

## TITLE 21

### SUBDIVISIONS<sup>1</sup>

#### CHAPTERS:

#### 21.02 General Provisions

- 21.02.010 Purposes.
- 21.02.020 General Plan.
- 21.02.030 Precise Plans and Official Plan Lines.
- 21.02.040 Conformity With Zoning Provisions.
- 21.02.050 State Subdivision Map Act Applicability.
- 21.02.060 Advisory Agency Designated.

#### 21.04 Definitions

- 21.04.010 Generally.
- 21.04.020 Alley.
- 21.04.022 Area of Special Flood Hazard.
- 21.04.023 Arterial Street.
- 21.04.027 Bikeways.
- 21.04.030 Block.
- 21.04.035 Collector Street.
- 21.04.040 Cul-De-Sac.
- 21.04.060 Frontage Street.
- 21.04.070 Hillside.
- 21.04.075 Local Street.
- 21.04.080 Lot.
- 21.04.090 Lot, Double Frontage.
- 21.04.100 Lot, Key.
- 21.04.110 Lot, Reversed Corner.
- 21.04.114 Lot Line Adjustment Map.
- 21.04.140 Nonaccess Strip.
- 21.04.144 Parcel Map.
- 21.04.150 Pedestrian Way.
- 21.04.160 Planting Strip.
- 21.04.170 Preliminary Map.
- 21.04.180 Reversion to Acreage Map.
- 21.04.200 Sidewalk.
- 21.04.210 Shall.
- 21.04.218 Utilities Easement.

- 21.04.220 Utilities Strip.
- 21.04.230 Wording.

## **21.06 Enforcement**

- 21.06.010 Penalties.
- 21.06.020 Duties of City Engineer.
- 21.06.030 Voidable Conveyances.

## **21.08 Streets, Alleys and Walkways**

- 21.08.010 Street Rights-of-Way and Improvements.
- 21.08.020 Curbs and Gutters.
- 21.08.030 Utilities Strips.
- 21.08.040 Sidewalks.
- 21.08.050 Nonaccess Strips.
- 21.08.060 Curves and Tangents.
- 21.08.070 Grades.
- 21.08.080 Corners.
- 21.08.090 Street Intersections.
- 21.08.100 Alignment of Streets.
- 21.08.110 Continuations of Existing Streets.
- 21.08.120 Streets in Subdivisions Adjoining Acreage.
- 21.08.130 Cul-De-Sacs.
- 21.08.140 Frontage Streets.
- 21.08.150 Planting Strips.
- 21.08.160 Street Names.
- 21.08.170 Alleys.
- 21.08.180 Pedestrian Ways.
- 21.08.190 Bikeways.
- 21.08.200 TABLE I - Minimum Street Right-of-Way and  
Improvement Standards
- 21.08.210 Traffic Fees.

## **21.10 Lots and Blocks**

- 21.10.010 Lots.
- 21.10.020 Blocks.

## **21.12 Watercourses**

- 21.12.010 Dedication.

## **21.14 Railroad and Grade Crossings**

21.14.010 Railroads.

21.14.020 Railroad Grade Crossing.

## **21.16 Drainage**

21.16.010 Required.

21.16.020 Facilities Design to be in Accord With City Specifications.

21.16.030 Drainage Fee.

## **21.18 Water and Sewers**

21.18.010 Sanitary Sewers.

21.18.020 Water Supply.

## **21.20 Fire Hydrants**

21.20.010 Location and Installation.

## **21.22 Utility Easements**

21.22.010 Required When.

## **21.24 Access Limitation**

21.24.010 Dedication of Non-Access Strips.

## **21.26 Reserve Strips**

21.26.010 Dedication Required.

## **21.28 Street Signs and Lights**

21.28.010 Street Signs.

21.28.020 Street Lights.

21.28.030 Traffic Control Devices.

## **21.30 Community Facilities Sites**

21.30.010 Reservation by Subdivider.

## **21.32 Commercial And Industrial Areas**

21.32.010 Specifications Generally.

## **21.36 Planned Unit Development**

21.36.010 Permitted When.

## **21.38 Hazardous Areas**

21.38.010 General.

21.38.050 Utility Construction to Minimize Damage.

21.38.060 Adequate Drainage Required.

21.38.070 Cumulative Effect of Development on Flooding.

## **21.39 Certificate of Compliance**

21.39.010 Certificate of Compliance.

21.39.020 Property must comply with Government Code section 66499.34.

21.39.030 Filing of certificate.

21.39.040 Conditional approval.

21.39.050 Other documents which constitute certificates of compliance.

21.39.060 Official map pursuant to Government Code section 66499.52(b).

21.39.070 Certifying multiple parcels.

21.39.080 Fee.

21.39.090 Appeal of compliance determination.

## **21.40 Preliminary Review**

21.40.020 Form.

21.40.030 Required Information on Map Designated.

21.40.040 Development Review Committee.

21.40.050 Report of Development Review Committee.

## **21.42 Tentative Map**

21.42.010 Filing--Number of Copies.

21.42.020 Filing--Fee.

21.42.030 Filing--Time.

21.42.050 Form.

21.42.060 Required Information on Map Designated.

- 21.42.070 Statements to Accompany Map.
- 21.42.080 Planning and Building Director Action.
- 21.42.090 Planning Commission Action.
- 21.42.100 Appeal to City Council--Hearing.
- 21.42.101 Review by Council.
- 21.42.110 Term.

### **21.43 Vesting Tentative Maps**

- 21.43.010 Purpose.
- 21.43.020 Definitions.
- 21.43.030 Application.
- 21.43.040 Consistency.
- 21.43.050 Filing and Processing.
- 21.43.060 Fees.
- 21.43.070 Expiration.
- 21.43.080 Development Rights--Vesting on Approval of Vesting Tentative Map.
- 21.43.090 Miscellaneous Provisions.

### **21.44 Final Map**

- 21.44.010 Preparation Generally--Time Extension.
- 21.44.020 Filing--Tracings and Prints.
- 21.44.030 Review--Fee.
- 21.44.050 Form.
- 21.44.070 Information Required on Map Designated.
- 21.44.080 Monuments.
- 21.44.090 Survey Requirements.
- 21.44.100 Certificates on Map.
- 21.44.110 Dedications.
- 21.44.120 Improvements--Required When.
- 21.44.130 Improvements--Conformance With Council Standards Required.
- 21.44.140 Improvements--Construction in Accord With City Engineer.
- 21.44.150 Improvements--Grades.
- 21.44.160 Improvements--Inspection and Plan Check--Fees.
- 21.44.170 Improvements--Failure to Complete Prior to Map Approval--Agreement.
- 21.44.190 Improvements--Reimbursement to Subdivision For Use When.
- 21.44.200 Improvements--Plans.
- 21.44.210 Review by City Engineer--Certification by Planning Commission Secretary.
- 21.44.220 Determination of Compliance--Submittal of Work Sheets, Plans and Profiles.
- 21.44.230 Certification by City Engineer.
- 21.44.240 Filing With Council for Approval--Offers of Dedication--Notice of Action.



## **21.46 Park Dedication**

- 21.46.010 Purpose.
- 21.46.020 Requirements.
- 21.46.030 Basic Standard.
- 21.46.040 Standards and Formula for Dedication of Land.
- 21.46.050 Formula for Fees in Lieu of Land Dedication.
- 21.46.060 Criteria for Requiring Both Dedication and Fee.
- 21.46.070 Amount of Fee in Lieu of Parkland Dedication.
- 21.46.080 Subdivisions not within General Plan.
- 21.46.090 Determination of Land or Fee.
- 21.46.100 Credit for Improvements to Dedicated Open Space.
- 21.46.105 Partial Credit for Private Space.
- 21.46.110 Procedure.
- 21.46.120 Review and Appeals.

## **21.48 Reversion to Acreage Map**

- 21.48.010 Title.
- 21.48.020 Procedure.

## **21.50 Divisions of Land**

- 21.50.010 Tentative Map.
- 21.50.020 Waiver of Parcel Map.
- 21.50.030 Form.
- 21.50.040 Survey Required.
- 21.50.050 Additional Data.
- 21.50.060 Certificate of Acceptance.
- 21.50.065 Planning Certificate.
- 21.50.070 Fees and Deposits.
- 21.50.080 Preliminary Submittal.
- 21.50.090 Return for Correction.
- 21.50.100 Resubmittal.
- 21.50.110 Approval by City Engineer.
- 21.50.120 Filing with County Recorder.

## **21.52 Exceptions**

- 21.52.010 Authorized When.
- 21.52.020 Application.
- 21.52.030 Referrals.
- 21.52.040 Planning Commission Action.

- 21.52.050 Appeal to City Council--Hearing.
- 21.52.060 Review by City Council.

### **21.53 Parcel Mergers**

- 21.53.010 Authority.
- 21.53.020 When Lots May Be Merged.
- 21.53.030 Recordation of Notice.
- 21.53.040 Notice of Intent to Determine Status.
- 21.53.050 Request for Hearing on Determination of Status.
- 21.53.060 Hearing; Time, Date, and Place.
- 21.53.070 Hearing; Evidence; Determination of Status.
- 21.53.080 Failure to Request Hearing; Determination of Merger
- 21.53.090 Determination Not to Merge; Release of Notice Of  
Intent to Determine Status; Recordation;  
Clearance Letter.
- 21.53.100 Merger Requested by Property Owner.

### **21.54 Regulations for New Multiple Residential Development**

- 21.54.010 Purpose.
- 21.54.020 General Provisions.
- 21.54.030 Buyer Protection Provisions.
- 21.54.040 Application Requirements.
- 21.54.050 Design and Construction Standards.
- 21.54.060 Landscape Maintenance Agreement.
- 21.54.070 Park Dedication Fees.
- 21.54.080 Requirements for Design Review Approval.
- 21.54.090 Conditions.
- 21.54.100 Findings Justifying Denial.

### **21.56 Regulations for the Conversion of Rental Units to Condominiums**

- 21.56.001 Purpose.
- 21.56.002 General Provisions.
- 21.56.003 Buyer Protection Provisions.
- 21.56.004 Tenant Protection and Assistance Provisions.
- 21.56.005 Application Requirements.

- 21.56.006 Design and Construction Standards.
- 21.56.007 Landscape Maintenance Agreement.
- 21.56.008 Park Dedication Fees.
- 21.56.009 Requirements for Design Review Approval.
- 21.56.100 Conditions.
- 21.56.105 Exemption.
- 21.56.130 Appeal to City Council--Hearing.

## **21.60 Lot Line Adjustments**

- 21.60.010 Application Required.
- 21.60.020 Filing Fee.
- 21.60.030 Preparation and Form.
- 21.60.035 Review of Applications.
- 21.60.040 Term.
- 21.60.045 Deed.
- 21.60.050 Planning Certificate.
- 21.60.055 Survey of Record Not Required.

NOTE: Footnotes are numbered throughout the text and are located at the end of this title.

## **SUBDIVISIONS**

### **CHAPTER 21.02**

#### **GENERAL PROVISIONS**

##### **21.02.010 Purposes.**

This title is adopted to regulate the subdivision of land and to require the provision of certain prescribed improvements and payment of in-lieu fees which are needed as a consequence of the subdivision of land, and in order that the following purposes shall be achieved to:

- A. Implement the General Plan of the City, hereinafter referred to as the General Plan, adopted by the City Council as the long range, general comprehensive guide to the physical development of the City;
- B. Provide lots of sufficient size and appropriate design for the purpose for which they are to be used;
- C. Provide streets of adequate capacity with appropriate improvements for the anticipated traffic which will utilize them, and to ensure that streets are designed so as to minimize safety hazards to vehicles and pedestrians.
- D. Provide sidewalks and pedestrian ways where needed for the safety and convenience of pedestrians;
- E. Preserve the natural assets of the City and to create new beauty through skilled subdivision design;
- F. Provide for water supply, sewage disposal, storm drainage, street lighting, fire protection and other utilities and services needed to protect and promote the public health, safety and convenience;
- G. Plan and provide for parks, recreation and other types of community facilities where needed to serve new developments;
- H. Ensure that the costs of providing rights-of-way and improvements for vehicular and pedestrian movement, and utilities needed to serve new developments, are borne by the subdivider rather than by the property owners of the City at large;

## **SUBDIVISIONS**

- I. To ensure that, insofar as possible, land is subdivided in a manner which will promote the public health, safety, convenience and general welfare. (Ord. 1103 C.S. § I (part), 1987: Prior code § 4500.)

### **21.02.020 General Plan.**

A subdivision map shall conform with the principles and standards of the General Plan and all its elements. In the absence of a precise plan line, a major street or secondary street shall conform approximately with the alignment shown on the General Plan. (Ord. 1103 C.S., § I (part) 1987: Prior code § 4501.)

### **21.02.030 Precise Plans and Official Plan Lines.**

A subdivision map shall conform with the precise plans for streets, community facilities sites and other projects, adopted by the City Council. A subdivision map shall conform with official plan lines for the widening of streets and for other projects. (Prior code § 4502.)

### **21.02.040 Conformity With Zoning Provisions.**

A subdivision map shall conform with the zoning provisions of the City, as found in Title 22 of this code, hereinafter simply referred to as the zoning provisions, with respect to use of land, lot size and dimensions, space for off-street parking and off-street loading areas and other applicable regulations. (Prior code § 4503.)

### **21.02.050 State Subdivision Map Act Applicability.**

The provisions of this title are supplemental to the provisions of the Subdivision Map Act of the State, hereinafter referred to as the Subdivision Map Act, and all terms used herein which are defined in the Subdivision Map Act shall have the same meaning as ascribed thereto in the Act, and as the Act may hereafter be amended. (Prior code § 4504.)

### **21.02.060 Advisory Agency Designated.**

## **SUBDIVISIONS**

The Planning Commission of the City, hereinafter referred to as the City Planning Commission, is designated as the advisory agency referred to in the Subdivision Map Act and is charged with the duty of making investigations and reports on the design and improvement of proposed subdivisions, and the Commission shall have such additional powers and duties with respect to subdivisions, the maps thereof, and the procedure relating thereto as are prescribed by the Subdivision Map Act and by this title. For review and approval of parcel maps, the advisory agency shall be the Board of Adjustments as defined in Title 22. (Ord. 1103 C.S., § I (part), 1987: Prior code § 4505.)

### **CHAPTER 21.04**

#### **DEFINITIONS**

##### **21.04.010 Generally.**

All words in the present tense shall include the future tense. All words in the singular number shall include the plural number, and all words in the plural number shall include the singular number, unless the natural construction of the wording indicates otherwise. (Prior code § 4506(a).)

##### **21.04.020 Alley.**

"Alley" means a public way permanently reserved primarily for vehicular service access to the rear or side of properties otherwise abutting on a street. (Prior code § 4506(c).)

##### **21.04.022 Area of Special Flood Hazard.**

"Area of special flood hazard" means the land in the flood plain within the City that would be inundated by the base flood.  
(Ord. 876 C.S. § 1 (part), 1978.)

##### **21.04.023 Arterial Street.**

## **SUBDIVISIONS**

"Arterial Street" means a street designated for through traffic movement of heavy volumes of traffic between areas of the City, between the City and neighboring cities, or as an approach to a highway or freeway. Arterial streets may be subject to control of access to abutting properties. (Ord. 1103 C.S. § I (part), 1987.)

### **21.04.027 Bikeways**

"Bikeway" means a portion of a street, right-of-way, or a separate improved right-of-way designated for use by bicycles. (Ord. 1103 C.S. § I (part), 1987.)

### **21.04.030 Block.**

"Block" means a parcel of subdivided land bounded by streets or by streets and rights-of-way, railroads, other public sites, unsubdivided lands, drainage channels or watercourses. (Prior code § 4506(d).)

### **21.04.035 Collector Street.**

"Collector Street" means a street designated for traffic movement between major arterials and local street, with direct access to abutting property. (Ord. 1103 C.S. § I (part), 1987).

### **21.04.040 Cul-De-Sac.**

"Cul-de-sac" means a street which connects with another street only at one end and has a turnaround at the other end. (Prior code § 4506(e).)

