

TITLE 16

SUBDIVISIONS

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Chapter 16.04

GENERAL PROVISIONS

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16.04.010 Authority for local regulations.

This title is enacted pursuant to the provisions of Division 2 of Title 7 of the Government Code of the State of California, referred to herein as the Subdivision Map Act.

16.04.020 Purpose and scope.

A. The subdivision ordinance is adopted to preserve, protect and promote the public health, safety, and general welfare. More specifically, the subdivision ordinance is adopted in order to achieve the following objectives:

1. To aid in the implementation of the general plan of the city, and elements thereof, as adopted by the City Council;
2. To provide lots of sufficient size and appropriate design for the purposes for which they are to be used;

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3. To provide streets of adequate capacity for the anticipated traffic that would utilize them and to ensure that they are designed to promote a safe vehicular and pedestrian traffic circulation system;
4. To accommodate new development in a manner that will preserve and enhance the city's living environment and create new beauty through skilled subdivision design;
5. To provide for water supply, sewage disposal, storm drainage, solid waste collection and other utilities and facilities that are required by conditions of an urban environment;
6. To ensure that the costs of providing rights-of-way, street improvements, utilities and public areas and facilities needed to service new developments are borne fairly and equitably by the subdivider rather than by property owners of the city at large.

B. The subdivision ordinance is enacted for the purpose of regulating subdivision of land in accordance with the Subdivision Map Act of the state of California and any future amendments thereto and repeals all other regulations of the city in conflict with this title; provided, however, that such repeal shall not affect any agreement, contract, or bond executed pursuant to such regulations or any rights of action accruing thereunder. The regulations hereinafter in this title contained shall apply to all subdivisions and parcel maps or parts of subdivisions and parcel maps hereafter made entirely or partially within the city. The provisions of this title shall be in addition to and shall be considered as supplemental to the provisions of the Subdivision Map Act of the state of California, as now in effect or hereinafter amended.

16.04.030 Responsibilities.

- A. City Attorney. The city attorney shall be responsible for approving as to form all subdivision improvement agreements and subdivision improvements securities.
- B. City Council. The City Council shall have final jurisdiction in the approval of final maps if the acceptance of land and improvements is proposed for dedication to the city.
- C. City Engineer. The city engineer or his/her designee shall be responsible for:
 1. Establishing design and construction details, standards and specifications;
 2. Determining if proposed subdivision improvements comply with the provisions of this title and the Subdivision Map Act and for reporting the findings together with any recommendations for approval, or conditional approval, of the tentative map to the city planner;
 3. The processing and checking of final maps, parcel maps, reversion to acreage maps, amended maps, subdivision improvement plans, lot line adjustment maps, mergers and certificates of compliance;
 4. The inspection and approval of subdivision improvements;
 5. The approval of private improvements (improvements not to be maintained by the city).

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D. Planning Commission. The Planning Commission is the designated official body charged with the duty of conducting public hearings, making investigations and reports on the design and improvement of proposed divisions of real property, the imposing of requirements or conditions thereon, and shall approve, conditionally approve or disapprove maps.

E. City Planner. The city planner shall be responsible for:

1. Investigating proposed subdivisions and parcel maps for conformity to the general plan, specific plans, and zoning ordinances of the city and reporting his finding together with recommendations for approval, conditional approval, or disapproval to the Planning Commission;
2. Examining and certifying that final maps are in substantial conformance to the approved or conditionally approved tentative map.

F. Site Plan Review Committee. The Site Plan Review Committee shall be responsible for the review of tentative parcel maps, tentative subdivision maps, vesting tentative subdivision maps, and vesting tentative parcel maps and shall provide the subdivider and the Planning Commission with the committee's comments, and requirements for conformance to city ordinances and policies.

G. Subdivider. The subdivider shall prepare maps consistent with the standards contained herein, design public improvements consistent with the public improvement standards of the city, and shall process said maps in accordance with the regulations set forth herein.

16.04.040 Appeals.

A. The subdivider or any interested person adversely affected may, upon payment of an appeal fee as may be established by resolution of the City Council, appeal any decision, determination, or requirement of the Planning Commission by filing a notice thereof in writing with the city clerk, setting forth in detail the action and the grounds upon which the appeal is based within ten (10) days after the action that is the subject of the appeal. Such notice shall state specifically where it is claimed there was an error or abuse of discretion by the Planning Commission.

B. Upon the filing of an appeal, the City Council shall set the matter for hearing. Such hearings shall be held within thirty (30) days after the date of filing the appeal or receipt of council member request. City clerk shall give notice of the hearing according to the procedure required for the initial action by the Planning Commission, except that the timing of such notice shall be no less than ten (10) days before the hearing date.

C. In holding the hearing on the matter, the council may receive any and all information pertinent to the matter, regardless of whether such information was first presented to the Planning Commission. In the case of decisions by the Planning Commission that followed a public hearing, the City Council shall hold a new public hearing on the matter.

D. Upon the close of the hearing, the Council shall vote to either confirm the decision of the Planning Commission, overturn the decision, or confirm the decision with modifications, and the

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Council may continue the item to the next meeting if necessary to direct staff to prepare a conforming resolution with findings, which shall be considered by the Council at the next scheduled Council meeting. In the case of tentative maps, the Council may also take any action identified in Section 16.16.120. Planning Commission

16.04.050 Exceptions.

A. Petition. The Planning Commission may authorize conditional exceptions to any of the requirements and regulations set forth in this title. Application for any such exception shall be made by a petition of the subdivider stating fully the ground of the application and the facts relied upon by the petitioner. Such petition shall be filed with the tentative map of the subdivision and shall be on a form provided by the city. The application shall be accompanied by a fee as set forth from time to time by resolution of the City Council.

B. Findings.

1. In order for the property referred to in the petition to come within the provision of this section, it shall be necessary that the Planning Commission make the following findings:

- a. That there are special circumstances and conditions affecting this property;
- b. That the exception is necessary for the preservation and enjoyment of a substantial property right of the petitioner;
- c. 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.

2. In approving such exceptions the Planning Commission shall secure substantially the objectives of the regulations to which exceptions are requested, and shall act to protect the public health, safety, convenience and general welfare.

3. In approving any exception under the provisions of this section, the Planning Commission shall report its findings with respect thereto and all facts in connection therewith, and shall specifically and fully set forth the exception recommended and conditions designated.

16.04.060 Merger and reversion to acreage.

Subdivided real property may be merged or reverted to acreage pursuant to provisions of Chapter 6, Article 1 of the state Subdivision Map Act.

16.04.070 Certificates of compliance.

Any eligible person may apply for a certificate of compliance pursuant to the provisions of Section 66499.34 of the Government Code of the state of California.

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16.04.080 Planned unit developments.

Where, in accordance with provisions of the zoning ordinance, a use permit has been granted authorizing a planned unit development on the land or a portion of the land proposed to be subdivided, the plan of the subdivision shall conform with the plan of the planned unit development as approved by the Planning Commission and City Council. Exceptions to the subdivision regulations that are necessary to execute the planned unit development as approved by the Planning Commission and City Council may be authorized by the Planning Commission in accordance with the provisions of Section 16.04.050.

16.04.085 School site dedications and reservations.

A. In considering the approval or the conditions of approval of a parcel map or subdivision map, as those terms are defined in the Subdivision Map Act, the City Council or the Planning Commission may require the reservation or dedication of school sites in a manner that is consistent with the provisions of Government Code sections 66478 and 66479, provided that the council or the commission, as the case may be, is able to determine that the conditions enumerated in those sections, as they may from time to time be amended, are applicable to the proposed subdivision map or parcel map.

B. The planning director, in cooperation with the official designated by the Visalia Unified School District, shall develop and keep in place a policy establishing the manner in which this section shall be implemented by the City Planner and his or her designees. Such policy shall be established at the discretion of the City Planner, provided the policy is consistent with the Government Code sections 66478 and 66479.

16.04.090 Penalties.

Any person, firm, corporation, partnership, or co-partnership who willfully violates any of the provisions or fails to comply with any of the mandatory requirements of this title is guilty of a misdemeanor, pursuant to the provisions of Chapter 7, Article 1 of the Subdivision Map Act.

16.04.100 Ordinances repealed.

All ordinances and parts of ordinances of the city, in conflict herewith to the extent of such conflict and not further, are hereby repealed.

16.04.110 Severability.

If any section, subsection, sentence, clause or phrase of this title is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decisions shall not affect the validity of the remaining portions of this title. The City Council declares that it would have passed this title in each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

Chapter 16.08

DEFINITIONS

Sections:

16.08.010 Definitions.

16.08.010 Definitions.

A The following definitions shall be used to define words or phrases in this title. Whenever any words or phrases used in this title are not defined herein, but are defined in the Subdivision Map Act in Title 17 (Zoning Ordinance), such definitions are incorporated herein and shall apply as though set forth herein in full, unless the context clearly indicates a contrary intention.

"Arterial streets" means streets intended to provide the majority of the city's traffic carrying capacity; provides connections to the freeway system and to collector streets; provides access to major travel generators; typically designed with four lanes for through traffic, two parking/transit/right-turn lanes, and a median with single left-turn lane at intersections.

"Block" means the area or parcels of land that is entirely bounded by subdivision boundaries, streets, highways or railroad tracks, excepting alleys.

"Collector streets" means streets intended to provide connectivity between local streets and the arterial street system; also provides access to adjacent land uses; typically designed with two lanes for through traffic, two parking/transit lanes and a median for left-turn access.

"Condominium" means an estate in real property consisting of an undivided common interest in a parcel of real property together with a separate interest of space in a residential, industrial or commercial building on such real property. A condominium may include, in addition, a separate interest in other portions of such real property. Apartment cooperatives shall be defined as condominiums.

"Conversion" means the creation of separate ownership of existing real property together with a separate interest in the space of a residential, industrial or commercial building.

"Design" means street alignments, grades and widths; drainage and sanitary facilities, and utilities, including alignments and grades; location and widths of all required easements and right-of-ways; access drives and pedestrian ways; lot size and configuration; traffic access;

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grading; land to be dedicated for park or recreational uses; and such other specific requirements as necessary to conform to the general plan or any adopted specific plan.

"Environmental impact report" means an informational document which, when its preparation is required, shall be considered by every public agency prior to its approval or disapproval of a project. The purpose of an environmental impact report is to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project, as specified in Section 21100 of the California Environmental Quality Act.

"Freeways" means streets intended exclusively for movement of high volumes of inter-city, regional, and longer local trips at high speeds.

"General Plan" means the general plan of the City of Visalia and any amendment thereto.

"Improvement" means and includes street construction, storm drainage facilities, utilities, culverts, landscaping, sanitary sewer facilities, traffic control devices and other facilities as necessary for the general use of the owners in the subdivision and local neighborhood traffic.

"Local streets" means streets intended exclusively to provide access to adjacent land uses; typically designed with two through lanes with parking on both sides.

"Lot" means a parcel of land separated from other parcels of land as the result of a recorded subdivision map or parcel map.

"Lot line adjustment" means an adjustment of the lot line between four (4) or fewer adjoining parcels, where the land taken from one parcel is added to an adjacent parcel, and where a greater number of parcels than originally existed is not thereby created, provided the lot line adjustment is approved by the city planner.

"Major arterial streets" means streets intended to provide a high level of capacity in selected high volume corridors; provides connections to the freeway system and to collector streets; provides access to major travel generators; typically designed with six lanes for through traffic, a parking/transit/right-turn lane, and a median with dual left-turn lanes at intersections.

"Merger" means the joining of two or more contiguous parcels of land, under one ownership, into one parcel.

"Parcel map" means a map prepared to divide or consolidate in accordance with the provisions of this title and the map act.

"Reversion to acreage" means a map prepared for the purpose of reverting to acreage land previously subdivided.

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"Subdivider" means a person, firm, corporation, partnership, or associate who causes to be divided real property into a subdivision for himself, herself, or for others; except that employees and consultants of such persons or entities, acting in such capacity, are not subdividers.

"Subdivision" means the division of any improved or unimproved contiguous land for the purpose of sale, lease, or financing, whether immediate or future. Property shall be considered as contiguous units, even if it is separated by roads, streets, utility easements or railroad rights-of-way. Subdivision includes a condominium project, as defined herein or in Section 1350 of the Civil Code or a community apartment project, as defined in Section 11004 of the Business and Professions Code. 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.

Subdivision does not include:

1. Buildings divided into apartments, offices, stores or similar space within apartment buildings, industrial buildings, commercial buildings, mobile home parks, or trailer parks for the purpose of lease or financing;
2. Land divided by mineral, oil, or gas leases;
3. Land dedicated for cemetery purposes under the Health and Safety Code of the State of California.

"Subdivision improvement standards" means standard details, standard specifications, and other standards approved by the City Council shall govern the improvements to be constructed pursuant to this title and Subdivision Map Act.

"Subdivision Map Act" means the latest edition of the Subdivision Map Act of the state of California.

"Street" means a thoroughfare, dedicated as such or acquired for public use as such, other than an alley, which afford the principal means of access to abutting land. "Street" includes streets, avenues, courts, drives, parkways, ways, or lands.

"Tentative map" means and refers to a map made for the purpose of showing the design of a proposed subdivision or parcel map and the existing conditions in and around it.

"Vesting tentative map" means a tentative map for a residential subdivision that shall have printed conspicuously on its face the words "Vesting Tentative Map" at the time it is filed.

Chapter 16.12

DESIGN AND CONSTRUCTION STANDARDS

Sections:

- 16.12.010 Streets and highways.**
- 16.12.020 Alleys.**
- 16.12.030 Street names.**
- 16.12.040 Blocks.**
- 16.12.050 Lots.**
- 16.12.060 Reserve strips.**
- 16.12.070 Grading and erosion control.**
- 16.12.080 Watercourses.**
- 16.12.090 Ponding lots.**
- 16.12.100 Walls and Fences**

16.12.010 Streets and highways.

A. The public street and highway design shall conform both in width and alignment with any general plan circulation element, precise street plans and other precise plans adopted by the City Council, and right-of-way for any such street or highway indicated on the general plan or precise plans shall be dedicated to the city by the subdivider.

B. Streets and highways not otherwise designated on the Circulation Element of the General Plan shall not be less than those set forth in this title; except where it can be shown by the subdivider that the topography of the land is such as to justify narrower width. Increased widths may be required for bicycle lanes or transit stops when determined necessary by the Planning Commission in the public interest. Approval or determination of street classification shall be made by the City Council by adopting improvement standards for:

Divided arterial streets

Undivided arterial streets

Collector streets/local streets

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Minor loop streets

Cul-de-sac streets

Frontage road

C. Relationship to Existing Streets. The street system in the proposed subdivision shall relate functionally to the existing streets in the area adjoining the subdivision.

D. Centerlines. The centerlines of all streets, wherever practicable, shall be the continuations of the centerlines of existing streets or shall be offset at least one hundred fifty (150) feet.

E. Intersections. Each street intersection shall be as near to a right angle as is practicable, and no intersection of streets at angles less than sixty (60) degrees shall be approved unless necessitated by topographical conditions as determined by the city engineer.

F. Corners. At street intersections, the block corners shall be angled to provide sufficient right-of-way, and shall correspond to approved development standards.

G. Cul-de-sacs or Dead End Streets. No cul-de-sac or dead end street shall be more than eight hundred (800) feet in length. Where necessary to give access to or permit a satisfactory future development of adjoining land, streets shall extend to the boundary of the property and the resulting dead-end streets may be approved with a temporary turn-around. In all other cases, a turn-around having a minimum radius of fifty-three (53) feet, measured to the property line, and a minimum of forty-three (43) feet to curb face shall be required.

H. Curve Radius. The centerline curve radius on arterial streets shall be designed in accordance with acceptable safe engineering practices and in no case shall be less than five hundred (500) feet. Centerline curve radius on other streets shall not be less than two hundred (200) feet.

I. Frontage Streets. When any lot fronts or sides on any arterial street, expressway, or freeway, the subdivider may be required to dedicate and improve a frontage street to provide ingress to and egress from such lots.

J. Private Road and Alleys. Private roads and alleys shall not be permitted unless approved by the Planning Commission.

K. Grades. Grades of streets shall not be less than two-tenths (0.2) percent and not greater than seven (7) percent unless, because of topographical conditions or other exceptional conditions, the city engineer determines that a grade less than two-tenths (0.2) percent or in excess of seven (7) percent is necessary.

L. Access on Arterials. When the rear of any lot borders an arterial, the subdivider may be required to execute and deliver to the city an instrument prohibiting the right of ingress and egress from said arterial to said lot.

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16.12.020 Alleys.

A. Alleys shall be optional in residential subdivisions. The Planning Commission for any one of the following reasons may require alleys. If alleys are required, they shall be constructed to city standards:

1. Unusual size, shape or topographical character of the property to be subdivided;
2. The relationship to existing or proposed commercial, industrial or high density residential development or adjacent railroad right-of-way;
3. The special nature of the design or density of a residential subdivision where dwellings are grouped in such a manner as to require access from other than the street frontage;
4. The need to maintain continuity of existing alleys where the property to be subdivided is located immediately between existing residential blocks where alleys are provided.

B. Residential alleys shall have a minimum dedicated width of twenty (20) feet.

C. Alleys shall be provided where needed to serve existing or proposed commercial or industrial subdivisions and shall have a minimum dedicated width of thirty (30) feet with adequate provisions for ingress and egress.

D. A twenty (20) foot corner diagonal cut off measured along the property lines from the point of intersection will be required where two alleys intersect.

E. Alleys shall be so laid out and aligned as to provide reasonable access for utilities and other services.

F. Dead end alleys shall be prohibited.

16.12.030 Street names.

Streets shall be named in accordance with Chapter 12.06.

16.12.040 Blocks.

A. Block Length. Blocks shall not exceed fifteen hundred (1,500) feet in length unless existing adjacent property alignment, topographic, or traffic conditions justify a variation. Long blocks shall be provided adjacent to arterial and collector streets in order to minimize the number of street intersections.

B. Block Width. The width of each block shall be sufficient for an ultimate layout of two tiers of lots, therein of a size required by the provisions of this chapter unless the conditions justify or make necessary a variation from this requirement.

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16.12.050 Lots.

A. Lot Width.

1. Each residential lot or parcel shall have frontage width not less than that required by the zoning ordinance, as set forth in Title 17 of the Municipal Code. Each residential lot or parcel on a dead end street, cul-de-sac, or on a curbed street, when the side lines thereof are diverging from the front to the rear of such lot or parcel, shall have a width not less than that required by the zoning ordinance.

B. Lot Depth. The depth of all lots shall comply with the requirements of the zoning ordinance relative to each particular zoning district.

