

# **CITY OF LAKEPORT**



# **SUBDIVISION ORDINANCE**

**ADOPTED  
FEBRUARY 2001  
AMENDED  
APRIL 2004  
Title 16**

# SUBDIVISIONS

## I N D E X

<b>CHAPTER</b>	<b>TITLE</b>	<b>PAGE</b>
16.02	General Provisions	1
16.04	Definitions and Responsibilities	3
16.06	Maps Required	7
16.08	Tentative Subdivision Maps – Five (5) or More Parcels	8
16.10	Final Subdivision Maps – Five (5) or More Parcels	17
16.12	Subdivision of Four (4) or Less Parcels	22
16.14	Vesting Tentative Maps (Section 66498.1 et seq.)	29
16.16	Dedications, Reservations, and Development Fees	32
16.17	Design and Improvement Standards	44
16.18	Improvements	48
16.20	Reversion to Acreage	58
16.22	Parcel Mergers	60
16.23	Lot Line Adjustments	62
16.24	Correction and Amendment of Maps	64
16.25	Certificate of Compliance	66
16.26	Enforcement	67

Chapter 16.02

LAKEPORT SUBDIVISION ORDINANCE  
GENERAL PROVISIONS

**Sections:**

- 16.02.010 Citation and Authority**
- 16.02.020 Purpose**
- 16.02.030 Consistency**
- 16.02.040 Application**
- 16.02.050 Exceptions**
- 16.02.060 Modification of Requirements**
- 16.02.070 Fees and Deposits**

**Section 16.02.010 Citation and Authority:** This chapter is adopted pursuant to Article XI, Section 6 of the California Constitution and to supplement and implement the California Subdivision Map Act, Section 66410 et seq. of the Government Code, and may be cited as the Subdivision Ordinance of the City of Lakeport.

**Section 16.02.020 Purpose:** It is the purpose of this chapter to regulate and control the division of land within the City of Lakeport, and to supplement the provisions of the Subdivision Map Act concerning the design, improvement, and survey data of subdivisions, the form and content of all required maps provided by the Subdivision Map Act, and the procedure to be followed in securing the official approval of the City regarding the maps. To accomplish this purpose, the regulations contained in this chapter are determined to be necessary to preserve the public health, safety, and general welfare; to promote orderly growth and development and to promote open space, conservation, protection, and proper use of land; and to ensure provision for adequate traffic circulation, utilities, and other services in the City.

**Section 16.02.030 Consistency:** No land shall be subdivided and developed for any purpose which is inconsistent with the Lakeport General Plan or any applicable specific plan of the City or which is not permitted by Chapter 17 or other applicable provisions of this Code.

The type and intensity of land use as shown on the General Plan and any applicable specific plan shall determine, together with the requirements of the Subdivision Map Act and this chapter, the type of streets, roads, highways, utilities, and other public services that shall be provided by the subdivider.

**Section 16.02.040 Application:** The regulations set forth in this chapter shall apply to all or parts of subdivisions within the City, to the preparation of subdivision maps, and to other maps provided for by the Subdivision Map Act and this chapter. All subdivisions and any part thereof lying within the City shall be made, and all subdivision maps shall be prepared and presented for approval, as provided for in this chapter.

**Section 16.02.050 Exceptions:** This chapter shall not apply to:

- A. The financing or leasing of apartments, offices, stores, or similar space within apartment buildings, industrial buildings, commercial buildings, mobile home parks, trailer parks, and RV parks.
- B. Mineral, oil, or gas leases.

- C. Land dedicated for cemetery purposes under the State Health and Safety Code.
- D. Any separate assessment under Section 2188.7 of the State Revenue and Taxation Code.
- E. Subject to the requirements of Sections 66412 (g) and 66412 (h) of the Subdivision Map Act, the conversion of a community apartment project, or a stock cooperative to a condominium.
- F. The leasing of, or the granting of an easement to, a parcel of land, or any portion or portions thereof, in conjunction with the financing, erection, and sale or lease of a wind powered electrical generation device on the land, if the project is subject to discretionary action by the City.
- G. The financing or leasing of any parcel of land, or any portion thereof, in conjunction with the construction of commercial or industrial buildings on a single parcel, unless the project is not subject to review under other City ordinance regulating design and improvements.
- H. The financing or leasing of existing separate commercial or industrial buildings on a single parcel.
- I. The construction, financing, or leasing of dwelling units pursuant to Section 65852.1 or second units pursuant to Section 65852.2 of the Government Code; but this chapter shall apply to the sale or transfer, but not the leasing of those units.
- J. Leasing for agricultural purposes, cultivation of food or fiber, and grazing or pasturing of livestock.
- K. Subdivision of four (4) parcels or less for construction of removable commercial buildings having a floor area of less than one hundred (100) square feet.
- L. Any other mandatory exceptions to the applicability of the Subdivision Map Act as provided in the Subdivision Map Act (Sections 66412.1, 66412.2, 66412.5).

**Section 16.02.060 Modification of Requirements:** Whenever, in the opinion of the Planning Commission or the City Council, the land involved in any subdivision is of a size or shape, or is subject to title limitations of record, or is affected by topographical location or environmental conditions, or is to be devoted to a use that is impossible or impractical in the particular case for the subdivider to conform fully to the regulations contained in this chapter, the Planning Commission or the City Council may make modifications as, in its opinion, are reasonably necessary or expedient and in conformity with the Subdivision Map Act.

**Section 16.02.070 Fees and Deposits:** All persons submitting applications for the approval of maps or for other approvals as required by this chapter shall pay fees and/or deposits as provided by this chapter and by the City Council's resolution(s) establishing applicable fees and deposits. Said resolution(s) are hereby incorporated by this reference as though fully set forth herein.

## **Chapter 16.04**

## DEFINITIONS AND RESPONSIBILITIES

### Sections:

- 16.04.010**    **Definitions.**
- 16.04.020**    **Responsibilities.**

**Section 16.04.010 Definitions:** For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined in this article as set forth below. All definitions provided in the General Provisions chapter of this Code, and all definitions provided in the Subdivision Map Act, shall also be applicable to this chapter, and said definitions are hereby incorporated by this reference as though fully set forth herein.

“Acreage” shall mean any parcel of land which is not a lot, as defined in this article, and those areas where a legal subdivision has not been made previously, or where a legal subdivision has declared such parcel as acreage.

“Block” shall mean the area of land within a subdivision, which area is entirely bounded by streets, highways or ways, except alleys, or the exterior boundary or boundaries of the subdivision.

“Business and Professions Code” shall mean the Business and Professions Code of the State of California.

“City street” shall mean any duly dedicated street, avenue, or the like which the City has accepted and regularly maintains, or which the County duly accepted and regularly maintained prior to the incorporation of the City, or upon which public funds have been expended for improvements or right-of-way used by the public generally.

“Collector street” shall mean a street, intermediate in importance between a local street and either a major or secondary thoroughfare, which has the purpose of collecting local traffic and carrying it to a thoroughfare.

“Community apartment project” shall be defined as provided in Section 11004 of the Business and Professions Code.

“Condominium” shall mean an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential, industrial, or commercial building on the real property, such as an apartment, office, or store. A condominium may include, in addition, a separate interest in other portions of the real property.

“Conversion” shall mean the creation of separate ownership of existing real property together with a separate interest in space of residential, industrial, or commercial buildings.

“Day” shall mean a calendar day unless otherwise specified.

“Department” shall mean the Community Development Department.

“Design” shall mean:

1. Street alignments, grades, and widths;

2. Drainage, water, sewer, and sanitary facilities and utilities, including alignments and grades.
3. Location and size of all required easements and rights-of-way;
4. Fire roads and fire breaks;
5. Lot size and configuration;
6. Vehicular and bicycle traffic access;
7. Grading;
8. Land to be dedicated for park or recreational purposes; and
9. Such other specific physical requirements in the plan and configuration of the entire subdivision as may be necessary to ensure consistency with, or implementation of, the General Plan or any applicable specific plan.

“Development” shall mean the uses to which the land which is the subject of a map shall be put, the buildings to be constructed on it, and all alternations of the land and construction incident thereto.

“Easement” shall mean an easement dedicated to the City, which shall be continuing and irrevocable unless formally abandoned by the City, and any other easement whether owned by a public entity, public utility, or a private party.

“Environmental Impact Report (EIR)” shall mean a detailed statement prepared pursuant to the provisions of the California Environmental Quality Act (CEQA), State Public Resources Code Sections 21000 et seq., and State and City CEQA Guidelines promulgated pursuant thereto, describing and analyzing the significant environmental effects of a project and discussing ways to mitigate or avoid the effects.

“Final Map” shall mean a map showing a subdivision of five (5) or more parcels for which a tentative and final map are required by the Subdivision Map Act and this chapter and designed to be filed for recordation in the office of the County Recorder.

“General Plan” shall mean the General Plan of the City of Lakeport, adopted July 20, 1992 [(Resolution 1738 (92)], and all amendments thereto.

“Government Code” shall mean the Government Code of the State of California.

“Improvement” shall mean streets, sidewalks, storm drainage facilities, water and sewer facilities, utilities, landscaping to be installed, or agreed to be installed, by the subdivider on the land to be used for public or private streets, highways, ways, and easements, as are necessary for the general use of the lot owners in the subdivision and local neighborhood traffic and acceptance of the final map thereof. “Improvement” shall also mean other specific improvements, the installation of which, either by or by a combination of, the subdivider, public agencies, private utilities, or any other entity approved by the City, is necessary to ensure consistency with, or implementation of, the General Plan, or any applicable specific plan. Improvements shall be constructed in accordance with standard engineering specifications, where applicable.

“Lot” or “Parcel” shall mean a unit or portion of land separate from other units or portions by description, as on a final map or parcel map, or by such other map approved by the County or by the City under provisions of the Subdivision Map Act and of City ordinances in effect at the time of such approval, for the purpose of sale, lease, or financing.

“Lot Line Adjustment” shall mean a minor shift or rotation of an existing lot line or other adjustment where a greater number of parcels than originally existed is not created.

“Merger” shall mean the joining of two (2) or more contiguous parcels of land under one ownership into one (1) parcel.

“Parcel Map” shall mean a map showing subdivision of four (4) or less parcels as required by the Subdivision Map Act and this chapter, prepared in accordance with the provisions of the Subdivision Map Act and this chapter, and designed to be filed for recordation in the office of the County Recorder.

“Peripheral Street” shall mean a street whose right-of-way is contiguous to the exterior boundary of a subdivision.

“Private Street” shall mean any street, access way, or the like, lying in whole or in part within a subdivision for which dedication and ownership is privately held and is utilized as access to a development. Private streets shall be constructed in accordance with standard engineering specifications.

“Remainder” shall mean that portion of an existing parcel which is not designated on the required map as part of the subdivision. The remainder shall not be considered as part of the subdivision but shall be shown in the required map as part of the area surrounding the subdivision. A remainder of five (5) acres or more need not be shown on the map and its location need not be indicated as a matter of survey, but only by deed reference to the existing boundaries of the remainder.

“Standard Engineering Specifications” shall mean those standard subdivision improvement plans and specifications as prepared and/or approved by the Public Works Director.

“Stock Cooperative” shall be defined as provided in Section 11003.2 of the Business and Professions Code.

“Subdivider” shall mean a person, firm, corporation, partnership, or association who proposes to divide, divides, or causes to be divided real property into a subdivision for oneself or for others. Employees and consultants of such persons or entities, acting in such capacity, are not “subdividers.”

“Subdivision” shall mean the division, by any subdivider, or any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized County assessment roll as a unit or as contiguous units, for the purpose of sale, lease, or financing, whether immediate or future. Property shall be considered as contiguous units, even if it is separated by roads, streets utility easements or railroad rights-of-way. “Subdivision” includes a condominium project, as defined in Section 1350 of the State Civil Code, a community apartment project, as defined in Section 11004 of the Business and Professions Code, and the Conversion of five (5) or more existing dwelling units to a stock cooperative, as defined in Section 11003.2 of the Business and Professions Code. “Subdivision” includes any division of land by gift or inheritance, but excludes a division for probate homestead. Any conveyance of land to a governmental agency, public entity, public utility,

or subsidiary of a public utility for rights-of-way shall not be considered a division of land for purposes of computing the number of parcels.

“Subdivision Map Act” shall mean Government Code Sections 66410 et seq., inclusive.

“Tentative Map” shall mean a map made for the purpose of showing the design and improvements of a proposed subdivision and the existing conditions around it. “Tentative Map” shall include a tentative map prepared in connection with a parcel map pursuant to the provisions of Chapter 16.12 [Subdivisions of four (4) or Less Parcels] of this title.

“Vesting Tentative Map” shall be defined as provided in Section 16.14.030 (A).

**Section 16.04.020 Responsibilities:**

- A. City Attorney. The City Attorney’s responsibilities shall include approving as to form all subdivision improvement agreements and security and all governing documents for a common interest development.
- B. City Council. The City Council shall have final jurisdiction in the approval, conditional approval, or denial of final maps. The City Council shall also have final jurisdiction in the approval, conditional approval, or denial of reversions to acreage.

The City Council shall act as the appeal board for hearing appeals of the Planning Commission approval, conditional approval, or denial of tentative maps and vesting tentative maps. Acceptance of dedications of land easements or improvements in conjunction with the recordation of subdivision maps.

- C. Planning Commission. The Planning Commission’s responsibilities shall include:
  - 1. Approval, conditional approval, or denial of the application for tentative map approval of subdivisions of five (5) or more parcels.
  - 2. The approval, conditional approval, or denial of tentative maps for subdivisions of four (4) or less parcels.
  - 3. The approval of lot line adjustments and voluntary mergers.
  - 4. Determinations of violations of the provisions of the Subdivision Map Act of this chapter.
- D. City Engineering Department. The City Engineering Department responsibilities shall include:
  - 1. Establishing design and construction details, standards, and specifications.
  - 2. Determining if proposed subdivision improvements comply with the provisions of the Subdivision Map Act and this chapter.
  - 3. The processing and certification of final maps, parcel maps, reversion to acreage maps, and amended maps, and the processing and approval of subdivision improvement plans.

4. Examining and certifying that final maps and parcel maps are in substantial compliance with the approved tentative map.
  5. The approval as to form of subdivision improvement agreements.
  6. The inspection, approval, and acceptance of subdivision improvements.
- E. Community Development Department. The Community Development Department's responsibilities shall include:
1. The intake and processing of land use applications for tentative maps.
  2. Determining compliance with the provisions of the Subdivision Ordinance and California Subdivision Map Act.
  3. Assisting the City Engineer in the processing of and certification of final maps and in determining that final maps are in substantial compliance with the approved tentative maps.
  4. Environmental Review and the development of mitigation measures and conditions of approval for subdivisions.

## Chapter 16.06

### MAPS REQUIRED

#### Sections:

- 16.06.010 General**
- 16.06.020 Division of Land-Five (5) or More Parcels**
- 16.06.030 Division of Land-Four (4) or Less Parcels**

**Section 16.06.010 General:** For the purpose of this chapter, the specific requirements for tentative, final, and parcel maps shall be governed by the provisions of this article.

**Section 16.06.020 Division of Land - Five (5) or more parcels:** A tentative and final subdivision map shall be required for all divisions of land into five (5) or more parcels, five (5) or more condominiums, a community apartment project containing five (5) or more parcels, or for the conversion of a dwelling to a stock cooperative containing five (5) or more dwelling units, except where:

- A. The land before division contains less than five (5) acres, each parcel created by the division abuts upon an improved and maintained public street or highway, and no dedications or improvements are required by the legislative body; or
- B. Each parcel created by the division has a gross area of twenty (20) acres or more and has an approved access to a maintained public street or highway; or
- C. The land consists of a parcel or parcels of land having approved access to a public street or highway which comprises part of a tract of land zoned for industrial or commercial development, and which has the approval of the governing body as to street alignments and widths; or

- D. Each parcel created by the division has a gross area of not less than forty (40) acres or is not less than a quarter (1/4) of a quarter (1/4) section.
- E. A parcel map shall be required for those subdivisions described in subdivisions (a), (b), (c), and (d), unless waived by the Planning Commission in accordance with the provisions of Section 16.12.080 of this chapter. (Section 66426)

**Section 16.06.030 Division of Land - Four (4) or less parcels:** A tentative and final parcel map shall be required for all divisions of land into four (4) or less parcels, except that maps shall not be required for:

- A. Subdivisions of a portion of the operating right-of-way of a railroad corporation, defined by Section 230 of the State Public Utilities Code, which are created by short-term leases terminable by either party on not more than thirty (30) days notice in writing.
- B. Land conveyed to or from a governmental agency, public entity, or public utility for conveyance to such public utility for rights-of-way, unless showing is made by the Department in individual cases, upon substantial evidence, that public policy necessitates a parcel map.
- C. A lot line adjustment.
- D. Parcel maps waived by the Planning Commission in accordance with the provisions of Section 16.12.080.

**Chapter 16.08**

**TENTATIVE SUBDIVISION MAPS**

**Sections:**

- 16.08.010 General**
- 16.08.020 Form and Contents**
- 16.08.030 Accompanying Data and Reports**
- 16.08.040 Geotechnical Reports**
- 16.08.050 Street Names**
- 16.08.060 Department Review**
- 16.08.070 Planning Commission Review**
- 16.08.080 City Council Review**
- 16.08.090 Extension of Time for Planning Commission or City Council Action**
- 16.08.100 Appeals of Planning Commission Action**
- 16.08.110 Expiration**
- 16.08.120 Extensions**
- 16.08.130 Amendments to Approved or Conditionally Approved Tentative Map**

**Section 16.08.010 General:** The form and contents, submittal, and approval of tentative maps for subdivisions shall be governed by the provisions of this chapter.

An application for approval of a tentative map pursuant to this chapter shall not be submitted nor accepted for filing unless the subdivider has previously obtained all other necessary

discretionary City approvals for the development that are required pursuant to the City Zoning Ordinance.