### **21.04.060 Frontage Street.**

"Frontage street" means a street which is parallel to and adjacent to a freeway or major street, and which provides access to abutting properties while relieving them of the effects of heavy volumes of fast through traffic. (Prior code § 4506(g).)

### **21.04.070 Hillside.**

## **SUBDIVISIONS**

"Hillside" means land having an average cross slope of twenty (20) percent or greater determined by measurement of the average slope perpendicular to the street line between the rear lot lines and the center of the street before grading. A block frontage shall be deemed a hillside if the slope of 30 percent or more of its length equals or exceeds 20 percent. (Prior code § 4506(h).)

### **21.04.075 Local Street.**

"Local Street" means a street designated for direct access to abutting land and for local traffic movement. (Ord. 1103 C.S. § I (part), 1987.)

### **21.04.080 Lot.**

"Lot" means a parcel of subdivided land under one ownership used or susceptible to being used in accord with the regulations of this title and in accord with the zoning provisions. (Prior code § 4506(i).)

### **21.04.090 Lot, Double Frontage.**

"Double frontage lot" means an interior lot having frontage on two parallel or approximately parallel streets. (Prior code § 4506(j).)

### **21.04.100 Lot, Key.**

"Key lot" means the first interior lot to the rear of a reversed corner lot. (Prior code § 4506(k).)

### **21.04.110 Lot, Reversed Corner.**

"Reversed corner lot" means a corner lot the side line of which is substantially a continuation of the front property line of the first lot to its rear. (Prior code § 4506(l).)

### **21.04.114 Lot Line Adjustment.**

"Lot line adjustment" means a shift or rotation of an existing lot line between two or more adjacent

## **SUBDIVISIONS**

parcels where the land taken from one parcel is added to an adjacent parcel, and where a greater number of parcels than originally existing is not thereby created. (Ord. 1154 C.S. § I, 1990, Ord. 1103 C.S. § I (part), 1987; Prior Ord. 909 C.S. § 1, 1979.)

### **21.04.140 Nonaccess Strip.**

"Nonaccess strip" means a strip of land separating private property and a street right-of-way which is intended to prevent access to abutting property from the street. (Ord. 1103 C.S. § I (part), 1987; Prior code § 4506(o).)

### **21.04.144 Parcel Map.**

"Parcel map" means a map showing a division of land of four or less parcels as required by this title, prepared in accordance with the provisions of this chapter, and the Subdivision Map Act. (Ord. 896 C.S. § 2, 1979.)

### **21.04.150 Pedestrian Way.**

"Pedestrian way" means a public way designed for use by pedestrians which is not intended for use by automobile vehicles and which is not located within a street right-of-way. (Prior code § 4506(p).)

### **21.04.160 Planting Strip.**

"Planting strip" means a strip between the sidewalk and property line, within a street right-of-way, which is intended to be planted with trees or otherwise landscaped. (Prior code § 4506(q).)

### **21.04.170 Preliminary Map.**

"Preliminary map" means a map prepared in accord with the provisions of Chapter 21.40 of this title, showing the design of a proposed subdivision and the existing conditions in and around it, for the purpose of review with respect to the conformity of the map with the provisions of this title and other applicable ordinances and possible improvements in the design of the subdivision plan. (Prior code § 4506(r).)

## **SUBDIVISIONS**

### **21.04.180 Reversion to Acreage Map.**

"Reversion to acreage map" means a map prepared in accord with the provisions of Chapter 21.50 of this title for the purpose of reverting subdivided land to acreage. (Prior code § 4506(s).)

### **21.04.200 Sidewalk.**

"Sidewalk" means a way designed for use by pedestrians which is located within a street right-of-way. (Prior code § 4506(u).)

### **21.04.210 Shall.**

The word "shall" is mandatory and not directory. (Prior code § 4506(b).)

### **21.04.218 Utilities Easement.**

"Utilities easement" means an easement over a portion of a parcel reserved for the installation of utilities. (Ord. 1103 C.S. § I (part), 1987.)

### **21.04.220 Utilities Strip.**

"Utilities strip" means a strip between the curb and the property line within a street right-of-way which is intended for the installation of utilities. (Ord. 1103 C.S. § I (part), 1987: Prior code § 4506(v).)

### **21.04.230 Wording.**

Where the wording "shall agree", " enter into an agreement" and "shall report" is used within this title, it means in writing. ( Prior code § 4506(w).)

## **CHAPTER 21.06**

## **SUBDIVISIONS**

### **ENFORCEMENT**

#### **21.06.010 Penalties.**

Any offer to sell, contract to sell, or sale of a subdivision or any part thereof before a final map thereof in full compliance with the provisions of this title has been duly recorded or filed in the office of the county recorder is a misdemeanor, and any person, firm, partnership or corporation, upon conviction thereof, shall be punishable by a fine of not less than \$25.00 and not more than \$500.00, or by imprisonment for a period of not more than six months, or by both such fine and imprisonment, except that nothing herein contained shall be deemed to bar any legal, equitable or summary remedy to which the City or any other political subdivision, or person, firm, partnership or corporation may otherwise be entitled; and the City or any other political subdivision, or person, firm, partnership or corporation may file a suit in the Superior Court of Contra Costa County to restrain or enjoin any attempted or proposed subdivision or sale in violation of this title. (Prior code § 4559.)

#### **21.06.020 Duties of City Engineer.**

It shall be the responsibility of the City Engineer to notify the City Attorney of any violation of this title and to sign any necessary complaints. (Prior code § 4560.)

#### **21.06.030 Voidable Conveyances.**

Any deed of conveyance, sale, or contract to sell made contrary to the provisions of this title, is voidable at the sole option of the grantee, buyer or person contracting to purchase, his heirs, personal representative, or trustee in insolvency or bankruptcy, within one year after the dates of execution of the deed of conveyance, sale or contract to sell, but the deed of conveyance, sale or contract to sell is binding upon any assignee or transferee 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 assignee, heir or devisee. (Prior code § 4561.)

## **SUBDIVISIONS**

### **CHAPTER 21.08**

#### **STREETS, ALLEYS AND WALKWAYS**

##### **21.08.010 Street Rights-of-Way and Improvements.**

Street rights-of-way and improvements shall conform with the minimum standards prescribed in Table 1. Any variance to the minimum standards is subject to the approval of the City Engineer. (Ord. 1103 C.S. § I (part), 1987: Prior code § 4507(a).)

##### **21.08.020 Curbs and Gutters.**

Standard concrete curbs shall be required in accordance with standards approved by the City Engineer, and rolled curbs and gutters shall not be permitted. (Ord. 1103 C.S. § I (part), 1987: Prior code § 4507(b).)

##### **21.08.030 Utilities Strips.**

A utilities strip shall be provided between the curb and property line in accord with the standards prescribed in Table 1, unless a utility easement is provided. (Ord. 1103 C.S. § I (part), 1987: Prior code § 4507(c).)

##### **21.08.040 Sidewalks.**

Sidewalks shall be provided in accord with the standards prescribed in Table 1. (Prior code § 4507(d).)

##### **21.08.050 Non-Access Strips.**

A non-access strip shall be provided if required by the Planning Commission. (Ord. 1103 C.S. § I (part), 1987: Prior code § 4507(e).)

## **SUBDIVISIONS**

### **21.08.060 Curves and Tangents.**

Curved streets shall have center line radii and tangent lengths of not less than the minimum standards prescribed in Table 1. (Ord. 1103 C.S. § I (part), 1987: Prior code § 4507(f).)

### **21.08.070 Grades.**

Street grades shall conform to the standards prescribed in Table 1, unless an exception is granted by the City Planning Commission under Section 21.52.040 of this title. (Prior code § 4507(g).)

### **21.08.080 Corners.**

At street intersections, corners shall be rounded at the property line by a radius of not less than 20 feet. (Prior code § 4507(h).)

### **21.08.090 Street Intersections.**

Street intersections shall be as near right angles as practicable. (Prior code § 4507(i).)

### **21.08.100 Alignment of Streets.**

Streets located on opposite sides of an intersecting street shall have their center lines directly opposite each other where physically possible; otherwise the center lines shall be separated by not less than 150 feet. (Prior code § 4507(j).)

### **21.08.110 Continuations of Existing Streets.**

Subdivision streets which constitute continuations of streets in contiguous territory shall be aligned so that their center lines coincide. In cases where straight continuations are not physically possible, or where better subdivision design results, center lines shall be continued by curves. (Prior code § 4507(k).)

### **21.08.120 Streets in Subdivisions Adjoining Acreage.**

## **SUBDIVISIONS**

Where a subdivision adjoins unsubdivided land, streets which may be extended in the event of the subdivision of the adjoining land shall be provided through to the boundary line of the tract; a 1-foot non-access strip at the stub end of each such street shall be offered for dedication to the City. The developer shall provide adequate right-of-way and construct a temporary circular turnaround at the end of the street where required by the City Engineer. (Ord. 1103 C.S. § I (part), 1987: Prior code § 4507(l).)

### **21.08.130 Cul-De-Sacs.**

Cul-de-sacs shall be not more than 600 feet in length, or 16 lots whichever is greater, and shall terminate with a circular turnaround with a curb radius of not less than 40 feet. Cul-de-sac length shall be measured to the nearest fully-improved through street, and shall include any other cul-de-sacs branching from that common point. (Ord. 1103 C.S. § I (part), 1987: Prior code § 4507(m).)

### **21.08.140 Frontage Streets.**

A frontage street separated from a freeway or a major street by a non-access strip may be required for access to a contiguous subdivision. (Ord. 1103 C.S. § I (part), 1987: Prior code § 4507(n).)

### **21.08.150 Planting Strips.**

A planting strip may be required between the sidewalk and property line in accordance with standards prescribed in Table 1. If required by the City Planning Commission, the subdivider shall plant trees in the planting strips or otherwise landscape them. Varieties, sizes and locations of trees and plant materials shall be subject to the approval of the City Engineer. (Ord. 1103 C.S. § I (part), 1987: Prior code § 4507(o).)

### **21.08.160 Street Names.**

A street which is a continuation of an existing street shall bear the name of the existing street. In order to avoid duplication, names of new streets and requests for name changes shall be subject to the approval of the City Planning Commission. Each new subdivision shall have at least one new street named after a former mayor of Martinez, starting with the first mayor. (Ord. 1103 C.S. § I (part), 1987: Prior code § 4507(p).)

**SUBDIVISIONS**

**21.08.170 Alleys.**

- A. Alleys 30 feet in width may be required at the rear of lots in commercial and industrial zoning districts. Alleys shall not be permitted in residential, multiple dwelling, and professional and administrative office zoning districts;
- B. Where two alleys intersect, the corners shall be rounded at the property line by a radius of not less than 20 feet;
- C. Alleys shall be graded and paved to their full width.  
(Prior code § 4508.)

**21.08.180 Pedestrian Ways.**

- A. Pedestrian ways not more than 20 feet in width may be required through the middle of blocks which are more than 1,200 feet in length, and to connect cul-de-sacs or to provide access to playgrounds, parks, schools, shopping centers or similar community facilities;
- B. Required pedestrian ways shall be graded and paved to a width of not less than 10 feet.  
(Prior code § 4509.)

**21.08.190 Bikeways.**

Bikeway shall be provided in accordance with the City Trails Plan and Circulation Element, and when needed for adequate circulation for the proposed subdivision. (Ord. 1103 C.S. § I (part), 1987.)

**21.08.200 Table I - Minimum Street Right-of-Way and Improvements Standards.**

Arte- rial Sts.	Col- lector Sts.	Local Sts.	Hill- side Sts.****
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**SUBDIVISIONS**

Traffic Lanes	4-12'	2-12'	2-10'	2-10'
Parking Lanes	2-8'	2-8'	2-8'	1-8'
Median strip	1-16'	---	---	---
Curb-to-curb width	80'	40'	36'	28'
Utilities strip	2-3'	2-3'	2-3'	2-2'
Planting strip*	2-3'	2-3'	2-3'	1-4'
Sidewalk**	2-4'	2-4'	2-4'	1-4'
Right-of-way(1)	100'	60'	56'	40'
(2)	94'	54'	50'	40'
Radius of curvature (minimum)	550'	300'	150'	130'
Grade (maximum)	10%	10%	15%	15%***
(minimum)	0.5%	0.5%	0.5%	0.5%
Curb height	6"	6"	6"	6"

\* When the subdivider agrees to plant trees on the property, as approved by City Planning Commission, a planting strip will not be required and "Right-of-Way(2)" shall apply.

\*\* An exception to required sidewalks on lots with a minimum of 75-foot frontage and a minimum site area of 10,000 square feet may be granted by the Planning Commission under Section 21.52.040 of this title.

\*\*\* Slope of streets shall not exceed 15 percent except by special permission of the City Planning Commission pursuant to Section 21.52.040 of this title.

\*\*\*\* Hillside street standards shall require on-street parking prohibitions on one side of the street for 28' curb to curb width.(Ord. 1103 C.S. § I (part), 1987.)

**21.08.210 Traffic Fees.**

A traffic mitigation fee may be required as a condition of approval in an amount, of a nature and with those terms and conditions as specified by City Council resolution. (Ord. 1103 C.S. § I (part), 1987.)

## **SUBDIVISIONS**

### **CHAPTER 21.10**

#### **LOTS AND BLOCKS**

##### **21.10.010 Lots.**

- A. The size and shape of lots shall be appropriate for the locality in which the subdivision is situated, the topography of the land and the proposed use.
- B. Lot configuration shall conform to all requirements of Title 22 such as lot area, width, depth and street frontage and intended use.
- C. Double frontage lots shall not be permitted except where necessary to prevent residential development from fronting on a freeway, a major street or a secondary street, or where necessitated by topographic or other physical conditions.
- D. Reverse corner lots and key lots shall not be permitted except where necessitated by topographic or other physical conditions.
- E. The side lines of lots shall run at right angles to the street upon which the lot fronts, as far as practicable.
- F. No lot shall be divided by a boundary line of the City, a school district, a sanitary district or any other taxing district.
- G. In a subdivision in which the lots may be resubdivided at some future time, the location of lot lines and other details of layout shall be such that resubdivisions may readily take place without violating the requirements of this title or the zoning provisions and without interfering with the orderly extension of adjacent streets.
- H. All lots shall be adequately drained and sloped in such a manner that surface water is conducted to streets, underground drains or drainage channels approved by the City Engineer. (Ord. 1103 C.S. § I (part), 1987: Prior code § 4510.)

##### **21.10.020 Blocks.**

## SUBDIVISIONS

- A. Blocks shall not exceed 1,200 feet in length except where necessitated by topographic or other physical conditions. Long blocks normally shall be provided adjacent to major and secondary streets in order to reduce the number of intersections.
  
- B. The depth of blocks shall be sufficient to allow for two tiers of lots, the depth of which lots shall be not more than three times the width, except where necessitated by topographic or other physical conditions.  
(Prior code § 4511.)

## **SUBDIVISIONS**

### **CHAPTER 21.12**

#### **WATERCOURSES**

##### **21.12.010 Dedication.**

In the event that the subdivision is traversed by any watercourses, channels, streams or creeks, the subdivider may be required to dedicate to the City easements for storm drainage or conservation purposes conforming substantially with the lines of such watercourses, channels, streams or creeks, and may be required to dedicate such additional easements for structures or channel changes or both to adequately dispose of surface and storm waters. (Ord. 1103 C.S. § I (part), 1987: Prior code § 4512.)

### **CHAPTER 21.14**

#### **RAILROAD AND GRADE CROSSINGS**

##### **21.14.010 Railroads.**

Where a subdivision adjoins a railroad right-of-way and the General Plan, or the zoning provisions designate the property for industrial use, the streets nearest to and running in the same general direction as the railroad shall be as nearly parallel thereto as practicable and at a sufficient distance therefrom to provide suitable depths for industrial sites between the streets and the railroad. (Prior code § 4513(a).)

##### **21.14.020 Railroad Grade Crossing.**

Where a subdivision adjoins a railroad and the street layout involves a railroad grade crossing, the possibility of a grade separation or other treatment shall be considered by the City Planning Commission, and the plan of the subdivision may be required to conform to prescribed conditions in anticipation of a grade separation or other treatment. (Prior code § 4513(b).)

