TITLE 10. PLANNING AND ZONING

CHAPTER 1. SUBDIVISIONS*


Sec. 10-1.101. Citation and Authority.

This chapter is adopted to supplement and implement the Subdivision Map Act, §66410, et seq. of the Government Code and may be cited as the subdivision ordinance of the City of Walnut Creek.

Sec. 10-1.102. Purpose.

It is the purpose of this chapter to regulate and control the division of land within the City of Walnut Creek and to supplement the provisions of the Subdivision Map Act concerning the design, improvement and survey data of subdivisions, the form and content of all maps provided for by the Subdivision Map Act and the procedure to be followed in securing the official approval of the Design Review Commission, Planning Commission, the City Engineer, the Zoning Administrator, the Community Development Department and City Council regarding the maps. To accomplish this purpose, the regulations outlined in this chapter are determined to be necessary for the preservation of the public health, safety and general welfare, to promote orderly growth and development and to promote open space, conservation, protection and proper use of land, and to ensure provision for adequate traffic circulation, utilities and services.

Sec. 10-1.103. Conformity to General Plan, Specific Plans and Zoning Ordinances.

No land shall be subdivided and developed for any purpose which is not in conformity with the General Plan and any specific plan of the City of Walnut Creek or permitted by the zoning chapter or other applicable provisions of the Walnut Creek Municipal Code.

The type and intensity of land use as shown on the General Plan shall determine the type of streets, roads, highways, utilities and public services that shall be provided by the subdivider.

Sec. 10-1.104. Application.

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

*Ordinance history: 8200—8231, 8233—8236, 8240—8242, 8244, 8250—8257, 8260, 8261, 8265 and 8270—8284; Ords. 668, 710, 811, 880, 936, 939, 943, 991, 1064, 1069, 1084, 1094, 1108, 1134, 1143, 1154, 1162, 1193, 1229, 1240, 1244, 1252, 1275, 1322, 1456, 1491, 1530, 1603, 1639, 1761, 1769, and 1911.
1. **Exceptions.**

This chapter shall not apply to:

a. The financing or leasing of apartments, offices, stores or similar space within apartment buildings, industrial buildings, commercial buildings, mobilehome parks or trailer parks.

b. Mineral, oil or gas leases.

c. Land dedicated for cemetery purposes under the State Health and Safety Code.

d. A lot line adjustment between two or more existing adjacent parcels, where the land taken from one parcel is added to an adjacent parcel, and where a greater number of parcels than originally existed is not created, provided the lot line adjustment is approved by the City Engineer.

e. Any separate assessment under §2188.7 of the State Revenue and Taxation Code for community apartment or cooperative housing projects.

f. The conversion of a community apartment project or a stock cooperative to a condominium if the requirements of Sections 66412(g) and (h) of the Subdivision Map Act are met.

g. The financing or leasing of any parcel of land, or any portion, for the construction of commercial or industrial buildings on a single parcel, unless the project is not subject to review under other ordinances regulating design and improvements.

h. The financing or leasing of existing separate commercial or industrial buildings on a single parcel.

i. The construction, financing or leasing of accessory dwelling units according to Article 38 of the Zoning Ordinance.

j. Leasing for agricultural purposes, cultivation of food or fiber, and grazing or pasturing of livestock. (§1, Ord. 1603, eff. 9/13/84)

k. Leasing of, or grant of easement to, a parcel of land, or any portion or portions of land, for financing, erection, and sale or lease of a wind-powered electrical generation device which is subject to discretionary action by the City.

**Sec. 10-1.105. Modification of Requirements.**

Whenever, in the opinion of the Planning Commission, the land in any subdivision is of a size or shape, or is subject to title limitations of record, or is affected by topographical location or conditions, or is to be devoted to a use that it is impossible or impracticable in the particular case for the subdivider to conform fully to the regulations contained in this chapter, the Planning Commission may make modifications as, in its opinion, are reasonably necessary or expedient and in conformity with the
Subdivision Map Act. In the case of subdivisions of four (4) or fewer units this determination may be made by the Zoning Administrator.

**Article 2. Definitions and Responsibilities**

**Sec. 10-1.201. Definitions.**

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

*Common Interest Development (Condominium).* An estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential, industrial or commercial building on the real property, such as an apartment, office or store. A condominium may include, in addition, a separate interest in other portions of the real property.

*Conversion.* The creation of separate ownership of existing real property together with a separate interest in space of residential, industrial or commercial buildings.

*Design* means:

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

*Development.* The uses to which the land which is the subject of a map shall be put, the buildings to be constructed on it, and all alterations of and construction on the land.

*Environmental Impact Report (EIR).* A detailed statement under the California Environmental Quality Act (CEQA) describing and analyzing the significant environmental effects of a project and
discussing ways to mitigate or avoid the effects. The contents of the EIR are described in Article 9 Section 15120 of the State CEQA Guidelines and the City's CEQA Guidelines.

**Final Map.** A map showing a subdivision for which a tentative and final map are required by the Subdivision Map Act or this chapter, prepared in accordance with the provisions of this chapter and the Subdivision Map Act designed to be recorded in the office of the County Recorder.

**General Plan.** The General Plan of the City as adopted in 2006, and any amendments or revisions.  
(§3, Ord. 2070, eff. 6/20/2008)

**Improvement.** Any streets, storm drainage facilities, utilities and landscaping to be installed, or agreed to be installed, by the subdivider on the land to be used for public or private streets, highways and easements, as are necessary for the general use of the lot owners in the subdivision and local neighborhood traffic and drainage needs as a condition precedent to the approval and acceptance of the final map. Any other specific improvements or type of improvements, the installation of which, either by, or by a combination of, the subdivider, public agencies, public and private utilities, or any other entity approved by the City, is necessary to ensure consistency with, or implementation of, the General Plan or any applicable specific plan.

Improvements shall be constructed in accordance with the City of Walnut Creek Street Standards, Standard Specifications and Plans and/or, when applicable, with standards as adopted by local utility companies and approved by the City Engineer.

**Lot.** A parcel or portion of land separated from other parcels or portions by description, as on a subdivision, parcel, or record of survey map or by metes and bounds, for purpose of sale, lease or separate use.

**Lot Line Adjustment.** A shift or rotation of an existing lot line or other adjustments where a greater number of parcels than originally existed is not created, as approved by the City Engineer or authorized representative.

**Merger.** The joining of two or more contiguous parcels of land under one ownership into one parcel.

**Minor Subdivision.** A subdivision of four or fewer parcels.

**Parcel Map.** A map showing a division of land of four or fewer parcels as required by this ordinance, prepared in accordance with the provisions of this chapter and the Subdivision Map Act.

**Peripheral Street.** An existing street whose right-of-way is contiguous to the exterior boundary of the subdivision.

**Remainder.** That portion of an existing parcel which is not included as part of the subdivided land. The remainder is not considered as part of the subdivision but must be shown on the required maps as part of the area surrounding subdivision development.
§10-1.202  

**Subdivider.** A person, firm, corporation, partnership or association who proposes to divide, divides or causes to be divided real property into a subdivision for himself, herself or for others. Employees and consultants of such persons or entities, acting in that capacity, are not "subdividers."

**Subdivision.** The division, by any subdivider, of any unit or units of improved or unimproved contiguous land shown on the latest equalized County assessment roll as a unit or as contiguous units for the purpose of sale, lease or financing, whether immediate or future. Property shall be considered as contiguous units, even if it is separated by roads, streets, utility easements or railroad rights of way. "Subdivision" includes a condominium project, as defined herein or in §1350 of the Civil Code, or a community apartment project, as defined in Section 11004 of the Business and Professions Code, or the conversion of existing dwelling units to a stock cooperative, as defined in Section 11003.2 of the Business and Professions Code. "Subdivision" includes any division of land by gift or inheritance (probate). Any conveyance of land to a governmental agency, public entity, public utility or subsidiary of a public utility for conveyance to that public utility for rights-of-way shall not be considered a division of land for purposes of computing the number of parcels.

**Subdivision Map Act (SMA).** State of California Government Code Section 66410 to 66499.

**Tentative Map.** A map made for the purpose of showing the design and improvements of a proposed subdivision and the existing conditions in and around it. The term "tentative map" includes a vesting tentative map.

**Vesting Tentative Map.** A map which meets the requirements of a tentative map and Article 12, and has the words "Vesting Tentative Map" printed on it. The vesting tentative map conveys development rights for subdivisions according to Article 12.

**Zoning Ordinance.** Title 10, Chapter 2 of the City of Walnut Creek Municipal Code, or any ordinance enacted under zoning law.

**Sec. 10-1.202.  Responsibilities.**

1. **City Attorney.** The City Attorney shall be responsible for approving as to form all subdivision improvement agreements.

2. **City Council.** The City Council shall have final jurisdiction in the approval of final maps and improvement agreements and the acceptance by the City of lands and/or improvements as may be proposed for dedication to the City for subdivisions of five (5) or more parcels.

   The City Council shall act as the appeal board for hearing appeals of the approval, conditional approval or denial of tentative subdivision maps for subdivisions of five (5) or more parcels.

3. **City Engineer.** The City Engineer shall be responsible for:

   a. Establishing design and construction details, standards and specifications;
b. Determining if proposed subdivision improvements comply with the provisions of this chapter and the Subdivision Map Act and for reporting the findings together with any recommendations for approval, or conditional approval, of the tentative map to the Chief of Planning for subdivisions of five (5) or more parcels;

c. The processing of final maps, reversion to acreage maps and amended maps; the processing and approval of subdivision improvement plans, lot line adjustments, mergers, and certificates of compliance;

d. Examining and stating that final maps are in substantial conformance with the approved tentative map.

e. The inspection and approval of subdivision improvements.

f. The acceptance of: (1) Dedications and improvements for subdivisions of four (4) or fewer parcels; (2) Offsite dedications lying outside a subdivision boundary which require a separate grant deed.

g. The recording of a notice of completion of private subdivision improvements when not to be maintained by the City.

4. **Community Development Department (CDD).** The Community Development Department shall be responsible for the processing of tentative maps, final and parcel maps, and for the collection of all required deposits and fees.

5. **Community Development Department Director.** The Community Development Department Director shall be responsible for the management of the Community Development Department in carrying out the responsibilities imposed upon it by this chapter.

6. **Design Review Commission (DRC).** The Design Review Commission shall be responsible for the review of preliminary or tentative maps for subdivisions of five (5) or more parcels or units for general layout and aesthetics and making its recommendations for approval or conditional approval to the Planning Commission.

7. **Planning Commission.** The Planning Commission shall be responsible for approving, conditionally approving, or denying the tentative map for subdivisions of five (5) or more lots or units and reporting its action to the City Council; and hearing of appeals for subdivisions of four (4) or fewer parcels.

8. **Chief of Planning.** The Chief of Planning shall be responsible for:

   a. Investigating proposed subdivisions for conformity to the General Plan, specific plans and Zoning Ordinance of the City, and reporting findings together with recommendations for approval or conditional approval to the Planning Commission for subdivision of five (5) or more parcels.

   b. Stating, as Secretary of the Planning Commission, that the Planning Commission has approved or conditionally approved the tentative map for subdivisions of five (5) or more parcels.
9. **Zoning Administrator.** The Zoning Administrator shall be responsible for approval, conditional approval or denial of tentative parcel maps for four (4) or fewer parcels.

### Article 3. Maps Required

#### Sec. 10-1.301. General.

The necessity for tentative or vesting tentative, final, and parcel maps shall be governed by the provisions of this chapter.

#### Sec. 10-1.302. Division of Land—Five or More Parcels.

A tentative or vesting tentative and final map shall be required for all divisions of land when determined by the Community Development Director that such land may be divided into five (5) or more parcels, five (5) or more condominiums as defined in Section 783 of the State Civil Code, a community apartment project containing five (5) or more parcels, or for the conversion of a dwelling to a stock cooperative containing five (5) or more dwelling units, except where:

1. The land before division contains less than two (2) hectares [five (5) acres], each parcel created by the division abuts upon a maintained public street or highway and no dedications or improvements are required by the legislative body.

2. Each parcel created by the division has a gross area of eight (8) hectares [twenty (20) acres] or more and has an approved access to a maintained public street or highway.

3. The land consists of a parcel or parcels of land having approved access to a public street or highway which comprises part of a tract of land zoned for industrial or commercial development, and which has the approval of the governing body as to street alignments and widths.

4. Each parcel created by the division has a gross area of not less than sixteen (16) hectares [forty (40) acres].

5. The land is being subdivided solely for the creation of an environmental subdivision pursuant to Section 66418.2 of the Subdivision Map Act. This subsection shall only remain in effect until January 1, 2003.

A parcel map shall be required for these subdivisions described in subdivisions 1, 2, 3, 4 and 5.

#### Sec. 10-1.303. Division of Land—Four or Fewer Parcels. (Minor Subdivisions).

A tentative map and parcel map shall be required for all divisions of land into four (4) or fewer parcels, except that such maps shall not be required for:

1. Subdivisions of a portion of the operating right-of-way of a railroad corporation, defined by Section 230 of the Public Utilities Code, which are created by short-term leases terminable by either party on not more than thirty (30) days' notice in writing.
2. Land conveyed to or from a governmental agency, public entity or public utility, or for land conveyed to a subsidiary of a public utility for conveyance to the public utility for rights-of-way, unless a showing is made in individual cases, upon substantial evidence, that public policy necessitates a parcel map. The foregoing exemption shall only apply if, prior to the conveyance, the owner of the subject land complies with this section. The owner shall submit an application for exemption in the form and with such information as is required by the City Engineer. Upon receipt of a complete application by the Zoning Administrator, the Zoning Administrator shall either determine that the exemption applies, determine that the exemption applies subject to conditions or determine that public policy necessitates a parcel map. In making this determination, the Zoning Administrator shall consider any written materials submitted by the applicant or any interested party. The Zoning Administrator shall notify the applicant of the determination in writing. If the Zoning Administrator determines that a parcel map is necessary, the applicant shall not subdivide the subject land without obtaining City approval of a parcel map pursuant to this chapter. Notwithstanding the foregoing, a tentative map and parcel map for a division of land into four (4) or fewer parcels shall not be required for the dedication of land to a governmental agency, public entity or public utility which is required by the City as a condition of approval of a development project.

3. Lot line adjustments, provided:
   a. No additional parcels or building sites have been created,
   b. The adjustment does not create the potential to further divide either of the two parcels into more parcels than would have been otherwise possible, and
   c. There are no resulting violations of the Walnut Creek Municipal Code.

4. Parcel maps waived by the City Engineer as provided by §10-1.503.

Sec. 10-1.304. Plat Maps.

A plat map, in a form as required by the City Engineer, and a certificate of compliance, in accordance with §10-1.1303 shall be required for lot line adjustments, mergers, certificates of compliance and parcel map waivers.

Sec. 10-1.305. Fees and Deposits.

All persons submitting maps as required by this chapter shall pay all fees and/or deposits as provided by the City's resolution establishing fees and charges.

Article 4. Subdivision of Five or More Parcels

Sec. 10-1.401. Preliminary Maps (Deleted)

Sec. 10-1.402. Tentative Maps.

1. General. The form and contents, submittal and approval of a tentative map for subdivisions of five (5) or more parcels shall be governed by the provisions of this section.
The words *tentative map* in this Chapter shall also mean *vesting tentative map*. Any application for a vesting tentative map shall be subject to the provisions of Article 12 in addition to this Article.

2. *Form and Contents.* The tentative map shall be prepared in a manner acceptable to the Community Development Department and shall be prepared by a registered civil engineer or licensed land surveyor.

The tentative map shall be clearly and legibly drawn on a single 600 mm x 900 mm [24" x 36"] sheet and contain not less than the following:

a. A title which shall contain the subdivision number, subdivision name and type of subdivision.

b. Name and address of legal owner, subdivider and person preparing the map, including registration or license number.

c. Sufficient legal description to define the boundary of the proposed subdivision.

d. Date, north arrow, scale, contour interval, and source and date of existing contours.

e. Existing and proposed land uses and zoning districts.

f. A vicinity map showing streets, highways, adjacent jurisdictions, adjoining subdivisions, and other data sufficient to locate the proposed subdivision and show its relation to the community.

  g. Existing topography of the proposed site and at least thirty (30) meters [one hundred (100) feet] beyond its boundary, including but not limited to:

  1. Existing contours at 600 mm [2 foot] intervals if the existing ground slope is less than 10 percent and at not less than 1500 mm [5 foot] intervals for existing ground slopes greater than or equal to 10 percent. Contour intervals shall not be spread more than 46 meters [150 feet] apart. Existing contours shall be represented by dashed lines or by screened lines;

  2. Type, circumference and dripline of existing trees as defined by Chapter 8 of Title 3 (Preservation of Trees on Private Property) of the Walnut Creek Municipal Code. Any trees proposed to be removed shall be so indicated;

  3. The approximate location and outline of existing structures identified by type. Structures to be removed shall be so marked;

  4. The approximate location of all areas subject to inundation or storm water overflow and the location, width and direction of flow of each watercourse;

  5. The location, pavement and right-of-way width, grade and name of existing streets or highways;

  6. The widths, location and identity of all existing easements;
(7) The location and size of existing sanitary sewers, fire hydrants, water mains and storm drains and the location of fire hydrants. The approximate slope of existing sewers and storm drains shall be indicated. The location of existing overhead utility lines on peripheral streets, fire hydrants and street lights.

(8) The approximate location of the 60, 65 and 70 CNEL (community noise equivalent level) contours, if any.

h. Proposed improvements to be shown shall include but not be limited to:

(1) The location, grade, centerline radius and arc length of curves, pavement, right-of-way width, and name of all streets. Typical sections of all streets shall be shown. Proposed private streets shall be so indicated.

