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## ARTICLE 3

### SUBDIVISION ORDINANCE

SEC. 10-3.000 CITATION AND AUTHORITY. This article shall be known and may be cited as the Subdivision Ordinance of the City of Hayward and is adopted pursuant to the Subdivision Map Act (Title 7, Division 2, Government Code) as a "local ordinance" as said term is used in said Act, and is supplemental to the provisions thereof. All provisions of the Subdivision Map Act and future amendments thereto not incorporated in these regulations shall, nevertheless, apply to all subdivisions, subdivision maps and proceedings under these regulations. Where these regulations may be in conflict with the provisions of the Subdivision Map Act, the provisions of said Act shall govern and shall supersede these regulations.

SEC. 10-3.010 PURPOSE. The purpose of this article is as follows:

- a. To provide policies, standards, and procedures to regulate and control the design and improvement of all subdivisions.
- b. To ensure that all proposed subdivisions, together with the provisions for their design and improvement, are consistent with and implement the procedures, policies, and programs of the General Plan and all applicable Specific Plans and Neighborhood Plans, and other City adopted plans and policies.
- c. To regulate design of subdivisions to complement existing development, existing and planned street capacity, roadways, school capacity, public facilities and utilities, open space, and physical features.
- d. To provide lots and dwelling units of sufficient size and appropriate design for the purposes for which they are to be used.
- e. To provide streets of adequate capacity and design for the traffic that will utilize them, and to insure maximum safety for pedestrians and vehicles.
- f. To provide adequate access to each building site.
- g. To provide sidewalks and, where needed, pedestrian ways, biking paths, and equestrian and hiking trails for the safety, convenience, and enjoyment of the residents of new developments.
- h. To provide adequate systems of water supply, sanitary sewage disposal, storm drainage, street lighting, and other utilities needed for the public health, safety and convenience.
- i. To provide adequate sites for public facilities, e.g., schools and parks, needed to serve the residents of new developments.
- j. To prevent land which is actually or potentially dangerous by reason of flood hazard, inundation, proximity to excessive noise, inadequate access, inadequate water supply or fire protection, insufficient sewerage facilities, hazardous geological conditions, or

critical soil conditions from being subdivided for any use or in any manner tending to create an increased detriment to the public health, safety or welfare.

- k. To regulate the subdivision of land to provide for orderly development in a manner that will promote the public health, safety, convenience, and general welfare.

SEC. 10-3.020 CONFORMANCE WITH GENERAL PLAN AND ORDINANCES.

No land shall be subdivided or developed for any purpose or use or in any manner which is not in conformity with the General Plan or use specifically authorized by the zoning ordinance.

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

DEFINITIONS

SEC. 10-3.100 GENERAL. Definitions hereinafter set forth shall be supplementary to the definitions contained in the Subdivision Map Act. All definitions contained in the Subdivision Map Act shall also be applicable to this chapter and said definitions are hereby incorporated by this reference. For the purposes of these regulations, and the Subdivision Map Act, the following words and phrases shall be construed as defined herein.

SEC. 10-3.110 ADVISORY AGENCY. A designated official or an official body charged with the duty of making investigations and reports on the design and improvements of proposed divisions of real property, the imposing of requirements or conditions thereon, or having the authority to approve, conditionally approve, or disapprove maps.

SEC. 10-3.115 MAPS.

- a. Final Map. Subject to the provisions of this article and the Subdivision Map Act, a final map is a map that delineates the division of land into five or more parcels, five or more condominiums as defined in section 783 of the Civil Code, a community apartment project containing five or more parcels, or the conversion of a dwelling into condominium, community apartment, or a stock cooperative containing five or more dwelling units.
- b. Parcel Map. A map delineating a division of land, where said division can be done by parcel map as provided for by the Subdivision Map Act.
- c. Tentative Map - Final Map. It is also commonly referred to as a tentative map or a tentative tract map. A tentative map or tentative tract map is a map made for the purpose of showing the design and improvement of a proposed major subdivision and the existing conditions in and around the proposed subdivision. A tentative map is required for all subdivisions creating five or more parcels, as codified in Subdivision Map Act Section 66426 or its successor.
- d. Tentative Map - Parcel Map. It is also commonly referred to as a tentative parcel map. A tentative parcel map is a map made for the purpose of showing the design and improvement of a proposed minor subdivision and the existing conditions in and around the proposed subdivision.

- e. Vesting Tentative Map. A vesting tentative map (c) or (d) is a map that meets the requirements of the Subdivision Map Act Section 66452 or its successor. The vesting tentative map must have printed conspicuously on its face the words 'Vesting Tentative Map' when filed to obtain the rights conferred by Chapter 4.5 of the Subdivision Map Act.

SEC.10-3.117 FILING - TENTATIVE MAPS. For the purpose of the Subdivision Map Act, a tentative map shall not be considered filed until the map and all other required information have been submitted to the City in compliance with the regulations herein and the City has certified that they are complete.

SEC. 10-3.120 STREETS.

- a. Arterial Street. A street designated as such on the General Plan, or a street that accommodates major traffic volumes providing a continuous route and connecting high-traffic generation points to freeways and other State and City highways.
- b. Collector Street and Industrial Collector Street. A street designated as such on the General Plan, or a street that collects traffic from local streets and interconnects arterial streets and provides direct access to adjacent properties.
- c. Local Public Street. A street that serves primarily as a means of direct vehicular and pedestrian access to abutting properties.
- d. Local Private Street. A local street approved by the Planning Commission and/or City Council not accepted or maintained by the City of Hayward.
- e. Cul-de-sac Street. A street that does not accommodate through traffic and ends at a turn-around area.
- f. Public Way. Any street, alley, pedestrian way, equestrian or hiking trail, hiking path, or other place for public use.

SEC. 10-3.130 PUBLIC UTILITY EASEMENT (PUE). The easement indicated on a map which may or may not be offered for dedication and acceptance by the City of Hayward and intended primarily for the installation of water and other utilities, including utilities owned and operated by public utility companies.

SEC. 10-3.140 SUBDIVISIONS.

- a. Industrial - A division of land zoned for industrial use.
- b. Commercial - A division of land zoned for commercial use.
- c. Residential - A division of land zoned for residential use.
- d. Agricultural - A division of land zoned for agricultural use.

## GENERAL RESPONSIBILITIES

### SEC. 10-3.150 ADVISORY AGENCY/APPROVAL AUTHORITY.

- a. Tentative Map. If the tentative map is a tentative tract map or vesting tentative tract map, the Planning Commission, or the City Council in the case of referral, shall have final jurisdiction to approve, conditionally approve or disapprove the tentative map where:
- (1) The proposed subdivision is not in conflict with the General Plan and applicable specific plans and neighborhood plans;
  - (2) The proposed subdivision meets the requirements of the City Zoning Ordinance; and
  - (3) No approval of variances or other exceptions are required for the approval of the subdivision.

The Planning Commission shall be the advisory agency, and the City Council shall have final jurisdiction to approve, conditionally approve, or disapprove all other tentative maps.

The Planning Director, whose decision shall be final, shall make a determination regarding Nos. 1, 2, and 3 above, and whether the Planning Commission or the City Council has the jurisdiction for approval, conditional approval, or disapproval of maps.

- b. Tentative Parcel Map; Vesting Tentative Parcel Map. The Planning Director, or his or her designee, on the Planning Commission in the case of referral, shall have final jurisdiction to approve, conditionally approve, or disapprove tentative parcel maps or vesting tentative parcel maps where:
- (1) The proposed subdivision is not in conflict with the General Plan and applicable specific plans and neighborhood plans;
  - (2) The proposed subdivision meets the requirements of the City Zoning Ordinance; and
  - (3) No approval of variances or other exceptions are required for the approval of the subdivision.

The Planning Commission, or the City Council in the case of referral, shall have final jurisdiction to approve, conditionally approve, or disapprove all other tentative parcel maps.

The Planning Director, whose decision shall be final, shall make a determination regarding Nos.(1), (2), and (3) above, and whether the Planning Director or the Planning Commission has the jurisdiction for approval, conditional approval, or disapproval of maps.

- c. Lot Line Adjustment Map. The Planning Director, or his or her designee, or the Planning Commission in the case of referral, shall have final jurisdiction in the

review and approval of Lot Line Adjustments pursuant to Subdivision Map Act Section 66412(d), or any successor statute.

- d. Certificate of Compliance. The Planning Director, or his or her designee, shall have the authority to approve or conditionally approve the application for a Certificate of Compliance pursuant to Subdivision Map Act Section 66499.35.
- e. Certificate of Merger. The Planning Director, or his or her designee, shall have the authority to approve or deny the application for a Certificate of Merger authorized by Section 10-3.499 of this Subdivision Ordinance, in accordance with the provisions of Subdivision Map Act Section 66499.20.3/4.

SEC. 10-3.160 CITY ENGINEER. The City Engineer shall be responsible for reporting to the Planning Director, Director of Public Works, and the City Council as to whether the proposed design and improvements are consistent with the regulations contained herein, and shall be responsible for the approval of the design and inspection of the construction of the improvements.

SEC. 10-3.161 CITY ENGINEER - FINAL MAP APPROVAL. Pursuant to section 66458 subd.(d) of the State Subdivision Map Act (Gov't Code § 66458(d).) the City Engineer shall have final jurisdiction to approve, conditionally approve or disapprove final maps. The City Engineer may also accept, accept subject to improvement, or reject dedications and offers of dedications that are made by a statement on the map. The City Engineer may act upon the following conditions:

- a. The City Engineer shall notify the City Council at its next regular meeting after the City Engineer receives the map that he or she has received it and is in the process of reviewing it;
- b. The City Council shall then provide notice of any pending approval or disapproval by the City Engineer, which notice shall be attached and posted with the City Council's regular agenda and shall be mailed to interested parties who request notice;
- c. The City Engineer shall approve or disapprove the final map within 10 days following the meeting of the City Council for which the notice required in subdivision (b) was attached;
- d. The City Engineer's action may be appealed to the City Council;
- e. Within 24 months after the effective date of this ordinance, and every 24 months thereafter as necessary, the City Engineer shall review this ordinance and report and make recommendations to the City Council concerning the effectiveness of and the continuing need for the ordinance.

Except as specifically authorized by this section, the processing of final maps shall conform to all procedural requirements of state and local law.

SEC. 10-3.165 PLANNING DIRECTOR.

- a. The Director of Development Services/Planning Director (referred to herein as the 'Planning Director') shall be responsible for reporting to the Planning Commission and the City Council as to whether the design and improvements of proposed

subdivisions are consistent with the General Plan and any special plans adopted by the City.

- b. The Planning Director, or his or her designee, shall administer the provisions of Subdivision Map Act Section 66499.35 and issue Certificates of Compliance or Conditional Certificates of Compliance.
- c. The Planning Director, or his or her designee, shall administer the provisions of Subdivision Map Act Section 66499.36 (Notice of Violation). The Planning Director shall act as the advisory agency on these matters. Appeals of the Planning Director's actions shall be in the same manner as under Certificates of Compliance.
- d. The Planning Director, or his or her designee, shall have final jurisdiction to approve, conditionally approve, or disapprove Lot Line Adjustment applications.
- e. The Planning Director, or his or her designee, shall administer the provisions of the Subdivision Map Act Section 66499.20.3/4 and is authorized by Section 10-3.499 of this Article to approve and issue Certificates of Merger.

SEC. 10-3.170 DIRECTOR OF PUBLIC WORKS. The Director of Public Works shall have final jurisdiction to approve or disapprove parcel maps.

SEC. 10-3.180 CITY COUNCIL. Except as otherwise provided in section 10-3.161, the City Council shall have final jurisdiction to approve, conditionally approve, or disapprove final maps and to establish standards of design and improvements as a result of the map review process. It shall also have jurisdiction as an appellate agency in cases in which appeals to the Council are authorized by this article.

### TENTATIVE MAPS

SEC. 10-3.200 ENVIRONMENTAL IMPACT ANALYSIS. No tentative map shall be approved until an environmental impact analysis is prepared, processed, and considered in accordance with the provisions of the California Environmental Quality Act and the State and City environmental regulations and procedures. For the purposes of section 66452.1 of the Subdivision Map Act, a tentative map shall not be deemed to have been filed until the date of completion of the environmental review process.

SEC. 10-3.205 TENTATIVE MAP REQUIREMENT. A tentative map is required for every subdivision with the exception of those subdivisions described in section 66426, of the Subdivision Map Act, regardless of the number of parcels created. The map shall be prepared by a registered civil engineer or licensed land surveyor, shall be filed with the Planning Director and prepared in accordance with the provisions of this article and the Subdivision Map Act. Tentative maps shall be divided into the following categories:

- a. Tentative map - final map.
- b. Tentative map - parcel map.
- c. Vesting Tentative Map.

SEC. 10-3.210 INFORMATION TO BE SUBMITTED.

- a. Tentative Map - Final Map. The following information shall appear on a tentative map for a final map.
- (1) A tract number issued by the County Recorder of Alameda County.
  - (2) The names, addresses and telephone numbers of the record owners, subdividers and the civil engineer or land surveyor who prepared the map.
  - (3) Boundaries of the subdivision with sufficient information to locate the property. Existing contour lines at intervals of not more than one foot where the slope of the natural ground is 1 percent or less; two-foot intervals where the slope is greater than 1 percent, but less than 50 percent; and ten-foot intervals where the slope is greater than 50 percent. The limits of all grading and the proposed grading slopes shall be indicated. Contours shall extend beyond the tract boundaries to show drainage or other conditions on surrounding property which may affect the subdivision.
  - (4) The location, width, and names of all existing streets or other public rights-of-way in or adjacent to the tract.
  - (5) Existing buildings on or around the property, distances between structures to be retained, and notations of structures to be removed.
  - (6) Railroad rights-of-way, easements, or other important features such as political subdivision lines, rancho lines, water courses, or other physical features.
  - (7) The approximate location and general description of any trees that would be governed by the City tree preservation regulations (Article 15, Chapter 10, Hayward Municipal Code).
  - (8) Existing storm and sanitary sewers, culverts, or other underground structures and wells within the boundaries of the tract and immediately adjacent thereto. Pipe sizes, grades, and locations shall be shown.
  - (9) True north point, dimensional and graphic, scale, and date.
  - (10) The layout, numbers, and approximate dimensions of the proposed lots.
  - (11) The locations, widths, and approximate grades and elevations of all proposed streets.
  - (12) The location and width of all proposed easements for all utility purposes.
  - (13) Size, slope, and location of proposed sanitary sewer, storm drain, and water main facilities.
  - (14) Proposed names for all streets.

(15) Statement of existing and proposed zoning and the use of the property.

(16) A certificate on the map signed by the owners agreeing to the filing of said map and agreeing to comply with the provisions of these subdivision regulations and the State Map Act as they apply to the processing and approval of said map.

- b. Tentative Map - Parcel Map. The same information as listed hereinabove in section a. shall appear on a tentative map for a parcel map except where such information is waived in writing by the Planning Director.
- c. Vesting Tentative Map. The same information as listed hereinabove in sections a. or b. shall appear on a vesting tentative map.

SEC. 10-3.215 DATA AND REPORTS ACCOMPANYING TENTATIVE MAP.

- a. A preliminary soils investigation and report prepared by a registered civil engineer specializing in soils engineering shall accompany all tentative maps. This requirement may be waived by the City Engineer where the map is a Tentative Map for a Parcel Map and the City has adequate knowledge of the soils qualities of the subdivision.
- b. If the subdivision is within a special studies zone established by the State of California, a geological report prepared by a registered geologist or a registered engineering geologist complying with the requirements of the Alquist-Priolo Act shall be submitted.
- c. The City Engineer and the Planning Director may require other information and reports prepared by qualified professionals in order to evaluate the map for conformance with the California Environmental Quality Act (CEQA), City and State regulations, the General Plan, and other City-adopted plans and policies.
- d. A legal description of the property to be subdivided shall also be submitted.

SEC. 10-3.220 TENTATIVE MAP SCALE AND FORM. The scale of the map shall not be a larger ratio than 1" = 100'. If necessary to provide the proper scale, more than one sheet may be used, but the relationship of the several sheets must be clearly shown on each sheet. No sheet shall exceed 24 inches in width and 36 inches in length.

SEC. 10-3.230 PRELIMINARY MEETING. The Planning Director shall transmit copies of the tentative map and other related necessary data to known interested organizations, and other public or private agencies which may be affected by the proposed subdivision. Transmittal shall include notification of the time, date, and place of a preliminary meeting with the subdivider to discuss any responses received and other recommendations with the parties involved. A notice of the meeting shall be mailed to all property owners and occupants of all buildings within the proposed subdivision and to all property owners within 300 feet of the property and occupants of all buildings abutting the property which is proposed to be subdivided.

SEC. 10-3.235 ACTION BY ADVISORY AGENCY/APPROVAL AUTHORITY.

- a. Tentative Map - Final Map, and Vesting Tentative Map. Within the period prescribed by the Subdivision Map Act, the Advisory Agency shall consider the tentative map, the accompanying drawings, statements, and other data, reports and recommendations of the Planning Director and the City Engineer, and the evidence and testimony introduced at public hearings, and shall recommend to the approval authority the approval, conditional approval, or disapproval of the map.
- b. Tentative Map - Final Map, Tentative Map - Parcel Map, Lot Line Adjustment Map. Within the period prescribed by the Subdivision Map Act, the Advisory Agency/Approval Authority shall consider the tentative map for a final map, parcel map, lot line adjustment map, the accompanying drawings, statements, other data, the reports and recommendations of the Planning Director and the City Engineer, and shall approve, conditionally approve, or disapprove the map, or refer the map to the City Council.

Any interested person adversely affected by the decision of the Planning Director or the Director of Public Works may file an appeal with the Planning Commission. Any interested person adversely affected by the decision of the Planning Commission may file an appeal with the City Council. Any such appeal shall be filed with the City Clerk within 10 days after the date of action appealed from as provided by section 66452.5 of the Subdivision Map Act. The hearing on the appeal shall be held within 30 days after the filing of the appeal, and notice of such hearing date shall be published by the City Clerk at least 10 days before the hearing in The Daily Review, a newspaper of general circulation in the City.