**Section 16.08.020 Form and Contents:** The tentative map pursuant to this chapter shall be prepared in a manner acceptable to the Department and shall be prepared by a registered civil engineer or licensed land surveyor. The tentative map shall be clearly and legibly drawn and shall contain not less than the following:

- A. A title which shall contain the subdivision number, subdivision name, and type of subdivision.
- B. Name and address of legal owner, subdivider, and person preparing the map, including registration or license number.
- C. Sufficient legal description to define the boundary of the proposed subdivision.
- D. The names and numbers of adjacent subdivisions and the names of the owners of adjacent unplatted land.
- E. Date, north arrow, scale, contour interval, and source and date of existing contours.
- F. A statement of present zoning and of existing and proposed uses of the property as well as any proposed zoning changes, whether immediate or future.
- G. A vicinity map showing roads, adjoining subdivisions, towns, creeks, railroads, and other data sufficient to locate the proposed subdivision and show its relation to the community.
- H. Existing topography of the proposed site and at least one hundred (100) feet beyond its boundary, including but not limited to:
  1. Existing contours at two (2) foot intervals if the existing ground slope is less than ten percent (10%) and not less than five (5) foot intervals for existing ground slopes equal or greater than ten percent (10%). Contour intervals shall not be spread more than one hundred fifty (150) feet apart. Existing contours shall be represented by dashed lines.
  2. Type, circumference, and dripline of existing trees with a trunk diameter of four (4) inches or more. Any trees proposed to be removed shall be so indicated.
  3. The location and outline of existing structures identified by type. Structures to be removed shall be so indicated.
  4. The approximate location of all areas of potential storm water overflow; the location, width, and direction of flow of each water course; and the flood zone designation as indicated on the Flood Insurance Rate Map ("FIRM").
  5. The location, pavement, and right-of-way width; grade; and name of existing streets or highways.
  6. The widths, location, and identity of all existing easements.
  7. The location and size of existing sanitary sewers, fire hydrants, water mains, and storm drains. The approximate slope of existing sewers and storm drains shall be

indicated. The locations of existing sewers and storm drains shall be indicated. The location of all existing overhead and underground utility lines on peripheral streets shall be indicated.

- I. Proposed improvements to be shown shall include but not be limited to:
  1. The location, grade, centerline radius, and arc length of curves, pavement, right-of-way width, and name of all streets. Typical sections of all streets shall be shown. Proposed private streets shall be clearly indicated.
  2. The location and radius of all curb returns and cul-de-sacs.
  3. The location, width, and purpose of all easements.
  4. The angle of intersecting streets if such angle deviates from a right angle by more than four (4) degrees.
  5. The approximate lot layout and the approximate dimensions of each lot and each building site. Engineering data shall show the approximate finished grading of each lot, the preliminary design of all grading, the elevation of proposed building pads, the top and toe of cut and fill slopes to scale, the number of each lot, and the elevation of adjacent parcels.
  6. Proposed contours at two (2) foot intervals shall be shown if the existing ground slope is less than ten (10%) percent and not less than five (5) foot intervals for existing ground slopes of ten (10%) percent or more. A separate grading plan may be submitted.
  7. Proposed recreation sites, trails, and parks for private or public use.
  8. Proposed common areas to be dedicated to public open space.
  9. The location and size of sanitary sewers, fire hydrants, water mains, and storm drains. Proposed slopes and approximate elevations of sanitary sewers and storm drains shall be indicated. The proposed routing of storm water runoff generated by a 100 year flood shall also be indicated in accordance with the City Storm Drain Master Plan.
  10. A statement as to the intention of the subdivider in regard to slope planting and erosion control.
- J. The name or names of any geologist or soils engineer whose services were required in the preparation of the design of the tentative map.
- K. The size of each sheet shall be eighteen (18) inches by twenty-six (26) inches. A marginal line shall be drawn completely around each sheet, leaving an entirely blank margin of one (1) inch. The scale of the map shall be not less than 1"-100' or as may be necessary to show all details clearly, and enough sheets shall be used to accomplish this end. The particular number of the sheet and the total number of sheets, and its relation to each adjoining sheet shall be clearly shown. When four (4) or more sheets including the certificate sheet are used, a key sheet shall be included. All printing or lettering on the map shall be one-eighth (1/8) inch minimum height and of such shape

and weight as to be readily legible on prints and other reproductions made from the original drawings.

- L. If the subdivider plans to develop the site in units or phrases, the proposed units or phrases and their proposed sequence of construction shall be shown.
- M. The subdivider shall specify any deviation from the City standards and provide the justification for such deviation.
- N. Upon written request of the subdivider, the Department may waive any of the above tentative map requirements if the Department determines that the type of subdivision does not justify compliance with these requirements, or if the Department determines that other circumstances justify a waiver. The Department may require other drawings, data, or information as deemed necessary by the Department to accomplish the purposes of the Subdivision Map Act and this chapter.

**Section 16.08.030 Accompanying Data and Reports:** The tentative map shall be accompanied by the following data reports:

- A. Street Names. A list of proposed street names for any unnamed street or alley for review by the Department.
- B. Soils Report. A preliminary soils report prepared in accordance with the provisions of the Uniform Building Code (adopted herein by reference) and Section 16.08.040 shall be submitted. If the preliminary soils report indicates the presence of critically expansive soils or other soil problems which, if not corrected, would lead to structural defects, the soils report accompanying the final map shall contain an investigation of each lot within the subdivision.
- C. Title Report. A preliminary title report, acceptable to the Department, showing the legal owners at the time of filing the tentative map.
- D. School Site / Facilities. The subdivider shall obtain from the Lakeport Unified School District their intention, in writing, concerning the necessity for a school site and/or temporary and/or permanent school facilities, if any, within the subdivision and shall present this information to the Department prior to the consideration of the tentative map by the Planning Commission.
- E. Environmental Review. Information shall be submitted as required by the Department to allow a determination on environmental review to be made in accordance with CEQA. The subdivider shall deposit and pay all fees as may be required for the preparation and processing of environmental review documents.
- F. Preliminary Engineering Calculations. Information shall be submitted as required by the standard engineering specifications to demonstrate the adequacy of the design of the proposed improvements. Such information shall include design parameters and engineering calculations.
- G. Phasing. A written notice indicating if the subdivider plans to file multiple final maps on the tentative map.
- H. Other Reports. Any other data or reports deemed necessary by the Department.

Paragraph (A) shall not apply to condominium conversions.

**Section 16.08.040 Geotechnical Reports:**

- A. Three (3) copies of preliminary engineering soils report and engineering geology report, prepared by a civil engineer and engineering geologist registered in the State and based upon adequate borings, shall be submitted to the Community Development Director for subdivisions of five (5) or more parcels. The Community Development Director may require that such reports be submitted for subdivisions of four (4) or less parcels when there are facts associated with the land to be divided that there are slope, soil stability, historic cut or fill activity, erosion, or other similar factors evident which require a geotechnical analysis.
- B. A preliminary soils and/or geology report may be waived by the Community Development Director provided the Community Development Director finds that, due to the knowledge the City has as to the soil and geologic conditions in the subdivision, no preliminary analysis is necessary. Such knowledge would include the nature, distribution, and strength of the existing soils, the necessary grading procedures and design criteria for corrective measures, and the geology of the site and the effect of geologic conditions on the proposed development.
- C. If the City has knowledge of, or the preliminary soils and geology reports indicate, the presence of soil or geologic conditions which, if corrective measures are not taken, could lead to structural defects, a soils and/or geologic investigation shall be done by a civil engineer and/or geologist registered in the State who shall recommend regarding the adequacy of the sites to be developed by the proposed grading and the effect of the soil or geologic conditions on the proposed development. The City may approve the subdivision, or portion thereof, where soils or geologic problems exist if the City determines that the recommended actions provide for procedures and design criteria for corrective measures as necessary covering the structures and adequacy of the sites to be developed by the proposed grading. A condition of the issuance of any building permit may require that the approved recommended action be incorporated in the grading plans and/or specifications and, if necessary, the plans and specifications for the construction of each structure.
- D. Where preliminary soils and/or geology reports are prepared, final reports shall be submitted prior to the acceptance of the improvements or the release of occupancy permits indicating the specific actions taken pursuant to the preliminary report recommendations. Such reports shall have sufficient field data submitted to indicate full compliance with the preliminary or subsequent progress report recommendations as they were applied to specific areas or improvements.

**Section 16.08.050 Street Names:** Each street which is to be dedicated which is a continuation of, or approximately the continuation of, any existing dedicated street shall be shown on the tentative map and shall be given the same name as such existing street. The proposed name of each other street shown on the tentative map shall be submitted to the City for the approval in accordance with current City street-naming policies. The approved street name shall be shown on the tentative map.

**Section 16.08.060 Department Review:** The tentative map application shall be filed with the Department. The application shall be determined by the Department to be complete only when the form and contents of the tentative map conform to the requirements of Section 16.08.020 and when all accompanying data and reports, as required by Section

16.08.030, and all fees and/or deposits as required by Section 16.02.070, have been submitted and accepted by the Department. The subdivider shall file with the Department the number of tentative maps the Community Development Director may deem necessary. The Department shall forward copies of the tentative map to the affected public agencies and utilities which may, in turn, forward to the Department their findings and recommendations. Public agencies and utilities shall certify that the subdivision can be adequately served.

**Section 16.08.070 Planning Commission Action:**

- A. Notice of Public Hearing. Upon receipt of a complete tentative map application, the Department shall prepare a report with recommendations. The Department shall set the matter for public hearing before the Planning Commission. A copy of the Department report shall be forwarded to the subdivider at least three (3) days prior to the public hearing, a notice shall be given of the time, date, and street address, if any, of the property involved. The notice shall be published at least once in a newspaper of general circulation, published and circulated in the City.

In addition to notice by publication, the Department shall give notice of the hearing by mail or delivery to the subdivider, the owner of the subject real property, if different from the subdivider, and to all persons, including business, corporations, or other public or private entities, shown on the last equalized assessment roll as owning the subject of the proposed application. The Department shall also give notice of the hearing by mail or delivery to each agency expected to provide water, sewage, streets, roads, schools, or other essential facilities or services to the subdivision, whose ability to provide those facilities and services may be significantly affected. A proposed conversion of residential real property to a condominium, community apartment, or stock cooperative project shall be noticed in accordance with Section 66451.3 of the Subdivision Map Act.

In the event that the proposed application has been submitted by a person other than the property owner shown on the last equalized assessment roll, the City shall also give notice by mail or delivery to the owner of the property as shown on the last equalized assessment roll. In addition, notice shall be given by mail or personal delivery request to any person who has filed a written request with the City. The request may be submitted at any time during the calendar year and shall apply for the balance of the calendar year.

The Department may give such other notice that it deems necessary or advisable.

Substantial compliance with these provisions for notice shall be sufficient, and a technical failure to comply shall not affect the validity of any action taken according to the procedures in this article.

- B. Action. The Planning Commission shall approve, conditionally approve, or deny the tentative map, and the Department shall report the decision of the Planning Commission to the City Council and the subdivider within fifty (50) days after the tentative map application has been determined by the Department to be complete. If an environmental impact report is prepared, the decision shall be made forty-five (45) days after certification of the environmental impact report.
- C. Approval. The tentative map may be approved or conditionally approved by the Planning Commission if it finds that the proposed subdivision, together with the provisions for its design and improvement, is consistent with the General Plan, any applicable specific plan, and all applicable provisions of this Code. The Planning

Commission may require as a condition of its approval that the payment by the subdivider of all development fees required to be paid at the time of application for, or issuance of, a building permit or other similar permit shall be made at the rate for such fees in effect at the time of such application or issuance.

The Planning Commission may modify or delete any of the conditions of approval recommended in the Department's report. The Planning Commission may add additional requirements as conditions of its approval in order to protect the public's health, safety, and welfare.

If no action is taken by the Planning Commission within the time limits specified in this section, the tentative map, as filed, shall be deemed to be approved if it complies with all other applicable provisions of the Subdivision Map Act, this chapter, this Code, and the General Plan.

- D. Denial. The tentative map may be denied by the Planning Commission on any of the grounds provided by the Subdivision Map Act or this Code. The Planning Commission shall deny approval of the tentative map if it makes any of the following findings:
1. That the proposed map is inconsistent with the General Plan or any applicable specific plan, or other applicable provisions of this Code;
  2. That the site is not physically suitable for the type of proposed development;
  3. That the site is not physically suitable for the proposed density of development;
  4. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantial and avoidable injury to fish or wildlife or their habitat. Notwithstanding the foregoing, the Planning Commission may approve such a tentative map if an environmental impact report was prepared with respect to the project and a finding was made pursuant to Section 21081 (c) of CEQA that specific economic, social, or other considerations make infeasible the mitigation measures or project alternative identified in the environmental impact report;
  5. That the design of the subdivision or the type of improvements are likely to cause serious public health problems;
  6. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. The Planning Commission may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction, and no authority is hereby granted to the Planning Commission to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision; or
  7. Subject to Section 66474.4 of the Subdivision Map Act, that the land is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (commencing with Section 51200 of the Government Code) and that resulting parcels following a subdivision of the land would be too small to sustain their agricultural use. (Section 66574)

**Section 16.08.080 City Council Review:** If a tentative map is approved or conditionally approved, the Department shall forthwith make a written report thereof to the City Council. Any member of the City Council shall have the right to call up the tentative map for the City Council review at a City Council meeting or by a request to the Community Development Director, either of which must be within ten (10) days of the final action by the Planning Commission. If the Council, by a majority vote, decides to review the map, it shall conduct a public hearing after giving notice pursuant to Section 16.08.070 (A). Such decision to review shall be made within 10 days after such request is made. In addition, notice shall be given to the Planning Commission. The public hearing shall be held within thirty (30) days after the Council decides to review the map. The Council may add, modify, or delete conditions if the Council determines that such changes are necessary to ensure that the tentative map conforms to the Subdivision Map Act and this Code. The City Council may deny the tentative map on any grounds contained in Section 16.08.070 (D). Within ten (10) days following the conclusion of the hearing, the City Council shall render its decision. If the City Council does not act within the time limits set forth in this section, the tentative map shall be deemed to have been approved or conditionally approved as last approved or conditionally approved by the Planning Commission insofar as it complies with all other applicable provisions of the Subdivision Map Act, this Ordinance, and the General Plan.

**Section 16.08.090 Extension of Time for Planning Commission or City Council Action:** Any applicable time limits for acting on the tentative map application may be extended by mutual consent of the subdivider and the Planning Commission or the City Council.

**Section 16.08.100 Appeals of Planning Commission Action:** The subdivider or any interested person adversely affected by any Planning Commission action with respect to the tentative map may, within ten (10) days after the written decision, file an appeal in writing with the City Clerk or the Community Development Director. The City Council shall consider the appeal within thirty (30) days after the date of filing of the appeal, unless the appellant consents to a continuance. Within ten (10) days following the conclusion of the hearing, the City Council shall render its decision. The appeal shall be a public hearing after notice has been given according to Section 16.08.070 (A). In addition, notice shall be given to the Planning Commission. The Council may sustain, modify, reject, or overrule any recommendations or rulings of the Planning Commission and may make any findings which are consistent with the provisions of the Subdivision Map Act, this chapter, this Ordinance, and the General Plan.

If the City Council fails to act upon an appeal within the time limits set forth in this section, the tentative map shall be deemed to be approved or conditionally approved as last approved by the Planning Commission insofar as it complies with all other applicable provisions of the Subdivision Map Act, this chapter, this Code, and the General Plan.

**Section 16.08.110 Expiration:**

- A. The approval or conditional approval of a tentative map shall expire twenty-four (24) months from its approval by either the Planning Commission or City Council, whichever occurs last. However, if in connection with a tentative map for which the filing of multiple final maps is authorized pursuant to Section 16.10.020, the subdivider is made subject to a requirement of one hundred thousand dollars (\$100,000) or more to construct or improve or finance the construction or improvement of public improvements outside the boundaries of the tentative map, or if the tentative map is on property subject to a development agreement authorized by Section 65864 et seq. of the Government Code,

then the expiration date shall be extended in accordance with Section 66452.6 (a) of the Subdivision Map Act. An extension to the expiration date may also be approved as provided in Section 16.08.120.

- B. The period of time specified in (A) above shall not include any period of time during which a lawsuit has been filed and is pending in a court of competent jurisdiction involving the approval or conditional approval of a tentative map only if a stay of the time period is approved by the Planning Commission. After service of the initial petition or complaint upon the City, the subdivider shall, in writing to the Community Development Director, request a stay in the time period of the tentative map. Within forty (40) days after receiving the request, the Planning Commission shall either stay the time period request for up to five (5) years or deny the requested stay. The request for the stay shall be a hearing with notice to the subdivider and to the appellant, and upon conclusion of the hearing, the Planning Commission shall, within ten (10) days, render its decision. The subdivider or any interested person may appeal action of the Planning Commission on the stay to the City Council within ten (10) days of such action in accordance with Section 16.08.100.
- C. The period of time specified in (A) above shall not include any period of time during which a development moratorium is in effect according to Section 66452.6 of the Subdivision Map Act. (Section 66452.6)

**16.08.120 Extensions:**

- A. Request by Subdivider. The subdivider may request an extension of the expiration date of the approved or conditionally approved tentative map by written application to the Department. The application shall be filed not less than thirty (30) days before the map is to expire and shall state the reasons for requesting the extension.
- B. Planning Commission Action. The Department shall review the request and submit the application for the extension, together with a report, to the Planning Commission for approval, conditional approval, or denial at the next regularly scheduled Planning Commission meeting. A copy of the Department's report shall be forwarded to the subdivider prior to the Planning Commission meeting on the extension. In approving, conditionally approving, or denying the request for extension, the Planning Commission shall make findings supporting its decision, including findings with respect to the potential impact of any increases on applicable development fees which have occurred since the date of the approval or conditional approval of the tentative map.
- C. Time Limit of Extensions. The time at which the tentative map expires may be extended by the Planning Commission for a period not exceeding a total of three (3) years.
- D. Appeal of Extension. The subdivider or any interested person adversely affected may appeal any action of the Planning Commission of the extension to the City Council in accordance with Section 16.08.100, except that any such appeal shall be filed within fifteen (15) days after the action by the Planning Commission. If the Council does not act within the time limits set forth in Section 16.08.100, the extension shall be deemed to have been approved or conditionally approved as approved by the Planning Commission, insofar as the tentative map complies with all other applicable provisions of the Subdivision Map Act, this chapter, this Code and the General Plan.

**16.08.130 Amendments to approved or conditionally approved tentative map:** Minor amendments to the approved or conditionally approved tentative map or conditions of

approval may be approved by the Department upon application by the subdivider or on the Department's own initiative, provided:

- A. No lots, units, or building sites or structures are added;
- B. Changes are consistent with the intent and spirit of the original tentative map approval;
- C. There are no resulting violations of this Code or the Subdivision Map Act.

Amendments approved by staff shall be referred to the City Planning Commission.

The amendment(s) shall be indicated on the approved or conditionally approved tentative map and certified by the Community Development Director. Amendments to the tentative map conditions of approval which, in the opinion of the Department, are not minor, shall be presented to the Planning Commission for its approval. Processing shall be in accordance with the provisions for processing a tentative map as set forth in this article. Any approved amendment shall not alter the expiration date of the tentative map.