(2) The location and radius of all curb returns and cul-de-sacs;

(3) The location, width and purpose of all easements;

(4) The angle of intersecting streets if such angle deviates from a right angle by more than four degrees;

(5) The approximate lot layout and the approximate dimensions of each lot and of each building site. Engineering data shall show the approximate finished grading of each lot, the preliminary design of all grading, the elevation of proposed building pads, the top and toe of cut-and-fill slopes to scale, and the number of each lot;

(6) Proposed contours at 600 mm [2-foot] intervals shall be shown if the existing ground slope is less than 10 percent, and not at less than 1500 mm [5-foot] intervals for existing ground slopes of 10 percent or more. A separate grading plan may be submitted;

(7) Proposed recreation sites, trails and parks for private or public use;

(8) Proposed common areas and areas to be dedicated to public open space;

(9) The location and size of sanitary sewers, water mains and storm drains and the location of fire hydrants. Proposed slopes and approximate elevations of sanitary sewers and storm drains shall be indicated.

i. The name or names of any geologist or soils engineer whose services were required in the preparation of the design of the tentative map.

j. All lettering size shall be print of legible size.

k. If the subdivider plans to develop the site in units, the proposed units and their proposed sequence of construction shall be shown.
1. The Community Development Department may waive any of the above tentative map requirements if the location and nature of the proposed subdivision or existing documentation demonstrate that a waiver is justified. The Community Development Department may require other drawings, data or information as deemed necessary.

3. Accompanying Data and Reports. The tentative map shall be accompanied by the following data or reports:

   a. Street Names. A list of potential street names for any unnamed street or alley. The Community Development Department shall submit the list to the Street Naming Committee for comment and recommendations. Those comments and recommendations may be included in the staff report to the Planning Commission.

   b. Soils Report. A preliminary soils report prepared in accordance with the City's Grading Ordinance shall be submitted. If the preliminary soils report indicates the presence of critically expansive soils or other soil problems which, if not corrected, could lead to structural defects, the soils report accompanying the final map shall contain an investigation of each lot within the subdivision. The City Engineer may require additional information or reject the report if it is found to be incomplete, inaccurate or unsatisfactory.

      The preliminary soils report may be waived if the City Engineer determines that, due to knowledge of the soil qualities in the subdivision, no preliminary analysis is necessary.

   c. Title Report. A preliminary title report, showing the legal owners at the time of filing the tentative map.

   d. Engineering Geology and/or Seismic Safety Report. If the subdivision lies within a "medium-risk" or "high-risk" geologic hazard area, as shown on maps on file in the Community Development Department, a preliminary engineering geology and/or seismic safety report, prepared in accordance with guidelines established by the Community Development Department. If the preliminary engineering geology and/or seismic safety report indicates the presence of geologic hazards or seismic hazards which, if not corrected, would lead to structural defects, an engineering geology and/or seismic safety report shall accompany the final map and shall contain an investigation of each lot within the subdivision.

   e. School Site. The subdivider shall obtain from the school districts involved their intention, in writing, concerning the necessity for a school site and/or facilities, if any, within the subdivision and shall present this information to the Community Development Department prior to the consideration of the tentative map by the Planning Commission.

   f. Environmental Assessment. The subdivider shall provide additional data and information and deposit and pay such fees as may be required for the preparation and processing of environmental review documents.
g. **Arborist's Report and Tree Removal Permit Application.** If applicable, the subdivider shall submit a tree removal permit application in accordance with Title 3, Chapter 8 of this code and/or an arborist's report.

h. **Vesting Tentative Maps.** If applicable, the subdivider shall submit any information required under §10-1.1206.2.

i. **Other Reports.** Any other data or reports deemed necessary by the Community Development Department.

j. **Relocation Assistance.** If there will be displacement of persons residing in the existing residential units, applicant shall submit a relocation plan according to Title 9, Chapter 15 of this code.

Paragraphs a, c and d shall not apply to condominium conversions.

4. **Submittal to Community Development Department.** The tentative map shall be considered for filing only when the map conforms to Section 10-1.402.2 and when all accompanying data or reports, as required by subsection 10-1.402.3, have been submitted and accepted by the Community Development Department.

The subdivider shall file with the Community Development Department the number of tentative maps the director may deem necessary.

a. **Determination of Complete Application.** The Community Development Department shall determine whether the application is complete within thirty (30) days after receipt of the application and shall notify the applicant of its determination in writing. The application shall be determined as complete on the date a written "Certificate of Application Status", showing a complete application, is prepared by the Planning Division and mailed to the subdivider.

5. **Community Development Department Review and Subdivision Conference.** The Community Development Department shall forward copies of the tentative map to the affected public agencies which may, in turn, forward to the Community Development Department their findings and recommendations. Public agencies and utilities shall state that the subdivision can be adequately served.

Within five (5) days after the tentative map application is determined to be complete, the Community Development Department shall send a notice of the filing of the tentative map to the governing board of any elementary, high school or unified school district within the boundaries of which the subdivision is proposed to be located. The notice shall also contain information about the location of the proposed subdivision, the number of units, density, and any other information which would be relevant to the affected school district. The governing board may review the notice and may send a written report to the Planning Commission. The report shall indicate the impact of the proposed subdivision on the affected school district and shall make recommendations as the governing board of the district deems appropriate. In the event the school district fails to respond within a fifteen (15) day period from receipt of notice of the tentative map, the failure shall be deemed approval of the proposed subdivision by the school district. The Planning Commission shall consider the report from the school district in approving, conditionally approving or denying the tentative map.
Upon completion of review and preparation of any proposed conditions of approval by the Community Development Department and prior to the date the tentative map is scheduled for Planning Commission action, the Community Development Department may hold a subdivision conference on its own initiative. A subdivision conference shall be held if requested by the subdivider. Advance written notice of the subdivision conference shall be given to the subdivider or agent. The results of the subdivision conference and other relevant information and recommendations shall be reported to the Planning Commission. A copy of the report shall be served to the subdivider at least three days prior to any hearing or action on the map by the Planning Commission.

Any requests for exceptions to the various conditions to be considered by the Planning Commission shall be filed, in writing, with the Chief of Planning not later than the first working day following the subdivision conference.

6. **Design Review Commission Review.** Upon determination of a complete application, the application may, as determined by the Chief of Planning, be referred to the Design Review Commission for preliminary review and comment. The Design Review Commission may advise the Planning Commission in writing of any comments it desires to make and any changes in the proposed plan it deems appropriate as a result of its preliminary review.

7. **Planning Commission Action.**

   a. **Notice of Public Hearings.** Upon the determination of a complete application, completion of the subdivision conference, receipt of any recommendations from the Design Review Commission, and receipt of the Community Development Department's report and recommendations, the Secretary of the Planning Commission shall set the matter for public hearing. At least ten (10) calendar days before the public hearing, a notice shall be given of the time, date and place of the hearing including a general explanation of the matter to be considered and a general description of the area affected, and the street address, if any, of the property involved.

   The notice shall be published at least once in a newspaper of general circulation, published and circulated in the City.

   In addition to notice by publication, the Community Development Department shall give notice of the hearing by mail or delivery to all persons, including businesses, corporations or other public or private entities, shown on the last equalized assessment roll as owning real property within ninety (90) meters [three hundred (300) feet] of the property which is the subject of the proposed application.

   In addition, in the case of a proposed conversion of residential real property to a condominium, community apartment or stock cooperative project, notice shall be given as required by Section 66451.3 of the Subdivision Map Act.

   In the event that the proposed application has been submitted by a person other than the property owner shown on the last equalized assessment roll, the City shall also give mailed notice to the owner of the property as shown on the last equalized assessment roll.
In addition, notice shall be given by first class mail to any person who has filed a written request with the Secretary of the Planning Commission. The request may be submitted at any time during the calendar year and shall apply for the balance of the calendar year. The City may impose a reasonable fee on persons requesting the notice for the purpose of recovering the cost of the mailing.

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

At least three days prior to the public hearing, a copy of the Community Development Department report to the Planning Commission shall be delivered to the subdivider and, in the case of a proposed conversion of residential real property to a condominium project, community apartment project or stock cooperative project, to each tenant of the subject property.

b. Action.

(1) The Planning Commission shall approve, conditionally approve or deny the tentative map and shall report its decision to the City Council and the subdivider within fifty (50) days after certification of an environmental impact report, adoption of a negative declaration or a determination by the City that the project is exempt from the requirements of the California Environmental Quality Act. If applicable, the Planning Commission shall also approve, conditionally approve or deny a tree removal permit in accordance with Title 3, Chapter 8 of this Code.

(2) The approval, conditional approval, or denial shall be based on the ordinances, policies, and standards in effect on the date of notification to the subdivider of the determination that the application is complete according to §10-1.402.4.a. If the City has initiated formal proceedings and published notice of an ordinance or resolution amending ordinances, policies, and standards applicable to the subdivider's project prior to a complete application, the amended ordinances, policies, and standards in effect on the date of tentative map approval shall apply. If the subdivider requests changes in applicable ordinances, policies, and standards, and if they are adopted, the changes shall apply.

(3) If no action is taken by the Planning Commission within the time limit as specified, the tentative map application shall be deemed to be approved by the Planning Commission if it complies with other applicable provisions of the Subdivision Map Act, this chapter, other City ordinances and the General Plan, and it shall be the duty of the City Clerk to certify the approval. The appeal period shall begin on the date of such certification.

c. Approval.

(1) The Planning Commission may approve or conditionally approve the tentative map, if it finds that the proposed subdivision, together with the provisions for its design and improvement, is consistent with the general and any applicable specific plans adopted by the City of Walnut Creek and all applicable provisions of this Code and if the tentative map provides, to the extent feasible, for future passive or natural heating or cooling opportunities.

(2) The Planning Commission may modify or delete any of the conditions of approval recommended in the Community Development Department's report, except conditions required by City
ordinance or by the City Engineer, related to public health and safety or to standards approved by the City Engineer. The Planning Commission may add additional requirements as a condition of its approval.

(3) Whether or not such a condition is explicitly listed as a condition of approval, every approved tentative map shall be deemed to include a condition requiring the subdivider to defend, indemnify and hold harmless the City and its agents, officers and employees from any claim, action or proceeding against the City or its agents, officers or employees to attach, set aside, void or annul an approval of the City Council, Planning Commission, Design Review Commission or City Staff concerning a subdivision. The City shall promptly notify the subdivider of any claim, action or proceeding and shall cooperate fully in the defense.

d. Denial.

The tentative map may be denied by the Planning Commission on any of the grounds provided by this code or the Subdivision Map Act.

The Planning Commission shall deny approval of the tentative map if it makes any of the following findings:

(1) That the proposed map is not consistent with the General Plan, any applicable specific plans, or any applicable provision of this code;

(2) That the design or improvement of the proposed subdivision is not consistent with the General Plan or any applicable specific plans;

(3) That the site is not physically suitable for the type of development;

(4) That the site is not physically suitable for the proposed density of development;

(5) 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. Notwithstanding the foregoing, the Planning Commission may approve such a tentative map if an environmental impact report was prepared with respect to the project and a finding is made pursuant to §21081(c) of the Public Resources Code that specific economic, social or other considerations make infeasible the mitigation measures and project alternatives identified in the environmental impact report.

(6) That the design of the subdivision or the type of improvements are likely to cause serious public health problems;

(7) 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 Planning Commission may approve a map if it finds that alternate easements for access or for use will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to the
Planning Commission to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

(8) That the land is subject to a contract under the Williamson Act and that the resulting parcels following the subdivision would be too small to sustain their agricultural use, subject to the exceptions listed in Section 66474(b) of the Subdivision Map Act.

e. **City Council Review.**

(1) Any member of the City Council may request that the City Council review the decision of the Planning Commission concerning the tentative map application by either making such request orally at the first City Council meeting following the Commission meeting at which such decision was made or by filing a written request with the City Clerk prior to the expiration of the time during which an appeal can be made. When such review is requested by any member of the City Council, the request shall be deemed an appeal subject to the provisions of Section 10-1.402.7(g).

A request for review need not state the reasons for the request. A request for review shall not be deemed to be an allegation of any flaw in or a pre-judgment of the decision below, nor shall it affect any Council member's right to approve or disapprove the decision below.

(2) If the Council does not act within the time limits set forth in this article, the tentative map shall be deemed to have been approved or conditionally approved as set forth in the Planning Commission's report if it complies with all other applicable provisions of the Subdivision Map Act, this code and the General Plan.

f. **Extension of Time for Planning Commission or City Council Action.** The time limits set forth above for acting on the tentative map may be extended by mutual consent of the subdivider and the Planning Commission or the City Council.

g. **Appeals of Planning Commission Action.** Any action by the Planning Commission with respect to the tentative map may be appealed to the City Council by the subdivider, any tenant of the subject property or any other interested person adversely affected by the action. The appeal must be filed with the City Clerk within the (10) days after the action. The Council shall consider the appeal within thirty (30) days unless the subdivider consents to a continuance. This appeal shall be a public hearing after notice has been given pursuant to Section 10-1.402.7.a. In addition, notice shall be given to the subdivider, the appellant, and the Planning Commission. Upon conclusion of the public hearing, the Council shall, within seven (7) days, render its decision. The Council's review on appeal shall not be limited to the issues stated in the appeal. The Council may sustain, modify, reject or overrule any recommendations or rulings of the Planning Commission and may make such findings as are consistent with the provisions of this chapter or the Subdivision Map Act.
§10-1.402 Walnut Creek Municipal Code

8. Expirations and Extensions.

a. Expiration.

(1) The approval or conditional approval of a tentative map shall expire twenty-four (24) months after the date of approval by the Planning Commission or, if applicable, the City Council. However, the expiration date shall be extended in accordance with Section 66452.6(a) of the Subdivision Map Act if the filing of multiple final maps is authorized by Section 10-1.403.2 and if the subdivider is required to provide off-site improvements in the amounts specified in Section 66452.6(a) of the Subdivision Map Act. An extension to the expiration date may be approved as provided in Section 10-1.402.8.b.

(2) The period of time specified shall not include any period of time during which a development moratorium is in effect according to Section 66452.6(b) of the Subdivision Map Act.

(3) The period of time specified above shall not include any period of time during which a lawsuit has been filed and is pending in a court of competent jurisdiction involving the approval or conditional approval of a tentative map only if a stay of the time period is approved by the City Council. Within ten (10) days of the service of the initial petition or complaint upon the City, the subdivider shall, in writing, to the Chief of Planning, request a stay in the time period of the tentative map. Within forty (40) days after receiving the request, the City Council shall either stay the time period for up to five years or deny the requested stay. The request for the stay shall be a hearing with notice to the subdivider and to the appellant, and upon conclusion of the hearing, the City Council shall, within ten (10) days, declare its findings.

(4) Expiration of an approved or conditionally approved tentative or vesting tentative map shall terminate all proceedings and no final or parcel map of all or any portion of the real property included within the tentative map shall be filed without first processing a new tentative map.

(5) If the signed final map and agreement have been delivered to the City Engineer prior to the expiration of the tentative map, processing, approval and recording may occur after the expiration date of the tentative map.

b. Extensions.

(1) Request by Subdivider. The subdivider or the engineer may request an extension of the expiration date of the approved or conditionally approved tentative map by written application to the Community Development Department prior to expiration of the map. The map shall automatically be extended for sixty (60) days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first.

(2) Planning Commission Action. The Chief of Planning shall review the request and submit the application for the extension, together with a report, to the Planning Commission for approval, conditional approval or denial at the next scheduled Planning Commission meeting. A copy of the Chief of Planning's report shall be forwarded to the subdivider prior to the Planning Commission meeting on the extension. The resolution adopted by the Planning Commission approving or conditionally approving an extension shall specify the new expiration date of the tentative map.
§10-1.403 Walnut Creek Municipal Code §10-1.403

(3) **Time Limit of Extension.** The expiration date may be extended pursuant to this section for a period or periods totaling no more than three (3) years.

(4) **Conditions of Approval.** As a condition of the extension of a tentative map, the Planning Commission may impose new conditions or revise existing conditions on the approved tentative map as recommended by the Community Development Department in its report or as it may find necessary.

(5) **Appeal.** The subdivider or any interested person adversely affected may appeal any action of the Planning Commission on the extension to the City Council within fifteen (15) days of such action in conformance to Section 10-1.402.7.a of this chapter.

(6) **Fee.** The fee for processing an extension application shall be at actual cost. A deposit to be applied toward this fee may be required.

9. **Amendments to Approved Tentative Map.** Minor changes in the tentative map may be approved by the Community Development Department upon application by the subdivider or on its own initiative, provided:

   a. No lots, units or building sites are added;

   b. Such changes are consistent with the intent and spirit of the original tentative map approval;

   and

   c. There are no resulting violations of the Walnut Creek Municipal Code.

   Any such minor amendment shall be approved by the Chief of Planning and the City Engineer. The amendment shall be indicated on the approved map and signed by the Chief of Planning and the City Engineer.

   Amendments of the tentative map which the Community Development Department determines are not minor shall be presented to the Planning Commission for approval. Processing shall be in accordance with §§10-1.402.6 and 10-1.402.7.

   Any approved amendment shall not alter the expiration date of the tentative map.

Sec. 10-1.403. **Final Maps.**

1. **General.** The form, contents, accompanying data and filing of the final map shall conform to the provisions of this article.

   The final map shall be prepared by or under the direction of a registered civil engineer registered prior to January 1, 1982 or licensed land surveyor.

2. **Submittal by Units.** 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 Chief of Planning of the subdivider's intention to file multiple final maps.
on the tentative map. In providing the notice, the subdivider shall not be required to define the number or configuration of the proposed multiple maps. The Planning Commission shall approve the sequence of map approvals. After filing of the tentative map, the Chief of Planning and the subdivider shall concur in the filing of multiple final maps.

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

3. **Survey Required.** An accurate and complete survey of the land to be subdivided shall be made by a registered civil engineer registered prior to January 1, 1982 or licensed land surveyor. All monuments, property lines, centerlines of streets, alleys and easements adjoining or within the subdivision shall be tied into the survey. The allowable error of closure on any portion of the final map shall not exceed 1/10,000 for field closures and 1/20,000 for calculated closures.

