

Chapter 19
SUBDIVISIONS

ARTICLE I. GENERAL PROVISIONS

- 19.1 Title.
- 19.2 Purpose.
- 19.3 Application/scope.
- 19.4 Exceptions.
- 19.5 Exception – Lot line adjustment.
- 19.6 Exception – Waiver of tentative parcel map.
- 19.7 Owner-initiated parcel merger.
- 19.8 Consistency.
- 19.9 Reversion to acreage
- 19.10 Correction and amendment of recorded map.

ARTICLE II DEFINITIONS

- 19.11 Definitions

ARTICLE III. RESPONSIBILITIES – ADMINISTRATION

- 19.12 Planning commission.
- 19.13 City council.
- 19.14 Public works department.
- 19.15 City engineer.
- 19.16 City clerk.
- 19.17 City attorney.
- 19.18 Conflict of interest.

ARTICLE IV MAPS – GENERAL PROCEDURAL REQUIREMENTS

- 19.19 Regulations generally.
- 19.20 Summary of types of maps.
- 19.21 Designated remainder.
- 19.22 Public hearings – When required.
- 19.23 Public hearings – Notice.
- 19.24 Appeals.
- 19.25 Fees.
- 19.26 Time limit extensions.
- 19.27 Review by other agencies.

ARTICLE V. MAPS – TENTATIVE AND VESTING TENTATIVE MAPS

- 19.28 General.
- 19.29 Form and contents.
- 19.30 Accompanying data and reports.
- 19.31 Preliminary soil and engineering geology reports.
- 19.32 Department review and referral.
- 19.33 Planning commission and city council review and determination.
- 19.34 Expiration of tentative map.
- 19.35 Amendments to an approved tentative map.
- 19.36 Vesting tentative maps.

ARTICLE VI. FINAL AND PARCEL MAPS

- 19.37 General.
- 19.38 Survey required.
- 19.39 Form.
- 19.40 Contents.
- 19.41 Preliminary submittal for city approval.
- 19.42 City engineer review and approval – Final and parcel maps.
- 19.43 City council approval – Final and parcel maps.
- 19.44 Filing with county recorder.

ARTICLE VII. DESIGN AND IMPROVEMENTS; DEDICATION

- 19.45 General standards.
- 19.46 Improvements required.
- 19.47 Dedication.
- 19.48 Deferred improvement agreements.
- 19.49 Improvement plans.
- 19.50 Subdivision improvement agreement.
- 19.51 Improvement security.
- 19.52 Construction and inspection.
- 19.53 Time of completion.
- 19.54 Acceptance of improvements.

ARTICLE VIII. RESIDENTIAL CONDOMINIUMS

- 19.55 Purpose.
- 19.56 Condominium defined.
- 19.57 Standards – General.
- 19.58 Site requirements.
- 19.59 Structural requirements.
- 19.60 Inspection and fees.
- 19.61 Condominium conversions – Purpose.

- 19.62 Condominium conversions – Application, procedures, standards.
- 19.63 Condominium conversions – findings.

ARTICLE IX. COMMERCIAL CONDOMINIUMS

- 19.64 Intent and purpose.
- 19.65 Definitions.
- 19.66 Standards.
- 19.67 Inspection and fees.
- 19.68 Condominium conversions.

ARTICLE X. CITY-INITIATED PARCEL MERGER

- 19.69 Purpose.
- 19.70 Criteria for merger of contiguous parcels.
- 19.71 Conditions of contiguous parcels permitting merger.
- 19.72 Procedure.
- 19.73 Unmerger.
- 19.74 Appeal.
- 19.75 Owner-initiated action.
- 19.76 Effect of nonprejudicial error.

ARTICLE XI. ENFORCEMENT AND JUDICIAL REVIEW

- 19.77 Prohibition.
- 19.78 Penalty for violation.
- 19.79 Remedies.
- 19.80 Certificate of compliance.
- 19.81 Notice of violation.
- 19.82 Judicial review.

ARTICLE I. GENERAL PROVISIONS

SEC. 19.1 TITLE.

This chapter shall be known and cited as the “Subdivision Ordinance” of the city. (GC §66410) (Parenthetical references throughout this chapter are to the California Government Code unless stated otherwise.)

SEC. 19.2 PURPOSE.

The purposes of this chapter and any rules, regulations and specifications adopted under it are (1) to regulate and control the division of land within the city and (2) to supplement the State Subdivision Map Act concerning the design, improvement and survey data of subdivisions, the form and content of all required maps, and the procedure to be followed in securing the official approval of the city regarding the maps. The regulations in this chapter are necessary to implement the city’s general plan and to preserve the public health, safety and general welfare.

SEC. 19.3 APPLICATION/SCOPE.

The regulations in this chapter apply to the subdivision of land within the city and to the preparation, approval and filing of subdivision maps. If there is a conflict between this chapter and the State Subdivision Map Act, the Map Act prevails.

SEC. 19.4 EXCEPTIONS.

This chapter does not apply to:

- A. The financing or leasing of apartments, offices, stores or similar spaces within apartment buildings, industrial buildings, commercial buildings, mobile home parks or trailer parks; (GC §66412(a))
- B. Mineral, oil or gas leases; (GC §66412 (b))
- C. Land dedicated for cemetery purposes under the California Health and Safety Code; (GC §66412(c))
- D. A lot line adjustment between four or fewer existing adjoining parcels, where the land taken from one parcel is added to an adjoining parcel and where a greater number of parcels than originally existed is not thereby created; provided, that the lot line adjustment is approved by the city under Piedmont Municipal Code section 19.5; (GC §66412(d))

- E. Boundary line or exchange agreements to which the State Lands Commission or a local agency holding a trust grant of tide and submerged lands is a party; (GC §66412(e))
- F. Any separate assessment under Section 2188.7 of the State Revenue and Taxation Code; (GC §66412(f))
- G. The conversion of a community apartment project or a stock cooperative to a condominium. However, the conversion is subject to the requirements of Sections 66412(g) and 66412(h) of the Subdivision Map Act; (GC §66412(g), (h))
- H. The leasing of or the granting of an easement to a parcel of land or any portion or portions thereof, in conjunction with the financing, erection and sale or lease of a wind-powered electrical generation device on the land, if the project is subject to discretionary action by the city; (GC §66412(i))
- I. The financing or leasing of any parcel of land, or any portion thereof, in conjunction with the construction of commercial or industrial buildings on a single parcel, unless the project is not subject to review under other city ordinances regulating design and improvements; (GC §66412.1(a))
- J. The financing or leasing of existing separate commercial or industrial buildings on a single parcel; (GC §66412.1(b))
- K. The construction, financing or leasing of a second dwelling unit under Government Code Sections 65852.1 and 65852.2, but this chapter shall apply to the sale or ownership transfer of such a unit; (GC §66412.2)
- L. Leasing of agricultural land for agricultural purposes (the cultivation of food or fiber, and grazing or pasturing of livestock); (GC §66412(k))
- M. Subdivisions of four parcels or fewer for construction of removable commercial buildings having a floor area of less than 100 square feet; (GC §66412.5)
- N. The subdivision of a portion of the operating right-of-way of a railroad corporation (defined in Public Utilities Code Section 230) which is created by a short-term lease (terminable by either party on not more than 30 days' notice in writing); (GC §66428)
- O. Land conveyed to or from a governmental agency, public entity, public utility, or land conveyed to a subsidiary of a public utility for right-of-way, unless a showing is made in individual cases, upon substantial evidence, that public policy necessitates a parcel map. "Land conveyed to or from a governmental agency" includes a fee interest, a leasehold interest, an easement or a license; (GC §§ 66428 and 66426.5) and

- P. The leasing or licensing of a portion of a parcel, or the granting of an easement, use permit or similar right to a telephone corporation exclusively for the placement and operation of cellular radio transmission facilities, if the action is subject to discretionary action by the city. (GC §66412(j))

SEC. 19.5 EXCEPTION – LOT LINE ADJUSTMENT.

A lot line adjustment is a shift or rotation of an existing lot line between four or fewer parcels, where the land taken from one parcel is added to an adjoining parcel and where a greater number of parcels than originally existed are not thereby created. (GC §66412(d)) (For owner-initiated merger of parcels, see PMC §19.7).

This chapter does not apply to a lot line adjustment provided:

- A. No additional parcels are created, and the adjustment is limited to four or fewer existing adjoining parcels;
- B. The resulting parcels conform to the Piedmont Zoning Code, Piedmont Municipal Code section Title 15 (Buildings and Construction), and the general plan. A plot plan is required to determine conformance with these requirements;
- C. The resulting parcels do not interfere with existing utilities, infrastructure or easements;
- D. Real property taxes have been prepaid;
- E. The adjustment is approved by the director;
- F. The owner prepares a deed and plat map. However, if a record of survey is required under Business and Professions Code Section 8762, the owner shall prepare a record of survey; and
- G. The city approves a deed description and plat map or record of survey, and the county recorder records these documents.

A complete application for a lot line adjustment will be reviewed for conformance with this section by the city planner, the public works director and the city engineer. The public works director shall approve or disapprove the application within the time period allowed under the Permit Streamlining Act (GC §65920 and following).

SEC. 19.6 EXCEPTION – WAIVER OF PARCEL MAP.

- A. The public works director may, but is not required to, waive the requirements for a parcel map for the following: (GC §66428)

1. A division of real property or interests therein created by probate, eminent domain procedures, partition, or other civil judgments or decrees;
 2. A division of property resulting from conveyance of land or interest therein to or from the city, public entity or public utility for a public purpose, such as school sites, public building sites, or rights-of-way or easements for streets, sewers, utilities, drainage, etc. "Land conveyed to or from a governmental agency" includes a fee interest, a leasehold interest, an easement or a license; and
 3. A division of property which has been merged under this chapter, the Subdivision Map Act or any prior ordinance of the city.
- B. A person requesting a parcel map waiver shall comply with the requirements set forth in the city's Subdivision Manual. To waive the parcel map requirements, the director, in consultation with the city engineer, shall find that the proposed division of land complies with requirements as to:
1. Area and frontage;
 2. The city's standard engineering details for improvement and design, floodwater drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability and environmental protection;
 3. Other requirements of the Subdivision Map Act and this code; and
 4. The city's Subdivision Manual.
- C. Whenever a parcel map is waived under this section, a parcel map shall be submitted to the city engineer and director. If approved, the city clerk shall transmit the map to the county recorder. If the county recorder rejects that map for filing, the city shall rescind its approval of the map per the requirements of Government Code Section 66466.

SEC. 19.7 OWNER-INITIATED PARCEL MERGER.

- A. Owner-Initiated Merger. The owner(s) of contiguous parcels under common ownership may merge the parcels without reverting to acreage if: (1) the ownership and deeds of trust for the parcels are identical; (2) no streets or easements are to be vacated; (3) one of the parcels is less than 5,000 square feet or does not meet slope stability standards; and (4) the resulting parcel(s) comply with the general plan and Piedmont Zoning Code, or substantially reduce the current non-compliance. The applicant shall submit an application for merger by filing the following items:

1. Application, in a form provided by the city;
2. Filing fee in the amount established by resolution of the city council;
3. A current title report;
4. Legal descriptions of the resulting merged parcels, prepared by or under the direction of a licensed land surveyor or registered civil engineer authorized to practice land surveying (except no separate description is needed in the case of lots or parcels of a recorded subdivision or parcel map).

The public works director may waive the requirements for a tentative parcel map under Piedmont Municipal Code section 19.6. The city engineer shall require the recordation of a notice of merger (see PMC §19.72(E)). (GC §66499.20 3/4)

- B. Owner-Initiated Merger and Resubdivision. Subdivided lands under common ownership may be merged and resubdivided without reverting to acreage by complying with all the applicable requirements for the subdivision of land. The filing of the final map or parcel map with the county recorder shall constitute legal merging of the separate parcels into one parcel and the resubdivision of the parcel, and the real property shall thereafter be shown with the new lot or parcel boundaries on the assessment roll. Any public streets or public easements to be left in effect shall be adequately delineated on the map. The filing of the map shall constitute abandonment of any public street or public easement not shown on the map if a written notation on each abandonment is listed by reference to the recording data creating the street or easement, and certified to on the map by the city clerk or city engineer. Any unused fees or deposits previously made regarding the original subdivision shall be credited pro rata towards any requirements for the same purposes which are applicable at the time of resubdivision. (GC §66499.20 1/2)
- C. Fees. The owner shall pay a fee for processing an owner-initiated merger or unmerger as provided for in Piedmont Municipal Code section 19.25.
- D. Inapplicability. The requirements and procedures of Piedmont Municipal Code section 19.70 through 19.73 do not apply to the owner-initiated actions in this section.

SEC. 19.8 CONSISTENCY.

No land may be subdivided or developed for a purpose which is inconsistent with the city's general plan, the Piedmont Zoning Code or other applicable provisions of this code. (GC §66474)

SEC. 19.9 REVERSION TO ACREAGE.

Subdivided property may be reverted to acreage under the Subdivision Map Act. The procedures set forth in Government Code sections 66499.11 through 66499.20 ³/₄ apply.

SEC. 19.10 CORRECTION AND AMENDMENT OF RECORDED MAP.

After a final map or parcel map has been filed with the county recorder, it may be amended by a certificate of correction or an amending map for any of the purposes set forth in Government Code section 66469. The requirements and procedures of Government Code sections 66469 through 66472.1 apply.

