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TITLE III - LAND USE AND DEVELOPMENT

DIVISION 2

SUBDIVISION REGULATIONS

CHAPTER 1

GENERAL

321-1. SHORT TITLE.

This division may be referred to as the "Humboldt County Subdivision Division." (Ord. 1146 § 116, 7/19/77)

321-2. DECLARATION OF POLICY.

Land subdivision is the most important factor in establishing the physical character of a growing community. If improperly designed and executed, it wastes the intrinsic value of the land and can become a costly burden to the community.

It is hoped that these regulations and procedures will encourage well-planned subdivision of land while preventing land division with high future costs to those who will occupy the land, their neighbors and the County as a whole.

It is declared to be the policy of the Board of Supervisors of Humboldt County to consider land subdivision as a part of the planning for the orderly, efficient and economical development of the County. This means, among other things: that land to be subdivided for any purpose shall be of such a character that it can be used for that purpose without danger to the public health and safety; that proper provision shall be made for water supply, drainage and sewage disposal; that, in areas subject to flooding, proper flood control measures shall be provided; that proposed streets and other improvements shall be in harmony with existing or proposed principal thoroughfares and shall provide an adequate and convenient system for present and prospective traffic needs; and that, when requested by the Advisory Agency, open spaces shall be shown on the subdivision plan. (Ord. 1146, 7/19/77)

321-3. DEFINITIONS IN MAP ACT INCORPORATED.

All terms used in this division which are defined in the Subdivision Map Act are used in this division as so defined. (Ord. 1146 § 1, 7/19/77)

321-4. GENERAL TERMS.

The following terms shall have the meanings ascribed to them as follows:

(a) Words in the singular include the plural and those in the plural include the singular.

(b) Words used in the present tense include the future tense.

(c) The words "should" and "may" are permissive; the words "shall" and "will" are mandatory and directive. (Ord. 1146 § 2, 7/19/77)

321-5. ACCESS.

"Access" means deeded or prescriptive right of way to a lot from a right of way maintained for the public. (Ord. 1146 § 3, 7/19/77)

321-6. ADVISORY AGENCY.

The Advisory Agency for the administration of this division shall be the Humboldt County Planning Commission. The Advisory Agency shall have the power and authority to approve, conditionally approve or disapprove Tentative Subdivision Maps. The Advisory Agency shall regulate and control subdivisions in the manner set forth in the Map Act and this division, the Advisory Agency may delegate all or part of its functions to the Planning Director or the Public Works Director. (Ord. 1146 § 4, 7/19/77)

321-7. CONTIGUOUS UNITS. (Repealed by Ord. 1290 § 1, 12/12/78)

321-8. LOT.

"Lot" means a portion of land separated from other portions of land by description as on a Final or Parcel Map or by metes and bounds for the purpose of sale, lease, financing or separate use. Assessor's parcels are separations of property pursuant to the Revenue and Taxation Code for valuing property for tax purposes only. Assessor's parcels do not create or establish a lot or legal building site, nor do they merge previous legally created lots that were created under the provisions of the Subdivision Map Act or any prior law. Assessor's parcels are not intended to supersede requirements of zoning, building or subdivision Code sections. (Ord. 1146 § 6, 7/19/77; amended by Ord. 1290 § 2, 12/12/78)

321-9. MAPS.

(a) Preliminary Map. A "Preliminary Map" is less detailed than a Tentative Subdivision Map. It is used by some subdividers to obtain staff suggestions on design and improvement.

(b) Tentative Subdivision Map. A "Tentative Subdivision Map" is a study plan of the layout and design of the subdivision, the improvements proposed by the subdivider, and the existing conditions in and around the subdivision. The Tentative Subdivision Map and the other information

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accompanying it are designed to provide information necessary to the persons who must review the map for compliance with this division and other laws. (Government Code § 66424.5)

(c) Final Map. A "Final Map" is a formal map which divides or redivides the land into the lots shown on the map. This map must meet exacting requirements before it is recorded with the Humboldt County Recorder. A Final Map is required for all subdivisions creating five (5) or more lots unless exempted by Government Code § 66426.

(d) Parcel Map. A "Parcel Map" is a formal map which divides or redivides the land into the lots shown on the map. This map must meet exacting requirements before it is recorded with the Humboldt County Recorder. A Parcel Map is required for all subdivisions that do not require a Final map, unless it is waived as provided in § 326-34 of this Code.

(e) Reversion to Acreage Map. A "Reversion to Acreage Map" is a formal map which, when recorded, eliminates all lot lines and easements not shown on the map. (Ord. 1146 § 7, 7/19/77)

321-10. QUARTER SECTION AND QUARTER QUARTER SECTION.

"Quarter section" and "quarter quarter section" shall be determined by procedures set forth in the "Manual of Instructions for the Survey of Public Lands", prepared by the U.S. Bureau of Land Management and printed by Superintendent of Documents. A "quarter quarter section" is deemed to contain forty (40) acres. One and one-half (1-1/2) quarter quarter sections is deemed to contain sixty (60) acres. (Ord. 1146 § 8, 7/19/77)

321-11. SUBDIVISION MAP ACT, MAP ACT.

"Subdivision Map Act" and "Map Act" shall mean the Subdivision Map Act (commencing with § 66410) of the Government Code of the State of California. (Ord. 1146 § 9, 7/19/77)

321-12. SUBDIVISION TECHNICAL REVIEW COMMITTEE.

The Subdivision Technical Review Committee is hereby created. The Committee shall have four (4) members. The department heads, or their delegates, of the following entities shall be members of the Subdivision Technical Review Committee: Public Works Department, Planning Department, Health Department, Building Inspection Department, and advisory members from public utility companies. The Subdivision Technical Review Committee shall review maps and submit its recommendations to the Advisory Agency. (Government Code § 66452.3) (Ord. 1146 § 10, 7/19/77)

321-13. FEES AND DEPOSITS FOR CONTEMPLATED PROJECTS.

(a) A charge shall be imposed for all services in excess of two (2) hours of time which the Department of Public Works provides in relation to any contemplated project involving the improvement, division or development of property. A deposit shall be posted with the Department of Public Works after the initial two hours of service to cover the cost of such services. The amount of the required deposit shall be estimated by the department, but the minimum deposit shall be Fifty Dollars (\$50.00).

(b) The person requesting the service will be billed on a monthly basis and the actual charges therefore deducted from the deposit.

(c) If charges exceed the amount on deposit, no additional services will be performed until the deposit is augmented by an amount estimated by the Public Works Department to cover the remainder of anticipated services, but not less than Fifty Dollars (\$50.00).

(d) Upon written notice by the person requesting the service to the Department that no further service is needed, any balance remaining in the deposit shall be returned to said person. (Added by Ord. 1615 § 1, 9/13/83)

321-14. SPECIAL PROVISIONS APPLICABLE IN CERTAIN IMPROVEMENT ASSESSMENT DISTRICTS.

In unincorporated areas in the County within which special assessment proceedings have been conducted and bonds have been issued under the Improvement Act of 1915 or a similar act, where the division of the lot requires the division of the bond, final subdivision maps, final parcel maps, and lot line adjustment on which the unpaid special assessment is less than \$2,000 shall not be approved unless the applicant submits proof satisfactory to the Planning Director that the assessment has been paid in full. (Added by Ord. 1697 § 1, 7/9/85; amended by Ord. 1912 § 1, 10/23/90)

If the special assessment is greater than \$2,000.00, the assessment shall be reapportioned. The applicant shall provide proof satisfactory to the Planning Director that the reapportionment has been completed. (Amended by Ord. 1912 § 1, 10/23/90)

CHAPTER 2

PROCEDURE AND REQUIREMENTS FOR TENTATIVE SUBDIVISION MAPS

322-1. SUBDIVISIONS.

No subdivision shall be created until the subdivider has complied with the provisions of this chapter and the Map Act prior to subdividing property. The subdivider shall prepare and submit appropriate environmental documents and a Tentative Subdivision Map. The subdivision improvements must meet or exceed the subdivision design and improvement standards specified in Chapter 3, Division 2, of Title III and the Appendix hereto. If the subdivision is approved or conditionally approved, the subdivider shall meet the conditions of approval of the Tentative Subdivision Map as specified by the Advisory Agency, submit a Final Map or Parcel Map (unless waived) and cause the improvements to be installed. (Ord. 1146 § 20, 7/19/77)

322-2. SUBDIVISION PROCESSING FEES.

The fees for processing subdivision maps, including Tentative Subdivision Maps, Final and Parcel Maps, Reversion to Acreage Maps and related matters, shall be established by resolution of the Board of Supervisors. (Ord. 1146 § 21, 7/19/77; amended by Ord. 1277 § 1, 10/3/78)

322-3. LOTS TO BE SUITABLE.

All lots shall be suitable for the purpose for which they are intended to be sold, and no dangerous areas may be subdivided for residential purposes. An adequate building area or adequate area for the purpose of the lot shall be available. This may include a well, pump site, open space, recreational use, agricultural use, or material excavation area. Lots not intended for, or unsuitable for, residential purposes shall bear a notation to that effect on the Final or Parcel Map. (Ord. 1146 § 22, 7/19/77; amended by Ord. 1541 § 1, 7/13/82)

322-3.1. HOUSING ELEMENT DENSITIES

Subdivisions shall not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law (the mid point of the density range specified in the plan designation) unless the following written findings are made supported by substantial evidence:

- The reduction is consistent with the adopted general plan, including the housing element, and
- The remaining sites identified in the housing element are adequate to accommodate the County's share of the regional housing need pursuant to Section 65584 of the Government Code, and

- The property contains insurmountable physical or environmental limitations and clustering of residential units on the developable portions has been maximized.

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322-4. STANDARDS FOR FLOOD PLAIN SUBDIVISION.

A tentative map for a subdivision in an area of special flood hazard is subject to these rules and to Chapter 5 of Division 3 of Title III of this code. Terms used in this section are defined in § 335-2.

(a) Tentative subdivision proposals shall identify the flood hazard area and the evaluation of the base flood.

(b) Final subdivision maps shall indicate the elevation of proposed structures and pads. If the site is to be filled above the base flood, a registered engineer or surveyor shall certify that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point. This certification shall be filed with the Planning Director as required by § 335-4(c)(3)d.

(c) Tentative maps shall be consistent with the need to minimize flood damage.

(d) Approved subdivisions shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(e) A proposed subdivision which would create five (5) or more parcels should be designed to assure that flood discharge from the development after construction is equal to or less than the flood discharge from the original, undeveloped land. A registered engineer shall provide a certificate for a subdivision so designed. This certificate shall be filed with the Planning Director as required by 335-4(d)(3)d. (Ord. 1541 § 2, 7/13/82)

CHAPTER 2.5

DESIGN FOR SOLAR ACCESS

322.5-1. FINDINGS.

(a) The use of natural heating opportunities present on a new building site is a cost effective method of reducing consumption of nonrenewable energy sources for heating over the lifetime of a structure.

(b) Proper orientation of buildings is required to fully use available solar energy.

(c) These measures will benefit the citizens of Humboldt County by reducing dependence on nonrenewable energy sources. (Ord. 1552 § 1, 9/21/82)

322.5-2. ENABLING LEGISLATION.

The Subdivision Map Act (Government Code § 66473.1) requires that the design of a subdivision provide, to the extent feasible for future passive or natural heating and cooling. (Ord. 1552 § 1, 9/21/82)

322.5-3. PURPOSE AND INTENT.

It is the purpose and intent of this chapter that, for developments to which this chapter applies, natural heating and cooling opportunities be included with all other design considerations and be pursued whenever the benefits in terms of energy conservation and the potential for solar energy development are greater than the associated negative impacts. It is not intended that the requirements of this chapter reduce the densities or the percentage of buildable lot area allowed at the time a tentative map or use permit is filed, or cause the unnecessary destruction of trees. (Ord. 1552 § 1, 9/21/82)

322.5-4. DEFINITIONS.

For purposes of this section:

(a) "Adequate solar access" means that sunlight reaches 80 percent (80%) of the south side of the primary building, measured from the highest roof ridge to the ground, between the hours of 10:00 a.m. and 2:00 p.m. on December 21.

(b) "Feasible" means capable of being accomplished in a successful manner in a reasonable amount of time taking into account economic, environmental, social and technological factors and views. (Source: Government Code § 66473.1).

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(c) "Primary Building" means the dwelling house on a lot or a dwelling unit in a planned unit development. A dwelling has cooking, bathing and sanitary facilities.

(d) "View" means a scenic vista which is a unique asset to a building site and which has aesthetically significant value. (Ord. 1552 § 1, 9/21/82)

322.5-5. DESIGN FOR SOLAR ACCESS REQUIRED.

The design and layout of a planned unit development or a subdivision which proposes to create five (5) or more new parcels shall provide, to the extent feasible, for adequate solar access. This chapter does not apply to a condominium project which divides the airspace in an existing building when no new structure is added. (Government Code § 66475.3) (Ord. 1552 § 1, 9/21/82)

322.5-6. ADEQUATE SOLAR ACCESS.

A development described in § 322.5-5 has adequate solar access when:

(a) The lot size and configuration allows at least 80 percent (80%) of the primary buildings to have their short axes aligned between 15 degrees (15°) east of south and 30 degrees (30°) west of south.

(b) The south side of the primary building has adequate solar access.

(c) A lot for which adequate solar access is not feasible provides as much solar access as possible.

(d) The lot size and configuration insures that no additional shadows will be cast on the south side of an existing building between the hours of 10:00 a.m. and 2:00 p.m. on December 21.

(e) To the extent feasible the streets are oriented within fifteen degrees (15°) east - west. (Ord. 1552 § 1, 9/21/82)

322.5-7. APPLICATION.

(a) Preliminary Data. For a development described in § 322.5-5, the Planning Department may require an appropriate shade projection map which shows, for the purposed development and abutting property, shadows cast by existing buildings and plants more than ten feet (10') high and by proposed buildings between the hours of 10:00 a.m. and 2:00 p.m. on December 21.

(b) Additional Data. If the shade projection map indicates that a shadow is cast on a primary building, specific detailed elevations of the south side of the building shall be submitted to show compliance with this chapter. (Ord. 1552 § 1, 9/21/82)

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322.5-8. EXEMPTION PROCEDURE.

(a) An applicant may apply to the Planning Director for an exemption from this chapter. The application for an exemption shall be accompanied by such information as the Planning Department requires and by a fee established by the Board of Supervisors.

(b) The Planning Director shall give written notice of his decision to the applicant and shall give public notice of his decision by publishing it once in a newspaper of general circulation.

(c) Any person aggrieved by the decision of the Planning Director may appeal to the Environmental Appeals Board. The appeal shall be filed with the Planning Department within ten (10) days of the day the notice is published and shall be accompanied by a written statement of the reasons why the decision was in error and by a fee established by the Board of Supervisors.

(d) The Environmental Appeals Board shall convene and decide the appeals at the earliest possible date. The decision of the Environmental Appeals Board is final and binding. (Ord. 1552 § 1, 9/21/82)

322.5-9. CAUSE FOR EXEMPTION.

An exemption from the requirements of this chapter may be granted upon a finding that:

(a) Compliance would reduce densities below those allowed by the zoning at the time the application is submitted; or

(b) Compliance is not feasible; or

(c) Compliance would preclude orienting the primary building to the best available view; or

(d) All lots in the proposed development are one (1) acre or larger in size and lot configuration does not constrain solar access. (Ord. 1552 § 1, 9/21/82)

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CHAPTER 3

TENTATIVE SUBDIVISION MAPS

323-1. PRELIMINARY MAP.

Prior to filing a Tentative Subdivision Map for a Final Map subdivision, it is recommended that six (6) copies of a preliminary map be submitted to the Planning Department for preliminary review by the Subdivision Technical Review Committee. The County may submit a copy to the Water Quality Control Board, North Coast Region, for informational purposes. A preliminary map may also be submitted for a Parcel Map subdivision. (Ord. 1146 § 30, 7/19/77)

323-2. FILING OF TENTATIVE SUBDIVISION MAPS; EXAMINATION.

Eighteen (18) copies, or as required, of a Tentative Subdivision Map of a Final Map subdivision must be filed with the Planning Department. Twelve (12) copies are required for a Tentative Subdivision Map of a Parcel Map subdivision. It is recommended that Tentative Subdivision Maps be prepared by an engineer or surveyor. (GC §§ 66428, 66452-66452.4)

Each Tentative Subdivision Map, upon presentation, shall be examined by the Planning Department, which may not accept it unless the same is in full compliance with this division as to form, data, information and other matters required to be shown thereon or furnished therewith. The Tentative Subdivision Map shall not be considered as "officially filed" until the proper environmental document has been accepted and officially posted for the time limits required by the California Environmental Quality Act Guidelines adopted by the Board of Supervisors. Upon completion of the environmental clearance, the map and file shall be date stamped and noted "officially filed on (date) _____" by the Department, which will notify the subdivider and his

engineer of such date and of the date of the next scheduled action. (Ord. 1146 § 31, 7/19/77)

323-3. FEES.

At the time the Tentative Subdivision Map is submitted, the subdivider shall pay to the County of Humboldt at the office of the Planning Department the processing fee prescribed in § 322-2 of this division. Refund of said fees, or portions thereof, may be made to the extent and in the manner provided for by resolution adopted by the Board of Supervisors. (Ord. 1146 § 32, 7/14/77; amended by Ord. 1609 § 2, 8/9/83)

323-4. TRANSMITTAL OF MAP.

The Planning Department shall transmit copies of the Tentative Subdivision Map to the County Public Works, Health and Building Departments and may transmit it to such other departments and agencies as required by law and as it deems advisable. The Planning Department shall notify all departments or agencies receiving a copy of the map that, within twenty (20) days of receipt thereof, they must notify the Planning Department of their recommendations and/or the particulars in which the subdivision does not conform to requirements coming within their authorized scope.

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Such notification shall include a statement that if a reply is not received prior to the meeting at which consideration of the map is made, it shall be assumed that the map does conform to the requirements of the department or agency concerned. (GC § 66453-66455.7; WC § 13266) (Ord. 1146 § 33, 7/19/77)

323-5. DATA ON TENTATIVE SUBDIVISION MAP.

(a) The Tentative Subdivision Map is essentially a study plan which when approved will serve as a basis for the preparation of a Final Map or Parcel Map. Each Tentative Subdivision Map shall be clearly and legibly drawn and shall show the proposed design of the subdivision. It shall be at least eighteen inches by twenty-six inches (18" X 26"), and of such scale as to show clearly all details thereof.

(b) The Tentative Subdivision Map shall contain the following information:

(1) A key or location map on which shall be shown the general area including adjacent property, subdivisions and roads together with the distance to the nearest publicly maintained road.

(2) The tract name or other designation, the date, north point, scale, and sufficient description to define the location and boundaries of the proposed tract.

(3) Names and addresses of record owner(s) and subdivision name and address of the engineer, surveyor or the individual who prepared the map; and the names and Assessor's parcel numbers of all contiguous ownerships.

(4) The approximate dimensions and areas of all lots.

(5) Accurate location of all existing structures and the distance to all existing and proposed property lines, right of way lines, roads, creeks, wells, sewage disposal fields, steep banks (over 15%), fill, etc. Distances less than fifty feet (50") must be accurate to the nearest whole foot based on field measurements. However, if the distance is questionable or cannot be determined, it shall be estimated and labeled plus or minus (+).

(6) The location of existing and proposed sanitary sewers, sewage disposal systems, wells, storm drains, gas, water, power, and telephone lines and other public utilities and the width and location of all easements required for same. The width, locations and purposes of all other easements shall likewise be shown on the Tentative Subdivision Map.

(7) The approximate location of all areas subject to inundation or inundated, and the location, width and direction of flow of all surface water, marsh areas, water courses and areas subject to overflow by tidal waters.

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(8) The location, names and widths of present traveled ways and/or rights of way or adjacent roads, streets, highways, or ways.

(9) The locations, names and widths of all roads, streets, highways and way in the proposed subdivision.

(10) The location of official plan lines of projected streets or highways as shown on the General Plan and the official plan lines of the County.

(11) Contour lines having the following intervals (the method of developing the contours shall be stated):

A. Two-foot (2') contour intervals for ground slopes between level and five percent (5%), plus spot elevations as required.