## **SUBDIVISIONS**

### **CHAPTER 21.16**

#### **DRAINAGE**

##### **21.16.010 Required.**

The subdivider shall collect all storm waters entering and generated within the site and convey such waters to approved drainage facilities. The subdivider shall provide structures, storm sewers and drainage channels necessary for adequate drainage of surface and storm waters, beyond the boundary of the subdivision. Disposal of surface and storm waters including means for the disposal of surface and storm waters into wells or into leaching lines of individual sanitary sewage disposal systems shall not be permitted. (Ord. 1103 C.S. § I (part), 1987: Prior code § 4514(a).)

##### **21.16.020 Facilities Design to be in Accord With City Specifications.**

The design of drainage facilities shall be in accord with City specifications and shall be approved by the City Engineer prior to the commencement of construction. Drainage facilities required to be installed shall be of sufficient size to convey anticipated ultimate runoff resulting from ultimate development of the watershed area. (Ord. 1103 C.S. § I (part), 1987: Prior code § 4514(b).)

##### **21.16.030 Drainage Fee.**

A drainage fee may be required as a condition of approval in an amount, of a nature and with conditions and terms as specified by City Council resolution or Drainage District ordinance. (Ord. 1103 C.S. § I (part), 1987.)

### **CHAPTER 21.18**

## **SUBDIVISIONS**

### **WATER AND SEWERS**

#### **21.18.010 Sanitary Sewers.**

The subdivider shall install sanitary sewer facilities connecting with a sanitary district sewage disposal system to serve each lot, in accord with plans approved by the City Engineer. The sanitary sewerage facilities connecting with the City shall be installed to the satisfaction of the City Engineer. (Prior code § 4515.)

#### **21.18.020 Water Supply.**

The subdivider shall install adequate water mains connecting with the City water supply system which can serve each lot, in accord with plans approved by the City Engineer. The water mains shall be installed to the satisfaction of the City Engineer. (Prior code § 4516.)

## **CHAPTER 21.20**

### **FIRE HYDRANTS**

#### **21.20.010 Location and Installation.**

The subdivider shall install fire hydrants in conformity with City specifications and the standards established by the National Board of Fire Underwriters. The location of fire hydrants shall be determined by the Chief of the Contra Costa County Consolidated Fire Protection District and approved by the City Engineer. (Ord. 1103 C.S. § I (part), 1987; Ord. 819 C.S. § 1, 1975; prior code § 4517.)

## **SUBDIVISIONS**

### **CHAPTER 21.22**

#### **UTILITY EASEMENTS**

##### **21.22.010 Required When.**

Except where alleys are provided, utility easements may be required along property lines, and electric power, and telephone distribution lines may be required to be located in such easements. (Ord. 1103 C.S. § I (part), 1987; Prior code § 4518.)

### **CHAPTER 21.24**

#### **ACCESS LIMITATION**

##### **21.24.010 Dedication of Non-Access Strips.**

Where the side or rear lines of any lots abut on a freeway, major street or secondary street, the City may require that the subdivider dedicate to the City non-access strips to preclude access to and from such lots across the side line of the freeway, major street or secondary street. (Ord. 1103 C.S. § I (part), 1987; Prior code § 4519.)

### **CHAPTER 21.26**

#### **RESERVE STRIPS**

##### **21.26.010 Dedication Required.**

Reserve strips controlling access to and from streets, alleys or pedestrian ways shall not be permitted unless such reserve strips are offered for dedication to the City. (Prior code § 4520.)

## **SUBDIVISIONS**

### **CHAPTER 21.28**

#### **STREET SIGNS AND LIGHTS**

##### **21.28.010 Street Signs.**

The subdivider shall furnish and install at the location prescribed by the City Engineer one street sign at each intersection with a sign for each intersecting street lettered on both sides conforming with City specifications. (Prior code § 4521.)

##### **21.28.020 Street Lights.**

The subdivider shall provide a street lighting system. Street lighting shall conform with City specifications. The locations of street lights shall be prescribed by the City Engineer. (Ord. 1103 C.S. § I (part), 1987; Prior code § 4522.)

##### **21.28.030 Traffic Control Devices.**

The subdivider shall provide and install traffic control devices as may be required by the City Engineer. (Ord. 1103 C.S. § I (part), 1986.)

### **CHAPTER 21.30**

#### **COMMUNITY FACILITIES SITES**

##### **21.30.010 Reservation by Subdivider.**

Where precise plans for community facilities within a subdivision have been developed and approved by the City Council, each community facility site shall be designated as a single lot on a subdivision map. Community facilities sites shall include recreation areas, parks, school sites, public building sites

## **SUBDIVISIONS**

and other public areas. The subdivider shall reserve the community facilities sites for sale to the public agency involved as per the current provisions of the State Subdivision Map Act. (Ord. 1103 C.S. § I (part), 1987; Prior code § 4523.)

### **CHAPTER 21.32**

#### **COMMERCIAL AND INDUSTRIAL AREAS**

##### **21.32.010 Specifications Generally.**

When property is designated on the General Plan or by the zoning provisions for commercial use, the plan of the subdivision shall be appropriate for such use. Streets shall be designed to handle the anticipated traffic that will utilize them. Insofar as possible, streets shall be laid out so that there will be direct access to the commercial area from arterial and collector streets without utilizing local streets or traversing residential areas. Lot areas and dimensions shall conform with the requirements of zoning provisions and shall be adequate to accommodate the yard spaces, off-street parking facilities and off-street loading facilities required by the zoning provisions and such additional spaces and other service facilities as are needed for the type of use and development contemplated. Property shall not be designated for commercial use on a subdivision map unless the property is designated for commercial or industrial use on the General Plan and the zoning provisions. (Ord. 1103 C.S. § I (part), 1987; Prior code § 4525.)

### **CHAPTER 21.36**

#### **PLANNED UNIT DEVELOPMENTS**

##### **21.36.010 Permitted When.**

Where in accord with the zoning provisions, a use permit has been granted authorizing a planned unit development on the land or a portion of the land proposed to be subdivided, the plan of the subdivision shall be appropriate for the planned unit development. Exceptions to the subdivision regulations which are necessary to make the planned unit development practicable may be authorized by the City

## **SUBDIVISIONS**

Planning Commission in accord with the provisions of Chapter 21.52 of this title. (Prior code § 4526.)

### **CHAPTER 21.38**

#### **HAZARDOUS AREAS**

##### **21.38.010 General.**

Areas subject to inundation, slides, or other hazards shall not be subdivided unless corrective measures are taken in accord with good engineering standards. (Ord. 1218 C.S. § 8, 1995; Ord. 876 C.S. § 2 (part), 1978; Ord. 739 C.S. § 1 (part), 1971; prior code § 4527 (part).)

##### **21.38.050 Utility Construction to Minimize Damage.**

The location, elevation and construction of all public utilities and facilities such as sewer, gas, electrical and water systems and streets shall be in such a manner as to minimize or eliminate damage by flooding. (Ord. 876 C.S. § 2 (part), 1978; Ord. 739 C.S. § 1 (4), 1971; prior code § 4527(4).)

##### **21.38.060 Adequate Drainage Required.**

The developer shall provide for adequate drainage so as to reduce the community's exposure to flood hazards with respect to adjacent and downstream properties. (Ord. 876 C.S. § 2 (part), 1978; Ord. 739 C.S. § 1 (5), 1971; prior code § 4527(5).)

##### **21.38.070 Cumulative Effect of Development on Flooding.**

The cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point. The subdivider shall provide the necessary engineering calculations of the cumulative effect for the proposed development. (Ord. 1103 C.S. § I (part), 1987; Ord. 876 C.S. § 2 (part), 1978; Ord. 739 C.S. § 1 (6), 1971; prior code § 4527 (6).)

## **SUBDIVISIONS**

### **Chapter 21.39**

#### **Certificate of Compliance**

##### **21.39.010 Certificate of Compliance.**

Determination of compliance: Any person owning real property within the City of Martinez or a vendee of such person pursuant to a contract of sale of such real property may request a determination as to whether such real property complies with the provisions of this title and the Subdivision Map Act in the following manner:

- A. Anyone wishing to receive such a determination shall submit such information as required by the Community Development Director along with such fees as are established by resolution of the City Council to the Community Development Department.
- B. The City Engineer shall review and make a determination as to whether such real property complies with the provisions of this title and the Subdivision Map Act.  
(Ord. 1248 C.S. §1, 1997.)

##### **21.39.020 Property must comply with Government Code section 66499.34.**

A certificate of compliance shall be issued for any real property which has been approved for development pursuant to Government Code section 66499.34. (Ord. 1248 C.S. §1, 1997.)

##### **21.39.030 Filing of certificate.**

Upon making such a determination, the City Engineer shall cause a certificate of compliance or conditional certificate of compliance to be filed for record with the County Recorder. The certificate of compliance or conditional certificate of compliance shall provide the information specified in Government Code section 66499.35(f). (Ord. 1248 C.S. §1, 1997.)

##### **21.39.040 Conditional approval.**

If the City Engineer determines that such real property does not comply with the provisions of this code or the Subdivision Map Act, the City Engineer may, as a condition to granting a certificate of

## SUBDIVISIONS

compliance, impose only those conditions that would have been applicable to the division of the property at the time the current owner of record acquired his interest in the property, and which had been established at such time by ordinance. The City Engineer may also impose such conditions as would be applicable to a current division of the property if it is determined that the applicant was the owner of record at the time of the initial violation of the provisions of the Subdivision Map Act or the City subdivision ordinance and created a parcel(s) in violation of the Map Act or this title by a grant of real property. Upon making such a determination and establishing such conditions, the City Engineer shall cause a conditional certificate of compliance to be filed for record with the County Recorder. Such certificate shall serve as notice to the property owner who has applied for a certificate pursuant to this chapter, a grantee of the property owner, or any subsequent transferee or assignee of the property, that the fulfillment and implementation of such conditions shall be required prior to subsequent issuance of a permit or other grant of approval for development of the property. Compliance with such conditions shall not be required until such time as a permit or other grant of approval for development of such property is issued.

(Ord. 1248 C.S. §1, 1997.)

### **21.39.050 Other documents which constitute certificates of compliance.**

A recorded final map, parcel map, official map, or an approved certificate of exception shall constitute a certificate of compliance with respect to the parcels of real property described therein. (Ord. 1248 C.S. §1, 1997.)

### **21.39.060 Official map pursuant to Government Code section 66499.52(b).**

An official map prepared pursuant to subdivision (b) of Section 66499.52 shall constitute a certificate of compliance with respect to the parcels of real property described therein and may be filed for record, whether or not the parcels are contiguous, so long as the parcels are within the same section or, with the approval of the City Engineer, within contiguous sections of land.

(Ord. 1248 C.S. §1, 1997.)

### **21.39.070 Certifying multiple parcels.**

Local agencies may process applications for certificates of compliance or conditional certificates of compliance concurrently and may record a single certificate of compliance or a single conditional certificate of compliance for multiple parcels. Where a single certificate of compliance or conditional certificate of compliance is certifying multiple parcels, each as to compliance with the provisions of this division and with local ordinances enacted pursuant thereto, the single certificate of compliance or conditional certificate of compliance shall clearly identify, and distinguish between, the descriptions of each such parcel.

## SUBDIVISIONS

(Ord. 1248 C.S. §1, 1997.)

### **21.39.080 Fee.**

A processing and appeal fee as established by City Council shall be charged to the applicant for processing and, if applicable, appealing the certificate of compliance.

(Ord. 1248 C.S. §1, 1997.)

### **21.39.090 Appeal of compliance determination.**

- A. The applicant for a certificate of compliance may appeal the determination made by the City Engineer to the City Council within ten (10) calendar days after the City Engineer delivers the City Engineer's proposed certificate to the applicant. The City Engineer shall not record the certificate during said ten (10) day period. If no written appeal, with appropriate fee, is received by the City Clerk within said appeal period, it shall be conclusively deemed that the applicant has waived his/her/its appeal rights and consents to the recordation of the proposed certificate. Immediately after the appeal period has passed without an appeal being timely filed, the City Engineer shall record the certificate.
- B. Upon appeal, the City Council shall hear the matter de novo, and the City Council's decision shall be final.  
(Ord. 1248 C.S. §1, 1997.)

## CHAPTER 21.40

### PRELIMINARY REVIEW

#### **21.40.020 Form.**

The preliminary map shall be clearly and legibly drawn to an appropriate engineering scale. (Ord. 1103 CS. § I (part), 1987: Prior code § 4529.)

#### **21.40.030 Required Information on Map Designated.**

The preliminary map shall contain the following information:

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

## SUBDIVISIONS

- B. Name and address of the person who prepared the map;
- C. Date of preparation;
- D. North point;
- E. Scale;
- F. Boundaries of the proposed subdivision;
- G. Locations of streets, alleys and pedestrian ways within the proposed subdivision;
- H. Names and locations of streets and alleys adjacent to the proposed subdivision;
- I. Suggested locations of street extensions and street connections in surrounding unsubdivided properties;
- J. Approximate grades of all streets or parts of streets exceeding six percent;
- K. Lot lines;
- L. Locations of proposed community facilities sites;
- M. Locations of watercourses;
- N. Locations of permanent physical features affecting the design of the proposed subdivision;
- O. Intended use of the lots;
- P. Approximate contour lines if necessary to illustrate the influence of topographic conditions on the design of the subdivision. An aerial photograph or a topographic model of the property may be submitted in lieu of indicating contour lines on the preliminary map;
- Q. Slope density calculations as per Section 22.12.170.  
(Ord. 1103 C.S. § I (part), 1987: Prior code § 4530.)

### **21.40.040 Design Conference.**

Within twenty (20) days of the day of submission of the preliminary map, the City Planning and Building

## **SUBDIVISIONS**

Director shall submit the map for review to the Development Review Committee, made up of representatives of the Planning Division, Building Division, Engineering Division, Water Division, and Police Department. (Ord. 1103 C.S. § I (part), 1987; Prior code § 4531.)

### **21.40.050 Report of Development Review Committee.**

The City Planning and Building Director shall furnish to the subdivider a written report of the recommendations of the Development Review Committee. (Ord. 1103 C.S. § I (part), 1987; Prior code § 4532.)

## **CHAPTER 21.42**

### **TENTATIVE MAP**

#### **21.42.010 Filing--Number of Copies.**

The subdivider shall file with the City the necessary copies as required by the Planning and Building Director. (Ord. 1103 C.S. § I (part), 1987; Prior code § 4533(a).)

#### **21.42.020 Filing--Fee.**

At the time of filing the tentative map, the subdivider shall pay a filing fee set by resolution of the City Council. If a revision of the tentative map or a tentative map including additional land is filed, the subdivider may be required to pay an additional filing fee set by resolution of the Council. (Prior code § 4533(b).)

#### **21.42.030 Filing--Time.**

- A. The tentative map shall be filed with the City Planning and Building Director prior to the completion of final surveys of streets and lots and before grading or construction work is begun within the proposed subdivision.
- B. The time of filing a tentative map shall be construed to be the time when the map is accepted by the City Planning and Building Director and as specified in the California Subdivision Map Act. (Ord. 1103 C.S. § I (part), 1987; Prior code § 4533(c).)

#### **21.42.050 Form.**

The tentative map shall be clearly and legibly drawn to an appropriate engineering scale and shall be

## SUBDIVISIONS

prepared by a registered civil engineer or land surveyor. (Ord. 1103 C.S. § I (part), 1987; Prior code § 4534.)

