

# **San Diego County Code of Regulatory Ordinances**

## **TITLE 8 ZONING AND LAND USE REGULATIONS**

### **DIVISION 1. SUBDIVISION OF LAND**

(Amended by Ord. No. 10529, Adopted on 5-18-2018)

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## CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

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### SEC. 81.101. PURPOSE.

Government Code sections 66410 et seq. (the Subdivision Map Act, "SMA"), establish comprehensive regulations for the subdivision of land. The SMA requires local agencies to adopt regulations for the design and improvement of subdivisions and authorizes local agencies to adopt additional subdivision regulations consistent with State law. This division adopts regulations governing subdivision of land in the unincorporated area of the County as required by and authorized under the SMA.

(Added by Ord. No. 10037 (N.S.), effective 3-26-10).

### SEC. 81.102. DEFINITIONS.

Terms used in this division that are defined in the SMA but not defined in this division shall have the same meaning as in the SMA. The following definitions shall apply to this division:

(a) "Access restriction easement" means a permanent easement a property owner dedicates to the County that prohibits any person from obtaining access to a road or right-of-way adjacent to the property.

(b) "Adjustment plat" means a drawing filed with the Director as part of the application process for a lot line adjustment adjusting the boundaries between two to four adjoining parcels, where land taken from one parcel is added to an adjoining parcel, but does not create any additional parcels.

(c) "Average daily trips, ADT" means the average total number of motor vehicle trips per day to and from a location.

(d) "Basis of bearings" means the source of uniform orientation of all measured bearings shown on a map using the California Coordinate System of 1983, Zone 6, established by Public Resources Code sections 8801 et seq.

(e) "Bicycle route" means a facility where the main form of travel is by bicycle.

(f) "Cable lines" means electronic cable, conduit and their appurtenances which distribute television signals or telephone or internet connections.

(g) "CEQA" means the California Environmental Quality Act, Public Resources Code sections 21000 et seq.

(h) "Certificate of compliance" means a document the County issues pursuant to Government Code section 66499.35 identifying real property and signifying that the division of the real property complies with applicable provisions of the SMA and this division.

(i) "Conservation subdivision" means a residential subdivision design that improves preservation of environmental resources in a balance with planned densities and community character subject to applicable Community Plans, the Zoning Ordinance, Subdivision Ordinance, Resource Protection Ordinance and Groundwater Ordinance.

(j) "County fire official" means a person designated by the Director of Public Safety to implement and enforce the County Fire Code.

(k) "DEH" means the Department of Environmental Health.

(l) "Designated remainder parcel" means a unit of land a subdivider designates pursuant to Government Code section 66424.6 which is not divided for the purpose of sale, lease or financing and is designated on a tentative map or tentative parcel map at the time the subdivider files the map.

(m) "Director" means the Director of Planning & Development Services or a person the Director designates to implement or enforce this division.

(n) "Director DEH" means the Director of the Department of Environmental Health or a person the Director DEH designates to implement or enforce this division.

(o) "Director DPW" means the Director of Public Works or a person the Director designates to implement or enforce this division.

(p) "Director DPR" means the Director of Parks and Recreation or a person the Director DPR designates to implement or enforce this division.

(q) "PDS" means the Department of Planning and Development Services.

(r) "DPR" means the Department of Parks and Recreation.

(s) "DPW" means the Department of Public Works.

(t) "Environmental resource" means natural habitats, sensitive species, sensitive habitat lands, wetlands, floodplains, significant prehistoric/historic sites, and/or agricultural lands.

(u) "Feasible" has the same meaning as the term "feasible" in Government Code section 66473.1(e).

(v) "Lease" means an agreement for the use of real property that creates a landlord-tenant relationship between the parties to the lease and includes a written or oral agreement. In addition to an agreement that creates a tenancy for a specific term, a lease also includes an agreement that creates a tenancy at will or a month-to-month tenancy.

(w) "Lot" means a unit of land and may also be referred to in this division as a "parcel."

(x) "Lot area" means the same as the term "Lot Area, Net" as defined in the County Zoning Ordinance.

(y) "Major subdivision" means a subdivision creating five or more lots or units not counting a "designated remainder parcel," as defined in this chapter, as one of the five or more lots.

(z) "Major transmission facilities, mains and lines" means electrical transmission lines with 64,000 volts capacity or more, gasoline or oil transmission lines six inches or more in diameter, natural gas mains six inches or larger in diameter, sewer outfall or transmission mains thirteen inches or larger in diameter, water transmission mains fourteen inches or larger or telephone long distance and trunk communication facilities.

(aa) "Minor subdivision" means a subdivision creating four or fewer lots or units not counting a "designated remainder parcel," as defined in this chapter as one of the four or fewer lots.

(bb) "Parcel map" means a map required by Government Code sections 66426(f) or 66428 prepared in compliance with Government Code sections 66444 et seq.

(cc) "Road" has the same meaning as the term "street" as defined in this chapter.

(dd) "San Diego County Standards" refers to those standards and specifications on file in the Office of the Clerk of the Board of Supervisors (Clerk) as Attachment C with Resolution No. 99-186 (6-30-99 (8)) (San Diego County Standards for Private Roads) and Document Number 0775217 (5-1-12 (13, CR29)) (Public Roads Standards); provided, however, that with respect to development within the "Country Town" area of the Borrego Springs Planning Area, the standards and specifications contained in the "Community Right-of-Way Development Standards - Country Town Area of the Borrego Springs Planning Area" on file with the Office of the Clerk as Document Number 740149 (4-10-91 (6)), and with respect to development within the San Dieguito Planning Area, the standards and specifications contained in the "Community Right-of-Way Development Standards - Country Town Sphere of the San Dieguito Planning Area" on file with the Office of the Clerk as Document Number 750029(a) (6-6-92 (9)), and with respect to development within the Fallbrook Community Development Area, the standards and specifications contained within the "Fallbrook Community Right-of-Way Development Standards for Public Roads" on file with the Office of the Clerk as Document Number 761748 (12-14-94 (1)), and with respect to development within the Julian Community Planning Area, the standards and specifications contained in the "Community Right-of-Way Development Standards: Julian Historic District and Julian Community Planning Area" on file with the Office of the Clerk as Document Number 0768777 (3-6-02 (17)), and with respect to development within the Valley Center Community Planning Area, the standards and specifications contained within the "Valley Center Community Right-of-Way Development Standards" on file with the Office of the Clerk as Document Number   N/A                                   shall also apply and shall supersede the aforementioned documents to the extent of any conflict between them.

(ee) "SMA" means the Subdivision Map Act of the State of California contained in Government Code sections 66410 et seq.

(ff) "Street" means a County highway, State highway, other public road or alley, or a private thoroughfare at least ten feet wide that connects with a County highway, State highway, other public road, private road or an alley which affords primary access to an abutting lot.

(gg) "Subdivision" means the division by any subdivider of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized County assessment roll as a unit or as contiguous units, for the purpose of sale, lease or financing or any purpose, whether

immediate or future, except for leases of agricultural land for agricultural purposes. Property shall be considered as contiguous units, even if it is separated by roads, streets, utility easement or railroad rights-of-way, but a freeway, as defined in Streets and Highways Code section 23.5 shall not be considered a road or street for the purpose of interpreting this section. "Subdivision" includes a condominium project, as defined in Civil Code section 1351(f), a community apartment project, as defined in Civil Code section 1351(d) or the conversion of five or more existing dwelling units to a stock cooperative, as defined in Civil Code section 1351(m).

(hh) "Tentative map" means a map prepared for the purpose of showing the design and improvement of a proposed major subdivision and the existing conditions in and around it.

(ii) "Tentative parcel map" means a map prepared for the purpose of showing the design and improvement of a proposed minor subdivision and the existing conditions in and around it.

(jj) "Through lot" means a lot having frontage on two parallel streets or a lot that is not a corner lot that has frontage on two streets, each of which may provide access to the lot.

(Added by Ord. No. 10037 (N.S.), effective 3-26-10; amended by Ord. No. 10040 (N.S.), effective 4-2-10; amended by Ord. No. 10167 (N.S.), effective 10-14-11; amended by Ord. No. 10171 (N.S.), effective 10-28-11; amended by Ord. No. 10224 (N.S.), effective 10-25-12; amended by Ord. No. 10529 (N.S.), effective 5-18-18)

### **SEC. 81.103. PROCEDURE TO CREATE A SUBDIVISION.**

No person shall create a subdivision except as provided in the SMA and this division.

(Added by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.104. SECURITY FOR THE PAYMENT OF TAXES AND SPECIAL ASSESSMENTS.**

(a) Whenever a property owner or subdivider files security with the Clerk pursuant to Government Code section 66493(a) to secure the payment of taxes or special assessments collected as taxes which are a lien on the property to be subdivided but not yet payable, the Clerk may release the security after the Treasurer-Tax Collector notifies the Clerk that the total amount of these taxes or special assessments have been paid in full.

(b) If the property owner or subdivider deposits cash to secure the payment of the estimated taxes or special assessments pursuant to Government Code section 66493(c), the Treasurer-Tax Collector shall draw upon the cash deposit, at the request of the property owner, to pay the taxes or special assessments when they are payable.

(Amended by Ord. No. 9227 (N.S.), effective 7-21-00; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.105. SUBDIVISIONS CONVERTING EXISTING RESIDENTIAL AND NON-RESIDENTIAL DEVELOPMENTS TO CONDOMINIUMS.**

(a) An applicant to convert an existing residential or non-residential development to condominiums shall submit a tentative map for five or more units or a tentative parcel map for four

or fewer units. As used in this section, an existing residential or non-residential development means a development that has received a final certificate of occupancy. The subdivision map shall indicate all sub-lots including common-held sub-lots. If the project is to be an air space condominium, a one-lot subdivision is required.

(b) A tentative subdivision map involving conversion to condominiums of any existing residential or non-residential building, other than a residential mobile home development, shall have conditions which:

(1) Bring the development into conformance with current Zoning Ordinance requirements for a new development except that Zoning Ordinance section 4115 dealing with "Computation of Permitted Dwelling Units" shall only apply if the tentative map or tentative parcel map proposes additional dwelling units.

(2) Bring all structures on the site into conformance with the requirements of the County Building, Plumbing, Electrical, Mechanical and Fire Codes as they were amended and in effect in San Diego County at the time the structures were constructed and with the requirements of those codes in effect at the time the tentative map or tentative parcel map is approved with regard to all of the following items:

(A) Interior fire sprinklers.

(B) Smoke detectors.

(C) Railings, guardrails and handrails.

(Added by Ord. No. 5325 (N.S.), effective 12-12-78; Ord. No. 5333 (N.S.), adopted 1-2-79, effective 2-1-79, supersedes Ord. No. 5325; amended by Ord. No. 6144 (N.S.), effective 9-10-81; amended by Ord. No. 6410 (N.S.), effective 8-27-82; amended by Ord. No. 6575 (N.S.), effective 6-3-83; amended by Ord. No. 9841 (N.S.), effective 4-20-07; amended by Ord. No. 10037 (N.S.), effective 3-26-10; amended by Ord. No. 10224 (N.S.), effective 10-25-12; amended by Ord. No. 10529 (N.S.), effective 5-18-18)

#### **SEC. 81.106. MERGER OF CONTIGUOUS PARCELS.**

(a) If a parcel or unit of land is contiguous to a parcel or unit of land held by the same owner and any one of the contiguous parcels or units does not conform to current standards for minimum parcel size to permit use or development under the Zoning Ordinance, the parcels or units may be merged if all of the following conditions are met:

(1) At least one of the contiguous parcels or units is not developed with a structure for which a permit has been issued or for which a building permit was not required at the time of construction, or is developed only with an accessory structure or accessory structures, or is developed with a single structure, other than an accessory structure, that is also partially sited on a contiguous parcel or unit.

(2) One or more of the following conditions exists with respect to any affected parcel. The parcel:

(A) Comprises less than 5,000 square feet at the time of the determination of the merger.

(B) Was not created in compliance with applicable laws and County ordinances in effect at the time of its creation.

(C) Does not meet current standards for sewage disposal and domestic water supply.

(D) Does not meet slope stability standards.

(E) Has no legal access which is adequate for vehicular and safety equipment access and maneuverability.

(F) If developed would create a health or safety hazard.

(G) Is inconsistent with the County General Plan or any applicable specific plan, other than minimum lot size or density standards.

(b) Subsection (a) shall not apply if any of the conditions in Government Code section 66451.11(b)(7)(A)-(E) exist.

(c) If the County approved a lot line adjustment or a division of land plat or issued a certificate of compliance resulting in the merger of parcels or units of land which would not have merged pursuant to the current provisions of this section, the merged parcels or units shall remain merged. The Director, however, may issue a certificate of compliance on written application of the owner of the merged property or a vendee of that person pursuant to a contract of sale of the real property, if the Director determines all of the following are true:

(1) No final or parcel map has been recorded for all or any portion of the parcels or units.

(2) In the case of a division of land plat, the ownership of all portions of the merged lots remains the same as when the division of land plat was approved.

(3) In the case of a lot line adjustment, after the merged parcels or units are unmerged, the lot line adjustment would meet the present requirements for a lot line adjustment in chapter 9 of this division and the resulting parcels or units would not be required to be merged pursuant to subsection (a) of this section.

(4) In the case of a certificate of compliance, after the merged parcels or units are unmerged, the certificate of compliance would still be issuable pursuant to section 81.1103 and the resulting parcels or units would not be required to be merged pursuant to subsection (a) of this section.

(d) If the Director determines that the requirements for a parcel merger have been met and the County intends to take action under this section to merge the parcels, the Director shall proceed pursuant to Government Code sections 66451.12-66451.18. If a property owner requests a hearing pursuant to Government Code section 66451.13 the Director shall hold the hearing.

(Added by Ord. No. 5835 (N.S.), effective 8-28-80; amended by Ord. No. 6396 (N.S.), effective 8-12-82; amended by Ord. No. 6508 (N.S.), effective 3-1-83; amended by Ord. No. 6882 (N.S.), effective 1-17-85; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

## **SEC. 81.107. DEFENSE AND INDEMNITY FROM LAWSUITS.**

(a) As a condition of approval of a tentative map, vesting tentative map or tentative parcel map, for which the applicant submitted a complete application before January 3, 2003 or a map modification, resolution amendment, time extension, adjustment plat, certificate of compliance or conditional certificate of compliance the County approved before January 3, 2003, the applicant shall: (1) defend, indemnify and hold the County, its agents, officers and employees harmless, from any claim, action or proceeding against the County, its agents, officers or employees to attack, set aside, void or annul the approval by the Board of Supervisors, Planning Commission, Director or any other County employee or agency, or for any proceeding, act, or determination taken, done or made prior to that decision, if the action is brought within the time period provided in Government Code Section 66499.37 and (2) reimburse the County, its agents, officers or employees for any court costs and attorney's fees that the County, its agents, officers or employees may be required by a court to pay as a result of the approval. At its sole discretion, the County may participate in the defense of any action, but that participation shall not relieve the applicant of any obligation imposed by this condition. The County shall promptly notify the applicant of any claim or action and cooperate fully in the defense.

(b) Each applicant seeking approval of a tentative map, vesting tentative map or tentative parcel map for which a complete application is submitted on or after January 3, 2003 and each applicant seeking approval of a map modification, resolution amendment, time extension, adjustment plat, certificate of compliance or conditional certificate of compliance, that is approved on or after January 3, 2003, shall be subject to the defense and indemnification provisions in sections 86.201 et seq. of this code.

(Added by Ord. No. 7782 (N.S.), effective 8-24-90; amended by Ord. No. 9517 (N.S.), effective 1-3-03; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

#### **SEC. 81.108. ADVISORY AGENCY.**

Whenever this division provides that an "advisory agency," as that term is used in Government Code section 66415, shall perform a function the following shall apply:

(a) The Planning Commission shall serve as the advisory agency for an application concerning a major subdivision.

(b) The Director shall serve as the advisory agency for an application concerning a minor subdivision.

(c) The advisory agency may prescribe the rules and procedures that an applicant is required to follow for a matter within the agency's jurisdiction.

(Added by Ord. No. 10037 (N.S.), effective 3-26-10)

#### **SEC. 81.109. FIRE SAFE REGULATIONS, AUTHORITY AND COMPLIANCE.**

(a) State Responsibility Area (SRA) Fire Safe Regulations, 14 California Code of Regulations (CCR) sections 1270 et seq., authorize a local jurisdiction to conduct inspections and consider requests for exceptions to fire safe regulations standards related to an application for a subdivision, when the local jurisdiction has implemented the State regulations through its subdivision approval process. Title 14 CCR section 1270.03 provides that the State Board of Forestry may certify local ordinances as equaling or exceeding the State regulations. No application for a subdivision shall be

approved unless the proposed subdivision complies with 14 CCR sections 1270 et seq. or comparable provisions relating to subdivisions in the County Fire Code or fire district's fire code, whichever applies to the property, when the State Board of Forestry has certified the applicable local fire code as equaling or exceeding the State regulations.

(b) The County fire official shall (1) serve as the inspection authority for the County, as provided in 14 CCR section 1270.05 and (2) consider written requests for exceptions to the State fire safe regulations, as provided in 14 CCR sections 1270.07 and 1270.08 or local fire code regulations.

(c) An applicant for a subdivision who requests an exception to the applicable State or local fire safe regulations relating to subdivisions shall state the specific sections for which the applicant requests an exception, the material facts that support the applicant's contentions, the details of the exception or mitigating measure proposed and provide a map showing the proposed location and siting of the exception or mitigation measure.

(d) The Director shall provide the applicant requesting an exception with a written decision granting or denying the request within 30 days from the date the applicant files a request that complies with subsection (c).

(e) If the County fire official denies a request for an exception the applicant may appeal the denial by following the appeals procedures in section 96.1.108 of the Consolidated Fire Code, for projects located within the jurisdiction of a local fire district, and section 96.1.108 of the County Fire Code, for projects located outside of a local fire district.

(Added by Ord. No. 10037 (N.S.), effective 3-26-10; amended by Ord. No. 10529 (N.S.), effective 5-18-18)

#### **SEC. 81.110. ENFORCEMENT.**

The Director shall enforce a violation of this division and Government Code sections 66410 et seq.

(Added by Ord. No. 10037 (N.S.), effective 3-26-10)

## **CHAPTER 2. FEES AND DEPOSITS**

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### **SEC. 81.201. APPLICANT TO PAY ALL DEPOSITS AND FEES ESTABLISHED BY THE BOARD.**

(a) When an applicant submits an application or a request pursuant to this division, the applicant shall include with the application or request all deposits and fees the Board of Supervisors (Board) establishes for that application or request.

(b) A County department shall bill its costs against an applicant's deposit. An applicant shall be liable to the County for any department's costs in excess of an applicant's deposits.

(c) Whenever a County department's costs or projected costs exceed an applicant's deposit the department shall notify the applicant to make an additional deposit.

(d) No application for a map shall proceed to an initial hearing before the Director or the Planning Commission if any of the applicant's deposit accounts has a deficit or if the applicant has not paid any additional deposit required by a County department.

(Added by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.202. APPLICANT TO PAY ALL COUNTY DEPARTMENTS COSTS.**

(a) An applicant for a tentative map, revised tentative map, amendment to a resolution of conditional approval of a tentative map, parcel map, extension of time, stay of expiration of a tentative map, final map, certificate of compliance, boundary adjustment plat or any other application or request filed pursuant to this division, shall pay each County department's costs to process the application or request including each department's costs to review, investigate and make recommendations about an application or request.

(b) A person responsible for improvements pursuant to this division shall pay all improvement fees, each County department's costs related to the improvements, including checking the improvement plans, processing documents, inspecting the improvements and all recording fees for filing documents with the County Recorder.

(Added by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.203. FEE OR DEPOSIT FOR APPEAL OF TENTATIVE MAP OR TENTATIVE PARCEL MAP.**

(a) A person appealing a decision approving, conditionally approving or denying approval of a tentative map or tentative parcel map, other than a community planning group authorized to review and make recommendations about the map, shall pay to the Director at the time the appeal is filed, the appeal fee or deposit established by the Board. A request for appeal shall not be considered validly filed unless the appellant pays the required fee or deposit.

(b) A community planning group shall only appeal a decision under subsection (a) in compliance with Board Policies.

(Added by Ord. No. 10037 (N.S.), effective 3-26-10)

**SEC. 81.204. LOCAL AREA DRAINAGE FEES.**

This section is adopted pursuant to Government Code sections 66483 and 66488. In addition to any other fees and prior to the County's approval of any final map, parcel map or conditional certificate of compliance issued pursuant to section 81.1104, a subdivider or person issued a conditional certificate of compliance shall pay local drainage area fees as follows:

According to the formula, applying individual development cost and drainage basin cost, for all land in Local Drainage Areas 1 and 2 as shown on the map and addenda attached as Exhibits A, B, and C to the "Agreement for Reimbursement of Cost of Construction of Public Drainage Facilities", on file in the Office of the Clerk of the Board as Document No. 604932.

(Added by Ord. No. 5792 (N.S.), effective 7-10-80; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

**SEC. 81.205. IMPROVEMENTS AND SERVICES FEES.**

Where a subdivider is required as a condition of approval of a tentative map or tentative parcel map to pay fees relating to providing improvements or performing services to the subdivision and the subdivider enters into an agreement secured pursuant to this division to defer installing improvements required by section 81.404 or section 81.708, the subdivider may defer payment of these fees. In that case the agreement shall provide that the fees shall be paid before the work commences for which the fee was required or before the County issues a building permit, whichever comes first. The amount of the security accompanying the agreement shall be increased to include the amount of the fees. The amount of the fees shall include an adjustment factor to represent the effects of inflation as represented in the Market Trends Index as published in the "Engineering News Record" or a similar index as determined appropriate by the Director. This section shall not apply to any fee that State law or a County ordinance provides for a different payment time.

(Added by Ord. No. 10037 (N.S.), effective 3-26-10; amended by Ord. No. 10529 (N.S.), effective 5-18-18)

**SEC. 81.206. WAIVER OF FEES FOR PROCESSING ENVIRONMENTAL SUBDIVISION.**

Upon written request of an applicant, the Director may waive all fees and deposits required by this chapter if the Director determines the application is for an "environmental subdivision," as that term is defined in section 81.1001, and the environmental subdivision will conserve habitat that is important to the success of the County's Open Space Program or Multiple Species Conservation Program.

(Added by Ord. No. 9428 (N.S.), effective 2-15-02; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

**SEC. 81.207. REFUND PROCEDURE.**

An applicant is entitled to a refund of unused deposits: (a) after the approval process is completed, (b) an application is denied or withdrawn, (c) each County department determines that it has been paid in full for all costs and fees it is due and (d) the Director DPW determines no further action will be required by any County department. A project is completed when the County accepts or approves or where appropriate, accepts and approves all engineering, improvements, plans, maps, documents and reports and when required by this division, all recording of documents has occurred.

(Added by Ord. No. 10037 (N.S.), effective 3-26-10)

## **CHAPTER 3. PROCEDURES FOR MAJOR SUBDIVISIONS**

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### **SEC. 81.301. TENTATIVE MAP REQUIRED.**

(a) A person proposing to create a major subdivision shall file a tentative map with the Director, except as provided in sections 81.516 and 81.517.

(b) No final map for a major subdivision shall be approved unless a tentative map of the subdivision has been filed and approved pursuant to this division.

(c) Where this division or the SMA authorizes a parcel map for a major subdivision no parcel map shall be approved unless a tentative map of the subdivision has been filed and approved pursuant to this division.

(Amended by Ord. No. 6508 (N.S.), effective 3-1-83; amended by Ord. No. 6575 (N.S.), effective 6-3-83; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.302. ONSITE WASTEWATER TREATMENT SYSTEM CERTIFICATION.**

A tentative map that proposes onsite wastewater treatment systems shall require a determination from the Director DEH that it is feasible to install an onsite wastewater treatment system on each lot proposed in the subdivision. No tentative map shall be approved until the applicant obtains certification from the Director DEH that each lot has been approved for installation of an onsite wastewater treatment system.