## **Chapter 16.10**

### **FINAL SUBDIVISION MAPS – FIVE (5) OR MORE PARCELS**

(Section 66433 et seq.)

#### **Sections:**

- 16.10.010 General**
- 16.10.020 Phasing**
- 16.10.030 Survey Required**
- 16.10.040 Form**
- 16.10.050 Contents**
- 16.10.060 Preliminary Submittal for City Approval**
- 16.10.070 Review by City Engineer**
- 16.10.080 Approval by City Engineer**
- 16.10.090 Approval by City Council**
- 16.10.100 Denial by City Council**
- 16.10.110 Filing with the County Recorder**

**Section 16.10.010 General:** The form, contents, accompanying data, and filing of the final map shall conform to the provisions of the Subdivision Map Act and this article.

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

**Section 16.10.020 Phasing:** Multiple final maps relating to an approved or conditionally approved tentative map may be filed prior to the expiration of the tentative map if the subdivider, at the time the tentative map application is filed, notifies the Community Development Director in writing of the subdivider's intention to file multiple final maps on the tentative map in accordance with Section 16.08.030 (G). In providing the notice, the subdivider shall not be required to define the number or configuration of the proposed multiple maps. The Planning Commission shall approve the sequence of map approvals.

After filing of the tentative map application, the Community Development Director, the City Engineer and the subdivider shall concur in the filing of multiple final maps.

The filing of a final map on a portion of an approved or conditionally approved tentative map shall not invalidate any part of the tentative map. Each final map which constitutes a part, or unit, of the approved or conditionally approved tentative map shall have a separate subdivision number. The subdivision improvement agreement executed by the subdivider shall provide for the construction improvements as required to constitute a logical and orderly development of the whole subdivision.

**Section 16.10.030 Survey Required:** An accurate and complete survey of the land to be subdivided shall be made by a registered civil engineer or licensed land surveyor. All monuments, property lines, center lines of streets, alleys, and easements adjoining or within the subdivision shall be tied into the survey. The allowable error of closure on any portion of the final map shall not exceed 1/10,000 for filed closures and 1/20,000 for calculated closures.

**Section 16.10.040 Form:** The form of the final map shall conform to the Subdivision Map Act and as follows:

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

The size of each sheet shall be eighteen (18) inches by twenty-six (26) inches. A marginal line shall be drawn completely around each sheet, leaving an entirely blank margin of one (1) inch. The scale of the map shall be not less than 1"-100' or as may be necessary to show all details clearly, and enough sheets shall be used to accomplish this end. The particular number of the sheet and the total number of the sheet and the total number of sheets comprising the map shall be stated on each of the sheets, and its relation to each adjoining sheet shall be clearly shown. When four (4) or more sheets including the certificate sheet are used, a key sheet shall be included. All printing or lettering on the map shall be of one-eighth (1/8) inch minimum height and of such shape and weight as to be readily legible in prints and other reproductions made from the original drawings. The final form of the final map shall be as approved by the City Engineer.

**Section 16.10.050 Contents:** The contents of the final map shall conform to the Subdivision Map Act and as follows:

- A. **Boundary.** The boundary of the subdivision shall be designated by heavy black line in such a manner as not to obliterate figures or other data.
- B. **Title.** Each sheet shall have a title showing the subdivision number and name and the location of the property being subdivided with reference to maps which have been previously recorded, or by reference to the plat of a United States Survey. The following words shall appear in the title, "City of Lakeport, Lake County."
- C. **Certificates and Acknowledgements.** All certificates and acknowledgements shall be made as required by Article 2, Chapter 2 (Sections 66433 et seq.) of the Subdivision Map Act and shall appear only once on the cover sheet.

- D. Scale, North Point and Basis of Bearings. There must appear on each map sheet the scale, the north point, and the basis of bearings based on Zone II of the California Coordinates, and the equation of the bearing to true north. The basis of bearings shall be approved by the City Engineer.
- E. Linear, Angular, and Radial Data. Sufficient linear, angular, and radial data shall be shown to determine the bearings and lengths of monument lines, street centerlines, the boundary lines of the subdivision, the boundary lines in every lot and parcel which is a part of the subdivision, and ties to existing monuments used to establish the boundary. Arc length radius and total central angle and radial bearings of all curbs shall be shown. Ditto marks shall not be used in the dimensions and data shown on the map.
- F. Monuments. The location and description of all existing and proposed monuments shall be shown. Standard City monuments shall be shown. Standard City monuments shall be set at, or on City Engineer approved offsets, the following locations:
1. The intersection of street centerlines;
  2. Beginning and end of curves of intersection of tangents in centerlines;
  3. At other locations as may be required by the City Engineer.
- G. Lot Numbers. Lot numbers shall begin with the number one (1) in each subdivision and shall continue consecutively with no omissions or duplicates except where contiguous lands, under the same ownership, are being subdivided in successive units, in which event lot numbers may begin with the next consecutive number following the last number in the preceding unit. Each lot shall be shown entirely on one (1) sheet of the final map, unless approved by the City Engineer.
- H. Adjoining Properties. The adjoining corners of all adjoining subdivisions shall be identified by subdivision number, or name when not identified by official number, and reference to the book and page of the filed map showing such subdivision; and if no subdivision is adjacent, then by the name of the owner and reference to the recorded deed by book and page number for the last record owner.
- I. City Boundaries. City boundaries which cross or join the subdivision shall be clearly designated.
- J. Street Names. The names of all streets, alleys, or highways within or adjoining the subdivision shall be shown.
- K. Easements and Dedications. Easements and dedications for roads or streets, paths, alleys, utilities, local transit facilities, storm water drainage, sanitary sewers, or other public use as may be required, shall be dedicated to the public for acceptance by the City or other public agency, and the use shall be specified on the map.

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

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

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

1. Greenbelt Areas. Greenbelt areas may be shown, subject to the approval of the City. Public greenbelt areas shall be dedicated in the fee unless otherwise specified in the approval or conditional approval of the tentative map. Private greenbelt areas shall be dedicated as open space easements unless otherwise specified in the approval or conditional approval of the tentative map.

**Section 16.10.060 Preliminary Submittal for City Approval:** The subdivider shall submit prints of the final map to the City Engineer for checking. The preliminary prints shall be accompanied by the following data, plans, reports, and documents in a form as approved by the City Engineer and, where applicable, the City Attorney:

- A. Improvement Plans. Improvement plans as required by Section 16.18.060.
- B. Soils Report. A soils report prepared in accordance with the Uniform Building Code.
- C. Title Report. A title report showing the legal owners at the time of submittal of the final map.
- D. Tax Certificate. A certificate from the County Tax Collector stating that all taxes due have been paid or that a tax bond or other adequate form of security assuring payments of all access which are liens but not yet payable has been filed with the County.
- E. Deeds for Easements or Right-of-Way. Deeds for off-site easements or rights-of-way required for road or drainage purposes which have not been dedicated on the final map. Written evidence acceptable to the City in the form of rights of entry or permitting or granting access to perform necessary construction work and permitting the maintenance of the facility.
- F. Transverse Closures. Transverse closures for the boundary blocks, lots, easements, street centerlines, and monument lines.
- G. Hydrology and Hydraulic Calculations. Complete hydrology and hydraulic calculations of all storm drains and flood flow.
- H. Governing Documents. The submittal of the final map or parcel map for a common interest development within the meaning of Section 1350 et seq. of the State Civil Code shall include the proposed Declaration of Covenants, Conditions, and Restrictions containing the provisions described in Section 1353 of the Civil Code, and all other governing documents for the subdivision as are appropriate pursuant to Section 1363 of the Civil Code. The submittal of the final map or parcel map for all subdivisions other than a common interest development shall include and Declaration of Covenants, Conditions, and Restrictions proposed in connection therewith. All documents shall be subject to review and approval by the City Engineer and City Attorney.
- I. Guarantee of Title. A guarantee of title, in a form acceptable to the City Engineer and City Attorney, shall be issued by a competent title company to and for the benefit and protection of the City and shall be considered complete up to the instant of recording of the final map, guaranteeing that the names of all persons whose consent is necessary to

pass a clear title to the land being subdivided and all public easements being offered for dedication, and all acknowledgements thereto, appear on the proper certificates are correctly shown on the map, both as to consents as to the making thereof and affidavits of dedication where necessary.

- J. Improvement Agreement. In the event sewer, water, drainage, grading, paving, or other improvements required pursuant to Section 16.18.020 have not been completed prior to the presentation of the final map, an agreement in accordance with the requirements of Section 16.18.070 shall be filed for the improvement thereof. The subdivider shall secure the performance of the agreement in accordance with the requirements of Section 16.18.080.
- K. Liability Agreement and Insurance. A hold-harmless agreement obligating the subdivider to hold the City and its officers, agents, and employees harmless from any liability for damages or claims for damages for personal injury or death which arise from the operations of the subdivider and/or the subdivider's subcontractors in connection with the subdivision. A certificate of insurance reporting to the City the amount of insurance the subdivider carries for the subdivider's own liability for damages or claims for damages for personal injury or death which arise from the operations of the subdivider or his subcontractors in connection with the subdivision. The certificate of insurance shall name the City as an additional insured. The agreement and certificates required by this subsection shall be subject to prior review and approval by the City Engineer and City Attorney.
- L. Any additional data, reports, or information as required by the City Engineer or City Attorney.

**Section 16.10.070 Review by City Engineer:** The City Engineer shall review the subdivision map and any other required information and the subdivider shall make corrections and/or additions until acceptable to the City Engineer. Subdivision Map checking and review fees shall be charged by the City Engineer in accordance with a Resolution adopted by the Lakeport City Council.

**Section 16.10.080 Approval by City Engineer:** The subdivider shall submit to the City Engineer the original tracing of the map and any duplicates per City requirements, corrected to its final form and signed by all parties required to execute the certificates on the map. Original signatures shall appear on the original drawing and on the blue-line duplicate. Upon receipt of all required certificates and submittals, the City Engineer shall sign the appropriate certificates and transmit the original map to the City Clerk.

**Section 16.10.090 Approval by City Council:** The final map approved by the City Engineer as complying with the approved or conditionally approved tentative map shall be filed with the City Council for approval after all required certificates have been signed. The date the map shall be deemed filed with the City Council is the date on which the City Clerk receives the map. Before approving the final map, the City Council shall consider approval of the subdivision improvement agreement in accordance with the requirements of Section 16.18.070.

If the subdivision improvement agreement and final map are approved by the City Council, it shall instruct the City Clerk to execute the agreement on behalf of the City. At the time the City Council approves the final map, it shall also accept, accept subject to improvement, or reject any offer of dedication. The City Clerk shall certify in the final map the action by the City Council. If at the time the final map is approved, any streets, paths, alleys, public utility easements, rights-of-way for local transit facilities, or storm drainage easements are not accepted by the City Council, the offer of dedication shall remain open and the City Council

may, by resolution at any later date, and without further action by the subdivider, rescind its action and accept and open the streets, paths, alleys, rights-of-way for local transit facilities, or storm drainage easements, which acceptance shall be recorded in the office of the County Recorder.

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

If the subdivision improvement agreement and/or final map is unacceptable, the City Council shall make its recommended corrections, instruct the City Engineer to draft a new agreement and/or revise the final map, and defer approval until an acceptable agreement and/or final map has been resubmitted.

The City Council shall not postpone or refuse approval of a final map because the subdivider has failed to meet a tentative map condition requiring construction or installation of off-site improvements on land which neither the subdivider nor the City has sufficient title or interest to permit the improvements to be made. In such a case, the City shall follow the procedure according to Section 16.18.020 (J).

**Section 16.10.100 Denial by City Council:** The City Council shall not deny approval of the final map if the City has previously approved a tentative map for the proposed subdivision and if the City Council finds that the final map is in compliance with the requirements of the Subdivision Map Act, this chapter, and the tentative map and all conditions thereof.

**Section 16.10.110 Filing with the County Recorder:** Upon approval of the final map by the City Council, the City Clerk shall execute the appropriate certificate on the certificate sheet and shall, subject to the provisions of Section 66464 of the Subdivision Map Act, transmit the map, or have an authorized agent forward the map, to the County Recorder.

## **Chapter 16.12**

### **SUBDIVISION OF FOUR (4) OR LESS PARCELS- PARCEL MAPS**

#### **Sections:**

- 16.12.010 General**
- 16.12.020 Form and Contents, Accompanying Data, and Reports**
- 16.12.030 Department Review**
- 16.12.040 Geotechnical Reports**
- 16.12.050 Street Names**
- 16.12.060 Department Review**
- 16.12.070 Action by the Planning Commission**
- 16.12.080 Appeals of Planning Commission Action**
- 16.12.090 Expiration and Extensions**
- 16.12.100 Amendments to Approved or Conditionally Approved Tentative Map**
- 16.12.110 Waiver of Parcel Map Requirements and Waiver of Tentative and Final Maps for Condominium Project on Single Parcel**
- 16.12.120 Parcel Maps**

**Section 16.12.010 General:** The form and contents, submittal and approval of applications for the tentative parcel maps for four (4) or less parcels shall be governed by the provisions of this Article.

An application for approval of a tentative parcel map pursuant to this article shall not be submitted nor accepted for filing unless the subdivider has previously obtained all other necessary discretionary City approvals for the development that are required pursuant to the applicable provisions of this Code.

**Section 16.12.020 Form and Contents, Accompanying Data, and Reports:** A tentative parcel map shall be prepared in a manner acceptable to the Department by a registered civil engineer, a licensed land surveyor, or other property owner agent. The tentative parcel map shall be clearly and legibly drawn and shall contain not less than the following:

- A. A title which shall contain the parcel map number, parcel map name, and type of parcel map.
- B. Name and address of legal owner, subdivider, and person preparing the map, including registration or license number.
- C. Sufficient legal description to define the boundary of the proposed parcel map.
- D. The names and numbers of adjacent subdivisions and the names of the owners of adjacent unplatted land.
- E. Date, north arrow, scale, contour interval, and source and date of existing contours.
- F. A statement of present zoning and of existing and proposed uses of the property as well as any proposed zoning changes, whether immediate or future.
- G. A vicinity map showing roads, adjoining subdivisions, County areas, creeks, and other data sufficient to locate the proposed parcel map and show its relation to the community.
- H. Existing topography of the proposed site and at least fifty (50') feet beyond its boundary, including but not limited to:
  - 1. Existing contours at two (2) foot intervals if the existing ground slope is less than ten percent (10%) and not less than five (5) foot intervals for existing ground slopes equal or greater than ten percent (10%). Contour intervals shall not be spread more than one hundred fifty (150) feet apart. Existing contours shall be represented by dashed lines.
  - 2. Type, circumference, and dripline of existing trees with a trunk diameter of four (4) inches or more. Any trees proposed to be removed shall be so indicated.
  - 3. The location and outline of existing structures identified by type. Structures to be removed shall be so indicated.

4. The approximate location of all areas of potential storm water overflow; the location, width, and direction of flow of each water course; and the flood zone designation as indicated on the Flood Insurance Rate Map ("FIRM").
  5. The location, pavement, and right-of-way width; grade; and name of existing streets or highways.
  6. The widths, location, and identity of all existing easements.
  7. The location and size of existing sanitary sewers, fire hydrants, water mains, and storm drains. The approximate slope of existing sewers and storm drains shall be indicated. The locations of existing sewers and storm drains shall be indicated. The location of all existing overhead and underground utility lines on peripheral streets shall be indicated.
- I. Proposed improvements to be shown shall include but not be limited to:
1. The location, grade, centerline radius, and arc length of curves, pavement, right-of-way width, and name of all streets. Typical sections of all streets shall be shown. Proposed private streets shall be clearly indicated.
  2. The location and radius of all curb returns and cul-de-sacs.
  3. The location, width, and purpose of all easements.
  4. The angle of intersecting streets if such angle deviates from a right angle by more than four (4) degrees.
  5. The approximate lot layout and the approximate dimensions of each lot and each building site. Engineering data shall show the approximate finished grading of each lot, the preliminary design of all grading, the elevation of proposed building pads, the top and toe of cut and fill slopes to scale, the number of each lot, and the elevation of adjacent parcels.
  6. Proposed contours at two (2) foot intervals shall be shown if the existing ground slope is less than ten (10%) percent and not less than five (5) foot intervals for existing ground slopes of ten (10%) percent or more. A separate grading plan may be submitted.
  7. Proposed recreation sites, trails, and parks for private or public use.
  8. Proposed common areas to be dedicated to public open space.
  9. The location and size of sanitary sewers, fire hydrants, water mains, and storm drains. Proposed slopes and approximate elevations of sanitary sewers and storm drains shall be indicated. The proposed routing of storm water runoff generated by a 100 year flood shall also be indicated in accordance with the City Storm Drain Master Plan.
  10. A statement as to the intention of the subdivider in regard to slope planting and erosion control.

- J. The name or names of any geologist or soils engineer whose services were required in the preparation of the design of the tentative map.
- K. The size of the tentative parcel map shall be at least eleven (11") inches by seventeen (17") inches. A marginal line shall be drawn completely around each sheet, leaving an entirely blank margin of one (1) inch. The scale of the map shall be not less than 1"-100' or as may be necessary to show all details clearly, and enough sheets shall be used to accomplish this end. The particular number of the sheet and the total number of sheets, and its relation to each adjoining sheet shall be clearly shown. When four (4) or more sheets including the certificate sheet are used, a key sheet shall be included. All printing or lettering on the map shall be one-eighth (1/8) inch minimum height and of such shape and weight as to be readily legible on prints and other reproductions made from the original drawings.
- L. The subdivider shall specify any deviation from the City standards and provide the justification for such deviation.
- M. Upon written request of the subdivider, the Department may waive any of the above tentative parcel map requirements if the Department determines that the type of parcel map does not justify compliance with these requirements, or if the Department determines that other circumstances justify a waiver. The Department may require other drawings, data, or information as deemed necessary by the Department to accomplish the purposes of the Subdivision Map Act and this chapter.