### **21.42.060 Required Information on Map Designated.**

A tentative map shall contain the following information:

- A. The tract name;
- B. Name and address of the record owner of the property to be subdivided, and name and address of the subdivider if the owner is not the subdivider;
- C. Name and address of the person who prepared the map;
- D. Date of preparation;
- E. North point;
- F. Scale;
- G. A key map showing the proposed subdivision and surrounding subdivisions and streets located within 1/4 mile radius of the boundaries of the proposed subdivision;
- H. Boundary lines;
- I. Locations and widths of all streets within the proposed subdivision;
- J. Names, locations and widths of streets and private roads adjacent to the proposed subdivision;
- K. Locations and widths of alleys;
- L. Approximate grades of all streets. Profiles may be required where the topography may present a problem;
- M. Approximate radii of street curves;
- N. Locations and widths of pedestrian ways within the proposed subdivision;
- O. Typical cross section of streets, alleys and pedestrian ways;

## SUBDIVISIONS

- P. Lot lines and approximate dimensions;
- Q. Lot numbers;
- R. Locations and approximate dimensions of proposed community facilities sites;
- S. Limitations on rights of access to and from streets, lots and other parcels of land, and locations and widths of nonaccess strips and reserve strips;
- T. Location of existing utilities together with widths and locations of all existing and proposed public and private easements;
- U. Locations and widths of watercourses and areas subject to inundation from floods;
- V. Locations of structures, canals, pipelines, railroads and other physical features;
- W. Locations of boundary lines of the City, school district, sanitary districts and any other taxing districts;
  
- X. Contours shall be shown drawn to intervals prescribed by the City Planning and Building Director, and meeting requirements for slope-density calculations. Contours shall be extended into adjoining properties a sufficient distance to show relationships to adjoining properties and feasibility of proposed street extensions.
- Y. Other information as may be required by the Planning and Building Director. (Ord. 1103 C.S. § I (part), 1987; Prior code § 4535.)

### **21.42.070 Statements to Accompany Map.**

The tentative map shall show thereon or be accompanied by the following statements:

- A. Legal description of the property;
- B. Existing use or uses of the property including the location of all existing structures to remain on

## SUBDIVISIONS

the property;

- C. Purposes of all existing and proposed easements and all building and use restrictions pertaining to such easements;
- D. Proposed uses of the property, including a statement of the relative proportions of the total area of the subdivision proposed to be devoted to each use;
- E. Source of water supply;
- F. Method of sewage disposal;
- G. Provisions for drainage and flood control;
- H. Types of street improvements and utilities which the subdivider proposes to install;
- I. Description of street tree planting plan and other landscaping plans;
- J. Statement of other improvements to be made or installed;
- K. Statement of the time when improvements are proposed to be made or installed;
- L. Tract or deed restrictions, if any;
- M. Description and location of public and private community facilities, including parks, playgrounds, schools, shopping centers and other facilities, which would serve the proposed subdivision;
- N. Description of the proposed subdivision, including the number of lots, average and minimum sizes of lots, type of development and any other information which would be useful to the City Planning Commission in reviewing the tentative map.
- O. A preliminary soils report and geotechnical investigation. In areas of unstable soils the Planning & Building Director may require that this report be reviewed at the applicant's expense by the City's soils and geotechnical consultant prior to accepting the subdivision application as complete. Otherwise, this review shall be required prior to submission of improvement plans for the subdivision. (Ord. 1103 C.S. § I (part), 1987: Prior code § 4536.)

## SUBDIVISIONS

### **21.42.080 Planning and Building Director Action.**

The City Planning and Building Director shall set a date for consideration of the tentative map, which date shall be within regulations of the Subdivision Map Act. (Ord. 1103 C.S. § I (part), 1987: Prior code § 4537(a).)

### **21.42.090 Planning Commission Action.**

- A. The City Planning Commission shall take action on the Tentative Map within the time elements set within the Subdivision Map Act. The Commission may approve, conditionally approve or disapprove the tentative map.
- B. The action of the Commission shall be based on conformity of the tentative map with the Subdivision Map Act, with this title, with the zoning provisions, with the general plan and with precise plans and official plan lines adopted by the City Council, and on the quality of the design of the proposed subdivision. (Ord. 1103 C.S. § I (part), 1987: Prior code § 4537(b).)

### **21.42.100 Appeal to City Council--Hearing.**

Within ten (10) days of the date of the City Planning Commission's action, the subdivider, of any interested party may appeal to the City Council for review of the action. An appeal shall be filed with the City Clerk and shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission. Upon the filing of an appeal, the Commission shall transmit to the City Clerk the report of the City Planning Director and the reports received from other public and private agencies to which the map was transmitted. The City Clerk shall give notice to the subdivider and/or the appellant of the date when the action of the City Planning Commission will be reviewed by the City Council. Within thirty (30) days after the filing of an appeal, the Council shall review the action of the Commission and shall hold a public hearing there on, in accord with the provisions of the Subdivision Map Act. The Council shall act on the appeal within ten (10) days after the close of the hearing. (Ord. 1103 C.S. § I (part), 1987: Ord. 1009 C.S. § 1, 1984: prior code § 4537(c).)

### **21.42.101 Review by Council.**

Any member of the Council shall have the authority to request the Council to review any decision of the Board of Adjustments (Board of Appeals or the Planning Commission) by either making such request

## SUBDIVISIONS

orally at the first Council meeting following the Commission meeting at which such decision was made, or by filing a written request with the City Clerk provided that such oral or written request is made prior to the expiration of the time during which an appeal can be made. When such review is requested by any member of the Council, the decision shall be considered as appealed. (Ord. 1103 C.S. § I, (part), 1987 Ord. 987 C.S., 1983.)

### **21.42.110 Term.**

- A. Except as provided below, a tentative map shall expire 24 months after its approval or conditional approval. The City Planning Commission may, in its discretion, extend the time at which the tentative map expires for a period or periods not exceeding a total of 36 months. Applications for extensions must be filed no later than 45 days prior to the expiration of the tentative map. Upon such application, the tentative map shall automatically be extended for 60 days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first. Failure to record a final map prior to the expiration of the tentative map (including any extensions thereof) shall terminate all proceedings. Before a final map may thereafter be recorded or any lots sold, a new tentative map shall be filed in accord with the provisions of this title. (Ord. 966 C.S., 1982: prior code § 4538.)
  
- B. The period of time specified in subsection A herein (including any extensions thereof) shall be suspended for the duration of any applicable development moratorium (as defined in Government Code § 66452.5, subdivision (f)) imposed after approval or conditional approval of the tentative map, and shall continue upon termination of the moratorium for the same period of time as was left to run on the tentative map at the time that the moratorium was imposed; provided, however, that if the remaining time is less than 120 days, the tentative map shall be valid for 120 days following termination of the moratorium.
  
- C. A tentative map with respect to property subject to a development agreement (as defined in Government Code § 65864 et seq.) may be extended and shall expire only as provided in the agreement.
  
- D. Notwithstanding anything in subsection A herein to the contrary, the City Planning Commission shall not extend the time for expiration of the tentative map if it makes any of the following findings:
  - 1. Due to changes to the general plan any applicable specific plan, or the Municipal Code, the tentative map is no longer in conformance with the General Plan, any applicable specific plan, or the Municipal Code; and/or

## SUBDIVISIONS

2. Due to changed circumstances, the design of the subdivision or the proposed improvements would cause substantial environmental damage; the site is no longer physically suitable for the proposed development; and/or an extension would be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity.
3. That any condition of the tentative map approval has not been complied with at the time the application for map extension has been submitted or at the time that the decision to grant or deny the application to extend the map is made, if said condition was required to be satisfied by said date(s).

Notwithstanding the foregoing, the City Planning Commission may approve an extension in which it finds that due to changed circumstances, the design of the subdivision or the proposed improvements would cause substantial environmental damage if an environmental impact report was prepared for the tentative map or a subsequent EIR is required under CEQA Guidelines § 15162 is prepared for the map extension application which analyzes the changed circumstances and a finding was/is made that the impacts can be mitigated through the imposition of conditions or specific economic, social or other considerations make infeasible the project alternatives or applicable mitigation measures identified in the environmental impact report.

Notwithstanding the foregoing, the City Planning Commission may approve an extension for which the findings in subdivision D(1) and (2) could otherwise be made as long as the subdivider agrees with the imposition of conditions on the extension of the tentative map which, because of the effect of such conditions, preclude the making of all of said findings; provided, however, that no such conditions need to be imposed to address the findings in subdivision D(2) if the immediately preceding paragraph applies.

- E. The subdivider or any interested person adversely affected may appeal any action of the Planning Commission on the extension application to the City Council in accordance with § 21.42.100, except that any such appeal shall be filed within fifteen (15) days after the action by the Planning Commission. (Ord. 1194 C.S., § 1, 1992; Ord. 1191 C.S. § 1, 1992.)

## SUBDIVISIONS

### CHAPTER 21.43

#### VESTING TENTATIVE MAP

##### **21.43.010 Purpose.**

This chapter is enacted for the purpose of providing administrative procedures for the implementation of the Vesting Tentative Map provisions of the Subdivision Map Act and to supplement the provisions of the Subdivision Map Act as they relate to vesting tentative maps. To accomplish this purpose, the adoption of this chapter is determined to be necessary for the preservation of the public health, safety and general welfare, and for the promotion of orderly growth and development. Except as otherwise set forth in the provisions of this chapter the provisions of Title 21 of the Martinez Municipal Code shall apply to the processing of Vesting Tentative Maps. (Ord. 1092 C.S. § I (part) 1987.)

##### **21.43.020 Definitions.**

When used in this chapter, the following terms shall have the following meanings:

- A. "Vesting Tentative Map" shall mean a tentative map for a subdivision that shall have printed conspicuously on its face the words "Vesting Tentative Map" or "Vesting Tentative Parcel Map" and is thereafter processed in accordance with the provisions of this chapter.
- B. All other definitions set forth in Chapter 21.04 of this Title are applicable. (Ord. 1092 C.S. § I (part) 1987.)

##### **21.43.030 Applications.**

- A. Until January 1, 1988, the provisions of this chapter shall apply only to residential developments.
- B. Whenever a provision of the Subdivision Map Act or Title 21 of the Martinez Municipal Code requires the filing of a tentative map or tentative parcel map, a vesting tentative map may be

## SUBDIVISIONS

filed instead.

- C. This chapter provides an alternative procedure for the filing of maps for residential subdivisions. Nothing contained in this chapter shall limit a subdivider's right to file a regular tentative and/or tentative parcel map. (Ord. 1092 C.S. § I (part) 1987.)

### **21.43.040 Consistency.**

No land shall be subdivided and developed pursuant to a vesting tentative map for any purpose which is inconsistent with the General Plan, any applicable specific plan, Title 21 or Title 22 of the Martinez Municipal Code. (Ord. 1092 C.S. § I (part) 1987.)

### **21.43.050 Filing and Processing.**

A vesting tentative map shall be filed in the same form and have the contents, accompanying data and reports, and shall be processed in the same manner as maps filed under Chapters 21.40, 21.42, and 21.50 of the title except as herein provided:

- A. At the time a vesting tentative map is filed, it shall have printed conspicuously on its face the words "Vesting Tentative Map" or "Vesting Tentative Parcel Map".
- B. Applications for vesting tentative maps shall be accompanied by and shall not be complete without the following additional approvals, data, reports and material.
  - 1. Comprehensive development plan including development areas, street layouts, a comprehensive grading plan for the entire site, and a preliminary landscape plan including such elements as fences, pathways, exterior lighting, signs and other features visible to the public;
  - 2. Preliminary floor plans and architectural elevations, indicating materials and colors or the buildings;
  - 3. Slope Density analysis as required in Sections 22.12.130 through 22.12.180 if the proposal involves a residential project;
  - 4. Preliminary soils report;

## SUBDIVISIONS

5. Other features the Planning Commission may deem appropriate. (Ord. 1092 C.S. § I (part), 1987.)

### **21.43.060 Fees.**

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 time extensions established by this title for tentative maps and tentative parcel maps. (Ord. 1092 C.S. § I (part), 1987.)

### **21.43.070 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 time extensions established by this title for tentative maps and tentative parcel maps. (Ord. 1092 C.S. § I (part), 1987.)

### **21.43.080 Development Rights--Vesting on Approval of 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 Government Code Section 66474.2. However, if Section 66474.2 of the Government Code 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 (A) alone, a permit, approval, extension or entitlement may be made conditional 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.
  2. The condition or denial is required in order to comply with state or federal statutes, regulations or case law.

## SUBDIVISIONS

- C. Notwithstanding (A) alone, an approved or conditionally approved vesting tentative map shall not limit the City from imposing reasonable conditions on subsequent required approvals or permits (even those secured after recordation of the final map) necessary for the development and authorized by the ordinances, policies and standards described in Section 21.43.080 A. If the ordinances, policies, or standards described in Section 21.43.080 A. are changed subsequent to the approval or conditional approval of a vesting tentative map, the subdivider, or his or her assignee, at any time prior to the expiration of the vesting tentative map pursuant to subdivisions (g) and (h) of Section 66452.6 of the California Government Code, may apply for an amendment to the vesting tentative map to secure a vested right to proceed with the changed ordinances, policies, or standards. An application shall clearly specify the changed ordinances, policies, or standards for which the amendment is sought.
- D. The rights referred to herein shall expire if a final or parcel map is not approved prior to the expiration of the vesting tentative map. If the final or parcel map is approved, the development rights conferred under Section 21.43.080 A. shall last for the following periods of time:
1. An initial time period of twelve months (hereinafter called "initial time period"). Where multiple final maps are recorded on various designated approved phases of a project covered by a single vesting tentative map, the time limit shall begin for each phase when the final map for that phase is recorded.
  2. Before any final map which is part of a phased project (within the meaning of Government Code Sections 66456.1 and 66452.6(g)) may be considered for approval, it must be filed within the time period, or any extensions thereof, provided for in Government Code Section 66452.6(a).
  3. The initial time period shall be automatically extended by any time used for processing a completed application for a grading permit or for design or architectural review if such processing exceeds thirty days from the date a complete application is filed.
  4. A subdivider may apply for a one-year extension of the initial time period at any time before the initial time period expires. If the extension is denied, the subdivider may appeal that denial within fifteen days. A decision to grant or deny an application or extension shall be within the sole discretion of the advisory agency.

## SUBDIVISIONS

5. If the subdivider submits a completed application for a building permit during the initial time period or during any approved extension, the rights referred to herein shall continue until the expiration of that permit, or any extension of that permit. (Ord. 1092 C.S. § I (part), 1987.)

### **21.43.090 Miscellaneous Provisions.**

- A. Applications for vesting tentative maps may be processed concurrently with any necessary rezoning.
- B. In addition to conditions otherwise allowed by statute, ordinance, plan, or the City's police power, vesting tentative maps may also be subject to a condition which identifies the nature, type and extent of public infrastructure or services which will be needed to serve the proposed subdivision and surrounding area and which requires that the precise amount of that subdivider's contribution toward those types of infrastructure and services to be calculated by the applicable City department and paid at the time that occupancy permit is issued.
- C. If the subdivider seeks to modify a vesting tentative or final map, such modification may be granted at the discretion of the advisory agency which approved the map, only after public notice and hearing. If the advisory agency approves the requested modification or any portion thereof, the advisory agency may impose additional conditions on such maps. Any such modification shall not extend the life of the vesting tentative or final map or any rights created thereby.
- D. Whenever a vesting map whose development is inconsistent with the zoning ordinance in existence at that time, that inconsistency shall be noted on the map. The City may deny such a vesting tentative map or approve it conditioned on the subdivider, or his or her designee, obtaining the necessary change in the zoning ordinance to eliminate the inconsistency. If the change in the zoning ordinance is obtained, the approved or conditionally approved vesting tentative map shall confer the vested right to proceed with the development in substantial compliance with the change in the zoning ordinance and the map, as approved. (Ord. 1092 C.S. § I (part), 1987.)

## CHAPTER 21.44

## **SUBDIVISIONS**

### **FINAL MAP**

#### **21.44.010 Preparation Generally--Time Extension.**

Prior to the expiration of the tentative map (including any extensions thereof), the subdivider may cause the subdivision or any part thereof to be surveyed and a final map to be prepared in conformity with the tentative map as approved. (Ord. 1191 C.S. § 2, 1992; Ord. 1103 C.S. § I (part), 1987: Prior code § 4539(a).)

#### **21.44.020 Tracings and Prints.**

The subdivider shall submit to the City Engineer one complete set of original tracings and three complete sets of blue and white prints of the final map and such additional number of prints as the City Engineer shall require. (Ord. 1103 C.S. § I (part), 1987: Prior code § 4539(b).)

