable Code Chapter	Role of Review Authority ⁽¹⁾			
		Community Development Director	City Engineer	Planning Commission	City Council
Tentative parcel map	16.08	Decision ⁽²⁾⁽³⁾		Appeal	
Tentative parcel map waiver	16.06	Decision ⁽²⁾		Appeal	
Parcel map	16.24		Decision ⁽²⁾		Appeal
Tentative tract map	16.08			Decision ⁽²⁾⁽³⁾	Appeal
Final map	16.24		Decision ⁽²⁾		Appeal
Certificate of compliance	16.56		Decision ⁽²⁾		Appeal
Lot line adjustment	16.52	Decision ⁽²⁾		Appeal	
Parcel map waiver	16.06		Decision ⁽²⁾		Appeal
Reversion to acreage	16.48				Decision
Time extension	16.40			Decision ⁽²⁾	Appeal

Notes:

(1) “Decision” means that the review authority makes the final decision on the matter; “Appeal” means that the review authority may consider and decide upon appeals of the decision of an earlier decision-making body in accordance with Government Code Section 66452.5.

(2) At its sole discretion, the review authority may transfer original hearing jurisdiction to a higher body.

(3) For tentative maps subject to concurrent processing, the Planning Commission makes a recommendation to the City Council.

Chapter 16.06 Maps Required

16.06.010 General

The necessity for tentative, final, and parcel maps shall be governed by the provisions of this chapter.

16.06.020 Division of Land – Five (5) or More Parcels

A tentative tract map and final map shall be required for all divisions of land creating five (5) or more parcels, five (5) or more condominiums as defined in Section 783 of the Civil Code, a community apartment project containing five (5) or more parcels, or for the conversion of a dwelling to a stock cooperative containing five (5) or more dwelling units, except where any one (1) of the following occurs:

- A. The land before division contains less than five (5) acres, each parcel created by the division abuts upon a maintained public street or highway, and no dedications or improvements are required by the Planning Commission or City Council.
- B. Each parcel created by the division has a gross area of twenty (20) acres or more and has an approved access to a maintained public street or highway.
- C. The land consists of a parcel or parcels of land having approved access to a public street or highway, which comprises part of a tract of land zoned for industrial or commercial development, and which has the approval of the Planning Commission or City Council as to street alignments and widths.
- D. Each parcel created by the division has a gross area of not less than forty (40) acres or is not less than a quarter of a quarter section.
- E. The land is being subdivided solely for the creation of an environmental subdivision pursuant to Government Code Section 66418.2.
- F. A tentative parcel map shall be required for the subdivisions described in subsections A through E of this section, and a parcel map shall be required rather than a final map unless the parcel map is waived by the City Engineer in accordance with Section 16.06.030(C).

16.06.030 Division of Land – Four (4) or Fewer Parcels

- A. General. A tentative parcel map and parcel map shall be required for all divisions of land into four (4) or fewer parcels, except as provided below.
- B. No Parcel Map Required. No parcel map shall be required for the following:
 - 1. Subdivisions of a portion of the operating right-of-way of a railroad corporation, defined by Public Utilities Code Section 230, that are created by short-term leases (terminable by either party on not more than thirty (30) days' notice in writing).

2. Land conveyed to or from a governmental agency, public entity or public utility, or for land conveyed to a subsidiary of a public utility for conveyance to that public utility for rights-of-way, unless a showing is made in individual cases, upon substantial evidence, that public policy necessitates a parcel map. For purposes of this section, land conveyed to or from a governmental agency shall include a fee interest, a leasehold interest, an easement, or a license.

C. Tentative Parcel Map Waiver. The Community Development Director may waive the requirement for filing a tentative parcel map, as provided below and in conformance with Government Code Section 66428.

1. A subdivider wishing to request a waiver of the tentative parcel map requirement shall submit a waiver request in writing to the Community Development Director.

2. The Community Developer Director may waive the requirements for a tentative parcel map when all required public improvements are existing; public improvements are not necessary; or public improvements may be deferred by agreement, so long as said deferred improvements are not immediately required for public health and safety or for the orderly growth and development of the surrounding area. The tentative parcel map waiver does not apply to airspace subdivision for the purpose of residential condominium conversion.

3. The tentative parcel map requirement may be waived upon a finding that the proposed subdivision complies with the requirements of this title as to lot area, improvement and design, floodwater drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection, other requirements of the Subdivision Map Act, and this title.

4. The Community Development Director shall act upon the application for a tentative parcel map waiver within sixty (60) days after the waiver application is deemed complete.

5. A tentative parcel map waiver may be conditioned to provide for the payment of park land dedication and any other fees generally applied to subdivision projects.

D. Parcel Map Waiver. The City Engineer may waive the requirement for filing a parcel map, as provided below and in conformance with Government Code Section 66428.

1. A subdivider wishing to request a waiver of the parcel map requirement shall submit a waiver request in writing to the City Engineer.

2. The City Engineer may waive the requirements of the parcel map for subdivisions of a portion of the operating right-of-way of a railroad corporation, as defined by Section 230 of the Public Utilities Code, that are created by short-term leases; or 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 that public utility for rights-of-way, unless a showing is made in individual cases, upon substantial evidence, that public policy

necessitates a parcel map. "Land conveyed to or from a governmental agency" includes a fee interest, a leasehold interest, an easement or a license.

3. The parcel map requirement may be waived upon a finding that the proposed subdivision complies with the requirements of this title as to lot area, improvement and design, floodwater drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection, other requirements of the Subdivision Map Act, and this title.

4. The City Engineer shall act upon the application for a parcel map waiver within sixty (60) days after the waiver application is deemed complete.

5. A parcel map waiver may be conditioned to provide for the payment of park land dedication and any other fees generally applied to subdivision projects.

Chapter 16.08 Tentative Tract and Tentative Parcel Maps

16.08.010 General.

The form and contents, submittal and approval of tentative tract maps for the subdivision of five (5) or more parcels and tentative parcel maps for the subdivision of four (4) or fewer parcels shall be governed by the provisions of this chapter.

16.08.020 Persons Authorized to Prepare

All tentative maps shall be prepared by a registered civil engineer or licensed land surveyor.

16.08.030 Tentative Map Number

The tentative map number shall be assigned by and obtained from the County Recorder.

16.08.040 Filing

All tentative map applications shall be filed with the Community Development Director and submitted in accordance with Chapter 17.31 (Common Procedures).

16.08.050 Form and Contents

The form and contents of the tentative map and the number of copies required for the application shall be prescribed by the Community Development Director and in accordance with the application submittal requirements for tentative maps. The Community Development Director may authorize deletion or reduction of map requirements on the determination that the map contains sufficient information to be evaluated adequately.

16.08.060 Accompanying Data and Reports

The tentative map shall be accompanied by the materials identified in the city application submittal requirements for tentative maps, including, but not limited to:

- A. A preliminary grading plan prepared by a civil engineer registered by the state of California.
- B. A preliminary soils report prepared by a civil engineer or geotechnical engineer registered by the state of California. For subdivisions within a seismic hazard zone, the report shall include supplemental data and analysis consistent with the requirements and specifications of the Alquist-Priolo Earthquake Fault Zoning Act and/or the Seismic Hazards Mapping Act. If the preliminary soils report indicates the presence of critically expansive soils, corrosive soils, or other soil problems that, if not corrected, could lead to structural defects, a soils investigation of each lot in the subdivision may be required. If the investigation and civil engineer's report recommends corrective action, building permits can be conditioned to incorporate the recommendations.
- C. Additional reports and data may be required by the City Engineer when deemed necessary due to scale of the proposed subdivision or presence of potential hazardous or environmentally sensitive conditions.
- D. A "will serve" letter from the waste management service provider to provide waste collection to the proposed subdivision indicating and committing that the service can be provided to the proposed subdivision.