**Section 16.12.030 Accompanying Data and Reports:** The tentative parcel map shall be accompanied by the following data reports:

- A. Street Names. A list of proposed street names for any unnamed street or alley for review by the Department.
- B. Soils Report. A preliminary soils report prepared in accordance with the provisions of the Uniform Building Code (adopted herein by reference) and Section 16.08.040 may be required to be submitted. If the preliminary soils report indicates the presence of critically expansive soils or other soil problems which, if not corrected, would lead to structural defects, the soils report accompanying the final map shall contain an investigation of each lot within the parcel map.
- C. Title Report. A preliminary title report, acceptable to the Department, showing the legal owners at the time of filing the tentative parcel map.
- D. Environmental Review. Information shall be submitted as required by the Department to allow a determination on environmental review to be made in accordance with CEQA. The subdivider shall deposit and pay all fees as may be required for the preparation and processing of environmental review documents.
- E. Preliminary Engineering Calculations. Information shall be submitted as required by the standard engineering specifications to demonstrate the adequacy of the design of the proposed improvements. Such information shall include design parameters and engineering calculations.
- F. Other Reports. Any other data or reports deemed necessary by the Department.

**Section 16.12.040 Geotechnical Reports:**

- A. If determined to be necessary, three (3) copies of preliminary engineering soils report and engineering geology report, prepared by a civil engineer and engineering geologist registered in the State and based upon adequate borings, shall be submitted to the Community Development Director. Said need shall be based on a finding that there are facts associated with the land to be divided that there are slope, soil stability, historic cut or fill activity, erosion, or other similar factors evident which require a geotechnical analysis.
- B. If the City has knowledge of, or the preliminary soils and geology reports indicate, the presence of soil or geologic conditions which, if corrective measures are not taken, could lead to structural defects, a soils and/or geologic investigation shall be done by a civil engineer and/or geologist registered in the State who shall recommend regarding the adequacy of the sites to be developed by the proposed grading and the effect of the soil or geologic conditions on the proposed development. The City may approve the parcel map, or portion thereof, where soils or geologic problems exist if the City determines that the recommended actions provide for procedures and design criteria for corrective measures as necessary covering the structures and adequacy of the sites to be developed by the proposed grading. A condition of the issuance of any building permit may require that the approved recommended action be incorporated in the grading plans and/or specifications and, if necessary, the plans and specifications for the construction of each structure.
- C. Where preliminary soils and/or geology reports are prepared, final reports shall be submitted prior to the acceptance of the improvements or the release of occupancy permits indicating the specific actions taken pursuant to the preliminary report recommendations. Such reports shall have sufficient field data submitted to indicate full compliance with the preliminary or subsequent progress report recommendations as they were applied to specific areas or improvements.

**Section 16.12.050 Street Names:** Each street which is to be dedicated which is a continuation of, or approximately the continuation of, any existing dedicated street shall be shown on the tentative parcel map and shall be given the same name as such existing street. The proposed name of each other street shown on the tentative map shall be submitted to the City for the approval in accordance with current City street-naming policies. The approved street name shall be shown on the tentative map.

**Section 16.12.060 Department Review:** The tentative parcel map application shall be filed with the Department for review in accordance with the provisions of Section 16.08.060.

**Section 16.12.070 Action by the Planning Commission**

- A. Upon receipt of a tentative parcel map application that is determined by the Department to be complete, the Department shall prepare a report and set the matter for a public hearing before the Planning Commission in accordance with the provisions of Section 16.08.070 (A), or before the Planning Commission in accordance with subsection (B) of this section.
- B. The tentative parcel map may be approved, conditionally approved, or denied by the Planning Commission, as the case may be, in accordance with the provisions and findings set forth in Section 16.08.070 (B), (C) and (D).

**Section 16.12.080 Appeals of the Planning Commission Action:** Appeals of the Planning Commission action with respect to the tentative parcel map shall be made to the City Council in accordance with the provisions of Section 16.08.100.

**Section 16.12.090 Expiration and Extensions:** The approval or conditional approval of a tentative parcel map shall expire twenty-four (24) months from its approval by the Planning Commission or City Council whichever occurs last, unless the expiration date is extended in accordance with the provisions of Section 16.08.120, except that the Planning Commission shall be responsible for the review of the request. The Planning Commission may approve, conditionally approve, or deny the request for an extension. The subdivider or any interested person adversely affected may appeal the action of the Planning Commission and then to the City Council in accordance with the provisions of Section 16.08.120.

**Section 16.12.100 Amendments to Approved or Conditionally Approved Tentative Parcel Map:** Amendments to the approved or conditionally approved tentative parcel map or conditions of approval shall be made in accordance with Section 16.08.130; provided that amendments which, in the opinion of the Department, are not minor, shall be presented to the Planning Commission for its approval. Processing shall be in accordance with the provisions for processing a tentative map as set forth in this article. Any approved amendment shall not alter the expiration date of the tentative map.

**Section 16.12.110 Waiver of Parcel Map Requirements and Waiver of Tentative and Final Maps for Condominium Project on Single Parcel. (Section 66428):** The Planning Commission may, at its discretion, waive all or part of the requirements for a tentative and parcel map for the following:

- A. Division of real property or interests therein created by probate, eminent domain procedures, partition, or other civil judgments or decrees.
- B. Division of real property resulting from the conveyance of land or any interest therein to or from the City, public entity or public utility for a public purpose, such as school sites, public building sites, or rights-of-way or easements for streets, sewers, utilities, drainage, etc.
- C. Division of real property which has been merged pursuant to this chapter, the Subdivision Map Act, or any prior ordinance of the City.
- D. Any other division of real property which would otherwise require a parcel map.

The Planning Commission shall make a finding that the proposed division of land complies with requirements as to area, improvement and design, flood water drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection, and other requirements of the Subdivision Map Act, this chapter, this Code and the General Plan.

Upon waiver of the parcel map requirement, or the tentative and parcel map requirement, pursuant to this section, the City Engineer shall file with the County Recorder a certificate of compliance for the land to be divided, in accordance with Section 16.26.030 (B), and a plat map showing the division. The certificate shall include a tax certificate by the County Tax Collector in accordance with Section 16.10.060 (D).

A waiver by the Planning Commission may be conditioned to provide for, among other things, payment by the subdivider for parkland dedication, drainage, and other fees that are permitted by law by a method approved by the Planning Commission. (Section 55428)

If any waiver is approved or conditionally approved pursuant to this section, the Department shall make a written report thereof to the City Council. Any member of the City Council shall have the right to call up that waiver approval for review by a written request to the Community Development Director within ten (10) days of the final action by the Planning Commission. If the City Council decides to review the waiver and conditions, it shall conduct a public hearing after giving notice pursuant to Section 16.08.070 (A). In addition, notice shall be held within thirty (30) days after the date of the request for review. The City Council may add, modify, or delete conditions if the City Council determines that such changes are necessary to ensure that the waiver conforms to the Subdivision Map Act and this Code. The City Council may deny the waiver on any of the grounds contained in this chapter. Within ten (10) days following the conclusion to the hearing, the City Council shall render its decision. If the City Council does not act within the time limits set forth in this section, the waiver shall be deemed to have been approved or conditionally approved as last approved or conditionally approved by the Planning Commission insofar as it complies with all other applicable provisions of the Subdivision Map Act, this chapter, this Code and the General Plan.

**Section 16.12.120 Parcel Maps. (Sections 66428 et seq.):** Upon approval of a tentative parcel map, the subdivider shall prepare a parcel map for City approval and filing. The form and content, submittal, approval, and filing of parcel maps shall conform to the provisions of the Subdivision Map Act and this section.

- A. Survey Required. An accurate and complete survey of the land to be subdivided shall be made by a registered civil engineer or licensed land surveyor. All monuments, property lines, centerlines of streets, alleys, and easements adjoining or within the subdivision shall be tied into the survey. The allowable error of closure on any portion of the parcel map shall not exceed 1/10,000 for filed closures and 1/20,000 for calculated closures.
- B. Form and Contents. The form and content of the parcel map shall conform to the final map form and contents requirements of Section 16.10.040 and Section 16.10.050.
- C. Preliminary Submittal. The subdivider shall submit prints of the parcel map to the City Engineer for checking. The preliminary prints shall be accompanied by copies of the data, plans, reports, and documents as required for final maps by Section 16.10.060.

The City Engineer may waive any of the requirements if the location and nature of the proposed subdivision does not justify compliance with the requirements of Section 16.10.060

- D. Review by City Engineer: The City Engineer shall review the parcel map and any other required information and the subdivider shall make corrections and/or additions until acceptable to the City Engineer. Parcel map checking and review fees shall be charged by the City Engineer in accordance with a Resolution adopted by the Lakeport City Council.
- E. Review and Approval by City Council. The City Council shall review the parcel map and the subdivider shall make corrections and/or additions until the map is acceptable to the City Council. The subdivider shall submit the original tracing of the map, corrected to its final form and signed by all parties required to execute the certificates on the map, to the City Council. The City Clerk or authorized agent shall, subject to the provisions of

Section 66464 of the Subdivision Map Act, transmit the approved parcel map to the County Recorder.

The City Council shall approve the parcel map if it complies with the requirements of the Subdivision Map Act, this chapter, the tentative map, and all conditions thereof.

## Chapter 16.14

### VESTING TENTATIVE MAPS (Sections 66498.1 et seq.)

**Sections:**

- 16.14.010 Authority and Purpose**
- 16.14.020 Consistency**
- 16.14.030 Definitions**
- 16.14.040 Application**
- 16.14.050 Filing and Processing**
- 16.14.060 Fees**
- 16.14.070 Expiration**
- 16.14.080 Rights of a Vesting Tentative Map**
- 16.14.090 Amendment to Approved Vesting Tentative Map**
- 16.14.100 Applications Inconsistent with Current Policies**

**Section 16.14.010 Authority and Purpose:** This article is enacted pursuant to the authority granted by Chapter 4.5 (commencing with Section 66498.1) of the Subdivision Map Act (hereinafter referred to as the Vesting Tentative Map Ordinance). The purpose of this article is to establish appropriate local procedures for the implementation of the Vesting Tentative Map Ordinance.

To accomplish this purpose, the regulations contained in this article are determined to be necessary for the preservation of the public health, safety, and general welfare and for the promotion of orderly growth and development.

**Section 16.14.020 Consistency:** No land shall be subdivided and developed pursuant to a vesting tentative map for any purpose which is inconsistent with the General Plan or any applicable specific plan, Codes, Ordinances, or Resolutions of the City.

An application for approval of a vesting tentative map pursuant to this article shall not be submitted nor accepted for filing unless the subdivider has previously obtained all other discretionary City approvals for the development that are required.

**Section 16.14.030 Definitions:**

- A. A “vesting tentative map” shall mean a “tentative map” for a residential subdivision, as defined in Section 16.04.010, that shall have printed conspicuously on its face the words “Vesting Tentative Map” at the time it is filed in accordance with Section 16.14.050, and is thereafter processed in accordance with the provisions hereof. For purposes of this article, “vesting tentative map” shall include a vesting tentative map prepared in connection with a parcel map.

- B. All other definitions set forth in this chapter are applicable.

**Section 16.14.040 Application:**

- A. This ordinance shall apply only to residential developments. Whenever a provision of the Subdivision Map Act, as implemented and supplemented by this chapter, requires the filing of a tentative map for a residential development, a vesting tentative map may instead be filed, in accordance with the provisions of this article.
- B. If a subdivider does not seek the rights conferred by the Vesting Tentative Map Ordinance, the filing of a vesting tentative map shall not be a prerequisite to any approval for any proposed subdivision, permit for construction, or work preparatory to construction.

**Section 16.14.050 Filing and Processing:** A vesting tentative map shall be filed in the same form and have the same contents, accompanying data and reports, and shall be processed in the same manner as set forth in this Code for a tentative map as hereinafter provided:

At the time a vesting tentative map is filed, it shall have printed conspicuously on its face the words "Vesting Tentative Map."

**Section 16.14.060 Fees:**

- A. Upon filing a vesting tentative map, the subdivider shall pay all fees and/or deposits in accordance with Section 16.02.060.
- B. The Planning Commission or City Council, as the case may be, may require as a condition of its approval that the payment by the subdivider of all development fees required to be paid at the time of the application for, or issuance of, a building permit or other similar permit shall be made at the rate for such fees in effect at the time of such application or issuance.

**Section 16.14.070 Expiration:** The approval or conditional approval of a vesting tentative map shall expire at the end of the same time period, and shall be subject to the same extensions, established by Sections 16.08.110 and 16.12.060 for the expiration of the approval or conditional approval of a tentative map.

**Section 16.14.080 Rights of a Vesting Tentative Map:**

- A. The approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards described in Section 66474.2 of the Subdivision Map Act. However, if Section 66474.2 is repealed, the approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards in effect at the time the vesting tentative map is approved or conditionally approved.
- B. Notwithstanding subdivision (a), a permit, approval, extension, or entitlement may be conditioned or denied if any of the following are determined:

1. A failure to do so 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. The rights referred to herein shall expire if a final map is not approved prior to the expiration of the vesting tentative map as provided in Section 16.14.050. If the final map is approved, these rights shall last for the following periods of time:
1. An initial time period of one (1) year beyond the recording of the final map or parcel map. Where several final maps are recorded on various phases of a project covered by a single vesting tentative map, this one (1) year initial time period shall begin for each phase when the final map for that phase is recorded. All of said final maps or parcel maps must be recorded within the time period set forth in Section 16.14.070 or the vesting tentative map approval shall expire for those parcels for which final maps or parcel maps are not timely recorded.
  2. The one (1) year initial time period set forth in (C) (1) shall be automatically extended by any time used for processing a complete application for a grading permit, if one is required, or for any required design or architectural review, if such processing exceeds thirty (30) days from the date a complete application is filed.
  3. A subdivider may apply to the Planning Commission for a one (1) year extension at any time before the initial time period set forth in (C) (1) expires. If the extension is denied, the subdivider may appeal that denial to the City Council within fifteen (15) days in accordance with Section 16.08.120 (D).
  4. If the subdivider submits a complete application for a building permit during the periods of time specified in subdivisions (C) (1) – (3), the rights referred to herein shall continue until the expiration of that permit, or any extension of that permit.
- D. Consistent with subdivision (A), an approved or conditionally approved vesting tentative map shall not limit the City from imposing reasonable conditions on subsequent required approvals or permits necessary for the development.

**Section 16.14.090 Amendment to Approved Vesting Tentative Map:** Amendments to the approved or conditionally approved vesting tentative map shall be made in accordance with Section 16.12.070.

**Section 16.14.100 Applications Inconsistent with Current Policies:** Notwithstanding any provisions of this article to the contrary, a property owner or his or her designee may seek approvals or permits for development which depart from the ordinances, policies, and standards described in Section 16.14.080 (A), and the City may grant these approvals or issue these permits to the extent that the departures are authorized under this chapter, this Code, and the General Plan and other applicable law.

## **Chapter 16.16**

### **DEDICATIONS, RESERVATIONS, AND DEVELOPMENT FEES**

**Sections:**

- 16.16.010 Dedication of Streets, Alleys, and Other Public Rights-of-Way or Easements. (Section 66475)
- 16.16.020 Waiver of Direct Access Rights
- 16.16.030 Dedications
- 16.16.040 Parkland Dedication (Section 66477)
- 16.16.050 School Site Dedication
- 16.16.060 Reservations (Section 66479)
- 16.16.070 Local Transit Facilities (Section 66475.2)
- 16.16.080 Bridges and Major Thoroughfares (Section 66484)
- 16.16.090 Supplemental Improvement Capacity (Section 66485)
- 16.16.100 Drainage Fees {Reserved} (Section 66483)
- 16.16.110 Interim Classroom Facilities (Sections 65970 et. seq.)
- 16.16.120 Permanent Classroom Facilities (Stats. 1986, Ch. 887)
- 16.16.130 Reimbursements to a Telephone Corporation or Cable Television System for Undergrounding or Relocation

**Section 16.16.010 Dedication of Streets, Alleys, and Other Public Rights-of-Way or Easements. (Section 66475):** As a condition of approval of a tentative map, the subdivider shall dedicate or make an irrevocable offer of dedication of land within the subdivision that are needed for streets and alleys, including access rights and abutters' rights, drainage, public greenways, bicycle paths, trails, public utility easements, and other public easements.

Improvements shall be provided in accordance with the requirements of this chapter.

**Section 16.16.020 Waiver of Direct Access Rights:** The City may require as a condition of approval of a tentative map that dedications or offers of dedication of streets include a waiver of direct access rights to any such street from any property within or abutting the subdivision.

Upon acceptance of the dedication, such waiver shall become effective in accordance with its provisions.

**Section 16.16.030 Dedications:** All dedications of property to the City for public purposes shall be made in fee title, except that, at the City's discretion, a grant of an easement may be taken for the following purposes: open space easements, scenic easements or public utility easements. All dedications in fee and grants of easements shall be free of liens and encumbrances except for those which the City, at its discretion, determines would not conflict with the intended ownership and use. The City may elect to accept an irrevocable offer of dedication in lieu of dedication of fee title.

**Section 16.16.040 Parkland Dedication. (Section 66477):**

A. **General.** This section is enacted pursuant to the authority granted by the Subdivision Map Act and the general police power of the City and is for the purpose of providing such additional park and recreational facilities and open space as appropriate pursuant to the General Plan of the City. The park and recreational facilities for which dedication of land and/or payment of a fee is required by this article are in accordance with the policies, principles, and standards for park and recreational facilities contained in the General Plan.

For purposes of this article, park and recreational purposes shall include land and facilities for the activity of "recreational community gardening," which activity consists of

the cultivation by persons other than, or in addition to, the owner of such land, or plant material, not for sale.

- B. Requirements. As a condition of approval of a tentative map, the subdivider shall dedicate land, pay a fee in lieu thereof, or both, at the option of the City, for park or recreational purposes and according to the standards and formula contained in this chapter. The land dedicated or the fees paid, or both, shall be used for community and neighborhood parks and facilities in such a manner that the locations of such parks and facilities bear a reasonable relationship to the use of the park and recreational facilities by the future inhabitants of the subdivision generating such dedication or fees, or both.
- C. General Standard. It is hereby found and determined that the public interest, convenience, health, safety, and welfare require that five (5) acres of property for each one thousand (1,000) persons residing within the City be devoted to local park and recreational purposes.
- D. Standards and Formula for Dedication of Land. Where a park or recreational facility has been designated in the General Plan and is to be located in whole or in part within the proposed subdivision and is reasonably related to serving the present and future needs of the residents of the subdivision, the subdivider shall dedicate land for park and recreation facilities sufficient in size and topography to meet that purpose. The amount of land to be provided shall be determined pursuant to the following standards and formula:

Formula: The formula for determining the amount of acreage to be dedicated shall be as follows:

$$\frac{\text{Acres of Parkland}}{\text{Dwelling Unit}} = \frac{.005 \text{ Acres}^*}{\text{Persons}} \times \frac{\text{Average No. of Persons}}{\text{Dwelling Unit}}$$

\*(Based on five acres of parkland per 1,000 population)

The following parkland dedication table, based on the above formula, is to be followed:

<u>Dwelling Type or Land Use</u>	<u>Average No. Persons/ Dwelling Unit</u>	<u>Acres per Dwelling Unit</u>
Single-Family or Mobilehome	3.0	.015
Duplex or Multi family	2.1	.0105

For the purposes of this section, the number of proposed dwelling units shall be determined as follows: In areas zoned for one dwelling unit per lot or parcel, the number of dwelling units shall equal the number of parcels indicated on the tentative map. When all or part of the subdivision is located in an area zoned for multiple dwelling units per parcel, the maximum number of dwelling units allowed under that zone. For residential condominium units indicated on the tentative map. For planned development projects, the number of dwelling units indicated on the approved final development plan. The term "new dwelling unit" does not include dwelling units lawfully in place prior to the date on which the tentative map is approved.

