

Title 16

SUBDIVISIONS

Chapter 16.04 GENERAL PROVISIONS AND ADMINISTRATION

16.04.010 Purpose.

It is the purpose of this Title to regulate and control the division of land within the city and to supplement and implement the provisions of the Subdivision Map Act concerning the design, improvement and survey data of subdivisions, the form and content of all maps provided for by the Subdivision Map Act and the procedure to be followed in securing the official approval of the City Engineer, the Director of City Planning, the City Planning Commission and City Council regarding such maps. To accomplish this purpose, the regulations outlined in this title are determined to be necessary for the preservation of the public health, safety and general welfare; to ensure orderly growth and development; to ensure the retention of existing neighborhood amenities; to promote conservation, protection, and proper use of land; and to ensure provision for adequate circulation, utilities, and services.

It is also the purpose of this title to ensure that the development of subdivisions is consistent with the goals and policies of the Oakland comprehensive plan.

(Prior code § 7-4.01)

16.04.020 Application.

The regulations set forth in this title shall apply to all subdivisions or parts thereof within the city and to the preparation of subdivision maps thereof and to other maps provided for by the Subdivision Map Act. Each such subdivision and each part thereof lying within the city shall be made and each map shall be prepared and presented for approval as hereafter provided for and required.

No land shall be subdivided or developed for any purpose or use or in any manner which is not in conformity with the general or any specific plan or specifically authorized by the zoning regulations. Further, before any tentative map or tentative parcel map may be approved, the subdivider shall first apply for and obtain all necessary zoning approvals.

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

(Prior code § 7-4.011)

16.04.030 Definitions.

- A. For the purposes of this title certain words and phrases are defined and certain provisions shall be construed as herein set out, unless it shall be apparent from their context that a different meaning is intended:

"Alley" means any public way less than forty (40) feet in width.

"Arterial street" means any street of eighty (80) foot width or more which serves or is to serve as a major traffic artery for intercommunication between districts of the city when shown on any street plan or proposed street plan adopted by the Council of the city of Oakland.

"Blind street" means any street having but one outlet for vehicular traffic.

"Collector street" means any street of sixty (60) foot width or more which serves or is to serve as a traffic way for a neighborhood or a feeder to a thoroughfare when shown on any official street plan or proposed street plan adopted by the Council of the city of Oakland.

"Design" means:

1. Street alignments, grades, widths;
2. Drainage and sanitary facilities and utilities, including alignments and grades thereof;
3. Location and size of all required easements and rights-of-way;
4. Fire roads and firebreaks;
5. Lot size and configuration;
6. Traffic access;
7. Grading;
8. Land to be dedicated for park or recreational purposes; and
9. Such other specific requirements in the plan and configuration of the entire subdivision as may be necessary or convenient to ensure conformity to or implementation of the general plan or any adopted specific plan.

"Local street" means any street not a thoroughfare, or secondary thoroughfare.

"Lot" means a parcel of land occupied or capable of being occupied by a use, building, or unit group of buildings and accessory buildings and uses, together with such open spaces and lot areas and widths as are required by this title, and having a minimum width of twenty-five (25) feet, and having frontage on a street (as defined in this title) or upon a private easement for access purposes to said lot, provided that such lot and easement have been approved under provisions set forth in Chapter 16.32 and Sections 16.04.080 and 16.04.090.

"Street" means any public way not less than forty (40) feet in width.

"Subdivider" means a person, firm, corporation, partnership or association who proposes to divide, divides or causes to be divided real property into a subdivision for himself or others.

"Subdivision" means the division, by any subdivider, of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized county assessment roll as a unit or as contiguous units, for the purpose of sale, lease or financing, whether immediate or future. Property shall be considered as contiguous units, even if it is separated by roads, streets, utility easement or railroad rights-of-way. "Subdivision" includes a condominium project, as defined in subdivision (f) of Section 1351 of the Civil Code, a community apartment project, as defined in subdivision (d) of Section 1351 of the Civil Code, or the conversion of five or more existing dwelling units to a stock cooperative, as defined in subdivision (m) of Section 1351 of the Civil Code.

- B. For the purposes of this title the definitions and meanings of the following words and phrases, "Advisory Agency," "County," "County Surveyor," "Design," "Final Map," "Improvement," "Local Ordinance," "Record of Survey Map," "Subdivision," and "Tentative Map," shall be as defined in Title 7, Division 2 of the Government Code of the state of California, which statute is hereinafter referred to as the "Subdivision Map Act" or "Map Act."

(Ord. 11924 § 1, 1996; prior code §§ 7-4.012—7-4.08)

16.04.040 Land division construed as subdivision.

Wherever the word "division" or the words "land subdivision" shall appear in this title the word "subdivision" shall be substituted therefor.

Wherever the word "subdivide" or the word "subdivided" shall appear in this title the words "divide" or "divided" respectively, shall be substituted therefor, and wherever the word "unsubdivided" shall appear in this title the word "undivided" shall be substituted therefor.

(Prior code § 7-4.081)

16.04.050 Delegation of authority to advisory agency.

The Planning Commission of the city is designated as the "Advisory Agency" for the city and is charged with the duty of making investigations and reports on the design and improvement of proposed subdivisions requiring approval of tentative and final maps under the Subdivision Map Act. Notwithstanding any provision in this Title 16, any map required by State law to be processed pursuant to State law SB 684, as codified under California Government Code Sections 65852.28 and 66499.41, shall be ministerially processed and approved by the Planning and Building Department and/or the Department of Transportation with no right of appeal.

(Prior code § 7-4.09)

16.04.060 Exceptions to requirements.

The Advisory Agency may in the exercise of reasonable judgment grant such variances as it determines warranted where the size of the subdivision or topographic or other physical conditions of the property make it impractical to conform to all of the provisions prescribed by this title, provided, however, that no variances may be made to any requirements imposed by the Subdivision Map Act; and provided further, however, that no variances may be made to any requirements imposed by Section 16.20.010.

(Prior code § 7-4.35)

16.04.070 Reversion to acreage.

- A. Upon the title sheet of each map filed for the purpose of reverting subdivided land to acreage, the subtitle shall consist of the words:

Reversion to Acreage of
(Insert a legal

description of the land being reverted.)

- B. No dedication for street or other public purposes shall be required as a condition of approval of a reversion to acreage map.
- C. Maps recorded solely for the purpose of combining portions of vacated streets with adjoining lots shall be treated in procedure as reversion to acreage maps.

(Prior code § 7-4.47)

16.04.080 Notice of violation.

Whenever the city has knowledge that real property has been divided in violation of the provisions of this title or of the Subdivision Map Act it shall cause to be filed for record with the recorder of the County of Alameda, a notice of violation describing the real property in detail, naming the owner thereof, and describing the violation. Such notice, when recorded, shall be deemed to be constructive notice of the violation to all successors in interest in such property.

(Prior code § 7-4.70)

16.04.090 Certificate of compliance.

A certificate of compliance shall be issued and recorded as provided in Section 66499.35 of the Government Code of the state of California. Application therefor shall be made to the City Engineer, who is authorized to make the determinations specified in said Section 66499.35 that the applicant's real property complies with the provisions of Division 2, Title 7, of the Government Code of the state of California and Title 16 of the Oakland Municipal Code.

(Prior code § 7-4.71, 7-5.15)

16.04.100 Appeals.

- A. Appeals to the City Planning Commission. The applicant or any other interested person adversely affected by a decision of the Advisory Agency may appeal the decision with respect to the application to the City Planning Commission within ten days after such action. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Advisory Agency or wherein its decision is not supported by evidence in the record. The appeal shall be filed with the Secretary of the City Planning Commission. The Secretary of the City Planning Commission shall set the matter for hearing and shall cause written notice thereof to be given to the applicant and to all other parties known to be interested in the matter. At the time fixed for the hearing the City Planning Commission shall proceed to hear the testimony of the applicant, any interested parties, and any witnesses in their behalf, such hearing may be continued by the City Planning Commission. The City Planning Commission may sustain, modify, reject or overrule the recommendations, rulings, or decisions of the Advisory Agency and make such findings as are not inconsistent with this title. The Commission's action shall be final, except for those appeals to the City Council specified below.
- B. Appeals to City Council. The applicant or any other interested person adversely affected by a decision of the Planning Commission may appeal the decision with respect to the application to the City Council only if such appeal rights are mandated by the State Subdivision Map Act (Government Code Sections 66473.5, 66474, 66474.1, 66474.6 and 66474.7), as it may be amended from time to time. Specifically, the State Subdivision Map Act provides appeals will be permitted only for findings concerning: (1) general and specific plan consistency; (2) suitable site for type and density of development; (3) environmental; (4) public health; (5) public easements; (6) substantial compliance with previously approved map; and (7) regional water quality control violations. Such appeals must be filed within ten days after action by the Planning Commission. The appeal shall state specifically wherein it is claimed that (1) the State Subdivision Map Act requires an appeal; and (2) there was an error or abuse of discretion by the Planning Commission or wherein its decision is not supported by evidence in the record. The appeal shall be filed with the City Clerk. The City Council shall set the matter for hearing and shall cause written notice thereof to be given by the City Clerk, to the applicant and to other parties known to be interested in the matter. At the time fixed for the hearing the City Council shall proceed to hear the testimony of the applicant, any interested parties, and any witnesses in their

behalf. Such hearing may be continued by the City Council. The City Council may sustain, modify, reject or overrule the recommendations, rulings, or decisions of the Planning Commission and make such findings as are not inconsistent with this title. The Council's action shall be final.

(Ord. 11924 § 2, 1996; prior code § 7-5.10)

Chapter 16.08 TENTATIVE MAPS

16.08.010 Contents.

- A. Every subdivider shall file with the Advisory Agency five copies of the tentative map of each proposed subdivision together with the street profiles. Such map and street profiles shall be prepared by a licensed surveyor or a registered civil engineer, and shall contain the following information:
1. The tract number or other description according to the real estate records of the County Recorder of Alameda County;
 2. The names and addresses of record owners, the subdivider and the surveyor or civil engineer preparing the map;
 3. The boundary line, accurate in scale, of tract to be subdivided.
- B. In addition to other matters required in this title a tentative map shall show:
1. The location, width and names of all existing or platted streets or other public ways within or adjacent to the tract, existing permanent buildings, railroad rights-of-way and other important features such as political subdivision lines or corporation lines and watercourses or other physical features;
 2. The tract number or names of adjacent subdivisions or the names of record owners of adjoining parcels of unsubdivided land;
 3. Existing sewers, culverts or other underground structures within the tract and immediately adjacent thereto with pipe sizes, grades and locations indicated;
 4. Contours with intervals of five feet or less, referred to city datum;
 5. The layout, names and proposed widths of streets, alleys and easements;
 6. All parcels of land intended to be dedicated for public use or reserved for the use of property owners in the proposed subdivision, together with the purpose of conditions or limitations of such reservation, if any;
 7. True north point, scale and date;
 8. The layout, numbers and approximate dimensions of proposed lots;
 9. The profile of each street with tentative grades;
 10. Signed statement by subdivider indicating amount of street grading, paving, curbing, sidewalk and storm, sanitary and other improvements proposed to be constructed;
 11. The cross-sections of proposed streets showing the width of roadways, location and width of sidewalks;
 12. A plan and profile of proposed sanitary, storm water or combined sewers and other public utilities, with grades and sizes indicated;

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13. Statement of restrictions to be imposed by subdivider as to use or occupancy of land, building setback, yard areas, value of construction and any other restrictions;
 14. Any required date which it is impossible or impractical to place upon the tentative map shall be submitted in writing with the map.

(Prior code §§ 7-4.10—7-4.13)

16.08.020 Hearing.

The Advisory Agency may hold a public hearing on any proposed subdivision. Notices, including the time and place, of the hearings shall be given in the manner and according to the requirements of Government Code Sections 65090, 65091 and 66451.3, as amended from time to time.

(Ord. 11924 § 3, 1996: prior code § 7-4.132)

16.08.030 Action on.

The Advisory Agency shall not act on any tentative map until it receives a report thereon from the City Engineer, unless more than twenty-three (23) days have elapsed since the tentative map was filed with the Advisory Agency.

The Advisory Agency shall deny approval of a tentative map if it makes any of the following findings:

- A. That the proposed map is not consistent with applicable general and specific plans;
- B. That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans;
- C. That the site is not physically suitable for the type of development;
- D. That the site is not physically suitable for the proposed density of development;
- E. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat;
- F. That the design of the subdivision or the type of improvements is likely to cause serious public health or safety problems;
- G. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public;
- H. That the design of the subdivision does not provide, to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision. Examples of passive or natural heating and cooling opportunities include subdivision design which permits orientation of a structure in an east-west alignment for southern exposure and subdivision design which permits orientation of a structure to take advantage of shade and prevailing breezes.

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

For the purposes of this section "feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.

- I. That the design of the subdivision, if located in a designated water reuse area pursuant to Section 13550 of the Water Code does not provide for the use of recycled water pursuant to Government Code Sections 65601—65607, water reuse notwithstanding that recycled water has been determined to be available pursuant to Section 13550 of the Water Code and no finding has been made that there is an alternative higher or better use for the recycled water, its use is not economically justified for the project, and its use is not financially and technically feasible for the project.