16.08.070 Noticed Public Hearing

The advisory agency shall conduct a noticed public hearing on tentative tract maps. The Community Development Director shall conduct a noticed public hearing on tentative parcel maps. Notice and hearing procedures shall be as set forth in Chapter 17.31 (Common Procedures).

16.08.080 Public Notice

The city shall provide notice of the hearing on a tentative map in accordance with Chapter 17.31 (Common Procedures).

16.08.090 Action -Tentative Tract Maps

A. Advisory Agency, Timing. The Planning Commission is the advisory agency, and shall approve, conditionally approve, or disapprove tentative tract maps within fifty (50) days after certification of the environmental impact report, adoption of a negative declaration, or a final determination that the project is exempt from the requirements of Division 13 (commencing with Section 21000) of the Public Resources Code.

B. Conditions. Conditions of approval may include, but are not limited to, dedication and improvement of streets, alleys, including access rights and abutters' rights, drainage, public

utility easements and other public easements; reservations; the design and improvement of subdivisions; requirements to implement CEQA mitigation measures; ensuring proper grading and erosion control, ensuring prevention of sedimentation or damage to off-site property; energy conservation; and ensuring compliance with adopted development standards. Conditions of approval related to indemnification shall be in conformance with Government Code Section 66474.9.

1. Dedications. Conditions of approval may require dedications or offers of dedication for any purpose specified in the Subdivision Map Act, including but not limited to Government Code Sections 66473.3, 66475 through 66478, and 66478.5.
2. Reservations. The subdivider, as a condition of approval of a tentative tract map, may be required to reserve areas of real property for fire stations, libraries, parks, or other public uses, in compliance with the requirements of Government Code Sections 66479 through 66482.
3. Water Supply. Any tentative tract map for a subdivision as defined in Government Code Section 66473.7 shall be conditioned to show that a sufficient water supply shall be available, as further provided in that section.

C. Findings for Approval. All of the following findings shall be made in order to approve a tentative tract map and shall be supported by substantial evidence in the public record:

1. The proposed subdivision map together with the provisions for its design and improvement is consistent with the general plan and any applicable specific plan. (Government Code Sections 66474(a), (b))
2. The subdivision site is physically suitable for the type and proposed density of development. (Government Code Sections 66474(c), (d))
3. The tentative tract map is consistent with the intent of applicable subdivision design or improvements of the tentative tract map are consistent with the city's general plan and any applicable specific plan.
4. The subdivision design and proposed improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. (Government Code Section 66474(e))
5. The design of the subdivision or type of improvements will not cause serious public health concerns. (Government Code Section 66474(f))
6. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision; or alternate easements are provided pursuant to Government Code Section 66474(g).

7. The design or improvements of the tentative map are consistent with the city's general plan and any applicable specific plan.

8. The subdivision is designed to provide for future passive or natural heating or cooling opportunities. (Government Code Section 66473.1)

9. The tentative tract map, including design and improvement, shall comply with all the applicable provisions and requirements of Title 17, the latest municipal stormwater permit issued to the city by the Regional Water Quality Control Board, this title, any other ordinance of the city, and the Subdivision Map Act.

D. Conformance to City Ordinance.

1. General. The approval, conditional approval or disapproval of the tentative tract map shall be based on the ordinances, policies, and standards in effect on the date the application was determined to be complete.

2. Requirements of Other Agencies. The applicant shall be responsible for complying with the tentative map requirements of other agencies, as appropriate.

E. Referral. At any point in the review process and at its sole discretion, the Planning Commission may transfer original hearing jurisdiction to the City Council because of policy implications, unique or unusual circumstances, or the magnitude of the project.

16.08.100 Action -Tentative Parcel Maps

A. Advisory Agency, Timing. The Community Development Director is the advisory agency and shall approve, conditionally approve, or disapprove tentative parcel maps within fifty (50) days after certification of the environmental impact report, adoption of a negative declaration, or a final determination that the project is exempt from the requirements of Division 13 (commencing with Section 21000) of the Public Resources Code unless another time period is required by the Subdivision Map Act.

B. Conditions. Conditions of approval shall be limited to the dedication of rights-of-way, easements, and construction of reasonable off-site and on-site improvements for the parcels being created. Conditions of approval related to indemnification shall be in conformance with Government Code Section 66474.9.

1. Dedications. Conditions of approval may require dedications or offers of dedication for any purpose specified in the Subdivision Map Act, including but not limited to Government Code Sections 66473.3, 66475 through 66478, and 66478.5.

2. Reservations. The subdivider, as a condition of approval of a tentative parcel map, may be required to reserve areas of real property for fire stations, libraries, parks, or other public

uses, in compliance with the requirements of Government Code Sections 66479 through 66482.

3. Timing. Fulfillment of any construction requirements shall not be required until the time a permit or other grant of approval for development of the parcel is issued, or as otherwise authorized under Government Code Section 66411.1(b).

C. Findings for Approval. All of the following findings shall be made in order to approve a tentative parcel map and shall be supported by substantial evidence in the public record:

1. The proposed subdivision map together with the provisions for its design and improvement is consistent with the general plan and any applicable specific plan. (Government Code Section 66474(a), (b))

2. The subdivision site is physically suitable for the type and proposed density of development. (Government Code Section 66474(c), (d))

3. The tentative parcel map is consistent with the intent of applicable subdivision design or improvements of the tentative parcel map are consistent with the city's general plan and any applicable specific plan.

4. The subdivision design and proposed improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. (Government Code Section 66474(e))

5. The design of the subdivision or type of improvements will not cause serious public health concerns. (Government Code Section 66474(f))

6. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision; or alternate easements are provided pursuant to Government Code Section 66474(g).

7. The design or improvements of the tentative map are consistent with the city's general plan and any applicable specific plan.

8. The subdivision is designed to provide for future passive or natural heating or cooling opportunities. (Government Code Section 66473.1)

9. The tentative parcel map, including design and improvement, shall comply with all the applicable provisions and requirements of the zoning ordinance, the latest municipal stormwater permit issued to the city by the Regional Water Quality Control Board, this title, any other ordinance of the city, and the Subdivision Map Act.

D. Conformance to City Ordinance.

1. General. The approval, conditional approval or disapproval of the tentative parcel map shall be based on the ordinances, policies, and standards in effect on the date the application was determined to be complete.

2. Requirements of Other Agencies. The applicant shall be responsible for complying with the tentative map requirements of other agencies, as appropriate.

E. Referral. At any point in the review process and at their sole discretion, the Community Development Director may transfer original hearing jurisdiction to the Planning Commission because of policy implications, unique or unusual circumstances, or the magnitude of the project.

16.08.110 Appeals

Appeals may be filed with, considered, and acted upon by the appeal body specified in Chapter 16.04 in accordance with Government Code Section 66452.5.

16.08.120 Extension of Time for Action or Report

Any of the time limits for action or report may be extended by mutual consent of the subdivider and the Community Development Director, Planning Commission or, if applicable, the City Council in accordance with the requirements of the Subdivision Map Act.

16.08.130 Effective Period of Approved Tentative Map

A. Effective Period. The approval or conditional approval of a tentative map shall be effective for twenty-four (24) months from the date of its approval by the Planning Commission, for tentative tract maps, or by the Community Development Director, for tentative parcel maps. Expiration of a tentative map shall terminate all proceedings.

