

Title 16

SUBDIVISIONS*

Chapters:

<u>16.04</u>	<u>General Provisions</u>
<u>16.08</u>	<u>Tentative Maps</u>
<u>16.12</u>	<u>Standards and Design</u>
<u>16.16</u>	<u>Improvements</u>
<u>16.20</u>	<u>Optional Design and Improvement Standards</u>
<u>16.24</u>	<u>School Site Dedication</u>
<u>16.28</u>	<u>Final Map</u>
<u>16.32</u>	<u>Divisions Other Than Subdivisions</u>
<u>16.36</u>	<u>Lot Line Adjustment</u>
<u>16.40</u>	<u>Regulations on Procedures and Requirements for Development Agreements</u>

* For statutory provisions authorizing local control of subdivision design and improvements, see Gov. Code §66411.

Chapter 16.04

GENERAL PROVISIONS

Sections:

16.04.010	Title for citation.
16.04.020	Purpose of provisions.
16.04.030	Applicability of provisions.
16.04.040	Definitions.
16.04.050	Planning commission and staff responsibility.
16.04.060	Fees.
16.04.070	Parcel map waiver procedure.
16.04.080	Tentative map--Required--Waiver.
16.04.090	Tentative map--Extensions.
16.04.100	Dedication requirement.
16.04.110	Reservation of sites.
16.04.120	Drainage and sanitary sewer facilities--Fee requirement.
16.04.130	Supplemental size of improvements.
16.04.140	Environmental impact analysis required.

Sections: (Continued)

- 16.04.150 Grading and erosion control required.
- 16.04.160 Modifications of provisions--Authorized when.
- 16.04.170 Compliance with provisions required before sale.

16.04.010 Title for citation.

The ordinance codified in this title shall be known as the "subdivision ordinance." (Ord. 122 §1.00, 1976).

16.04.020 Purpose of provisions.

This title is adopted to preserve, protect and promote the public health, safety, convenience, prosperity and general welfare More specifically this title is adopted in order to achieve the following objectives:

- A. To implement the general plan of the city and elements thereof, as adopted by the city council;
- B. To provide lots of sufficient size and appropriate design for the purposes for which they are to be used;
- C. To provide streets of adequate capacity for the anticipated traffic which would utilize them to ensure that they are designed to promote a safe traffic circulation system;
- D. To accommodate new development in a manner which will preserve and enhance the city's living environment through skilled subdivision design;
- E. To provide for water supply, sewage disposal, storm drainage and other utilities and facilities which are required by conditions of an urban environment;
- F. To ensure that the cost of providing rights-of-way, street improvements, utilities and public areas and facilities needed to serve new developments are borne fairly and equitably by the subdivider rather than the property owners of the city at large;
- G. To protect and enhance real property values. (Ord. 122 §1.10, 1976).

16.04.030 Applicability of provisions.

Pursuant to the provisions of the Subdivision Map Act of the state, being Division 2 of Title 7 (commencing with Section 66410) of the Government Code, referred to in this title as the Map Act, and in addition to any other regula-

tions provided by law, the regulations in this title shall apply to all subdivisions and parcel maps or parts of subdivisions and parcel maps or divisions of land within the limits of the city. The provisions of this title are supplemental to the provisions of the Map Act and, except as otherwise provided, all terms used in this title which are defined in the Map Act shall have the same meaning as described in the Map Act, and as the Map Act may hereafter be amended. (Ord. 122 §1.20, 1976).

16.04.040 Definitions.

For the purposes of this title, certain words and terms used in this title are defined as follows:

A. "Alley" means a public way permanently dedicated or reserved as a secondary means of access to abutting property.

B. "Advisory agency" means as follows: the planning commission shall be the official body charged with the duty of making investigations and reports on the design and improvements of proposed divisions of real property, the imposing of requirements or conditions thereon. The city council shall have the final authority to approve, conditionally approve, or disapprove maps.

C. "Certificate of compliance" means the certificate of compliance described in Section 66499.35 of the Map Act.

D. "City improvement standards" means the standard drawings, details and specifications established by recommendation of the planning commission and adopted by resolution of the city council pertaining to the design and installation of subdivision improvements.

E. "Commission" means the planning commission of the city.

F. "Parcel created" means a parcel or lot which is created by the subdivision of an original parcel including the remainder of the original parcel.

G. Streets and highways:

1. "Collector street" means a street which does or which will, because of its design and location with reference to other streets, be used to carry traffic from local streets to secondary streets or in certain circumstances to the major street system.

2. "Cul-de-sac" means a street having only one outlet for vehicular traffic with a turnaround at the oppo-

site end which is not intended to be extended or continued to serve future subdivisions or adjacent lands,

3. "Local street" means a street which, because of its design and location with respect to other streets, is used primarily for access to the abutting properties,

4. "Major street" or "highway" means a street designed or intended as a major street or a county-city primary street on the general plan or an element thereof which, because of its design and location with respect to other streets and other sources of traffic, is used or designed to carry relatively heavy volumes of traffic through the urban area or between the urban areas.

5. "Secondary street" or "highway" means a Street designed or intended as a secondary street on the general plan or an element thereof which, because of its location with respect to other streets and other sources of traffic, is used or designed to carry moderate volumes of traffic between portions of the urban area or between major streets.

6. "Stubbed streets" means a street having only one outlet for vehicular traffic and which is intended to be extended or continued to serve future subdivisions or adjacent land.

H. "Tentative map" means the tentative maps required by this title to be filed for all proposed subdivisions. When the term "tentative parcel map" is used in this title it shall refer to the tentative map required for divisions of land falling within subsections a, b, c, and d, of Section 66426 of the Map Act and for division of land into four (4) or less parcels. When the term tentative subdivision map is used, it shall refer to the tentative map required for divisions of land creating five or more parcels except in cases provided for in subsections a, b, c, and d of Section 66426 of the Map Act. (Ord. 122 §2.00, 1976).

16.04.050 Planning commission and staff responsibility.

The commission shall make investigations and reports on the design and improvement of any proposed division of real property for which tentative maps are to be filed, and shall have the authority to impose requirements and conditions upon such division of land. The planning director and city engineer shall advise and assist in making

investigations and reports on all tentative maps. (Ord. 122 §3.00, 1976).

16.04.060 Fees.

Fees for filing, checking and processing of any map or any other papers, maps, diagrams or documents required under this title, fees for preparation and filing of any certificate of compliance, and fees for any appeal authorized under this title shall be in the amount prescribed by resolution of the city council. (Ord. 122 §3.05, 1976).

16.04.070 Parcel map waiver procedure.

Except where required by the Map Act, the commission may waive the requirements of submission of a parcel map for approval if the commission determines that the filing of a final parcel map would serve no substantial public purpose, and if it also finds that such division complies with requirements as to improvements and design, floodwater drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability and environmental protection. The commission is authorized to require the applicant to furnish a tentative map or such information as it deems necessary with respect to matters to be considered, In case of waiver, the commission shall issue a certificate of compliance under Section 66499.35 of the Map Act. (Ord. 122 §3.10, 1976).

16.04.080 Tentative map--Required--Waiver.

A tentative map shall be required for all subdivisions unless waived by the commission. (Ord. 122 §3,15, 1976).

16.04.090 Tentative map--Extension.

A person filing a tentative map may request an extension of the tentative map approval or conditional approval by written application to the council; such application to be filed at least thirty (30) days before the approval or conditional approval is due to expire. The application shall state the reasons for requesting the extension. In granting an extension, new conditions may be imposed and existing conditions may be revised. (Ord. 122 §3.20, 1976).

16.04.100 Dedication requirement.

Pursuant to Section 66475 of the Map Act, as a condition of approval of a subdivision, the subdivider shall dedicate or make an irrevocable offer of dedication of all land within the subdivision that is needed for public streets, alleys, including access rights and abutter's rights, drainage, public utility easements and other public easements. (Ord. 122 §3,25, 1976).

16.04.110 Reservation of sites.

Pursuant to Section 66479 of the Map Act, as a condition of approval of a subdivision, the subdivider shall reserve sites, appropriate in area and location, for parks, recreational facilities, fire stations, libraries or other public uses. (Ord. 122 §3.30, 1976).

16.04.120 Drainage and sanitary sewer facilities--Fee requirement.

Pursuant to Section 66483 of the Map Act, as a condition of a subdivision, the subdivider shall pay fees for purposes of defraying the actual or estimated costs of constructing planned drainage facilities for the removal of surface waters and stormwaters from local or neighborhood drainage areas, and of constructing planned sanitary sewer facilities for local sanitary sewer areas. (Ord. 122 §3.35, 1976).

16.04.130 Supplemental size of improvements.

Pursuant to Section 66485 of the Map Act, as a condition of approval of a subdivision, improvements installed by the subdivider for the benefit of the subdivision shall contain supplemental size, capacity or number for the benefit of property not within the subdivision, and such improvements shall be dedicated to the public. (Ord. 122 §3,40, 1976).

16.04.140 Environmental impact analysis required.

No tentative map filed pursuant to this title shall be approved until an environmental impact analysis is prepared, processed and considered in accordance with the provisions of the city environmental impact report guidelines. The subdivider shall provide such additional data and information which may be required for the preparation

and processing of any required environmental documents.
(Ord. 122 §3.45, 1976).

16.04.150 Grading and erosion control required.

Every tentative map approved pursuant to this title shall be conditioned on compliance with the requirements for grading and erosion control, including prevention of sedimentation or damage to off-site property, set forth in Chapter 70 of the Uniform Building Code adopted by the city. (Ord. 122 §3.50 1976).

16.04.160 Modifications of provisions--Authorized when.

Whenever in the opinion of the commission the land involved in any subdivision is of such size or shape or is subject to such title limitations of record, or is affected by such topographical location or conditions, or is to be devoted to such use that it is impossible or impractical in the particular case for the subdivider to conform fully to the regulations contained in this title, the commission may make such modifications thereof as in its opinion is reasonably necessary or expedient and in conformity with the spirit and purpose of the Map Act and of this title; provided, however, that no variance may be made to the requirements for adequate water mains, fire hydrants and sewerage disposal facilities or any requirements imposed by the Map Act. Each such proposed modification shall be referred to the officer or department under whose particular jurisdiction the regulation involved comes, and such officer or department shall transmit to the commission his or its written recommendations on each such proposed modification and the facts supporting such recommendation. The recommendation shall be reviewed by the commission and in case such modification is made by the commission together with appropriate findings to support the decision, the maps shall be modified accordingly. (Ord. 122 §3.55, 1976).

16.04.170 Compliance with provisions required before sale.

It is unlawful to sell, offer for sale or cause or permit to be sold or offered for sale any portion of any subdivision of real property, improved or unimproved, in the city unless and until the requirements provided in

this title have been complied with. (Ord. 122 §11.00, 1976).