B. Five-foot (5') contour intervals for ground slopes exceeding five percent (5%) but less than twenty-five percent (25%).

C. Ten-foot (10') or twenty-foot (20') contour intervals for ground slopes exceeding twenty-five percent (25%).

D. For subdivisions with no lot less than twenty (20) acres, aerial planimetric maps without contours and blow-up of USGS contours may be submitted in lieu of a more detailed contour map.

(12) The approximate radii of all curves. A Tentative Subdivision Map for a Parcel Map subdivision need not show this information.

(13) Any area for public use. A Tentative Subdivision Map for a Parcel Map subdivision need not show this information.

(14) Typical sections of all streets, highways, ways and alleys, and details of required improvements, such as curbs, gutters and sidewalks, or reference to established standards for curbs, gutters and other improvements, shall accompany the Tentative Subdivision Map and shall be of such scale as to show clearly all details thereof. A Tentative Subdivision Map for a Parcel Map subdivision need not show this information.

(15) Typical sections and all details of any grading to be performed in connection with the development of the site. A Tentative Subdivision Map for a Parcel Map subdivision need not show this information. An erosion and sediment control plan if required by the County Grading, Excavation, Erosion and Sediment Control Ordinance, Section 331-14.

(16) Any of the foregoing requirements may be modified or waived by the Director of Public Works when they are deemed unnecessary. (Ord. 1146 § 34, 7/19/77)

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323-6. STATEMENTS TO ACCOMPANY TENTATIVE SUBDIVISION MAP.

The following information shall appear on or accompany the Tentative Subdivision Map:

(a) A subdivider's statement shall be submitted with each Tentative Subdivision Map. The subdivider's statement shall contain the following information:

(1) The existing use or uses of the property.

(2) The proposed use or uses of the lots including the remainder, if, any, with a description of the area or location of each use.

(3) The source, quality and quantity of the proposed water supply and a general description of the proposed water system. The statement all also provide evidence as required by the appendix that water can be developed on or supplied to each lot, together with an estimate of the cost of developing water at each site. Such evidence shall not be required for any lot sixty (60) acres in size or larger. Division 3 of Title 6 of this Code regulates the construction of wells.

(4) The proposed provisions for sewage disposal, drainage and flood control. Proposed provisions for sewage disposal need not be stated for any lot which is sixty (60) acres [one and one-half (1-1/2) quarter quarter sections] or larger.

(5) Subdivision improvements will be based upon the ultimate density for the subdivided land as planned for in the Humboldt County General Plan. Therefore, if the subdivider proposes reduced subdivision improvements premised upon a lesser density than shown in the General Plan, the subdivision application shall be accompanied by:

A. An application for zoning implementing the subdivider's plan for density of development; or

B. A statement that the subdivider agrees to put a statement of record in the office of the Humboldt County Recorder, to read substantially as follows:

Further subdivisions of the lots created by the ___(Name)___ Subdivision, ___(Recording Data___), may require the performance of additional on-site and off-site improvements to the road connecting the subdivision to the County road or other publicly maintained road. If the County deems necessary, this work could require the road to be developed to the County road standards by the subdivider.

(6) The proposed grading, erosion and sediment control plan, fire protection, street improvement and other improvements together with an application for a grading permit if required by Section 331-14 of the County Code.

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(7) Any other information the subdivider wishes to provide.

(8) A statement that all easements of record are shown on the Tentative Subdivision Map and will appear on the record subdivision map. (Amended by Ord. 1290 § 3, 12/12/78)

(b) A statement from the applicable school district(s) as to additional needs created by any Final Map subdivision.

(c) A preliminary subdivision report showing the names of the parties whose signatures will be necessary under the provisions of the Subdivision Map Act and stating the nature of the interest of said parties in the land being subdivided. The report must include all easements that affect the land being subdivided.

(d) An environmental impact report, negative declaration or categorical exemption prepared in accordance with procedures established by the Board of Supervisors. (Ord. 1146 § 35, 7/19/77)

(e) If the subdivider relies upon access which is not or record, he shall submit a map plotting the location of such prescriptive easement and stamped envelopes addressed to all assessees of property (as shown on the latest equalized assessment roll) over which the easement appears to traverse.

The map shall show all assessor's parcels and fee ownerships over which the prescriptive easement traverses. (The subdivider shall also submit an executed contract agreeing to save harmless, defend and indemnify the County from any and all claims, actions, and damages arising out of the use or claim to use of the prescriptive easement.) (Amended by Ord. 1352 § 1, 9/11/79)

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TITLE III

DIVISION 2 - SUBDIVISION REGULATIONS

CHAPTER 3.5

VESTING TENTATIVE MAPS

323.5-1. CITATION AND AUTHORITY.

This chapter is enacted pursuant to the authority granted by Chapter 4.5 (commencing with Section 66498.1) of Division 2 of Title 7 of the Government Code of the State of California (hereinafter referred to as the Vesting Tentative Map Statute), and may be cited as the Vesting Tentative Map Ordinance.

323.5-2. PURPOSE AND INTENT.

It is the purpose of this chapter to establish procedures necessary for the implementation of the Vesting Tentative Map Statute, and to supplement the provisions of the Subdivision Map Act and this Division. To accomplish this purpose, the regulations outlined in this chapter are determined to be necessary for the preservation of the public health, safety and general welfare, and for the promotion of orderly growth and development.

Except as otherwise set forth in this chapter, the provisions of this Division shall apply to vesting tentative maps.

323.5-3. CONSISTENCY.

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

323.5-4. DEFINITIONS.

(a) A "vesting tentative map" means a "tentative subdivision map", as defined in Chapter 1 of this Division, that has printed conspicuously on its face the words "Vesting Tentative Map" at the time it is filed in accordance with § 323.5-6, and is thereafter processed in accordance with the provisions of this chapter.

(b) All other definitions set forth in this Division are applicable.

323.5-5. APPLICATION.

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

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(b) If a subdivider does not seek the rights conferred by the Vesting Tentative Map Statute, the filing of a vesting tentative map shall not be a prerequisite to any approval for any proposed subdivision, permit for construction, or work preparatory to construction.

323.5-6. FILING AND PROCESSING.

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

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

(b) At the time a vesting tentative map is filed a subdivider shall also supply the following information:

(1) Plot plans as required by the provisions of § 316-22 of this code.

(2) Detailed grading and engineering plans and specifications for the improvement and development of the proposed subdivision.

(3) Building plans, including heights, size and architectural specifications.

(4) Soil and geologic studies and any other studies or reports that would normally be deferred to the building permit stage for the proposed development of the particular subdivision.

323.5-7. FEES.

Upon filing of a vesting tentative map, the subdivider shall pay the fees required by resolution of the Board of Supervisors for the filing and processing of a tentative map.

323.5-8. EXPIRATION.

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

323.5-9. DEVELOPMENT RIGHTS - VESTING ON APPROVAL.

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

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vesting tentative map shall confer a vesting right to proceed with development in substantial compliance with the ordinances, policies, and standards in effect at the time the vesting tentative map is approved or conditionally approved.

(b) Notwithstanding subsection (a) a permit, approval, extension, or entitlement may be made conditional or denied if any of the following are determined:

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

(2) The condition or denial is require, in order to comply with state or federal law.

(c) The rights referred to in this chapter shall expire if a final map or parcel map is not approved to the expiration of the vesting tentative map as provided in § 323.5-8. If the final map or parcel map is approved, these rights shall last for the following periods of time:

(1) An initial time period of 12 months beyond the recording of the final map or parcel map. Where several final maps are recorded on various phases of a project covered by a single

vesting tentative map, this initial time period shall begin for each phase when the final map for that phase is recorded.

(2) The initial time period set forth in subsection (c)(1) of this section shall be automatically extended by any time used for processing a complete application for a grading permit or for design or architectural review, if the time used to process the application exceeds 30 days from the date a complete application is filed.

(3) A subdivider may apply for a one-year extension at any time before the expiration of the initial time period set forth in subsection (c)(1) of this section. If the extension is denied by the Advisory Agency, the subdivider may appeal that denial to the Board of Supervisors within 10 working days.

(4) If the subdivider submits a complete application for a building permit during the periods of time specified in subsections (c)(1), (c)(2), or (c)(3), the rights referred to herein shall continue until the expiration of that permit, or any extension of that permit.

323.5-10. DEVELOPMENT INCONSISTENT WITH ZONING.

Whenever a subdivider files a vesting tentative map for a subdivision whose intended development is inconsistent with the zoning ordinance in existence at the time, the subdivider shall also apply for the necessary

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change in the zoning ordinance to eliminate the inconsistency. Until the change in the zoning ordinance is obtained, the vesting tentative map shall not be approved. The approval or conditional approval of the vesting tentative map may be granted only simultaneously with or after the necessary changes in the zoning ordinance.

323.5-11. APPLICATIONS INCONSISTENT WITH CURRENT POLICIES.

Notwithstanding any provision of this Chapter, a subdivider may apply for permits or other grants of approval for development which depart from the ordinances, policies and standards described in subsection (a) of 323.5-9 and § 323.5-10. The county may grant these permits or other approvals to the extent that the departures are authorized under applicable law. Approval of the vesting tentative map be granted only simultaneously with or after the grant of the permits or other approvals applied for.

323.5.12. CONDITIONS ON SUBSEQUENT REQUIRED APPROVALS.

Consistent with subsection (a) of § 323.5-9, an approved or conditionally approved vesting tentative map shall not limit the County from imposing reasonable conditions on subsequent required approvals or permits

necessary for the development and authorized by the ordinances, policies, and standards described in subsection (a) of § 323.5-9.

323.5-13. AMENDMENT TO VESTING TENTATIVE MAP.

If the ordinances, policies, or standards described in subsection (a) of § 323.5-9 are changed subsequent to the approval or conditional approval or a vesting tentative map, the subdivider, or his or her assignee, at any time prior to the expiration of the vesting tentative map pursuant to § 323.5-8, may apply for an amendment to the vesting tentative map to secure a vested right to proceed with the changed ordinances, policies, or standards. An application shall clearly specify the changed ordinances, policies, or standards for which the amendment is sought.

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CHAPTER 4

IMPROVEMENTS AND DEDICATIONS

324-1. IMPROVEMENTS.

(a) Roads shall be designed and constructed to serve each lot in every subdivision.

(b) Any road, or part thereof, lying within the subdivision shall be constructed to the standards specified in the appendix to this division.

(c) In addition, off-site improvements may be required. The Director of Public Works shall require such off-site improvements as he finds necessary for:

(1) The orderly and planned improvement of the off-site roads to the standards specified in the appendix to this division, within a reasonable time, considering the probable future growth in the area;

- (2) The safe and orderly movement of persons and vehicles; and
- (3) Providing roads which can be maintained at a reasonable cost.

(d) Where sewer or community water systems are required, the subdivider shall construct the sewer and water systems to the standards of the governmental entity(ies) which will accept and maintain those systems. If no such governmental entity exists, the standards are as specified by the American Public Works Association.

(c) If, during the course of construction of any new street or any other improvements required by the Advisory Agency in connection with the approval of the subdivision plan, additional work is required owing to unforeseen conditions, such as, but not limited to, springs, ancient drains, wetlands, water courses, side-hill drainage from cuts, bedrock, or other conditions which were not apparent at the time of the approval by the Advisory Agency, the Director of Public Works may require such additional work to be done and may require additional surety. (Ord. 1146 § 40, 7/19/77)

323-2. PRIVATE LANES.

(a) Private lanes serving a subdivision approved in accordance with the provisions of this section shall not receive County maintenance.

(b) A reasonable plan or arrangement may be required for the maintenance and/or improvement of private lanes.

(c) The Advisory Agency may approve a subdivision served by private lanes if, in its opinion, all of the following conditions have been

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of will be satisfied:

(1) The public convenience does not require and will not be served by public traffic through such subdivision.

(2) The creation of such private lanes shall not render land adjoining such subdivision unreasonably inaccessible.

(3) The subdivision map shall show the lanes clearly labeled "Non-County Lane" or "Non-County Road".

(4) Before any part or lot of the subdivision is sold, the entrance thereto from a public street shall be posted and kept posted with an easily visible sign of at least two (2) square feet in size containing substantially the following words: "Not a County Road" or "Not a County Street" in letters at least two inches (2") high.

(5) Lots abutting on a private lane shall be sold subject to a provision which shall appear on the subdivision map or instrument of waiver, which shall read substantially as follows:

"If the private lane or lanes shown on this plan of subdivision, or any part thereof, are to be accepted by the County for the benefit of the lot owners on such lane rather than the benefits of the County generally, such private lane or lanes or parts thereof shall first be improved at the sole cost of the affected lot owner or owners, so as to comply with the specifications as contained in the then applicable subdivision regulations relating to public streets."

(6) Lanes shown on such subdivision plan shall be sufficiently wide and of such physical condition to allow access by emergency vehicles at all times of the year to the satisfaction of the Advisory Agency.

(7) The lots proposed on the subdivision plan are not immediately and/or reasonably accessible from the accepted city, county or state highway. (Ord. 1146 § 41, 7/19/77; amended by Ord. 1290 § 4, 12/12/78)

324-3. ACCESS.

In general, access shall be suitable for the declared use, which must be consistent with the highest and best use.

Where access is based on recorded documents or on permit, they shall be listed on the Parcel Map. If access is based on a permit that is revocable, it shall be so stated. If no such documents or permits are relied upon, a statement shall be placed on the Parcel Map clearly stating that there is no right of way of record.

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A Final Map shall not be approved unless there is recorded access to each lot from a publicly maintained road. (Ord. 1146 § 42, 7/17/77)

324-4. DEDICATIONS AND OFFERS OF DEDICATION.

The Advisory Agency may require the dedication or an irrevocable offer of dedication of real property within the subdivision for streets and alleys (including access rights and abutter's rights), drainage, public utility or other public easements. If dedications or offers thereof are required, they may be made by certificate on the Final Map or Parcel Map or by separate instrument, as provided by Government Code § 66447. (Ord. 1146 § 43, 7/19/77)

324-5. WAIVER OF DIRECT ACCESS.

On all arterial roads and on all major collector roads and Advisory Agency may require dedication to the County of Humboldt of vehicular access rights across a portion of the frontage to be subdivided. (Ord. 1146 § 44, 7/19/77)

324-5.5. SPECIAL PROVISIONS FOR SUBDIVISIONS WITHIN TIMBERLAND PRESERVES.

(a) Subdivisions containing land zoned Timberland Preserve (TPZ) must comply with the requirements of Government Code § 51119.5.

(b) The required joint timber management plan must contain the following elements:

(1) Provide for the allocation of costs and expenses, if any, of the joint management of the timberland.

(2) Legal owner and parcel numbers (APN).

(3) Maps: A physical map showing external boundaries of the ownership, APN boundaries, road network, and location of improvements; and a soil-vegetation map showing acres of each type and major topographic features.

(4) Forest description containing summarized tables or area, volume by species 12" DBH+ and a discussion of growth and yield.

(5) Objectives of management, including next proposed harvest and future harvests.

(6) Silviculture, including methods of cutting, methods of logging, and methods to be used to reestablish or rehabilitate areas.

(7) Regulation, including rotation, protection and allowable cut.

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(8) Certification of management plan by a licensed professional forester.

(c) The timber management plan must be updated at five- (5) year intervals.

(d) Development such as roads and buildings must be located outside of Timberland Preserve areas if possible.

(e) The subdivision approval may be made conditional upon compliance with prescribed forest management practices, such as requiring stocking of TPZ areas. (Added by Ord. 1266 § 2, 9/5/78)

324-6. SPECIAL PROVISIONS FOR SIXTY-ACRE SUBDIVISIONS.

Notwithstanding the other provisions in this division, the following special provisions shall apply to subdivisions creating four (4) or fewer parcels, each of which is sixty (60) acres or larger in size:

(a) A Tentative Subdivision Map is not required.

(b) Road improvements are not required.

(c) The subdivider need not provide information with respect to the availability of water, the method of sewage disposal nor building site stability. (Ord. 1146 § 45, 7/19/77)

324-7. DEDICATION OF LAND FOR SCHOOLS.

Any subdivider, who within three (3) years develops or completes the development of one (1) or more subdivisions comprised of a single parcel or contiguous parcels having more than 400 dwelling units within a single school district which maintains an elementary school, shall dedicate to the school district within which such subdivision is located such land as the board of trustees of such school district shall deem to be necessary for the purpose of constructing thereon schools necessary to assure the residents of such subdivision of adequate elementary school service. (Ord. 1146 § 46, 7/19/77)

324-8. IMPROVEMENTS SIZED FOR PROPERTY NOT WITHIN SUBDIVISION.

The Advisory Agency may require that the improvements installed by subdivider for the benefit of the subdivision shall contain supplemental size, capacity or number for the benefit of property not within the subdivision and that such improvements be dedicated to the public, providing Government Code § 66486-9 are complied with. (Ord. 1146 § 47, 7/19/77)

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324-9. OPEN-SPACE DEDICATIONS.

Land for open space may be conveyed by any of the following means, as determined by the Advisory Agency:

(a) Contingent upon the recommendation of the Parks and Recreation Commission, the approval of the Advisory Agency, and a resolution of acceptance by the Board of Supervisors, open-space land can be deeded to the County of Humboldt.

(b) Deeded to a homeowners' association within the subdivision upon terms and conditions approved by the Advisory Agency. Said terms and conditions must protect the public welfare, provide for future maintenance of the open space, and be in such form that all property owners within the subdivision have equal rights in and to the open space. The homeowners' association established to take title must be a legal entity capable of holding title and assuming the burden of ad valorem taxes assessed against the open space.

(c) Deeded to lot owners within the subdivision as undivided interests after any and all improvements required by the Advisory Agency have been completed. The open-space land must be readily accessible to all of the lot owners within the subdivision. In those cases in which ownership of open-

space land is to be in undivided interests vested in individual lot owners, there must be covenants of record irrevocably binding the individual homesite lots to the companion undivided interest in the open space set aside.

(d) As a condition of approval on a Tentative Map for any planned unit development creating common open-space or recreational land, the subdivider shall prepare and submit a draft of the covenants, conditions and restrictions (CC&R's) applicable to the common land. The draft CC&R's shall be submitted to the Planning Director a minimum of thirty (30) days prior to the action on a Final Map.

The CC&R's shall outline the methods by which the common open-space, recreational areas and any facilities thereon will be conveyed, preserved, permanently maintained and payment of all taxes thereon assured. The Planning Director may require additional language to insure the foregoing. A report, containing the findings of the Director, shall be submitted to the Board of Supervisors prior to the approval of the Final Map. (Ord. 1146 § 48, 7/19/77)

324-10. FEES FOR PLANNED BRIDGES, MAJOR THOROUGHFARES AND DRAINAGE FACILITIES.

(a) Prior to filing of any Final Map or Parcel Map, the subdivider shall pay or cause to be paid any fees for defraying the actual or estimated costs of constructing planned drainage facilities for the removal or surface and storm waters from local or neighborhood drainage areas or sanitary sewer facilities for local sanitary sewer areas established pursuant to § 66483 of the Government Code.

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(b) The purpose of this subsection is to make provisions for assessing and collecting fees as a condition of approval of a Final Map or as a condition of issuing a building permit for the purpose of defraying the actual or estimated costs of constructing bridges or major thoroughfares, pursuant to § 66484 of the Government Code. (Ord. 1146 § 49, 7/19/77)

CHAPTER 5

ACTION ON TENTATIVE SUBDIVISION MAPS

325-1. SUBDIVISION TECHNICAL REVIEW COMMITTEE ACTION.

The Subdivision Technical Review Committee shall examine the Tentative Subdivision Map with the subdivider at a scheduled meeting, if requested by the subdivider or any member of the Subdivision Technical Review Committee, and shall:

(a) Hear and consider the staff report from the County Health Department on whether the proposed sewage disposal system or method is adequate and will operate without creating a public or private nuisance or menace to the public health or welfare.

(c) Hear and consider the recommendations of other government agencies.

(d) Prepare a report to the Advisory Agency indicating whether the design and improvements recommended conform to the requirements of this

division, the Subdivision Map Act, Title III, Division 1 (Zoning), and other sections of this Code, improvement standards set forth by resolution of the Board of Supervisors, the General Plan and specific plans.