For the purpose of this section, the following terms are defined:

"Recycled water" means nonpotable water that results from the treatment of wastewater and is suitable for a direct beneficial use or controlled use that would not otherwise occur (consistent with Water Code Section 13050(n));

"Water reuse area" means a geographic area identified by the East Bay Municipal Utility District (EBMUD) and for which recycled water is either currently available or is expected to be available within ten years, as shown in the attached City of Oakland Water Reuse Areas map;

"Provide for the use of recycled water" means provides a separate plumbing system, independent of the plumbing system provided to serve domestic, residential, and other potable water uses in the subdivision, to serve nonpotable water uses in the common areas of the subdivision, including, but not limited to, golf courses, parks, greenbelts, landscaped streets, and landscaped medians.

(Ord. 12397 § 5, 2002; prior code § 7-4.141)

16.08.040 Approval and report on tentative map.

The Advisory Agency shall within fifty (50) days after the tentative map is submitted transmit its report and the report of the City Engineer direct to the subdivider. This period shall be reduced to forty-five (45) days where there is a certified environmental impact report covering the proposed subdivision. The time limits prescribed by this chapter for the acting upon and reporting on tentative maps may be extended by the mutual consent of the subdivider and the Advisory Agency.

(Prior code § 7-4.36)

Chapter 16.12 FINAL MAPS

16.12.010 Final map submission to the city council.

Within two years after the date of approval or conditional approval of the tentative map by the Advisory Agency or within a longer time period if approved under the provisions of Section 16.12.020, the subdivider shall cause the proposed subdivision to be accurately surveyed in accordance with the tentative map and with any and all alterations or changes required therewith. Within said period the subdivider shall deposit with the City Engineer for filing with City Council, a final map with duplicate tracings and paper prints of the land division conforming in all particulars to the provisions of the Subdivision Map Act and of this title as required by the City Engineer. A statement as to the nature and type of street and drainage improvements to be constructed, together with the necessary sets of complete plans, profiles, details and specifications for such improvement shall also be filed.

(Prior code § 7-4.37)

16.12.020 Time limit filing final map.

The failure of a subdivider to file such final map with the City Council in the manner prescribed above within two years after the date of approval or conditional approval of the tentative map by the Advisory Agency or within a longer time period if approved as provided herein shall terminate all proceedings and no final map or parcel map of all or any portion of the real property included within the tentative map. Upon application of the subdivider filed prior to the expiration of the approved tentative map the time at which such map expires may be extended by the Advisory Agency for a period or periods not exceeding a maximum of three additional years beyond the original expiration date.

(Prior code § 7-4.381)

16.12.030 Filing final maps.

A final map conforming to the approved tentative map, if any, may be filed with the City Council for approval after all required certificates on such map have been signed and, where necessary, acknowledged. The date the map shall be deemed filed with the City Council is the date of the meeting at which City Council receives the map.

(Prior code § 7-4.382)

16.12.040 Multiple final maps—When permitted.

Multiple final maps relating to an approved or conditionally approved tentative map may be filed prior to the expiration of the tentative map, if the subdivider, at the time the tentative map is filed, informs the Advisory Agency of the subdivider's intention to file multiple final maps on the tentative map or if, after filing a tentative map, the Advisory Agency and the Subdivider concur in the filing of multiple final maps. In providing such notice, the subdivider need not define the number or configuration of the proposed multiple final maps. The filing of a final map on a portion of an approved or conditionally approved tentative map shall not invalidate any part of such tentative map.

(Prior code § 7-4.383)

16.12.050 Checking of engineering information on final map.

The subdivider shall furnish the City Engineer copies of the field notes, traverse sheets and all other data necessary to ascertain that the final map is technically correct.

(Prior code § 7-4.41)

16.12.060 Information on final maps.

- A. Every final map shall be drawn at a scale of one inch equals one hundred (100) feet or less, on a sheet or sheets eighteen (18) by twenty-six (26) inches in conformity with all of the requirements of the Subdivision Map Act and shall show:
1. The boundary lines of the tract with accurate distances and bearings, the exact location and width of all existing or recorded streets intersecting the boundary of the tract;
 2. Correct bearings and distances to the nearest established street lines or official monuments, which shall be accurately tied to the lines of the subdivision by distances and bearings;

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3. An accurate location of the subdivision in reference to the real estate records of Alameda County.
- B. In addition to other matters required in this title, the information on the final map shall show the following (except numbers 15 and 16 do not apply to maps processed through SB 684, as codified under California Government Code Sections 65852.28 and 66499.41):
1. Street and alley names;
 2. The length of all arcs, radii, internal angles, points of curvature, length and bearings of the tangents;
 3. All easements for rights-of-way provided for public services or utilities and any limitations of the easements;
 4. All block and lot numbers and lines with accurate dimensions in feet and hundredths and with bearings and angles to street and alley lines;
 5. Location of monuments in conformity with the requirements of the City Engineer;
 6. The accurate outline of all property which is offered for dedication for public use with the purpose indicated thereon, and of all property that may be reserved by deed covenant for the common use of the property owners in the subdivision of the city;
 7. Setback lines;
 8. Tract number of the subdivision;
 9. Name and address of the subdivider;
 10. True north point, scale and date;
 11. A certificate, signed and acknowledged by all parties having any record title interest in the land subdivided, consenting to preparation and recordation of said map;
 12. A certificate, signed and acknowledged as above, offering for dedication for certain specified public uses those parcels to be dedicated;
 13. A certificate by engineer or surveyor stating the survey is true copy and complete, monuments are of character and occupy positions indicated, and that survey can be retraced from monuments and data provided;
 14. A certificate by the City Engineer stating he or she has examined the final map and it is in accord with tentative map, complies with the Subdivision Map Act and the local ordinance codified in this title and is technically correct;
 15. A certificate for execution by the City Clerk stating that City Council approved the final map and accepted or rejected the offers of dedication;
 16. A certificate by Secretary of the City Planning Commission stating that the tentative map was approved by the City Planning Commission by resolution.

(Prior code §§ 7-4.42—7-4.46)

16.12.070 Application of provisions and procedures.

The provisions and procedures relating to final maps shall apply to all land divisions.

(Prior code § 7-4.48)

16.12.080 Dedication of land for public use.

When all the certifications which are required on the final map (except the approval certificate of the Clerk of the City Council) have been signed and, where necessary, acknowledged, the final map may be filed with the City Council of the city for approval. The City Council shall accept or reject any or all offers of dedication of land for public use within ten days after filing of the final map.

(Prior code § 7-4.49)

Chapter 16.16 DESIGN STANDARDS

16.16.002 Purpose.

The purpose of this chapter is to establish the City's intent to implement complete streets concepts, which is reflected in City Resolution No. _____ C.M.S., as it may be amended, so as to uniformly regulate the design, construction, operation, and maintenance of the street system in parallel with the requirements of Chapter 12.02, Complete streets design standards. These provisions shall be applied upon an application for the subdivision of land as applicable, and/or as referenced in Chapter 12.02.

(Ord. No. 13153, § 3, 2-19-2013)

16.16.010 Alignment of streets.

The alignment of all arterial streets and collector streets shall conform to those designated in the circulation element adopted by the City Council prior to the date of filing of the tentative map with the Advisory Agency. All proposed minor streets shall be in alignment with existing planned or platted streets with which they are to connect.

(Prior code § 7-4.15)

16.16.020 Width of street right-of-way and width of pavement for non-hillside areas.

For the purpose of this chapter, the term "non-hillside area" shall be construed to mean land areas within the City adjacent to street right-of-way which has an average difference in elevation of 15 feet or less in a horizontal distance of 100 feet. Street right-of-way widths and pavement widths for non-hillside areas are established in the context of the complete streets approach as follows:

- A. Arterial streets shall be of the width indicated on the approved plans and not less than 80 feet in right-of-way width, and shall have a pavement width as determined by the Director of Public Works or his designee.
- B. Collector streets shall not be less than 60 feet in right-of-way width and shall have a pavement width as determined by the Director of Public Works or his designee.
- C. Local streets shall not be less than 50 feet in right-of-way width and not less than 30 feet in pavement width.
- D. Blind streets shall not be over 600 feet in length unless it includes means of a secondary access and shall not be less than 50 feet in right-of-way width and not less than 30 feet in pavement width. All blind streets shall terminate in a circular end having a minimum right-of-way diameter of 80 feet and a

minimum pavement diameter of 70 feet, unless the Advisory Agency or other approving authority approves a "T" or "Y" shaped space in lieu of required turning circle.

- E. Alleys shall not be less than 26 feet in right-of-way width, and not less than 20 feet in pavement width.

(Ord. No. 13153, § 3, 2-19-2013)

Editor's note(s)—Ord. No. 13153, § 3, adopted February 19, 2013, amended Section 16.16.020 in its entirety to read as herein set out. Formerly, Section 16.16.020 pertained to width of streets, and derived from the prior code § 7-4.16.

16.16.025 Width of street right-of-way and width of pavement for hillside areas.

For the purpose of this chapter, the term "hillside area" shall be construed to mean land areas within the City adjacent to street right-of-way which has an average difference in elevation of more than 15 feet in a horizontal distance of 100 feet. Street right-of-way widths and pavement widths for hillside areas are established in the context of the complete streets approach as follows:

- A. Arterials shall have the same minimum width requirements as specified for non-hillside areas in Section 16.16.020.
- B. Collectors shall have the same minimum width requirements as specified for non-hillside areas in Section 16.16.020.
- C. Local streets shall not be less than 40 feet in right-of-way width.
 - 1. With lot frontage on both sides of the street, pavement width shall not be less than 26 feet.
 - 2. With lot frontage on one side of the street only, pavement width shall not be less than 24 feet.
- D. Blind streets shall not be over 600 feet in length unless it includes means of a secondary access and shall not be less than 50 feet in right-of-way width and not less than 26 feet in pavement width. All blind streets shall terminate in a circular end having a minimum right-of-way diameter of 80 feet and a minimum pavement diameter of 70 feet, unless the Advisory Agency or other approving authority approves a "T" or "Y" shaped space in lieu of required turning circle.

- E. Alleys shall not be less than 26 feet in right-of-way width, and not less than 20 feet in pavement width.

(Ord. No. 13153, § 3, 2-19-2013)

16.16.030 Grade of streets.

The grades on arterial, collector and local streets and alleys shall be approved by the City Engineer. Concrete pavement with approved finish is required when the street grade exceeds 15 percent.

(Ord. No. 13153, § 3, 2-19-2013; Prior code § 7-4.17)

16.16.040 Intersection of streets.

Street intersection shall be as nearly at right angles as practicable.

- A. At street or alley intersections, property line corners shall be rounded by an arc, the minimum radius of which shall be 15 and five feet respectively. In business districts a chord may be substituted for such arc.
- B. Street curb intersections shall be rounded by radii of at least ten feet.

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- C. The above minimum radii for property line and curbs shall be increased when the smallest angle of intersection is less than 60 degrees.

(Ord. No. 13153, § 3, 2-19-2013; Prior code § 7-4.18)

16.16.050 Alignment and visibility of streets.

Clear visibility, measured along the centerline, shall be provided for at least 300 feet on arterial streets; 200 feet on collector streets and at least 100 feet on local streets.

(Prior code § 7-4.19)

16.16.060 Minimum radii of curvature on centerline of streets.

- A. Arterial streets, 500 feet;
- B. Collector streets, 300 feet;
- C. Local streets, 100 feet.

(Prior code § 7-4.20)

16.16.070 Tangents.

There shall be a tangent between all reversed curves of at least 150 feet in length on all arterial streets and collector streets; and 50 feet on all local streets.

(Prior code § 7-4.21)

16.16.080 Reserved.

Editor's note(s)—Ord. No. 13153, § 3, adopted February 19, 2013, repealed the former Section 16.16.080 in its entirety, which pertained to roadway widths, and derived from the prior code § 7-4.22.

16.16.090 Private streets.

Private streets, alleys or ways shall not be platted or laid out except with the approval and consent of the Advisory Agency and the City Council, and then only on conditions which guarantee the construction of necessary local improvements and continued maintenance thereof.

(Prior code § 7-4.23)

16.16.100 Effect of street layout on adjoining property.

Street layout shall be designed to provide for future access to and not impose undue hardship upon unsubdivided property adjoining the subdivision.

(Prior code § 7-4.24)

16.16.110 Reserves at end of streets or boundaries of subdivision.

Reserve strips at the end of streets or at the boundaries of subdivision shall be deeded unconditionally to the city.

(Prior code § 7-4.25)

16.16.120 Street names.

Proposed street names shall not duplicate or too closely approximate phonetically the name of any street in Oakland or other East Bay Cities, or adjacent portions of Alameda County. Where streets are continuations of existing streets the existing street names shall be used.

(Prior code § 7-4.26)

16.16.130 Alleys.

Alleys shall be required in all business and industrial districts. Except in downtown and where justified by topographic conditions, alleys will not be approved in residential districts.

(Ord. No. 13153, § 3, 2-19-2013; Prior code § 7-4.27)

16.16.140 Width of blocks.

The width of blocks shall be sufficient to allow two tiers of lots of approximate depth.

(Prior code § 7-4.28)

16.16.150 Length of block.

Blocks shall not generally exceed 300 feet in length and blind streets 600 feet. Blind streets in excess of 600 feet shall include means of a secondary access.