At the time of making the survey for the final map, the engineer or surveyor shall set sufficient durable monuments to conform with the standards described in §8771 of the Business and Professions code so that another engineer or surveyor may readily retrace the survey. At least one exterior boundary line shall be monumented prior to recording the final map. Other monuments shall be set as required by the City Engineer.

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

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

The size of each sheet shall be 460 mm [eighteen (18) inches] by 660 mm [twenty-six (26)] inches. A marginal line shall be drawn completely around each sheet, leaving an entirely blank margin of 25 mm [one inch]. The scale of the map shall be not less than 1' = 100' or as may be necessary to show all details clearly, and enough sheets shall be used to accomplish this end. The particular number of the sheet and the total number of sheets comprising the map shall be stated on each of the sheets, and its relation to each adjoining sheet shall be clearly shown. When four or more sheets including the statement sheet are used, a key sheet shall be included.

All printing or lettering on the map shall be of a height and of such shape and weight as to be readily legible on prints and other reproductions made from the original drawings.

The final form of the final map shall be as approved by the City Engineer.
5. **Contents.** The contents of the final map shall conform to the Subdivision Map Act and as follows:

   a. **Boundary.** The boundary of the subdivision shall be designated by a heavy black line in such a manner as not to obliterate figures or other data.

   b. **Title.** Each sheet shall have a title showing the subdivision number and name and the location of the property being subdivided with reference to maps which have been previously recorded, or by reference to the plat of a United States Survey. The following words shall appear in the title, "City of Walnut Creek, Contra Costa County."

   c. **Statements.** The following statements shall appear only once on the cover sheet.

      (1) **Owner's Statement.** A statement, signed and acknowledged by all parties having record title interest in the land subdivided, consenting to the preparation and recordation of the map and offering for dedication to the public certain specific parcels of land or easements. Exceptions are those parties having rights of way, easements or interests which cannot ripen into a fee, or as provided in §66436 of the Subdivision Map Act.

      (2) **Trustee's Statement.** A statement, signed and acknowledged by any trustees of record at the time of City Council approval of the final map, consenting to the recording of the map and any offers of dedications.

         The notary acknowledgment for the owner's and trustee's statements shall be deemed complete for filing without the official seal of the notary, so long as the name of the notary, the county of the notary's principal place of business, and the notary's commission expiration date are typed or printed below or immediately adjacent to the notary's signature in the acknowledgment.

      (3) **Engineer's Statement.** A statement by the engineer or surveyor responsible for the survey and final map shall appear on the map. The statement shall give the date of the survey, state that the survey and final map were made by or under the direction of the engineer or surveyor, and that the survey is true and complete as shown.

         The statement shall also state that all the monuments are of the character and occupy the positions indicated, or that they will be set in such positions on or before a specified later date. The statement shall also state that the monuments are, or will be, sufficient to enable the survey to be retraced.

         The statement shall state that the map complies to the Subdivision Map Act and the provisions of this chapter.

      (4) **Statement of Soils and Geologic Report.** When a soils report, a geologic report, or soils and geologic reports have been prepared specifically for the subdivision, such fact shall be noted on the final map, together with the date of such report or reports, and the name of the engineer making the soils report and geologist making the geologic report.
(5) **City Engineer's Statement.** A statement by the City Engineer stating the map has been examined and that it is in accord with the tentative map and any approved alterations thereof, complies with the Subdivision Map Act of the state and the provisions of this Chapter, and is technically correct.

(6) **Planning Commission Statement.** A statement by the secretary of the Planning Commission stating that the tentative map was approved by resolution of the Planning Commission. The date and number of the resolution shall appear in the statement.

(7) **City Clerk's Statement.** A statement for execution by the City Clerk stating the date and number of the resolution adopted by the City Council approving the final map and stating that the City Council accepted, subject to improvement or rejected on behalf of the public, any real property offered for dedication for public use in conformity with the terms of the offer of dedication.

(8) **County Clerk's Statement.** A statement to be executed by the County Clerk stating that all taxes due have been paid or that a tax bond assuring the payment of all taxes which are a lien but not yet payable has been filed with the County.

(9) **County Recorder's Statement.** A statement to be executed by the County Recorder stating that the map has been accepted for recording, that the map has been examined and that it complies with the provisions of State laws and local ordinances governing the recording of final maps.

The statement shall show who requested the recording of the map, the time and date the map was recorded, and the book and page where the map was recorded.

d. **Scale, North Point and Basis of Bearings.** There must appear on each map sheet the scale, the north point, and the basis of bearings based on Zone III of the California Coordinates, and the equation of the bearing to true north. The basis of bearings shall be approved by the City Engineer.

e. **Linear, Angular and Radial Data.** Sufficient linear, angular and radial data shall be shown to determine the bearings and lengths of monument lines, street centerlines, the boundary lines of the subdivision, the boundary lines on every lot and parcel which is a part of the subdivision, and ties to existing monuments used to establish the boundary. Arc length, radius and total central angle and radial bearings of all curves shall be shown. Ditto marks shall not be used in the dimensions and data shown on the map.

f. **Monuments.** The location and description of all existing and proposed monuments shall be shown. Standard City monuments shall be set at or on City Engineer approved offsets from the following locations:

(1) The intersection of street centerlines.

(2) Beginning and end of curves or intersection of tangents on centerlines.

(3) Boundary, lot line and easement monuments shall be set at locations determined by the City Engineer.
g. **Lot Numbers.** Lot numbers shall begin with the number one (1) in each subdivision and shall continue consecutively with no omissions or duplications except where contiguous lands under the same ownership are being subdivided in successive units, in which event lot numbers may begin with the next consecutive number following the last number in the preceding unit. Each lot shall be shown entirely on one sheet of the final map, unless approved by the City Engineer. Alternatively, consecutive lot letters may be used in lieu of numbers.

h. **Adjoining Properties.** The adjoining corners of all adjoining subdivisions shall be identified by subdivision number, or name when not identified by official number, and reference to the book and page of the filed map showing such subdivision, and if no such subdivision is adjacent, then by the name of the owner, and reference to the recorded deed by book page number for the last recorded owner of such adjacent property.

i. **City Boundaries.** City boundaries which cross or join the subdivision shall be clearly designated.

j. **Street Names.** The names of all streets, alleys or highways within or adjoining the subdivision shall be shown.

k. **Easements.** Easements for roads or streets, paths, storm water drainage, sanitary sewers, or other public use as may be required, shall be dedicated to the public for acceptance by the City or other public agency, and the use shall be specified on the map.

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

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

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

l. **Additional Information.** The City may require additional information to be recorded simultaneously with the final map. The additional information shall be in the form of a separate document or an additional map sheet which shall indicate its relationship to the final map, and shall contain a statement that the additional information is for informational purposes, describing conditions as of the date of the recording, and is not intended to affect record title interest. The document or additional map sheet may also contain a notation that the additional information is derived from public records, or reports, and does not imply the correctness or sufficiency of those records or reports by the preparer of the document or additional map sheet. Whenever additional information is made by separate document, there shall appear on the final map a reference to the separately recorded document. This reference shall be completed by the county recorder according to §66468.1 of the Subdivision Map Act.
6. **Submittal for City Approval.**

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

   1. **Improvement Plans.** Improvement plans as required by Section 10-1.806 of this chapter;
   2. **Soils Report.** A soils report prepared in accordance with Chapter 9, Title 9 of the Walnut Creek Municipal Code;
   3. **Title Report.** A title report showing the legal owners at the time of submittal of the final map;
   4. **Improvement Agreement.** In the event sewer, water, drainage, grading, paving, or other improvements required pursuant to §10-1.801 et seq. have not been completed prior to the presentation of the final map, an agreement in accordance with the requirements of §10-1.807 shall be filed for the improvement thereof. The subdivider shall secure the performance of the agreement in accordance with the requirements of §10-1.808;
   5. **Deeds for Easements or Rights-of-Way.** Deeds for easements or rights-of-way required for road or drainage purposes which have not been dedicated on the final map. Written evidence acceptable to the City in the form of rights of entry or permanent easements across private property outside of the subdivision permitting or granting access to perform necessary construction work and permitting the maintenance of the facility;
   6. **Traverse Closures.** Traverse closures for the boundary blocks, lots, easements, street centerlines and monument lines.
   7. **Hydrology and Hydraulic Calculations.** Complete hydrology and hydraulic calculations of all storm drains;
   8. **Governing Documents.** If required by the City, the submittal of the final map or parcel map for a common interest development within the meaning of §§1350 et seq. of the California Civil Code shall include the proposed Declaration of Covenants, Conditions and Restrictions containing the provisions described in §1353 of the Civil Code, and all other governing documents for the subdivision. The submittal of the final map or parcel map for all subdivisions other than a common interest development shall include any Declaration of Covenants, Conditions and Restrictions proposed in connection therewith. All documents shall be subject to review and approval by the City Engineer and City Attorney.
   9. **Guarantee of Title.** A guarantee of title, in a form acceptable to the City Engineer and City Attorney, shall be issued by a competent title company for and for the benefit and protection of the City and shall be continued complete up to the instant of recording of the final map, guaranteeing that the names of all persons whose consent is necessary to pass a clear title to the land being subdivided, and all public easements being offered for dedication, and all acknowledgments thereto, appear on the proper certificates.
and are correctly shown on the map, both as to consents to the making thereof and affidavits of dedication where necessary.

(10) **Flood Plain Information.** Flood plain information including the amount of flooding that may occur during a storm with a frequency of once in 100 years, and mitigation measures necessary to protect the subdivision from flooding during a storm with a frequency of once in 100 years.

(11) Any additional data, reports or information as required by the City Engineer.

b. **Review by City Engineer.** The City Engineer shall review the final map and the subdivider's engineer or surveyor shall make corrections and/or additions until the map is acceptable to the City Engineer.

c. **Approval by City Engineer.** The subdivider's engineer or surveyor shall submit the original tracing of the map, corrected to its final form and signed by all parties required to execute the statements on the map, to the City Engineer.

The City Engineer and Chief of Planning shall sign the appropriate statements and transmit the original to the City Clerk. The City Clerk shall transmit the final map to the City Council at its next meeting.

d. **Approval by City Council.** The City Council shall approve or disapprove the final map at the meeting at which it receives the map or at its next regular meeting after the meeting at which it receives the map. The City Council shall approve or disapprove the subdivision improvement agreement prior to approving or disapproving the final map. The City Council shall approve the subdivision improvement agreement and the final map if they conform with the approved or conditionally approved tentative map, the provisions of this code which were applicable at the time of approval or conditional approval of the tentative map and the provisions of the Subdivision Map Act.

If the City Council approves the final map, it shall at the same time accept, accept subject to improvement, or reject any offer of dedication. The City Clerk shall certify on the final map the action by the City Council. If at the time the final map is approved, any streets, paths, alleys, public utility easements, rights-of-way for local transit facilities, or storm drainage easements are not accepted by the City Council, the offer of dedication shall remain open and the City Council may, by resolution at any later date, and without further action by the subdivider, rescind its action and accept and open the streets, paths, alleys, rights-of-way for local transit facilities, or storm drainage easements, which acceptance shall be recorded in the office of the County Recorder.

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

If the subdivision improvement agreement and final map are approved by the City Council, it shall instruct the Mayor to execute the agreement on behalf of the City. If the subdivision improvement agreement and/or final map are unacceptable, the Council shall make its recommended corrections, instruct the City Engineer to draft a new agreement and/or revise the final map and defer approval until an acceptable agreement and/or final map have been resubmitted.
The City Council shall not postpone or refuse approval of a final map because the subdivider has failed to meet a tentative map condition requiring construction of off-site improvements on land which neither the subdivider or the City has sufficient title or interest to permit the improvements to be made. In this case the City shall follow procedure according to Section 10-1.802.7.

e. **Denial by City Council.** The City Council shall deny the final map if it finds that the final map is not in substantial compliance with the previously approved tentative map.

f. **Filing with the County Recorder.** Upon approval of the final map by the City Council, the City Clerk shall execute the appropriate statement on the map and forward the map, or have an authorized agent forward the map, to the County Recorder. If the subdivider dedicates property in fee for public purposes to the City, the City Clerk shall also prepare and forward for recording a certificate concerning the dedication as provided in §66477.5 of the Subdivision Map Act.

**Article 5. Subdivision of Four or Fewer Parcels (Minor Subdivisions)**

**Sec. 10-1.501. Tentative Parcel Map.**

1. **General.** The form and contents, submittal and approval of tentative parcel maps for four (4) or fewer parcels shall conform to the provisions of this article. The map shall be prepared by a registered civil engineer or licensed land surveyor.

2. **Form and Content, Accompanying Data and Reports.** The tentative map shall be prepared in a manner acceptable to the Community Development Department by a registered civil engineer or licensed land surveyor. The form and contents shall comply and be consistent with the requirements of §10-1.402.2 and the accompanying data and reports shall comply and be consistent with §10-1.402.3. The Community Development Department may require additional information or may waive any of these requirements if the location and nature of the proposed subdivision or existing documentation demonstrates that a waiver is justified.

3. **Department Review.** The tentative map application shall be filed with the Community Development Department for review in accordance with the provisions of Sections 10-1.402.4 and 10-1.402.5.

4. **Notice of Public Hearings.** Upon completion of the review and upon receipt of a complete application for the tentative map, the Zoning Administrator shall set the matter for public hearing. At least ten (10) calendar days before the public hearing, a notice shall be given of the time, date and place of the hearing, including a general explanation of the matter to be considered and a general description of the area affected, and the street address, if any, of the property involved.

The City shall give notice of the hearing by mail or delivery to all persons, including businesses, corporations or other public or private entities, shown on the last equalized assessment roll as owning real property within ninety (90) meters [300 feet] of the property which is the subject of the proposed application.
In addition, in the case of a proposed conversion of residential real property to a condominium, community apartment or stock cooperative project, notice shall be given as required by §66451.3 of the Subdivision Map Act.

In the event that the proposed subdivision has been requested by a person other than the property owner as such property owner is shown on the last equalized assessment roll, the City shall also give mailed notice to the owner of the property as shown on the last equalized assessment roll.

In addition, notice shall be given by first class mail to any person who has filed a written request with the secretary of the Planning Commission. A request may be submitted at any time during the calendar year and shall apply for the balance of a calendar year. The City may impose a reasonable fee on persons requesting notice for the purpose of recovering the cost of mailing.

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

The Zoning Administrator may require that the public hearing be held by the Planning Commission when there is extraordinary public concern about the subdivision. The hearing and action shall be in accordance with Section 10-1.402.7.d of this ordinance.

5. **Action by Zoning Administrator.** After the conclusion of the public hearing, the Zoning Administrator shall approve, conditionally approve, or deny the tentative map in accordance with the provisions of §§10-1.402.7.c. and 10-1.402.7.d. The decision, along with any conditions imposed, shall be mailed to the applicant and engineer. If the tentative map is denied, the applicant and the engineer shall be so notified in writing with a statement of the reasons for denial. If the map is approved, it shall be signed and dated by the Zoning Administrator.

6. **Approval and/or Denial.** In approving or conditionally approving the tentative map, the Zoning Administrator shall find that the proposed subdivision, together with its provisions for its design and improvements, is consistent with the General Plan and any applicable specific plans adopted by the City and all applicable provisions of this code and if the tentative map provides, to the extent feasible, for future passive or natural heating or cooling opportunities. Whether or not such a condition is explicitly listed as a condition of approval, every approved tentative map shall be deemed to include a condition requiring the subdivider to defend, indemnify and hold harmless the City and its agents, officers and employees from any claim, action or proceeding against the City or its agents, officers or employees to attach, set aside, void or annul an approval of the City Council, Planning Commission, Design Review Commission or City Staff concerning a subdivision. The City shall promptly notify the subdivider of any claim, action or proceeding and shall cooperate fully in the defense.

The tentative parcel map may be denied for any reason provided by City ordinances, resolutions, or the Subdivision Map Act. The Zoning Administrator shall deny approval of the tentative parcel map if any of the findings contained in Section 10-1.402.7.d. are made.

   a. By Subdivider. If the subdivider disagrees with any action by the Zoning Administrator with respect to the tentative map, the subdivider may, within ten (10) days of the decision, file an appeal within the secretary of the Planning Commission.

   b. By Interested Persons Adversely Affected. Any interested person adversely affected by a decision of the Zoning Administrator with respect to the tentative map may, within ten (10) days of such decision, file an appeal with the secretary of the Planning Commission.

   c. By Tenants. Any tenant of the property being subdivided in the course of a proposed conversion of residential real property to a condominium, community apartment or stock cooperative project may, within ten (10) days of a decision by the Zoning Administrator concerning the tentative map, file an appeal with the secretary of the Planning Commission.

   d. Planning Commission Action. The Planning Commission shall consider the appeal within thirty (30) days of the filing of the appeal. This appeal shall be a public hearing with notice being given pursuant to Section 10-1.402.7 and with additional notices to be given to the subdivider and to the affected interested persons. Upon conclusion of the public hearing the Planning Commission shall within seven (7) days declare its findings. The Planning Commission may sustain, modify, reject or overrule any recommendations or rulings of the Community Development Department and may make findings as are consistent with the provisions of this chapter and the Subdivision Map Act.

     Any interested person adversely affected by a decision of the Planning Commission with respect to the tentative map may file an appeal with the City Council concerning the decision. The procedure contained in Section 10-1.402.7 shall apply.

8. Expiration and Extensions.

   a. Expiration. The approval or conditional approval of the tentative parcel map shall expire twenty-four (24) months from the date of its approval by the Zoning Administrator, Planning Commission or City Council, whichever occurs last.

     The period of time specified shall not include any period of time during which a lawsuit has been filed and is pending in a court of competent jurisdiction involving the approval or conditional approval of a tentative map only if a stay of the time period is approved by the City Council. Within ten (10) days of the service of the initial petition or complaint upon the City, the subdivider shall, in writing, to the Chief of Planning, request a stay in the time period of the tentative map. Within forty (40) days after receiving such request, the City Council shall either stay the time period for up to five (5) years or deny the requested stay. The request for the stay shall be a hearing with notice to the subdivider and to the appellant, and upon conclusion of the hearing, the City Council shall, within ten (10) days, declare its findings.