C. Lot Area. The area of all lots shall comply with the requirements of the zoning ordinance relative to each particular zoning district.

D. Lot Frontage. Lots shall have a single frontage on a street; new double frontage lots or lots without street frontage will not be permitted except where, in the opinion of the Planning Commission, topographic or unusual physical conditions justify a deviation from this rule.

E. Side Lines. The side lines of lots shall, wherever practicable, be required to run at right angles or radially to the street upon which the lot faces.

F. Lot Numbering and Dimensions. Lot numbers shall begin with the numeral "1" and shall continue consecutively through each unit of the tract with no omissions or duplications, and no block numbers shall be used.

G. Suitability of Lots. All lots shall be suitable for the purpose for which they are intended to be sold. Land subject to flooding or deemed by the Planning Commission to be uninhabitable shall be indicated on the final map.

H. Land Remnants. All remnants of below minimum size left over after the subdivision of a larger tract must be added to adjacent lots rather than allowed to remain as unusable parcels.

16.12.060 Reserve strips.

A. A one-foot reserve strip shall be provided at the dead end of a stubbed street or at the edge of a partial width street and shall be offered for dedication to the city for future street purposes.

B. Reserve strips shall be designated on the final map of the subdivisions and shall be specifically referred to in dedication and acceptance certificates.

16.12.070 Grading and erosion control.

Every map approved pursuant to this title shall be conditioned on compliance with the requirements for grading and erosion control, including the prevention of sedimentation or damage to off-site property, and is subject to the review and approval of the city engineer.

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16.12.080 Watercourses.

A. In the event that the subdivision is traversed by any watercourses, channels, streams or creeks, the subdivider shall dedicate rights-of-way or easements for storm drainage purposes conforming substantially with the lines of such watercourses, channels, streams or creeks or shall provide by dedication further and sufficient rights-of-way or easements as shall be required for structures or channel changes, or both, to dispose of such surface and storm waters.

B. The Planning Commission may disapprove a tentative map of a subdivision because of flood hazard and inundation and require protective improvements to be constructed as a condition precedent to approval of the map.

16.12.090 Ponding lots.

A. Detention or retention ponds will only be allowed in areas where it has been determined by the city engineer that other methods of drainage are not practical.

B. Permanent detention or retention ponds shall be a minimum of five (5) acres and dedicated to the city for maintenance. Landscaping and irrigation systems shall be installed as approved by the director public services.

C. Temporary detention or retention ponds may be approved until such time as drainage facilities are available for connection and shall be dedicated to the city in easement form.

16.12.100 Walls and Fences.

A. For proposed residential subdivisions, security walls or fences that are proposed for residential developments along arterial or collector streets shall provide pedestrian access between the arterial or collector and the development to allow access when transit vehicles operating on an arterial or collector street.

B. Exceptions consistent with Chapter 17.42 may be granted during the Planning Commission approval process in accordance with 16.16.110 or subsequent Council action in accordance with 16.16.120.

Chapter 16.16

TENTATIVE MAPS

Sections:

- 16.16.010 Preliminary review.**
- 16.16.020 Review by site plan review committee.**
- 16.16.030 Tentative subdivision maps.**
- 16.16.040 Subdivision filing fees.**
- 16.16.050 Size of maps.**
- 16.16.060 Information required.**
- 16.16.070 Accompanying reports and statements.**
- 16.16.080 Distribution of filed maps.**
- 16.16.090 Staff reports.**
- 16.16.100 Hearing and notice.**
- 16.16.110 Commission approval.**
- 16.16.120 Council action.**
- 16.16.130 Expiration of maps and extensions.**

16.16.010 Preliminary review.

Prior to filing of a tentative subdivision map, a conceptual map shall be submitted to the Site Plan Review Committee in accordance with Chapter 17.28 of the Zoning Ordinance. The map shall be drawn at a scale large enough to show all details clearly and enough sheets shall be used to accomplish this end. The map shall show the entire parcel proposed for subdivision including: approximate lot lines, street alignments, adjacent streets and adjacent land uses. The Site Plan Review Committee will prepare comments, recommendations, and requirements of the tentative subdivision map for the subdivider's review.

16.16.020 Review by Site Plan Review Committee.

A. All tentative subdivision maps shall be reviewed by the Site Plan Review Committee prior to the submission of a tentative map to the Planning Commission.

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B. The Site Plan Review Committee shall examine and review the following:

1. The completeness and accuracy of the tentative map and the suitability of the land for purposes of subdivision;
2. Conformity of the overall design of the subdivision to the general plan and all pertinent requirements of this title and other laws and plans of the city;
3. The provisions for, and suitability of street improvements, underground utilities, fire hydrants, street lights, storm drains, streets, trees and sidewalks. The adequacy of the water supply, solid waste collection, sewage disposal and easements for utilities and drainage;
4. Provisions for public areas, including parks, schools, public utilities facilities, etc.

C. If any portion of the subdivision is in conflict with any of the requirements of this title, other ordinances, or state law, the Site Plan Review Committee shall, to the best of its ability, advise the subdivider of such conflicts.

D. The Site Plan Review Committee may deem it advisable to recommend additional improvements, easements or dedications to be included; in which case, the subdivider shall be duly informed of the nature of the recommendations following the Site Plan Review Committee meeting.

E. The Site Plan Review Committee shall make a report of its recommendations to the Planning Commission, and shall furnish a copy of that report to the subdivider, in accordance with Chapter 17.28.

16.16.030 Tentative subdivision maps.

A. The tentative map shall be prepared by a registered civil engineer or a licensed land surveyor in accord with the provisions of the Subdivision Map Act and this title and shall be filed with the city planner. Such filing shall be prior to the completion of final surveys of streets and lots and before the start of any grading or construction work within the proposed subdivision.

B. A minimum of thirty (30) copies of the tentative map, and accompanying reports and statements shall be submitted to the city planner at the time of filing. Filing of required documents will be deemed official upon written receipt from the city planner.

16.16.040 Subdivision filing fees.

Filing fee to cover the costs of processing and checking shall be paid for each tentative map at the time of filing thereof in amounts as may be adopted by the City Council yearly by resolution. If, after approval of a tentative map, revisions of the initial map are filed or a new tentative map is filed covering the same or additional land, each filing shall be considered as a new subdivision. There shall be no charge for filing of changes in tentative maps to meet the requirements of the city.

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16.16.050 Size of maps.

The tentative map shall show the entire subdivision on one or more eighteen (18) inch by twenty-six (26) inch sheets at a scale large enough to show all details clearly.

16.16.060 Information required.

Each tentative map shall contain the following information:

1. The name of the proposed subdivision, and designation as a tentative map;
2. The name and address of the owner of the property proposed to be subdivided;
3. The name and address of the subdivider;
4. The name of the engineer, surveyor or firm who prepared the map;
5. The approximate acreage;
6. The north point;
7. The scale;
8. The date;
9. The boundary line;
10. The location and width of all streets and alleys within the boundaries of the proposed subdivision;
11. The proposed names of all streets within the boundaries of the proposed subdivision; proposed streets that are obviously in line with others already named and existing should be given the same name;
12. The name, location and width of adjacent streets;
13. The lot lines and approximate dimensions; lots shall be numbered consecutively;
14. The approximate location and width of watercourses or areas subject to inundation from floods, including flood plain boundaries, and the location of structures, irrigation ditches, and other permanent physical features;
15. An accurate description of the exterior boundaries of the subdivision or legal description of the property comprising the subdivision, a vicinity map indicating the location of the proposed subdivision in relation to the surrounding area or region;
16. The width and location of all existing or proposed public or private easements;

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17. The proposed use of lots as to desired residential, commercial, industrial or other uses;
18. Any railroads;
19. The approximate radius of curves;
20. The zoning district in which the proposed subdivision is located;
21. The general plan use designation for the area of the proposed subdivision;
22. Any public areas proposed;
23. The dimensions and locations of any existing buildings that are to remain in place on the property; the variety, size and location of all existing trees having a diameter of four inches or greater, except orchard trees, which shall be shown by general area, location and spacing or rows;
24. The locations of any existing wells, pipelines or septic tanks;
25. The location of city limit lines;
26. Oak trees having a trunk diameter exceeding four inches, measured at a point five feet above the existing ground level;
27. Any of the foregoing information as may not be practicably shown on the map shall be contained in a written statement accompanying the map.

16.16.070 Accompanying reports and statements.

- A. The tentative map shall contain or be accompanied by reports and/or written statements from the subdivider giving essential information regarding the following matters:
1. The source of water supply;
 2. The type of street improvements and utilities that the subdivider proposes to install;
 3. The proposed method of sewage disposal;
 4. The proposed method of solid waste collection;
 5. The proposed public bus stops and turnouts;
 6. The proposed storm water sewer or other means of drainage;
 7. The proposed tree planting and related landscaping;
 8. Preliminary title reports of entire property;

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9. A preliminary soils report. The preliminary soils report may be waived if the city engineer determines that, due to the knowledge he has of the quality of the soils of the subdivision, no preliminary analysis is necessary;

10. If a subdivision is to be developed as consecutive individual units, it shall be so stated on the tentative map, and the order and approximate dates of completion of each unit shall be given at the time of filing of the tentative map;

11. A map showing the properties within a three hundred (300) foot radius of the proposed tentative map and a property owners list keyed to the three hundred (300) foot radius map.

B. The information required in the written reports and statements may be shown on the tentative map itself if feasible.

16.16.080 Distribution of filed maps.

A. When the tentative maps, accompanying reports and statements are filed, and the Site Plan Review Committee has approved the map, the city planner shall immediately forward copies of each to the following agencies when affected:

1. Caltrans;
2. Southern California Edison Company;
3. California Water Service;
4. Southern California Gas Company;
5. Visalia Unified School District;
6. United States Postmaster;
7. Tulare County Health Department;
8. Tulare County Public Works Department;
9. Federal Housing Authority;
10. Comcast Cable;
11. Water Quality Control Board;
12. AT&T;
13. Affected irrigation or drainage district.

B. With the exception of school districts, such agencies shall respond within fifteen (15) days after receipt of such tentative map for their comments to be considered by the commission.

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School districts shall respond within twenty (20) working days of the date on which the notice was mailed to the school district for comment.

16.16.090 Staff reports.

Any report or recommendation on a tentative map by the staff of the commission or council shall be in writing and a copy thereof served on the subdivider at least three days prior to any hearing or action on such map by the commission or council.

16.16.100 Hearing and notice.

A. The city Planning Commission shall hold a public hearing on an application for a tentative subdivision map or vesting tentative subdivision map.

B. Notice of a public hearing shall be given not less than ten days or more than thirty (30) days prior to the date of the hearing by mailing a notice of the time and place of the hearing to property owners within three hundred (300) feet of the boundaries of the area proposed for subdivision.

16.16.110 Commission approval.

Within fifty (50) days after the tentative map has been filed with the city planner or at such later date as may be required to concurrently process the appurtenant environmental impact review documents required by state law and local ordinances, the commission shall report in writing to the subdivider their decision regarding approval, conditional approval, or disapproval of the map and the conditions on which such action is based.

16.16.115 Denial of tentative map or parcel map.

This section shall apply to both tentative maps and parcel maps for which a tentative map is not required.

A. The Planning Commission shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, if it makes any of the following findings:

1. The proposed map is not consistent with the General Plan;
2. The proposed map is not consistent with an applicable specific plan adopted in accordance with Government Code Section 65451;
3. The design or improvement of the proposed subdivision is not consistent with the General Plan or with an applicable specific plan.
4. The site is not physically suitable for the type of development.
5. The site is not physically suitable for the proposed density of development.

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6. The design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
 7. The design of the subdivision or type of improvements is likely to cause serious public health problems.
 8. The design of the subdivision or the type of improvements will conflict with easements acquired by the public at large that are either of record or have been established by judgment of a court of competent jurisdiction, that are for access through, or use of, property within the proposed subdivision, and that there are no feasible alternate easements for access or for use that will be substantially equivalent to ones previously acquired by the public.
- B. In determining whether to approve or deny a tentative map, the Planning Commission shall apply only those ordinances, policies, and standards in effect at the date the City Planner has determined that the application is complete pursuant to Government Code Section 65943.
- C. If the Planning Commission finds that the land is subject to any of the following, then the Planning Commission shall deny approval of a tentative map, or a parcel map for which a tentative map was not required if, after reviewing Government Code Section 66474.4, it finds that either the resulting parcels following a subdivision of the land would be too small to sustain their agricultural use or the subdivision will result in residential development not incidental to the commercial agricultural use of the land:
1. A contract entered into pursuant to the California Land Conservation Act of 1965 (Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5), including an easement entered into pursuant to Section 51256.
 2. An open-space easement entered into pursuant to the Open-Space Easement Act of 1974 (Chapter 6.6 (commencing with Section 51070) of Part 1 of Division 1 of Title 5.)
 3. An agricultural conservation easement entered into pursuant to Chapter 4 (commencing with Section 10260) of Division 10.2 of the Public Resources Code.
 4. A conservation easement entered into pursuant to Chapter 4 (commencing with Section 815) of Part 2 of Division 2 of the Civil Code.

16.16.120 Council action.

The City Council may overrule or modify any ruling or determination of the commission in regard to a tentative map and may make conditional exceptions if special circumstances pertaining to the property involved justify a variance from the provisions of this title.

16.16.130 Expiration of maps and extensions.

- A. Expiration. The approval or conditional approval of a tentative map shall expire twenty-four (24) months from the date the map was approved or conditionally approved.

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B. Extension. The person filing the tentative map may request an extension of the tentative map approval or conditional approval by written application to the city planner who shall forward it to the Planning Commission for action. Such application shall be filed before the approval or conditional approval is due to expire. The application shall state the reasons for requesting the extension.

C. Time Limit on Extensions. An extension or extensions of tentative map approval or conditional approval shall not exceed an aggregate of three years.

Chapter 16.20

VESTING TENTATIVE MAPS

Sections:

- 16.20.010 General.**
- 16.20.020 Procedures.**
- 16.20.030 Development rights.**

16.20.010 General.

A. Authority. This chapter is enacted pursuant to the authority granted by Article 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").

B. Purpose. 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 title. Except as other noted, the provisions of this title shall apply to the vesting tentative map section.

C. Consistency. No land shall be subdivided and developed pursuant to a vesting tentative map for any purpose that is inconsistent with the general plan and any applicable specific plan or not permitted by the zoning ordinance or other applicable provisions of the municipal code.

D. Application.

1. This chapter shall apply only to residential developments. Whenever a provision of the Subdivision Map Act, as implemented and supplemented by this chapter, requires the filing of a tentative map or tentative parcel map for a residential development, a vesting tentative map may instead be filed, in accordance with the provisions hereof.

2. If a subdivider does not seek the right 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.

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16.20.020 Procedures.

A. 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 Section 16.16.030 for a tentative map except as hereinafter provided:

1. At the time a vesting tentative map is filed it shall have printed conspicuously on its face the words "Vesting Tentative Map."
2. At the time a vesting tentative map is filed a subdivider may also be required to supply the following information:
 - a. Height, size, and location of buildings;
 - b. Sewer, water, storm drain and road detail;
 - c. Information on the uses to which the buildings will be put;
 - d. Detailed grading plans;
 - e. Geological studies;
 - f. Flood control information;
 - g. Architectural plans.

B. Fees. Upon filing a vesting tentative map, the subdivider shall pay the fees required by Section 16.16.040 for the filing and processing of a tentative map.

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

16.20.030 Development rights.

A. Vesting on Approval of Vesting Tentative Map.

1. The approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards described in Government Code Section 66474.2.
2. However, if Section 66474.2 of the Government Code is repealed, the approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards in effect at the time the vesting tentative map is approved or conditionally approved.
3. Notwithstanding subsection (A) of this section, a permit, approval, extension, or entitlement may be made conditional or denied if any of the following are determined:

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- a. A failure to do so would place the residents of the subdivision or the immediate community, or both, in a condition dangerous to their health, or safety, or both;
 - b. The condition or denial is required, in order to comply with state or federal law.
4. The rights referred to herein shall expire if a final map is not approved prior to the expiration of the vesting tentative map as provided in Section 16.20.020(C). If the final map is approved, these rights shall last for the following periods of time:
- a. An initial time period of one year. 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.
 - b. The initial time period set forth in subsection (A)(1) of this section shall be automatically extended by any time used for processing a complete application for a granting permit or for design or architectural review, if such processing exceeds thirty (30) days, from the date a complete application is filed.
 - c. A subdivider may apply for a one-year extension at any time before the initial time period set forth in subsection (A)(1) of this section expires. If the extension is denied, the subdivider may appeal that denial to the City Council within fifteen (15) days.
 - d. If the subdivider submits a complete application for a building permit during the periods of time specified in subsections (A)(4)(a)--(A)(4)(c) of this section, the rights referred to herein, as they apply to the lot for which the application is filed, shall continue until the expiration of that permit, or any extension of that permit.
- B. Applications Inconsistent with Current Policies. Notwithstanding any provision of this title, a property owner or his or her designee may seek approvals or permits for development that depart from the ordinances, policies, and standards described in Section 16.20.030(A)(1), and local agencies may grant these approvals or issue these permits to the extent that the departures are authorized under applicable law.

Chapter 16.24

FINAL MAPS

Sections:

- 16.24.010 Filing.**
- 16.24.020 Form and content.**
- 16.24.030 Survey and monument requirements.**
- 16.24.040 Dedications and reservations.**
- 16.24.050 Improvement agreements.**
- 16.24.060 Improvement security.**
- 16.24.070 Approval of the city engineer and city planner.**
- 16.24.080 Approval by the council.**
- 16.24.090 Disapproval by the council.**
- 16.24.100 Transmittal to county.**
- 16.24.110 Amending of final maps.**

16.24.010 Filing.

The subdivider may file the original and three (3) copies of the final map and required accompanying data with the city engineer. When a final map is submitted to the city engineer in accordance with this code, it shall be accompanied by the following documents:

- A. Plans, profiles and specifications of the proposed public and private improvements, designed in accord with the requirements of the city engineer;
- B. A filing fee to cover the expense of checking in an amount to be established by the City Council from time to time by resolution;
- C. A preliminary subdivision guarantee issued by a title insurance company, in the name of the owner of the land, issued to or for the benefit and protection of the city, showing all parties whose consent is necessary and their interest therein, except where the land included in such subdivision is registered under the Land Registration Act. If the land is so registered, a copy of the certificate of title shall be furnished, certified.