(Ord. No. 13153, § 3, 2-19-2013; Prior code § 7-4.29)

16.16.160 Pedestrian ways.

Improved pedestrian ways not less than ten feet wide shall be provided near the center and entirely across any block over 500 feet in length.

(Ord. No. 13153, § 3, 2-19-2013; Prior code § 7-4.30)

16.16.170 Lot design standards.

Lot design shall be consistent with the provisions of Section 16.04.010, Purpose, and the following provisions:

- A. Every lot shall abut on a street, except as specified in Section 17.106.020.
- B. Reversed frontage of key lots shall be avoided in blocks exclusively residential.

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- C. The side lines of lots shall run at right angles or radially to the street upon which the lot fronts, except where impractical by reason of unusual topography.
 - D. Each lot shall have the minimum area prescribed by the zoning district within which it lies.
 - E. In the S-9 Fire Safety Protection Combining Zone under Planning Code Chapter 17.88, lots shall be equal or larger in measure than the prevalent size of existing lots in the surrounding 200-foot radius area.
 - F. Lots shall be designed in a manner to preserve and enhance natural out-croppings of rock, specimen trees or group of trees, creeks or other natural amenities.

(Ord. No. 13153, § 3, 2-19-2013; Prior code § 7-4.31)

Chapter 16.20 IMPROVEMENTS

16.20.010 Improvements generally.

- A. In all subdivisions all streets, alleys, easements, pedestrian ways, and lots shall be laid out to provide for approved sewer and drainage facilities. Subdivisions shall be designed to be consistent with the need to minimize flood damage. All public utilities and facilities, such as sewer, gas, electrical, and water systems shall be located, elevated, and constructed to minimize or eliminate flood damage. New or replacement water supply systems and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the system into floodwaters. All streets shall be graded to the full extent and improved to approved grade. The street grading and improvements shall include necessary paving, curbs, sidewalks, catch basins, pipes, culverts, storm drains and sanitary sewers.
- B. Arterial and collector streets shall be graded to an approved width and improved to an extent necessary for the general use of the lot owners in the subdivisions and local neighborhood traffic and drainage needs.

(Prior code § 7-4.33)

16.20.020 Easements.

Easements at least five feet wide shall be provided for storm and sanitary sewers and other utilities across or along the rear or side lines of lots where designated by the City Engineer.

(Prior code § 7-4.32)

16.20.030 Fire hydrants.

The improvement of all streets which are to be dedicated to the public shall include installation, by the subdivider, of such fire hydrants as are necessary to protect the area being developed.

(Prior code § 7-4.331)

16.20.040 Open spaces other than streets.

- A. Due consideration shall be given to the allocation of suitable areas for schools, parks and playgrounds to be dedicated for public use, or reserved for the common use of all property owners within the proposed subdivision by covenant in the deeds.

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- B. Due consideration shall be given to the allocation of suitable areas for open space, parks and playgrounds to be dedicated for the common use of all property owners within the proposed subdivision by covenant in the deeds.

(Prior code §§ 7-4.332, 7-4.341)

16.20.050 Tentative map—Reservation of land for public use.

The Advisory Agency may require that areas of real property within the subdivision be reserved for schools, parks, recreational facilities, fire stations, libraries or other public uses subject to the following conditions:

- A. The facilities or uses are consistent with the comprehensive plan.
- B. The reserved area is of such size and shape as to permit the balance of the property within which the reservation is located to develop in an orderly and efficient manner.
- C. The amount of land reserve will not make development of the remaining land held by the subdivider economically infeasible.
- D. Such land shall either be acquired by the city or an appropriate public agency or a binding agreement shall have been entered into between the subdivider and the city or the appropriate public agency within two years following the completion of acceptance of all improvements or such reservations shall be terminated.

(Prior code § 7-4.342)

16.20.060 Preliminary soil report required—Waiver.

Prior to the submission of the final subdivision map, the subdivider shall file with the City Engineer a preliminary soil report, prepared by a civil engineer who is registered by the state of California, based on such examination, borings, excavations and tests, as may be necessary, of every subdivision, as defined in Section 16.04.030. This report shall specify what measures are necessary so that any proposed grading will result in slopes that are, in accordance with good engineering practices, reasonably stable against sliding and excessive erosion. The reports all state whether critically expansive soils are present, and shall indicate any other characteristics of the soil which may create hazards or problems, and recommend what measures are necessary to avoid these hazards or problems. The preliminary soil report may be waived if the Building Inspector and City Engineer shall each determine that, due to his or her knowledge as to the soil qualities of the subdivision site and the amount of grading work involved no preliminary analysis is necessary.

(Ord. 11924 § 4, 1996: prior code § 7-4.361)

16.20.070 Grading work to be done under direction of registered engineer—Engineer certificate.

All grading work shall be done under the direction of a civil engineer, registered as such by the state of California. Prior to the acceptance of the subdivision improvements, said civil engineer shall file with the Director of Public Works a certificate stating:

- A. That the grading work was done under his or her direction and in accordance with the recommendations of the preliminary report, if a preliminary report was required, or with such modifications thereof, if any, as may have been made by him or her. All modifications made by the civil engineer shall be specifically set forth in his or her certificate;

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- B. That in his or her professional opinion the graded slopes are, in accordance with good engineering practices, reasonably stable against sliding;
 - C. That adequate measures have been taken to prevent erosion on the site, and/or deposition of eroded material on the site or on lower or adjacent properties;
 - D. The magnitude of the total settlements and differential settlements which are likely to occur, the allowable loads or bearing pressures which may be imposed, and that compaction is adequate for the uses proposed for the property and to develop the recommended bearing pressures;
 - E. Any limitations which should be imposed on the development of the property because of soil conditions, including the designation of such areas as he or she may determine to be unsafe for building.

The Director of Public Works may reject a certificate which in his or her judgment does not adequately meet the requirements of this section.

(Prior code § 7-4.362)

16.20.080 Soil investigations—When required for each lot in subdivision—Recommendation for corrective action.

If the preliminary report indicates the presence of critically expansive soils, instability of slopes, or other soil problems which would lead to structural damage, a soil investigation of each lot in the subdivision shall be made by a civil engineer who is registered by the state of California. The soil investigation shall be made after grading, and a report shall be submitted recommending corrective action which is likely to prevent structural damage to each structure proposed to be constructed in the subdivision. Copies of the report shall be filed with the Building Inspector and the Street Engineering Department. The information contained in the report of the soils investigation may be included in the certificate respecting the grading work.

(Prior code § 7-4.363)

16.20.090 Approval of soil report—Condition to issuance of building permit.

The Building Inspector shall approve or disapprove the recommendations for corrective action to prevent structural damage to each structure to be constructed on each lot in the subdivision. Appeal from the Building Inspector's disapproval shall be to the Board of Examiners and Appeals. The building permit shall be conditioned upon the incorporation of the approved recommended corrective action in the construction of each structure.

(Prior code § 7-4.364)

16.20.100 Construction of improvements.

No final map shall be presented to the Council of the city by the City Engineer for approval until the subdivider either completes the required improvements, or enters into a contract with the city agreeing to do such work, and files with the City Clerk of the city a surety bond approved by the City Attorney in such an amount as the City Engineer shall estimate and determine to be necessary to complete all the improvements required to be done by the subdivider, which surety bond shall be executed by the subdivider as principal, and a corporation authorized to so act under the laws of the state of California, as surety, the same to be payable to the city and to be conditioned upon the faithful performance of any and all work required to be done by the subdivider, and said bond shall be further conditioned to the effect that should the subdivider fail to complete all work required to be done by him or her within a specified reasonable time the city may, at its option, cause all uncompleted required

work to be done and the parties executing the bond shall be firmly bound for the payment of all necessary costs therefor; or in lieu of a surety bond the subdivider may post security as provided in Section 20 of the Subdivision Map Act.

(Ord. 11924 § 5, 1996: prior code § 7-4.39)

16.20.110 Installation of monuments.

Before the transmission of any map to the Council for approval, approved permanent monuments shall be set at the locations indicated on the map and in conformity with the City Engineer's specifications, or appropriate guarantee shall be included as an improvement under Section 16.20.100. Monuments shall be installed at street intersections, between street intersections where necessary to preserve the street alignment and the angle points along the exterior boundaries where necessary.

(Prior code § 7-4.40)

Chapter 16.24 PARCEL MAPS

16.24.010 Parcel map—When required.

Except as provided in Section 16.24.020, a parcel map shall be required in all divisions of real property described by subdivisions (a), (b), (c), or (d) of Sections 66426 of the Subdivision Map Act or other subdivisions for which a final map is not required under the Subdivision Map Act prepared in accordance with the provisions of this title and the Subdivision Map Act designed to be recorded in the office of the County Recorder. Creation of new condominiums that are not a conversion as defined in Section 16.36.010 shall be processed as a parcel map.

(Ord. 12237 § 3, 2000: prior code § 7-5.01)

16.24.020 Parcel map—Waiver of requirement.

- A. The Advisory Agency may waive the requirement for a parcel map for those divisions of real property listed in subsection (B)(1) of this section upon the finding that the division complies with requirements as to area, improvements and design, flood and water drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection and other requirements of this title, and upon the finding that the Subdivision Map Act of the state of California does not prohibit such waiver.
- B. As provided in subsection A of this section:
 1. The requirement for a parcel map may be waived when the division of land:
 - a. Is caused by a conveyance of the whole, or part thereof, to or from a governmental agency, public entity, or public utility; or
 - b. Results from the realignment, conveyance, creation or termination of an easement for pedestrian or vehicular traffic, sanitary sewer or storm drainage, or other public purpose; or
 - c. Is an adjustment of an existing lot line which does not create a new lot and imposes no substantial adverse effect upon surrounding properties or access to a street.
 2. The requirement for the filing of a tentative parcel map as specified in Section 16.24.070, may be waived when the division of land has been approved under the private access easement provision in

Chapter 16.32, but in this case the requirements of Sections 16.24.100, 16.24.110, 16.24.120 and 16.04.090 may not be waived.

(Prior code §§ 7-5.02, 7-5.03)

16.24.030 Director of City Planning is Advisory Agency.

The Director of City Planning is designated as the Advisory Agency for the purpose of this chapter and Section 16.04.100. Notwithstanding any provision in this Title 16, any map required by State law to be processed pursuant to State law SB 684, as codified under California Government Code Sections 65852.28 and 66499.41, shall be ministerially processed and approved by the Planning and Building Department and/or the Department of Transportation with no right of appeal.

(Prior code § 7-5.04)

16.24.040 Lot design standards.

Lot design shall be consistent with the provisions of Section 16.04.010, Purpose, and the following provisions:

- A. Every lot shall abut on a street, except as specified in Section 17.106.020.
- B. The side lines of lots shall run at right angles or radially to the street upon which the lot fronts, except where impractical by reason of unusual topography.
- C. All applicable requirements of the zoning regulations shall be met.
- D. In the S-9 Fire Safety Protection Combining Zone under Planning Code 17.88, lots shall be equal or larger in measure than the prevalent size of existing lots in the surrounding area.
- E. Lots shall be designed in a manner to preserve and enhance natural out-croppings of rock, specimen trees or group of trees, creeks or other natural amenities.

(Prior code § 7-5.05)

16.24.050 Exception to lot design requirements.

The Advisory Agency may, in the exercise of reasonable judgment, grant such variances to the lot design standards as it determines warranted where the size, shape or topographic conditions of the property, or the location of trees or structures thereon, make it difficult or impractical to conform to all the requirements of Section 16.24.040.

(Prior code § 7-5.06)

16.24.060 Public improvements—Standards and procedures for construction.

The parcel map shall be referred to the City Engineer, who shall determine the extent of public improvements required. Public improvements determined necessary by the City Engineer may be required to be provided by the land divider in order to service the new lots and provide for the public convenience and safety. Such improvements may include, but are not limited to, streets, sidewalks, sanitary sewer, storm drainage, and street lighting.

Required public improvements shall be constructed according to plans and specifications prepared by a registered civil engineer and approved by the City Engineer in conformance with the current city standard specifications adopted by the City Council. The civil engineer in charge shall certify that the improvements have been installed in accordance with those plans.

No parcel map shall be finally approved until the divider either completes the improvements required by the city or enters into a contract with the city agreeing to do such work, and files with the City Clerk improvement security approved by the City Attorney in such amount as the City Engineer shall estimate and determine to be necessary to complete all of the improvements required to be done by the divider. This shall include a margin to accommodate escalating costs.

"Improvement security" as used in this section means one or more of the following:

- A. A cash deposit or deposits made with the city;
- B. A bond or bonds by one or more duly authorized corporate securities; or
- C. An instrument or instruments of credit from one or more financial institutions subject to regulation by the state or federal government pledging that the funds necessary to meet the performance are on deposit and guaranteed for payment and agreeing that the funds designated by the instrument shall become trust funds for the purposes set forth in the instrument. Said improvement security shall be in the amounts and for the following purposes:
 - 1. An amount determined by the City Engineer, not less than fifty (50) percent nor more than one hundred (100) percent of the total estimated cost of the improvement, conditioned upon the faithful performance of the agreement or contract, and
 - 2. An additional amount determined by the City Engineer not less than fifty (50) percent nor more than one hundred (100) percent of the total estimated cost of the improvement, securing payment to the contractor, his or her subcontractors and to persons renting equipment or furnishing labor or materials to them for the improvement.