B. Statutory Extensions and Stays. The effective period of an approved or conditionally approved tentative map, or a tentative tract map with multiple final maps, or a tentative map that is subject to a development moratorium, or as otherwise provided in the Subdivision Map Act, shall be extended or stayed in accordance with applicable provisions of the Subdivision Map Act, including but not limited to Government Code Section 66452.6.

C. Litigation Stay. The period of time specified above shall not include any period of time during which a lawsuit has been filed and is pending in a court of competent jurisdiction involving the approval or conditional approval of a tentative map only if a stay of the time period is approved by the City Council.

Within ten (10) days of the service of the initial petition or complaint upon the city, the subdivider shall, in writing, to the Community Development Director, request a stay in the time period of the tentative map. Within forty (40) days after receiving the request, the City Council

shall either stay the time period for up to five (5) years or deny the requested stay. The request for the stay shall be a hearing with notice to the subdivider and to the appellant/petitioner, and upon conclusion of the hearing, the City Council shall, within ten (10) days, declare its findings.

D. Discretionary Extensions. Upon application of the subdivider during the effective period, the original approving body of the tentative map, as identified in Section 16.04.100, may extend the expiration dates of approved or conditionally approved tentative subdivision maps for a period or periods of up to two (2) years, pursuant to the provisions of Government Code Section 66452.6(e). In the case of the tentative map originally approved by City Council, the Planning Commission may extend the expiration dates of approved or conditionally approved tentative subdivision maps.

E. Extensions Related to Development Agreement. A tentative map on property subject to a development agreement authorized by Government Code Section 65864 may be extended for a period of time provided in the development agreement, but not beyond the duration of the development agreement.

Chapter 16.12 Design

16.12.010 General Requirements

In addition to meeting the specific requirements of this title, the design of the subdivision shall, to the satisfaction of the advisory agency, conform to the land use, circulation and other policies of the city's general plan and its component elements and any other officially adopted specific plan or land development policy, and shall conform to the zoning ordinance (Title 17), officially adopted standards for streets and roads, grading, erosion and siltation control, seismic safety, and design standards adopted by utilities, fire protection, sanitary and flood control districts in which the land division is located. The size and alignment of streets and walks and the location and configuration of sites for lots, schools, parks, and similar facilities shall be coordinated with the anticipated requirements of the future population, and the physical characteristics of the land

16.12.020 Street Alignment

The centerlines of all streets and highways which are to be extended shall be the continuation of the centerlines of existing streets and highways on adjacent and contiguous property. In cases in which the straight continuations are not desirable, the centerlines may be continued by curves tangent at the intersection with the boundaries of the proposed subdivision to the centerlines of existing streets or highways. Streets shall have the following minimum requirements:

	Right-of-Way	Distance from Curb Face to Curb Face
Six-lane divided arterial or thoroughfares	128 feet	108 feet
Four-lane divided arterials or thoroughfares	104 feet	84 feet
Four-lane undivided arterials	98 feet	78 feet

Four-lane undivided collectors	88 feet	68 feet
Two-lane undivided collectors	64 feet	44 feet
Two-lane minor collectors	60 feet	40 feet
Minor streets	56 feet	36 feet

16.12.030 Street and Alley Grades and Widths

A. Grades of all streets and alleys shall be established so that the subdivision is properly drained and shall conform as nearly as possible to the natural topography of the property. Minimum street grade is three tenths of one percent (0.3%), except where otherwise approved by the City Engineer. Maximum street grade is ten percent (10%), except where otherwise approved by the City Engineer.

B. Where a subdivision adjoins unsubdivided land, provision may be made for reasonable future access to the acreage.

C. The widths of streets shall be based on the width of streets of which they are a continuation, unless otherwise approved under a Planned Development (-PD) Overlay District (Chapter 17.12).

D. Street width in excess of the minimum width may be required where traffic conditions or land use warrant.

16.12.040 Blocks

A. Blocks shall not exceed one thousand three hundred fifty (1,350) feet in length unless the previous adjacent layout or topographical conditions or the special design of the particular subdivision justifies a variation from the requirement. However, blocks in excess of one thousand three hundred fifty (1,350) feet are allowed along arterial streets in order to reduce the number of intersections.

B. All intersections are subject to the Visibility Ordinance. The radius of the curve shall be not be less than twenty (20) feet.

16.12.050 Parcels

A. Parcels shall be designed to meet or exceed the minimum standard for area, lot width, lot depth, and lot frontage specified for in Title 17 for the zoning district in which the subdivision is located.

B. Parcels, and the grading thereof, shall be of a size and shape to accommodate the uses that reasonably could be expected to occur under applicable zoning with consideration given to the limitations of topography and soil conditions, and the need for providing access, privacy and preserving natural features of significance.

C. Parcels shall be designed to provide, to the extent feasible, for future passive or natural heating or cooling opportunities within the subdivision.

16.12.060 Grading

Subdivision grading shall conform with the intent, general requirements and lot design requirements of this chapter, shall be consistent with recommendations contained in the soils and geologic investigation reports prepared for the proposed subdivision, and subject to review and approval by the City Engineer, and shall specifically conform with all design standards contained in the city's grading regulations set forth in Chapter 15.50.

16.12.070 Erosion and Siltation Control

Erosion and sediment control facilities and measures shall control and contain erosion-caused sediment deposits and provide for the safe discharge of sediment-free stormwater into existing storm drain facilities and natural watercourses.

A. Slopes. The faces of cut and fill slopes shall be prepared and maintained to control against erosion.

B. Debris Basins. Debris basins shall be installed whenever and wherever necessary to protect the subdivision and the properties downstream of the subdivision from erosion and sedimentation.

C. Temporary Debris Basins. Temporary debris basins shall be installed prior to commencing grading operation and shall be maintained until the permanent erosion and sediment control measures have been installed and are fully effective.

D. Erosion and Sediment Control Measures. These measures shall be consistent with the recommendations contained in the preliminary soils investigation report and the report evaluating the geological conditions present, to the extent reviewed and approved by the City Engineer.

16.12.080 Flood Hazards

Where a subdivision is proposed which lies partially or totally within an area designated on a map prepared by a governmental agency as having a special flood hazard, the subdivider shall remove the subdivision from the special flood hazard area. To minimize damage to improvements, the subdivider shall elevate top of curb grades to a minimum of ten-foot NGVD elevation contours. The subdivider shall provide adequate drainage to reduce exposure to such hazards and shall design water supply and sanitary sewage systems to minimize infiltration of floodwaters into the systems and prevent discharges of sewage and other contaminants into flood waters.

16.12.090 Exceptions

The advisory agency may, in the exercise of reasonable judgment, grant exceptions to the requirements of this chapter, for street alignment, grades, widths, lengths, block design, lot width and lot frontage, and to all subjects referred to in Sections 16.12.060, 16.12.070, and 16.12.08 as determined warranted by topographic limitations, soil or geological conditions, or other site-specific conditions that warrant special consideration as determined by the City Engineer.

Chapter 16.16 Improvements

16.16.010 Duty of Subdivider to Improve Streets

The subdivider may be required to improve all streets, highways, public ways and easements which are a part of the subdivision, as well as improvements that may not be part of the subdivision but are affected by the subdivision.