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D. Calculation and traverse sheets, used in computing the distances, angles and courses shown on the final map and ties to existing and proposed monuments, and showing closures, within the allowable limits of error specified in the ordinance, for exterior boundaries of the subdivision and for each irregular block or lot of the subdivision.

E. Two (2) copies of the proposed deed restrictions, if any.

16.24.020 Form and content.

A. The final map shall be clearly and legibly drawn polyester base film. All lines, letters, figures, certifications, acknowledgments and signatures shall be made in black waterproof opaque ink; except that affidavits, certificates and acknowledgments may be legibly stamped or printed upon the map with black opaque ink. If ink is used on a polyester base film, the ink surface shall be coated with a suitable substance to assure permanent legibility.

B. The map shall be so made and shall be in such condition when filed that good legible prints and negatives can be made therefrom. The size of each sheet shall be eighteen (18) inches by twenty-six (26) inches. A marginal line shall be drawn completely around each sheet leaving an entirely blank margin of one inch. The scale of the map shall be large enough to show all details clearly and enough sheets shall be used to accomplish this end.

C. The boundary of the subdivision shall be designated by a distinctive border. Such border shall not interfere with the legibility of figures or other data. The final map shall consist of a title sheet containing all required certificates and acknowledgments and other sheets as necessary to show required lot dimensioning and survey data as mentioned herein.

D. When the final map consists of more than two sheets, a key map showing the relation of the sheets shall be placed on sheet one. Every sheet comprising the map shall bear the sheet number and number of sheets comprising the map.

E. All survey and mathematical information and data necessary to locate all monuments and to locate and retrace any and all interior and exterior boundary lines appearing thereon shall be shown including bearings and distances of straight lines and radii and tangent distance and central angle and arc length for all curves, lot dimensions; such information as may be necessary to determine the location of the centers of curves, tangent points and ties to existing monuments used to establish the subdivision boundaries.

F. The final map shall show clearly any stakes, monuments, or other evidence found on the ground to determine the boundaries of the tract. The corners of adjoining subdivisions or portions thereof shall be identified by lot numbers, subdivision name with proper ties and recording information shown. Whenever the city engineer has established the centerline of a street or alley, adjacent to or in the proposed subdivision, the data shall be shown in the final map indicating all monuments found and making reference to a field book or map. If the points were reset by ties, the course and detail of relocation data used shall be stated.

G. The map shall show the location and description of all monuments found or placed in making the survey of the subdivision with proper reference sufficient for relocation.

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H. Any unimproved natural watercourses wholly or partially within the proposed subdivision shall be indicated on the final map. The final map shall also show areas within the subdivision that are subject to inundation or flood hazard.

I. The lots shall be numbered consecutively, commencing with the number one, with no omissions or duplications; provided, however, where the subdivision is a continuation of, or an addition to, an existing subdivision, the lot numbers may commence with the number immediately following the last or highest number of such existing subdivision and, in all other respects, shall conform with the preceding requirements. Each lot shall be shown entirely on one sheet.

J. Each final map shall contain the following information:

1. The tentative subdivision map number and date of preparation;
2. The tract name, date, north arrow and scale;
3. A general description of the land included;
4. Names and addresses of the owners of the property being divided;
5. The location, names without abbreviations, and right-of-way widths of all:
 - a. Proposed streets;
 - b. Proposed public areas and easements; and
 - c. Adjoining streets;
6. All dimensions shall be in feet and decimals of a foot to the nearest one-hundredth of a foot (0.01'); all necessary angles and bearings shall be provided to the nearest second of a degree (00°-00'-01");
7. The dimensions of all lots, including lot area in square feet, and a lot number for each lot;
8. The centerline data for streets including bearings and distances;
9. The radius, arc length, and central angle of curves;
10. Suitable primary survey control points;
11. The location and description of permanent monuments;
12. The boundaries of any public and/or private easement, whether an easement of record or a prescriptive easement, shall be shown; the party holding interest in the easement shall be shown on the map;
13. Location and widths of all easements to be dedicated, if required;

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14. The location and widths of watercourses and areas subject to inundation and location of selected flood lines within the parcels being created; properties located in a Special Flood Hazard Area shall comply with all requirements of Chapter 15.60;

15. Ties to any city or county boundary lines involved;

16. Required Certifications;

a. All required dedications of rights-of-way or easements shall be certified on the final map in accordance with Section 66447 of the Subdivision Map Act;

b. All parties having any record title interest in the real property subdivided shall sign a certificate on the final map in accordance with Subsection 66445(e) of the Subdivision Map Act;

c. A certificate of the registered civil engineer or licensed land surveyor who prepared the survey and the final map, in compliance with Section 66449 of the Subdivision Map Act;

d. A certificate for execution by the City Engineer/ City Surveyor that complies with Section 66450 of the Subdivision Map Act;

e. A certificate for execution by the city planner on behalf of the parcel map committee certifying that the final map conforms to the approved tentative subdivision map; and

f. All other certificates as required;

17. Any other requirements of the Subdivision Map Act.

K. The final map shall contain survey information that only affects record title interest. However, additional survey and map information such as but not limited to: building setback lines, flood hazard zones, seismic lines and setbacks, geologic mapping and archaeological sites, if appropriate, shall be shown on an additional map sheet that shall indicate its relationship to the final map, and shall contain a statement that the additional information is for informational purposes, describes conditions as of the date of files, and is not intended to affect record title interest. The additional map sheet may also contain a notation that the additional information is derived from public records or reports, and does not imply the correctness or sufficiency of those records or reports by the preparer of the additional map sheet. The acceptance of the additional map sheet by the city, similarly does not imply the correctness or sufficiency of those records or reports. The additional map sheet shall be recorded simultaneously with the final map.

16.24.030 Survey and monument requirements.

A. The final map shall show the centerlines of all streets; the lengths, tangents, radii and central angle or radial bearings of all curves; the bearings of radial lines to each beginning and end of a curve; the total width of each street; the width of the portion being dedicated, the width of the existing dedication, and the width each side of the centerline; and the width of rights-of-way of railroads, flood control or drainage channels, and any other easements appearing on the map.

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B. Sufficient data shall be shown to readily determine the bearing and length of each line. Dimensions of lots shall be the net dimensions. No ditto marks shall be used. Lots containing one acre or more shall show net acreage to the nearest hundredth.

C. Surveys in connection with the preparation of subdivision maps shall be made in accordance with standard practices and principles for land surveying. A traverse of the boundaries of the subdivision and all lots and blocks shall close within a limit of error of 0.005 feet. Distances shall be to nearest one-thousandth (0.001) of a foot. Bearings and angles shall be to the nearest second of a degree (00°-00'-01").

D. The final map shall show clearly what monuments or other evidence were found on the ground to determine the boundaries of the tract. The corners of adjoining subdivisions, or portions thereof, shall be identified, and distances thereto shall be shown.

16.24.040 Dedications and reservations.

A. Dedications. All streets; alleys, access rights, drainage and/or sewer easements; and other easements and parcels of land shown on the final map as intended for public use shall be offered for dedication for public use.

B. Waiver of Direct Access Rights. The council, at its discretion, may require that offers of dedications of streets include a waiver of direct access rights from any property shown on the final map as abutting thereon.

C. Reservations. At the discretion of the council, areas of real property within the subdivision may be reserved for future needs for schools, fire stations, libraries, recreational facilities, or other public uses, pursuant to the applicable provisions of the Subdivision Map Act.

16.24.050 Improvement agreements.

A. All improvements necessary to conform the proposed subdivision to the standards and policies of the city existing at the time of filing the tentative map shall be installed at the cost of the subdivider.

B. Prior to the approval by the council of the final map, the subdivider shall execute and file an agreement between himself and the city providing that within a twelve (12) month period in which he or his agent or contractor, shall complete all improvement work and providing that if he shall fail to complete such work within such period, the city may complete the same and recover the full cost and expense thereof from the subdivider. The agreement shall provide for the inspection of all improvements by the city engineer. Such agreement shall include such stipulations as may be required to assure completion of the subdivision in accord with the requirements of the city.

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16.24.060 Improvement security.

A. The subdivider shall file with the agreement a bond or security for such sum as the city engineer deems sufficient to cover the cost of the improvements and to assure the faithful performance of such improvements.

B. Such security shall be in the manner, form and kind provided by the Subdivision Map Act and acceptable to the city attorney. The security shall be in the amount of one hundred (100) percent of the estimated cost of the improvements, conditioned upon the faithful performance of this agreement by the subdivider, and in the additional amount of fifty (50) percent of such sum securing the payment by the subdivider to his contractor, his subcontractors, and to persons renting equipment or furnishing labor or materials to them for improvements.

C. The security provided shall guarantee maintenance and/or repair of all defects in required public improvements for a period of one year following acceptance of said improvements by the city.

D. In lieu of a one hundred (100) percent performance bond and fifty (50) percent labor and materials bond, surety may be assured by the filing of an instrument of credit, a passbook account, or deposit of negotiable bonds, which creates a trust fund in an amount equal to one hundred fifty (150) percent of the cost of the work estimated by the city engineer. Said trust fund shall be maintained in a financial institution subject to regulation by the state and federal government with the trust fund limited to the following conditions:

1. Fifty (50) percent of the cost, representing a labor and materials deposit, to be retained for thirty-five (35) days after the recording date of the notice of completion;
2. Funds may be discharged from the balance of the faithful performance surety account from time to time as work is completed, up to ninety (90) percent of value of work completed, with authorization of the city engineer, until all work is completed and the notice of completion is filed;
3. Prior to final acceptance by the city of improvements, the subdivider shall provide the city with a one-year maintenance bond or other accepted surety in the amount of ten percent of the estimated cost of improvements.
4. The form of the instrument of credit, passbook account or deposit of negotiable bonds shall be acceptable to the city attorney.

E. Completion of Work by City. In the event the subdivider shall fail to complete all improvement work in accordance with the provisions of this chapter and the city shall have completed the same, or if the subdivider shall fail to reimburse the city for the cost of incidental expenses or to cover the cost or replacement and the repair of existing streets or other improvements damaged in the development of the subdivision or requiring repair or replacement during the one-year guarantee period, the city shall demand performance of the agreement by the bonding company, or use the cash or other security deposit placed with the city by the subdivider to do such work and reimburse itself for the cost of work agreed to be performed by the

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subdivider. If the amount of the surety bond or cash deposit exceeds all costs and expenses incurred by the city, the city shall release the remainder of such bond or certification less the cost and expense incurred by the city. The subdivider shall be liable to the city for any costs additional to those secured, in an action to be brought therefore by the city.

F. Cash Payments. In addition to the required securities the subdivider shall file with the agreement required by the provisions of Section 16.24.060 a cash payment in an amount deemed sufficient by the city engineer to pay all city improvement costs, or city fees required by this chapter and/or other city ordinances and resulting from or required with the approval and/or construction of the subdivision.

G. Assessment Act Financing of Improvements--Subdivision Improvement Security. Upon approval by the director of public works and upon the furnishing by the contractor of the faithful performance and labor and material bonds required as part of any special assessment proceedings, the improvement security required to be provided in connection with a subdivision may be reduced by an amount corresponding to the amount of such bonds so furnished by the contractor constructing/installing the improvements.

16.24.070 Approval of the city engineer and city planner.

After the issuance of a receipt by the city engineer for the final map and improvement drawings, the city engineer and city planner shall examine them as to conformity with the tentative map, as to the sufficiency of affidavits and acknowledgments, correctness of surveying data, mathematical data and computations, and such other matters as require checking to insure compliance with the provisions of the Subdivision Map Act and this chapter. The city engineer and city planner shall return one copy of the map to the subdivider or his engineer, showing necessary corrections. If the final map is found to be in correct form and the matters shown thereon are sufficient, the city engineer and city planner shall endorse their approval thereon and transmit it to the City Council for approval.

16.24.080 Approval by the council.

At its first regular meeting following the filing of the final map, the agreement, the bonds or other security and the fees, or within ten days following the filing thereof, the council shall consider the final map, the plan of subdivision improvements, and the offers of dedication in accord with the requirements of this chapter. The council may reject any or all offers of dedication and the city engineer shall certify on the final map such action by the council. If the council determines that the map is in conformity with the requirements of this chapter, it shall approve the final map.

16.24.090 Disapproval by the council.

If the council shall determine that the final map is not in conformity with the requirements of this chapter or the tentative map, it shall disapprove the map, specifying its reason or reasons therefore and the city clerk shall advise the subdivider in writing of such disapproval and the reason or reasons for such disapproval. If the council has disapproved any map, the subdivider

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may file with the city clerk a map altered to meet the approval of the council. In such case the subdivider shall conform to all the requirements imposed upon him by this chapter when filing the first final map with the city, and the same proceedings shall be required as are prescribed by this chapter upon the filing of the first final map with the city.

16.24.100 Transmittal to county.

When the City Council has approved the map the city clerk or representative, shall transmit the map to the clerk of the county board of supervisors for ultimate transmittal to the county recorder.

16.24.110 Amending of final maps.

After a final map is filed in the office of the county recorder, such a recorded final map may be modified by a certificate of correction or an amending map if the city finds that there are changes in circumstances that make any or all of the conditions of such a map no longer appropriate or necessary and that the modifications do not impose any additional burden on the present feeowner of the property, and if the modifications do not alter any right, title or interest in the real property reflected on the recorded map and the local agency finds that the map, as modified, conforms to the provisions of Section 66474 of the Subdivision Map Act. Any such modifications shall be set for public hearing as provided for in Section 16.16.100. The legislative body shall confine the hearing to consideration of the action on the proposed modification.

Chapter 16.28

PARCEL MAPS

Sections:

- 16.28.010 Purpose.**
- 16.28.020 Advisory agency.**
- 16.28.030 Review by site plan review committee.**
- 16.28.040 Tentative parcel maps.**
- 16.28.050 Form and content.**
- 16.28.060 Hearing and notice.**
- 16.28.070 Consideration of tentative parcel maps.**
- 16.28.080 Appeals.**
- 16.28.090 Time limit on tentative parcel map.**
- 16.28.100 Improvements.**
- 16.28.110 Right-of-way dedications.**
- 16.28.120 Final parcel maps.**
- 16.28.125 Filing.**
- 16.28.130 Survey requirements.**
- 16.28.140 Information on final parcel map.**
- 16.28.150 Waiver of final parcel map.**
- 16.28.160 Amending of parcel maps.**

16.28.010 Purpose.

The council incorporates this chapter in its subdivision ordinance in order to establish the requirements and procedures for processing subdivisions that are authorized to be made through the parcel map procedure by Sections 66426 and 66428 of the Government Code of the state of California. Where a tentative parcel map is required, a vesting tentative parcel map may be filed conferring development rights as indicated in Chapter 16.20.

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16.28.020 Advisory agency.

The Planning Commission is designated as the advisory agency referred to in Article 2 of the Subdivision Map Act and is charged with the duty of making investigations and reports on the design and improvement of proposed divisions of land under this chapter. The city planner is designated as the clerk to the advisory agency with authority to receive parcel maps.

16.28.030 Review by Site Plan Review Committee.

A. All tentative parcel maps shall be reviewed by the Site Plan Review Committee prior to the submission of said tentative parcel map to the Planning Commission.

B. The Site Plan Review Committee shall examine and review the following:

1. The completeness and accuracy of the tentative parcel map and the suitability of the land for purposes of subdivision;
2. Conformity of the overall design of the subdivision to the general plan and all pertinent requirements of this chapter and other laws and plans of the city;
3. The provisions for, and suitability of street improvements, underground utilities, fire hydrants, street lights, storm drains, streets, trees and sidewalks. The adequacy of the water supply, solid waste collection, sewage disposal and easements for utilities and drainage;
4. Provisions for public areas, including parks, schools, public utilities facilities, public bus stops and turnouts, etc.

C. If any portion of the subdivision is in conflict with any of the requirements of this chapter, other ordinances, or state law, the Site Plan Review Committee shall, to the best of its ability, advise the subdivider of such conflicts.

D. The Site Plan Review Committee may deem it advisable to recommend additional improvements, easements, or dedications, to be included, in which case the subdivider shall be duly informed of the nature of the recommendations following the Site Plan Review Committee meeting.

E. The Site Plan Review Committee shall make a report of its recommendations to the Planning Commission, and shall furnish a copy of that report to the subdivider, in writing, no less than three days prior to the Planning Commission meeting at which the tentative parcel map is to be considered by the commission.

16.28.040 Tentative parcel maps.

A. The person or agency dividing land under this section shall file a tentative parcel map with the community development director not less than thirty (30) days before the date of the commission meeting at which such map is to be considered. Such filing shall be prior to the start of any grading or construction work within the proposed division of land. The tentative parcel

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map shall be submitted in the same manner as provided for subdivisions as to area improvement and design, flood and water drainage control, and as to required public improvements.

B. A person desiring to divide land subject to the provisions of this chapter shall submit the tentative parcel map, therefore in accord with the following requirements:

1. Filing. Twenty-five (25) copies of the tentative parcel map shall be filed with the community development director. The tentative parcel map shall be legibly drawn, on eighteen (18) inch by twenty-six (26) inch tracing paper suitable for reproduction, to a scale and in a manner to best illustrate the proposed division.
2. Fees. At the time of filing of the tentative parcel map, a fee shall be paid to the city in such amount as may be established by the City Council, on a yearly basis, by resolution.
3. Acceptance. The city engineer and community development director shall examine any such tentative parcel map within five working days of presentation and shall not accept such map unless the map is in full compliance with the provisions of this chapter and the Subdivision Map Act of the state of California, as to form, data, information, and other matters required to be shown on or furnished therewith.
4. Distribution. The community development director shall immediately forward copies of the tentative parcel map to each of the following when affected:
 - a. Southern California Gas Company;
 - b. Southern California Edison Company;
 - c. California Water Service;
 - d. AT&T;
 - e. Comcast Cable;
 - f. Visalia Unified School District.
5. Agency Action. With the exception of school districts, the agency receiving a copy of the tentative parcel map shall file a report within fifteen (15) days after the receipt thereof. School districts shall respond within twenty (20) working days of the date on which the notice was mailed to the school district for comment. If a reply is not received prior to the meeting at which consideration of the map is made, it will be assumed that the map conforms to the requirements of the particular agency concerned.