(Prior code § 7-5.07)

16.24.070 Tentative parcel map—Information required.

A tentative parcel map, prepared by a registered civil engineer or licensed land surveyor shall be filed with the Advisory Agency. Such map shall contain the following information:

- A. Parcel map number;
- B. Name and address of record owner, divider, and engineer or surveyor who prepared the map;
- C. Datum, north arrow, scale and date;
- D. Numerical or alphabetic designation of each parcel;
- E. Location, name, width, and improvement status of each abutting street, alley or path, and distance to nearest intersecting street;
- F. Location, purpose, and width of all existing or proposed public and private easements;
- G. Proposed vehicular access to each parcel;
- H. Location, type and trunk diameter of trees measuring at least twelve (12) inch diameter at a location four feet above grade;
- I. Dimensions and square footage of each parcel;

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- J. Sufficient elevations or contours to determine the general slope of the land and all drainage features;
 - K. The location of existing structures to remain on parcels;
 - L. Name of tract or grant in which survey is located;
 - M. Original lot boundaries with lot and numbers, as shown in earlier filed tracts or parcel maps, within and adjacent to the proposed minor land division;
 - N. Provisions for drainage, flood control, sewage disposal and water supply availability.

(Prior code § 7-5.08)

16.24.080 Tentative parcel map—Review.

Five prints of a tentative parcel map prepared in conformance with Section 16.24.070 shall be filed with the Advisory Agency.

Upon receipt of the tentative parcel map, it shall be reviewed by the Agency and referred to the City Engineer for report. The Advisory Agency shall not act to approve or conditionally approve a tentative parcel map until after such report has been received.

The Advisory Agency shall, within fifty (50) days after the receipt of the tentative parcel map, act upon the map and thereafter notify the divider that the map is: (A) approved; (B) conditionally approved; or (C) disapproved.

If the Agency fails to act within the prescribed time limit, the tentative parcel maps shall be deemed approved.

The Advisory Agency may, in its discretion, refer any parcel map to the City Planning Commission for its action.

The time limits prescribed herein for the acting upon and reporting on tentative parcel maps may be extended by mutual written consent of the divider and the Agency.

(Prior code § 7-5.09)

16.24.090 Preliminary soil report required—Waiver.

Prior to the submission of the parcel map the divider shall file with the City Engineer a preliminary soil report prepared by a civil engineer registered by the state of California who specializes in soils mechanics, based on such examinations, borings, excavations and tests as may be necessary. This report shall specify what measures are necessary so that any proposed grading will result in slopes that are stable against sliding and excessive erosion. The report shall state whether critically expansive soils are present, and shall indicate any other characteristics of the soil which may create hazards or problems, and recommend what measures are necessary to avoid these hazards or problems. The preliminary soil report may be waived if the City Engineer determines that from his or her knowledge of the soil qualities of the parcel to be divided and the adjacent lands, no preliminary analysis is necessary.

(Prior code § 7-5.11)

16.24.100 Parcel map—Information required.

A parcel map, prepared by a registered civil engineer or licensed land surveyor in compliance with all of the provisions pertaining to the approval of such maps in the Subdivision Map Act, the Land Surveyor Act, and this

title, shall be filed subsequent to a tentative parcel map. Such map shall consist of one or more eighteen (18) inch by twenty-six (26) inch sheets with one-inch margin along each side, and shall contain the following information:

- A. General information.
 - 1. Parcel map number;
 - 2. Name and address of record owner, divider, and engineer or surveyor who prepared the map;
 - 3. Datum, north arrow, scale, date and vicinity map;
 - 4. Numerical or alphabetic designation of each parcel;
 - 5. Location, name and width of all adjoining streets, alleys or paths, and distance to nearest intersecting street;
 - 6. Certificates of surveyor, owner, City Engineer and County Recorder and Clerk of the Board of Supervisors.
- B. Record Information.
 - 1. Location, purpose, and width of all existing public easements;
 - 2. Name of tract or grant in which survey is located;
 - 3. Original lot boundaries with lot numbers, as shown in earlier tracts or parcel maps, within and adjacent to boundary or proposed land division.
- C. Survey Information.
 - 1. Layout of parcels showing bearings, distances and parcel areas. Any discrepancies between field measurements and record data shall be noted;
 - 2. Identification and location of all pertinent monuments found or set;
 - 3. Basis of bearing used;
 - 4. Tie property corner to nearest street intersection (bearing and distance);
 - 5. Tie property corner to monument line (bearing and distance);
 - 6. Traverse closure calculations shall be submitted for the map boundary and each component parcel (computer printout preferred).

(Prior code § 7-5.12)

16.24.110 Parcel map filing and map check.

Two prints of a parcel map prepared in conformance with Section 16.24.100 shall be filed with the City Engineer within two years from the date of approval of the tentative parcel map. Upon application of the subdivider filed prior to the expiration of the approved tentative parcel map, the time at which such map expires may be extended by the Advisory Agency for a period or periods not exceeding a maximum of three additional years beyond the original expiration date. Failure to file a parcel map within these time limits shall nullify the previous approval or conditional approval of the tentative parcel map.

Within twenty (20) days after receiving the parcel map prints or within such additional time as may be reasonably necessary, the City Engineer shall examine it for the survey information shown thereon and for substantial conformance with the approved tentative parcel map. If he or she is satisfied that it is technically correct and in conformance, he shall notify the divider that a transparency of the parcel map may be submitted, and the City Engineer shall sign the appropriate certificate thereon.

The map shall be filed with the Alameda County Recorder. The divider shall promptly thereafter furnish the City Engineer with the following copies for permanent files: One mylar duplicate tracing and one paper print.

(Prior code § 7-5.13)

16.24.120 Notice of violation.

Whenever the city has knowledge that real property has been divided in violation of the provisions of this title or of the Subdivision Map Act, it shall cause to be filed for record with the recorder of the county of Alameda a notice of violation describing the real property in detail, naming the owner thereof, and describing the violation. Such notice, when recorded, shall be deemed to be constructive notice of the violation to all successors in interest in such property.

(Prior code § 7-5.14)

16.24.130 Offers of dedication for easements for reserves.

- A. Any owner of real property intending to file a parcel map in accordance with this title shall offer to dedicate to the city all such easements and reserves as may be required by the Director of Public Works. All such offers of dedication shall appear as part of the owner certificate on the parcel map, in a form prescribed by the Director of Public Works, and shall be signed and acknowledged by the owner(s).
- B. The boundaries, dimensions, location and purpose of all easements and reserves offered hereunder for dedication shall be shown on the parcel map.
- C. The City Engineer is authorized to accept on behalf of the city all offers of dedication tendered hereunder, and shall certify such acceptance on the City Engineer's certificate.

(Prior code § 7-5.16)

Chapter 16.28 HILLSIDE SUBDIVISIONS

16.28.010 Hillside subdivision defined.

Notwithstanding any other provisions contained in this title, the Advisory Agency may accept and recommend to the City Council, for its approval, maps or hillside subdivision in the manner hereinafter in Sections 16.28.020 to 16.28.070, inclusive, set forth. Hillside subdivision provisions shall apply only where street extensions or new street patterns are to be built on previously unsubdivided land. For the purposes of this title, the term "hillside subdivision" shall be construed to mean land proposed to be subdivided which has an average difference in elevation of more than fifteen (15) feet in a horizontal distance of one hundred (100) feet.

(Prior code § 7-4.50)

16.28.020 Design principles.

In reviewing the design of a proposed hillside subdivision, the Advisory Agency shall be guided by the following consideration: The Advisory Agency, in the exercise of sound discretion, shall apply the requirements of this title pertaining to hillside subdivision in a manner that will result in the best possible utilization of the land to be subdivided, giving due consideration to the topography of land and the general character of the proposed land division.

(Prior code § 7-4.51)

16.28.030 Sections applicable.

All provisions of this title hereinbefore set forth shall apply to "hillside subdivisions" except as superseded by Sections 16.28.040 through 16.28.070 which are made expressly applicable to hillside subdivisions only.

(Prior code § 7-4.52)

16.28.040 Street design standards.

In hillside subdivisions the dedicated widths of all streets, other than arterial and collector streets, shall be not less than forty (40) feet. With lot frontage on both sides of the street the paved roadway widths shall be not less than thirty (30) feet; with lot frontage on one side of the street only the paved roadway widths shall be not less than twenty-four (24) feet.

(Prior code § 7-4.53)

16.28.050 Lot area less than one acre—Area, frontage and sidewalk requirements.

- A. In hillside subdivisions where lots front on both sides of a street, each such lot shall have an area of not less than eight thousand (8,000) square feet with an average frontage of not less than eighty (80) feet and the minimum width of any such lot shall be not less than sixty (60) feet at the front building line. A five-foot paved sidewalk on both sides of the street shall be provided.
- B. In hillside subdivisions where lots front on one side of a street only, each such lot shall have an area of not less than six thousand (6,000) square feet and a minimum width of not less than sixty (60) feet at the front building line or the minimum required by the zoning regulations, whichever is greater. A five-foot paved sidewalk on the same side of the street as the accessible lots shall be provided, and a reserve strip of land one foot in width along the inaccessible side shall be granted in fee to the city.

(Prior code §§ 7-4.54, 7-4.55)

16.28.060 Lot area more than one acre.

- A. In hillside subdivisions where lots front on both sides of a street and have an average area of not less than one acre, the average frontage of each of such lots shall be not less than one hundred (100) feet and the minimum width of any such lot shall be not less than eighty (80) feet at the front building line. A five-foot graded sidewalk area on both sides of the street shall be provided.
- B. In hillside subdivisions where lots front on one side of the street only and have an average area of not less than one acre, the average frontage of each of such lots shall be not less than one hundred (100) feet and the minimum width of any such lot shall be not less than eighty (80) feet at the front building line. A five-foot graded sidewalk area on the same side of the street as the accessible lots shall be provided, and a reserve strip of land one foot in width along the inaccessible side shall be granted in fee to the city.

(Prior code §§ 7-4.56, 7-4.57)

16.28.070 Zoning district change.

Before any subdivider may file a map of a subdivision of hillside lands wherein the provisions of Section 16.28.060 are applicable, he or she shall first apply for, and obtain, unless the land to be included in the division shall then be in such district, a change of the district to the residential classification requiring a minimum lot size of twenty-five thousand (25,000) square feet.

(Prior code § 7-4.58)

Chapter 16.32 PRIVATE ACCESS EASEMENTS

16.32.010 Private access easement defined.

For the purposes of this title the words "private access easement" shall mean a privately owned and maintained right-of-way which provides vehicular access to each of not more than four lots. A private access easement allows the creation of no more than four lots without street frontage, each with vehicular access on the easement. The area designated for the private access easement shall be excluded in computing minimum lot areas. A private access easement shall be a part of one or more lots. At the discretion of the Director of Public Works, based on considerations described in the City Planning Commission guidelines, the street entrance portion of the private access easement may be located within the public right-of-way. Private access easement shall not be named. Addresses for the dwelling units served by the easement shall conform to the address range of the street upon which the easement abuts.

(Prior code § 7-4.61)

16.32.020 Creation of lots on private access easement—Generally.

Notwithstanding any provisions of this title to the contrary, the Advisory Agency may approve maps of division of real property into no more than four parcels, all of which have vehicular access on a private access easement, in the manner set forth in this chapter; provided, however, this approval shall not be required for lots having frontage on a street.

(Prior code § 7-4.60)

16.32.030 Creation of lots on private access easement—Where permitted.

An application may be filed for a division of real property into four or less parcels, of which all have vehicular access on a private access easement, in situations:

- A. Where existing frontage or the width of the parcel does not permit a street opening with the minimum accepted right-of-way;
- B. Where existing frontage is sufficient for the provision of a street but where a street opening would result in the creation of fewer lots;
- C. Where a street opening would result in the creation of lots meeting minimum area requirements of the zoning ordinance but of inadequate design due to their being too long in relation to their width, too narrow, panhandled, or shaped in any other way that is undesirable;
- D. Where the legal alternative to a street opening is the creation of more than one panhandled lot;

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- E. Where topographic conditions preclude the installation of a street meeting acceptable grades and other standards.

(Prior code § 7-4.62)

16.32.040 Creation of lots on private access easement—Where not permitted.

The Advisory Agency shall not approve a division of real property into four or less parcels, all of which have vehicular access on a private access easement, in situations:

- A. Where a street opening would be necessary to provide for future access to and not impose undue hardship upon adjoining unsubdivided property;
- B. Where the Zoning Regulations permit more than one dwelling unit per lot.

(Prior code § 7-4.63)

16.32.050 Application procedure.

The applicant shall file with the Advisory Agency five copies of a map containing the following information:

- A. The names and addresses of the applicant, the record owners, and the person or firm preparing the map;
- B. The boundary line, accurate in scale, of the parcel to be divided;
- C. The location and names of all existing or platted streets or other public ways adjacent to the parcel;
- D. True north point, scale, and date;
- E. The layout and dimensions of the proposed lots;
- F. The location and dimensions of the proposed private access easement;
- G. The location of existing permanent buildings or structures;
- H. Existing and proposed contours with intervals of five feet or less, referred to city datum;
- I. The profile of the easement with tentative grades;
- J. Any additional information which may be necessary.