16.16.020 Required Improvements

The required improvements shall include:

- A. Streets and Roads. Grading, curbs and gutters, sidewalk, landscaping including street trees, irrigation, and surfacing of streets, highways and public ways, and the drainage thereof.
- B. Grading Lots. The grading of the lots and the drainage thereof as may be required by the design of the approved tentative map.
- C. Stormwater Control and Treatment. Stormwater control measures in compliance with the municipal code, the latest Regional Water Quality Control Board clean water construction general permit, and the latest municipal regional stormwater NPDES permit. The control and treatment measures shall reduce erosion and sedimentation from entering the storm drain system from the subdivision site (point source).
- D. Water Supply and Sanitary Sewer. Subdivisions shall be served with water and sanitary sewer connections in the manner approved by the Alameda County Water District and Union Sanitary District unless an alternative design is proposed and approved by the City Engineer.
- E. Utilities. Subdivisions shall be served by public utilities (gas, electricity, Internet/cable/phone) unless an alternative design is proposed and approved by the City Engineer.
- F. Public Safety. Construction of such structures as may be necessary for public safety, including but not limited to local neighborhood drainage, traffic safety signs and devices, street name signs, and street lighting.
- G. Fire Hydrants. Fire hydrants shall be furnished and installed as approved by the local water district, Fire Marshal, and City Engineer.

H. Trails and Bikeways. Trails and bikeways as designated on the general plan or applicable specific plan, or the city's adopted bicycle and pedestrian master plan.

I. Improvements adjacent to the subdivision. Construction of the improvement across any storm drain channel, Hetch-Hetchy right-of-way or other public facility adjacent to the subdivision.

16.16.030 Standards for Improvements

Except as provided in Section 16.16.020, all improvements shall be constructed in accordance with standard engineering practice and in accordance with standard plans and specifications approved by the city.

16.16.040 Improvement Plans

Before beginning any construction or installation of improvements, a complete set of plans, profiles, cross sections, and other drawings for all improvements, together with a complete set of detailed specifications for the work, shall be submitted to the City Engineer for review and approval. All work shall be according to city standards and specifications. The City Engineer shall be furnished, without cost, one (1) or more complete sets of the signed plans in a form required by the City Engineer. No work shall commence without approved, signed plans.

16.16.050 Inspection by City Engineer

The City Engineer shall have the right to enter upon the site of the work for the purpose of inspecting the same and shall be furnished with samples of materials as he or she may require for the making of tests to determine the acceptability of the materials.

16.16.060 Cost of Inspection

The subdivider shall pay to the city the cost for the inspection of the work and checking materials in accordance with the city's fee schedule.

16.16.070 Completion of Improvements

Upon completion of improvements, the subdivider shall provide as-built drawings in the form required by the City Engineer prepared by a civil engineer registered by the state of California and electronic files compatible with the city's GIS system showing the subdivision as it has been completed. The subdivider shall also provide recorded conditions, covenants and restrictions documents, and other documents pertinent to the development as reasonably determined by the City Engineer.

Chapter 16.20 Surveys and Monuments

16.20.010 Field Survey

A. A final map or a parcel map, prepared by or under the direction of a licensed land surveyor (land surveyor) or a civil engineer licensed prior to 1982 (civil engineer), based upon a field survey shall be made in conformity with the Professional Land Surveyor's Act (Business and Professions Code Sections 8700 through 8805) and the Subdivision Map Act.

B. An accurate and complete boundary shall be made of the land to be included on the final map or parcel map. The map shall show the location of each parcel and its relationship to any and all surveys prepared in the area.

16.20.020 Discrepancy

A. Whenever the field survey indicates a discrepancy from previously recorded data, the record bearing or dimension shall be shown in parentheses with the referenced recorded map information and in the same basis of bearings as the survey along with the field dimension.

B. When the discrepancy is major and causes a conflict to title, the land surveyor, civil engineer and subdivider shall take appropriate action to clear said title prior to the filing of the map.

16.20.030 Compiled Map

A parcel map may be compiled from a recorded or filed map if all of the following conditions exist:

A. The compiled map is based on a final map, parcel map, or record of survey filed in the Office of the County Recorder, or on another final map, parcel map, or record of survey subject to prior approval of the City Engineer.

B. The parcel map complies with Government Code Section 66448.

C. No material discrepancy exists within the recorded or filed map information shown on the compiled map.

D. All of the exterior boundary lines are indicated by field bearings and distance on the compiled map.

E. Sufficient survey information exists on the compiled map to locate and retrace the exterior boundary lines.

F. At least one (1) of these boundary lines can be established from an existing monumented line which is shown on the compiled map.

16.20.040 Accuracy Required

An accurate and complete boundary closure shall be made of the land to be divided. A traverse of the exterior boundaries of the tract or parcel and of each block and lot or parcel when computed, must close within an acceptable limit of error (not less than one (1) part in twenty thousand (20,000)).

16.20.050 Remainder

A. If the remainder of the original parcel shown on the parcel map has a gross area of five (5) acres or more, the remainder may be a field survey or may be indicated by deed bearings and distance shown in brackets; the bearings shall be on the same basis of bearings as the survey and the distances shall be in feet and designated as being a “nonsurveyed remainder.”

B. Designation of remainder parcels shall be as prescribed per Government Code Section 66424.6.

16.20.060 Ties to Centerlines

Whenever the City Engineer has established the centerline or monumented offset line of a street or alley, ties shall be made to that centerline or monument line and any monument or reference point thereon.

16.20.070 Boundary Monuments

A. At the time of making the survey for the final map or parcel map, the land surveyor or civil engineer shall set sufficient durable monuments to conform with the standards described in the California Business and Professions Code Section 8771 and California Government Code Section 66495, so that another land surveyor or civil engineer may readily retrace the survey. If the timing for setting these monuments is designated on the final map or parcel map, security as set forth in California Government Code Section 66496 will be made, by the subdivider, with the City Engineer prior to the recording of the final map or parcel map.

B. All monuments necessary to establish the exterior boundaries of the subdivision shall be set, or witness thereto, and shall be sufficient in number together with existing monuments of record for the perpetuation or facile reestablishment of any point or line of the exterior boundary.

C. Exterior boundary monuments set shall be durable in nature, such as an iron pipe or standard monument, and efficiently placed so as not to be readily disturbed, as required by the City Engineer.

16.20.080 Street Monuments

A. The engineer or surveyor shall set permanent monuments in the public and private street areas, located so as to define the street lines bounding each block. Due consideration shall be given to visibility of monuments, one from another, for the purposes intended.

B. Permanent monuments on public and private streets shall conform to the approved standards plans of the city for concrete monument for use on subdivision projects.

16.20.090 Monuments - Interior Lots

A. Interior parcel or lot line monuments shall be set or witness thereto as required in the Business and Professions Code and Government Code Sections 8700 through 8805.

B. Interior monuments or witness monuments as designated upon the final map or parcel map shall be as prescribed on the map and set as stated in the surveyor's statement on the final map or parcel map.

16.20.100 Monuments -Time for Setting

A. Exterior boundary, street monuments and interior lot monuments shall be set as prescribed in the surveyor's statement on the final map or parcel map.

B. At least one (1) exterior boundary line of the land being subdivided shall be adequately monumented or referenced before the map is recorded.

C. Monuments may be designated to be set after approval of the final map or parcel map; provided, that they are set not later than the time of acceptance of improvements and adequate monument security is filed with the city prior to City Engineer approval and certification of the map.

D. When exterior boundary monuments, street monuments and interior monuments are not set at the time of recording of the final map or parcel map, the land surveyor or civil engineer shall certify on the map the date the monuments will be established, and the subdivider shall deposit with the city a security in an amount sufficient to cover the cost of setting such monuments, as determined by the City Engineer.

16.20.110 Monuments -Inspection and Approval

A. All monuments shall be subject to inspection and approval by the City Engineer.

B. Within five (5) days after the setting of all monuments as shown on the final map or parcel map has been completed by the land surveyor or civil engineer, written notice shall be given to the subdivider and the City Engineer that the final monuments have been set. Written notice to the City Engineer shall certify that all monuments have been set under the direction of the land surveyor or civil engineer as shown on the recorded final map or parcel map and within the

tolerances specified in Section 16.20.040. Written notification regarding payment for the setting of the monuments shall be provided in accordance with Government Code Section 66497.