ARTICLE II. DEFINITIONS

19.11.1 Unless the context otherwise requires, the definitions in this article govern the construction of this chapter. The definitions in the Piedmont Zoning Code and the Subdivision Map Act also apply and are incorporated here by reference.

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

19.11.3 Adjoining. “Adjoining” means touching or bounding at a point or line.

19.11.4 Alley. “Alley” means a public way to be used primarily for vehicular access to the back or side of a parcel of real property that otherwise abuts a street.

19.11.5 Block. “Block” means an area of land separated from other areas by adjacent streets, rights-of-way, railroads, public areas or the subdivision boundary.

19.11.6 City engineer. “City engineer” is the engineer of the city. The land surveying functions of the city engineer may be performed by the city engineer if that person was registered as a civil engineer before January 1, 1982 (R.C.E. No. lower than 33,966), or is a registered land surveyor, by a city surveyor if that position is created by the city, or by another person authorized by state law to perform land surveying and designated by the city engineer. (GC §66416.5)

19.11.7 City planner. “City planner” is the designated planner of the city in the public works department.

19.11.8 Community apartment project. “Community apartment project” means a common interest development in which an undivided interest in land is coupled with the

right of exclusive occupancy of any apartment located on it. (Civil Code §1351(d), Business and Professions Code §11004)

19.11.9 Condominium. “Condominium” means an estate in real property consisting of an undivided interest in common in a portion of the property together 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. The condominium may be residential, industrial or commercial. (Civil Code §§783, 1351(f))

19.11.10 Condominium manual. “Condominium manual” means the manual of regulations related to residential and non-residential condominiums, on file in the public works department.

19.11.11 Conversion. “Conversion” means the creation of separate ownership interests in an existing building.

19.11.12 County. “County” means Alameda County.

19.11.13 County recorder. “County recorder” is the Alameda county recorder.

19.11.14 Cul-de-sac. “Cul-de-sac” means a street which connects to another public street only at one end and is not planned for later extension.

19.11.15 Days. “Days” means calendar days unless this chapter or state law specifies otherwise.

19.11.16 Dedication. “Dedication” means the transfer by a subdivider to a public entity of title to real property or an interest therein, or of an easement or right in real property, the transfer of facilities, the installation of improvements or any combination of these.

19.11.17 Department. “Department” means the public works department of the city.

19.11.18 Design. “Design” means:

- a. Street alignments, grades and widths;
- b. Drainage and sanitary facilities and utilities, including alignments and grades thereof;
- c. Location and size of all required easements and rights-of-way;
- c. Fire roads and firebreaks;
- e. Lot size and configuration;
- f. Traffic access;
- g. Grading;
- h. Land to be dedicated for park or recreational purposes; and

- i. Such other specific physical requirements in the plan and configuration of the entire subdivision as may be necessary to ensure consistency with, or implementation of, the general plan or any applicable specific plan. (GC §66418) (Ord. 1417 § 2, 1994)

19.11.19 Development. “Development” means the uses to which the land which is the subject of a map shall be put, the buildings to be constructed on it, and all alterations of the land and construction incident thereto. (GC §66418.1)

19.11.20 Director. “Director” means the public works director of the city or his or her designee.

19.11.21 Environmental Quality Act. “Environmental Quality Act” means the California Environmental Quality Act and its implementing guidelines.

19.11.22 Engineering geologist. “Engineering geologist” means a geologist who is certified in the state of California to practice engineering geology. Engineering geology means the application of geologic knowledge and principles in the investigation and evaluation of naturally occurring rock and soil for use in the design of civil works.

19.11.23 Final map. “Final map” or “tract map” means a map showing a subdivision of five or more lots, prepared in accordance with the provisions of the Subdivision Map Act and this chapter (except as provided in PMC §19.20).

19.11.24 Flood hazard. “Flood hazard” is the threat of overflow stormwaters having the capability to flood lands or improvements, transport or deposit debris, scour the surface soil, dislodge or damage buildings, or erode the banks of channels.

19.11.25 General plan. “General plan” means the general plan of the city and all amendments to it.

19.11.26 Grading regulations. “Grading regulations” means the grading, erosion and sediment control regulations set forth in the latest city-council approved edition of the California Building Code.

19.11.27 Improvements. “Improvements” refers to:

- a. Street work, traffic controls, freeways, bridges, overcrossings, interchanges, sidewalks, curbs, gutters, driveways, flood control or storm-drainage facilities, water facilities, sanitary sewers and facilities, public utilities, lighting facilities, landscaping and fences to be installed by the subdivider on the land to be used for public rights-of-way, private streets and easements as a condition of map approval; and

- b. Any other improvements necessary to implement the general plan and as defined by Section 66419 of the Subdivision Map Act. See also Piedmont Municipal Code section §19.46. (GC §§66419, 66452.6(a)(3))

19.11.28 Improvement plan. “Improvement plan” means an engineering plan submitted by a registered civil engineer showing the location and construction details of the streets, roads, drainage facilities, sanitary sewers, water mains and the pertinent structures and other on-tract and off-tract improvements required for a subdivision, as specified in Piedmont Municipal Code section §19.49.

19.11.29 Lot. “Lot” means a parcel or portion of land separate from others and delineated or described as a single integral unit on a subdivision map or by such other map approved under the Subdivision Map Act. (Assessor’s parcel numbers and assessor’s parcel maps are created for the convenience of the county assessor and do not create legal rights or control property rights under the Subdivision Map Act.)

19.11.30 Lot line adjustment. “Lot line adjustment” means a shift or rotation of an existing lot line between four or fewer existing, adjoining parcels, where the land taken from one parcel is added to an adjoining parcel and where a greater number of parcels than originally existed are not created, as provided in Piedmont Municipal Code section §19.5. (GC §66412(d))

19.11.31 Major street. “Major street” means a public street which is identified as a major street by the general plan. It is a street which carries the major flow of traffic passing through or adjacent to a subdivision and for which the traffic entering or crossing from intersecting roads and streets may be controlled.

19.11.32 Major subdivision. “Major subdivision” means the subdivision of land into five or more parcels or lots.

19.11.33 Merger. “Merger” means the joining of two or more contiguous parcels of land under one ownership into one parcel, as provided in Article X Piedmont Municipal Code section. (GC §66451.11) See also section 19.7 regarding owner-initiated parcel mergers.

19.11.34 Minor subdivision. “Minor subdivision” means the subdivision of land into four or fewer parcels or lots.

19.11.35 Parcel map. “Parcel map” means a map showing a subdivision of four or fewer lots, or a subdivision for which a parcel map is authorized under Piedmont Municipal Code section 19.20, prepared in accordance with the Subdivision Map Act and this chapter. (GC §66426)

19.11.36 Permit Streamlining Act. “Permit Streamlining Act” means Government Code section 65950 and following, which regulates the timing of review and approval of development projects.

19.11.37 Piedmont Zoning Code. “Piedmont Zoning Code” means Chapter 17 of the Piedmont Municipal Code.

19.11.38 Planning commission. “Planning commission” means the planning commission of the city.

19.11.39 Plot plan. “Plot plan” means an engineering diagram that shows the building layout, the position of roads, buildings, easements, rights-of-way, setbacks and utilities with their respective dimensions and distances.

19.11.40 Private street. “Private street” means any street not a public street.

19.11.41 Public street. “Public street” means a street for which the right-of-way is owned by or offered for dedication to the public and accepted by the city.

19.11.42 Public works department. “Public works department” or “department” means the public works department of the city.

19.11.43 Public works director. “Public works director” or “director” means the public works director of the city.

19.11.44 Registered civil engineer. “Registered civil engineer” means a civil engineer registered by the state of California and doing work consistent with the engineer’s authority under the California Business and Professions Code and the State Board of Registration for Professional Engineers and Land Surveyors. (Business and Professions Code Sections 6700, 8700)

19.11.45 Remainder. “Remainder” or “designated remainder” means that portion of an existing parcel which is designated on the required map as not a part of the subdivision. It is that portion not divided for the purpose of sale, lease or financing. The remainder is not counted as a parcel for the purpose of determining whether a final or parcel map is required. A remainder of five acres or more need not be shown on the map, and its location need not be indicated as a matter of survey, but only by deed reference to the existing boundaries of the remainder. (Reference: PMC §19.21) (GC §66424.6)

19.11.46 Scenic easement or open space easement. “Scenic easement” or “open space easement” means an easement granted to the public whereby the owner relinquishes or limits the right to construct improvements on the land. (GC §51051, Civil Code §815.1)

19.11.47 Soil engineer. “Soil engineer” means a state of California registered civil engineer whose field of expertise is soil mechanics.

19.11.48 Standard engineering details. “Standard engineering details” or “standard details” means those standard details for public improvements prepared by the city engineer and adopted by resolution of the city council.

19.11.49 Stock cooperative. “Stock cooperative” means a common interest development in which a corporation is formed primarily for the purpose of holding title to improved real property, and substantially all of the shareholders receive a right of exclusive occupancy in a portion of the property. (Civil Code Section 1351(m), Business and Professions Code Section 11003.2)

19.11.50 Street. “Street” means a strip of land which provides access to lots. Street includes a public or private street, avenue, road, highway, lane, alley, court, square, crossing or intersection.

19.11.51 Subdivider. “Subdivider” means a person who proposes to divide, divides or causes to be divided real property into a subdivision. (GC §66423)

19.2.52 Subdivision. “Subdivision” means the division of land for the purpose of sale, lease or financing, whether immediate or future. The land may be improved or unimproved and is that land shown on the latest equalized county assessment roll as a unit or as contiguous units. Property is considered as contiguous units even if it is separated by roads, streets, utility easements or railroad rights-of-way. Subdivision includes condominium projects, community apartment projects and stock cooperatives. (GC §66424)

19.11.53 Subdivision improvement agreement. “Subdivision improvement agreement” or “subdivision agreement” means an agreement between the subdivider and the city, usually including financial security, to assure the completion of public improvements after the approval of a final or parcel map. See section 19.50 of this chapter.

19.11.54 Subdivision Map Act. “Subdivision Map Act” is the provision of Division 2, Subdivisions, of the California Government Code, beginning with Section 66410.

19.11.55 Subdivision Manual. The “Subdivision manual” is a document available from the city that contains procedures and further details regarding the subdivision application and approval process, and other requirements.

19.11.56 Tentative map. “Tentative map” means a map made for the purpose of showing the design and improvements of a proposed subdivision and the existing conditions in and around it. (GC §66424.5) A “tentative parcel map” refers specifically to that provided for a parcel map.

19.11.57 Vesting tentative map. “Vesting tentative map” is a tentative map for a subdivision that has printed conspicuously on its face the words “vesting tentative map” at

the time it is filed with the city, and is processed in accordance with Piedmont Municipal Code section 19.36. (GC §§66424.5 and 66452)

ARTICLE III RESPONSIBILITIES – ADMINISTRATION

SEC. 19.12 PLANNING COMMISSION.

The planning commission is designated as the advisory agency regarding subdivisions under the Subdivision Map Act. It has the powers and duties provided in the Subdivision Map Act and this chapter including:

- A. Making investigations and reports on the design and improvement of proposed subdivisions and either imposing requirements and conditions on the subdivisions approved by the planning commission or recommending requirements and conditions on the subdivisions to be considered by the city council;
- B. For all subdivisions, making recommendations to the city council for approval, conditional approval, or denial of applications for tentative maps, final maps and parcel maps; and
- C. Acting as the appeal board for decisions of the city engineer, city planner or department. (GC Sections 66415, 66452.6(e), 66474.7)

SEC. 19.13 CITY COUNCIL.

The city council has the powers and duties provided by law and this chapter, including, but not limited to:

- A. Approval, conditional approval or denial of tentative maps, final maps, parcel maps, and subdivision improvement agreements;
- B. Accepting land or improvements which are proposed for dedication;
- C. Acting as the appeal board for hearing appeals of planning commission actions
- C. Approving parcel mergers;
- E. Granting authorization to the city engineer for the acceptance of: (1) dedications for subdivisions of four or fewer parcels; and (2) off-site dedications lying outside a subdivision boundary which require a separate grant deed;
- F. Determining violations of the Subdivision Map Act or this chapter;

- G. Approving proposed street names; and
- H. Establishing of any processing fees necessary to implement the provisions of this chapter.

SEC. 19.14 PUBLIC WORKS DEPARTMENT.

The responsibilities of the Director of Public Works department include:

- A. Processing of tentative maps;
- B. Determining whether a proposed subdivision conforms to the general plan, any applicable specific plans, and the Piedmont Zoning Code;
- C. Approving, approving with conditions, or denying a request for a lot line adjustment under section 19.5, in consultation with the city engineer and city planner. In the director's discretion, any such application may be referred to the city council for decision;
- D. Sending proper notice of proceedings under this chapter;
- E. Collection of all required application fees and deposits;
- F. Collection of plan check, inspection and development fees;
- G. Processing separate or concurrent applications for variance or design review related to a subdivision.

SEC. 19.15 CITY ENGINEER.

The responsibilities of the city engineer include:

- A. Establishing standard engineering details for approval by the city council;
- B. Determining if proposed subdivision improvements comply with the Subdivision Map Act and this chapter;
- C. Examining and certifying that final and parcel maps are in substantial compliance with the approved tentative map; and the processing and certification of final and parcel maps, reversion to acreage maps and amended maps, and the processing and approval of subdivision improvement plans;
- D. Processing and approval, in consultation with the city planner, of a waiver of tentative parcel map, lot line adjustment or certificate of compliance;

- E. Advising the city council of violations of the Subdivision Map Act or this chapter.
- F. Inspection and approval of subdivision improvements;
- G. Review and approval of grant deeds for subdivision dedications which are outside a subdivision boundary; and
- H. Determining when applications are complete, under the Permit Streamlining Act (GC §65920 and following).
- I. When necessary to carry out these responsibilities, the city engineer may designate and authorize a representative to act on his or her behalf. (GC §§66416.5, 66431)

SEC. 19.16 CITY CLERK.