#### **21.44.030 Review--Fee.**

At the time of submitting the final map, the subdivider shall pay a review fee set by resolution of the City Council. If a revision of the final map is filed, the subdivider may be required to pay an additional review fee set by resolution of the Council. (Ord. 1103 C.S. § I (part), 1987: Prior code § 4539(c).)

#### **21.44.050 Form.**

- A. The final map shall be in accordance with the requirements of the Subdivision Map Act and the Contra Costa County Recorder's Office.
- B. The title sheet shall show the basis of bearings. The basis of bearings shall be that of Zone 3, California Plane Coordinate System, or other bases specifically approved for each final map by the City Engineer and the basis of bearings and equation of true north shall be shown. (Ord. 1103 C.S. § I (part), 1987: Prior code § 4541.)

#### **21.44.070 Information Required on Map Designated.**

- A. The tract number and the tract name, date of preparation, north point and scale shall appear on the final map.

## SUBDIVISIONS

- B. The final map shall show the locations and names of streets and alleys; the center lines thereof; the lengths, tangents, radii and central angles or radial bearing of curves; the total width of the portion of the street being dedicated and the width of existing dedication, if any.
- C. The final map shall show the locations and widths of pedestrian ways.
- D. The final map shall show the locations and dimensions of community facilities' sites and the net acreage, to the nearest 1/10 of an acre, contained therein.
- E. The final map shall show the center lines, widths and side lines of all easements to which the lots are subject and the date on which the easement was created. If the easement is not definitely located of record, a statement as to the easement shall appear on the title sheet. Easements for storm drains, sewers and other similar purposes shall be denoted by broken lines. Easements shall be clearly labeled and identified and if already of record, precise reference to the records given. A statement of all easements together with all building and use restrictions pertaining thereto, shall appear on the title sheet. Easements being dedicated shall be so indicated in the certificate of dedication.
- F. The final map shall show location and widths of drainage channels.
- G. The final map shall show locations and widths of utility rights-of-way.
- H. The final map shall show locations and widths of railroad rights-of-way.
- I. The final map shall show limitations on rights of access to and from streets and lots and other parcels of land.
- J. The final map shall show locations and widths of nonaccess strips and reserve strips.
- K. The final map shall show locations, widths and names of streets, alleys and pedestrian ways adjacent to the proposed subdivision.
- L. The final map shall show locations of boundary lines of the City, school districts, sanitary districts and any other taxing districts.
- M. The final map shall show the net dimensions of each lot. No ditto marks shall be used. Sufficient data shall be shown to determine readily the bearings and length of each lot line.

## SUBDIVISIONS

- N. The lots shall be numbered consecutively commencing with the number "1", with no omissions or duplications.
- O. All dimensions shown on the final map shall be in feet and decimals of a foot.
- P. The final map shall show the following surveying data:
  - 1. The radius, tangent, arc and central angle of curves;
  - 2. Suitable primary survey control points, including section corners and monuments existing outside of the proposed subdivision;
  - 3. The location of all permanent monuments within the proposed subdivision;
  - 4. Ties to and names of adjacent subdivisions;
  - 5. Ties to any city boundary lines involved.  
(Prior code § 4542.)

### **21.44.080 Monuments.**

- A. The final map shall show clearly all stakes, monuments or other evidence found on the ground which were used as ties to determine the boundaries of the tract. The corners of adjoining subdivisions or portions thereof shall be identified and ties shown.
- B. In making the survey for the subdivision, the surveyor shall set sufficient permanent monuments so that the survey or any part thereof may be readily retraced. Such monuments shall generally be placed at the angle points on the exterior boundary lines of the tract, at the intersections of center lines of streets and at the beginnings and ends of survey on the center lines of streets. Monuments may be placed on offset lines. Stakes set at lot corners shall not be considered permanent monuments. The character, type and positions of all monuments shall be noted on the final map.
- C. All permanent monuments shall be placed in accordance with the final map. The City Engineer shall, by field inspection, satisfy himself that all the monuments shown thereon actually exist and that their positions are as shown on the final map prior to acceptance of the subdivision improvements. (Prior code § 4543.)

## SUBDIVISIONS

### **21.44.090 Survey Requirements.**

- A. A complete and accurate survey of the land to be subdivided shall be made by a civil engineer or licensed surveyor in accord with the State Subdivision Map Act.
- B. The traverse of the exterior boundaries of the proposed subdivision and of each block and lot shall close within a limit of error of 1 foot to 7,500 feet of perimeter.
- C. Whenever the City Engineer has established the center line of a street or alley, such data shall be considered in making the survey and in preparing the final map, and all monuments found shall be indicated and proper references made to field books or maps of public record relating to the monuments. If the points were reset by ties, that fact shall be stated.  
(Prior code § 4544.)

### **21.44.100 Certificates on Map.**

Those certificates required by the State Subdivision Map Act and the County Recorder shall appear on the Final Map. (Ord. 1103 C.S. § I (part), 1987: Prior code § 4545.)

The City may require additional information to be filed or recorded simultaneously with a final or parcel map, including but not limited to fee and improvement statements. The additional information shall be in the form of an additional map sheet which shall indicate its relationship to the final or parcel map, and shall contain a statement that the additional information is for informational purposes, describing conditions as of the date of filing, and is not intended to affect record title interest. This additional information will be in compliance with section 66434.2 of the Subdivision Map Act.(Ord. 1183 C.S. § I, 1992)

### **21.44.110 Dedications.**

- A. Those parcels which are intended for the exclusive use of lot owners in the subdivision, their licensees, visitors, tenants and servants shall be designated on the Final Map.

## SUBDIVISIONS

- B. All parcels of land, streets, alleys, pedestrian ways, drainage channels, reserve strips, easements and other rights-of-way shown on the final map as intended for public use shall be offered for dedication for public use at the time the final map is filed.
- C. All rights of access to and from streets, lots and parcels of land shown on the final map intended to be surrendered shall be offered for dedication at the time the final map is filed.  
(Ord. 1103 C.S. § I (part), 1987: Prior code § 4546.)

### **21.44.120 Improvements--Required When.**

The subdivider shall improve, or agree to improve in writing, all improvements required by Chapters 21.08 through 21.38 of this title including all lands dedicated for streets, alleys, pedestrian ways, drainage channels, easements and other rights-of-way as a condition precedent to acceptance thereof and approval of the final map. (Ord. 1103 C.S. § I (part), 1987: Prior code § 4547(a).)

### **21.44.130 Improvements--Conformance With Council Standards Required.**

Improvements shall conform with specifications of design, materials and construction standards adopted by the City. (Prior code § 4547(b).)

### **21.44.140 Improvements--Construction in Accord With City Engineer.**

Improvements shall be constructed in accord with plans approved by the City Engineer. Improvements shall be installed to the satisfaction of the City Engineer. (Prior code § 4547(c).)

### **21.44.150 Improvements--Grade.**

Improvements shall be installed to grades prescribed by the City Engineer. (Prior code § 4547(d).)

### **21.44.160 Improvements--Inspection and Plan Check--Fees.**

## **SUBDIVISIONS**

The City Engineer shall have the right to enter upon the sites of improvements for the purpose of inspecting them and shall be furnished with samples of materials as may be required for the making of tests to determine the acceptability of such materials. Upon filing the final map, the subdivider shall pay a fee set by resolution of the City Council to cover the cost of inspection of the work, review and approving plans, and checking of the materials for the improvements during the entire period of construction. (Prior code § 4547(e).)

### **21.44.170 Improvements--Failure to Complete Prior to Map Approval--Agreement.**

If the improvements are not satisfactorily completed before the final map is approved, the subdivider shall enter into an agreement with the City whereby, in consideration of the acceptance by the City Council of the streets, alleys, pedestrian ways, drainage channels, easements and other rights-of-way offered for dedication, the subdivider agrees to complete the work within the time specified in the agreement. Such agreement shall be secured by a good and sufficient surety bond approved by the Council, or by the deposit of money or negotiable bonds, as provided in the Subdivision Map Act. (Prior code § 4547(f).)

### **21.44.190 Improvements--Reimbursement to Subdivider For Use When.**

Whenever this title or the Subdivision Map Act requires a subdivider to construct improvements and such improvements are of benefit or value to other land than that located within the subdivision, the City Council may enter into an agreement with the subdivider to reimburse him for the use of such improvements by others, and may impose and collect a charge from the owner of the land benefited for the use of such facilities. (Prior code § 4547(h).)

### **21.44.200 Improvements--Plans.**

- A. Improvement plans, prepared under the direction of a registered civil engineer licensed by the State, shall be submitted by the subdivider to the City Engineer. The approval of the improvement plans by the City Engineer shall be a condition of approval of the final map. At the time of approval, the originals or mylar photo copies shall be filed with the City Engineer.
  
- B. Form of improvement plans:

## **SUBDIVISIONS**

1. The size of each sheet shall be 24 inches by 36 inches with a blank margin of 1 inch drawn completely around each sheet;
2. The tract name and number, if any;
3. Signature, name and address of the licensed registered Civil Engineer of the State, under whose direction the improvement plans were prepared;
4. Date of preparation;
5. North point;
6. Scale;
7. When three or more sheets are submitted, a key map shall be included on the first sheet;
8. A space shall be provided for the City Engineer's signature needed as a condition of approval of the plans;
9. Eight complete sets of the improvement plans shall be submitted to the City Engineer, if required.

### **C. Information on improvement plans:**

1. The plans and profiles of all improvements required by this title as well as other improvements proposed to be installed by the subdivider in, over or under any improvements are required or proposed;
2. Improvement plans shall show the improvements required by Chapters 21.08 through 21.38 of this title. Such improvements shall include grading and surfacing of streets, alleys and pedestrian ways; construction of sidewalks, curbs, gutters, culverts, water mains, sanitary sewers, retaining walls, bridges, storm drains and drainage channels, including means for the disposal of surface and storm waters beyond the boundary of the subdivision; installations of fire hydrants, street signs and street lights; planting of street trees and other landscaping; and provision of such other improvements as may be required;

## SUBDIVISIONS

3. A grading plan shall show by means of arrows and elevations, the method proposed for drainage of each individual lot.
- D. Other information to accompany improvement plans:
1. A report, prepared by a soils engineer, which shall contain information pertaining to soils stability and design of all improvements in the subdivision and which shall be reviewed by the City's soil engineer at the subdivider's cost;
  2. Any data, including profiles, contours, design calculation and other information which the City Engineer shall require for checking the adequacy of the proposed drainage system;
  3. A certificate of approval of any proposed improvements of concern to a sanitary, water or flood control district within which all or part of the subdivision may be situated. (Ord. 1103 C.S. § I (part), 1987: Prior code § 4548.)
- E. Upon completion of the work, photo mylar as constructed record improvement plans shall be submitted to the City Engineer. (Ord. 1103 C.S. § I, 1987.)

### **21.44.210 Review by City Engineer--Certification by Planning Commission Secretary.**

The City Engineer shall review the final map for conformity with the tentative map as approved. If the final map conforms with the tentative map as approved, the City Engineer shall report such conformity to the secretary of the Planning Commission who shall certify the original tracing of the final map in behalf of the Commission. If the final map does not conform with the tentative map as approved, the secretary of the Commission shall not certify the final map on behalf of the City Planning Commission until the Commission specifically authorizes him to do so. (Prior code § 4549(a).)

## SUBDIVISIONS

### **21.44.220 Determination of Compliance--Submittal of Work Sheets, Plans and Profiles.**

- A. The City Engineer shall examine a print of the final map and determine the sufficiency of affidavits and acknowledgments, the correctness of surveying data, mathematical data and computations, and determine whether the provisions of the Subdivision Map Act and this title have been complied with. One copy of the map shall be returned to the subdivider with notations as to errors or omissions or a statement by the City Engineer that the map is correct.
- B. The subdivider shall provide traverse sheets showing the closure of the exterior boundaries of the subdivision and of any irregular blocks and lots.
- C. Plans, profiles and specifications of proposed improvements shall be submitted to the City Engineer for approval at the time the prints of the final map are submitted for checking. Such plans and profiles shall show the full details of the proposed improvements, and the improvements shall comply with specifications and standards adopted by the City Council. (Prior code § 4549(b).)

### **21.44.230 Certification by City Engineer.**

If the final map is found to be correct, the matters shown thereon are sufficient and all applicable provisions of the Subdivision Map Act and this title have been complied with, the City Engineer shall certify his approval on the original tracing of the map. (Prior code § 4549(c).)

### **21.44.240 Filing With Council For Approval--Offers of Dedication --Notice of Action.**

Concurrently with the approval of the final map, the City Council shall accept or reject all offers of dedication and, as a condition precedent to the acceptance of any streets, alleys, pedestrian ways, drainage channels, easements and other rights-of-way, shall require that the subdivider, at his option, either improve or agree to improve the streets, alleys, pedestrian ways, drainage channels, easements and other rights-of-way in the subdivision.

(Ord. 1103 C.S. § I (part), 1987: Prior code § 4549(d).)

## CHAPTER 21.46

## **SUBDIVISIONS**

### **PARK DEDICATION**

#### **21.46.010 Purpose.**

This section is enacted pursuant to the authority granted by the Subdivision Map Act of the State of California. The park and recreation facilities for which dedication of land and/or payment of fee required by this chapter are in accordance with the General Plan of the City of Martinez, and the adopted Park System Master Plan. For purposes of this chapter, the term "subdivision" includes any residential development of two (2) or more dwelling units, "subdivider" includes the developer of any residential development, "parcel" includes any residential unit, "parcel map" or "final map" includes issuance of a building permit or grading permit for a residential development or two (2) or more dwelling units. (Ord. 1103 C.S. § I (part), 1987: Ord. 985 C.S. § 2 (part), 1983: Ord. 749 C.S. § 1 (part), 1972; prior code § 4701.)

#### **21.46.020 Requirements.**

As a condition of approval of a final subdivision map, parcel map, or residential project approval not involving a subdivision 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 at the time and according to the standards and formula contained in this chapter. Payment of in-lieu fees may be deferred until occupancy of residential units if the subdivider posts a bond or other surety acceptable to the City guaranteeing payment of the fees. (Ord. 1103 C.S. § I (part), 1987: Ord. 985 C.S. § 2 (part), 1983: Ord. 749 C.S. § 1 (part), 1972; prior code § 4703.)

#### **21.46.030 Basic Standard.**

It is found and determined that the public interest, convenience, health, welfare and safety require that five (5) acres of property for each one thousand (1000) persons residing within the City be devoted to local park and recreational purposes. (Ord. 985 C.S. § 2 (part), 1983: Ord. 749 C.S. § 1 (part), 1972; prior code § 4702.)

#### **21.46.040 Standards and Formula for Dedication of Land.**

Where a park or recreational facility has been designated in the City of Martinez's General Plan, and is to be located in whole or in part within the proposed subdivision, the subdivider shall dedicate land for

## SUBDIVISIONS

a local park sufficient in size and topography to serve the residents of the subdivision. The amount of land to be provided shall be determined pursuant to the following standards and formula:

$$\text{Land} = \text{Average Number of Persons/DU} \times \frac{1000 \text{ Population}}{\text{Park Acreage Standard (5 acres)}}$$

DU means residential dwelling unit

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

	<u>Average Person Per Dwelling Unit</u>	<u>Average Requirement Per Dwelling Unit</u>
Multiple Dwelling Unit	2.1	448 sq. ft.
Single Family (includes patio homes and townhouse)	2.8	598 sq. ft.

NOTE: The figures of 2.6 persons per unit and 557 sq. ft. shall be used for all subdivisions for which application was made prior to May 16, 1986. (Ord. 1103 C.S. § I (part), 1987: Ord. 1067 C.S. § I, 1986: Ord. 985 C.S. § 2 (part), 1983: Ord. 840 § 2, 1976: Ord. 749 C.S. § 1 (part), 1972; prior code §4705(a).)