(Added by Ord. No. 5828 (N.S.), effective 8-21-80; amended by Ord. No. 5916 (N.S.), effective 12-4-80; amended by Ord. No. 5963 (N.S.), effective 2-5-81; amended by Ord. No. 6149 (N.S.), effective 8-18-81; Ord. No. 6150 (N.S.), adopted 8-25-81, effective 9-24-81, supersedes Ord. No. 6149; amended by Ord. No. 6401 (N.S.), effective 8-19-82; amended by Ord. No. 6683 (N.S.), effective 12-15-83; amended by Ord. No. 6792 (N.S.), effective 7-13-84; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.303. TENTATIVE MAP TO CONFORM TO RULES OF ADVISORY AGENCY.**

A tentative map shall be in the form and shall contain and be accompanied by the data specified by the rules and regulations the advisory agency establishes.

(Amended by Ord. No. 4799 (N.S.), effective 1-13-77; amended by Ord. No. 6508 (N.S.) operative 3-1-83; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.304. ADDITIONAL INFORMATION TO BE SUPPLIED BY APPLICANT.**

In addition to the information required by section 81.303 an applicant for a tentative map shall provide a written statement with the tentative map that provides the following information:

(a) The name and address of each person having an interest in the application and the name and address of each person having any ownership interest in the property involved.

(b) If a person identified under subsection (a) is a corporation or partnership, the name and address of each person owning more than 10% of the shares of the corporation or owning any partnership interest in the partnership.

(c) If a person identified under subsection (a) is a non-profit organization, the name and address of each person serving as director of the non-profit organization.

(d) If any person identified under subsection (a) is a trust, the name and address of each a trustee, beneficiary or trustor of the trust.

(Added by Ord. No. 4544 (N.S.), effective 8-14-75; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.305. GRADING PLAN REQUIRED WITH TENTATIVE MAP.**

An applicant for a tentative map shall file a grading plan with the map showing grading for construction or installation of all improvements to serve the subdivision. The grading plan shall also show feasible grading for the creation of building sites on each lot and driveway access for each lot. The grading plan shall conform to all requirements of sections 87.201 et seq., but shall not be required to show the estimated starting and completion dates for the grading. The level of detail required for the grading plan may be less than what is required for actual construction, but shall be sufficient to allow analysis of all onsite and offsite environmental impacts and mitigation measures including "best management practices," as that term is defined in section 67.802. The decision making body with approval authority (decision making body) considering an application for a tentative map shall also consider the grading plan. If the decision making body approves or conditionally approves the tentative map, the grading plan shall be marked to identify it as the grading plan the decision making body relied on as a basis for approval of the tentative map. An application for a grading permit for the subdivision required by this code shall conform to the grading plan identified during the approval process for the tentative map. If the application for a grading permit for the subdivision deviates substantially from the grading plan the decision making body considered, the grading permit applicant shall amend the grading plan, pursuant to sections 87.201 et seq.

(Amended by Ord. No. 4799 (N.S.), effective 1-13-77; amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 9315 (N.S.), effective 4-12-01; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.306. PLANNING COMMISSION AUTHORITY AND DUTIES FOR TENTATIVE MAPS.**

(a) The Planning Commission's authority, as the advisory agency for tentative maps, shall be as follows:

(1) The Planning Commission is not authorized to approve, conditionally approve or disapprove a tentative map that is: (A) filed for concurrent processing with a General Plan amendment, specific plan, specific plan amendment or an application for a property rezone, that is required to be approved before the tentative map shall be approved or (B) proposing connection to the Rancho San Diego interceptor sewer line for the provision of sewer service and is not within the Village Regional Category as shown by the San Diego County General Plan, Land Use Element. For a tentative map

covered by this subsection, the Planning Commission shall make a written report to the Board as provided in Government Code section 66452.1(a).

(2) For any tentative map not included in subsection (1) above, the Planning Commission is authorized to approve, conditionally approve or disapprove the tentative map and shall act pursuant to Government Code section 66452.1(b). In granting the authority under this subsection to the Planning Commission to approve, conditionally approve or disapprove these tentative maps, the Board, pursuant to Government Code section 66474.7, assigns its responsibilities under Government Code sections 66473.5, 66474, 66474.1 and 66474.6 to the Planning Commission for these maps.

(b) Before any public hearing on an application for a tentative map, a revised tentative map or an extension for a previously approved tentative map, the Planning Commission shall provide notice that complies with the public notice requirements in Government Code section 66451.3.

(c) For each tentative map that comes before the Planning Commission for action, the Commission shall investigate the map and the improvements proposed to be constructed and installed in the subdivision or to serve the subdivision.

(d) As part of its investigation of the map and the proposed improvement the Planning Commission shall obtain and review the recommendations of: (1) the Director, the Director DEH and the Director DPW, with respect to the "design," as that term is defined in Government Code section 66418, of the proposed subdivision and the kind, nature and extent of the proposed "improvements," as that term is defined in Government Code section 66419, and (2) the chief of the local fire district where the proposed subdivision is located, or if there is no local fire district, the County fire official, with respect to fire hydrants, connections to be installed, fire control measures, improvements and compliance with SRA Fire Safe Regulations, 14 CCR sections 1270 et seq., or sections of a fire district's code or County Fire Code, related to subdivisions, when the State Board of Forestry has certified the applicable fire code as equaling or exceeding the State regulations.

(e) Whenever the Planning Commission approves or conditionally approves a tentative map pursuant to this section, it may prescribe the kind, nature and extent of the improvements to be constructed, installed or funded to serve the subdivision for the approved or conditionally approved tentative map. Where the Planning Commission does not prescribe the kind, nature or extent of the improvements to be constructed or installed, the improvements shall be constructed and installed in accordance with the San Diego County Standards.

(Amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 5963 (N.S.), effective 2-5-81; amended by Ord. No. 6041 (N.S.), effective 5-28-81; amended by Ord. No. 6508 (N.S.), effective 3-1-83; amended by Ord. No. 6790 (N.S.), effective 6-29-84; amended by Ord. No. 7312 (N.S.), effective 7-2-87; amended by Ord. No. 8164 (N.S.), effective 11-20-92; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 8591 (N.S.), effective 10-27-95; amended by Ord. No. 8811 (N.S.), effective 6-25-97; amended by Ord. No. 9675 (N.S.), effective 10-22-04; amended by Ord. No. 10037 (N.S.), effective 3-26-10; amended by Ord. No. 10167 (N.S.), effective 10-14-11)

### **SEC. 81.307. PHASING OF FINAL MAPS.**

The decision making body shall determine the number of phased final maps that a subdivider may file pursuant to Government Code section 66452.6(a)(1), when it approves or conditionally approves the tentative map. At that time the decision making body may also determine the order in which the

subdivider may file each final map. A subdivider filing phased final maps pursuant to this section shall file each final map with the Clerk of the Board sufficiently before the expiration date of the tentative map to allow the Board to schedule a hearing and approve the map before the tentative map expires.

(Added by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.308. WAIVER OR MODIFICATION OF REGULATIONS.**

Whenever the Planning Commission or the Board finds with respect to a proposed major subdivision that because: (a) the real property to be subdivided: (1) is of a size or shape, (2) is subject to title limitations of record, (3) is affected by topographical location or conditions, (4) is subject to environmental constraints, (5) is to be devoted to a use that makes it impracticable for the subdivider to fully conform to the requirements of this division, (6) does not meet the requirements of 81.401(r) (conservation subdivision), or (b) imposition of the requirements of this division would constitute an unconstitutional taking of property, the decision making body may waive or modify the requirements of this division as long as approving the subdivision with the waiver or modification does not result in an inconsistency with the County General Plan, any provision in the Zoning Ordinance or any federal, State or local law or regulation in effect at the time the application for the map was deemed complete, and does not increase the County's risk of exposure to tort liability. The decision making body granting the waiver or modification may also impose conditions related to the waiver or modification.

(Amended by Ord. No. 6508 (N.S.), effective 3-1-83; amended by Ord. No. 8228 (N.S.), effective 5-7-93; amended by Ord. No. 10037 (N.S.), effective 3-26-10; amended by Ord. No. 10167 (N.S.), effective 10-14-11)

### **SEC. 81.309. HEARING PROCEDURE FOR MODIFICATIONS AND WAIVERS.**

(a) Whenever an applicant for a tentative map requests modification or waiver of a regulation pursuant to section 81.308 the decision making body shall hear the applicant's request concurrently with the tentative map hearing.

(b) If an applicant requests modification or waiver of a condition of an approved tentative map, the matter shall be decided using the procedure specified in section 81.317.

(Added by Ord. No. 5108 (N.S.), effective 3-30-78; amended by Ord. No. 6041 (N.S.), effective 5-28-81; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.310. APPEAL FROM PLANNING COMMISSION DECISION.**

(a) A person entitled to appeal from an action of an advisory agency with respect to a tentative map pursuant to Government Code section 66452.5(a)(1) and any interested person, may appeal an action by the Planning Commission approving, conditionally approving or disapproving of a tentative map to the Board. The appeal shall be filed with the Director.

(b) The Clerk of the Board shall give public notice of any appeal hearing. The notice shall comply with Government Code section 66451.3. The Clerk shall also give notice to each person entitled to notice by U.S. mail as provided in Government Code section 66452.5(f).

(c) If the Board determines at the appeal hearing that the number or nature of the changes necessary to approve or conditionally approve a tentative map cannot be shown clearly or simply on the tentative map, the Board may require the applicant to file a replacement tentative map. In that case, the appeal hearing shall be continued to allow the applicant to prepare the replacement map. After the replacement map is filed and reviewed by County departments, the hearing shall be resumed and the Director shall report on the accuracy and completeness of the replacement map.

(Amended by Ord. No. 5228 (N.S.), effective 9-21-78; amended by Ord. No. 6508 (N.S.), effective 3-1-83; amended by Ord. No. 6715 (N.S.), effective 2-17-84; amended by Ord. No. 7054 (N.S.), effective 11-15-85; amended by Ord. No. 7820 (N.S.), effective 10-26-90; amended by Ord. No. 8051 (N.S.), effective 5-8-92; amended by Ord. No. 8202 (N.S.), effective 2-12-93; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.311. REPLACEMENT TENTATIVE MAP.**

An applicant may submit a replacement tentative map at any time before the tentative map is approved. An applicant shall submit a replacement tentative map when the Planning Commission or the Board determines that the number or nature of the changes necessary to approve or conditionally approve a tentative map cannot be shown clearly or simply on the tentative map.

(Added by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.312. DURATION OF A TENTATIVE MAP**

An approved or conditionally approved tentative map shall expire 36 months after the approval date unless the map is extended as provided in this chapter.

(Added by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.313. TENTATIVE MAP EXTENSION.**

(a) When a subdivider with an approved or conditionally approved tentative map is required to expend an amount equal to or greater than the amount specified in Government Code section 66452.6(a) for public improvements outside the boundaries of the tentative map that are reasonably related to the property, each filing of a final map on a portion of an approved tentative map, as authorized by Government Code section 66456.1, shall extend the tentative map's expiration date, as provided in Government Code section 66452.6(a).

(b) A subdivider may file a written application with the Director for an extension of a tentative map pursuant to Government Code section 66452.6(e), except that no application for an extension shall be filed more than 180 days before the map expiration date. The procedures for approval of an extension shall be as provided in section 81.317. An application for an extension may be approved for up to 72 months and shall be in addition to the extension in subsection (a).

(c) The time period provided in subsection (a), including any extension approved or conditionally approved pursuant to subsection (b), shall not include any time period during which there is a development moratorium, as provided in Government Code section 66452.6(b)(1). As used in this section, the term "development moratorium" has the same meaning as the term "development moratorium" in Government Code section 66452(f). When a development moratorium is terminated the map shall be valid for the period provided in Government Code section 66452.6(b)(3).

(d) The time period provided in subsection (a), including any extension approved or conditionally approved pursuant to subsection (b), shall not include any time period during which a lawsuit involving the approval or conditional approval of a tentative map is or was pending if the County grants a stay of the time period pursuant to section 81.314.

(Amended by Ord. No. 4799 (N.S.), effective 1-13-77; amended by Ord. No. 4817 (N.S.), effective 1-29-77; amended by Ord. No. 5140 (N.S.), effective 5-25-78; amended by Ord. No. 5565 (N.S.), effective 8-23-79; amended by Ord. No. 5683 (N.S.), effective 2-14-80; amended by Ord. No. 5747 (N.S.), effective 5-6-80; Ord. No. 5771 (N.S.), adopted 5-20-80, effective 6-19-80, supersedes Ord. No. 5747; amended by Ord. No. 6041 (N.S.), effective 5-28-81; amended by Ord. No. 6058 (N.S.), effective 6-25-81; amended by Ord. No. 6269 (N.S.), effective 5-20-82; amended by Ord. No. 6409 (N.S.), effective 8-27-82; amended by Ord. No. 6508 (N.S.), effective 3-1-83; amended by Ord. No. 7257 (N.S.), effective 1-16-87; amended by Ord. No. 7819 (N.S.), effective 10-26-90; amended by Ord. No. 8811 (N.S.), effective 6-25-97; amended by Ord. No. 9227 (N.S.), effective 7-21-00; amended by Ord. No. 9841 (N.S.), effective 4-20-07; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.314. STAY OF TENTATIVE MAP TIME PERIOD DUE TO LITIGATION.**

(a) Pursuant to Government Code section 66452.6(c), the subdivider may apply to the Director to stay the expiration date of a tentative map if a lawsuit has been brought involving the approval or conditional approval of a tentative map. The application for a stay may be filed at any time after service of the initial petition or complaint on the County and no later than six months after the lawsuit has been completed. The application shall provide all information about the lawsuit including the case name and case number, the court where the suit was filed, the current status of the case and the map number and date the map was approved or conditionally approved. The application shall also provide the length of the stay requested by the subdivider and the reasons why the subdivider requests the stay. The applicant shall provide all additional information required by the Director.

(b) After a subdivider files a complete application, the Director shall provide notice by U.S. mail to the record owner of each property located within 300 feet of the exterior boundaries of the proposed subdivision. The notice shall advise the property owner that: (1) the subdivider has applied for a stay, (2) the Director will make a decision within 40 days from the date of the application to approve the stay for a period of up to five years or deny the stay, (3) the Director will consider any written comments the property owner submits within 20 days from the date of the notice and (4) how the property owner may request notice of the Director's decision and review or obtain a copy of the decision.

(c) The Director may consider the following factors in determining whether to approve or deny the stay: (1) the adequacy of environmental review that was performed for the tentative map approval in light of any current information on impacts from the proposed subdivision or other changes in circumstances, (2) the effect the lawsuit may have had upon the subdivider's ability to proceed with the project, (3) information provided by the subdivider and the property owners notified of the subdivider's application, (4) any changes in laws, ordinances, regulations or policies applicable to the subdivision since the approval or conditional approval of the tentative map, (5) whether any changes in the kind, nature or extent of required improvements are appropriate, (6) information the Director obtains from other County departments or federal or State agencies related to these issues and (7) any other factors the Director determines are relevant.

(d) The Director shall determine whether to approve or deny the stay requested within the time specified in Government Code section 66452.6(c). If the Director approves the stay the Director's decision shall specify the duration of the stay, as specified in Government Code section 66452.6(c). The Director shall mail a notice of the decision to the subdivider and any person who requested notice pursuant to subsection (b).

(e) If the Director denies the stay or approves a stay for a time period less than the subdivider requested, the subdivider may appeal to the Board within 15 days. The Board shall hold a public hearing on the appeal. The Clerk of the Board shall provide notice by U.S. mail at least 10 days before the hearing to each property owner of record located within 300 feet of the exterior boundaries of the proposed subdivision. The Board shall approve or deny the stay and, if approving the stay, indicate the duration of the stay.

(Ord. No. 8545 (N.S.), effective 7-7-95; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.315. REVISED TENTATIVE MAP.**

(a) A subdivider may file an application for a revised tentative map to revise or alter a proposed subdivision for which a tentative map has been approved or conditionally approved. The revised tentative map shall conform to the following requirements:

(1) The proposed subdivision shown on the map shall generally conform to the street and lot pattern shown on the approved or conditionally approved tentative map.

(2) The proposed subdivision shown on the map shall include only one contiguous area consisting of all or a portion of the subdivision shown on the approved or conditionally approved tentative map together with the additional land, if any, the subdivider desires to include.

(3) The map shall contain all of the information required on tentative maps and shall be accompanied by the data required to be filed with tentative maps.

(b) A revised tentative map may be filed within 36 months after the approval or conditional approval of the original tentative map, or, if an extension of time has been granted, within the extended period. The subdivider, however, shall have 36 months from the date the original tentative map was approved or conditionally approved, plus any extension approved or conditionally approved, to file the final map.

(c) A revised tentative map shall be processed as provided in section 81.316.

(Amended by Ord. No. 4817 (N.S.), effective 1-29-77; amended by Ord. No. 5747 (N.S.), effective 5-6-80; Ord. No. 5771 (N.S.), adopted 5-20-80, effective 6-19-80, supersedes Ord. No. 5747; amended by Ord. No. 6041 (N.S.), effective 5-28-81; amended by Ord. No. 6058 (N.S.), effective 6-25-81; amended by Ord. No. 6269 (N.S.), effective 5-20-82; amended by Ord. No. 6508 (N.S.), effective 3-1-83; amended by Ord. No. 9675 (N.S.), effective 10-22-04; amended by Ord. No. 9775 (N.S.), effective 7-10-06; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.316. DUTIES OF DIRECTOR ON APPLICATIONS FOR A TENTATIVE MAP EXTENSION OR A REVISED TENTATIVE MAP.**

When the Director receives an application for a tentative map time extension or a revised tentative map the Director shall:

(a) Provide notice of the receipt of the application as follows:

(1) Publishing notice, that a subdivider filed the application for a tentative map extension, in a newspaper of general circulation published and circulated within the County of San Diego, at least 10 days before making a preliminary decision on the application.

(2) Sending notice by U.S. mail to each property owner of record located within 300 feet of the exterior boundaries of the proposed subdivision. The notice shall identify the application the subdivider filed and advise the property owner that the Director will be making a preliminary decision on the application and the Director will consider any written comments the property owner submits that the Director receives within 10 days from the date of the notice. The notice shall also provide information on how the property owner may request notice of the Director's preliminary decision and review or obtain a copy of the decision.

(b) Investigate each application and determine if there are any proposed changes to the improvements to be installed on or to serve the land to be subdivided as a result of the application.

(c) Obtain the recommendation from all of the following:

(1) The Director DPW and the Director DEH, with respect to any proposed changes to the design of the proposed subdivision and the proposed improvements.

(2) The Chief of the local fire district, or if there is no local fire district, the County Fire official, with respect to proposed changes to fire hydrants and connections to be installed.

(3) Other County departments, governmental agencies special districts or any other persons or entities the Director determines are appropriate or necessary to carry out the requirements of this division.

(d) For a revised tentative map, in addition to the recommendations listed in subsection (c) above regarding proposed improvements, obtain the recommendation of the Director DPR with respect to proposed trail or pathway improvements.

(e) Act on the application pursuant to the procedure specified in section 81.317.

(Added by Ord. No. 6041 (N.S.), effective 5-28-81; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9701 (N.S.), effective 3-4-05; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.317. APPLICATIONS FOR A TENTATIVE MAP MODIFICATION OR EXTENSION OR A REVISED TENTATIVE MAP.**

The Director shall act on an application for a modification or extension of a tentative map or a revised tentative map as follows:

(a) Within two business days after the Director receives a completed application, the Director shall transmit a copy of the application and all supporting documents to the persons or entities

specified in section 81.316(c), requesting each person or entity provide a written response to the Director within 20 days, commenting on the proposed modification or extension or revised tentative map and the potential impacts if the County were to approve or conditionally approve the application.

(b) Except as provided in subsection (f), the Director shall make a preliminary decision to approve, conditionally approve or deny the application within 30 days from the date the Director completes environmental review of the proposed modification or extension. The Director shall provide notice of the preliminary decision by U.S. mail to the subdivider and each property owner who requested notice of the decision. If the Director's decision is to deny an application, the notice shall contain the reasons for the denial.

(c) The Director shall also file a copy of the preliminary decision with the Planning Commission at its next regularly scheduled meeting.

(d) Any person may request the Planning Commission schedule a public hearing on the preliminary decision or the Planning Commission may schedule a public hearing on its own initiative to review the preliminary decision. A person who requests a hearing shall provide the reasons why the person asserts the Director erred in making the preliminary decision. In the event no person requests the Planning Commission hold a public hearing on the preliminary decision and the Planning Commission takes no action to initiate a hearing, the preliminary decision shall become a final decision of the Planning Commission that is effective immediately. The Planning Commission shall provide notice of the final decision to the subdivider and to any person who requested notice of the decision pursuant to section 81.316(a)(2).

(e) In the event a person requests a public hearing or the Planning Commission initiates a hearing, the Planning Commission shall schedule a hearing for the next regularly scheduled Planning Commission meeting.

(f) As an alternative to making a preliminary decision pursuant to the procedure described in subsections (b) through (e) above, the Director may elect to schedule the application for a hearing directly with the Planning Commission.

(g) When a Planning Commission hearing has been scheduled to review the Director's preliminary decision or at the Director's request pursuant to subsection (f), the Planning Commission shall notify the subdivider and any person who requested notice pursuant to section 81.316(a). The Planning Commission's decision may be appealed to the Board as provided in section 81.310.

(Added by Ord. No. 6041 (N.S.), effective 5-28-81; amended by Ord. No. 6508 (N.S.), effective 3-1-83; amended by Ord. No. 6644 (N.S.), effective 9-23-83; amended by Ord. No. 8051 (N.S.), effective 5-8-92; amended by Ord. No. 8811 (N.S.), effective 6-25-97; amended by Ord. No. 9227 (N.S.), effective 7-21-00; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

## CHAPTER 4. REQUIREMENTS FOR MAJOR SUBDIVISIONS

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### SEC. 81.401. DESIGN OF MAJOR SUBDIVISIONS.

All major subdivisions shall conform to the following design requirements:

- (a) No lot shall include land in more than a single tax rate area.
- (b) Every lot shall contain the minimum lot area specified in the Zoning Ordinance for the zone in which the lot is located at the time the final map is submitted to the Board of Supervisors (Board) for approval, but if the Zoning Ordinance does not establish a minimum lot area for a zone, every lot shall contain a lot area of at least 6,000 square feet.
- (c) Every lot shall front on a dedicated road, a road offered for dedication or a private road easement, whichever is required by section 81.402 or the conditions of approval of the tentative map.
- (d) A lot shall have at least 50 feet of frontage, exclusive of side yard setbacks required in the zone in which the lot is located, measured at the right-of-way line, but shall also have at least 60 feet of frontage measured at the right-of-way line.
- (e) A lot that fronts on a cul-de-sac, whose side lines are approximately radial to the center of the cul-de-sac or a lot that fronts at the intersection of two dead end roads, shall have at least 33 feet of frontage measured at the right-of-way line.
- (f) A panhandle-shaped lot shall have a minimum frontage of 24 feet on a dedicated road or private easement road, except where the panhandle portion of two panhandle-shaped lots are adjacent to one another, in which case each shall have a minimum frontage of 20 feet on a dedicated road or private easement road. Panhandles may not serve as access to any lot except the lot of which the panhandle is a part. The panhandle portion of a lot shall not be longer than two-thirds of the distance from the road on which the panhandle fronts to the rear lot line.
- (g) A through lot shall not be allowed unless the property owner relinquishes vehicular access rights to one of the abutting roads. To relinquish access rights to a private road, the property owner shall dedicate a one foot access restriction easement to the County that runs the entire width of the lot fronting the private road easement. For a relinquishment of access rights to a public road, the property owner shall provide a "relinquishment of access rights" on the final map.
- (h) The side lines of each lot shall be at approximately right angles or radial to the road upon which the lot fronts with a maximum deviation of up to 10 degrees for a minimum distance of 1/3 of the lot depth.
- (i) A lot shall be designed so the lot is at least 90 feet deep and the average lot depth, excluding any areas encumbered by any open space, drainage, flood control or right-of-way easement, shall not be greater than three times the average lot width.
- (j) Whenever practicable, a major subdivision of property approved for residential use shall be designed so that the front of any lot in the subdivision shall not be facing a railroad right-of-way, a

utility transmission line, an open flood control channel or a road shown on the Mobility Element of the County General Plan.

(k) Whenever practicable, the side and rear lot lines of a lot shall be located along the top of a man-made slope rather than at the toe or at an intermediate location on a slope.

(l) Bicycle routes shown on the County General Plan shall be included in the subdivision if the routes are reasonably related to the traffic caused by the subdivision. Whenever rights-of-way for roads are required to be dedicated in subdivisions containing 200 or more lots, the subdivider shall include bicycle routes, when necessary and feasible for the use and safety of the residents.