Chapter 16.08

TENTATIVE MAPS

Sections:

- 16.08.010 Filing procedure.
- 16.08.020 Public hearing--Notice.
- 16.08.030 Form.
- 16.08.040 Required information.
- 16.08.050 Required statements and reports.
- 16.08.060 Review--Approval--Report of necessary changes.
- 16.08.070 Report and recommendation of planning staff--Service.
- 16.08.080 Statutory authority.
- 16.08.090 Approval, conditional approval or disapproval.

16.08.010 Filing procedure.

A tentative map, required by Section 16.04.080, shall be filed as follows:

A. The subdivider is encouraged to request a subdivision conference. Within ten (10) days after the date of receipt of such request, the planning department shall schedule a subdivision conference with the subdivider. The city engineer and planning department (or their representatives) shall attend the conference. Representatives of other public and private agencies affected by the proposed subdivision will be notified and asked to attend. Representatives of the city and other public and private agencies may transmit such recommendations to the subdivider as they deem desirable for the benefit of the subdivider in preparing the tentative map. As a result of the discussion conducted during the subdivision conference, the subdivider may request such additional meetings with participants in the subdivision conference, or with the city council, as may be necessary to clarify policies of the

city or other public or private agencies which may have an effect on the proposed subdivision;

B. Each subdivider shall file our cause to be filed thirty (30) copies of the tentative map and such additional copies as may be required by the commission with the secretary of the commission at city hall, located at 200 Campus Drive;

C. Every person submitting a tentative map shall pay a processing fee in an amount prescribed by resolution of the city council;

D. The copies of the tentative maps shall be accompanied by a letter of transmittal from the subdivider or his authorized representative specifying all documents or papers being filed, including required information not shown on the map;

E. Every person submitting a tentative map shall also submit three (3) copies of a preliminary title report covering all easements, ownerships and title with respect to all lots or parcels of the subdivision;

F. The time of filing a tentative map shall be construed to be the time at which the tentative map, together with any required fees, title report, and required data, is received by the secretary of the commission, who shall indicate the date of filing upon all copies of the tentative map and accompanying data, documents or information, The secretary of the commission shall examine the tentative map upon presentation and shall not accept the map unless the tentative map is in full compliance with the provisions of this title as to form and as to information required to be shown thereon and in the statements required to be furnished therewith. (Ord. 122 §4.00, 1976).

16.08.020 Public hearing--Notice.

A. The secretary of the commission shall set a date for a public hearing for consideration of the tentative map by the commission, which date shall be within forty (40) days after the map was filed, unless the time limit for review and action on the map is extended by mutual agreement of the commission and the subdivider.

B. Whenever a public hearing is held pursuant to this title, notice of the time and place thereof and a general description of the subdivision location shall be published once in the Arvin Tiller, a newspaper of general

circulation, published and circulated in the city. (Ord. 122 §4.10, 1976).

16.08.030 Form.

The tentative map shall be prepared by or under the direction of a registered civil engineer or licensed land surveyor and shall be in the following form:

A. The tentative map and all information thereon shall be clearly and legibly drawn and written and may be rejected by the secretary of the commission if not so done.

B. The size of each sheet shall be eighteen (18) inches by twenty-six (26) inches.

C. The scale of the map shall be large enough (not smaller than one (1) inch equals one hundred (100) feet) to show clearly all details thereof and enough sheets shall be used to accomplish this end. The exterior boundary of the parcels or lots being created shall be indicated by colored border. (Ord. 122 §4.20, 1976).

16.08.040 Required information.

The tentative map shall contain the following information and data:

A. A tract number, assigned by the county planning department;

B. Name and address of the record owner of the property to be subdivided, and name and address of the subdivider if the owner is not the subdivider;

C. Name of registered civil engineer or licensed surveyor who prepared the map;

D. Date of preparation, north point, and scale;

E. Approximate acreage of the parcel to be subdivided;

F. Boundary lines;

G. The location, names, width, curve radii and approximate grades so all adjacent roads to the proposed subdivision;

H. Location and approximate width of reserve strips;

I. The width and approximate locations of all existing or proposed easements or rights-of-way, whether public or private, for roads, drainage, sewers, public utilities of flood control purposes;

J. Lot lines and approximate dimensions, lot numbers and setback lines;

K. Locations and approximate dimensions of proposed public areas;

L. Location and widths of areas subject to inundation;

M. Location of structures, irrigation ditches, pipelines, railroads and other physical features, Any existing features which are to remain in place shall be noted;

N. Location of city boundary lines and boundary lines of any other public district which lies within five hundred (500) feet of the exterior boundary lines of the proposed subdivision;

O. A tentative drainage plan including provisions for the disposal of stormwater;

P. A key map showing the proposed subdivision and surrounding subdivisions and streets located within one-quarter (1/4) mile radius of the boundaries of the proposed subdivision;

Q. An outline of the areas of the tentative map proposed for the partial recording of a final map thereon;

R. Proposed street tree planting, if any;

S. Location and widths of proposed future streets. (Ord. 122 §4.30, 1976).

16.08.050 Required statements and reports.

The tentative map shall be accompanied by reports and written statements from the subdivider giving essential information regarding the following matters:

A. Legal description of the property;

B. Source of water supply;

C. Proposed stormwater sewer, or other means of drainage;

E. Type of street improvements;

F. Protective covenants to be recorded;

G. The proposed use of each lot and the relative proportions of the total area of the subdivision proposed to be devoted to each use classification, in acres;

H. Other improvements proposed to be made or installed,

I. The time when improvements are proposed to be made or installed;

J. Description and location of community facilities which would serve the proposed subdivision;

K. Minimum lot and average lot size;

L. A preliminary title report describing all rights-of-way and easements to which the property to be subdivided is subject;

M. Preliminary reports from the telephone and electric utility companies which will serve this subdivision as to the approximate per lot costs for the provision of telephone and electric services by underground burial;

N. Justification and reasons for any exceptions to the provisions of this title;

O. Current deed restrictions, if any;

P. Special district in which the proposed subdivision lies and the boundary of the special district if it divides the proposed subdivision;

Q. Existing zoning. (Ord. 122 §4.40, 1976).

16.08.060 Review--Approval--Report of necessary changes.

A. When the tentative map is received and filed under the provisions of this title, the secretary of the commission shall, within five (5) working days thereafter, transmit the tentative map to affected agencies as provided by resolution of the city council;

B. Such public agencies and public utilities shall review the tentative map and transmit any report or recommendations thereon within fifteen (15) days to the planning staff;

C. The department of the city to which the map is transmitted shall file with the planning staff within ten (10) working days of receipt thereof, its approval thereof, or a report showing what changes are necessary to make such map conform to the requirements of this Title and the Map Act coming within the jurisdiction of such department. (Ord. 122 §4.50, 1976).

16.08.070 Report and recommendation of planning staff--
Service.

The planning staff shall make a written report with recommendation on the tentative map, and a copy thereof served on the subdivider at least three (3) days prior to any action on such map by the commission. Service may be in person or by mail. Service shall be deemed complete on personal delivery to the subdivider or two (2) days after

depositing such report and recommendations in the United States mail. (Ord. 122 §4.60, 1976).

16.08.080 Statutory authority.

The responsibilities of the council under the provisions of Sections 66473.5, 66474, 66474.1 and 66474.6 are assigned to the commission under authority of Section 66474.7 of the Map Act. (Ord. 122 §4.70, 1976).

16.08.090 Approval, conditional approval or disapproval.

A. The commission shall review the report and recommendations of the planning staff and shall review the tentative map as to the proposed design and improvements of the subdivision and as to all applicable requirements of the Map Act and this title.

B. The commission shall make its written report on the tentative map, including recommended requirements and conditions of approval, to the council within fifty (50) days after the filing date of the map, unless such time is extended by agreement with the subdivider.

C. At the next regular meeting of the council following the filing of the commission report, the council shall fix a meeting date at which the tentative map will be considered, which date shall be thirty (30) days thereafter and the council shall approve, conditionally approve or disapprove the tentative map.

D. Any interested person may appeal any decision of the commission relative to the matters stated in subsection A of this section to the council; such appellant shall be entitled to the same notice and rights regarding testimony as are accorded a subdivider under Section 66452.5 of the Map Act.

E. At the same time, the council shall designate the improvements which will be required under the provisions of this title and shall designate any other requirements lawfully authorized to be made.

F. Nothing contained in this title shall be construed to prohibit the filing of different tentative maps for the same property regardless of whether the first one (1) has been approved; provided when such subsequent map is filed, the first one (1) filed is deemed completely rescinded and of no further force or effect. Optional tentative maps may be filed at the same time, but action of the

commission shall relate only to one (1) such map. (Ord. 122 §4,80, 1976).

Chapter 16.12

STANDARDS AND DESIGN

Sections:

- 16.12.010 Conformity required.
- 16.12.020 Vehicular access.
- 16.12.030 Streets and highways.
- 16.12.040 Local streets--Widths.
- 16.12.050 Stubbed streets--Turnarounds.
- 16.12.060 Stubbed streets--Reserve strips.
- 16.12.070 Boundary line streets.
- 16.12.080 Intersection angle and radius.
- 16.12.090 Curve radii.
- 16.12.100 Alleys--Widths--Intersections.
- 16.12.110 Streets and alleys--Arrangement.
- 16.12.120 Street names.
- 16.12.130 Easements.
- 16.12.140 Blocks--Lengths and widths.
- 16.12.150 Lot requirements.
- 16.12.160 Pedestrian way.
- 16.12.170 Underground utilities.
- 16.12.180 Waiver of preliminary soils report.
- 16.12.190 Mailboxes.

16.12.010 Conformity required.

Each subdivision and the map thereof shall be in conformity to the standards set forth in this chapter. (Ord. 122 Chapter V(part), 1976).

16.12.020 Vehicular access.

Each lot or parcel or subdivision shall be provided with vehicular access to a Street or highway improved and maintained by a public agency, connecting thereto directly or indirectly by means of access which has been approved by the council. (Ord. 122 §5.00, 1976).

16.12.030 Streets and highways.

All streets, as far as practicable, may be required to be in alignment with existing adjacent streets or their proper projections and shall begin general conformity with the most advantageous development of the area affected by such subdivision. Each major or secondary highway shall be in general conformity with the most advantageous development of the area affected by such subdivision. Each major or secondary highway shall conform in width and alignment to those designated in the circulation element of the city general plan. If any street in the subdivision is a continuation, or approximately a continuation of an existing street, the conformity or the amount of nonconformity of such a street, to such existing street, shall be accurately shown. Whenever the county surveyor or the city engineer has established the centerline of a street or alley, the data shall be shown on the final map. (Ord. 122 §5.05, 1976).

16.12.040 Local streets--Widths.

Each street extending from one (1) major or secondary highway to another and all other streets in such subdivision, except major or secondary streets, shall have a width of not less than sixty (60) feet and a roadway width of not less than forty (40) feet, Cord, 122 §5.10, 1976).

16.12.050 Stubbed streets--Turnarounds.

Where necessary to give access to or permit a satisfactory future subdivision of adjoining land, streets shall extent to the boundary of the property with turnarounds having a minimum radius of fifty (50) feet, with a curb radius of forty (40) feet. Cord, 122 §5.15, 1976).