Lands to be dedicated or reserved for park and/or recreational purposes shall be suitable in the opinion of the Community Development Director, the Director of Public Works, and the Parks and Recreation Director on location, topography, environmental characteristics, and development potential as related to the intended use. The primary intent of this section shall be construed to provide the land for functional recreation units of local or neighborhood service, including but not limited to: tot lots, play lots, playgrounds, neighborhood parks, play fields, community or district parks, and other specialized recreational facilities that may serve the family group and also senior citizen and child care activities. Principal consideration shall be given therefore to lands that offer:

1. A variety of recreational potential for all age groups;
2. Recreational opportunities within walking distance from residents' homes;
3. Possibility for expansion or connection with school grounds;
4. Integration with hiking, riding, and bicycle trails, natural stream reserves, and other open space;
5. Coordination with all other park systems; and
6. Access to at least one existing or proposed public street.

E. Formula for Fees in Lieu of Land Dedication.

1. General Formula. If there is no park or recreational facility designated in the General Plan to be located in whole or in part within the proposed subdivision to serve the immediate and future needs of the residents of the subdivision, the subdivider shall, in the City's discretion, either dedicate land on the amount provided in Section 16.16.040 (D) or pay a fee in lieu of dedication equal to the value of the land prescribed for dedication in Section 16.16.040 (D) and in an amount determined in accordance with the provisions of Section 16.16.040 (G).
2. Fees in Lieu of Land – Fifty (50) Parcels or Less. Except as provided in Section 16.16.040 (F), if the proposed subdivision contains fifty (50) parcels or less and has no park or recreational facility, the subdivider shall pay a fee equal to the land value of the portion of the park or recreational facilities required to serving the needs of the residents of the proposed subdivision as prescribed in Section 16.16.040 (D) and in an amount determined in accordance with the provisions of Section 16.16.040 (G).
3. Use of Money. The money collected shall be used, in accordance with the schedule developed pursuant to Section 16.16.040 (D), for the purpose of developing new or rehabilitating existing neighborhood or community park or recreational facilities reasonably related to serving the subdivision, including the purchase of necessary land and/or improvement of such land to facilitate the development of park or recreational facilities. The money shall be committed within five (5) years after payment thereof or the issuance of building permits on one-half (1/2) of the lots created by the subdivision, whichever occurs later. If the money is not committed, it shall be distributed and paid to the then record owners of the subdivision in the same proportion that the size of their lot bears to the total area of all lots in the subdivision.

- F. Criteria for Requiring Both Dedication and Fee. If the proposed subdivision contains more than fifty (50) parcels, or, in the case of a condominium project, stock cooperative or community apartment, if the proposed subdivision contains more than fifty (50) dwelling units although the actual number of parcels may be less than fifty (50), the

subdivider shall both dedicate land and pay a fee in lieu of dedication in accordance with the following:

1. When only a portion of the land to be subdivided is proposed in the General Plan as the site for a local park or recreational facility, such portion shall be dedicated for local park purposes and a fee computed pursuant to the provisions of Section 16.16.040 (G) shall be paid for any additional land that would have been required to be dedicated pursuant to Section 16.16.040 (G).
2. When a major part of the local park or recreational site has already been acquired by the City and only a small portion of land is needed from the subdivision to complete the site, such portion shall be dedicated, and a fee, computed according to Section 16.16.040 (G), shall be paid for in an amount equal to the value of the land which would otherwise have been required to be dedicated according to Section 16.16.040 (D). The fee shall be used for the improvement of the existing park or recreational facility or for the improvement of other neighborhood or community parks and recreational facilities reasonably related to serving the subdivision.

- G. Amount of Fee in Lieu of Parkland Dedication. When a fee is required to be paid in lieu of parkland dedication, the amount of the fee shall be based upon the estimated fair market value of the land which would otherwise be required to be dedicated according to Section 16.16.040 (D).

The fair market value shall be as determined by the Department at the time of final map or parcel map approval. If the subdivider objects to the fair market value determination, the subdivider may request the City to obtain an appraisal of the property by a qualified real estate appraiser mutually agreed upon by the City and the subdivider, which appraisal will be considered by the City in determining the fair market value. All costs required to obtain such appraisal shall be borne by the subdivider.

For the purpose of determining fair market value pursuant to this subsection, the Department and any appraiser shall consider, among other things:

1. Conditions of approval of the tentative map;
2. The General Plan and zoning requirements for the area;
3. The location and site characteristics of the use of the property; and
4. Off-site and on-site improvements facilitating use of the property.

- H. Determination of Land or Fee. Whether the City accepts land dedication, or elects to require the payment of a fee in lieu of, or a combination of both, shall be determined by consideration of the following:

1. Policies, standards, and principles for park and recreation facilities in the General Plan;
2. Topography, geology, access, and location of land in the subdivision available for dedication;
3. Size and shape of the subdivision and land available for dedication;

4. Feasibility of dedication;
5. Compatibility of dedication with the General Plan;
6. Availability of previously acquired park property.

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

- I. Credit for Improvements and Private Open Space. If the subdivider provides park and recreational improvements to the dedicated land, the value of the improvements together with any equipment located thereon shall be a credit against the payment of fees or dedication of land required by this section.

Planned developments, real estate developments, stock cooperatives, and community apartment projects, as defined in Sections 11003, 10003.1, 11003.4 and 11004, respectively, of the Business and Professions Code, and condominiums shall be eligible to receive a credit, as determined by the City Council, against the amount of land required to be dedicated, or the amount of the fee imposed, pursuant to this section, for the value of private open space within the development which is usable for active recreational uses.

- J. Procedure.

1. At the time of the approval or conditional approval of the tentative map, the Planning Commission shall determine, after a report and recommendation from the Parks and Recreation Director, whether land, in-lieu fees, or a combination of land fees, shall be dedicated and/or paid by the subdivider.
2. The Planning Commission may approve, modify, or disapprove the recommendation of the Parks and Recreation Director; provided, however any modification of the proposed recommended condition not previously considered by the Parks and Recreation Director for a report and further recommendation. The Parks and Recreation Director shall report back to the Planning Commission within (30) days. After the receipt and consideration of the report, or after thirty (30) days have passed in the event no report is received, the Planning Commission may adopt the condition.
3. The recommendation of the Parks and Recreation Director shall include the following:
  - a. The amount of land required; or
  - b. That a fee be charged in lieu of land; or
  - c. That a combination of land and a fee be required; and
  - d. The location of the park land and, where appropriate, the siting and conceptual design of the park facilities appurtenant thereto, to be dedicated or used in lieu of fees; and
  - e. The approximate time when the development of the park or recreation facility shall commence.

4. At the time of the recording of the final map or parcel map, the subdivider shall dedicate the land and/or pay the fees as determined by the City. At the discretion of the City, fees may be paid prior to issuance of any building permit for any structure in the subdivision .
  5. Open space covenants, conditions, and restrictions for private park or recreational facilities shall be submitted to the City prior to approval of the final map or parcel map and, if approved, shall be recorded concurrently with the final map or parcel map.
- K. Schedule of Use. At the time of the approval of the final map or parcel map, the City shall develop a schedule specifying how, when, and where it will use the land or fees, or both, to develop or rehabilitate park or recreational facilities to serve the residents of the subdivision.
- L. Not Applicable to Certain Subdivisions. The provisions of this Section shall not apply to the following:
1. Subdivisions containing four (4) or less parcels and not used for residential purposes. However, a condition may be placed on the approval of such parcel map that if a building permit is requested for construction of a residential structure or structures on one or more of the parcels within four (4) years, the fee pursuant to this section may be required to be paid by the owner of such parcel as a condition to the issuance of such permit.
  2. Commercial or industrial subdivision.
  3. Condominium projects or stock cooperatives which consist of the subdivision of airspace in an existing apartment building which is more than five (5) years old when no new dwelling units are added.

**Section 16.16.050 School Site Dedication:**

- A. General. As a condition of approval of a tentative map, a subdivider who develops or completes the development of one (1) or more subdivisions within the Lakeport Unified School District shall dedicate to the school district such lands as the City shall deem to be necessary for the purpose of constructing thereon schools necessary to assure the residents of the subdivision adequate public school service.
- B. Procedure. The requirement of dedication shall be imposed at the time of approval of the tentative map. If within thirty (30) days after the requirement of dedication is imposed by the City, the school district does not offer to enter into a binding commitment with the subdivider to accept the dedication, the requirement shall be automatically terminated. The required dedication may be made any time before, concurrently with, or up to sixty (60) days after the filing of the final map or parcel map on any portion of the subdivision.
- C. Payments to Subdivider for School Site Dedication.

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

1. The cost of any improvements to the dedicated land since acquisition by the subdivider;
  2. The taxes assessed against the dedicated land from the date of the school district's offer to enter into the binding commitment to accept the dedication;
  3. Any other costs incurred by the subdivider in maintenance of such dedicated land, including interest costs incurred on any loan covering such land.
- D. Exemptions. The provisions of this section shall not be applicable to a subdivider who has owned the land being subdivided for more than ten (10) years prior to the filing of the tentative map.

**Section 16.16.060 Reservations. (Section 66479):**

- A. General. As a condition of approval of a tentative map, the subdivider shall reserve sites, appropriate in area and location, for parks, recreational facilities, fire stations, libraries or other public uses according to the standards and formula contained in this section.
- B. Standards for Reservation of Land. Where a park, recreational facility, fire station, library, or other public use is shown on the General Plan or an adopted specific plan, the subdivider may be required by the City to reserve sites as so determined by the City in accordance with the policies and standards contained in the General Plan or the adopted specific plan. The reserved area must be of such size and shape as to permit the balance of the property within which the reservation is located to develop in an orderly and efficient development of the remaining land held by the subdivider economically infeasible. The reserved area shall be consistent with the General Plan or the adopted specific plan and shall be in such multiples of streets and parcels as to permit an efficient division of the reserved area in the event that it is not acquired within the prescribed period.
- C. Procedure. The public agency for whose benefit an area has been reserved shall, at the time of approval of the final map or parcel map, enter into a binding agreement to acquire such reserved area within two (2) years after the completion and acceptance of all improvements, unless the period of time is extended by mutual agreement.
- D. Payment to Subdivider. The purchase price to be paid by the City for the reserved area shall be the market value thereof at the time of the filing of the tentative map plus the taxes against the reserved area from the date of the reservation and any other costs incurred by the subdivider in the maintenance of the reserved area, including interest costs incurred on any loan covering the reserved area.
- E. Termination. If the public agency for whose benefit an area has been reserved does not enter into a binding agreement in accordance with this section, the reservation of the area shall automatically terminate.

**Section 16.16.070 Local Transit Facilities. (Section 66475.2):** As a condition of approval of a tentative map, the subdivider shall dedicate, or make an irrevocable offer of dedication, of land within the subdivision for local transit facilities such as shelters, benches, bus turnouts, landing pads, park-and-ride facilities, and similar items which directly benefit the residents of the subdivision, if (a) the subdivision as shown on the tentative map has the potential for two hundred (200) dwelling units or more if developed to the maximum density

shown on the General Plan or contains one hundred (100) acres or more, and (b) if the City finds that transit services are or will, within a reasonable time period, be made available to the subdivision.

The provisions of this section do not apply to condominium projects or stock cooperatives which consist of the subdivision of airspace in an existing apartment building which is more than five (5) years old when no new dwelling units are added.

**Section 16.16.080 Bridges and Major Thoroughfares. (Section 66484):**

- A. Purpose. The purpose of this section is to make provision for assessing and collecting fees as a condition of approval of a final map or as a condition of issuing a building permit for the purpose of defraying the actual or estimated cost of constructing bridges or major thoroughfares pursuant to Section 66484 of the Subdivision Map Act, and in order to implement the Transportation Element of the General Plan and, in the case of bridges, the transportation provisions thereof.
- B. Definitions. For the purposes of this section, the following words and phrases shall have the following meanings:
1. "Construction" shall mean design, acquisition of right-of-way, administration of construction contracts, actual construction, and inspections.
  2. "Major thoroughfare" shall mean an arterial or collector roadway as shown on the Transportation Element of the General Plan whose primary purpose is to carry through traffic and provide a network connecting to the state highway system.
- C. Payment of Fees Generally.
1. Prior to filing a final map which includes land within an area of benefit established pursuant to this section, the subdivider shall pay or cause to be paid any fees established and apportioned to such property pursuant to this section for the purpose of defraying the actual or estimated cost of constructing bridges over waterways, railways, freeways, or canyons or constructing major thoroughfares.
  2. Prior to the issuance of a building permit for construction on any property within an area of benefit established pursuant to this section, the applicant for such permit shall pay or cause to be paid any fees established and apportioned pursuant to this section for the purpose of defraying the actual or estimated cost of constructing bridges over waterways, railways, freeways, or canyons or constructing major thoroughfares, unless such fees have been paid pursuant to subsection (C) (1) of this section.
  3. Notwithstanding the provisions of subsections (C) (1) and (C) (2) of this section:
    - a. Payment of bridge fees shall not be required unless the planned bridge facility is an original bridge serving the area or an addition to any existing bridge facility serving the area at the time of adoption of the boundaries of the area of benefit.
    - b. Payment of major thoroughfare fees shall not be required unless the major thoroughfares are in addition to, or a reconstruction of, any existing major thoroughfares serving the area at the time of the adoption of the area of benefit.

- D. Consideration in Lieu of Fees. Upon application by the subdivider or applicant for a building permit, the City Council, in the case of subdivisions of five (5) or more parcels, or the Planning Commission, in the case of subdivisions of four (4) or less parcels, may accept consideration in lieu of the payment of fees required pursuant to this section; provided that the City Council or Planning Commission, as the case may be, first finds, upon recommendation of the City Engineer, that the substitute consideration has a value equal to or greater than the fee; and provided further that the substitute consideration is in a form acceptable to the City Council or Planning Commission, as the case, may be.
- E. Public Hearing. Prior to establishing an area of benefit, a public hearing shall be held by the City Council at which time the boundaries of the area of benefit, the costs, whether actual or estimated, and a fair method of allocation of costs to the area of benefit and fee apportionment, and the fee to be collected, shall be established. Notice of the public hearing shall be given pursuant to Section 16.08.070 (A) and shall include preliminary information related to the boundaries of the area of benefit, estimated cost, and the method of fee apportionment.
- F. Amount. The amount of the fees and the areas of benefit established pursuant to this section may be established by ordinance or resolution.
- G. Exemptions. Notwithstanding the provisions of subsection (F), payment of such fees shall not be required for:
1. The use, alteration, or enlargement of an existing building or structure or the erection of one (1) or more buildings or structures accessory thereto, or both, on the same lot or parcel of land; provided that the total value, as determined by the building official, of all such alteration, enlargement, or construction completed within any one (1) year period does not exceed one-half (1/2) of the current market value, as determined by the Community Development Director, of all existing buildings on such lot or parcel of land, and the alteration or enlargement of the building is not such as to change its classification of occupancy as defined by Section 501 of the Uniform Building Code.
  2. The following accessory buildings and structures: private garages, children's playhouses, radio and television receiving antennas, windmills, silos, tank houses, shops, barns, coops, and other buildings which are accessory to one (1) family or two (2) family dwellings.

#### H. Protest.

1. At any time not later than the hour set for hearing objections to the proposed bridge facility or major thoroughfare, any owner of property to be benefited by the improvement may file a protest against the proposed bridge facility or major thoroughfare or against the extent of the area to be benefited by the improvements or against both of them. Such protests must be in writing and must contain a description of the property in which each signer thereof is interested, sufficient to identify such property, and, if the signers are not shown on the last equalized assessment roll as the owners of such property, must contain or be accompanied by written evidence that such signers are the owners of such property. All such protests shall be delivered to the City Clerk and no other protest or objections shall be considered. Any protest may be withdrawn, in writing, by the owners making such protests, at any time prior to the conclusion of the public hearing.
2. If there is a written protest filed with the City Clerk by the owners of more than one-half (1/2) of the area of the property to be benefited by the improvement, and sufficient protests are not withdrawn so as to reduce the area represented to less than one-half (1/2) of that to be benefited, then the proposed proceedings shall be abandoned and the City Council shall not, for one (1) year from the filing of the written protest, commence or carry on any proceedings for the same improvement, or that portion thereof so protested against under the provisions of this section.

#### **Section 16.16.090 Supplemental Improvement Capacity. (Section 66485):**

- A. As a condition of approval of a tentative map, there may be imposed a requirement that improvements installed by the subdivider for the benefit of property not within the subdivision and that those improvements be dedicated to the public. However, when such supplemental size, capacity, number, or length is solely for the benefit of property not within the subdivision, the City shall, subject to the provisions of Section 66486 and 66487 of the Subdivision Map Act, enter into an agreement with the subdivider to reimburse the subdivider for that portion of the cost of such improvements equal to the difference between the amount it would have cost the subdivider to install such improvements to serve the subdivision only and the actual cost of such improvements.
- B. The City Council shall determine the method for payment of the costs required by a reimbursement agreement, which method may include, but shall not be limited to, the following:
  1. The collection from other persons, including public agencies, using such improvements for the benefit of real property not within the subdivision, a reasonable charge for such use.
  2. The contribution to the subdivider of that part of the cost of the improvements that is attributable to the benefit of real property outside the subdivision and the levy of a charge upon the real property benefited to reimburse the City for such costs, together with interest thereon, if any, paid to the subdivider.
  3. The establishment and maintenance of local benefit districts for the levy and collection of such charge or costs from the property benefited.

- C. No charge, area of benefit, or local benefit district shall be established unless and until a public hearing is noticed and held thereon by the City Council in accordance with the provisions of Section 16.16.070 (E) and the City Council finds that the charge, area of benefit or local benefit, district is reasonably related to the cost of such supplemental improvements and the actual ultimate beneficiaries thereof.
- D. In addition to the notice required by Section 16.16.070 (E), written notice of the hearing shall be given to those who own property within the proposed area of benefit as shown on the last equalized assessment roll, and the potential users of the supplemental improvements insofar as they can be ascertained at the time. Such notices shall be mailed by the City Clerk at least ten (10) days prior to the date established for the hearing.