     The period of time specified shall not include any period of time during which a development moratorium is in effect according to Section 66463.5 of the Subdivision Map Act.
The expiration of the approved or conditionally approved tentative parcel map shall terminate all proceedings and no parcel map of all or any portion of the real property included within the tentative parcel map shall be filed without first processing a new tentative parcel map.

If the signed parcel map and agreement, if required, are submitted to the City Engineer prior to the expiration of the tentative map, approval, processing and recording may occur after the expiration date of the tentative map.

b. Extensions.

(1) Request by Subdivider. The subdivider or engineer may request an extension of the expiration date of the approved or conditionally approved tentative map by written application to the Zoning Administrator prior to the expiration of the map. The map shall automatically be extended for sixty (60) days or until the application for extension is approved, conditionally approved or denied whichever occurs first.

(2) Zoning Administrator Action. The Zoning Administrator shall review the request for extension for approval, conditional approval or denial. The Zoning Administrator shall make a written determination on the request and, if approved or conditionally approved, shall specify the new expiration date.

(3) Time Limit of Extension. The expiration date may be extended pursuant to this section for a period or periods totaling no more than three (3) years.

(4) Conditions of Approval. As a condition of the extension of a tentative map, the Zoning Administrator may impose new conditions or revise existing conditions of the tentative map.

(5) Appeal. The subdivider may appeal any action of the Zoning Administrator concerning an extension to the Planning Commission within fifteen (15) days of such action in conformance with Section 10-1.501.7.

(6) Fee. The fee for processing an extension shall be at actual cost. A deposit to be applied toward this fee shall be required.

9. Amendments to the Approved Tentative Map. Amendments to the tentative map or conditions of approval may be approved by the Community Development Department upon application by the subdivider or on its own initiative, provided:

   a. No lots, units or building sites are added;

   b. Such changes are consistent with the intent of the original tentative map approval; and

   c. There are no resulting violations of the Walnut Creek Municipal Code.

Any revision shall be approved by the Zoning Administrator. The revision shall be denoted on the approved tentative map and/or in writing to the subdivider, whichever is appropriate.
Any amendment shall not affect the expiration date of the approved tentative map.

The Zoning Administrator may require a new tentative parcel map application in lieu of the above procedure when, in his or her opinion, requested changes are substantial enough to warrant refiling and reprocessing.

Sec. 10-1.502. Parcel Maps.

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

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

3. **Form.** The form of the parcel map shall conform to final map form requirements as specified by Section 10-1.403.4.

4. **Contents.** The contents of the parcel map shall conform to final map content requirements as specified by Section 10-1.403.5, excepting c (4), (6) and (7) and g.

   Statements shall be in accordance with Section 66449 of the Government Code, with the addition of the Trustee's Certificate according to Section 10-1.403.5c(2). The parcel map shall include a statement by the Zoning Administrator stating the tentative map was approved by the Zoning Administrator.

   The Planning Commission statement will be required if the tentative map was referred to, or appealed to, the Planning Commission for its consideration. The City Clerk's statement will be required if the tentative map was appealed to the City Council. The City Engineer's statement may include acceptance of offers of dedication.

   Lots shall be designated by letters commencing with "A" and shall continue consecutively with no omissions or duplications. (§1, Ord. 1603, eff. 9/13/84)

5. **Preliminary Submittal.** The subdivider shall submit prints of the parcel map to the City Engineer for checking. The preliminary prints shall be accompanied by copies of the data, plans, reports and documents as required for final maps by Section 10-1.403.6.a, "Preliminary Submittal".

   The City Engineer may waive any of the requirements if the location and nature of the proposed subdivision or existing documentation demonstrates that compliance with the requirements of Section 10-1.403.6 is not necessary.

6. **Review by City Engineer.** The City Engineer shall review the parcel map and the subdivider's engineer shall make corrections and/or additions until the map is acceptable to the City Engineer. The
§10-1.503 Walnut Creek Municipal Code §10-1.503

subdivider's engineer shall submit the original tracing of the map, corrected to its final form and signed by all parties required to execute the statements on the map, to the City Engineer.

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

8. **Filing with the County Recorder.** The City Clerk or authorized agent shall file the approved parcel map directly with the County Recorder.

**Sec. 10-1.503. Waiver of Parcel Map Requirements.**

A subdivider may file an application for a waiver of the requirements for a tentative and/or parcel map in a form acceptable to the Zoning Administrator. The Zoning Administrator may waive the parcel map for the following:

1. Division of real property or interests therein created by probate, eminent domain procedures, partition, or other civil judgments or decrees; or

2. A division of property resulting from the conveyance of land or any interest therein to or from the City, public entity or public utility for a public purpose, such as school sites, public building sites, or rights of way or easements for streets, sewers, utilities, drainage, or other facilities or

3. Any other division of real property which would otherwise require a parcel map.

Upon receipt of an application for a parcel map waiver, the Zoning Administrator shall give notice of the application by mail or delivery to all persons, businesses, corporations or other public or private entities, shown on the last equalized assessment roll as owning real property within ninety (90) meters [three hundred (300) feet] of the subject property, and all such persons and entities shall be given an opportunity to respond in writing within ten (10) days of receipt of the notice.

The Zoning Administrator may waive the parcel map as provided in this section only upon making a finding that the proposed division of land complies with requirements as to area, improvement and design, floodwater drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection, and other requirements of this chapter, local ordinance and the Subdivision Map Act.

The Zoning Administrator shall act upon the application for a parcel map waiver with sixty (60) days after the application is deemed complete.

The Zoning Administrator shall deny the parcel map waiver if all public improvements have not been constructed.

Upon waiving the parcel map requirement, the Zoning Administrator shall cause to be recorded with the County Recorder a "Certificate of Compliance" for the land to be divided, a plat map showing the division and a legal description of the parcels. The certificate shall include a statement regarding payment of taxes for signature by the County Clerk according to §10-1.403.5.c(8).
A parcel map waived by the Zoning Administrator may be conditioned to provide for payment of park land dedication, drainage, and other fees by a method approved by the Zoning Administrator. If the Zoning Administrator denies an application to waive a parcel map, the subdivider may apply for a tentative and parcel map in accordance with this Article. (§1, Ord. 1530, eff. April 22, 1982, by §1, Ord. 1603, eff. September 13, 1984, and by §1, Ord. 1629, eff. July 25, 1985)

Article 6. Dedications and Reservations

Sec. 10-1.601. Dedication of Streets, Alleys and Other Public Rights-of-way or Easements.

As a condition of approval of a tentative, or parcel map, the subdivider shall dedicate or make an irrevocable offer of dedication of all parcels of land within the subdivision that are needed for streets and alleys, including access rights and abutters' rights, drainage, public greenways, scenic easements, public utility easements, and other public easements. In addition, the subdivider shall improve or agree to improve all streets and alleys, including access rights and abutters' rights, drainage, public utility easements and other public easements.

Improvements shall be in accordance with Article 8 of this chapter. (§1, Ord. 1530, eff. April 22, 1982)

Sec. 10-1.602. Park Land Dedication.

1. General. This section is enacted pursuant to the authority granted by the Subdivision Map Act and the general police power of the City. The park and recreational facilities for which dedication of land and/or payment of a fee is required by this article are in accordance with the General Plan of the City of Walnut Creek, and any amendments thereto.

2. Requirements. As a condition of approval of a tentative map, the subdivider shall dedicate land, pay a fee in lieu thereof, or both, at the option of the City, for park or recreational purposes at the time and according to the standards and formula contained in this article.

3. General Standard. It is found and determined that the public interest, convenience, health, welfare and safety require that two (2) hectares [five acres] of property for each 1,000 persons residing within the City be devoted to local park and recreational purposes.

4. Standards and Formula for Dedication of Land. Where a park or recreational facility has been designated in the General Plan of the City, and is to be located in whole or in part within the proposed subdivision and is reasonably related to serving the immediate and future needs of the residents of the subdivision, the subdivider shall dedicate land for a local park sufficient in size and topography to meet that purpose.

The amount of land to be provided shall be determined pursuant to the following standards and formula:

\[
\text{Acres of Park Land per Dwelling Unit} = \frac{2 \text{ hectares [5 Acres]}}{1000 \text{ Persons per Dwelling Unit}} \times \frac{\text{Average Number of Persons per Dwelling Unit}}{}
\]
The following table based on the above formula is to be followed:

<table>
<thead>
<tr>
<th>Typical Dwelling Unit Type</th>
<th>Average Persons per Dwelling Unit</th>
<th>Acreage Requirement per dwelling unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single family</td>
<td>4.0</td>
<td>0.008 hectares [.0200 acres]</td>
</tr>
<tr>
<td>Single family</td>
<td>3.5</td>
<td>0.007 hectares [.0175 acres]</td>
</tr>
<tr>
<td>Single family</td>
<td>3.0</td>
<td>0.006 hectares [.0150 acres]</td>
</tr>
<tr>
<td>Single family or Multi-family</td>
<td>2.5</td>
<td>0.005 hectares [.0125 acres]</td>
</tr>
<tr>
<td>Multi-family</td>
<td>2.0</td>
<td>0.004 hectares [.0100 acres]</td>
</tr>
<tr>
<td>Multi-family</td>
<td>1.0</td>
<td>0.002 hectares [.0050 acres]</td>
</tr>
</tbody>
</table>

Unless there is evidence to the contrary, the following criteria will be used to estimate population. Planned unit developments, apartments, condominiums or other residential projects with known floor plans, will be assumed to average one person per bedroom. Otherwise, single-family medium density projects will be assumed to average 3.5 persons per dwelling unit, single-family low density projects will be assumed to average 3.5 persons per dwelling unit, and projects with, single-family very low density will be assumed to average 4.0 persons per dwelling unit. (§1, Ord. 1603, eff. 9/13/84)

5. Formula for Fees in Lieu of Land Dedication.

a. **General Formula.** If there is no park or recreational facility designated in the City of Walnut Creek's General Plan to be located in whole or in part within the proposed subdivision to serve the immediate and future needs of the residents of the subdivision, the subdivider shall, in lieu of dedicating land, pay a fee equal to the value of the land prescribed for dedication in Section 10-1.602.4 and in an amount determined in accordance with the provisions of §10-1.602.7, the fee to be used for a local park or recreational facility which will serve the residents of the area being subdivided.

b. **Fees in Lieu of Land—50 Parcels or Less.** If the proposed subdivision contains 50 parcels or less and is not a condominium, stock cooperative or community apartment project containing more than 50 dwelling units, the subdivider shall pay a fee equal to the land value of the portion of the local park or recreational facility required to serve the needs of the residents of the proposed subdivision as prescribed in Section 10-1.602.4 and in an amount determined in accordance with the provisions of Section 10-1.602.7.

c. **Use of Money.** The money collected hereunder shall be used only for the purpose of providing park or recreational facilities reasonably related to serving the subdivision by way of the purchase of necessary land or, if the Park Recreation and Open Space Commission deems that there is sufficient land available for the subdivision, for improving of such land for park and recreational purposes. The City Council finds and determines that the relatively compact geography of Walnut Creek, the range of recreational programs offered by the City and non-profit groups which use City facilities, and the mobility of its residents result in residents of each area of the City making use of and being served by each park and recreational facility owned by the City. Accordingly fees collected under this Article may be used in any City park or recreational facility. The money shall be committed within five (5) years after payment or the issuance of building permits on one-half of the lots created by the subdivision, whichever occurs later.
the money is not committed, it shall be distributed and paid to the then record owners of the subdivision in
the same proportion the size of their lot bears to the total area of all lots in the subdivision.

6. **Criteria for Requiring both Dedication and Fee.** In subdivisions of over 50 lots, or, in the case of
a condominium project, stock cooperative or community apartment project, if the subdivision contains more
than fifty (50) dwelling units the subdivider shall both dedicate land and pay a fee in lieu of dedication in
accordance with the following:

   a. When only a portion of the land to be subdivided is proposed in the General Plan as the site
      for a local park or recreational facility, such portion shall be dedicated for local park purposes and a fee
      computed pursuant to the provisions of §10-1.602.7 hereof shall be paid for any additional land that would
      have been required to be dedicated pursuant to §10-1.602.4.

   b. When a major part of the local park or recreational site has already been acquired by the City
      and only a small portion of land is needed from the subdivision to complete the site, such remaining portion
      shall be dedicated and a fee computed pursuant to §10-1.602.7 shall be paid in an amount equal to the value
      of the land which would otherwise have been required to be dedicated pursuant to §10-1.602.4. The fees
      shall be used for the improvement of the existing park and recreational facility or for the improvement of
      other local parks and recreational facilities reasonably related to serving the subdivision.

7. **Amount of Fee in Lieu of Park Land Dedication.** When a fee is required to be paid in lieu of park
land dedication, the amount of the fee shall be based upon the average estimated fair market value of the
land being subdivided or the fair market value of the land which would otherwise be required to be
dedicated according to §10-1.602.4.

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

8. **Subdivisions not within General Plan.** When the proposed subdivision lies within an area not then
within, but to be included within, the City's General Plan, the subdivider shall dedicate land, pay a fee in
lieu thereof, or both, in accordance with the adopted park and recreational principles and standards of the
City's General Plan and in accordance with the provisions of this article.

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

   a. Community Resources of the City's General Plan;

   b. Topography, geology, access and location of land in the subdivision available for dedication;

   c. Size and shape of the subdivision and land available for dedication;
d. Feasibility of dedication; and

e. Availability of previously acquired park property.

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

10. **Credit for Private Recreation or Open Space.** Where a substantial private park and recreational area is provided in a proposed subdivision and such space is to be privately owned and maintained by the future residents of the subdivision, partial credit, not to exceed 50%, may be given against the requirement of land dedication or payment of fees in lieu of, if the Park, Recreation and Open Space Commission finds that it is in the public interest to do so and that all the following standards are met:

a. That yards, court areas, setbacks and other open areas required to be maintained by the zoning and building ordinances and regulations shall not be included in the computation of such private open space;

b. That the private ownership and maintenance of the open space is adequately provided for by recorded written agreement, conveyance or restrictions;

c. That the use of the private open space is restricted for park and recreational purposes by recorded covenant, which runs with the land in favor of the future owners of property and which cannot be defeated or eliminated without the consent of the City or its successor;

d. That the proposed private open space is reasonably adaptable for use for park and recreational purposes, taking into consideration such factors as size, shape, topography, geology, access and location;

e. That facilities proposed for the open space are in substantial accordance with the provisions of the General Plan; and

f. That the open space for which credit is given is a minimum of two (2) acres and provides a minimum of four (4) of the local park basic elements listed below, or a combination of such and other recreational improvements that will meet the specific recreation park needs of the future residents of the area:

<table>
<thead>
<tr>
<th>Criteria List</th>
<th>Acres</th>
</tr>
</thead>
<tbody>
<tr>
<td>Children's play apparatus area</td>
<td>.50 -.75</td>
</tr>
<tr>
<td>Landscape park-like and quiet areas</td>
<td>.50 -1.00</td>
</tr>
<tr>
<td>Family picnic area</td>
<td>.25 -.75</td>
</tr>
<tr>
<td>Game court area</td>
<td>.25 -.50</td>
</tr>
<tr>
<td>Turf playfield</td>
<td>1.00-3.00</td>
</tr>
<tr>
<td>Swimming pool (42' x 75') with adjacent deck and lawn areas)</td>
<td>.25 -.50</td>
</tr>
<tr>
<td>Recreation center building</td>
<td>.15 -.25</td>
</tr>
<tr>
<td>Recreation Community Gardening</td>
<td>.15 -.50</td>
</tr>
</tbody>
</table>
Before credit is given, the Parks, Recreation and Open Space Commission shall make written findings that the above standards are met. (§1, Ord. 1603, eff. 9/13/84)

11. Procedure. At the time of approval of the tentative subdivision or parcel map, the Parks, Recreation and Open Space Commission shall determine, after a report and recommendation from the Public Service Department, pursuant to §10-1.602.9, whether land is to be dedicated or in-lieu fees are to be paid by the subdivider or any combination of land and fees. The recommendation by the Public Service Department and the action of the Parks, Recreation and Open Space Commission shall include the following:

(A) The amount of land required; or

(B) That a fee be charged in lieu of land; or

(C) That land and a fee be required; and/or

(D) That a stated amount of credit be given for private recreation facilities or unique natural and special features, etc.;

(E) The action in subsection a. above shall be reviewed by the Planning Commission or the Zoning Administrator for concurrence. If concurrence is not obtained, this matter will be forwarded to the City Council for final determination. In making its determination, the Council shall be guided by the same standards contained in this article where applicable.

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

Open space covenants for private park or recreational facilities shall be submitted to the City prior to approval of the final subdivision map and shall be recorded contemporaneously with the final subdivision map.

The Public Services Director shall develop a schedule specifying how, when and where the City will use the fees to develop park or recreation facilities in compliance with Section 10-1.602.5. This schedule may be presented to the Park, Recreation and Open Space Commission of the City and, after their review, incorporated in the Capital Improvement Program of the City. The schedule may be amended from time to time and may be modified by action of the City Council in the adoption of the Capital Improvement Program or by other Council action.

12. Commencement of Development. At the time of approval of the final or parcel map, the City shall specify when development of the park or recreational facilities shall be commenced.

13. Non-Applicable Subdivisions. The provisions of this article do not apply to commercial or industrial subdivisions, condominium projects or stock cooperatives which consist of the subdivision of airspace in an existing apartment building which is more than five years old when no new dwelling units are added. (§1, Ord. 1530, eff. April 22, 1982, as reaffirmed by §1, Ord. 1556, eff. December 30, 1982, §1, Ord. 2034, eff. 8/5/04)
Sec. 10-1.603. School Site Dedication.

1. General. As a condition of approval of a final subdivision map, a subdivider who develops or completes the development of one or more subdivisions within a school district shall dedicate to the school district such lands as the City shall deem necessary for the purpose of constructing thereon schools necessary to assure the residents of the subdivision adequate elementary school service.