16.12.060 Stubbed streets--Reserve strips.

One (1) foot reserve strips shall be provided across the end of stubbed streets adjoining unsubdivided land or along half streets adjoining unsubdivided land, and shall be designated by a capital letter, These reserve strips shall be offered to the city for dedication at the time the final map is recorded and all rights of vehicular access across the reserve strips shall be abandoned until such time as the reserve strips are accepted by the city for street purposes. (Ord. 122 §5.25, 1976).

16.12.070 Boundary line streets.

Any land intended to be a part of the ultimate width of a highway or street, lying along and adjacent to any such boundary, shall have a width not less than one-half (1/2) of the full width required, plus ten (10) feet of such highway or street. (Ord. 122 §5.20, 1976).

16.12.080 Intersection angle and radius.

Any highway or street intersecting any other highway or street shall intersect at any angle as near a right angle as is practicable, At street intersections which include major or secondary highways intersecting at an angle of approximately ninety (90) degrees, the block corner shall be rounded at the property line by a radius of not less than twenty-five (25) feet, The curb radius may be required to conform to the radius of existing corners at the same intersection where such radius is greater than twenty-five (25) feet. Streets intersecting at an angle other than ninety (90) degrees shall have sufficient radius or cutoff to provide the same results as to traffic movement, visibility and design, as provided by the requirements of this section. (Ord. 122 §5,30, 1976).

16.12.090 Curve radii.

The centerline curve radii on all streets and highways shall conform to accepted engineering standards of design and shall be subject to approval by the city engineer. (Ord. 122 §5.35, 1976).

16.12.100 Alleys--Widths--Intersections.

The provisions for alleys shall be not less than twenty (20) feet in width. Where two (2) alleys intersect, a corner cutoff of not less than ten (10) feet measured from the point of intersection along the side line of the alley shall be required. In the rear of all lots used or intended to be used for commercial, industrial or high-density residential, alleys at least thirty (30) feet in width, or other adequate off-street loading facilities, shall be provided. (Ord. 122 §5.40, 1976).

16.12.110 Streets and alleys--Arrangement.

The street and alley arrangement shall be such as the council in the exercise of its sound discretion may determine will cause no undue hardship to owners of adjoining

property, when they subdivide their land and adequate and convenient access to adjoining property shall be required. (Ord. 122 §5.45, 1976).

16.12.120 Street names.

Each street or way which is to be dedicated which is a continuation of, or approximately the continuation of, any existing dedicated street or way shall be shown on the tentative map and shall be given the same name as such existing street or way. The proposed name of each other street or way shown on the tentative map shall be submitted to the council for approval, and if such name is not a duplication of or so nearly the same as to cause confusion with the name of any existing street or way located in the city, or in close proximity thereto, and if such name is appropriate for a street name such name shall be approved. The words "avenue," "boulevard," "place," or other designation of any such street or way shall be spelled out in full on the map and such terms shall be approved by the council. (Ord. 122 §5.50, 1976).

16.12.130 Easements.

A. Normally utility distribution lines shall be placed underground within the public right-of-way. Normally six (6) foot by six (6) foot public utility easement for equipment enclosure shall be required adjacent to each lot sideline and street right-of-way line intersection, excepting corner lots.

B. The side lines of all easements shall be shown by fine dotted lines. If any easement already on record cannot be definitely located, a statement of existence, the nature thereof and its recorded reference must appear on the title sheet. Distances and bearing on the side lines of lots which are cut by an easement must be arrowed or so shown that the map will indicate clearly the actual lengths of the lot lines. The widths of all easements and sufficient ties thereto definitely to locate the same with respect to the subdivision must be shown. All easements must be clearly labeled and identified; if an easement shown on the map is already on record, its recorded reference must be given. If an easement is being dedicated by the map, it shall be set out in the owner's certificate of dedication. All notes and figures pertaining to easements

shall be considerably smaller and lighter than those relating to the subdivision itself. (Ord. 122 §5.55, 1976).

16.12.140 Blocks--Lengths and widths.

A. Block length Blocks shall not exceed seven hundred (700) feet in length between street lines, except where the previous surrounding layout requires longer blocks, or acre subdivisions justify or require a variation from this requirement.

B. Block Widths. The width of each block shall be sufficient for an ultimate layout of two (2) tiers of lots there in of a size required by the provisions of this title, unless the surrounding layout, lines of ownership or topographical conditions justify or make necessary a variation from this requirement. (Ord. 122 §5,60, 1976).

16.12.150 Lot requirements.

A. Lot Sizes, All lots shall have a minimum average width of sixty (60) feet and an average area of six thousand (6,000) square feet.

1. If, in the opinion of the council, lots of lesser area or lesser width will not be detrimental to the public welfare or injurious to the property or improvements of other owners of property, the council may vary such requirements and, in harmony with the general purpose and intent of this title, may approve lots of lesser area and lesser width.

B. Lot Depth. The minimum depth for residential lots shall be sufficient to permit full conformity with the building line requirements imposed by the zoning ordinance or any other ordinance of the city, and in the determination of such minimum lot depth consideration shall be given to topographical location and other physical conditions of the proposed subdivision.

C. Lot Lines. The side lines of all lots, so far as possible shall be at right angles to the street which the lot faces, or radial or approximately radial if the street is curved.

D. Divided Lots. No lot shall be divided by a city boundary line, nor any boundary line between registered (Torrens Title) and unregistered land, nor any boundary line between parcels of registered land under separate ownership. Each such boundary line shall be made a lot line.

E. Double Frontage Lots, Double frontage lots having a depth less than two hundred-forty feet (240) will not be approved except where the conditions permit no other reasonable form of platting. Where land abuts a major or secondary street, double frontage lots may be permitted when the council deems it to be reasonable due to such controlling factors as traffic, safety, appearance and setback. (Ord. 122 §5.65, 1976).

16.12.160 Pedestrian way.

Excepting in the case of any reversion to acreage map, or boundary line map, a transverse pedestrian way of adequate width may be required through the approximate middle of each block having a length of more than seven hundred (700) feet. (Ord. 122 §5.70, 1976).

16.12.170 Underground utilities.

All utility distribution facilities (including but not limited to electric, communication and cable television lines) installed in and for the purpose of supplying service to any residential or commercial subdivision shall be placed underground, except equipment appurtenant to underground facilities, The subdivider is responsible for complying with the requirements of this section, and shall make the necessary arrangements with the utility companies involved for the installation of such facilities. Industrial subdivisions are excluded from the provisions of the section, Services from public utilities shall be made in such a manner as will eliminate the necessity of disturbing the street pavement, gutter, culvert and curb. (Ord. 122 §5,75, 1976).

16.12.180 Waiver of preliminary soils report.

A preliminary soils report requirement may be waived when the city engineer finds that due to the knowledge the city has as to the soil qualities of the soils in the subdivision no preliminary analysis is necessary. (Ord. 122 §5,80, 1976).

16.12.190 Mailboxes.

A. When post office regulations prohibit delivery of mail to mailboxes which are not located adjacent to curb lines, the subdivider shall install, as a part of the

required improvements, mailboxes for each dwelling unit to be located within the subdivision.

B. Wherever possible, the subdivider shall install uniformly designed mailboxes no closer than six (6) inches from the face of curb and at a height of four (4) feet above the curb. The supports shall be of durable material, either concrete, brick, or metal, set into the ground a minimum of twenty-four (24) inches and secured with concrete. The box should be wood or metal.

C. The design, color and material shall be submitted to the planning director for approval as a part of the submittals for the final map or parcel map. Colors and material should reflect the character of the development and the box shall be subject to approval by the post office. Wherever possible, each two (2) dwelling units shall be served from one (1) position.

D. Where appropriate, group boxes serving an entire street may be considered if provisions for their location and design are made at the time of submittal for a tentative subdivision map approval. (Ord. 122 §5,85, 1976).

Chapter 16.16

IMPROVEMENTS

Sections:

- 16.16.010 Completion of improvements.
- 16.16.020 Completion agreement--Security.
- 16.16.030 Faithful performance bond--Form.
- 16.16.040 Improvement security--Amount.
- 16.16.050 Improvement security--Release.
- 16.16.060 Improvement security--Forfeiture.
- 16.16.070 Council consideration--Required improvements.
- 16.16.080 Minimum improvements--Sewer and drainage facility fees.
- 16.16.090 Filing of plans and profiles.
- 16.16.100 Wye brand map.
- 16.16.110 Survey requirements--Monuments.

16.16.010 Completion of improvements.

Improvements required as a condition of approval shall be completed at the subdivider's expense prior to filing a parcel map or final map with the county recorder, unless a completion agreement on terms mutually agreeable to the council and the subdivider has been entered into, and improvement security has been posted as provided in this chapter. (Ord. 122 §6.00, 1976).

16.16.020 Completion agreement--Security.

The co-completion requirement referred to in Section 16.16.010 shall be secured by one (1) of the following:

A. A bond or bonds by one (1) or more duly authorized corporate sureties;

B. A deposit, either with the city or a responsible escrow agent or trust company selected by the city, or cash or negotiable bonds of the kind approved for securing deposits of public moneys;

C. An irrevocable instrument of credit from one or more responsible financial institutions regulated by state or Federal government and pledging that the funds are on deposit and guaranteed for payment on demand by the city. (Ord. 122 §6,05, 1976).

16.16.030 Faithful performance bond--Form.

A. The form of the bond to secure the faithful performance of the completion agreement shall be in substantially the same form as provided for in Section 66499.1 of the Government Code of the state, except the city may add other provisions if it so desires.

B. The form of bond for the security of laborers and materialmen shall be in substantially the same form as provided for in Section 66499.2 of the Government Code of the state, except the city may add other provisions if it so desires.

C. Appropriate modifications shall be made in such form if the bond is being furnished for the performance of an act not provided for by agreement. (Ord. 122 §6.10, 1976).

16.16.040 Improvement security--Amount.

The improvement security shall be provided in the amount of

A. one hundred percent (100%) of the total estimated cost of the improvement or act to be performed conditioned upon the faithful performance of the act or agreement;

B. one-hundred percent (100%) of the total estimated cost of the improvement or act to be performed securing payment to the contractor, the subcontractors and to person furnishing labor, materials or equipment to them for the improvement or the performance of the required act;

C. The amount determined by the council necessary to guarantee or warranty the work for a period of one (1) year following completion or acceptance thereof against any defective work or labor done, or defective materials furnished;

D. If the improvement security is other than a bond or bonds furnished by duly authorized corporate surety, an additional amount shall be included as determined by the council as necessary to cover the cost and reasonable expenses and fees, including reasonable attorney's fees, which may be incurred by the city in successfully enforcing the obligation secured. The improvement security shall also secure the faithful performance of any changes or alterations in the work to the extent that such changes or alterations do not exceed ten percent (10%) of the original estimated cost of the improvement. (Ord. 122 §6.15, 1976).