SEC. 10-3.240 ACTION BY CITY COUNCIL. The City Council, as approval authority and as the appeal board, shall act upon tentative maps in the manner prescribed by the Subdivision Map Act and by these regulations.

SEC. 10-3.245 PUBLIC HEARINGS. The Advisory Agency and/or the City Council shall hold a public hearing when considering any tentative map, or a parcel map where tentative map was waived. At least 10 days before the public hearing, a notice of the hearing shall be (1) published in a newspaper of general circulation in the City of Hayward, and (2) mailed to all property owners and occupants of all buildings within the proposed subdivision and to all property owners within 300 feet of the property and occupants of all buildings abutting the property which is proposed to be subdivided.

The Planning Director may give such other notice that he or she deems necessary or advisable. The subdivider shall furnish to the City a list of the names and mailing addresses of all property owners and occupants within the prescribed area on forms provided by the City or on forms otherwise acceptable to the Planning Director. The list shall be accompanied by typewritten labels for each different owner or occupant within the above described area, with one set of labels provided for all official hearings and subdivision conferences.

SEC. 10-3.246 TIME EXTENSION – TENTATIVE (TRACT MAP OR PARCEL MAP) MAP AND VESTING TENTATIVE (TRACT MAP OR PARCEL MAP) MAP.

- a. Expiration. An approved or conditionally approved tentative map shall expire 36 months after its approval. The expiration of the tentative map terminates all

proceedings, and no final or parcel map may be filed without first processing a new tentative map, unless an extension is granted as set forth below.

b. Statutory Extensions.

1. Off-Site Public Improvements. If the subdivider is required to expend \$178,000 or more to construct, improve, or finance the construction or improvement of public improvements outside the property boundaries of the tentative map, excluding improvements of public rights-of-way which abut the boundary of the property to be subdivided and which are reasonably related to the development of that property, each filing of a final map authorized by Subdivision Map Act Section 66456.1 shall extend the expiration of the approved or conditionally approved tentative map by 36 months from the date of its expiration, as provided in this section, or the date of the previously filed final map, whichever is later. The extensions shall not extend the tentative map more than 10 years from its approval or conditional approval. However, a tentative map on property subject to a development agreement authorized by Article 2.5 (commencing with Subdivision Map Act Section 65864) of Chapter 4 of Division 1 may be extended for the period of time provided for in the agreement, but not beyond the duration of the agreement. The number of phased final maps that may be filed shall be determined by the advisory agency at the time of the approval or conditional approval of the tentative map.

Commencing January 1, 2005, and each calendar year thereafter, the amount of one hundred seventy-eight thousand dollars (\$178,000) shall be annually increased by operation of law according to the adjustment for inflation set forth in the statewide cost index for class B construction, as determined by the State Allocation Board at its January meeting. The effective date of each annual adjustment shall be March 1. The adjusted amount shall apply to tentative and vesting tentative maps whose applications were received after the effective date of the adjustment.

For purposes of this section, final map 'filing' date is the date of the City Council meeting at which the Council receives the map.

2. Development Moratorium. The period of time specified in Section 10-3.246(a) of this Article shall not include any period of time during which a development moratorium, defined by the Subdivision Map Act Section 66452.6(f), and imposed after approval of the tentative map, is in existence. The length of the moratorium shall not exceed five years. Once a development moratorium is terminated, the tentative map shall be valid for the same period of time as was left to run on the tentative map at the time that the moratorium was imposed. However, if the remaining time is less than 120 days, the tentative map shall be valid for 120 days following the termination of the moratorium.
3. Development Agreement. A tentative map on property subject to a development agreement authorized by Article 2.5 of Chapter 4 of division 1 of Title 7 of the California Government Code, Subdivision Map Act Section 65864, et. seq., and the provisions of Article 9, Chapter 10 of the City of

Hayward Municipal Code may be extended for the period of time provided for in the agreement, but not beyond the duration of the agreement.

c. Discretionary Extensions.

1. General. Prior to the expiration of an approved or conditionally approved tentative map, the person filing the tentative map may request an extension of the tentative map approval or conditional approval by written application to the Planning Director, such application to be filed at least fifteen days before the approval or conditional approval is due to expire. The application shall state the reasons for requesting the extension. Upon a timely filing of the application for extension by the subdivider, the tentative map shall automatically be extended for 60 days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first. In granting an extension, new conditions may be imposed or existing conditions may be revised. Upon application of the subdivider, the first extension of the term of the map, not exceeding 36 months, may be granted by the Planning Director, who is designated the advisory agency for this purpose, upon the determination that circumstances under which the map was approved or conditionally approved have not changed to the extent which would warrant a change in the design or improvement of the tentative map. If the Planning Director denies the subdivider's application for an extension, the subdivider may appeal to the Planning Commission within 15 days after the Planning Director has denied the initial extension. The Planning Commission may grant, conditionally grant, or deny subdivider's request for extension. The time at which the map expires may be extended or a period or periods not exceeding a total of six years. If the Planning Commission denies a subdivider's application for an extension, the subdivider may appeal to the City Council within 15 days after the Planning Commission has denied the extension.
2. Pending Litigation. The period of time specified in Section 10-3.246(a) above shall not include any period of time during which a lawsuit involving the approval or conditional approval of the tentative map is or was pending in a court of competent jurisdiction if the stay of such period of time is approved by the City Council. Not later than ten days after service of the initial petition or complaint in such lawsuit upon the City, the subdivider may file a written request with the City Clerk for such a stay. Within forty days after the filing of such request, the City Council shall either stay the time for up to five years, or deny the requested stay. The City Council shall act upon such request after a hearing, notice of which shall be given to the subdivider. The subdivider shall be entitled to present evidence at the hearing in support of said stay, and the City Manager and the City Attorney may recommend to the City Council whether to grant or deny said stay. The decision of the City Council shall be final and shall be subject to judicial review within the time and to the extent provided by law.

- d) Subdivision Map and Improvement Plans Review. A tentative map remains valid during the period that the review of a subdivision map (final map or parcel map) and improvement plans by the City is underway, and the subdivider is actively pursuing approval of a final map or parcel map. However, under no circumstances will the

map remain valid for a period of more than 12 months after the expiration date of the approved or conditional approved tentative map. In addition, if the City Engineer determines at any time during the review period that the subdivider is not actively pursuing the approval of the final map or parcel map, as evidenced by the subdivider's failure to adhere to time deadlines as set forth by the City Engineer, the privileges granted by this section will end and the map will expire, provided the expiration date of the tentative map has passed.

### PARCEL MAPS

SEC. 10-3.250 PARCEL MAP REQUIRED. A parcel map is required for every subdivision for which a tentative and final map are not required, except where a parcel map is waived as provided in the Subdivision Map Act.

SEC. 10-3.255 PARCEL MAP WAIVER. Pursuant to section 66428(a) of the Subdivision Map Act, the requirement of a parcel map shall be waived by the Advisory Agency when it determines that the proposed division of land meets all City requirements as to area, improvement and design, flood water drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection, and sufficient record and survey data are available to accurately determine the location of the parcel. A legal description of the property to be divided shall be submitted with the tentative map. When the requirement of a parcel map is waived, but dedication for the purposes of street widening is necessary, such dedication shall be made by a separate instrument which shall be recorded concurrently with, or prior to, the instrument of waiver of a parcel map being filed for record.

### SEC. 10-3.265 PREPARATION AND FORM OF PARCEL MAP.

- a. The general form and layout of the map, including size and type of lettering, drafting, and location and acknowledgments, shall be as determined by the City Engineer.
- b. The exterior boundary of the land within the subdivision shall be designated by 1/16 of an inch solid black line.
- c. Scale of the map shall be 1" = 20', 1" = 40', or 1" = 50' unless otherwise permitted by City Engineer.
- d. All dimensions shall be shown in feet and hundredths or thousandths of a foot.
- e. If more than two sheets are necessary to show the entire subdivision, an index map shall be included on sheet two.
- f. The parcel map number, city and county, scale and north point, name of the engineer, date and sheet number, shall be shown on each sheet, if applicable.
- g. A title sheet designated as sheet 1 of the parcel map shall be provided, except that where the size of a subdivision permits, in lieu of a separate title sheet, the information required to be shown thereon may be shown on the same sheet as the map of the subdivision.

- h. Upon the recordation of the parcel map by the County Recorder, the subdivider shall be responsible to provide the City Engineer with a reproducible copy on 4 mil polyester base film.

SEC. 10-3.270 CERTIFICATE FOR ACCEPTANCE. Offers of dedication may be made either by separate document or by dedication on the parcel map. If made on the parcel map, the following certificate shall appear on the parcel map.

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

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City Manager

SEC. 10-3.275 STATEMENTS, DOCUMENTS AND OTHER DATA TO ACCOMPANY PARCEL MAP. The parcel map shall substantially conform to the tentative map as approved, or conditionally approved, by the Advisory Agency/Approval Authority, and shall contain, or be accompanied by, such additional information as may be required by the City Engineer, including:

- a. All required survey data and information.
- b. All parcels with dimensions, boundaries, and courses clearly shown and defined with each parcel identified by number.
- c. The location and width of streets, alleys, pedestrian ways, and other easements and portions thereof dedicated or offered for dedication to the City, including the recording references on easements that are existing of record.
- d. All limitations on rights of access to and from the streets from lots and other parcels of land.
- e. A guarantee of title or letter from a title company certifying that the signatures of all persons whose consent is necessary to pass a clear title to the land being subdivided, and all acknowledgments thereto appear and are correctly shown on the certificates, and said certificates are correctly shown on the parcel map, both as to consents for making thereof and the affidavit of dedication.
- f. If a field survey is made, the engineer or surveyor shall furnish the City Engineer boundary closure sheets.
- g. Plans, specifications, and applicable permits for the construction and installation of improvements that have been approved by the City Engineer and on which security has been posted to guarantee the installation of said improvements. Alternatively, if approved by the City Engineer, an agreement for the construction and installation of improvements at a later date.

- h. Any city or district boundary line crossing or contiguous to the subdivision shall be clearly designated to determine its relative location to all parcels.
- i. Adjacent subdivisions or ownerships of record.

### LOT LINE ADJUSTMENT MAPS

SEC. 10-3.280 LOT LINE ADJUSTMENT MAP REQUIRED. A lot line adjustment map shall be filed with all applications for lot line adjustments.

### SEC. 10-3.285 PREPARATION AND FORM OF LOT LINE ADJUSTMENT MAP.

- a. The general form and layout of the map, which shall be prepared by a registered civil engineer or licensed land surveyor, shall be as determined by the Planning Director.
- b. The names, addresses, and telephone numbers of the Record Owners; the assessor's parcel numbers assigned to the parcels.
- c. Boundaries of the lots, both existing and proposed, with sufficient information to locate the property.
- d. The location and names of all existing streets or other public rights-of-way in or adjacent to the tract.
- e. Existing building, distances between structures to be retained, and notations of structures to be removed.
- f. Railroad rights-of-way, easements, or other important features such as political subdivision lines, rancho lines, water courses, or other physical features.
- g. The approximate location and general description of any trees that would fall within the category of the City of Hayward Tree Preservation Ordinance.
- h. True north point, dimensional and graphic, scale, and date.
- i. Layout, numbers, and dimensions of lots involved.
- j. Location and width of all proposed easements for all utility purposes.
- k. A certificate on the map signed by the owners agreeing to the filing of said map, and agreeing to comply with the provisions of the subdivision ordinance and State Map Act as they apply to the processing and approval of said map.

SEC. 10-3.286 TIME EXTENSION. A Lot Line Adjustment approval shall be valid for one year and if the revised lots are not a matter of record within said time the approval shall expire. An extension of time, up to a maximum of one year, may be granted by the Planning Director.

SEC. 10-3.290 EXECUTION. A Lot Line Adjustment approval shall be finalized by the owners as follows:

- a. If the adjustment is between two parties, properly executed documents shall be submitted to the City at the time of approval of the Lot Line Adjustment and subsequently shall be transmitted to the County Recorder for recording.

The Lot Line Adjustment shall be reflected in a deed, which shall be recorded with the County Recorder.

- b. If a single party owns all parcels, a properly executed "Notice of Lot Line Adjustment" shall be submitted at the time of approval and subsequently be transmitted to the County Recorder for recording.
- c. In all cases the proponents shall provide a certificate from a title company stating that all outstanding liens have been reconciled with the adjusted property boundaries.
- d. Where any of the concerned properties are within any Assessment or Local Improvement District, either all outstanding assessments shall be paid off or an Amended Assessment Diagram shall be prepared and approved ready for filing at such time as all required documents are a matter of record.

#### FINAL MAPS

##### SEC. 10-3.305 PREPARATION AND FORM OF FINAL MAP.

- a. Scale of the map shall be 1" = 50' unless otherwise permitted by the City Engineer.
- b. All dimensions shall be shown in feet and hundredths of a foot, and lots containing one acre or more shall show the net acreage to the nearest 1/100 of an acre. The boundary shall close to 1/100 of a foot.
- c. If more than two sheets are necessary to show the entire subdivision, an index map shall be included on sheet two.
- d. Basis of bearing and legend shall be shown on sheet two and tract number, scale and north point, date, engineer, and sheet number shall be shown on each sheet. Tract designation is allowable with tract number. Bearings shall be based on the California Coordinate System unless waived by the City Engineer.
- e. A certificate sheet designated as sheet one of the final map shall be provided, except that, where the size of the subdivision permits, the information required to be shown thereon may be shown on the same sheet as the map of the subdivision.
- f. Upon the filing of the final map by the County Recorder, the subdivider shall be responsible to provide the City Engineer with a reproducible copy on 4 mil polyester base film.

SEC. 10-3.310 INFORMATION TO APPEAR ON CERTIFICATE SHEET. The following information shall appear on the certificate sheet:

- a. The tract number, designation (if desired), the city and county where located, date, engineer, and sheet number.
- b. Below the title shall be a subtitle consisting of a description of all property being subdivided by reference to such map or maps of the property shown thereon as shall have been last previously recorded or filed in the County Recorder's office or shall have been last previously filed with the County Clerk pursuant to a final judgment in any action in partition or shall have been previously filed in the office of the County Recorder under authority of the Subdivision Map Act or by reference to the plat of any United States survey. The description shall also include reference to any vacated area with the number of the ordinance vacating said area.
- c. References to tracts and subdivisions in the description must be worded identically with original records and references to book and page of record must be complete.
- d. The certificate sheet on the final map shall contain those certificates required by the Subdivision Map Act. The form of the certificates shall be approved by the City Engineer.
- e. The City Engineer may authorize any of the required certificates to be separate documents.

SEC. 10-3.315 INFORMATION TO APPEAR ON FINAL MAP. The final map shall substantially conform to the tentative map as conditionally approved by the City. The following information shall appear on a final map.

- a. The exterior boundary of the land within the subdivision shall be designated by a 1/16 of an inch solid black line.
- b. All survey data and information for ties to the California Coordinate System and basis of bearing.
- c. All parcels and all lots offered for dedication to the City for any purpose with all dimensions, boundaries and courses clearly shown and defined in each case. Boundary, lot and street dimensions shall show the total of all partial dimensions for all courses and curves.
- d. All parcels shall be numbered consecutively throughout the subdivision. Only parcels offered for dedication, other than for streets or easements, shall be designated by letters. Each numbered parcel shall be shown entirely on only one sheet. The final map shall show the location and width of all streets, alleys, pedestrian ways, hiking trails and biking paths; the location and width of the portion of the street, alley, pedestrian way, equestrian hiking trail and biking path being dedicated, and the location and width of existing streets, rights-of-way, easements or other interests in the subdivision.
- e. All necessary data, including width and side lines of all public easements to which parcels within the subdivision are subject. Each easement shall be clearly labeled and identified as to its nature and purpose and, if already of record, its reference shall be given. A statement shall be made on the appropriate sheet or sheets of the final

map stating the nature of any easement which cannot be located exactly by record data. Such easement shall be denoted by five dashed lines and one solid line.

- f. All limitations or rights of ingress or egress to and from streets and lots and other parcels of land.
- g. The location, width and name of any street, and location and width of any alley, pedestrian way, equestrian hiking trail, biking trail, railroad right-of-way or other right-of-way adjacent to the subdivision.
- h. Any city or district boundary line crossing or contiguous to the subdivision shall be clearly designated to determine its relative location to all parcels and lots.
- i. Adjacent subdivisions or ownerships of record.

SEC. 10-3.320 STATEMENTS, DOCUMENTS AND OTHER DATA TO ACCOMPANY FINAL MAP. The following statements, documents or other data, and as many additional copies thereof as may be required by the City Engineer, shall accompany the final map:

- a. The names, addresses and telephone numbers of the subdivider and persons preparing the final map.
- b. A guaranty of title or letter from a title company certifying that the signatures of all persons whose consent is necessary to pass a clear title to the land being subdivided, and all acknowledgments thereto appear and are correctly shown on the certificates, and said certificates are correctly shown on the final map both as to consents for making thereof and the affidavit of dedication.
- c. Closure sheets for lots, boundary lines, streets, easements and monument lines as required by the City Engineer.

### PUBLIC IMPROVEMENTS

SEC. 10-3.330 REQUIREMENTS FOR IMPROVEMENTS. As a condition precedent to approval of a parcel map or a final map, all public improvements and/or private improvements that have been offered for dedication to the City and rejected, which have been required to be installed as a condition of approval of the tentative map shall have been completed and accepted in accordance with City standards applicable at the time of approval of the tentative map or the subdivider shall enter into one of the following agreements with the City, to wit:

- a. An agreement to thereafter complete such improvements at the subdivider's expense; or
- b. An agreement to thereafter initiate and consummate proceedings under an appropriate special assessment act for the financing and completion of all such improvements.