(m) A subdivider shall demonstrate that each lot within the subdivision has unobstructed access to sunlight to an area of not less than 100 square feet, falling in a horizontal plane 10 feet above the grade of the buildable area of the lot. The condition of unobstructed solar access shall be considered to be achieved when a specific area of not less than 100 square feet has an unobstructed sky view of the sun between azimuths of the sun at 45 degrees to the east and 45 degrees to the west of true south, when measured on the winter solstice.

(n) The design of the subdivision shall reflect non-motorized vehicle trails required by section 81.402(v).

(o) If the Board approves a specific plan or the Board or the Planning Commission approves a major use permit for a planned development pursuant to Zoning Ordinance sections 6600 et seq., that provides subdivision design requirements contrary to the requirements in subsections (b), (d), (e), (h) or (i) above, the provisions of the approved specific plan or major use permit shall govern.

(p) A subdivision shall be designed so that no lot shall be bisected by a road.

(q) A subdivision shall be designed so that a street or road easement providing access to a parcel located on a subdivision boundary, shall not terminate in a cul-de-sac when it is feasible for the street or road easement to serve as a through street connecting the subdivision to a street or road easement in an existing or proposed, adjacent subdivision. If there is no street or road easement on the adjacent property, the street or road easement shall be designed to allow a connection to an adjacent property, in case the adjacent property is developed in the future. If there is an irrevocable offer of dedication or rejected offer of dedication for a street on the adjacent property, the subdivision shall be designed so that a street that serves a lot located on a subdivision boundary shall be able to connect to a street on an adjacent property if the County accepts the irrevocable offer of dedication or rejected offer of dedication. As used in this subsection, "feasible" means that construction of a through street is not limited by any of the following:

- (1) Topographical or other physical constraints.
- (2) Conditions that would result in a significant impact on the environment.
- (3) Utility easements or other similar title constraints.
- (4) Existing or planned adjacent uses that are incompatible with a road connection.

(r) In addition to the foregoing requirements, subdivisions located in SR-10 and Rural lands (RL-20 through RL-80) designations shall be designed as conservation subdivisions (subdivisions in all

other land use designations may be designed as conservation subdivisions) using the following criteria:

(1) The development footprint shall be located in the areas of the land being subdivided so as to minimize impacts to environmental resources.

(2) Development shall be consolidated to the maximum extent permitted by County regulations and the applicable Community Plans.

(3) The development footprint shall be located and designed to maximize defensibility from wildland fires and to accommodate all necessary fuel modification on-site.

(4) Notwithstanding the requirements of the Slope Encroachment Regulations contained within Section 86.604(e) of the Resource Protection Ordinance, effective October 10, 1991, exceptions to the maximum permitted encroachment into steep slopes shall be allowed in order to avoid impacts to environmental resources that cannot be avoided by other means. The exceptions shall be limited to the minimum necessary to achieve the goals of the conservation subdivision program.

(5) Roads shall be designed to minimize impacts to environmental resources. Such design standards may include siting roads to reduce impacts from grading, consolidating development to reduce the length of roads and associated grading, using alternative permeable paving materials and methods, reduced paved road widths, and smaller curve radii, consistent with applicable public safety considerations.

(6) Areas avoided from development shall be protected with open space or conservation easements and shall follow the design standards set forth below:

- i. The largest blocks of unfragmented and interconnected open space shall be conserved.
- ii. Surface open space area to perimeter ratios shall be maximized by avoiding the creation of slivers or fingers of open space that extend in and around development.
- iii. Open space shall be located in areas with the maximum amount of connectivity with off-site open space.
- iv. Multiple habitat types, varying topography, agriculture, etc. shall be conserved to the maximum extent practicable.
- v. Unique and/or sensitive resources shall be protected in the core of open space areas to the maximum extent practicable or suitable buffers shall be provided to protect these resources.
- vi. Resources shall be avoided and placed in open space pursuant to the percentage indicated in Table 81.401.1. The avoided lands shall be protected with an easement dedicated to the County of San Diego or a conservancy approved by the Director. Land used for mitigation for project impacts may be used to satisfy the requirements of Table 81.401.1 below. The required open space shall be maintained as open space for as long as the lots created through this provision of the Ordinance remain, except in circumstances where a need to vacate is required for public health, safety or welfare.

Table 81.401.1

Designation	Minimum Percent Avoided Resources
SR-10	75
RL-20	80
RL-40	85
RL-80	90

vii. As part of the processing of a conservation subdivision, the following uses may be allowed in the avoided area: passive recreation, trails for non-motorized uses, native landscaping, resource preservation, project mitigation and buffers, MSCP preservation/mitigation, agriculture, wells, water storage tanks, utilities, pump stations, water and sewer facilities, or infrastructure and access roads necessary for any of these uses. In addition to these uses, leach fields and brush clearing may be allowed in SR-10 and RL-20 designations only. All uses to be allowed in the avoided area shall be specified in the open space or conservation easement document and shall be evaluated as part of the conservation subdivision approval process.

(Amended by Ord. 5023 (N.S.), effective 1-5-78; amended by Ord. No. 5589 (N.S.), effective 9-20-79; amended by Ord. No. 5890 (N.S.), effective 10-30-80; amended by Ord. No. 6276 (N.S.), effective 5-27-82; amended by Ord. No. 6908 (N.S.), effective 2-8-85; amended by Ord. No. 8228 (N.S.), effective 5-7-93; amended by Ord. No. 8690 (N.S.), effective 7-5-96; amended by Ord. No. 9063 (N.S.), effective 8-13-99; amended by Ord. No. 9841 (N.S.), effective 4-20-07; amended by Ord. No. 10037 (N.S.), effective 3-26-10; amended by Ord. No. 10167 (N.S.), effective 10-14-11)

**SEC. 81.402. DEDICATION AND ACCESS.**

No tentative map filed pursuant to this division shall be approved unless the map and its proposed conditions satisfy the following requirements:

(a) Where the property to be subdivided is located in an area identified in the County General Plan Land Use Element as Village Residential 2.9, 4.3, 7.3, 10.9, 15, 20, 24 or 30, a major subdivision shall provide access by one of the following:

(1) Public roads dedicated in accordance with the San Diego County Standards.

(2) Private road easements at least 40 feet wide in accordance with the San Diego County Standards for Private Roads, if the Director determines the roads will ultimately serve no more than estimated 100 ADT or will not feasibly provide a current or future connection to another public road or another subdivision.

(b) Where the property to be subdivided is located in an area identified in the County General Plan Land Use Element as Village Residential 2, a Semi-Rural Residential designation, Rural Lands designation, a Public/Semi-Public designation, a Federal/State Lands designation or an Open Space-Recreation designation, a major subdivision shall provide access by one of the following:

(1) On-site roads and off site roads in areas designated for two du/acre or fewer by the County General Plan and which will ultimately serve an estimated 750 to 2500 ADT. The subdivider shall offer these roads for dedication or obtain offers for dedication, in accordance with San Diego County

Standards. When the County has not accepted a dedication for the road prior to approval of the final map or parcel map, the County may instead accept a private road easement not less than 40 feet wide, centered within the offered right-of-way, in accordance with San Diego County Standards for Private Roads.

(2) On-site and off-site roads that will ultimately serve more than an estimated 2500 ADT. The subdivider shall dedicate these roads or obtain offers for dedication in accordance with San Diego County Standards.

(3) In cases where subsections (1) or (2) do not apply, on-site or off-site private road easements at least 40 feet wide in accordance with San Diego County Standards for Private Roads if the Director DPW determines the roads will ultimately serve no more than an estimated 100 ADT and will not feasibly provide a current or future connection to another public road or subdivision. If the Director DPW is unable to make this determination based on the evidence available, the subdivider shall provide access by public roads dedicated in accordance with San Diego County Standards.

(c) For subdivision access roads, the property owner shall: (1) enter into a private road maintenance agreement with the County, on a form provided by the Director, that requires the property owner to perform maintenance in perpetuity for each private road that is a subdivision access road and provides that the obligation to repair and maintain the roads shall be a covenant that runs with the land and is enforceable against all subsequent property owners, or (2) when required by the Director, with concurrence from the Director DPW, dedicate for public use all subdivision access roads that meet San Diego County Standards for Private Roads. In that case, the roads shall be maintained by a permanent road division zone established pursuant to Streets and Highway Code section 1162.6.

(d) Where the property to be subdivided is located in an area subject to a major use permit or a specific plan, streets providing on-site and off-site access shall be designed to those standards necessary to implement the development density design and objectives of the applicable adopted major use permit or specific plan.

(e) Where the property to be subdivided is located in an area identified in the County General Plan Land Use Element as a commercial or industrial designation, streets providing on-site and off-site access shall be dedicated in accordance with San Diego County Standards.

(f) Notwithstanding subsections (a) through (e) above, where the property to be subdivided abuts property that could be further subdivided under the density allowed by the General Plan or could feasibly provide access to a property that could be further subdivided, the subdivider shall provide an analysis of the public road system within the proposed subdivision and that road system shall, where feasible and practicable, be public and be designed so as to extend roads to the boundaries of the property to provide through access from the subdivision to existing or future offsite roads, with the goal of improving circulation in the vicinity.

(g) Each dedicated road which a subdivider proposes on the subdivision boundary shall be at least 40 feet wide together with a strip of land one-foot wide on its outer edge which shall be offered to the County for road purposes and over which the property owner relinquishes access rights.

(h) Each dedicated road which a subdivider proposes to terminate at the subdivision boundary shall include a one-foot wide strip of land extending across the road at its point of termination at the subdivision boundary and shall extend across portions of the adjacent lots. The subdivider shall

offer the one-foot strip to the County for road purposes and over which the property owner relinquishes access rights.

(i) Each dead-end public road easement shall include a cul-de-sac that complies with San Diego County Public Road Standards. Each dead end private road easement shall include a cul-de-sac that complies with San Diego County Private Road Standards.

(j) Where it is necessary to extend a road beyond the boundaries of a subdivision to provide adequate circulation or fire protection for residents of the subdivision, the subdivider shall acquire the necessary easements at the subdivider's expense. The subdivider shall dedicate or offer these easements for dedication to the County when required by this section and shall improve the easements in accordance with San Diego County Standards for Public Roads or with San Diego County Standards for Private Roads, whichever is applicable.

(k) Where the property to be subdivided is bounded by any water body such as a lake, estuary, lagoon or river, the subdivider shall provide a street along the water body or other public access.

(l) Where the Director DPW determines a drainage facility or flood control facility is necessary for the use of lot owners or for the protection of lots, the subdivider shall provide adequate rights-of-way for these facilities and shall offer the rights-of-way for dedication to the County or other public entities. These facilities and rights-of-way shall be shown on the tentative map.

(m) Where the Director DPW determines it is necessary to extend a drainage facility or flood control facility beyond the boundaries of a subdivision for adequate drainage or flood control needs, the subdivider shall acquire the rights-of-way necessary to construct and install these facilities at the subdivider's expense and dedicate them to the County or the San Diego County Flood Control District. These rights-of-way shall provide for construction and installation of these facilities in accordance with San Diego County Standards.

(n) Where the Director DPW determines it is necessary to extend a sewer system beyond the boundaries of the subdivision, the subdivider shall acquire and provide all necessary easements and rights-of-way to accommodate the sewer system extension.

(o) The subdivider shall offer to dedicate land for park purposes, pay fees in lieu of dedication or do a combination of both, pursuant to sections 810.101 et seq.

(p) The subdivider shall offer to dedicate the necessary rights-of-way for bicycle routes in accordance with San Diego County Standards, under either of the following circumstances:

(1) When bicycle routes shown on the County General Plan pass through or abut the subdivision and the routes are reasonably related to the traffic caused by the subdivision.

(2) When a subdivider is required to dedicate rights-of-way for streets in subdivisions containing 200 or more lots and one or more bicycle routes are necessary and feasible for the use and safety of the residents.

(q) If a tentative map is subject to a condition that the subdivider dedicate an interest in real property outside the boundaries of the subdivision, the tentative map shall also be subject to the condition that the County shall not issue a grading permit pursuant to the tentative map unless one of the following occurs:

(1) Interests in real property have been acquired by the subdivider or the public agency concerned, in a form satisfactory to the Director DPW.

(2) The Board has agreed to acquire the interests in the real property.

(r) Where an off-site access road to a residential subdivision will not provide access to an on-site road to be maintained by the County or a permanent road division zone and the Planning Commission has determined that the cost to acquire the off-site access is unwarranted considering the location, traffic volume or use of the proposed subdivision, the subdivider may in lieu of dedication or an offer of dedication, obtain access via a private road easement at least 40 feet wide. In that case, before map approval, the subdivider shall obtain a certificate from a Title Insurance Company acceptable to the County, certifying that the subdivider and the subdivider's successors have a permanent road easement for access to the subdivision.

(s) In an area referred to in subsection (b) above, the subdivider shall offer to dedicate to the County, any private off-site or on-site road proposed to be private when the Director DPW determines that a high probability exists that the private road may need to be brought into the County-maintained system at some future date.

(t) All utility easements which the subdivider acquires after the tentative map has been approved shall be subordinated to any dedications to the County that the subdivider is required to make as a condition of the tentative map approval, except for major transmission facilities, mains and lines, as determined by the Director DPW.

(u) If any part of a trail corridor, as that term is defined in the Community Trails Master Plan (CTMP) appendix H, is located on the property to be subdivided, the subdivider shall prepare a trail route study to determine the specific location of the trail or pathway within the trail corridor and the type of trail or pathway to be constructed. The trail route study shall be prepared to the satisfaction of the Director DPR. The route study shall apply the trail design and locational criteria and the design and construction guidelines in the CTMP. The subdivider shall offer to dedicate a trail or pathway easement on the alignment specified in the trail route study if: (1) the trail route study the County approves concludes that all or part of the trail or pathway should be located in the trail corridor or portion thereof that is on the property to be subdivided and (2) there is the necessary rough proportionality between the required dedication and the impacts of or benefits to the proposed subdivision. The trail or pathway shall be for pedestrians, equestrians and bicycles.

(Amended by Ord. No. 4500 (N.S.), effective 5-29-75; amended by Ord. No. 4992 (N.S.), effective 11-10-77; amended by Ord. No. 5140 (N.S.), effective 5-25-78; amended by Ord. No. 5890 (N.S.), effective 10-30-80; amended by Ord. No. 6017 (N.S.), effective 5-7-81; amended by Ord. No. 6167 (N.S.), effective 10-22-81; amended by Ord. No. 6276 (N.S.), effective 5-27-82; amended by Ord. No. 6438 (N.S.), effective 10-15-82; amended by Ord. No. 6508 (N.S.), effective 3-1-83; amended by Ord. No. 6751 (N.S.), effective 5-4-84; amended by Ord. No. 8228 (N.S.), effective 5-7-93; amended by Ord. No. 9063 (N.S.), effective 8-13-99; amended by Ord. No. 9701 (N.S.), effective 3-4-05; amended by Ord. No. 9719 (N.S.), effective 6-17-05; amended by Ord. No. 9841 (N.S.), effective 4-20-07; amended by Ord. No. 10037 (N.S.), effective 3-26-10; amended by Ord. No. 10167 (N.S.), effective 10-14-11; amended by Ord. No. 10529 (N.S.), effective 5-18-18)

#### **SEC. 81.403. SUPPLEMENTAL IMPROVEMENTS AND REIMBURSEMENT AGREEMENTS.**

(a) A subdivider shall install sewer improvements for the benefit of the subdivision that contain supplemental size, capacity, number or length for the benefit of property not within the subdivision and dedicate the supplemental improvements to the public if: (1) the property to be subdivided has or will have sewer improvements that will be dedicated to the public use and become part of the publicly maintained sewer system, (2) other properties in the sewer basin when developed will need to connect to the subdivider's improvements in order to connect to a County sanitation district or County sewer maintenance district's sewer facilities and (3) requiring the subdivider to install supplemental sewer improvements will facilitate future connections from other properties in the sewer basin to the appropriate County sanitation district or County sewer maintenance district's facilities, and will benefit the public.

(b) In determining the supplemental sewer improvements a subdivider shall install, the County shall estimate the supplemental amount needed for future developments based on available projections for the full build out of the applicable sewer basin. The County may rely on: (1) any approved sewer master plan for the County sanitation district or County sewer maintenance district the property to be subdivided is eligible to connect with, (2) the County General Plan, (3) any approved Specific Plans or tentative maps or (4) any available environmental impact reports or any other public or private projections the County deems reliable that forecast probable developments for the full build out of the applicable sewer basin.

(c) A subdivider shall install flood control improvements for the benefit of the subdivision that contain supplemental size, capacity, number or length for the benefit of property not within the subdivision and dedicate the supplemental improvements to the public under any of the following circumstances:

(1) The property to be subdivided is located within an area served by the County Flood Control District Special Drainage Area (SDA) and: (A) the approved drainage facility master plan for that SDA identifies one or more properties in the vicinity of the proposed subdivision, that when developed, will be required to connect with the district's facilities, and (B) requiring the subdivider to install supplemental improvements will facilitate future connections from other properties identified in the drainage facility master plan to the district's flood control facilities and benefit the public.

(2) The property to be subdivided is located within an area served by the San Diego County Flood Control District and: (A) there are no flood control facilities to accommodate the project within the drainage basin where the property is located and (B) requiring the subdivider to install supplemental improvements will facilitate future connections from other properties in the drainage basin to the district's flood control facilities and benefit the public.

(3) The property to be subdivided has or will have on-site drainage improvements that will be dedicated to the public use and become part of the publicly maintained flood control system and: (A) other properties in the vicinity when developed will need to connect to the subdivider's improvements in order to connect to the San Diego County Flood Control District facilities and (B) requiring the subdivider to install supplemental drainage improvements will facilitate future connections from the other properties in the vicinity to the district's facilities and will benefit the public.

(d) In determining the supplemental flood control improvements a subdivider shall install, the County shall estimate the supplemental amount needed for future developments based on available projections for the full build out of the applicable drainage basin. The County may rely on any approved drainage facility master plan for the applicable SDA, the County General Plan, any approved Specific Plans or tentative maps or any available environmental impact reports or any other public or private projections the County deems reliable that forecast probable developments for the full build out of the SDA basin.

(e) When a subdivider is required to install supplemental improvements as provided in subsections (a) or (c) the County shall enter into a reimbursement agreement with the subdivider to

reimburse the subdivider for that portion of the cost of those improvements, including an amount attributable to interest, in excess of the construction required for the subdivision. The County may pay for the costs required by the reimbursement agreement by any method allowed under Government Code section 66487.

(Added by Ord. No. 4992 (N.S.), effective 11-10-77; repealed and reenacted by Ord. No. 5899 (N.S.), effective 11-6-80; amended by Ord. No. 8690 (N.S.), effective 7-5-96; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

#### **SEC. 81.404. REQUIRED IMPROVEMENTS.**

(a) Before a final map, or where allowed, a parcel map for a major subdivision, is approved, the subdivider shall complete or enter into a written agreement with the County with the appropriate security as provided in section 81.408 to complete the following improvements:

(1) Grade and improve all land dedicated or to be dedicated for roads or easements, bicycle routes and all private roads and private easements laid out on a final map or parcel map in the manner and with the improvements that are necessary for the use of the lot owners in the subdivision, local neighborhood traffic and drainage needs in accordance with County Standards.

(2) Install all on-site and off-site drainage and flood control facilities required by the Director DPW, in conformance with San Diego County Standards and applicable floodplain overlay zoning and drainage and flood control policies of the County General Plan. When the Board determines, however, that completing construction of the off-site facilities to San Diego County Standards before the final map or parcel map is approved is impracticable, the subdivider may be allowed to complete the construction in stages when the Board also determines there is a substantial public benefit to staged construction. In that case, the subdivider shall:

(A) Construct required drainage and flood control facilities that are outside the boundaries of the subdivision in stages in conformance with San Diego County Standards and in a manner that will not result in an increase in existing or potential flood hazards to downstream properties.

(B) Construct the facilities to provide for increases in flood flows attributable to a proposed development and the cumulative effect of future developments in the watershed pursuant to current County policy regarding staged construction.

(C) Design the staged facilities to include provisions for minimum maintenance requirements including, but not limited to, vehicular access, erosion and sedimentation control, structural low flow channels and service roads and where appropriate landscaping and irrigation.

(3) Extend public water supply facilities adequate to serve the subdivision to the property to be subdivided when the project is located within a water district or a district's adopted sphere of influence and: (A) the main lines of the existing public potable water supply are located within 500 feet of the subdivision boundary or (B) the subdivider has proposed the use of a public water supply to serve the subdivision.

(4) Provide proof satisfactory to the Director that the serving water district has certified that adequate potable public water supply is available to each lot or parcel or to the Director DEH that there is an adequate potable well water supply available to each lot or parcel. The subdivider shall also install minimum water supply pipe as determined by the Director DPW and recommended by the water district serving the proposed subdivision.

(5) Install fire hydrants and connections as approved by the chief of the local fire district or the County Fire Official.

(6) Install a public system for sewers or sewage disposal serving all proposed lots or parcels where it is determined that the system is required to preserve the public health due to the size and shape of the proposed lots, the terrain and soil condition of the land to be subdivided and the existing development in the vicinity of the proposed subdivision. Each public system shall be approved by the serving sanitation district according to its standards and policies.

(7) Install underground all new and existing utility distribution facilities, including cable television lines and other video service facilities, within the boundaries of any new subdivision or within any half road abutting a new subdivision. The subdivider is responsible for complying with the requirements of this subsection and shall make the necessary arrangements with each of the serving utilities, including licensed cable television operators and other video service providers, for the installation of these facilities. Transformers, terminal boxes, meter cabinets, pedestals, concealed ducts and other facilities necessarily appurtenant to these underground utilities and street lighting systems may be placed above ground. This subsection shall not apply to the installation and maintenance of overhead electric transmission lines in excess of 34,500 volts and long distance and trunk communication facilities. When the installation of cable television lines or video service facilities is required, the subdivider shall provide the Director DPW with either documentation from a licensed or franchised cable television operator or other franchised video service operator, stating arrangements for the underground installation of cable television lines or other video service facilities have been made or documentation that the Cable Television Review Commission has reported that no licensed cable television operator is willing and able to install cable television lines in the subdivision. Any modification or waiver of the requirements of this subsection shall be governed by sections 81.308 and 81.309 and reviewed in accordance with the Board Policy on installing utilities underground.

(8) Construct a street lighting system as required by the Director DPW in conformance with San Diego County Standards.

(9) Grade and improve all land dedicated or to be dedicated for trails or pathways including land previously dedicated for a road which includes sufficient right-of-way for a pathway. Trail improvements shall be made in accordance with the trail standards specified in section 7, "Design and Construction Guidelines," of the CTMP for the type of trail to be developed. Pathway improvements shall be made in accordance with the standards for pathways in the San Diego County Public Road Standards.

(b) Where each parcel on a parcel map for a major subdivision contains a gross area of 20 acres or more, the subdivider shall complete the following improvements:

(1) Grade and improve private roads to grades and widths required in accordance with San Diego County Standards for Private Roads.

(2) Install all drainage structures and facilities required by the Director DPW in conformance with San Diego County Standards.

(3) Install water supply pipelines, fire hydrants and connections as may be required by the Planning Commission or the Board.

(4) Grade and improve all land dedicated or to be dedicated for trails or pathways including land previously dedicated for a road which includes sufficient right-of-way for a pathway. Trail improvements shall be made in accordance with the trail standards specified in section 7, "Design and Development Guidelines," in the Community Trails Master Plan for the type of trail to be developed. Pathway improvements shall be made in accordance with the standards for pathways in the San Diego County Public Road Standards.

(c) If improvements are not completed at the time the final or parcel map is approved and are instead secured by a subdivision improvement agreement, subdivider shall, when the area where improvements are to be made is not accessible by public easements, grant a right of entry or temporary easement to the County in a form acceptable to the Director DPW to allow the County access to the area where the improvements are to be made. The right of entry or temporary easement shall continue for so long as the improvements remain incomplete and for one year following the acceptance of the improvements. Subdivider shall record the right of entry or temporary easement so that subsequent purchasers of interests in the subdivision will have notice of the County's access rights.