16.16.050 Improvement security--Release.

A. Security given for faithful performance of any act or agreement shall be released upon the final completion and acceptance of the act or work by the council subject to the provisions of subsection B of this section.

B. The city council may release a portion of the security in conjunction with the acceptance of the performance of the act or work as it progresses upon application thereof by the subdivider; provided, however, that no such release shall be for an amount more than ninety percent (90%) of the total improvement security given for faithful performance of the act or work, and the security shall not be reduced to an amount less than ten percent (10%) of the total improvement security given for faithful performance until final completion and acceptance of the act or work by the council, In no event shall the city

council authorize a release of improvement security which would reduce such security to an amount below that required to guarantee the completion of the act or work and any other obligation imposed by this title, the Map Act, or the improvement agreement.

C. Security given to secure payment to the contractor, his subcontractors and to persons furnishing labor, materials or equipment, shall, six (6) months after the completion of and acceptance of the act or work by the council, be reduced to an amount equal to the amount of all claims therefor filed and of which notice has been given to the council, plus an amount reasonably determined by the city council to be required to assure the performance of any other obligations secured thereby. The balance of the security shall be released upon the settlement of all such claims and obligations for which the security was given,

D. No security given for the guarantee or warranty of work shall be released until the expiration of the period thereof. (Ord. 122 §6,20, 1976).

16.16.060 Improvement security--Forfeiture.

Upon the failure of the subdivider to complete any improvement, acts or obligations within the time specified, the council may, upon notice in writing of not less than ten (10) days served upon the person responsible for the performance thereof or upon notice in writing of not less than twenty (20) days, served by certified mail addressed to the last known address of such person, determine that the subdivider is in default and may cause the improvements security or such portion thereof as is necessary to complete the work or act or any other obligations of the subdivider secured thereby to be forfeited to the city. (Ord. 122 §6,25, 1976).

16.16.070 Council consideration--Required improvements.

A. The council, in the determination to require or not require any of such improvements, shall consider the following factors:

1. Whether the installation of any such improvements would be premature in relation to the public needs of the present and the immediate future;

2. Whether the omission of all or any part of such improvements would be materially detrimental to the public welfare, safety, health or convenience;

3. Whether the omission of all or any part of such improvements would be injurious to property or improvements in the area;

4. The extent to which the improvements are desirable to fulfill public needs emanating from the subdivider's proposed use or possible use;

5. The extent to which the community may need protection against potentially bad effects of the proposed use or possible use.

B. Improvements required in a subdivision for which a final or parcel map is required shall be installed to permanent line and grade to the satisfaction of the city engineer in accordance with the requirements of the council, in accordance with the city improvement standards and in accordance with all applicable provisions of Chapter 16.12, entitled Standards and Design.

C. The following improvements or any of them may be required by the council and if so required, shall be furnished at the subdivider's expense:

1. Grading, curbs and gutters, drainage and drainage structures necessary to the proper use and drainage of streets, highways, alleys and ways and to the public safety;

2. Installation and surfacing of streets, highways, alleys and ways;

3. Sidewalks;

4. Sanitary sewer facilities and connections for each parcel or lot created;

5. Water system with mains of sufficient number of outlets to furnish adequate domestic water supply for each parcel or lot created and to provide adequate fire protection to meet local neighborhood needs;

6. Street trees of a type, size, spacing and planting at the time specified by the council;

7. Street name signs;

8. A chain-link fence six (6) feet in height between any subdivision and the right-of-way line of any irrigation canal;

9. Street lighting where and as required by the council. (Ord. 122 §6.30, 1976).

16.16.080 Minimum improvements--Sewer and drainage facility fees.

A. The minimum improvements which the subdivider shall make or agree to make prior to acceptance and approval of the final map by the council shall be as provided in Section 16.16.070(c)(1) through (c)(9). A final soil report shall have been completed and approved by the city engineer prior to the beginning of construction of any building or structures.

B. Prior to filing any final map or parcel map, the subdivider shall pay or cause to be paid any fees for defraying the actual or estimated costs of constructing planned drainage facilities for the removal or surface and storm waters from local or neighborhood drainage areas or sanitary sewer facilities for local sanitary sewer areas established pursuant to Section 64483 of the Map Act (Ord. 122 §6.35, 1976).

16.16.090 Filing of plans and profiles.

Plans, specifications and profiles of all improvements required under the provisions of this title, as well as other improvements proposed to be installed and constructed by the subdivider in, over or under any street or right-of-way, easement, lot or parcel of land where improvements are required or proposed shall be filed with the city engineer. All detailed plans, specifications and profiles of improvements required must be submitted at the time of the filing of the parcel map, certificate of compliance or final map. (Ord. 122 §6.40, 1976).

16.16.100 Wye brand map.

Prior to the time of filing of the notice of completion and acceptance of sewers within the subdivision, the subdivider shall file with the city engineer an as-built map drawn to scale of one (1) inch equals one hundred (100) feet showing the location of all wye branches or house lateral sewers constructed or to be constructed in the subdivision. The map shall be drawn on sheets measuring fourteen and one-half (14 1/2) inches by nineteen (19) inches, having a one (1) inch border and one (1) inch binding margin on the left side. The subdivider shall furnish to the city the original tracing or a reproducible copy and two (2) prints of each sheet of the map. The original drawing shall be on the tracing cloth or polyes-

ter base film and drafted in black opaque ink. (Ord. 122 §6.45, 1976).

16.16.110 Survey requirements--Monuments.

A. In all cases where a parcel map is required, such map shall be based either upon a field survey made in conformity with the Land Surveyors Act or be compiled from recorded or filed data when sufficient survey information exists on field maps to locate and retrace the exterior boundary lines of the parcel map if the location of at least one (1) of these boundary lines can be established from an existing monumented line.

B. In all cases where a final subdivision map is required, such map shall be based upon a survey. All survey and mathematical information and data necessary to locate and retrace and all interior and exterior boundary lines appearing thereon shall be shown, including bearings and distances of straight lines and radii and arc length or chord bearings and length for all curves, and such information as may be necessary to determine the location of the centers of curves and ties to existing monuments used to establish the subdivision boundaries.

C. At the time of making the survey for the final subdivision map, the engineer or surveyor shall set sufficient durable monuments to conform with the standards described in Section 8764 of the Business and Professions Code so that another engineer or surveyor may readily retrace the survey.

D. Such engineer or surveyor shall set the following monuments as follows:

1. Set city standard monuments where practical at all angle and curve points on the exterior boundary and all intersections of street centerlines, the beginning and ending of all curves on street centerlines within the tract being subdivided or surveyed for record, except the exterior boundary of parcel maps compiled from recorded data;

2. Such monuments will be so set as to ensure an unobstructed sight between adjacent monuments, whenever feasible, and in no case shall the distance between such monuments exceed one thousand (1,000) feet, unless prior approval is obtained from the city engineer;

3. All such monuments are to be permanently marked with the certificate number of the engineer or surveyor

setting it, preceded by the letters "R.E." or "L.S." respectively, as the case may be;

4. Precast concrete monuments shall be set on all new streets, alleys or public ways which are to have a permanent type of pavement, or any existing street, alley or public way which is paved with a permanent type of pavement. The precast concrete monuments shall be set in a city standard monument encasement with frame and cover. All other monuments may be two (2) inch iron pipe;

5. Precast concrete monuments shall be set not less than eight (8) inches or more than twelve (12) inches below finished grade and iron pipe monuments shall be set not less than six (6) inches or more than eighteen (18) inches below finished grade.

6. When any of the above-described boundary points fall in a concrete sidewalk, curb, wall, coping, etc., such points shall be marked with a lead plug, copper or brass nail and a metal tag marked with the certificate number as described above for concrete monuments;

7. On all curved streets a sufficient number of monuments shall be set forth so that the connecting chords shall be wholly within the street roadway between the curb lines;

8. The character, type and position of all monuments and covers shall be noted on the final map. If any shortage or excess of distance is found on the ground between existing monuments, compared with the original record, any division of the total must bear its proportion of such shortage or excess.

9. A traverse of the boundaries of the tract, and of all lots and blocks must close within a limit of error not in excess of one (1) foot in ten thousand (10,000) feet;

10. All distances must be expressed on the map to the nearest one-hundredth ($1/100$) of a foot, except that when the sum of a series must equal an overall distance, each distance in the series must be expressed to the third decimal place.

11. The engineer or surveyor making the survey for any subdivision for which a final map is required shall set a durable monument at each angle and curve point on the boundary of each lot, which angle and curve point is not covered above. Such monument shall consist of three-fourths ($3/4$) inch iron pipe, eighteen (18) inches in

length, centered with copper or brass nail and metal tag properly marked as previously described; provided, that whenever a point marking any of the above-described lot locations occurs in improved areas such as concrete sidewalk, curb, wall, coping, etc., such points shall be marked with lead plug, copper or brass nail and the metal tag properly marked as previously described.

12. If, in the opinion of the city engineer, any of those points which are mentioned in subsection 11 of this section are inaccessible, then reference point shall be set in a manner which will comply with subsection 11 of this section.

13. After all surface improvements have been completed, the engineer or surveyor shall arrange with the city engineer for an inspection of the work as provided for. The engineer or surveyor, or a representative of the engineer or surveyor doing such work shall be present during the time of the inspection. All monuments and stakes as required by this section shall be exposed and plainly visible at the time of inspection, or if not exposed, the engineer or surveyor shall file a certification with the city engineer that all monuments and stakes have been installed as required by this section.

14. Any monuments or stakes disturbed by the improvements shall be reset. Where no streets are to be improved, the subdivider shall post a faithful performance bond to guarantee the setting of all the stakes and monuments enumerated in this section.

15. Vertical datum for all improvements within a subdivision shall be based on U.S. Coast and Geodetic Survey data, and at least two (2) permanent bench marks shall be established within the boundaries of a subdivision and within a public right-of-way. (Ord. 292, 1996; Ord. 122 §6.50, 1976).

Chapter 16.20

OPTIONAL DESIGN AND IMPROVEMENT STANDARDS

Sections:

- 16.20.010 Exceptions allowed when.
- 16.20.020 Letter of justification.

- 16.20.030 Variances allowed when--Density increase prohibited.
- 16.20.040 Lot size--Requirements for exceptions.
- 16.20.050 Review and decision.
- 16.20.060 Maintenance of undedicated improvements required.
- 16.20.070 Approval deemed compliance.

16.20.010 Exceptions allowed when.

Where a subdivider signifies his intent to enhance the livability, convenience and appearance of property by modern site planning techniques in the arrangement of lots, circulation pattern and by providing permanent open space and appropriate means of access to blocks, schools, shopping centers and other uses which do not literally comply with the requirements of these subdivision regulations, but which serve to facilitate the ultimate development of the land in the manner that will be commensurate with contemporary living patterns and technological progress, he may be permitted exceptions, provided he complies with the provisions of this chapter. (Ord. 122 §7.00, 1976).