SEC. 10-3.331 AGREEMENT FOR IMPROVEMENTS. TERMS. If an agreement to install improvements is entered into as provided above, the form and content thereof shall be specified by and satisfactory to the City, and it may contain the following provisions:

- a. The improvements may be installed in phases or in units;
- b. The agreement may be terminated in whole or in part upon a reversion to acreage of the subdivision or parts thereof;
- c. A time for installation of the improvements may be specified or the right may be reserved to the City to specify at any time after the agreement has been entered into the time for installation of the improvements.

SEC. 10-3.332 SECURITY FOR INSTALLATION OF IMPROVEMENTS. If an agreement to install public improvements, and/or private improvements which have been offered for dedication to the City and rejected, is entered into as provided above, it shall be secured by security in the amount of 100 percent of the estimated total cost of the improvements to guarantee faithful performance of the agreement and to guarantee and warrant the public improvements for a period of one year following the completion and acceptance thereof against any defective work or labor done or defective materials used or furnished, and by security in the additional amount of 50 percent of the estimated total cost of the improvements to guarantee payment of persons supplying labor, materials, or equipment for the installation of such public improvements.

Improvement cost is the total cost of construction and installation of improvements, including the related grading, erosion control, and geotechnical work, as well as reasonable expenses and fees, including attorney's fees incurred by the City in enforcing the obligation secured.

The form and content of security instruments shall be as specified by and satisfactory to the City and shall otherwise conform to the requirements of Chapter 5 of the Subdivision Map Act. Approved security shall have been submitted prior to the City approval of the final map. Security shall be one or a combination of the following at the option of and subject to the approval of the City, to wit:

- a. A bond or bonds by one or more duly authorized corporate sureties;
- b. A deposit, either with the City or a responsible escrow agent or trust company, at the option of the City, of money or negotiable bonds of the kind approved for securing deposits of public monies;
- c. An instrument of credit from one or more financial institutions subject to regulation by the City and pledging that the funds necessary to carry out the act or agreement are on deposit and guaranteed for payment; or
- d. A lien upon the property to be divided, created by contract between the owner and the City, if the City finds that it would not be in the public interest to require the installation of the required improvement sooner than two years after the recordation of the map, in which case the contract or security interest shall be recorded with the County Recorder.

SEC. 10-3.3325 SECURITY AMOUNT REDUCTION IF SPECIAL ASSESSMENT SECURITY PROVIDED. If the required subdivision improvements are financed and installed pursuant to special assessment proceedings, upon the furnishing by the contractor of the faithful performance and labor and materials bonds required by the special assessment act being

used, the improvement security of the subdivider may, at the option of the City, be reduced by the amount corresponding to the amount of such bonds so furnished by the contractor.

### ACCEPTANCE OF WORK

#### SEC. 10-3.333 ACCEPTANCE OF WORK.

- a. The Director of Public Works, at his or her option, may, from time to time, accept and/or approve those portions of the improvement work which have been satisfactorily completed and reduce the obligation of security accordingly. Acceptance of portions of improvements shall not affect nor prejudice the rights of the City to assert or enforce any other obligation under said agreement and security.
- b. Upon satisfactory completion and performance of all the improvements and other obligations under a subdivision agreement, the City shall accept and/or approve the work and performance of the other obligations and discharge the security for faithful performance of the agreement, except that the City may retain up to 10 percent of the security to guarantee and warrant the public improvements for a period of one year following the acceptance thereof against any defective work or labor done or defective materials used or furnished.
- c. The security to guarantee payment of the persons supplying labor, materials, equipment, or the installation of public improvements may be reduced or released by the City as provided in paragraph (b) of section 66499.7 of the Subdivision Map Act.

### CONVERSION OF RESIDENTIAL RENTAL PROJECTS TO COMMON INTEREST DEVELOPMENTS

SEC. 10-3.350 INTENT AND PURPOSE. The conversion of rental units to Common Interest Developments creates conditions that may result in a negative impact on the public health, safety, welfare, and economic prosperity for the City. It is the intent of the City to establish rules and standards that regulate the conversion of rental units to residential Common Interest Developments in the City in order to provide opportunities for home ownership while protecting the interests of the tenants.

Said rules and standards shall apply to the conversion of an existing multi-family rental complex consisting of three or more units to a Common Interest Development, and the conversion of an existing single-family rental complex to ownership housing. This ordinance does not apply to “second units,” sometimes referred to as “granny” or “in-law” units. The conversion of industrial and commercial units shall be in accordance with the State Subdivision Map Act.

SEC. 10-3.355 DEFINITIONS. Whenever any of the following names or terms are used herein, each such name or term shall be deemed and construed to have the meaning ascribed to it as follows:

- a. Association. The persons who own a condominium or right of exclusive occupancy in a community apartment unit.
- b. Common Area. The entire project excepting all units therein.

- c. Common Interest Development. A Common Interest Development means any of the following:
- (1) A community apartment project.
  - (2) A condominium project.
  - (3) A planned development.
  - (4) A stock cooperative.
  - (5) Townhouse.
- d. Community Apartment. An estate in real property existing of individual interest in common in a parcel of real property in the improvement, therein coupled with the right of exclusive occupancy for residential purposes of an apartment located thereon.
- e. Community Housing. Includes the following: a condominium development, a community apartment project, and a stock cooperative or membership association. Excludes a limited equity housing cooperative as defined in section 11003.4 of the Business and Professions Code for purposes of conversion.
- f. Condominium Project. A “condominium project” means a development consisting of two or more condominiums. A condominium consists of an undivided interest in common in a portion of real property coupled with a separate interest in space called a unit, the boundaries of which are described on a recorded final map, parcel map, or condominium plan in sufficient detail to locate all boundaries thereof.
- g. Conversion. A change in the type of ownership of a parcel or parcels of land, together with the existing attached structures, to that defined as community housing, regardless of the present or prior use of such land or structures and whether improvements have been made or are to be made to such structures.
- h. Disabled Tenant. A disabled tenant is any tenant who is on the lease or rental agreement, if any, and who has a physical impairment which substantially limits one or more of such person’s major life activities, has a record of such impairment, or is regarded as having such an impairment.
- i. Elderly Tenant. An elderly tenant is any tenant who is 65 years of age or older and who is on the lease or rental agreement, if any.
- j. Organizational Documents. The declaration of covenants, conditions, restrictions, articles of incorporation, bylaws, and any contracts for maintenance, management or operation of all or any part of a project.
- k. Planned Development. Planned Development means a development (other than a community apartment project, a condominium project, or a stock cooperative) having either or both of the following features:

- (1) The common area is owned either by an association or in common by the owners of the separate interests who possess appurtenant rights to the beneficial use and enjoyment of the common area.
  - (2) A power exists in the association to enforce an obligation of an owner of a separate interest with respect to the beneficial use and enjoyment of the common area by means of an assessment which may become a lien upon the separate interests.
- l. Project. The entire parcel of real property divided, or to be divided, into condominiums or community apartments, including all structures thereon.
  - m. Recreational Open Space. The open space on the project that complies with applicable provisions of the Zoning Ordinance.
  - n. Single-Family Rental Complex. Three or more single-family dwellings on a single parcel of land owned by a single entity.
  - o. Stock Cooperative. A corporation which is formed or availed primarily for the purpose of holding title to, either in fee simple or for a term of years, improved real property, if all or substantially all of the shareholders of such corporation receive a right of exclusive occupancy in a portion of the real property, title to which is held by the corporation, which right of occupancy is transferable only concurrently with the transfer of the share or shares of stock in the corporation held by the person having such right of occupancy.
  - p. Townhouse. For purposes of this ordinance, a townhouse is one unit in a row of houses connected by common side walls. The ownership of a townhouse unit extends throughout the unit, including walls and roof and the ground upon which the unit sits. Additional land, in the form of private, attached space, may be included in ownership space of the townhouse.
  - q. Unit. The elements of a condominium that are not owned in common with the owners of other condominiums in the project, or is an apartment in a community apartment project to which the owner has a right of exclusive occupancy.

SEC. 10-3.360 PARCEL MAP REQUIRED. A parcel map is required for the conversion of three or four rental units to a Common Interest Development.

SEC. 10-3.365 TENTATIVE MAP FOR COMMON INTEREST DEVELOPMENTS. The tentative map shall contain all the information required on a tentative map for any subdivision, plus the following in order to adequately review the proposal:

- a. The location indicated to the nearest one-half foot of the perimeter of the building or buildings in relationship to the parcel boundaries;
- b. Estimated square footage of each unit and number of rooms in each unit;
- c. General layout of all common areas;

- d. General layout and location of all facilities and amenities provided within the common area for the use and enjoyment of the unit owners;
- e. General layout of all parking spaces and driveways;
- f. Public areas proposed for dedication, scenic easements proposed;
- g. Tree and landscaping removal or planting proposed.

SEC. 10-3.370 REQUIREMENTS FOR CONVERSION OF MULTI-FAMILY AND SINGLE-FAMILY RENTAL PROPERTY TO COMMON INTEREST DEVELOPMENTS

a. Notification of Tenants and Prospective Tenants.

1. Each notice shall be provided in both English and Spanish and in the language used in the original lease or rental agreement. At least 60 days prior to the time of the filing of an application for a tentative map for the conversion of rental units to a Common Interest Development, the subdivider shall send to each tenant of the rental units to be converted the following notice:

To the occupant(s) of

\_\_\_\_\_

(address)

The owner(s) of this rental development at (address), plans to file an application with the City of Hayward to convert this rental development to a Common Interest Development. You shall be given notice of each hearing for which notice is required pursuant to sections 66451.3 and 66452.5 of the Government Code, and you have the right to appear and the right to be heard at any such hearing.

\_\_\_\_\_

(signature of owner or owner's agent)

\_\_\_\_\_

(date)

2. Commencing at a date not less than 60 days prior to the submittal of an application for a tentative map for the conversion of rental units to a Common Interest Development, the subdivider shall give notice of such application to each person applying after such date for rental of a unit of the subject property immediately prior to the acceptance of any rent or deposit from the prospective tenant by the subdivider. The notice shall be as follows:

To the prospective occupant(s) of

\_\_\_\_\_

(address)

The owner(s) of these units at (address), has submitted an application or plans to submit an application for a tentative map with the City of Hayward to convert these units to a Common Interest Development. No units may be sold unless the conversion is approved by the City of Hayward, and until after a public report is issued by the Department of Real Estate when the conversion involves five or more dwelling units. For a three- or four-unit development, no units may be sold until the parcel map has been filed. If you become a tenant of this development, you shall be given notice of each hearing for which notice is required pursuant to sections 66451.3 and 66452.5 of the Government Code and you have the right to appear and the right to be heard at any such hearing.

---

(signature of owner or owner's agent)

---

(date)

I have received this notice on \_\_\_\_\_  
(date)

---

(prospective tenant's signature)

Pursuant to subsection a.(2) above, if the subdivider or his or her agent fails to give notice, 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 pursuant to paragraph 4 of subsection (b), an amount equal to the sum of the following:

(aa) Moving expenses in the amount of \$1,000 to be paid prior to moving.

(bb) The equivalent of three months' rent, based on the highest rent paid by the tenant, with one-third to be paid one month prior to the move date and the other two thirds paid upon vacating the premises.

3. Within 10 days after the submittal of an application for a tentative map for the conversion of rental units to a Common Interest Development, the subdivider shall send to each tenant, and provide to each person who becomes a tenant at any time subsequent to such date, a written notice containing the following information:

(aa) That the owner of the development in which the tenant resides has submitted an application with the City to convert the units to a Common Interest Development, the date such application was made, and if approved, that tenants will eventually be required to move unless they purchase a unit or qualify for and accept an offer of a lease as provided herein;

(bb) That each tenant will be given at least 10 days' prior written notice by the City (at subdivider's expense) of the date, time, and place of any

hearing held on the tentative map application by the Planning Commission or City Council and the availability of any staff report related to the hearing.

(cc) That each tenant will be notified in writing of the approval of the final map approving the conversion, if it is approved, within 10 days of such action; and

(dd) Each tenant will receive 10 days' written notification from the subdivider that a final or parcel map has been recorded and the implications of that filing.

4. Accompanying the notices required by paragraphs 1 and 2 of subsection (a) above shall be written information describing, in general terms, what steps and actions the subdivider and others, including governmental agencies, must take in order for the units to be converted to a Common Interest Development. It shall also include information on what rights the tenants have as set forth in subsection b. below. All documents referred to in this subsection shall be in a format approved by the Planning Director.

5. With the exception of 3 (bb) above, all notices referred to in this section shall be sent by certified mail by the subdivider.

b. Tenant Rights on Conversion. With regard to any conversion as defined above, each tenant shall have the following rights.

1. After receipt of the notice of intent to convert, each tenant will be permitted to terminate any lease or rental agreement without penalty upon written notification to the subdivider at least 30 days in advance of such termination, provided, however, that this requirement shall cease upon notice to the tenant of the abandonment of subdivider's efforts to convert the units as evidenced by formal withdrawal of the application for subdivision approval.

2. If a dwelling unit is rented to tenant(s) subsequent to the submittal of an application for a tentative map, the tenant shall be advised of the owner's intent to convert the unit to a Common Interest Development. This information shall be included in each lease or rental agreement, if there is one, and the tenant's signature acknowledging receipt of this information shall be included on the lease or rental agreement. The tenant(s) shall receive all subsequent notices herein required. Tenants advised of the intent to convert and who receive all notices distributed once the tenant signs the lease shall not be eligible to receive relocation assistance.

3. Notwithstanding the date of construction of the rental complex proposed for conversion, or the number of rental units or whether the units are decontrolled at the date the application for a tentative map is made, each unit shall be subject to any rent stabilization ordinances adopted by the City of Hayward from the date of notification of intent to convert until the date the unit is sold; provided, however, that this requirement shall cease upon the happening of any of the following events:

- (i) Abandonment of the subdivider's efforts to convert the development as evidenced by formal withdrawal of the application for subdivision approval;
  - (ii) Execution of leases in accordance with paragraphs 1 and 2 of subsection (c).
  - (iii) The tenant voluntarily terminates the lease or rental agreement upon 30-days written notice to the subdivider.
4. With the exception of conversion of a rental complex involving three or four dwelling units, each tenant will have a right of occupancy of 180 days from the date of the receipt of a notice from the subdivider that a final map has been recorded; provided, however, that this subsection shall not alter or abridge the rights or obligations of the parties in the performance of their covenants, including but not limited to, the provision of services, payment of rent, or the obligations imposed by sections 1941, 1941.1, and 1941.2 of the Civil Code of the State. For projects involving the conversion of three or four dwelling units, each tenant will have a right of occupancy of 180 days from the date of the filing of the parcel map with the Alameda County Recorder.
5. Each tenant will have an exclusive right or option to contract for the purchase of the dwelling unit or the share controlling the dwelling unit then occupied by the tenant, or any other available unit in the development. For tenants purchasing the unit that they occupy, the subdivider shall sell the unit at the price initially offered to the general public minus 10 percent; for tenants purchasing a unit in the development other than the unit they occupy, the subdivider shall sell the unit at the price initially offered to the general public minus 5 percent. For conversion projects involving five or more dwelling units, such rights shall run for a period of not less than 90 days from receipt of a notice from the subdivider that the final map has been recorded, unless the tenant gives prior written notice of intention not to exercise that right; for projects involving three or four units, such rights shall run for a period of not less than 90 days from the date of the recordation of the parcel map. The discount is not applicable to those units that are subject to the City of Hayward Inclusionary Housing Ordinance.
6. No remodeling of the interior of tenant occupied units shall begin without consent of the tenant;
7. No tenant may be evicted without just cause.

c. Tenant Assistance

1. Leases shall be offered to elderly and disabled tenants whose names appear on the lease or rental agreement, if any, prior to the initial notice of intent to convert and for the unit they occupy. The leases shall be for five years. For conversion of projects involving five or more units, such lease rights shall expire no earlier than 180 days from the date of receipt of notice from the subdivider that a the final map has been recorded. For conversion of projects of three or four dwelling units, such lease rights shall expire no earlier than

180 days from the date of the recording of the parcel map with the County Recorder. Leases shall include the following provisions:

- (aa) Tenants shall have the option of canceling the lease at any time upon thirty (30) days' written notice to the owner;
- (bb) Tenants cannot be evicted except for just cause;
- (cc) Right of occupancy shall be nontransferable;
- (dd) The first year's base monthly rent for the unit shall be set at no more than the rent existing on the unit at the time of the submittal of an application for a tentative map;
- (ee) Subsequent rent adjustments, if any, may be made no sooner than one year from the effective date of the lease, and shall be limited to no more than one per year, and to the annual percentage change in the U.S. Bureau of Labor Statistic's Consumer Price Index (CPI) for the San Francisco Bay Area; and
- (ff) Except as provided hereinabove, terms and conditions of the lease shall be the same as those contained in tenant's current lease or rental agreement.

2. Leases of at least six months, or completion of the school year, whichever is later, shall be offered to tenants with a child or children less than 18 years of age residing with them in their unit at the time of the initial notice to convert. Eligible tenants must provide evidence of enrollment and provide the date of the end of the school year in which the student is in attendance. For conversion of projects of five or more dwelling units, such lease rights shall expire no earlier than 180 days from the date of receipt of a notice from the subdivider that a final map has been recorded and any such lease shall be subject to the same conditions as set forth above in paragraph 1 of subsection c. For conversion of projects of three or four dwelling units, such lease rights shall expire no earlier than 180 days from the date the parcel map is recorded.