(e) Determine whether the subdivision is a land project as defined in § 11000.5 of the Business and Professions Code, and, if so, direct the Planning Director to forward a copy of the Tentative Subdivision Map to the State of California, Office of Intergovernmental Management. (GC § 66455.5) (Ord. 1146 § 50, 7/19/77)

325-2. SUBDIVISION TECHNICAL REVIEW COMMITTEE REPORT.

(a) The Subdivision Technical Review Committee shall prepare a written report and recommendations to the Advisory Agency on each application. The report and recommendations shall consider the relationship of the application to the Subdivision Map Act, this division, the Planning Division and other sections of this Code, the General Plan and specific plans. The report shall also include a discussion of any other matter bearing on the orderly development of the area. The report shall state the reasons the written recommendation of any County Department was not accepted by the Committee.

(b) The Subdivision Technical Review Committee shall serve a copy of its report on the subdivider and his agent by mail, or in person, at least three (3) days prior to any hearing or action on the application. Any changes or additions in the report shall be served at least three (3) days prior to the next hearing or action on the application. (GC § 66452.3) (Ord. 1146 § 51, 7/19/77)

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325-3. PUBLIC NOTICE OF TENTATIVE SUBDIVISION MAP HEARING.

Whenever 160 acres or more is divided, the Advisory Agency shall not act on the Tentative Subdivision Map until notice has been mailed to all adjacent landowners as shown on the latest adopted tax roll. The notice shall state the time and place of the hearing on the Tentative Subdivision Map and shall be mailed at least ten (10) days prior to the scheduled hearing. (Ord. 1146 § 51.5, 7/19/77)

325-3.5. PUBLIC NOTICE OF SUBDIVISION APPLICATION.

Whenever access not of record is proposed for subdivision purposes, the Planning Department shall promptly, upon receipt of the tentative map, take reasonable steps to notify all owners or accesses of property (as shown on the latest equalized assessment roll) over which such prescriptive access appears to traverse that such an application has been received and, if approved, that the subdivider may be required to improve the access. The notification required by this section shall be considered directory only and shall not be grounds for invalidating the action taken. (Added by Ord. 1352 § 2, 9/11/79)

325-4. ADVISORY AGENCY ACTION ON TENTATIVE SUBDIVISION MAPS.

The Advisory Agency shall examine the Tentative Subdivision Map at a public meeting and shall:

(a) Consider the staff report of the Subdivision Technical Review Committee, the environmental documents, and the responses or comments, if any, of any other County department, the subdivider and other interested agencies and parties.

(b) Determine whether the improvements recommended by the Director of Public Works and the design of the subdivision conform to the requirements of the Subdivision Map Act, this division and the Planning Division, other sections of this Code, the improvement standards set forth herein, the General Plan and specific plans of the County.

(c) Determine whether the discharge of waste from the proposed division of land into an existing community sewer system would result in violation of existing requirements prescribed by the California Regional Water Quality Control Board pursuant to Division 7 (commencing with Section 13000) of the Water Code.

(d) Within fifty (50) days of the official filing of the application, the Advisory Agency shall approve, approve with conditions, or disapprove the application and report its actions to the subdivider. (Ord. 1146 § 52, 7/19/77)

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325-5. DISAPPROVAL OF APPLICATIONS FOR SUBDIVISION MAPS; FINDINGS.

The Advisory Agency shall disapprove an application for a Tentative Subdivision Map if it finds any of the following:

(a) That the proposed subdivision, its design or improvements, is inconsistent with the applicable General Plan or specific plans.

(b) That the site is not physically suitable for the type and density of development.

(c) That the design of the subdivision or the improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

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

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(e) That the design of the subdivision or the type of improvements will conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision. In this connection, the Advisory Agency may approve an application if it finds that alternate easements for access or for use will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction, and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed land division.

(f) That the subdivision fails to provide public access to public resources as required by Government Code §§ 66478.4-66478.13.

(g) That the proposed subdivision violates the provisions of this division and no exception has been granted as provided in § 325-9.

(h) That the proposed subdivision violates the provisions of the Planning Division as to area, setback or frontage requirement and no variance has been granted.

(i) That the proposed subdivision would violate any other section of this Code.

(j) That the discharge of waste from the proposed subdivision into an existing community sewer system would result in violation of existing requirements prescribed by the California Regional Water Quality Control Board pursuant to Division 7 (commencing with § 13000) of the Water Code. (GC §§ 66473-66474.7) (Ord. 1146 § 53, 7/19/77)

325-6. MAP APPLICATION FAILURE.

The Advisory Agency shall disapprove a map for failure to meet or perform any of the requirements or conditions imposed by the Map Act or this division; provided that such disapproval shall be accompanied by a finding identifying the requirements or conditions which have not been met or performed. When the failure of the map to comply with the Map Act or this division is the result of a technical and inadvertent error which, in the determination of the Advisory Agency, does not materially affect the validity of the map, the Advisory Agency, upon written request of the subdivider, may waive such failure and approve the map. (GC § 66473) (Ord. 1146 § 54, 7/19/77)

325-7. EXCESSIVE COST TO THE COUNTY.

Where the Advisory Agency determines that a subdivision requires undue expenditure by the County to improve existing County roads and bridges which do not conform to the minimum requirements or grade, alignment, width and construction set forth in these regulations, the Advisory Agency shall not approve such subdivision until the Board of Supervisors has approved such expenditures. (Ord. 1146 § 55, 7/19/77)

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325-7.5. BOARD OF SUPERVISORS REVIEW OF ACTION OF THE ADVISORY AGENCY.

The Board of Supervisors hereby reserves the right to hear and decide all matters, decisions and actions taken under the authority of the subdivision regulations of the County of Humboldt. Within the time prescribed for appeals, the Board of Supervisors by its own motion may review and decide any action or decision of the Advisory Agency. The Board of Supervisors' decision in the matter shall be made after conducting a public hearing which has been duly noticed in the manner required by the Subdivision Map Act for appeals. (Added by Ord. 1351 § 3, 8/28/79)

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325-8. APPEALS.

The subdivider, any interested person or any public entity may appeal any action of the Advisory Agency to the Board of Supervisors. (GC §§ 66451.3, 66452.5, 66474.7) (Ord. 1146 § 56, 7/19/77)

325-9. EXCEPTIONS.

(a) The Advisory Agency may grant conditional exceptions to any of the requirements and regulations set forth in this division. Application for any such exception shall be made by a petition of the subdivider, stating fully the grounds for the exception and the facts relied upon by the petitioner. Such petition shall be filed with the Tentative Subdivision Map of the subdivision or within fifteen (15) days of the action on the subdivision by the Advisory Agency. In order for the property referred to in the petition to come within the provisions of this section, it shall be necessary that the following conditions exist:

- (1) That there are special circumstances or conditions affecting said property.
- (2) That the exception is necessary for the preservation and enjoyment of a substantial property right of the petitioner.

(3) That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the territory in which said property is situated.

(b) In granting such exceptions, the Advisory Agency shall secure substantially the objectives of the regulations to which the exceptions are granted as to light, air, and public health, safety, convenience, and general welfare.

(c) The Advisory Agency shall file a report indicating the findings made and the action taken to the Board of Supervisors. The Board is not required to take further action thereon and receives the report for information only. (Ord. 1146 § 57, 7/19/77)

325-10. PLANNED UNIT SUBDIVISION EXCEPTIONS.

When a zone change and/or conditional use permit have been recommended for approval by the Planning Commission for a planned unit development zone, and such planned unit development zone is subdivided, exceptions to certain subdivision standards may be approved by the Advisory Agency on the Tentative Subdivision Map, subject to final rezoning action by the Board of Supervisors, as follows:

(a) Exceptions to the requirements and regulations relating to lot size, width and shape may be permitted when:

(1) An open-space, recreational area or residual parcel for resource protection and maintenance is to be provided for the use and benefit of all the dwelling units in the development; and

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(2) The total land area of the development divided by the total number of dwelling units equal to or more than that required by the zoning regulations or General Plan in which the development is located. Total land area of the development shall include the land area of the open space, private driveway and walkways, recreational areas and/or residual parcel for resource protection and maintenance, but shall not include any land area being set aside for public use or private streets.

(b) Exceptions to the requirements that lots abut on a street may be permitted when:

(1) Adequate and permanent access from a street to each family dwelling unit is provided for pedestrians and emergency vehicles; and

(2) Adequate and permanent provisions for automobile off-street parking spaces are provided. (Ord. 1146 § 58, 7/19/77)

325-11. MINIMUM LOT SIZE MODIFICATION.

This section applies in those instances in which a subdivider proposes to develop his land to a maximum density allowable under the existing zoning. It does not apply in those instances in which the proposed land division stops short of the maximum density allowable by zoning or the existing General Plan. If the subdivider proposes reduced subdivision improvements premised upon a lesser density than allowed under current zoning, the requirements of

paragraphs (5)A and (5)B of § 323-6(a) apply. In the event of phase development of larger land tracts - wherein subdivision of the total property is proposed to occur over a period of years - each and every map filed must stand on its own as to the requirements of this section.

In order to permit more flexibility to cope with difficulties due to topography and other natural or man-made features of Humboldt County, the minimum lot area in any zone or General Plan designation may be modified down to a maximum of fifty percent (50%) of the minimum lot size required. At the same time, no lot created by the subdivision shall be larger than 1.8 times the minimum lot size permitted under the applicable zoning or General Plan classification. Also, the number of lots shall not be more than would normally be allowed in the applicable zone or General Plan designation, nor shall the area of the total property in the before condition divided by the total number of lots to be created result in an average area less than that required in the applicable zone or General Plan designation.

The Advisory Agency shall, in determining the amount of each modification to the lots to be created by the subdivision, the arrangement of the lots, and the dimensions of each lot, find the following:

(a) The provisions for lots are in harmony with the topographic configuration of the site and the immediate area.

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(b) Soil conditions both on-site and off-site will not be adversely affected.

(c) Hydrologic conditions of the site and the surrounding areas will not be adversely affected.

(d) The internal arrangement of the streets and access to public roads will not adversely affect the traffic patterns of the area and emergency vehicle access.

(e) The number, type and density of dwelling units and the design of the site conform to this section and are in the interest of the public welfare.

(f) The existing character of the area in terms of density and arrangement will not be adversely affected.

(g) Any existing inland wetlands, water course and tidal wetlands will not be adversely affected.

(h) Over-all conformance to the Humboldt County General Plan.

(i) Nothing herein permit lots less than 6,000 square feet in size. (Ord. 1146 § 59, 7/19/77)

325-12. BUILDING SETBACKS.

The Advisory Agency may establish building setbacks in excess of those required by the Planning Division. Such setbacks shall be shown on the Parcel Map or Final Map. (Ord. 1146 § 59.5, 7/19/77)

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CHAPTER 5.5

LOT LINE ADJUSTMENT

325.5-1. PURPOSE.

This chapter is enacted for the purpose of establishing official policy and procedures whereby Lot Line Adjustments may be approved by the County pursuant to State Law. The provisions of the Subdivision Map Act shall be inapplicable to Lot Line Adjustments.

325.5-2. DEFINITIONS.

For the purpose of this Chapter, "LOT LINE ADJUSTMENT" is the adjustment of a common lot line or lot lines between two or more existing adjacent parcels, where the land(s) taken from one or more parcels is added to an adjacent parcel or parcels, and where a greater number of parcels than originally existed is not thereby created, provided the Lot Line Adjustment is approved by the local agency or advisory agency. "LOT LINE ADJUSTMENT" is deemed to include any and all reconfiguration and/or elimination of common property lines between and among contiguous parcels, except as provided for otherwise in this Ordinance.

325.5-3. BOUNDARY CORRECTIONS.

The adjustment of property lines for the correction of record title descriptions or real property is exempt from the requirements of this chapter provided that the County Surveyor finds that the adjustment is necessary to correct erroneous deed description to coincide with the physical conditions and/or occupation lines of the properties. A written statement declaring the purpose of the correction shall be submitted to the County Surveyors office by a Registered Civil Engineer qualified to practice land surveying or a licensed Land Surveyor, along with the submittal of a Record of Survey for recordation showing the monumentation of the corners of the new property line.

A deed or deeds must be recorded to correct the description and must have a note on the first page as follows: "The recordation of this deed is to correct record title to coincide to the physical occupation of the property. This adjustment is exempt from the provisions of the Subdivision Map Act and local ordinances enacted pursuant thereto."

A copy of the statement and documents will be forwarded by the County Surveyor to the Planning Department.

325.5-4. DECLARATION OF POLICY.

It is the County policy to provide for the adjustment of property boundaries between contiguous parcels in a manner consistent with State Law. The Planning Department shall limit its review and approval to a determination of whether or not the parcels resulting from the Lot Line Adjustment will conform to local building and zoning ordinances. The County of Humboldt shall not impose conditions or exactions on its approval of a Lot Line Adjustment except to conform to local zoning and building ordinances, or except to facilitate

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the relocation of existing utilities, infrastructure or easements. No tentative map, parcel map, or final map shall be required as a condition of approval to the Lot Line Adjustment. The Lot Line Adjustment shall be reflected in a deed and in a Record of Survey or Notice of Lot Line Adjustment which shall be recorded.

This policy reflects a distinction between "subdivision" as defined by State statutes as a type of land division development, and "lot line adjustment" which is not a land division or a development.

EXCEPTION: When parcels being adjusted are held in common ownership, no new deeds shall be required for the purpose of the Lot Line Adjustment process. A Notice of Lot Line Adjustment shall be required.

325.5-5. APPLICATION PROCEDURES.

The following procedures shall be applicable to the filing, review and processing of applications for approval of Lot Line Adjustments:

(a) All Lot Line Adjustment applications shall be submitted to the Planning Department on application forms supplied by the Department. Said forms shall include the following statements:

(1) "If there is more than one ownership involved, and your Lot Line Adjustment is approved, along with a Record of Survey or Notice of Lot Line Adjustment, you must record a deed or deeds for the area(s) to establish ownership or record for each of the resulting parcels".

(2) "Serious title consequences may result if any of the parcels to be adjusted are subject to prior record liens (i.e. Deeds of Trust, Mortgages, Money Judgments, etc.) and title is subsequently acquired by the lien holder through foreclosure. Those consequences can be avoided by obtaining and recording reconveyances or releases of said liens. Your title company can assist you with these matters."

(b) The following materials shall be submitted along with the completed and signed application:

(1) Two copies of the present owner of records' vesting deeds, and a Lot Book Report to Title Report for each lot.

(2) Six copies of a Lot Line Adjustment plot plan accurately drawn to scale on one sheet of paper at least 8 1/2" x 11" in size that shows the following information for each lot to be adjusted:

(i) All exterior and interior lines shall be shown on the map and dimensioned based on information of record.

(ii) Proposed new lines and lines to be eliminated shall be so identified in written notation or by legend. Lines to be eliminated shall be dashed or otherwise drawn so as to be clearly distinguishable from and subordinate to remaining and new lines.

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(iii) Areas (in square footage or acreage) of the initial and resulting parcels shall be identified.

(iv) All existing structures, their uses, and other constructed improvements, located within 50 feet of the proposed new boundaries shall be accurately located and shown with dimensions from the property lines.

(v) The names, County road numbers and widths of abutting rights-of-way and their locations.

(vi) The locations, purpose and width of all proposed and existing easements, streets and appurtenant utilities located within 100 feet of the proposed new boundaries.

(vii) The approximate location of all watercourses, drainage channels and existing drainage structures located within 100 feet of the proposed new boundaries.

(viii) Approximate high-water lines of all areas subject to inundation location within 100 feet of the proposed new boundaries.

(ix) Assessed owners and Parcel Numbers.

(x) North arrow and scale.

(xi) Vicinity map if the location cannot be determined from the plot plan.

(xii) Location of wells and septic tanks and primary and reserve septic leach areas within 100 feet of proposed new boundaries.

(3) Fees per County adopted schedule.

(4) A written statement from the applicant explaining the reason(s) for the proposed adjustment (This statement is to assist the applicant in ensuring that the Lot Line Adjustment will accomplish his/her goal, and the statement will have no effect on review or approval of the Lot Line Adjustment).

(c) The Planning Department may distribute the application to any affected public agencies and public utility districts or companies for review and comment. Agencies receiving project applications must submit any response to the Planning Department within 15 days of referral date established by the Planning Department.

325.5-6. PROJECT APPROVAL CRITERIA.

A Lot Line Adjustment shall be approved or conditionally approved when there is compliance with all of the following approval criteria:

(a) The application is found to be complete.

(b) Either (1) the parcels to be adjusted are found to be in compliance

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with the Subdivision Map Act and local subdivision regulations, or (2) a Conditional Certificate of Subdivision Compliance for the parcel or parcels has been issued for recordation prior to or concurrent with the lot line adjustment.

(c) The proposal neither causes non-conformance nor increases the severity of preexisting nonconformities with zoning and building ordinances. Providing compliance with this subsection, the approval shall not be conditioned on correction or preexisting non-conformities with zoning and building ordinances.

325.5-7. PLANNING DIRECTOR ACTION ON THE LOT LINE ADJUSTMENT.

The Planning Director shall tentatively approve any proposed Lot Line Adjustment that, in the Planning Director's opinion, conforms with approval criteria in § 325.5-6. The Planning Director's tentative approval shall be expressed in writing and shall be subject only to those conditions outlined in Section 325.5-9 of this Chapter. The Planning Director's action shall become effective ten (10) days from the date thereof, unless appealed as provided for in § 325.5-10 of this Chapter.

325.5-8. PUBLIC HEARING REQUIREMENTS.

If the Planning Director finds that the proposed adjustment does not qualify for approval, or believes that the adjustment may result in a significant deprivation or property rights of other landowners, he shall

schedule the proposed adjustment for a public hearing before the Planning Commission. Notice shall be provided as required by State law. Any interested person may appear at the hearing and shall be heard. A copy of a complete staff report with any appurtenant materials provided to the Planning Commission shall be delivered to the applicant and his or her agent at least 2 days prior to the hearing.

325.5-9. CONDITIONS OF TENTATIVE APPROVAL.

Tentative approval of Lot Line Adjustments may only be conditioned upon the following:

(a) Conditions to conform to local zoning and building ordinances consistent with the provisions of § 325.5-6.

(b) Conditions to facilitate the relocation of existing affected utilities, infrastructures or easements.

(c) The recordation of a Record of Survey monumenting the corners of the new property line(s). The County Surveyor shall not require the Record of Survey if in his opinion any one of the following findings can be made:

(1) The new boundary line(s) are already adequately monumented of record.

(2) The new boundary line(s) can be accurately described from Government Subdivision Sections or eloquent parts thereof.

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(3) The new boundary line(s) can be accurately described and located from existing monuments of record.

(4) The new boundary is based upon physical features (i.e. roads, creeks, etc.) which themselves monument the line.

(d) If the filing of a Record of Survey has not been required or has been waived, a Notice of Lot Line Adjustment shall be recorded for the resulting parcels. The following information must be submitted to the Public Works Division for review prior to recordation:

(1) A copy of the deeds to be recorded for the adjusted parcels; provided however, that when the parcels being adjusted are held in common ownership, no new deeds shall be required for the preparation of the Notice of Lot Line Adjustment.

(2) A Lot Book, Preliminary Title Report or other evidence satisfactory to the County Surveyor regarding ownership of parcels.

(3) Completed "Notice of Lot Line Adjustment" forms (these are available from the Planning Department).

(4) Items under parts (1) & (2) above, which have been previously submitted with the application, may be waived.

(e) The Notice of Lot Line Adjustment and/or the Record of Survey shall include the following statement: "The County's approval of the Lot Line Adjustment does not imply nor guarantee approval of any subsequent County permits to develop this property. Nor does the review of Lot Line Adjustments include review for code violations. The approval is therefore no indication nor assurance to any subsequent purchaser that the property is free from violations."

Upon written application to the County Surveyor's Office, the County Surveyor or his designee may waive any requirement for filing of a Record of Survey if, in the opinion of the County Surveyor, the requirement will create an undue hardship and the absence of survey data will not be detrimental to future owners of the lots adjusted, or an abundance of survey data exists of record such that the survey and preparation of the Record of Survey is an unnecessary expense and the parcels can be conveyed by metes and bounds descriptions.