(d) Unless determined by the Director DPW to be unnecessary because improvements will be constructed before the lots served by the improvements will be developed, all projects except those for which a traffic study has not been required to be prepared shall have an approved Construction Phasing Plan for all on-site and off-site improvements that identifies when the required improvements will be constructed in relation to the rough and final grade releases and issuance of building permits. All approved Construction Phasing Plans shall be made a part of the project's improvement agreement.

(e) No rough grading approval or building permits will be issued on a lot until all essential off-site road improvements, all on-site road improvements whether essential or not, and all utility, drainage and other improvements needed to serve the lot are completed to the satisfaction of the Director DPW. For the purposes of this section, essential off-site road improvements shall mean those improvements determined by the Director DPW to be needed to serve a lot to mitigate project environmental, traffic safety or operational impacts. Final pavement cap, driveway, and sidewalk improvements may be constructed after rough grade approval and building permit issuance; except, the Director DPW may require earlier completion where determined by the Director DPW to be necessary to protect public safety and welfare. No final grading approval or occupancy will be issued for a lot until final pavement cap, driveway, and sidewalk improvements serving the lot are completed to the satisfaction of the Director DPW. Notwithstanding the foregoing and unless earlier completion of off-site improvements is determined by the Director DPW to be necessary to mitigate project impacts or address a traffic safety or operational deficiency, subdivisions for which a Construction Phasing Plan is not required may defer the construction of off-site improvements until after rough grade releases and/or building permits have been issued for seventy-five percent of the buildable lots in the subdivision.

(f) Sections (d) and (e) shall not apply to any subdivisions with tentative map or parcel map applications that have been deemed completed pursuant to the requirements of the Subdivision Map Act, Government Code section 66410 et seq. on or before October 28, 2011.

(Amended by Ord. No. 4931 (N.S.), effective 7-7-77; amended by Ord. No. 4992 (N.S.), effective 11-10-77; amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 5736 (N.S.), effective 5-29-80; amended by Ord. No. 5890 (N.S.), effective 10-30-80; amended by Ord. No. 5949 (N.S.), effective 1-8-81; amended by Ord. No. 5963 (N.S.), effective 2-5-81;

amended by Ord. No. 6256 (N.S.), effective 4-15-82; amended by Ord. No. 6276 (N.S.), effective 5-27-82; amended by Ord. No. 6508 (N.S.), effective 3-1-83; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9063 (N.S.), effective 8-13-99; amended by Ord. No. 9675 (N.S.), effective 10-22-04; amended by Ord. No. 9701 (N.S.), effective 3-4-05; amended by Ord. No. 9719 (N.S.), effective 6-17-05; amended by Ord. No. 9841 (N.S.), effective 4-20-07; amended by Ord. No. 10037 (N.S.), effective 3-26-10; amended by Ord. No. 10179 (N.S.), effective 11-11-11)

#### **SEC. 81.405. TIME TO CONSTRUCT REQUIRED IMPROVEMENTS AND EXTENSIONS.**

(a) Where the subdivider agrees to install improvements pursuant to section 81.404, the agreement shall provide that the subdivider shall complete the improvements within two years after recording the map.

(b) In those instances consistent with subsection (c) below where a subdivider has obtained all permits to construct improvements required by the agreement and has begun installation of the improvements, the Director DPW may extend the time for the subdivider to complete improvements once for up to two years provided the Director DPW is satisfied the security the subdivider has provided is adequate. In all other instances and except as provided in subdivision (c), the Director may extend the time for a subdivider to complete improvements once, for up to two additional years provided the Director is satisfied that the security provided by the subdivider is adequate. The Director may require the subdivider to provide additional or modified security as a condition of the extension.

(c) The Director and Director DPW may extend the time for a subdivider to complete improvements once, for up to two additional years and shall not grant an extension for completion of the improvements if the subdivider has previously been granted a time extension or the subdivider has substituted security for the security originally furnished under section 81.408. The Board, however, may grant additional time extensions.

(Added by Ord. No. 8343 (N.S.), effective 2-5-94; amended by Ord. No. 8393 (N.S.), effective 6-10-94; amended by Ord. No. 10037 (N.S.), effective 3-26-10; amended by Ord. No. 10179 (N.S.), effective 11-11-11; amended by Ord. No. 10529 (N.S.), effective 5-18-18)

#### **SEC. 81.406. MONUMENTS.**

(a) The subdivider of a major subdivision shall have a licensed surveyor or registered civil engineer set the following monuments at the time of making the survey for the final map or parcel map and before the subdivider records the final map or parcel map:

(1) Permanent monuments at the exterior boundary of the subdivision using iron pipes at least two inches in diameter and twenty-four inches long set at each corner, at intermediate points along the boundary not more than 1,000 feet apart and at the beginning and end points of all curves. If an existing record and identified monument already exists at any corner or point where a monument is required the Director DPW may allow the existing monument to be used in lieu of a new monument.

(2) Permanent monuments at all corners for each lot, except where an exterior boundary corner has already been set, pursuant to subsection (a)(1), that meet one of the following minimum requirements: (A) Three-fourth inch diameter iron pipe at least eighteen inches long, (B) One-half inch diameter steel rod at least eighteen inches long, (C) Lead plug and brass identification disks set

in concrete structures, curbs, on fences, block walls or in boulders or (D) When the location where the monument should be set is inaccessible, on an appropriate offset determined by a licensed surveyor or registered civil engineer and approved by the Director DPW.

(3) Additional monuments the Director DPW requires that the subdivider set to mark the limiting lines of streets, easements or section lines.

(4) All other monuments the subdivider is required to set as a condition of the tentative map.

(b) All monuments and their installation shall conform to the San Diego County Standards.

(c) Interior permanent lot or parcel monuments may be deferred in accordance with Government Code section 66496 if the subdivider provides adequate security that satisfies the Director DPW. If the subdivider defers setting these interior monuments the engineer or surveyor shall certify on the map that the monuments will be set on or before a specified date, however, the monuments shall be set no later than 30 days after completion of required improvements.

(d) All monuments set along and within the public right-of-way of the subdivision shall be inspected and be satisfactory to the Director DPW before the Board accepts the improvements. The engineer or surveyor may request that the County inspect additional monuments.

(e) Every final map or parcel map which is proposed to revert the subject land to acreage pursuant to Government Code section 66499.11 et seq. shall show at least one exterior boundary line with monuments installed in the manner specified in subsection (a)(1) above.

(f) Except as provided in subsection (e), all monuments required by subsection (a) shall be shown on the final map or parcel map.

(Amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 6016 (N.S.), effective 5-7-81; amended by Ord. No. 6552 (N.S.), effective 4-15-83; amended by Ord. No. 8393 (N.S.), effective 6-10-94; amended by Ord. No. 9623 (N.S.), effective 2-8-04; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

#### **SEC. 81.407. AGREEMENT TO IMPROVE.**

Where the subdivider enters into a written agreement with the County pursuant to Government Code section 66462(a)(1) or (a)(2) the subdivider shall prepare and deposit detailed plans and specifications of the improvements to be constructed with the Clerk of the Board. The plans and specifications shall be made a part of the written agreement and the improvement security.

(Amended by Ord. No. 10037 (N.S.), effective 3-26-10)

#### **SEC. 81.408. IMPROVEMENT SECURITY.**

(a) When a subdivider enters into an agreement to construct required improvements for a major subdivision, approved pursuant to this division, the subdivider shall deposit with the Clerk of the Board one of the following types of security, subject to the County's approval:

(1) A bond or bonds by one or more authorized corporate sureties, as prescribed in Government Code section 66499(a)(1).

(2) Cash or negotiable bonds of the kind approved for securing deposits of public money, as prescribed in Government Code section 66499(a)(2).

(3) An instrument of credit as prescribed in Government Code section 66499(a)(3).

(4) An irrevocable letter of credit issued by a banking institution approved by the County.

(b) The security required by subsection (a) shall be in the following amounts:

(1) An amount equal to 100% of the total estimated cost of the improvement, conditioned on the faithful performance of the agreement.

(2) An additional amount of 50% of the total estimated cost of the improvements securing payment to the contractor, subcontractors and the persons furnishing labor, materials or equipment to them for the improvements.

(c) The County shall release 95% of the security upon completion and acceptance of the work required under the agreement. The County shall retain the remaining 5% for one year from the date the County accepts the work.

(Added by Ord. No. 5023 (N.S.), effective 1-5-78; amended by Ord. No. 5342 (N.S.), effective 2-8-79; amended by Ord. No. 5621 (N.S.), effective 11-22-79; amended by Ord. No. 8499 (N.S.), effective 3-3-95; amended by Ord. No. 8690 (N.S.), effective 7-5-96; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

#### **SEC. 81.409. LIEN CONTRACT AS SECURITY.**

(a) Pursuant to Government Code section 66499(a)(4), when the County finds that it would not be in the public interest to require installation of required improvements sooner than two years after recording the map the County may allow the subdivider, in lieu of posting the security described in section 81.408, to enter into a lien contract with the County to construct the required improvements in the future, securing the subdivider's performance by granting the County a lien on the property to be subdivided.

(b) Where the County agrees to allow the subdivider to enter into a lien contract with the County, the subdivider shall execute the lien contract at the time the subdivider enters into an agreement with the County to construct required improvements pursuant to section 81.404. The County may at its sole option allow a subdivider to substitute a lien contract for existing security that the subdivider furnished under section 81.408. The County shall not accept a lien contract from any subdivider, however, either at the time the subdivider executes an agreement to construct subdivision improvements or as a substitute for existing security, if any lots have been sold, if permits have been issued on any of the property or if construction of any of the required improvements has begun.

(c) Lien contracts shall:

(1) Only be used to secure the completion of improvements.

(2) Contain an itemization of the required improvements and an estimate of cost approved by the Director and provide that the subdivider's or subsequent owner's obligation to complete the improvements extends to the actual cost of construction if the cost exceeds the estimate.

(3) Be recorded with the County Recorder and have the priority of a judgment lien as prescribed by Government Code section 66499(b).

(4) Be approved concurrently with the approval of the map with a note of the lien contract's existence placed on the map, except where the lien contract is being substituted after map approval for other security previously deposited with the Clerk of the Board pursuant to section 81.408. In that case, the lien contract shall be signed and acknowledged by all parties having any record title interest in the real property, as prescribed by Government Code section 66436, consenting to the subordination of their interests to the lien contract.

(d) The lien contract shall provide that the subdivider shall substitute security acceptable to the County for the lien contract and commence constructing the improvements required pursuant to section 81.404: (1) within two years after recording the map or (2) in the case of a lien contract which has been substituted for existing security pursuant to subsection (b), above, within two years after recording the lien contract.

(e) For lien contracts executed at the time the map is recorded, the Director may extend the time for substituting acceptable security and commencing construction of the required improvements once, for no more than two additional years. The Director may not grant these extensions if the subdivider has substituted a lien contract for the security originally furnished under section 81.408. The Board, however, may grant additional time extensions, on a case-by- case basis, for substituting acceptable security and commencing construction of the required improvements pursuant to agreements secured either by: (1) lien contracts executed at the time the map is recorded or (2) lien contracts substituted for existing security furnished under section 81.408.

(f) During the term of the lien contract no individual lots shall be sold. Fee title to the entire property encumbered by the lien contract, however, or to all lots designated on any individual final map or parcel map that are encumbered by the lien contract, may be sold in the aggregate to a single purchaser, provided that the proposed purchaser of the property, prior to assuming title to the property, shall either: (1) execute a new lien contract in a form acceptable to the County which will encumber the property to be conveyed, specifying the respective obligations of the property owners subject to the original and the new lien contract or (2) replace the existing lien contract with alternative security acceptable to the County to guarantee completion of the required improvements. The alternative security shall meet the requirements of section 81.408. If the proposed purchaser is a holding company or a limited liability company, however, the property owner shall obtain approval from the Director before entering into the sales agreement. Any new lien contract shall require that the new property owner commence construction of the improvements secured by the lien contract by the same date provided in the lien contract with the original owner, unless the Board extends the date as provided in subsection (d), above. The new lien contract shall also provide that the new property owner shall deposit alternative security acceptable to the County that meets the requirements of section 81.408 at the time the property owner is required to commence construction of the improvements.

(g) At the time the Board approves a lien contract, the subdivider shall provide a cash deposit in the amount of \$15,000 to the Clerk of the Board for the purpose of reverting the property to acreage if the subdivider breaches the terms of the lien contract. In addition, at the time title to any property subject to a lien contract is conveyed, the transferee of the property, if the transferee executes a new lien contract to secure construction of the improvements imposed on the property as described in subsection (f), above, shall also provide a cash deposit in the amount of \$15,000 to the Clerk of the Board for the purpose of reverting the property to acreage if the transferee breaches the terms of the

lien contract. The purpose of these requirements is so that each owner of property which is encumbered by a lien contract shall at all times have a \$15,000 deposit per lien contract with the County for the purpose described. Any unused portion of a deposit shall be refunded following completion of the reversion to the person who made the deposit. If the cost to revert the property to acreage exceeds \$15,000 the property owner shall pay the additional costs to the County prior to recording the reversion to acreage map.

(h) When a lien contract is utilized as security upon approval of the map, notwithstanding the provisions of sections 81.402 and 81.404, the County shall not accept offers of dedication for street purposes until the lien contract is released following substitution of acceptable alternative security and the required street improvements are completed to the satisfaction of the Director DPW.

(i) The County shall release a lien contract after: (1) the subdivider or subsequent property owner substitutes security for the lien contract that complies with section 81.408 or (2) recording a reversion to acreage map.

(Added by Ord. No. 8343 (N.S.), effective 2-5-94; amended by Ord. No. 8393 (N.S.), effective 6-10-94; amended by Ord. No. 10037 (N.S.), effective 3-26-10; amended by Ord. No. 10529 (N.S.), effective 5-18-18)

#### **SEC. 81.410. AGRICULTURAL SUBDIVISIONS.**

(a) When the land to be subdivided is located within the boundaries of an Agricultural Preserve established by a resolution of the Board and the property owner has entered into a Land Conservation Contract with the County, the subdivision shall be known as an "agricultural subdivision." In addition to the limitations in Government Code section 66474.4 for land subject to a Land Conservation Contract no tentative map for an agricultural subdivision shall be approved if it proposes lots smaller than the minimum lot size specified in the contract.

(b) Notwithstanding any other provision of this division to the contrary, the dedication requirements for an agricultural subdivision shall be as follows:

(1) The road or roads providing access to an agricultural subdivision shall meet the same standards of easement width and improvements as required for access to a minor subdivision pursuant to section 81.702(b).

(2) Except as required by subsection (b)(1), an agricultural subdivision shall not be subject to the dedication requirements in subsections 81.402(a), (b), (f), (g), (h) and (m).

(c) Notwithstanding any other provision of this division to the contrary, a subdivider for an agricultural subdivision shall be required to complete the following improvements:

(1) Grade and improve roads in accordance with County Standards for Private Roads.

(2) Install all drainage and erosion control structures, surfacing and facilities required by the Director in accordance with County Standards.

(3) Install water supply pipelines, fire hydrants and connections as may be required by the Planning Commission or Board.

(d) For an agricultural subdivision where each parcel shown on a parcel map contains a gross area of 20 acres or more, the subdivider shall meet all improvement requirements as specified in subsection (c)(1) above.

(e) Except as required by subsection (c)(1) and (2) above, an agricultural subdivision shall not be subject to the improvement requirements in subsection 81.404(a)(6), (a)(7) and (b).

(Added by Ord. No. 5189 (N.S.), effective 7-20-78; amended by Ord. No. 5890 (N.S.), effective 10-30-80; amended by Ord. No. 6276 (N.S.), effective 5-27-82; amended by Ord. No. 6508 (N.S.), effective 3-1-83; amended by Ord. No. 9063 (N.S.), effective 8-13-99; amended by Ord. No. 9675 (N.S.), effective 10-22-04; amended by Ord. No. 10037 (N.S.), effective 3-26-10; amended by Ord. No. 10529 (N.S.), effective 5-18-18)

## **CHAPTER 5. FINAL MAP REQUIREMENTS**

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### **SEC. 81.501. MAPS TO CONFORM TO REQUIREMENTS.**

In addition to conforming to the requirements of the SMA and this division, a final map shall comply with all requirements and conditions of the approved or conditionally approved tentative map. Whenever a final map is filed, the Director shall make a determination as to whether the final map is in substantial conformance with the approved tentative map and resolution of approval. The Director shall prepare written findings identifying the requirements or conditions that were not met or performed if the final map is disapproved.

(Amended by Ord. No. 6041 (N.S.), effective 5-28-81; amended by Ord. No. 6508 (N.S.), operative 3-1-83; amended by Ord. No. 10037 (N.S.), effective 3-26-10; amended by Ord. No. 10529 (N.S.), effective 5-18-18)

### **SEC. 81.502. APPROVAL OF FINAL MAPS.**

No final map shall be filed in the Office of the County Recorder until approved by the Director. Upon receipt of a final map, the Director shall:

- (a) Notify the Board, at its next regular meeting after receiving the map, that the map is being reviewed for approval.
- (b) Cause the Clerk of the Board to post the notice of any pending approval by the Director, and include it on the Board's regular agenda. The Director will also notify community planning and sponsor group chairs, and other interested parties who request notice.
- (c) Approve or disapprove the final map within ten (10) days following the meeting of the Board at which notice of the pending approval was given.

Approvals or disapprovals of final maps by the Director may be appealed to the Board within ten (10) days of the Director's decision. The Board shall periodically review the delegation of authority to approval final maps.

(Amended by Ord. No. 10037 (N.S.), effective 3-26-10; amended by Ord. No. 10529 (N.S.), effective 5-18-18)

### **SEC. 81.503. REQUIRED OFFER OF DEDICATION AND IMPROVEMENT AGREEMENTS.**

No final map shall be approved unless the subdivider has offered for dedication all parcels of land shown on the map that are intended for public use. In those instances where a final map is approved by the Director, the Director may accept, accept subject to improvement or reject dedications and offers of dedication that are made by a statement on the face of the map or by separate instrument. The Director approving a final map where required improvements are secured by an agreement in accordance with Section 81.404 is delegated the authority to execute improvement agreements, accept security in the form prescribed by the SMA and Sections 81.408 and 81.409, and execute lien

contracts, holding agreements and such additional agreements as may be necessary to secure the construction of the required improvements.

(Amended by Ord. No. 10037 (N.S.), effective 3-26-10; amended by Ord. No. 10529 (N.S.), effective 5-18-18)

**SEC. 81.504. GRANT OF OPEN SPACE EASEMENT.**

In the event that a grant of an open space easement is to be made over any portion of the subdivision, the final map shall contain a certificate signed and acknowledged by those parties having any record title interest in the subdivided land granting the open space easement and stating the conditions of the grant.

(Amended by Ord. No. 10037 (N.S.), effective 3-26-10)

**SEC. 81.505. ADDITIONAL SURVEY AND MAP INFORMATION.**

A subdivider shall place on one or more additional map sheets all additional survey and map information including building setback lines, flood hazard zone lines, seismic lines and setbacks, limits of proposed street widening, approximate slope and drainage facility lines, geologic mapping, archaeological sites, solar notes, percolation certificate, soil notes, inundation lines, drainage swale lines or other information which may be required as a condition of a tentative map. The additional sheets shall indicate their relationship to the final map and shall contain a statement that the additional information is for informational purposes, describing conditions as of the date of filing, and is not intended to affect record title interest. The additional map sheets may also contain a notification that the information is derived from public records or reports and its inclusion in the map does not imply the correctness or sufficiency of these records or reports by the preparer of the map.

(Added by Ord. No. 7262 (N.S.), effective 2-13-87; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

**SEC. 81.506. TYPE OF MAP REQUIRED.**

(a) Unless otherwise provided in this division a final subdivision map shall be prepared and filed pursuant to an approved tentative map for every major subdivision.

(b) In lieu of filing a final map, unless otherwise required by the SMA, a subdivider may file a parcel map for a major subdivision described in Government Code section 66426(a), (b), (c), (d) or (e). The parcel map shall comply with the requirements of chapter 8 of this division.

(Amended by Ord. No. 6508 (N.S.), operative 3-1-83; amended by Ord. No. 9675 (N.S.), effective 10-22-04; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

**SEC. 81.507. DATA REQUIRED ON FINAL MAPS.**

Every final map shall:

(a) Contain a definite description of the land subdivided by references to recorded deeds, recorded maps and official United States surveys. Reference to tracts, recorded deeds and recorded

maps shall be spelled out, worded identically with original records and show the book and page of records or map numbers.

(b) Use the California Coordinate System for its "basis of bearings" and express all measured and calculated bearing values in terms of that system. The angle of grid divergence from a true meridian (mapping angle) and the north point of the map shall appear on each map sheet. The basis of bearings may be established by using existing horizontal control stations meeting the standards of the California Public Resources Code. If the County Surveyor determines that global positioning satellite readings and first order control monuments are not available, the County Surveyor may waive the requirements of subsection (i) below and the use of the California Coordinate System as the basis of bearings. If these requirements are waived, two record monuments shown on a recorded map or an astronomic observation shall be required instead, subject to the County Surveyor's approval.

(c) Show all easements to which the land is subject or to be subjected.

(d) Clearly indicate existing monuments found and describe them.

(e) Show the acreage of all parcels containing one acre or more.

(f) Clearly indicate, by description or a distinctive boundary line, any area subject to flooding at times of high tide or heavy rainfall and state that the area is subject to flooding at times of high tide or heavy rainfall. These areas shall be fixed by the Planning Commission or the Board at the time the tentative map is approved or conditionally approved.

(g) Show by a dotted line separating from public streets, all private ways, easements and other rights of way shown on the map that are not to be accepted as public streets. The map shall also clearly designate the nature and manner in which each private way, private easement and other private right of way is reserved or granted.

(h) Display on each map sheet, the tract number assigned by the Department for the subdivision. If the tentative map contains two or more units and the final map is to be filed separately by unit, the tract number shall also contain a numerical unit suffix assigned by DPW. The tract number shall be the only designated name of the subdivision appearing on the map and shall be preceded by the words "County of San Diego Tract."

(i) The following rules shall apply to field observed connections:

(1) When a survey for a final map was completed prior to January 1, 2000 and the survey is based on State plane coordinates, the survey shall show two measured ties from the boundary of the subject property to existing horizontal control stations having California Coordinate values of the second order accuracy or better, as provided in the County of San Diego's Horizontal Control book. These tie lines to the existing control shall be shown in relation to the California Coordinate System using grid bearings and grid distances. All other distances shown on the map shall be shown as ground distances. A combined factor for conversion of grid-to-ground distances shall also be shown on the map.

(2) When a survey for a final map was completed after December 31, 1999 and the survey is based on State plane coordinates, the survey shall show two measured ties from the boundary of the subject property to existing horizontal control stations having California Coordinate values of first

order accuracy or better, as provided in the County of San Diego's Horizontal Control book or directly to the County's real time GPS network. These tie lines to the existing control shall be shown in relation to the California Coordinate System using grid bearings and grid distances. All other distances shown on the map shall be shown as ground distances. A combined factor for conversion of grid-to-ground distances shall be shown on the map.

(3) For purposes of this subsection, the date of the survey for the field observed connections shall be the date of survey as indicated in the surveyor's or engineer's certificate shown on the final map.

(Amended by Ord. No. 5062 (N.S.), effective 2-23-78; amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 5589 (N.S.), effective 9-20-79; amended by Ord. No. 6508 (N.S.), effective 3-1-83; amended by Ord. No. 7695 (N.S.), effective 1-5-90; amended by Ord. No. 9102 (N.S.), effective 1-7-00; amended by Ord. No. 9697 (N.S.), effective 1-14-05, operative 2-14-05; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.508. ADDITIONAL CERTIFICATES ON FINAL MAPS.**

In addition to certificates and other material required by the SMA and this division every final map shall bear the following certificates:

(a) A certificate by the County Treasurer and the Director DPW that there are no unpaid special assessments or bonds shown by the records in their offices against the subdivision or any part of the subdivision.

(b) A certificate by the Clerk of the Board that the subdivider has complied with Government Code sections 66492 et seq. regarding deposits for taxes on the property within the subdivision.