16.28.050 Form and content.

The tentative parcel map shall contain the following information:

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- A. The name and address of the engineer or surveyor preparing the map and the legal owner of record of the land, and the applicant, if different from the legal owner of record;
- B. The boundary lines of the entire parcel, including the area to be divided, with dimensions based on existing survey data or property descriptions;
- C. The proposed division lines, approximate dimensions, and approximate acreage or square footage of each proposed parcel;
- D. The identification of each parcel with a number designation;
- E. All existing surface and underground structures and improvements located on the original parcel, together with their dimensions, the distances between them, the distances to division and property lines, and the number of stories or the height of each structure;
- F. The names, widths and locations of all existing and proposed streets abutting or traversing the original parcel, and a statement if the street is private and/or a statement if the street does not actually exist on the ground;
- G. The location, purposes, width and recorded owners of all existing and proposed easements or private rights-of-way abutting or traversing any part of the original parcel easement boundaries shall be shown by means of dotted lines;
- H. An accurate description of the original parcel;
- I. The date of preparation, north arrow and scale of the drawing. Said scale shall be large enough to show all details clearly and enough sheets shall be used to accomplish this end;
- J. The existing and proposed uses of the property;
- K. The proposed method of sewage disposal;
- L. The proposed domestic water supply;
- M. The assessor's parcel numbers;
- N. The proposed street names;
- O. The approximate location and width of watercourses or areas subject to inundation from floods, and the location of structures, irrigation ditches and other permanent fixtures;
- P. Any railroads;
- Q. The approximate radius of curves;
- R. A location map showing the original parcels and the surrounding area;
- S. The existing zone district designation of the original parcels;

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- T. The proposed use of the property;
- U. Oak trees having a trunk diameter exceeding four inches, measured at a point five feet above the existing ground level;
- V. The proposed method of solid waste collection;
- W. The proposed public bus stops and turnouts, if any;
- X. A map showing the properties within a three hundred (300) foot radius of the proposed tentative parcel map and a property owners list keyed to the three hundred (300) foot radius map.

16.28.060 Hearing and notice.

- A. The city Planning Commission shall hold a public hearing on an application for a tentative parcel map or vesting tentative parcel map.
- B. Notice of a public hearing shall be given not less than ten days or more than thirty (30) days prior to the date of the hearing by mailing a notice of the time and place of the hearing to property owners within three hundred (300) feet of the boundaries of the area proposed for subdivision.

16.28.070 Consideration of tentative parcel maps.

The commission shall review the tentative parcel map and approve, conditionally approve, or disapprove the map within thirty (30) days after the receipt of such map, or at such later date as may be required to concurrently process the appurtenant environmental documents required by state law and local regulations adopted in implementation thereof.

16.28.080 Appeals.

If the applicant is dissatisfied with the decision of the Planning Commission, he may, within ten days after the decision of the Planning Commission, appeal in writing to the council for a hearing thereon. Such hearing need not be concluded on the day thus set but may be continued.

16.28.090 Time limit on tentative parcel map.

Failure to file a final parcel map with the county recorder within twenty-four (24) months after the date of approval or conditional approval of the tentative parcel map shall automatically revoke said approval, and a final parcel map shall not be recorded until a new tentative parcel map has been filed and approved in accordance with the provisions of this chapter. However, upon application by the owner or his authorized agent, an extension of not more than an additional thirty-six (36) months may be granted by the Planning Commission. If the Planning Commission denies an application for an extension of time, the owner or his authorized agent may appeal the action to the City Council in the manner set forth in Section 16.28.080.

16.28.100 Improvements.

Pursuant to the provisions of the Subdivision Map Act, the subdivider shall install, construct and/or provide all on or off-site improvements as recommended by the city engineer and as required by the commission. Such improvements shall be limited to the dedication of rights-of-way, easements and the construction of reasonable off-site and on-site improvements for the parcels being created. The nature, extent and design of such improvements and the guaranteeing of completion thereof shall be in full conformance with the provisions in Chapter 16.36.

16.28.110 Right-of-way dedications.

- A. Pursuant to the Subdivision Map Act, the subdivider shall provide such dedication of right-of-way and/or easements as may be required by the Planning Commission.
- B. The Planning Commission may, at its discretion, require that offers of dedication or dedication of streets include a waiver of direct access rights to any such streets from any property shown on the final map as abutting thereon, in accord with the provisions of the Subdivision Map Act.

16.28.120 Final parcel maps.

Within the time limit designated in Section 16.28.090 and upon the accomplishment of all dedications by certification on the map and required construction of all public improvements, or the execution of an agreement and provision of surety providing therefore, and the payment of all applicable fees and charges, the applicant may file a final parcel map with the city engineer and community development director, who shall approve the final parcel map if it substantially conforms to the approved tentative parcel map and all applicable provisions of the Subdivision Map Act and this chapter. The appropriate certificates, as provided by the applicant in accordance with the provisions of the Subdivision Map Act, shall be signed by the city engineer and community development director upon the parcel map, and the final parcel map shall be transmitted by the city clerk to the clerk of the county board of supervisors for ultimate transmittal to the county recorder.

16.28.125 Filing.

The subdivider may file the original and three (3) copies of the final parcel map and required accompanying data with the city engineer. When a final parcel map is submitted to the city engineer in accordance with this code, it shall be accompanied by the following documents:

- A. Plans, profiles and specifications of the proposed public and private improvements, designed in accord with the requirements of the city engineer;
- B. A filing fee to cover the expense of checking in an amount to be established by the City Council from time to time by resolution;
- C. A preliminary subdivision guarantee issued by a title insurance company, in the name of the owner of the land, issued to or for the benefit and protection of the city, showing all parties

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whose consent is necessary and their interest therein, except where the land included in such subdivision is registered under the Land Registration Act. If the land is so registered, a copy of the certificate of title shall be furnished, certified.

D. Calculation and traverse sheets, used in computing the distances, angles and courses shown on the final map and ties to existing and proposed monuments, and showing closures, within the allowable limits of error specified in the ordinance, for exterior boundaries of the subdivision and for each irregular block or lot of the subdivision.

E. Two (2) copies of the proposed deed restrictions, if any.

16.28.130 Survey requirements.

If the division of land creates four or less parcels, the final parcel map may be compiled from recorded or filed data when survey information exists on recorded or filed maps to sufficiently locate and retrace the exterior boundary lines of the final parcel map and when the location of at least one of these boundary lines can be established from an existing monumented line. In all other cases, the final parcel map shall be based on a field survey of the land conducted in accordance with the Land Surveyor's Act of the state of California. All new lot corners shall be monumented and based on a field survey.

16.28.140 Information on final parcel map.

A. Each parcel shall be consecutively numbered. Each parcel shall have its area shown to the nearest one-hundredth (0.01) of an acre or nearest square foot. The exterior boundary of the land included within the parcel or parcels being created shall be indicated by a distinctive border. Such border shall not interfere with the legibility of figures or other data. The map shall show the definite location of such parcel or parcels, and particularly the relationship to existing surveys.

B. Each final parcel map shall contain the following information:

1. The tentative parcel map number and date of preparation;
2. The tract name, date, north arrow and scale;
3. A general description of the land included;
4. Names and addresses of the owners of the property being divided;
5. The location, names without abbreviations, and right-of-way widths of all:
 - a. Proposed streets;
 - b. Proposed public areas and easements; and
 - c. Adjoining streets;

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6. All dimensions shall be in feet and decimals of a foot to the nearest one-hundredth of a foot (0.01'); all necessary angles and bearings shall be provided to the nearest second of a degree (00°-00'-01");
7. The dimensions of all lots, including lot area in square feet, and a lot number for each lot;
8. The centerline data for streets including bearings and distances;
9. The radius, arc length, and central angle of curves;
10. Suitable primary survey control points;
11. The location and description of permanent monuments;
12. The boundaries of any public and/or private easement, whether an easement of record or a prescriptive easement, shall be shown; the party holding interest in the easement shall be shown on the map;
13. Location and widths of all easements to be dedicated, if required;
14. The location and widths of watercourses and areas subject to inundation and location of selected flood lines within the parcels being created; properties located in a Special Flood Hazard Area shall comply with all requirements of Chapter 15.60;
15. Ties to any city or county boundary lines involved;
16. Required Certifications;
 - a. All required dedications of rights-of-way or easements shall be certified on the final parcel map in accordance with Section 66447 of the Subdivision Map Act;
 - b. All parties having any record title interest in the real property subdivided shall sign a certificate on the final parcel map in accordance with Subsection 66445(e) of the Subdivision Map Act;
 - c. A certificate of the registered civil engineer or licensed land surveyor who prepared the survey and the final parcel map, in compliance with Section 66449 of the Subdivision Map Act;
 - d. A certificate for execution by the City Engineer/ City Surveyor that complies with Section 66450 of the Subdivision Map Act;
 - e. A certificate for execution by the city planner on behalf of the parcel map committee certifying that the final parcel map conforms to the approved tentative parcel map; and
 - f. All other certificates as required;
17. Any other requirements of the Subdivision Map Act.

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B. The final parcel map shall contain survey information that only affects record title interest. However, additional survey and map information such as, but not limited to, building setback lines, flood hazard zones, seismic lines and setback, geologic mapping and archaeological sites, if appropriate, shall be shown on an additional map sheet that shall indicate its relationship to the final parcel map, and shall contain a statement that the additional information is for informational purposes, describes conditions as of the date of filing, and is not intended to affect record title interest. The additional map sheet may also contain a notation that the additional information is derived from public records or reports, and does not imply the correctness or sufficiency of those records or reports by the preparer of the additional map sheet. The acceptance of the additional map sheet by the city, similarly does not imply the correctness or sufficiency of those records or reports. The additional map sheet shall be recorded simultaneously with the final parcel map.

16.28.150 Waiver of final parcel map.

The Planning Commission or City Council may, at its discretion, waive the final parcel map when a finding is made that the proposed division of land complies with the requirements established by this chapter as to area, improvement and design, floodwater drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection, and other requirements of this chapter.

16.28.160 Amending of parcel maps.

After a parcel map is filed in the office of the county recorder such a recorded parcel map may be modified by a certificate of correction or an amending map if the local agency finds that there are changes in circumstances that make any or all of the conditions of such a map no longer appropriate or necessary and that the modifications do not impose any additional burden on the present fee owner of the property, and if the modifications do not alter any right, title or interest in the real property reflected on the recorded parcel map and the local agency finds that the map, as modified, conforms to the provisions of Section 66474 of the Subdivision Map Act. Any such modifications shall be set for public hearing as provided for in Section 16.28.060 of this chapter. The legislative body shall confine the hearing to consideration of an action on the proposed modification.

Chapter 16.32

LOT LINE ADJUSTMENTS

Sections:

- 16.32.010 Purpose.**
- 16.32.020 Requirements.**
- 16.32.030 Form and content.**
- 16.32.040 Consideration of lot line adjustment maps.**
- 16.32.050 Appeals.**
- 16.32.060 Exceptions.**

16.32.010 Purpose.

A. Section 66412 of the Government Code of the state of California provides that lot line adjustments are excluded from the requirements of the Subdivision Map Act when they have been approved by the local agency or advisory agency. The purpose of this chapter is to provide a procedure for granting such approval.

B. Nothing in this chapter is intended to prohibit a subdivider from proposing lot line adjustments in conjunction with a subdivision of land that is being processed by means of a final map or parcel map. In addition, an applicant may follow the parcel map procedure set forth in Chapter 16.28 to accomplish a lot line adjustment as an alternative to following the procedures in this chapter.

16.32.020 Requirements.

A. A lot line adjustment map as described in Section 16.32.030 is required for all lot line adjustments.

B. The applicant for a lot line adjustment shall deliver to the city planner, twelve (12) copies of a lot line adjustment map on which the proposed lot line adjustment is shown.

C. At the time of delivering the lot line adjustment map, the applicant shall pay to the city planner a fee that shall be established from time to time by resolution of the City Council.

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16.32.030 Form and content.

A. The lot line adjustment map shall be on paper eight and one-half (8.5) by eleven (11) inches or eighteen (18) by twenty-six (26) inches. The lot line adjustment map shall be legibly drawn in pencil or ink and shall use a decimal or an engineer's scale adequate and appropriate for the map. The lot line adjustment map shall clearly show the following information:

1. The boundary lines of the original parcels, with dimensions. Such information shall be based on existing survey or other record data;
2. The proposed division lines with dimensions and the net area of each lot within such lot line adjustment;
3. All existing surface and underground structures and improvements located on the original parcels within fifty (50) feet of the boundary of each unit of land to be transferred or conveyed between adjoining lots or parcels;
4. The names, locations and widths of all abutting streets;
5. The location, purpose and width of all existing streets and easements affected by or in close proximity to the land to be conveyed between adjoining lots;
6. The existing use of the property;
7. The existing water supply;
8. The existing method of sewage disposal;
9. A description of all the property involved in the lot line adjustment sufficient to identify it on the county assessor's maps, including the section, township and range in which the property is located;
10. Such other information as the city planner determines is necessary for him to properly consider the proposed lot line adjustment.

B. The lot line adjustment map shall be accompanied by the following information:

1. Legal descriptions of each adjusted parcel shown on the lot line adjustment map;
2. A certificate signed by the legal owner or owners or an authorized agent stating that a lot line adjustment is requested and certifying that the information shown on the map is true and correct. If the certificate is signed by an agent of the legal owner, such agent shall submit written authorization from the owner to file the map.

Section 16.32.040 Consideration of lot line adjustment maps.

A. 1. The city planner shall limit the review and approval of lot line adjustment maps to a determination of whether or not the parcels resulting from the lot line adjustment will conform to zoning and building ordinances. The city planner shall not impose conditions or exactions on the approval of the lot line adjustment except to conform to local zoning and building ordinances, or except to facilitate the relocation of existing utilities, infrastructure, or easements.

2. Whenever the city planner determines that conditions or exactions may be necessary in order to carry out the provisions of Section 16.32.040(B), he shall immediately refer the lot line adjustment map to the Site Plan Review Committee. The Site Plan Review Committee shall review the map and determine what conditions or exactions, if any, should be placed on the application. The Site Plan Review Committee shall not require any conditions or exactions on the lot line adjustment except to conform to local zoning and building ordinances, or except to facilitate the relocation of existing utilities, infrastructures or easements. The Site Plan Review Committee shall thereafter advise the city planner what conditions or exactions are to be required. If the Site Plan Review Committee determines that conditions or exactions are required, the committee shall determine at what time such conditions or exactions are to be fulfilled under the same provisions of this chapter as they apply to parcel maps. Agreements for fulfilling such conditions or exactions, security for such agreements and all other matters pertaining to such conditions or exactions shall also be governed by the same provisions of this chapter as they apply to parcel maps.

B. The city planner shall approve the proposed lot line adjustment whenever all of the following conditions are complied with:

1. The lots that will result from the proposed lot line adjustment conform to all the applicable zoning and building ordinances in effect and comply with regulations set forth in this chapter pertaining to size, shape and dimensions of lots in subdivisions for which tentative and final maps are required.

2. The proposed lot line adjustment will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the neighborhood or to the general welfare of the city.

C. In addition to any other basis for disapproval, the city planner may disapprove a lot line adjustment if he or she determines that there is no real relationship between the existing parcels and the proposed new parcels and that the proposal is more adequately processed as a merger and resubdivision pursuant to Section 66499.20-1/2 of the Government Code of the state of California.

D. 1. The city planner shall review the proposed lot line adjustment map and, within fifteen (15) days after the lot line adjustment map was filed, approve, conditionally approve, or disapprove the lot line adjustment map. However, if the lot line adjustment map is referred to the Site Plan Review Committee, pursuant to Section 16.32.040, the city planner shall have thirty

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(30) days after the map was filed to take such action. Said time limits may be extended by mutual consent of the city planner and the applicant.

2. The city planner shall give written notice of his action to the applicant and to the affected city departments and to each public and private agency to which a copy of the lot line adjustment map was transmitted.

E. 1. If the city planner approved the lot line adjustment map, the written decision of the city planner approving the adjustment shall be filed for record with the county recorder. Such decision shall contain a legal description of each parcel resulting from the lot line adjustment and shall be recorded concurrently with the appropriate deed(s) or record of survey pursuant to Government Code Section 66412(d).

2. The lot line adjustment shall not be effective until the decision of the city planner approving the map has been recorded as set forth in subsection (E) (1) of this section. Said decision shall not be recorded until the appeal period specified in Section 16.32.050 has expired without an appeal having been filed or until the applicant waives his right to appeal, whichever occurs first. If an appeal is filed, said decision shall not be recorded until the termination of the appeal proceedings.

3. If conditions or exactions are required by the Site Plan Review Committee, the decision of the city planner shall not be recorded until the required conditions and exactions have been made fulfilled and, if required by the Site Plan Review Committee, an agreement with security is on file for fulfilling such conditions or exactions.

4. The recording of the decision of the city planner and subsequent deed(s) or record of survey shall supersede all prior recorded parcel maps, subdivision maps or other documents that create the superseded parcels and the boundaries created by the decision of the city planner shall prevail over the earlier recorded boundaries, and the recorded decision of the city planner shall so state.

16.32.050 Appeals.

After the action by the city planner on the lot line adjustment map, the applicant may appeal in writing to the Planning Commission within ten days after the decision of the city planner.

16.32.060 Exceptions.

The procedure set forth in Section 16.04.050 pertaining to exceptions shall apply to lot line adjustments. The city planner shall carry out the required duties in connection with such exceptions and public hearings shall not be held in connection with said exceptions.

Chapter 16.36 IMPROVEMENTS

Sections:

- 16.36.010 General requirements.**
- 16.36.020 Engineering Standard Specifications and Engineering Standard Details.**
- 16.36.030 Improvement plans and profiles.**
- 16.36.040 Notice of improvement work.**
- 16.36.050 Inspection of improvement work.**
- 16.36.060 Underground utilities.**
- 16.36.070 Streets and highways.**
- 16.36.080 Structures.**
- 16.36.090 Curbs and gutters.**
- 16.36.100 Sanitary sewers.**
- 16.36.110 Storm drains.**
- 16.36.120 Water mains, fire hydrants and fire department access.**
- 16.36.130 Street name signs, traffic control devices, traffic signals and access barricades.**
- 16.36.140 Street lights.**
- 16.36.150 Railroad crossings.**
- 16.36.160 Monuments.**
- 16.36.170 Improvements inspection.**
- 16.36.180 Lot grading.**
- 16.36.190 Irrigation ditches.**
- 16.36.200 Supplemental improvements – Required.**
- 16.36.210 Supplemental improvements – Reimbursement agreement.**
- 16.36.220 Building permits prior to completion of subdivision improvements.**

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16.36.010 General requirements.

The subdivider shall install improvements in accordance with the city policies, with the general requirements set forth in this chapter, and to the specific requirements of conditional use permits or planned unit development permits. The city engineer may require changes in typical street sections and construction details if unusual conditions pertain to the subdivision or arise during the construction of the subdivision improvements.