The responsibilities of the city clerk include:

- A. Certifying that the city council has approved, conditionally approved, or denied the tentative map for a subdivision; and
- B. Scheduling any appeal to the planning commission or city council.

SEC. 19.17 CITY ATTORNEY.

The city attorney's responsibilities include reviewing and approving as to form all subdivision improvement agreements and security liability agreements and insurance, and the governing documents for a community apartment project, condominium, stock cooperative, or conversion.

SEC. 19.18 CONFLICT OF INTEREST.

When the Subdivision Map Act or this chapter requires the execution of certificate or affidavit or the performance of an act by a person in his official capacity who is also the owner, subdivider or an agent or employee of a subdivider, the certificate or affidavit shall be executed or such act performed by some other qualified person authorized to act by the city council.

ARTICLE IV MAPS – GENERAL PROCEDURAL REQUIREMENTS

SEC. 19.19 REGULATIONS GENERALLY.

Each subdivision created in the city shall conform to the regulations in this chapter.

SEC. 19.20 SUMMARY OF TYPES OF MAPS.

- A. Tentative and Final Maps – Major Subdivisions. A tentative map and a final map are required for a major subdivision, that is, a division of land proposed to be divided into five or more parcels as determined by the city engineer and the department. (GC §66426) However, a tentative map and a parcel map are required for a major subdivision listed as one of the exceptions pursuant to Government Code section 66426.
- B. Tentative Parcel and Parcel Maps – Minor Subdivisions. A tentative parcel map and parcel map are required for all minor subdivisions of four parcels or fewer (or for major subdivisions excepted in Government Code section 66426). However, maps are not required for:
1. The subdivision of a portion of the operating right-of-way of a railroad corporation, defined by Section 230 of the State Public Utilities Code, which is created by a short-term lease terminable by either party on not more than 30 days’ notice in writing; (GC §66428)
 2. Land conveyed to or from a governmental agency, public entity or public utility, or for land conveyed to a subsidiary of a public utility for conveyance to such public utility for right-of-way, unless a showing is made by the department in individual cases, upon substantial evidence, that public policy necessitates a parcel map. “Land conveyed to or from a governmental agency” includes a fee interest, a leasehold interest, an easement or a license. (GC §§66428, 66426.5);
 3. A lot line adjustment approved under Piedmont Municipal Code section 19.5; (GC §66412(d)) and
 4. A parcel map waived under Piedmont Municipal Code section 19.6. (GC §66428)
- C. Vesting Tentative Maps. Whenever this chapter requires the filing of a tentative map, the subdivider may file a vesting tentative map instead. The procedures for and rights of a vesting tentative map are set forth in Piedmont Municipal Code section 19.36. (GC §§66424.5, 66452)

SEC. 19.21 DESIGNATED REMAINDER.

- A. A subdivider of unimproved land may designate as a remainder that portion which is not divided for the purpose of sale, lease or financing. The designated remainder shall not be counted as a parcel for the purpose of determining whether a parcel map or final map is required. (GC §§66424.6, 66434(e))

- B. For a designated remainder parcel, the fulfillment of construction requirements for improvements is not required until:
1. A permit or other grant of approval for development of the remainder parcel is issued by the city; or
 2. The construction of the improvements is required under an agreement between the subdivider and the city; or
 3. The city makes a finding that fulfillment of the construction requirements is necessary for reasons of:
 - a. The public health and safety; or
 - b. The required construction is a necessary prerequisite to the orderly development of the surrounding area. (GC §66424.6(a)(2))
- C. When fulfillment of the construction requirements is to be delayed, the subdivider shall record a declaration of restrictions approved by the city attorney, or an agreement with the city, stating:
1. What the required improvements are; and
 2. That the subdivider or a successor owner is required to complete them all before the city will grant a permit or other approval for development.
- D. If a designated remainder is subsequently sold, the subdivider or the owner must obtain a certificate of compliance or conditional certificate of compliance. (GC §§66424.6(d), 66499.34, 66499.35)

SEC. 19.22 PUBLIC HEARINGS – WHEN REQUIRED.

The planning commission and city council shall hold a public hearing on any tentative map application.

SEC. 19.23 PUBLIC HEARINGS – NOTICE.

Unless otherwise specified in this chapter, notice of a public hearing shall be given as set forth in this section. (GC §§ 66451.3(a), 65090, 65091)

- A. When. Notice shall be given at least 10 days before the hearing.
- B. Contents. The notice shall include the date, time and place of the hearing, the identity of the hearing officer or body, a general explanation of the matter to be

considered, and a general description by text or diagram of the location of the property. The notice shall also include the following: “If you challenge the proposed action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the (planning commission or city council) at, or prior to, the public hearing.” (GC §§65094, 65009(b)(2))

C. Manner.

1. Notice shall be given in the manner required by Government Code Section 65090 and Section 65091 which is summarized as follows:
 - a. Publication once in a newspaper of general circulation;
 - b. Mailing or delivery to the property owner and project applicant;
 - c. Mailing or delivery to each local agency expected to provide water, sewage, streets, roads, schools or other essential facilities or services to the project; and
 - d. Mailing or delivery to all owners of real property within 300 feet of the property. If the number of owners exceeds 1,000, the city may instead publish notice of at least one-eighth page in a newspaper of general circulation.
2. In addition, the city may give notice in any other manner it deems necessary or desirable.
3. If the proposed project is a conversion of residential real property to a condominium, community apartment, or stock cooperative, notice shall be given to each tenant of the property. (GC §§66451.3, 66452.5(e))

D. Continued Hearings. A public hearing may be continued from time to time and, if continued to a specific date, time and place, no new notice is required. (GC §65095)

E. Appeal or Request for Modification. If a decision under this chapter is appealed or if a subdivider requests a change in a condition of approval either before or after a final or parcel map is filed, notice of the appeal or request shall be given in the manner described in Piedmont Municipal Code section 19.23.

F. Staff Reports. A report on a tentative map by the department shall be in writing and provided to the subdivider (and to each tenant in the case of a proposed condominium, community apartment project or stock cooperative) at least three days before any hearing or action. (GC §66452.3)

- G. Costs. The subdivider is responsible for the costs incurred in giving proper notice. (GC §§66451.3(c), 66452.3)
- H. Substantial compliance with these notice requirements is sufficient. A technical failure to comply shall not affect the validity of any action taken according to the procedures in this chapter. (GC §65093)

SEC. 19.24 APPEALS.

- A. A determination by a city staff member or the city engineer under this chapter may be appealed to the planning commission. A determination by the planning commission under this chapter may be appealed to the city council.
- B. The subdivider or other person may file an appeal to the planning commission within 10 calendar days after the action is taken by filing it with the city clerk by the close of the business day on a form prescribed by the city and paying an appeal fee. The subdivider or other person may file an appeal of a planning commission determination to the city council within 10 days after the action is taken by filing it with the city clerk by the close of the business day on a form prescribed by the city and paying an appeal fee.
- C. The hearing on the appeal shall be held by the planning commission or the city council, whichever has jurisdiction, at the next available meeting within 30 days of the filing of the notice of appeal, and notice of the hearing shall be given as prescribed in Piedmont Municipal Code section 19.23(E).
- D. The appeal body shall make its decision on the appeal in writing within 10 days after the hearing is concluded. (GC §66452.5)

SEC. 19.25 FEES.

An applicant requesting any service from the city under this chapter shall pay all processing fees and deposits established by resolution of the city council at the time the application or appeal is filed. The fees may not exceed the amount reasonably required to administer this chapter. (GC Sections 66014, 66016, 66017, 66451.1, 66451.2, 66451.3, 66451.6)

SEC. 19.26 TIME LIMIT EXTENSIONS.

The time limits specified in this chapter and the Subdivision Map Act for reporting and acting on maps may be extended by mutual consent of the subdivider and the person or body required to act. However, the city may not require a routine waiver of time limits except as necessary to permit concurrent processing of related approvals or an environmental impact report on the same project. (GC §66451.1)

SEC. 19.27 REVIEW BY OTHER AGENCIES.

- A. Agency Within Planning Area. A local agency within the planning area of a proposed subdivision may make recommendations to the city regarding a tentative map if it does so in writing within 15 days after the notice and map are mailed by the city. A local agency which desires to make such recommendations shall file with the city a written request and map indicating the territory in which it wishes to make such recommendations. (GC §§66453, 66455.1)
- B. State Department of Transportation. The State Department of Transportation may make recommendations regarding a tentative map if the proposed subdivision is within one mile of a state highway routing and if the recommendations are submitted in writing to the city within 15 days after the notice and map were mailed by the city. (GC §66455)
- C. School Districts. Within five days after the application for a tentative map is accepted as complete, the department shall send a notice of the filing to the governing board of any affected school district. The notice shall contain information about the location, number of units, density, and other relevant information. Within 15 working days after the notice was mailed, the board may submit to the city a report and recommendation regarding the proposed subdivision and its impact on the school district. Failure of the school district to respond within the 15-working-day period is considered a recommendation for approval. (GC §66455.7)

If the proposal shows an area for a public school site, the city shall notify the State Department of Education. The notice shall include the identification of an existing or proposed runway within a distance specified by Education Code Section 17215. (GC §66455.9)

- D. Water Suppliers. Within five days after a tentative map application is accepted as complete, the department shall send a copy of the application to any public water supplier that may supply water for the subdivision. Water suppliers may submit their comments in writing within 15 days after the application was sent by the city. (GC §66455.3)

ARTICLE V MAPS – TENTATIVE AND VESTING TENTATIVE MAPS

SEC. 19.28 GENERAL.

- A. This Article governs the form, contents, submittal and approval procedures and requirements for submittal of tentative and vesting tentative maps. The same

tentative map requirements and procedures apply both to major subdivisions (five or more parcels) and to minor subdivisions (four or fewer parcels) except where stated otherwise.

- B. A subdivider may file with the city a tentative map of a proposed subdivision of unincorporated territory adjacent to the city in accord with Government Code Section 66454.

SEC. 19.29 FORM AND CONTENTS.

The tentative map shall be prepared in a manner acceptable to the department and shall be prepared by a registered civil engineer or licensed land surveyor. The tentative map shall be clearly and legibly drawn. The map shall be drawn to an engineer's scale, large enough to show all information clearly, but no less than one inch equals 100 feet. The map shall contain not less than the following:

- A. A title including the subdivision number obtained from the county recorder, and type of subdivision;
- B. Name and address of legal owner, subdivider and person preparing the map, including registration or license number;
- C. Sufficient legal description to define the boundary of the proposed subdivision; names and locations of streets adjacent to the proposed subdivision shall be indicated;
- D. The recording or subdivision numbers of adjacent subdivisions and the names of owners of adjacent properties;
- E. Boundary lines of the city, school district, and other taxing districts when within or contiguous to the subdivision;
- F. Date of map preparation and map revision, if the map is revised after the initial submittal to the city, north arrow, and scale;
- G. A vicinity map showing streets, adjoining subdivisions, shopping centers, schools, and other data sufficient to locate the proposed subdivision and show its relation to the community; and
- H. Existing topography of the proposed site and at least 100 feet beyond its boundary if undeveloped, and proposed changes in topography. The contours of the land shall be shown at intervals of not more than one foot for ground slopes between level and five percent, and not more than five feet for ground slopes in excess of five percent. Elevations shall be according to U.S. Geodetic Survey datum, commonly termed mean sea level;

- I. Existing improvements to be shown include, but are not limited to:
1. Type, circumference and dripline of all existing trees; other significant vegetation with a trunk diameter of four inches or more, measured 24 inches above existing grade. Any trees or other significant vegetation proposed to be removed shall be so indicated;
 2. The location and outline of existing structures to scale identified by type. Structures to be removed shall be so marked;
 3. Existing drainage channels, culverts, irrigation ditches, wells and springs, and the approximate location of all areas subject to inundation or stormwater overflow, and the location, width and direction of flow of each watercourse;
 4. The location, pavement and right-of-way width, typical section, grade and name of existing streets, highways and driveways within and/or contiguous to the proposed subdivision;
 5. The widths, location and identity of all existing easements; and
 6. The location and size of existing sanitary sewers, fire hydrants, water mains and storm drains within and/or contiguous to the proposed subdivision. The approximate slope of existing sewers and storm drains shall be indicated. The location of existing overhead and underground utility lines and poles within and/or contiguous to the proposed subdivision shall be indicated;
- J. Proposed improvements to be shown include, but are not limited to:
1. The location, grade, centerline radius, arc length of curves, pavement, and right-of-way width of all streets. Typical sections of all streets shall be shown, including pavement widths, curbs, gutters, sidewalks, medians, and slopes of cuts and fills. Proposed private streets shall be clearly indicated;
 2. The location and radius of all curb returns and cul-de-sacs;
 3. The location, width and purpose of all easements;
 4. The angle of intersecting streets if such angle deviates from a right angle by more than four degrees;
 5. Engineering plan and data showing the approximate finished grading of each lot, the preliminary design of all grading, the elevation of proposed building pads, and the top and toe of cut and fill slopes, to scale;

6. Areas to be used for public purposes or facilities;
 7. Proposed recreation sites, trails and parks for private or public use;
 8. Proposed common areas and areas to be dedicated to public open space;
 9. The location and size of sanitary sewers, fire hydrants, water mains, and storm drains, including all necessary provisions for handling water supply, stormwater and sewage. Proposed slopes, approximate elevation, direction of flow and type of facility for sanitary sewers, storm drains, and overland drainage releases shall be indicated; and
 10. A planting plan for slopes, erosion control, street trees, other landscaping and fencing;
- K. Lot numbers beginning with the numeral “1” and continuing consecutively throughout the subdivision;
- L. The name or names of any engineering geologist or soil engineer whose services were required in the preparation of the design of the tentative map;
- M. The approximate lot layout and the approximate dimensions of each lot and each building site;
- N. The approximate boundaries of areas subject to inundation or stormwater overflows, the location, width and direction of flow of all watercourses;
- O. The size of the smallest and largest lots;
- P. If the subdivider plans to develop the site in phases, the proposed phases and their proposed sequence of construction; (GC §66456.1)
- Q. Proposed street names;
- R. Energy conservation information. The design of a subdivision for which a tentative map is required, excluding a conversion, shall provide, to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision; (GC §66473.1) and
- S. The department may waive any of the above tentative map requirements if the type of subdivision does not need to comply with these requirements or if other circumstances justify a waiver.