3. Assistance to Tenant-Purchasers.

- (aa) Reimbursement shall be made to tenant-purchasers for costs incurred as a result of temporary displacement during remodeling, including but not limited to, moving expenses and differentials in rents or temporary housing charges.
- (bb) A dwelling unit shall be offered for sale to tenant-purchasers at the price initially offered to the general public, minus 5 or 10 percent, or down payment assistance equal to the 5 or 10 percent reduction shall be offered to the tenant. Additionally, the subdivider must inform perspective tenant-purchasers of the ramifications of both the price reduction and down payment assistance options. For tenants purchasing the unit that they occupy, the subdivider shall sell the unit at the price initially offered to the general public minus 10 percent, or

offer down payment assistance equal to the amount of the reduction; for tenants purchasing a unit in the development other than the unit they occupy, the subdivider shall sell the unit at the price initially offered to the general public minus 5 percent, or offer down payment assistance equal to the amount of the reduction.

4. Relocation assistance shall be provided to displaced households, who leased or rented the property at the time of the initial notice of intent to convert. Relocation assistance shall also be provided to displaced households with senior or disabled tenants who choose to lease their units in accordance with this ordinance. Remuneration shall be in the form of:
  - (aa) Reimbursement of \$1000 per household [base year \$1000 as of January 1, 2007, with annual incremental changes to reflect changes in the San Francisco Bay Area consumer price index] 30 days in advance of moving from the subject property, except that the actual amount of moving expenses shall be paid to the elderly and disabled households, up to a maximum of \$2500 per household [base year \$2500 as of January 1, 2007, with annual incremental changes to reflect changes in San Francisco Bay Area consumer price index]; and
  - (bb) Payment in the amount equal to three months' rent, based on the highest rent rate having been paid by the tenant, with one-third to be paid one month prior to the move date and the other two thirds paid upon vacating the premises.
- d. Tentative Map Application Requirements. In addition to the other requirements of the Subdivision Ordinance, the subdivider shall include with the tentative map application the following information:
  1. One copy each of the notices and other documents to be provided to all tenants pursuant to subsection a.
  2. A renter profile listing the names and addresses of current tenants listed on a lease or rental agreement, if any; length of tenancy; and the number of tenants in the project in the following categories:
    - (i) Elderly, being any person who is 65 years of age or older;
    - (ii) Disabled, being any person who has a physical impairment which substantially limits one or more of such person's major life activities, has a record of such impairment, or is regarded as having such an impairment;
    - (iii) Family households, having as members of the household children who are under 18 years of age.
  3. A report describing the condition of and estimating the remaining useful life of the following elements: roof, exterior painting, paved surfaces, central or community heating and air conditioning systems, hot water heaters, and where they are reasonably accessible for inspection, other electrical,

plumbing, and mechanical equipment; said report to be prepared by a contractor or engineer who is licensed in the element being reviewed.

4. All information necessary to complete an application to meet the requirements of the City's Inclusionary Housing Ordinance.
- e. Requirements for Approval of Tentative Maps. No tentative map for the conversion of rental housing units to a Common Interest Development shall be approved unless the following findings are made:
1. The project is consistent with the housing goals and policies of the City of Hayward General Plan;
  2. The project is suitable for conversion to a Common Interest Development as determined by a review of its physical characteristics, including those reports as required by Section 10-3.375; and
  3. Tenant Assistance is provided in accordance with subsection c. of Section 10-3.370.
- f. Information to be Filed with Final Map or prior to filing of the Parcel Map. In addition to the other requirements of the Subdivision Ordinance, the subdivider shall include with the Final Map or prior to the filing of the Parcel Map the following information:
1. For projects involving five or more dwelling units, one copy of the application for a Public Report filed by the subdivider with the State Department of Real Estate.
  2. The proposed organizational documents, including the declaration of covenants, conditions, and restrictions, the proposed sales price of each unit, and the estimated homeowner association dues.
  3. One copy of notices to tenants required by section 66427.1 of the Subdivision Map Act together with evidence of each tenant's receipt of same.
  4. Evidence that tenant assistance is being carried out in accordance with subsection c.
  5. One copy of each document described in paragraph d. of Section 10-3.370 as approved with the tentative map.
  6. Proof that CC&Rs have been recorded in accordance with the requirements of the Tentative Map and with the following provision: In order to achieve a stabilized community of owner-occupied dwelling units, to avoid artificial inflation of prices caused by resales by speculators and to prevent scarcity and other problems caused by vacant homes awaiting resale by speculators, the CC&Rs shall state that all units shall be owner-occupied. The CC&Rs shall further provide that the leasing of units as a regular practice for business, speculative investment or other similar purpose is not permitted. However, to address special situations and avoid undue hardship or practical

difficulties, the CC&Rs may authorize the governing body to grant its consent, which consent shall not be unreasonably withheld, to a unit owner who wishes to lease or otherwise assign occupancy rights to a specified lessee for a specified period.

- g. Requirements for Approval of Final Maps and Filing of Parcel Maps. No final map for the conversion of rental housing units to a Common Interest Development shall be approved and no parcel map shall be filed unless the following findings are made:
1. For final maps, the final map is in substantial conformance with the tentative map;
  2. Each tenant has been or will be given notification as described in subsections a. and b. of Section 10-3.370;
  3. Each dwelling unit in the project has been or will be issued a Certificate of Occupancy by the Building Official prior to initial sale of the unit; and
  4. Each prospective buyer has been or will be given a copy of each report described in paragraphs 4 of subsection (d) as approved with the tentative map.
- h. Notice of Subdivision Public Report. Upon receipt of the subdivision public report, the subdivider shall notify, in writing, the Planning Director and each tenant in the rental complex to be converted of the date of issuance of said report, such notification to be accompanied by a copy of a report detailing how tenant assistance is being provided in accordance with subsection c. and approved with the final map, and copies of notices required by paragraphs 3, 4, and 5 of subsection b. Where no subdivision public report is required, notification shall occur 60 days prior to offering the first dwelling unit for sale.

SEC. 10-3.375 STANDARDS OF DEVELOPMENT. Except as herein provided, standards in the Municipal Code and the General Plan shall apply, and the standards for improvements within the common area shall be those expressed as conditions to approval of the tentative map and the Site Plan Review approval documents.

- a. Site Plan Review shall be required and an application submitted therefore with every application for a tentative map for conversion of a rental complex to ownership housing.
- b. Parking shall be provided in accordance with the City of Hayward Off-Street Parking Regulations in effect at the time the application to convert to ownership housing is deemed complete. For conversions involving three-and four-unit developments, exceptions to the Off-Street Parking Regulations may be granted by the Planning Director if it is determined that it would not be physically feasible to meet the Off-Street Parking Regulations without eliminating a dwelling unit, due to site constraints such as lot size or shape, steep topography, significant trees or structures. However, at least one designated parking stall per dwelling unit shall be required.
- c. Prior to sale of units, the applicant shall be responsible for the physical conditions within individual units and common areas. Verification of the integrity of the

building(s) shall be included in reports which indicate that minimum standards that are outlined below will be adequately addressed and remedied prior to sale of units. The reports required in this section must be provided to the City Planning Director prior to approval of the final map.

d. Building Condition:

1. The applicant shall submit a report by a licensed civil or structural engineer addressing structural issues with the building(s). This report shall include recommendation for correction of any structural deficiencies, which shall be remedied prior to close of escrow of each unit. Such issues shall include, but not be limited to:
  - (aa) Soft story conditions, as defined in Chapter A4 of the latest edition of the International Existing Building Code.
  - (bb) Lateral movement at walls with garage door openings.
  - (cc) Structural integrity of exterior balconies and their supporting members.
  - (dd) Seismic sufficiency of conditions at sub-floor areas including:
    - i. condition of foundation.
    - ii. attachment of mudsill to foundation.
    - iii. attachment of floor joists to sub-floor area cripple walls
    - iv. plywood shear walls at corners of sub-floor area.
    - v. Sub-floor ventilation.
2. The applicant shall provide a report by a licensed pest control company. Any work listed on the report shall be completed and cleared by the pest control company prior to occupancy.
3. Fire/Life Safety:
  - (aa) fire alarm system shall be required per the current California Fire Code and NFPA 72. The Fire Alarm system shall be zoned and have an on-site annunciator panel that will identify the specific fire alarm device that is activated and its specific location. The fire alarm system will be required to have a local alarm and also be supervised by an approved and listed central station monitoring company. All dwelling units shall be required to have hard-wired single station [hard wired with battery (back-up) smoke detectors]. These single station smoke detectors shall not be interconnected with the fire alarm system.
  - (bb) Doors from individual dwelling units opening into an interior corridor shall be part of a listed assembly with a minimum 20-minute fire rating.
4. Electrical:

- (aa) Each unit greater than 900 square feet shall have an electrical service rated at 100 amps minimum. Each unit less than 900 square feet shall have an electrical service rated at 60 amps minimum.
- (bb) Electrical circuits and outlets at kitchen and bathroom shall meet current electrical code minimums.
- (cc) All bathroom outlets and all kitchen countertop outlets within 6 feet of a sink shall be GFCI protected.
- (dd) Any new bedroom circuits shall be ARC fault protected.
- (ee) Each kitchen shall have two separate circuits for small appliances.
- (ff) All circuits, panels and metallic water lines shall be effectively grounded: gas lines shall be bonded to the grounding electrode system.

5. Energy:

- (aa) All gas furnaces/heating units shall have an ENERGY STAR rating from the Federal Management Program. At the time of conversion, all electric furnaces/heating units shall meet energy efficiency standards as published by the City of Hayward for electric furnaces in conjunction with the adoption of the electrical code.
- (bb) All windows within each unit shall be double-paned.
- (cc) All electrical outlets on exterior walls shall have foam gaskets.
- (dd) Install programmable thermostats for all heaters and furnaces.
- (ee) All exterior doors shall be tight fitting and have weather stripping.
- (ff) All plumbing fixtures, including toilets, shall be of water conserving design per the latest California Plumbing Code requirements.

6. Separation of Units and Sound Control:

- (aa) Draft stops shall be installed in attics in line with walls separating units from each other and from corridors, laundry rooms and other jointly used spaces.
- (bb) Sound transmission control shall be in place: provide results of on-site testing showing how State standards will be met or provide gypsum board sheathing mounted on channel on one side of tenant separation walls.
- (cc) Area separation walls that were part of the original construction shall be checked for integrity.

7. Accessibility. Accessibility for persons with disabilities shall be provided in all public areas to the maximum extent feasible. Some of the items to be addressed are:
  - (aa) Main entry to each building shall be accessible.
  - (bb) An accessible route of travel connecting all accessible elements and common use spaces of a building shall be provided.
  - (cc) If visitor parking is provided accessible parking per California Title 24 shall be provided.
  - (dd) Where structural or site conditions preclude installation of an accessibility measure, the applicant may apply to the Building Official for a hardship exemption for the specific element under consideration.
- e. Laundry facilities shall be provided within each converted rental complex, either communally or within individual dwelling units.
- f. Rental projects that do not conform to the density specified by the Zoning Ordinance shall not be converted to a Common Interest Development unless the conversion would result in eliminating the non-conforming status of the project related to density.

SEC. 10-3.376 CONDITION OF EQUIPMENT AND APPLIANCES. For projects involving five or more dwelling units, at such time as the homeowners' association takes over the management of the project, the applicant shall provide a one-year warranty to the association that any pool and/or spa and pool and/or spa equipment (filter, pumps, and chlorinator) and any appliances and mechanical equipment to be owned in common by the association is in operable working condition. The plumbing and electrical systems in both the dwellings and the common ownership areas shall also be covered by a one-year warranty for proper and safe operation and installation in a safe and workmanlike manner. Such warranty shall be offered by an independent homeowner's warranty service licensed by the California Insurance Commission. For projects involving three or four dwelling units, the warranty shall be provided upon close of escrow of the first dwelling unit.

SEC. 10- 3.377 CONTINGENCY FEES. The intent of the City in requiring the creation of a contingency or reserve fund for conversions is to provide a surety for unexpected or emergency repairs to common areas in the interest of the economic, aesthetic, and environmental maintenance of the community, as well as to protect the general welfare, public health, and safety of the community. Upon the close of escrow for each unit, the applicant shall convey to the homeowners' association contingency fund a minimum fee of \$200 per dwelling unit. When 50 percent or more of the total units in the project have been sold, the applicant, within 30 days, shall convey such fee for each of the unsold units. Such funds shall be used solely and exclusively as a contingency fund for emergencies which may arise relating to open space areas, exterior portions of dwelling units, and such other restoration or repairs as may be assumed by the homeowners' association.

SEC. 10-3.380 UTILITIES. Each unit shall be individually metered for electricity. Where natural gas is provided to a unit, the unit shall be individually metered for natural gas. Individual water meters shall be installed where feasible, as determined by the Public Works

Director. If individual units are not metered, then individual buildings shall be metered. Separate water meters shall be provided for irrigation.

SEC. 10-3.385 ORGANIZATIONAL DOCUMENTS. For all projects, there shall be required covenants, conditions and restrictions (CC&Rs), and the formation of an association or corporation for the purpose of managing and maintaining the project. For Common Interest Developments of 15 or more units, a professional property management company, licensed within the State of California, shall oversee the homeowners' association, including budgeting, accounting, and providing for property maintenance.

The CC&Rs shall state that the City of Hayward has the right to abate public nuisance conditions in the common area if the association or corporation fails to do so, and to assess the cost to the association, corporation or individual unit owners. If there is no "Board" that serves an HOA, the provisions herein shall apply to the home owners collectively. In order to accomplish this, the CC&Rs shall contain the following typical statements:

In the event the Board fails to maintain the exterior portions of the common area so that owners, lessees, and their guest suffer, or will suffer, substantial diminution in the enjoyment, use or property value of the project, thereby impairing the health, safety, and welfare of the residents in the project, the City of Hayward, by and through its duly authorized officers and employees, shall have the right to enter upon the real property described in Exhibit "A" and to commence and complete such work as is necessary to maintain said exterior portions of the common area. The City shall enter and repair only if, after giving the Board written notice of the Board's failure to maintain the premises, the Board does not commence correction of such conditions in no more than 30 days from delivery of the notice and proceed diligently to completion. The Board agrees to pay all expenses incurred by the City of Hayward within 30 days of written demand. Upon failure by the Board to pay within said 30 days, the City of Hayward shall have the right to impose a lien for the proportionate share of such costs against each condominium or community apartment in the project.

It is understood that by the provisions hereof, the City of Hayward is not required to take any affirmative action, and any action undertaken by the City of Hayward shall be that which, in its sole discretion, it deems reasonable to protect the public health, safety, and general welfare, and to enforce it and the regulations and ordinances and other laws.

It is understood that action or inaction by the City of Hayward, under the provisions hereof, shall not constitute a waiver or relinquishment of any of its rights to seek redress for the violation of any of the provisions of these restrictions or any of the rules, regulations, and ordinances of the City, or of other laws by way of a suit in law or equity in a court of competent jurisdiction or by other action.

It is further understood that the remedies available to the City by the provision of this section or by reason of any other provisions of law shall be cumulative and not exclusive, and the maintenance of any particular remedy shall not be a bar to the maintenance of any other remedy. In this connection it is understood and agreed that the failure by the Board to maintain the exterior portion of the common area shall be deemed to be a public nuisance, and the City of Hayward

shall have the right to abate said condition, assess the costs thereof and cause the collection of said assessments to be made on the tax roll in the manner provided by Chapter 4, Article 1, of the Hayward Municipal Code or any other applicable law.

The City Council of the City of Hayward may, at any time, relinquish its rights and interest in the project as herein set forth by appropriate resolution. Any such relinquishment by the City Council shall be effective on the date that the resolution is adopted and a copy thereof is placed in the United States mail, postage prepaid, addressed to the Board. The Board shall execute and record a declaration reflecting such relinquishment within 10 days of receipt of a copy of the resolution.

The above five paragraphs cannot be amended or terminated without the consent of the Hayward City Council.

SEC. 10-3.392 INFORMATION TO PRECEDE FINAL MAP SUBMISSION. The following information shall be submitted for review prior to submittal of the final map.

- a. Copy of applicant's proposed application for subdivision permit, in the event a permit is required, from the California State Department of Real Estate;
- b. Proposed sale price of each unit;
- c. A report describing the manner in which the terms of the declaration of restrictions will guarantee responsible maintenance and repair of the common areas, notwithstanding the escalation of costs, emergency maintenance repairs, and the replacement of major mechanical and electrical equipment; and
- d. A copy of notices to tenants required by section 66427.1 of the Subdivision Map Act together with evidence of each tenant's receipt of same.

SEC. 10-3.395 PREPARATION AND FORM OF FINAL MAP. Where five or more dwelling units within a rental complex are being converted to a Common Interest Development, a final map will be required. In addition to the other requirements for a certificate sheet, the title shall contain in bold letters an indication that this is a Common Interest Development, and specify the number of units.

### DEDICATIONS AND RESERVATIONS

SEC. 10-3.400 DEDICATION FOR STREETS AND UTILITIES. As a condition of approval of a map, the subdivider shall dedicate or make an irrevocable offer of dedication of the following:

- a. All parcels of land within the subdivision that are needed for streets, alleys, including access rights and abutters' rights, drainage, public utility easements, and other public easements.

- b. All parcels of land within the subdivision that are needed for local transit facilities such as bus turn-outs, benches, shelters, landing pads, and similar items within the limitations of section 66475.2 of the Subdivision Map Act.

SEC. 10-3.405 SCHOOL SITE DEDICATIONS. As a condition of approval of a final map, a subdivider who develops or completes the development of one or more subdivisions within the local school district shall, within the limitations of section 66478 of the Subdivision Map Act, dedicate to the school district such lands as the City Council shall deem necessary for the purpose of constructing thereon schools necessary to assure the residents of the subdivision adequate elementary school service.

SEC. 10-3.410 WAIVER OF DIRECT ACCESS TO STREETS. The City Council or the Advisory Agency may impose a requirement that any dedication or offer of dedication of a street shall include a waiver of direct access rights to such street from any property shown on a final map or parcel map as abutting thereon, and that if the dedication is accepted, such waiver shall become effective in accordance with its provisions.