2. Procedure. The requirement of dedication shall be imposed at the time of approval of the tentative map. If within thirty (30) days after the requirement of dedication is imposed by the City the school district does not offer to enter into a binding commitment with the subdivider to accept the dedication, the requirement shall be automatically terminated. The required dedication may be made any time before, concurrently with, or up to sixty (60) days after the filing of the final map on any portion of the subdivision.

3. Payments to Subdivider for School Site Dedication. The school district shall, if it accepts the dedication, repay to the subdivider or his or her successors the original cost to the subdivider of the dedicated land, plus a sum equal to the total of the following amounts:

   a. The cost of any improvements to the dedicated land since acquisition by the subdivider;

   b. The taxes assessed against the dedicated land from the date of the school district's offer to enter into the binding commitment to accept the dedication;

   c. Any other costs incurred by the subdivider in maintenance of such dedicated land, including interest costs incurred on any loan covering such land.

4. Exemptions. The provisions of this section shall not be applicable to a subdivider who has owned the land being subdivided for more than ten (10) years prior to the filing of the tentative maps.

Sec. 10-1.604. Reservations.

1. General. As a condition of approval of a tentative map, the subdivider shall reserve sites, appropriate in area and location, for parks, recreational facilities, fire stations, libraries or other public uses according to the standards and formula contained in this section.

2. Standards for Reservation of Land. Where a park, recreational facility, fire station, library or other public use is shown on an adopted specific plan or the General Plan containing a community facilities element, recreation and parks element and/or a public building element, the subdivider may be required by the City to reserve sites as so determined by the City in accordance with the principles and standards contained in the above specific plan or General Plan. The reserved area must be of such size and shape as to permit the balance of the property within which the reservation is located to develop in an orderly and efficient manner. The amount of land to be reserved shall not make development of the remaining land held by the subdivider economically unfeasible. The reserved area shall be consistent with the adopted specific plan or the General Plan and shall be in such multiples of streets and parcels as to permit an efficient division of the reserved area in the event that it is not acquired within the prescribed period.
3. **Procedure.** The public agency for whose benefit an area has been reserved shall, at the time of approval of the final map or parcel map, enter into a binding agreement to acquire such reserved area within two years after the completion and acceptance of all improvements unless the period of time is extended by mutual agreement.

4. **Payment to Subdivider.** The purchase price shall be the fair market value thereof at the time of the filing of the tentative map plus the taxes against such reserved area from the date of the reservation and any other costs incurred by the subdivider in the maintenance of the reserved area, including interest costs incurred on any loan covering the reserved area.

5. **Termination.** If the public agency for whose benefit an area has been reserved does not enter into a binding agreement, the reservation of such area shall automatically terminate.

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**Sec. 10-1.605. Claims of Excessive Dedications.**

If tentative or vesting tentative map approval contains a condition requiring a dedication which is claimed to be excessive by the subdivider, claims shall be processed according to Section 66475.4 of the Subdivision Map Act.

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**Article 7. Common Interest Development (Condominium) Conversion**

**Sec. 10-1.701. Purpose.**

The purpose of this Article is as follows:

1. To establish criteria for the conversion of the existing multiple family rental housing to condominiums, community apartments, stock cooperatives, and any other subdivision which is a conversion of existing rental housing.

2. To reduce the impact of such conversions on residents in rental housing who may be required to relocate due to the conversion of apartments to condominiums by providing for procedures for notification and adequate time and assistance for such relocation;

3. To assure that purchasers of converted housing have been properly informed as to the physical condition of the structure which is offered for purchase;

4. To ensure that converted housing achieves a high degree of appearance, quality, and safety and is consistent with the goals of the City;

5. To provide a reasonable balance of ownership and rental housing in Walnut Creek and a variety of choices of tenure, type, price and location of housing;

6. To maintain a supply of rental housing for low-and moderate income persons.

*Prior Ordinance History: Ords. 1275, 1322, 1381, 1456, 1491, 1509, and 1639.*

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**Title 10 – Page 55**
Sec. 10-1.702. Requirements and Procedures.

1. General. In addition to the requirements and procedures as set forth by Articles 3, 4, 5 and 6 of this chapter, conversions of existing multiple family rental housing to condominiums, community apartments, stock cooperatives, and any other subdivision which is a conversion of existing rental housing shall be subject to the additional requirements provided by this article, except that a limited equity housing cooperative, as defined in Section 33007.5 of the Health and Safety Code, shall be exempt from these additional requirements.

2. Physical Elements Report. A report prepared by a registered engineer or architect or licensed qualified contractor describing the physical elements of all structures and facilities shall be submitted with the tentative subdivision or parcel map. The report shall include, but not be limited to, the following:

   a. A report detailing the structural condition of all elements of the property including foundations, electrical, plumbing, utilities, walls, roofs, ceilings, windows, recreational facilities, sound transmission of each building, mechanical equipment, parking facilities and appliances.

      Regarding each such element, the report shall state, to the best knowledge or estimate of the applicant, when such element was built; the condition of each element; when said element was replaced; the approximate date upon which said element will require replacement; the cost of replacing said element; and any variation of the physical condition of said element from the current zoning and from the City Housing Code and City Building Code in effect on the date that the last building permit was issued for the subject structure. The report shall identify any defective or unsafe elements and set forth the proposed corrective measures to be employed.

   b. A report from a licensed structural pest control operator, approved by the City, on each structure and each unit within the structure.

   c. A report on soil and geological conditions regarding soil deposits, rock formations, faults, groundwater, and landslides in the vicinity of the project and a statement regarding any known evidence of soils problems relating to the structures. Reference shall be made to any previous soils reports for the site and a copy submitted with said report.

   d. A statement of repairs and improvements to be made by the subdivider necessary to refurbish and restore the project to achieve a high degree of appearance and safety.

3. Additional Submittals.

The subdivider shall also submit the following with the tentative subdivision or parcel map:

   a. A Declaration of Covenants, Conditions and Restrictions which would be applied on behalf of any and all owners of condominium units within the project. The declaration shall include, but not be limited to, the conveyance of units; the assignment of parking; an agreement for common area maintenance, including facilities and landscaping, together with an estimate of any initial assessment fees anticipated for such maintenance; description of a provision for maintenance of all vehicular access areas within the
project; an indication of appropriate responsibilities for maintenance of all utility lines and services for each unit; a plan for equitable sharing of communal water metering.

b. Specific information concerning the demographic characteristics of the project, including but not limited to the following:

(1) Square footage and number of rooms in each unit;

(2) Rental rate history for each type of unit for previous five years;

(3) Monthly vacancy rate for each month during preceding two years;

(4) Makeup of existing tenant households, including family size, length of residence, age of tenants, and whether receiving federal or state rent subsidies;

(5) Proposed sale price of units;

(6) Proposed Homeowners' Association fee;

(7) Financing available; and

(8) Names and addresses of all tenants.

When the subdivider can demonstrate that such information is not available, this requirement may be modified by the Community Development Department.

c. Signed copies from each tenant of Notice of Intent to Convert, as specified in Section 10-1.704.1. The subdivider shall submit evidence that a letter of notification was sent to each tenant for whom a signed copy of said notice is not submitted. This requirement shall be deemed satisfied if such notices comply with the legal requirements for service by mail.

d. Any other information which, in the opinion of the Community Development Department, will assist in determining whether the proposed project will be consistent with the purposes of this article.

4. **Acceptance of Reports.** The final form of the Physical Elements Report and other documents shall be as approved by the City. The reports in their acceptable form shall remain on file with the Community Development Department for review by any interested persons. The report shall be referenced in the subdivision report to the Planning Commission.

5. **Submittal of Budget.** Prior to final map approval, the subdivider shall provide the City with a copy of the proposed budget for maintenance and operation of common facilities including needed reserves. The budget shall show estimated monthly costs to the owner of each unit, projected over a five (5) year period, or such time as is required by the Department of Real Estate. Such budget shall be prepared or reviewed and analyzed by a professional management firm, experienced with management of condominium complexes. The management firm shall submit a statement of professional qualifications.
6. **Copy to Buyers.** The subdivider shall provide each purchaser with a copy of all submittals (in their final, acceptable form) required by Sections 10-1.702.2.a, b, c, d, 10-1.702.3. a, and d, and 10-1.702.5 prior to said purchaser executing any purchase agreement or other contract to purchase a unit in the project, and said developer shall give the purchaser sufficient time to review said information. Copies of the submittals shall be made available at all times at the sales office and shall be posted at various locations, as approved by the City, at the project site. Copies shall be provided to the Homeowners' Association upon its formation.

7. **Final Information Submitted.** Prior to the close of escrow, the subdivider shall submit the following information to the Community Development Department:

   a. Name, address and phone number of Homeowners' Association;
   
   b. Actual sale price of units;
   
   c. Actual Homeowners' Association fee;
   
   d. Number of prior tenants who purchased units; and
   
   e. Number of units purchased with intent to be used as rentals.

   (§1, Ord. 1603, eff. September 13, 1984)

### Sec. 10-1.703. Physical Standards for Condominium Conversions.

1. **Adequate Physical Condition.** To achieve the purpose of this article, the Planning Commission shall require that all condominium conversions conform to the Walnut Creek Municipal Code in effect at the time of tentative map approval except as otherwise provided in this article.

   All provisions of the Municipal Code must be met and violations corrected prior to the approval of the final or parcel map or, upon approval of the Community Development Department, funds shall be secured as provided in Walnut Creek Municipal Code §10-1.808 to assure completion of such corrective work. An over-all assessment of building condition shall be performed by the Code Enforcement Division prior to tentative map approval, and a report of violations specified in the Tentative Subdivision Report to the Planning Commission. A physical inspection of every unit to ensure compliance with the Housing Code shall be required prior to final map approval.

2. **Specific Physical Standards.** The Planning Commission shall require conformance with the standards of this section in approving the map.

   a. **Building Regulations.** The project shall conform to the applicable standards of the City Housing Code and shall be found to be in compliance with the City Building Code, Chapter 1, Title 9 of the Walnut Creek Municipal Code in effect on the date that the last building permit was issued for the subject structure or structures except as herein provided.
§10-1.703

b. Health and Safety.

(1) **Ground Fault Circuit Interrupters.** Each bathroom in each living unit shall be provided with ground fault circuit interrupters.

c. Fire Prevention.

b. **Fire Prevention.**

(1) **Smoke Detectors.** Each living unit shall be provided with approved detectors of products of combustion other than heat conforming to the latest U.B.C. standards, mounted on the ceiling or wall at a point centrally located in the corridor or area giving access to rooms used for sleeping purposes.

(2) **Maintenance of Fire Protection Systems.** All fire hydrants, fire alarm systems, portable fire extinguishers, and other fire protective appliances shall be retained in an operable condition at all times.

d. **Sound Transmission.**

(1) **Shock Mounting of Mechanical Equipment.** All permanent mechanical equipment such as motors, compressors, pumps, and compactors which is determined by the Chief of Code Enforcement to be a source of structural vibration or structure-borne noise shall be shock mounted with inertia blocks or bases and/or vibration isolators in a manner approved by the Chief of Code Enforcement.

(2) **Noise Standards.** The structure shall conform to all interior and exterior sound transmission standards of Chapter 35 (Appendix) of the Uniform Building Code, Chapter 1 of Title 9 of the Walnut Creek Municipal Code. In such cases where present standards cannot reasonably be met, the Planning Commission may require the applicant to notify potential buyers of the noise deficiency currently existing within these units.

e. **Utility Metering.** Each dwelling unit shall be separately metered for gas and electricity. A plan for equitable sharing of communal water metering shall be developed prior to final map approval and included in the Covenants, Conditions and Restrictions. In such cases where the subdivider can demonstrate that this standard cannot or should not reasonably be met, this standard may be modified by the Planning Commission.

f. **Private Storage Space.** Each unit shall have at least 200 cubic feet of enclosed weatherproofed and lockable private storage space in addition to guest, linen, pantry, and clothes closets customarily provided. Such space may be provided in any location approved by the Community Development Department, but shall not be divided into two or more locations. In such cases where the subdivider can demonstrate that this standard cannot or should not reasonably be met, this standard may be modified by the Planning Commission.

g. **Laundry Facilities.** A laundry area shall be provided in each unit; or if common laundry areas are provided, such facilities shall consist of not less than one automatic washer and one dryer of equivalent capacity for every 5 units of three or more bedrooms; every 7 two bedroom units, and every 10 one bedroom units. In such cases where the subdivider can demonstrate that this standard cannot or should not reasonably be met, this standard may be modified by the Planning Commission.
h. **Landscape Maintenance.** All landscaping shall be restored as necessary and maintained to achieve a high degree of appearance and quality. If a significant amount of new landscaping is required, the landscape plan shall be subject to Design Review Commission approval.

i. **Condition of Equipment and Appliances.** The developer shall provide a warranty to the buyer of each unit at the close of escrow that any dishwashers, garbage disposals, stoves, refrigerators, hot water tanks and air conditioners that are provided have a useful life of one year. At such time as the Homeowners' Association takes over management of the development, the developer shall provide a warranty to the Association that any pool and pool equipment (filter, pumps, chlorinator) and any appliances and mechanical equipment to be owned in common by the Association have a useful life of one year. Prior to Final Map approval, the developer shall provide the City with a copy of Warranty Insurance covering equipment and appliances pursuant to this section.

j. **Refurbishing and Restoration.** All main buildings, structures, fences, patio enclosures, carports, accessory buildings, sidewalks, driveways, landscaped areas, and additional elements as required by the Community Development Department shall be refurbished and restored as necessary to achieve a high degree of appearance, quality and safety. The developer shall provide to the Homeowners Association and/or purchaser a one year warranty on all physical improvements required under this section. If substantial restoration is required, the design plans shall be subject to Design Review Commission approval.

k. **Long Term Reserves.** Prior to approval of the final map, the developer shall provide evidence to the City that a long term reserve fund for replacement has been established in the name of the Homeowners' Association. Such fund shall equal two (2) times the estimated monthly homeowner's assessment for each dwelling unit. (§1, Ord. 1530, eff. April 22, 1982)

**Sec. 10-1.704. Tenant Provisions.**

1. **Notice of Intent.** As provided in Government Code 66427.1(a), a notice of intent to convert shall be delivered by the Subdivider to each tenant at least 60 days prior to filing of the Tentative Map. The written notices to tenants required by this section shall be deemed satisfied if such notices comply with the legal requirements for service by mail. The form of the notice shall be in the form outlined in Government Code Section 66452.9 and approved by the Community Development Department and will inform the tenants of all rights provided under this article and state law.

2. **Notice of Public Report.** As provided in Government Code Section 66427.1(a), each tenant shall receive 10 days' written notice that an application for a public report will be or has been submitted to the Department of Real Estate, and that such report will be available on request. The written notices to tenants required by this section shall be deemed satisfied if such notices comply with the legal requirements for service by mail.

3. **Notice of Final Map Approval.** As provided in Government Code 66427.1(b), each tenant shall receive written notification within 10 days of approval of a final map for the proposed conversion. The written notices to tenants required by this section shall be deemed satisfied if such notices comply with the legal requirements for service by mail.
4. **Tenant's Right to Purchase.** As provided in Government Code §66427.1(d), any present tenant shall be given notice of an exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant. The right shall run for a period of not less than ninety (90) days from the date of issuance of the subdivision public report unless the tenant gives prior written notice of his or her intention not to exercise the right. Evidence of receipt by each tenant shall be submitted prior to approval of the final map. The written notices to tenants required by this section shall be deemed satisfied if such notices comply with the legal requirements for service by mail.

5. **Vacation of Units.** Each tenant not in default under the obligations of the rental agreement or lease under which he occupies his unit, shall be given one hundred eighty (180) days' written notice of intention to convert his or her unit prior to termination of tenancy. The subdivider shall notify each tenant immediately prior to the time of final map approval of the anticipated date required to vacate the unit and when the 180-day period will begin. Evidence of receipt by each tenant shall be submitted prior to approval of the final map. The written notices to tenants required by this section shall be deemed satisfied if such notices comply with the legal requirements for service by mail.

6. **No Increase in Rents.** The rents charged tenants resident when a completed tentative map application was accepted by the Community Development Department shall not be increased for two years from that acceptance time until the unit is sold or until the subdivision is denied, withdrawn or reverted to acreage. The increase in rent on a unit which has been vacated after receipt of the application by the Community Development Department shall not be subject to control.

After rent increases have been restricted by this subsection or any predecessor to it for at least two years, the owner may request the Community Development Department to grant a rent increase. Rents may be increased in accordance with the provisions of the following table:

<table>
<thead>
<tr>
<th>AMOUNT BELOW FAIR MARKET RENT</th>
<th>At time of CDD approval</th>
<th>8 months after approval</th>
<th>16 months after approval</th>
<th>24 months after approval</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under $60</td>
<td>Entire Balance</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>$61 to $100</td>
<td>$60</td>
<td>Market Rent</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>$101 to $150</td>
<td>$70</td>
<td>Market Rent</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>$151 to $200</td>
<td>$80</td>
<td>One-half of Remaining Balance</td>
<td>Market Rent</td>
<td>---</td>
</tr>
<tr>
<td>Over $200</td>
<td>$80</td>
<td>One-third of Remaining Balance</td>
<td>One-half of Remaining Balance</td>
<td>Market Rent</td>
</tr>
</tbody>
</table>
Fair market rent is the average rent charged at the time the request for a rent increase is received in units comparable in size and quality to the affected unit, but for which rent increases are not regulated by this section. The burden of proving fair market rent shall rest entirely with the owner. (§1, Ord. 1630, eff. August 1, 1985)

7. **Special Cases.** Any non-purchasing tenant who is handicapped or has minor children in school or is age 60 or older and does not accept a lifetime lease, living in any unit prior to the time a completed tentative map application has been accepted by the Community Development Department shall be given at least an additional six (6) months in which to find suitable replacement housing.

8. **Moving Expenses.** The subdivider shall provide moving expenses of two times the monthly rent to any tenant household living in any unit prior to the time a completed tentative map application has been accepted by the Community Development Department as provided in this section.