16.36.020 Engineering Standard Specifications and Engineering Standard Details.

All improvements shall conform to the City of Visalia Engineering Standard Specifications and the Engineering Standard Details approved by the City Council as amended by the city engineer from time to time. A copy of these plans is available for examination by the public in the office of the city clerk and copies are available for purchase at the city engineer's office.

16.36.030 Improvement plans and profiles.

Improvement work shall not be commenced until plans, profiles and details for such work have been approved by the city engineer. Such plans must be approved before the final map is approved. All such plans and profiles shall be drawn on a minimum twenty-four (24) inch by thirty-six (36) inch paper. An estimate of the quantities of improvement work for purposes of determining security agreement requirements shall accompany the plans.

16.36.040 Notice of improvement work.

Improvement work shall not begin until the city engineer has been notified in advance, and, if work has been discontinued, it shall not be begun until the city engineer has been notified.

16.36.050 Inspection of improvement work.

All required improvements shall be constructed under the inspection of, and to the approval of, the city engineer.

16.36.060 Underground utilities.

All underground utilities, sanitary sewers, and storm drains installed in streets, service roads, alleys or highways shall be constructed prior to the surfacing of such streets. Service connections for all underground utilities and sanitary sewers shall be extended to prevent the necessity of disturbing the street or alley improvements when connections thereto are made.

16.36.070 Streets and highways.

All streets and highways shall be graded and surfaced to cross sections and grades approved by the city engineer prior to the issuance of any building permit. The subdivider shall improve the extension of all subdivision streets, highways, or public ways to the intercepting paving line of any county road, city street, or state highway.

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16.36.080 Structures.

Structures shall be installed as required for drainage, access and/or public safety. Such structures shall be placed to grades and shall be of a design approved by the city engineer.

16.36.090 Curbs and gutters.

Curbs and gutters shall be installed to grades and at locations approved by the city engineer prior to the issuance of building permit on any site within the subdivision. Sidewalks shall be required as a condition of building permits, except as follows:

- A. Double fronting lots, where allowed, shall have the sidewalk installed along the frontage from which the lot will not be receiving access, as a condition of final map approval.
- B. A corner lot where a fence or wall is constructed along the street-side lot line as a part of the subdivision, improvements shall have sidewalks installed along the street-side as a condition of final map approval.

16.36.100 Sanitary sewers.

Sanitary sewer facilities connecting with the existing city sewer system shall be installed to serve each lot and to grades, locations, design and size approved by the city engineer. Location of house sewer laterals shall be marked on curb tops with a letter "S." Sanitary sewers when necessary shall be extended to the subdivision limits to permit the extension to adjacent subdivision. Trunk and main lines shall be located in conformance with the city master sewer plan or policy. All sewer facilities located in private streets shall be considered side-sewers and maintained by the property owner up to its connection to the sewer at the manhole in the public street, alley or public sanitary sewer easement.

16.36.110 Storm drains.

Storm drains shall be installed as required by the city engineer, or as required by a specific adopted master storm drain plan.

16.36.120 Water mains, fire hydrants and fire department access.

The subdivider shall install water mains, fire hydrants and provide fire department access when required. The costs associated with such installations shall be at the expense of the subdivider. Fire hydrants, water mains and fire department access shall be installed in accordance with the following:

- A. The water system, including water mains and fire hydrants, shall be installed and in operation prior to the commencement of building construction on any site within the subdivision unless otherwise authorized by the fire marshal, fire chief and/or their designee.
- B. Fire hydrants shall be of a type approved by the fire marshal, fire chief and/or their designee.

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C. The minimum water main line size to serve any fire hydrant shall be six (6) inches in diameter.

D. A gate valve shall be installed between the tee in the main and the fire hydrant.

E. Minimum water flow shall comply with the following requirements:

1. Single-family developments shall require a minimum flow of one thousand (1,000) gallons per minute at twenty (20) psi residual pressure at any required fire hydrant.

2. Multi-family, one or two story, zero lot line clearance, condominiums, and mobile home parks, shall require a minimum flow of two thousand (2,000) gallons per minute at twenty (20) psi residual pressure at any required fire hydrant.

3. Multi-family, three stories or higher, shall require a minimum flow of two thousand five hundred (2,500) gallons per minute at twenty (20) psi residual pressure at any required fire hydrant.

4. Commercial and industrial development shall require a minimum flow consistent with the current adopted Fire Code.

F. Water systems, other than California Water Service Company mains, supplying fire hydrants shall comply with the current adopted Fire Code.

G. Fire hydrant spacing shall comply with the following requirements:

1. Single-family residential developments shall be provided with fire hydrants every six hundred (600) lineal feet of residential frontage. In isolated developments, no less than two (2) fire hydrants shall be provided not more than six hundred (600) lineal feet apart from one another.

2. Multi-family, zero lot line clearance, mobile home park or condominium developments shall be provided with fire hydrants every four hundred (400) feet of residential frontage. In isolated developments, no less than two (2) fire hydrants shall be provided not more than four hundred (400) lineal feet apart from one another.

3. Multi-family or condominium developments with one hundred (100) percent coverage fire sprinkler systems shall be provided with fire hydrants every six hundred (600) lineal feet of multi-family or condominium frontage. In isolated developments, no less than two (2) fire hydrants shall be provided not more than six hundred (600) lineal feet apart from one another.

4. Commercial and industrial fire hydrant spacing shall meet the current adopted Fire Code.

5. The exact location of fire hydrants within or adjacent to subdivisions and the final decision as to the number of fire hydrants shall be at the discretion of the fire marshal, fire chief, and/or their designee.

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H. Fire department access shall comply with current adopted Fire Code.

I. Fire department access shall be provided prior to the commencement of building construction on any site within the subdivision unless otherwise authorized by the fire marshal, fire chief and/or their designee.

J. Nothing in the above regulations shall prevent the fire marshal, fire chief, and/or their designee from making special requirements as based on the appropriate level of fire protection for a particular system.

K. The fire chief may adopt, amend and enforce regulations necessary to implement this section, in accord with the procedures outlined in the city's policy permitting adoption, amendment or repeal of regulations.

16.36.130 Street name signs, traffic control devices, traffic signals, and access barricades.

Street name signs shall be installed by the city at the subdivider's expense at locations required by the city engineer. Traffic control devices shall be installed by the subdivider at the subdivider's expense at locations required by the city engineer. Any required barricades to prevent traffic access at dead end streets shall be provided by the subdivider and shall become the property of the city. The subdivider shall pay proportionate share of future traffic signals where determined by the city engineer, and when such traffic signal bears a reasonable relationship to the subdivision being processed.

16.36.140 Street lights.

Street lights shall be installed by the subdivider, at locations consistent with the adopted development improvement standards.

16.36.150 Railroad crossings.

Provisions shall be made for any and all railroad crossings necessary to provide access to, or circulation within, the proposed subdivision, including the preparation of all documents necessary for application to the Public Utilities Commission of the State of California. The establishment and improvement of protection devices shall be the responsibility of the subdivider.

16.36.160 Monuments.

A. Subdivision Boundaries and Street Centerlines.

1. Permanent monuments in accordance with the standard specifications and improvement standards shall be set at all angle and curve points on the exterior boundaries of the subdivision, at all street intersections, at all angle points of street lines, and at all simple and compound curve points of street centerlines.

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2. Monuments in street intersections and at angle and curve points of street lines shall be set on street centerlines unless otherwise directed by the city engineer; provided, however, such permanent monuments need not be set at angle and curve points on the exterior boundaries of the subdivision when such points on the exterior boundaries of the subdivision have been previously monumented and accepted by the city.

B. Lot Markers. The registered engineer or licensed surveyor shall set at all corners a marker not less substantial and enduring than a one-half (0.5) inch iron pipe eighteen (18) inches long with a non-corroding material and the registered engineer's or licensed land surveyor marker on the head thereof.

C. Replacement of Monuments. Any monument as required by the provisions of this chapter, which is disturbed or destroyed as a result of subdivision improvement work shall be replaced by a registered engineer or licensed surveyor at the subdivider's expense.

D. Setting of Monuments. Monuments shall be set before the council acceptance of the improvements.

16.36.170 Improvements inspection.

A. General. All required improvements shall be constructed under the inspection of the city engineer. The cost of inspection of work shall be paid by the subdivider in an amount, as determined by the city engineer, sufficient to pay for said inspection.

B. Approval. No extension of time, progress payments from cash deposits, or releases of surety bond or cash deposit shall be made except upon the certification by the city engineer that work covered thereby has been satisfactorily completed.

16.36.180 Lot grading.

The subdivider shall grade the entire area of the subdivision so that all lots drain to grades approved by the city engineer.

16.36.190 Irrigation ditches.

All irrigation ditches traversing, abutting, or adjoining property to be subdivided, shall be permanently abandoned, permanently pipelined, fenced with chain link fencing of minimum six (6) feet height, or otherwise totally enclosed in a manner satisfactory to the city and the irrigation company. Fencing provisions may be waived by the city planner and the city engineer if necessary to provide a public amenity consistent with the city Open Space, Recreation and Parks Element of the City's General Plan. All natural creeks and channels, Packwood Creek, Mill Creek, and Saint John's River, shall be treated according to city plans and policies. The improvement plans for any subdivision for which an irrigation ditch or natural creeks are traversing, abutting or adjoining, shall be reviewed and approved by the irrigation or ditch company prior to the approval by the city engineer.

16.36.200 Supplemental improvements – Required.

The subdivider may be required to install improvements for the benefit of the subdivision that may contain supplemental size, capacity, or number for the benefit of property not within the subdivision as a condition precedent to the approval of a subdivision or parcel map, and thereafter to dedicate such improvements to the public. “Supplemental size, capacity, or number” shall mean that size, capacity, or number in excess of the minimum standard city requirements.

16.36.210 Supplemental improvements – Reimbursement agreement.

A. The city shall enter into an agreement for reimbursement to the subdivider of the cost of the supplement capacity, size or number. However, the subdivider shall be reimbursed only for that portion of the cost of such improvements equal to the difference between the amount it would cost the subdivider to install improvements to serve the subdivision only and the actual cost of oversized improvements.

B. To pay the cost of such a reimbursement the City Council may at its discretion:

1. Immediately reimburse the subdivider for the entire cost of oversizing and thereafter levy a charge upon the real property benefitted thereby; or
2. Collect a reasonable use charge for the account of the subdividers from persons not within the subdivision using the oversized improvements; or
3. Establish and maintain local benefit districts for the levy and collection of the charge attributable to the property benefitted by the supplemental capacity.

C. No such user charge, levy or local benefit district shall be established unless the City Council finds that the fee or charge and the area of benefit or local benefit district is reasonably related to the cost of such supplemental improvements and the actual ultimate beneficiaries thereof.

16.36.220 Building permits prior to completion of subdivision improvements.

Notwithstanding the timing restrictions on issuance of building permits contained in Visalia Municipal Code Title 16 (Subdivisions), building permits for individual lots may be issued prior to completion of subdivision improvements identified in said Title 16 if authorized by the fire chief, or his/her designee, in compliance with the **FIRE DEPARTMENT ACCESS AND WATER GUIDELINES FOR RESIDENTIAL CONSTRUCTION**, as amended, promulgated by the Visalia Fire Department. However, no occupancy of such residential construction shall occur unless and until the conditions prompting the restriction on building permits in the above-referenced Title 16 have been satisfied.

Chapter 16.40

DRAINAGE FEES

Sections:

- 16.40.010 Purpose.**
- 16.40.020 Definitions.**
- 16.40.030 Drainage fees required—When payable.**
- 16.40.040 Timing of fee payment.**
- 16.40.050 Development without payment of local drainage fee prohibited.**
- 16.40.060 Fee schedule—Computation of fee.**
- 16.40.070 Credits, reimbursements for fees and facilities previously paid and installed Conditions.**

16.40.010 Purpose.

The council declares and finds that the development of land for urban uses substantially accelerates the concentration of surface and storm waters and that it is necessary to provide for the construction of and establishment and collection of drainage fees to defray all or a part of the actual or the estimated cost of constructing planned drainage facilities for the removal of surface and storm waters from drainage areas in order to promote and protect the public health, safety, and general welfare, and for the accomplishment of the purposes more particularly set forth as follows:

- A To provide for planned drainage facilities within the city required for the removal of surface and storm waters;
- B. To provide for an alternate method of financing construction of planned drainage facilities within the city;
- C. To provide a source of information regarding development of planned drainage facilities for present and prospective residents, developers and investors in property within the city;
- D. To obviate the menace to public safety arising from inadequate provision for removal of surface and storm waters occurring as the result of development of property within the city;

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E. To prevent deterioration of property values and impairment of conditions making for desirable residential, commercial or industrial development, as the case may be, that would result from the failure to construct planned drainage facilities;

F. To prevent deterioration of public streets and other public facilities that would result from failure to construct planned drainage facilities;

G. This chapter is enacted pursuant to the authority under the Government Code of the state of California and the Charter of the city of Visalia to provide for collection of drainage fees for construction of planned drainage facilities within the city at the time of the division of land, or at the time of other development thereof; except as herein excepted, such fees being, however, subject to credits as herein provided for revenues, assessments and other receipts theretofore collected with respect to any such parcel or parcels of land for construction of planned drainage facilities within the city.

16.40.020 Definitions.

Unless the particular provisions or the context otherwise requires, the definitions contained in this chapter shall govern the construction, meaning, and application of the words and phrases defined, and their derivatives and derivatives therefrom wherever applicable, whenever used in this chapter.

“Development” means any building, structure, or other improvement or the construction, erection, or installation thereof, in, over or upon any parcel of land. Development does not include any temporary building, structure or other improvement, or the construction, erection or installation thereof, which under the terms of any permit issued therefore or the provisions of this code or pursuant to such other assurance as the engineer may require, may be maintained not to exceed one year or, if erected or installed for use in the performance of the work of a construction project, until completion of such work. The term improvement shall include, without limitation, any development activity that, as determined by the engineer, materially alters the natural surface of the land or restricts the imperviousness of the soil and includes without limitation paving (concrete, asphalt, oil or other means of soil stabilization) and landscaping.

“Division” means the dividing of any parcel of land into one or more lots or parcels, including, but not limited to, a division as described in Section 16.08.010, or any parcel of land that has been so divided.

“Drainage area” means the area of the city for which planned drainage facilities for the collection and removal of surface and storm waters therefrom, and the total estimated costs of constructing such facilities, are set forth in a drainage plan.

“Drainage fees” means fees established and levied as provided in this chapter to pay all or a part of the costs of planned local drainage facilities and their appurtenances.

“Drainage plan” means the storm drainage master plan, adopted by the council; such plan delineating therein a plan for the drainage area that contains an estimate of the total costs of

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constructing the drainage facilities required by the plan, together with their appurtenances, and a map of the drainage area showing generally its boundaries and the location of the planned local drainage facilities.

“Engineer” means the city engineer of the City of Visalia.

“Gross acreage” means the area of a parcel of land, or the area of a proposed division, including those portions designated for streets and alleys and including those portions of all abutting streets and alleys measured to the center lines thereof or to a line parallel with and thirty (30) feet from the property line, whichever shall be the lesser. In the case of a single-family residential use occupying a corner parcel, the area of the street abutting the shortest side of such parcel, or one side in the case of a square parcel, shall not be included.

“Parcel of land” means any real property improved or unimproved, shown on the latest equalized county assessment roll as a parcel and reflected by the assessor's parcel maps prepared by the office of the county assessor of the county of Tulare.

“Planned drainage facilities” means drainage facilities required for the drainage area. The term facilities shall include, without limitation, real property and rights in property for use for and in connection with the installation of planned drainage facilities, conduits, drainage channels, drainage retention, detention and recharge basins, and things incidental thereto, all as may be required for the collection and removal of surface and storm waters from the drainage area.

“Planned drainage facilities fund” means a separate fund established by the finance director for the drainage area, into which all drainage fees collected on property within the drainage area shall be deposited, and the monies in which shall be expended solely for acquisition for construction or reimbursement for acquisition or construction of planned drainage facilities within the drainage area for which such fund was established.

“Zoning ordinance” means the zoning ordinance (Title 17) of the City of Visalia.

16.40.030 Drainage fees required – When payable.

A. Except as otherwise provided in this section, the drainage fee shall be paid on each parcel of land in the drainage area prior to the commencement of the work of any development thereon or, in the case of any division of a parcel of land, prior to the approval of the final subdivision or parcel map, or development, and shall be composed of an acquisition fee and a development fee to be paid as follows:

1. The acquisition fee shall be paid on each parcel of land in the drainage area prior to the approval of the final subdivision or parcel map. The amount of the acquisition fee payable prior to the approval of the final subdivision map or parcel map shall be as determined by Section 16.40.030(E). When no final subdivision or parcel map is submitted for final approval prior to the commencement of the work of any development on each parcel of land, the acquisition fee shall be paid prior to the commencement of the work of any development thereon.

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2. The development fee shall be paid on each parcel of land prior to the commencement of the work of any development thereon.

B. In the case of subdivisions that at the time of approval are zoned for industrial uses, and of parcel maps, the following applies:

1. If planned drainage facilities are required within the limits of, or are necessitated by such division or phase thereof, the drainage fees that shall be paid prior to the approval of the final map thereof shall not exceed the cost of such planned drainage facilities.

2. If planned drainage facilities are not required within the limits of, or are not necessitated by such division, the drainage fees required by this article may be deferred for previously undeveloped areas only.

3. The drainage fees deferred under the provision of this subsection shall be payable in the amounts determined by the provisions of this article prior to receipt of a development entitlement for the lands subject to such division.

C. Except in the case of single-family residential uses, the area of an addition, replacement, reconstruction or the construction of separate structures or other improvements on a previously developed parcel for which the drainage fee or assessment has not been fully paid shall be deemed a parcel of land for the purposes of this chapter and the drainage fee is payable thereon when such area equals or exceeds one thousand (1,000) square feet. When the area of such addition, replacement, reconstruction or other improvement or the accumulation of such additions or other improvements made after October 1, 1988, equals twenty-five (25) percent or more of the development existing as of October 1, 1988, the drainage fee shall be payable on the total area of the subject parcel as defined in Section 16.40.020 and Section 16.40.060(F). Credits for fees or assessments previously paid shall be granted in accordance with Section 16.40.070(C).

D. The city shall require:

1. The design, construction, and dedication of planned drainage facilities located within or necessitated by a development or division; or

2. The combination of the payment of a partial drainage fee as required herein and the design, construction and dedication of planned drainage facilities when determined by the city to be necessary in conjunction with such development or division.