- T. The department may require other drawings, data, or information as deemed necessary by the department to accomplish the purposes of the Subdivision Map Act and this chapter.

SEC. 19.30 ACCOMPANYING DATA AND REPORTS.

At the time of filing, a tentative map shall be accompanied by the following data and reports, if the same information is not shown on the tentative map:

- A. A statement of present zoning and of existing and proposed uses of the property, and any proposed zoning changes, whether immediate or future;
- B. A description of the proposed subdivision, including the number of lots, their average size, and nature of proposed development;
- C. A description of landscaping, fences, bridges, gates or other proposed improvements which may not be fully shown on the map;
- D. A preliminary title report, not more than six months old and acceptable to the department, showing the legal owners at the time of filing the tentative map;
- E. Soil and engineering geology reports as set forth in Piedmont Municipal Code section 19.31;
- F. A statement of the time when improvements are proposed to be completed;
- G. Proposed tract or deed restrictions, if any;
- H. Description, location and existing elevation of an established city bench mark or other bench marks within the immediate vicinity;
- I. Information as required by the department to allow a determination on environmental review to be made in accordance with the California Environmental Quality Act;
- J. A signed statement of compliance under Government Code Section 65962.5(f) indicating whether the proposed project is located on a hazardous waste and substance site as defined in that section (see PMC 19.31(E)); (GC §65940)
- K. For a vesting tentative map, the subdivider shall also submit all of the following information, unless a requirement is waived by the department after consultation with the city engineer: (GC §66498.8)
 - 1. The height, size and location of buildings, including elevations, and
 - 2. Information on the uses to which the buildings will be put;

- L. Any other data or reports deemed necessary by the department or the planning commission in order to review the tentative map; and
- M. For major subdivisions, design review related materials as required by Piedmont Zoning Code 17.20, the Application Materials Checklist, and the Subdivision Manual.

SEC. 19.31 PRELIMINARY SOIL AND ENGINEERING GEOLOGY REPORTS.

- A. Preliminary Soil Report. A preliminary soil engineering report prepared by a soil engineer, based upon adequate test borings or excavations, shall be filed with each application for a tentative subdivision map. The report shall include any information appropriate for the site, including any information required by the city engineer. (GC §§66490, 66491, Business and Professions Code §6736.1)
- B. Preliminary Engineering Geology Report. A preliminary engineering geology report prepared by an engineering geologist shall be submitted with each application for a tentative subdivision map, unless waived by the city engineer. The report shall include any information appropriate for the site, including any information required by the city engineer. (GC §§66490, 66491)
- C. Expanded Investigation. If the preliminary soil report or the preliminary engineering geology report indicates, or the city engineer has knowledge of, the presence of soil or geologic conditions which, if corrective measures are not taken, could lead to structural defects, then a soil or engineering geology investigation of each proposed lot shall be submitted with the final map. (GC §§66490, 66491)
- D. Compliance Required. A tentative subdivision map application is not considered as filed until the required preliminary reports have been submitted with the map (see PMC 19.52).
- E. Hazardous Waste and Substances Statement. Under Government Code Section 65962.5, the California Secretary for Environmental Protection is required to consolidate information regarding land where certain hazardous wastes or contaminants are present, and to distribute a list to each city and county in which sites on the list are located. An applicant for any development project must consult the list sent to the city and submit a signed statement to the city indicating whether the project and any alternatives are located on the list. (GC §65940)

SEC. 19.32 DEPARTMENT REVIEW AND REFERRAL.

A subdivider shall file a completed tentative map application with the department. The application shall include a sufficient number of prints of the tentative map as required by the department, together with the filing fee established by city council resolution. The

city engineer, in consultation with the department, shall within 30 days after submittal of the application, determine whether the application is complete in accordance with the requirements of this chapter and the Permit Streamlining Act. (GC §§65943, 66452) Within five days after the application is accepted as complete, the department shall forward copies of the tentative map to the affected public agencies and utilities which have 15 days to submit their findings and recommendations in writing to the department. (GC §§66453, 66455, 66455.1, 66455.7; see PMC §19.27)

SEC. 19.33 PLANNING COMMISSION AND CITY COUNCIL REVIEW AND DETERMINATION.

- A. Notice of Public Hearings. The department shall set a date for a public hearing before the planning commission and/or city council, provide notice as required by Piedmont Municipal Code section 19.23, and prepare a report with recommendations. The department shall send a copy of the report to the subdivider at least three days before the public hearing. (GC §66452.3)

- B. Planning Commission and City Council Actions.
 - 1. For all subdivisions, the planning commission shall make its recommendation to the city council, within 50 days after the tentative map was accepted for filing (accepted as complete under the Permit Streamlining Act), for approval, conditional approval or denial of the tentative map; and within 30 days after the planning commission makes its recommendation, the city council shall approve, conditionally approve, or deny the tentative map. (GC §§66452.1(a), (c), 66452.2)

 - 2. The time periods specified in subsection (B)(1) of this section begin after certification of the environmental impact report, adoption of a negative declaration, or a determination that the project is exempt from the requirements of the California Environmental Quality Act. (GC §66452.1(c))

 - 3. If no action is taken within these time limits or an extension mutually approved under Piedmont Municipal Code section 19.26, the tentative map is deemed approved insofar as it complies with the general plan, an applicable specific plan, this chapter, including city-approved policies, standards and requirements, the Subdivision Manual, the Piedmont Zoning Code, and the Subdivision Map Act. (GC §66452.4)

- C. Approval.
 - 1. Before approving a tentative map or tentative parcel map, the city council must first approve the design review application and any required variances.

2. The city council may approve or conditionally approve a tentative map or tentative parcel map if it finds all of the following: (GC §§66473.5, 66474)
 - a. The proposed map is consistent with the general plan, any policy or guideline implementing the general plan, other applicable provisions of the Piedmont Municipal Code and the Subdivision Manual;
 - b. The site is physically suitable for the type of development;
 - c. The site is physically suitable for the proposed density of development;
 - d. The design of the subdivision or the proposed improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. (Notwithstanding the foregoing, the city council may approve such a tentative map if an environmental impact report was prepared with respect to the project and a statement of overriding considerations was made to the effect that specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report.);
 - e. The design of the subdivision or the type of improvements will not cause serious public health problems; and
 - f. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.
 3. The city council may modify or delete a condition of approval recommended in the department's report, except a condition required by city code. The city council may add additional requirements as a condition of its approval. (GC §66474.10)
 4. The city council may require that the subdivider defend, indemnify, and hold harmless the city, its agents, officers, and employees from any claim, action or proceedings against the city to attack the approval of a subdivision under Government Code Section 66474.9.
- D. Denial. The city council may deny approval of the tentative map on any of the grounds provided by the Subdivision Map Act or this code. The city council shall deny approval of the tentative map if it makes any of the following findings: (GC §§66473, 66474, 66474.01, 66474.4, 66474.6)

1. The proposed map is inconsistent with the general plan or any applicable specific plan, any policy or guideline implementing the general plan (including the city's design guidelines), the criteria in the Subdivision Manual or other applicable provisions of this code;
 2. The site is not physically suitable for the type of development;
 3. The site is not physically suitable for the proposed density of development;
 4. The design of the subdivision or the proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat;
 5. The design of the subdivision or the type of improvements is likely to cause serious public health problems; or
 6. The design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.
- E. Standards in Effect. In determining whether to approve or disapprove a tentative map application, the city shall apply only those ordinances, policies, and standards in effect at the time the application was accepted as complete. The city may apply ordinances, policies, and standards adopted later if (1) the subdivider applicant requests changes in connection with the same development project, and they are approved, or (2) if the city had formally initiated proceedings to amend the general or specific plan, Piedmont Zoning Code or subdivision ordinance and published notice of the proposed change before the application was accepted as complete. (GC §66474.2)
- F. Appeal. Any person may appeal a decision of the planning commission under Piedmont Municipal Code section 19.24.
- G. Form of Approved Tentative Map. Within 90 days after approval of the tentative map, the subdivider shall submit a revised map to the department which conforms to any changes required by the conditions of approval.

SEC. 19.34 EXPIRATION OF TENTATIVE MAP.

- A. Expiration. The approval or conditional approval of a tentative map expires 24 months after its approval. The expiration of the map terminates all proceedings, and no final or parcel map may be filed without first processing a new tentative map. (GC Sections 66452.6(a), (d), 66463.5)

B. Statutory Extensions.

1. \$178,000 or More of Public Improvements. If the subdivider is subject to a requirement of \$178,000 or more to construct, improve or finance public improvements outside the tentative map boundaries (excluding public right-of-way improvements which abut the property), each filing of a phased final map extends the expiration of the tentative map by 36 months, not to exceed a total of 10 years. The amount shall be adjusted for inflation each year after 2005 as provided in Government Code Section 66452.6(a).
2. Development Moratorium. The 24-month period of time specified in subsection A of this section shall not include any period of time during which a development moratorium, defined by state of California Subdivision Map Act Section 66452.6(f), is in existence up to five years. (GC §66452.6(b), (f))

C. Discretionary Extensions.

1. General. Upon application of the subdivider submitted before the tentative map expires, the city council may approve an extension of the tentative map for a period or periods not to exceed a total of three years. No public hearing is required. (GC §66452.6(e)) Ord. 681 N.S. 9/2/08
2. Pending Litigation. If a lawsuit involving the approval of the tentative map is pending, the city council may, upon request, stay the approval period of the map for up to five years. (GC §66452.6(c))

D. Improvement Plans Review. A tentative subdivision map remains valid during the period that the review of subdivision map and improvement plans by the city is underway, and the subdivider is actively pursuing approval of a final map. However, under no circumstances will the map remain valid for a period beyond 12 months after the expiration date of the tentative map. In addition, if the city engineer determines at any time during the improvement review period that the subdivider is not actively pursuing the approval of the final map, as evidenced by subdivider's failure to adhere to time deadlines as set forth in guidelines promulgated 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. (GC §66452.6(d))

SEC. 19.35 AMENDMENTS TO AN APPROVED TENTATIVE MAP.

- A. Minor Amendments. The planning commission may approve minor amendments to the approved or conditionally approved tentative map or conditions of approval if:

1. The changes are consistent with the intent and spirit of the original tentative map approval;
2. No feature, facility, or amenity is deleted which substantially affects the project's quality, safety, or function;
3. Changes in plans do not reduce natural areas, create new visible retaining or drainage structures, or substantially change pad elevations;
4. Changes in the design do not eliminate or add more units or lots; and
5. There are no resulting violations of this code.

Each amendment shall be indicated on the approved or conditionally approved tentative map and certified by the department. Minor amendments under this subsection may include minor amendments relating to exterior elevations, landscaping, interior floor plans with no exterior changes, or site circulation plans.

- B. Other Amendments. Amendments to the tentative map or conditions of approval which, in the opinion of the department, are not minor, or do not meet the criteria in subsection A of this section, shall be presented to the city council for its consideration and decision at a noticed public hearing. Processing shall be in accordance with the provisions for processing a tentative map as set forth in this article. An approved amendment does not by itself alter the expiration date of the tentative map.

SEC. 19.36 VESTING TENTATIVE MAPS.