A tenant moving in after tentative map application will not be required to be provided with moving expenses. Eligible tenants will receive moving expenses within 14 days after they relocate, except when the tenant has given notice of his intent to move prior to receipt of notification from the subdivider of his intent to convert. The subdivider shall also provide each tenant with a monthly list of other rentals available in the Central Contra Costa area beginning from the time of tentative map application until each tenant relocates or decides to purchase a unit.

9. **Notice to New Tenants.** Beginning at a date not less than 60 days prior to the filing of the tentative map, the subdivider or his or her agent shall give notice of such filing in the form outlined in Government Code 66452.8(b) to each person applying after such date for rental of a unit prior to acceptance of any rent or deposit. If the subdivider or his or her agent fails to give notice pursuant to this section, he or she shall pay to each prospective tenant who becomes a tenant and who was entitled to such notice and who does not purchase his or her unit, an amount equal to two times monthly rent for moving expenses.

10. **Senior Citizens.** At the time of final map approval, all tenant households resident at the time a completed tentative map application was accepted by the Community Development Department in which the head of household or spouse is age 60 or older shall be offered a Lifetime Lease. Annual rent increases shall not exceed 75% of the latest annual average percentage increase of the Residential Rent Component of the Consumer Price Index, San Francisco-Oakland SMSA. Tenants shall be informed of the change in this index at the time rent increases are imposed. Starting rents shall be the rent at the time of tentative map application. Lease forms shall be submitted to the Community Development Department for review prior to final map approval.

11. **Low- and Moderate-Income Tenant.** At the time of final map approval, all tenant households resident upon acceptance by the City of a completed tentative map application, which meet the income limits of the HUD Section 8 program will be considered low- and moderate-income households and shall be offered at a minimum a three-year lease. Annual rent increases shall not exceed 75% of the latest annual average percentage increase of the Residential Rent Component of the Consumer Price Index, San Francisco-Oakland SMSA. Tenants shall be informed of the change in this index at the time rent increases are imposed. Starting rents shall be the rent at the time of tentative map application. Lease forms shall be submitted to the Community Development Department for review prior to final map approval. (§1, Ord. 1530, eff. April 22, 1982)
Sec. 10-1.705. Effect of Proposed Conversion on the City's Low- and Moderate-Income Housing Supply.

In order to reduce the effect of conversions on the City's housing supply and to minimize the displacement of tenants, the number of conversions shall be limited to no more than 5% of the City's potentially convertible rental stock in any one calendar year. Conversion applications will be processed in the order that completed applications are submitted. A proposed project that is larger than the permitted number of units in a given year, if approved, will be considered to have used the permitted number for as many future years as necessary.

The potentially convertible rental stock will be defined as follows: the number of rental units in buildings of two or more units, as determined by the most recent census, plus any new rental units constructed since the census, minus any units which have received tentative map approval to convert since the census.

Once the yearly limit has been reached, a project may be approved for conversion only if the Planning Commission makes one or more of the following findings:

1. The developer will provide for a significant increase in housing for low-and-moderate income households or senior citizen households over and above the provisions of this article.

2. The developer will provide for the construction of new rental housing.

3. The developer will donate an acceptable site or an acceptable amount of funds to the City for construction of new rental or senior citizen housing.

4. The need and demand for low cost homeownership to be provided for by this project will outweigh the detriment caused by further reduction of the rental stock. (§1, Ord. 1530, eff. April 22, 1982)

Sec. 10-1.706. Findings.

The Planning Commission shall not approve an application for conversion unless the Planning Commission finds that:

1. All provisions of this article are met;

2. The proposed conversion is consistent with the objectives, policies, general land uses and programs specified in the Walnut Creek General Plan, along with applicable specific plans and the Walnut Creek Housing Element;

3. The proposed conversion will conform to the Walnut Creek Municipal Code in effect at the time of tentative map approval, including, but not limited to, parking standards, except as otherwise provided in this article;

4. The overall design and physical condition of the condominium conversion achieves a high degree of appearance, quality and safety;
5. The proposed project will not convert during the current calendar year more than 5% of the potentially convertible rental units in Walnut Creek for the current calendar year except as otherwise provided in this article; and

6. Vacancies in the project have not been intentionally increased for the purpose of preparing the project for conversion.

**Article 8. Subdivision Improvements**

**Sec. 10-1.801. General.**

The subdivider shall construct all required improvements both on and off site according to standards approved by the City, including, but not limited to, the Street Standards and Standard Specifications and Plans.

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

**Sec. 10-1.802. Improvements Required.**

1. **General.** All improvements as may be required as conditions of approval of the tentative map or City ordinance, together with but not limited to, the following, shall be required of all subdivisions.

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

As a condition of approval of a tentative map, there may be imposed a requirement that improvements installed by the subdivider for the benefit of the subdivision contain supplemental size, capacity, number or length for the benefit of property not within the subdivision and that those improvements be dedicated to the public, subject to the provisions of Sections 66485-66489 of the Subdivision Map Act.

Completion of improvements shall be in accordance with §10-1.811.

2. **Frontage Improvements.** The frontage of each lot shall be improved to its ultimate adopted geometric section, including street structural section, curbs, sidewalks, driveway approaches and transitions. Crosses shall be placed on the top of the street curb, if any, at the intersection of the extension of the property line of each lot and the curb location.

3. **Storm Drainage.** Storm water runoff from the subdivision shall be collected and conveyed by an approved storm drain system. The storm drain system shall be designed for ultimate development of the watershed. The storm drain system shall provide for the protection of abutting and off-site properties that would be adversely affected by any increase in runoff attributed to the development. Off-site storm drain improvements may be required to satisfy this requirement.
4. **Sanitary Sewers.** Each unit or lot within the subdivision shall be served by a community sewer collection system as required by Section 10-7.104 of this code, unless an individual system is permitted thereunder.

5. **Water Supply.** Each unit or lot within the subdivision shall be served by an approved domestic water system.

6. **Utilities.** Each unit or lot within the subdivision shall be served by gas (if required), electric, telephone and cable television facilities.

   a. **Underground Utilities.**

      All existing and proposed utilities within the subdivision and along either side of peripheral streets shall be placed underground except those facilities exempted by the Public Utilities Commission Regulations and as otherwise provided below.

      (1) If the subdivision is in the Core Area, as designated in the General Plan, all utility lines along peripheral streets shall be undergrounded or an in lieu of undergrounding fee shall be paid. Undergrounding shall be required for overhead lines on either side of the peripheral street. The amount of the in lieu fee shall be one-half of the normal cost of undergrounding of existing utility lines along residential streets.

      In lieu fees shall be deposited in a special undergrounding account to be used as approved by the City Council for future undergrounding of overhead utility lines within the Core Area.

      (2) If the subdivision is outside the Core Area, undergrounding overhead utilities on peripheral streets shall not be required unless the City Engineer finds that undergrounding of such utilities is likely to occur within the ten-year period following approval of the tentative map. The subdivider shall be required as a condition of tentative or vesting tentative map approval to pay a fee in lieu of undergrounding such utilities. The amount of the fee shall be according to section (a) above.

      The in lieu fee collected shall be used only for the undergrounding of utilities along streets peripheral to and/or adjacent to the subdivision from which the fees were collected. If the fee is not used within the ten-year period following approval of the tentative or vesting tentative map, the subdivider who paid the fee may, within the eleventh year following approval of the tentative map, request that the in lieu fee be refunded, and the City shall do so.

7. **Off-Site Improvements.** If the subdivider is required to construct off-site improvements on land in which neither the City or the subdivider have sufficient title or interest to allow construction, the City shall, within 120 days of recording the final map acquire by negotiation or commence condemnation of the land. If the City fails to meet the 120-day time limit, the condition for the construction shall be waived. Prior to approval of the final map, the City may require the subdivider to enter into an agreement to complete the off-site improvements at the time the City acquires title or interest in the land.

    The subdivider shall pay the cost of acquiring off-site land or an interest in the land required to construct the off-site improvements.
Sec. 10-1.803. Deferred Improvement Agreements.

1. Subdivisions. The frontage improvements along existing peripheral streets may be deferred when deemed necessary by the City Engineer. Deferral will be allowed when the City Engineer finds that construction is impractical due to physical constraints, or the surrounding neighborhood is absent of similar improvements. When improvements are deferred, the subdivider and/or owner of the real property shall enter into an agreement with the City in a form acceptable to the City Attorney for the installation of all frontage improvements at such time in the future as required by the City. The agreement shall provide:

   a. Construction of said improvements shall commence within ninety (90) days of the receipt of the notice to proceed from the City and shall be completed within the time specified in section 10-8.811.

   b. That in event of default by the subdivider and/or owner, the City is hereby authorized to cause said construction to be done and charge the entire cost and expense to the subdivider and/or owner, including interest from the date of notice of said cost and expense until paid;

   c. That this agreement shall be recorded in the office of the County Recorder of Contra Costa County, California, at the expense of the subdivider and/or owner, and shall constitute notice to all successors and assigns of the title to such real property of the obligation set forth, and also a lien in an amount to fully reimburse the City, including interest as above, subject to foreclosure in event of default in payment;

   d. That in event of litigation occasioned by any default of the subdivider and/or owner, the subdivider and/or owner, agree to pay all costs involved, including reasonable attorney's fees, and that the same shall become a part of the lien against the real property.

   e. That the terms "subdivider" and "owner" shall include, respectively, not only the subdivider and the present owner but also heirs, successors, executors, administrators and assigns, it being the intent of the parties hereto that the obligations undertaken shall run with the real property and constitute a lien against it.

   f. Any other provisions required by the City Engineer as reasonably necessary to effectuate this code and the Subdivision Map Act.

The agreement shall not relieve the owner from any other specific requirements. The construction of deferred improvements shall conform to the provisions of this chapter and all applicable articles of the Municipal Code in effect at the time of construction.

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

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

Sec. 10-1.804. Design.

1. General. The design and layout of all required improvements both on and off site, private and public, shall conform to generally acceptable engineering standards, to the City's Street Standards and Standard Plans and Specifications, and to such standards as approved by the City Engineer.

2. Energy Conservation. The design of a subdivision for which a tentative map is required, pursuant to Article 3 of this ordinance, shall provide, to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision.

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

Examples of passive or natural cooling opportunities in subdivision design include design of lot size and configuration to permit orientation of a structure to take advantage of shade or prevailing breezes.

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

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

For the 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.

3. Cable Television Service. The design of a subdivision for which a tentative map or parcel map is required shall provide appropriate cable television systems an opportunity to construct, install and maintain, on land identified on the map as dedicated or to be dedicated to public utility use, any equipment necessary to extend cable television services to each residential parcel in the subdivision. For the purposes of this section, "appropriate cable television systems" means those systems franchised or licensed to serve the geographical area in which the subdivision is located.

This section shall not apply to the conversion of existing dwelling units to condominiums, community apartments, or stock cooperatives.

Sec. 10-1.805. Access.

The subdivision shall abut upon or have an approved access to a public street. Each unit or lot within the subdivision shall have an approved access to a public or private street.
Street layout shall be designed to provide for future access to, and not impose undue hardship upon, property adjoining the subdivision. Reserve strips, or non-access at the end of streets or at the boundaries of subdivisions, shall be dedicated unconditionally to the City when required.

Sec. 10-1.806. Improvement Plans.

1. General. Improvement plans shall be prepared under the direction of and signed by a registered civil engineer licensed by the State of California. Improvement plans shall be processed according to the time limits set in Section 66456.2 of the Subdivision Map Act.

Improvement plans shall include, but not be limited to, grading, storm drains, landscaping, streets and related facilities.

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

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

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

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

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

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

All lettering shall be 1/8" minimum or typed print of legible size.

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

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

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

Reference may be made to City of Walnut Creek, Contra Costa County or State Standard Plans in lieu of duplicating the drawings.

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

5. Review by the City Engineer. The subdivider shall submit the improvement plans and all computations to the City Engineer for review. Upon completion of the review, one set of the preliminary plans, with the required revisions indicated, will be returned to the subdivider's engineer.

6. Approval by the City Engineer. After completing all required revisions, the subdivider's engineer shall transmit the originals of the improvement plans to the City Engineer for signature.

Upon finding that all required revisions have been made and that the plans conform to all applicable City ordinances, design review requirements and conditions of approval of the tentative map, the City Engineer shall sign and date the plans. The originals will be returned to the subdivider's engineer.

Approval of the improvement plans shall not be construed as approval of the sanitary sewer, water, or gas and electric construction plans.

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

7. Revisions to Approved Plans.

a. By Subdivider. Requests by the subdivider or the engineer for revisions to the approved plans appearing necessary or desirable during construction shall be submitted in writing to the City Engineer or authorized representative and shall be accompanied by revised drawings showing the proposed revision. If the revision is acceptable, the originals shall be submitted to the City Engineer's office for initialing. The originals shall be returned to the subdivider's engineer and prints of the revised plans shall be immediately transmitted to the City Engineer. Construction of any proposed revision will not be permitted to commence until prints of the revised plans have been received and forwarded to the City's Engineering Inspection Division.

b. By City Engineer. When revisions are deemed necessary by the City Engineer to protect public health and safety, or as field conditions may require, a request in writing shall be made to the subdivider and engineer. The subdivider's engineer shall revise the plans and transmit the originals to the City Engineer for initialing within the time specified by the City Engineer. Upon receipt of the initialed originals, the subdivider's engineer shall immediately transmit prints of the revised drawings to the City Engineer. Construction of all or any portion of the improvements may be stopped by the City Engineer until prints of the revised drawings have been submitted.

The subdivider may appeal revisions required by the City Engineer to the City Council by filing an appeal with the City Clerk within two working days following receipt of the request to revise the plans.

c. Plan Checking and Inspection Costs for Revisions. Costs incurred by the City for the checking of plans or calculations or inspection as a result of revisions to the approved plans shall be borne
by the subdivider at actual cost. A deposit, when required, shall be submitted with the revised prints and applied toward the actual costs.

**Sec. 10-1.807. Improvement Agreement.**

The agreement shall be prepared and signed by the City Engineer and approved as to form by the City Attorney. The agreement shall provide for:

a. Construction of all improvements according to the approved plans and specifications on file with the City Engineer;

b. Completion of improvements within the time specified by Section 10-1.811;

c. Right by City to modify plans and specifications and to require the subdivider to pay for modifications;

d. Warranty by subdivider that construction will not adversely affect any portion of adjacent properties;

e. Payment of inspection fees in accordance with the City's resolution establishing fees and charges;

f. Payment of in-lieu fees for undergrounding of utilities;

g. Payment of in-lieu fees for park land dedication;

h. Payment of drainage district or area fees;

i. Improvement security as required by this article;

j. Maintenance and repair of any defects or failures and causes thereof;

k. Release and indemnification of the City from all liability incurred by the development and payment of all reasonable attorney's fees that the City may incur because of any legal action arising from the development;

l. Any other deposits, fees or conditions as required by City ordinance or resolution and as may be required by the City Engineer;

m. Any other provisions required by the City as reasonably necessary to effectuate the purpose of this code.

**Sec. 10-1.808. Improvement Security.**

1. **General.** Any improvement agreement, contract or act required or authorized by the Subdivision Map Act or this chapter, for which security is required, shall be secured in accordance with §§66499 et seq. of the Subdivision Map Act and as provided below.
No final map or parcel map shall be signed by the City Engineer or recorded until all improvement securities required by this section have been received and approved.

2. **Form of Security.** The form of security shall be one or the combination of the following at the option and subject to the approval of the City:

   a. Bond or bonds by one or more duly authorized corporate sureties;

   The provisions of the bond or bonds shall be in accordance with Section 66499.1 and 66499.2 of the Subdivision Map Act.

   b. An instrument of credit or certificate of deposit from one or more financial institutions subject to regulation by the State or Federal government with an office located in the nine Bay Area counties and pledging that the funds necessary to carry out the act or agreement are on deposit and guaranteed for payment.

   c. A deposit, either with the City or a responsible escrow agent or trust Company, at the option of the City, of money or negotiable bonds of the kind approved for securing deposits of public money.

3. **Amount of Security.** A performance bond or security in the amount of one hundred percent (100%) of the estimated construction cost to guarantee the construction or installation of all improvements shall be required of all subdivisions. An additional amount of fifty percent (50%) of the estimated construction cost shall be required to guarantee the payment to the subdivider's contractor, subcontractors and to persons furnishing labor, materials or equipment for the construction or installation of improvements. The foregoing shall not apply to a California nonprofit corporation which is funded by a government agency if the corporation complies with §66499.3(c) of the Subdivision Map Act.

   The estimate of improvement costs shall be as approved by the City Engineer and shall provide for:

   a. Not less than 5% nor more than 10% percent of the total construction cost for contingencies;

   b. Increase for projected inflation computed to the estimated midpoint of construction;

   c. All utility installation costs or a statement acceptable to the City Engineer from the utility company that adequate security has been deposited to ensure installation;

   d. In addition to the full amount of the security, there shall be included estimated costs and reasonable expenses and fees, including attorney's fees, which may be incurred in enforcing the obligation secured.

4. **Cash Bond.** The subdivider shall deposit with the City not less than Three Thousand Dollars ($3,000.00) cash for subdivisions of four or fewer parcels, and Five Thousand Dollars ($5,000.00) for other subdivisions, or an additional amount as required by the City Engineer, not to exceed one percent of the construction cost. The deposit may be used at the discretion of the City to correct deficiencies and conditions caused by the subdivider or contractor that may arise during or after the construction of the subdivision. Any unexpended amount will be returned to the subdivider at the time all bonds are released.
5. **Warranty Security.** Upon acceptance of the subdivision improvements by the City, the subdivider shall provide security in the amount as required by the City Engineer to guarantee the improvements throughout the warranty period of one year following completion and acceptance of the improvements. The amount of the warranty security shall be not less than 10% of the cost of the construction of the improvements, including the cash bond which shall be retained for the one year warranty period. In hillside areas, the warranty security shall be not less than 50% of the construction cost of improvements.