(Prior code § 7-4.64)

16.32.060 Design principles.

- A. The private access easement shall abut on a street.
- B. The private access easement shall be subject to the provisions of Section 17.102.090 of the Oakland Planning Code.
- C. The length of the private access easement shall not exceed three hundred (300) feet.
- D. Lots shall meet the minimum area and width requirements of the zoning district in which they lie. The area designated for the private access easement shall be excluded in computing minimum areas.

(Prior code § 7-4.65)

16.32.070 Referral to City Engineer.

The Advisory Agency shall forward two copies of the applicant's map to the City Engineer. The Advisory Agency shall not act upon the application until the City Engineer has submitted a report to it; unless more than twenty-three (23) days shall have elapsed since the map was forwarded to him or her.

(Prior code § 7-4.66)

16.32.080 Improvements.

The City Engineer shall develop standards and specifications for grading, surfacing, drainage, and curb-cuts at entrance ways, applicable to all private access easements, which shall be adopted by resolution of the City Council. No building permit shall be issued for a lot with frontage on a private access easement until a registered Civil Engineer shall certify to the Building Inspector that the required improvements have been completed according to said standards and specifications, or enters into a contract with the city agreeing to do such work, and files with the City Clerk of the city a surety bond (or provides other satisfactory security as hereinafter set forth) approved by the City Attorney in such an amount as the City Engineer shall estimate and determine to be necessary to complete all the improvements required to be done by the applicant, which surety bond shall be executed by the applicant as principal, and a corporation authorized to so act under the laws of the state of California, as surety, the same to be payable to the city and to be conditioned upon the faithful performance of any and all work required to be done by the applicant, and said bond shall be further conditioned to the effect that should the applicant fail to complete all work required to be done by him or her within a specified reasonable time the city may, at its option, cause all uncompleted required work to be done and the parties executing the bond shall be firmly bound for the payment of all necessary costs therefor; or in lieu of a surety bond the applicant may post security as provided in Title 7, Division 2, Chapter 5, of the Government Code of the state of California.

(Prior code § 7-4.67)

16.32.090 Appeal to Council.

The applicant or any other interested person adversely affected by a decision of the Advisory Agency may appeal the decision with respect to the application to the City Council within ten days after such action. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Advisory Agency or wherein its decision is not supported by evidence in the record. The appeal shall be filed with the City Clerk. The City Council shall set the matter for hearing and shall cause written notice thereof to be given by the City Clerk, to the applicant and to other parties known to be interested in the matter. At the time fixed for the hearing the City Council shall proceed to hear the testimony of the applicant, any interested parties, and any witnesses in their behalf. Such hearing may be continued by the City Council. The City Council may sustain, modify, reject or overrule the recommendations, rulings, or decisions of the Advisory Agency and make such findings as are not inconsistent with this title. The Council's action shall be final.

(Prior code § 7-4.68)

16.32.100 Exception to requirements.

The Advisory Agency may, in the exercise of reasonable judgment, grant such variances as it determines warranted where the size of the subdivision or topographic or other natural conditions make it impractical to conform to all the provisions prescribed by Section 16.32.060.

(Prior code § 7-4.69)

Chapter 16.36 CONDOMINIUM CONVERSIONS¹

16.36.005 Applicability.

The regulations, requirements, and provisions of this Chapter shall apply to any application for condominium conversion in the City of Oakland.

Nothing in this Chapter shall be construed as waiving, reducing, or modifying any other requirements under any other law that may provide tenants with greater rights or protections, including but not limited to the Oakland Just Cause for Eviction Ordinance, (O.M.C. Section 8.22.300 et seq.), and corresponding regulations, the Oakland Rent Adjustment Ordinance (O.M.C. Section 8.22.010 et seq.) and corresponding regulations, and the Oakland Tenant Protection Ordinance (O.M.C. Section 8.22.600 et seq.) and corresponding regulations.

(Ord. No. 13585, § 2, 2-18-2020)

16.36.010 Definitions.

"Advisory Agency" means a designated official or an official body charged with the duty of making investigations and reports on the design and improvement of proposed divisions of real property, the imposing of requirements or conditions thereon, or having the authority by local ordinance to approve, conditionally approve or disapprove maps. (O.M.C. subsection 16.04.030 B. and California Government Code Section 66415.) Pursuant to O.M.C. Section 16.04.050, the Planning Commission is designated as the "Advisory Agency" with the duty of making investigations and reports on the design and improvement of proposed subdivisions requiring approval of tentative and final maps under the Subdivision Map Act. Pursuant to O.M.C. Section 16.24.030, the Director of City Planning (herein, the "Planning and Building Director") is designated as the Advisory Agency for the purpose of the approval, conditional approval, or disapproval of tentative parcel maps and parcel maps.

"Conversion" means a proposed change in the type of ownership of a parcel or parcels of land, together with the existing attached structures, from residential rental realty to a stock cooperative project, a condominium project, or a community apartment project, regardless of whether substantial improvements have been made to such structures. Whenever an occupancy permit has been issued by the City for a building containing two (2) or more residential units, any attempt thereafter to make the project a condominium, community apartment, or stock cooperative shall constitute a conversion. Those residential buildings of two (2) or more units having building permits but for which no initial certificate of occupancy has ever been issued and which have never been occupied shall be deemed excluded from the definition of "conversion." This Section shall not apply to a "limited-equity housing cooperative" as defined in Section 11003.4 of the Business and Professions Code.

"Disabled" has the same meaning as in O.M.C. Section 8.22.410.

"Residential Rental Realty" means a parcel containing one (1) or more rental units, including a parcel containing five (5) or more units with a recorded condominium map but without evidence of a valid public report from the Department of Real Estate (DRE) by the effective date of this Chapter.

¹Ord. No. 13585, § 2, adopted February 18, 2020, amended Chapter 16.36 in its entirety to read as herein set out. Former Chapter 16.36, §§ 16.36.010—16.36.140, pertained to similar subject matter, and derived from prior code and Ord. No. 13468, adopted January 16, 2018.

"Rental Unit" means any unit in any real property, regardless of zoning status, including the land appurtenant thereto, that is rented or available for rent for residential use or occupancy (regardless of whether the unit is also used for other purposes).

"Sales Program" means the marketing of the units to the general public.

"Subdivider" means a person, firm, corporation, partnership or association who proposes to divide, divides or causes to be divided real property into a subdivision for himself or others.

"Tenant" has the same meaning as in O.M.C. Section 8.22.340.

"Tenant Household" has the same meaning as in O.M.C. Section 8.22.810.

(Ord. No. 13585, § 2, 2-18-2020)

16.36.020 Preliminary notice to existing tenants prior to filing an application for tentative map or tentative parcel map.

At least sixty (60) days prior to filing an application with the City for a tentative map or tentative parcel map for a conversion, the subdivider shall provide all tenants of the building to be converted with the following notice:

To the occupant(s) of

(Address)

The owner(s) of this building, at (address), plan(s) to file an application for a (tentative map or tentative parcel map) with the City to convert this building to a (condominium, community apartment or stock cooperative project). You shall be given notice of each hearing for which notice is required pursuant to Government Code Sections 66451.3 and 66452.5, and you have the right to appear and the right to be heard at any such hearing.

(signature of owner or owner's agent)

(date)

The following language shall be printed in at least fourteen (14) point bold face type: "This present notice is not a notice to terminate your tenancy; it is not a notice that you must now vacate the premises."

Accompanying this notice will be written information describing, in general, what steps and actions the subdivider and others, including governmental agencies, will or must take in order for the building to be converted. It will include information on how the tenant will be involved, informed, and assessed at each step in the process and on what rights the tenant has, whether mandated by state or local government or whether provided voluntarily by the subdivider. It will also include the date on which the subdivider will most likely file the tentative map or tentative parcel map as well as the approximate date on which the subdivider expects the final subdivision public report, if any, to be issued, or if no subdivision public report is required the approximate date on which the subdivider expects to start the sales program.

Also accompanying this notice will be the Notice of Tenant Rights and the Subdivider's Preliminary Tenant Assistance Program, both as set forth in O.M.C. Section 16.36.050, and the information concerning tenant notifications as set forth in O.M.C. Section 16.36.040.

All persons who subsequently become tenants shall also be provided with the above notices.

For each application, all documents referred to in this section shall be approved by the Planning and Building Director as to form, correctness, and completeness.

Notice shall be given by posting in a conspicuous place on the premises of the subject property involved in the application. Notice to tenants shall also be given by mail, and shall be deemed satisfied if it complies with the legal requirements for service by mail pursuant to Government Code Section 66452.18 and California Code of Civil Procedure Section 1013.

(Ord. No. 13585, § 2, 2-18-2020)

16.36.030 Notice to prospective tenants of intention to convert.

Commencing at a date not less than sixty (60) days prior to the filing of a tentative map or tentative parcel map application, the subdivider shall give notice of such filing, in the form shown below, to each person applying after such date for rental of a unit in the building to be converted. This notice must be given to the prospective tenant prior to the acceptance of any rent or deposit from said prospective tenant and prior to the execution of any rental agreement.

The notice shall read as follows:

To the prospective occupant(s) of

(Address)

The owner(s) of this building, at (address), has filed or plans to file an application for a (tentative map or tentative parcel map) with the City to convert this building to a (condominium, community apartment, or stock cooperative project). No units may be sold in this building unless the conversion is approved by the City of Oakland and, if five (5) or more units are involved, until after a public report is issued by the Department of Real Estate. If you become a tenant of this building, you shall be given notice of each hearing for which notice is required pursuant to Government Code Sections 66451.3 and 66452.5, and you have the right to appear and the right to be heard at any such hearing.

If the building is converted to condominiums, you may not qualify for relocation assistance under condominium conversion law. You should still verify whether you may be eligible for other protections such as those under the Just Cause for Eviction Ordinance.

(signature of owner or owner's agent)

(date)

I have received this notice on:

(date)

(prospective tenant's signature)

Prospective tenants shall also receive all accompanying documents described in O.M.C. Section 16.36.020 and all documents set forth in O.M.C. Sections 16.36.040 and 16.36.050.

If the subdivider fails to give timely notice pursuant to this Section, he or she shall pay to each prospective tenant (1) who becomes a tenant and who was entitled to such notice; and (2) who does not purchase his or her unit pursuant to O.M.C. Section 16.36.032 and vacates, an amount equal to the amounts set forth below:

- A. Tenants who vacate for code compliance repairs shall be paid relocation payments pursuant to O.M.C. Chapter 15.60. Tenants who vacate due to owner or relative move-in shall be paid relocation payments pursuant to OMC Section 8.22.850. Tenants who vacate due to an Ellis Act eviction shall be paid relocation payments pursuant to O.M.C. Section 8.22.450.
- B. Tenants who vacate for any other reason, unless evicted for tenant fault, shall be paid relocation payments in amounts pursuant to OMC Section 8.22.820.
 - i. If the tenant voluntarily vacates the premises, the owner shall make the payment directly to an eligible tenant household no later than ten (10) days before the expected vacation date. If less than ten (10) days' advance notice of vacation is given, then the payment by the owner to the tenant household is due no later than the actual time of vacation.
 - ii. If the owner is requiring the tenant to vacate, the owner must pay the tenant household half of the relocation payment when the termination notice is given to the household and the remaining half when the tenant vacates the unit provided that the tenant agrees, in writing, not to contest an unlawful detainer based on the notice to terminate tenancy for the owner or relative moving in to the tenant's rental unit. If the tenant does not so agree, then the entirety of the relocation payment is not due unless the owner prevails in the unlawful detainer. If the owner prevails in the unlawful detainer, the relocation payment must be paid to the tenant prior to the owner seeking a writ of possession for the tenant to vacate the unit.
- C. For the purpose of this paragraph, the tenant is not evicted for tenant fault if (1) the tenant vacates within one hundred twenty (120) days after the effective date of a rent increase notice of more than ten (10) percent; and (2) the rent increase notice is issued within one (1) year after the issuance of the final subdivision public report on the conversion of a building with five (5) or more units or the start of the sales program in a building of four (4) units or less.

(Ord. No. 13585, § 2, 2-18-2020)

16.36.031 Notice to existing tenants of intention to convert.

The subdivider shall give written notice of the intent to convert at least one hundred eighty (180) days prior to the effective date of a notice of termination of tenancy, but not before the City has approved tentative parcel map for the conversion, to each tenant of the subject property in the form outlined below. The following language shall be printed in at least fourteen (14) point bold face type: "This present notice is not a notice to terminate your tenancy; it is not a notice that you must now vacate the premises."

To the occupant(s) of

 (Address)

The owner(s) of this building, at (address), plan(s) to convert this building to a (condominium, community apartment or stock cooperative project). This is a notice of the owner's intention to convert the building to a (condominium, community apartment or stock cooperative project).

A tentative parcel map to convert the building to a (condominium, community apartment or stock cooperative project) was approved by the City on _____. If the City approves a final parcel map, you may be required to vacate the premises, but that cannot happen for at least 180 days from the date this notice was served upon you.

Any future notice given to you to terminate your tenancy because of the conversion cannot be effective for at least 180 days from the date this notice was served upon you. This present notice is not a notice to terminate your tenancy; it is not a notice that you must now vacate the premises. If your unit is covered by

the Just Cause for Eviction Ordinance, you may not have to move at all except for specific reasons such as if you did not pay your rent, violated the terms of your rental agreement, or if the owner is performing repairs or moving into the unit.