325.5-10. APPEALS.

Any person aggrieved by an action of the Planning Director or Planning Commission may take an appeal to the Board of Supervisors and with the Planning Department within ten (10) days of said action. The notice of appeal filed with the Planning Department shall be accompanied by a fee set by resolution of the Board of Supervisors sufficient to cover the cost of processing the application for appeal. Upon receipt of the notice of appeal, the Planning Department shall forthwith transmit to the Board of Supervisors all the papers constituting the record upon which the action appealed from was taken.

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325.11. LOT LINE ADJUSTMENT EFFECTIVE PERIOD.

The instruments of record as approved by the County Surveyor's Office shall be recorded and the Lot Line Adjustment shall be completed within thirty-six (36) months of approval of the Lot Line Adjustment.

Prior to expiration, the applicant or property owner may request extension of the filing deadline by submitting a written extension request and a filing fee as set by resolution of the County Board of Supervisors.

The Planning Director may grant a maximum of three years extension of the filing deadline if the Planning Director finds that the conditions under which the tentative approval was issued have not significantly changed.

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CHAPTER 6

FINAL AND PARCEL MAPS

ARTICLE I. COMPLETION OF IMPROVEMENTS

326-1. COMPLIANCE WITH CONDITIONS OF TENTATIVE SUBDIVISION MAP APPROVAL.

Prior to filing the Final Map, Parcel Map or Instrument of Waiver, the subdivider must meet or comply with the conditions of approval of the Tentative Subdivision Map. If improvements were required, the subdivider shall either have completed the improvements or have executed an agreement with the County to complete the improvements. The form and requirements of the agreement are specified in § 326-2 and 326-3. (Ord. 1146 § 60, 7/19/77)

326-2. IMPROVEMENT AGREEMENT.

(a) If the subdivision improvements have not been completed prior to filing the Final Map, Parcel Map or Instrument of Waiver, the owner or owners of the subdivision shall enter into an agreement with the County of Humboldt agreeing to have the work described in the improvement plans completed. In the case of Final Map Subdivisions, the improvements must be completed within two (2) years following recordation of the Final Map. In the case of Parcel Map Subdivisions, the improvements must be completed within two (2) years following recordation of the Final Map. In the case of Parcel Map Subdivisions, the improvements must be completed within the period specified by the Advisory Agency.

The agreement may provide for the improvements to be installed in units (subject to the provisions of § 66499 of the Map Act) for extensions of time under specified conditions, or for the termination of the agreement upon reversion of the subdivision or a part thereof to acreage. (Amended by Ord. 1246 § 1, 8/8/78)

(b) The subdivision agreement shall guarantee that all streets and storm drain improvements and equipment deemed necessary for the use of such subdivision, or the proper drainage thereof and including, but not limited to, street surfacing, sidewalks, curbs and gutters, culverts, bridges, and storm drains, shall be free from defects of material or workmanship and shall perform satisfactorily for a period of at least one (1) year from and after acceptance of such improvements as complete.

The subdivider shall agree to repair any defects in any such improvements and to replace any defective improvements which cannot be repaired and which occur or arise within said one (1) year period at his own expense. (Ord. 1146 § 61, 7/19/77)

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326-3. IMPROVEMENT PLANS.

(a) If subdivision improvements are required, improvement plans may be required by the Department of Public Works for all or part of the improvements. The Department may require the plans to be prepared by a registered civil engineer.

(b) The improvement plans must be approved by the Department of Public Works prior to the making of any improvements.

(c) An itemized estimate of costs for all improvements required for the subdivision shall be submitted with the improvement plans if the improvements are not to be completed prior to the recording of the Final or Parcel Map or Instrument of Waiver or separate recorded instrument referenced thereto.

(d) To insure proper design and to simplify and speed checking procedures, it may be required that design calculations and related information be submitted with the improvement plans. (Ord. 1146 § 62, 7/19/77)

326-4. IMPROVEMENT SPECIFICATIONS.

All of the subdivision improvements required shall be constructed in accordance with the specifications therefor which are contained in the portion of the appendix to this division entitled "Design and Improvement Standards."

All of the subdivision improvements required by the County shall be carried out in full compliance with the specifications as set forth or referred to in said appendix. Nothing contained in said appendix shall be construed to prohibit the subdivider from constructing a higher type of improvement than specified herein. (Ord. 1146 § 63, 7/19/77)

326-5. UTILITIES PLACEMENT.

Except as otherwise approved by the Advisory Agency, all utilities shall be placed as directed by the affected utility companies and approved by the Department of Public Works. (Ord. 1146 § 64, 7/19/77)

326-6. SUBDIVISION SECURITY AMOUNTS.

Prior to the execution of the agreement (by the County) provided in § 326-2, the subdivider shall furnish the County with the following securities:

(a) A good and sufficient security given for faithful performance of the agreement in an amount equal to the approved cost estimate.

(b) A good and sufficient security securing the payment to laborers and materialmen in an amount equal to fifty percent (50%) of the approved cost estimate.

(c) A good and sufficient security securing the subdivider's guarantee and warranty of workmanship and materials in an amount equal to five percent (5%) of the approved cost estimate.

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(d) A good and sufficient security securing subdivider's obligation to pay County's reasonable expenses, fees and attorney fees incurred in successfully enforcing the subdivision agreement in an amount equal to five percent (5%) of the approved cost estimate.

(e) A good and sufficient security in an amount equal to estimated cost of setting all monuments.

(f) A certificate from the County Tax Collector showing that all payable taxes are paid and, in the case of a Final Map Subdivision, a bond for the payment of taxes then a lien but not yet payable.

(g) Evidence of cash payment of all fees required for the checking and filing of maps, for the inspection of improvements, and for the payment of street signs and traffic control devices to be furnished and installed by the County. (Ord. 1146 § 65, 7/19/77; amended by Ord. 1365 § 1, 11/6/79)

326-6.2. FORM OF SECURITY.

As used in § 326-6, "good and sufficient security" means any of the following:

(a) A bond or bonds by one or more duly authorized corporate sureties.

(b) A deposit, either with the County or a responsible escrow company or trust company, at the option of the County, of money or negotiable bonds of the kind approved for securing deposits or public moneys.

(c) An instrument of credit from one or more financial institutions subject to the regulation by the state or federal government and pledging that the funds necessary to carry out the act or agreement are on deposit and guaranteed for payment.

(d) A lien upon the property to be divided, created by contract between the owner and the County, if the Advisory Agency expressly finds that it would not be in the public interest to require the installation of the required improvement sooner than two (2) years after the recordation of the map.

(e) In the case of parcel map subdivisions of four (4) or fewer lots, a lien upon real property if approved by the Director of Public Works. (Added by Ord. 1365 § 2, 11/6/79)

326-6.3. REAL PROPERTY LIENS.

(a) The Director of Public Works shall have the discretion to accept or reject liens upon real property offered as good and sufficient subdivision security.

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(b) In considering offered liens, the Director of Public Works may consider any factor he finds relevant and may require the subdivider to submit such information he deems necessary.

(c) An application to the Director of Public Works shall contain the following:

(1) A current appraisal prepared by an independent appraiser commonly accepted by financial institutions or a certified copy of the Humboldt County Assessor's appraisal.

(2) A current preliminary title report.

(3) A current credit report.

(4) A contract for the installation of the subdivision improvements unless the subdivider is licensed to perform such work.

(5) A loan commitment or other source of funding the construction.

(6) Two (2) copies of the tentative map and letter of approval.

(7) An application fee in the amount set by resolution of the Board of Supervisors.

(b) Subdivision real property liens shall be senior to all other liens and shall not exceed seventy percent (70%) of the appraised unsubdivided value of the property.

(e) Upon approval, an escrow shall be opened providing for the preparation of the deed of trust, issuance of a standard form title policy in favor of the County of Humboldt in the amount of the lien, closure of escrow within forty-five (45) days and payment of all escrow cost fees and expenses by the subdivider.

(f) The Director of Public Works may grant partial releases as long as the sufficient security remains to cover uncompleted improvements. (Added by Ord. 1365 § 3, 11/6/79)

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326-7. NON-ACCEPTANCE OF PREMATURE WORK.

Any improvements made which have been done without complying with the procedures set forth in §§ 326-2 through 326-5 and §§ 326-11 through 326-16 of this chapter will not be accepted for maintenance by the County of Humboldt. (Ord. 1146 § 66, 7.19/77)

ARTICLE II. INSPECTION OF IMPROVEMENTS

326-11. INSPECTION.

(a) Authorized representatives of the County and of all affected public or private utilities shall have the right to enter upon the site of said improvements for the purpose of inspecting the same, and shall be furnished with samples of material as may be required for the making of tests to determine the acceptability of such materials.

(b) Until completion of construction of all subdivision improvements and to facilitate inspection, each road and each lot in such subdivision shall be conspicuously posted with a sign indicating the road name and lot number when required. (Ord. 1146 21 70, 7/19/77; amended by Ord. 1290 § 5, 12/12/78)

326-12. TIME AND TYPE OF INSPECTION.

The Director of Public Works shall, within ten (10) working days of a request therefor, make such inspections as are required and as he deems necessary to insure that all construction is in accordance with the approved plans and specifications. Unless waived in writing by the Director of Public Works, inspections would normally consist of, but are not limited to, the following:

- (a) An inspection after completion of the clearing operation.
- (b) Inspection during the construction of all earthwork operations.
- (c) An inspection of the subgrade prior to the placing of the aggregate base.
- (d) An inspection of the aggregate base prior to the placing of the roadway surfacing.
- (e) An inspection of concrete forms and reinforcing prior to the placing of any concrete therein.

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- (f) An inspection of the placing of any concrete or roadway surfacing.
- (g) Utilities placement.
- (h) Drainage facilities.
- (i) A final inspection upon completion of all improvements within the subdivision. (Ord. 1146 § 71, 7/19/77; amended by Ord. 1290 § 6, 12/12/78)

326-13. IMPROVEMENT REVIEW AND INSPECTION FEES.

The subdivider shall bear the actual costs of review and inspection which include, but shall not be limited to: review of improvement plans, review of drainage plans, consultation on improvement requirements where no plans are submitted, site review, laboratory fees, and all field inspections.

Deposits shall be posted with the Department of Public Works in accordance with the following:

- (a) Parcel and Final Maps Accompanied with a Subdivision Agreement and Security. If the subdivider enters into a subdivision agreement and posts a security for the improvements, there shall be a cash deposit equal to the

estimated cost of review and inspection which shall be three percent (3%) or \$200.00, whichever is greater, of the estimated cost of all improvements included in the subdivision agreement.

(b) Parcel Maps where there is an Unsecured Subdivision Agreement. If the subdivider elects to construct improvements after recording a parcel map by entering into an unsecured subdivision agreement, a cash deposit equal to the estimated cost of review and inspection shall be posted prior to commencement of any improvement work. The amount of deposit shall be determined by the Department of Public Works, but shall be a minimum of \$200.00.

(c) Maps where there is no Subdivision Agreement. If the Subdivider elects to construct improvements prior to recording a parcel map or final map and not enter into a subdivision agreement, a cash deposit shall be posted prior to commencement of any improvement work. The amount of deposit shall be determined by the Department of Public Works, but shall be a minimum of \$200.00.

(d) Deposition of Deposit. The actual cost of review and inspection shall be deducted from the cash deposit established pursuant to subsections (a), (b) or (c) above. Any surplus remaining thereafter shall be refunded to the subdivider. If actual costs of review and inspection exceed the cash deposit, the subdivider shall pay to the County any excess upon receipt of a billing from the County for such excess charge. (Ord. 1146 § 72, 7/19/77; amended by ord. 1615 § 2, 9/13/83)

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326-14. SURVEY.

(a) A field survey shall be made in conformity with the Land Surveyor's Act, for all subdivisions except where a Parcel Map waiver has been granted.

(b) Traverse work sheet in a form approved by the County Surveyor, together with complete sets of blue line or black and white check prints of the Final Map or Parcel Map, shall be submitted to the Director of Public Works for checking and approval.

(c) All surveys for Final and Parcel Maps, in addition to conforming to requirements of § 8814 of the Public Resources Code, State of California, may be tied to the California Coordinate System.

(d) All monuments, property lines, center lines of streets, alleys and easements, within or adjoining the tract, shall be shown on the Final or Parcel Map. (Ord. 1146 § 73, 7/19/77)

326-15. MONUMENTS.

(a) Monuments shall be set in accordance with the provisions contained in §§ 66495-66498 of the Map Act and the other provisions of this section.

(b) The engineer or surveyor shall set monuments in such a manner that the property lines may be retraced in any area of the subdivision with a minimum of difficulty.

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(c) On all subdivisions containing less than five (5) parcels, at least two (2) property corner monuments on one (1) property line shall be set or referenced to existing physical objects on each parcel being created. When the General Plan or existing land zoning laws prevent any further property divisions of the parcels being created, all property corner monuments shall be set unless the parcels are in excess of one (1) acre in size.

(d) On all subdivisions containing five (5) or more parcels, all lot corners shall be monumented.

(1) All monuments and their locations shall be subject to inspection by the approval of the Director of Public Works.

(2) As a minimum, road centerline monuments shall be set at all street intersections but not greater than 1,000 feet apart. In rural subdivisions, roads shall be sufficiently monumented in a manner acceptable to the Department of Public Works so as to be located and retractable in any area of the subdivision with a minimum of difficulty. Where the roadway surfacing is rock or gravel, road monuments may be located along the right of way line of this roads, rather than in the road itself.

(3) Any monument or bench mark, as required by these specifications, that is disturbed or destroyed before acceptance of all improvements, shall be replaced by the subdivider.

(e) Monumentation of some lot corners may be waived in writing for good cause by the Department of Public Works. An adverse decision may be appealed to the Subdivision Waiver Appeals Board.

(f) Monuments may be set after recordation of the Final or Parcel Map but not later than thirty (30) days after completion of the improvements. A statement shall appear on the map by the surveyor to certify as to the date which the monuments will be set. (Ord. 1146 § 74, 7/19/77)

326-16. "AS BUILT" IMPROVEMENT PLANS.

If the road will be maintained by the County, a reproducible set of improvement plans; showing any and all deviations from the previously submitted improvement plans, shall be filed with the County Department of Public Works, prior to the release of the improvement securities. (Ord. 1146 § 75, 7/19/77)

ARTICLE III. FINAL MAP

326-21. FILING OF FINAL MAP.

A tracing and four (4) legible prints of the Final Map in form as required by the Map Act and §§ 326-21 through 326-23 of this Code shall be filed with the County Surveyor within twenty-four (24) months of the approval of the Tentative Subdivision Map. An extension of filing time, not exceeding that permitted by the Map Act, may be granted

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by the Advisory Agency approving the Tentative Subdivision Map. Modification of a Tentative Subdivision Map after approval or conditional approval shall not extend the time limits imposed by this section. (GC Sections 66452.6, 66456-62, 66464-68) (Ord. 1146 § 80, 7/19/77; amended by Ord. 1586, § 1, 4/12/83)

326-22. FORM OF FINAL MAP.

(a) The form of the Final map shall be as specified in § 66434 of the Map Act, except that the size of each sheet shall be a minimum of eighteen by twenty-seven inches (18" x 27") and that the margin on the left side of the map shall be a minimum of two inches (2"). (GC §§ 66430, 66433, 66443) (Ord. 1146, § 81, 7/19/77)

(b) In addition to any other certifications required to be placed on the map by the Subdivision Map Act, the map shall contain the certification required by Government Code § 66492 (or any successor section thereto). Said certification shall be in the form prescribed by the County Tax Collector. (Added by Ord. 1961, § 1, 3/3/92)

(c) Pursuant to Government Code § 66468.2, the duties of the Clerk of the Board with respect to the filing of the Maps as set forth in Title 7,

Division 2, Chapter 3, Article 5 of the Government Code, are hereby delegated to the County Tax Collector. (Added by Ord. 1961, § 1, 3/3/92)

326-23. FINAL MAP APPLICATION FAILURE.

The Advisory Agency shall disapprove a map for failure to meet or perform any of the requirements or conditions imposed by the Map Act or this division; provided that a Final Map shall be disapproved only for failure to meet or perform requirements or conditions which were applicable to the subdivision at the time of approval of the Tentative Subdivision Map and provided further that such disapproval shall be accompanied by a finding identifying the requirements or conditions which have not been met or performed. When the failure of the map to comply with the Map Act or this division is the result of a technical and inadvertent error which, in the determination of the Advisory Agency, does not materially affect the validity of the map, the Advisory Agency, upon written request of the subdivider, may waive such failure and approve the map. (GC § 66473) (Ord. 1146 § 82, 7/19/77)

326-24. PRELIMINARY SOIL REPORTS TO ACCOMPANY FINAL MAP.

(a) Every final map subdivision and every subdivision in which any lot created by said parcel map subdivision is less than ten (10) acres in size, shall be accompanied by a preliminary soils report, prepared by a civil engineer who is registered by the State of California, based upon adequate test borings or excavations of the soil qualities of the proposed subdivision; provided, however, that such preliminary soil report may be waived by the Planning Department, upon the recommendation of the Building Department, where it has been determined that,

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due to the knowledge of soils within the subdivision, no preliminary soil report is necessary. (Ord. 596 § 1, 5/16/67)

(b) If the preliminary soil report indicates the presence of critically expansive soils or other soil problems, which, if not corrected, might lead to structural defects in buildings proposed to be constructed upon said subdivision, a soil investigation shall be made of each lot in the subdivision. Such soil investigation shall be prepared by a civil engineer who is registered in the State of California and qualified in geology and soils engineering and shall recommend corrective action which is likely to prevent structural damage to each building proposed to be constructed and not aggravate the existing hazard. (Ord. 988 § 2, 7/23/74)

(c) When such soil report or reports have been prepared, as required by subsections (a) and (b) hereof, this fact shall be noted on the final or parcel map, together with the date of the report and the name of the engineer making the report. (Ord. 596 § 3, 5/16/67)

(d) The Building Department of the County of Humboldt shall approve the soil investigation if it determines that the recommended action is likely

to prevent structural damage to each building proposed to be constructed. Such approved recommended action shall be incorporated in the construction of each building as a condition of the building permit. (Ord. 596 § 4, 5/16/67)

(e) Whether a proposed building site is within a subdivision or not, the Building Department shall review each building permit application and require a soil report prepared in the manner required by subsection (b) hereof when the proposed building site and improvements are in a location that may have mud slide hazards, or when such a building site is on land composed of filled areas, on marsh land, on land which has an average slope of fifteen percent (15%) or more, and when said Building Department has reason to believe that the proposed building site contains expansive soils or other soil problems which, if not corrected, might lead to structural defects in buildings proposed to be constructed upon said proposed building site. (Ord. 988 § 3, 7/23/74)

(f) Any person aggrieved by any determination or condition made pursuant to subsections (b) and (d) hereof may appeal such determination or condition to such appeal board as is established pursuant to the provisions of §§ 317-51 to 317-55 of this Code, and appeals shall be taken in the manner prescribed by the rules and regulations of said appeals board. (Ord. 596 § 6, 5/16/67)

ARTICLE IV. PARCEL MAP

326-31. FILING OF PARCEL MAP.

A tracing and three legible prints of the Parcel Map shall be filed within twenty-four (24) months of approval of the Tentative Subdivision Map. An extension of time not exceeding that permitted by the Map Act may be granted by the Advisory Agency approving the Tentative Subdivision Map as provided in the Map Act. Modification of a Tentative Subdivision Map after approval or

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conditional approval shall not extend the time limits imposed by this section.

The map filed with the County Surveyor with evidence that all conditions of approval have been met. The County Surveyor shall review the map to determine if: (1) it conforms to the Tentative Subdivision map; (2) all conditions of approval have been met; (3) it is in conformance with the Map Act and this division; and (4) it is technically accurate.

If the County Surveyor affirmatively determines the above, he shall sign the map and forward it to the Recorder. The County Surveyor shall either sign the map or reject it within twenty (20) days from the date it is filed unless the subdivider and County Surveyor mutually agree to extend said time. The County Surveyor may accept, accept subject to improvement or reject dedications or offers of dedications that are made by a statement on the map. The County Surveyor shall certify the acceptance or rejection of the dedication on the map. (Ord. 1290 § 7, 12/12/78; amended by Ord. 1612 § 1, 8/16/83; amended by Ord. 1961 § 2, 3/3/92)

326-32. FORM OF PARCEL MAP.