6. **Reduction in Performance Security.** The City Engineer may authorize in writing the release of a portion of the security in conjunction with the acceptance of the satisfactory completion of a part of the improvements as the work progresses upon application by the subdivider, but in no case shall the security be reduced to less than 10% of the total improvement security given for faithful performance. The amount of reduction of the security shall be determined by the City Engineer; however, in no event shall the City Engineer authorize a release of the improvement security which would reduce security to an amount below that required to guarantee the completion of the improvements and any other obligation imposed by this ordinance, the Subdivision Map Act, or the improvement agreement.

7. **Release of Improvement Securities.**

   a. **Performance Security.** The performance security shall be released only upon acceptance of the improvements by the City Council or City Engineer and when an approved warranty security has been filed with the City Engineer. If warranty security is not submitted, performance security shall be released twelve (12) months after acceptance of improvements and correction of all warranty deficiencies.

   b. **Labor and Materials Security.** Security given to secure payment to the contractor, subcontractors, and to persons furnishing labor, materials or equipment may, six (6) months after the completion and acceptance of the improvements by the City Council or City Engineer, be reduced to an amount equal to the amount of claims therefor filed and of which notice has been given to the City Council. The balance of the security shall be released upon the settlement of all such claims and obligations for which the security was given.

   c. **Warranty Security.** The warranty security shall be released upon satisfactory completion of the warranty period provided:

      (1) All deficiencies appearing on the final deficiency list for the subdivision have been corrected;

      (2) Not less than twelve (12) months have elapsed since the acceptance of the improvements by the City Council.

**Sec. 10-1.809. Construction.**

The construction methods and materials for all improvements shall conform to the standard specifications of the City as adopted by Council resolution. The general provisions of the City's Standard Specifications shall apply to the developer where applicable.
Construction shall not commence until required improvement plans have been approved by the City Engineer.

Sec. 10-1.810. Construction Inspection.

1. General. All improvements are subject to inspection by the City Engineer or authorized personnel in accordance with the City's Standard Specifications.

2. Preconstruction Conference. Prior to commencing any construction, the developer shall arrange for a preconstruction conference with the Senior Engineering Inspector of the Community Development Department.

3. Final Inspection and Deficiency List. Upon completion of the subdivision improvements, the developer shall apply in writing to the Senior Engineering Inspector for final inspection. The Senior Engineering Inspector or authorized representative shall schedule a preliminary final inspection.

   A deficiency list shall be compiled during the inspection, noting all corrections or any additional work required. If the number of items is excessive or the subdivision appears incomplete, the preliminary final inspection may be halted and rescheduling of a date as determined by the Senior Engineering Inspector or authorized representative.

   When the preliminary final inspection has been completed, a copy of the deficiency list shall be transmitted to the subdivider for correction.

   Upon having completed all corrections or additional work as outlined by the deficiency list, the developer shall state in writing that all corrections have been completed satisfactorily and request a final inspection. The Senior Engineering Inspector or authorized representative shall then make a final inspection.

   Upon finding that all items on the deficiency list have been corrected and receipt of as-built improvement plans, the subdivision improvements shall be placed on the Council agenda for acceptance or accepted by the City Engineer in the manner provided by this chapter.

   The completion of corrections indicated by the deficiency list shall not relieve the developer from the responsibility of correcting any deficiency not shown on the list that may be subsequently discovered.

Sec. 10-1.811. Completion of Improvements.

1. Subdivisions of Five or More Parcels. The subdivision improvements shall be completed by the subdivider within twenty-four (24) months, or such time as approved by the City Engineer, not to exceed a period of thirty-six (36) months, from the date of approval of the final map, unless an extension is granted by the City Council or City Engineer.

   Should the subdivider fail to complete the improvements within the specified time, the City may, by resolution of Council, and at its option, cause any or all uncompleted improvements to be completed and the parties executing the surety or sureties shall be firmly bound for the payment of all necessary costs.
2. **Subdivisions of Four (4) or Fewer Parcels.** Completion of improvements will not be required until such time as a permit or other grant approval for the development of any parcel within the subdivision is applied for.

The completion of the improvements may be required by a specified date by the City when the completion of such improvements is found to be necessary for public health or safety or for the orderly development of the surrounding area. This finding shall be made by the City Engineer or authorized representative. The specified date, when required, shall be stated in the Subdivision Improvement Agreement and shall not exceed thirty-six (36) months after a permit of other approval for the development of any parcel within the subdivision is approved. The City Engineer shall determine if all improvements shall be completed prior to occupancy of any specified unit within the subdivision.

3. **Extensions.** The completion date may be extended by the City Council for subdivision of five (5) or more parcels and by the City Engineer for subdivision of four (4) or fewer parcels, upon written request by the subdivider and the submittal of adequate evidence to justify the extension. The request shall be made not less than thirty days prior to expiration of the Subdivision Improvement Agreement.

The subdivider shall enter into a Subdivision Improvement Agreement Extension with the City. For subdivisions of five or more parcels, the agreement shall be prepared and signed by the City Engineer, approved as to form by the City Attorney, executed by the subdivider and surety and transmitted to the City Council for its consideration. If approved by the City Council, the Mayor shall execute the agreement on behalf of the City. For subdivisions of four (4) or fewer parcels, the agreement shall be prepared by the City Engineer, approved as to form by the City Attorney, executed by the subdivider and surety and executed by the City Engineer on behalf of the City.

In consideration of a Subdivision Improvement Agreement Extension, the following may be required:

a. Revision of improvement plans to provide for current design and construction standards when required by the City Engineer;

b. Revised improvement construction estimates to reflect current improvement costs as approved by the City engineer;

c. Increase of improvement securities in accordance with revised construction estimates; or

d. Inspection fees may be increased to reflect current construction costs but shall not be subject to any decrease or refund.

The City Council, or the City Engineer for subdivisions of four (4) or fewer parcels, may impose additional requirements as recommended by the City Engineer or as it may deem necessary as a condition to approving any time extension for the completion of improvements.

The costs incurred by the City in processing the agreement shall be borne by the subdivider at actual cost.
Sec. 10-1.812. Acceptance of Improvements.

1. General. When all improvement deficiencies have been corrected and as-built improvement plans submitted, the subdivision improvements shall be considered by the City for acceptance. Improvements for subdivisions of five (5) or more parcels may be accepted by the City Council.

The City Engineer or authorized representative shall be responsible for the acceptance of improvements for subdivisions of four (4) or fewer parcels.

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

If there are no improvements dedicated to the public, the City Engineer shall record a notice of completion of subdivision improvements with the County Recorder.

2. Acceptance. If the subdivision improvements have been accepted by the City and public improvements have been dedicated on the final map, the City Clerk shall record an acceptance of public improvements with the County Recorder.

The City Engineer shall file the acceptance of improvements dedicated on parcel maps with the County Recorder.

3. Acceptance of a Portion of the Improvements. When requested by the subdivider in writing, the City may consider acceptance of a portion of the improvements. The improvements will be accepted by the City only if it finds that it is in the public interest and such improvements are for the use of the general public.

The City Engineer shall file the acceptance of improvements dedicated on parcel maps with the County Recorder.

Sec. 10-1.813. Supplemental Improvement Capacity.

1. As a condition of approval of a tentative map, there may be imposed a requirement that improvements installed by the subdivider for the benefit of the subdivision contain supplemental size, capacity, number or length for the benefit of property not within the subdivision and that those improvements be dedicated to the public. However, when such supplemental size, capacity, number of length is solely for the benefit of property not within the subdivision, the City shall, subject to the provisions of Sections 66486 and 66487 of the Subdivision Map Act, enter into an agreement with the subdivider to reimburse the subdivider for that portion of the cost of such improvements equal to the difference between the amount it would have cost the subdivider to install such improvements to serve the subdivision only and the actual cost of such improvements.

2. The City Council shall determine the method for payment of the costs required by a reimbursement agreement, which method may include, but shall not be limited to, the following:
a. The collection from other persons, including public agencies, using such improvements for the benefit of real property not within the subdivision, a reasonable charge for such use.

b. The contribution to the subdivider of that part of the cost of the improvements that is attributable to the benefit of real property outside the subdivision and the levy of a charge upon the real property benefited to reimburse the City for such costs, together with interest thereon, if any, paid to the subdivider.

c. The establishment and maintenance of local benefit districts for the levy and collection of such charge or costs from the property benefited.

3. No charge, area of benefit or local benefit district shall be established unless and until a public hearing is noticed and held thereon by the City Council in accordance with the provisions of Section 10-1.402.6 and the City Council finds that the charge, area of benefit or local benefit district is reasonably related to the cost of such supplemental improvements and the actual ultimate beneficiaries thereof.

4. In addition to the notice required by subsection 3 above, written notice of the hearing shall be given to those who own property within the proposed area of benefit as shown on the last equalized assessment roll, and the potential users of the supplemental improvements insofar as they can be ascertained at the time. Such notices shall be mailed by the City Clerk at least ten (10) days prior to the date established for the hearing.

Article 9. Reversions to Acreage

Sec. 10-1.901. General.

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

Sec. 10-1.902. Initiation of Proceedings.

1. By Owners. Proceedings to revert subdivided property to acreage may be initiated by petition of all of the owners of record of the property. The petition shall be in a form prescribed by the City Engineer. The petition shall contain the information required by Section 10-1.903 and such other information as required by the City Engineer.

2. By City Council. The City Council, at the request of any person or on its own motion may, by resolution, initiate proceedings to revert property to acreage. The City Council shall direct the City Engineer to obtain the necessary information to initiate and conduct the proceedings and to file a Notice of Intent to Revert to acreage with the County Recorder for recording.

Sec. 10-1.903. Contents of Petition.

The petition shall contain but not be limited to the following:

a. Evidence of title to the real property;
b. Evidence of the consent of all of the owners of an interest in the property;

c. Evidence that none of the improvements required to be made have been made within two years from the date the final map was filed for record, or within the time allowed by agreement for completion of the improvements, whichever is later;

d. Evidence that no lots shown on the final or parcel map have been sold within five (5) years from the date such final or parcel map was filed for record;

e. A tentative map in the form prescribed by Section 10-1.402 or Section 10-1.501 of this chapter;

f. A final or parcel map in the form prescribed by Section 10-1.403 or Section 10-1.502 of this chapter, which delineates dedications which will not be vacated and dedications required as a condition to reversion. Final or parcel maps shall be conspicuously designated with the title, "The Purpose of this Map is a Reversion to Acreage";

g. A deposit as required by the City Engineer toward processing and plan checking costs in accordance with the City's resolution establishing fees and charges.

Sec. 10-1.904. Submittal of Petition to City Engineer.

The final or parcel map for the reversion together with all other data as required by this article shall be submitted to the City Engineer for review.

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

Sec. 10-1.905. City Council Approval.

A public hearing shall be held by the City Council on all petitions for initiations for reversions to acreage. Notice of the public hearing shall be given as provided in §10-1.402.7.a. The City Engineer may give other notice that he or she deems necessary or advisable.

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

a. Dedications or offers of dedication to be vacated or abandoned by the reversion to acreage are unnecessary for present or prospective public purposes; and

b. Either:

1. All owners of an interest in the real property within the subdivision have consented to reversion, or
2. None of the improvements required to be made have been made within two years from the date the final or parcel map was filed for record, or within the time allowed by agreement for completion of the improvements, whichever is later, or

3. No lots shown on the final or parcel map were sold within five (5) years from the date such map was filed for record.

The City Council may require as conditions of the reversion:

(a) The owners dedicate or offer to dedicate streets, public rights-of-way or easements;

(b) The retention of all or a portion of previously paid subdivision fees, deposits or improvement securities if necessary to accomplish any of the provisions of this chapter.

(c) Such other conditions as are necessary to accomplish the purposes of this chapter or necessary to protect the public health, safety or welfare.

Sec. 10-1.906. Filing with County Recorder.

Upon approving the reversion to acreage, the City Engineer or an authorized representative shall transmit the final or parcel map, together with the City Council resolution approving the reversion, to the County Recorder for recordation.

Reversion shall be effective upon the final map being filed for record by the County Recorder. Upon filing, all dedications and offers of dedication not shown on the final or parcel map for reversion shall be of no further force and effect.

Article 10. Parcel Mergers

Sec. 10-1.1001. Mergers not Required.

Except as otherwise provided in this Article, two or more contiguous parcels or units of land which have been created under the provisions of this chapter or the Subdivision Map Act shall not merge solely by virtue of the fact that the contiguous parcels are held by the same owner. No further proceedings under this chapter shall be required for the purpose of sale, lease or financing.

Sec. 10-1.1002. Mergers Required.

Two or more contiguous parcels or units held by the same owner shall be considered as merged if any one of the contiguous parcels or units held by the same owner does not conform to the standards for minimum parcel size, under the Zoning Ordinance, and if all the following requirements are satisfied:

1. At least one of the affected parcels is undeveloped by any structure for which a building permit was issued, or for which a building permit was not required at the time of construction, or is developed only with an accessory structure or accessory structures, or is developed with a single structure, other than an accessory structure, that is also partially sited on a contiguous parcel or unit.
2. With respect to any affected parcel, one or more of the following conditions exists:

a. Comprises less than 5,000 square feet in area at the time of the determination of merger.

b. Was not created in compliance with applicable laws and ordinances in effect at the time of its creation.

c. Does not meet current standards for sewage disposal and domestic water supply.

d. Does not meet slope stability standards.

e. Has no legal access which is adequate for vehicular and safety equipment access and maneuverability.

f. Its development would create health or safety hazards.

g. Is inconsistent with the General Plan and any applicable specific plan, other than minimum lot size or density standards.

For purposes of determining whether contiguous parcels are held by the same owner, ownership shall be determined as of the date that notice of intention to determine status is recorded.

Subsection 2 shall not apply if one or more of the contiguous parcels or units complies with §10-1.1008.2.a through d.

Sec. 10-1.1003. Notice of Intention to Determine Status.

Prior to recording a notice of merger, the City Engineer shall mail, by certified mail, a notice of intention to determine status to the current record owner of the property. The notice shall state that the affected parcels may be merged and the owner may request a hearing before the City Engineer to present evidence that the property does not meet the criteria for merger. The notice of intention to determine status shall be filed for record at the office of the Contra Costa County Recorder on the same day that the notice is mailed to the property owner.

Sec. 10-1.1004. Hearing on Determination of Status.

The owner of the affected property may file a written request for a hearing with the City Engineer within thirty (30) days after recording of the notice of intention to determine status. Upon receipt of the request, the City Engineer shall set a time, date and place for a hearing and notify the owner by certified mail. The hearing shall be conducted within thirty (30) days following the receipt of the owner's request, or may be postponed or continued by mutual consent of the City Engineer and the property owner.

At the hearing, the property owner shall be given the opportunity to present any evidence that the affected property does not meet the requirements of Section 10-1.1002.
§10-1.1005 Walnut Creek Municipal Code §10-1.1008

At the conclusion of the hearing, the City Engineer shall make a determination that the affected parcels are to be merged or are not to be merged and shall so notify the owner of the determination. (§1, Ord. 1603, eff. 9/13/84)

Sec. 10-1.1005. Determination of Merger.

If the City Engineer makes a determination that the parcels are to be merged, a determination of merger shall be recorded within ninety (90) days of the mailing of the notice of the hearing to the owner. The determination of merger shall specify the name of the record owners and a description of the property.

If the City Engineer makes a determination that the parcels shall not be merged, a release of the notice of intention to determine status shall be recorded and a clearance letter mailed to the owner. (§1, Ord. 1603, eff. 9/13/84)

Sec. 10-1.1006. Determination When No Hearing is Requested.

If the owner does not file a request for a hearing within thirty (30) days of the recording of the notice of intention to determine status, the City Engineer may, at any time, make a determination that the parcels are or are not to be merged. If they are to be merged, a determination of merger shall be recorded within ninety (90) days of the mailing of the notice of intent to determine status. (§1, Ord. 1603, eff. 9/13/84)

Sec. 10-1.1007. Request to Merge by Property Owner.

If the merger of contiguous parcels or units is initiated by the record owner(s), the owner(s) may waive the right to a hearing before the City Engineer and to all notices required by this article. Upon receipt of the waiver, the City Engineer shall record a notice of intention to determine status, a waiver of right of hearing and notice, and a notice of merger simultaneously. (§1, Ord. 1603, eff. 9/13/84)

Sec. 10-1.1008. Unmerged Parcels.

Any parcel which has merged under the provisions of any law prior to January 1, 1984, and for which a notice of merger has not been recorded prior to January 1, 1984, shall be unmerged if on that date:

1. The parcel meets each of the following criteria:
   a. Contains at least 5,000 square feet in area. (§1, Ord. 1603, eff. 9/13/84)
   b. Was created in compliance with applicable laws and ordinances in effect at the time of its creation.
   c. Meets current standards for sewage disposal and domestic water supply.
   d. Meets slope density standards.
   e. Has legal access which is adequate for vehicular and safety equipment access and maneuverability.
f. Its unmerger and development would create no health or safety hazards.

g. The unmerged parcel would be consistent with the General Plan and any applicable specific plan, other than minimum lot size or density standards.

2. And, with respect to the parcel, none of the following conditions existed on or before July 1, 1981:

a. One or more of the contiguous parcels or units of land is enforceably restricted open-space land by a contract, agreement, scenic restriction, or open-space easement.

b. One or more of the contiguous parcels or units of land is timberland or is land devoted to an agricultural use.

c. One or more of the contiguous parcels or units of land is located within 2,000 feet of the site on which an existing commercial mineral resource extraction use is being made, whether or not the extraction is being made with a use permit issued by the City.

d. One or more of the contiguous parcels or units of land is located within 2,000 feet of a future commercial mineral extraction site as shown on a plan for which a use permit or other permit authorizing commercial mineral extraction has been issued by the City. (§1, Ord. 1603, eff. September 13, 1984)

Sec. 10-1.1009. Request for Determination by Owner.