### **21.46.050 Formula for Fees in Lieu of Land Dedication.**

A. General Formula. If there is no park or recreational facility designated in the City of Martinez's

## SUBDIVISIONS

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 lieu of dedicating land, pay a fee equal to the value of the land prescribed for dedication in Section 21.46.040 and in an amount determined in accordance with the provisions of Section 21.46.070, the fee to be used for a local park which will serve the residents of the area being subdivided.

- B. Fees in Lieu of Land--50 Parcels or Less. If the proposed subdivision contains 50 parcels or less, the subdivider may be required to only pay a fee equal to the land value of the portion of the local park required to serve the needs of the residents of the proposed subdivision as prescribed in Section 21.46.040 and in an amount determined in accordance with the provisions of Section 21.46.070.
  
- C. Use of Money. The money collected hereunder shall be used only for the purpose of providing park or recreational facilities reasonably related to serving the subdivision by way of the purchase of necessary land or, if the Martinez Planning Commission deems that there is sufficient land available for the subdivision, for improving of such land for park and recreational purposes. The money shall be committed within five (5) years after payment of the issuance of building permits on one-half 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 the size of their lot bears to the total area of all lots in the subdivision. (Ord. 985 C.S. § 2 (part), 1983; Ord. 749 C.S. § 1 (part), 1972; prior code § 4705(b).)

### **21.46.060 Criteria for Requiring both Dedication and Fee.**

In subdivisions of over 50 lots, the subdivider shall both dedicate land and pay a fee in lieu of dedication in accordance with the following:

- A. When only a portion of the land to be subdivided is proposed in the General Plan as the site for a local park, such portion shall be dedicated for local park purposes; and a fee computed pursuant to the provisions of Section 21.46.070 hereof shall be paid for any additional land that would have been required to be dedicated pursuant to Section 21.46.080.
  
- B. 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

## **SUBDIVISIONS**

remaining portion shall be dedicated and a fee computed pursuant to Section 21.46.010 shall be paid in an amount equal to the value of the land which would otherwise have been required to be dedicated pursuant to Section 21.46.070. The fees shall be used for the improvement of the existing park and recreational facility or for the improvement of other local parks and recreational facilities in the area serving the subdivision. (Ord. 985 C.S. § 2 (part), 1983: Ord. 749 C.S. § 1 (part), 1972; prior code § 4705(d).)

### **21.46.070 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 on the average estimated fair market value of the land being purchased in the City for single family and multi-family residential development. This value shall be established yearly by Council resolution. (Ord. 1103 C.S. § I (part), 1987: Ord. 1067 C.S. § II, 1986: Ord. 985 C.S. § 2 (part), 1983: Ord. 749 C.S. § 1 (part), 1972; prior code § 4705(e).)

### **21.46.080 Subdivisions not within General Plan.**

When the proposed subdivision lies within an area not then within, but to be included within the City's General Plan, the subdivider shall dedicate land, pay a fee in lieu thereof, or both, in accordance with the adopted park and recreational principles and standards of the City's General Plan and in accordance with the provisions of this article. (Ord. 985 C.S. § 2 (part), 1983: Ord. 749 C.S. § 1 (part), 1972; prior code § 4705.)

### **21.46.090 Determination of Land or Fee.**

Land dedication, or payment of a fee in lieu thereof, or a combination of both, shall be determined by consideration of the following:

- A. The principles and standards for community and neighborhood park facilities found in the City's General Plan;
- B. Topography, geology, access and location of land in the subdivision available for dedication;
- C. Size and shape of the subdivision and land available for dedication;

## SUBDIVISIONS

- D. Feasibility of dedication;
- E. Compatibility of dedication with the City of Martinez's General Plan; and
- F. Availability of previously acquired park property.  
(Ord. 985 C.S. § 2 (part), 1983; Ord. 749 C.S. § 1 (part), 1972; prior code § 4705(g).)

### **21.46.100 Credit for Improvements to Dedicated 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 chapter. The credit shall be determined by the Planning Department. (Ord. 985 C.S. § 2 (part), 1983; Ord. 749 C.S. § 1 (part), 1972; prior code § 4705.)

### **21.46.105 Partial Credit for Private Space.**

Where private area for park and recreational purposes is provided in a proposed development and such area is to be privately owned and maintained by the future owner(s) of the development, partial credit may be given by the planning agency not to exceed fifty percent against the requirement of land dedication or payment of fees in lieu thereof if the planning agency finds that it is in the public interest to do so and that all the standards set forth below are met:

- A. That yards, court areas, setbacks, and other open areas required to be maintained by the zoning and building ordinances and regulations shall not be included in the computation of such private areas; and,
- B. That the private ownership and maintenance of the area is adequately provided for by recorded written agreement, covenants, or restrictions; and,
- C. That the use of the private area is restricted for park and recreational purposes by recorded covenants which run with the land in favor of the future owners of property within the tract and which cannot be amended or eliminated without the consent of the County, or its successor; and,
- D. That the proposed private area is reasonably adaptable for use for park or recreational purposes, taking into consideration such factors as size, shape, topography, geology, access, and location; and,

## SUBDIVISIONS

- E. That facilities proposed for the area are in substantial accordance with the provisions of the recreational element of the general plan; and,
- F. That the area for which credit is given is a minimum of two acres and provides a minimum of four of the local park basic elements listed below, or other recreational improvements that will meet the specific recreation park needs of the future residents of the area:

Criteria List   Acres

(A) Children's play apparatus area	.50 - .75
(B) Landscape park-like and quiet area	.50 - 1.00
(C) Family picnic area	.25 - .75
(D) Game court area	.25 - .75
(E) Turf playfield	1.00 - 3.00
(F) Swim pool (42 ft. x. 75 ft. with adjacent deck and lawn area)	.25 - .50
(G) Recreation center building	.15 - .25
(H) Recreation community gardening	.10 - .25

(Ord. 1067 C.S. § III, 1986.)

### **21.46.110 Procedure.**

Prior to the approval of the tentative subdivision or parcel map, the Martinez Planning Commission shall determine, after a report and recommendations from the Planning & Building Director and Parks and Recreation Commission, pursuant to Sections 21.46.090, 21.46.100 and 21.46.110 whether land is to be dedicated or in lieu fees are to be paid by the subdivider or any combination of land and fees. The determinations by the Martinez Planning Commission shall include the following:

- A. The amount of land required; or
- B. That a fee be charged in lieu of land; or
- C. That land and a fee be required; and/or
- D. That a stated amount of credit be given to the subdivider, if applicable.

## **SUBDIVISIONS**

At the time of the filing of the final or parcel map, the subdivider shall dedicate the land and/or pay the fees as determined by the City.

Open Space covenants for private park or recreational facilities shall be submitted to the City prior to approval of the final subdivision map and shall be recorded contemporaneously with the final subdivision map. (Ord. 1103 C.S. § I (part), 1987; Ord. 985 C.S. § 2 (part), 1983; Ord. 749 C.S. § 1 (part), 1972; prior code § 4705.)

### **21.46.120 Review and Appeals.**

Recommendations of the Martinez Planning Commission shall be appealable as set forth in Section 21.42.100. (Ord. 1103 C.S. § I (part), 1987; Ord. 985 C.S. § 2 (part), 1983; Ord. 749 C.S. § 1 (part), 1972; prior code § 4706.)

## **CHAPTER 21.48**

### **REVERSION TO ACREAGE MAP**

#### **21.48.010 Title.**

A map filed for the purpose of reverting subdivided land to acreage shall be conspicuously designated with the title "The Purpose of this Map is a Reversion to Acreage." (Prior code § 4550.)

#### **21.48.020 Procedure.**

Procedure shall be as specified in the State Subdivision Map Act. (Ord. 1103 C.S. § I (part), 1987.)

## **SUBDIVISIONS**

### **CHAPTER 21.50**

#### **PARCEL MAPS**

##### **21.50.010 Tentative Map.**

The tentative map process of Chapter 21.42 of this title, and the parcel map process shall apply to all subdivisions in which a final map is not otherwise required by the Subdivision Map Act except for Lot Line Adjustments. Tentative parcel maps shall be acted on by the Board of Adjustments, appealable to the Planning Commission within ten days of the decision. (Ord. 1103 C.S. § I (part), 1987: Ord. 909 C.S. § 2, 1979: Ord. 896 C.S. § 3, 1979.)

##### **21.50.020 Waiver of Parcel Map.**

A parcel map shall not be required when the Planning Commission determines that the proposed division of land meets all City requirements as to area, improvement and design, flood water drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection, and sufficient record and survey data is available to accurately determine the location of the parcel. A legal description of the property to be divided shall be submitted with the tentative map. When a parcel map is not required, but the dedication for the purposes of street widening is necessary, such dedication shall be made by a separate instrument prior to approval of the tentative map by the Planning Commission.

Upon waiving the parcel map requirement the City Engineer shall cause to be filed with the County Recorder a "Certificate of Compliance" for the land to be divided. (Ord. 896 C.S. § 3, 1979.)

##### **21.50.030 Form.**

The form and contents, submittal, approval and filing of parcel maps shall conform to the provisions of this section, and the Subdivision Map Act.

- A. The general form and layout of the map, including size and type of lettering, drafting, and location and acknowledgements, shall be as determined by the City Engineer.

## SUBDIVISIONS

- B. The exterior boundary of the land within the subdivision shall be designated by a 1/16 of an inch solid black line.
- C. Scale of the map shall be 1" = 20', 1" = 40', 1" = 50' unless otherwise permitted by the City Engineer.
- D. All dimensions shall be shown in feet and hundredths or thousandths of a foot.
- E. If more than two sheets are necessary to show the entire subdivision, an index map shall be included on sheet two.
- F. The parcel map number, city and county, scale and north point, name of the engineer, date and sheet number, shall be shown on each sheet if applicable.
- G. A title sheet designated as sheet 1 of the parcel map shall be provided, except that where the size of a subdivision permits, in lieu of a separate title sheet, the information required to be shown thereon may be shown on the same sheet as the map of the subdivision.
- H. Upon the recordation of the parcel map by County Recorder, the subdivider shall be responsible to provide the City Engineer with a reproducible on either tracing cloth or 3 mil polyester base film. (Ord. 896 C.S. § 3, 1979.)

### **21.50.040 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 parcel map shall not exceed 1/10,000 for field closures and 1/20,000 for calculated closures. (Ord. 896 C.S. § 3, 1979.)

### **21.50.050 Additional Data.**

The parcel map shall substantially conform to the tentative map as approved, or conditionally approved, by the Planning Commission, and shall contain, or be accompanied by, such additional information as may be required by the City Engineer, including:

- A. All required survey data and information.

## SUBDIVISIONS

- B. All lots and parcels intended for sale or lease, or reserved for private purposes with dimensions, boundaries, and courses clearly shown and defined with each parcel identified by number.
- C. The location and width of streets, alleys, pedestrian ways, and other easements and portions thereof dedicated or offered for dedication to the City, including the recording references on easements that are existing of record.
- D. All limitations on rights of access to and from the streets from lots and other parcels of land.
- E. A guarantee of title or letter from a title company certifying that the signatures of all persons whose consent is necessary to pass a clear title to the land being subdivided, and all acknowledgments thereto appear and are correctly shown on the final map, both as to consents for making thereof and the affidavit of dedication.
- F. If a field survey is made, the engineer or surveyor shall furnish the City Engineer boundary closure sheets.
- G. Plans, specifications, and applicable permits for the construction and installation of improvements that have been approved by the City Engineer and on which security has been posted to guarantee the installation of said improvements.
- H. Any city or district boundary line crossing or contiguous to the subdivision shall be clearly designated to determine its relative location to all parcels and lots.
- I. Adjacent subdivisions or ownerships of record.

(Ord. 896 C.S. § 3, 1979.)

## SUBDIVISIONS

### **21.50.060 Certificate of Acceptance.**

Offers of dedication may be made either by separate document or by dedication on the parcel map. If made on the parcel map, the following certificate shall appear on the parcel map:

"The City does hereby accept on behalf of the public all parcels of land as offered for dedication for public use in conformity with terms of the offer of dedication.

\_\_\_\_\_  
City Manager"

(Ord. 896 C.S. § 3, 1979.)

### **21.50.065 Planning Certificate.**

Each parcel map shall have a certificate for the Planning & Building Director to sign, certifying that the parcel map conforms to the approved tentative map and its conditions. If the parcel map does not conform, the Director shall not sign the certificate, and the parcel map shall not be approved by the City Engineer. (Ord. 1103 C.S. § I (part), 1987.)

### **21.50.070 Fees and Deposits.**

All persons submitting maps as required by this chapter shall pay all fees and/or deposits as provided by the City's resolution establishing fees and charges for final maps and construction drawings. (Ord. 896 C.S. § 3, 1979.)

### **21.50.080 Preliminary Submittal.**

The subdivider shall submit three sets of prints of the parcel map to the City Engineer for checking. The preliminary prints shall be accompanied by two copies of the worksheets, plans and profiles required for final maps by Section 21.44.220 Preliminary Submittal, and as modified herein.

The City Engineer may waive any of the requirements upon finding that the location and nature of the proposed subdivision is such as not to necessitate the construction of public improvements.

## **SUBDIVISIONS**

Any additional information or documents required shall be as specified with the conditions of approval of the tentative map. (Ord. 896 C.S. § 3, 1979.)

### **21.50.090 Return for Correction.**

Upon completing preliminary checks, the City Engineer shall note the required corrections on the preliminary prints, reports, and data and return one set to the subdivider's engineer for revision. (Ord. 896 C.S. § 3, 1979.)

### **21.50.100 Resubmittal.**

The subdivider's engineer shall submit two sets of the revised map, reports and data to the City Engineer. After checking the revisions, one set shall be returned to the subdivider's engineer marked "Approved as Submitted", "Approved when Corrected as Noted", or "Revise and Resubmit". (Ord. 896 C.S. § 3, 1979.)

### **21.50.110 Approval by City Engineer.**

Upon receipt of an approved print, the subdivider shall submit the original tracing of the revised map, prepared in accordance with the Subdivision Map Act and this chapter and corrected to its final form, and signed by all parties required by the Map Act and this chapter to execute the certificates on the map, to the City Engineer. The City Engineer, upon signing the City Engineer's certificate, shall transmit the original to the City Clerk or authorized agent. (Ord. 896 C.S. § 3, 1979.)

### **21.50.120 Filing With County Recorder.**

The City Clerk or authorized agent shall file the approved parcel map with the County Recorder. (Ord. 896 C.S. § 3, 1979.)

## **SUBDIVISIONS**

### **CHAPTER 21.52**

#### **EXCEPTIONS**

##### **21.52.010 Authorized When.**

Exceptions and conditional exceptions to the regulations prescribed in Chapters 21.08 through 21.38 of this title may be authorized by the City Planning Commission. (Prior code § 4553.)

##### **21.52.020 Application.**

Application for an exception shall be made to the City Planning Commission on a form prescribed by the Commission. The subdivider shall state fully the grounds of the application, the facts relied upon and any other data pertinent to the findings prerequisite to the granting of an exception prescribed in Section 21.52.040 of this chapter. The application shall be filed with the City Engineer along with the tentative map. At the time of filing the application, the subdivider shall agree in writing to an extension of the time limit for action on the tentative map by the City Planning Commission at the option of the Commission. (Prior code § 4554.)

##### **21.52.030 Referrals.**

The City Engineer shall transmit copies of the application to the City Planning Commission and to the City Council. Prior to the date set for consideration of the tentative map, the City Engineer shall submit to the Commission a written report of his recommendation regarding the proposed exception. Failure to submit such a report shall be deemed approval of the application for an exception. (Prior code § 4555.)

##### **21.52.040 Planning Commission Action.**

The City Planning Commission shall consider the application for an exception at the same meeting at which it considers the tentative map. An exception may be granted unqualifiedly or may be granted subject to prescribed conditions, provided that the Commission makes the following findings that:

- A. There are special circumstances or conditions affecting the property;

## **SUBDIVISIONS**

- B. The exception is necessary for the preservation and enjoyment of a substantial property right of the subdivider;
- C. The granting of the exception will not be detrimental to the public welfare or injurious to other property in the area in which the property is situated;
- D. The granting of the exception is in accord with the purposes prescribed in Section 21.02.010 of this title;
- E. The granting of the exception is in accord with the objectives, principles and standards of the General Plan.  
(Prior code § 4556.)