SEC. 10-3.415 RESERVATIONS. At the time of approval of the tentative map, the City Council may require the reservation of areas for fire stations, libraries, parks, and recreational facilities or other public uses, subject to the provisions of sections 66479 to 66482 of the Subdivision Map Act.

### FEES

SEC. 10-3.420 PROCESSING FEES. Every applicant submitting any map, plan, or application authorized by the provisions of this article or the Subdivision Map Act shall pay the City for all costs the City incurs in reviewing and processing such map, plan, or application. The City may prepare an estimate of costs and require an advance payment of said estimated costs before undertaking its review and process.

The Planning Director may, from time to time, require that all outstanding processing fees be paid, and a letter stating same be obtained from the Finance Director, before proceeding with reviewing and processing a map, plan, or application. Such a letter from the Finance Director shall be required prior to approval of a tentative map, parcel map, final map, or a lot line adjustment map, and prior to acceptance of improvements and release or reduction of the improvement security bonds.

SEC. 10-3.425 BRIDGE CROSSINGS AND MAJOR THOROUGHFARE FEES. Prior to the filing of any final map or parcel map, the subdivider shall pay, or cause to be paid, any fees for defraying the actual or estimated costs of constructing bridges or major thoroughfares when such fees have been established in the manner provided by section 66484 of the Subdivision Map Act.

SEC. 10-3.430 DRAINAGE AND SEWER FACILITIES FEES. Prior to the filing of any final map or parcel map, the subdivider shall pay, or cause to be paid, any fees for defraying the actual or estimated costs of constructing planned drainage facilities for the removal of surface and storm waters from local or neighborhood drainage areas or sanitary sewer facilities for local sanitary sewer areas established in the manner provided by section 66483 of the Subdivision Map Act.

## REIMBURSEMENT

SEC. 10-3.440 REIMBURSEMENT. The City may impose a requirement that the improvements installed by the subdivider for the benefit of the subdivision shall contain supplemental sizes, capacity, or number for the benefit of property not within the subdivision, and that such improvements be dedicated to the City. When the City imposes such a requirement, the City shall enter into an agreement with the subdivider to reimburse the subdivider for that portion of the cost of such improvements equal to differences 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. The City, at the time of acceptance of the improvements, may make provision for collection of the City's share of the cost of such improvements in accordance with the provisions of sections 66487, 66488, and 66489 of the Subdivision Map Act.

## SPECIAL ASSESSMENT DISTRICTS

SEC. 10-3.445 SPECIAL ASSESSMENT DISTRICTS. At the time of submitting a final map, parcel map, or lot line adjustment map, or certificate of merger for approval, the property owner shall furnish sufficient data to identify any special assessment district for which there is a special assessment lien of record on any part of the subdivision, and, in the event that the subdivision will cause the lien to affect more than one parcel, he shall either furnish proof that the lien has been paid or have completed all things on his part to be done, including, but not limited to, submission of an application, payment of fees, and submission of an amended assessment diagram, to accomplish a reapportionment of assessments. This requirement may be waived by the approving authority for good cause and such waiver may be given subject to conditions, including, but not limited to, an obligation to do the foregoing at a later time and to give security to guarantee performance of that obligation.

## SOILS REPORT

SEC. 10-3.450 SOILS REPORT. A preliminary soils report shall be required for every subdivision for which a tentative map is required, except that no such report shall be required for a subdivision as described in paragraph (c) of section 66426 of the Subdivision Map Act, regardless of the number of parcels created, for which a waiver of a parcel map is requested. The soils report may be waived if the City Engineer makes the finding set forth in paragraph (a) of section 66491 of the Subdivision Map Act. Reference to the soils report, in the manner described in paragraph (f) of section 66434 of the Subdivision Map Act, or reference to the information replacing the soils report, shall be noted on the tentative map and on the final map or parcel map.

## SURVEYS AND MONUMENTS

SEC. 10-3.460 CALIFORNIA STATE COORDINATE SYSTEM MONUMENTATION. The subdivision shall be tied to California Coordinate System in conformance with the requirements of Division 8, Chapter 1, section 8801 et seq. of the Public Resources Code of the State of California, unless waived in writing by the City Engineer. Coordinates and bearings may be based upon California Coordinate System CCS 27 or CCS 83 until January 1, 1995, and shall be based upon CCS 83 thereafter. All ties shall be identified with grid

bearings and ground level distances, and the following note shall appear on all sheets of the map upon which any parcel is shown:

### CALIFORNIA COORDINATE SYSTEM

Coordinates and bearings shown hereon are based on the California Coordinate System, Zone 3 (CCS 27 or CCS 83). Distances shown are ground level distance. To obtain grid distance, multiply ground level distance by (Combination Factor).

The north arrow shall indicate graphically the divergence between geodetic north and grid north, and the theta ( $\theta$ ) angle shall be shown noting at which monument said angle was computed. The only coordinates appearing on the final map shall be for the primary geodetic control stations.

SEC. 10-3.461 BOUNDARY MONUMENTS. Monuments shall be set or referenced on the exterior boundary of the subdivision at all corners, angle points, beginning and ends of curves and at intermediate points not to exceed 1,000 feet apart. The location of inaccessible points shall be established by ties and shall be noted on the final map or parcel map.

If any or all of the boundary monuments are to be set after filing of the final map or parcel map with the County Recorder, the engineer or surveyor making the survey shall furnish evidence acceptable to the City Engineer to substantiate his reasons for deferring the setting of such monuments until after filing of such map with the County Recorder.

SEC. 10-3.462 INTERIOR MONUMENTS. Durable monuments shall be set at all block, lot or parcel corners and angle points and at the beginnings and ends of curves and within street rights-of-way as directed by the City Engineer.

If the interior monuments are not set within the period of time specified on the engineer's or surveyor's certificate, the City Engineer shall by written notice forthwith direct the engineer or surveyor of record to set such monuments within sixty (60) days of notice, and furnish such field notes as were agreed to be set and furnished on said certificate. If the engineer or surveyor fails to comply with said directive after 60 days, the City Engineer shall without further notice submit a written complaint and request for disciplinary action against said engineer or surveyor to the State Board of Registration for Professional Engineers.

SEC. 10-3.463 MONUMENT TYPE. All boundary monuments and monuments set within existing and proposed City rights-of-way shall be standard City monuments or such other permanent monuments as prescribed by the City Engineer, and shall be set to the depth and in the manner prescribed therefor.

SEC. 10-3.464 MONUMENT IDENTIFICATION MARKS. All monuments set as required herein shall be permanently and visibly marked or tagged with the registration or license number of the engineer or surveyor who signs the engineer's or surveyor's certificate and under whose supervision the survey was made.

SEC. 10-3.465 REPLACEMENT OF DESTROYED MONUMENTS. Any monument set as required herein which is disturbed or destroyed before acceptance of all improvements by the City shall be replaced by the subdivider's engineer or surveyor.

SEC. 10-3.466 SURVEY DATA AND INFORMATION TO BE SHOWN ON FINAL MAP OR PARCEL MAP. The following survey data and information shall be shown on each final map or parcel map based upon a field survey:

- a. Stakes, monuments or other evidence found on the ground together with their precise positions to determine the boundaries of the subdivision.
- b. Corners of all adjoining properties identified by lot and block numbers, subdivision names, numbers and page of record or by section, township and range or other proper designation.

#### REVERSION TO ACREAGE BY FINAL MAP

SEC. 10-3.480 INITIATION OF PROCEEDINGS 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 and/or other required information shall be filed with the Planning Director and in a form prescribed by the Director.

SEC. 10-3.481 INITIATION OF PROCEEDING BY CITY COUNCIL. The City Council, at the request of all the owners of record of real property within the subdivision or on its own motion, may initiate proceedings to revert property to acreage. The City Council shall direct the Planning Director to obtain the necessary information to initiate and conduct the proceedings.

SEC. 10-3.482 DATA FOR REVERSION TO ACREAGE. The petition shall contain the information required by the Subdivision Map Act, section 66499.13. Petitioners shall file the following:

- a. Adequate evidence of title to the real property within the subdivision.
- b. Sufficient data to enable the City Council to make all of the determinations and findings required by Article 1, Chapter 6, of the Subdivision Map Act.
- c. A final map which delineates dedications which will not be vacated and dedications which are a condition to reversion.
- d. Such other pertinent information as may be required by the City.

SEC. 10-3.483 FEES. Petitions to revert property to acreage shall be accompanied by a non-refundable application fee of \$200. The owners of record or, if the proceedings are requested to be initiated by the City Council, the person or persons who requested the proceedings shall pay all costs incurred by the City.

SEC. 10-3.484 PROCEEDINGS BEFORE THE CITY COUNCIL. A public hearing shall be held before the City Council on all final map proceedings for reversions to acreage. Notice of the public hearing shall be given as provided in section 66451.3 of the Subdivision Map Act. The Planning Director may give such other notice deemed necessary or advisable. The City Council may approve a reversion to acreage only if it makes the findings required by section 66499.16 of the Subdivision Map Act. The City Council may require the following as condition of the reversion:

- a. The owners dedicate or offer to dedicate streets or easements;
- b. The retention of all or a portion of previously paid subdivision fees, deposits or improvement securities, if the same are necessary to accomplish the purposes of the Subdivision Map Act or of these regulations.

SEC. 10-3.485 RETURN OF FEES AND DEPOSITS; RELEASE OF SECURITIES. Except as provided in section 10-3.484, upon filing of the final map for reversion of acreage with the County Recorder, all fees and deposits shall be returned to the subdivider unless retained pursuant to section 10-3.484, and all improvement securities shall be released by the City Council.

SEC. 10-3.486 DELIVERY OF FINAL MAP. After the hearing before the City Council and approval of the reversion, the final map shall be transmitted to the County Recorder.

### REVERSIONS TO ACREAGE BY PARCEL MAP

SEC. 10-3.490 REVERSION TO ACREAGE BY PARCEL MAP. Property previously subdivided, consisting of four or less contiguous parcels under the same ownership, may be reverted to acreage pursuant to the following regulations.

SEC. 10-3.491 INITIATION OF PROCEEDINGS. Proceedings shall be initiated by the parcel map approval authority or by petition of all the owners of the property. The petition shall be on a form prescribed by the Planning Director and shall be accompanied by:

- a. Evidence of ownership;
- b. Evidence of nonuse or lack of necessity of any streets or easements to be vacated or abandoned;
- c. A parcel map.

SEC. 10-3.492 FEE. The petition shall be accompanied by a non-refundable application fee of \$100. If the proceedings are requested to be initiated by the City Council, the person or persons who requested the proceedings shall pay all costs incurred by the City.

SEC. 10-3.493 PROCEEDINGS. A public hearing shall be held before the City Council on the petition. Notice thereof shall be given as provided in section 66451.3 of the Subdivision Map Act. Additional notice may be given as deemed necessary or advisable by the Planning Director. The City Council shall approve the petition if it finds that dedications or offers of dedication to be vacated or abandoned by the reversion are unnecessary for present or future public purposes.

SEC. 10-3.494 PARCEL MAP. After approval of the petition, a parcel map shall be delivered to the County Recorder. The parcel map shall have attached thereto a certificate signed and acknowledged by all parties having any record title interest in the property that the parties consent to the preparation and recordation of the parcel map.

## MERGER OF CONTIGUOUS PARCELS UNDER COMMON OWNERSHIP

SEC. 10-3.497 MERGER OF CONTIGUOUS PARCELS UNDER COMMON OWNERSHIP. Pursuant to the authority provided by section 66499.20 - 3/4 of the Subdivision Map Act a merger of contiguous parcels under common ownership may be accomplished by the recordation of a Certificate of Merger where the following conditions are met:

- a. The result of the merger is to eliminate a common property line of at least 10 feet in length between two or more parcels; and
- b. There are no easements held by a governmental agency or public or private utility on the parcels to be merged or all agencies or utilities owning an easement on the parcels to be merged have indicated in writing either that they have no objection to the merger or that they will have no objection to the merger if the easement they own is vacated or relocated.

SEC. 10-3.498 APPLICATION FOR CERTIFICATE OF MERGER. An application for a Certificate of Merger shall be filed with the Planning Director and shall include or be accompanied by the following:

- a. Proof satisfactory to the Planning Director that the parcels to be merged are in common ownership;
- b. A copy of a filed Final or Parcel Map and a legal description of the parcels to be merged;
- c. Evidence that all agencies or utilities owning any easement on the parcels to be merged either have no objection to the merger or will have no objection to the merger if the easement they own is abandoned or relocated; and
- d. The signature of all owner(s) of the parcels to be merged.

SEC. 10-3.499 ISSUANCE OF A CERTIFICATE OF MERGER. The Planning Director shall approve or deny the application for a Certificate of Merger. If the Planning Director denies the application, he or she shall notify the applicant of that action within five days. The applicant may appeal the Planning Director's denial to the Planning Commission by filing an appeal of that action with the Planning Director within 15 days of the Planning Director's notice of denial. The appeal hearing shall be held by the Planning Commission within 30 days.

Upon approval of an application for a Certificate of Merger by the Planning Director or by the Planning Commission upon an appeal and receipt of the applicable county recording fees from the applicant, the Planning Director shall record a Certificate of Merger at the office of the County Recorder provided that (1) the abandonment or relocation of any easement, required by any governmental agency or public or private utility as a condition of its consent to the merger, has been accomplished and evidence of such abandonment or relocation has previously been recorded in the office of the County Recorder, and (2) the applicant has submitted a legal description of the merged parcel to the Planning Director.

## DESIGN AND IMPROVEMENT STANDARDS

SEC. 10-3.500 DESIGN AND IMPROVEMENT STANDARDS. Lot design and improvement standards for subdivisions shall conform generally to standards contained in the Zoning Ordinance, City of Hayward Standard Specifications, Plans and Details, and this article.

The City Council or other approval authority shall have the authority to approve a subdivision with lot design and improvement standards at variance with the requirements hereinabove referred to when the facts and circumstances so warrant. By such approval the special design standards for said subdivision shall prevail.

SEC. 10-3.505 STREET STANDARDS. When required by the City Engineer, a comprehensive traffic analysis of the proposed subdivision shall be prepared to support selection of the proposed street widths. All streets shall be constructed in accordance with the standards as shown in the Standard Details.

SEC. 10-3.510 ALIGNMENT OF STREETS. The alignment of all arterial streets shall conform to those designated on any plan adopted by the City Council prior to the date of filing of the tentative map with the City Engineer. All proposed collector and minor streets shall be in alignment with existing plans or plan of streets to which they are to connect. No new street entrance not a direct extension of an existing street may be made within 150 feet of any existing street as measured between center lines.

SEC. 10-3.515 PAVEMENT SURFACES. All streets shall have an asphalt-concrete, plant-mixed surface. The thickness of the surface course shall be as determined by the method described in section 10-3.525 herein.

SEC. 10-3.520 PRIME COAT. A prime coat of not less than 0.25 gallon of liquid asphalt per square yard shall be applied to the base course of all pavements and lips of gutter in accordance with the City standards therefor.

SEC. 10-3.525 STRUCTURAL DESIGN OF PAVEMENT. The structural design of the pavement shall be determined in accordance with the method of design described in The Planning Manual of California Department of Transportation as currently amended. All local streets and their cul-de-sacs shall have a minimum asphalt-concrete surface thickness of 2". All other streets and their cul-de-sacs shall have a minimum asphalt concrete surface thickness of 3".

SEC. 10-3.530 TRENCHING AND BACKFILLING. Trenching, backfilling, and pavement replacement shall conform to the standard trenching and backfilling specifications developed by the City Engineer.

SEC. 10-3.535 CURB AND GUTTER. Six-inch (6") standard Portland cement concrete vertical curb and gutter shall be provided on both sides of all streets.

SEC. 10-3.540 SIDEWALKS. Sidewalks shall be constructed of Portland cement concrete with an aggregate sub-base.

SEC. 10-3.545 RAMPS FOR THE DISABLED. Ramps for persons with disabilities shall be provided at each street intersection.

SEC. 10-3.550 PRIVATE STREETS. Private streets, alleys or ways shall not be permitted unless approved by the Advisory Agencies and/or the City Council, and then only under conditions which guarantee the construction and continued maintenance thereof.

SEC. 10-3.555 EFFECT OF STREET LAYOUT ON ADJOINING PROPERTY. Street layout shall be designed to provide for future street design for properties adjoining the subdivision.

SEC. 10-3.560 STREET NAMES. Proposed street names shall not duplicate, nor too closely approximate phonetically, the names of any street in Hayward or the adjacent area. When streets are continuations of existing streets, the existing names shall be used. Names may be selected from a master street list maintained by the Planning Director.

SEC. 10-3.565 STREET SIGNS. The subdivider shall erect not less than two street name signs at each intersection in accordance with the requirements established in the Standard Details. Location of signs shall be as designated by the City Engineer.

SEC. 10-3.570 TRAFFIC SIGNS. The subdivider shall install traffic regulatory signs as are required by the City Engineer.

SEC. 10-3.575 MAILBOXES. Mailboxes shall not be located within the street right-of-way.

#### WATER SUPPLY AND FIRE PROTECTION

SEC. 10-3.600 WATER SUPPLY SYSTEM. The water supply system shall be constructed in accordance with the Standard Specifications developed by the City Engineer for water mains. Water mains shall be not less than 6" in diameter.

SEC. 10-3.605 FIRE HYDRANTS. Fire hydrants shall be installed of such type and at such locations as shown on the plans as approved by the Fire Chief and City Engineer.

SEC. 10-3.610 LOCATION OF WATER MAINS. All water mains shall be located 5' from the curb line unless otherwise approved by the City Engineer.

SEC. 10-3.620 WATER SERVICES. In any subdivision in which water mains and street improvements have been or are to be installed, the subdivider, before paving or otherwise completing the surface of the streets, shall install water service, excluding water meter, to the back of curb for each lot in the subdivision which is designed to receive water service from a water main in the street.