(signature of owner or owner's agent)

(date)

Tenants shall also receive all accompanying documents described in O.M.C. Section 16.36.020 and all documents set forth in O.M.C. Sections 16.36.040 and 16.36.050.

Notice shall be given by posting in a conspicuous place on the premises of the subject property involved in the application. Notice shall also be given by mail, and shall be deemed satisfied if it complies with the legal requirements for service by mail pursuant to Government Code Section 66452.18 and California Code of Civil Procedure Section 1013.

(Ord. No. 13585, § 2, 2-18-2020)

16.36.032 Notice to existing tenants of right to contract for purchase.

- A. For conversions involving five (5) or more units, the subdivider shall give written notice within five (5) days after receipt of the subdivision public report to each tenant of his or her exclusive right for at least ninety (90) days after issuance of the subdivision public report to contract for the purchase of his or her respective unit or, alternatively, a non-exclusive right to contract for purchase of any other available unit in the building. The notice must be in the form outlined below.

To the occupant(s) of

(Address)

The owner(s) of this building, at (address), has (have) received the final subdivision report on the proposed conversion of this building to a (condominium, community apartment or stock cooperative project). Commencing on the date of issuance of the subdivision public report, you have the exclusive right for at least 90 days to contract for the purchase of your rental unit upon the same or more favorable terms that such units are initially offered to the general public, less a discount of at least ten percent (10%). You also have a non-exclusive right to contract for purchase of any other available unit in the building on the same or more favorable terms that such unit is initially offered to the general public, less a discount of at least ten percent (10%). If more than one tenant with a non-exclusive right to purchase wishes to purchase the same unit, the owner(s) may choose which tenant may exercise the right to purchase.

If you choose not to exercise your exclusive right to purchase your unit during the 90-day period, you also have the exclusive right to match any offer the owner accepts for your rental unit after the sale has opened to the public, less a discount of at least ten percent (10%). You also have a non-exclusive right to match an offer for any other available unit in the building on the same terms, less a discount of at least ten percent (10%). If more than one tenant with a non-exclusive right to purchase wishes to purchase the same unit, the owner(s) may choose which tenant may exercise the right to purchase.

The owner(s) shall notify the tenant of owner's intent to accept a buyer's offer, and terms of offer, within five (5) calendar days of owner(s) receiving offer. Thereafter, the tenant has fourteen (14) calendar days to match buyer's offer less a discount of at least ten percent (10%) by entering into a purchase and sale agreement with owner(s).

(signature of owner or owner's agent)

(date)

- B. If the conversion involves four (4) units or less, in which case no public report is issued, the subdivider shall give, seventeen (17) days before the start of the subdivider's sales program, a written notice to each tenant of the tenant's exclusive right for at least ninety (90) days after the start of the sales program to contract for the purchase of his or her respective unit, or any other available unit in the building, in the form outlined below.

To the occupant(s) of

(Address)

A tentative parcel map to convert the building to a (condominium, community apartment or stock cooperative project) was approved by the City on _____. Commencing on _____, the date the sales program begins, you have the exclusive right for at least 90 days to contract for the purchase of your rental unit upon the same or more favorable terms that such units are initially offered to the general public, less a discount of at least ten percent (10%). You also have a non-exclusive right to contract for purchase of any other available unit in the building on the same or more favorable terms that such units are initially offered to the general public, less a discount of at least ten percent (10%). If more than one tenant with non-exclusive right to purchase wish to purchase the same unit, the owner(s) may choose which tenant may exercise the right to purchase.

If you choose not to exercise your exclusive right to purchase during the 90-day period, you also have the exclusive right to match any offer the owner accepts for your rental unit after the sale has opened to the public, less a discount of at least ten percent (10%). You also have a non-exclusive right to match an offer for any other available unit in the building on the same terms, less a discount of at least ten percent (10%). If more than one tenant with non-exclusive right to purchase wishes to purchase the same unit, the owner(s) may choose which tenant may exercise the right to purchase.

The owner(s) shall notify the tenant of owner's intent to accept a buyer's offer, and terms of offer, within five (5) calendar days of owner(s) receiving offer. Thereafter, the tenant has fourteen (14) calendar days to match buyer's offer less a discount of at least ten percent (10%) by entering into a purchase and sale agreement with owner(s).

(signature of owner or owner's agent)

(date)

- C. Notice shall be given by posting in a conspicuous place on the premises of the subject property involved in the application. Notice shall also be given by mail, and shall be deemed satisfied if it complies with the legal requirements for service by mail pursuant to Government Code Section 66452.20 and California Code of Civil Procedure 1013.

(Ord. No. 13585, § 2, 2-18-2020)

16.36.040 Additional tenant notifications.

Each tenant shall be given notices containing the information as set forth below:

A. The City shall provide tenants with the following notices:

1. Each tenant will be given at least seventeen (17) days' prior written notice of the date, time and place of any public hearing held by the Advisory Agency on the tentative map or tentative parcel map. Such notice shall also advise tenants of their right to appear and be heard.
2. A copy of any City report or recommendation concerning the tentative map or tentative parcel map will be available on the City of Oakland website at least five (5) days prior to any meeting for which the map appears on the agenda.
3. Each tenant will be given at least seventeen (17) days' prior written notice of the date, time and place of a hearing held to consider an appeal from an action of the Advisory Agency. Such notice shall also advise tenants of their right to appear and be heard.

Subdivider shall provide the City with a sufficient number of stamped envelopes addressed to tenants to allow the City to carry out the above responsibilities, such number to be determined by the Planning and Building Director. Subdivider shall also provide the City with tenant names and addresses, including unit numbers, of all units, including those that are currently occupied, those where the tenant or subdivider has issued a notice of termination of tenancy, those that have been rented but are not yet occupied, and those that are currently vacant.

B. In addition to the preliminary notice to existing tenants prior to filing an application for a tentative map or tentative parcel map as set forth in O.M.C. Section 16.36.020, the notice to existing tenants of intention to convert as set forth in O.M.C. Section 16.36.031, and the notice to prospective tenants of intention to convert as set forth in O.M.C. Section 16.36.030, the subdivider shall also be responsible for the following:

1. Each tenant will be given at least five (5) days' prior written notice of the date, time and place of any meeting held on the tentative map or tentative parcel map other than those set forth in subsections A.1. and A.3. of this Section.
2. Each tenant will be notified individually and in writing of any action taken on the tentative map or tentative parcel map by the Advisory Agency, City Planning Commission, or City Council within five (5) days of such action being taken.
3. Each tenant will be given written notification within ten days of approval of a final map or a parcel map.
4. Each tenant in buildings with five (5) or more units will be given at least ten (10) days' prior written notice that an application for a subdivision public report will be submitted to the California Department of Real Estate. Such notice shall also state that tenants will be notified within five (5) days of subdivider's receipt of the final subdivision public report and that copies will be available upon request; it will also state subdivider's estimate of when the report will be issued and that the period for each tenant's right to purchase begins with the issuance of the final subdivision public report.
5. Each tenant in buildings with five (5) or more units will be given written notification within five (5) days of subdivider's receipt of the final subdivision public report in accordance with O.M.C. Section 16.36.110. If the conversion involves four (4) or less units, in which case no public report is issued, each tenant will be given seventeen (17) days' prior written notice of the start of subdivider's sales program.

C. The subdivider's recordation of the final map shall not constitute City approval of any work that was done without a permit or any other violation of any applicable code or ordinance, or preclude the City from requiring correction of violations identified subsequent to recordation of a final map, and shall not preclude the City from requiring additional corrective action if additional noncomplying conditions are discovered subsequent to the recordation of final map.

The City Planning Director shall be given a copy of all of the above notices at the same time as the tenants receive them. The written notices required by this section shall be deemed satisfied if they comply with the legal requirements for service by mail.

(Ord. No. 13585, § 2, 2-18-2020)

16.36.045 General requirements for notices.

- A. All notices required in this Chapter O.M.C. shall be in at least twelve (12) point type, and must include in bold face, the following language: For information about this notice please contact the Planning and Building Department at (provide current phone number and email address and physical location contact information for Planning and Building Department).
- B. If a rental agreement was or is being negotiated in Spanish, Chinese, Tagalog, Vietnamese, or Korean, all required written notices regarding conversion shall be issued in that language and in English.
- C. The Planning and Building Director shall be given a copy of all notices to tenants at the same time as the tenants receive them with accompanying proof of service complying with the legal requirements for service by mail pursuant to California Code of Civil Procedure Section 1013.

(Ord. No. 13585, § 2, 2-18-2020)

16.36.050 Tenant rights and the Preliminary Tenant Assistance Program.

- A. With regard to any conversion as defined in O.M.C. Section 16.36.010, each tenant shall have the following minimum rights which shall be set forth in the notice of tenant rights in a form prescribed by the City. Absence of such a form does not release landlords of noticing requirements.
 - 1. After receipt of this notice, each tenant will be entitled to terminate his or her lease or rental agreement without any penalty upon notifying the subdivider in writing thirty (30) days in advance of such termination; provided, however, that this requirement shall cease upon notice to the tenant of the abandonment of subdivider's efforts to convert the building.
 - 2. No tenant's rent will be increased from the date of issuance of this notice until abandonment of subdivider's efforts to convert the building or approval of the tentative map or tentative parcel map by the City, whichever occurs later. At the end of such period, and until one hundred eighty (180) days after the issuance of the final subdivision public report or start of the sales program, the subdivider may increase tenants' rent no more than once each year and in an amount that does not exceed the increase in the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland Metropolitan Area: All Items (Bay Area CPI), unless the unit is covered by other rent increase restrictions such as the restriction in O.M.C. Section 16.36.050 A.6. or the Rent Adjustment Ordinance.
 - 3. No remodeling of the interior of tenant-occupied units shall begin until at least thirty (30) days after issuance of the final subdivision public report or, if one (1) is not issued, after the start of subdivider's sales program. (For purposes of this chapter, the start of subdivider's sales program shall be defined as the start of tenants' ninety (90) days first-right-of-refusal period set forth below.)
 - 4. Each tenant shall have an exclusive right to contract for the purchase of his or her unit or, at the tenant's option, a non-exclusive right to purchase any other available unit in the building upon the same or more favorable terms and conditions that such units are initially offered to the general public, less a discount of at least ten (10) percent, with such right to run for at least ninety (90) days from the issuance of the final subdivision public report or, if one is not issued, from the start of subdivider's sales program. If a tenant chooses not to exercise his or her exclusive right to purchase during the initial ninety-day period, he or she shall also have the exclusive right to match any offer the owner accepts for his or her rental unit after the sale has opened to the public, less a discount of at least ten (10) percent. The tenant shall also have a non-exclusive right to match an offer for any other available unit in the building on the same terms, less a discount of at least ten (10) percent. If more than one (1)

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tenant with a non-exclusive right to purchase wishes to purchase the same unit, the owner(s) may choose which tenant may exercise the right to purchase.

The owner(s) (subdivider(s)) shall notify the tenant of owner's intent to accept a buyer's offer, and terms of offer, within five (5) calendar days of owner(s) receiving offer. Thereafter, the tenant has fourteen (14) calendar days to match buyer's offer less a discount of at least ten (10) percent by entering into a purchase and sale agreement with owner(s).

5. Each tenant shall have a right of occupancy of at least one hundred eighty (180) days from the date the notice to existing tenants of intention to convert, as set forth in O.M.C. Section 16.36.020, is served on the tenant; one hundred eighty (180) days from the issuance of the final subdivision public report or, if one (1) is not issued, from the start of subdivider's sale program; or until the expiration of tenant's lease, whichever is longer, prior to termination of tenancy due to conversion.
6. Tenants in units containing a tenant who (1) is sixty-two (62) years or older prior to approval of the tentative map or tentative parcel map or (2) is disabled or becomes disabled at any time before final approval of the tentative map or tentative parcel map, shall be provided a lifetime lease on their unit or, at tenant's option, on any other available unit in the building.
 - a. The subdivider must provide a written offer for a lifetime lease to the eligible tenants in the building and record such offer against the building's title.
 - b. At the time the tenant(s) accepts the lifetime lease offer, and even if such acceptance occurs after map approval, a binding agreement between the tenant(s) and the subdivider or owner shall be executed and recorded against the building's title.
 - c. In addition, the subdivider must agree to maintain the unit as a rental unit on the same rental terms for at least twenty (20) years from the time the lifetime lease is executed even if the tenant with the lifetime lease vacates the property or passes away.
 - d. A binding agreement between the City and the subdivider concerning the requirements of this subsection shall be recorded against the building's title. In recognition of the lifetime lease and twenty (20) year rental requirement, the subdivider shall receive a one-for-one reduction in conversion rights as part of the binding agreement.
 - e. Such leases, to commence no later than the date of issuance of the final subdivision public report or, if one is not issued, from the start of subdivider's sale program, shall be subject to the following conditions:
 - i. Tenants shall have the option of cancelling the lease at any time upon thirty (30) days' written notice to the owner.
 - ii. Tenants cannot be evicted except for tenant fault (e.g., non-payment of rent, breach of the rental agreement).
 - iii. The term of the lease shall expire only upon the death or demise of the last such tenant residing in the unit or at such time as the tenant(s) in the unit voluntarily vacates the unit after giving notice of such intent to cancel the lease. Right of occupancy shall be nontransferable, except that tenants shall have the right to a live-in aide. The live-in aide is not eligible to remain in the unit once the tenant is no longer living in the unit.
 - iv. The first year's base monthly rent for the unit shall be set at no more than the rent existing on the unit one (1) year prior to the filing of the application for a tentative map or tentative parcel map, increased by no more than seventy-five (75) percent of the percentage increase in the residential rent component of the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland Metropolitan Area: All Items (Bay Area CPI) from

the date one (1) year prior to the filing of the tentative map or tentative parcel map to the effective date of the lifetime lease.