16.20.120 California Coordinate System

Whenever the City Engineer has an approved system of California coordinate monuments, the field survey shall be tied into the approved monuments.

Chapter 16.24 Final Maps and Parcel Maps

16.24.010 General

The form, contents, accompanying data and filing of the final map and parcel map shall conform to the provisions of this chapter. The final map or parcel map shall be prepared by a registered civil engineer or licensed land surveyor.

16.24.020 Phasing of Final Maps or Parcel Maps

A. Multiple final or parcel maps relating to an approved or conditionally approved tentative map may be filed prior to the expiration of the tentative map if the subdivider, at the time the tentative map is filed, informs the Community Development Director of the subdivider's intention to file multiple final or parcel maps on the tentative map. In providing the notice, the subdivider shall not be required to define the number or configuration of the proposed multiple maps. The proposed phasing shall be reviewed by the advisory agency as part of the tentative map review and approval.

B. The filing of a final or parcel map on a portion of an approved or conditionally approved tentative map shall not invalidate any part of the tentative map. Each final or parcel map which constitutes a part, or unit, of the approved or conditionally approved tentative map shall have a separate subdivision number. For a phased final map, the subdivision improvement agreement executed by the subdivider shall provide for the construction of improvements as required by the City Engineer to constitute a logical and orderly development of the whole subdivision. For a phased parcel map, the advisory agency may impose reasonable conditions related to filing multiple parcel maps.

C. The filing of any phased final or parcel map shall not extend the expiration date of the approved or conditionally approved tentative map to which the final or parcel map relates, except as provided in the Subdivision Map Act, including Government Code Section 66452.6(a).

16.24.030 Form

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

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

B. The size of each sheet shall be eighteen (18) by twenty-six (26) inches. The scale of the map shall be one (1) inch equals forty (40) feet or less, unless otherwise approved by the City Engineer.

C. All printing or lettering on the map shall be a minimum of one-eighth (1/8) inch in height, unless done in type, then lettering shall be a minimum of one-tenth (1/10) inch in height, and of such shape and weight as to be readily legible on print reproductions.

16.24.040 Contents

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

A. Title Block. Each sheet of the map shall contain a title, consisting of the subdivision number, but no commercial name or title shall appear on the map as a designation. Below the number shall appear "City of Newark, Alameda County, California," the name of the surveyor or firm, county and state, the scale and date. If the subdivision is a condominium project, the statement "A Condominium Project" or "For Condominium Purposes" shall appear beneath the subdivision number.

B. Title Sheet. The title sheet shall show the title block; owner's certificate; acknowledgements; surveyors' certificate; City Engineer's certificate; County Recorder's certificate; language stating: "A subdivision of," being the name and legal designation of the subdivision in which the survey is located and any other statements or notes that are required.

C. Map Sheet. Every sheet comprising the map shall show the title block, north arrow, legend, basis of bearings, sheet number and number of sheets comprising the map.

D. Exterior Boundary. The exterior boundary of the land included within the subdivision shall be indicated by the following symbol: a long line (minimum one-half (1/2) inch in length) followed by three (3) short lines (maximum one-eighth (1/8) inch each in length).

E. Lot and Parcel Numbers. Lots or parcels shall be numbered in numerical order starting from numeral "1" and continue consecutively throughout the map, with no omissions or duplications. Circles, squares or other geometrical figures shall not be drawn around the letter or numbers. Each block shall be shown entirely on one (1) sheet; each lot or parcel shall be shown entirely on one (1) sheet, unless otherwise approved by the City Engineer.

F. Lands for Public Use or for Private Use—Designations. The map shall particularly define, delineate and designate all lots or parcels intended for sale or reserved for private purposes; all parcels offered for dedication for any purpose, public or private; and any private streets, with all dimensions, boundaries and courses clearly shown and defined in every case. Dimensions of lots or parcels shall be given as the net dimensions only to the boundaries of adjoining streets that will be accepted for dedication or where the street is held in fee by the city. No ditto marks shall be used. Parcels offered for dedication but not accepted, as well as common parcels offered for private use, shall be designated by letter, and private streets offered but not accepted for dedication shall be labeled “Private Street.”

G. Lands for Public Use—Offer of Dedication. All parcels of land shown on any map and intended for any public use shall be offered for dedication for public use except those parcels, other than streets, which are intended for the exclusive use of the lot owners in the subdivision, their licensees, visitors, and tenants, and shall be covered by a recorded covenant that cannot be eliminated without the consent of the City.

H. Streets—Side Lines—Widths. The map shall show the monument lines and side lines of all streets, the total width of all streets, the width of the portion being dedicated and the width of existing street, and the widths each side of the monument line, also the width of railroad rights-of-way appearing on the map.

I. Easements—Descriptions. The map shall show the side lines of all easements to which the lots are subject. Easements shall be clearly labeled and identified, and if already of record, the record reference given. If any easement of record is not definitely located, a statement of the easement shall appear on the title sheet. The width, lengths and bearings of the lines showing the easements shall be sufficient to definitely locate the easement with respect to the subdivision. If the easement is being dedicated by the map, it shall be properly set out in the owner’s certificate of dedication.

J. Dedications. Dedications or offers of dedication shall be made either by certification on the map or by separate instrument. If dedications or offers of dedication are made by separate instrument, the dedication or offers of dedication shall be shown on the map and shall be recorded concurrently with, or prior to, the map being filed for record.

K. Street Names. The names of all streets, alleys or highways within or adjoining the subdivision shall be shown. In order to avoid duplication, names to be used on new streets shall be subject to the approval of the Community Development Director. If any designation by number, they shall be spelled out completely, using hyphens in such forms as “Twenty-Third Street.” The words “avenue,” “boulevard,” “place,” etc., shall be spelled out in full.

L. Certificates, Statements, and Acknowledgements. All certificates, statements and acknowledgements shall be made as required by Government Code Section 66433 *et seq.* for final maps and by Government Code Section 66444 for parcel maps.

M. Scale, North Point, and Basics of Bearings. There shall appear on each map sheet the scale, the north point, and the basis of bearings based on Zone III of the California coordinates, and the equation of the bearing to true north. The basis of bearings shall be approved by the City Engineer.

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

O. Adjoining Properties. The adjoining corners of all adjoining subdivisions shall be identified by subdivision number, or name when not identified by official number, and reference to the book and page of the filed map showing such subdivision, and if no 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 such adjacent property.

P. City Boundaries. City boundaries which cross or join the subdivision shall be clearly designated.

Q. Monuments. The final map or parcel map shall show the location and description of all stakes, monuments or other markers found on the ground or placed in making the survey of the subdivision and in determining the boundaries thereof, with references sufficient for relocation. Whenever the City Engineer has established the centerline of a street or alley adjacent to or in a proposed subdivision, the data shall be shown on the final or parcel map indicating all monuments found and making reference to a field book or map. If the points were reset by ties, the courses and detail of relocation data shall be shown.

16.24.050 Procedure

Upon approval of the tentative tract map or tentative parcel map, prints of the final map or parcel map shall be submitted to the City Engineer for their examination for conformance to the approved tentative map, local ordinance, and the Subdivision Map Act.

16.24.060 Data and Material to Accompany Final Map or Parcel Map Submittal

The following data and material shall be provided with the final map or parcel map submittal to the City Engineer by the subdivider or their agent. This list can be modified at the City Engineer's discretion.

A. A survey providing latitudes and departures and coordinates of the boundary, blocks, lots, or parcel and monument lines of the subdivision, unless a compiled parcel map is submitted in accordance with Section 16.20.030.