#### SANITARY SEWERAGE

SEC. 10-3.625 PROVISION FOR SANITARY SEWERS. The subdivider shall make adequate provision for the disposal of all sanitary wastes which will originate within the proposed subdivision by connection to the sanitary sewer system of the City or any other public sewer system as approved by the City Engineer. If the subdivider, by submission of a report by a registered civil engineer specializing in sanitary engineering, can establish to the satisfaction of the City Engineer and the City Council that it is in the public interest, sewage collection and disposal

may be accomplished through the use of septic tanks, or of a community sewage treatment plant constructed by the subdivider and operated by the City.

SEC. 10-3.630 STANDARDS FOR DESIGN OF SEPTIC TANKS AND LEACHING FIELDS. When septic tanks and leaching fields are approved, the installations shall meet the requirements specified in section 11-3.220 of the Hayward Municipal Code and the following minimum requirements.

- a. **Basis of Design.** The design of the individual sewage disposal system shall take into consideration location with respect to wells or other sources of water supply, topography, water table, soil characteristics, and available and maximum occupancy of the building. The system shall be designed on the basis of location, soil permeability and ground water conditions, including depth to the water table, and shall be designed to receive and treat all sewage from the building, including wastes from garbage grinders and automatic washing machines. Drainage from roofs or basement footings or any type of industrial waste shall not be discharged into the system.
- b. **Details of Design.** The septic tank system as a minimum shall meet the standards set forth in Standard Specifications and Standard Details for Public Works Construction of the City of Hayward as currently amended. The developer shall submit to the City Engineer, for his approval, boring test data, detail drawings, and design computations prepared by a registered civil engineer qualified to practice in the field of sanitary engineering.

SEC. 10-3.635 COMMUNITY SEWAGE TREATMENT FACILITIES. When community sewage treatment facilities are authorized for use in subdivisions, the installation shall meet the following minimum requirements:

- a. **Application for Waste Discharge.** Prior to preparation of final design the developer shall submit to the Regional Water Quality Control Board a report of proposed waste discharge. The installation of the community sewage treatment facilities shall be designed to meet the requirements set by said Board, and capable of treating at least the following design load.

Design Load. Treatment facilities shall be designed for an average daily flow of not less than 350 gallons per day per single family unit, and 700 gallons per day peak flow for each single family unit. Facilities shall be designed to remove not less than 1-1/2 pounds of biochemical oxygen demand and 1-1/2 pounds of suspended solids per 24 hours for each single family unit.

- b. **Submission of Drawings.** Developer shall submit design computations, plans and specifications prepared by a registered civil engineer qualified in sanitary engineering for approval by the City Engineer.
- c. **Operation.** Prior to final acceptance of the subdivision, the developer shall dedicate to the City all rights-of-way, easements, and property required for the facility, after which the City will assume operation and maintenance of same.

SEC. 10-3.640 STREET SEWER MAINS AND HOUSE SEWER

CONNECTIONS. Street sewer mains and house sewer lines shall be constructed in accordance with the Standard Specifications, and shall be designed to meet the following minimum standards.

- a. Capacity. House sewer and connecting lines shall be designed to carry the flow from the contributing area assuming that each single family unit will contribute 400 gallons of sanitary waste each 24 hours, and providing for a peak load of twice the average flow. No street sewer main shall be smaller than 8" in diameter.
- b. Grade. A minimum grade of 0.33 percent shall be maintained for 8"- diameter sewers constructed in subdivisions unless otherwise approved by the City Engineer. The minimum grade may be smaller for larger diameter pipes as approved by the City Engineer. Sewer grades in excess of 5 percent shall be subject to approval by the City Engineer.
- c. Manholes. Manholes shall be provided at all changes in grade and at all changes in direction, but in no case shall be spaced farther apart than 400 center to center except in situations which justify or require variation from this requirement. Drop manholes shall be provided where the inlet is more than 2' above the invert of the manhole.
- d. Material for Sewer Mains and House Sewers. Sewer mains and house sewers in industrial subdivisions shall be constructed of vitrified clay pipe. All sewer mains and house sewers shall be constructed of polyvinyl chloride, ductile iron, cast iron, or vitrified clay pipe unless otherwise approved by the City Engineer.
- e. House Sewers. The subdivider, unless otherwise approved by the City Engineer, shall install a wye branch in the sewer main for each lot in the subdivision, and a 4" connection house sewer shall be constructed from the street main to the property line for each lot. House sewers shall be constructed of polyvinyl chloride, ductile iron, cast iron, or vitrified clay pipe. The location of all house sewers should be clearly marked by the letter "S" at least 3" in height, marked in the curb face.
- f. Location. Sanitary sewers shall be located along the centerline of streets unless otherwise approved by the City Engineer.
- g. Computations. The City Engineer may require the submission of computations to indicate compliance with these standards.
- h. Cost of Connection to Existing Sewer Mains. The cost of constructing sewer mains to connect the subdivision sewer mains to the existing City sewer mains shall be borne by the subdivider.
- i. Sewers Along a Curve. Sanitary sewers may be installed on horizontal and vertical curves which conform to the curves of the street with the approval of the City Engineer. Manholes for such curves shall be installed at locations approved by the City Engineer.

## STORM DRAINAGE

SEC. 10-3.650 PROVISION FOR STORM DRAINAGE. The subdivider shall provide adequate facilities for carrying storm water originating above and within the subdivision through the subdivision to an adequate storm drainage facility approved by the City Engineer. Such facilities shall be constructed in accordance with the Standard Specifications and to meet the minimum standards hereinafter provided. All provisions for storm drainage may be reviewed by the Alameda County Flood Control District and the City Engineer may require compliance with its recommendations.

SEC. 10-3.655 EXISTING WATERCOURSES. All natural watercourses shall be carried through the subdivision over a dedicated right-of-way. Where such design flow can be accommodated in an enclosed conduit 48", or less, in diameter, the City may require that the flow be carried in a reinforced concrete conduit. All other drainage facilities in and downstream from the tract shall be in an enclosed conduit to an adequate storm drainage facility approved by the City Engineer.

SEC. 10-3.670 EXISTING OPEN WATERCOURSES. Where natural watercourses are permitted to be open, the City may require that roadway access outside the watercourse be provided for the operation of heavy mechanical equipment for cleaning unless the channel is lined, in which case access for workmen shall be provided. The grading plan for the proposed roadway access shall be presented with the tentative map.

SEC. 10-3.675 FENCING. All open drainage channels within the subdivision and adjacent thereto, where public safety and welfare require, shall be fenced with chain link fence.

SEC. 10-3.680 RUN-OFF WITHIN SUBDIVISION. Surface runoff within the subdivision shall be conveyed wherever possible in the gutters. Valley gutters shall be allowed only on specific approval of the City Engineer.

SEC. 10-3.685 STORM WATER INLETS. Where surface run-off enters the underground conduits, such entrance shall be through a storm water inlet constructed in accordance with the City of Hayward Standard Specifications.

SEC. 10-3.690 STORM DRAIN PIPE. All storm drains shall be constructed of reinforced concrete pipe or ductile iron pipe unless otherwise approved by the City Engineer.

SEC. 10-3.695 STORM DRAIN DESIGN. The storm drain system shall be designed in accordance with the uniform storm drain design standards developed by the City Engineer.

## TERRAIN DESIGN

SEC. 10-3.700 TERRAIN DESIGN DEFINITION OF TERMS. When used in connection with provisions governing terrain design set forth hereinafter, certain words and phrases are defined and certain provisions shall be construed as follows.

- a. Slope Control Area. An area established for the purpose of achieving the continuous stabilization of slopes which otherwise might seriously affect the land on which it is situated or other land.

- b. Slope Control Easement. A legally established easement evidenced by a recorded, written instrument granting to the land developer or builders, to a local public authority or to a property-owner's association the right of access to and over a slope control area for slope control purposes.
- c. Slope Control Planting. Plants and soilfixing grasses planted to control erosion and to stabilize slopes.
- d. Slope Control Specialist. A professional landscape architect or other technician experienced in erosion control work retained by the subdivider in a professional or consultative capacity, but not as a contractor performing construction work in the development and responsible for analysis, plans, specifications, supervision and certifications regarding slope control planting and related slope control work for a specific project.
- e. Soils Engineer. A registered civil engineer retained by the subdivider and responsible for the soils engineering work outlined herein, including supervision, analysis and interpretation of field investigations and laboratory tests for a specific project, preparation of soils-engineering recommendations and specifications and supervision of the grading construction work.

SEC. 10-3.705 GRADING PLAN. The subdivider shall submit as a part of the improvement plans a complete grading plan showing the following data:

- a. Tract boundary;
- b. Streets;
- c. Lots;
- d. Storm drainage system;
- e. Existing and proposed contours;
- f. Slope ratios for grading;
- g. The approximate location of slope control area;
- h. The location of easements for slope control;
- i. The location of easement and facilities for drainage;
- j. Location of trenches on slopes;
- k. Retaining walls;
- l. Cross-sections of critical slope areas;
- m. Trees that are adjacent to and within the area to be graded, and the method by which trees that are to be retained will be protected.

- n. Such other data as required by the City Engineer.

SEC. 10-3.710 REPORT OF SOILS ENGINEER. The subdivider shall submit a report by a soils engineer containing the following data:

- a. Exploration and test data presenting a comprehensive cross-section of the area to be cut or filled and the material to be used on fill.
- b. Laboratory tests of areas to be filled to determine its expansive qualities and the bearing value of the land, and a statement as to whether the land can support the fill and structures proposed.
- c. Laboratory soil analysis of the material proposed for the fill, including its expansive quality, and a statement as to its suitability.
- d. A complete and detailed specification for clearing, grubbing, and filling using the material reported on above, with special emphasis on the depth of fill layers, compaction of fill material at optimum moisture, frequency of field density tests, and maximum density to be obtained in the field as related to laboratory density tests.
- e. Stability analysis of cut proposed.
- f. A statement giving a professional opinion regarding:
  - 1. Shrinkage or settlement of a fill constructed in compliance with the foregoing specification.
  - 2. The safe load bearing capacity for each controlled fill.
  - 3. The maximum slope ratios necessary for slope stability for such cuts and fills, assuming proper planting on the slope to minimize erosion.

SEC. 10-3.715 REQUIREMENTS FOR PLANTING OF CONTROLLED SLOPES. The subdivider shall submit a report prepared by a qualified slope control specialist containing the following information:

- a. A complete and detailed specification which shall set forth the materials and methods for slope control planting in the slope control areas, with particular emphasis on the following:
  - 1. Topsoil requirement, soil preparation, fertilization, plant material, and methods of planting.
  - 2. Initial maintenance of the plant material and slopes until a specified percentage of plant coverage is established uniformly on the cut and fill slopes.
- b. A professional opinion regarding the following:

1. The length of time after planting in which the specified plant material with the specified initial maintenance will normally produce on the slopes in the slope control areas the specified percentage of plant coverage.
2. The length of time in which this specified plant coverage, without any special additional maintenance, will normally produce a coverage of permanent planting which will control erosion.

SEC. 10-3.720 TERRAIN DESIGN MINIMUM STANDARDS FOR CONTROLLED SLOPES. Unless an alternative design is supported by adequate field and laboratory data and rational analysis, the following minimum standards shall be adhered to in the design of controlled slopes in all subdivisions.

- a. Slopes shall be contoured to blend with the existing terrain and shall not be steeper than 2 horizontal to 1 vertical for fill slopes and 1-1/2 to 1 vertical for cut slopes.
- b. Where site conditions indicate the need, slopes having a vertical height of 25' shall have benches to provide breaks in high slopes in order to intercept surface water and to aid in performing maintenance on the slopes. Slope benches shall be at intervals not exceeding 25' in vertical height. Benches shall be at least 6' wide and constructed to intercept surface water from the slopes and to carry it in paved drainageways at suitable gradients to outfalls connected to the storm drain system.
- c. Wherever possible, lot lines shall be located at the top of banks or along slope benches rather than at the toe of slopes or at intermediate benches.
- d. A setback of at least 15' from building wall to the toe or top of a high slope wall be provided. At the toe of a slope with vertical height exceeding 15', the required setback shall be increased by 1' for each additional 5' of bank height over the first 15' of height. Upon certification of soils engineer of foundation design, encroachment into this area may be allowed by the City Engineer, provided that said reduction conforms to all applicable codes and/or ordinances of the City.
- e. Storm water shall not be carried over the controlled slope, but shall be provided for as follows:
  1. All downspouts from any structure shall be collected in a pipe on each individual site and carried to the gutter or connected to storm drain system as required by the City of Hayward Plumbing Code as currently amended. Drainage plan for each lot shall be presented at the time of building permit application.
  2. When the above does not appear practical, downspouts and collection systems shall be brought to paved gutters along the top of slopes and shall be carried in them to a proper outfall.
- f. Slopes located in the slope control areas shall be fertilized and planted with soilfixing grasses, vines or shrubs, or otherwise treated as necessary to adequately stabilize slopes for the specific development.

- g. The City may require that retaining walls be avoided, particularly at the toes of high slopes. If retaining walls are installed in slope control areas, they shall be constructed of concrete or other masonry and be designed to carry all earth pressures, including any embankment surcharge. Provision shall be made for adequate drainage through the retaining walls. Heights of retaining walls shall not exceed one-half the horizontal distance from the foundation wall of dwelling to face of wall, or 6 feet, whichever is less.
- h. Fences shall be installed above the top of slopes exceeding 15' vertical height and walls exceeding 4' vertical height where access to or from public property is available. Design and construction shall be as approved by the City Engineer.

SEC. 10-3.725 TERRAIN DESIGN - SLOPE CONTROL AREAS. Where a serious hazard or nuisance to one property could be caused by lack of stabilization of a slope located in whole or in part on another property, the slope shall be included in a slope control area. Where directed by the approving body, slope control areas shall be dedicated as rights-of-way or easements to the City of Hayward or to a properly constituted property owners' association. In all cases slope control areas shall be reserved by protective covenants running with the land, contained in recorded declarations of restrictions upon the subdivision, which covenants shall further provide for use and maintenance of slope control areas as herein provided. Drainageways necessary to the stabilization of such slopes shall also be included in the slope control areas unless located in separate rights-of-way or easements dedicated to the City of Hayward or to a property owners' association. Boundaries of slope control areas may fall within required yard areas unless the slope control areas are dedicated to the City of Hayward or to a property owners' association. All boundaries of slope control areas and slope control easements shall be indicated on the final map, and those easements to be dedicated to public use shall be dedicated on the affidavit sheet.

Where slope control areas are dedicated as rights-of-way or easements to the City, the City may establish a slope control district for the properties benefitted, and may levy a special assessment or tax upon such district in order to pay the costs of maintaining and repairing the slope control areas.

SEC. 10-3.730 TERRAIN DESIGN - CONTROL OF FILLS. All fills shall be constructed in accordance with the approved grading plan and the specifications submitted by the soils engineer, and shall also meet the following requirements:

- a. All vegetable matter shall be removed from surface upon which fill is to be placed, and the surface shall then be plowed or scarified to a depth of at least 6" and until surface is free from uneven features which would tend to prevent uniform compaction by the equipment to be used.
- b. Where fills are made on hillsides or slopes, the slopes of the original ground upon which fill is to be placed shall be scarified deeply, or where the slope ratio of the original ground is steeper than 5 horizontal to 1 vertical, the bank shall be stepped or benched. Ground slopes flatter than 5 to 1 shall be benched when required by the soils engineer.
- c. After the foundation for the fill has been cleared, plowed or scarified, it shall be discoid or bladed until it is uniform and free from large clods, brought to proper moisture content, and compacted to not less than 85 percent relative compaction

unless otherwise recommended by the soils engineer and approved by the City Engineer.

- d. Materials for the fill shall be as specified by the soils engineer and may be obtained from the excavation of banks, borrow pits or other approved sources.
- e. The selected material shall be placed in layers not to exceed 6" and compacted as set forth in subsection c.
- f. Field density tests shall be made of the compaction of each layer of the fill.
- g. All fill shall be placed under the field supervision of the soils engineer and, unless otherwise waived by the City. Engineer, reports and/or results of all tests shall be submitted to the City.
- h. The City Engineer may at any time perform soil tests, at the subdivider's expense, to evaluate the characteristics of the material in or being placed.
- i. The top layer shall consist of clean topsoil suitable for establishing the specified plant material. On-site topsoil shall be separately stockpiled if required by the City Engineer.

SEC. 10-3.735 TERRAIN DESIGN - ACCEPTANCE OF TRACT. Upon completion of the grading operations, and prior to tract acceptance or issuance of building permits, the subdivider shall furnish the City Engineer with the following certifications:

- a. A certificate by the soils engineer that the grading was done in accordance with the approved soils report;
- b. A certification by the slope control specialist that the slope control planting has been completed in accordance with the approved specifications.

### LOT DESIGN

SEC. 10-3.800 BUILDABLE LOTS. All subdivisions should result in the creation of lots which are developable and capable of being built upon without variances. Subdivisions should not create lots which are impractical or impossible to improve because of steepness of terrain, location or watercourse, or other natural physical conditions. All lots or parcels created by the subdivision of land shall have access to a public street or an approved private street.

SEC. 10-3.805 LOT SIZES. Lots shall have such minimum sizes and dimensions as required by the Zoning Ordinance of the City. Greater lot sizes and dimensions may be required for lots abutting freeways, parkways or major streets, corner lots, lots on approved private streets, lots adjacent to, abutting, or fronting upon nonresidentially zoned districts and lots abutting creeks or drainage ditches, flag lots, and irregularly shaped lots.

Generally, lots shall not be created with depths that exceed three times their widths, after excluding from consideration scenic or other conservation easements, or areas that are unbuildable.

SEC. 10-3.810 LOT LINES. The side lines of all lots shall generally be at right angles to the street which the lot faces, or radial, or approximately radial, if the street is curved.

SEC. 10-3.815 UTILITY DISTRIBUTION SYSTEMS. All telephone, electrical facilities, and cable T.V. shall be installed as an "underground system." Where lots can be served from existing overhead facilities, services shall be installed underground. If the subdivision abuts existing overhead facilities, the City Council may require the undergrounding of the existing facilities.