E. Exceptions. The drainage fees are not payable for the performance of the following items of work:

1. Except in the case of a division, any development work that consists solely of the construction, erection, or installation of:

a. Fences, pole lines, underground conduits or pipelines, or similar developments that, as determined by the engineer, do not materially alter the natural surface of a parcel of land; or

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b. Concrete curbs, gutters, sidewalks, driveway approaches, paving or other street improvements within any street or alley.

2. Any development consisting solely of additions or alterations to any single-family residential dwelling or its accessory structures or other additional development on a developed single-family residential parcel.

3. Any reconstruction or replacement of a single-family residence destroyed by fire or because of condemnation, provided that this exception shall not apply in the event that:

a. The use of the parcel or any portion thereof at the time of reconstruction or replacement is for other than single-family residential; or

b. Reconstruction or replacement does not occur within twelve (12) months; or

c. The ownership of the parcel is changed following the occurrence that requires reconstruction or replacement thereof.

F. Government Agency. Payment of the drainage fee upon division of land divided by a governmental agency engaged in such activity may be deferred upon request filed with the city by the governmental agency to the time of development of any undeveloped lot or parcel created in said division, subject to the conditions herein specified. A governmental agency, for the purposes of this deferment, is defined as one that is created under the provisions of either federal, state or local enabling legislation and that is acting under a program in which payment of the drainage fee would not be an eligible cost.

1. The deferment authorized herein shall be allowed only in the event said governmental agency enters into a written agreement with the city which shall provide:

a. That the fee shall otherwise be paid pursuant to the provisions of this chapter;

b. That the agreement creates a valid lien upon such parcel to the extent of the fee (such lien may be subordinated at the discretion of the engineer, and the form and substance of the agreement, procedures, documents, covenants, etc., necessary to place the agreement and lien into effect shall all be determined by the engineer, subject to the approval of the city attorney);

c. That said agreement shall provide that the owner of each lot or parcel created as a result of said division shall agree to pay all court costs and attorney fees and waives any and all defenses, legal or equitable, other than liquidated monetary setoffs against the city, if an action at law or foreclosure suit is brought to enforce payment of the fee or recovery of the fee through the lien.

2. Said governmental agency will pay or provide for payment of the drainage fee on any developed lot or parcel at the time of division except that in the event of ownership by said governmental agency of said developed parcel or parcels, payment of the drainage fee thereon shall be made at the time of sale of said developed lot or parcel by the governmental agency.

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3. Said governmental agency will give actual notice of the lien described above to the purchaser of any lot or parcel created as a result of such division, except that failure by said governmental agency to provide actual notice to the purchaser shall not affect the lien upon said parcel or portion thereof as sold or the liability by the owner thereof to pay any drainage fee thereon as herein provided.

G. As to any portion of land included within a parcel map for which the fee has not been deferred under subsection (B) of this section, the fee obligation established by this chapter may be deferred where such divisions of land are required by court order.

1. All owners who desire to defer fees under this subsection shall enter into an agreement with the city that shall require the payment of such deferred fee at the earliest of the following occurrences:

- a. The sale or transfer of any such parcel or portion thereof;
- b. The filing of a final map or parcel map on any portion of such parcel;
- c. The issuance of a building permit or special permit for any development entitlement on or for any portion of such parcel.

2. Fees deferred under this subsection shall be paid at the rates in effect when such fees become due and payable.

16.40.040 Timing of fee payment.

A. Notwithstanding the requirements of Section 16.40.030, the City Council may, by resolution, authorize the payment of the fee at a time other than that identified in Section 16.40.030.

B. In adopting the resolution identified in subsection A of this section, the City Council shall make the following findings:

1. That the state of the economy in the city is such that the deferment of the fee required by this chapter will stimulate the economy and enhance the provision of jobs; and
2. That the deferment of the fee required by this chapter will not materially affect the ability of the city to deliver its five-year capital improvement program.

C. In adopting the resolution identified in subsection A of this section, the City Council shall:

1. Identify the point in time at which the fee shall be paid; provided, that in no event shall the deferral be extended beyond the time of the final inspection or issuance of the certificate of occupancy, whichever occurs first;
2. Identify to which major land use category (i.e., residential, commercial, office and/or industrial) the resolution applies;

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3. Identify whether or not a contract shall be entered into by and between the property owner, or lessee if the lessee's interest appears of record, and the city prior to the issuance of the building permit. If a contract is required to be executed, it shall be processed and recorded in accordance with Government Code Section 66007(c). In lieu of entering into a contract, if one is required, the fee payer may provide such other form of surety instrument guaranteeing payment of the fee as may be acceptable to the city engineer or his/her designee and the city attorney;
4. Impose a penalty, equal to one hundred (100) percent of the amount of the fees deferred, on any party who fails to pay the deferred fee by the point in time specified in such resolution; and
5. Provide that a party who fails to pay such deferred fees by the point in time specified in such resolution shall further forfeit the future right to defer such fees on parcels in which such party has a financial interest.

D. Companies classified within the following Standard Industrial Codes shall be able to pay their development impact fees over five years without interest or administrative fee. The first installment of twenty (20) percent shall be due upon occupancy and the balance shall be paid in five equal annual installments thereafter and shall be collected on the property tax roll. The collection of the balance due on the property tax roll shall not preclude the earlier payment of any outstanding balance.

2000--2099 Food processing

2200--3999 Certain other manufacturers

4200--4299 Trucking and warehousing

4500--4599 Air transportation

4700--5199 Transportation services and warehouse trade

16.40.050 Development without payment of local drainage fee prohibited.

No person shall construct, erect, or install, or cause or permit to be constructed, erected, or installed, any development on any parcel of land on which the drainage fee required by this article has not been paid; and no building permit or other permit for any development shall be issued unless the required drainage fee has been paid.

16.40.060 Fee schedule--Computation of fee.

A. The council shall establish by resolution, a schedule of per-gross-acre fees calculated to provide the sum of money necessary to pay the estimated total costs, as set forth in the drainage plan, of the planned drainage facilities. Such schedule shall be conditioned and based on the following findings by the council:

1. That the planned drainage facilities for the drainage area are in conformity with the drainage plan of the city;

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2. That the development of property within the drainage area will require construction or acquisition of the planned drainage facilities described in the drainage plan and that the fees are fairly apportioned within the drainage area on the basis of benefits conferred on property developed or to be developed or on the need for planned drainage facilities created by proposed or existing development of property within the drainage area;

3. That drainage facilities planned with respect to the drainage area that are in addition to any existing drainage facilities serving such drainage area at the time of adoption of the drainage plan are necessary to complete the planned drainage facilities for the drainage area.

B. The schedule of fees shall be those amounts as established by Resolution No. 97-39 of the council and shall remain in effect until July 1, 1998. Effective July 1, 1998, and each succeeding July 1st thereafter, said schedule of fees shall be adjusted in accordance with the following criteria:

1. On April 1st of each year the engineer shall review the current Engineering News Record Construction Cost Index (ENRCCI) for the cities of Los Angeles and San Francisco, CA. When the average of such indices differs from the average of the indices for the preceding April 1st, the factor of increase or decrease shall be applied to the schedule of fees. Such factor shall be computed by dividing the average ENRCCI for the current April 1st by that pertaining to the previous April 1st. The individual drainage fee rates may be multiplied by said factor to determine the adjusted schedule of fees. The engineer shall present the new fee schedule for adoption by resolution of council after at least one public hearing.

2. The engineer shall add to the schedule of fees the drainage fee rates for new planned drainage areas established by the council concurrently with the amendment of the drainage plan adding thereto such new planned drainage areas.

3. If in the determination of the engineer the adjustment of the schedule of fees produced by the procedure in subdivision 1 of this subsection is not representative of the actual change in costs of the planned drainage facilities, the engineer may, in lieu of the procedures set forth in said paragraph, compute a new schedule of fees for adoption by resolution of the council after at least one public hearing.

4. In the event of the adoption of a new schedule of fees by resolution of the council, such new schedule shall become effective sixty (60) days after the adoption thereof by the council. The adjustment of such schedule provided in Subdivision 1 of this subsection shall begin the April 1st next occurring after adoption of the new schedule.

C. The rates per-gross-acre used to compute drainage fees levied and collected pursuant to this article for parcels of land located in the drainage area shall be those rates set forth for the drainage area in the schedule of per-gross-acre fees established by resolution of the council as set forth in this section. For parcels of land located, pursuant to the zoning ordinance, in the respective land use districts identified in the schedule of per-gross-acre fees, the per-gross-acre fee shall be the sum identified with such land use district in such schedule.

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D. In such cases wherein the parcel of land is located in a new land use district for which a rate per-gross-acre has not been adopted by the council, the engineer shall calculate and shall levy an interim fee using the cost distribution formula for the land use district within the subject local drainage area that in the engineer's opinion is the most similar to the new district, but which is not less than the lowest per-acre rate identified in the rate schedule. The council shall, as soon as practical, thereafter amend the schedule of per-gross-acre fees identifying therein the new district and the fees per gross acre associated therewith and any deviation from the interim fees that shall have been paid shall be adjusted by a further payment to the city or refund to the owner.

E. The drainage fee applicable to any parcel of land or division shall be the product of the gross acreage of the parcel or division multiplied by the rate or rates per gross acre applicable to the land use district, within which the parcel or division is located as specified within the fee schedule resolution adopted pursuant to this section.

F. When a development is proposed on only a portion of any parcel of land, the engineer may designate on the approved plot plan the portion of such real property on which the development is to occur as the area to be developed. The payment of the drainage fee shall be limited to such designated area subject to the following conditions:

1. Such designated area shall include all area to be the subject of activity which materially alters the natural surface of the land or restricts the imperviousness of the soil, including landscaping, paving and other means of soil stabilization, and grading and filling.
2. Such designated area shall equal or exceed the minimum area established for the applicable land use district identified in the zoning ordinance.
3. The area of such parcel remaining undesignated shall equal or exceed the minimum area established for the applicable land use district identified in the zoning ordinance.

G. When any development subject to a conditional use permit or a recorded development agreement would create a substantially greater or lesser amount of change in the natural surface of the land than would be created by the normal or usual development of land in a land use district, an appropriate fee shall be calculated by using the rate or rates for the land use district within the subject drainage area which is most similar in character to the proposed development. Payment of such fee or the construction of planned local drainage facilities, or a combination thereof, shall be a condition of any permit which is required for construction or use of such development.

H. When the drainage fee applicable to any parcel of land has been paid pursuant to this article, or shall have been paid through assessment in a specific assessment proceeding, and the use of such parcel of land is changed to a use which, under the then-current fee schedule, requires a higher drainage fee, then such parcel of land shall be subject to payment of an additional fee that shall be the fee applicable to such parcel of land in its changed use under the fee schedule in effect at the time the additional fee is payable less the total of any credits allowed under Section 16.40.070.

Section 16.40.070 Credits, reimbursements for fees and facilities previously paid and installed--Conditions.

A. In the computation of the drainage fee payable because of the development or division of any parcel of land, a credit shall be allowed for planned drainage facilities installed with respect to such parcel. Such credits for drainage facilities constructed and still in existence and use in any street, alley or public easement and not constructed by special assessment proceeding shall be allowed, subject to the following conditions and limitations:

1. Facilities considered for such credits shall have been constructed in conformance with the standards of the city in effect when such facilities were constructed;
2. The engineer shall certify that such facilities are in conformance with, or beneficial for use in connection with, the planned drainage facilities installed or to be installed in the drainage area;
3. The credit allowed shall not exceed the cost of such facilities, as determined by the engineer from actual cost records or by applying estimates of construction costs prevailing at the time such facilities were constructed; provided, that no credit shall be allowed because of public easements, the dedication of which may have been required by the city in conjunction with development or divisions as defined in this chapter;
4. The facilities shall have been constructed and paid for with respect to the parcel for which credit is claimed and are located in or will serve the planned drainage area within which is located the parcel for which credit is claimed;
5. Such credits shall be calculated based on the cost estimates identified in the storm drain master plan, and adjusted annually in the same manner as the schedule of per-gross-acre fees in Section 16.40.060;
6. The city shall have acquired ownership of the facilities without cost;
7. When the facilities for which credit is claimed benefit more than one parcel and only a portion of the total allowable credit is claimed, the city may, in the absence of an agreement among the owners of the subject parcels eligible for such credit, estimate the total cost of the facilities at the time of construction and apportion the total credit allowable for such facilities among the benefitting parcels in a manner that the city in its sole discretion shall deem equitable;
8. Except in the case of public agencies, in the event the actual cash expenditures, as determined by the engineer in Subsection (A)(3) of this section, exceed the total drainage fee payable because of the development or division of any parcel of land, the city shall contract with the developer or divider to reimburse such excess credits. Such reimbursement shall be subject to the following conditions and limitations:
 - a. Such reimbursements shall be paid to the developer or divider from drainage fees received pursuant to subsequent development or division of other parcels of land within the local drainage area served by the planned drainage facilities for which such reimbursement is due,

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- b. In those drainage areas in which more than one reimbursement contract is concurrently in existence, the order of reimbursement shall be based upon the date of receipt by the city of the submittals set forth in Subsection (A)(8)(g) of this section. Reimbursement shall not be paid pursuant to a late reimbursement contract within a drainage area until any previous reimbursement contract within said drainage area is fully reimbursed,
 - c. The payment of such reimbursements is to be made semi-annually, in amounts determined by the engineer,
 - d. Should there not be sufficient subsequent drainage fees available, or should the facilities required to provide the level of drainage service prescribed by the drainage plan not be available, by a date fifteen (15) years from the date of receipt by the city of the submittals set forth in Subsection (A)(8)(g) of this section, the initial reimbursement period and any remaining obligation of the city to reimburse such excess credit shall expire; provided, however, that the expiration of the city's reimbursement obligation shall be extended an additional five years in those cases in which the developer or divider has been reimbursed at least seventy-five (75) percent of the total excess credit during the initial reimbursement period,
 - e. The total reimbursement to be paid pursuant to this Subsection (A) shall not exceed ninety-five (95) percent of the total excess credit; the city shall retain five percent from each reimbursement as an administrative records and services charge,
 - f. Nothing herein shall preclude the more frequent payment of reimbursement or the partial payment of reimbursements when sufficient funds are determined by the engineer to be available and all other conditions of this Subsection (A) have been met,
 - g. The developer or divider shall submit to the city, within ninety (90) days of acceptance by the city of those facilities for which credit or excess credit is claimed, the reproducible as-built plans of said facilities, the project accounting reflecting final costs of the eligible items and any balance due of the final drainage fee determined pursuant to this chapter. Credits and reimbursement of excess credits shall not be granted pursuant to this section if the submissions required by Subsection (A)(8)(g) are not made.
- B. Credits for assessment previously levied for planned drainage facilities by special assessment proceeding shall be allowed, subject to the following conditions and limitations:
- 1. Such facilities shall have been constructed in conformance with the standards of the city in effect when such facilities were constructed;
 - 2. The engineer shall certify that such facilities are in conformance with or beneficial for use in connection with the planned facilities installed in the drainage area;
 - 3. The credit allowed shall be equal to the amount of the assessment and any supplemental assessment levied upon the parcel of land, that was paid in cash or that became security for a bond or bonds issued in the special assessment proceedings. If one assessment was levied for drainage facilities and other improvements in the same proceeding, the engineer shall determine, from the engineer's report in the assessment proceeding, if available, otherwise on cost estimates

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applied by the engineer, the proportion of the assessment attributable to such facilities, and the amount so determined by him shall be the credit allowed.

C. If the drainage fee was paid on all or a portion of the parcel of land pursuant to this chapter and an additional local drainage fee is payable under any provision of this chapter, a credit shall be allowed equal to the amount previously paid.

Chapter 16.44

TRANSPORTATION IMPACT FEES

Sections:

- 16.44.010 Legislative findings.**
- 16.44.020 Short title, authority and applicability.**
- 16.44.030 Intents and purposes.**
- 16.44.040 Rules of construction.**
- 16.44.050 Definitions.**
- 16.44.060 Imposition of transportation impact fee.**
- 16.44.070 Fee schedule.**
- 16.44.080 Computation of the amount of transportation impact fee.**
- 16.44.090 Payment of fee.**
- 16.44.100 Timing of fee payment.**
- 16.44.110 Transportation impact fee trust fund established.**
- 16.44.120 Use of funds.**
- 16.44.130 Refund of fees paid.**
- 16.44.140 Fee exemptions and reductions.**
- 16.44.150 Reimbursements for private construction of planned transportation facilities.**
- 16.44.160 Exceptions.**
- 16.44.170 Appeal process.**
- 16.44.180 Penalty provisions.**
- 16.44.190 Severability.**

16.44.010 Legislative findings.

The City Council of the city finds, determines, and declares that:

- A. The city must expand its street system in order to maintain acceptable levels of service if new development is to be accommodated without reducing these levels of service to

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unacceptable levels as established in the circulation element of the general plan of the city. This must be done in order to promote and protect the public health, safety and welfare;

B. The California Legislature through the enactment of California statutes has authorized and encouraged cities to enact impact fees in order to meet the impacts of new development;

C. The imposition of impact fees is one of the preferred methods of ensuring that development bears a proportionate share of the cost of capital facilities necessary to accommodate such development. This must be done in order to promote and protect the public health, safety and welfare;

D. Each of the land use categories shown in the schedule of fees to be adopted pursuant to Section 16.44.070, will generate traffic necessitating the acquisition of rights-of-way, street construction and street improvements;

E. The fees established under the authority of Section 16.44.070 are derived from, are based upon, and do not exceed the costs of providing additional rights-of-way, street construction and street improvements necessitated by the new land developments for which the fees are levied;

F. The city has commissioned the completion of the report titled "Traffic Impact Fee Update Nexus Study City of Visalia," dated November 13, 2008. Such report, as it may be revised from time to time, sets forth a reasonable methodology and analysis for the determination of the impact of new development on the need for and costs for additional rights-of-way, street construction and street improvements in the city.

16.44.020 Short title, authority and applicability.

A. This chapter shall be known and may be cited as the "City of Visalia Transportation Impact Fee Ordinance."

B. The City Council of the city has the authority to adopt this chapter pursuant to its Charter and pursuant to Article XI of Section 7 of the Constitution of the state of California, and Government Code Sections 65300 et. seq., 66000 et. seq., and 66470 et. seq. of California statutes.

C. This chapter shall apply in the incorporated area of the city to the extent permitted by Article XI of Section 7 of the Constitution of the state of California.

16.44.030 Intents and purposes.

A. This chapter is intended to assist in the implementation of the circulation element of the Visalia General Plan.

B. The purpose of this chapter is to regulate the use and development of land so as to assure that new development bears a proportionate share of the cost of capital expenditures necessary to provide streets in the city.

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16.44.040 Rules of construction.