(a) The form of the Parcel Map shall be as specified in § 66445 of the Map Act, except that the size of each sheet shall be a minimum of eighteen by twenty-seven inches (18" x 27") and that the margin on the left side of the map shall be a minimum of two inches (2"). (Ord. 1146 § 91, 7/19/77)

(b) In addition to any other certifications required to be placed on the map by the Subdivision Map Act, the map shall contain the certification required by Government Code § 66492 (or any successor section thereto). Said certification shall be in the form prescribed by the County Tax Collector. (Added by Ord. 1961 § 3, 3/3/92)

(c) Pursuant to Government Code § 66468.2, the duties of the Clerk of the Board with respect to the filing of Maps as set forth in Title 7, Division 2, Chapter 3, Article 6 of the Government Code, are hereby delegated to the County Tax Collector. (Added by Ord. 1961 § 3, 3/3/92)

326-33. PARCEL MAP APPLICATION FAILURE.

The Advisory Agency shall disapprove a map for failure to meet or perform any of the requirements or conditions imposed by the Map Act or this division; provided that a Parcel Map shall be disapproved only for failure to meet or perform requirements or conditions which were applicable to the subdivision at the time of approval of the Tentative Subdivision Map and provided further that such disapproval shall be accompanied by a finding identifying the requirements or conditions which have not been met or performed. When the failure of the map to comply with the Map Act or this division is the result of a technical and inadvertent error, which in the determination of the Advisory Agency, does not materially affect the validity of the map, the Advisory Agency, upon written request of the subdivider, may waive such failure and approve the map. (Ord. 1146 § 92, 7/19/77)

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326-34. WAIVER OF REQUIREMENT OF PARCEL MAP.

(a) The requirement that a Parcel Map be prepared and recorded may be waived in accordance with the procedures set forth in this section if the preparation and recordation of a Parcel Map will create an undue hardship and the absence of survey data will not be detrimental to future owners of the lots created, or an abundance of survey data exists or record such that the survey and preparation of the Parcel Map is an unnecessary expense and the parcels can be conveyed by metes and bounds descriptions. A Tentative Subdivision Map approved by the Advisory Agency shall be required in cases where a Parcel Map is waived.

(b) An application for waiver of the requirement of a Parcel map shall be filed with the County Surveyor upon such forms as prescribed by the County Surveyor. The filing of such application shall be accompanied with payment of a filing fee as established by resolution of the Board of Supervisors.

(c) An application for waiver of the requirement of a Parcel Map shall be acted upon by the County Surveyor within twenty (20) days after its filing, unless such time is extended by agreement with the applicant. The County

shall by written instrument approve or conditionally approve the application for waiver if it is determined that:

(1) The requirement of a Parcel Map will create an undue hardship and the absence of survey data will not be detrimental to future owners of the lots created, if an abundance of survey data exists of record such that the survey and preparation of the Parcel Map is an unnecessary expense and the parcels can be reconveyed by metes and bounds descriptions; and

(2) The Board of Supervisors or the Advisory Agency has made a finding that the proposed subdivision complies with the requirements of the Subdivision Map Act and this division as to area, improvement and design, flood water drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection, and other requirements of the Subdivision Map Act and this division.

Any requirements for the construction of reasonable off-site and on-site improvements for a lot being created by the proposed division of land shall be set forth in the instrument approving the application of waiver.

(d) The instrument of Waiver shall be duly acknowledged. The County Surveyor shall arrange for recordation of the instrument of waiver pursuant to Government Code § 66411.1.

(e) Within ten (10) days after denial of any application for waiver by the County Surveyor, a subdivider may appeal to the Humboldt County Subdivision Waiver Appeals Board. The Humboldt County Subdivision Waiver Appeals Board, hereby created, shall consist of three (3) members who are qualified by training and experience to pass upon matters pertaining to land boundaries. (Ord. 1290 § 8, 12/12/78)

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CHAPTER 7

REVERSION TO ACREAGE BY FINAL MAP OR PARCEL MAP

327-1. DATA FOR REVERSION TO ACREAGE.

Lots may be reverted to acreage in the manner set forth in Government Code §§ 66499.11 et seq. The petition for reversion shall be on a form prescribed by the Department of Public Works. The petition shall contain at least the following information:

(a) Evidence of title to the real property within the subdivision; and

(b) One of the following:

(1) Evidence of the consent of all of the owners of an interest in the property; or

(2) Evidence that none of the improvements required to be made have been made within two (2) years from the Final Map or Parcel Map was filed for record or within the time allowed by agreement for completion of the improvements, whichever is later; or

(3) Evidence that no lots shown on the Final or Parcel Map have been sold within five (5) years from the date such Final or Parcel Map was filed for record; and

(c) One of the following:

(1) A Tentative Reversion to Acreage Map; or

(2) A Final Map conspicuously entitled "Reversion to Acreage Map" in the form prescribed by §§ 326-21 through 326-23, which map shall delineate dedications which will not be vacated and dedications required as a condition to reversion. (GC § 66499.13) (Ord. 1146 § 100, 7/19/77)

327-2. FEES.

Petitions to revert property to acreage shall be accompanied by the fee set by § 322-2. Fees are not refundable. (GC § 66499.14) (Ord. 1146 § 101, 7/19/77)

327-3. REVERSION TO ACREAGE BY PARCEL MAP.

Property previously subdivided consisting of four (4) or less contiguous lots under the same ownership may be reverted to acreage by Parcel Map. (GC § 66499.20-1/2) (Ord. 1146 § 102, 7/19/77)

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327-4. RESUBDIVISION.

Property previously subdivided may be reverted to acreage and resubdivided by a Parcel Map or Final Map entitled "Resubdivision Map." (Ord. 1146 § 103, 7/19/177)

CHAPTER 7.5

MERGER OF PARCELS

ARTICLE I GENERAL

327.5-1. PURPOSE.

The County of Humboldt had a merger ordinance in existence prior to January 1, 1984. This chapter is enacted for the purpose of amending the existing merger ordinance of the County of Humboldt (previously Humboldt County Code § 317-64) to bring it into compliance with Article 1.5 of Chapter 3 of Division 2 of Title 7 of the California Government Code (§§ 66451.10 et seq.); to provide for the continued merger of certain resource lands merged by operation of law prior to January 1, 1984; and to provide for voluntary merger of parcels of land. Article II of this Chapter shall only be implemented on parcels within the County which are zoned Timberland Production Zone and parcels which are enforceably restricted by a Williamson Act Contract. Article III of this chapter shall only be implemented on parcels within the County which are enforceably restricted by a Williamson Act Contract. In

restricting the application of Article III of this chapter to parcels which are enforceably restricted by a Williamson Act Contract, the Board of Supervisors finds that the preservation of mergers of these resource lands which merged by operation of law prior to January 1, 1984, as provided for in Article III, is necessary to aid in preserving the integrity of the Williamson Act program in Humboldt County, to aid in the enforcement and prevention of violations of the Williamson Act (Government Code §§ 51200 et seq.) and local regulations adopted pursuant thereto.

327.5-2. DEFINITIONS.

Except as otherwise provided, when used in this chapter, the following terms shall have the following meanings:

(a) "Advisory Agency" means the Planning Commission; provided, that the Planning Commission may designate the Planning Director to act as the Advisory Agency.

(b) "Contiguous" means touching or adjoining at more than one point. Property shall be considered contiguous even if it is separated by roads, streets, utility easements or railroad rights-of-way;

(c) "Merged by operation of law" means the merger of parcels by or through the law without any direct action by the County (other than adoption of applicable ordinances) or by the property owner. As used in this section, "merged by operation of law" refers to the merger of parcels pursuant to the provisions of the Humboldt County Code and/or the State Subdivision Map Act in effect prior to January 1, 1984. The term "merged by operation of law" does not include voluntary mergers by action of the owner, or merger pursuant to the provisions of Article II of this chapter.

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(d) "Merger" means the joining of two or more contiguous parcels or units of improved or unimproved land, which are held by the same owner or owners, into one parcel or unit of land pursuant to this chapter. Parcels or units include, but are not limited to, lots created by the division or subdivision of land, lots created by deed or record of survey, and U.S. patent parcels.

(e) "Planning Director" means the Planning Director of the Planning Department of the County of Humboldt and his duly authorized deputies.

(f) "Same Owner or Owners": For the purpose of Article II of this chapter, contiguous parcels or units are considered to be held by the same owner or owners if the same owner or owners own the same property interest in each of the parcels subject to merger on the date when the Notice of Intent to Determine Status is recorded pursuant to § 327.5-5. For the purpose of Article III of this chapter, contiguous parcels or units of land are considered to be held by the same owner or owners if the same owner or owner, or their predecessors in interest, owned the same property interest in each of the parcels subject to merger on the date when such parcels were merged by operation of law.

(g) "Resource Land" or "Resource Parcel" means a parcel or unit of land that meets the conditions described in subparagraphs (1), (2), (3), (4) or (5) of subsection (B) of § 327.5-3 of the County Code.

(h) "This Chapter" means Chapter 7.5 of Division 2 of Title III of the Humboldt County Code.

ARTICLE II NEW MERGERS

327.5-3. REQUIREMENTS FOR MERGER UNDER THIS ARTICLE.

(a) Except as provided in § 327.5-9 when any one of two or more contiguous parcels or units of land, which are held by the same size under the applicable zoning designation, the contiguous parcels shall merge if all the following requirements are satisfied:

(1) At least one of the affected parcels is undeveloped by any structure for which a building permit was issued or for which a building permit was not required at the time of construction, or is developed only with an accessory structure or structures, or is developed with a single structure, other than an accessory structure, that is also partially sited on a contiguous parcel or unit of land.

(2) With respect to any affected parcel, one or more of the following conditions exists:

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

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

(c) Does not meet current standards for sewage disposal and domestic water supply under applicable County regulations;

(d) Does not meet slope stability standards established by or pursuant to the Humboldt County General Plan.

(e) Has no legal access which is adequate for vehicular and safety equipment access and maneuverability. The standards of access shall be those contained in the Appendix to Title III, Division 2 of the Humboldt County Code;

(f) Its development would create health and safety hazards;

(g) Is inconsistent with the Humboldt County General Plan, the Local Coastal Plan or any applicable Community Plan, other than minimum lot size or density standards.

(b) The provisions of subdivision (2) of subsection A of § 327.5-3 shall not apply if one or more of the following conditions exists:

(1) On or before July 1, 1981, one or more of the contiguous parcels or units of land was enforceably restricted open-space land pursuant to a contract, agreement, scenic restriction, or open-space easement, as defined and set forth in § 421 of the Revenue and Taxation Code.

(2) On July 1, 1981, one or more of the contiguous parcels or units of land was timberland as defined in subdivision (f) of § 51104 of the Government Code, or was land devoted to an agricultural use as defined in subdivision (b) of § 51201 of the Government Code.

(3) On July 1, 1981, one or more of the contiguous parcels or units of land was located within 2,000 feet of the site on which an existing commercial mineral resource extraction use was being made, whether or not the extraction was being made pursuant to a use permit issued by the County.

(4) On July 1, 1981, one or more of the contiguous parcels or units of land was located within 2,000 feet of a future or existing commercial mineral extraction site as shown on a plan for which a use permit or other permit authorizing commercial mineral resource extraction has been issued by the County.

(5) Within the coastal zone, as defined in § 30103 of the Public Resources Code, one or more of the contiguous parcels or units of land has, prior to July 1, 1981, been identified or designated as being of insufficient size to support residential

development and where the identification or designation has either (1) been included in the land use plan portion of a local coastal plan program prepared and adopted pursuant to the California Coastal Act of 1976 (Division 20 of the Public Resources Code), or (2) prior to the adoption of a land use plan, has been made by formal action of the California Coastal Act of 1976 in a coastal development permit decision or in an approved land use plan work program or an approved issue identification on which the preparation of a land use plan pursuant to the provisions of the California Coastal Act is based.

For the purposes of paragraphs (3) and (4) of subsection (b) of § 327.5-3, "mineral resource extraction" means gas, oil hydrocarbon, gravel, or sand extraction, geothermal wells, or other similar commercial mining activity.

327.5-4. EFFECTIVE DATE OF MERGER.

A merger of parcels or units of land pursuant to the provisions of Article II of this Chapter becomes effective on the date that a Notice of Merger is filed for record with the recorder of the County of Humboldt. A Notice of Merger shall specify the names of the record owner or owners and shall particularly describe the real property that is the subject to the merger.

327.5-5. NOTICE OF INTENT TO DETERMINE STATUS.

Prior to recording a Notice of merger, the Planning Director shall cause to be mailed by certified mail to the then current record owner or owners of the property a Notice of Intention to Determine Status, notifying the owner or owners that the affected parcels may be merged pursuant to standards specified in Article II of this Chapter, and advising the owner or owners of the opportunity to request a hearing on determination of status and to present evidence at the hearing that the property does not meet the criteria for merger. The notice shall inform the owner or owners that the Advisory Agency is authorized to make a determination of merger or non-merger in accordance with Humboldt County Code § 327.5-8 based on the information available from county records in the event that a request for hearing is not filed within 30 days pursuant to the provisions of § 327.5-6 of the County Code. The Notice of Intention to Determine Status shall be filed for record with the recorder of the County of Humboldt on the date that notice is mailed to the property owner or owners.

327.5-6. REQUEST FOR HEARING.

At any time within 30 days after recording of the Notice of Intention to Determine Status, the owner of the affected property may file with the Planning Director a request for a hearing on determination of status.

327.5-7. PROCEDURE FOR HEARING.

Upon receiving a request for a hearing on determination of status, the Planning Director shall fix a time, date, and place for a hearing before the Advisory Agency and shall so notify the property owner by certified mail. The hearing shall be conducted not more than sixty (60) days following the Planning Director's receipt of the property owner's request for hearing, but may be postponed or continued with the mutual written consent of the Advisory Agency and the property owner.

At the hearing, the property owner shall be given the opportunity to present any evidence that the affected property does not meet the standards for merger specified in this Chapter. At the conclusion of the hearing, the Advisory Agency shall make a determination that the affected parcels are to be merged or are not to be merged and shall so notify the owner of its determination in writing. Unless an appeal is filed pursuant to § 327.5-11, a determination of merger made following the owner's timely request for a hearing shall be recorded as provided for in § 327.5-7 not later than 90 days following the mailing of the notice required by § 327.5-7 except where the hearing has been continued beyond the 90 day period by mutual consent of the Advisory Agency and the property owner pursuant to § 327.5-7. In such a case the determination shall be recorded not later than 30 days following the hearing.

327.5-8. DETERMINATION WHEN NO HEARING IS REQUESTED.

If within the 30-day period specified in § 327.5-6, the owner does not file a request for hearing in accordance with § 327.5-6, the Advisory Agency may at any time thereafter, make a determination that the affected parcels are to be merged or are not to be merged. Unless an appeal is filed pursuant to § 327.5-11, a determination of merger made following the owner's failure to file a timely request for a hearing shall be recorded as provided in § 327.5-4 within 30 days after such determination is made.

327.5-9. NON-MERGER.

The Advisory Agency may make a determination that contiguous parcels shall not be merged whether or not the affected property meets the standards of §§ 327.5-3 provided the following findings are affirmatively made:

(a) The parcels were created by a parcel map or final map in accordance with the provisions of the Humboldt County Code in effect at the time of their creation; and

(b) The subsequent development of the individual parcels would not be contrary to the public health, safety or welfare.

327.5-10. NOTICE OF NON-MERGER.

If, in accordance with §§ 327.5-7, 327.5-8 or 327.5-9, the Advisory Agency determines that the subject property shall not be merged, it shall cause to be recorded in the manner specified in § 327.5-4 a Release of the Notice of Intention to Determine Status which was recorded pursuant to § 327.5-5, and shall mail a clearance letter to the then current owner of record.

327.5-11. APPEALS FROM DECISION OF ADVISORY AGENCY.

At any time within 30 days after the Advisory Agency makes a determination of merger or non merger pursuant to §§ 327.5-7, 327.5-8 or 327.5-9, either the property owner or the Planning Director may appeal the Advisory Agency's decision to the Board of Supervisors. The request for appeal shall be in writing, filed with the Planning Director and shall specify the factual and legal grounds upon which the appeal is based.

The Planning Director shall forward the request for appeal to the Clerk of the Board of Supervisors who shall fix a time, date and place for a hearing before the Board of Supervisors and shall notify the property owner by certified mail. The hearing shall be held not more than 30 days following the date that the appeal was filed with the Planning Director, but may be postponed or continued with the mutual written consent of the Advisory Agency and the property owner.

The evidence presented at the hearing shall be limited to the issues raised and presented at the hearing held by the Advisory Agency. If no hearing was held before the Advisory Agency, the hearing before the Board of Supervisors shall be treated as a hearing de novo and either party shall be permitted to present any evidence that the affected property does or does not meet the standards for merger specified in this chapter. At the conclusion of the hearing the Board of Supervisors shall make a determination as to whether the decision of the Advisory Agency shall be upheld, modified or reversed.

A determination of merger shall be recorded within 30 days after conclusion of the hearing as provided for in § 327.5-4. If the Board of Supervisors' decision results in a determination of non merger pursuant to § 327.5-9, a notice of merger shall be filed pursuant to § 327.5-10. A determination by the Board of Supervisors under this section is final.

**ARTICLE III - CONTINUED MERGER OR RESOURCE LANDS MERGED BY
OPERATION OF LAW PRIOR TO JANUARY 1, 1984**

327.5-12. PURPOSE.

This article is enacted for the purpose of implementing the provisions of Government Code §§ 66451.301-302 which pertain to the conditions of continued merger of resource lands.

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**327.5-13. PARCELS MERGED BY OPERATION OF LAW PRIOR TO
JANUARY 1, 1984.**

Contiguous parcels or units of resource land, which were held by the same owner or owners prior to January 1, 1984, merged by operation of law if the applicable requirements of § 317-64 and §§ 312-43 and 312-44 of Division 1 of Title III of the Humboldt County Code and/or the Subdivision Map Act in effect prior to January 1, 1984, were satisfied.

327.5-14. CONDITIONS FOR CONTINUED MERGER.

If any parcel of land which merged by operation of law as provided and described in § 327.5-13, but for which a notice of merger is not recorded before January 1, 1988, and one or more of the merged parcels or units of land is within one of the categories specified in subdivisions 1 through 5 of subsection (B) of § 327.5-3 of this Chapter, the parcels of land shall be deemed not to have merged unless all of the following conditions exist:

(a) The parcels or units are contiguous and held by the same owner.

(b) One or more of the contiguous parcels or units do not conform to minimum parcel size under the applicable County General Plan, specific plan, or zoning ordinances.

(c) At least one of the affected parcels is underdeveloped by any structure for which a building permit was issued or for which a building permit was not required at the time of construction, or is developed only with an accessory structure or accessory structures, or is developed with a single structure, other than an accessory structure, that is also partially sited on a contiguous parcel or unit.

(d) The parcels or units which do not conform to minimum parcel size were not created by a recorded parcel or final map.

If all conditions described in subdivision (a), (b), (c), and (d) above exist, only a parcel or unit of land which does not conform to minimum parcel size shall remain merged with a contiguous parcel.

327.5-15. NOTICE REQUIRED FOR CONTINUED MERGER.

(a) By January 1, 1987, the Planning Director, for all parcels or units of land which are or may be subject to the provisions of § 327.5-14 in substantially for following form:

The County of Humboldt has identified one or more parcels of land which you own as potentially subject to a new state law regarding the merger of substandard parcels which are located in one or more of the following categories:

(1) On or before July 1, 1981, one or more of the contiguous parcels or units of land is enforceably restricted open-space land pursuant to a contract, agreement, scenic restriction, or open-space easement, as defined and set forth in § 421 of the Revenue and Taxation Code.

(2) On July 1, 1981, one or more of the contiguous parcels or units of land is timberland as defined in subdivision (f) of § 51104, is in a timberland production zone as defined in subdivision (g) of § 51104, or is land devoted to an agricultural use as defined in subdivision (b) of § 51201.