16.20.020 Letter of justification.

At a time no later than the time of filing of the tentative map with the commission, the subdivider, in order to qualify for the optional design provisions of this chapter, shall, by a memorandum in writing supported and accompanied by tentative plans, justify the exercise of such option by a showing that:

A. The plan of development has been devised to make a better use of undeveloped property than that which would result from proceeding on a lot-to-lot basis and thereby produce a more desirable and livable community than would be effected by compliance with all standards and requirements;

B. The reservation of green or open spaces in a manner differing from the conventional front or back yard will result in more efficient and aesthetic use of the property than would be possible if inflexible rules were applied to individual lots;

C. The buildings, structures and landscaping will be in harmony with other structures and improvements in the area;

D. The control of density in the development will substantially comply with the general plan. (Ord. 122 §7.10, 1976).

16.20.030 Variances allowed when--Density increase prohibited.

As incentive to creating better overall communities and to producing an environment of stable, desirable character, the standards and requirements set out in Chapters 16.12 and 16.16 may be varied, but only when the gross density of an area is not increased and where such design has been approved by two-thirds (2/3) vote of the commission, and where such commission finds that the four (4) items of justification set forth in Section 16.20.020 are true. (Ord. 122 §7.20, 1976).

16.20.040 Lot size--Requirements for exceptions.

The commission may authorize exceptions in lot size but with no increase in density in the overall development. Where such sizes are proposed to be reduced by use of common areas, dedication of open space, or by agreement to give up development rights as a method of maintaining the density required for an area, the credit for such common areas, open spaces, or development rights offered shall be based on the density permitted under the zoning district in which the offer is made or on the basis of the lot sizes required as set out in Section 16.12.150, whichever is more restrictive. (Ord. 122 §7.30, 1976).

16.20.050 Review and decision.

The commission shall review the memorandum of justification as it relates to the proposed subdivision at the same time it reviews the tentative map and the recommendations of the staff. Its decision and findings shall be transmitted to the subdivider no later than the time when the tentative map is transmitted to the council. (Ord. 122 §7.40, 1976).

16.20.060 Maintenance of undedicated improvements required.

Where a residential subdivision has been approved by the council under the provisions of this chapter, full and adequate provisions, acceptable to the city, shall be made for the preservation and maintenance of all commonly owned

land, improvements and facilities which are not dedicated to public use. Such provision may be satisfied by a declaration of covenants, conditions and restrictions, duly signed and acknowledged by the owner; article of incorporation forming a homeowner's association or some other legal entity, which shall include provisions empowering the entity created to own and maintain all the properties within its jurisdiction and to exercise the powers and duties of the entity to be set forth in the declaration; and bylaws setting forth rules of membership, fees and assessments; and forms of deeds incorporating the declaration by reference to its recording data. All documents must be referred to the city attorney for review and have the approval of the council as to their sufficiency to accomplish their purpose. The owners of the individual lots shall, as a condition of ownership of such lots, be required to participate in the legal entity so formed and be responsible to said legally formed entity for the cost of performing the necessary maintenance. Any failure to so maintain shall be, and the same is unlawful and a public nuisance endangering the health, safety and general welfare of the public. (Ord. 122 §7.50, 1976).

16.20.070 Approval deemed compliance.

When a development has been approved by the council under this chapter, then such approved building sites, coverage and yards under such plan shall be considered as meeting the requirements of this title. (Ord. 122 §7.60, 1976).

Chapter 16.24

SCHOOL SITE DEDICATION

Sections:

- 16.24.010 Land dedication required.
- 16.24.020 Dedication period--Requirement terminated when.
- 16.24.030 Repayment--Computation of sum.
- 16.24.040 Exemptions.

16.24.010 Land dedication required.

As a condition of approval of a final map, a subdivider who develops or completes the development of one (1) or more subdivisions within the Arvin Elementary Union School District shall dedicate to the school district such lands as the council shall deem to be necessary for the purpose of construction thereon of schools necessary to assure the residents of the subdivision adequate school service. (Ord. 122 §9.00, 1976).

16.24.020 Dedication period--Requirement terminated when.

The requirement of dedication shall be imposed at the time of approval of the tentative map. If, within thirty (30) days after the requirement of dedication is imposed by the city, the Arvin Elementary Union School District does not offer to enter onto a binding commitment with the subdivider to accept the dedication, the requirement shall be automatically terminated. The required dedication may be made any time before, concurrently with, or up to sixty (60) days after the filing of the final map on any portion of the subdivision. (Ord. 122 §9,10, 1976).

16.24.030 Repayment--Computation of sum.

The Arvin Elementary Union School District shall, if it accepts the dedication, repay to the subdivider or his successors the original cost to the subdivider of the dedicated land, plus a sum equal to the total of the following amounts:

- A. The cost of any improvements to the dedicated land since acquisition by the subdivider;
- B. The taxes assessed against the dedicated land from the date of the school district's offer to enter into the binding commitment to accept the dedication;
- C. Any other cost incurred by the subdivider in maintenance of such dedicated land, including interest costs incurred on any loan covering such land. (Ord. 122 §9.20, 1976).

16.24.040 Exemptions.

The provisions of this chapter shall not be applicable to a subdivider who has owned the land being subdivided for more than ten (10) years prior to the filing of the tentative maps. (Ord. 122 §9,30, 1976).

Chapter 16.28

FINAL MAP

Sections:

- 16.28.010 Filing.
- 16.28.020 Improvements completion agreement.
- 16.28.030 Title sheet--Required contents.
- 16.28.040 Information required.
- 16.28.050 Review by commission.
- 16.28.060 Review by city engineer.
- 16.28.070 Certificates, security and payments.
- 16.28.080 Filing for council approval.
- 16.28.090 Approval--Disapproval.
- 16.28.100 Submittal of recorded map.

16.28.010 Filing.

A. The subdivider shall file with the city clerk one (1) complete set of original tracings and three (3) complete sets of black and white or blue line prints of the final or parcel map.

B. Within three (3) working days after the filing of the final or parcel map, the city clerk shall transmit the tracings and two (2) prints thereof to the city engineer and one (1) print to the secretary of the commission.

C. A copy of the deed restrictions applicable to the subdivision shall be filed with the city clerk at the time of filing the final or parcel map. (Ord. 122 §10.00, 1976).

16.28.020 Improvements completion agreement.

If, at the time of approval of final map by the council, or certification of a parcel map by the city engineer, any public improvements required by the city pursuant to the provisions of this title have not been completed and accepted in accordance with standards established in this title applicable at the time of the approval or conditional approval of the tentative map, the council, as a condition precedent to the approval of the final map, shall require the subdivider to enter into an improvements completion agreement upon mutually agreeable terms to thereafter complete such improvements at the sub-

divider's expense. The city shall require that performance of such agreement be guaranteed by the security specified in Chapter 16.16 of this title. (Ord. 122 §10.05, 1976).

16.28.030 Title sheet--Required contents.

A. The tract number and the tract name, if any, shall comprise the title.

B. Below the title shall be a subtitle consisting of a general description of all the property being subdivided, by reference to subdivisions or to sectional surveys.

C. References to subdivisions shall be worded identically with original records, with references to the books and pages if the subdivisions are recorded.

D. Affidavits, certificates, acknowledgements, endorsements, acceptances of dedication and notarial seals required by law and by this title shall appear on the title sheet.

E. The title sheet shall show the basis of bearings.

F. A key map showing the proposed subdivision and its relationship to the closest surrounding subdivisions and streets in all directions, together with the area encompassed by each sheet of the final map shall appear on the title sheet.

G. Where the size of a subdivision permits, in lieu of a title sheet, the information prescribed in subsections A through F of this section may be shown on the same sheet as the final map. (Ord. 122 §10.10, 1976).

16.28.040 Information required.

The map shall show:

A. The tract number and the tract name, if any, or parcel map number, date of preparation, north point and scale;

B. The scale of the map which shall be a minimum of one (1) inch equals one hundred (100) feet;

C. The locations and names of streets, without abbreviations, the width of the portion of the street being dedicated and the width of existing dedication, if any;

D. The locations and widths of pedestrian ways;

E. The locations and dimensions of public areas and the net acreage, to the nearest one-hundredth (1/100) of an acre, contained therein;

F. The centerlines, widths and side lines of all easements to which the lots are subject, the date on which the easement was created, and the book and page number of the county recorder's records in which the easement appears. If the easement is not definitely located of record, a statement as to the easement shall be made. Easements for storm drains, sewers and other similar purposes shall be denoted by broken lines. Easements shall be clearly labeled and identified and if already of record, precise reference to the records given. Easements being dedicated shall be so indicated in the certificate of dedication;

G. Locations and widths of drainage channels;

H. Locations and widths of utilities rights-of-way;

I. Locations and widths of railroad rights-of-way;

J. Limitations on rights of access to and from streets and lots and other parcels of land;

K. Locations and widths of reserve strips;

L. Locations, widths and names of streets, alleys and pedestrian ways adjacent to the proposed subdivision;

M. Locations of city boundary lines;

N. The net dimensions of each lot, No ditto marks shall be used;

O. Sufficient data shall be shown to determine readily the bearing and length of each lot line. On lots containing one (1) acre or more, the final map shall show net acreage to the nearest one-hundredth (1/100) of an acre;

P. The following surveying data:

1. A complete and accurate survey of the land to be subdivided by a civil engineer or surveyor registered to practice in the state, in accordance with the standard practices and principles of land surveying,

2. The traverse of the exterior boundaries of a proposed subdivision and of each block and lot with an error of closure before adjustment not exceeding one (1) in ten thousand (10,000) except by permission of the city engineer when extreme terrain makes such accuracy unusually difficult to obtain. The error and closure of all or any portion of the subdivision as shown on the final map shall be zero (0) or as near to zero (0) as practicable. Traverse sheets shall be provided showing closure of the perimeter and centerline of streets, and any irregular lot,

3. All sources of information shown or used on the plat shall be noted on the plat. If a recorded course is different from a field course, both should be noted in proper notation, then recorded on the parenthesis,

4. Dimensions in feet and decimals of a foot to the nearest one-hundredth (1/100) of a foot, and bearings to the nearest second of all lot lines, subdivision perimeters, and of the centerline of streets. If a course is a curve, the radius, length of curve, tangent distance and central angle shall be shown. If the ends of a curve are not tangent to the preceding or following course, the radial of the end of the curve with its bearing shall be shown. No ditto marks will be allowed. The width of each street right-of-way shall be shown, indicating the widths on each side of the centerline.

The width of the original right-of-way and the right-of-way offered for dedication,

5. Suitable primary control points including section corners and monuments existing outside the proposed subdivision,

6. The location of all permanent monuments within the proposed subdivision,

7. Ties to and names of adjacent subdivisions,

8. Ties to any city and county boundary lines involved;

Q. Building line setbacks for each lot in the subdivision used for residential, commercial or industrial uses;

R. Basis of bearing shall be taken from a line between two (2) monuments. An assumed basis of bearing may not be used. The bearing shall be obtained from one (1) of the following sources:

1. A record map or record of survey,

2. County surveyor's records,

3. An astronomical observation,

4. The California Coordinate System. (Ord. 122 §10.15, 1976).

16.28.050 Review by commission.

A. If the map conforms to the tentative map as approved by the commission and no changes have been made which have not been approved by the commission, the secretary of the commission shall certify the original tracing of the map on behalf of the commission. If the map does

not so conform, the secretary of the commission shall report such fact and the nature of the nonconforming features to the city engineer, and the secretary of the commission shall not certify the map on behalf of the commission until the commission specifically authorizes him to do so.