### **21.52.050 Appeal to City Council--Hearing.**

Within ten days of the date of the City Planning Commission's action on an application for an exception, the subdivider may appeal to the City Council for review of the action. An appeal shall be filed with the City Clerk and shall state specifically wherein it is claimed that there was an error or abuse of discretion by the Commission. The appeal shall be considered under the procedure of Section 21.42.100. (Ord. 1103 C.S. § I (part), 1987: Prior code § 4557.)

### **21.52.060 Review by City Council.**

Section 21.42.101 also applies to any decision on an exception. (Ord. 1103 C.S. § I (part), 1987: Prior code § 4558.)

## **SUBDIVISIONS**

### **CHAPTER 21.53**

#### **PARCEL MERGERS**

##### **21.53.010 Authority.**

1. This Chapter is adopted pursuant to Chapter 3, Article 1.5, Sections 66451.10 through 66451.21 inclusive and Chapter 6, Article 1., Section 66499.20 3/4, of Division 2, of the Government Code of the State of California, and the procedures set forth below are those specified in said Government Code sections as those sections exist upon the adoption of the ordinance creating this Chapter. In the event said Government Code sections are amended to provide for procedures or criteria different than those specified hereinafter, such changes are hereby incorporated by reference as if fully set forth herein. (Ord. 945 C.S. § 1, (part), 1981; Ord. 1038 C.S. 1985; Ord. 1056 C.S. § 1, 1985).

##### **21.53.020 When Lots May Be Merged.**

1. Two or more contiguous parcels or units of land may be merged by the City Council when held by the same owner if any one of the contiguous parcels or units does not conform to standards for minimum parcel size, under the applicable zoning designation in effect at the time of mailing of a notice of intent to determine status, and if all of the following requirements are satisfied:
  - A. At least one 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 or more of the following conditions exists:
    1. Comprises less than 5,000 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.

## SUBDIVISIONS

4. Does not meet slope stability standards.
  5. Has no legal access which is adequate for vehicular and safety equipment access and maneuverability.
  6. Its development would create health or safety hazards.
  7. Is inconsistent with the applicable General Plan and any applicable specific plan, other than minimum lot size or density standards.
2. For purposes of determining whether contiguous parcels are held by the same owner, ownership shall be determined as of the date that notice of intention to determine status is recorded.
3. The merger of contiguous parcels may not be accomplished under the provisions of this Chapter if one of the following conditions exists:
- A. On or before July 1, 1981, one or more of the contiguous parcels or units of land is enforceably restricted open-space land pursuant to a contract, agreement, scenic restriction, or open-space easement, as defined and set forth in Section 421 of the Revenue and Taxation Code.
  - B. On July 1, 1981, one or more of the contiguous parcels or units of land is timberland as defined in subdivision (f) of Section 51100, or is land devoted to an agricultural use as defined in subdivision (b) of Section 51201.
  - C. On July 1, 1981, one or more of the contiguous parcels or units of land is located within 2,000 feet of the site on which an existing commercial mineral resource extraction use is being made, whether or not the extraction is being made pursuant to a use permit issued by the local agency.
  - D. On July 1, 1981, one or more of the contiguous parcels or units of land is located within 2,000 feet of a future commercial mineral extraction site as shown on a plan for which a use permit or other permit authorizing commercial mineral resource extraction has been issued by the local agency.
  - E. Within the coastal zone, as defined in Section 30103 of the Public Resources Code, one or more of the contiguous parcels or units of land has, prior to July 1, 1981, been identified or designated as being of insufficient size to support residential development and where the identification or designation has either (i) been included in the land use plan portion of a local coastal program prepared and adopted pursuant to the California Coastal Act of 1976 (Division 20 of the Public Resources Code), or (ii) prior to the adoption of a land use plan,

## SUBDIVISIONS

been made by formal action of the California Coastal Act of 1976 in a coastal development permit decision or in an approved land use plan work program or an approved issue identification on which the preparation of a land use plan pursuant to the provision of the California Coastal Act is based.

4. For purposes of paragraphs (c) and (d) of Subsection 3, "mineral resource extraction" means gas, oil, hydrocarbon, gravel, or sand extraction, geothermal wells, or other similar commercial mining activity. (Ord. 1131 C.S. § I, 1989; Ord. 945 C.S. § 1, (part), 1981; Ord. 1038 C.S., 1985)

### **21.53.030. Recordation of Notice.**

A merger of parcels becomes effective when the City Council causes to be filed for record with the recorder of the county in which the real property is located, a notice merger specifying the names of the record owners and particularly describing the real property. (Ord. 945 C.S. § 1, (part), 1981; Ord. 1038 C.S., 1985)

### **21.53.040. Notice of Intent to Determine Status.**

Prior to recording a notice of merger, the City Manager and/or his/ her designee, shall cause to be mailed by certified mail to the then current record owner of the property a notice of intention to determine status, notifying the owner that the affected parcels may be merged pursuant to standards specified in the merger ordinance, and advising the owner of the opportunity to request a hearing on determination of status and to present evidence at the hearing that the property does not meet the criteria for merger. The notice of intention to determine status shall be filed for record with the recorder of the county in which the real property is located on the date that notice is mailed to the property owner. (Ord. 1112 C.S. § 1, 1988; Ord. 1038 C.S., 1985; Ord. 945 C.S. § 1, (part), 1981)

### **21.53.050. Request for Hearing on Determination of Status.**

At any time within 30 days after recording of the notice of intention to determine status, the owner of the affected property may file with the City Clerk a request for a hearing on determination of status. (Ord. 945 C.S. § 1, (part), 1981; Ord. 1038 C.S., 1985)

### **21.53.060. Hearing, Time, Date, and Place.**

## **SUBDIVISIONS**

Upon receiving a request for a hearing on determination of status, the City Council shall fix a time, date, and place for a hearing to be conducted by the City Council and shall be conducted not less than 30 days following the City's receipt of the property owner's request therefor, but may be postponed or continued with the mutual consent of the City Council and the property owner. (Ord. 1038 C.S., 1985)

### **21.53.070. Hearing; Evidence; Determination of Status.**

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

At the conclusion of the hearing, the City Council shall make a determination that the affected parcels are to be merged or are not to be merged and shall so notify the owner of its determination. A determination of merger shall be recorded within 30 days after conclusion of the hearing, as provided for in Section 21.53.030. (Ord. 1038 C.S., 1985)

### **21.53.080. Failure to Request Hearing; Determination of Merger.**

If, within the 30 day period specified in Section 21.53.050, the owner does not file a request for a hearing in accordance with Section 21.53.070, the City Council may, at any time thereafter, make a determination that the affected parcels are to be merged or are not to be merged. A determination of merger shall be recorded as provided for in Section 21.53.030 no later than 90 days following the mailing of notice required by Section 21.53.060. (Ord. 1038 C.S., 1985)

### **21.53.090. Determination Not to Merge; Release of Notice of Intent to Determine Status; Recordation; Clearance Letter.**

If in accordance with Section 21.53.070, or 21.53.080, the City Council determines that the subject property shall not be merged, it shall cause to be recorded in the manner specified in Section 21.53.030 a release of the notice of intention to determine status, recorded pursuant to Section 21.53.040, and shall mail a clearance letter to the then current owner of record. (Ord. 1038 C.S., 1985)

### **21.53.100. Merger Requested by Property Owner.**

## SUBDIVISIONS

- A. Pursuant to Section 66499.20 3/4 of the Government Code of the State of California, upon request of the legal owner(s) of contiguous parcels, the City Engineer or authorized representative may approve the merger of such parcels. Such request shall be in writing and signed by all owners of record of such parcels. All signatures shall be notarized by a duly licensed Notary Public. The request shall be accompanied by such data and documents as required by the City Engineer.
  
- B. Upon approval, a "Notice of Merger" shall be filed by the City with the County Recorder. The form and content of the notice shall be as required by the City Engineer.
  
- C. In approving such merger, the City Engineer or authorized representative may impose reasonable conditions. The reasonableness of such conditions may be appealed within fifteen (15) days of written notice of the conditions of the Planning Commission whose decision shall be final and unappealable.
  
- D. A fee shall be charged the applicant for processing such merger in an amount set from time to time by City Council resolution. (Ord. 1056 C.S. § 3, 1985.)

## SUBDIVISIONS

### CHAPTER 21.54

#### REGULATIONS FOR NEW MULTIPLE RESIDENTIAL DEVELOPMENT

##### **21.54.010 Purpose.**

- A. To establish requirements and procedures to be followed for review and approval of new condominium, townhouse, apartment, and other multiple residential developments.
- B. To establish criteria for new condominium developments by requiring conformance to the City's Building Code and other development standards set forth in this chapter.
- C. To ensure that the developer of the project provides adequate private outdoor living space, storage and parking space, usable open space and other amenities.
- D. To provide for planning, unforeseen change, and compliance with the City's General Plan and Housing Element.
- E. To provide a procedure whereby potential buyers of new condominium units will be properly informed as to the physical condition of the structure for purchase.
- F. To ensure that the developer uses contemporary and environmentally sensitive concepts of site planning and architectural design in the construction of a new condominium project and to ensure that the project, once completed, maintains its integrity, not only to preserve the long-term financial commitment of the unit owner but to optimize the utilitarian and aesthetic qualities that make the project a viable home for the owner long into the future. (Ord. 1103 C.S. § I (part), 1987; Ord. 901 C.S. § 1 (part), 1979.)

##### **21.54.020 General Provisions.**

- A. Conformity with the General Plan - The development of new condominiums shall conform with the principles and standards of the General Plan.
- B. The design, improvement and construction of any condominium project shall conform to and be

## SUBDIVISIONS

in accordance with the most currently adopted requirements of all building and fire codes, zoning provisions and all other applicable local ordinances and regulations, and shall in addition conform to and be in accordance with the following standards in effect at the time of filing of the tentative map:

1. Housing Code
  2. Unsafe structure code
  3. Building security ordinance
  4. Fire Code.
- C. New condominium developments include townhouse projects and all residential development projects which contain other than single-family detached units. (Ord. 1103 C.S. § I (part), 1987; Ord. 901 C.S. § 1 (part), 1979.)

### **21.54.030 Buyer Protection Provisions.**

Prior to incurring any obligation to purchase any new condominium unit, all potential buyers shall be provided with an informational document containing the following: (informational document shall be in a form approved by the Planning and Building Director).

- A. A listing of the services and facilities to be furnished to individual owners and a statement of all fees and other conditions applicable to the use of such services and facilities.
- B. A statement of the estimated annual operating and maintenance costs for all common facilities and services for the next three years as prepared or reviewed by a professional management firm familiar with operating and maintaining costs of similar property in the area. (Ord. 901 C.S. § 1 (part), 1979.)

### **21.54.040 Application Requirements.**

## SUBDIVISIONS

New condominium developments shall be subject to all applicable rules and regulations prescribed by the State Subdivision Map Act. The applicant shall provide the City with 35 copies of the Tentative Map accompanied by a sufficient number of site development plans to be determined by the Planning and Building Director. In addition to exhibits, as required by Sec. 21.42.060 of the Martinez Municipal Code, the plans shall also show in detail:

- A. Location of each common area;
- B. Location of each private open space;
- C. Locations and dimensions of parking garages and carports including individual parking stalls on the site;
- D. Location and dimension of exterior storage space for each individual unit;
- E. Landscaping Plan.

Additional submittals shall include:

- F. Preliminary Grading Plan;
- G. Elevations of proposed units;
- H. A draft copy of a declaration of CC&R's which will apply and which shall include an agreement for common area maintenance, including facilities and landscaping together with an estimate of the initial assessment fees anticipated for such maintenance; a description of a provision for maintenance of vehicular access areas within the project; and an indication of appropriate responsibilities for maintenance of all utility lines and services for each unit.
- I. Other information which, in the opinion of the Planning and Building Director, will assist in determining whether the proposed project is consistent with this chapter.  
(Ord. 901 C.S. § 1 (part), 1979.)

### **21.54.050 Design and Construction Standards.**

- A. Each unit shall meet the sound transmission control requirements of the most recently adopted

## SUBDIVISIONS

version of the Uniform Building Code.

- B. Each unit shall be provided with smoke detectors conforming to Uniform Building Code standards.
- C. Each unit shall be separately metered for gas and electricity.
- D. Utility easements shall be provided for each dwelling with an access agreement for entry to repair and maintain same. Individual shutoff valves and disconnects shall be provided for each unit.
- E. Two off-street parking spaces shall be provided for each dwelling unit and shall be located within reasonably close proximity of the units they serve. One off-street parking space shall be provided for each four units for visitor parking and shall be uniformly distributed throughout the development. Accommodations for on-site RV parking shall be made at a ratio of 100 sq. ft. per dwelling unit unless on-site RV parking is otherwise prohibited by the CC&R's.
- F. At least 200 cubic feet of enclosed weatherproof lockable storage space shall be provided for each unit and shall bear a reasonable relationship to each unit. This storage space shall be in addition to that ordinarily contained within each unit.
- G. A minimum of 200 sq. ft. of appurtenant usable private area shall be provided contiguous with each unit.
- H. Common Open Space shall be provided in amounts designated by Sec. 22.12.25 of the Martinez Municipal Zoning Code. Such open space shall be over and above required setbacks and parking facilities and additional to required private open space.
- I. New condominium developments shall meet State energy conservation standards. (Ord. 1103 C.S. § I (part), 1987; Ord. 901 C.S. § 1 (part), 1979.)

### **21.54.060 Landscape Maintenance Agreement.**

The owner of the project shall enter into a landscape maintenance agreement before recordation of the final subdivision map. (Ord. 901 C.S. § 1 (part), 1979.)

### **21.54.070 Park Dedication Fees.**

## **SUBDIVISIONS**

New condominium development shall be subject to payment of park dedication fees at the rate in effect at the time of issuance of building permits. (Ord. 901 C.S. § 1 (part), 1979.)

### **21.54.080 Requirements for Design Review Approval.**

Design Review shall be required as set forth by the Design Review Ordinance and shall be based on overall site development which involves all proposed building elevations, proposed grading, areas of both common and private open space, areas of private storage, parking and landscaping and how each relates to the development standards of the ordinance and this site. (Ord. 901 C.S. § 1 (part), 1979.)

### **21.54.090 Conditions.**

The City may impose any conditions it deems necessary in order to ensure that the proposal will conform with the requirements of this chapter, other municipal code provisions, the general plan and the public health, safety and general welfare. (Ord. 1103 C.S. § I (part), 1987; Ord. 901 C.S. § 1 (part), 1979.)

### **21.54.100 Findings Justifying Denial.**

Pursuant to Sec. 66427.1 of the Government Code, the Planning Commission shall deny approval of a tentative map for a new condominium project if the following findings are made:

- A. That the proposal is incompatible and inconsistent with the objectives, policies, elements and programs specified in the General Plan and any applicable specific plan.
  
- B. That the project will not create an acceptable balance between and provide reasonable relationships among the structures and their units, private yard areas, usable open spaces, parking areas and recreational facilities.
  
- C. That the proposal is inconsistent with the purposes of this chapter.
  
- D. That the proposal is inconsistent with the health, safety and welfare of the residents of the City. (Ord. 901 C.S. § 1 (part), 1979.)

## SUBDIVISIONS

### CHAPTER 21.56

#### REGULATIONS FOR THE CONVERSION OF RENTAL UNITS TO CONDOMINIUMS

##### 21.56.001 Purpose.

- A. To establish requirements and procedures to be followed for the review and approval or disapproval of the conversion of existing multiple-family rental housing to residential condominiums;
- B. To mitigate the effect of such conversions on tenants of rental housing as much as possible by providing a procedure for adequate notice of conversion as well as adequate time and assistance to relocate as necessary;
- C. To establish criteria for condominium conversion projects by requiring conformance to the City's building code and other development standards set forth in this chapter;
- D. To ensure that the developer of the project provides adequate private outdoor living space, storage and parking space, usable open space and other amenities;
- E. To provide for planning, unforeseen change, and compliance with the City's General Plan and Housing Element;
- F. To ensure that the developer is attentive to the performance characteristics of the structure and mitigates such problems as vibration and noise transmission which may be apparent to the buyer without living in the unit;
- G. To provide a procedure whereby potential buyers of converted units will be properly informed as to the physical condition of the structure for purchase;
- H. To ensure that the conversion maintains its integrity, not only to preserve the long-term financial commitment of the unit owner but to optimize the utilitarian and aesthetic qualities that make the project a viable home for the owner long into the future.  
(Ord. 902 C.S., 1979.)