- A. General. Whenever a tentative map is required, a vesting tentative map may be filed instead. The words "vesting tentative map" must be printed conspicuously on each page of the map. (GC §§66452, 66498.1 – 66498.9)
- B. Procedures and Requirements. Except as otherwise provided in this section, the procedures and requirements for a tentative map and subdivisions generally apply to a vesting tentative map. The subdivider shall submit additional information at the time of filing the tentative map as set forth in Piedmont Municipal Code section 19.30(K).
- C. Development Rights.
1. Development Rights Created.
 - a. The approval of a vesting tentative map confers a vested right to proceed with development in substantial compliance with the city's ordinances, policies and standards in effect at the date the city

determines the application is complete. If, before the application is complete, the city had formally initiated proceedings to amend an ordinance, policy or standard, the city may apply the ordinance, policy or standard in its amended form if the amendment is in effect on the date the city approved the tentative map. (GC §§66498.1(a), 66474.2(b))

- b. The approval of a vesting tentative map does not confer a right to proceed with development (including the specific number or configuration of lots) if the development cannot be constructed in conformance with the applicable ordinances, policies and standard
2. Duration of Development Rights. The right to proceed with development as set forth in subsection (C)(1) of this section continues for one year following the recordation of the final map or parcel map. If a project covered by a single vesting tentative map is divided into phases and more than one final map is recorded, the one-year period begins for each phase when the final map for that phase is recorded. (GC §66498.5(b))
3. Expiration of Development Rights. The right to proceed with development as set forth in subsection (C)(1) of this section expires if a final map or parcel map is not approved before the vesting tentative map expires under Piedmont Municipal Code section 19.34. (GC §§66498.1(d), 66463.5(g))

If the subdivider submits a complete application for a building permit during the one-year period specified in subsection (C)(2) of this section, the right to proceed with development continues until the building permit expires. (GC §66948.5(d))

If a final map or parcel map is recorded based upon a vesting tentative map, and the development rights expire, the final map remains in effect without the development rights.

4. Extension of Time for Exercise of Development Rights. If the city does not complete processing of an application for a grading permit or for design or architectural review within 30 days of the date the application is complete, the one-year period specified in subsection (C)(2) of this section is automatically extended by the time exceeding the 30-day period used by the city to complete processing. (GC §66498.5(c))

Before the expiration of the one year specified in subsection (C)(2) of this section a subdivider may apply to the planning commission for a one-year extension. (GC §66463.5(g))

D. City's Right to Condition or Deny Approval.

1. This Article does not:
 - a. Enlarge or diminish the types of conditions which the city may impose on a development; or
 - b. Diminish or alter the city's power to protect against a condition dangerous to the public health or safety. (GC §66498.6)
2. The city may condition or deny a permit, approval, extension, or entitlement relating to a vesting tentative map if it determines that either:
 - a. The failure to do so would place the residents of the subdivision or the community in a condition dangerous to their health or safety; or
 - b. The condition or denial is required to comply with state or federal law. (GC §66498.1 (c))

ARTICLE VI FINAL AND PARCEL MAPS

SEC. 19.37 GENERAL.

The form, contents, accompanying data, and filing of a final or parcel map shall conform to the Subdivision Map Act and this article. (GC §66433). The final or parcel map shall be prepared by or under the direction of a registered civil engineer or licensed land surveyor. The city engineer may waive a requirement of this article regarding map contents and accompanying information if the city engineer finds that the requirement is not applicable to the subdivision.

SEC. 19.38 SURVEY REQUIRED.

An accurate and complete survey of the land to be subdivided shall be made by a registered civil engineer or licensed land surveyor. All monuments, property lines, centerlines of streets, alleys and easements adjoining or within the subdivision shall be tied into the survey.

At the time of making the survey for the final or parcel map, the engineer or surveyor shall set sufficient durable monuments, conforming with the standards of Section 8771 of the Business and Professions Code, so that another engineer or surveyor may readily retrace the survey. At least one exterior boundary line shall be monumented prior to

recording the final map. Other monuments shall be set as required by the city engineer. The allowable error of closure on any portion of the final map shall not exceed 1/20,000 for calculated closures.

SEC. 19.39 FORM.

The form of the final or parcel map shall conform to the Subdivision Map Act and the following requirements. (GC §66434)

- A. The final or parcel map shall be legibly drawn, printed, or reproduced by a process guaranteeing a permanent record in black on tracing cloth or polyester base film. Certificates, affidavits and acknowledgments may be legibly stamped or printed upon the map with opaque ink. If ink is used on polyester base film, the ink surface shall be coated with a suitable substance to assure permanent legibility. (GC §66434(a), 66445(a))
- B. The size of each sheet shall be 18 inches by 26 inches. A marginal line shall be drawn completely around each sheet, leaving an entirely blank margin of one inch. (GC §§66434(b), 66445(b))
- C. The scale of the map shall be not less than one inch equals 20 feet or as may be necessary to show all details clearly, and enough sheets shall be used to accomplish this end.
- D. The particular number of the sheet and the total number of sheets comprising the map shall be stated on each of the sheets, and its relation to each adjoining sheet shall be clearly shown. When two or more sheets including the certificate sheet are used, a key sheet shall be included. (GC §§66434(b), 66445(b))
- E. All printing or lettering on the map shall be of one-eighth-inch minimum height and of such shape and weight as to be readily legible in prints and other reproductions made from the original drawings.
- F. The boundary of the subdivision shall be designated by a heavy black line one-sixteenth inch thick, in such a manner as not to obliterate figures or other data.
- G. All dimensions shown on the final map shall be in feet and decimals of a foot.
- H. All lines shown on the final map which do not constitute a part of the subdivision itself shall be clearly distinguishable and any area enclosed by such lines shall be labeled “not a part of this subdivision.” (GC §§66434(e), 66445(d))
- I. There must appear on each map sheet the scale, the north point and the basis of bearings and the equation of the bearing to true north. The basis of bearings shall be approved by the city engineer.

J. The final form of the final or parcel map shall be as approved by the city engineer.

SEC. 19.40 CONTENTS.

The contents of the final or parcel map shall conform to the Subdivision Map Act and as follows: (GC §§66434, 66445)

A. Title Sheet. The title sheet shall include:

1. The subdivision number conspicuously placed at the top of the sheet;
2. Affidavits, certificates, acknowledgments, endorsements, acceptances of dedication and notarial seals required by law; (GC §§66435, 66435.2, 66445(e)(i))
3. The date of preparation and the signed certificate of the subdivider's engineer or surveyor who prepared the map;
4. A certificate of dedication signed by those persons having any record title interest in the land subdivided, if any land is to be dedicated for public use;
5. A certificate enacted by all parties having any record title interest in the land subdivided, consenting to the preparation and recordation of the map; and (GC §66430)
6. Certificates for execution by the city engineer and the city clerk.
7. A statement from the County Recorder/Clerk of the Board of Supervisors that all taxes have been paid or a bond for taxes has been posted. (See P.M.C. §19.43E.)
8. A statement that a geotechnical soils report has been prepared. (See P.M.C. §19.31.)

B. Title. Each sheet shall have a title showing the subdivision number and the location of the property being subdivided with reference to maps which have been previously recorded, or by reference to the plat of a United States Survey. The following words shall appear in the title, "City of Piedmont, Alameda County, California."

C. Linear, Angular and Radial Data. Sufficient linear, angular and radial data shall be shown to determine the bearings and lengths of monument lines, street centerlines, the boundary lines of the subdivision, the boundary lines on every lot and parcel which is a part of the subdivision, and ties to existing monuments used to establish

the boundary. Arc length, radius, and total central angle and radial bearings of all curves shall be shown. Ditto marks shall not be used in the dimensions and data shown on the map.

- D. Monuments. The location and description of all existing and proposed monuments shall be shown. Standard city monuments shall be set at or on city engineer approved offsets at the following locations:
1. The intersection of street centerlines;
 2. Beginning and end of curves or intersection of tangents on centerlines; and
 3. Other locations as may be required by the city engineer. (GC §§66495, 66498)
- E. Lots. Lot numbers shall begin with the number one in each subdivision and shall continue consecutively with no omissions or duplications except where contiguous lands, under the same ownership, are being subdivided in successive units, in which event, lot numbers may begin with the next consecutive number following the last number in the preceding unit. Each lot shall be shown entirely on one sheet of the map, unless approved by the city engineer. The subdivider shall show the area of any lot on the map, calculated excluding the area within any public street or alley (either existing or proposed) abutting the lot, but including the area within any easements for other purposes (either existing or proposed).
- F. Adjoining Properties. The adjoining corners of all adjoining subdivisions shall be identified by subdivision number and reference to the book and page of the filed map showing such subdivision, and if no subdivision is adjacent, then by the name of the owner and reference to the recorded deed by book and page number for the last record owner.
- G. City Boundaries. City boundaries which cross or join the subdivision shall be clearly designated as shall locations of boundary lines of the school district or other taxing districts adjacent to or intersecting the subdivision.
- H. Street Names. The names of all existing and proposed streets, alleys, or highways within or adjoining the subdivision shall be shown. (GC §§66434(d), 66445(c))
- I. Easements and Dedications.
1. Every easement and proposed dedication for road or street, path, water main, stormwater drainage, sanitary sewer, utility or other public use as may be required shall be offered for dedication to the public for acceptance by the city or other public agency, and the use shall be specified on the map. If at the time the final map is approved, a street, path, alley or storm drainage easement is not accepted by the city council, the offer of dedication shall remain open and the city council may, by resolution at any later date, accept and open the street, path, alley or storm drainage easement

for public use. The acceptance shall be recorded in the office of the county recorder. (GC §66477.2(a); PMC §19.43(D))

2. The city may accept or reject (subject to later acceptance) a dedication lying outside the subdivision boundary which requires a separate grant deed. The offer of dedication and the city's acceptance or rejection shall be recorded in the office of the county recorder.
 3. Every easement of record shall be shown on the map, together with the name of the grantee and sufficient recording data to identify the conveyance, e.g., recorder's serial number and date, or book and page of official records.
 4. An easement not disclosed by the records in the office of the county recorder and found by the surveyor or engineer to be existing, shall be specifically designated on the map, identifying the apparent dominant tenements for which the easement was created.
 5. Each easement of record shall be shown by dashed lines on the final map with the widths, lengths and bearings of record.
- J. Open Space Areas. Open space areas, may be shown, subject to the approval of the city. These areas shall be dedicated as open space easements unless otherwise specified in the approval of the tentative map
- K. Statements and Certificates. Each certificate, statement and acknowledgment required by the Subdivision Map Act and this chapter shall appear on the final or parcel map and may be combined where appropriate. (GC §§66435, 66435.1 – 66443, 66445(e) – (i), 66447 – 66450, 66430)
- L. Miscellaneous. The map shall also show:
1. The location and width of all existing and proposed easements;
 2. The limitation, if any, on the right of access to and from a street; and
 3. The location and width of nonaccess strips and reserve strips.
- M. Deferred Improvements (Parcel Map Only). In a subdivision of four or fewer lots, if fulfillment of construction requirements is being deferred under Piedmont Municipal Code section 19.48, the parcel map shall contain a statement which reads substantially as follows: (GC §66411.1(a))
Notice: Certain off-site and/or on-site improvements are required in connection with these lots. (City of Piedmont File Number _____) No person may obtain a building permit for any lot on this map until all of the required improvements are completed or financial security has been posted with the city to assure completion prior to building occupancy.

SEC. 19.41 PRELIMINARY SUBMITTAL FOR CITY APPROVAL.

The subdivider shall submit four sets of preliminary prints of the final or parcel map to the city engineer for checking. The preliminary prints shall be accompanied by the following data, plans, reports, and documents in a form as approved by the city engineer, and where applicable, the city attorney.

- A. Improvement Plans. Improvement plans as required by Piedmont Municipal Code section 19.49;
- B. Preliminary Engineering Geology Report. A preliminary engineering geology report prepared in accordance with the city grading regulations and Piedmont Municipal Code section 19.31;
- C. Preliminary Soil Report. A preliminary soil report prepared in accordance with the city grading regulations and Piedmont Municipal Code section 19.31;
- D. Title Report. A title report not more than six months old, showing the legal owners at the time of submittal of the final map; (GC §66430)
- E. Guarantee of Title. A guarantee of title, in a form acceptable to the city engineer and city attorney, shall be issued by a title company to and for the benefit and protection of the city and shall be continued complete up to the instant of recording of the final map, guaranteeing that the names of all persons whose consent is necessary to pass a clear title to the land being subdivided and all public easements being offered for dedication, and all acknowledgments thereto, appear on the proper certificates and are correctly shown on the map, both as to consents as to the making thereof and affidavits of dedication where necessary;
- F. Deeds for Easements or Rights-of-Way. A signed deed for each required off-site easement or right-of-way which has not been offered for dedication on the final map and written evidence acceptable to the city in the form of right of entry or permanent easement across private property outside of the subdivision permitting or granting access to perform necessary construction work and permitting the maintenance of the facility;
- G. Traverse Closures. Traverse closures for the boundary blocks, lots, easements, street centerlines and monument lines;
- H. Hydrology and Hydraulic Calculations. Complete hydrology and hydraulic calculations for all drainage facilities;
- I. Governing Documents. For a cooperative apartment project, condominium, stock cooperative, or conversion, the proposed declaration of covenants, conditions and restrictions containing the provisions described in Civil Code section 1353, and all

other governing documents for the subdivision as are appropriate under Civil Code section 1363; for all other subdivisions, any declaration of covenants, conditions, and restrictions proposed in connection therewith. All governing documents are subject to review and approval by the city engineer and city attorney;

- J. Utilities. Evidence satisfactory to the city that the utility easements are appropriate;
- K. Improvement Agreement. If the required improvements are not completed before the presentation of the final map, the subdivider shall file an agreement in accordance with the requirements of Piedmont Municipal Code section 19.50. The subdivider shall secure the performance of the agreement in accordance with the requirements of Piedmont Municipal Code section 19.51;
- L. Other Information. Additional data, reports or information required by the conditions of approval, the city engineer or city attorney. (GC §66434.2)

SEC. 19.42 CITY ENGINEER REVIEW AND APPROVAL – FINAL AND PARCEL MAPS.