Upon written application made by the owner, the City Engineer shall make a determination that the affected parcels have merged or are to be unmerged. If the City Engineer determines that the parcels have not merged, the owner shall be so notified.

If the City Engineer determines that the parcels have merged and that they meet the requirements for unmerger in §10-1.1008, a notice of status shall be issued to the owner and recorded which shall identify each parcel and declare that they are unmerged.

If the City Engineer determines that the parcels have merged and do not meet the requirements in Section 10-1.1008, a notice of merger specifying the record owner and a description of the parcel shall be issued to the owner and recorded. (§1, Ord. 1603, eff. September 13, 1984)

Sec. 10-1.1010. Fee for Mergers and Unmergers.

The fee for processing by the City shall be in accordance with the City's Resolution Establishing Fees and Charges. (§1, Ord. 1603, eff. September 13, 1984)

Article 11. Correction and Amendments of Maps

Sec. 10-1.1101. Requirements.

After a final or parcel map is filed in the office of the County Recorder, it may be amended by a certificate of correction or an amending map:
§10-1.1102  Walnut Creek Municipal Code  §10-1.1104

a. To correct an error in any course or distance shown thereon;

b. To show any course or distance that was omitted therefrom;

c. To correct an error in the description of the real property shown on the map;

d. To indicate monuments set after the death, disability, replacement or retirement from practice of the engineer or surveyor charged with responsibilities for setting monuments; or

e. To show the proper location of any monument which has been changed in location, or character, or originally was shown at the wrong location or incorrectly as to its character.

f. To correct any other type of map error or omission as approved by the City Engineer, which does not affect any property right. Errors and omissions may include, but not be limited to, lots and numbers, acreage, street names and identification of adjacent record maps. Error does not include changes in courses or distances from which an error is not ascertainable from the data shown on the final or parcel map.

g. To make modifications when there are changes which make any or all of the conditions of the map no longer appropriate or necessary and that the modifications do not impose any additional burden on the present fee owner of the property, and if the modifications do not alter any right, title or interest in the real property reflected on the recorded map. The modification shall be set for public hearing by the City Engineer or Planning Commission according to §10-1.501.5 or 10-1.402.6.1. The City Engineer or Planning Commission shall confine the hearing to consideration of, and action on, the proposed modification.

Sec. 10-1.1102.  Form and Contents.

The amending map or certificate of correction shall be prepared by a Registered Civil Engineer or Licensed Land Surveyor. The Form and Contents of the amending map shall conform to the requirements of §10-1.403 if a final map, or §10-1.502 if a parcel map. The certificate of correction shall set forth in detail the corrections made and show the names of the present fee owners of the property affected by the correction.

Sec. 10-1.1103.  Submittal and Approval by the City Engineer.

The amending map or certificate of correction, complete as to final form, shall be submitted to the City Engineer for review and approval.

The City Engineer shall examine the amending map or certificate of correction and if the only changes made are those in §10-1.1101, above, this fact shall be certified on the amending map or certificate of correction.

Sec. 10-1.1104.  Filing with the County Recorder.

The amending map or certificate of correction certified by the City Engineer shall be filed in the office of the County Recorder in which the original map was filed. Upon such filing, the County Recorder shall
index the names of the fee owners and the appropriate subdivision designation shown on the amending map or certificate of correction in the general index and map index respectively.

The original map shall be deemed to have been conclusively so corrected and shall impart constructive notice of all the corrections in the same manner as though upon the original map.

**Sec. 10-1.1105. Fee.**

The fee for checking, processing and recording the amended map or certificate of correction shall be in accordance with the City's resolution establishing fees and charges. A deposit to be applied toward this fee may be required by the City Engineer upon submittal of the amended map or certificate of correction for his review.

**Article 12. Vesting Tentative Maps**

**Sec. 10-1.1201. Citation and Authority.**

This article is enacted pursuant to the authority granted by Chapter 4.5 (commencing with §66498.1) of Division 2 of Title 7 of the Government Code of the State of California (hereinafter referred to as the Vesting Tentative Map Statute).

**Sec. 10-1.1202. Purpose and Intent.**

It is the purpose of this article to establish procedures necessary for the implementation of the Vesting Tentative Map Statute, and to supplement the provisions of the Subdivision Map Act and this chapter. Except as otherwise set forth in the provisions of this ordinance, the provisions of this chapter relating to tentative maps shall also apply to vesting tentative maps.

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

**Sec. 10-1.1203. Consistency.**

No land shall be subdivided and developer pursuant to a vesting tentative map for any purpose which is inconsistent with the General Plan and any applicable specific plan or not permitted by this chapter or other applicable provisions of the Municipal Code.

**Sec. 10-1.1204. Definitions.**

1. A "vesting tentative map" shall mean a "tentative map" as defined in this chapter, that shall have printed conspicuously on its face the words "Vesting Tentative Map" at the time it is filed in accordance with §10-1.1206, and is thereafter processed in accordance with the provisions hereof.

2. All other definitions set forth in this chapter are applicable.
Sec. 10-1.1205. Application.

1. Whenever a provision of the Subdivision Map Act, as implemented and supplemented by this chapter, requires the filing of a tentative map or tentative parcel map, a vesting tentative map may instead be filed, in accordance with the provisions hereof.

2. If a subdivider does not seek the rights conferred by this article, the filing of a vesting tentative map shall not be a prerequisite to any approval for any proposed subdivision, permit for construction, or work preparatory to construction.

Sec. 10-1.1206. Filing and Processing.

A vesting tentative map shall be filed in the same form and have the same contents, accompanying data and reports and shall be processed in the same manner as set forth in this chapter for a tentative map except as hereinafter provided:

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

2. At the time a vesting tentative map is filed a subdivider shall also supply the following information.

   a. A statement that Design Review approval has been granted, or a complete application for Design Review approval and plans have been filed which will be concurrently processed with the vesting tentative map for all buildings to be constructed on lots within the boundary of the vesting tentative map.

   b. A statement that the vesting tentative map is consistent with the current zoning of the land, or that an application has been filed for rezoning or prezoning the land which will be processed concurrently with the vesting tentative map. If a planned development permit, hillside planned development permit or use permit is required, said permit shall be processed prior to or concurrently with the vesting tentative map.

   c. A tentative utility plan indicating the location of all public utilities and facilities including, but not limited to, facilities for water, sewer, electric, gas, cable TV and street lighting to be installed to serve the subdivision and any facilities which currently exist within the boundary of the subdivision.

   d. The height, size, location, architectural plans and use of all buildings to be constructed within the subdivision.

   e. Proposed grading plans based on actual field surveys.

   f. Wild fire prevention plan and/or noise analysis with suggested mitigation measures if required by the City's General Plan or any specific plan.

   g. Required approval letters from other agencies where applicable and feasible.
h. Traffic studies including, but not limited to, existing and future traffic, geometrics, number of lanes, level of service, and recommended pavement sections.

i. When required by the Community Development Department, feasibility studies, life cycle studies, or other future impact studies.

j. When required by the Community Development Department, an economic analysis including analysis of the market for the subdivision.

k. Landscaping plans.

l. Any other studies required because of the peculiarities of the subdivision.

All vesting tentative map submittals must be accurate and complete, and must satisfy all requirements of the Community Development Department.

Sec. 10-1.1207. Expiration.

The approval or conditional approval of a vesting tentative map shall expire at the end of the same time period, and shall be subject to the same extensions, established by this chapter for the expiration of the approval or conditional approval of a tentative map.

Sec. 10-1.1208. Vesting on Approval of Vesting Tentative Map.

1. The approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards described in Government Code §66474.2.

However, if §66474.2 of the Government Code is repealed, the approval or conditional approval of a Vesting Tentative Map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards in effect at the time the vesting tentative map is approved or conditionally approved.

2. Notwithstanding subdivision a., a permit, approval, extension, or entitlement may be made conditional or denied if any of the following are determined:

   a. A failure to do so would place the residents of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety, or both.

   b. The condition or denial is required, in order to comply with state or federal law.

3. The rights referred to herein shall expire if a final map is not approved prior to the expiration of the vesting tentative map as provided in §10-1.1207. If the final map is approved, these rights shall last for the following periods of time:
a. An initial time period of one (1) year after recording. Where several final maps are recorded on various phases of a project covered by a single vesting tentative map, this initial period shall begin for each phase when the final map for that phase is recorded. All of said final maps must be recorded within the time period set forth in §10-1.1207 or the vesting tentative map approval shall expire for those parcels for which final maps are not timely recorded.

b. The initial time period set forth in c.1. shall be automatically extended by any time used for processing a complete application for a grading permit or for design review, if such processing exceeds thirty (30) days from the date a complete application is filed.

c. A subdivider may apply for a one-year extension at any time before the initial time period set forth in c.1. expires. The request for extension shall be submitted, in writing, to the Secretary of the Planning Commission. The Planning Commission shall review any request for extension and submit a recommendation to the City Council. An extension may be granted for a maximum period of one year.

The City Council shall deny a request for extension unless it finds that changes to any City Ordinances, policies, or standards that were adopted subsequent to the time of filing the vesting tentative map are not necessary to protect the public health, safety or welfare or if it finds that the extension is not beneficial to the public health, safety or welfare.

d. If the subdivider submits a complete application for a building permit during the periods of time specified in subsections 1 and 3 and the building permit is approved, the rights referred to herein shall continue until the expiration of that permit, or any extension of that permit.

Sec. 10-1.1209. Development Inconsistent with Zoning—Conditional Approval.

1. Whenever a subdivider files a vesting tentative map for a subdivision whose intended development is inconsistent with the zoning in existence at that time, that inconsistency shall be noted on the map. The City shall deny such a vesting tentative map if the City finds the vesting tentative map to be inconsistent with the zoning of the property, or proposed zoning ordinance which is being processed concurrently with the vesting tentative map. If a change in the zoning or issuance of a planned development permit, hillside planned development permit or use permit is obtained, the approved or conditionally approved vesting tentative map shall, notwithstanding §10-1.1208.a, confer the vested right to proceed with the development in substantial compliance with the change in the zoning, P.D. or Use Permit and the map as approved.

2. The rights conferred by this section shall be for the time periods set forth in §10-1.1208.c.

Sec. 10-1.1210. Applications Inconsistent with Current Policies.

Notwithstanding any provision of this article, a property owner or his or her designee may seek approvals or permits for development which depart from the ordinances, policies and standards described in §10-1.1208.a and §10-1.1209, and local agencies may grant these approvals or issue these permits to the extent that the departures are authorized under applicable law.
Sec. 10-1.1211. Failure to Obtain Design Review Approval.

The City shall deny a vesting tentative map application if Design Review approval has not been granted for the subdivision. If the subdivider filed a complete application for Design Review approval concurrently with filing the vesting tentative map application and final action has not been taken on the Design Review application, the subdivider may request that the City defer action on the vesting tentative map application until after final action has been taken on the Design Review application, provided that the subdivider agrees to an extension of any time periods within which the City is legally required to act on the vesting tentative subdivision map application.


Sec. 10-1.1301. Prohibition.

1. No person shall sell, lease, or finance any parcel or parcels of real property, or commence construction of any building for sale, lease or financing except for model homes, or allow occupancy, for which a final map is required by this chapter or the Subdivision Map Act, until a map, in full compliance with the provisions of this chapter and the Subdivision Map Act, has been filed with the County Recorder for record.

2. No person shall sell, lease or finance any parcel or parcels of real property or commence construction of any building for sale, lease, or financing except for model homes, or allow occupancy, for which a parcel map is required by this chapter or the Subdivision Map Act, until a map, in full compliance with the provisions of this chapter and the Subdivision Map Act, has been filed for record by the Recorder.

3. Conveyances of any part of a division of real property for which a final or parcel map is required shall not be made by parcel number, letter or other designation, unless and until the final or parcel map has been filed for record with the County Recorder.

4. This section does not apply to any parcel or parcels of a subdivision offered for sale or lease, contracted for sale or lease, or sold or leased in compliance with or exempt from any law regulating the design and improvement of subdivisions in effect at the time the subdivision was established.

5. Nothing contained in subdivisions a. d., inclusive, shall prohibit an offer or contract to sell, lease or finance real property or to construct improvements where the sale, lease or financing, or the commencement of construction, is expressly conditioned upon the approval and filing of a final or parcel map.

Sec. 10-1.1302. Remedies.

1. Any deed of conveyance, sale or contract to sell real property which has been divided, or which has resulted from a division, in violation of the provisions of this chapter or the Subdivision Map Act, is voidable at the sole option of the grantee, buyer or person contracting to purchase, any heir, personal representative, or trustee in insolvency or bankruptcy within one year after the date of discovery of the violation. The deed of conveyance, sale or contract to sell is binding upon any successor in interest of the
§10-1.1303  
Walnut Creek Municipal Code  
§10-1.1303  
grantee, buyer or person contracting to purchase, other than those above enumerated, and upon the grantor, vendor or person contracting to sell, or his assignee, heir or devisee.

2. Any grantee, or successor in interest, of real property which has been divided, or which has resulted from a division, in violation of the provisions of this chapter or the Subdivision Map Act may, within one year of the date of discovery of such violation, bring an action in the superior court to recover any damages suffered by reason of the division of property. The action may be brought against the person who divided the property in violation and against any successors in interest who have actual or constructive knowledge of such division of property.

3. The provisions of this section shall not apply to the conveyance of any parcel of real property identified in a certificate of compliance filed pursuant to §10-1.1303 or identified in a recorded final or parcel map, from and after the date of recording.

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

4. This section does not bar any legal, equitable or summary remedy to which the City or other public agency, or any person, firm or corporation may otherwise be entitled, and the City or other public agency, or any person, firm or corporation may file a suit in the superior court of Contra Costa County, to restrain or enjoin any attempted or proposed subdivision for sale, lease or financing in violation of this chapter.

5. The City shall not issue a permit or grant any approval necessary to develop any real property which has been divided, or which has resulted from a division, in violation of the provisions of this chapter or the Subdivision Map Act if it finds that development of the real property is contrary to the public health or the public safety. The authority to deny a permit or approval shall apply whether the applicant was the owner of the real property at the time of the violation or whether the applicant is the current owner of the real property, with or without actual or constructive knowledge of the violation at the time of the acquisition of interest in the real property.

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

Sec. 10-1.1303.  
Certificate of Compliance.

1. Any person owning real property may request the City Engineer to determine whether the real property complies with the provisions of this chapter and the Subdivision Map Act.

2. Upon making a determination that the real property complies with this Chapter and the Subdivision Map Act, the City Engineer shall cause a certificate of compliance to be filed for record with the County Recorder. The certificate of compliance shall identify the real property and shall state that the division of land complies with the Subdivision Map Act and this chapter.
3. If the City Engineer determines that the real property does not comply with the provisions of the Municipal Code or Subdivision Map Act, the City Engineer may, as a condition to granting a certificate of compliance, impose conditions according to §10-1.1302.5. Upon making a determination and establishing conditions, the City Engineer or authorized representative shall file a conditional certificate of compliance for record with the County Recorder. The certificate shall serve as notice to the property owner who has applied for the certificate, a grantee of the property owner, or any subsequent transferee or assignee of the property, that the fulfillment and implementation of the conditions shall be required prior to subsequent issuance of a permit or other grant of approval for development of the property.

Compliance with the conditions shall not be required until a permit or other grant of approval for development of the property is issued.

4. A recorded final or parcel map shall constitute a certificate of compliance with respect to the parcels of real property described therein.

5. For the purposes of administration of this section, any parcel which conforms with the Zoning Ordinance shown on the County Assessor's maps as a separate parcel prior to 1963 shall be considered as a conforming parcel.

6. A fee to be charged at actual cost shall be charged to the applicant for making the determination and processing the certificate of compliance. A deposit may be required to be applied toward this fee.

Sec. 10-1.1304. Notice of Violation.

If the City Engineer or authorized representative has knowledge that real property has been divided in violation of the provisions of this chapter or the Subdivision Map Act, a notice of intention to record a notice of violation shall be mailed by certified mail to the current owner of record. The notice shall describe the property in detail, name the owner, describe the violation and state that the owner will be given opportunity to present evidence. The notice shall specify the date, time and place for a meeting at which the owner may present evidence to the City Engineer why a notice of violation should not be recorded.

The meeting shall be held no sooner than thirty (30) days and no later than sixty (60) days from the date of mailing. If, within fifteen (15) days of receipt of the notice, the owner fails to notify the City Engineer objecting to the recording of the notice of violation, the City Engineer shall record it. If, after the owner presents evidence, the City Engineer determines that the property has in fact been illegally divided, the City Engineer shall record the notice of violation. If, after the owner presents evidence, the City Engineer determines that there has been no violation, the City Engineer shall mail a clearance letter to the owner.

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

Sec. 10-1.1305. Penalties.

Each violation of this chapter by a person who is the subdivider or an owner of record, at the time of the violation, of property involved in the violation shall be punishable by imprisonment in the county jail.
not exceeding one year or in the state prison, by a fine not exceeding ten thousand dollars ($10,000), or by both that fine and imprisonment. The City may alternatively, in its discretion, charge such a violation as a misdemeanor. Every other violation of this chapter is a misdemeanor.

Any person convicted of a misdemeanor under the provisions of this chapter shall be punishable by imprisonment in the county jail not exceeding 6 months or by fine not exceeding one thousand dollars ($1,000) or by both.

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

Sec. 10-1.1306. Judicial Action.

Any action or proceeding to attack, review, set aside, void or annul the decision of the City Engineer, Zoning Administrator, Planning Commission or City Council concerning a subdivision, or of any of the proceedings, acts or determinations taken, done or made prior to such decision, or to determine the reasonableness, legality or validity of any condition attached thereto, shall not be maintained by any person unless the action or proceeding is commenced and service of summons effected within 90 days after the date of the decision. Thereafter all persons are barred from any such action or proceeding or any defense of invalidity or unreasonableness of the decision or of the proceedings, acts or determinations. Any such proceeding shall take precedence over all matters of the calendar of the court except criminal, probate, eminent domain and forcible entry and unlawful detainer proceedings.