(3) On July 1, 1981, one or more of the contiguous parcels or units of land is located within 2,000 feet of the site on which an existing commercial mineral resource extraction use is being made, whether or not the extraction is being made, whether or not the extraction is being made pursuant to a use permit issued by the local agency,

(4) On July 1, 1981, one or more of the contiguous parcels or units of land is located within 2,000 feet of a future commercial mineral extraction site as shown on a plan for which a use permit or other permit authorizing commercial mineral resource extraction has been issued by the local agency.

(5) Within the coastal zone, as defined in § 30103 of the Public Resources Code, one or more of the contiguous parcels or units of land has, prior to July 1, 1981, been identified or designated as being of insufficient size to support residential development and where the identification or designation has either (i) been included in the land use plan portion of a local Coastal Act of 1976 (Division 20 of the Public Resources Code), or (ii) prior to the adoption of a land use plan, been made by formal action of the California Coastal Commission pursuant to the provisions of the California Coastal Act of 1976 in a coastal development permit decision or in an approved land use plan work program or an approved issued identification on which the preparation of a land use plan pursuant to the provisions of the California Coastal Act is based.

The new state law contained in § 66451.301 of the Government Code, generally provides for parcels or units of land located in one or more of the above-described areas which were merged prior to January 1, 1984, and for which the local agency did not record a notice of merger by January 1, 1988, the parcels are deemed unmerged on January 1, 1988, unless all of the following conditions exist:

a. The parcels or units are contiguous and held by the same owner.

b. One or more of the contiguous parcels or units do not conform to minimum parcel size under the applicable general plan, specified plan, or zoning ordinance.

c. At least one of the affected parcels is undeveloped by any structure for which a building permit was issued or for which a building permit was not required at the time of construction, or is developed only with an accessory structure or necessary structures, or is developed with a single structure, other than an accessory structure, that is also partially sited on a contiguous parcel or unit.

d. The parcels or units which do not conform to minimum parcel size were not created by a recorded parcel for final map.

In order to determine whether this new law applies to your property, you should immediately contact the Humboldt County Planning Department within 45 days to assist you in determining the application of the new law.

You may request a hearing to determine the status of your property. If you wish to request a hearing, you must do so within 60 days from the date of this notice.

For additional information regarding the County's ordinance relating to mergers and the procedures for requiring a hearing, please refer to Chapter 7.5 of Division 2 of Title II of the Humboldt County Code.

WARNING. Your failure to act may result in the loss of valuable legal rights regarding the property.

327.5-16. PROCEDURES FOR HEARINGS UNDER ARTICLE III.

The following procedures shall apply to parcels which meet the conditions described in § 327.5-14 and for which the notice required by § 327.5-15 is sent.

(a) If an owner of one or more parcels covered by this section contacts the Planning Department and requests assistance in determining the status of such parcels, the Planning Director shall advise the owner that he or she has a right to a hearing before the Advisory Agency to determine the status of parcels covered by this section.

(b) If the owner requests a hearing, the Planning Director shall either personally deliver or mail to the owner a request of hearing form which must be completed and signed by the owner prior to a hearing being scheduled. The completed and signed hearing request form must be filed with the Planning Director within 60 days after the date on which the notice provided for in § 327.5-15 has been mailed or personally delivered to the property owner. Failure to file the hearing request form within the time specified in this subsection will result in waiver of the owner's right to a hearing.

(c) Once the Planning Director receives a signed and completed request for hearing form he shall set a hearing before the Advisory

Agency and shall notify the property owner of the time, date and place of the hearing by certified mail.

(d) At the hearing, the property owner shall be given the opportunity to present any evidence that the affected property is not or should not remain merged.

(e) At the close of the hearing, the Advisory Agency shall make a determination that the affected properties continue to be merged, or are not merged and shall so notify the owner in writing of its decision.

(f) Within 30 days after a determination of continued merger is made, the Planning Director shall record a notice of merger unless an appeal is filed pursuant to § 327.5-16.5.

327.5-16.5. APPEALS.

At any time within ten (10) days after the Advisory Agency makes a determination that the affected properties continue to be merged or are not merged pursuant to § 327.5-16, either the property owner or the Planning Director may appeal the Advisory Agency's decision to the Board of Supervisors. The request for appeal shall be in writing, filed with the Planning Director and shall specify the factual and legal grounds upon which the appeal is based.

The Planning Director shall forward the request for appeal to the Clerk of the Board of Supervisors who shall fix a time, date and place for a hearing before the Board of Supervisors and shall notify the property owner by certified mail.

The evidence presented at the hearing shall be limited to the issues raised and presented at the hearing held by the Advisory Agency.

At the close of the hearing, the Board of Supervisors shall make a determination that the affected properties continue to be merged, or are not merged and shall so notify the property owner in writing of its decision. A determination under this section is final and not subject to appeal.

Within 30 days after a determination of continued merger is made, the Planning Director shall record a notice of merger.

327.5-17. EFFECT OF FAILURE TO REQUEST HEARING UNDER ARTICLE III.

If an owner of one or more parcels covered by Article III of this chapter fails to contact the Planning Department within 60 days of the date of the notice described in § 327.5-15, and fails to request a hearing as provided for in § 327.5-16, all parcels owned by such owner which meet the conditions described in § 327.5-14 and for

which the notice required by § 327.5-15 was sent shall remain merged. Failure to request a hearing within the time and in the manner specified in this section shall result in a waiver of the right to a hearing.

ARTICLE IV - VOLUNTARY MERGERS

327.5-18. APPLICATION FOR MERGER OF PARCELS; PROCEDURE.

Upon request of the legal owner(s) of contiguous parcels, the Advisory Agency may approve the merger of such contiguous parcels. Such request shall be in writing and shall be accompanied by such data, documents and fees as required by the County. A merger pursuant to the provisions of this section shall not be approved unless the Advisory Agency determines that the parcel resulting from the merger meets applicable health, building, and zoning requirements and that approving the merger would create health and safety problems. If merger is approved, a notice of merger shall be filed with the County Recorder. The form and content of the notice shall be as required by the County.

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CHAPTER 8

ENFORCEMENT AND PENALTIES FOR VIOLATION

328-1. PROHIBITIONS.

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

(b) No person shall sell, lease, or finance any parcel or parcels of real property or commence construction of any building for sale, lease or financing thereon, except for model homes, or allow occupancy thereof, for which a Parcel Map is required by the Map Act or this division, until the parcel map thereof or Instrument of Waiver in full compliance with the provisions of the Map Act and this division has been filed for record with the Recorder of Humboldt County.

(c) Conveyance of any part of a division of real property for which a Final or Parcel Map is required by the Map Act or this division shall not be made by parcel or block number, initial or other designation, unless and until the final or parcel map has been filed for record with the Recorder of Humboldt County.

(d) Subdivisions (a), (b) and (c) do not apply to any parcel or parcels of a subdivision offered for sale or lease, contracted for sale or lease, or sold or leased in compliance with or except from any law (including this division), regulating the design and improvement of subdivisions in effect at the time the subdivision was established.

(e) Nothing contained in subdivisions (a) and (b) shall be deemed to prohibit an offer or contract to sell, lease or finance real property or to construct improvements thereon where the sale, lease, or financing, or the commencement of construction, is expressly conditioned upon the approval and filing of a final subdivision map or parcel map, as required by the Map Act and this division. (Ord. 1146 § 110, 7/19/77; amended by Ord. 1876 § 15, 9/26/89)

328-2. PENALTIES FOR VIOLATION.

Any person who violates any provision of this division shall be guilty of a misdemeanor, and any person, upon conviction thereof, shall be punishable by a fine of not less than Twenty-five Dollars (\$25.00) and not more than Five Hundred Dollars (\$500.00) or by imprisonment in the County Jail for a period of not more than six (6) months, or by both such fine and imprisonment, except that nothing herein contained shall be deemed to bar any legal, equitable or summary remedy to which the County or other political subdivision or any person, firm, corporation, partnership or copartnership may be entitled to, including but not limited to restraining or enjoining any attempted or proposed subdivision or sale in violation of this division. (Ord. 1146 § 111, 7/19/77)

328-3. NOTICE OF VIOLATION.

If and when the Director of Public Works becomes aware of a division of land in violation of the provisions of the chapter, he shall

record in the Office of the County Recorder of Humboldt County a notice to that effect describing the land. If such division is subsequently approved hereunder, the Director of Public Works shall record a notice that the violation has ceased. Nothing in this section shall be deemed to require

compliance with this section prior to enforcing this division. (GC §§ 66499.34, 66499.36) (Ord. 1146 § 112, 7/19/77)

328-4. VOID PERMITS.

No zoning or any other kind of permit shall be issued to any applicant to be used in connection with or pertaining to any lot or portion thereof which has been divided in violation of this chapter and not corrected as provided herein. Any permit issued in violation of this section is and shall be void. The enforcement of this provision shall be in addition to any other remedy or penalty provided by law for violation of this chapter. (Ord. 1146 § 113, 7/19/77)

328-5. NUISANCE.

Any building or structure erected or constructed in violation of this chapter shall be and is hereby declared unlawful and a public nuisance and may be abated, removed or enjoined in the manner provided by law. (Ord. 1146 § 114, 7/19/77)

ARTICLE I - ADOPTION OF PLAN; APPLICATION; FINDINGS; DEFINITIONS

328.1-1. The McKinleyville Drainage Plan is hereby adopted.

328.1-2. APPLICATION.

The provisions of this chapter shall apply only in the McKinleyville Drainage Area.

328.1-3. FINDINGS.

The Board of Supervisors finds as follows:

(a) Subdivision and development of the property within the McKinleyville Drainage Area will require construction of the Planned Facilities;

(b) The estimated costs of constructing the Planned Facilities are based on the findings set forth in subsections (a) and (c) of § 328.1-3;

(c) The fees established by this chapter are fairly apportioned within the McKinleyville Drainage Area on the basis of benefits conferred on property proposed for subdivision and development of other property within the McKinleyville Drainage Area.

(d) The fee established by this chapter as to any property proposed for subdivision within the McKinleyville Drainage Area does not exceed the pro rata share of the amount of the total actual or estimated costs of all the Planned Facilities within the McKinleyville Drainage Area which would be assessable on such property if such costs were apportioned uniformly on a per acre basis;

(e) The Planned Facilities are in addition to existing facilities serving the area at the time of adoption of the McKinleyville Drainage Plan.

328.1-4. DEFINITIONS.

For purposes of this chapter the following words and phrases shall have the meaning given below:

(a) "Channel" is defined as an elongated open depression in the contour of land in which storm water may or does flow.

(b) "Conduit" is defined as a general term for any artificial or natural channel intended for the conveyance of storm water, whether open or closed, or any structure through which water flows.

(c) "Culvert" is defined as a closed conduit for the free passage of drainage water under a highway, railroad, canal or other embankment.

(d) "Designated Remainder" means a designated remainder parcel as defined in § 66424.6 of the Government Code.

(e) "Ditch" is defined as a trench for drainage or irrigation artificially made by digging.

(f) "Drainage" is defined as:

(1) The process of removing surplus surface and storm water by means of channels, conduits, culverts, ditches and other means;

(2) The manner in which the waters of an area are removed;

(3) The area from which waters are drained; a drainage basin.

(g) "Dwelling Unit" is a building or portion thereof designed exclusively for residential occupancy by one family for living purposes and having only one kitchen.

(h) "Existing Parcel" means a parcel which existed before the effective date of this chapter. "Existing Parcel" also means a Designated Remainder.

(i) "Major Drainage Channels" are the main stream tributaries that are the final discharge points for individual drainage areas.

(j) "Minor Drainage Channels" are channels or conduits that tie to the secondary drainage channels.

(k) "McKinleyville Drainage Area" means and refers to the unincorporated area in the County of Humboldt which lies within the exterior boundaries of the study area and drainage boundaries shown in appendix 1 to this chapter, which study area and drainage boundaries are more particularly shown and described in the McKinleyville Drainage Study and maps referred to in subsection (k) of § 328.1-4 of this chapter.

(l) "McKinleyville Drainage Plan" means and refers to that certain document, including the plans and maps contained therein, prepared by the firm of Winzler & Kelly, Consulting Engineers, entitled "McKinleyville Drainage Study, Prepared for the County of Humboldt and McKinleyville Community Services District", dated August 1982, copies of which are on file in the Office of the Clerk of the Board of Supervisors.

(m) "New Parcel" means a parcel created after the effective date of this chapter. It does not include a Designated Remainder.

(n) "New Subdivision(s)" means a division or subdivision of land after the effective date of this chapter.

(o) "Planned Facilities" means and refers to the proposed drainage facilities and improvements described in the McKinleyville Drainage Plan.

(p) "Ponding Area" is defined as a pond used for storage of storm water. It shall always contain some water and will have storage capacity in addition to its normal low flow level.

(q) "Secondary Drainage Channels" are channels or conduits typing directly to the major drainage channels.

(r) "Storage Basin" is defined as a holding basin for storage of storm water. Under normal circumstances it is dry but has storage capacity when flows exceed the capacity of the storm water drainage system.

(s) "Stream" is defined as any course of running water flowing on the earth.

(t) "Subdivider" means a person, firm, corporation, partnership or association who proposes to divide, divides or causes to be divided real property into a subdivision for himself or for others, except that employees and consultants of such persons or entities, acting in such capacity, are not "subdividers".

(u) "Subdivision" means the division by any subdivider, of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized county assessment roll as a unit or as contiguous units, for the purpose of sale, lease or financing, whether immediate or future except for leases of agricultural land for agricultural purposes. Property shall be considered as contiguous units, even if it is separated by roads, streets, utility easement or railroad rights-of-way. Any conveyance of land to a governmental agency, public entity or public utility shall not be considered a division of land for purposes of computing the number of parcels. As used in this paragraph, "agricultural purposes" means the cultivation of food or fiber or the grazing or pasturing of livestock.

(v) "Subdivision Map Act" refers to Title 7, Division 2 of the Government Code of the State of California, as amended.

ARTICLE 2 - MINIMUM REQUIREMENTS

328.1-5. RUNOFF DESIGN.

Storm water runoff from a subdivision shall be collected and conveyed by a drainage system approved by the Director of Public Works. Maximum runoff shall be computed using the Rational Method. The Rainfall Intensity - Duration Curve, for Eureka, and "C" values approved by the Director of Public Works shall be used in computation. Runoff design shall accommodate the full and anticipated future development within the drainage area. In cases where the drainage areas are undeveloped, fully improved conditions shall be determined by the designation of the area on the General plan or the zoning classification of the area. The drainage system shall provide for the protection of the abutting properties that would be adversely affected by any increase in runoff attributed to the development, for which off-site storm drain improvements may be required.

328.1-6. PROTECTION FROM SURFACE WATERS.

All portions of building sites shall be protected from flood hazard, inundation, sheet flow and ponding of storm waters, springs and all other surface waters. All finished floors shall be a minimum of one foot above the water surface of a 100-year frequency storm runoff.

328.1-7. ADEQUATE STORM DRAINAGE FACILITIES.

(a) The design of all improvements on any parcel within the McKinleyville Drainage Area shall be such that all surface waters occurring within the parcels, as well as all surface waters flowing onto and/or through the parcel shall be conveyed through the parcel without damage to any improvement, building site, or dwelling which may be constructed on the parcel or on any other parcels in the vicinity. Drainage facilities for any improvement shall be designed to adequately convey the storm water runoff from the ultimate development of the drainage basin or watershed.

(b) Site development shall be accomplished wherever possible in a manner that will maximize percolation and infiltration of precipitation into the ground and will minimize direct surface runoff into adjoining streets, water courses, or properties.

(c) Site development shall be accomplished wherever possible in a manner to maximize use of natural drainage features.

328.1-8. SURFACE WATER FLOWING FROM A SUBDIVISION.

Surface water flowing from a parcel or subdivision in any form or manner shall be conveyed without damage to any improvement, building, or dwelling both within and downstream of the subdivision to a natural watercourse having a definable bed and banks, or to an existing adequate

storm drainage facility. Storm drainage facilities to be constructed outside of the parcel or subdivision shall be designed to adequately convey the storm water runoff from the ultimate development of the drainage basin or watershed

lying within and above the subdivision. Any surface waters detained or ponded on adjacent property(s) as the result of improvements constructed by the developer or subdivider, shall not cause any damage to said property.

328.1-9. STORM WATER DISPOSAL RESTRICTION.

Storm water flowing from a parcel or subdivision in any form or manner shall not be permitted to flow into any sanitary sewer or any other facility not specifically intended for storm water runoff.

328.1-10. CAPACITY OF CHANNELS AND CONDUITS.

Drainage channels and conduits shall have the following minimum capacities:

(1) Major Drainage Channels. Major drainage channels and conduits shall have sufficient capacity to contain a 100-year frequency or occurrence runoff.

(2) Secondary Drainage Channels. Secondary drainage channels and conduits shall have sufficient capacity to contain a ten-year frequency of occurrence runoff, as well as sufficient additional capacity so that floodwaters escaping therefrom shall not reach an elevation within one foot of any dwelling or commercial structure.

(3) Minor Drainage Channels. Minor drainage channels, conduits, and appurtenant facilities shall have sufficient capacity to contain a ten-year frequency of occurrence runoff, as well as sufficient additional capacity so that floodwaters escaping therefrom shall not reach an elevation within one foot of any dwelling or commercial structure.

328.1-11. FACILITIES DESIGN CRITERIA.

Drainage systems shall conform to the requirements contained in § 4, "Drainage" of the Humboldt County Roadway Design Manual adopted by the Board of Supervisors on February 1, 1972, as it may be amended from time to time.

328.1-12. EASEMENTS.

Necessary easement to construct and maintain drainage facilities shall be required. The Director of Public Works, following accepted engineering practices, shall set the widths of these easements as developments warrant, and he is encouraged, consistent with accepted engineering criteria, to make them the minimum size necessary to plan for the ultimate development of McKinleyville.

ARTICLE 3 - DRAINAGE FEES

328.1-13. ESTABLISHMENT OF FEES.

There are hereby established and imposed on each existing parcel and on each new parcel that lies within the "McKinleyville Drainage Area" (excepting therefrom that area shown as "North Bank Road Drainage") drainage fees in the amounts specified in § 328.1-14 of this chapter.

328.1-14. AMOUNT OF FEES.

(a) New Parcels. For each new parcel created pursuant to the Subdivision Map Act and local subdivision ordinance there shall be imposed the following fees:

1. An initial fee of \$250.00 per parcel; and
2. If application is made for a building permit, an additional fee calculated in the same manner as the fee for an existing parcel pursuant to subdivision (b) of this section, less the sum paid pursuant to subdivision (a)(1) of this section.

(b) Existing Parcels. For each existing parcel, there shall be imposed the following fees:

1. For the construction of any new dwelling (single or multiple unit), the fee shall be \$250.00 per dwelling unit, up to a maximum of \$2,000.00 per acre.
2. For the construction of all other new structures subject to the permit requirements of Title 3, Division 3 of this Code, the fee shall be \$0.16 per square foot of impervious area created, up to a maximum of \$2,000.00 per acre.
3. For additions to existing structures which will result in additional ground coverage in excess of 100 square feet or, in the case of upper-story additions, an additional floor area in excess of 100 square feet, the fee shall be \$0.16 per square foot. The total fee or cumulative fees paid pursuant to this paragraph shall not exceed \$250.00 per dwelling unit, or f\$2,000.00 per acre.

(c) The fee provided for in subsection (a)(1) of § 328.1-14 shall be collected at the time and in the manner specified in § 328.1-16; and the fees provided for in subsections (a)(2) and (b) of §328.1-14 shall be collected at the time and in the manner specified in § 328.1-15. However, in no event shall the total fee or cumulative fees imposed pursuant to this chapter exceed, in the case of dwellings, \$250.00 per dwelling unit, and in all other cases, \$2,000.00 per acre. For purposes of computing the acreage in a subdivision, the area included in a designated remainder shall be excluded.

328.1-15. PAYMENT OF FEES - CONSTRUCTION ON NEW EXISTING PARCELS.