- A. Final Maps. The city engineer, in consultation with the department, shall review the final map to determine if it conforms to the approved tentative map conditions, the Subdivision Map Act, and this chapter. The subdivider shall make corrections and additions until the map is acceptable to the city engineer. The subdivider shall submit to the city engineer all of the required documents as set forth in the city's Subdivision Manual. Upon receipt of all required certificates and submittals and the subdivider's payment of required fees, the city engineer shall, within 20 days, sign the appropriate certificate and present the corrected final map with accompanying documents to the city council for its consideration and approval. (GC §§66442, 53077.5)
- B. Parcel Maps. The city engineer, in consultation with the department, shall review the parcel map to determine if it conforms to the approved tentative map conditions, the Subdivision Map Act, and this chapter. The subdivider shall make corrections and additions until the map is acceptable to the city engineer. The subdivider shall submit to the city engineer all of the required documents as set forth in the city's Subdivision Manual. Upon receipt of all required certificates and submittals and the subdivider's payment of required fees, the city engineer shall, within 20 days, sign the appropriate certificate and present the corrected parcel map with accompanying documents to the city council for its consideration and approval. (GC §§66463, 66450)

SEC. 19.43 CITY COUNCIL APPROVAL – FINAL AND PARCEL MAPS.

- A. The date the final or parcel map is deemed filed with the city council is the date of the council meeting at which the council receives the map. The council shall

consider approval of the improvement agreement and security, and completeness of the tax certificate before approving the map. (GC §§66457, 66492)

- B. Upon presentation of the final or parcel map, the city council shall approve the map if it conforms with the tentative map conditions of approval, the Subdivision Map Act, and this chapter. If it does not conform, the council shall disapprove the map. The council shall make its decision at the meeting at which it receives the map or at its next regular meeting. (GC §§66458, 66463(d), 66473)
- C. The city council may not postpone or refuse approval of a final or parcel map because the subdivider has failed to meet a tentative map condition requiring construction or installation of off-site improvements on land which neither the subdivider nor the city has sufficient title or interest in to permit the improvements to be made. In this case, the city shall follow the procedure according to Government Code section 66462.5.
- D. At the time of its action on the final or parcel map, the council shall accept, accept subject to improvement, or reject each offer of dedication. A rejected offer remains open to future acceptance under Government Code Section 66477.2 and Code of Civil Procedure Section 771.1. (GC Sections 66463(a), 66477.1, 66477.3)
- E. Before the map is submitted to the city council for approval, the subdivider shall:
 - 1. Submit a certificate from the county tax collector stating that all taxes and assessments due have been paid pursuant to Government Code Section 66492; and
 - 2. Provide verification that he or she has executed and filed with the clerk of the county board of supervisors security for taxes and assessments pursuant to Government Code Section 66493.

SEC. 19.44 FILING WITH COUNTY RECORDER.

Upon approval of the final or parcel map by the city council, the city engineer and the city clerk shall execute the appropriate certificate on the certificate sheet and shall, subject to the provisions of Section 66464 of the Subdivision Map Act, transmit the map to the county recorder. If the county recorder rejects the map for filing under Government Code Section 66466, the city shall rescind its approval of the map. (GC §§66429, 66464, 66466) After the filing, the subdivider shall provide to the city a copy of the recorded final map or parcel map and a microfilm copy.

ARTICLE VII DESIGN AND IMPROVEMENTS

19.45 GENERAL STANDARDS.

The subdivider shall design and construct all required improvements on-site and off-site in accordance with standard engineering details and standard details and other approved standards, as provided by this article and as adopted by the city. Subject to the Subdivision Map Act, the city engineer may authorize an exception to the construction standards in this Article.

A decision or interpretation by the city engineer regarding the specifications, details or design of improvements is final unless appealed under Piedmont Municipal Code Section 19.24.

No map may be presented to the council for approval until the subdivider either completes the required improvements or enters into an improvement agreement with the city.

19.46 IMPROVEMENTS REQUIRED.

- A. General. All improvements required as tentative map conditions of approval or by city ordinance or resolution, together with the required improvements set forth below, are required of all subdivisions.
- B. Frontage Improvements. The frontage of each lot shall be improved to its ultimate adopted geometric section, including, but not limited to, street structural sections, curbs, sidewalks, driveway approaches and transitions. Transit facilities (bus shelters, bus turnouts and bus pads) shall be provided on a collector street or major street when requested by the local transit authority.
- C. Storm Drainage. Stormwater runoff from the subdivision shall be collected and conveyed by an approved storm drain system. The storm drain system shall be designed for ultimate development of the watershed. The storm drain system shall provide for the protection of abutting and off-site properties that would be adversely affected by any increase in run-off attributed to the development. Off-site storm drain improvements may be required to satisfy this requirement.
- D. Sanitary Sewers. Each unit or lot within the subdivision shall be served by an approved sanitary sewer system, designed for the ultimate development of the area.
- E. Water Supply. Each unit or lot within the division shall be served by an approved domestic water system.
- F. Utilities. Each unit or lot within the subdivision shall be served by gas, electric, telephone or cablevision facilities.

- G. Underground Utilities. All existing and proposed utilities within the subdivision and along street frontages adjacent to the subdivision shall be placed underground if the adjacent property has underground facilities. The city council may, in its discretion, waive the undergrounding requirement and may then require a fee in lieu of the undergrounding. The amount of the fee shall be determined by the city engineer, based on the reasonable estimated cost of that portion of a future underground project attributable to the subdivision. Any in lieu fees shall be placed in a special undergrounding account.
- H. Access. Every lot or parcel created shall have access to a public or private street.
1. Lots located on public streets in zoning districts other than residential shall have a minimum frontage in accordance with the Piedmont Zoning Code.
 2. Lots located on public streets in residential zoning districts shall have a minimum frontage in accordance with the Piedmont Zoning Code.
 3. Lots located on private streets are subject to the frontage requirements of Piedmont Zoning Code 17.10.3, 17.12.3 and 17.14.3. The subdivider shall submit a development plan showing the alignment, width, grade, and material specifications of a proposed private street, the topography and means of access to each lot, and the drainage, water supply, sewerage and the utilities of the lots served by the private street.
 4. Reserve strips, or nonaccess at the end of streets or at the boundaries of the subdivision, shall be dedicated unconditionally to the city when required by the city.
- I. Monuments.
1. At the time of making the survey for the final or parcel map, the engineer or surveyor shall set sufficient durable monuments to conform with (a) the standards described in Business and Professions Code section 8771 and (b) the city standards, so that another engineer or surveyor may easily retrace the survey.
 2. Interior monuments need not be set at the time the map is recorded if the engineer or surveyor certifies on the map that the monuments will be set by a specified date and if the subdivider provides security to guarantee the cost.
 3. Within five days after the final setting of all monuments, the engineer or surveyor shall give written notice to the subdivider and to the city engineer.

- J. Other Improvements. Other improvements such as street lights, fire hydrants, signs, street trees and landscaping, or fees in lieu of any of the foregoing, are required as determined by the city engineer in accordance with this chapter and city standards and specifications.

SEC. 19.47 DEDICATION OF RIGHTS-OF-WAY AND EASEMENTS.

- A. Every street, alley, walkway, drainage channel, reserve strip (or waiver of access rights), easement, and other right-of-way shown on the final or parcel map intended for public use shall be offered for dedication at the time the final or parcel map is filed. (GC §§66475, 66476, 66477.1, 66477.2, 66477.3)
- B. When property is dedicated in fee for public purposes, other than for open space, parks or schools, the city shall record with the county recorder a certificate, attached to the map, which contains:
1. The name and address of the subdivider;
 2. A legal description of the dedicated property; and
 3. A statement that the city shall reconvey the property if the city determines that the public purpose or the need for the property no longer exists. (GC §66477.5)
- C. The subdivider shall provide rights-of-way and easements for all on-site and off-site streets, utilities, sidewalks and appurtenant landscaping. The subdivider shall pay all acquisition costs.
- D. If any off-site rights-of-way or easements are required:
1. The subdivider shall enter into the city's standard right-of-way agreement which specifies how and when the necessary title to an interest in the land shall be acquired. The subdivider shall enter into this agreement before the first plan check of the map and improvement plans are submitted to the city.
 2. Before city council approval of the final map, one of the following must have occurred:
 - a. The city has received signed deeds for all off-site rights-of-way and easements; or
 - b. The subdivider has executed the standard city contract for real property acquisition and deposited the estimated acquisition costs into a city trust account, and the subdivider has formally requested and the city council has approved a resolution of intent to use its

powers of condemnation to acquire the rights-of-way and/or easements.

SEC. 19.48 DEFERRED IMPROVEMENT AGREEMENTS.

A. Minor Subdivisions. When improvements are deferred, the owner of the real property shall enter into an agreement with the city in a form acceptable to the city engineer and city attorney for the installation of all frontage improvements at a time in the future as specified by the city. The agreement shall provide that: (GC §66411.1)

1. The owner shall begin construction of improvements within 90 days of the receipt of the notice to proceed from the city, or as mutually agreed upon in writing;
2. In the event of a default by the owner, the city is authorized to cause construction to be done and charge the entire cost and expense to the owner, including interest from the date of notice of the cost and expense until paid. The interest rate shall be consistent with the requirements of Article 15, Section 1 of the California State Constitution;
3. The agreement shall be recorded with the county recorder at the expense of the owner and shall constitute notice to all successors and assigns of title to the real property of the obligations set forth therein, and shall also constitute a lien in such amount necessary to fully reimburse the city, including interest as provided above, subject to foreclosure in the event of a default in payment. The obligations under the agreement shall run with the property and constitute a lien against it; and
4. In the event of litigation occasioned by default of the owner, the owner agrees to pay all costs involved, including reasonable attorneys' fees. Those costs shall become a part of the lien against the real property.

The construction of deferred improvements shall conform to this chapter and all applicable provisions of this code in effect at the time of construction.

B. Remainder. For a designated remainder parcel, the fulfillment of construction requirements for improvements is not required until the city is ready to issue a permit or other grant of approval for development of the remainder parcel or until the construction of the improvements is required under an agreement between the subdivider and the city. In the absence of an agreement, the city may require fulfillment of the construction requirements within a reasonable time following approval of the final map and before the issuance of a permit or other grant of approval for the development of a remainder parcel upon a finding by the city that

fulfillment of the construction requirements is necessary for reasons of: (GC §66424.6)

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

If a designated remainder is subsequently sold, the owner must obtain a certificate of compliance or conditional certificate of compliance from the department before development occurs.

19.49 IMPROVEMENT PLANS.

- A. General. Improvement plans shall be prepared under the direction of and signed by a registered civil engineer and shall conform to the conditions of approval and to the standard engineering details of the city. Improvement plans shall include those improvements specified in Piedmont Municipal Code section 19.46. (GC §66456.2)
- B. Form and Contents. The form and contents of the improvement plans shall conform to the Subdivision Manual .
- C. Supplementary Plans and Calculations. Hydrology, hydraulic plans and calculations, bond or other security estimates and any structural calculations as may be required shall be submitted with the improvement plans. All calculations shall be legible, systematic, signed and dated by a registered civil engineer and in a form approved by the city engineer.
- D. Filing – Review by the City Engineer. The subdivider shall submit copies of the preliminary improvement plans and all computations to the city engineer for review. Upon completion of the review, one set of the preliminary plans, with any required revisions indicated, will be returned to the subdivider. If any revisions are necessary, the subdivider shall submit the corrected improvement plans and computations to the city engineer. The city engineer shall act on the improvement plans within 60 working days of its submittal, plus extensions agreed to or necessitated by corrections, as provided in Government Code section 66456.2. (GC §66456.2)
- E. Approval by the City Engineer.
 1. After the subdivider has completed all required revisions, the subdivider shall transmit the corrected originals of the improvement plans to the city engineer for signature.

2. Upon finding that the required revisions have been made and that the plans conform to all applicable city ordinances and plans, design requirements and conditions of approval of the tentative map, the city engineer shall sign and date the plans. The originals will be returned to the subdivider. Approval of the improvement plans shall not be construed as approval of the gas, electric, telephone, and cable television service construction plans.
3. Approval by the city engineer in no way relieves the subdivider or the subdivider's engineer from responsibility for the design of the improvements or for deficiencies resulting from the design or from any required conditions of approval of the tentative map.
4. The approval of the improvement plans by the city engineer, or the city engineer's certification that no improvements are required, is a condition precedent to the approval of the final or parcel map of the subdivision.

F. Revision to Approved Plans.

1. By Subdivider. A request by the subdivider for a revision to the approved plans appearing necessary or desirable during construction shall be submitted in writing to the city engineer and shall be accompanied by revised drawings showing the proposed revision. If the revision is acceptable to the city engineer and is consistent with the tentative map, the original shall be submitted to the city engineer's office for initialing. The original shall be returned to the subdivider, and the revised plans shall be immediately transmitted to the city engineer. Construction of any proposed revision may not begin until the city engineer receives and approves revised plans.
2. Plan Checking and Insertion Costs for Revisions. Costs incurred by the city for the checking of plans or calculations or inspection as a result of revisions to the approved plans shall be borne by the subdivider in accord with the schedule of fees adopted in accord with Piedmont Municipal Code section 19.25. A deposit, when required, shall be submitted with the revised plans and applied toward the costs. (GC §66456.2)

SEC. 19.50 SUBDIVISION IMPROVEMENT AGREEMENT.