- A. The provisions of this chapter shall be liberally construed so as to effectively carry out its purpose in the interest of the public health, safety and welfare.
- B. For the purpose of administration and enforcement of this chapter, unless otherwise stated in this chapter, the following rules of construction shall apply to the text of this chapter:
1. In case of any difference of meaning or implication between the text of this chapter and any caption, illustration, summary table, or illustrative table, the text shall control.
 2. The word "shall" is always mandatory and not discretionary; the word "may" is permissive.
 3. Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
 4. The phrase "used for" includes "arranged for," "designed for," "maintained for," or "occupied for."
 5. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
 6. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or" or "either...or," the conjunction shall be interpreted as follows:
 - a. "And" indicates that all the connected terms, conditions, provisions or events shall apply.
 - b. "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
 - c. "Either...or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
 7. The word "includes" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.
 8. "City engineer" means the city engineer or city officials he/she may designate to carry out the administration of this chapter.
 9. A street right-of-way used to define transportation impact fee district boundaries may be considered within any district it bounds.

16.44.050 Definitions.

As used in this chapter, the following terms are defined in this section:

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"Accepted by the city" means the acceptance by the city of newly constructed public improvements as evidenced by the recording by the city of a Notice of Completion with the county, or by the issuance of a final inspection of an encroachment permit.

"Arterial street" shall have the same meaning as set forth in Section 16.44.050 of the Visalia Municipal Code.

A "capital improvement" includes transportation planning, preliminary engineering, engineering design studies, land surveys, right-of-way acquisition, engineering, permitting and construction of all the necessary features for any street construction project including, but not limited to:

1. Construction of new through lanes;
2. Construction of new turn lanes;
3. Construction of new bridges or culverts;
4. Construction of new drainage facilities in conjunction with new street construction;
5. Purchase and installation of traffic signalization (including new and upgraded signalization);
6. Construction of curbs, medians, and shoulders; and
7. Relocating utilities to accommodate new street construction.

"Collector street" shall have the same meaning as set forth in Section 16.44.050 of the Visalia Municipal Code.

"Developer" means any person who undertakes a land development project within the city.

"Development permit" means a regulatory approval of a land development project by the city, including but not limited to a building permit, subdivision map, parcel map, conditional use permit or planned development permit, as those terms are defined in the Municipal Code.

"Expansion" of the capacity of a road applies to all street and intersection capacity enhancements and includes but is not limited to extensions, widening, intersection improvements, upgrading signalization, and expansion of bridges or culverts.

"Feepayer" means a developer who is required to pay the transportation impact with the issuance of a building permit or permit for mobile home installation.

"Freeway" shall have the same meaning as set forth in Section 16.44.050 of the Visalia Municipal Code.

"Land development project" means any land division, building, construction, reconstruction or remodeling project that results in new improvement to real property and requires the obtaining of development permits from the city.

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"Land use categories" means the specific list of land uses shown in a fee schedule developed under the authority of this chapter that generate vehicle trips and were used to project future vehicle trips for the calculation of the transportation impact fee.

"Level of service" shall have the same meaning as set forth in the Highway Research Board's Highway Capacity Manual (latest Edition, as amended).

"Major arterial" shall have the same meaning as set forth in Section 16.44.050 of the Visalia Municipal Code.

"Nexus study" means the report titled "Traffic Impact Fee Update Nexus Study City of Visalia," dated November 13, 2008, and any amendment or modification of such report that may be accepted by resolution of the City Council in a manner consistent with the requirements (including the required findings) contained in the Mitigation Fee Act (California Government Code section 66000 et seq.)

"Planned transportation facilities" means that portion of the arterial/collector street system that is established in the adopted circulation element of the general plan of the city and is included for funding in the calculation of the transportation impact fee in the nexus study.

"Site-related improvements" means street and related improvements and right-of-way dedications for direct access improvements to and/or within the land development project in question. Site related improvements include, but are not limited to the following: (1) street improvements consisting of, or the equivalent of, a parking lane with curb and gutter along the arterial/collector street frontages of the land development project; (2) local streets leading to the land development project; driveways and streets within the land development project; (4) acceleration and deceleration lanes, and right and left turn lanes leading to those streets and driveways; (5) traffic control measures for those streets and driveways; and (6) utility relocations.

"Supplemental improvements" means planned transportation facilities or master planned facility improvements imposed upon a development project that are neither: (1) located within the frontage area of the project being developed; nor (2) site related improvements.

"Street" shall have the same meaning as set forth in Section 16.44.050 of the Visalia Municipal Code.

"Trip" means a single or one (1) direction vehicle movement with either the origin or destination (exiting or entering) inside the study site.

"Trip ends" means the total of all trips entering plus all trips leaving a designated land use or building type over a period of time.

16.44.060 Imposition of transportation impact fee.

A. Any person who, after the effective date of this chapter, seeks to commence a land development project within the city by applying for: a building permit; an extension of a building

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permit issued prior to that date; a permit for mobile home installation; or an extension of a permit for mobile home installation issued prior to that date, to make an improvement to land that will generate additional traffic is required to pay a transportation impact fee in the manner and amount set forth in this chapter.

B. No new building permit or new permit for mobile home installation for any activity requiring payment of an impact fee pursuant to Section 16.44.070 shall be issued unless and until the transportation impact fee required has been paid.

C. No extension of a building permit or permit for mobile home installation issued prior to the effective date of this chapter, for any activity requiring payment of an impact fee pursuant to Section 16.44.070 shall be granted unless and until the transportation impact fee required has been paid. This section shall not apply if the applicant applying for an extension of a building permit or permit for mobile home installation can demonstrate that a good faith effort has been applied to begin construction or that substantial completion has occurred in conformance with the approved building permit or permit for mobile home installation.

16.44.070 Fee schedule.

A. The council shall establish by resolution, a schedule of transportation impact fees calculated to provide the sum of money necessary to fund the portion of the total cost of the planned transportation facilities allocated to new development, as set forth in the nexus study. The resolution adopting such schedule shall be approved following at least one public hearing in conformity with the provisions of state law and this chapter, shall be based on the nexus study, and shall include the following findings by the council:

1. That the planned transportation facilities are in conformity with the circulation element of the general plan of the city;
2. That the development of property will require construction or acquisition of planned transportation facilities and that the fees are fairly apportioned on the basis of benefits conferred on property developed or to be developed or on the need for planned transportation facilities created by proposed or existing development of property;
3. That transportation facilities are in addition to any existing transportation facilities serving the city at the time of adoption of the circulation element of the general plan are necessary to complete the planned transportation facilities.

B. The schedule of fees adopted pursuant to subsection A above shall remain in effect until revised pursuant to the following process and criteria:

1. On April 1st of each year the city engineer shall review the current Engineering News Record Construction Cost Index (ENRCCI) for the cities of Los Angeles and San Francisco, CA. When the average of such indices differs from the average of the indices for the preceding April 1st, the factor of increase or decrease shall be applied to the schedule of fees. Such factor shall be computed by dividing the average ENRCCI for the current April 1st by that pertaining to the previous April 1st. The individual transportation impact fee rates may be multiplied by the factor

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to determine the adjusted schedule of fees. The city engineer shall present the new fee schedule for adoption by resolution of council after at least one public hearing. The city engineer shall also apply such factor to the schedule of reimbursement unit rates as established pursuant to Section 16.44.150. Modifications of the fee rates and reimbursement unit rates as called for by this division shall be considered programmed adjustments, provided that such adjustments are addressed by the nexus study then in effect or the resolution approving such nexus study, and therefore shall not require a new, amended or revised nexus study.

2. In the event of a future amendment of the circulation element that has the effect of adding or removing new planned transportation facilities, the city engineer shall review the nexus study and if such review concludes that the costs of the planned transportation facilities attributable to new development is changed as a result of the addition or removal, the city engineer shall modify, amend or revise the nexus study, as may be appropriate. The city engineer shall present such modification, amendment or revision to the council together with a revised schedule of transportation impact fees, for approval by resolution in a manner that is consistent with this chapter.

3. If in the determination of the city engineer the adjustment of the schedule of fees produced by the procedure in subdivision (1) of this subsection is not representative of the actual change in costs of the planned transportation facilities, the city engineer may, in lieu of the procedures set forth in said paragraph, compute a new schedule of fees by initiating a modification, amendment or revision of the nexus study, as may be appropriate, and presenting such new schedule of fees together with such modified, amended or revised nexus study for adoption by resolution of the council after at least one public hearing.

4. In the event of the adoption of a new schedule of fees by resolution of the council, such new schedule shall become effective sixty (60) days after the adoption thereof by the council. The adjustment of such schedule provided in subdivision 1. of this division shall begin the April 1st next occurring after adoption of the new schedule.

16.44.080 Computation of the amount of transportation impact fee.

A. The feepayer shall pay the amount of the transportation impact fee as determined from the schedule of fees established pursuant to Section 16.44.070.

1. If a building permit is requested for a structure or structures that will feature two or more different and separable uses, the fee shall be determined by apportioning the space committed to the respective different and separable uses and applying the appropriate land use category for each such apportioned space. Where a building permit is requested for a structure that will feature two or more distinguishable uses but such uses are not separable, the city engineer shall determine which use is the predominant use and shall apply the land use category appropriate for such predominant use to the entire building area of the project.

2. If a building permit is requested for a restaurant or retail use that includes outdoor space intended for permanent use in conjunction with the indoor portion of the restaurant or retail use,

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then the outdoor space will be included in overall building size as a restaurant or retail space, as the case may be, in the determination of the fee.

3. If a shell building permit is requested for a planned retail, office or industrial use tenant, then the fee will be determined at the lowest fee rate for the applicable land use shown in the schedule of fees. If necessary, additional fees will be determined at the time that a tenant improvement permit is requested if the land use is higher than that used for the shell building permit.

4. For applications for an extension of a building permit or an extension of a permit for mobile home installation, the amount of the fee is the difference between that fee then applicable and any amount already paid pursuant to this chapter.

5. If the land use category for a development project that a building permit is applied for is not clearly specified on the applicable fee schedule, the city engineer shall use the fee applicable to the most nearly comparable type of land use category on the fee schedule. The city engineer shall be guided in the selection of a comparable type by the report titled "Trip Generation" (latest edition) prepared by Institute of Transportation Engineers. If the city engineer determines that there is no comparable type of land use category on the applicable fee schedule, then the city engineer shall determine the fee by:

a. Considering comparable traffic generation statistics for similar types of land use categories contained in the report titled "Trip Generation" (latest edition) prepared by Institute of Transportation Engineers; or

b. If no appropriate land use category can be determined through subparagraph a., allowing the feepayer to submit an independent trip generation study prepared in accordance with the requirements of the Institute of Transportation Engineers. The study shall be prepared and presented by professionals qualified in their respective fields. The city engineer shall consider the study, but is not required to accept the study as he/she shall reasonably deem to be inaccurate or not reliable and may, in the alternative, require an amended study for consideration. If an acceptable independent trip generation study is not presented, the feepayer shall pay transportation impact fees based upon the city engineer's determination in subsection (3)(a) of this section. If an acceptable independent trip generation study is presented, the city engineer shall determine the fee level by applying the number of trips indicated in the independent trip generation study to the fee rate calculation formula as contained in the nexus study.

6. In the case of change of use, redevelopment or expansion or modification of an existing use that requires the issuance of a building permit or permit for mobile home installation, the transportation impact fee shall be based upon the net positive increase in the impact fee for the new use as compared to the previous use. The city engineer shall be guided in this determination by traffic generation statistics contained in a report titled "Trip Generation" (latest edition) prepared by Institute of Transportation Engineers.

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16.44.090 Payment of fee.

The feepayer shall pay the transportation impact fee required by this ordinance to the city engineer or his designee prior to the issuance of a building permit or a permit for mobile home installation. All funds collected shall be properly identified and promptly transferred for deposit in the transportation impact fee fund as determined in Section 16.44.110 and used solely for the purposes specified in this chapter.

16.44.100 Timing of fee payment.

A. Notwithstanding the requirements of Section 16.44.090, the City Council may, by resolution, authorize the payment of the fee at a time other than that identified in Section 16.44.090.

B. In adopting the resolution identified in subsection (A) of this section, the City Council shall make the following findings:

1. That the state of the economy in the city is such that the deferment of the fee required by this chapter will stimulate the economy and enhance the provision of jobs; and
2. That the deferment of the fee required by this chapter will not materially affect the ability of the city to deliver its five-year capital improvement program.

C. In adopting the resolution identified in A. of this section, the City Council shall:

1. Identify the point in time at which the fee shall be paid; provided, that in no event shall the deferral be extended beyond the time of the final inspection or issuance of the certificate of occupancy, whichever occurs first;
2. Identify to which major land use category (i.e., residential, commercial, office and/or industrial) the resolution applies;
3. Identify whether or not a contract shall be entered into by and between the property owner, or lessee if the lessee's interest appears of record, and the city prior to the issuance of the building permit. If a contract is required to be executed, it shall be processed and recorded in accordance with Government Code Section 66007(c). In lieu of entering into a contract, if one is required, the feepayer may provide such other form of surety instrument guaranteeing payment of the fee as may be acceptable to the city engineer or his/her designee and the city attorney;
4. Impose a penalty, equal to one hundred (100) percent of the amount of the fees deferred, on any party who fails to pay the deferred fee by the point in time specified in such resolution; and
5. Provide that a party who fails to pay such deferred fees by the point in time specified in such resolution shall further forfeit the future right to defer such fees on parcels in which such party has a financial interest.

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D. Companies classified within the following Standard Industrial Codes shall be able to pay their development impact fees over five years without interest or administrative fee. The first installment of twenty (20) percent shall be due upon occupancy and the balance shall be paid in five equal annual installments thereafter and shall be collected on the property tax roll. The collection of the balance due on the property tax roll shall not preclude the earlier payment of any outstanding balance.

2000--2099 Food processing

2200--3999 Certain other manufacturers

4200--4299 Trucking and warehousing

4500--4599 Air transportation

4700--5199 Transportation services and warehouse trade

16.44.110 Transportation impact fee trust fund established.

A. There is established a separate transportation impact fee trust fund.

B. Funds withdrawn from this account must be used in accordance with the provisions of Section 16.44.120.

16.44.120 Use of funds.

A. Funds collected from transportation impact fees shall be used for the purpose of capital improvements to and expansion of planned transportation facilities as designated by the city and any other transportation projects related to growth that may be determined from time to time by the City Council.

B. No funds shall be used for periodic or routine maintenance.

C. In the event that bonds or similar debt instruments are issued for advance provision of planned transportation facilities for which transportation impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type described in division A. of this section.

D. At least once each fiscal year, the city engineer shall present to the City Council a proposed capital improvement program for planned transportation facilities, assigning funds, including any accrued interest, from the transportation impact fee to specific road improvement projects and related expenses. Monies, including any accrued interest, not assigned in any fiscal year shall be retained in the transportation impact fee fund until the next fiscal year except as provided by the refund provisions of this chapter.

E. Funds may be used to provide refunds as described in Section 16.44.130.

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F. The city shall be entitled to retain not more than five percent of the funds collected as compensation for the expense of collecting the fee and administering this chapter. (Ord. 2008-14, 2008; prior code § 9515)

16.44.130 Refund of fees paid.

If a building permit or permit for mobile home installation expires without commencement of construction, then the feepayer shall be entitled to a refund, without interest, of the impact fee paid as a condition of its issuance; except, that the city shall retain five percent of the fee to offset a portion of the costs of collection and refund. The feepayer must submit an application for such refund to the city engineer within thirty (30) days of the expiration of the permit.

16.44.140 Fee exemptions and reductions.

A. The following shall be exempted from payment of the impact fee:

1. Alterations or expansion of an existing building where no additional units are created, where the use is not changed, and where no additional vehicular trips will be produced over and above those produced by the existing use.
2. The construction of accessory buildings or structures that will not produce additional vehicular trips over and above those produced by the principal building or use of the land.
3. The replacement of a destroyed or partially destroyed building or structure with a new building or structure of the same size and use provided that no additional trips will be produced over and above those produced by the original use of the land.
4. The installation of a replacement mobile home on a lot or other such site when a transportation impact fee for such mobile home site has previously been paid pursuant to this chapter or where a mobile home legally existed on such site on or prior to the effective date of this chapter.
5. Any claim of exemption must be made in writing and agreed to by the city prior to the issuance of the applicable building permit or permit for mobile home installation. Any claim not so made shall be deemed waived.

B. Where a fee is otherwise payable pursuant to this chapter, a feepayer may apply for a reduction of the fee to recognize an existing or previous use on the subject real property. A reduction for existing or previous use shall be provided where an existing structure or structures with clearly established uses will be demolished in conjunction with a land development project, or a structure or structures have been demolished on the subject property within twenty (20) years of a land development project and where there is clear documentation of the previous existence and use. No reduction pursuant to this subsection shall result in a reduction of the fee to less than zero. No reduction pursuant to this subsection may be transferable to other projects on other properties. The feepayer is responsible for submitting all documentation required by the city for consideration of an existing or previous use fee reduction. Any request for an existing or previous use reduction must be made in writing and the amount determined by the city prior to

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the issuance of the applicable building permit or permit for mobile home installation. The amount of reduction shall be determined by the city engineer and shall be based on the amount fee that would be payable by the previous use with reference to the fee schedule in existence at the time of the new building permit.

16.44.150 Reimbursements for private construction of planned transportation facilities.

A. It is the intent of the city that, whenever practicable, planned transportation facilities be constructed, and related right of way be dedicated, by developers in conjunction with land development projects, and that such construction and dedication be required as conditions of the development permit related to such projects pursuant to and consistent with the authority of various provisions the Municipal Code and statutes of the State of California. It is also the intent of the city that a portion of the cost for such construction and dedication of the planned transportation facilities and related right of way be reimbursed by the city, and that such reimbursements be among the assumptions made by the nexus study in establishing the fee schedule to be adopted pursuant to this chapter. Consistent with this intent, developers who are required to construct planned transportation facilities and make right-of-way dedications are entitled to reimbursement for all such facilities, except that a developer shall not be reimbursed for the cost of site related improvements as defined in this chapter or for the value of right of way associated with site related improvements.

B. The city engineer is authorized to create and maintain a reimbursement policy manual setting forth the manner in which this section shall be implemented. Such reimbursement policy manual shall be consistent with the provisions of this section and with the assumptions and methodologies contained in the nexus study.

C. As may be more fully described in the reimbursement policy manual, reimbursements for planned transportation facilities shall be made on the basis of unit costs and right-of-way values as established by the schedules of costs and land values as contained in the nexus study and that serve as the basis for that study, as adjusted from time to time pursuant to this chapter, and shall not be made based on actual construction or land costs or market values.