The County Building Official shall not issue a building permit for construction on a parcel within the McKinleyville Drainage Area, which results in additional ground coverage in excess of 100 square feet or, in the case of upper-story additions, results in additional floor area in

excess of 100 square feet, until the fees set forth in this chapter have been paid. The Building Official may accept cash, or other consideration in the form of actual construction of a part of drainage facilities by the applicant or his principal in lieu of the fee, when authorized to do so by the Director of Public Works. The fee shall not be required if the requested permit is to perform one of the following:

(1) To replace a structure destroyed or damaged by fire, flood, wind or acts of God. This exception is only to the extent that the resultant structure has the same or less ground floor square footage as the original structure; if the ground floor square footage is increased, the square footage of the additional ground floor area shall be used to determine if the fee is due.

(2) To construct a swimming pool, patio, patio cover, or driveway.

(3) To construct or modify a single family residence on a parcel greater than five (5) acres in area.

(4) To construct or modify any facilities on parcels greater than 20 acres in area, provided less than ten percent (10%) of the parcel is covered by impervious surfaces.

(5) To construct, enlarge or modify concrete or asphalt concrete surfaces incidental to land uses other than single family residential. This exemption is only to the extent that the increase in impervious area is less than 500 square feet.

328.1-16. PAYMENT OF FEES - NEW PARCELS.

(a) No parcel map, tentative map, or final map which divides or subdivides property in the McKinleyville drainage area shall be approved unless and until the subdivider complies with the following requirements:

(1) Pays the fees prescribed by Section 328.1-14(a)(1) of this chapter on or before the date of approval of any such map; or

(2) Agrees to pay the per parcel fee referral to in the preceding subsection on or before a building permit is issued for construction on said parcel created by any such map, if a fee would be required for construction on an existing parcel under the provisions of Section 328.1-15 of this Chapter, and furnishes good and sufficient security to ensure performance of such obligation. For purposes of this subsection, the term "good and sufficient security" means any of the following:

a. A bond or bonds by one or more duly authorized corporate sureties.

b. A deposit, either with the County or a responsible escrow company or trust company, at the option of the County, of money or negotiable bonds of the kind approved for securing deposits of public moneys.

c. An instrument of credit from one or more financial institutions subject to regulation by the state or federal government and pledging that the funds necessary to carry out the act or agreement are on deposit and guaranteed for payment.

d. Subject to approval of the Director of Public Works, a lien upon the property to be divided, created by contract between the owner and the County. Any such lien shall be

subject to the provisions of § 326-6.3 of the County Code, except that all references in said section to installation or completion of subdivision improvements shall be deemed to refer to payment of the fees required to be paid pursuant to the provisions of Article 3 of this Chapter.

(b) The provisions of subsection (a) of § 328.1-16 shall not apply to a division or subdivision of land which is conveyed to a government agency, public entity, public utility, or abutting property owner, if a new building lot or site is not created as a result of such division or subdivision.

(c) The provisions of subsection (a) of § 328.1-16 shall not apply to a division or subdivision of land which is zoned for single family residential purposes and which results in parcels of land which are all larger than five (5) acres in size.

328.1-17. MASTER STORM DRAINAGE PLANS REQUIRED FOR SUBDIVISIONS.

With the filing of the improvement plans for the first unit of any subdivision, the subdivider or developer shall submit a master storm drainage plan for the entire area covered by the tentative map. In so doing, the subdivider or developer shall design the system to essentially conform to the McKinleyville Drainage Study plan. The subdivider shall construct and dedicate to the County, the necessary storm water drainage improvements.

328.1-18. CREDIT FOR LISTED DRAINAGE FACILITIES.

Whenever drainage facilities (either on or off-site) listed as proposed improvements in Chapter VI, Section C, of the McKinleyville Drainage Plan, or facilities determined by the Director of Public Works to be functionally equivalent, are required by the County to be constructed and installed by the subdivider as a part of the subdivision or by a developer of a parcel(s), the cost of construction of such drainage facilities, as contained in the plan, shall be credited against drainage fees chargeable to such subdivision or development project, provided such facilities are owned by the County at the time such fees are payable, or will be owned by the County upon acceptance thereof by the County.

If the credit exceeds the fees owed by the subdivider or developer, the County shall reimburse the subdivider or developer in the following manner: At the beginning of each fiscal year, fifty percent (50%) of the drainage fees deposited during the previous fiscal year shall be allocated to reimburse subdividers or developers. If sufficient funds are available, all subdividers and developers shall be reimbursed in full at the end of the fiscal year, and the remaining funds shall become available for construction projects along with the other fifty (50%) of the drainage fees deposited. If sufficient funds are not available to reimburse all subdividers and developers, then they shall be reimbursed in proportion to the amount owed, except that all amounts less than \$1,000 shall be paid in full first. Any deficiency shall be carried over to the next fiscal year. (Amended by Ord. 2092, Sec. 2,10/10/95)

328.1-19. CONFLICTING PROVISIONS.

The provisions of this chapter shall prevail over any other provisions which are in conflict therewith, but only to the extent of such conflict.

OF THE HUMBOLDT COUNTY CODE
ESTABLISHING SUBDIVISION DESIGN AND
IMPROVEMENT STANDARDS

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APPENDIX TO TITLE III, DIVISION 2,
OF THE HUMBOLDT COUNTY CODE

ESTABLISHING SUBDIVISION DESIGN AND
IMPROVEMENT STANDARDS

Section 1 - Administration of Roadway Design

- § 1-1. Administration.
- § 1-2. Maintainability.

Section 2 - Basic Design Policies and Geometric Standards

- § 2-1. Basic Design Objectives.
- § 2-2. Design Speed.

Section 3 - Other Policies

- § 3-1. Access Openings.
- § 3-2. Driveways.
- § 3-3. Scenic Values in Planning and Design.
- § 3-4. Erosion and Water Pollution.

Section 4 - Design Standards for Roadway Categories

- § 4-1. Integrating the County Classification System into the Roadway Design Process.
- § 4-2. Guidelines for Determining Roadway Categories.

Section 5 - Streets and Highways

- § 5-1. Street Arrangement.
- § 5-2. Circulation Element.
- § 5-3. Centerlines.
- § 5-4. Non-Access Strips.
- § 5-5. Street Center Sections.

Section 6 - Street Names and Signs

- § 6-1. Street Names.
- § 6-2. Signs.

Section 7 - Lots

- § 7-1. General.
- § 7-2. Exceptions to Lot Frontage Requirement.
- § 7-3. Double Frontage Lots.
- § 7-4. Corner Lots.
- § 7-5. Preservation of Ecological and Scenic Features.

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Appendix to Title III, Division 2 (continued)

Section 8 - Sewage Disposal and Water Supply

- § 8-1. Sewer Connections.
- § 8-2. Water.
- § 8-3. Coliform Test. (Repealed by Ord. 1290 § 9, 12/12/78)
- § 8-4. Deeded Water Rights.

Section 9 - Water Courses

Section 10 - Drainage Facilities

Section 11 - Flood Hazards

Section 12 - Railroads and Grade Crossings

Section 13 - Landscaping

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APPENDIX § 1-1

PURPOSE

This Appendix establishes policies and standards for roadway design and other subdivision improvements. Also included are desirable design practices. These policies, standards and practices are to be used to guide and inform County employees involved in approving the design of subdivision improvements as well as for the subdivider and/or his engineer.

INTERPRETATION

The Director of Public Works shall be responsible for interpreting and enforcing this Appendix.

SECTION 1
ADMINISTRATION OF ROADWAY DESIGN

1-1. ADMINISTRATION.

It is the policy of Humboldt County that the Director of Public Works will be responsible for the administration of policies and standards contained herein.

1-2. MAINTAINABILITY.

It is the policy of Humboldt County that roadways will be designed to minimize maintenance costs while providing acceptable levels of service.

SECTION 2
BASIC DESIGN POLICIES AND GEOMETRIC STANDARDS

2-1. BASIC DESIGN OBJECTIVES.

It is the policy of Humboldt County that roadway designs will satisfy the following basic criteria: The roadway will be designed to move traffic efficiently and safely at prescribed service levels, consistent with the expected use of the roadway. This means that the design will be based upon:

- (a) Legal requirements;
- (b) Sound engineering principles and practices and engineering geological evaluation if necessary;
- (c) Traffic safety considerations;
- (d) Economy of design and maintenance; and
- (e) Allowance for the special nature of Humboldt County roads and traffic problems.

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2-2. DESIGN SPEED.

It is the policy of Humboldt County that design speeds shall be adequate for mobility, yet generally remain consistent with the needs of the area being served.

SECTION 3
OTHER POLICIES

3-1. ACCESS OPENINGS.

All access openings to County roads shall be located and constructed in such a manner as to provide safe visibility and be compatible with the County road. Openings to County arterial roads shall be minimized in number.

3-2. DRIVEWAYS.

All construction to connect driveways to County roads shall be authorized by a valid permit. (See Humboldt County Code Title 4, Division 5, Encroachment Permits.) The construction, repair and maintenance of all driveways shall be the responsibility of the property owner, developer or tenant of the abutting property. This responsibility shall include the entire

area of driveway from the edge of the existing pavement or traveled way to the property line.

3-3. SCENIC VALUES IN PLANNING AND DESIGN.

It is the policy of Humboldt County that scenic values be considered when planning and designing roadways. As an agreeable and natural road-side appearance is desirable, the destruction of valuable trees and growth should be avoided if suitable alternative locations are available at reasonable cost.

3-4. EROSION AND WATER POLLUTION.

It is the policy of Humboldt County that erosion or water pollution pertaining to or resulting from the construction of highways or roadways is to be held to a practical minimum and shall be temporary in nature.

The examples of Best Management Practices found within the appendix to the County Grading, Excavation, Erosion and Sediment Control regulations (Section 331-14) may be proposed by applicants or utilized by County staff in the conditioning of any development related application or approval pursuant to the County Subdivision Regulations.

SECTION 4
DESIGN STANDARDS FOR ROADWAY CATEGORIES

4-1. INTEGRATING THE COUNTY CLASSIFICATION SYSTEM INTO THE ROADWAY DESIGN PROCESS.

It is the policy of Humboldt County that design will be based upon the following roadway classification, use and level of service factors.

The Director of Public Works is responsible for placing roads serving subdivisions into one or more of the following roadway categories:

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(a) Roadway Category #1:

- (1) Single lane - low speed, less than 20 mph.
- (2) No parking permitted on traveled way.
- (3) Maximum length - 1/4 mile.
- (4) Serves maximum of four (4) parcels having no more than one dwelling unit per parcel.
- (5) Rural area only.

(b) Roadway Category #2:

(1) Single lane - with intervisible turnouts not to exceed 1/4 mile spacing.

(2) No parking on traveled way.

(3) Serves a maximum of ten (10) parcels having no more than one dwelling unit per parcel.

(4) Rural area only.

(5) Low speed - 25 mph design.

(c) Roadway Category #3:

(1) Single lane - will allow for vehicles to pass each other at slow speeds.

(2) No parking on traveled way.

(3) Serves a maximum of 20 parcels having no more than one dwelling unit per parcel.

(4) Rural situations - low density area.

(5) Low speed - 25 mph design.

(d) Roadway Category #4:

(1) Two lane - narrow roadway, low to moderate speed - 25-40 mph.

(2) No parking on traveled way.

(3) Serves a maximum of 100 parcels with no more than one dwelling unit per parcel.

(4) Urbanization situation. Vicinity is beginning to undergo a transition from rural to urban.

(e) Roadway Category #5:

(1) Full two lane with at least two 4-foot shoulders.

(2) No parking on traveled way.

(3) Urban or urbanizing area. Vicinity normally will have intermittent high density lots and large lots or acreage.

(f) Roadway Category #6:

(1) Full two lane with at least two 8-foot parking lanes.

(2) Provides on-street parking and/or sidewalks as approved by Department of Public Works. Topography or design may require deletion of parking on one side as approved by Department of Public Works.

(3) Urban area.

4-2. GUIDELINES FOR DETERMINING ROADWAY CATEGORIES.

(a) If on-street parking is expected, then a parking lane must be provided. The parking lane need not accommodate more than three (3) vehicles if the lot frontage exceeds 120 feet. If the subdivider does not provide for on-street parking, the topography of the lots must permit normal site development and provide room for the parking of five (5) vehicles.

(b) Applicant is responsible for all drainage requirements.

(c) In estimating average daily traffic (ADT), the number of lots served by the road in urban or urbanizing areas shall be multiplied by eight (8). In rural areas, the number of lots served by the road shall be multiplied by five (5).

(d) Upon satisfactory completion, roads constructed in accordance with standards of Categories 4 through 6 would qualify for inclusion into the County maintained road system. Roads under Category 3 would qualify if surfaced with seal coat or asphalt. Roads under Categories 1, 2 and 3 (if gravel) would be considered on an individual basis. Consideration would be given to building set backs, area's density, length of road, size of parcels, if it connected to a public maintained road, and public use.

(e) Nothing herein permits the submittal of subdivision improvement plans which do not reflect sound engineering judgment and practices. The subdivider's engineer shall certify that all subdivision improvement plans represent sound engineering judgment and practices.

(f) Dead end roads shall have an adequate turnaround at their termination.

(g) Design standards herein are not intended to be all inclusive. The Roadway Categories contained in this Appendix are excerpts from the County Design Manual. The County and State Design Manuals should be referred to, when applicable. All work, including water and sewer lines, shall conform to the State Standard Specifications.

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SECTION 5
STREETS AND HIGHWAYS

5-1. STREET ARRANGEMENT.

The arrangement of streets in the subdivision shall provide for the coordination of principal streets of adjoining subdivisions, and for the proper projection of principal streets into adjoining properties which are not yet subdivided, in order to make possible necessary fire protection, movement of traffic and the construction or extension, presently or when later required, of needed utilities and public services such as sewers, water and drainage facilities. When the topographic or other conditions make such continuance impracticable in the opinion of the Advisory Agency, the above requirements may be modified.

5-2. CIRCULATION ELEMENT.

The streets and highway layout of each subdivision shall be based on sections of the circulation element of the General Plan in all cases where such sections shall have been adopted for the portion of the County within which the subdivision lies.

5-3. CENTERLINES.

The centerlines of all highways shall be the continuation of the centerline of existing highways in adjacent and contiguous territory. In

cases in which straight continuations are not reasonably possible, such centerlines may be continued by tangential curves.

5-4. NON-ACCESS STRIPS.

Reserved strips controlling access to public ways or to property will not be approved unless such strips are necessary for the protection of the public welfare or the orderly development of the area. Reserved strips shall be in the control and disposal of the County and shall be established as a condition by the Advisory Agency may recommend, and the Board of Supervisors may approve, a requirement that reimbursement of prorated improvements costs be a condition of relinquishing any reserved strips.

5-5. STREET CENTER SECTIONS.

Streets shall be required to intersect one another at an angle as near to the right angle as is practicable in each specified case, and no intersections of streets at angles less than forty-five degrees (45°) shall be approved, unless, in the opinion of the Director of Public Works, no practicable intersections can be developed without intersecting at an angle of less than forty-five (45°). Such intersections shall be provided with ample clear vision and turning areas to minimize traffic hazards.

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SECTION 6
STREET NAMES AND SIGNS

6-1. STREET NAMES.

Street names shall be assigned by the Planning Department in accordance with Chapter 2 of Division 4 of Title 4 of this Code.

6-2. SIGNS.

Street name signs, stop signs, speed limit signs, warning signs and advisory signs shall be erected by the subdividers, as required by the Advisory Agency upon the recommendation of the Department of Public Works. At least one street name sign shall be required for each road.

SECTION 7
LOTS

7-1. GENERAL.

The size and shape of lots shall be such as is proper for the locality in which the subdivision is situated, and in conformance with the requirements of current zoning regulations and the Humboldt County General Plan.

Nothing in the Humboldt County Subdivision Division is intended to inhibit the use of imagination and ingenuity on the part of subdivision designers. It is the policy of Humboldt County to encourage subdivision

design which will create pleasant places to live and work and which will reflect credit upon the designer.

7-2. EXCEPTIONS TO LOT FRONTAGE REQUIREMENTS.

(a) Diverging Side Lines. Where the design of a subdivision has lots with diverging side lines, the minimum frontage shall be measured at the building setback line, and shall be no less than required by the Zoning Division.

(b) Flag Lots. At the discretion of the Advisory Agency, lots may be allowed with a twenty foot (20') access frontage. Lots with such a narrow frontage and with a long driveway on the resultant twenty foot (20') strip are known as "flag lots." As a matter of policy:

(1) Flag lots shall be permitted only when dictated by the size and the shape of the lane to be subdivided.

(2) No more than two (2) adjacent flag lots shall front on any road or street.

(3) From (2) above, it follows that three (3) or four (4) lots can front on a street within a very short frontage distance. An example would be a fifty foot (50') frontage lot in front of and adjacent to two (2) flag lots. The result would be three (3)

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driveway entrances along ninety feet (90') of street frontage. This and similar situations must be avoided. To avoid such situations a joint driveway arrangement shall be provided under which one and only one vehicular access opening is necessary. The fifty foot (50') frontage lot - with the orientation of the garage such that access shall be from the joint driveway - and both flag lots shall use the forty feet (40') of joint driveway width.

7-3. DOUBLE FRONTAGE LOTS.

Where double frontage lots are approved, the dedication of non-vehicular access along one of the lot lines, which said line will be defined as the rear lot line, may be required.

7-4. CORNER LOTS.

Corner lots shall be of sufficient size to permit the maintenance of adequate building setback lines on both front and side.

7-5. PRESERVATION OF ECOLOGICAL AND SCENIC FEATURES.

To the maximum extent possible, the preservation and enhancement of all native shrubs, trees, flora and other ecological and scenic features shall be considered.

SEWAGE DISPOSAL AND WATER SUPPLY

8-1. SEWER CONNECTIONS.

In subdivisions within a reasonable distance of a sanitary disposal system, the subdivider may be required to install a complete sewage system connected therewith.

In areas where no sanitary sewage disposal system exists or where the subdivision is not within a reasonable distance of such a sanitary sewage disposal system, other methods for disposal of sewage may be approved in accordance with County health regulations.

8-2. WATER.

The subdivider shall provide information as to the source, quality and approximate quantity of water supply and general description of proposed system, and evidence as required by the County Health Department for lots less than sixty (60) acres (one and one-half [1-1/2] quarter sections) in size provided by test wells, geologists, civil engineers, licensed well drillers, or licensed surveyors when the quantity is in a measurable form, that 400 gallons of water per twenty-four (24) hour period can be developed or supplied to each parcel, together with an estimate of the cost of developing water at each site.

The quantity of water shall be demonstrated by one of the following methods:

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(a) Wells. Where water is to be supplied by individual wells, the Health Department may require one or more test wells at locations indicative of the availability of water for the entire subdivision. Existing nearby wells may be substituted upon approval of the Health Department.

(1) Pump or Bail Test Method. The water well may be pumped or bailed at any rate until the equivalent of not less than 400 gallons per twenty-four (24) hours have been removed. The total drawdown and recovery is to be reported to the Health Department.

(b) Springs. Where individual springs are proposed, a developable spring must be located on each lot or waterline easements provided for springs not on each lot and the spring must be demonstrated to produce not less than 400 gallons per twenty-four (24) hours. Because there can be significant difference in the rate of flow between winter and summer, the testing is to be conducted at such time as to reflect dry weather production.

(1) Spring Test Method. Any method can be utilized that demonstrates volumetrically that productivity complies with subsection (a)(1) above.

(c) Rivers or Creeks. Where individual connections are proposed for each lot, each connection must have an available source not less than 400 gallons per twenty-four (24) hours. Because there can be significant difference in the rate of flow between winter and summer, the testing is to be conducted at such time as to reflect dry weather production.

(1) River or Creek Test Method. Any method can be utilized that demonstrates volumetrically that productivity complies with the previous paragraph.

8-3. COLIFORM TEST. (Repealed by Ord. 1290 § 9, 12/12/78)

8-4. DEEDED WATER RIGHTS.

Deeded water rights and easements shall be acquired prior to approval of the Final or Parcel Map, where applicable, or shown thereon if created by said map.