Before a final map or parcel map is approved by the city council, the subdivider shall submit a signed subdivision improvement agreement assuring the completion of improvements within a specified time and payment for them. The agreement will be based on the city's standard form of subdivision improvement agreement and shall include (but is not limited to): the developer's promise to complete certain improvements and to perform repairs or corrective work for one year after acceptance by the city; the time of completion; special conditions; insurance requirements and improvement security requirements for

faithful performance, labor and materials and warranty period; and a promise to pay the city's legal fees if the subdivision approval is challenged. (GC §§66462, 66474.9)

The subdivision improvement agreement must be approved as to form by the city attorney. The executed improvement agreement shall be recorded in the office of the county recorder and shall bind the subdivider's successors-in-interest.

SEC. 19.51 IMPROVEMENT SECURITY.

- A. General. An improvement agreement, contract, or act required or authorized by the Subdivision Map Act or this chapter for which security is required shall be secured in accord with Section 66499 et seq. of the Subdivision Map Act and as provided in this section, and subject to city attorney approval.

- B. Amount of Security.
 - 1. The subdivider shall provide a bond or other security in the amounts set forth. In all cases, "improvements" are those defined at Section 19.11.27:
 - a. 100% of the total estimated construction costs to guarantee the construction or installation of all improvements;

 - b. 100% of the estimated construction cost to guarantee payment to subdivider's contractor, and to subcontractors and to persons furnishing labor, materials, or equipment for the construction or installation of improvements; and

 - c. 15% of the cost of the improvements to guarantee the improvements against any defective work or labor done, or defective materials used in the performance of the improvements for the warranty period of one year following completion and acceptance of the improvements warranty security. The security for this warranty period may be provided either (a) at the time of signing the subdivision improvement agreement or (b) when the construction is completed, before the city accepts the improvements or releases the performance security, at the subdivider's option. (GC §66499.3(d))

 - d. a cash deposit in an amount determined by the city engineer, not to exceed 1% of the total construction cost. The deposit may be used at the discretion of the city to correct deficiencies and conditions caused by the subdivider, contractor or subcontractors that may arise during or after construction of the subdivision. Any unexpended amount will be returned to the subdivider when all bonds and other security are released.

2. As a part of the obligation guaranteed by the security, and in addition to the full amount of the security, there shall be included costs and reasonable expenses and fees, including attorneys' fees, incurred by the city in enforcing the obligations secured. (GC §§66499.3, 66499.4)
3. The estimate of improvement costs shall be as approved by the city engineer and shall provide for:
 - a. Total construction costs;
 - b. 10% of the total construction cost for contingencies;
 - c. Increase for projected inflation computed to the estimated end of construction;
 - d. All utility installation costs or a certification acceptable to the city engineer from the utility company that adequate security has been deposited to ensure installation; and
 - e. Enforcement costs calculated as \$25,000 or five percent of the estimated construction cost, whichever is greater. These enforcement costs are not added if the bond language includes enforcement costs in addition to the face amount of the bond.

C. Forms of Security. The form of security shall be one or a combination of the following at the option of and subject to the approval of the city attorney:

1. A bond by an insurer admitted to transact surety insurance in the state of California. The form of the bond or bonds shall be in accordance with Sections 66499.1, 66499.2, 66499.3 and 66499.4 of the Subdivision Map Act;
2. A deposit, either with the city or a responsible escrow agent or trust company, at the option of the city, of money or negotiable bonds of the kind approved for securing deposits of public moneys;
3. An irrevocable letter of credit from one or more financial institutions regulated by the state or federal government pledging that the funds necessary to carry out the act or agreement are on deposit and guaranteed for payment and will be released only upon receipt of written instructions from the city. (The form of the letter must be approved by the city attorney);
4. An instrument of credit from an agency of the state, federal or local government when any agency of the state, federal or local government

provides at least 20 percent of the financing of the portion of the project requiring security; (GC §66499(a))

5. 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; the lien shall conform to Government Code Section 66499(b);
6. A deed of trust which shall be recorded in the Alameda County recorder's office and which conforms to Government Code Section 66499(b); or
7. Any other comparable form of security, acceptable to the city, as provided in Section 66499 of the Subdivision Map Act.

D. Release of Improvement Security.

1. Performance Security. The city shall release performance security only upon acceptance of all improvements by the city. (GC §§66499.7 (a), 66499.8)
2. Material and Labor Security. The city shall reduce security given to secure payment to the contractor, subcontractors, and to persons furnishing labor, materials or equipment, six months after the completion and acceptance of improvements by the city, to an amount equal to the amount of all claims filed and of which notice has been given to the city. The city shall release the balance of the security upon the settlement of all claims and obligations for which the security was given. (GC §66499.7(b))
3. Warranty Security. The city shall release the warranty security upon satisfactory completion of the warranty period; provided:
 - a. All deficiencies appearing on the warranty deficiency list for the subdivision have been corrected; and
 - b. Not less than 12 months has elapsed since the acceptance of the improvements by the city. (GC §§66499.3(d), 66499.7, 66499.9)

SEC. 19.52 CONSTRUCTION AND INSPECTION.

- A. The construction methods and materials for all improvements shall conform to the conditions of approval, standard engineering details and are subject to inspection and approval by the city engineer. Construction shall not begin until all required improvement plans are approved by the city engineer. Grading plans must conform to submitted improvement plans.

- B. A final report acceptable to the city engineer shall be prepared for each preliminary soil engineering report and for each preliminary engineering geology report. Each final report shall be submitted at the completion of the grading work, prior to the release of grading bonds, and prior to issuance of building permits. Each final report shall contain complete field data to indicate full compliance with the preliminary report and subsequent recommendations based on new information acquired during construction. The soil engineer shall provide written approval as to the adequacy of the site for the intended use based on soil engineering factors. The engineering geologist shall provide written approval as to the adequacy of the site for the intended use as affected by geologic factors. (GC §§66490, 66491)
- C. The subdivider shall notify the city engineer two full working day before beginning any work. All work done in constructing the improvements and all materials furnished shall be subject to the inspection of the city engineer. The city engineer shall have access to the work at all times during its construction and shall be furnished with every reasonable facility for ascertaining that the materials used and the workmanship are in accordance with the requirements of this chapter. If any of the work on improvements is done by the divider before the inspection of the improvements as required by the city engineer, the city engineer may reject that work, and it is deemed to have been done at the risk of the subdivider.
- D. The subdivider shall prosecute the work to completion without undue delay except for inclement weather or other reasonable cause. If there is a delay in completion of the work beyond the period stated in the subdivision agreement, unless an extension is approved by the city council and the surety company, the city council may take appropriate steps to use the security to complete the work.
- E. The city engineer shall also inspect private streets and the utility systems improvements for conformance with this code, the Piedmont Zoning Code, and the city's standard engineering details.

SEC. 19.53 TIME OF COMPLETION.

- A. Completion.
 - 1. The subdivider shall complete the improvements for a subdivision within 12 months from the recording of the final or parcel map, unless (1) an extension is granted by the city council, or (2) Government Code section 66411.1 applies.
 - 2. If the subdivider fails to complete the improvements within the specified time, the city may, by resolution of the city council, cause the uncompleted improvements to be completed, and the parties executing the performance security shall be firmly bound for the payment of all costs.

3. The city may not issue a certificate of occupancy until all of the public improvements have been completed.

B. Extensions.

1. The city council may extend the completion date upon written request by the subdivider and the submittal of adequate evidence to justify the extension. The extension shall not exceed 12 months. The request shall be made at least 30 days before expiration of the subdivision improvement agreement. No extension shall be granted if any lot within the subdivision has been sold.
2. The subdivider shall enter into a subdivision improvement agreement extension with the city. The agreement shall be prepared by the city engineer, approved as to form by the city attorney, executed by the subdivider and surety and transmitted to the city council for its consideration. If approved by the city council, the mayor shall execute the agreement on behalf of the city.
3. In passing upon a request for a subdivision improvement agreement extension, the city may require the following:
 - a. Revision of improvement plans to provide for current design and construction standards when required by the city engineer;
 - b. Revised improvement construction estimates to reflect current improvement costs as approved by the city engineer;
 - c. Increase of improvement securities in accordance with revised construction estimates;
 - d. Increase of inspection fees to reflect current construction costs; however, inspection fees are not subject to decrease or refund; and
 - e. The city council as a condition to approving a time extension for the completion of improvements may impose additional requirements relating to the physical improvements, considered necessary to bring the project into compliance with current ordinances, standards and policies.
4. The subdivider shall pay the costs incurred by the city in processing the extension request and extension agreement.

SEC. 19.54 ACCEPTANCE OF IMPROVEMENTS.

When the subdivider has completed all improvements, corrected all deficiencies, and submitted record drawings of the improvements, the city shall consider the subdivision improvements for acceptance. With the recommendation of the city engineer, the city council shall act by resolution accepting the improvements for maintenance and also accepting the public streets and easements (which were previously rejected) for these improvements. When dedications of rights-of-way, dedications of easements or improvements are accepted for public purposes, the city clerk shall file a notice with the county recorder.

ARTICLE VIII RESIDENTIAL CONDOMINIUMS

SEC. 19.55 PURPOSE.

Residential condominium projects differ from other residential subdivisions in numerous respects, particularly as to development standards and ownership of individual units and jointly held common areas. The purpose of this article is to address the special attributes of condominium subdivisions and to adopt development standards which will protect both the community and the purchasers of condominium dwelling units.

If a commercial condominium is proposed in combination with a residential condominium, the requirements of this article and Piedmont Municipal Code article IX shall be read together, with the relevant requirements applying to the portions of the project.

SEC. 19.56 CONDOMINIUM DEFINED.

“Condominium” is defined, in accordance with Civil Code section 783, to be an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property, together with a separate interest in space in a residential, industrial or commercial building on such real property, such as an apartment, office or store. A condominium may include, in addition, a separate interest in other portions of such real property.

SEC. 19.57 STANDARDS – GENERAL.

In addition to standards applicable to regular subdivisions, no new condominium project or portion thereof shall be approved unless the following items have been submitted with the tentative map and approved by the city:

- A. Concurrent applications for variance and design review under the Piedmont Municipal Code prepared in accordance with the criteria set forth in the

subdivision manual, including a development site plan of the project including location and sizes of structures, parking layout, access areas, floor plans and exterior elevations; a preliminary landscaping plan of the project indicating types and sizes of landscaping materials and permanent irrigation facilities, prepared by a person licensed to prepare such plans by the state of California; and a preliminary lighting plan of the project indicating location and nature of lighting and lighting fixtures in common areas;

- B. The proposed condominium documents, including those portions of the covenants, conditions and restrictions that apply to the conveyance of units, the assignment of parking and the management and maintenance of common areas and improvements; and
- C. Such other information which the department determines is necessary to evaluate the proposed project to ensure consistency with the general plan, Piedmont Zoning Code, and any other applicable city regulations which are identified in the subdivision manual.

SEC. 19.58 SITE REQUIREMENTS.

A condominium subdivision map may be approved, conditionally approved, or denied, based upon compliance with design review (Piedmont Municipal Code chapter 17). The design review shall be based upon compliance with city codes, the residential design guidelines adopted by the city council, and the residential condominium site and design requirements in the condominium manual.

SEC. 19.59 STRUCTURAL REQUIREMENTS.

A condominium project shall be subject to the structural requirements contained in the latest council-approved edition of the California Building Codes.

SEC. 19.60 INSPECTION AND FEES.

Building inspection and fees shall be in accordance with Piedmont Municipal Code section Title 15. Inspection and fees for required public and private street and utility improvements shall be in accordance with other applicable sections of this chapter.

SEC. 19.61 CONDOMINIUM CONVERSIONS – PURPOSE.

The purpose of these condominium conversion section is to: establish criteria for the conversion of existing multiple-family rental housing to a condominium; ensure that converted housing achieves a high degree of appearance, quality, and safety and is consistent with the goals of the city; maintain a supply of rental housing for very low income, low income, and moderate income persons; reduce the impact of conversion on residents in rental housing who may be required to relocate due to the conversion of

apartments to condominiums by providing procedures for notification and adequate time and assistance for such relocation; and assure that purchasers of converted housing have been properly informed as to the physical condition of the structure which is offered for purchase.

SEC. 19.62 CONDOMINIUM CONVERSIONS – APPLICATION; PROCEDURES; STANDARDS.

The application requirements, procedures for approval, and standards are set forth in the city’s Subdivision Manual. This also includes the required notification of existing tenants as required by the Subdivision Map Act.

SEC. 19.63 CONDOMINIUM CONVERSIONS – FINDINGS.

The city council may not approve an application for condominium conversion unless it finds in the approving resolution that the proposed conversion:

- A. Conforms to the requirements of sections 19.55 through 19.62 and the Subdivision Manual;
- B. Is consistent with the general plan and current zoning regulations;
- C. Will provide an equivalent number of very low, low moderate and/or above-moderate income rental units (as defined in the Housing Element of the General Plan) elsewhere in the city, with a requirements that the units remain as restricted rental units for at least 55 years; and
- D. Satisfies the requirements of Government Code Section 66427.1 (regarding notice to tenants).

ARTICLE IX COMMERCIAL CONDOMINIUMS

SEC. 19.64 INTENT AND PURPOSE.

Commercial condominium projects differ from other commercial subdivisions in numerous respects, particularly as to development standards and ownership of individual units and jointly held common areas. The purpose of this article is to address the special attributes of condominium subdivisions and to adopt development standards which will protect both the community and the purchasers of condominium units. This article applies to commercial condominiums. (GC §66427) If a commercial condominium is proposed in combination with a residential condominium, the requirements of this article and Article VIII shall be read together, with the relevant requirements applying to the portions of the project.