(Amended by Ord. No. 4931 (N.S.), effective 7-7-77; amended by Ord. No. 5062 (N.S.), effective 2-23-78; amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 5927 (N.S.), effective 12-12-80; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.509. TITLE COMPANY CERTIFICATE.**

Except as provided in section 81.510, every final map submitted to the Board shall bear the certificate of a qualified title company that the parties who signed and acknowledged the map as holders of record title interests are all the parties having any record title interest in the land subdivided, who are required by Government Code section 66436 to consent to the preparation and recording of the final map. The title company certificate shall also provide the name of each party owning an interest listed in Government Code section 66436(a) who did not sign the final map together with a description of each party's interest and the reason why that party was not required to sign the final map. The Clerk of the Board shall notify the title company making the certificate the date the Clerk will transmit the final map to the County Recorder, at least 48 hours before the date the Clerk will transmit the map to the Recorder. In accordance with Government Code section 66465, the subdivider shall have the title company, on the date the Clerk will transmit the map, provide written evidence to the Recorder that all the information contained on the original certificate is correct.

(Amended by Ord. No. 10037 (N.S.), effective 3-26-10)

**SEC. 81.510. TITLE COMPANY RECORD TITLE INTEREST GUARANTEE.**

(a) In lieu of the title company certificate required by section 81.509 the subdivider may obtain and file with the Director a guarantee from a qualified title insurance company that the parties who signed and acknowledged the final map are the only parties having any record title interest in the land subdivided, who are required to sign the final map.

(b) If a subdivider obtains a guarantee from a title insurance company under this section the guarantee shall also list the name of each party who owns an interest described in Government Code section 66436(a) who did not sign the final map, together with a description of each party's interest and the reason why that party was not required to sign the final map.

(c) The Clerk of the Board shall notify the title company providing the guarantee the date the Clerk will transmit the final map to the County Recorder, at least 48 hours before the date the Clerk will transmit the map to the Recorder. In accordance with Government Code section 66465, the subdivider shall have the title company present written evidence to the County Recorder on the date the Clerk will transmit the map, that at the time of filing of the final map with the County Recorder, the information in the original guarantee is correct.

(Amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 10037 (N.S.), effective 3-26-10; amended by Ord. No. 10529 (N.S.), effective 5-18-18)

**SEC. 81.511. DRAFTING STANDARDS.**

In addition to complying with Government Code sections 66433 et seq., each final map shall be suitable for microfilming and be of a drafting quality that when viewed or reproduced from microfilm at reduced scale, the map will be legible. The following standards shall also apply:

(a) Letter density shall be uniform and background density shall be uniform on each sheet to assure even contrast throughout each sheet.

(b) Minimum letter size shall be 0.10 inches in height for hand lettering and 0.08 for mechanically printed lettering. Letter spacing should be no less than 1/4 of the letter height used. Cursive writing and shadow block lettering shall not be used.

(c) Minimum monument symbol size shall be 0.10 inches.

(d) Self-adhesive or added on labels and certificates shall not be used.

(e) Shading, screening or gray scale of any information shall not be greater than 20 percent.

(f) Color shading shall not be used.

(g) In addition to a statement of scale, one graphic scale acceptable to the Director DPW shall be shown on each sheet with one or more parcels. The graphic scale shall pertain to the predominant scale used on each sheet and be 4" minimum length.

**SEC. 81.512. SOIL AND GEOLOGY REPORTS.**

When a soils report or geology report has been prepared for a subdivision, the report will be kept on file for public inspection with the Director.

(Amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 6016 (N.S.), effective 5-7-81; amended by Ord. No. 6552 (N.S.), effective 4-15-83; amended by Ord. No. 7986 (N.S.), effective 11-7-91; amended by Ord. No. 10037 (N.S.), effective 3-26-10; amended by Ord. No. 10529 (N.S.), effective 5-18-18)

### **SEC. 81.513. CORRECTIONS AND AMENDMENTS TO FINAL MAPS.**

A person requesting to amend a final map that has been recorded with the County Recorder to make one or more of the amendments listed in Government Code section 66469 or 66472.1, shall file a certificate of correction or an amending map with the Director. If the amending map or certificate of correction contains only those amendments allowed by Government Code section 66469 or 66472.1, complies with Government Code section 66470 and is certified by the County Surveyor, the Director shall file the amending map or certificate of correction with the County Recorder.

(Added by Ord. No. 6277 (N.S.), effective 5-27-82; amended by Ord. No. 7268 (N.S.), effective 2-27-87; amended by Ord. No. 10037 (N.S.), effective 3-26-10; amended by Ord. No. 10529 (N.S.), effective 5-18-18)

### **SEC. 81.514 MODIFICATION OF FINAL MAPS**

(a) A person requesting modification of a filed final map due to a change in circumstances may only modify the final map by obtaining approval from the County, pursuant to this section, to file a certificate of correction or an amending map. The request for approval shall be filed with the Director. The request shall include the proposed certificate of correction or amending map, a statement of the changes in circumstances the applicant relies on and each condition of the recorded final map the applicant requests to modify.

(b) The Director shall hold a public hearing on the proposed modifications of the final map conditions and shall give notice of the public hearing according to Government Code section 66451.3. In addition, the Director will notify community planning and sponsor group chairs, and other interested parties who request notice. In order to approve the application to file a certificate of correction or an amending map the Director must find based on the evidence presented at the hearing that all of the following are true:

(1) There are changes in circumstances that make one or more of the conditions of the map no longer appropriate or necessary.

(2) The proposed modifications do not impose any additional burden on the fee owners of the real property.

(3) The proposed modifications do not alter any right, title or interest in the real property reflected on the recorded map.

(4) The map as modified conforms to Government Code section 66474.

(c) Within 10 days of the hearing the Director shall prepare a written decision approving or disapproving the application and include the reasons for the decision. A copy of the decision shall be mailed to the applicant, any person who opposed the application in writing or in person at the hearing and any other person who requested a copy of the decision.

(d) The applicant, a County officer or any person who opposed the application either in writing or in person at the public hearing may appeal the decision to the Board. The appeal shall be filed in writing with the Director within 10 days of the date of the Director's decision. The appeal before the Board shall be de novo.

(Added by Ord. No. 6277 (N.S.), effective 5-27-82; amended by Ord. No. 7268 (N.S.), effective 2-27-87; amended by Ord. No. 10037 (N.S.), effective 3-26-10; amended by Ord. No. 10529 (N.S.), effective 5-18-18)

#### **SEC. 81.515. DESIGNATED REMAINDER PARCEL STATEMENT.**

All final maps that include a designated remainder parcel shall include a statement on the face of the map advising that prior to the sale of the designated remainder parcel the seller shall obtain a certificate of compliance approved by the Department of Planning and Development Services.

(Added by Ord. No. 7204 (N.S.), effective 10-17-86; amended by Ord. No. 10037 (N.S.), effective 3-26-10; amended by Ord. No. 10224 (N.S.), effective 10-25-12)

#### **SEC. 81.516. WAIVER OF TENTATIVE AND FINAL SUBDIVISION MAPS FOR CONDOMINIUM PROJECTS ON A SINGLE PARCEL.**

(a) Notwithstanding any other provision of this division, the Planning Commission may waive the requirement for filing a tentative subdivision map and preparing, filing and recording a final map for a condominium project on a single parcel if it finds that the proposed subdivision complies with the requirements as to lot area, improvement and design, flood and water drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection and other requirements of this division and the SMA.

(b) An application for a waiver pursuant to this section shall contain sufficient information to enable the Planning Commission to make the findings required by this section.

(c) A tentative map and final map shall not be waived for a major subdivision for which dedications or improvements would be required.

(d) The processing of any application pursuant to this section shall be subject to the same time requirements and appeal procedures as are provided in this division for tentative subdivision maps. In any case where waiver of the tentative and final map is granted the Director shall file a certificate of compliance with the County Recorder pursuant to chapter 11 of this division.

(Added by Ord. No. 10037 (N.S.), effective 3-26-10)

#### **SEC. 81.517. WAIVER OF TENTATIVE AND FINAL SUBDIVISION MAPS FOR MOBILEHOME PARK CONVERSION PROJECTS.**

(a) Notwithstanding any other provision of this division, the Planning Commission may waive the requirement for filing a tentative map and the preparing, filing and recording a final map for a mobilehome park conversion project on a single parcel if it finds that the proposed subdivision complies with the requirements as to area, improvement and design, flood and water drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection and other requirements of this division and the SMA.

(b) A major subdivision for conversion of an existing mobilehome park initiated by its residents shall have all public improvements waived if the Planning Commission finds that at least two-thirds of the existing residents support the subdivision of the mobilehome park and no existing resident will be displaced as a result of approving the subdivision. As used in this subsection, "resident" means a person who lives in the mobilehome park as a principal place of residence. The mobilehome park shall be deemed the principal place of residence for any existing resident where title to the mobilehome is in the name of a blood relative, including a: parent, child, sibling, uncle, aunt, niece, nephew, grandparent or grandchild.

(Added by Ord. No. 10037 (N.S.), effective 3-26-10)

## **CHAPTER 6. PROCEDURES FOR MINOR SUBDIVISIONS**

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### **SEC. 81.601. MINOR SUBDIVISION REQUIREMENTS**

No person shall create a minor subdivision without an approved tentative parcel map and an approved parcel map, except that no parcel map shall be required where this division or the SMA provides that a parcel map is not required or where the subdivider is granted a waiver of the parcel map requirement pursuant to this division.

(Added by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.602. ELIGIBILITY TO CREATE A MINOR SUBDIVISION.**

A person shall be eligible to create a minor subdivision when both of the following apply:

(a) The parcel to be subdivided has been created legally, or has been approved for development by the Director and the County has issued a certificate of compliance for the parcel.

(b) Neither the applicant nor the property owners of the parcel to be subdivided, by their current application, will have created, caused to be created or participated in the creation of more than four parcels on contiguous property unless these parcels were created by the major subdivision process. As used in this subsection, the term "participated" means having cooperated with or acted in a planning, coordinating or decision making capacity in any formal or informal association or partnership for the purpose of subdividing real property.

(Added by Ord. No. 5624 (N.S.), effective 11-29-79; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.603. CERTIFICATION AND DETERMINATION OF ELIGIBILITY.**

(a) When a person submits an application for a minor subdivision pursuant to section 81.604, the applicant or all owners of the property to be subdivided shall provide with the application a certification or declaration signed under penalty of perjury attesting that the person meets the eligibility requirements to subdivide the property by the minor subdivision process, in accordance with the eligibility requirements in section 81.602.

(b) The Director shall investigate the application to determine if the application is submitted for the purpose of evading the requirements of the SMA or this division. As part of the Director's investigation of the application the Director may require the applicant or owner provide documents related to transactions involving the property and contiguous parcels that include offers to purchase, escrow instructions, grant deeds and any other documents the Director determines are relevant to the transactions. The Director may also require the applicant or owner to provide statements under oath that establish that the applicant or owner has acquired the property that is proposed to be subdivided, by an arms length transaction. The statements may also cover matters such as the adequacy of consideration for the transactions, whether any transfer was to a close relative or business associate, the retention of control or financial interest in the transaction or any other matter the Director

determines is necessary to the investigation. Failure to comply with any of the Director's requirements shall be grounds to reject the application.

(c) The Director shall determine based on the evidence submitted whether the applicant is eligible to create a minor subdivision. If the Director determines the applicant is eligible the application shall be processed. If the Director determines the applicant is not eligible the Director shall notify the applicant in writing that the application has been rejected and provide the reasons why the applicant is ineligible. The Director's determination shall be final.

(Added by Ord. No. 5624 (N.S.), effective 11-29-79; amended by Ord. No. 7028 (N.S.), effective 10-18-85; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

#### **SEC. 81.604. APPLICATION.**

(a) A subdivider applying for a minor subdivision shall file an application with the Director. The application shall be accompanied by a tentative parcel map prepared in accordance with the requirements of this division, information, reports and documentation which the Director deems sufficient to enable the County to consider the environmental consequences of the project pursuant to CEQA, the information required by subsection (b) below and all other information, plans, reports and certifications required by this chapter and the Director.

(b) In addition to the information required by section 81.603, the subdivider shall provide the following information with the application:

(1) The name and address of each person having a financial interest in the application and the name and address of each person having an ownership interest in the property involved.

(2) If a person identified in subsection (a) is a corporation or partnership, the name and address of each person owning 10% or more of the shares of the corporation or owning any interest in the partnership, including a limited partnership interest.

(3) If a person identified in subsection (a) is a nonprofit organization, the name and address of each person serving as an officer of the organization and on the board of directors.

(4) If a person identified in subsection (a) is a trust, the name and address of each trustee, beneficiary and trustor of the trust.

(Amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

#### **SEC. 81.605. MASTER PARCEL PLAN REQUIRED.**

An application for a minor subdivision located in an area designated in the Land Use Element of the County General Plan as Village Residential 2, 2.9, 4.3, 7.3, 10.9, 15, 20, 24, 30 or Semi-Rural Residential 1 classification that proposes the creation of three or more parcels and which could, under applicable General Plan requirements, be further divided into five or more parcels, shall be accompanied by a master parcel plan (MPP) unless the MPP is waived by the Director pursuant to section 81.606. The MPP shall provide, in concept, the design of the future lots allowed by the General Plan for the area of the proposed minor subdivision and the general location of future on-site and off-site streets and improvements for the initial subdivision of land and all successive

subdivisions. Only those improvements and dedications of right-of-way necessary for the initial division of land, however, shall be required to be shown on the MPP.

(Added by Ord. No. 5758 (N.S.), effective 6-12-80; amended by Ord. No. 10037 (N.S.), effective 3-26-10; amended by Ord. No. 10167 (N.S.), effective 10-14-11)

#### **SEC. 81.606. WAIVER OF MASTER PARCEL PLAN.**

The Director may waive the requirement for an MPP if the Director finds that an MPP is unnecessary because the tentative parcel map shows sufficient detail about the design of potential lots, location of streets and other improvements.

(Added by Ord. No. 5758 (N.S.), effective 6-12-80; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

#### **SEC. 81.607. GRADING PLAN.**

(a) An applicant for a tentative parcel map shall file a grading plan with the map showing grading for construction or installation of improvements to serve the site. The grading plan shall also show grading proposed for the creation of feasible building sites on each lot together with driveway access for each lot. The grading plan shall conform to all requirements of sections 87.201 et seq., but shall not be required to show the estimated starting and completion dates for the grading. The level of detail required for the grading plan may be less what is required for actual construction, but shall be sufficient to allow analysis of all onsite and offsite environmental impacts and mitigation measures including "best management practices," as that term is defined in section 67.802.

(b) The decision making body considering an application for a tentative parcel map shall also consider the grading plan. As used in this chapter and in chapters 7 and 8 of this division, "decision making body" means when the matter is first considered, the Director or the Board, depending on which has approval authority. If the matter is considered on appeal the "decision making body" means the Planning Commission or the Board, as the appellate body. If the decision making body approves or conditionally approves the tentative parcel map, the grading plan shall be marked to identify it as the grading plan the decision making body relied on as the basis for approval of the tentative parcel map.

(c) An application for a grading permit for the subdivision required by this code shall conform to the grading plan identified during the approval process for the tentative parcel map. If the application for a grading permit for the subdivision deviates substantially from the grading plan, the decision making body considering the grading permit application shall not approve that permit, unless the grading plan or the grading permit is amended so that the two are consistent, pursuant to sections 87.201 et seq.

(Amended by Ord. No. 4799 (N.S.), effective 1-13-77; amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 9315 (N.S.), effective 4-12-01; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

#### **SEC. 81.608. ONSITE WASTEWATER TREATMENT SYSTEM CERTIFICATION.**

A tentative parcel map that proposes onsite wastewater treatment systems shall require a determination from the Director DEH that it is feasible to install an onsite wastewater treatment system on each proposed lot in the subdivision. No tentative parcel map shall be approved until the applicant obtains a certification from the Director DEH that each lot has been approved for installation of an onsite wastewater treatment system.

(Added by Ord. No. 5828 (N.S.), effective 8-21-80; amended by Ord. No. 5963 (N.S.), effective 2-5-81; amended by Ord. No. 6149 (N.S.), effective 8-18-81; Ord. No. 6150 (N.S.), adopted 8-25-81, effective 9-24-81, supersedes Ord. No. 6149; amended by Ord. No. 6401 (N.S.), effective 8-19-82; amended by Ord. No. 6643 (N.S.), effective 12-15-83; amended by Ord. No. 6792 (N.S.), effective 7-13-84; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

#### **SEC. 81.609. REPLACEMENT TENTATIVE PARCEL MAP.**

(a) A subdivider may submit a replacement tentative parcel map at any time before the County approves the tentative parcel map.

(b) A subdivider shall submit a replacement tentative parcel map when the Director, the Planning Commission or Board finds that the number or nature of the changes necessary to approve or conditionally approve a tentative parcel map cannot be shown clearly or simply on the original tentative parcel map.

(Amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 5819 (N.S.), effective 7-31-80; amended by Ord. No. 6715 (N.S.), effective 2-17-84; amended by Ord. No. 7054 (N.S.), effective 11-15-85; amended by Ord. No. 7986 (N.S.), effective 11-7-91; amended by Ord. No. 8426 (N.S.), effective 8-19-94; amended by Ord. No. 9290 (N.S.), effective 2-11-01; amended by Ord. No. 9533 (N.S.), effective 5-4-03; amended by Ord. No. 9775 (N.S.), effective 7-10-06; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

#### **SEC. 81.610. AUTHORITY TO APPROVE A TENTATIVE PARCEL MAP.**

(a) The Board shall have the authority to approve, conditionally approve or disapprove a tentative parcel map that proposes connection to the Rancho San Diego interceptor sewer line for the provision of sewer service and is not within the Village Regional Category as shown by the San Diego County General Plan, Land Use Element.

(b) The Director shall have the authority to approve, conditionally approve or disapprove all other applications for a tentative parcel map and for these applications, the Board assigns its responsibilities under Government Code sections 66473.5, 66474, 66474.1 and 66474.6 to the Director.

(Added by Ord. No. 10037 (N.S.), effective 3-26-10; amended by Ord. No. 10167 (N.S.), effective 10-14-11)

#### **SEC. 81.611. DIRECTOR'S DUTIES.**

On receipt of any application for a tentative parcel map the Director shall:

(a) Provide notice by U.S. mail to all owners of property located within 300 feet of the exterior boundaries of the proposed subdivision. The names and addresses of the owners shall be determined from the latest equalized assessment roll or such other records of the Assessor or Tax Collector that contain more recent information. The notice shall indicate whether the Director or the Board will make a decision on the application. When the Director will make the decision on the application, the notice shall provide that any person notified may submit written comments on the application no later than 25 days after the date of the notice. In that case, the notice shall also include information on methods by which the property owner may review or request notice or copies of Director's decisions.

(b) Investigate each tentative parcel map application filed pursuant to this chapter. When the Board will make the decision on the application the Director shall prepare a written report of the investigation for the Board that indicates the kind, nature and extent of "improvements," as that term is defined in Government Code section 66419, the subdivider will be required to install or that will be required to serve the land to be subdivided.

(c) Transmit copies of the map with accompanying information and request a written recommendation on the application within 10 days from all of the following:

(1) The Director DPW, Director DEH and Director DPR with respect to the design of the proposed subdivision and the kind, nature and extent of the proposed improvements.

(2) The Chief of the local fire district within which the proposed subdivision is located or if there is no fire district, the County fire official, with respect to fire hydrants, connections to be installed, fire control measures, proposed improvements and compliance with SRA Fire Safe Regulations, 14 CCR sections 1270 et seq., or sections of a fire district's code or County Fire Code, related to subdivisions, when the State Board of Forestry has certified the applicable fire code as equaling or exceeding the State regulations.

(3) Special districts which are proposed to provide public sewer, public water and school facilities, other County departments and governmental agencies as the Director deems necessary.

(d) Approve, conditionally approve, or disapprove tentative parcel maps within the Director's authority in section 81.610(b) pursuant to the procedure specified in section 81.612.

(Amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 5668 (N.S.), effective 1-3-80; amended by Ord. No. 5963 (N.S.), effective 2-5-81; amended by Ord. No. 6041 (N.S.), effective 5-28-81; amended by Ord. No. 7312 (N.S.), effective 7-2-87; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 9701 (N.S.), effective 3-4-05; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

## **SEC. 81.612. DIRECTOR'S DECISION ON TENTATIVE PARCEL MAPS AND NOTICE OF DECISION.**

(a) For a tentative parcel map application within the Director's approval authority, the Director shall make a preliminary decision to approve, conditionally approve or disapprove the tentative parcel map within 35 days after certification of the environmental document for the tentative parcel map. The Director shall provide notice of the preliminary decision to the subdivider and to any person who made a written request to be notified of the decision pursuant to section 81.611(a). If the Director's decision is to disapprove the tentative parcel map, the decision shall include the reason for

the disapproval. The subdivider and a person to whom notice is required to be sent under section 81.611(a) may make a written request that the Director review the preliminary decision. The request for review must be received by the Director within seven days of the date of notice of the preliminary decision.

(b) In the event no person makes a written request for review within the time prescribed in subsection (a) the preliminary decision shall become final. If the Director receives a timely filed written request for review of the preliminary decision, the Director shall schedule a review hearing and notify the subdivider, the requester and appropriate County departments and agencies of the date, time and location of the review. After completion of the review, the Director shall within 50 days after the filing of the tentative parcel map render a final decision approving, conditionally approving or disapproving the tentative parcel map. The 50 day time period may be extended with the consent of the subdivider. If the subdivider requests review and the review cannot be completed within the 50 day time period, the subdivider's request shall be deemed to constitute the subdivider's consent to extend the time period for a reasonable time for the Director to act. The Director shall provide written notice of the final decision on the tentative parcel map by U.S. mail to the subdivider and to any person who made request for notice pursuant to section 81.611(a).

(Amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 5668 (N.S.), effective 1-3-80; amended by Ord. No. 9227 (N.S.), effective 7-21-00; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.613. DISAPPROVAL OF TENTATIVE PARCEL MAP.**

The Director shall disapprove a tentative parcel map under any of the following circumstances:

(a) The land proposed for subdivision is an illegally created lot, unless the County has issued a certificate of compliance or certificate of conditional compliance for the lot and the certificate has been filed with the County Recorder.

(b) The subdivision proposes to create five or more lots, exclusive of a designated remainder parcel.

(c) The Director finds the proposed tentative parcel map does not meet the requirements of this division.

(d) The Director makes any of the findings in Government Code section 66474 or any of the following findings:

(1) The proposed subdivision, if approved, would not comply with 14 CCR sections 1270 et seq., or sections of a fire district's code or County Fire Code, related to subdivisions, when the State Board of Forestry has certified the applicable fire code as equaling or exceeding the State regulations.

(2) The land proposed for subdivision is a lot which is shown on a parcel map approved pursuant to this division, recorded in the office of the County Recorder and any required improvements shown on the certificate for the parcel map have not been completed.

(3) The land proposed for subdivision is a lot shown on an approved tentative parcel map where the County waived the parcel map requirement pursuant to this division, a conditional certificate of

compliance has been filed with the County Recorder pursuant to chapter 11 of this division and any required improvements shown on the conditional certificate of compliance have not been completed.

(Amended by Ord. No. 5023 (N.S.), effective 1-5-78; amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

#### **SEC. 81.614. MODIFICATION OF REGULATIONS.**

(a) Whenever the decision making body finds with respect to a proposed tentative parcel map that (1) the land to be subdivided: (A) is of a size or shape, (B) is subject to title limitations of record, (C) is affected by topographical conditions, (D) is in a location, (E) is to be devoted to a use that make it impossible or impracticable for the subdivider to conform fully to the requirements of this division, (F) does not meet the requirements of 81.401(r) (conservation subdivision), or (2) the imposition of the requirements of this division would constitute an unconstitutional taking of property, the decision making body may waive or modify the requirements as long as approving the subdivision with the waiver or modification does not result in an inconsistency with the County General Plan, any provision of the Zoning Ordinance or any federal, State or local law or regulation in effect at the time the application for the tentative parcel map was deemed complete, and does not increase the County's exposure to tort liability.

(b) A request to waive or modify a regulation pursuant to this section, relative to a tentative parcel map not yet approved, shall be heard concurrently with the tentative parcel map application. A request to waive or modify a condition of an approved tentative parcel map shall be decided pursuant to section 81.617.

(c) The decision making body granting the waiver or modification may impose conditions related to the waiver or modification.

(Amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 8426 (N.S.), effective 8-19-94; amended by Ord. No. 9675 (N.S.), effective 10-22-04; amended by Ord. No. 10037 (N.S.), effective 3-26-10; amended by Ord. No. 10167 (N.S.), effective 10-14-11)

#### **SEC. 81.615. APPEAL TO PLANNING COMMISSION AND BOARD OF SUPERVISORS.**

(a) A person entitled to appeal an action of the Director with respect to a tentative parcel map pursuant to Government Code section 66452.5 may appeal to the Planning Commission, which shall serve as the appeal board referred to in section 66452.5. A person entitled to appeal under section 66452.5 or the Director, may appeal the Planning Commission's decision to the Board.

(b) An interested person may appeal to the Planning Commission from a Director's decision relative to the responsibilities assigned to the Director in subsection 81.611(b). An interested person and the Director may appeal the Planning Commission's decision to the Board.

(c) If the Board determines at the appeal hearing pursuant to subsection (a) or (b), that the number or nature of the changes necessary to approve or conditionally approve a tentative parcel map cannot be shown clearly or simply on the original tentative parcel map, the Board may require the applicant to file a replacement tentative parcel map. In that case, the appeal hearing shall be continued to allow the applicant to prepare the replacement map. After the replacement map is filed and reviewed by County departments the hearing shall be resumed and the Director shall report on the accuracy and completeness of the replacement map.

(Amended by Ord. No. 4799 (N.S.), effective 1-13-77; amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 7054 (N.S.), effective 11-15-85; amended by Ord. No. 8426 (N.S.), effective 8-19-94; amended by Ord. No. 9675 (N.S.), effective 10-22-04; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.616 REVISED TENTATIVE PARCEL MAP.**

A subdivider may file an application with the Director for a revised tentative parcel map to revise or alter a proposed subdivision for which a tentative parcel map has been approved or conditionally approved. An application for a revised tentative parcel map shall meet all the requirements for a tentative parcel map and shall be acted upon using the same procedures.

(Amended by Ord. No. 5228 (N.S.), effective 9-21-78; amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 6715 (N.S.), effective 2-17-84; amended by Ord. No. 7986 (N.S.), effective 11-7-91; amended by Ord. No. 9227 (N.S.), effective 7-21-00; amended by Ord. No. 9290 (N.S.), effective 2-11-01; amended by Ord. No. 9775 (N.S.), effective 7-10-06; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.617. WAIVER OF PARCEL MAP REQUIREMENT.**

(a) Notwithstanding any other provision of this division, the decision making body may waive the requirement for a parcel map for a subdivision if it finds that the proposed subdivision complies with the requirements established by the SMA or this division as to area, improvement and design, floodwater drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection and other requirements of this division and the SMA.

(b) An applicant proposing to create a subdivision seeking a waiver of the parcel map requirement shall submit an application for a waiver to the Director. The application for the parcel map waiver shall contain sufficient information which in the opinion of the Director will enable the decision making body to make the findings required by this section to grant the waiver.

(c) Except as provided in subsection (d) the following types of subdivision are deemed to comply with the findings required by this section for waiver of the parcel map unless the decision making body determines in an individual case, based on substantial evidence, that public policy necessitates a parcel map:

(1) A minor subdivision in which each resulting lot contains a gross area of 40 acres or more, or each of which is a quarter-quarter section or larger. The requirement that each resulting lot contain a gross area of 40 acres or more or be a quarter-quarter section or larger may be modified, however, pursuant to section 81.614 to the extent that no lot is smaller than 20 acres in gross area and the average gross area of all resulting lots equals 40 acres or more.

(2) A minor subdivision created only for the purpose of leasing the lots resulting from the subdivision.

(3) A major subdivision as provided in section 81.506.

(4) An environmental subdivision, as provided in sections 81.1001 et seq.

(5) Land conveyed to or from a governmental agency, public entity, public utility or for land conveyed to a subsidiary of a public utility for conveyance to that public utility for rights-of-way.

(d) A minor subdivision in which the decision making body requires dedications or improvements as a condition of approval of the subdivision is deemed not to comply with the findings required by this section for waiver of the parcel map.

(e) The processing of any application pursuant to this section shall be subject to the same time requirements and appeal procedures as are provided in this division for tentative parcel maps. If the decision making body grants a waiver of the parcel map requirement, the Director shall file a certificate of compliance with the County Recorder, pursuant to chapter 11 of this division.

(Amended by Ord. No. 5023 (N.S.), effective 1-5-78; amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 8426 (N.S.), effective 8-19-94; amended by Ord. No. 9428 (N.S.), effective 2-15-02; amended by Ord. No. 9675 (N.S.), effective 10-22-04; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

#### **SEC. 81.618. TIME TO FILE PARCEL MAP AND TIME EXTENSION.**

(a) Within 36 months after the approval or conditional approval of a tentative parcel map, the subdivider may file a parcel map with the Director DPW. The parcel map shall be in substantial conformance with the tentative parcel map, as approved or conditionally approved, and in conformance with the SMA and this division.

(b) A subdivider may file a written application for an extension with the Director for up to 72 months. The application for an extension shall be filed no more than 180 days prior to the map expiration date.

(Amended by Ord. No. 5228 (N.S.), effective 9-21-78; amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 5830 (N.S.), effective 7-22-80; Ord. No. 5834 (N.S.), adopted 7-29-80, effective 8-28-80, supersedes Ord. No. 5830; amended by Ord. No. 6041 (N.S.), effective 5-28-81; amended by Ord. No. 6057 (N.S.), effective 6-25-81; amended by Ord. No. 6715 (N.S.), effective 2-17-84; amended by Ord. No. 7819 (N.S.), effective 10-26-90; amended by Ord. No. 8426 (N.S.), effective 8-19-94; amended by Ord. No. 8811 (N.S.), effective 6-25-97; amended by Ord. No. 9227 (N.S.), effective 7-21-00; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

#### **SEC. 81.619. STAY OF TENTATIVE PARCEL MAP TIME PERIOD DUE TO LITIGATION.**

(a) Pursuant to Government Code subsection 66452.6(c) the subdivider may apply to the Director for a stay of the expiration date of a tentative parcel map if a lawsuit has been brought involving the approval or conditional approval of a tentative parcel map. The application for a stay may be filed at any time after service of the initial petition or complaint on the County and no later than six months after the lawsuit has been completed. The application shall provide all information about the lawsuit including the name and case number, the court where the suit was filed, the current status of the case and the map number and date it was approved or conditionally approved. The application shall also provide the length of the stay requested by the subdivider and the reasons why the subdivider requests the stay for that period of time. The applicant shall provide all additional information required by the Director.

(b) After a subdivider files a complete application, the Director shall provide notice by U.S. mail to each property owner of record located within 300 feet of the exterior boundaries of the proposed subdivision. The notice shall advise the property owner that the subdivider has applied for a stay and that the Director will make a decision within 40 days from the date of the application to grant the stay for a period of up to five years or deny the stay. The notice shall also state that the Director will consider any written comments the property owner submits within 20 days of the date of notice. The notice shall also provide information on how the property owner may request notice of the Director's decision and review or obtain a copy of the decision.

(c) The Director may consider the following factors in determining whether to grant or deny the stay: (1) the adequacy of environmental review which was performed for the tentative parcel map approval in light of any current information on impacts from the proposed subdivision, (2) the effect the lawsuit may have had upon the subdivider's ability to proceed with the project, (3) information provided by the subdivider and property owners notified of the application, (4) any changes in laws, ordinances, regulations or policies applicable to the subdivision since the approval or conditional approval of the tentative parcel map, (5) whether any changes in the kind, nature or extent of required improvements are appropriate and (6) information the Director may obtain from other County departments or other federal or State agencies related to these issues.

(d) The Director shall determine whether to grant, conditionally grant or deny the stay requested. If the Director grants or conditionally grants the stay the Director's decision shall specify the duration of the stay. The Director shall mail a notice of the decision to the subdivider and to any property owner who requested notice pursuant to subsection (b).

(e) If the Director denies the stay or grants a stay for a time period less than the subdivider requested, the subdivider may appeal to the Board within 15 days. The Board shall hold a public hearing on the application for appeal. The Clerk of the Board shall provide notice by U.S. mail at least 10 days before the hearing, to each property owner of record located within 300 feet of the exterior boundaries of the proposed subdivision. The Board shall grant or deny the stay requested and if granting the stay, indicate the duration of the stay.

(Added by Ord. No. 5408 (N.S.), effective 2-20-79; Ord. No. 5416 (N.S.), adopted 2-27-79, effective 3-29-79, supersedes Ord. No. 5408; repealed by Ord. No. 6057 (N.S.), effective 6-25-81; new Section 81.617.1 added by Ord. No. 8545 (N.S.), effective 7-7-95; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

## CHAPTER 7. MINOR SUBDIVISION REQUIREMENTS

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### SEC. 81.701. DESIGN OF MINOR SUBDIVISION.

Except as otherwise provided in this chapter a minor subdivision shall conform to the lot design requirements in section 81.401. Section 81.401(q) shall only apply to a minor subdivision in a "Rural Regional Category," as that term is used in the County General Plan.

(Amended by Ord. No. 10037 (N.S.), effective 3-26-10; amended by Ord. No. 10167 (N.S.), effective 10-14-11; amended by Ord. No. 10211 (N.S.), effective 6-1-12)

### SEC. 81.702. DEDICATION AND ACCESS.

A tentative parcel map filed pursuant to chapter 6 of this division shall not be approved unless it conforms to the dedication and access requirement of section 81.402, subsections (a) through (f), (k), (r) through (u) and with the following requirements:

(a) Roads which the subdivider proposes on the boundaries of a subdivision shall comply with section 81.402(g) except that the roads shall be at least 30 feet wide.

(b) Where the subdivider proposes the County accept an offer of dedication before approval of the parcel map, for a road that will terminate at the subdivision boundary, the requirements of section 81.402(h) shall apply.

(c) Each dead-end private road easement shall include a cul-de-sac that complies with County Private Road Standards.

(d) Each easement required for public utilities or drainage including flood control or drainage easements shall be offered for dedication as provided in section 81.704 when the Director, with concurrence from Director DPW determines an offer of dedication is necessary to serve the subdivision or is a reasonable and logical extension of existing facilities in the vicinity.

(e) No dedication or offer of dedication shall be required for a road providing on-site access to the property to be subdivided where the road will serve only those lots created by that subdivision. A private road easement at least 20 feet wide may be approved in lieu of a dedication or offer of dedication if the easement will ultimately serve no more than four lots and the Director determines that no adjacent properties will require public access from the easement.

(Amended by Ord. No. 4992 (N.S.), effective 11-10-77; amended by Ord. No. 5141 (N.S.), effective 5-25-78; amended by Ord. No. 5406 (N.S.), effective 6-12-80; amended by Ord. No. 5891 (N.S.), effective 10-30-80; amended by Ord. No. 6017 (N.S.), effective 5-7-81; amended by Ord. No. 6087 (N.S.), effective 7-29-81; amended by Ord. No. 6276 (N.S.), effective 5-27-82; amended by Ord. No. 6438 (N.S.), effective 10-15-82; amended by Ord. No. 6751 (N.S.), effective 5-4-84; amended by Ord. No. 9063 (N.S.), effective 8-13-99; amended by Ord. No. 9701 (N.S.), effective 3-4-05; amended by Ord. No. 9719 (N.S.), effective 6-17-05; amended by Ord. No. 9841 (N.S.), effective 4-20-07; amended by Ord. No. 10037 (N.S.), effective 3-26-10; amended by Ord. No. 10529 (N.S.), effective 5-18-18)

**SEC. 81.703. DEDICATION REQUIREMENTS FOR STREETS SHOWN ON THE COUNTY GENERAL PLAN MOBILITY ELEMENT.**

A subdivider's offer of dedication for a minor subdivision for each right-of-way for a street shown as prime arterial, major road, boulevard, community collector, light collector or minor collector on the County General Plan Mobility Element shall comply with the following requirements:

- (a) The subdivider shall dedicate 30 feet of right-of-way from the centerline of a street governed by this section to the boundary line of each lot of the subdivision which abuts the street. The dedicated right-of-way shall be shown on the parcel map.
- (b) The specific location of the centerline of every street governed by this section, as established by the Director DPW, shall be shown on the parcel map.
- (c) The full width of every street regulated by this section shown on a parcel map shall be identified by a line drawn at the appropriate location and labeled "limit of proposed street widening." The distance in feet on each side of the centerline of a street shall be as provided in the County Public Road Standards, based on the type of street required.
- (d) A street setback line as defined in section 51.302(p) is established on each side of and parallel to the centerline of every street shown on the County General Plan Mobility Element, except in multiple residence zones, commercial zones and manufacturing zones. The distance in feet from the centerline of the highway to the street setback line shall be 20 feet plus the distance in feet referenced in subsection (c), above.
- (e) Whenever any street is shown on a parcel map, the street setback line shall be shown at the appropriate location and labeled "street setback line."

(Amended by Ord. No. 5758 (N.S.), effective 6-12-80; amended by Ord. No. 9063 (N.S.), effective 8-13-99; amended by Ord. No. 10037 (N.S.), effective 3-26-10; amended by Ord. No. 10167 (N.S.), effective 10-14-11)

**SEC. 81.704. DEDICATION PROCEDURE.**

Pursuant to Government Code section 66447 all dedications or offers of dedication required by this division shall be made as follows:

- (a) Except as provided in subsection (d) below, a subdivider shall make all dedications or offers of dedication lying within the boundary of the parcel map by a certificate on the map. This certificate shall be combined with the owner's certificate as described in section 81.811. Each dedication or offer of dedication shall be free of any liens or encumbrances that would interfere with the purpose for which the dedication or offer of dedication is required. The subdivider shall provide the Director with a parcel map report including an appropriate plat when the parcel map is submitted pursuant to section 81.707.
- (b) A subdivider shall make all dedications or offers of dedication lying outside the boundary of the parcel map by a separate instrument and shall record the dedications or offers of dedication prior to filing the parcel map. An irrevocable offer of dedication shall provide that it is binding on each property owner, the property owner's heirs, assigns or successors in interest. Except as provided in

Government Code section 66477.2(b), an irrevocable offer of dedication shall also provide that the offer shall continue until the Board accepts the offer or it is vacated pursuant to section 66477.2. Each dedication or offer of dedication shall be free of any liens or encumbrances that would interfere with the purpose for which the dedication or offer of dedication is required. The subdivider shall provide a current preliminary title report including an appropriate plat satisfactory to the Director.

(c) An easement for public utilities may be dedicated to and accepted by a public utility by certificate on the map.

(d) As an exception to subsection (a), if the Director determines that dedications or offers of dedication within the boundary of a parcel will not be needed immediately to serve the proposed subdivision the Director may require the dedication or offer of dedication to be made by separate instrument. In that case a dedication or offer of dedication shall be made as provided in subsection (b) above.

(e) When no parcel map is required, all dedications or offer of dedication shall be made as provided in subsection (b) above.

(Amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 6016 (N.S.), effective 5-7-81; amended by Ord. No. 6167 (N.S.), effective 10-22-81; amended by Ord. No. 10037 (N.S.), effective 3-26-10; amended by Ord. No. 10529 (N.S.), effective 5-18-18)

#### **SEC. 81.705. ACCEPTANCE OR REJECTION OF OFFERS OF DEDICATION.**

(a) A parcel map shall contain a certificate for execution by the Director DPW stating that the Director DPW acting on behalf of the Board has (1) accepted, (2) accepted subject to improvement or (3) rejected, any real property offered for dedication as right-of-way for road purposes for public use. The certificate may also include the Director DPW's (1) acceptance, (2) acceptance subject to improvement or (3) rejection of any offer of dedication of real property for any other public purposes, which the Board has authorized the Director DPW to (1) accept, (2) accept subject to improvement or (3) reject.

(b) Whenever (1) drainage easements, (2) flowage easements or (3) access to drainage facilities are dedicated to the County Flood Control District or to the County, the parcel map shall contain a certificate for execution by the Director DPW stating that the Director DPW acting on behalf of the Board of Directors of the County Flood Control District or on behalf of the Board has accepted the real property offered for dedication.

(Added by Ord. No. 6016 (N.S.), effective 5-7-81; amended by Ord. No. 9063 (N.S.), effective 8-13-99; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

#### **SEC. 81.706. TITLE COMPANY PARCEL MAP REPORT AND GUARANTEE.**

(a) When the subdivider submits the parcel map to the Director for approval the subdivider shall also provide a parcel map report from a qualified title insurance company. The report shall include a recorded map showing all easements that provide access to the property to be subdivided.

(b) After the Director determines that the boundary and survey procedure is technically correct as shown on the submitted parcel map, the subdivider shall provide the Director with a parcel map guarantee from a qualified title insurance company that includes a legal description of the property

that conforms with the parcel map. The parcel map guarantee shall insure that the parties named in the guarantee are the only parties having any record title interest in the land subdivided and that all record easements upon the property are included therein. The easements shall be shown on the parcel map as required by the Director, with concurrence from the Director DPW, for any public street, drainage or other public easements.

(c) Each parcel map submitted to the Director shall bear the following statement to provide information about the title company issuing the guarantee to be affixed to the map:

PARCEL MAP GUARANTEE FOR THIS

SUBDIVISION FURNISHED

BY \_\_\_\_\_.

ORDER NO. \_\_\_\_\_.

(d) The Director shall notify the title company furnishing the parcel map guarantee of the date the parcel map will be transmitted to the County Recorder at least 48 hours before the date the Director will transmit the map. In accordance with Government Code section 66465, the subdivider shall have the title company present written evidence to the County Recorder that at the time of the filing of the parcel map with the County Recorder, the information in the original guarantee is correct.

(Added by Ord. No. 6016 (N.S.), effective 5-7-81; amended by Ord. No. 10037 (N.S.), effective 3-26-10; amended by Ord. No. 10529 (N.S.), effective 5-18-18)

### **SEC. 81.707 IMPROVEMENTS REQUIRED AS CONDITION OF APPROVAL.**

This section establishes requirements that a subdivider shall fulfill as a condition of approval of a parcel map. Whenever this section provides that a subdivider shall agree to improve or agree to install an improvement the subdivider shall be required to enter into a written agreement with the County to perform the improvement or installation. No parcel map for a minor subdivision shall be approved until the subdivider:

(a) Improves or agrees to improve all rights-of-way which the subdivider offered for dedication for road purposes which the County accepted. The improvements shall be completed in accordance with San Diego County Standards.

(b) Installs or agrees to install all other required improvements and facilities in accordance with the requirements in section 81.404 except that the subdivider:

(1) Shall install or agree to install fire hydrants as provided in subsection (c).

(2) Shall install or agree to install street lighting as provided in subsection (f).

(3) Shall not be required to convert existing overhead utilities to underground utilities where no public road improvements are required. If new utility service to an on-site building is required, however, utility service shall be installed underground.

(c) Installs or agrees to install fire hydrants with an adequate water supply.

(1) In commercial and industrial zones fire hydrants shall have two, two and one-half inch ports and one, four-inch port with a six-inch barrel.

(2) In all other zones, fire hydrants shall have one, two and one-half inch port and one, four-inch port.

(3) The hydrants shall be installed at intervals not to exceed distances provided in subsections (4) and (5) below. The distance between hydrants shall be measured along a road which is traversable by mechanized fire fighting apparatus. The decision making body may waive or modify these requirements upon recommendation by the chief of the local fire district, or if there is no local fire district, by recommendation by the County fire official.

(4) In zones other than industrial, commercial and multi-family, fire hydrants shall be installed at the following intervals:

(A) Parcels two and one-half acres and larger: every 1,000 feet.

(B) Parcels at least one-half acre but less than two and one-half acres: every 500 feet.

(C) Parcels less than one-half acre: every 350 feet.

(5) In multi-family, commercial and industrial zones, fire hydrants shall be installed every 300 feet regardless of parcel size.

(d) Provides proof that the serving public water district will serve each lot in the subdivision with potable public water or a certification from the Director DEH that there is an adequate potable well water supply available to each lot.

(e) Extends to the land to be subdivided, public water supply facilities adequate to serve the subdivision when the project is located within a water district or the district's adopted sphere of influence and either: (1) the main lines of the existing public potable water supply are located within 500 feet of the subdivision boundary or (2) the subdivider has proposed the use of a public water supply to serve the subdivision.

(f) Installs or agrees to install street lighting, pursuant to San Diego County Standards, except that street lighting shall only be required when the Director DPW determines it is necessary for traffic safety.

(g) Provides proof that the serving public sewer district will serve each lot or parcel with public sewer.

(h) Grades and improves or agrees to grade and improve, all land dedicated or to be dedicated for trails or pathways including land previously dedicated for a road which includes sufficient right-of-way for a pathway. Trail improvements shall be made in accordance with the trail standards specified in the section 7, "Design and Construction Guidelines," in the Community Trails Master Plan for the type of trail to be constructed. Pathway improvements shall be made in accordance with standards for pathways in the San Diego County Public Road Standards.

(Amended by Ord. No. 4799 (N.S.), effective 1-13-77; amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 5758 (N.S.), effective 6-12-80; amended by Ord.

No. 5963 (N.S.), effective 2-5-81; amended by Ord. No. 6016 (N.S.), effective 5-7-81; amended by Ord. No. 6710 (N.S.), effective 2-3-84; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 8690 (N.S.), effective 7-5-96; amended by Ord. No. 9063 (N.S.), effective 8-13-99; amended by Ord. No. 9701 (N.S.), effective 3-4-05; amended by Ord. No. 9841 (N.S.), effective 4-20-07; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.708. SUBDIVIDER'S OBLIGATION TO COMPLETE IMPROVEMENTS.**

(a) Whenever the subdivider is required to construct or install improvements as a condition of approval of a parcel map for a minor subdivision, the requirements for the construction or installation of the improvements shall be noticed on the parcel map. The subdivider, if allowed, shall also execute a covenant of improvement requirements, which shall specify all improvements the subdivider is required to construct or install and shall be recorded with the County Recorder.

(b) The Director may require the subdivider to enter into a written agreement to construct all or part of the required improvements and require the subdivider to post security to guarantee performance. In that case, the subdivider shall provide security that complies with section 81.408, except that the subdivider shall not be allowed to post security under section 81.408(a)(1) unless the amount of security for performance exceeds \$25,000. The subdivider shall complete construction or installation of the improvements before the County issues any permit or other grant of approval for the development of the parcels being created by the subdivision. In the alternative, the subdivider and the Director may enter into an agreement for the subdivider to construct or install all improvements by a specified date.

(c) An agreement entered into between the subdivider and the Director to defer the completion of improvements until after the Director issues a building permit shall only be for road improvements. An agreement to defer improvements shall be subject to the following requirements:

(1) The agreement shall provide that the subdivider shall complete all road improvements and obtain approval from the Director DPW before the Director issues approval for the final building inspection for any building to be constructed, placed or erected on the property to be subdivided.

(2) The subdivider shall provide security for the agreement that complies with section 81.408.

(3) The subdivider shall enter into a separate right of entry agreement with the County that gives the County the right to enter the property during normal business hours to inspect the improvements. The right of entry agreement shall also provide that if the subdivider fails to complete the improvement as required the County shall have the right to enter and complete the improvements at the subdivider's expense.

(Added by Ord. No. 5023 (N.S.), effective 1-5-78; amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 6552 (N.S.), effective 4-15-83; amended by Ord. No. 10037 (N.S.), effective 3-26-10; amended by Ord. No. 10224 (N.S.), effective 10-25-12; amended by Ord. No. 10529 (N.S.), effective 5-18-18)

### **SEC. 81.709. EXTENSION OF TIME TO CONSTRUCT REQUIRED IMPROVEMENTS.**

Where the subdivider agrees to construct or install improvements required as a condition of approval of a parcel map pursuant to section 81.707 the agreement shall provide that the subdivider shall complete the improvements within two years after the map is recorded. The Director DPW

may extend the time for the subdivider to complete the improvements once, for up to an additional two years. The Director DPW, however, may not grant the subdivider an extension to complete the improvements if the subdivider has previously received a time extension or if the subdivider has substituted security for the security originally furnished. The Board, however, may grant additional time extensions.