**Section 16.16.100 Drainage Fees {Reserved}. (Section 66483):**

**Section 16.16.110 Interim Classroom Facilities. (Sections 65970 et seq.):**

A. Authority, Purpose and Intent.

- 1. This section is enacted pursuant to the authority of Section 65970 et seq. of the Government Code for the purpose of providing interim school facilities to alleviate conditions of overcrowding caused by new residential development.
- 2. The City Council finds:
  - a. Public education in the primary and secondary grades is provided in the City by the Lakeport Unified School District.
  - b. From time to time, new residential development may cause overcrowding in one (1) or more schools in the District.
  - c. It is necessary that a method be available to provide the District with interim classroom facilities when conditions of overcrowding exist, in order that education not be adversely affected.

B. Definition. In addition to the definitions set forth in Sections 65973 and 65980 of the Government Code and Section 16.04.010 of this Chapter, the following definitions shall apply to this section:

- 1. "District" means the Lakeport Unified School District.
- 2. "Board" means the board of trustees of the District.
- 3. "Declaration of impact" means a statement adopted by the Board, and forwarded to the City Council, declaring the existence of an impacted school or schools, in accordance with the findings and other requirements of Section 65971 of the Government Code. The declaration of impact may include the schedule required by Section 65976 of the Government Code.

C. Action By Board. The Board may, from time to time, adopt a declaration of impact and file the same with the City Clerk for consideration by the City Council.

D. Action By City Council. Upon receipt of a declaration of impact from the Board and the schedule required by Section 65976 of the Government Code, the City Council shall, if it concurs in the findings set forth in the declaration of impact, withhold approval of, or order the appropriate officer, employee, or commission within the City to withhold approval of, new residential development within the attendance area of the impacted school or schools pending compliance with subsection E. (3).

E. Mitigation Measures.

1. The City Council shall require, as a condition of approval of new development within the attendance area of an impacted school, either the dedication of land, the payment of fees in lieu thereof, or a combination of both, in accordance with the provisions of Section 65974 of the Government Code.
2. The decision concerning whether to require the dedication of land, payment of fees or an appropriate combination shall be determined after consultation with the Board concerning the needs of the District as they relate to the impacted school or schools.
3. The amount of any fee shall be in accordance with the provisions of Chapter 4.9 (commencing with Section 65995) of the Government Code, shall be prescribed by resolution of the City Council, and shall be collected at the time of issuance of a building permit.

F. Use of Fees and Land-Accounting.

1. The District shall use the land and/or fees solely to alleviate the conditions of overcrowding within the affected attendance area.
2. The District shall provide to the City Council the report required by Section 65978 of the Government Code.

G. City's Right to Disapprove Development or Require Other Fees. Nothing in this section shall be construed to limit the right of the City to disapprove new residential development for any lawful reason, including, but not limited to, the impact that such development may have on a school or schools within the District which cannot be alleviated by the provisions of this section.

**Section 16.16.120 Permanent Classroom Facilities. (Stats. 1986, Ch. 887):** The City may not require, as a condition of approval of a tentative map for a residential subdivision, dedication of land or payment of in-lieu fees or a combination of both in order to provide permanent facilities for school purposes. Nothing in this chapter is intended as a limitation on the District's authority to directly levy a fee, charge, dedication, or other form of requirement against any development project, pursuant to Section 53080 of the Government Code, in order to provide temporary and permanent facilities for school purposes.

**Section 16.16.130 Reimbursements to a Telephone Corporation or Cable Television System for Undergrounding or Relocation:** Whenever the City imposes as a condition to its approval of a tentative map or a parcel map a requirement that necessitates replacing, undergoing, or permanently to temporarily relocating existing facilities of a telephone corporation or cable television system, the subdivider shall reimburse the telephone corporation or cable television system for all costs for the replacement, undergrounding, or relocation. All these costs shall be billed to the subdivider directly by the telephone corporation or cable television system after they are incurred, and shall include a credit for any facilities replaced. In no event shall the telephone corporation or cable television system be reimbursed for costs incurred in excess of the cost to replace the facilities with

substantially similar facilities. In no event shall the City be obligated for such reimbursement.

## Chapter 16.17

### DESIGN AND IMPROVEMENT STANDARDS

#### Sections:

- 16.17.005 General**
- 16.17.010 General lot development requirements**
- 16.17.020 Blocks**
- 16.17.030 Easements**
- 16.17.040 Watercourses**
- 16.17.050 Monuments**
- 16.17.060 Setbacks**
- 16.17.070 Road and streets**
- 16.17.080 Street grades**
- 16.17.090 Street – side slopes – right-of-way widths**
- 16.17.100 Streets – design specifications**

**Section 16.17.005 General:** Subdivision design and improvements shall be required as set forth in this chapter.

#### **Section 16.17.010 General lot development requirements:**

- A. The size and shape of lots shall be such as are proper for the proposed use, locality, and topography in which the subdivision is situated and shall be not less than any applicable Zoning Ordinance requirements.
- B. Lots without frontage on a street shall not be permitted.
- C. The side lines of lots shall run at right angles to the street upon which the lot faces, as far as practicable.
- D. Lots having double-frontage with depths of less than two hundred (200') feet should be discouraged except where necessitated by topographic or other physical conditions.
- E. Corner lots shall have extra width, sufficient to permit the maintenance of building lines on both front and sides.
- F. All lots shall be suitable for the purposes for which they are intended.
- G. In all cases where sewage is to be handled by individual septic tank drainage, the subdivider shall present a written statement from the county health officer certifying that sewage can be satisfactorily disposed of on each lot by septic tank method.
- H. Where water is proposed to be supplied by individual wells on each lot, and sewage is proposed to be disposed of by individual septic tank method, the subdivider shall present a written statement from the County Health Department certifying that the functions of water supply and septic tank drainage can be satisfactorily accomplished on each lot.

**Section 16.17.020 Blocks:**

- A. Blocks shall not be longer than one thousand two hundred feet between intersecting street lines, except on major streets and thoroughfares where longer blocks may be required.
- B. Improved walkways (public access easements) not less than ten (10') feet in width may be required to be dedicated through long blocks where necessary to provide access to schools, parks, scenic easements, or lake frontage.

**Section 16.17.030 Easements:** Easements not less than five (5') feet wide shall be required on each side of all lots and the rear of all lots where necessary for poles, wires, drainage, and water services or other utilities.

**Section 16.17.040 Watercourses:** Existing natural or proposed relocated watercourses shall be shown as easements, and storm drains shall be placed in easements. The Planning Commission or City Engineer may require watercourses to be placed entirely in underground conduits. Surface drainage facilities shall be adequately fenced or otherwise improved to provide for public safety and an aesthetically pleasing environment.

**Section 16.17.050 Monuments:** Durable survey monuments approved by the City Engineer shall be installed or referenced to the following locations:

- A. Boundary corners;
- B. At intervals of not more than five hundred (500') feet along boundary lines;
- C. At the beginning and end of property line curves or points of intersection, at the discretion of the City Engineer.
- D. Lot corners.

**Section 16.17.060 Setbacks:** Building setbacks shall be required at least as great as the applicable zoning requirement.

**Section 16.17.070 Road and Streets--Development Requirements:**

- A. Existing streets shall be continued as required by the Planning Commission in accordance with the Lakeport General Plan.
- B. Street stubs shall be required to be extended to adjacent unsubdivided property where, in the opinion of the Planning Commission, they are necessary.
- C. Streets shall intersect at as near right angles as practicable. Radius of curvature, where the property lines intersect, shall be a minimum of twenty (20') feet.
- D. "T" or three-way intersections are preferable to four-way intersections, but may not be located closer than one hundred fifty (150') feet to any other intersection.
- E. Reserve strips, when required to control access to over certain lot lines or over the ends of street stubs, shall be dedicated to the City.

- F. Alleys may be required to be dedicated and constructed where necessary to control access to thoroughfares and major streets.
- G. Cul-de-sac streets shall have the following limiting dimensions:
  - 1. Forty (40') feet minimum radius to property line on streets in hillside areas;
  - 2. Fifty feet (50') minimum radius to property line on all other streets;
  - 3. Five hundred fifty (550') feet maximum length from the intersecting street line to the center of the cul-de-sac. (Longer cul-de-sac streets may be allowed when the cul-de-sac serves twelve or less lots or when, or in the opinion of the Planning Commission, the land contour or subdivision design justifies a greater length);
- H. Names for proposed new streets shall be submitted on the tentative map.
- I. Streets, rights-of-way, and easements shall be offered for dedication and maintenance. The City may, at its option, accept or reject any such offer.
- J. Streets shall conform, as to alignment and width, to the Transportation Element of the General Plan, as required by the Planning Commission.
- K. Minimum center radius on streets shall be:
  - 1. Major streets, five hundred (500') feet;
  - 2. Collector streets, two hundred fifty (250') feet;
  - 3. Flat and hillside residential, one hundred (100') feet;
  - 4. Steep hillside residential, seventy-five (75') feet.

**Section 16.17.080 Street grades:** Grade specifications are as set out in this section:

- A. Maximum permitted, fifteen (15%) percent. However, where topography makes it necessary, grades of not more than twenty percent may be allowed for distances not to exceed four hundred feet from point of intersection to point of vertical curve, when approved by City Engineer.
- B. Normal minimum permitted, one (1%) percent. Absolute minimum permitted, .3 (0.3%) percent, when approved by City Engineer.
- C. Maximum grade permitted on switchbacks or curves with a radius of less than two hundred (200') feet shall not exceed ten (10%) percent.

**Section 16.17.090 Streets--Side slopes--Right-of-way widths:**

- A. Street design shall conform to the City's engineering standards.
- B. Where side slopes of street embankments extend onto private property, slope easements shall be required.

- C. Minimum right-of-way width for alleys in commercial and industrial areas shall be thirty (30') feet with thirty (30') feet of paving, and in multiple-family areas, right-of-way shall be twenty-four (24') feet and paving width shall be twenty-four (24') feet.

**Section 16.17.100 Streets--Design specifications:**

- A. All rights-of-way shall provide slope easement. Parkways or integral curb and sidewalk are optional on approval of the Planning Commission.

- B. Right-of-way, construction width, and other street design criteria.

- 1. Local streets in flat areas (0%--10% cross slope) cross-section, any lot:

Right-of-way	50 feet
Improved street	34 feet
Sidewalk, both sides	4 feet
Planting strip, both sides	4 feet

- 2. Local streets in hillside areas (10%--15% cross slope) cross-section for lot size eight thousand five hundred (8,500 SF) square feet and above:

Right-of-way	40-50 feet
Improved street	30-34 feet
Sidewalk, both sides	4 feet
Planting strip, both sides	4 feet

- 3. Commercial, industrial, or collector streets in flat areas (0%--10% cross slope) cross-section, any lot:

Right-of-way	50-60 feet
Improved street	40 feet
Sidewalk, both sides	5 feet
Planting strip, both sides	5 feet

- 4. Commercial, industrial, or collector streets in hillside areas (10%-15% cross slope) cross section for lot size eight thousand five hundred (8,500 SF) square feet and above.

Right-of-way	60 feet
Improved street	34-40 feet
Sidewalk, both sides	5 feet
Planting strip, both sides	5 feet

- 5. Arterial streets:

Right-of-way	60-66 feet
Improved street	40-56 feet
Sidewalk, both sided	4-5 feet
Planting strip, both sides	5 feet

**Chapter 16.18**

## IMPROVEMENTS

### Sections:

- 16.18.010 General
- 16.18.020 Required Improvements
- 16.18.030 Deferred Improvement Agreements
- 16.18.040 Design
- 16.18.050 Access
- 16.18.060 Improvement Plans
- 16.18.070 Improvement Agreement
- 16.18.080 Improvement Security
- 16.18.090 Construction and Inspection
- 16.18.100 Completion of Improvements
- 16.18.110 Acceptance of Improvements

**Section 16.18.010 General:** The subdivider shall construct all required improvements, both on- and off-site, in accordance with the standard engineering specifications and other approved standards as provided by this chapter and by the City Council's resolution(s) establishing such standards.

No final map shall be presented for approval until the subdivider either completes the required improvements or enters into an agreement with the City to do the work.

### **Section 16.18.020 Required Improvements:**

- A. **General.** All improvements as may be required as conditions of approval of the tentative map, by City ordinance or resolution, together with, but not limited to, the required improvements set forth below shall be required of all subdivisions.

Requirements for construction of on-site and off-site improvements for subdivisions of four (4) or less parcels shall be noted on the parcel map, or waiver of parcel map, or the subdivision improvement agreement recorded prior to or concurrent with the parcel map.

Completion of improvements shall be in accordance with Section 16.18.100.

- B. **Right-of-Way Improvements.** The frontage of each lot shall be improved to its ultimate adopted geometric section, including street structural section, curbs, sidewalks, driveway approaches, and transitions.
- C. **Storm Drainage.** Storm water runoff from the subdivision shall be collected and conveyed by an approved storm drain system. The storm drain system shall be designed for ultimate development of the watershed and shall be capable of collecting and conveying runoff generated by a 100 year flood. The storm drain system shall provide for the protection of abutting and off-site properties that would be adversely affected by any increase in runoff attributable to the development. Off-site storm drain improvements may be required to satisfy this requirement.
- D. **Sanitary Sewers.** Each unit or lot within the subdivision shall be served by an approved sanitary sewer system, in accordance with the provisions of this Code.

- E. Water Supply. Each unit or lot within the subdivision shall be served by an approved domestic water system, in accordance with the provisions of this Code.
- F. Utilities. Each unit or lot within the subdivision shall be served by gas, electric, telephone, and cable television facilities.
- G. Underground Utilities. All existing and proposed utilities within the subdivision and along peripheral streets shall be placed underground except those facilities exempted by the Public Utilities Commission regulations. Undergrounding shall be required for overhead lines on either side of peripheral streets.
- H. Fencing. Each parcel or lot within the subdivision that is adjacent to property containing a public facility shall have an approved fence adequate to prevent unauthorized access between the properties. Fencing or sound barriers may be required in areas adjacent to freeways or arterial or collector streets.
- I. Other Improvements. Other improvements including, but not limited to, grading, street lights, fire hydrants, signs, street lines and markings, street trees and landscaping, monuments, bicycle lanes, trails, fences, and smoke detectors, or fees in lieu of any of the foregoing, shall also be required as determined by the City in accordance with this Code, the General Plan, and City standards and specifications.
- J. Off-Site Improvements. If the subdivider is required to construct off-site improvements on land in which neither the subdivider nor the City have sufficient title or interest to allow construction, the City shall, within one hundred twenty (120) days of recording the final map, acquire by negotiation or commence condemnation of the land. If the City fails to meet the one hundred twenty (120) day time limit, the condition for the construction shall be waived. Prior to approval of the final map, the City may require the subdivider to enter into an agreement to complete the off-site improvements at the time the City acquires title or an interest in the land.

The subdivider shall pay the cost of acquiring off-site land or an interest in the land required to construct the off-site improvements.

**Section 16.18.030 Deferred Improvement Agreements:**

- A. Subdivisions of Four (4) or Less Parcels. Right-of-way street improvements along peripheral streets may be deferred until development of the individual lots. Other required improvements may be deferred by the Planning Commission after consideration of a request of the subdivider. When other required improvements (except street improvements) are deferred, the subdivider or landowner shall enter into an agreement with the City. The agreement shall provide for the following:
  1. Construction of improvements shall commence within ninety (90) days of the receipt of the notice to proceed from the City and shall be completed within the time specified by Section 16.18.100.
  2. That in the event of a default by the subdivider and/or owner, the City is authorized to cause construction to be done and charge the entire cost and expense to the subdivider and/or owner, including interest from the date of notice of said cost and expense until paid.

3. That the agreement shall be recorded with the County Recorder at the expense of the subdivider and/or owner and shall constitute notice to all successors and assignees of title to the real property of the obligations set forth therein, and shall also constitute a lien in such amount necessary to fully reimburse the City, including interest as provided above, subject to foreclosure in the event of a default in payment.
4. That in event of litigation occasioned by any default of the subdivider and/or owner, the subdivider and/or owner agree to pay all costs involved, including reasonable attorney's fees, and that the same shall become a part of the lien against the real property.
5. That the terms "subdivider" and "owner" shall include, respectively, not only the subdivider and the present owner of the real property but also heirs, successors, executors, administrators and assignees thereof, it being the intent of the parties that the obligations undertaken shall run with the real property and constitute a lien against it.
6. Any other improvement security as required by Section 16.18.080.
7. Any other provisions required by the City as reasonably necessary to effectuate the purposes and provisions of the Subdivision Map Act and this Code.

The agreement shall not relieve the subdivider or owner from any other specific requirements of the Subdivision Map Act, this Code, or law. The construction of deferred improvements shall conform to the provisions of this chapter and all applicable articles of this Code in effect at the time of construction.

- B. Remainders. Where a remainder is made part of a final or parcel map, the subdivider may enter into an agreement with the City to construct improvements within the remainder at some future date and prior to the issuance of a permit or other grant of approval for the development of a remainder. The improvements shall be at the subdivider's expense. In the absence of such an agreement, the City may require fulfillment of the construction requirements within a reasonable time following approval of the final or parcel map and prior to the issuance of a permit or other grant of approval for the development of the remainder, upon a finding that fulfillment of the construction requirements is necessary for reasons of:

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

**Section 16.18.040 Design:**

- A. General. The design and layout of all required improvements, both on- and off-site, private and public, shall conform to generally accepted engineering standards, standard engineering specifications, the Subdivision Map Act, and applicable provisions of this Code.
- B. Energy Conservation. The design of a subdivision for which a tentative map is required shall provide, to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision.

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

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

The requirements of this subsection (B) do not apply to condominium projects which consist of the subdivision of airspace in an existing building when no new structures are added.

For the purpose of this subsection (B), “feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

- C. Cable Television Service. The design of a subdivision for which a tentative map or parcel map is required shall provide one (1) or more appropriate cable television systems an opportunity to construct, install, and maintain, on land identified on the map as dedicated or to be dedicated to public utility use, any equipment necessary to extend cable television services to each residential parcel in the subdivision.

For the purpose of this subsection (C), “appropriate cable television systems” means those franchised or licensed to serve the geographical area in which the subdivision is located.