SEC. 19.65 DEFINITIONS.

In this Article:

19.65.1 “Association” means a nonprofit corporation or unincorporated association created for the purpose of managing a condominium or other common interest development. (Civil Code section 1351)

19.65.2 “Condominium” means (in accordance with Civil Code section 783) an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property, together with a separate interest in space in a residential, industrial or commercial building on such real property, such as an apartment, office or store. A condominium may include, in addition, a separate interest in other portions of such real property.

19.65.3 “Declaration” means the document (covenants, conditions and restrictions (CC&Rs)), or however titled) which contains the restrictive covenants of the development, consistent with California Civil Code section 1353.

SEC. 19.66 STANDARDS.

In addition to the standards applicable to regular subdivisions, a commercial condominium project must conform to the commercial condominium standards in the city’s Subdivision Manual.

SEC. 19.67 INSPECTION AND FEES.

Building inspection and fees shall be in accordance with Piedmont Municipal Code Title 15. Inspection and fees for required public and private street and utility improvements shall be in accordance with other applicable sections of this chapter.

SEC. 19.68 CONDOMINIUM CONVERSIONS.

- A. Purpose. Commercial and industrial condominium projects differ from other commercial and industrial subdivisions in numerous respects, particularly as to development standards and ownership of individual units and jointly held common areas. The purpose of these condominium conversion sections is to address the special attributes of condominium conversions and to apply development standards which will protect both the community and the purchasers of condominium units. (GC §66427)

- B. Applications; Procedures; Standards. The application requirements, procedures and standards for a commercial condominium conversion are set forth in the Subdivision Manual.

- C. Findings. The city council may not approve an application for condominium conversion unless it finds in the approving resolution that the proposed conversion:
1. Conforms to the requirements of this section and the Subdivision Manual;
 2. Is consistent with the general plan and the Piedmont Zoning Code.

ARTICLE X CITY-INITIATED PARCEL MERGER

SEC. 19.69 PURPOSE.

This article implements the procedures and prescribes the standards authorized by Government Code Section 66451.10 through 66451.302 pertaining to the merger and unmerger of parcels of land.

SEC. 19.70 CRITERIA FOR MERGER OF CONTIGUOUS PARCELS.

A parcel of land may be merged with a contiguous parcel held by the same owner if all of the following requirements are satisfied:

- A. The affected parcels are held by the same owner as of the date the notice of intention to determine status is recorded, as provided by Government Code section 66451.13;
- B. One of the affected parcels does not conform to standards for minimum parcel size under the applicable zoning;
- C. One of the affected parcels is (a) undeveloped by a structure, or (b) developed only with an accessory structure, or (c) developed with a single structure (other than an accessory structure) that is partially sited on the contiguous parcel with which it is proposed to be merged (i.e., straddles a lot line); and
- D. With respect to each affected parcel, one or more of the conditions set forth in Piedmont Municipal Code section 19.71 is met. (GC §66451.11)

SEC. 19.71 CONDITIONS OF CONTIGUOUS PARCELS PERMITTING MERGER.

In addition to the requirements of Piedmont Municipal Code section 19.70, in order for affected parcels to be merged, one or more of the following conditions must exist as to an affected parcel:

- A. Comprises less than 5,000 square feet in area at the time the merger is determined;

- B. Was not created in compliance with applicable laws or ordinances in effect at the time of its creation;
- C. Does not meet current standards for sewage disposal and domestic water supply;
- D. Does not meet slope stability standards in that soils investigation indicates the presence of critically expansive soils or other soil problems which, if not corrected, would lead to structural defects;
- E. Does not have legal access which is adequate for vehicular and safety equipment access and maneuverability;
- F. Its development would create health or safety hazards;
- G. Is inconsistent with the general plan or applicable specific plan, other than minimum lot size or density standards. (GC §66451.11)

SEC. 19.72 PROCEDURE.

- A. Notice of Intention to Determine Status of Affected Parcels. The department shall mail a notice of intention to determine the status of the affected parcels by certified mail to the then current owner of record. The notice shall advise the owner that the affected parcels may be merged under the standards specified in this Article and advise the owner of the opportunity to request a hearing on the determination of status and to present evidence at the hearing that the affected parcels do not meet the criteria for merger. (GC §66451.13)
- B. Recordation of Notice of Intention. The department shall file the notice of intention to determine status for record with the recorder of Alameda County on the date that the notice is mailed to the property owner. (GC §66451.13)
- C. Hearing. If the property owner exhibits to the department a request for a hearing on determination of status within 30 days after recordation of the notice of intention to determine status, the department shall fix the time, date and place for a hearing to be conducted by the planning commission. The department shall notify the property owner by certified mail of the hearing. The planning commission shall conduct a hearing not less than 30 days after the city has received the property owner's request for a hearing. The hearing date may be postponed or continued with the mutual consent of the planning commission and the property owner. (GC §§66451.14, 66451.15)
- D. Determination of Status Following Hearing. At the hearing, the property owner may present evidence that the affected parcels do not meet the standards for merger specified in this Article. At the conclusion of the hearing, the planning commission

shall determine whether the affected parcels are to be merged or are not to be merged, and shall notify the owner of its determination. (GC §66451.16)

- E. Recordation of Notice of Merger. The city shall cause a notice of merger specifying the names of the record owners and particularly describing the real property to be recorded within 30 days after conclusion of the hearing. (GC §66451.16)
- F. Determination of Merger Where No Hearing Requested. If, within the 30-day period after recordation of the notice of intention to determine status, the owner of the affected parcel does not file a request for a hearing, the planning commission may make a determination that the affected parcels are to be merged or are not to be merged. A notice of merger shall be recorded not later than 90 days after the date when the department mailed the notice of intention to determine status. (GC §66451.17)
- G. Determination Not to Merge. If the planning commission determines that the affected parcels are not to be merged, the city shall have recorded a release of the notice of intention to determine status and shall mail a clearance letter to the then current owner of record. If a property owner initiates or consents in writing to a lot merger, the department may cause the merger of the affected lots without referring the proposed merger to the planning commission for a public hearing. (GC §66451.18)

SEC. 19.73 UNMERGER.

A property owner may apply to the city for a determination that affected parcels be deemed not to have been merged under Government Code section 66451.30. Upon a determination that the parcels meet the standards in section 66451.30, the city shall issue to the owner and record with the county recorder a notice of the status of the parcels and a declaration that the parcels are unmerged. (GC §§66451.31 through 66451.302)

SEC. 19.74 APPEAL.

The decision of the planning commission made under this Article may be appealed to the city council in the manner provided for the appeal of a decision of the planning commission, as provided in Piedmont Municipal Code Section 19.24.

SEC. 19.75 OWNER-INITIATED ACTION. (See section 19.7.)

SEC. 19.76 EFFECT OF NONPREJUDICIAL ERROR.

The failure, neglect, informality or omission as to a matter pertaining to notices, findings, reports, recommendations or any other matter of procedure does not affect the validity of the action taken, unless after the examination of the entire process, it is found the complaining party suffered substantial prejudice.

ARTICLE XI ENFORCEMENT AND JUDICIAL REVIEW

SEC. 19.77 PROHIBITION.

No person shall sell, lease or finance a parcel of real property or begin construction of a building for sale, lease or financing thereon (except for model homes) or allow occupancy thereof, for which a final or parcel map is required by the Subdivision Map Act or this chapter, until the map complies with the Subdivision Map Act and this chapter and is recorded with the county recorder. (GC §66499.30). This subsection does not prohibit an offer or contract to sell, lease or finance real property or to construct improvements where the sale, lease or financing or the beginning of construction is expressly conditioned upon the approval and filing of a final map or parcel map.

The conveyance of part of a division of real property for which a final or parcel map is required shall not be made by parcel or block number, letter or other designation until the map is recorded with the county recorder.

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

SEC. 19.78 PENALTY FOR VIOLATION.

A violation of this chapter by a person who is the subdivider or an owner of record, at the time of the violation, of property involved in the violation is punishable by imprisonment in the county jail not exceeding one year or in the state prison, by a fine not exceeding \$10,000, or by both that fine and imprisonment. Every other violation of this chapter is a misdemeanor. (GC §66499.31)

SEC. 19.79 REMEDIES.

- A. Conveyance Voidable. A deed of conveyance, sale or contract to sell real property which has been divided or which results from a division in violation of the Subdivision Map Act or this chapter is voidable at the sole option of the grantee, buyer or person contracting to purchase, or the heirs, personal representative, or trustee in insolvency or bankruptcy within one year after the date of discovery of the violation. However, the deed of conveyance, sale or contract to sell is binding upon a successor-in-interest of the grantee, buyer or person contracting to purchase, other than those above enumerated, and upon the grantor, vendor or person contracting to sell, or their assignee, heir or devisee. (GC §66499.32)
- B. Other Legal Action. This chapter does not bar any legal, equitable or summary remedy to which the city or other public agency, or any person may otherwise be entitled. The city or other public agency or person may file a suit in the superior

court to restrain or enjoin an attempted or proposed subdivision or sale, lease or financing in violation of the Subdivision Map Act or this chapter. (GC §66499.33)

- C. Denial of Permits and Approvals. The city shall not issue a permit or grant any approval necessary to develop real property which has been divided or which has resulted from a division in violation of the Subdivision Map Act or this chapter if it finds that development of the property is contrary to the public health or safety. The authority to deny or approve such a permit applies whether the applicant was the owner of record at the time of the violation or whether the applicant is either the current owner of record or a vendee of the current owner with, or without, actual or constructive knowledge of the violation at the time of the acquisition of an interest in the property. (GC §66499.34)
- D. Permit or Approval Subject to Conditions. If the city issues a permit or grants approval for the development of any real property illegally subdivided, the city may impose those additional conditions which would have been applicable to the division of the property at the time the current owner of record acquired the property. If the property has the same owner of record as at the time of the initial violation, the city may impose conditions applicable to a current division of the property. If a conditional certificate of compliance has been filed for record in accordance with the provision of Piedmont Municipal Code section 19.80, only the conditions stipulated in that certificate are applicable. (GC §66499.34)

SEC. 19.80 CERTIFICATE OF COMPLIANCE.

- A. A person owning real property or a vendee of such person under a contract of sale may request the department to determine whether the real property complies with the provisions of the Subdivision Map Act and this chapter. A written application for a certificate of compliance shall be accompanied by a current preliminary title report showing the legal owner of the property. (GC §66499.35)
- B. If the department determines that the real property complies with the provisions of the Subdivision Map Act and this chapter, the city shall file a certificate of compliance for record with the county recorder. The certificate of compliance shall identify the real property and shall state that the division of the real property complies with the provisions of the Subdivision Map Act and this chapter.
- C. If the department determines that the real property does not comply with the provisions of the Subdivision Map Act or this chapter, the department may, as a condition to granting a conditional certificate of compliance, impose conditions in accordance with Piedmont Municipal Code section 19.79(D) except that where the applicant was the owner of record at the time of the initial violation and the current owner of record of one or more parcels which were created as a result of the violation, then the city may impose any conditions that would be applicable to a current division of the property. Upon the department's making such a

determination and establishing such conditions, the city shall file a conditional certificate of compliance for record with the county recorder. The certificate shall serve as notice to the property owner and any successor that the fulfillment and implementation of such conditions shall be required before subsequent issuance of a permit or other grant of approval for development of the property.

Compliance with such conditions is not required until the city issues a permit or other grant of approval for development of the property.

- D. A recorded final map, parcel map or official map (prepared in accordance with Government Code Section 66499.35(e)) constitutes a certificate of compliance with respect to the parcels of real property described on the map.
- E. The applicant for a certificate of compliance shall pay the city a fee to cover the reasonable cost of processing the application.

SEC. 19.81 NOTICE OF VIOLATION.

- A. Notice of Intention to Record Notice of Violation. If it is determined that real property has been divided in violation of the Subdivision Map Act or this chapter, the department shall mail by certified mail to the then current owner a notice of intention to record a notice of violation. The notice shall describe the property in detail, name the owners, describe the violation, why the subject parcel is not lawful under Section 66412.6(a) or (b) of the Subdivision Map Act and state that the owner will be given the opportunity to present evidence. The notice shall specify the date, time and place for a planning commission meeting at which the owner may present evidence to the city why a notice of violation should not be recorded. (GC §66499.36)
- B. Meeting. The meeting shall be held no sooner than 30 days and no later than 60 days from that date of mailing of the notice of intention to record a notice of violation.
- C. Clearance if No Violation. If, after the owner has presented evidence, the city determines that there has been no violation, the department shall mail a clearance letter to the then current owner of record.
- D. Recording Notice of Violation. The city shall record the notice of violation with the county recorder if:
 - 1. Within 15 days of receipt of the notice, the owner fails to file with the department a written objection to recording the notice of violation; or
 - 2. After the owner has presented evidence, the city determines that the property has in fact been illegally divided.

E. Effect of Recording. The notice of violation, when recorded, is constructive notice of the violation to all successors-in-interest in the property.

SEC. 19.82 JUDICIAL REVIEW.

An action or proceeding to attack, review, set aside, void or annul a decision of the city under this chapter must be commenced and served on the city within 90 days after the date of the decision. After 90 days, all persons are barred from any such action. (GC §66499.37) The issues raised in an action may be limited to those raised in the public hearing or in written correspondence presented before or at the hearing. (GC §65009) (Ord 657 N.S. 8/05)

9/5/08