- v. Subsequent rent adjustments, if any, may be made no sooner than one (1) year from the effective date of the lifetime lease, shall be limited to no more than one (1) per year, and the percentage increase in the Bay Area CPI for the most recent twelve (12) month period.
- vi. There shall be no decrease in dwelling unit maintenance or other services historically provided to such units and such Tenants.
- vii. The lease shall include the following language:

Tenant agrees that this lease shall be subject and subordinate at all times to (i) all ground leases or underlying leases that may now exist or hereafter be executed affecting the real property or any portion thereof; (ii) the lien of any mortgage, deed of trust, assignment of rents and leases or other security instrument (and any advances thereunder) that may now exist or hereafter be executed in any amount for which the real property or any portion thereof, any ground leases or underlying leases or landlord's interest or estate therein, is specified as security; and (iii) all modifications, renewals, supplements, consolidations and replacements thereof, provided in all cases the mortgagees or beneficiaries named in mortgages or deeds of trust hereafter executed or the assignee of any assignment of rents and leases hereafter executed shall recognize the interest and not disturb the possession, use and enjoyment of tenant under this lease, and, in the event of foreclosure or default, the lease will continue in full force and effect by the conditions imposed on each final parcel map or final map pursuant to O.M.C. Section 8.22.050, as long as tenant is not in default under the terms and conditions of this lease. Tenant agrees to execute and deliver, upon demand by landlord and in the form requested by landlord, any additional reasonable documents evidencing the priority or subordination of this lease with respect to any such ground leases, underlying leases, mortgages, deeds of trust, assignment of rents and leases or other security instruments. Subject to the foregoing, tenant agrees that tenant shall be bound by, and required to comply with, the provisions of any assignment of rents and leases with respect to the building.

- viii. Except as provided hereinabove, terms and conditions of the lifetime lease shall be the same as those contained in tenant's current lease or rental agreement.

- 7. Nothing in the Notice of Tenant Rights shall be construed as waiving, reducing or modifying any greater rights a tenant may have under the Oakland Just Cause for Eviction Ordinance (O.M.C. Section 8.22.300 et seq.) and corresponding regulations, the Oakland Rent Adjustment Ordinance (O.M.C. Section 8.22.010 et seq.) and corresponding regulations, and the Oakland Tenant Protection Ordinance (O.M.C. Section 8.22.600 et seq.) and corresponding regulations.

The Preliminary Tenant Assistance Program, as set forth in subsection B. of this section, shall make provision for the above minimum rights on the terms set forth above or on terms more favorable to the tenant.

- B. The subdivider's Preliminary Tenant Assistance Program (PTAP) shall consist of at least two (2) parts: efforts to minimize tenant displacement, and tenant relocation assistance.
 - 1. In the first part of the PTAP, subdivider shall describe those incentives and inducements that would increase the potential for, and ability of, tenants to become owners in the conversion. Subdivider shall also include actions and procedures to enable hard-to-relocate tenants to remain as tenants.
 - 2. The second part of the PTAP shall include all relocation and moving assistance and information to be provided to each tenant and all steps the subdivider will take to ensure the successful relocation of each tenant in the event that conversion takes place and the tenant chooses not to purchase a unit or remain as a tenant.
 - a. Tenants who resided in the unit prior to the filing of the tentative map or tentative parcel map and who vacate for code compliance repairs shall be paid relocation payments at no less than the amounts pursuant to O.M.C. Chapter 15.60. Tenants who resided in the unit prior to the filing of

the tentative map or tentative parcel map application and who vacate due to owner or relative move-in or an Ellis Act eviction shall be paid relocation payments pursuant to O.M.C. Section 8.22.850 or O.M.C. Section 8.22.450.

- b. Tenants who resided in the unit prior to the filing of the tentative map or tentative parcel map and vacate for any other reason, unless evicted for tenant fault, shall be paid relocation payments at not less than the amounts pursuant to O.M.C. Section 8.22.820.
 - i. If the tenant voluntarily vacates the premises, the owner shall make the payment directly to an eligible tenant household no later than thirty (30) days before the expected vacation date. If less than thirty (30) days' advance notice of vacation is given, then the payment by the owner to the tenant household is due no later than the actual time of vacation.
 - ii. If the owner is requiring the tenant to vacate, the owner must pay the tenant household half of the relocation payment when the termination notice is given to the household and the remaining half when the tenant vacates the unit provided that the tenant agrees, in writing, not to contest an unlawful detainer based on the notice to terminate tenancy for the owner or relative moving in to the tenant's rental unit. If the tenant does not so agree, then the entirety of the relocation payment is not due unless the owner prevails in the unlawful detainer. If the owner prevails in the unlawful detainer, the relocation payment must be paid to the tenant prior to the owner seeking a writ of possession for the tenant to vacate the unit.
- c. For the purpose of this paragraph, the tenant is not evicted for Tenant fault if (1) the tenant vacates within one hundred twenty (120) days after the effective date of a rent increase notice of more than ten (10) percent; and (2) the rent increase notice is issued within one (1) year after the issuance of the final subdivision public report on the conversion of a building with five (5) or more units or the start of the sales program in a building of four (4) units or less.

In both parts of the PTAP, subdivider shall give particular attention to specific steps that will be taken to assist the elderly, disabled, and other tenants who may encounter difficulty in finding new quarters.

(Ord. No. 13585, § 2, 2-18-2020)

16.36.060 Tentative map and tentative parcel map requirements for conversions.

In addition to other matters required in this Chapter, the subdivider shall submit to the Advisory Agency, along with the tentative map or tentative parcel map of a conversion, the Preliminary Tenant Assistance Program and one (1) copy of each of the notices and other documents to be provided to all tenants and prospective tenants pursuant to Sections 16.36.020 through 16.36.050. Subdivider shall also certify on the tentative map or tentative parcel map the following:

- A. That all tenants have received all documents set forth in Sections 16.36.020, and 16.36.031-040; and that all prospective new tenants have received and will receive said documents, along with the notice set forth in O.M.C. Section 16.36.030;
- B. That all tenants and Planning and Building Director will receive all notices as set forth in subsection B. of O.M.C. Section 16.36.040 and that they will receive all information as required in O.M.C. Section 16.36.080.
- C. That all tenants who qualify for a lifetime lease pursuant to O.M.C. subsection 16.36.050 A.6. have been given a written offer to enter into a lifetime lease. Such written offer for a lifetime lease shall be executed by the subdivider and recorded prior to the time of final map or final parcel map approval.

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- D. That a binding agreement between the City and the subdivider concerning the lifetime lease and twenty (20) year rental requirements have been recorded against the property's title.
 - E. That no unit in a building approved for conversion shall be offered for sale unless the property to be subdivided is in compliance with all current state and local laws and that any violations have been or will be corrected prior to recordation of the final map or parcel map. The state and local laws include, but are not limited to, the City's Zoning Ordinance, and all laws that govern the structural and fire safety of buildings and the structure and safety of their major systems, such as a building's plumbing, electrical and mechanical systems as set forth in California Health and Safety Code Section 17920.3.
 - F. That a report to the City will be provided on the building's major systems, for review and approval by the Planning and Building Director, prior to recordation of the final map or parcel map.

The Planning and Building Director may require other information to be filed with the tentative map or tentative parcel map which, in the Planning and Building Director's opinion, will assist in determining whether the project is consistent with the purposes set forth in O.M.C. Section 16.04.010 or will assist in making any of the findings as set forth in O.M.C. Section 16.36.030. Any such determination by the Planning and Building Director may be appealed to the City Planning Commission in the manner set forth in Section 17.132.020 of the zoning regulations of the City.

The Planning and Building Director may waive the tenant notification requirements contained in O.M.C. Sections 16.36.020, 16.36.031, and 16.36.040 where the building proposed for conversion is not tenant-occupied at the time of tentative map or tentative parcel map application. Where the building proposed for conversion is not tenant-occupied and the subdivider declares under penalty of perjury that the building is not tenant-occupied and no unit within the building will be rented prior to final or parcel map approval, the Planning and Building Director may waive the tenant assistance requirements set forth in O.M.C. Sections 16.36.050 and 16.36.080.

(Ord. No. 13585, § 2, 2-18-2020)

16.36.070 Action on the tentative map or tentative parcel map—Conversion rights.

Action by the Advisory Agency shall be governed, in addition to that set forth in O.M.C. Section 16.08.030, by the following:

- A. Requirements for Map Approvals.
 - 1. The Advisory Agency may only approve a tentative map or a tentative parcel map if it finds that every converted unit will be replaced with a rental unit added to the City's housing supply. Such replacement, if made in accordance with provisions of this Chapter, shall be found to avoid the negative impact the conversion would otherwise have had on the City's rental housing supply. Accordingly, a conversion shall only be approved, subject to meeting all other requirements prescribed by State and City, if the subdivider agrees that, prior to final map approval or final parcel map approval, subdivider will, in a manner acceptable to the Advisory Agency, demonstrate that subdivider owns "conversion rights" equal in number to the units proposed for conversion. "Conversion rights" are generated by projects which add housing units to the City's rental supply, and one (1) conversion right is equivalent to one (1) housing unit within such a project. Conversion rights may be generated by project(s) either undertaken by the subdivider or by others from whom subdivider has obtained or acquired such "rights" in a legally binding manner by a recorded document to be approved by the Advisory Agency. No conversion rights shall be generated by project(s) or specific parts of project(s) which: (a) are intended to become the property of the Oakland Housing Authority, (b) receive financial assistance from the City or the Oakland Redevelopment Successor Agency, (c) are located on property that was purchased or leased from a public or quasi-public agency, or (d) are developed as condominium units or

otherwise may be sold as individual units. Subdivider shall provide the Advisory Agency with information concerning the intended location and type of rental units that will generate the conversion rights of which subdivider intends to demonstrate ownership. Any newly approved market rate unit that otherwise qualifies may be used to generate conversion rights.

2. The Advisory Agency shall deny approval of a tentative map or tentative parcel map for a conversion if any tenant was evicted pursuant to O.M.C. subsection 8.22.360 A.8—A.11. in the last five (5) years prior to the date of the application, including if tenant was given written or oral notice that the owner intended to evict the tenant under any of these O.M.C. sections and the tenant left voluntarily or after an agreement with the owner, or if the subdivider or predecessor causes or attempts to cause a tenant to vacate by violating the Tenant Protection Ordinance (O.M.C. Section 8.22.600, et seq.). The Advisory Agency may adopt regulations to implement this provision.
 3. The Advisory Agency shall deny approval of a tentative map or tentative parcel map for a conversion if the conversion is from a building in which the owners have a fully executed written agreement within five (5) years of the application date in which the owners each have an exclusive right of occupancy to individual units in the building to the exclusion of the owners of the other units (tenancy-in-common).
- B. Project(s) generating conversion rights may involve new rental construction (including accessory dwelling units), increasing the number of units in an existing residential rental building, or converting a nonresidential building to residential rental units; however, to generate conversion rights, each added unit must be reasonably comparable in number of bedrooms and amenities to each unit being converted and must not already be deed restricted from converting to a condominium.
- C. Conversion rights may also be generated by bringing back into the supply, through major rehabilitation, a residential rental building that has been continuously vacant and declared substandard or a public nuisance pursuant to O.M.C. Section 15.080.350 et seq. for at least three (3) years prior to commencement of work on the rehabilitation project. Anyone attempting to generate conversion rights by rehabilitating a vacant residential rental building must demonstrate to the satisfaction of the Planning and Building Director that the building was indeed vacant and declared substandard or a public nuisance for at least three (3) years, that the work did indeed involve major rehabilitation, and that the building was not vacated for the purpose of generating conversion rights. For purposes of this Chapter, rehabilitation shall be deemed "major" if the cost of construction equals or exceeds fifty (50) percent of the average basic cost for new construction using tables issued by the Chief Building Inspector applicable to the time period when the substantial rehabilitation was completed.

Anyone who, through major rehabilitation, converts a residential rental building that has been continuously vacant and declared substandard or a public nuisance for at least three (3) years, shall not be required to provide conversion rights for the conversion of that building.

- D. Conversion rights may be generated only from residential buildings with rental units where the conversion rights agreement transferring the conversion rights is entered into and recorded: (1) after the generating residential building receives planning entitlements and (2) no later than sixty (60) days after the building permit for the generating residential building has been issued. The Bureau of Planning shall clearly set forth this requirement in the condominium conversion application. The Bureau of Planning shall require through conditions of approval that a final conversion rights agreement that secures conversion rights is executed and recorded against the generating property and certificate of occupancy issued for the generating residential building rental units prior to final map approval for the condominium conversion project. If the approval involves a project with five (5) or more units having a recorded condominium map, but without evidence of a valid public report from the Department of Real Estate (DRE), then the subdivider shall be exempt from the requirement to enter into an agreement securing the conversion rights.