## SUBDIVISIONS

### **21.56.002 General Provisions.**

- A. Conformity with the General Plan - The conversion of rental units to condominium shall conform with the principles and standards of the General Plan.
  
- B. The design or improvement of any existing structure or structures proposed to be converted to condominiums shall conform to and be in accordance with the most currently adopted requirements of all building and fire codes, zoning provisions and all other applicable local ordinances and regulations, and shall in addition conform to and be in accordance with the following standards in effect at the time of filing of the tentative map:
  - 1. Housing Code;
  - 2. Unsafe Structures Code;
  - 3. Building Security Ordinance;
  - 4. Fire Code.

(Ord. 902 C.S., 1979.)

### **21.56.003 Buyer Protection Provisions.**

Prior to incurring any obligation to purchase any converted unit, all potential buyers shall be provided with an informational document containing the following: (informational document shall be in a form approved by the Planning and Building Director.)

- A. A listing of the services and facilities to be furnished to individual owners and a statement of all fees and other conditions applicable to the use of such services and facilities.
  
- B. A statement of the estimated annual operating and maintenance costs for all common facilities and services for the next three years as prepared or reviewed by a professional management firm familiar with operating and maintaining costs of similar property in the area.

## SUBDIVISIONS

- C. A statement indicating the availability of CC&R's for the project for review by buyer.
- D. A statement granting each buyer a one year warranty on all appliances in each unit and granting to the homeowners association a one year warranty on all structures in the project and all electrical, heating, air conditioning, plumbing, ventilation equipment, roofing and elevators.
- E. A statement of proposed improvements and repairs to be made by the subdivider.
- F. A copy of the Building Inspector's pre-conversion inspection.
- G. A copy of the pest control report.
- H. A copy of the acoustical engineer's analysis determining the soundproof standards of all common walls and ceiling separations.
- I. A statement of any other information that the Planning and Building Director reasonably determines should be furnished to a prospective purchaser to enable him to make an informed decision regarding the purchase of a unit in that project. (Ord. 902 C.S., 1979.)

### **21.56.004 Tenant Protection and Assistance Provisions.**

For the protection of tenants in buildings proposed to be converted to a condominium, all such proposed conversions shall comply with the following provisions:

- A. Notification.
  - 1. Each tenant shall receive a "Notice of Intention to Convert" at least 180 days prior to filing an application and tentative subdivision map with the City. The notice shall indicate to each tenant that:
    - a. The owners of the building are considering converting each rental unit to a condominium;
    - b. If the application to convert each unit to a condominium is approved by the City each unit may be subject to future sale; and
    - c. Per City ordinance, all tenants must be notified of any intention to convert at least

## SUBDIVISIONS

180 days before the application is filed. Additionally, the notice shall include a step-by-step time frame outlining the entire conversion process from the date of initial notification of intent to convert, to the date of required vacation or purchase of the respective unit. Proof or evidence of delivery of such notice to each tenant, including a copy of that notice shall be filed with the City Planning Department within thirty (30) days after tenant notification.

2. If, within the initial 180-day notification period, a change in occupancy occurs which results in the presence of a tenant who has not received the 180 day notice, the applicant shall file with the Planning Department an agreement signed by that tenant waiving the 180-day notice requirement. The waiver shall contain a step-by-step time frame outlining the entire conversion process.
  
3. Each tenant shall be notified in writing of the public hearing in which the tentative map will be considered at least ten (10) days prior to that hearing. The developer shall be responsible for making said notice and shall file a copy of the notice with the Planning Department.

### B. Right of First Refusal.

Provided he is not then in default under his lease or rental arrangement, each tenant occupying a unit to be converted shall be given the right, for a period of sixty (60) days after the issuance of the Final Public Report or commencement of sales (whichever is later) to purchase his unit on terms equal to or more favorable than the terms on which such unit is to be offered to the public. The developer shall file evidence with the Planning Department that each tenant has been notified of this right and that said notice was delivered to the tenant at the time described by Sec. 66427.1 of the Subdivision Map Act. If any tenant chooses to waive his right to first refusal of the unit he occupies, a waiver, signed by that tenant shall be filed with the Planning Department.

### C. Moving Expenses.

The applicant shall bear relocation expenses for each non-purchasing tenant at a rate of 1 1/2 times the monthly rental rate. This clause will be invoked only for cases when non-purchasing tenants are requested by the subdivider to vacate respective units that have been sold.

## SUBDIVISIONS

- D. Copies of all correspondence between the subdivider and the tenants shall be filed with the Planning Department.  
(Ord. 902 C.S., 1979.)

### **21.56.005 Application Requirements.**

The conversion of multiple family rental housing into condominiums shall be subject to all applicable rules and regulations prescribed by the State Subdivision Map Act. The applicant shall provide the City with 35 copies of the Tentative Map accompanied by a sufficient number of site development plans to be determined by the Planning and Building Director. In addition to exhibits, as required by Sec. 21.42.060 of the Martinez Municipal Code, the plans shall also show in detail:

- A. Location of each common area;
- B. Location of each private open space;
- C. Locations and dimensions of parking garages and carports including individual parking stalls on the site;
- D. Location and dimension of exterior storage space for each individual unit;
- E. Landscaping Plan;
- F. Tenant Information
  - 1. Names of current tenants and the length of time they have rented the unit;
  - 2. Rental history of each unit for the preceding three years;
  - 3. Current rental rate for each unit;
  - 4. Any proposed program of relocation assistance by the applicant including the applicant's proposed payment of moving expenses incurred by the present tenants;
  - 5. The applicant shall have provided proof to the City that each tenant is advised of the intention of the applicant to subdivide the existing apartment complex into condominium units at least 120 days in advance of the date of the filing of the tentative subdivision map. If, within 180 days a change in occupancy occurs resulting in the presence of a tenant

## SUBDIVISIONS

who has not received the 180-day notice, the applicant shall file with the Planning Department an agreement signed by that tenant that he waives the 180-day notice requirement.

### G. Physical Elements Report.

1. The applicant shall submit a report by an acoustical engineer which determines the STC rating for all common walls and ceiling separations in each unit. Where walls or ceiling separations cannot meet the minimum soundproof standards as required by the most recently adopted version of the Uniform Building Code, the applicant shall make necessary improvements prior to the filing of the final map or enter into an agreement in recordable form providing that no sale of any unit shall take place until such necessary improvements are made.
2. The applicant shall submit to a detailed preconversion inspection to be performed by the City Building Inspector. The inspection report shall identify all areas where minimum code compliance is not achieved per most recently adopted version of the UCB.
3. The applicant shall also submit to a preconversion analysis of all structures by a licensed structural pest control operation relating to the presence of wood-destroying pests or other organisms. A copy of this analysis shall be submitted to the City Planning Department prior to consideration of the tentative subdivision map.

H. A draft copy of a declaration of CC&R's which will apply and which shall include an agreement for common area maintenance, including facilities and landscaping together with an estimate of the initial assessment fees anticipated for such maintenance; a description of a provision for maintenance of vehicular access areas within the project; and an indication of appropriate responsibilities for maintenance of all utility lines and services for each unit.

I. Other information which, in the opinion of the Planning and Building Director, will assist in determining whether the proposed project is consistent with this chapter.

J. The conversion of rental units to owner-occupied units is detrimental to the provision of local housing opportunities and, as long as a low vacancy rate exists, there should be a conversion moratorium. No conversions shall be approved when the vacancy rate within the City, as estimated by the State of California Department of Finance, is equal to or less than 5 percent.

K. Exception: New apartment rental development shall be exempt from the provisions of Section 21.56.005-J, provided that no public monies are used in the financing or subsidization of the new

## SUBDIVISIONS

rental development. (Ord. 938 C.S. § 1, 1981: Ord. 937 C.S. § 1, 1981: Ord. 902 C.S., 1979.)

### **21.56.006 Design and Construction Standards.**

- A. Each unit shall meet the sound transmission control requirements of the most recently adopted version of the UBC (Uniform Building Code). A written statement of compliance signed by a licensed acoustical engineer shall be submitted for a permanent record.
- B. Each unit shall be provided with a draft stop at each wall with no openings where determined feasible by the Building Inspector.
- C. Each unit shall be provided with smoke detectors conforming to UBC standards.
- D. Each converted unit shall be separately metered for gas and electricity. A plan for equitable sharing of water metering shall be developed prior to filing the final map and shall be incorporated into the CC&R's.
- E. Utility easements shall be provided for each dwelling with an access agreement for entry to repair and maintain same. Individual shutoff valves and disconnects shall be provided for each unit.
- F. Each unit shall provide 1 1/2 off-street parking spaces (one covered). There is no visitor or RV parking requirement.
- G. At least 150 cubic feet per unit of enclosed weatherproof and lockable storage space shall be provided in addition to that ordinarily contained within each unit. It may be either within or exterior to the unit.
- H. A minimum of 100 sq. ft. of appurtenant usable private area shall be provided contiguous with each unit.
- I. 100 sq. ft. of open space shall be provided for each unit. Such open space shall be over and above the area provided by setback requirements and parking facilities and additional to required private open space.
- J. Energy conservation requirements for conversions:

## **SUBDIVISIONS**

1. All doors and windows shall be weatherstripped or suitably insulated.
2. All stove fans shall be insulated to be made low infiltration.
3. In cases where appliances are replaced, appliances that are of low energy design shall be opted for.
4. Installation of R-19 insulation in all attics where not presently installed. (Ord. 902 C.S., 1979.)

### **21.56.007 Landscape Maintenance Agreement.**

The owner of the project shall enter into a landscape maintenance agreement before recordation of the final subdivision map.

(Ord. 902 C.S., 1979.)

### **21.56.008 Park Dedication Fees.**

Each unit shall be subject to full park dedication fees at the rate in effect at the time the final map is filed less park dedication fees previously paid to the City. (Ord. 902 C.S., 1979.)

### **21.56.009 Requirements for Design Review Approval.**

Design Review shall be required of all projects proposed for conversion to condominiums. The Design Review approval shall be based on overall site development which involves all proposed or existing building elevations, proposed grading, areas of both common and private open space, areas of private storage, parking and landscaping and how each relates to the development standards of the ordinance and this site. (Ord. 902 C.S., 1979.)

### **21.56.100 Conditions.**

The City may impose any conditions it deems necessary in order to ensure that the proposal will conform with the requirements of this chapter. (Ord. 902 C.S., 1979.)

## **SUBDIVISIONS**

### **21.56.105 Exemption.**

The Downtown Martinez Core Area (described as the twelve city blocks lying north of Ward Street, east of Berrellesa Street, south of Escobar Street and west of Court Street), shall be exempt from the following sections related to regulations for the Conversion of Rental Units to Condominiums:

- A. Section 21.56.004; and
- B. Section 21.56.006 F, G, H, and I.  
(Ord. 902 C.S., 1979.)

### **21.56.130 Appeal to City Council--Hearing.**

The procedure involved in the appeal of a City Planning Commission action is set forth in Sec. 21.42.100 of the Martinez Municipal Code. (Ord. 902 C.S., 1979.)

## **CHAPTER 21.60**

### **LOT LINE ADJUSTMENTS**

#### **21.60.010 Application Required.**

A Lot Line Adjustment Application shall be filed with the Community Development Department for lot line adjustments between two or more adjacent parcels, where:

- A. The land taken from one parcel would be added to an adjacent parcel;
- B. A greater number of parcels than originally existing would not thereby be created; and
- C. There would be no resulting violations of the Martinez Municipal Code. (Ord. 1154 C.S. § 2, 1990, Ord. 909 C.S., § 3, 1979.)

## SUBDIVISIONS

### **21.60.020 Filing Fee.**

All persons submitting applications for lot line adjustment shall pay all fees and/or deposits as provided by the City's resolution establishing fees and charges for subdivision maps and construction drawings. (Ord. 1154 C.S. § 2, 1990, Ord. 909 C.S., § 3, 1979.)

### **21.60.030 Preparation and Form.**

- A. The general form and details of the application and accompanying information shall be as determined by the Community Development Director, but, at a minimum, shall include:
1. The names, addresses, and telephone numbers of the Record Owners; the assessor's parcel numbers assigned to the parcels.
  2. A diagram showing the boundaries of the lots, both existing and proposed, with sufficient information to locate the property, and
  3. A diagram showing the location and names of all existing streets or other public right-of-way in or adjacent to the lots, and
  4. A diagram showing the location of all existing buildings in the vicinity of the affected lot lines, and notations of structures to be removed, and
  5. A diagram showing important physical features, such as access and utility easements, railroad rights-of-way, political subdivision lines, rancho lines, and water courses, and
  6. A diagram showing true north point, dimensional and graphic scale, and date, and
  7. A diagram showing layout, numbers and dimensions of lots involved, and
  8. A diagram showing location and width of all proposed easements for all utility purposes, and
  9. A certificate signed by all owners agreeing to the filing of said application, and agreeing to comply with the provisions of the subdivision ordinance and State Map Act as they apply to the processing and approval of said application, and

## **SUBDIVISIONS**

10. Preliminary Title Report for all properties affected, and sufficient title information to show that the parcels were legally created, and
11. Such additional information as may be determined to be needed by the Community Development Director. (Ord. 1154 C.S. § 2 (part), 1990, Ord. 909 C.S., § 3, 1979.)

### **21.60.035 Review of Applications.**

Lot line adjustment applications shall be approved, conditionally approved or denied by the Board of Adjustments. (Ord. 1154 C.S. § 2, 1990, Ord. 1103 C.S. § I (part), 1987.)

### **21.60.040 Term.**

A Lot Line Adjustment approval shall be valid for one year; and, if the deed is not a matter of public record within said time, the approval shall expire. (Ord. 1154 C.S. § 2 , 1990, Ord. 909 C.S., § 3, 1979.)

### **21.60.045 Deed.**

An approved lot line adjustment shall be filed for public record by means of a deed containing the information specified in 21.60.030 A. 1 - 9 above, to be reviewed and approved by the City Engineer prior to recording. (Ord. 1154 C.S. § 2 , 1990.)

## SUBDIVISIONS

### **21.60.050 Planning Certificate.**

Each Lot Line Adjustment deed shall have attached to it a certificate for the Community Development Director to sign, certifying that the deed meets all planning and zoning requirements. If the deed does not meet these requirements, the Director shall not sign the certificate, and the deed shall not be approved by the City Engineer. (Ord. 1154 C.S. § 2 , 1990, Ord. 1103 C.S. § I (part), 1987.)

### **21.60.055 Survey of Record Not Required.**

No record of survey shall be required for an approved lot line adjustment unless required by Section 8762 of the Business and Professions Code. If the lot line adjustment constitutes a correction to a final or parcel map already recorded in the Office of County Recorder, said lot line adjustment may be effected by a certificate of correction in lieu of or in addition to a deed. Whether the lot line adjustment is memorialized and reflected in a deed or a certificate of correction, it will be the responsibility of the applicant to record same with the County Recorder's Office. (Ord. 1154 C.S. § 2 , 1990.)

## TITLE 21 FOOTNOTES

1. For statutory provisions regarding subdivisions, see Bus. § Prof. Code § 11000 et seq; for provisions regarding subdivision maps and the Subdivision Map Act, see Bus. § Prof. Code § 11500 et seq.
2. For flood damage control pertaining to buildings and other structures, see § 15.04.070.
3. For statutory provisions authorizing cities to require subdividers to dedicate land and/or pay fees in lieu of, for park and recreational purposes, see Bus. § Prof. Code § 11546.