- B. A set of prints of the map in a form required by the City Engineer.
- C. A copy of the record owner deed and/or those deeds used in the survey, i.e., senior, adjoining and easements.
- D. Current title report, showing the legal owners at the time of submittal of the final or parcel map and showing any deeds of trust.
- E. Plans, cross-sections, profiles and specifications of the street improvements, grading, drainage facilities, water, sanitary sewer improvements, stormwater management and erosion and sediment control measures or structures and related drawings and specifications as the City Engineer may require. The plans and drawings shall be drawn to a scale not to exceed one (1) inch equals forty (40) feet horizontal and one (1) inch equals four (4) feet vertical, unless prior approval is granted by the City Engineer. Plans and drawings shall be in the form specified by the City Engineer and shall be signed by a registered civil engineer.
- F. The tracing of the map shall contain original signatures and shall be submitted for certification when notified by the City Engineer.
- G. The submittal of a parcel map or final map for a common interest development within the meaning of Civil Code Sections 1350 *et seq.* shall include the proposed declaration of covenants, conditions and restrictions containing the provisions described in Civil Code Section 1353, and all other governing documents for the subdivision as are appropriate pursuant to Civil Code Section 1363. The submittal of a parcel map or final map for all subdivisions other than a common interest development shall include any proposed declaration of covenants, conditions and restrictions. All documents shall be subject to review and approval by the Community Development Director, City Engineer, and City Attorney.
- H. Soils report prepared by a licensed geotechnical engineer or a registered civil engineer experienced in soils engineering.
- I. Any additional data or material as required by the City Engineer.

16.24.070 Improvement Agreements

A. Agreement Required. Unless all required improvements have been completed and have been accepted by the city, prior to the approval of the final map by the City Engineer, the subdivider shall execute and file an agreement with the city to install all the required improvements, specifying the period within which subdivider shall complete improvements to the satisfaction of the city and providing that, if subdivider fails to complete the work within the specified period, the city may complete same and recover the full cost and expense thereof from the subdivider. The agreement shall also provide for inspections of improvements by the City Engineer. The agreement shall also provide the city with the right to modify plans and specifications at the subdivider's expense.

B. Approval. The improvement agreement shall be reviewed and approved by the City Engineer provided all requirements and standards of this section are met. The City Engineer's action may be appealed to the City Council as provided in Government Code Section 66462(d). The City Council shall periodically review this delegation of authority to the City Engineer.

C. Security Required. The subdivider shall also file with the improvement agreement, to insure full and faithful performance thereof, a bond, instrument of credit or cash, or security in an amount and form deemed sufficient by the City Engineer to cover the cost of the improvements, engineering, inspections, and incidental expenses, consistent with the provisions of this section. Such bond shall be executed by a surety company authorized to transact a surety business in the state and must be approved by the City Attorney as to form. Any improvement agreement, contract or act required or authorized by the Subdivision Map Act or this title, for which security is required, shall be secured in accordance with Government Code Sections 66499 *et seq.* and as provided below. No final map shall be signed by the City Engineer or recorded until all improvement securities required by this section have been received and approved.

D. Form of Security. The form of security shall be one (1) or the combination of the following at the option of and subject to the approval of the city:

1. Bond or bonds by one (1) or more duly authorized corporate sureties. The form of the bond or bonds shall be in accordance with the Subdivision Map Act, specifically, Government Code Sections 66499.1, 66499.2, 66499.3 and 66499.4.
2. A deposit, either with the city or a responsible escrow agent or trust company, at the option of the city, of money or negotiable bonds of the kind approved for securing deposits of public moneys.
3. An instrument of credit or letter of credit from one (1) 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.
4. Any other form of security as provided in Government Code Section 66499.

E. Amount of Security. A performance bond or other security in the amount of one hundred percent (100%) of the total 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 (100%) of the estimated construction cost shall be required to guarantee payment to subdivider's contractor, subcontractors and to persons furnishing labor, materials or equipment for the construction or installation of improvements. As a part of the obligation guaranteed by the security and in addition to the full amount of the security, there shall be included costs and reasonable expenses and fees, including attorneys' fees, incurred by the city in enforcing the obligations secured. The estimate of improvements costs shall be as approved by the City Engineer and shall provide for:

1. Construction costs contingencies in an amount equal to ten percent (10%) of the estimated construction costs.
2. Engineering and design costs in an amount equal to eight percent (8%) of the estimated construction costs.
3. All utility installation costs or a certification acceptable to the City Engineer from the utility company that adequate security has been deposited to ensure installation.

F. Warranty Security. Upon acceptance of the subdivision improvements by the City Engineer, the subdivider shall provide security in the amount of twenty percent (20%) of the total original estimated construction cost to guarantee the improvements against any defective work or labor done or defective materials used in the performance of the improvements throughout the warranty period which shall be the period of one (1) year following the completion and acceptance of the improvements.

G. The City Engineer may authorize in writing the release of the performance security, in whole or in part, in accordance with Government Code Section 66499.7. Release of improvement security shall be as follows:

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

2. Security given to secure payment to the contractor, subcontractors and to persons furnishing labor, materials or equipment shall be reduced or released in accordance with Government Code Section 66499.7(h).

3. 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; and (b) not less than twelve (12) months have elapsed since the acceptance of the improvements by the City Engineer. In the event the subdivider fails to complete all improvement work in accordance with this chapter, or, if the subdivider fails to reimburse the city for the cost of inspections, engineering, and incidental expenses, the city may call on the surety for reimbursement or shall appropriate from any cash deposit funds for reimbursement. In any such case, if the amount of surety bond, instrument of credit, or cash deposit exceeds all cost and expense incurred by the city, it shall release the remainder of such bond, instrument or credit, or cash deposit and, if the amount of the surety bond, instrument of credit or cash deposit is less than the cost and expense incurred by the city, the subdivider shall be liable to the city for such difference.

H. There shall be no extension of time, progress payments from cash deposit, or release of surety, instrument of credit or cash deposit except upon certification of the City Engineer that the work covered thereby has been satisfactorily completed.

I. Upon completion of the improvements and city acceptance of the improvements required by agreement, the subdivider shall provide improvement security for a period of one (1) year to guarantee the work against any defective work or labor done, or defective materials furnished. The City Engineer shall be the designated official for acceptance, release, and partial release of security pursuant to Government Code Sections 66499.7 and 66499.8. The City Council shall periodically review this delegation of authority to the City Engineer.

16.24.080 Action on Final Map

A. Upon receipt of the final map submittal, the City Engineer shall check the submittal for correctness of surveying data, the adequacy of certificates of dedication, compliance with conditions of approval of tentative map, and any other matters or features which require checking in order to ensure that the map complies with the provisions of this title and of the Subdivision Map Act.

B. The City Engineer shall notify the City Council at its next regular meeting after receipt of a final map submittal that the City Engineer is reviewing the map for final approval. The City Clerk shall provide notice of the City Engineer's pending decision on a final map by attaching and posting the notice with the City Council's regular agenda and mailing the notice to interested parties who request notice. The City Engineer shall approve or disapprove the final map within ten (10) days following the meeting of the City Council that was preceded by the Clerk's notice.

C. If the final map conforms to all the requirements of this title and the provisions of the Subdivision Map Act, is in substantial compliance with the tentative subdivision map approved or conditionally approved for the subdivision, and all conditions of the approved tentative subdivision map are met, the City Engineer shall endorse their certificate on the map in the form prescribed by the Subdivision Map Act and approve the map. The City Engineer, by written finding, may waive the requirements of this subsection when the failure to conform is the result of a technical or inadvertent error which in the determination of the City Engineer does not materially affect the validity of the map pursuant to the provisions of Government Code Section 66473.