(Added by Ord. No. 8343 (N.S.), effective 2-5-94; amended by Ord. No. 8393 (N.S.), effective 6-10-94; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

#### **SEC. 81.710. POSTING SECURITY FOR AGREEMENT TO IMPROVE.**

If as a condition of approval of a parcel map for a minor subdivision, the subdivider is required to enter into a written agreement to construct or install improvements pursuant to sections 81.707 and 81.708 and provide security as required in section 81.708 to guarantee completion of the improvements, the subdivider shall deposit the security with the Clerk of the Board. The subdivider shall also prepare and deposit with the Clerk of the Board detailed plans and specifications of the improvements to be constructed. The plans and specifications shall be made a part of any written agreement between the subdivider and the County and the improvement security.

(Amended by Ord. No. 5023 (N.S.), effective 1-5-78; amended by Ord. No. 5342 (N.S.), effective 2-8-79; amended by Ord. No. 5675 (N.S.), effective 1-17-80; amended by Ord. No. 7353 (N.S.), effective 9-11-87; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

#### **SEC. 81.711. LIEN CONTRACT FOR IMPROVEMENTS.**

(a) If pursuant to Government Code section 66499(a), the County finds that it would not be in the public interest to require installation of required improvements sooner than two years after the map is recorded, the County may allow a subdivider of a minor subdivision of industrial, commercial or multi-family residential property, but not of a single-family residential property, in lieu of posting the security required by sections 81.708 and 81.710, to enter into a lien contract with the County to construct the required improvements in the future, securing the subdivider's performance by granting the County a lien on the property to be subdivided.

(b) Where the County and the subdivider enter into a lien contract, the subdivider shall execute the lien contract with the County at the same time the subdivider enters into the agreement with the County to construct or install improvements required pursuant to section 81.709. The County may at its sole option allow a subdivider to substitute a lien contract for existing security that the subdivider furnished under sections 81.708 and 81.710. The County shall not accept a lien contract from any subdivider, however, either at the time the subdivider executes an agreement to construct subdivision improvements or as a substitute for existing security if: (1) any lots have been sold, (2) permits have been issued on any of the property or (3) construction of any of the required improvements has begun.

(c) Lien contracts shall:

(1) Only be used to secure completion of improvements.

(2) Contain an itemization of the required improvements, an estimate of the cost to complete the improvements that the Director has approved and provide that the subdivider's or subsequent owner's

obligation to complete the improvements extends to the actual cost of construction if the cost to complete the improvements exceeds the estimate.

(3) Be recorded with the County Recorder and have the priority of a judgment lien as prescribed by Government Code section 66499(b).

(4) Be approved concurrently with the approval of the parcel map with a note of the lien contract's existence placed on the map, except where the lien contract is being substituted after parcel map approval for other security previously deposited with the Clerk of the Board pursuant to section 81.710. In that case, the lien contract shall be signed and acknowledged by all parties having any record title interest in the real property, as prescribed by Government Code section 66436, consenting to the subordination of their interests to the lien contract.

(d) The lien contract shall provide that the subdivider shall substitute security acceptable to the County for the lien contract and commence constructing the improvements required pursuant to section 81.707: (1) within two years after recording the map or (2) in the case of a lien contract which has been substituted for existing security pursuant to subsection (b), above, within two years after recording the lien contract.

(e) For lien contracts executed at the time the map is recorded, the Director may extend the time for substituting acceptable security and commencing construction of the required improvements once, for no more than two additional years. The Director may not grant an extension if the subdivider has substituted a lien contract for the security originally furnished under sections 81.708 and 81.710. The Board, however, may grant additional time extensions on a case-by-case basis as it deems appropriate, for substituting acceptable security and commencing construction of required improvements pursuant to agreements secured either by: (1) lien contracts executed at the time the map is recorded or (2) lien contracts substituted for existing security furnished under sections 81.708 and 81.710.

(f) During the term of the lien contract no individual lots shall be sold. Fee title to the entire property encumbered by the lien contract may be sold to a single purchaser, provided that the proposed purchaser of the property, prior to assuming title to the property, shall either: (1) execute a new lien contract in a form acceptable to the County that will encumber the property to be conveyed, specifying the respective obligations of the property owners subject to the original and the new lien contract or (2) replace the existing lien contract with alternative security acceptable to the County to guarantee completion of the required improvements. The alternative security shall meet the requirements of section 81.408. If the proposed purchaser is a holding company or a limited liability company, however, the property owner shall obtain approval from the Director before entering into the sales agreement. Any new lien contract shall require that the new property owner commence construction of the required improvements secured by the lien contract by the same date provided in the lien contract with the original owner, unless the Board extends the date as provided in subsection (d), above. The new lien contract shall also provide that the new property owner shall deposit alternative security acceptable to the County that meets the requirements of section 81.408 at the time the property owner is required to commence construction of the improvements.

(g) At the time the Board approves a lien contract, the subdivider shall provide a cash deposit in the amount of \$15,000 to the Clerk of the Board for the purpose of reverting the property to acreage if the subdivider breaches the terms of the lien contract. In addition, at the time title to any property subject to a lien contract is conveyed, the transferee of the property, if the transferee executes a new lien contract to secure construction of the improvements imposed on the property as described in

subsection (f), above, shall also provide a cash deposit in the amount of \$15,000 to the Clerk of the Board for the purpose of reverting the property to acreage if the transferee breaches the terms of the lien contract. The purpose of these requirements is to have each owner of property which is encumbered by a lien contract, have a \$15,000 deposit per lien contract with the County for the purpose described. Any unused portion of a deposit shall be refunded to the current property owner following completion of the reversion. If the cost to revert the property to acreage exceeds \$15,000 the property owner shall pay the additional costs to the County prior to recording the reversion to acreage map.

(h) When a lien contract is utilized as security upon approval of the map, notwithstanding the provisions of sections 81.702 and 81.707, the County shall not accept offers of dedication for street purposes until the lien contract is released following substitution of acceptable alternative security and the required improvements are completed to the satisfaction of the Director DPW.

(i) The County shall release a lien contract after: (1) the subdivider or subsequent property owner substitutes security for the lien contract that complies with section 81.408 or (2) recording of a reversion to acreage map.

(Added by Ord. No. 5342 (N.S.), effective 2-8-79; amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; repealed and new Section added by Ord. No. 6224 (N.S.), effective 2-18-82; amended by Ord. No. 8344 (N.S.), effective 2-4-94; amended by Ord. No. 8393 (N.S.), effective 6-10-94; amended by Ord. No. 8426 (N.S.), effective 8-19-94; amended by Ord. No. 8811 (N.S.), effective 6-25-97; amended by Ord. No. 10037 (N.S.), effective 3-26-10; amended by Ord. No. 10529 (N.S.), effective 5-18-18)

#### **SEC. 81.712. EXEMPTION FROM IMPROVEMENTS.**

Notwithstanding any other provision of this division the following minor subdivisions shall not be required to construct or install public improvements or make dedications or offers of dedications unless necessary to comply with Government Code sections 66410 et seq.:

(a) A subdivision where the property to be subdivided has a gross area not less than 40 acres or is at least a quarter of a quarter section.

(b) The land to be subdivided is located within the boundaries of an Agricultural Preserve established by a resolution of the Board and the property owner has entered into a Land Conservation Contract with the County, provided the proposed parcels to be created are not lots smaller than the minimum lot size specified in the contract.

(c) The creation of not more than two lots for financing purposes only.

(d) The leasing of land or buildings for commercial or industrial purposes or for vehicle parking areas.

(Amended by Ord. No. 5189 (N.S.), effective 7-20-78; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

#### **SEC. 81.713. RELEASE OF IMPROVEMENT REQUIREMENTS.**

The subdivider or a property owner of land subject to a certificate of improvement requirements may request the County file a release of improvement requirements in the office of the County Recorder. The person requesting the release shall submit the request in writing to the Director DPW along with proof that all required improvements have been completed. If the Director DPW determines from the proof submitted that all improvements required by the certificate of improvement requirements have been completed, the Director DPW shall file a release of improvement requirements with the County Recorder.

(Added by Ord. No. 5023 (N.S.), effective 1-5-78; amended by Ord. No. 10037 (N.S.), effective 3-26-10; amended by Ord. No. 10529 (N.S.), effective 5-18-18)

#### **SEC. 81.714. WAIVER OF SECURITY FOR ESTIMATED TAXES.**

If a subdivider requests waiver of payment for estimated taxes or special assessments, the County may pursuant to Government Code section 66493(d), waive the requirement to secure the payment of estimated taxes or special assessments for parcel maps of four or fewer parcels after consulting with the County Tax Collector and determining that there are no delinquent taxes on the property to be subdivided.

(Added by Ord. No. 9227 (N.S.), effective 7-21-00; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

#### **SEC. 81.715. MONUMENTS.**

(a) Every parcel map shall show monuments which shall be set by a licensed surveyor or registered civil engineer that comply with section 81.406, except as provided in subsections (b) and (c) below.

(b) Permanent monuments at the exterior boundary of the subdivision may meet one of the minimum requirements for permanent markers established by section 81.406(a)(2) rather than the requirements in section 81.406(a)(1) unless the Director DPW determines that in a particular case the monuments meeting the lesser standard in section 81.406(a)(2) are not adequate. In that case permanent monuments at the exterior boundary of the subdivision shall comply with section 81.406(a)(1).

(c) No monuments shall be required to be placed or shown on a parcel map at the exterior boundary of a designated remainder parcel if the parcel has a gross area of five acres or more.

(Amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 6016 (N.S.), effective 5-7-81; amended by Ord. No. 7204 (N.S.), effective 10-17-86; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

## **CHAPTER 8. PARCEL MAP REQUIREMENTS**

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### **SEC. 81.801. PARCEL MAPS TO CONFORM TO REQUIREMENTS.**

In addition to conforming to the requirements of the SMA and this division a parcel map shall comply with all requirements and conditions of the approved or conditionally approved tentative parcel map.

(Amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 8426 (N.S.), effective 8-19-94; amended by Ord. No. 9227 (N.S.), effective 7-21-00; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.802. DIRECTOR OF PUBLIC WORKS TO APPROVE PARCEL MAPS.**

No parcel map shall be filed with the County Recorder until the Director DPW approves the map.

(Amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.803. RECERTIFICATION OF ONSITE WASTEWATER TREATMENT SYSTEMS.**

Where alterations to the design or location of onsite wastewater treatment systems are proposed that differ from the design or location the Director DEH previously certified as feasible, the Director DPW shall not approve the parcel map until the Director DEH recertifies that it is feasible to install an onsite wastewater treatment system on each lot in the proposed subdivision.

(Added by Ord. No. 5758 (N.S.), effective 6-12-80; amended by Ord. No. 8477 (N.S.), adopted 11-8-94, operative 1-1-95; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.804. LAND SUBJECT TO FLOODING.**

A parcel map shall identify and label a lot or portion of a lot shown on the map which is subject to flooding due to a one percent annual chance flood event from a tributary watershed of 25 acres or greater.

(Amended by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.805. CENTER LINES, RIGHT-OF-WAY LINES, PROPOSED ROAD WIDENING LINES AND BUILDING LINES.**

If a street designated as a major highway road or a prime arterial highway on the County General Plan Mobility Element is shown on a parcel map and a: (a) centerline, as defined in section 51.302(b), (b) right-of-way line, (c) proposed road widening line or (d) street setback line, as defined in section 51.302(p), has been established with respect to that street pursuant to section 51.301 et seq., section 75.101 et seq. or this division, each of those lines shall be shown at the appropriate location on the parcel map and clearly labeled to identify its function.

(Amended by Ord. No. 7986 (N.S.), effective 11-7-91; amended by Ord. No. 9063 (N.S.), effective 8-13-99; amended by Ord. No. 10037 (N.S.), effective 3-26-10; amended by Ord. No. 10167 (N.S.), effective 10-14-11; amended by Ord. No. 10211 (N.S.), effective 6-1-12)

#### **SEC. 81.806. PRIVATE ROAD EASEMENTS.**

In the event a private road easement for road purposes is required within the boundaries of the property to be subdivided, that private road easement shall be delineated and labeled "proposed private road easement" on the parcel map. The subdivider or a subsequent owner of the subdivided property shall convey the labeled easement to any subsequent purchaser of any parcel created by the subdivision.

(Amended by Ord. No. 6016 (N.S.), effective 5-7-81; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

#### **SEC. 81.807. NOTICE OF SOLAR ACCESS.**

Each parcel map shall notice those parcels having solar access and those not having solar access, as determined in section 81.401(m).

(Added by Ord. No. 5603 (N.S.), effective 10-25-79; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

#### **SEC. 81.808. ADDITIONAL CERTIFICATES ON PARCEL MAPS.**

(a) In addition to the requirements for the County Surveyor's certificate for a parcel map in Government Code section 66450(a), the County Surveyor's certificate shall certify the following:

(1) For a minor subdivision, the map conforms to the approved tentative parcel map.

(2) For a parcel map for a major subdivision filed pursuant to section 81.506(b), the map conforms to an approved tentative map.

(b) In addition to the requirements in Government Code section 66449 for the engineer's or surveyor's certificate on the parcel map, the engineer or surveyor responsible for the preparation of the map shall certify that all monuments shown on the map are of the character and occupy the positions indicated on the map. If setting the interior monuments is deferred pursuant to Government Code section 66496 the certificate shall contain a statement that the monuments will be set in the positions shown on the map on or before a specified date. The certificate shall also state that the monuments are or will be sufficient to enable the survey to be retraced. If setting monuments is deferred the subdivider shall also comply with section 81.406(c).

(Amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 6016 (N.S.), effective 5-7-81; amended by Ord. No. 6552 (N.S.), effective 4-15-83; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

#### **SEC. 81.809. ADDITIONAL SURVEY AND MAP INFORMATION.**

A subdivider shall place on one or more additional maps sheets all additional survey and map information required as a condition of a tentative parcel map. The additional sheets shall indicate

their relationship to the parcel map and shall contain a statement that the additional information is for informational purposes, describing conditions as of the date of the filing, and is not intended to affect record title interest. The additional map sheets may also contain a notification that the information is derived from public records or reports and its inclusion in the map does not imply the correctness or sufficiency of these records or reports by the preparer of the map.

(Added by Ord. No. 7262 (N.S.), effective 2-13-87; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

#### **SEC. 81.810. DRAFTING STANDARDS.**

A parcel map shall comply with the drafting standards provided in section 81.511.

(Amended by Ord. No. 6016 (N.S.), effective 5-7-81; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

#### **SEC. 81.811. RECORD TITLE INTEREST STATEMENT AND DEDICATION STATEMENT.**

(a) Except as provided in Government Code section 66445(e) the subdivider shall provide a statement on the parcel map, signed and acknowledged by all parties having any record title interest in the real property subdivided, consenting to the preparation and recordation of the parcel map. The statement shall include the names of any parties who own interests described in Government Code section 66436 who have not signed the statement together with a description of the respective interest of each party and the category in Government Code section 66436 that applies to each party who did not sign the statement.

(b) When a dedication or offer of dedication is to be made on the map, as provided in Government Code section 66447, the statement shall be combined with the statement required by subsection (a).

(c) With respect to a subdivision of land into four or fewer parcels, where no dedications or offers of dedications are required, the record title owner's statement may be signed and acknowledged by the subdivider only. Where the subdivider does not have a record title ownership interest in the property to be subdivided, however, the subdivider shall provide evidence satisfactory to the Director DPW that all persons with record title ownership in the property to be subdivided have consented to the proposed subdivision.

(Amended by Ord. No. 6016 (N.S.), effective 5-7-81; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

#### **SEC. 81.812. MODIFICATION OF PARCEL MAPS.**

A person requesting modification of a filed parcel map shall follow the procedures and comply with the requirements in section 81.513.

(Added by Ord. No. 6277 (N.S.), effective 5-27-82; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

#### **SEC. 81.813. DESIGNATED REMAINDER PARCEL STATEMENT.**

All parcel maps that include a designated remainder parcel shall include a statement on the face of the map advising that prior to the sale of the designated remainder parcel the seller shall obtain a certificate of compliance approved by the Director.

(Added by Ord. No. 7204 (N.S.), effective 10-17-86; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

**SEC. 81.814.COORDINATE TIES ON PARCEL MAPS.**

All parcel maps shall comply with sections 81.507(b) and 81.507(i).

(Added by Ord. No. 7695 (N.S.), effective 1-5-90; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

## **CHAPTER 9. LOT LINE ADJUSTMENT**

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### **SEC. 81.901. APPLICABILITY.**

Notwithstanding any other provision of this division, this chapter shall govern the processing requirements for an application for a lot line adjustment. The only lot line adjustment allowed under this division is an adjustment to the boundaries of four or fewer adjoining parcels where the land taken from one parcel is added to an adjoining parcel and the boundary adjustment does not create a greater number of parcels than originally existed.

(Amended by Ord. No. 4799 (N.S.), effective 1-13-77; amended by Ord. No. 5023 (N.S.), effective 1-5-78; amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 7184 (N.S.), effective 9-12-86; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.902. FINDINGS REQUIRED TO APPROVE APPLICATION.**

In order for an application for a lot line adjustment to be approved the proposed lot configuration shall conform to all the requirements of the County General Plan, any applicable specific plan, the Zoning Ordinance and the County Building Code and shall not include any illegally created lot, unless the Director has approved the lot pursuant to sections 81.1103 et seq. and a certificate of compliance for the lot has been filed with the County Recorder.

(Added by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.903. PROCEDURE FOR APPROVAL OF LOT LINE ADJUSTMENTS.**

(a) An applicant for a lot line adjustment shall complete the forms provided by the Director for the application and shall provide the information the Director requires for the application. The applicant shall include an adjustment plat with the application that depicts the existing boundaries of the lots and the proposed boundaries of the lots if the County approves the application.

(b) The Director shall approve, conditionally approve or disapprove the application within 30 days after certification, adoption or completion of the environmental document or process for the application. The Director shall notify the applicant of the Director's action on the application in writing by U.S. mail pursuant to section 11.112 of this code.

(c) If the Director conditionally approves the application the Director shall list the conditions that the applicant must fulfill to receive final approval. A conditional approval shall be valid for six months from the date of the conditional approval. If within this six-month period the applicant submits documentation to the Director showing that the applicant has met all the conditions listed in the conditional approval, the Director shall approve the lot line adjustment. If the applicant does not submit the required documentation within the six-month period the conditional approval shall expire. If the applicant applies for an extension before the six month period expires the Director may grant the applicant one extension, not to exceed an additional six months, to submit the required documentation.

(d) If the Director determines that the application for the lot line adjustment meets the requirements of this division the Director shall certify the lot line adjustment approval on the adjustment plat. The Director may require the applicant to submit a revised adjustment plat when the Director finds that the number or nature of the changes approved cannot be shown clearly or simply on the original adjustment plat.

(e) If the lot line adjustment is approved the applicant shall prepare a deed that reflects the lot line adjustment and submit the deed to the Director with the recording fee. When the Director approves the deed the Director shall transmit the deed to the County Recorder for filing.

(Amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 5963 (N.S.), effective 2-5-81; amended by Ord. No. 6792 (N.S.), effective 7-13-84; amended by Ord. No. 7184 (N.S.), effective 9-12-86; amended by Ord. No. 9841 (N.S.), effective 4-20-07; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

#### **SEC. 81.904. APPEAL.**

An applicant may appeal a Director's decision conditionally approving or disapproving the lot adjustment to the Planning Commission within 10 days of the date of the Director's decision. An applicant may appeal the Planning Commission's action to the Board within 10 days of the date of the Planning Commission's decision. An applicant shall have no right to appeal the denial of a lot line adjustment that the Director denied because the Director determined that one or more of the lots was illegally created and the applicant was not entitled to a certificate of compliance or conditional certificate of compliance.

(Added by Ord. No. 6034 (N.S.), effective 5-28-81, operative 7-1-81; amended by Ord. No. 6392 (N.S.), effective 7-13-82; Ord. No. 6392 (N.S.), superseded by Ord. No. 6404 (N.S.), adopted 7-20-82, effective 8-19-82; amended by Ord. No. 6508 (N.S.), operative 3-1-83; amended by Ord. No. 8426 (N.S.), effective 8-19-94; amended by Ord. No. 9675 (N.S.), effective 10-22-04; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

#### **SEC. 81.905. WAIVER OF SECURITY FOR ESTIMATED TAXES.**

If an applicant requests a waiver of estimated taxes or special assessments, the County may pursuant to Government Code section 66493(d), waive the requirement to secure the payment of estimated taxes or special assessments for a lot line adjustment after consulting with the County Tax Collector and determining that there are no delinquent taxes on the property for which the applicant requests the lot line adjustment.

(Added by Ord. No. 9227 (N.S.), effective 7-21-00; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

## **CHAPTER 10. REQUIREMENTS FOR ENVIRONMENTAL SUBDIVISIONS**

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### **SEC. 81.1001. ENVIRONMENTAL SUBDIVISIONS**

Government Code section 66418.2 provides that land may be subdivided to create an environmental subdivision if it meets the requirements of that section. An "environmental subdivision" in this division has the same meaning as in Government Code section 66418.2(a). An environmental subdivision shall only be approved or conditionally approved as provided in this division.

(Added by Ord. No. 9428 (N.S.), effective 2-15-02; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.1002. TENTATIVE PARCEL MAP REQUIRED FOR ENVIRONMENTAL SUBDIVISIONS.**

An applicant for an environmental subdivision shall submit an application to the Director for a tentative parcel map. The applicant shall comply with the requirements of chapter 6 of this division for the application for an environmental subdivision. The appeal procedures for an environmental subdivision are the same as provided in chapter 6 of this division for an appeal of a decision on a tentative parcel map.

(Added by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.1003. COMPLIANCE WITH GOVERNMENT CODE SECTION 66418.2(b).**

No tentative parcel map for an environmental subdivision shall be approved or conditionally approved unless the decision making body finds that the environmental subdivision complies with each of the requirements of Government Code section 66418.2(b).

(Added by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.1004. PARCEL MAP REQUIRED UNLESS WAIVED.**

If a tentative parcel map for an environmental subdivision is approved or conditionally approved the subdivider shall file a parcel map that meets the applicable requirements of chapter 8 of this division unless the subdivider obtains a waiver of the parcel map requirement pursuant to section 81.618.

(Added by Ord. No. 10037 (N.S.), effective 3-26-10)

## **CHAPTER 11. NOTICES OF VIOLATION, CERTIFICATES OF COMPLIANCE, VOLUNTARY MERGER AND REMAND OF ACCESS RIGHTS**

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### **SEC. 81.1101. NOTICE OF VIOLATION.**

Whenever the Director has knowledge that real property has been divided or has resulted from a property division in violation of the SMA or this division the Director shall send a notice of violation that complies with Government Code section 66499.36 to the current owner of that property. The notice shall specify a time, date and place at which the owner may present evidence to the Director why the notice should not be recorded. If after the owner has presented evidence, the Director determines that there has been no violation, the Director shall mail a clearance letter to the then current owner. If, however, after the owner has presented evidence, the Director determines that the property has been illegally divided or if within 15 days from the date of the receipt of the notice the owner fails to inform the Director of an objection to recording the notice of violation, the Director shall record the notice of violation with the County Recorder.

(Amended by Ord. No. 5023 (N.S.), effective 1-5-78; amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 6910 (N.S.), effective 2-15-85; amended by Ord. No. 7389 (N.S.), effective 11-6-87; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.1102. DEVELOPMENT PERMITS AND APPROVALS FOR PROPERTY ILLEGALLY DIVIDED.**

Pursuant to Government Code section 66499.34:

(a) No person shall be issued any permit or granted any approval necessary to develop any real property which has been divided or which has resulted from a division in violation of the SMA, this division, or any earlier ordinance the County adopted pursuant to the SMA applicable at the time the property division occurred, if the decision making body finds that development of the property is contrary to the public health or the public safety. The "decision making body" means the Director, or on appeal, the Planning Commission or the Board. This subsection shall apply whether the applicant: (1) was the owner of record at the time of the violation, (2) is the current owner of record or (3) is a vendee of the current owner of record pursuant to a contract of sale for the property, and without regard to whether any applicant had actual or constructive knowledge of the violation at the time the applicant acquired an interest in the property.

(b) Unless this code or other County ordinance provides an appeal procedure for a permit or approval referred to in subsection (a) above the applicant may appeal the denial or conditional approval as provided in this subsection. The applicant may appeal a Director's determination to the Planning Commission and may appeal the Planning Commission's determination to the Board. An appeal of the Director's determination to the Planning Commission and the Planning Commission to the Board shall be filed with the Director within 10 days of the determination appealed from. All appeal hearing shall be public hearings and the Director shall give public notice of the hearings that complies with the public notice requirements in Government Code section 66451.3. The hearings shall be heard at the next regularly scheduled meeting of the Planning Commission or the Board, respectively.