B. The secretary shall certify:

1. The commission approved or conditionally approved the tentative map and the date such action was taken;

2. The subdivision, as shown on the map, is substantially the same as it appeared on the tentative map and in accordance with any conditions approved by the commission. (Ord. 122 §10.20, 1976).

16.28.060 Review by city engineer.

A. The city engineer shall examine the print of the map and determine the sufficiency of affidavits and acknowledgements, the correctness of surveying data, mathematical data and computations, and determine whether the provisions of the Map Act and this title have been complied with. One (1) copy of the map shall be returned to the subdivider with notations as to errors or omissions or a statement by the city engineer that the map is correct.

B. The subdivider shall provide traverse sheets and work sheets or accurate and complete electronic computations showing the closure of the exterior boundaries of the subdivision and of all lots, blocks and centerlines of streets.

C. Plans, profiles and specifications of proposed improvements shall be submitted to the city engineer for approval at the time the prints of the map are submitted for checking. Such plans and profiles shall show the full details of the proposed improvements, and the improvements shall comply with standards and specifications adopted by the council. Where standards and specifications are exactly the same as those adopted by the council, they may be submitted by reference upon approval of the city engineer.

D. If the map is found to be correct, the matters shown thereon are sufficient and all applicable provisions of the Map Act and this title have been complied with, the city engineer shall certify his approval on the original tracing of the map. (Ord. 122 §10.25, 1976).

16.28.070 Certificates, security and payments.

Prior to the filing of the final map with the council, the owner or subdivider shall file such certificates and such security and make such payments as are required by Sections 66492, 66493 and 66494 of the Map Act, and shall comply fully with such provisions of law. (Ord. 122 §10.35, 1976).

16.28.080 Filing for council approval.

After the final map has been checked and approved as provided in Sections 16.28.050 and 16.28,060 and when all the certificates which appear on the final map, except the approval certificates of the council and county recorder, have been signed and, where necessary, acknowledged, the city engineer shall file the final map with the city clerk for council approval. (Ord. 122 §10.30, 1976).

16.28.090 Approval--Disapproval.

A. At its first regular meeting following the filing of the final map or parcel map with the city clerk, the council shall consider such map, the plan of subdivision and the offers of dedication in accordance with the requirements of this title. The council may reject any or all offers of dedication. If the council determines that the map is in conformity with the requirements of this title, it shall approve the map. When the subdivider shall have filed with the city clerk the completion agreement and improvement security described in Section 16.16.020, and when such completion agreement and improvement security shall have been approved by the city attorney as to form, and by the city engineer and council as to sufficiency, the city clerk shall transmit the map to the clerk of the county board or supervisors for ultimate transmittal to the county recorder.

B. If the council determines that the map is not in conformity with the requirements of this title, it shall disapprove the map specifying its reason or reasons for such disapproval. Within thirty (30) days after the council has disapproved any map, the subdivider may file with the city engineer a map altered to meet the approval of the council. In such case, the subdivider shall conform to all the requirements imposed upon him by this title when filing the first final map with the city engineer. No map

shall have any force or effect until the same has been approved by the council and no title to any property described in any offer of dedication shall pass until the recording of the final map. (Ord. 122 §10.40, 1976).

16.28.100 Submittal of recorded map.

Upon recordation of the final map or parcel map, the subdivider shall file with the city clerk one (1) Cronar copy of the recorded map. (Ord. 122 §10.45, 1976).

Chapter 16.32

DIVISIONS OTHER THAN SUBDIVISIONS*

Sections:

- 16.32.010 Purpose.
- 16.32.020 Definitions.
- 16.32.030 Plan approval required.
- 16.32.040 Map--Filing.
- 16.32.050 Map--Form.
- 16.32.060 Approval--Requirements.

* For statutory provisions on improvements for divisions other than subdivisions and construction requirements, see Gov. Code §66411.1.

16.32.010 Purpose.

The purpose of this chapter is to set forth rules and regulations for the division of land not governed by the provisions of the Subdivision Map Act. (Ord. 35 §1, 1962).

16.32.020 Definitions.

Unless it is plainly evident from the context that a different meaning is intended, certain terms used in this chapter are defined as follows:

A. "City engineer" means the engineer employed by the city to advise on engineering matters and to check plans for subdivisions or other improvements within the city limits and to inspect such construction,.

B. "Planning commission" or "advisory agency" means the planning commission of the city which is charged with the duty of making investigations and reports on the de-

sign and improvements of proposed divisions of land within the city.

C. "Subdivision" means and refers to any subdivision of land which is defined as a subdivision under the Subdivision Map Act of the state.

D. "Subdivision Map Act" means the Subdivision Map Act of the state. (Ord. 35 §2, 1962).

16.32.030 Plan approval required.

For any division or replot of land or buildings lots which is not a subdivision, a plan shall be filed with the planning commission and their approval shall be a condition precedent to acceptance of offers of dedication or issuance of building permits. (Ord. 35 §3, 1962).

16.32.040 Map--Filing.

Six (6) copies of the map of a proposed division of land shall be filed with the planning commission. (Ord. 35 §4, 1962).

16.32.050 Map--Form.

The map shall show the dimensions of the proposed lots and shall contain any other information deemed necessary by the planning commission; provided, however, the planning commission may not require any information which is not required in connection with a subdivision. (Ord. 35 §5, 1962).

16.32.060 Approval--Requirements.

A. The planning commission shall determine whether the proposed division of land is in conformity with the law, whether the size of the proposed lots is satisfactory and whether all of the proposed lots will have proper and sufficient access to public streets, sanitary sewer lines, water mains, fire hydrants, drainage structures and utilities. The planning commission shall approve such map by noting approval thereof by endorsement on the map. One (1) copy of the map shall be retained in the files of the planning commission and one (1) copy of the map shall be retained in the files of the city engineer.

B. Approval of the map shall be final approval, and no final map need be submitted; provided, that the planning commission may require that all of the provisions of the subdivision ordinance, as codified in Chapters 16.04

through 16.28, shall be complied with where, in its opinion, the intent of the subdivider ultimately is to subdivide into five (5) or more lots or where, in its opinion, the division of land is such that it will ultimately become an integral part of a subdivided area. (Ord. 35 §6, 1962).

Chapter 16.36

LOT LINE ADJUSTMENT

Sections:

- 16.36.010 Application--Review procedure.
- 16.36.020 Application--Information required.
- 16.36.030 Conditions for granting.
- 16.36.040 Decision on application--Notice required.
- 16.36.050 Fees.

16.36.010 Application--Review procedure.

A. An application for a lot line adjustment shall be submitted to the planning director on a form prescribed by the planner director.

B. The planner director shall review the proposed lot line adjustment to ascertain all the facts pertinent thereto and, in writing, shall state either approval or disapproval of the proposed lot line adjustment, together with his findings and reasons for such a decision, within fifteen (15) days, excluding Saturday, Sundays, and legal holidays, of the filing of the application.

C. Upon determination by the planner director that the proposed lot line adjustment is in compliance with the Subdivision Map Act and ordinances enacted by the city of Arvin, a certificate of compliance shall be prepared and filed with the county recorder of the county of Kern. (Ord. 183 §1, 1983).

16.36.020 Application--Information required.

The applicant shall submit three (3) prints of a map with sufficient clarity and detail to precisely show the proposed adjustment, and shall indicate clearly and with full dimensions the following information:

- A. Up-to-date title reports on the affected land;

B. A notarized document stating that the legal owner or owners of the property are requesting the said adjustment;

C. Legal descriptions of the parcels before and after the proposed adjustments;

D. Location of property involved;

E. The lot dimensions;

F. All buildings and structures and their location, size, height, and proposed uses;

G. Civil engineer or land surveyor shall certify the maps as to conformance to the Subdivision Map Act and accuracy;

H. Such other data or information as may be required by the planning director or city. (Ord. 188 §2, 1983).

16.36.030 Conditions for granting.

Before a lot line adjustment shall be granted, the following conditions must be found to exist by the planning director.

A. The land is a part of a recorded subdivision map, parcel map, Record of Survey, or shown on the latest adopted tax assessor's map as an individual parcel of land;

B. The number of lots or parcels are not increased or decreased;

C. The lots or parcels created have the minimum square footage required by the zoning district in which they are located;

D. That all other applicable provisions of the subdivision and zoning chapters shall be complied with;

E. That the lot line adjustment as proposed is not an attempt to circumvent the California Subdivision Map Act. (Ord. 188 §3, 1983).

16.36.040 Decision on application--Notice required.

One (1) copy of the written decision of the planning director approving or disapproving the application for a lot line adjustment shall be signed and dated by the planning director and mailed to the applicant. (Ord. 188 §4, 1983).

16.36.050 Fees.

Fees for filing, checking, and processing of a lot line adjustment or any other papers, maps, diagrams or

documents required under this title, fees for preparation and filing of any certificate of compliance authorized under this title shall be in the amount prescribed by resolution of the city council. (Ord. 188 §5, 1983).

Chapter 16.40

REGULATIONS ON PROCEDURES AND REQUIREMENTS FOR DEVELOPMENT AGREEMENTS

Sections:

- 16.40.010 Purpose and application.
- 16.40.020 Authority for adoption.
- 16.40.030 Forms and information.
- 16.40.040 Fees.
- 16.40.050 Qualification as an applicant.
- 16.40.060 Qualification of project.
- 16.40.070 Proposed form of agreement.
- 16.40.080 Review of application.
- 16.40.090 Flow of concurrent applications.
- 16.40.100 Environmental review.
- 16.40.110 Notices and hearing.
- 16.40.120 Duty to give notice.
- 16.40.130 Requirements for form and time of notice of intention to consider adoption of development agreement.
- 16.40.140 Failure to receive notice.
- 16.40.150 Rules governing conduct of hearing.
- 16.40.160 Irregularity in proceedings.
- 16.40.170 Standards of review, findings and decision.
- 16.40.180 Determination by planning commission.
- 16.40.190 Decision by city council.
- 16.40.200 Approval of development agreement.
- 16.40.210 Amendment and cancellation of agreement by mutual consent.
- 16.40.220 Initiation of amendment or cancellation by mutual consent.
- 16.40.230 Procedure.
- 16.40.240 Recordation.
- 16.40.250 Recordation of development agreement, amendment or cancellation.
- 16.40.260 Periodic review.