D. The City Engineer shall accept, accept subject to improvement, or reject any offers of dedication of land for public use that are made by a statement on the final map, and the City Clerk shall thereupon transmit the final map to the County Clerk for submittal to the County Recorder; provided, that the City Engineer shall not endorse their certificate on or approve the map until the required improvements set forth in the approval of the tentative map have been installed or the subdivider has entered into an agreement to install such improvements as provided in Section 16.24.070.

E. If the final map does not conform with the requirements of this title or the provisions of the Subdivision Map Act, or is not in substantial compliance with the tentative subdivision map approved or conditionally approved for the subdivision, or all conditions of the approved tentative subdivision map are not met, the City Engineer shall disapprove the final map; provided, that a final map shall be disapproved only for failure to meet or perform requirements

or conditions which were applicable to the subdivision at the time of approval of the tentative subdivision map; and provided further, that such disapproval shall be accompanied by a finding identifying the requirements or conditions which have not been met or performed.

F. The City Council shall periodically review the delegation of final map authority to the City Engineer.

16.24.090 Action on Parcel Map

A. The City Engineer shall take final action on parcel maps.

B. The City Engineer shall approve the parcel map if it conforms to all the requirements of this title and the provisions of the Subdivision Map Act, is in substantial compliance with the tentative parcel map approved or conditionally approved for the subdivision, and all conditions of the approved tentative parcel map are met.

C. The City Engineer shall accept, accept subject to improvement, or reject any offers of dedication of land for public use that are made by a statement on the parcel map, and the City Engineer shall thereupon transmit the parcel map to the County Clerk for submittal to the County Recorder.

D. If the parcel map does not conform with the requirements of this title or the provisions of the Subdivision Map Act, or is not in substantial compliance with the tentative parcel map approved or conditionally approved for the subdivision, or all conditions of the approved tentative parcel map are not met, the City Engineer shall disapprove the parcel map; provided, that a parcel map shall be disapproved only for failure to meet or perform requirements or conditions which were applicable to the subdivision at the time of approval of the tentative parcel map; and provided further, that such disapproval shall be accompanied by a finding identifying the requirements or conditions which have not been met or performed.

E. Notwithstanding the foregoing, the City Engineer may approve a parcel map that is not in compliance with this title, the Subdivision Map Act or the approved or conditionally approved tentative parcel map, where the City Engineer finds that the failure of the parcel map is the result of a technical and inadvertent error that does not materially affect the validity of the map.

16.24.100 Appeal to City Council

The City Engineer's decision to approve or disapprove the final map or parcel map may be appealed to the City Council in accordance with Government Code Section 66452.5.

16.24.110 Action on Final Map or Parcel Map Appeal by City Council

A. The City Council on appeal shall approve the final or parcel map if it complies in all respects with the tentative map as approved, if the subdivider has fulfilled all the conditions imposed in connection with the approval of the tentative map, and if the final or parcel map

complies with all the requirements of the Subdivision Map Act and this title applicable at the time of approval or conditional approval of the tentative map. The City Council, by resolution, may waive the requirements of this subsection when the failure to conform is the result of a technical or inadvertent error which in the determination of the City Council does not materially affect the validity of the map pursuant to the provisions of Government Code Section 66473.

B. If the final map or parcel map is approved on appeal, the City Council shall also accept, accept subject to improvement, or reject any offers of dedication of land for public use that are made by a statement on the final or parcel map.

C. The City Council may disapprove a final map or parcel map in accordance with Government Code Section 66473.

Chapter 16.28 Reserved

Chapter 16.32 Underground Utilities

16.32.010 Intent

The regulations of this chapter are intended to promote the safety and welfare for both the residents of subdivisions and the public in general, and to prolong the economic life of subdivisions, enhance views and scenic attributes, and enhance the general living environment.

16.32.020 Utility Distribution Facilities to be Placed Underground

All existing and proposed utility distribution facilities, including transformers, within the subdivision and along project streets, except those exempted by the regulations of the Public Utilities Commission, supplying electric, communication or similar or associated services, installed in and for the purpose of supplying such service to any subdivision requiring the filing of a parcel map or final map, shall be placed underground. Distribution facilities do not include metal poles used for street lighting, traffic signals, pedestals for police and fire system communications and alarms, pedestal-mounted meter cabinets, substations, and facilities used to carry voltages higher than thirty-five thousand (35,000) volts.

16.32.030 Duty of Subdivider

The subdivider is responsible for complying with all requirements of this chapter, and shall make the necessary arrangements with the utility or communication companies involved for the installation of the facilities required by Section 16.32.020.

16.32.040 Request for Exception

A. The subdivider may request an exception from the requirements of this chapter by submitting to the advisory agency a statement describing fully the nature and extent of the

exception at the time of the tentative tract map or tentative parcel map application, and the reasons for which it is requested.

B. The request for the exception shall be reviewed and considered by the City Engineer. The request shall present evidence that a balancing of the requirements of the public health, safety and general welfare with the feasibility of meeting such requirements does not warrant the strict application of the requirements of this chapter, by reason of economic feasibility, soil, topography, compatibility of surrounding area, and future potential number of building sites affected. If the City Engineer determines that an exception is warranted, a condition of approval shall be included for consideration by the advisory agency for the tentative tract map.

Chapter 16.40 Vesting Tentative Map

16.40.010 Authority and Purpose

The purpose of this chapter is to establish local procedures for the implementation of Government Code Sections 66452 and 66498.1 related to vesting tentative maps.

16.40.020 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 that is not permitted by the zoning ordinance (Title 17) or other applicable provisions of this code.

16.40.030 Application

Whenever a provision of the Subdivision Map Act or this title requires that a tentative map be filed, a vesting tentative map may instead be filed.

16.40.040 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 this title for a tentative map, except as hereafter provided:

A. At the time a vesting tentative map is filed, it shall have printed conspicuously on its face the words "Vesting Tentative Map." All other submittal requirements identified in the application submittal requirements for a tentative map shall be submitted.

B. To ensure that any vested development rights are granted in compliance with the ordinances, resolutions, policies and standards for the design and improvement of the subdivision, at the time a vesting tentative map is filed, the subdivider shall also supply a statement that site development review approval has been granted, or, a complete application for site development review approval and plans have been filed, in accordance with Chapter 17.12, which will be concurrently processed with the vesting tentative map within the limitations of Government Code Section 66498.8(d).

16.40.050 Vesting of Development Rights

In accordance with Government Code Section 66498.1, approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards in effect when the vesting tentative map application was deemed complete.

- A. Expiration of Vested Rights. The rights conferred by this title and Government Code Section 66498.1 shall expire if a final map or parcel map is not approved prior to the expiration of the vesting tentative map as provided in Section 16.08.130. If the final map or parcel map is timely approved, these rights shall last for an initial period of two (2) years beyond the recording of the final or parcel map.
- B. Time Extensions. The initial period for vested rights may be extended as follows:
1. At any time prior to the expiration of the initial time period, the subdivider may apply for a one (1) year extension. The application shall be reviewed by the Planning Commission, who may approve, approve with conditions or deny the request. If the extension is denied by the Planning Commission, the subdivider may appeal that denial to the City Council within fifteen (15) days. A subdivider may only apply for one-year extension twice, for a total of two one-year extensions.
 2. The initial time period shall be automatically extended by processing time for a complete application for a grading permit or design or architectural review, in accordance with Government Code Section 66498.5(c).
 3. If the subdivider submits a complete application for a building permit during the time extension periods above, the rights conferred by this section shall continue until the expiration of that permit, or any extension of that permit.
- C. Subsequent Approvals. An approved or conditionally approved vesting tentative map shall not limit the city from imposing reasonable conditions on subsequent required approvals or permits necessary for the development and authorized by the ordinances, policies, or standards in effect when the vesting tentative map application was deemed complete.