SECTION 9
WATER COURSES

If the subdivision is traversed by any water course, channels, streams or creeks, the subdivider may be required to provide by dedication or otherwise rights of way or easements for storm drainage purposes conforming substantially with the lines of such water courses, channels, streams or creeks. Where design permits, the center of said easement shall be substantially the same as the center of the water course and

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shall serve as the common property line of abutting lots. The subdivider shall provide by dedication or otherwise further and sufficient rights of way or easements as shall be required for structures or channel changes or both, to dispose of surface and storm waters.

SECTION 10
DRAINAGE FACILITIES

Flood control and drainage facilities affording positive storm water disposal shall be designed and provided by the subdivider. The subdivider shall construct any drainage facilities that may be necessary to protect property within and affected by the subdivision. If, in the opinion of the Director of Public Works, it is impracticable to construct drainage facilities at the time of the construction of other subdivision improvements, or the construction of such drainage facilities may be deferred until a date subsequent to the construction of other improvements, the subdivider may, in lieu of constructing such drainage facilities, pay to the County of Humboldt the estimated costs, as determined by the Director of Public Works, of the construction of such drainage facilities.

Drainage facilities referred to herein are such drainage facilities as are shown on the current adopted drainage plan for the drainage area in which the subdivision is to be located. Said drainage plan shall contain an estimate of the total cost of constructing the local drainage facilities and a map of the drainage area showing its location and the type and location of proposed drainage facilities.

SECTION 11
FLOOD HAZARDS

Subdivisions located in areas subject to flood hazard shall be specially designed, engineered and constructed to provide that all public utilities and facilities, such as sewer, gas, electrical and water systems, are located, elevated and constructed to minimize or eliminate flood damage.

SECTION 12

RAILROADS AND GRADE CROSSINGS

Where railroad crossings are involved, the plan of subdivision will be considered in its relation to the probability of grade separation or other treatment, and shall be required to conform to Public Utilities Commission and railroad requirements in anticipation of such treatment.

SECTION 13
LANDSCAPING

If the subdivider desires landscaping on public rights of way, it shall meet the approval of the Public Works Department.

§ 329

TITLE III - DIVISION 2

CHAPTER 9

DEVELOPMENT IMPACT FEE MILL CREEK MARKETPLACE

ARTICLE 1 - APPLICATION, FINDINGS, DEFINITIONS

329. APPLICATION.

The provisions of this chapter shall apply only in the Mill Creek Marketplace in McKinleyville.

329-1. FINDINGS.

The Board of Supervisors finds as follows:

(a) The purpose of this fee is to finance the public improvements necessary to mitigate the impacts caused by new development in the Mill Creek Marketplace in McKinleyville.

(b) The fees collected pursuant to this ordinance shall be used to finance the cost of certain traffic facilities and services, the demand for which is directly or indirectly generated by the Mill Creek Marketplace in McKinleyville.

(c) The specific traffic facility improvements to be financed by the fee are as follows: Any and all cost associated with the design, construction and/or relocation of the traffic signal located at the Southwest Corner of School Road and Central Avenue and the new traffic signal to be located at the center driveway of Mill Creek Marketplace located approximately 450 feet south of the intersection of School Road and Central Avenue, and any cost to establish and administer this ordinance.

(d) There is a demand in the Mill Creek Marketplace area for such facilities which have not been constructed and which is directly or indirectly generated by the Mill Creek Marketplace development as indicated in the Conditions of Approval set forth in Humboldt County Planning Department file Case No. FMS-09-912, CUP-27-912. Said facilities are consistent with the County of Humboldt's General Plan and the Conditions of Approval for the Mill Creek Marketplace.

(e) The facts and evidence presented establish that there is a reasonable relationship between the need for the described public facilities and the impacts of the types of development for which the corresponding fee is

charged, and, also there is a reasonable relationship between the fee's use and the type of development for which the fee is charged.

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(f) There is a reasonable relationship between the amount of the fee and the cost of the public facilities. The cost estimates set forth in the Phillippi Engineering study are reasonable cost estimates for constructing these facilities and the fees expected to be generated by new development will not exceed the total of such costs plus the cost of administering the ordinance.

329-2. DEFINITIONS.

For purposes of this chapter the following words and phrases shall have the meaning given below:

(a) "Building Permit" is defined as the permit issued or required for the construction, of any building or shell structure pursuant to and as defined by the County of Humboldt Building Code.

(b) "Costs" is defined as the amount spent in connection with the planning and development of the traffic facilities or services including, but not limited to, the costs of construction, engineering, administration and consulting fees.

(c) "Mill Creek Marketplace" is defined as that certain shopping center consisting of approximately nineteen (19) acres of land to be located at the southwest corner of School Road and Central Avenue in the County of Humboldt which was approved by the Humboldt County Board of Supervisors and known as FMS-09-912 and CUP-27-912.

(d) "Developer\Subdivider is defined as BDC McKinleyville Associates, a California limited partnership, Browman Development Company, Inc.

(e) "Development Impact Fee" is defined as the fee imposed pursuant to this chapter upon development in the Mill Creek Marketplace.

(f) "Development Impact Fee Fund" is defined as the fund into which all amounts collected under this chapter shall be deposited.

ARTICLE 2 - DEVELOPMENT IMPACT FEES, MILL CREEK MARKETPLACE

329-3. ESTABLISHMENT OF FEES.

The development impact fee for the Mill Creek Marketplace is hereby established in the amounts specified in Section 329-4 of this Chapter.

329-4. AMOUNT OF FEES.

The Development impact fee is arrived at by taking the total costs of traffic facilities improvements to be constructed as set forth in Section 329-8 and dividing the total construction cost of the improvements (\$152,592.00) by the total building square footage (198,988 square feet) of the previously approved

Mill Creek Marketplace. This equates to a per square foot fee of \$.767 per square foot of building floor area for which a building permit is being requested. For example, if someone applied for a building permit for a 5,000 square foot building the Development Impact Fee would be 5,000 square foot x \$.767 = \$3,835.00 fee.

329-5. PAYMENT OF FEES.

(a) The Development Impact Fee shall be paid by the applicant for a building permit in the Mill Creek Marketplace.

(b) The Development Impact Fee shall be paid when the building permit is issued by the Humboldt County Building and Planning Department.

(c) The County Building Official shall not issue a building permit for any building within the Mill Creek Marketplace until the fee set forth in this Chapter has been paid unless exempt as provided in Section 329.6.

329-6. EXEMPTIONS.

The following are exempt from the requirement to pay the Development Impact Fee and the fee shall not be required if the requested building permit is to perform one of the following:

(a) A building permit for the reconstruction of any building within the Mill Creek Marketplace provided a Development Impact Fee was initially paid as a part of the issuance of a previous building permit and the square footage of the reconstructed building does not exceed the square footage of the original building. The exception is only to the extent that the resultant structure has the same or less ground floor square footage as the original structure; if the ground floor square footage increased, the square footage of the additional ground floor area shall be used to determine the amount of the fee due.

(b) The issuance of a building permit for property not located in the Mill Creek Marketplace as defined in Section 329-2.

329-7. DEVELOPMENT IMPACT FEE FUND.

(a) The County shall create in the County treasury a fund entitled Development Impact Fee Fund into which all amounts collected under this chapter shall be deposited.

(b) The Development Impact Fee shall be expended to reimburse the Developer/Subdivider of the Mill Creek Marketplace for the cost of constructing and installing the traffic signal facilities pursuant to the provisions of this chapter and to pay for the cost to the County for administration of this chapter.

329-8. REIMBURSEMENT FOR CONSTRUCTION OF THE FACILITIES.

(a) The Public Works Director will direct or authorize the developer/subdivider to construct certain facilities specified in the Conditions of Approval, or portions thereof. The developer/subdivider is entitled to a credit or reimbursement of costs in accordance with the provisions of this chapter, if the developer/subdivider: (1) constructs the improvements, or (2) finances the improvement by cash or performance bond or other security acceptable to the Director of Public Works, or (3) a combination of the above. The credit or reimbursement to be provided to the developer/subdivider shall be determined by the terms of this chapter and the Reimbursement Agreement. The construction of the traffic facilities authorized by this section must consist of a usable facility or segment and be approved by the County and constructed in accordance with the County of Humboldt's Public Improvement Design Standards. The developer/subdivider must post a bond or other security in a form acceptable to the Director for the complete performance of the construction before credit is given.

(b) The Development Impact Fee will be paid to developer/subdivider after deducting any administrative cost incurred by the County every quarter once the fees have begun to be collected and the conditions in Section 329-8(a) above have been satisfied. To implement this section, the developer/subdivider and the County shall enter into a reimbursement agreement.

329-9. OTHER AUTHORITY.

This chapter is intended to establish a supplemental method for funding the cost of certain facilities and services, the demand for which will be generated by Mill Creek Marketplace. The provisions of this chapter shall not be construed to limit the power of the County to impose any other fees or extractions or to continue to impose existing ones on development within Humboldt County, but shall be in addition to any requirements which the County of Humboldt is authorized to impose, or has previously imposed, as a condition of approving a plan, rezoning or other entitlement within the County of Humboldt.

329-10. CONFLICTING PROVISIONS.

The provisions of the Chapter shall prevail over any other provisions which are in conflict therewith, but only to the extent of such conflict.

CHAPTER 9.1

**THE MCKINLEYVILLE COMMUNITY SERVICES DISTRICT PROTECTION
FROM CLAIMS RESULTING FROM ODORS PRODUCED BY
SEWAGE TREATMENT PLANT OPERATIONS**

329.1-1. FINDINGS.

(a) It is the declared policy of this County to preserve and protect critical public services for the benefit of the communities which depend upon them and to minimize potential conflicts between private and public land uses and facilities including sewage treatment facilities owned and operated by public agencies pursuant to the authority granted by law. It is the further intent to provide to the residents of the County proper notification in those circumstances where private land use may be impaired by the presence of nearby public facilities such as sewage treatment plants.

(b) When private, residential land use extends into areas adjacent to existing sewage treatment plants, the operation thereof may be the subject of complaints of nuisance and other impacts due to odors. Such complaints could threaten the operation of the sewage treatment plant which serves the community. Such a threat would jeopardize the continuation of vital public services and the general welfare of the community.

(c) Such problems can best be avoided by notifying current and future property owners of the potentially objectionable odors associated with the operation of sewage treatment plants and by making it known to all affected property owners that if property values are impaired that the financial consequences thereof shall be borne by the persons who develop property, and their purchasers, rather than by the community which depends upon the treatment plant which preexisted the development of the residential property.

329.1-2. APPLICATION.

The provisions of this chapter shall apply only in the area which is situated within one-half mile of the exterior boundaries of the sewage treatment plant facility of the McKinleyville Community Services District and more particularly described in section 326.1-6.

329.1-3. CONDITIONS OF APPROVAL.

No parcel map, tentative map, or final map which divides or subdivides property, any portion of which is situated within one-half mile of the exterior boundaries of the sewage treatment plant facility of the McKinleyville Community Services District, more particularly described in section 329.1-6, shall be approved unless and until the subdivider complies with the following requirements:

(a) The subdivider shall grant an easement with respect to subdivider's property (herein "Property") any portion of which is located within one-half mile of the property boundaries described in Appendix A to the McKinleyville Community Services District which easement shall provide as follows:

(1) The subdivider, as grantor, grants to the McKinleyville Community Services District, its successors and assigns, a perpetual easement to use, impact and encumber subdivider's Property with odors emanating from the sewage treatment facility of the McKinleyville Community Services

District located upon the real property described in section 329.1-6. The purpose and intent of this grant of easement is to enable the McKinleyville Community Services District to continue to operate its sewage treatment facility in accordance with past practices and requirements of law without adversely impacting or impairing such operations notwithstanding the fact that grantor has changed, or will change, the character of the surrounding land from uninhabited agricultural or sparsely populated land to a more densely populated residential area.

(2) Grantor, for his heirs, successors and assigns, recognizes that despite the use of the best available technology by the McKinleyville Community Services District, the sewage treatment facility may, in the course of normal operations conducted in accordance with all requirements of law, produce odors offensive to humans.

(3) Grantor agrees that the presence of odors emanating from the sewage treatment plant upon grantor's Property whether occasionally or in a persistent fashion may result in the decrease of the property value of said Property. Grantor recognizes that no action for inverse condemnation or other claim for the taking of or diminution in value of said Property shall be asserted, at any time, on account of or based upon the presence of such odors upon grantor's Property notwithstanding that the presence of such odors may constitute a nuisance. Grantor, or his heirs, successors and assigns recognizes, covenants and agrees that the sewage treatment facility of grantee has been present since 1984 and that the facility provides critical public services to the community of McKinleyville which will be affected by Grantor's proposed development of the Property, as well as a benefit to the Property itself. As between the interest of the grantor, his heirs, successors and assigns, and the interests of the grantee, grantor and those who subsequently acquire any part of the Property from him shall bear the financial consequences of any impairment of value of the Property resulting from the ownership, operation and maintenance of the sewage treatment facility and its resultant generation of odors impacting the use and enjoyment of the Property.

(4) Grantor covenants and agrees, in addition to the foregoing, to advise all purchasers of the Property, in writing, of the potential for adverse impacts upon and interference with the use and enjoyment of parcels of the Property due to the presence of odors emanating from

grantee's sewage treatment plant. Grantor, his heirs, successors and assigns, shall advise each initial and subsequent purchaser, in writing, of the risks involved in purchasing Property located in close proximity to grantee's sewage treatment plant insofar as impacts due to odors is concerned. Grantor shall include in such written advice a recommendation to each potential purchaser that a personal inspection and investigation of the existing and potential extent of odors upon the Property should be completed prior to purchase. The receipt, by any successor or assignee of grantee, of any title report or title insurance policy which reflects the existence of the easement required by this Chapter as an encumbrance of the title to Property acquired by the successor or assignee shall constitute compliance with the requirements of this paragraph.

(5) This grant and the covenants herein set forth shall be binding upon the heirs, successors and assigns of grantor, including all subsequent owners and encumbrancers of grantor's Property.

329.1-4. EASEMENT DEED.

Prior to the approval of any parcel map, tentative map, or final map by the County of Humboldt with respect to any Property subject to this Chapter, an easement containing essentially the terms and conditions set forth in Section 329.1-3 shall be executed by grantor in form acceptable to the County of Humboldt and the McKinleyville Community Services District and delivered to the McKinleyville Community Services District in form suitable for recording. When recorded, the easement shall constitute a perpetual lien upon grantor's Property. The easement shall state that it is entered into pursuant to the requirements of this Chapter.

329.1-5. SEVERABILITY.

Should any of the covenants contained in this Chapter be void or become unenforceable in law or in equity, the remaining portions of this Chapter shall nevertheless be and remain in full force and effect.

MCKINLEYVILLE ODOR ORDINANCE ZONE

LEGAL DESCRIPTION

Those portions of Section 1, Township 6 North, Range 1 West, Section 6, Township 6 North, Range 1 East, Section 36, Township 7 North, Range 1 West, Section 31, Township 7 North, Range 1 East, Humboldt Base & Meridian, in the County of Humboldt, State of California, lying within the following described Boundary:

Beginning at a point on the North line of Section 36, Township 7 North, Range 1 West, H.B.&M., lying Westerly 3716 feet plus or minus from Northeast corner of said Section 36, said point being at the Pacific Ocean;

THENCE running Easterly along said North line of Section 36, and the North line of Section 31, Township 7 North, Range 1 East, H.B.&M., to a point on the prolongation of the West line of Parcel 3 of Parcel Map 1540, filed in Book 13 of Parcel Maps at Page 87, Humboldt County Records;

THENCE along said West line prolongation, and the West line of said Parcel 3, Southerly, 230 feet, to an angle point in said line;

THENCE Easterly, 130.00 feet to an angle point in said line;

THENCE Southerly, 130.00 feet, to the Southwest corner of said Parcel 3;

THENCE Easterly, 158 feet more or less along the South line of said Parcel 3 and the prolongation thereof, to a point on the North-South Center of section line of said Section 31;

THENCE Southerly along said North-South Center of section line of Section 31, Township 7 North, Range 1 East, H.B.&M., and the North-South Center of section line of Section 6, Township 6 North, Range 1 East, H.B.&M., to a point on the prolongation of the South line of Boss Road (50 feet wide) as shown on map filed in Book 16 of Surveys at Page 49;

THENCE Westerly, 415.90 feet along said prolongation and South line of Boss Road to the Northwest corner of Lot 8 as shown on said map;

THENCE Southerly, 235.89 feet, along the West line of said Lot 8 and the East line of Lot 7 as shown on said map, to the Southeast corner of said Lot 7;

THENCE Westerly, 243.75 feet, along the South line of said Lot 7 and Caroline Avenue as shown on said map to the Northeast corner of the Windsor property as shown on Parcel Map No. 408, filed in Book 4 of Parcel Maps at Page 18;

THENCE Southerly, 331.88 feet, along the East line of said Windsor property and Saltsman property to the Northeast corner of Parcel 1 of said Parcel Map;

THENCE Westerly, 259.58 feet, along the North line of said Parcel 1 to the Northwest corner of said parcel;

THENCE Southerly, 261.85 feet, along the West line of said Parcel 1 and the East line of Parcels 1 and 2 of Parcel Map 1749, filed in Book 15 of Parcel Maps, at page 75, to the Southeast corner of said Parcel 2;

THENCE Westerly, 374.75 feet, along the South line of said Parcel 2, to the Southwest corner of said Parcel 2, said point also being on the East line of U.S. Highway 101, as shown on said Parcel Map;

Added 10/19/93; Ord. 2011

259.9

THENCE Southwesterly across said highway to a point on the West line of said highway, said point being the Southeast corner of Parcel 1 of Parcel Map No. 512, filed in Book 4 of Parcel Maps, at Page 126;

THENCE Westerly, 266.27 feet to the Southwest corner of Parcel 2 of said Parcel Map, said point also being on the centerline of Anderson Avenue, a private road;

THENCE Southerly, 103.33 feet, along said centerline to the Southeast corner of parcel 1 of Parcel Map 307, filed in Book 3 of Parcel Maps at Page 67;

THENCE Westerly, 150.00 feet to the Southwest corner of said Parcel 1, said point also being on the East line of Parcel 4 of Parcel Map 1752, filed in Book 15 of Parcel Maps at Pages 79-80;

THENCE Southerly, 200 feet along said East line to the Southeast corner of said Parcel;

THENCE Westerly, 329.64 feet along the South line of said Parcel 4 and the North line of Parcel 2 of Parcel Map 325, filed in Book 3 of Parcel Maps, at Page 85 to the Northwest corner of said Parcel 2, point also being on the centerline of Vine Avenue (a private road) 50.00 feet wide;

THENCE Southerly, 105 feet more or less, along the West line of said Parcel 2 and Parcel 3 of said Parcel Map, to a point on the prolongation of the North line of Parcel 2 of Parcel Map 1091, filed in Book 9 of Parcel Maps, at Page 120;

THENCE Westerly, along said prolongation and the North line of said Parcel 2 to the Northwest corner of said Parcel 2, said point also being on the West line of Section 6, Township 6 North, Range 1 East, H.B.&M.;

THENCE Southwesterly, 44.20 feet across Fisher Road to the Northeast corner of Parcel 2 of Parcel Map 2514, filed in Book 22 of Parcel Maps, at Pages 98-99;

THENCE Westerly, 285.00 feet along the North line of said Parcel 2, to the Northwest corner of said parcel;

THENCE Southerly, 337.22 feet along the West lines of Parcels 2, 3, 4 and the prolongation of said West line of Parcel 4, to a point on the centerline of School Road as shown on said Parcel Map;

THENCE Westerly, 1,450 feet more or less along said centerline, to the intersection with the centerline of Ocean Drive as shown on Tract No. 6, filed in Book 12 of Maps at Pages 112-113;

THENCE Northerly, 491.60 feet along said centerline of Ocean Drive to a point on the prolongation of the North line of Lot 3 of said map;

THENCE Westerly, 880 feet along said prolongation and North line of said Lot 3 to the Northwest corner of said lot;

THENCE continuing Westerly along the prolongation of said North line to the Pacific Ocean;

THENCE Northerly along the Pacific Ocean to said Point of Beginning.

Added 10/19/93; Ord. 2011 259.10

Rev. 10/10/95 by Ord. 2092 236.8