- 16.40.270 Time for an initiation of review.
- 16.40.280 Notice of periodic review.
- 16.40.290 Delegation or referral to planning commission or planning director.
- 16.40.300 Public hearing.
- 16.40.310 Findings upon public hearing.
- 16.40.320 Procedures upon findings.
- 16.40.330 Modification or termination.
- 16.40.340 Proceedings upon modification or termination.
- 16.40.350 Hearing on modification or termination.
- 16.40.360 Miscellaneous provisions.
- 16.40.370 Time of chapter.

16.40.010 Purpose and application.

The provisions of this chapter will provide assurance to the applicants for development projects that, upon approval of a project, the applicant may proceed with the project in accordance with the policies, rules and regulations, and subject to conditions of approval in effect at the time of approval. Development agreements entered into pursuant to this chapter will strengthen the public planning process, encourage private participation in comprehensive planning, reduce the economic costs of development, and provide a level of benefit to the city that exceeds the benefits normally derived from development projects.

Applications for development agreements are governed by these sections and, where applicable, the zoning ordinance, use permits and the subdivision ordinance. (Ord. 325 §1(part), 2002).

16.40.020 Authority for adoption.

These regulations are adopted under the authority of Government Code Sections 65864 through 65869.5. A development agreement is a legislative act, which shall be approved by ordinance and is subject to referendum (Government Code Section 65867.5). A development agreement is not a "development project" (Government Code Section 65928) which may be approved by operation of law because of the lapse of time (Government Code Section 65956). (Ord. 325 §1(part), 2002).

16.40.030 Forms and information.

A. The director of planning shall prescribe the form for each application, notice and documents provided for or required under these regulations for the preparation and implementation of development agreements.

B. The director of planning may require an applicant to submit such information and supporting data as the director of planning considers reasonably necessary to process the application. Adequate funds to secure costs for hiring consultants, including attorney services, may also be required.

C. The application shall be accompanied by a fee(s) in an amount to be set by the city.

D. The applicant shall present to the director of planning the written consent to the development agreement of all parties having any record title interest in the real property which is subject to the development agreement, including mineral rights owners who have the right of surface entry. The city may waive the requirement for the signatures of mineral rights owners if a written request is filed in conjunction with the filing of a proposed development agreement as outlined below. At the discretion of city, all such requests shall be accompanied by documentation that adequately supports all of the following findings:

1. Waiver of the requested signatures of the owners of interest can be determined to be in the public interest that development not be prevented.

2. It can be determined that the surface owner has exhausted all reasonable means for locating owners of interest and obtaining their signatures.

3. In the case of requests for waiver of signatures of mineral rights owners, in addition to the above findings, it can be determined that the proposed development agreement provides for future development of mineral rights through the establishment of a zoning district, pursuant to the city's zoning ordinance, that permits the exploration and extraction of the underlying minerals as a matter of right.

E. The applicant shall provide sufficient information to enable the director to perform an initial study pursuant to Public Resources Code Section 21160.

F. The applicant shall provide sufficient information to establish that the project is consistent with the city's general plan and any applicable specific plan.

G. The applicant shall submit a proposed development agreement that shall include the following:

1. A description of the property sought to be covered by the agreement, including a legal description;

2. A description of the proposed uses, height and size of buildings, density or intensity of use, and provision for reservation or dedication of land for public purposes;

3. Conditions, terms, restrictions, and requirements for subsequent city discretionary actions;

4. Proposed time when construction would be commenced and completed, including a phasing plan;

5. Proposed public benefits inclusive of an implementation phasing plan;

6. Termination date for the agreement, not to exceed ten (10) years from the date of execution, except where a longer time is necessary to fund debt financing requirements for public facilities or the legislative body makes a determination that a longer period of time is necessary in light of the magnitude of the project;

7. A description of all local permits required for project implementation;

8. A proposed schedule for annual review which details what progress shall be expected to be completed during the course of each year of the proposed development agreement;

9. An agent representing the legal ownership for all property subject to the proposed development agreements;

10. A description of the infrastructure, public facilities, and public services required to serve the proposed;

11. A description of any variances or modifications to existing standards, policies or ordinances;

12. An illustrative map.

H. A development agreement may include conditions and restrictions imposed by the city with respect to the project, including those conditions and restrictions proposed in an environmental impact report or other environmental documents applicable to the project prepared and certified under the California Environmental Quality Act,

and the city's regulations with respect thereto, in order to eliminate or mitigate adverse environmental impacts of the project.

I. If the development agreement requires applicant financing of necessary excess public facilities, it may include terms relating to subsequent reimbursement over time for such financing.

J. All development agreements shall contain an indemnity clause requiring the developer to indemnify and hold the city harmless against claims arising out of any or all prior or subsequent related development approvals, including all legal fees and costs in a form acceptable to the city attorney.

K. A development agreement is a contract that is negotiated and voluntarily entered into by city and developer and may contain any additional or modified conditions, terms, or provisions agreed upon by the parties, including sanctions and failure to meet requirements.

L. A development agreement may include conditions relating to financial guarantees for performance of obligations stated in the agreement. (Ord. 325 §1(part), 2002).

16.40.040 Fees.

The city council shall, by separate ordinance, fix the schedule of fees and charges imposed for the filing and processing of each application and document provided for or required under these regulations. (Ord. 325 §1(part), 2002).

16.40.050 Qualification as an applicant.

Only a qualified applicant may file an application to enter into a development agreement. A qualified applicant is a person who has legal or equitable interest in the real property which is the subject of the development agreement. Applicant includes authorized agent. The director of planning may require an applicant to submit proof of interest in the real property and of the authority of the agent to act for the applicant. The director of planning may require an applicant or agent to submit a title report from a reputable title insurance company or other evidence to verify the legal or equitable interest of the applicant in the property. In the case of multiple ownerships, all owners with a legal or equitable interest

in the real property shall be a party to the development agreement. In addition to the city and the applicant, any federal, state, or local government agency, or any non-profit agency, may be included as a party to any development agreement. (Ord. 325 §1(part), 2002).

16.40.060 Qualification of project.

A project shall not qualify for a development agreement unless:

1. The project shall occupy at least five (5) developed acres; or
2. Upon completion, the project shall result in the construction of at least:
 - a. Two hundred fifty (250) dwelling units, or
 - b. Two hundred fifty thousand (250,000) square feet of industrial space; or
3. The project will be constructed in phases over an anticipated period of not less than five (5) years. (Ord. 325 §1(part), 2002).

16.40.070 Proposed form of agreement.

Each application shall be accompanied by the development agreement proposed by the applicant. This requirement may also be met by designating the planning department's standard form of development agreement, when available, and including specific proposals for changes in or additions to the language of the standard form. (Ord. 325 §1(part), 2002).

16.40.080 Review of application.

A. The planning director shall review each application to determine whether it is complete and accurate. If the application is found to be incomplete or inaccurate, the planning director shall reject the application and inform the applicant of the items necessary to properly complete the application. The planning director shall reject any application where the development agreement would be inconsistent with the general plan, any applicable specific plan, zoning, or any other land use regulations applicable to the subject property. If the application for a development agreement is submitted in conjunction with an application for other land use approvals, the proposed development agreement shall be reviewed for consistency

with the existing and, separately, the proposed land use approvals.

B. If the planning director determines that the application is complete and accurate, copies of the application shall be forwarded to each appropriate city department, applicable outside agency, and any agency or individual who requests, in writing, a copy of the application. The planning director shall specify a time period for department, agency, and individual responses to the application to be submitted to the planning director. Following review of said responses and after consultation where appropriate, the planning director shall prepare a staff report and recommendation to the planning commission. (Ord. 325 §1(part), 2002).

16.40.090 Flow of concurrent applications.

Where a development agreement requires a general plan amendment, specific plan, rezoning, use permit, preliminary subdivision, or standard subdivision application, these applications shall be made concurrently with, or precede the development agreement; their consideration shall be concurrent with or precede the consideration of the development agreement. (Ord. 325 §1(part), 2002).

16.40.100 Environmental review.

A. After preparation of the initial study, the director of planning shall schedule an environmental determination of the development agreement and a concurrent general plan amendment, specific plan, rezoning, use permit, or preliminary map before the planning commission, as the same may be required.

B. The planning commission shall determine whether the development agreement project shall require an environmental impact report (EIR) or a negative declaration. If an EIR is required, the planning commission shall define its focus and scope.

C. Appeal may be taken to the city council from the environmental determination of the planning commission in the same manner as an appeal from the decision on a use permit.

D. Upon a determination that the planning commission has failed to meet at a scheduled date for the review of a proposed development agreement, or that the planning commission has failed to act on a submitted development

agreement, the city council may take any and all necessary actions to conduct the review evaluation and disposition of the pending development agreement. Nothing contained herein shall preclude the city council from initiating its review process independent of planning commission action. (Ord. 325 §1(part), 2002).

16.40.110 Notices and hearing.

Notices and hearings for development agreements are governed by these sections. (Ord. 325 §1(part), 2002).

16.40.120 Duty to give notice.

The director of planning shall give notice of intention to consider adoption of the development agreement and of any other public hearing required by law or these rules. (Ord. 325 §1(part), 2002).

16.40.130 Requirements for form and time of notice of intention to consider adoption of development agreement.

A. Form of Notice. The form of notice of intention to consider adoption of development agreement shall contain:

1. The time and place of the hearing;
2. Identity of the hearing body;
3. A general explanation of the matter to be considered including a general description of the area affected;
4. A general description, in text, or by diagram of the location of the real property; and
5. Other information required by specific provision of these regulations or which the director of planning considers necessary or desirable.

B. Time and Manner of Notice. The time and manner of giving notice is by:

1. Publication or Posting. Publication at least once in a newspaper of general circulation, published and circulated in the city or county at least ten (10) days prior to the hearing (Government Code Section 65090).
2. Mailing. Mailing of the notice to all persons shown on the last equalized assessment roll as owning real property within three hundred (300) feet of the property which is the subject of the proposed development

agreement at least ten (10) days prior to the hearing. If the number of owners to whom notice is to be mailed is greater than one thousand (1,000), the director of planning may, as an alternative, provide notice in the manner set forth in Section 65091(a)(3) of the Government Code.

C. Notice of the hearing shall be mailed or delivered at least ten (10) days prior to the hearing to every agency expected to provide water, sewage, streets, schools, or other essential facilities to the project whose abilities to provide those facilities or service may be significantly affected.

D. Additional Notice. The planning commission or city council, as the case may be, may direct that notice of the public hearing be given in a manner that exceeds the notice requirements prescribed by state law.

E. Declaration of Existing Law. The notice requirements referred to in subsections A and B of this section are declaratory of existing law (Government Code Sections 65867 and 65090 through 65095 as incorporated by reference). If state law prescribes a different notice requirement, notice shall be given in that manner. (Ord. 325 §1(part), 2002).

16.40.140 Failure to receive notice.

The failure to receive notice of any person entitled to notice required by law or these regulations does not affect the authority of the county or city to enter into a development agreement. (Ord. 325 §1(part), 2002).