This subsection (C) shall not apply to the conversion of existing dwelling units to condominiums, community apartments, or stock cooperatives. (Section 66473.6)

**Section 16.18.050 Access:** All proposed lots shall have access to a public street improved to the standards set forth in this article. Private streets shall not normally be permitted. However, if the City Council, in the case of subdivision of five (5) or more parcels, or the Planning Commission, in the case of four (4) or less parcels, determines that the most logical development of the land requires that lots be created with access to private streets, such a development may be approved. The subdivider shall submit a development plan showing the alignment, width, grade, and material specifications of any proposed private street, the topography and means of access to each lot, and the drainage, sewer and water service, and fire protection for the lots served by such private street. The private street shall be constructed in accordance with standard engineering specifications of the City as approved by the City Engineer. Construction of the private street shall be completed prior to the completion of the construction and/or occupancy of the lots. The subdivider shall be required to provide a feasible method for the maintenance of such private streets, which method shall be subject to the approval of the Lakeport City Council.

“Flag” lots shall be discouraged. However, If flag lots are approved as part of the subdivision, the requirements including the improvements to the stem of the “flag” lots, shall be as described for private streets in the preceding paragraph.

Reserve strips, or non-access at the end of streets or at the boundaries of subdivisions, shall be dedicated unconditionally to the City when required by the City.

**Section 16.18.060 Improvement Plans:**

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

Improvement plans shall include, but shall not be limited to, all improvements required pursuant to Section 16.18.020.

- B. Form. Plans, profiles, and details shall be legibly drawn, printed or reproduced on 24"x 36" sheets. A border shall be made on each sheet providing ½" at top, bottom, and right side and 1-1/2" on the left side.

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

Plans and profiles shall be drawn to the scale of 1"=40' or larger unless approved otherwise by the City Engineer. Details shall be drawn to such scale that clearly shows the facility being constructed. The scales for various portions of the plans shall be shown on each sheet.

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

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

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

All lettering shall be 1/8" minimum.

If the plans include three (3) or more sheets, a cover sheet showing the streets, lots, easements, storm drains, index, and vicinity map shall be included.

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

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

Reference may be made to City of Lakeport or State Standard Plans in lieu of duplicating the drawings.

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

- E. Review by the City Engineer. The subdivider shall submit the improvement plans and all computations to the City Engineer for review. Upon completion of the review, one (1) set of the preliminary plans, with any required revisions indicated, will be returned to the subdivider.
- F. Approval by the City Engineer. After completing any required revisions, the subdivider shall transmit the originals of the improvement plans to the City Engineer for signature.

Upon finding that any required revisions have been made and that the plans conform to all applicable City ordinances and plans, design requirements and conditions of approval of the tentative map, the City Engineer shall sign and date the plans. The City Engineer may make a reproducible set of the plans for use by the City. The originals will be returned to the subdivider.

Approval of the improvement plans shall not be construed as approval of the gas, electric, telephone, and cable television service construction plans.

Approval by the City Engineer shall in no way relieve the subdivider or the subdivider's engineer from responsibility for the design of the improvements and for any deficiencies resulting from the design or from any required conditions of approval of the tentative map.

G. Revision to Approved Plans.

- 1. By Subdivider. Requests by the subdivider for revisions to the approved improvement plans appearing necessary or desirable during construction shall be submitted in writing to the City Engineer or authorized representative and shall be accompanied by revised drawings showing the proposed revision. If the revision is acceptable to the City Engineer and consistent with the tentative map, the originals shall be submitted to the City Engineer's office for initialing. The originals shall be returned to the subdivider and the revised plans shall be immediately transmitted to the City Engineer. Construction of any proposed revision will not be permitted to commence until revised plans have been received and approved by the City Engineer.
- 2. By City Engineer. When revisions are deemed necessary by the City Engineer to protect the public health and safety, or as field conditions may require, a request in writing shall be made to the subdivider. The subdivider shall revise the plans and transmit the originals to the City Engineer for initialing within the time specified by the City Engineer.

Upon receipt of the initialized originals, the subdivider shall immediately transmit revised drawings to the City Engineer. Construction of all or any portion of the improvements may be stopped by the City Engineer until revised drawings have been submitted.

The subdivider may appeal revisions required by the City Engineer to the City Council by filing an appeal in writing within fifteen (15) days following receipt of the request to revise the plans.

- 3. Plan Checking and Inspection Costs for Revisions. Costs incurred by the City for the checking of plans or calculations or inspection as a result of revisions to the approved plans shall be borne by the subdivider at actual cost. A deposit, when

required, shall be submitted with the revised plans and applied toward the actual cost.

**Section 16.18.070 Improvement Agreement:** The improvement agreement shall be prepared by the City Engineer and approved as to form by the City Attorney. The agreement shall provide for:

- A. Construction of all improvements required pursuant to Section 16.18.020, including any required off-site improvements, according to the approved plans and specifications on file with the City Engineer.
- B. Completion of improvements within the time specified by Section 16.18.100.
- C. Right of the City to modify plans and specifications and to require the subdivider to pay for modifications.
- D. Warranty by the subdivider that construction will not adversely affect any portion of adjacent properties.
- E. Payment of inspection fees in accordance with the City's resolution.
- F. Payment of in-lieu fees for undergrounding of utilities on peripheral streets.
- G. Improvement security as required by Section 16.18.080.
- H. Maintenance and repair of any defects or failures and their causes.
- I. Release and indemnification of the City from all liability incurred in connection with the development and payment of all reasonable attorneys' fees that the City may incur because of any legal action or other proceeding arising from the development.
- J. Any other deposits, reimbursements, fees, or conditions as required by City ordinance or resolution and as may be required by the City Engineer.
- K. Any other provisions required by the City as reasonably necessary to effectuate the purposes and provisions of the Subdivision Map Act and this Code.

**Section 16.18.080 Improvement Security. (Sections 66499 et seq.):**

- A. General. Any improvement agreement, contract, or act required or authorized by the Subdivision Map Act or this chapter, for which security is required, shall be secured in accordance with Section 66499 et seq., of the Subdivision Map Act and as provided below.

No final map or parcel map shall be signed by the City Engineer or recorded until all improvement securities required by this section have been received and approved.

- B. Form of Security. The form of security shall be one or the combination of the following at the option and subject to the approval of the City:
  - 1. Bond or bonds by one or more duly authorized corporate sureties. The form of the bond or bonds shall be in accordance with Sections 66499.1, 66499.2, 66499.3 and 66499.4 of the Subdivision Map Act.

2. A deposit, either with the City or a responsible escrow agent or trust company, at the option of the City, of money or negotiable bonds of the kind approved for securing deposits of public monies.
  3. An instrument of credit or letter of credit from one (1) or more financial institutions subject to regulation by the state or federal government and pledging that the funds necessary to carry out the act or agreement are on deposit and guaranteed for payment.
  4. Any other form of security as provided in Section 66499 of the Subdivision Map Act.
- C. Amount of Security. A performance bond or other security in the amount of one hundred percent (100%) of the total estimated construction cost to guarantee the construction or installation of all improvements shall be required of all subdivisions. An additional amount of fifty percent (50%) of the estimated construction cost shall be required to guarantee payment to subdivider's contractor, subcontractor, and to persons furnishing labor, materials, or equipment for the construction or installation of improvements. As part of the obligation guaranteed by the security, and in addition to the full amount of the security, there shall be included costs and reasonable expenses and fees, including attorneys' fees, incurred by the City in enforcing the obligations secured.
1. Not less than five percent (5%) but not more than ten percent (10%) of the total construction cost for contingencies.
  2. Increase for projected inflation computed to the estimated midpoint of construction.
  3. All utility installation costs or a certification acceptable to the City Engineer from the utility company that adequate security has been deposited to ensure installation.
- D. Cash Bond. The subdivider shall deposit with the City not less than One Thousand Dollars (\$1,000) cash for subdivisions of four (4) or less parcels, and Three Thousand (\$3,000) for other subdivisions, or an additional amount as required by the City Engineer, not to exceed one percent (1%) of the total estimated construction cost. The deposit may be used at the discretion of the City to correct deficiencies and conditions caused by the subdivider, contractor, or subcontractors that may arise during or after the construction of the subdivision. Any unspent amount will be returned to the subdivider at the time all bonds and other security are released.
- E. Warranty Security. Upon acceptance of the subdivision improvements by the City, the subdivider shall provide security in the amount as required by the City Engineer to guarantee the improvements against any defective work or labor done or defective materials used in the performance of the improvements throughout the warranty period which shall be the period of one (1) year following completion and shall not be less than ten percent (10%) of the cost of the construction of the improvements, including the cash bond which shall be retained for the one (1) year warranty period.
- F. Reduction in Performance Security. The City Engineer may authorize in writing the release of a portion of the security in conjunction with the acceptance of the satisfactory completion of a part of the improvements as the work progresses upon application by the subdivider, but in no case shall the security be reduced to less than ten percent (10%) of the total improvement security given for faithful performance. The amount of reduction of the security shall be determined by the City Engineer; however, in no event

shall the City Engineer authorize a release of the improvement security which would reduce security to an amount below that required to guarantee the completion of the improvements and any other obligation imposed by the Subdivision Map Act, this Code, or the improvement agreement.

G. Release of Improvement Security.

1. Performance Security. The performance security shall be released only upon acceptance of the improvements by the City and when an approved warranty security has been filed with the City Engineer. If a warranty security is not submitted, performance security shall be released twelve (12) months after acceptance of improvements and correction of all warranty deficiencies.
2. Material and Labor Security. Security given to secure payment to the contractor, subcontractors, and to persons furnishing labor, materials, or equipment may, six (6) months after the completion and acceptance of the improvements by the City, be reduced to an amount equal to the amount of all claims therefore filed and of which notice has been given to the City Council. The balance of the security shall be released upon the settlement of all claims and obligations for which the security was given.
3. Warranty Security. The warranty security shall be released upon satisfactory completion of the warranty period, provided:
  - a. All deficiencies appearing on the warranty deficiency list for the subdivision have been corrected.
  - b. Not less than twelve (12) months have elapsed since the acceptance of the improvements by the City.

**Section 16.18.090 Construction and Inspection:** The construction methods and materials for all improvements shall conform to the standard engineering specifications and all other standard plans and specifications of the City.

Construction shall not commence until all required improvement plans have been approved by the City Engineer. All improvements are subject to inspection by the City Engineer or authorized personnel in accordance with the City's approved specifications.

**Section 16.18.100 Completion of Improvements:**

- A. Subdivisions of Five (5) or More Parcels. The improvements for subdivisions of five (5) or more parcels shall be completed by the subdivider within twelve (12) months, or such later time as approved by the City Engineer, not to exceed thirty-six (36) months, from the recording of the final map unless an extension is granted by the City Council.

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

- B. Subdivisions of Four (4) or Less Parcels. The completion of right-of-way or street improvements for subdivisions of four (4) or less parcels shall not be required until a permit or other grant of approval for the development of any parcel within the subdivision

is applied for. The completion of the improvements may be required by a specific date by the City when the completion of the improvements are found to be necessary for public health or safety or for the orderly development of the surrounding area. This finding shall be made by the Planning Commission. The specified date, when required, shall be stated in the subdivision improvement agreement. Improvements shall be completed prior to final building inspection or occupancy of any unit within the subdivision.

- C. Extensions. The completion date may be extended by the City Council, for subdivision of five (5) or more parcels, or by the Planning Commission, for subdivision of four (4) or less parcels, upon written request by the subdivider and the submittal of adequate evidence to justify the extension. The request shall be made not less than thirty (30) days prior to expiration of the subdivision improvement agreement.

The subdivider shall enter into a subdivision improvement agreement extension with the City. For subdivisions of five (5) or more parcels, the agreement shall be prepared by the City Engineer, approved as to form by the City Attorney, executed by the subdivider, and surety and transmitted to the City Council for its consideration. If approved by the City Council, the City Clerk shall execute the agreement on behalf of the City.

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

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

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

The costs incurred by the City in processing the agreement shall be paid by the subdivider at actual cost plus twenty-five percent (25%) of such cost for overhead expenses.

- D. As-Built Plans. Upon completion of the improvements, the subdivider shall submit to the City Engineer a reproducible set of as-built improvement plans.

**Section 16.18.110 Acceptance of Improvements:**

- A. General. With respect to all subdivisions, when all improvement deficiencies have been corrected and as-built improvement plans submitted, the completed subdivision improvements shall be considered by the City Engineer for acceptance.

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

- B. Acceptance. If the subdivision improvements have been accepted by the City Engineer and public improvements have been dedicated on the final map or parcel map, the City Clerk shall file an Acceptance of Public Improvement with the County Recorder.
- C. Acceptance of a Portion of the Improvements. When requested by the subdivider in writing, the City Engineer may consider acceptance of a portion of the improvements. Such improvements will be accepted by the City Engineer only if the City Engineer finds that it is in the public's interest to do so and such improvements are for the use of the general public.

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

## **Chapter 16.20**

### **REVERSIONS TO ACREAGE**

(Sections 66499.11 et seq.)

#### **Sections:**

- 16.20.010**    **General**
- 16.20.020**    **Initiation of Proceedings**
- 16.20.030**    **Contents of Petition**
- 16.20.040**    **Submittal of Petition to the City Engineer**
- 16.20.050**    **City Council Approval**
- 16.20.060**    **Filing with County Recorder**

**Section 16.20.010    General:** Subdivided property may be reverted to acreage pursuant to the provisions of the Subdivision Map Act and this article. This article shall apply to final maps and parcel maps.

Subdivisions may also be merged and re-subdivided without reverting to acreage pursuant to Section 66499.20 of the Subdivision Map Act and this chapter.

#### **Section 16.20.020    Initiation of Proceedings:**

- A. By Owners. Proceedings to revert subdivided property to acreage may be initiated by petition of all the owners of record of the property. The petition shall be in a form prescribed by the Community Development Department. The petition shall contain the information required by Section 16.20.030 and any other information as required.
- B. By City Council. The City Council, at the request of any person or on its own motion may, by resolution, initiate proceedings to revert property to acreage. The City Council shall direct the Department to obtain the necessary information to initiate and conduct the proceedings.

**Section 16.20.030    Contents of Petition:** The petition shall contain, but not be limited to, the following:

- A. Evidence of title to the real property.

- B. Evidence of the consent of all of the owners of an interest in the property.
- C. Evidence that none of the improvements required to be made have been made within two (2) years from the date the final or parcel map was filed for record, or within the time limit allowed by agreement for completion of the improvements, whichever is later.
- D. Evidence that no lots shown on the final or parcel map have been sold within five (5) years from the date such final or parcel map was filed for record.
- E. A final or parcel map in the form, and with the contents, prescribed by Sections 16.10.040 and 16.10.050 or Section 16.12.090, as the case may be, which delineates dedications which will not be vacated and dedications required as a condition of the reversion. Final or parcel maps shall be conspicuously designated with the title, "The Purpose of this map is a Reversion to Acreage."
- F. Fees and/or deposits in accordance with Section 16.02.070.

**Section 16.20.040 Submittal of Petition to the City Engineer:** The final or parcel map for the reversion, together with all other data as required by this article, shall be submitted to the City Engineer for review.

Upon finding that the petition meets with all the requirements of the Subdivision Map Act or this chapter, the Community Development Director shall submit the final or parcel map, together with a report and recommendations of approval or conditional approval of the reversion to acreage, to the City Council for its consideration.

**Section 16.20.050 City Council Approval:** A public hearing shall be held by the City Council on all proposed reversions to acreage. Notice of the public hearing shall be given by the City Engineer as provided in Section 16.08.070 (A). The Community Development Director may give such other notice that the City Engineer deems necessary or advisable.

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

- A. Dedications or offers of dedication vacated or abandoned by the reversion to acreage are unnecessary for present or prospective public purposes; and
- B. Either:
  1. All owners of an interest in the real property within the subdivision have consented to reversion; or
  2. None of the improvements required to be made have been made within (2) years from the date the final or parcel map was filed for record, or within the time allowed by agreement for completions of the improvements, whichever is later; or
  3. No lots shown on the final or parcel map have been sold within five (5) years from the date such map was filed for record.

The City Council may require as conditions of the reversion:

- a. The owners dedicate or offer to dedicate streets, public rights-of-way, or easements.

- b. The retention of all or a portion of previously paid subdivision fees, deposits, or improvement securities if the same are necessary to accomplish any of the purposes or provisions of the Subdivision Map Act or this chapter.
- c. Such other conditions of reversion as are necessary to accomplish the purposes or provisions of the Subdivision Map Act or this chapter or necessary to protect the public health, safety, or welfare.

**Section 16.20.060 Filing With the County Recorder:** Upon approval of the reversion to acreage, the City Clerk shall transmit the final or parcel map, together with the City Council resolution approving the reversion, to the County Recorder for recordation. Reversion shall be effective upon the final map being filed for record by the County Recorder. Upon filing, all dedications and offers of dedication not shown on the final or parcel map for reversion shall be of no further force and effect.

## **Chapter 16.22**

### **PARCEL MERGERS** (Section 66451,10 et seq.)

**Sections:**

- 16.22.010 Mergers Required**
- 16.22.020 Notice of Intention to Determine Status**
- 16.22.030 Hearing on Determination of Status**
- 16.22.040 Determination of Merger**
- 16.22.050 Appeals**
- 16.22.060 Determination When No Hearing Is Requested**
- 16.22.070 Request to Merge by Property Owner**

**Section 16.22.010 Mergers Required:** Two (2) or more contiguous parcels or units held by the same owner may be considered as merged if one (1) of the parcels or units does not conform to the minimum parcel or lot size required by this Code, and if all of the following requirements are satisfied:

- A. At least one (1) of the affected parcels is undeveloped by any structure for which a building permit was 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.
- B. With respect to any affected parcel, one (1) or more of the following conditions exists:
  - 1. Comprises less than six thousand (6,000) square feet in area at the time of the determination of merger.
  - 2. Was not created in compliance with applicable laws and ordinances in effect at the time of its creation.

3. Does not meet current standards for sewage disposal and domestic water supply.
  4. Does not meet slope stability standards.
  5. Has no legal access which is adequate for vehicular safety equipment and maneuverability.
  6. Its development would create health or safety hazards.
  7. Is inconsistent with the General Plan and any applicable specific plan, other than minimum lot size or density standards.
- C. For purposes of determining whether contiguous parcels are held by the same owner, ownership shall be determined as of the date that the Notice of Intention to Determine Status is recorded pursuant to this chapter.
- D. Subsection (B) shall not apply if any of the conditions stated in Section 66451.11 (b) (A), (B), (C) or (D) of the Subdivision Map Act exist.