(c) In determining whether to issue a permit or grant approval or conditional approval to develop real property divided or resulting from a division in violation of the SMA this division or an earlier ordinance the County adopted pursuant to the SMA, the decision making body shall consider all the following:

(1) Whether the property complies with the applicable zoning regulations.

(2) Whether the serving sewer district has certified that it will provide public sewer for the property or the Director DEH has certified that it is feasible to install an onsite wastewater treatment system on each lot on which development is requested.

(3) Whether the serving water district has certified that it will provide potable public water for the property or the Director DEH has approved a potable well water supply for the property.

(4) Whether the property has legal access to a County maintained road.

(5) Whether the applicant would have been required to dedicate land for a public purpose or construct or install any improvements pursuant to the SMA or the County subdivision ordinance in effect at the time the applicant acquired the property.

(d) In determining what conditions to impose if it grants conditional approval, the decision making body shall consider the factors in subsection (c)(1)-(5). If the applicant was the owner of record at the time the initial violation of the SMA or a County ordinance enacted pursuant to the SMA occurred, the decision making body may impose any condition that would apply to a current division of the property. If, however, the County has previously issued a conditional certificate of compliance for the property, only those conditions in the certificate shall apply to the conditional approval.

(Amended by Ord. No. 5023 (N.S.), effective 1-5-78; amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 6910 (N.S.), effective 2-15-85; amended by Ord. No. 7389 (N.S.), effective 11-6-87; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.1103. CERTIFICATES OF COMPLIANCE.**

(a) An owner of real property or a person who has entered into a contract to buy real property may make a written application to the Director for a certificate of compliance.

(b) The applicant shall complete a form provided by the Director and shall provide all information required by the Director relating to the title of the property and other additional information the Director deems relevant including the following:

(1) The name and address of each person having an interest in the application and the name and address of each person having any ownership interest in the property involved.

(2) If a person identified under subsection (1) is a corporation or partnership, the name and address of each person owning more than 10% of the shares of the corporation or owning any partnership interest in the partnership.

(3) If a person identified under subsection (1) is a non-profit organization, the name and address of each person serving as director of the non-profit organization.

(4) If any person identified under subsection (1) is a trust, the name and address of each trustee, beneficiary or trustor of the trust.

(c) Within 50 days after receipt of the completed application the director shall determine whether the certificate of compliance shall be issued. The Director shall notify the applicant at the end of the 50 day period of the Director's decision and if the Director determines that the certificate of compliance shall be issued, the Director shall cause the certificate of compliance to be filed with the County Recorder at the applicant's expense.

(d) The Director shall issue a certificate of compliance if the Director determines that the real property in question meets one of the following requirements:

(1) At the time the property was divided or resulted from a property division, the property was in compliance with applicable County ordinances regulating the division of real property and the SMA.

(2) The property substantially conforms to a final division plat approved pursuant to former Title 8, Division 1, Chapter 6 (repealed by Ordinance No. 3829 (New Series) on February 1, 1972).

(3) The property has been approved for development pursuant to section 81.1102. Issuance of a certificate of compliance shall not remove or amend any conditions imposed in the development permit.

(4) The property has been approved for division and the County has waived the requirement for preparing, filing and recording a parcel map pursuant to section 81.618.

(5) The property merged with one or more contiguous parcels before January 5, 1978 and the County recognized the merger when it approved a lot line adjustment or a division of land plat or issued a certificate of compliance for the property and the owner is entitled to have the property unmerged pursuant to section 81.106(c).

(6) The property has been approved as a condominium project on a single parcel and the requirement for a tentative subdivision map and the preparation, filing and recording of a final map has been waived pursuant to section 81.516.

(Amended by Ord. No. 5023 (N.S.), effective 1-5-78; amended by Ord. No. 5406 (N.S.), effective 3-22-79, operative 3-23-79; amended by Ord. No. 5835 (N.S.), effective 8-28-80; amended by Ord. No. 6575 (N.S.), effective 6-3-83; amended by Ord. No. 6911 (N.S.), effective 2-15-85; amended by Ord. No. 7389 (N.S.), effective 11-6-87; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

#### **SEC. 81.1104. CONDITIONAL CERTIFICATES OF COMPLIANCE.**

(a) When the Director determines that the property for which an applicant requests a certificate of compliance under section 81.1103 does not comply with the SMA or this division or any earlier ordinances the County adopted pursuant to the SMA, the application for a certificate of compliance shall be treated as an application for a conditional certificate of compliance.

(b) The Director shall provide notice of the application by U. S. mail to the owners of all property located within 300 feet of the exterior boundaries of the property for which the certificate is requested. The notice shall state that the Director will make a decision on the application and that

any person notified may submit written comments no later than 20 days after the notice. The notice shall also provide information on methods by which the property owner may review the decision or request notice or a copy of the Director's decision.

(c) The Director may deny issuance of a conditional certificate of compliance if the Director determines the effect of issuing the certificate would be to effectively subdivide the property without complying with the SMA.

(d) The Director may as a condition of issuing a conditional certificate of compliance, impose any condition that would have been applicable to the division of property at the time the applicant acquired an interest in the property, and that had been established pursuant to the SMA or a County ordinance adopted pursuant to the SMA. If, however, the applicant was the owner of record at the time of the initial violation of the SMA or a County ordinance adopted pursuant to the SMA, who by a grant of real property created one or more parcels in violation of the SMA or a County ordinance, and the applicant is the current owner of record of one of more of the parcels created by the violation, then the Director may impose any condition that would be applicable to a current division of the property.

(e) The Director's decision granting or denying issuance of a conditional certificate of compliance shall be final.

(f) If the Director determines that the conditional certificate of compliance shall be issued, the Director shall cause the conditional certificate of compliance to be filed with the County Recorder at the applicant's expense.

(Added by Ord. No. 8393 (N.S.), effective 6-10-94; amended by Ord. No. 7389 (N.S.), effective 11-6-87; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.1105. VOLUNTARY MERGER OF PARCELS.**

Pursuant to Government Code section 66499.20<sup>3/4</sup> this section provides a procedure for voluntary merger of contiguous parcels under common ownership without reverting to acreage.

(a) An applicant for a voluntary merger of parcels under this section shall submit an application to the Director on a form provided by the Director. The application shall be signed by all co-owners of the parcels to be merged and shall be accompanied by all of the following:

(1) Documents satisfactory to the Director that establish legal ownership of all parcels, common ownership of all parcels and that all parcels comply with the SMA and this division.

(2) A legal description of the proposed merged parcel.

(3) Written verification from the County Treasurer/Tax Collector that there are no tax delinquencies on any parcel the applicant seeks to merge.

(b) If the Director determines that the applicant has satisfied all requirements of this section the Director shall issue a certificate of merger. A legal description of the merged parcel shall be attached to the certificate and the Director shall cause the certificate of merger to be filed with the County Recorder at the applicant's expense.

(c) The real property described in the certificate of merger shall become one parcel when the certificate is recorded.

(Added by Ord. No. 10037 (N.S.), effective 3-26-10)

**SEC. 81.1106. APPLICATION TO REMAND RELINQUISHED ACCESS RIGHTS.**

(a) A person may submit an application to the Director to remand access rights to a public street that were relinquished when a final map or parcel map was recorded or when any other document was recorded pursuant to this division. Within two working days after an application has been filed, the Director shall transmit a copy of the application to the Director DPW and coordinate with the Director DPW to develop a preliminary decision.

(b) The Director shall make a preliminary decision to approve, conditionally approve or disapprove the application within 45 days after the application is filed. Before making the final decision, the Director shall hold a public hearing to consider the application and shall provide notice of the public hearing as provided in Government Code Section 66451.3. Notices required to be delivered by U.S. mail shall be mailed at least 15 days before the public hearing and shall include the preliminary decision.

(c) The applicant requesting a remand of relinquished access rights shall have the burden of establishing all of the following:

(1) The proposed remand would not, as determined by the Director DPW, create a safety hazard for pedestrian or vehicular traffic.

(2) It is feasible to obtain access to the affected public street for which remand is requested in a manner consistent with applicable County ordinances, policies and standards.

(3) The proposed remand would not adversely affect uses adjacent to the affected public street.

(4) The remand would not result in a use of the property that does not substantially comply with the conditions of the approved subdivision where the affected street is located.

(d) The applicant, or any person who opposed the decision either in writing or in person at the public hearing may appeal the Director's decision to the Planning Commission by filing an appeal with the Director within 10 days of the Director's decision. The Planning Commission shall hold a notice public hearing by providing notice as required in subsection (b). The decision of the Planning Commission shall be final.

(Amended by Ord. No. 7389 (N.S.), effective 11-6-87; amended by Ord. No. 10037 (N.S.), effective 3-26-10; amended by Ord. No. 10224 (N.S.), effective 10-25-12; amended by Ord. No. 10529 (N.S.), effective 5-18-18)

## CHAPTER 12. VESTING TENTATIVE MAPS

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### **SEC. 81.1201. PURPOSE.**

The purpose of this chapter is to implement Government Code sections 66498.1 through 66498.9 by establishing procedures to confer vested rights for major and minor subdivisions. As used in this chapter, the term "vesting tentative map" means a "vesting tentative map" in the case of a major subdivision and a "vesting tentative parcel map" in the case of a minor subdivision.

(Added by Ord. No. 7084 (N.S.), effective 2-28-86; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.1202. CONSISTENCY.**

No land shall be subdivided and developed pursuant to a vesting tentative map if it is inconsistent with the San Diego County General Plan or any applicable specific plan or if the proposed use is not allowed by the Zoning Ordinance or other applicable provisions of this code.

(Added by Ord. No. 7084 (N.S.), effective 2-28-86; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.1203. FILING AND PROCESSING.**

A person may file a vesting tentative map in lieu of a tentative map for a major subdivision or in lieu of a tentative parcel map for a minor subdivision. A vesting tentative map shall be filed in the same form, have the same contents, accompanying data and report and shall be processed in the same manner as provided in this division for a tentative map in the case of a major subdivision and tentative parcel map in the case of a minor subdivision, except as provided below:

(a) At the time a person files a vesting tentative map with the Director the map shall comply with Government Code section 66452(c).

(b) A subdivider shall file with a vesting tentative map a complete site plan application showing all proposed land uses intended to be vested on the lots to be created with the filing of a final map or a parcel map. The site plan shall comply with the Director's requirements for scale and detail and shall show the lot dimensions, boundaries and square footage for each lot. The subdivider may also show the location and dimensions for buildings and structures and other features for which the subdivider wants to acquire vested rights. The subdivider shall only acquire vested rights for features that the subdivider provides sufficient information about to allow the Director to determine whether the vested rights shall be granted.

(Added by Ord. No. 7084 (N.S.), effective 2-28-86; amended by Ord. No. 8690 (N.S.), effective 7-5-96; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.1204. EXPIRATION.**

A vesting tentative map shall expire 36 months after its approval date unless the map is extended. The map shall be subject to the same regulations regarding time extensions as provided in this division for a tentative map or a tentative parcel map, whichever is applicable. The related site plan for the vesting tentative map and all vested development rights shall expire on the same day as the vesting tentative map expires.

(Added by Ord. No. 7084 (N.S.), effective 2-28-86; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

#### **SEC. 81.1205. VESTED RIGHTS CONFERRED.**

(a) When the County approves or conditionally approves a vesting tentative map, that approval shall confer a vested right to proceed with development as provided in Government Code section 66498.1(b), except that the vested rights conferred are limited to the development plan shown on the site plan the County approves or conditionally approves with the vesting tentative map. No vesting tentative map shall be approved or conditionally approved unless the site plan required by section 81.1203(b) is approved or conditionally approved concurrently with the vesting tentative map.

(b) Notwithstanding the vested rights conferred as provided in subsection (a), the County may condition or deny a permit, approval, extension or entitlement if the County determines either of the following:

(1) Failure to impose the condition or deny the permit, approval, extension or entitlement would place the residents of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety, or both.

(2) The condition or denial is required in order to comply with State or federal law.

(c) If a final map (as used in this chapter, the term "final map" also includes a parcel map) is approved prior to the expiration of the vesting tentative map the vested rights shall last as follows:

(1) The vested rights shall last for an initial time period of 24 months. Where several final maps are recorded on various phases of a project covered by a single vesting tentative map the 24 month initial time period shall begin for each phase when the final map for that phase is recorded.

(2) The initial time period shall be automatically extended by any time the County uses for processing a complete application for a grading permit or for design or architectural review, if the processing time exceeds 30 days from the date a complete application is filed.

(3) A subdivider may apply to the Director for a one-year extension of the vested rights at any time before the initial time period expires. If the Director denies the extension the subdivider may appeal the denial to the Board within 15 days.

(4) If the subdivider submits a complete application for a building permit during any of the time periods provided in subsections (c)(1)-(3), the vested rights referred to in this chapter shall continue until the expiration of that permit or any extension of that permit.

(Added by Ord. No. 10037 (N.S.), effective 3-26-10)

**SEC. 81.1206. CONDITIONAL APPROVAL FOR VESTING TENTATIVE MAP INCONSISTENT WITH ZONING.**

Whenever a subdivider files an application for a vesting tentative map for a subdivision whose intended development is inconsistent with the Zoning Ordinance the subdivider shall note the inconsistency on the map. The County may deny the application for the vesting tentative map or approve it subject to the condition that the subdivider obtain an amendment to the Zoning Ordinance to eliminate the inconsistency. If the County amends the Zoning Ordinance to eliminate the inconsistency the conditionally approved vesting tentative map shall confer the vested right to proceed with development in substantial compliance with the amended Zoning Ordinance and other applicable County ordinances, policies and standards in effect, as provided by Government Code section 66498.1.

(Added by Ord. No. 7084 (N.S.), effective 2-28-86; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

## **CHAPTER 13. DEVELOPMENT AGREEMENTS**

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### **SEC. 81.1301. PURPOSE.**

The purpose of this chapter is to establish procedures to consider and approve development agreements authorized by Government Code sections 65864 through 65869.5. These development agreements are intended to provide certainty to a developer proposing a long-term development project, to protect against changes in local law during the life of the project while at the same time having the developer provide public benefits in exchange for the certainty granted to the developer.

(Amended by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.1302. APPLICATION FOR DEVELOPMENT AGREEMENT.**

(a) A person who is actively processing a development project may file an application for a development agreement without having to follow the threshold procedure in this chapter and may process the development agreement concurrently with the development project. As used in this section, “actively processing” means that the applicant is processing a development project, the applicant is complying with all deadlines and submission dates the County has imposed and the applicant is up to date on payment of all deposits and fees to County departments. A person who is processing a development project, but who is not current on payments to the County or is not complying with County deadlines or submission dates shall not be allowed to apply for a development agreement until the project is in full compliance with County requirements.

(b) A person who has a development project the County has previously approved shall follow the threshold procedure in this chapter before submitting an application for a development agreement.

(Added by Ord. No. 10037 (N.S.), effective 3-26-10)

### **SEC. 81.1303. THRESHOLD PROCEDURE.**

A person required to follow the requirements of this section before filing an application for a development agreement shall submit a request for a threshold decision to the Director on a form provided by the Director and comply with the following procedure:

(a) The request for a threshold decision shall include explanatory text, plans, maps, photographs and other documents sufficient to describe the proposed development agreement, the rights that would accrue to the developer if the proposal is approved and the benefits to the public from the approval. The Director may request additional material the Director deems necessary to evaluate the request.

(b) After the Director determines that the applicant has provided sufficient information to allow the Director to evaluate the proposed development agreement the Director shall review the submittal and prepare a preliminary written report and recommendation. The report shall include all of the following:

- (1) A description of the project.

(2) Whether or not clear potential benefits would be likely to accrue to the public.

(3) The Director's preliminary recommendation whether or not the County should proceed to enter into the development agreement negotiation process and the reasons for the Director's recommendation.

(c) The Director shall submit the preliminary report to the applicable community sponsor group or community planning group, to any public agency that may be affected by the proposal and to the initiator of the proposal. A recipient of the report may comment in writing to the Director within 30 days of receipt of the report.

(d) At the end of the comment period, the Director shall make a recommendation to Planning Commission on whether the proposal should be accepted for the purpose of filing an application for a development agreement. The Director shall also provide a copy of the recommendation to the applicable sponsor group or planning group, to any public agency that may be affected by the proposal and to the initiator of the proposal.

(e) The Planning Commission, after considering the merits of the request and the Director's recommendation, shall submit its recommendation to the Board of Supervisors (Board).

(f) The Board, after considering the merits of the request, may authorize the initiator to file an application for a development agreement for the proposal or direct staff to terminate proceedings.

(g) By authorizing the initiator to file an application for a development agreement the Board is not making a commitment to approve a development agreement.

(Amended by Ord. No. 10037 (N.S.), effective 3-26-10)

#### **SEC. 81.1304. CONTENTS OF APPLICATION.**

An applicant for a development agreement shall submit an application on a form the Director provides. The application shall contain, at a minimum, all the following information:

(a) The name and address of the applicant and of all persons having a legal or equitable interest in all or part of the property proposed to be used.

(b) Evidence that the applicant has a legal or equitable interest in the property involved or has written authorization to submit an application from a person who has a legal or equitable interest in the property.

(c) A legal description for each parcel, a list of the Assessor's parcel numbers for each parcel and a statement of total area of the property.

(d) The public benefits the applicant proposes to provide to the County in exchange for the development rights requested.

(e) Explanatory text, plans, maps, drawings, photographs and other similar materials that describe the applicant's proposal. The Director may require the applicant to supplement the submission under this subsection to the extent the Director determines more information is required to allow the Director to evaluate the applicant's proposal.

(f) The name, address and telephone number of the person who the applicant has designated to represent all persons having a legal or equitable interest in the entire property proposed to be subject to the development agreement.

The Director may waive the filing of one or more of the above items where the same information required is on file with the County and the information is current.

(Amended by Ord. No. 9075 (N.S.), effective 9-10-99; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

#### **SEC. 81.1305. TERMS AND CONDITIONS OF DEVELOPMENT AGREEMENT.**

A development agreement entered into between the County and a developer shall, in addition to the mandatory terms required by Government Code section 65865.2, include all the following terms and conditions:

(a) The County will conduct an annual review of the progress of the applicant's or the applicant's successor in interest in complying with the terms of the development agreement. The burden shall be on the applicant or the applicant's successor to show good faith compliance with the terms of the agreement. If the County finds and determines that the applicant or the applicant's successor is not in substantial compliance on the basis of a substantial compliance standard, the agreement shall provide that the County may terminate or modify the agreement.

(b) The applicant or the applicant's successor in interest shall designate an agent to represent the property owners for all property subject to the development agreement. The agent shall serve as the person to whom the County may serve all notices, including legal process. If at any time there is no person serving as the property owner's agent, the County may terminate the agreement.

(c) The applicant or the applicant's successor in interest shall: (1) defend, indemnify and hold harmless the County, its agents, officers and employees from any claim, action or proceeding against the County, its agents, officers or employees to attack, set aside, void or annul the decision to enter into the development agreement or any of the proceedings, acts or determinations taken, done or made prior to that decision, and (2) reimburse the County, its agents, officers or employees for any court costs and attorney's fees which the County, its agents, officers or employees may be required by a court to pay as a result of the approval of the agreement. At its sole discretion, the County may participate at its own expense in the defense of any such action, but the participation shall not relieve the applicant or the applicant's successor of any obligation imposed by this condition. The County shall promptly notify the applicant or the applicant's successor of any claim or action and cooperate fully in the defense.

(d) Before naming a successor, the applicant shall provide the County with 30 days written notice. If the Director determines that the proposed successor is not a commercially or financially suitable successor in interest, the Director may reject the proposed successor and give the applicant the option of choosing a new successor or terminating the agreement.

(Amended by Ord. No. 7782 (N.S.), effective 8-24-90; amended by Ord. No. 10037 (N.S.), effective 3-26-10)

#### **SEC. 81.1306. ADDITIONAL TERMS AND CONDITIONS.**

A development agreement may also include terms, conditions, restrictions and requirements for subsequent discretionary actions in addition to those provided in section 81.1305, provided that the terms, conditions, restrictions and requirements do not prevent development of the land for the uses and to the density or intensity of development set forth in the agreement.

(Amended by Ord. No. 10037 (N.S.), effective 3-26-10)

**SEC. 81.1307. REVIEW OF APPLICATION.**

The Director shall review the development agreement application for completeness, shall determine any additional requirements necessary and may reject any application that does not present the required documentation. On receipt of a complete and acceptable application the Director shall accept it for processing and prepare a staff report and recommendation.

(Amended by Ord. No. 10037 (N.S.), effective 3-26-10)

**SEC. 81.1308. NOTICE OF HEARING BEFORE THE PLANNING COMMISSION.**

(a) The Director shall set a date for a public hearing before the Planning Commission and give notice of the time, place and purpose of the hearing as provided in Government Code sections 65090 and 65091, in addition to any other notice as may be required by law for other matters to be considered concurrently with the development agreement.

(b) Failure of any person to receive notice that the person is entitled to receive as provided by law shall not affect the County's authority to enter into a development agreement.

(Amended by Ord. No. 10037 (N.S.), effective 3-26-10)

**SEC. 81.1309. PLANNING COMMISSION RECOMMENDATION.**

(a) At the conclusion of the public hearing the Planning Commission shall make a recommendation to the Board that the Board: (1) approve the development agreement as proposed, (2) approve the development agreement with modifications proposed by the Planning Commission or (3) reject the development agreement.

(b) The Planning Commission's action shall be by resolution and shall include written findings specifying the facts and information the Commission relied on in rendering its recommendation. The Planning Commission shall only recommend approval of a development agreement if it makes all the following findings:

(1) That the proposal is consistent with the County General Plan or General Plan amendment the applicant proposes, and any applicable specific plan.

(2) That the proposal is compatible with the Zoning Ordinance and the zoning for the property or a rezoning the applicant proposes for the property.

(3) That if the proposed development agreement includes a subdivision the proposed agreement provides that any tentative map prepared for the subdivision shall comply with Government Code section 66473.7.

(4) That the proposal will not be detrimental to the health, safety and general welfare of the public.

(5) That the proposal is in the public interest and accrues a clear public benefit to the County.

(c) A copy of the Planning Commission's resolution shall be filed with the Clerk of the Board and with the Director.

(Amended by Ord. No. 10037 (N.S.), effective 3-26-10)

**SEC. 81.1310. PLANNING COMMISSION RECOMMENDATION TO REJECT DEVELOPMENT AGREEMENT.**

If the Planning Commission resolution recommends rejection of the proposed development agreement no further action shall be taken on the application unless within ten days of the Planning Commission hearing the applicant files a request with the Clerk of the Board that the Board consider the matter. If the applicant files the request the item shall be placed on the Board's agenda for a public hearing.

(Amended by Ord. No. 10037 (N.S.), effective 3-26-10)

**SEC. 81.1311. BOARD OF SUPERVISORS HEARING.**

(a) If the Clerk of the Board receives a resolution from the Planning Commission recommending approval of the development agreement, with or without modification or the applicant requests Board consideration of the matter the Clerk of the Board shall set the matter for a public hearing before the Board, giving notice of the time, place and purpose of such hearing as provided in section 81.1309(a).

(b) The Board shall consider the proposed development agreement at the public hearing on the date set for the hearing or on the date or dates to which the hearing may be continued from time to time by the Board. The Board may take any of the following actions:

- (1) Approve the development agreement.
- (2) Approve the development agreement with modifications.
- (3) Reject the development agreement.

(c) The Board shall only approve a development agreement if the Board makes the findings specified in section 81.1310(b).

(d) If the Board approves the development agreement the Board shall approve the agreement by ordinance. After the ordinance approving the development agreement takes effect, the Director may execute the agreement with the applicant.

(e) Within ten days after the Board rejects a proposed development agreement the Clerk of the Board shall give notice of the Board's action to the applicant at the address shown on the application and to the Planning Commission through the Director.

(f) Within ten days following complete execution of a development agreement, the Clerk of the Board shall record a fully executed copy of the development agreement including a legal description of the land subject to the agreement and a copy of the approved ordinance. The agreement shall be binding on the parties and their successor in interest, and the benefits of the agreement shall inure to the parties and their successors in interest.

(Amended by Ord. No. 10037 (N.S.), effective 3-26-10)