16.40.150 Rules governing conduct of hearing.

The public hearing shall be conducted as nearly as may be in accordance with the procedural standards adopted under Government Code Section 65804 for the conduct of zoning hearings. Each person interested in the matter shall be given an opportunity to be heard. The applicant has the burden of proof at the public hearing on the proposed development agreement. (Ord. 325 §1(part), 2002).

16.40.160 Irregularity in proceedings.

No action, inaction or recommendation regarding the proposed development agreement shall be held void or invalid or be set aside by a court by reason of any error, irregularity, informality, neglect, or omission ("error") as to any matter pertaining to petition, application, notice,

finding, record, hearing, report, recommendation, or any matter of procedure whatever unless after an examination of the entire case, including the evidence, the court is of the opinion that the error complained of was prejudicial and that by reason of the error the complaining party sustained and suffered substantial injury, and that a different result would have been probable if the error had not occurred or existed. There is no presumption that error is prejudicial or that injury was done if error is shown. (Ord. 325 §1(part), 2002).

16.40.170 Standards of review, findings and decision.

Standards of review, findings and decision for development agreements are governed by these sections. (Ord. 325 §1(part), 2002).

16.40.180 Determination by planning commission.

After hearing by the planning commission, the commission shall make its recommendation in writing to the city council. The recommendation shall include the planning commission's determination whether or not the development agreement proposed:

A. Is consistent with the objectives, policies, general land uses, and programs specified in the general plan and any applicable specific plan;

B. Is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located;

C. Is in conformity with public convenience, general welfare, and good land use practice;

D. Will be detrimental to the health, safety, and general welfare; and

E. Will adversely affect the orderly development of property or the preservation of property values. The recommendation shall include the reason for the recommendation.

In the event that pursuant to the provision of Section 16.40.100 the city council conducts the planning commission review, it shall be required to make the determinations set forth in subsections A through E of this section. (Ord. 325 §1(part), 2002).

16.40.190 Decision by city council.

A. After the city council completes the public hearing, it may accept, modify, or disapprove the recom-

mendation of the planning commission. It may, but need not, refer matters not previously considered by the planning commission during its hearing back to the planning commission for report and recommendation. The planning commission may, but need not, hold a public hearing on matters referred back to it by the city council.

B. The city council may not approve the development agreement unless it finds that the provisions of the agreement are consistent with the general plan and any applicable specific plan. (Ord. 325 §1(part), 2002).

16.40.200 Approval of development agreement.

If the city council approves the development agreement, it shall do so by the adoption of an ordinance.

After the ordinance approving the development agreement takes effect, the city may enter into the agreement. (Ord. 325 §1(part), 2002).

16.40.210 Amendment and cancellation of agreement by mutual consent.

Amendment and cancellation of development agreements by mutual consent are governed by these sections. (Ord. 325 §1(part), 2002).

16.40.220 Initiation of amendment or cancellation by mutual consent.

Either party may propose an amendment to or cancellation in whole or in part of the development agreement previously entered into. (Ord. 325 §1(part), 2002).

16.40.230 Procedure.

The procedure for choosing and adoption of an amendment to or cancellation in whole or in part of the development agreement is the same as the procedure for the entering into an agreement in the first instance. (See Sections 16.40.010 through 16.40.190 of this chapter.)

However, where the city through its planning department initiates the proposed amendment to, or cancellation of, in whole or in part, the development agreement, it shall first give notice to the applicant of its intention to initiate such proceedings at least thirty (30) days in advance of the hearing by the planning commission to consider the amendment or cancellation required by Section 16.40.130.

Any amendment to the development agreement which does not relate to the duration of the agreement, permitted uses of the property, density, or intensity of use, height, or size of proposed buildings, provisions for reservation or dedication of land, or to any conditions, terms, restrictions, and requirements relating to subsequent discretionary actions related to design, improvement and construction standards and specification, or any other condition or covenant relating to the use of the property shall not require a noticed public hearing before the parties may execute an amendment to the agreement. (Ord. 325 §1(part), 2002).

16.40.240 Recordation.

The applicant shall preserve the written consent to the development agreement of all parties having any record title interest in the real property which is the subject of the development agreement prior to recordation of the agreement. (Ord. 325 §1(part), 2002).

16.40.250 Recordation of development agreement, amendment or cancellation.

A. Within ten (10) days after the city and applicant entered into the development agreement, the city clerk shall have the agreement recorded with the county recorder provided that the applicant has obtained the written consent of all parties having any title interest as required by Section 16.40.240.

B. If the parties to the agreement or their successors in interest amend or cancel the agreement as provided in Government Code Section 65868, or if the city terminates or modifies the agreement as provided in Government Code Section 65865.1 for failure of the applicant to comply in good faith with the terms or conditions of the agreement, the city clerk shall have notice of such action recorded with the county recorder. (Ord. 325 §1(part), 2002).

16.40.260 Periodic review.

Periodic review for development agreements are governed by these sections. (Ord. 325 §1(part), 2002).

16.40.270 Time for an initiation of review.

A. The city shall review the development agreement every twelve (12) months from the date the agreement is

entered into. The time for review may be modified either by agreement between the parties upon recommendation of the planning staff and an affirmative vote of at least three (3) members of the planning commission.

B. The decision of the planning commission may be appealed to the board of supervisors or the city council in the same manner as an appeal on a use permit. (Ord. 325 §1(part), 2002).

16.40.280 Notice of periodic review.

The planning director shall begin the review proceeding by giving notice that the county or city intends to undertake a periodic review of the development agreement to the property owner. The planning director shall give the notice at least twenty (20) days in advance of the time at which the matter will be considered by the commission. (Ord. 325 §1(part), 2002).

16.40.290 Delegation or referral to planning commission or planning director.

The city council hereby delegates to the planning commission the periodic review of development agreements. (Ord. 325 §1(part), 2002).

16.40.300 Public hearing.

The planning commission shall conduct a public hearing at which the property owner must demonstrate good faith compliance with the terms of the agreement. The burden of proof on this issue shall be upon the property owner. (Ord. 325 §1(part), 2002).

16.40.310 Findings upon public hearing.

The planning commission shall determine upon the basis of substantial evidence whether or not the property owner has, for the period under review, complied in good faith with the terms and conditions of the agreement. (Ord. 325 §1(part), 2002).

16.40.320 Procedures upon findings.

A. If the planning commission finds and determines on the basis of substantial evidence that the property owner has complied in good faith with the terms and conditions of the agreement during the period under review, the review for that period is concluded.

B. If the planning commission finds and determines on the basis of substantial evidence that the property owner has not complied in good faith with the terms and conditions of the agreement during the period under review, the city may initiate proceedings to modify or terminate the agreement.

The property owner may appeal a determination pursuant to subsection B of this section to the city council in accordance with the rules on appeal for use permits. (Ord. 325 §1(part), 2002).

16.40.330 Modification or termination.

Modification or termination of development agreements are governed by these sections. (Ord. 325 §1(part), 2002).

16.40.340 Proceedings upon modification or termination.

If, upon a finding under Section 16.40.320(B), the city determines to proceed with modification or termination of the agreement, the city shall give notice to the property owner of its intentions to do so. The notice shall contain:

- A. The time and place of the hearing;
- B. A statement as to whether or not the city proposes to terminate or modify the development agreement;
- C. Other information which the city considers necessary to inform the property owner of the nature of the proceeding. (Ord. 325 §1(part), 2002).

16.40.350 Hearing on modification or termination.

At the time and place set for the hearing on modification or termination, the property owner shall be given an opportunity to be heard. The city council may refer the matter back to the planning commission for further proceeding or for report and recommendation. The city council may impose those conditions to the action it takes as it considers necessary to protect the interests of the city. The decision of the city council is final. (Ord. 325 §1(part), 2002).

16.40.360 Miscellaneous provisions.

A. Unless otherwise provided by the development agreement, the city's rules, regulations, and official policies governing permitted uses of the property, density, design; improvement and construction standards, and

specifications applicable to development of the property shall be those city rules, regulations, and official policies in force on the effective date of the development agreement; however, there is no absolute vesting as to timing and phasing of any project, except as specifically authorized in the development agreement.

B. A development agreement shall not prevent the city, in subsequent actions applicable to the property, from applying new rules, regulations, and policies which do not conflict with those rules, regulations, and policies applicable to the property as set forth in the development agreement. Additionally, a development agreement shall not prevent the city, in subsequent actions applicable to the property, from applying new rules, regulations, and policies which the city determines is required for the public health, safety, or welfare, except as otherwise provided for in the development agreement.

C. A development agreement shall not prevent the city from denying or conditionally approving any subsequent land use permit or authorization for the project on the basis of such existing or new rules, regulations, and policies.

D. All development agreements shall be subject to the regulations and requirements of the laws of the state of California, the Constitution of the United States, and codes, statutes or executive mandates, and any court decisions, state or federal, thereunder. In the event that any such law, code, statute, mandate, or decision made or enacted after a development agreement has been entered into prevents or precludes compliance with one (1) or more provisions of the development agreement, then the development agreement may be modified or suspended in the manner and pursuant to the procedures specified in the development agreement, as may be necessary to comply with such law, code, statute, mandate, or decision.

E. All development agreements entail and consist of a separate procedure from other land use planning procedures and shall not take the place of the zoning ordinance, the general plan, a specific plan, development plan, conditional use permit, subdivision approval, building permit, or any other city planning function. Public hearings on a proposed development agreement may, but need not, be held concurrently with the public hearings on related land use approvals.

F. This chapter governs the interpretation of any development agreement enacted under this chapter.

G. The procedures for enforcement, modification, or termination of a development agreement specified in this section and in California Government Code Section 65865.4 are nonexclusive. A development agreement may be enforced, modified, or terminated by any manner otherwise provided by law or by the terms of the development agreement. However, the developer's sole remedy shall be injunctive, not damages. The agreement shall not provide for any form of binding arbitration.

H. Should any provision of this chapter or a subsequent development agreement be held by a court of competent jurisdiction to be either invalid, void, or unenforceable, the remaining provisions of this chapter and development agreement shall remain in full force and effect unimpaired by the holding, except as may otherwise be provided in a development agreement.

I. Any judicial review of an ordinance approving a development agreement shall be by writ of mandate pursuant to Section 1085 of the Code of Civil Procedure; and judicial review of any city action taken by the city pursuant to this chapter, other than initial approval of a development agreement, shall be writ of mandate pursuant to Section 1094.5 of the Code of Civil Procedure. The use of the term "substantial evidence" in this chapter with respect to the quantum of proof necessary in connection with a finding of noncompliance is not intended to limit, nor impose a standard of review upon, any court pursuant to a proceeding initiated for that purpose.

J. Any action or proceeding to attack, review, set aside, void, or annul any decision of the city taken pursuant to this chapter shall not be maintained by any person unless the action or proceeding is commenced within ninety (90) days after the date of the decision. (Ord. 325 §1(part), 2002).

16.40.370 Time of chapter.

The termination of this chapter shall not affect the validity of, or procedure governing development agreements into which the city has entered. (Ord. 325 §1(part), 2002).