16.40.060 Development Inconsistent with Zoning – Conditional Approval

- A. Whenever a subdivider files a vesting tentative map for a subdivision whose intended development is inconsistent with the zoning ordinance in existence at that time, that inconsistency shall be noted on the map. The city may deny such a vesting tentative map or approve it conditioned on the subdivider, or their designee, obtaining the necessary change in the zoning ordinance to eliminate the inconsistency. If the change in the zoning ordinance is obtained, the approved, or conditionally approved, vesting tentative map shall, notwithstanding Government Code Section 66498.1(b), confer the vested right to proceed with the development in substantial compliance with the change in the zoning ordinance and the map, as approved.

B. The rights conferred by this section shall be for the time periods set forth in Section 16.40.050.

16.40.070 Applications Inconsistent with Applicable Ordinances, Policies and Standards

Notwithstanding any provision of this title, a property owner or their designee may seek approvals or permits for development which depart from the ordinances, policies and standards described in Sections 16.40.050 and 16.40.060, and the city may grant these approvals or issue these permits to the extent that the departures are authorized under applicable law.

16.40.080 Amendment to Vesting Tentative Map

If the ordinances, policies or standards described in Section 16.40.060 are changed subsequent to the approval or conditional approval of a vesting tentative map, the subdivider, at any time prior to the expiration of the vesting tentative map pursuant to Section 16.08.130, may apply for an amendment to the vesting tentative map to secure a vested right to proceed with the changed ordinances, policies or standards. An application shall clearly specify the changed ordinances, policies or standard for which the amendment is sought. Any approval of the amended vesting tentative map under this section shall not extend the effective periods of the vesting tentative map approval established in Section 16.08.130.

16.40.090 Findings Required for Vesting Tentative Map Approval

The findings required to approve a vesting tentative map application shall be the same as those to approve a tentative map application with the addition of the finding that the vesting tentative map complies with the associated site development review application required by Section 16.40.040(B).

Chapter 16.44 Map Amendments and Certificates of Correction

16.44.010 Map Amendments and Certificates of Correction

A. Authority. A final or parcel map may be amended in conformance with the provisions of the Subdivision Map Act and this title by a certificate of correction or an amending map for any of the purposes set forth in Government Code Section 66469 and subject to approval and certification by the City Engineer.

B. Form. The amended map or certificate of correction shall be proposed consistent with Government Code Section 66470.

1. Amended maps shall be entitled "Amended [Final or Parcel] Map" and shall conform to the requirements of Government Code Section 66434 for a final map or Section 66445(a) through (d) and (f) through (i) for a parcel map.

2. All corrections or omissions shall be boxed or clouded and the errors removed from the final or parcel map with a certified statement by the surveyor providing, in general, a description of the correction or omission being made, a list of affected sheets, the recording information of the original map, and the name(s) of the fee owner(s) of the real property affected by the correction or omission on the date of the filing or recording of the original recorded map.

C. Certification. The City Engineer shall examine the amended map or certificate of correction and if the only changes made are those set forth in Government Code Section 66469 and the map or certificate complies with Government Code Section 66470, he or she shall certify to this fact on the amended map or certificate of correction in accordance with Government Code Section 66471. Certification by the City Engineer constitutes approval of the amended map or certificate of correction.

D. Recordation. The amending map or certificate of correction certified by the City Engineer shall be filed or recorded in the office of the Alameda County Recorder.

E. Dedications. The City Engineer may accept or reject dedications and offers of dedication that are made by statement on the amended final map or amended parcel map.

Chapter 16.48 Reversion to Acreage and Resubdivision

16.48.010 Reversion to Acreage

A. Authority. Subdivided real property may be reverted to acreage by motion of the City Council or by petition of landowners, pursuant to Government Code Section 66499.11 *et seq.*

B. Form. Petitions for reversions to acreage shall be entitled "Reversion to Acreage of _____," shall be in a form prescribed by the Community Development Director, and shall contain the information required in Government Code Section 66499.13.

C. Notice, Hearing, Approval. The City Council shall hold a public hearing on the proposed reversion to acreage, with notice per Government Code Sections 65090 and 65091. The City Council may approve the reversion to acreage upon making the findings in Government Code Section 66499.16 and with conditions pursuant to Section 66499.17.

D. Parcel Map for Reversion to Acreage. A parcel map may be filed and approved for a reversion to acreage pursuant to Government Code Section 66499.20.1. No tentative map shall be required. The City Engineer is the advisory agency for the purpose of this subsection.

16.48.020 Resubdivision

Subdivided lands may be merged and re-subdivided without reverting to acreage pursuant to Government Code Section 66499.20.2 by complying with all applicable provisions of the Subdivision Map Act and this title.

Chapter 16.52 Lot Line Adjustments

16.52.010 Lot Line Adjustments

- A. Lot line adjustments shall comply with Section 66412(d) of the Subdivision Map Act.
- B. Application. An application for a lot line adjustment shall be filed with the Community Development Director for their examination for conformance to the general plan, applicable specific plans, adopted zoning and building ordinances and the Subdivision Map Act.
- C. Required Documents. The following data and material shall be provided with a completed lot line adjustment application:
1. Current title report for each lot involved in the lot line adjustment, showing the legal owners at the time of submittal of the lot line adjustment application and showing any deeds of trust.
 2. Exhibit identifying the location of buildings, structures, utility service lines, parking lots and driveways; the location of existing and proposed lot lines; the location of adjacent streets; setback distance from buildings and structures to proposed lot lines.
 3. Plat, legal description, and lot closure calculations, signed and stamped by a professional land surveyor or qualified registered civil engineer, for each new lot and the areas to be transferred.
 4. Any additional information required by the Community Development Director or City Engineer.
- D. Approval. If the Community Development Director finds that the proposed lot line adjustment is in conformance with the general plan, applicable specific plans, the zoning ordinance and building ordinances, the Community Development Director may approve the lot line adjustment and issue a certificate of compliance which shall be recorded by the County. The approved lot line adjustment shall be reflected in a deed, which shall be recorded. A copy of the recorded deed shall be filed with the Community Development Director. Failure to record the lot line adjustment shall be cause for the denial of any project dependent on the lot line adjustment.

Chapter 16.56 Enforcement

16.56.010 Enforcement

- A. Prohibition. The prohibitions in Government Code Section 66499.30 shall apply to the sale, lease, financing, construction or occupancy of any parcel or parcels of real property in the city until and unless all applicable requirements of this title and the Subdivision Map Act have been complied with.

B. Penalty. Penalties for violation of this title or the Subdivision Map Act shall be as provided in Government Code Section 66499.31.

C. Remedies, Violations. Remedies and procedures for violations shall be as set forth in Government Code Sections 66499.32, 66499.33, 66499.34 and 66499.36.

D. Certificate of Compliance. Any person owning real property or a vendee of that person pursuant to a contract of sale of the real property may submit an application to determine whether the real property complies with the provisions of this title and the Subdivision Map Act. The Community Development Director and the City Engineer shall review the application. The City Engineer shall review and respond to the application in accordance with the provisions of Government Code Section 66499.35.

E. Judicial Action. Challenges to actions taken pursuant to this title shall be governed by Government Code Sections 66499.37 and 66499.38.

16.56.020 Effect of Approval or Conditional Approval of Map

Neither the approval nor conditional approval of any map shall constitute or waive compliance with any other applicable provision of the code, including the zoning ordinance, nor shall any such approval authorize or be deemed to authorize a violation or failure to comply with any other applicable provisions of the code.

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