SEC. 10-3.816 CABLE T.V. SYSTEM. The following definitions shall be applicable to the cable T.V. system:

- a. "Main trunk" - that portion of the underground system within public easements and to which the distribution line is connected;
- b. "Distribution" - that portion from the main trunk through each lot, terminating at the location where hook-up to a subscriber's television may be achieved.

The subdivider shall provide, at no cost to the cable T.V. operator, the necessary trench within which cable T.V. can install its main trunk facilities. The trench shall be located, except where street crossings are necessary, within the public easements.

SEC. 10-3.820 BLOCK WIDTH. Except for industrial subdivisions, the width of each block shall be sufficient for an ultimate layout of two tiers of lots therein of a size required by the Zoning Ordinance unless the surrounding layout or lines of ownership justify or require a variation from this block-width requirement.

SEC. 10-3.830 PUBLIC FACILITIES. Due consideration shall be given to the providing of suitable areas for schools, churches, parks, playgrounds, and other facilities to be acquired for public use or reserved for the common use of all property owners within the proposed subdivision by covenant in the deeds.

SEC. 10-3.835 DIVIDED LOTS. No lots shall be divided by a City boundary line.

SEC. 10-3.840 LARGE LOT SUBDIVISIONS. Where a parcel is first subdivided into small farms or acre tracts, the blocks shall be of such size and shape, and be so divided as to provide for the opening of major and secondary streets, and for the extension and opening of streets and alleys at such intervals as will permit a subsequent division of any parcel into lots of smaller size.

SEC. 10-3.845 BLOCK LENGTHS. Blocks shall not exceed 1200' in length between street lines in standard residential and industrial subdivisions. Block lengths in hill area subdivisions may vary from said standard when approved by the City Engineer who shall give consideration to the following factors in granting such approval.

- a. Economic development of land;
- b. Ability to supply utility service;
- c. Traffic safety.

## MOBILEHOME PARK CONVERSIONS

SEC. 10-3.850 FINDINGS, INTENT AND APPLICABLE LAW. A majority of mobilehome residents in the City of Hayward have significant personal and social ties to the community and virtually all mobilehome owners have made a substantial financial investment in their mobilehomes. Mobilehome owners in the City of Hayward elected to make this financial investment in part to secure certain social as well as economic benefits they enjoy in close, secure physical surroundings. A significant proportion of mobilehome residents are senior citizens, many of whom live on limited or fixed incomes. In addition, the cost and risk of potential damage in moving mobilehomes is great, as is the cost of preparing a new site and meeting the code requirements for reinstalling a mobilehome. Unlike other residents of the City of Hayward who rent their dwelling units or even those who own their own homes, mobilehome owners cannot relocate easily within the City of Hayward or Alameda County because of the scarcity of vacant mobilehome sites and/or cost of relocation. It is necessary that the provisions of the Conversion Provisions be applied to mobilehome park subdivisions so that the potential adverse effects of a change in the form of ownership or use are prevented or minimized.

A unique risk to a significant segment of the City's residents is therefore presented when a mobilehome park is converted from a park owned by a single entity in which sites are rented into a form of ownership in which individual sites may be owned. Furthermore, the protection offered by City of Hayward Ordinance No. 89-057 C.S., as amended through Ordinance No. 05-02, Mobilehome Space Rent Stabilization Ordinance, is likely to be lost by a significant number of mobilehome park residents who are unable to afford to buy their mobilehome spaces.

The State Legislature has provided a basis for protecting mobilehome owners in the enactment of Government Code Sections 66426, 66427, 66427.4, 66427.5 and 66428.1, as well as the Mobilehome Parks Act located in the Health and Safety Code Section 18000 et seq., and the Mobilehome Residency Law (MRL) found in the Civil Code Section 798 et seq. These legislative sections are the bases for all mobilehome and mobilehome park regulations within the State of California and are the bases for the conversion provisions that follow.

These provisions (the "Conversion Provisions") address the need for standards and procedures pertaining to mobilehome park conversions to resident ownership pursuant to Government Code Sections 66427.5 and 66428.1 only. The Conversion Provisions do not apply to a change in use or cessation of use of property as a mobilehome park.

In addition, the Conversion Provisions are intended to implement state laws regarding the conversion of mobilehome parks to resident ownership; ensure that conversions to resident ownership are bona fide resident conversions in accordance with state law; maintain consistency with the housing goals and policies of the City's general plan and zoning code; ensure that park residents receive appropriate and timely information to assist them in fully understanding their rights and obligations under the statute; and ensure the public health and safety in converted parks.

SEC. 10-3.855 DEFINITIONS. Whenever any of the following names or terms are used herein, each such name or term shall be deemed and construed to have the meaning ascribed to it as follows:

The following terms used throughout the Conversion Provisions are described and defined below and shall have the following meanings:

- a. Common Area. The entire project, excepting all units therein or any parcels of land not owned in common.
- b. Conversion. The change in ownership structure of a mobilehome park from a rental park to resident ownership pursuant to Government Code Sections 66427.5 and 66428.1.
- c. Homeowners Association. An organization of people who are mobilehome residents in a given mobilehome park whose major purpose concerns matters of common interest within the mobilehome park.
- d. Manufactured Home. A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; "Manufactured home" includes a mobilehome subject to the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C. Section 5401, et seq.).
- e. Mobilehome. A structure that meets the requirements of Section 18007 of the Health and Safety Code. "Mobilehome" does not include a commercial coach, as defined in Section 18001.8, factory-built housing, as defined in Section 19971, or a recreational vehicle, as defined in Section 18010.
- f. Mobilehome Accessory Building or Structure. Includes, but is not limited to, any awning, portable, demountable, or permanent cabana, ramada, storage cabinet, carport, skirting, heater, cooler, fence, windbreak, or porch or other equipment established for the use of the occupant of the manufactured home or mobilehome.
- g. Mobilehome Owner. The person who has a tenancy in a mobilehome park under a rental agreement.
- h. Mobilehome Park. Any area or tract of land where two or more mobilehome lots are rented or leased or held out for rent or lease, to accommodate mobilehomes used for human habitation. The rental paid for any mobilehome shall be deemed to include rental for the lot it occupies.
- i. Mobilehome Resident. A mobilehome owner or mobilehome tenant.
- j. Mobilehome Tenant. A tenant, subtenant, lessee, or sub lessee, or any other person entitled to the use or occupancy of a mobilehome under a rental agreement, lease, or other expression of tenancy. Any notice to a mobilehome tenant required hereunder need be given to only one such tenant in the case of multiple tenants of any mobilehome.
- k. Project. The entire parcel of real property to be divided into common areas and lots for individual ownership or stock cooperative ownership including all structures thereon which are owned or controlled by the subdivider.

- l. Resident Organization. An entity formed by homeowners in the mobilehome park as a nonprofit corporation, pursuant to Section 23701(v) of the revenue and Taxation Code, stock cooperative corporation, or other entity for purposes of converting the mobilehome park to condominium or stock cooperative ownership interests and for purchasing the mobilehome park from the management of the mobilehome park.
- m. Site Improvement. Any permanent improvement made to a mobilehome site that cannot be removed without injury either to itself or to the site, including but not limited to, paved patios and parking spaces, permanent decking, and mature landscaping.
- n. Title 25. Title 25 of the California Code of Regulations relating to Housing and Community Development (HCD).
- o. Unit. The elements of a project which are not owned in common with other owners in the project or a mobilehome site in a conversion to resident ownership in which the owner has the right of exclusive occupancy.

SEC. 10-3.860 APPLICATION. The Conversion Provisions implement California Government Code Sections 66427.5 and 66428.1 for the standards and procedures to be followed for the conversion of an existing mobilehome park to resident ownership.

- a. Application Submittal Requirements. In addition to the general subdivision requirements located in Chapter 10, Article 3 of the Hayward Municipal Code, the following information shall be submitted as part of the resident survey results with any subdivision application for conversion to a resident owned mobilehome park pursuant to Government Code Section 66427.5:
  - (1) A Tentative Subdivision and Final Map or Parcel Map unless waived pursuant to Government Code Section 66428.1. A parcel map shall be required for all projects that contain less than five parcels and do not create more condominium units or interests than the number of rental spaces that exist prior to conversion. If additional interests are created or if the project contains more than 5 parcels, a Tentative and Final Map shall be required. The number of condominium units or interests to be created shall not determine the type of map required, unless additional condominium units or interests are created over and above the number of rental spaces that exist prior to conversion.
  - (2) A report on the impact of the conversion on the existing residents, known as a tenant impact report or conversion impact report, pursuant to Section 10-3.860(f).
  - (3) A copy of the information and disclosures provided to tenant households pursuant to Section 10-3.860 e.
  - (4) Resident survey of support pursuant to Government Code Section 66427.5(d).
  - (5) The current permit to operate for the project mobilehome park; current water pressure test, gas line test; and evidence of earthquake proof gas meter and utilities pedestal compliance.

- (6) Copies of all Title 25 inspection reports for the previous three years, if any.
  - (7) An engineering report on the type, size, current condition, adequacy and remaining useful life of common facilities located within the park, including but not limited to water systems, sanitary sewer, fire protection, storm water, streets, lighting, pools, playgrounds, and community buildings. The report shall be prepared by a registered civil or structural engineer or a licensed general engineering contractor.
  - (8) All legal documents confirming the legal status of the park, including but not limited to, documents (i) prepared for and defining the powers and duties of the proposed homeowner's association, including articles of incorporation, bylaws, and conditions, covenants and restrictions; and (ii) a general title report.
- b. Map Waiver. Pursuant to Government Code Section 66428.1(c), the City shall provide an application for waiver, when at least two-thirds of the owners of mobilehomes who are tenants in the mobilehome park sign a petition indicating their intent to purchase the mobilehome park for purposes of converting it to resident ownership, and a field survey is performed, such that the requirement for a parcel map or a tentative and final map shall be waived unless any of the following conditions exist:
- (1) There are design or improvement requirements necessitated by significant health or safety concerns.
  - (2) The City determines that there is an exterior boundary discrepancy that requires recordation of a new parcel or tentative and final map.
  - (3) The existing parcels which exist prior to the proposed conversion were not created by a recorded parcel or final map.
  - (4) The conversion would result in the creation of more condominium units or interests than the number of tenant lots or spaces that exist prior to conversion.

The waiver application shall be approved or denied by the Planning Director within 50 days after such application is deemed complete. If no such waiver applies, or the waiver is not approved, then a tentative subdivision and final map or parcel map for mobilehome park conversion shall be required. Decisions of the Planning Director may be appealed pursuant to Section 10-1.2845 of the Zoning Ordinance.

- c. Tentative Subdivision and Final Map or Parcel Map for Mobilehome Park Conversion. The tentative map shall contain all the information required on a tentative map for any subdivision, subject to the following alterations and additions:
- (1) In lieu of the contour lines normally required on a tentative map, sufficient elevations of the existing ground so that average slope of the ground can be determined at a minimum of two-foot intervals, where the slope is less than 50 percent and 10-foot intervals where the slope is greater than 50 percent.

- (2) Locations of existing permanent buildings, swimming pools, and recreational areas.
- (3) A parcel map shall be required for all projects which contain less than five parcels and do not create more condominium units or interests than the number of tenant lots or spaces that exist prior to conversion. If additional interests are created or if the project contains more than five parcels a tentative and final map shall be required.

The number of condominium units or interests to be created shall not determine the type of map required unless additional condominium units or interests are created over and above the number of tenant lots or spaces that exist prior to conversion.

- d. Report on the Impact of the Conversion on Existing Residents. A report on the impact of the conversion upon the residents of the mobilehome park to be converted shall be submitted at the time of filing the application for conversion. This report must include all information required by state law and these Conversion Provisions, including:
  - (1) A description of the property, including the number of mobilehomes that are owner-occupied and the number of mobilehomes that are rented. For rented mobilehomes, the nature of the tenancy (e.g., yearly lease or month-to-month) and the name and address of the lessor.
  - (2) The rental rate history for each space for each of the previous five years.
  - (3) A spreadsheet for the statutory rent increase maximums for lower income households as set forth in Government Code Section 66427.5(f)(2).
  - (4) The monthly vacancy rate for each month during the preceding two years.
  - (5) To the extent possible, the components of existing resident households including family size, length of residence, age of residents, estimated household income and whether receiving government rent subsidies.
  - (6) The availability of mobilehome spaces within the City limits, including the current space rent charged for the space, the amenities offered, and any restrictions on the type or age of the mobilehome that may occupy the space.
  - (7) An analysis of moving an existing mobilehome to another site that shall include, but not be limited to, the availability of other sites, the total costs of relocation to a new location, and the likelihood of an existing mobilehome being accepted at other sites.
  - (8) In the event the number of available mobilehome spaces within the City is insufficient to accommodate all the residents of the mobilehome park, the report shall include a statement of the availability and cost of any non-mobilehome housing alternatives located within the City. The report shall also include a description of all available mobilehome spaces within 30 miles of the project, the current space rent charged, the amenities offered, whether

rent control is in effect, and any restrictions on the type or age of the mobilehome that may occupy the space.

- (9) A market rent survey or appraisal in accordance with nationally recognized professional standards as set forth in Government Code Section 66427.5(f).

e. Survey of Support of Residents. The survey shall be conducted in accordance with an agreement between the subdivider and the homeowners association, if such association exists. The homeowners association must be independent of the subdivider or mobilehome park owner. In the event there is more than one homeowners association, the agreement shall be with the one having the greater number of members. The survey shall be obtained pursuant to a written ballot and shall be conducted so that each occupied mobilehome space has one vote. The ballot shall not include any question other than whether the voter favors or opposes the proposed conversion. Results of the survey shall be considered as part of the subdivision map hearing, and shall include a statement of the total number of spaces occupied by residents (excluding any spaces occupied by the subdivider, a relative of the subdivider, or employee of the subdivider) and the total number of votes in favor of the conversion and the total number of votes in opposition to the conversion. Evidence of the agreement between the subdivider and the homeowners association, evidence that the procedures and timing used to conduct the survey were in accordance with such agreement, a written statement signed by the authorized representative(s) of an independent homeowners association verifying that the survey form was approved by the association, and copies of all signed resident survey ballots must be submitted with the application. If there is no written agreement, then the subdivider shall provide signed affidavits, under penalty of perjury, from the subdivider or the subdivider's representative and from two officers of the association setting forth the details of the agreement.

To assist the residents in determining how to respond to the resident survey required by subdivision (d) of Government Code Section 66247.5, the following information and disclosures shall be provided by the park owner to each tenant household sufficiently in advance of the survey to allow its consideration:

- (1) A statement describing the effects that the mobilehome park conversion will have on the application of the rent control provisions of the City of Hayward Mobilehome Space Rent Stabilization Ordinance for both lower income households and for other households who continue residency as tenants. The statement shall specifically describe the effects that the conversion will have on the application of the vacancy control provisions of the Mobilehome Space Rent Stabilization Ordinance, and a statement describing the effects of vacancy decontrol under Government Code Section 66427.5 on the resale value of mobilehomes of both lower income households and of other households who continue residency as tenants. Included with this statement shall be a separate statement prepared by the City summarizing the major provisions of the City's mobilehome park rent adjustment Ordinance (Ordinance No. 89-057 C.S., as amended through Ordinance No. 05-02).
- (2) A statement specifying the income level that is applicable pursuant to subdivision (f)(2) of Government Code Section 66427.5, to determine whether households in the mobilehome park qualify as lower income household or are not a lower income household, and requesting that the

households identify whether they are a lower income household, or are not a lower income household.

- (3) A statement specifying whether the subdivider will begin the phase-in of market level rents pursuant to subdivision (f)(1) and the rent adjustment provisions of subdivision (f)(2) of Government Code Section 66427.5 upon the sale of one lot, upon the sale of more than 50 percent of the lots, or upon the sale of some other percentage of lots.
- (4) A statement specifying the method by which the fair market rent levels authorized by subdivision (f)(1) of Government Code Section 66427.5 will be established, or in the alternative, the specification of the range of rent levels that will be applicable to the subdivided units in the mobilehome park, including, but not limited to, the inclusion of any inflation adjustment formula to be utilized.
- (5) A statement specifying how space rents will be set for purchasers of mobilehomes, but not the lot, formerly owned by lower-income households and for other households who continue residency as tenants under subdivision (f) of Government Code Section 66427.5.
- (6) A statement specifying the method by which the sales prices of the subdivided units will be established, or in the alternative, the specification of the range of purchase prices that will be applicable to the subdivided units in the mobilehome park, including, but not limited to, the inclusion of any inflation adjustment formulas to be utilized.
- (7) A statement specifying the method for determining and enforcing the controlled rents for non-purchasing households pursuant to Government Code Section 66427.5(f)(2), and, to the extent available, identification of the number of tenant households likely to be subject to these provisions.
- (8) Identification of the potential for non-purchasing residents to relocate their homes to other mobilehome parks within Alameda County, including the availability of sites and the estimated cost of home relocation.
- (9) An engineer's report on the type, size, current condition, adequacy, and remaining useful life of each common facility located within the park, including, but not limited to, water systems, sanitary sewer, fire protection, storm water, streets, lighting, pools, playgrounds, and community buildings. A pest report shall be included for all common buildings and structures. "Engineer" means a registered civil or structural engineer, or a licensed general engineering contractor.
- (10) If the useful life of any of the common facilities or infrastructure is less than thirty years, an engineer's estimate of the cost of replacing such facilities over their useful, and the subdivider's plan to provide funding for same.
- (11) An estimate of the annual overhead and operating costs of maintaining the park, its common areas and landscaping, including replacement costs as

necessary, over the next thirty years, and the subdivider's plan to provide funding for same.