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- E. No units in the building approved for conversion shall be sold until a certificate of occupancy has been issued by the City Building Official on the project(s) generating the conversion rights. For buildings of five (5) or more units, subdivider shall request the California Department of Real Estate in writing to not issue the final subdivision public report until said Department has received written notification by the subdivider to issue said report. Said notification must include written approval from the Planning and Building Director, which approval shall not be given until all necessary certificates of occupancy have been issued.
 - F. Notwithstanding the above, the Advisory Agency shall deny approval of a tentative map or tentative parcel map if it finds that the conversion is proposed to take place in the "conversion impact area," an area of the city whose rental housing supply has been negatively impacted by previous conversions. The conversion impact area shall contain two (2) sections: the primary section consisting of Census Tracts 4034, 4035.01, 4035.02, 4036, 4037.01, 4037.02, 4039, 4040, 4041.01, and 4041.02; and the secondary section consisting of Census Tracts 4038, 4042, 4043, 4052, 4053.01 and 4053.02.
 - G. A conversion which would otherwise be denied due to its location within the conversion impact area shall be approved, subject to meeting all other requirements prescribed by State and City, if the subdivider agrees to replace (using the conversion rights method described above) each converted unit with a rental unit according to the following: For conversions to take place in the primary section of the conversion impact area, conversion rights must be generated within the primary section; for conversions to take place in the secondary section, conversion rights must be generated within the conversion impact area.
 - H. Notwithstanding other provisions of this section, the Advisory Agency shall deny approval of a tentative or final map or a tentative or final parcel map if it finds that the subdivider vacated units in the building proposed for conversion in order to avoid providing payments and other benefits to tenants as required by O.M.C. Section 16.36.050 or described in the tenant assistance program. It shall also deny approval if it finds that the subdivider's preliminary tenant assistance program, as set forth in O.M.C. Section 16.36.050, or any submission required by O.M.C. Sections 16.36.020, 16.36.031, 16.36.040 or 16.36.060 is unacceptable or otherwise inconsistent with the purpose of this title as it concerns the City's housing goals and policies. It shall also deny approval if it finds that the subdivider has falsely claimed that the building proposed for conversion is vacant.
 - I. A property owner of a two (2) to four (4) unit property is eligible for a one-time exemption from the conversion rights requirements of this Section for one (1) of the units if the property owner: (1) has lived in the building for at least ten (10) years, (2) can demonstrate their uninterrupted residency, (3) has an annual income of eighty (80) percent or less of Area Median Income ("AMI"), and (4) has never previously converted their property to a condominium.
 - J. A subdivider is eligible for a one-for-one reduction from the conversion rights requirements of this Section for each unit:
 - 1. That is occupied and purchased by a current tenant who has continuously occupied a rental unit in the building for at least three (3) years preceding the date of the notice of intention to convert;
 - 2. That upon conversion will be restricted to occupancy by and affordable to lower income households, as defined in Health and Safety Code Section 50079.5, at an affordable housing cost, as defined in Health and Safety Code Section 50052.5, in perpetuity. Such restrictions shall be evidenced by recorded covenants or restrictions running with the land; or
 - 3. In which a non-purchasing tenant who receives the benefit of a lifetime lease pursuant to O.M.C. subsection 16.36.050 A.6 and the unit is subject a deed restriction consistent with O.M.C. subsection 16.36.050 A.6.c.

(Ord. No. 13585, § 2, 2-18-2020)

16.36.080 Final tenant assistance program.

If the tentative map or tentative parcel map is approved, the subdivider shall prepare a Final Tenant Assistance Program (FTAP) in conformity with the Preliminary Tenant Assistance Program (PTAP), and any conditions of approval relating to the tenant assistance program. At a minimum, the FTAP shall provide tenants with all of the rights set forth in O.M.C. Section 16.36.050. The FTAP shall be reviewed and, if it conforms to the PTAP and the requirements of this Chapter, may be approved by the Planning and Building Director. Within two (2) days of receiving such approval, subdivider shall distribute a copy of the FTAP to each tenant and to the Planning and Building Director. If the Advisory Agency approves the map, the FTAP shall be accompanied by a written notice advising tenants of the action of the Advisory Agency and informing them of their right to appeal the decision to the City Council, if a tentative map is involved, or to the City Planning Commission, if a tentative parcel map is involved, within ten (10) days of the date of the decision. Any party seeking to appeal a decision to the City Council or City Planning Commission shall pay the appeal fee as specified in the City's Master Fee Schedule.

(Ord. No. 13585, § 2, 2-18-2020)

16.36.090 Information to be filed with final maps and parcel maps.

In addition to other matters required in this Chapter, the following shall be filed with the final map or parcel map:

- A. A copy of the Final Tenant Assistance Program (FTAP) as described in O.M.C. Section 16.36.080;
- B. A copy of the notice of subdivision public report or notice of start of sales program as set forth in O.M.C. Section 16.36.110;
- C. One (1) copy each of the following documents more fully described in subsections A., B. and C. of O.M.C. Section 16.36.120: written notice to be given to prospective buyers; property report; structural pest report; and report describing the building's utilities, storage space, and laundry facilities;
- D. For tentative map or tentative parcel map approvals involving conversion rights, evidence, in the manner specified by the Advisory Agency as set forth in O.M.C. Section 16.36.070, that the subdivider owns conversion rights equal in number to the units to be converted.

No final map or parcel map shall be approved until the above requirements have been met.

(Ord. No. 13585, § 2, 2-18-2020)

16.36.100 Information on final maps and parcel maps.

In addition to other matters required in this title, the information on the final map or parcel map shall show, under the owner's certificate, the following:

- A. For final maps only, a statement pursuant to Section 66427.1 of the State of California Subdivision Map Act;
- B. A statement certifying that copies of the property report, structural pest report, and utilities/storage space/laundry facilities report, all more fully described in O.M.C. Section 16.36.120, were submitted along with subdivider's request for a certificate of occupancy inspection; and, if a final map, that these documents plus a copy of the notice to be given to prospective buyers, more fully described in O.M.C. Section 16.36.120, have been or shall be filed with the California Department of Real Estate in the subdivider's application for public report; and, if a final map, that the subdivider has requested or shall

request that the above-mentioned notice to be given to prospective buyers be included in the subdivision public report;

- C. A statement certifying that the Planning and Building Director and each tenant in the building to be converted has received or will receive a notice of final map or parcel map approval and, for buildings with five (5) or more units, a notice of subdivision public report application as set forth in subsections B.4. and B.5. of O.M.C. Section 16.36.040;
- D. A statement certifying that the Planning and Building Director and each tenant in the building to be converted will receive the notice of subdivision public report or notice of start of sales program as set forth in O.M.C. Section 16.36.110;
- E. For tentative map or tentative parcel map approvals involving conversion rights, a statement certifying, in conformity with O.M.C. Section 16.36.070, that no unit in the conversion will be offered for sale until a certificate of occupancy is issued on those project(s) generating conversion rights;
- F. For tentative map approvals involving conversion rights, a statement certifying, in conformity with O.M.C. Section 16.36.070, that the California Department of Real Estate has been or will be requested not to issue the final subdivision public report until so notified in writing by the subdivider, such request to include written approval of the Planning and Building Director prior to the issuance of said report;
- G. For five (5) or more unit buildings, a statement certifying, in conformity with Section 16.36.130, that no unit in the conversion will be offered for sale until the unit conforms to the noise insulation standards promulgated in Title 25 of the California Administrative Code, Section 1092, or its successor;
- G. A statement certifying that informational reports will be submitted to the Planning and Building Director as required by and set forth in O.M.C. Section 16.36.140.

No final map or parcel map shall be approved until the above requirements have been met.

(Ord. No. 13585, § 2, 2-18-2020)

16.36.110 Notice of subdivision public report or notice of start of sales program.

Within five (5) days of receipt of the final subdivision public report described in Section 11018 of the California Business and Professions Code, the subdivider of a building with five (5) or more units shall notify, in writing, the Planning and Building Director and all tenants in the building to be converted of the date of issuance of said report. For buildings with four (4) or less units, the subdivider shall give the Planning and Building Director and all tenants in the building to be converted seventeen (17) days' prior written notice of the start of the sales program. Said notices, to be accompanied by the subdivider's final tenant assistance program as set forth in O.M.C. Section 16.36.080, shall also state the following:

- A. That, for buildings of five (5) or more units, a copy of the final subdivision public report is available to each tenant upon request;
- B. That no remodeling of the interior of tenant-occupied units shall begin until at least thirty (30) days after issuance of said report or start of the sales program;
- C. That each tenant has an exclusive right to contract for the purchase of the tenant's respective unit, or, at the tenant's option, any other available unit in the building upon the same terms and conditions that such units will be initially offered to the general public, less a discount of at least ten (10) percent, or upon terms more favorable to the tenant if so provided for in the subdivider's final tenant assistance program attached to this notice, such right to run for a period of not less than ninety (90) days from the date of issuance of said report or the start of the sales program;

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- D. That each tenant has a right of occupancy of at least one hundred eighty (180) days from the date the notice to existing tenants of intention to convert, as set forth in O.M.C. Section 16.36.031, is served on the tenant: one hundred eighty (180) days from the issuance of the final subdivision public report or, if one is not issued, or from the start of subdivider's sale program; or until the expiration of tenant's lease, or as specified in the subdivider's final tenant assistance program attached to this notice, whichever is longer, prior to termination of tenancy due to conversion, and that upon termination of tenancy, each tenant shall be provided with relocation assistance as set forth in O.M.C. Section 16.36.050. This provision shall not alter or abridge the rights or obligations of the parties in performance of their covenants, including but not limited to the provision of services, payment of rent, or the obligations imposed by Sections 1941, 1941.1, and 1941.2 of the California Civil Code;
 - E. That for each tenant not desiring to purchase a unit or, for tenants eligible for a lifetime lease, not desiring to accept a lifetime lease, the subdivider will provide such tenant with up-to-date information of available apartments of comparable size, price, and location within the city and will take other steps as indicated in the subdivider's final tenant assistance program attached to this notice.

The written notices required by this Section shall be deemed satisfied if they comply with the legal requirements for service by mail pursuant to California Code of Civil Procedure Section 1013.

(Ord. No. 13585, § 2, 2-18-2020)

16.36.120 Information to be given to prospective buyers.

All prospective buyers of converted units shall be given written notices, stating the existence of a seventy-two (72) hour period following an agreement to purchase, during which period a prospective buyer may withdraw from the agreement to purchase without penalty or cost. The written notice shall also state the availability of the following:

- A. A property report prepared and signed by an appropriately licensed contractor or engineer. Said report shall:
 - 1. Describe the condition and useful life of the roof and foundations, and the mechanical, electrical, plumbing, and structural elements of all existing structures on the property; and
 - 2. Estimate future property maintenance costs.
- B. A structural pest report prepared and signed by a licensed pest control operator, conforming to California Business and Professions Code, Section 8516;
- C. A report describing the building with regard to whether utilities are separately metered; location of water and gas shutoff valves; availability of protected storage space in addition to closet space ordinarily contained within a unit; parking spaces; and laundry facilities, if any;
- D. For five (5) or more unit buildings, the applicant shall provide a statement, signed by a person experienced in the field of acoustical testing and engineering, certifying that the converted unit conforms to the noise insulation standards promulgated in Title 25 of the California Administrative Code, Section 1092, or its successor.
- E. A copy of the notice of rights provided to tenants occupying the unit to be purchased, as provided for in O.M.C. Section 16.36.110, and copies of any agreements for continuing occupancy entered into pursuant to O.M.C. subsection 16.36.050 A.5.
- F. Information regarding the number of units in the property for which tenants have been provided the right to a lifetime lease pursuant to O.M.C. subsection 16.36.160 A.6.

(Ord. No. 13585, § 2, 2-18-2020)

16.36.130 Noise insulation standards.

For five (5) or more unit buildings, the applicant shall confirm that no unit in a building approved for conversion shall be offered for sale unless it conforms to the noise insulation standards promulgated in Title 25 of the California Administrative Code, Section 1092, or its successor.

(Ord. No. 13585, § 2, 2-18-2020)

16.36.140 Submission of informational reports.

Within thirty (30) days of the issuance of the final subdivision public report on the conversion of a building with five (5) or more units or the start of the sales program in a building of four (4) units or less, subdivider shall submit to the Planning and Building Director informational reports pertaining to tenants of the conversion displaced since the filing of the tentative map or tentative parcel map, and to buyers of the units being converted. The information, as required, shall be submitted on forms to be provided by the Bureau of Planning. These informational reports shall be submitted annually, and they shall continue to be submitted until all units in the conversion have been sold.

(Ord. No. 13585, § 2, 2-18-2020)

16.36.150 Technical bulletins and administrative regulations.

The City Administrator or designee is responsible for the administration of this Chapter, and is authorized to develop and require compliance with one (1) or more technical bulletins and/or administrative regulations containing interpretations, clarifications, forms, and commentary to facilitate implementation of any requirements set forth in this Chapter.

(Ord. No. 13585, § 2, 2-18-2020)