**Section 16.22.020 Notice of Intention to Determine Status:** Prior to initiating a merger, the Department shall mail, by certified mail, a Notice of Intention to Determine Status to the current record owner of the property. The notice shall state that the affected parcels may be merged pursuant to this article and that, within thirty (30) days from the date the Notice of Intention was recorded, the owner may request a hearing before the Planning Commission to present evidence that the property does not meet the criteria for merger. The Notice of Intention to Determine Status shall be filed for record with the County Recorder by the Department on the same day that the notice is mailed to the property owner.

**Section 16.22.030 Hearing on Determination of Status:** The owner of the affected property may file a written request for a hearing with the Department within thirty (30) days after recording of the Notice of Intention to Determine Status. Upon receipt of the request, the Department shall set a time, date, and place for a hearing before the Planning Commission and notify the owner by certified mail. The hearing shall be conducted within sixty (60) days following the receipt of the owner's request, or may be postponed or continued by mutual consent of the Planning Commission and the property owner.

At the hearing, the property owner shall be given the opportunity to present any evidence that the affected property does not meet the requirements for merger specified in this chapter.

At the conclusion of the hearing, the Planning Commission shall determine whether the affected parcels are to be merged or are not to be merged and shall notify the owner of the determination. The Notice of Determination shall be mailed to the property owner by the Department within five (5) days of the date of the hearing.

**Section 16.22.040 Determination of Merger:** If the Planning Commission makes a determination that the parcels are to be merged, a Notice of Merger shall be filed for record with the County Recorder by the Department within thirty (30) days of the conclusion of the hearing, unless the decision has been appealed pursuant to Section 16.22.050. The Notice of Merger shall specify the name of the record owner and a description of the property. The Notice of Merger under this article shall be in a form approved by the City Engineer and

shall be approved by the City Engineer prior to being filed for record with the County Recorder.

If the Planning Commission makes a determination that the parcels shall not be merged, a release of the Notice of Intention to Determine Status shall be filed for record with the County Recorder by the Department within thirty (30) days after the Planning Commission determination, and a clearance letter shall be mailed to the owner by the Department.

**Section 16.22.050 Appeals and Planning Commission Review:** The determination of the Planning Commission shall be appealed first to the City Council provided that the appeal shall be filed within fifteen (15) days of the date of the Notice of Determination and the City Council shall hear the appeal within sixty (60) days from the date of appeal. If after hearing, the City Council grants the appeal and determines that the affected property has not been merged pursuant to this article, the Department shall, within thirty (30) days after the City Council determination, file for record with the County Recorder a release of the Notice of Intention to Determine Status and mail a clearance letter to the owner.

**Section 16.22.060 Determination When No Hearing is Requested:** If the owner does not file a request for a hearing within thirty (30) days after the recording of the Notice of Intention to Determine Status, the Planning Commission may, at any time thereafter, make a determination that the parcels are or are not to be merged. If they are to be merged, a Notice of Merger shall be filed for record with the County Recorder by the Department within ninety (90) days after the mailing of the Notice of Intention to Determine Status pursuant to Section 16.22.020.

**Section 16.22.070 Request to Merge by Property Owner:** If the merger of contiguous parcels or units is initiated by the record owner, the owner may waive in writing the right to a hearing before the Planning Commission and to all notices required by this article. Upon receipt of such waiver, the Department shall simultaneously file for record with the County Recorder a Notice of Intention to Determine Status, the waiver of right of hearing and notice, and a Notice of Merger.

## **Chapter 16.23**

### **LOT LINE ADJUSTMENT**

#### **Sections:**

- 16.23.010 General Provisions**
- 16.23.020 Application Procedure**
- 16.23.030 Procedure by Community Development Department**
- 16.23.040 Requirements / Conditions**
- 16.23.050 Recordation of Lot Line Adjustment**
- 16.23.060 Appeals**

**Section 16.23.010 General Provisions:** A lot line adjustment between two or more existing adjacent parcels, where the land taken from one parcel is added to an adjacent parcel, and where a greater number of parcels than originally existed is not thereby created, may be permitted without a subdivision or parcel map provided the lot line adjustment is approved by the City. The City shall limit its review and approval to a determination of

whether or not the parcels resulting from the lot line adjustment will conform to local zoning and building ordinances. The City shall not impose conditions or exactions on its approval of a lot line adjustment except to conform to local zoning and building ordinances, to require the prepayment of real property taxes prior to the approval of the lot line adjustment, or to facilitate the relocation of existing utilities, infrastructure, or easements. No tentative map, parcel map, or final map shall be required as a condition to the approval of a lot line adjustment. The lot line adjustment shall be reflected in deeds which shall be recorded. No record of survey shall be required for a lot line adjustment unless required by Section 8762 of the Business and Professions Code.

**Section 16.23.020 Application Procedure:** An applicant proposing a lot line adjustment shall submit an application to the City Community Development Department with the following:

- A. An application form and other pertinent information;
- B. A list of property owners for all the parcels involved;
- C. A general map showing:
  - 1. All existing and proposed property lines;
  - 2. The land area(s) to be added to or transferred from each parcel;
  - 3. The location of all existing structures, all utilities on the property, all public utility easements, all other easements, all public and private streets, roads, and driveways.

The map does not need to be professionally prepared, however, the map must be to scale, neat, clear, accurate, and complete in order to be accepted for review.

**Section 16.23.030 Procedure by Community Development Department:** Upon receipt of the lot line adjustment application, the Community Development Department shall determine completeness, set a Planning Commission agenda date, and notice the applicant. The Community Development Department shall prepare a report as to the proposal's conformance with these provisions.

**Section 16.23.040 Requirements / Conditions:** The lot line adjustment shall conform to the City's zoning and building code ordinances except where one or more adjacent recorded legal lots are of less area than required by the Municipal Code. Said adjustments may be considered for approval so long as any reduction in lot size or increase in lot size will not result in any additional parcels.

No tentative map, parcel map, or final map as designated by the California Subdivision Map Act shall be required. The City Planning Commission may impose conditions on the lot line adjustments relating to conformance with zoning and building codes, payment of property taxes, and relocation of utilities, infrastructure, and easements.

**Section 16.23.050 Recordation of Lot Line Adjustments:** Lot line adjustments approved pursuant to this chapter shall be reflected in deeds and recorded within a one-year time period from the date of approval. Consents of lienholders shall be recorded with the deeds. The deeds shall be submitted to the City Community Development Department for review and approval prior to being recorded. The deeds shall be accompanied by a lot book guarantee or other title report which identifies lienholders for each parcel. A consent of lienholder shall be provided for the lot line adjustment.

The following deeds / legal descriptions shall be provided to the City for review and approval:

- A. The description of the specific land area(s) to be granted;
- B. The revised description of the parcel(s) to which the adjusted land area has been granted; and
- C. The revised description of the parcel(s) from which the specific land area has been transferred.

All signatures on all deeds and on all consent of lienholder forms shall be notarized. All legal descriptions accompanying deeds to be recorded shall be prepared by a registered civil engineer or a licensed land surveyor.

The lot line adjustment shall be deemed completed only after recordation of deeds. If the deeds are not recorded after one year, the approval shall expire and become null and void.

Lot line adjustments involving parcels in different ownership shall convey the requisite interests in the affected parcels to complete the adjustment. If the lot line adjustment affects parcels under one ownership, there may not be a requirement to adjust ownership or security interest.

**Section 16.23.060 Appeals:** Any decision rendered by the Planning Commission regarding an approval or denial of a lot line adjustment may be appealed to the City Council in accordance with the provisions of the Municipal Code within five days of the date of the written decision.

## **Chapter 16.24**

### **CORRECTION AND AMENDMENT OF MAPS**

(Section 66469 et seq.)

#### **Sections:**

- 16.24.010 Requirements**
- 16.24.020 Forms and Contents**
- 16.24.030 Submittal and Approval by City Engineer**
- 16.24.040 Filing with the County Recorder**

**Section 16.24.010 Requirements:** After a final or parcel map is filed in the office of the County Recorder, it may be amended by a certificate of correction or an amending map:

- A. To correct an error in any course or distance shown thereon;
- B. To show any course or distance that was omitted therefrom;
- C. To correct an error in the description of the real property shown on the map;
- D. To indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor charged with responsibilities for setting monuments;

- E. To show the proper location of any monument which has been changed in location, or character, or originally was shown at the wrong location or incorrectly as to its character.
- F. To correct any other type of map error or omission as approved by the City Engineer, which does not affect any property right. Errors and omissions may include, but are not limited to, lot numbers, acreage, street names, and identification of adjacent record maps. Error does not include changes in courses or distances from which an error is not ascertainable from the data shown on the final or parcel map.
- G. To make modifications when there are changes which make any or all conditions of the map no longer appropriate or necessary and that the modifications do not impose any additional burden on the present fee owner of the property, and if the modifications do not alter any right, title, or interest in the real property reflected on the recorded map. The modification shall be set for public hearing by the Planning Commission in accordance with Section 16.08.070 or Section 16.12.040 of this chapter. The Planning Commission shall confine the hearing to consideration of, and action on, the proposed modification.

**Section 16.24.020 Form and Contents:** The amending map or certificate of correction shall be prepared by a registered civil engineer or licensed land surveyor. The form and contents of the amending map shall conform to the requirements of Sections 16.10.040 and 16.10.050 if a final map, and Section 16.12.090 (B) if a parcel map. The certificate of correction shall set forth in detail the corrections made and show the names of the present fee owners of the property affected by the correction.

**Section 16.24.030 Submittal and Approval by City Engineer:** The amending map or certificate of correction, complete as to final form, shall be submitted to the City Engineer for review and approval.

The City Engineer shall examine the amending map or certificate of correction and if the only changes made are those set forth in Section 16.24.010, this fact shall be certified by the City Engineer on the amending map or certificate of correction.

**Section 16.24.040 Filing with the County Recorder:** The amending map or certificate of correction certified by the City Engineer shall be filed in the office of the County Recorder. Upon such filing, the County Recorder shall index the names of the fee owners and the appropriate subdivision designation shown on the amending map or certificate of correction in the general index and map index, respectively. Thereupon, the original map shall be deemed to have been conclusively so corrected, and thereafter shall impart constructive notice of all such corrections in the same manner as though set forth upon the original map.

## Chapter 16.25

### CERTIFICATE OF COMPLIANCE

#### Sections:

- 16.25.010**    **General provisions**
- 16.25.020**    **Application process**
- 16.25.030**    **Other requirements**

**Section 16.25.010    General Provisions:** Any person owning real property or purchasing real property pursuant to a contract of sale may request that the Community Development Department determine whether the real property complies with the provisions of the California Subdivision Map Act and the Lakeport Subdivision Ordinance (Municipal Code). The City may require that the owner of property obtain a certificate of compliance (COC) or conditional certificate of compliance (CCOC) under certain situations set forth in the California Government Code. A recorded final subdivision map or parcel map automatically constitutes a certificate of compliance.

**Section 16.25.020    Application Process:** The owner or purchaser of real property shall file a written request with the Lakeport Community Development Department for a certificate of compliance (COC). Upon receipt of the COC application, the Community Development Department in consultation with the Lakeport City Attorney shall review the application for compliance with the Map Act and City Subdivision Ordinance. If the City determines that the land (real property) does comply, a COC identifying the property and stating that it is in accordance with the Map Act and local Subdivision Ordinance shall be recorded with the Lake County Recorder.

If the Community Development Department in consultation with the Lakeport City Attorney determines that the land (real property) does not comply with the provisions of the Map Act and City Subdivision Ordinance, a conditional certificate of compliance (CCOC) shall be recorded with the Lake County Recorder.

The City may, depending on when the person seeking the certificate acquired the property, attach conditions to the CCOC. A CCOC shall serve as notice to the property owner or potential property owner who has applied for the certificate, a grantee of the property, or any subsequent transferee or assignee of the property, that the fulfillment and implementation of such condition(s) shall be required prior to the subsequent issuance of a permit, grant of approval, or entitlement for development of the property. Compliance with said conditions shall not be required until such time as a permit or other grant of approval or entitlement for development of the property is issued by the city.

**Section 16.25.030    Other Requirements:** The City of Lakeport may require the applicant for a COC or CCOC to submit a title report tracing the chain of title and provide other record information in an effort to determine the level of compliance with the California Subdivision Map Act and City Subdivision Ordinance. Upon determination of the COC or CCOC, the owner or purchaser of the subject property will be required to generate a legal description and file with the COC or CCOC.

Should a decision be unable to be reached by the Community Development Director/City Attorney, the matter should be referred to the Lakeport Planning Commission for determination.

## **Chapter 16.26**

### **ENFORCEMENT**

(Sections 66499.30 et seq.)

#### **Sections:**

- 16.26.010 Prohibition**
- 16.26.020 Remedies**
- 16.26.030 Notice of Violation**
- 16.26.040 Violation as a Misdemeanor**

#### **Section 16.26.010 Prohibition:**

- A. No person shall sell, lease, or finance any parcel or parcels of real property or commence construction of any building for sale, lease, or financing thereon, except for model homes, or allow occupancy thereof, for which a final map is required by the Subdivision Map Act or this chapter, until such a map, in full compliance with the provisions of the Subdivision Map Act and this Code, and has been filed for record by the County Recorder.
- B. No person shall sell, lease, or finance any parcel or parcels of real property or commence construction of any building for sale, lease, or financing thereon, except for model homes, or allow occupancy thereof, for which a parcel map is required by the Subdivision Map Act or this Code, until such a map, in full compliance with the provisions of the Subdivision Map Act and this Code has been filed for record by the County Recorder.
- C. Conveyance of any part of a division of real property for which a final or parcel map is required by the Subdivision Map Act or this Code shall not be made by parcel or block number, letter or other designation, unless and until such map has been filed for record by the County Recorder.
- D. This section does not apply to any parcel or parcels of a subdivision offered for sale or lease, contracted for sale or lease, or sold or leased in compliance with or exempt from any law, including this Code, regulating the design and improvement of subdivisions in effect at the time the subdivision was established.
- E. Nothing contained in subdivisions (a) and (b) shall be deemed to prohibit an offer or contract to sell, lease, or finance real property or to construct improvements thereon where such sale, lease, or financing, or the commencement of such construction, is expressly conditioned upon the approval and filing of a final map or parcel map, as required under the Subdivision Map Act or this Code.

**Section 16.26.020 Remedies:**

- A. Any deed of conveyance, sale, or contract to sell real property which has been divided, or which has resulted from a division, in violation of the provisions of the Subdivision Map Act or this Code or is voidable at the sole option of the grantee, buyer, or person contracting to purchase, any heirs, personal representatives, or trustees in insolvency or bankruptcy thereof, within one (1) year after the date of discovery of such violation. The deed of conveyance, sale, or contract to sell is binding upon any successor in interest of the grantee, buyer, or person contracting to purchase, other than those above enumerated, and upon the grantor, vendor, or person contracting to sell, or his or her assignee, heir, or devisee.
- B. Any grantee, or successor in interest thereof, of real property which has been divided, or which has resulted from a division, in violation of the provisions of this Code or the Subdivision Map Act may, within one (1) year of the date of discovery of such violation, bring an action in the Superior Court to recover any damages suffered by reason of such division of property. The action may be brought against the person who so divided the property and against any successors in interest who have actual or constructive knowledge of such division of property.
- C. The provisions of this section shall not apply to the conveyance of any parcel of real property identified in a certificate of compliance filed pursuant to Section 16.26.030 or identified in a recorded final map or parcel map, from and after the date of recording.

The provisions of this section shall not limit or affect in any way the rights of a grantee or successor in interest under any other provision of law.

- D. This section does not bar any legal, equitable, or summary remedy to which the City or other public agency, or any person, firm, or corporation may otherwise be entitled, and the City or other public agency, or such person, firm, or corporation may file a suit in the superior court to restrain or enjoin any attempted or proposed subdivision of sale, lease, or financing in violation of the Subdivision Map Act or this Code.
- E. The City shall not issue a permit or grant any approval necessary to develop any real property which has been divided, or which has resulted from a division, in violation of the provisions of the Subdivision Map Act or this Code if it finds that development of such real property is contrary to the public health or the public safety. The authority to deny such a permit or approval shall apply whether the applicant therefore was the owner of record at the time of such violation or whether the applicant therefore is either the current owner of record or a vendor thereof with, or without, actual or constructive knowledge of the violation at the time of the acquisition of an interest in such real property.

If the City issues a permit or grants approval for the development of any real property illegally subdivided, the City may impose those additional conditions which would have been applicable to the division of the property at the time the current owner of record acquired the property. If the property has the same owner of record as at the time of the initial violation, the City may impose conditions applicable to a current division of the property. If a conditional certificate of compliance has been filed for record in accordance with the provisions of Section 16.26.030, only those conditions stipulated in that certificate shall be applicable.

**Section 16.26.030 Notice of Violation (Section 66499.36):** If the Department has knowledge that real property has been divided in violation of the provisions of the Subdivision Map Act or this Code, a Notice of Intention to Record a Notice of Violation shall be mailed by the Department by certified mail to the current owner of record. The notice shall describe the violation and state that the owner will be given the opportunity to present evidence. The notice shall also contain an explanation as to why the subject parcel is not lawful under Section 66412.6 (A) or (B) of the Subdivision Map Act. The notice shall specify the date, time, and place for a meeting at which the owner may present evidence to the Planning Commission why a notice of violation should not be recorded.

The meeting shall be held no sooner than thirty (30) days and no later than sixty (60) days from the date of mailing of the Notice of Intention to Record a Notice of Violation. If, within fifteen (15) days of receipt of the notice, the owner fails to file with the Department a written objection to recording the notice of violation, the Department shall file the notice of violation for recording with the County Recorder. If, after the owner has presented evidence, the Planning Commission determines that there has been no violation, the Department shall mail a clearance letter to the then current owner of record. If, however, after the owner has presented evidence, the Planning Commission determines that the property has in fact been illegally divided, the Department shall record the notice of violation for recording with the County Recorder.

The notice of violation, when recorded, shall be deemed to be constructive notice of the violation to all successors in interest in such property.

**Section 16.26.040 Violation as a Misdemeanor:** In addition to the remedies and procedures provided in this chapter, any person violating any of the provisions or failing to comply with any of the regulatory requirements of this chapter shall be guilty of a misdemeanor. Any person convicted of a misdemeanor under the provisions of this chapter shall be punishable by imprisonment in the county jail not exceeding six (6) months or by fine not exceeding one thousand dollars (\$1,000) or by both.

Except as otherwise provided in this chapter, each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this chapter is committed, continued, or permitted by such person and shall be punishable accordingly.

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