- (12) A detailed description of the City and State procedures to be followed for the proposed conversion, including, but not limited to, a tentative timeline.
- (13) The phone number and address of an office designated by the City that can be contacted for further information relating to the proposed mobilehome park conversion.
- (14) The subdivider shall attach a copy of the Conversion Provisions to each survey form.

f. Information and disclosure requirements for impact report. The report by the subdivider on the impact of the mobilehome park conversion required by subdivision (b) of Government Code Section 66427.5 shall include, but not be limited to, the following disclosures:

- (1) That information specified by subsections (1) through (13) of Section 10-3.860(e) required to be provided to park tenants for purposes of the resident survey.
- (2) A statement specifying the number of mobilehome spaces in the park and the rental rate history for each such space over the four years prior to the filing of the application.
- (3) A statement specifying the method and timetable for compliance with Government Code Section 66427.5(a), and, to the extent available, an estimate of the number of existing tenant households expected to purchase their units within the first four years after conversion including an explanation of how the estimate was derived.
- (4) An estimate of the number of residents in the park who are lower income households pursuant to subdivision (f)(2) of Government Code Section 66427.5, including an explanation of how the estimate was derived.
- (5) An estimate of the number of residents in the park who are seniors (62 years of age or older) or disabled, including an explanation of how the estimate was derived.

SEC. 10-3.895 AVOIDANCE OF ECONOMIC DISPLACEMENT. The subdivider shall avoid any economic displacement of any nonpurchasing resident by the following:

- a. **Non-Lower Income Households.** As to nonpurchasing residents who are not lower income households, as defined in Section 58079.5 of the Health and Safety Code, the monthly rent, including any applicable fees or charges for use of any preconversion amenities, may increase from the preconversion rent to market levels, in equal annual increases over a four-year period, as defined in an appraisal conducted in accordance with nationally recognized professional appraisal standards.

- b. Lower Income Households. As to nonpurchasing residents who are lower income households, as defined in Section 50079.5 of the Health and Safety Code, the monthly rent, including any applicable fees or charges for use of any preconversion amenities, may increase from the preconversion rent by an amount equal to the average monthly increase in rent in the four years immediately preceding the conversion, except that in no event shall the monthly rent be increased by an amount greater than the average monthly percentage increase in the Consumer Price Index for the most recently reported period.

SEC. 10-3.905 RESIDENT ORGANIZATION CONDITIONS, COVENANTS AND RESTRICTIONS. All residential subdivisions of a mobilehome park shall require the establishment of an organization or corporation for the purpose of managing and maintaining the facilities, improvements, and structures within the common area. To formalize the obligations of the organization, conditions, covenants, and restrictions (CC&Rs) shall be required. The CC&Rs shall state the City has the right, but not the obligation, to abate public nuisance conditions in the common area if the organization or corporation fails to do so, and to assess the cost to the organization, corporation, or individual lot owners. To accomplish this, the CC&Rs shall contain a statement with the appropriate language changes clarifying the form of ownership.

Evidence of compliance with the above described requirements shall be submitted to the City for approval by the Planning Director and City Attorney prior to the approval of a final map or parcel map.

SEC. 10-3.910 FINDINGS. No tentative or parcel map for the subdivision of a mobilehome park shall be approved unless the findings required by the Subdivision Map Act and the following findings are made:

- a. The conversion is consistent with the housing goals and policies of the City of Hayward general plan and zoning code, and any applicable specific or area plan.
- b. The conversion impact report and resident survey of support are adequate and filed with the City, and that all of the requirements of Government Code Section 66427.5 and the Conversion Provisions have been met.
- c. The project complies with all applicable Federal, State and City laws, regulations and codes.
- d. The project is a bona fide resident conversion. For purposes of determining whether a proposed conversion is a bona-fide conversion, the following presumptions shall be applied based on the results of the survey of resident support conducted in accordance with Government Code 66427.5 and with the Conversion Provisions. The presumptions created by this subsection may be overcome through the submission of substantial evidence either at or prior to the hearing.
  - (1) Where the survey of resident support shows that 50 percent or more of the resident survey vote supports the conversion to resident ownership, the proposed conversion shall be presumed to be a bona-fide resident conversion. Any interested person opposing the conversion shall have the burden of demonstrating that the adverse effects of the proposed conversion are not prevented or minimized.

- (2) Where the survey of resident support shows that less than 50 percent of the resident survey vote supports the conversion to resident ownership, the proposed conversion shall be presumed to not be a bona-fide resident conversion. The subdivider shall have the burden of demonstrating that the adverse effects of the proposed conversion are prevented or minimized.

SEC. 10-3.915 TENANT NOTIFICATION. The following tenant notifications are required:

- a. If the application for conversion is approved, the subdivider shall give each resident household written notice of its exclusive right to contract for the purchase of the unit of space it occupies at the same or more favorable terms and conditions than those on which such unit of space shall be initially offered to the general public. The right shall run for a period of not less than ninety days from the issuance of the subdivision public report (“white paper”) pursuant to California Business and Professions Code Section 11018.2, unless the subdivider received prior written notice of the resident’s intention not to exercise such right.
- b. If the application for conversion is approved, the subdivider shall give each resident household written notice of its right to continue residency as a tenant in the park as required by Government Code Section 66417.5(a).

SEC. 10-3.1000 SPECIFIC PURPOSE. The purpose of the Mobilehome Park Change in Use procedure is to ensure that the change in use or the cessation of use of a mobilehome park is preceded by adequate notice to residents of the mobilehome park as proscribed by California Civil Code, Section 798.56; an impact report detailing the relocation costs is provided to the mobilehome residents and filed with the City of Hayward pursuant to California Government Code, Section 65863.7; an impact report hearing before the Council is conducted to determine the accuracy of the report; and a decision reached that the impact report is consistent with the requirements and limitations set forth in California Government Code, Section 65863.7.

SEC. 10-3.1005 DEFINITIONS.

- a. “Applicant.” The person, partnership, corporation, municipality, or other entity proposing a change in use of a mobilehome park.
- b. “Change in use.” A use of a mobilehome park or any portion thereof for a purpose other than the rental or the holding out for rent of two or more mobilehome sites to accommodate mobilehomes used for human habitation or the termination in use of a mobilehome park or any portion thereof for the rental or the holding out for rent of a mobilehome space or spaces without any declared change of use. The term “change in use” does not apply to the conversion of a mobilehome park from private ownership to a mobilehome real estate development or mobilehome stock cooperative as provided for under Section 10-3.850 of the Hayward Municipal Code.
- c. “Council.” For the purposes of this division, the term Council shall mean the City Council or a Council designee.
- d. “City.” City of Hayward.

- e. “Mobilehome.” A structure designed for human habitation as defined in Health and Safety Code Section 18008 and for being moved on a street or highway under permit pursuant to Cal. Vehicle Code Section 35790. Mobilehome does not include a recreational vehicle, as defined in Cal. Civil Code Section 799.24, a commercial coach, as defined in Cal. Health and Safety Code Section 18218, or a trailer coach as defined in Health and Safety Code Section 18001.8.
- f. “Mobilehome park.” An area of land where two (2) or more mobilehome sites are rented or held out for rent to accommodate mobilehomes used for human habitation.

SEC. 10-3.1010 NOTICE OF CHANGE IN USE TO CITY.

- a. An applicant proposing a change in the use of a mobilehome park shall file a notice with the City. The notice of change in use must be filed with the City’s Rent Review Office indicating the proposed change in use and the proposed date the applicant desires to commence the change in use fifteen days (15) prior to submitting an Application for Reclassification.
- b. If an applicant proposes to cease renting, holding out for rent spaces in a mobilehome park, or terminating tenancies with the intent of not re-renting, a notice of closure must be filed with the Rent Review Office one year prior to the closure of the mobilehome park.
- c. This notice requirement is separate and distinct from the requirement of filing an impact report as provided for under Section 10-3.1025.

SEC. 10-3.1015 INITIAL NOTICE TO RESIDENTS. An applicant proposing a change in use or closure of a mobilehome park shall mail a notice of change in use or closure by first class mail to a resident of each mobilehome in the mobilehome park as provided below.

- a. If an applicant proposes a change in use of a mobilehome park to another use, a notice of change in use must be mailed to a resident of each mobilehome in the mobilehome park fifteen days prior to applying for Application for Reclassification as provided for under Cal. Civil Code Section 798.56(g)(1). The notice shall contain a brief statement describing the proposed change in use, informing the resident of the right to a hearing, and that the resident will be notified of the hearing date and receive a copy of an impact report which complies with the information required by Cal. Government Code Section 65863.7(a) and other sections of this ordinance thirty (30) days prior to the hearing.
- b. The mobilehome park owner shall provide a copy of the notice of change in use or closure to all persons who contact mobilehome management regarding the leasing of a mobilehome space once the initial notice of change in use or closure has been mailed to each mobilehome in the mobilehome park as provided for under Cal. Civil Code Section 798.56(g)(3).
- c. If the mobilehome park owner enters into a space lease agreement after the notice of change in use or closure is mailed to existing mobilehome residents, the notice of change in use or closure shall be incorporated into the space rent agreement and separately acknowledged with the new resident’s signature.

SEC. 10-3.1020 APPROVAL REQUIRED.

- a. An applicant proposing a change in the use of a mobilehome park must complete and submit an Application for Reclassification with the Planning Director. An application for Reclassification will not be approved until the applicant submits and obtains an approval of the impact report as described under section 10-3.1035 from the Council.
- b. An applicant proposing the closure of a mobilehome park is not required to obtain a reclassification approval from the City in order to close the mobilehome park. An applicant proposing to close a park must comply with all provisions of Cal. Government Code Section 65863.7, Cal. Civil Code Section 798.56, and obtain approval by the Council of an impact report before the applicant may close the mobilehome park.
- c. Pursuant to Cal. Government Code, Section 65863.8, the Planning Director shall notify the applicant in writing of the notification requirements provided for in Cal. Civil Code, Section 798.56 (g). The notice shall provide information detailing the type of information required and the method the applicant shall use in order to verify that a resident of each mobilehome in the mobilehome park and mobilehome park owner has received a copy of the impact and proper notice of the hearing to approve the impact report.
- d. The notice shall require the applicant to obtain the signature of at least one mobilehome resident from each mobilehome in the mobilehome park and the park owner acknowledging receipt of the impact report and notice of the hearing. The notice shall require the applicant to submit a verification report listing each mobilehome address and showing the printed name and signature of a resident of the mobilehome to the Planning Director at least thirty days prior to the scheduled hearing date.

SEC. 10-3.1025 IMPACT REPORT.

- a. An applicant proposing a change in the use of a mobilehome park shall prepare and file an impact report with the City's Planning Director as required by Government Code Section 65863.7 (a). The report shall address the availability of adequate replacement housing in a mobilehome park within thirty miles of the mobilehome park and other housing options and an estimate of the relocation costs for each mobilehome and its resident(s).
- b. In addressing the adequacy of replacement housing in a mobilehome park, the impact report shall include:
  1. The number of mobilehome spaces in the mobilehome park and the number of occupied spaces at the time of the initial application.
  2. The name, mailing address, and space number of the resident(s) of each mobilehome in the mobilehome park.
  3. The length of time each space has been occupied by the current resident(s).
  4. The age, size, and type of mobilehome occupying each space.

5. A brief statement describing any resident improvements contained on the space such as decking, porches, storage facilities, etc.
  6. A brief statement addressing the condition of the mobilehome and if it could be moved to another location without significant damage to the mobilehome.
  7. The total monthly space rent currently charged for each space with detail showing the space rent, utility charges, and any other costs paid by the resident.
  8. A brief statement describing the type and location of medical services, dental services, grocery stores, public transportation, and religious, social, and recreation facilities surrounding the mobilehome park.
  9. The availability of mobilehome spaces within the City limits including the current space rent charged for the space, amenities offered, and any restrictions on the type or age of the mobilehome that may occupy the space.
  10. A brief statement describing the type and location of medical services, dental services, grocery stores, public transportation, and religious, social, and recreation facilities surrounding the relocation mobilehome park if the mobilehome park is located within the City of Hayward.
  11. In the event the number of available mobilehome spaces within the City is insufficient to accommodate all the residents of the mobilehome park, the impact report shall include a brief statement of the availability and cost of any non-mobilehome affordable housing alternatives located within the City.
  12. In the event the number of available mobilehome spaces within the City is insufficient to accommodate all the residents of the mobilehome park, the impact report shall list all available mobilehome spaces within thirty miles of the mobilehome park. This section of the impact report shall include a brief description of the relocation mobilehome park, list the current space rents charged, state whether the available spaces are subject to any rent stabilization ordinance, amenities offered, and any restrictions on the type or age of the mobilehome that may occupy the space.
- c. The impact report shall include detailed information on the relocation cost and economic impact on the resident(s) of each individual mobilehome located in the mobilehome park. For the sole purpose of preparing the impact report, the cost to move a certain type of mobilehome (single, double, triple wide) a given distance (10, 50, 100 miles) may be estimated. However, in determining the actual reasonable cost of relocation to move any particular mobilehome for the purpose of compensating the mobilehome owner, the Council shall use the exact cost of moving the individual mobilehome.
- d. For the mobilehomes identified in Section 10-3.1025b.(6) as mobilehomes that could not be moved without incurring significant damage, the impact report shall include an estimate of the in place fair market value of the mobilehome in its current location and assuming the continuation of the mobilehome park in its present condition. If a

dispute arises as to the in place fair market value of the mobilehome, the applicant and the mobilehome owner shall each submit appraisals prepared by separate qualified MAI appraisers with experience in appraising mobilehomes.

- e. In determining the economic impact on the residents of a mobilehome park, the impact report shall provide cost estimates for typical moving expenses other than the cost to move the mobilehome itself including, but not limited to, the average cost to move the mobilehome resident's personal property, any estimated rent increase a resident may experience by moving to another park or other housing option, and any other increased cost that may have a long term economic impact on the mobilehome resident. The impact report should address any special economic impacts experienced by residents with children, residents who are sixty two years of age or older, and residents who are medically proven to be permanently disabled.
- f. The Planning Director shall review the impact report for substantial compliance before the applicant may send a copy of the report to the residents of the mobilehome park and prior to scheduling the hearing to review and approve the impact report. The Council or Planning Director may require additional information be included in the impact report.

SEC. 10-3.1030 NOTICE OF HEARING. The applicant shall notify a resident of each mobilehome in the mobilehome park and the mobilehome park owner of the date of the hearing to approve the impact report at least thirty (30) days prior to the hearing as required by Government Code Section 65863.8. The applicant shall obtain the signature of at least one mobilehome resident from each mobilehome in the mobilehome park and the park owner acknowledging receipt of the impact report and notice of the hearing . The applicant shall submit a verification report listing each mobilehome address and showing the printed name and signature of a resident of the mobilehome to the Planning Director at least thirty days prior to the scheduled hearing date.

SEC. 10-3.1035 FINDINGS FOR APPROVAL OF IMPACT REPORT. The Council shall conduct a hearing to review and approve the impact report for a change in use prior to any change in use or closure. The Council may consider all relevant evidence presented at the hearing and shall approve the impact report if it finds that the impact report satisfactorily addresses the following:

- a. If the impact report is prepared for a change in use of a mobilehome park, the proposed change in use is consistent with the General Plan, any applicable Specific Plan, or any similar State law or City ordinance.
- b. The applicant has complied with all notice requirements as provided for in Government Code Section 65863.7 (b),(c), and Civil Code Section 798.56, and each mobilehome resident has had adequate notification of the proposed change in use.
- c. The impact report accurately represents the total costs associated with the relocation of each mobilehome resident.
- d. Each mobilehome resident will receive the reasonable costs of relocation from the mobilehome park owner pursuant to Government Code section 65863.7(e).

SEC. 10-3.1040 NOTICE OF TERMINATION OF TENANCY.

- a. Any applicant who has applied to the City for a change in use of a mobilehome park shall prepare and mail by first class mail a 180-day notice of termination of tenancy to each mobilehome upon receiving approval of a reclassification application and securing the approval of the impact report by the Council.
- b. The applicant who has applied to the City to close a mobilehome park shall prepare and mail by first class mail a 360-day notice of termination of tenancy to each mobilehome upon receiving approval of the impact report by the Council.

SEC. 10-3.1045 WAIVER OF CONDITIONS.

- a. The Council may find that there is substantial evidence to support a finding that the imposition of the payment of the reasonable cost of relocation as provided for in Section 10-3.1035 of this division would result in an extreme economic hardship for the applicant. An extreme economic hardship does not exist where the payment of the reasonable cost of relocation would deny the mobilehome park owner the maximum profits that could be realized from the change in use.
- b. An applicant may request a waiver of the payment of a portion of the reasonable cost of relocation by submitting a written request for waiver with the Planning Director. The applicant should include sufficient financial information including, but not limited to, three years of financial statements including profit and loss statements, balance sheets, acquisition cost of the mobilehome park, and an estimate by a certified real estate appraiser of the present value of the mobilehome park. The Planning Director may request additional information if it is determined that the information provided is incomplete or insufficient to evaluate. A hearing before the Council shall be conducted to determine if a waiver should be granted and what reasonable relocation costs should be waived.
- c. If the Council determines that the conditions would result in extreme economic hardship for the mobilehome park owner, the Council may waive or modify any conditions to the extent necessary to alleviate such extreme economic hardship.

SEC. 10-3.1050 ADJUDICATION OF BANKRUPTCY. If the change in use of a mobilehome park results from an adjudication of bankruptcy, the provisions of this division shall not be applicable to an applicant when a court of competent jurisdiction has determined in connection with a proceeding in bankruptcy that the change in use of the mobilehome park is necessary and that such court has taken further action, which would preclude the payment of relocation assistance benefits.

SEC. 10-3.1055 ADMINISTRATION FEE. The Council shall by resolution establish the reasonable fee to cover the cost of administering this ordinance and shall assess such fees to the applicant pursuant to Government Code Section 65863.7(g) and subject to the limitations set forth in Government Code Section 66014(a).

SEC. 10-3.1060 CONFORMITY. Nothing in this ordinance shall be construed to conflict with state law.