D. No reimbursement shall be made except as provided in a written reimbursement agreement between the city and the developer entered into prior to commencement of construction of the subject planned transportation facilities. Among other things, such agreements shall provide for the following:

1. The reimbursement agreement shall set forth the agreed to unit costs and right of way values.
2. The reimbursement agreement shall set forth the timing and manner of reimbursement payments.
3. The reimbursement agreement shall distinguish planned transportation improvements that are deemed to be supplemental improvements.

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4. Reimbursement for all non-supplemental improvements shall be made, to the greatest extent possible, in the form of credits against transportation impact fees payable by the subject development, as estimated at the time of entering into the reimbursement agreement. Credits shall not be used to reimburse for supplemental improvements unless with the consent of the developer.

5. Reimbursements shall be made in the form of cash payments only to the extent that the total amount of reimbursement exceeds the total amount of credits available to the subject development, or to the extent necessary to reimburse for supplemental improvements. Cash reimbursement, if necessary, shall be paid as funds are available in the Planned Transportation Fee Fund as maintained by the city, and if at any time, more than one (1) developer is owed cash reimbursement, payment shall be to those owed on a first-in-time priority basis, based on the date of the Notice of Completion of the improvements identified in the reimbursement agreement; provided, however, that cash reimbursement obligations associated with supplemental improvements shall be made within two (2) years from the Notice of Completion of said improvements, and cash reimbursement obligations associated with non-supplemental improvements shall be paid in full within ten (10) years from the Notice of Completion of said improvements. Cash reimbursement rights may be converted to fee credits, if available, at the option of the developer.

6. The reimbursement agreement shall require that the developer apply for reimbursement pursuant to the agreement no later than four (4) years after: (1) the construction of the public improvements, including planned transportation facilities, for a land development project are completed and accepted by the city or (2) the effective date of this ordinance; whichever date is later. The developer shall waive the right of reimbursement for construction costs payable under this section when the reimbursement is not applied for within said four (4)-year limitation.

E. Reimbursement payments otherwise due to the developer will not be made until all of the following requirements are met:

1. Construction of the public improvements, including planned transportation facilities, for the land development project are completed and accepted by the city; and
2. A reimbursement request is submitted to the city per the requirements of the city's reimbursement policy manual; and
3. Thirty (30) days have passed since acceptance by the city to ensure that no claims of nonpayment have been filed with the city by any contractor or subcontractor; and
4. Any further requirements of the city's reimbursement policy manual have been met.

F. No interest shall be paid by the city on any outstanding reimbursement amount set forth in a reimbursement agreement, except that the reimbursement agreement shall stipulate the city pay interest for supplemental improvements equal to the Local Agency Investment Fund interest rate at the time the reimbursement agreement is executed.

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G. If the city enters into a reimbursement agreement authorized by this section, the agreement shall provide that:

1. The general fund of the city is not liable for payment of any obligations arising from the agreement;
2. The credit of the city is pledged for the payment of any obligations arising from the agreement solely from dedicated transportation funds;
3. The landowner shall not compel the exercise of the city taxing power or the forfeiture of any of its property to satisfy any obligations arising from the agreement; and
4. The obligation arising from the agreement is a debt of the city, payable from income, receipts, or revenues from the transportation impact fee trust fund and other dedicated transportation funds.

H. At a minimum, the city shall devote twenty-five percent (25%) of the collected annual transportation impact fee revenue to satisfy developer reimbursements.

16.44.160 Exceptions.

A. The City Council may, from time to time, authorize exceptions to the payment of the transportation impact fee required by this Chapter.

B. If the City Council determines to authorize exceptions pursuant to subsection (A) of this section, the City Council shall adopt a resolution to that effect which shall:

1. State the findings made to support the decision to authorize exceptions to the payment of the transportation impact fee required by this chapter;
2. Determine which land use categories (residential, commercial, office or industrial) to which they will authorize exceptions to the payment of the transportation impact fee required by Section 16.44.090;
3. Determine the percentage of the transportation impact fee for each land use category to which they will authorize exceptions to the payment of the transportation impact fee required by Section 16.44.090;
4. Make a budget appropriation in the general fund, or such other discretionary fund, of a dollar amount equal to the estimated revenues that would have been collected had the City Council determined not to authorize exceptions to the payment of the transportation impact fee required by Section 16.44.090;
5. Set a date upon which the resolution expires. In any event, the resolution shall expire at the end of the then current fiscal year.

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C. Upon the issuance of a building permit for a land use category that has been determined to be excepted from the payment of the transportation impact fee pursuant to this section, the finance director shall transfer from the general fund, or such other discretionary fund as deemed appropriate by the City Council, to the transportation impact fee fund an amount equal to the excepted portion of the transportation impact fee.

D. The City Council may, by the adoption of a resolution, amend any exceptions or approvals granted pursuant to any resolution adopted consistent with subsection (B) of this section.

E. It is the intent of this section to provide the City Council with a tool to promote the economic development of the city, while at the same time insuring sufficient revenue in the transportation impact fee fund to fund the projects that have been identified as a result of growth and development in the community. It is not the intent of this section to exempt the fee payer from having to construct or pay for site-related improvements.

16.44.170 Appeal process.

Determinations made by the city engineer pursuant to this chapter may be appealed by filing a written request to the city manager within fourteen (14) days of the city engineer's decision. The city manager will consider the written appeal and issue a final decision.

16.44.180 Penalty provisions.

A violation of this chapter shall be prosecuted in the same manner as misdemeanors are prosecuted and upon conviction, the violator shall be punishable according to law; however, in addition to or in lieu of any criminal prosecution the city shall have the power to sue in civil court to enforce the provisions of this chapter.

16.44.190 Severability.

If any section, phrase, sentence or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Chapter 16.46

PUBLIC SAFETY IMPACT FEES

Sections:

- 16.46.010 Intent and purposes.**
- 16.46.020 Definitions.**
- 16.46.030 Fees and application.**
- 16.46.040 Fees schedule and computation of fee.**
- 16.46.050 Imposition and timing of fees.**
- 16.46.060 Disposition and use of fees.**
- 16.46.070 Refunds.**
- 16.46.080 Credits.**
- 16.46.090 Protest.**
- 16.46.100 Exemptions.**

16.46.010 Intent and purposes.

This chapter is intended to assist in the implementation of the policies of the general plan by providing for adequate public facilities to support orderly development. Further, the purpose of this chapter is to regulate the use and development of land so as to assure that new development bears a proportionate share of the cost of capital expenditures necessary to provide for public facilities that serve such development.

16.46.020 Definitions.

As used in this chapter, the following terms are defined in this section:

“Capital improvement program” means the long-range schedule of proposed projects with their estimated costs and sources of funds over a five (5) year period, adopted in the 2000-2002 year bi-annual budget.

“Fire protection and police facilities” means equipment and facilities needed to maintain adequate levels of service while accommodating the needs of future development, as identified in

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the Public Safety Impact Fee Study conducted by DMG-MAXIMUS dated April 26, 2001, and subsequent Capital Improvement Program.

“Gross acreage” means the area of a parcel of land, or the area of a proposed division, including those portions designated for streets and alleys and including those portions of all abutting streets and alleys measured to the center lines thereof or to a line parallel with and thirty (30) feet from the property line, whichever shall be the lesser. In the case of a single-family residential use occupying a corner parcel, the area of the street abutting the shortest side of such parcel, or one side in the case of a square parcel, shall not be included.

“Impact fee” means a monetary exaction imposed by the city pursuant to this chapter as a condition of or in conjunction with approval of a development project for the purpose of defraying all or some of the city's cost or repaying costs previously expended from other city funds for capital improvements.

“Impose” means to determine that a particular development project is subject to the collection of impact fees as a condition of development approval.

“New development” or “development project” means any new building, structure or improvement of any parcels of land, upon which no like building, structure or improvement previously existed.

16.46.030 Fees and application.

A. This chapter establishes development impact fees that are imposed as a condition of approval upon all new development projects for which a building permit is issued on or after the effective date of this chapter. Those impact fees are hereby established for the following public utilities.

1. Fire protection facilities;
2. Police facilities.

B. These impact fees are established in order to pay for the capital costs of fire protection and police facilities reasonably related to the needs of new development in the city.

16.46.040 Fees schedule and computation of fee.

A. The City Council shall establish by resolution a schedule of per gross acre fee, to be imposed on new development, calculated to provide the sum of money necessary to pay the estimated total capital costs of fire protection and police facilities, as identified in the April 26, 2001, fee study approved by council, to serve new development within the urban growth boundary. The amount of the fee shall be determined by resolution adopted by the City Council and shall be based on the capital cost per acre by general plan land use designation and shall include the cost of the study amortized over a five (5) year period. Following adoption of a fee schedule or a subsequent revised fee schedule, such fee shall become effective sixty (60) days after the adoption thereof by the City Council.

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B. Annual review of the fee schedule will be made in the following manner. Each April of each year the chief financial officer shall review the current Engineering News Record Construction Cost Index (ENRCCI) for the cities of Los Angeles and San Francisco, California. When the average of such indices differs from the average of the indices for the preceding April 1st, the factor of increase or decrease shall be applied to the schedule of fees. Such factor shall be computed by dividing the average ENRCCI for the current April 1st by that pertaining to the previous April 1st. The individual fire protection impact fee and police facilities impact fee rates may be multiplied by said factor to determine the adjusted schedule of fees. The chief financial officer shall present the new fee schedule for adoption by resolution of council after at least one public hearing.

C. At least once every five (5) years, the council shall review the basis for the impact fees to determine whether the fees are still reasonably related to the needs of new development. If it is necessary to update the previously approved fee study to do so, council may amortize the cost of doing so over the following five (5) year period and include such cost as an element of the impact fee.

16.46.050 Imposition and timing of fees.

A. Except as provided in this chapter, and any amendment to this chapter, the city may impose impact fees as a condition of approval of all new development projects.

B. After an individualized determination that each fee has been calculated as provided in this chapter, the impact fees shall be imposed prior to any development permit for new development.

C. The development impact fee shall be collected at the time and as a condition for issuance of a building permit, except as otherwise provided in Government Code Section 66007 or as provided herein.

D. The payment of fire protection impact fees and police facilities impact fees may be deferred until final inspection. In no case shall a certificate of occupancy be issued without the payment of the above referenced impact fee.

E. Companies classified within the following standard industrial codes shall be able to pay the fire protection impact fees and police facilities impact fees over a period of five (5) years without interest or administrative fee. The first installment of twenty (20) percent shall be due upon occupancy and the balance shall be paid in five (5) equal annual installments thereafter and will be collected on the property tax roll. The collection of the balance on the property tax roll shall not preclude the earlier payment of any outstanding balance.

2000–2099 Food processing

2200–3999 Certain other manufacturers

4200–4299 Trucking and warehousing

4500–4599 Air transportation

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4700–5199 Transportation services and warehouse trade

F. A penalty equal to the amount of one hundred (100) percent of the amount of the fees deferred shall be imposed on any party who fails to pay such deferred fees by the point of time the fee is due. Further, said party will have forfeited the right to defer such fees on parcels in which said party has a financial interest.

16.46.060 Disposition and use of fees.

The chief financial officer shall establish a separate account for each type of facility listed in Section 16.46.020A. All impact fees collected by the city shall be deposited in the account established for the specific type of facility for which the fee is collected. Any interest earned on funds deposited in a fund or account shall be deposited in that fund or account. Funds deposited in those accounts shall be used only to pay for facilities resulting from new development within the urban growth boundary, as identified in the resolution adopted by City Council setting the rate of the fee.

16.46.070 Refunds.

If impact fees collected by the city have not been expended or designated for the intended purpose within five (5) years following their collection, the city shall either refund those fees as provided in Government Code Section 66001, or make the findings as required by said section to retain the fees.

16.46.080 Credits.

A. A property owner who dedicates land or otherwise contributes funds for the capital costs of fire protection and police facilities identified herein may be eligible for a credit for such contribution against the impact fee otherwise due.

B. The chief financial officer shall determine: (1) the value of the developer contribution; (2) whether the contribution meets capital improvement needs for which the particular impact fee has been imposed; and (3) whether the contribution will substitute or otherwise reduce the need for capital improvements anticipated to be provided with impact fee funds. In no event, however, shall the credit exceed the amount of the otherwise applicable impact fee.

C. Any application for credit must be submitted on forms provided by the city before development project approval. The application shall contain a declaration under oath of those facts which qualify the property owner for the credit, accompanied by the relevant documentary evidence.

16.46.090 Protest.

Any party subject to the fees established by this chapter may protest the imposition of those fees by meeting all of the following requirements:

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A. Tendering any required payment in full or providing satisfactory evidence of arrangements to ensure performance of the conditions necessary to meet the requirements of the imposition of the fee.

B. Serving written notice of protest on the City Council which notice shall contain all of the following information:

1. A statement that the required payment is tendered under protest.
2. A statement informing the City Council of the factual elements of the dispute and the legal theory forming the basis for the protest.

C. Serving the written notice of protest no later than ninety (90) days after the date of the imposition of the fee.

The City Council shall consider that protest at a hearing to be held within sixty (60) days after the filing of the protest. The decision of the City Council shall be final.

16.46.100 Exemptions.

The fees imposed under this chapter shall not apply to the following:

- A. Remodeling or alteration of an existing dwelling or building.
- B. Additions to an existing dwelling or building that does not cause the site upon which the dwelling or building is situated to be expanded.

Chapter 16.48

ENVIRONMENTAL IMPACT MITIGATION

Sections:

- 16.48.010 Legislative findings.**
- 16.48.020 Purpose.**
- 16.48.030 Short title, authority and applicability.**
- 16.48.040 Rules of construction.**
- 16.48.050 Definitions.**
- 16.48.060 Imposition of environmental impact mitigation—School overcrowding—Fee.**
- 16.48.070 Fee schedule.**
- 16.48.080 Computation of the amount of environmental impact mitigation—School overcrowding—Fee.**
- 16.48.090 Payment of fee.**
- 16.48.100 Timing of fee payment.**
- 16.48.110 Use of funds.**
- 16.48.120 Refund of fees paid.**
- 16.48.130 Exemption and credits.**
- 16.48.140 Penalty provisions.**
- 16.48.150 Sunset clause.**
- 16.48.160 Severability.**

16.48.010 Legislative findings.

The City Council of the city finds, determines and declares that:

- A. Policy PSCU-P-34 of the General Plan requires the city work with the Visalia Unified School District to coordinate land use and development with school location and site design to ensure that adequate facilities are available and integrated with neighborhoods;

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- B. The school district has presented information to the city establishing that existing school facilities are overcrowded and that further growth and development in the city will have a significant adverse impact on the capacity of the school system;
- C. The school district has presented information to the city that the fee, charge, dedication or other requirement the district is authorized to levy against a development project pursuant to Government Code Sections 53080 and 65995 is insufficient to adequately fund the construction of new school facilities to meet the needs of growth in the community;
- D. The school district has presented information to the city that it does not have the financial or other resources available to fund new school facilities;
- E. While it is also the State of California's responsibility to fund the construction of new school facilities to meet the needs of growth, the state has not provided the financial or other resources necessary to meet the growing demand for new school facilities;
- F. Pursuant to Education Code Section 17718.5(a) the State Board of Education is to encourage school districts to utilize alternative methods to fund school facilities;
- G. Education Code Section 17717.7 encourages the use of alternative funding sources by creating a six-tiered priority list for qualifying for state funding that effectively encourages school districts to request only a maximum of fifty (50) percent of total construction costs;
- H. The school district must expand its classroom facilities in order to meet the needs of a growing community without decreasing the current level of education in order to promote and protect the public health, safety and welfare.
- I. The imposition of an environmental impact mitigation fee is a preferred method of ensuring that new development bears a proportionate share of the cost of capital facilities necessary to accommodate the student population generated by such development and thereby promotes and protect the public health, safety and welfare.
- J. The fees established by Section 16.48.070 are derived from, are based upon, and do not exceed the costs of providing additional school facilities necessitated by new development for which the fees are levied.
- K. The report entitled "Environmental Impact Mitigation – School Overcrowding – Fee Justification Report", dated May 18, 1992, sets forth a reasonable methodology and analysis for determination of the impact on new development on the need for and cost of additional school facilities within the school district;
- L. The adoption of this chapter is consistent with the General Plan of the city.

16.48.020 Purpose.

The purpose of this chapter is to assess environmental impact mitigation fees against all new residential construction, and all remodels adding additional area to existing residential buildings,

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all consistent with definitions found in state law, to mitigate the impacts of said construction on the ability of the Visalia Unified School District to house new students resulting from new development in the city. Furthermore:

- A. This chapter is intended to assist in the implementation of the land use element of the General Plan; and
- B. The purpose of this chapter is to regulate the use and development of land so as to assure that new development bears a proportionate share of the cost of capital expenditures necessary to provide school facilities in the Visalia Unified School District.

16.48.030 Short title, authority and applicability.

- A. This chapter shall be known and may be cited as the “City of Visalia Environmental Impact Mitigation – School Overcrowding – Fee Ordinance.”
- B. The City Council of the city has the authority to adopt this chapter pursuant to Article XI of Section 7 of the Constitution of the state of California, and pursuant to Government Code Sections 65300 et seq., 66000 et seq., and 66470 et. seq. and Public Resources Code Sections 21000 et seq. of California Statutes, and its Charter.
- C. This chapter shall apply in the incorporated area of the city to the extent permitted by Article XI of Section 7 of the Constitution of the state of California.

16.48.040 Rules of construction.

- A. The provisions of this chapter shall be liberally construed so as to effectively carry out its purpose in the interest of the public health, safety and welfare.
- B. For the purpose of administration and enforcement of this chapter, unless otherwise stated in this chapter, the following rules of construction shall apply to the text of this chapter:
 - 1. In case of any difference of meaning or implication between the text of this chapter and any caption, illustration, summary table, or illustrative table, the text shall control.
 - 2. The word “shall” is always mandatory and not discretionary; the word “may” is permissive.
 - 3. Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the single, unless the context clearly indicates the contrary.
 - 4. The phrase “used for” includes “arranged for,” “designed for,” “maintained for,” or “occupied for.”
 - 5. The word “person” includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

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6. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction “and,” “or” or “either...or,” the conjunction shall be interpreted as follows:
 - a. “And” indicates that all the connected terms, conditions, provisions or events shall apply.
 - b. “Or” indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
 - c. “Either...or” indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
7. The word “includes” shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of little kind or character.
8. “City engineer” means the city engineer or city officials he/she may designate to carry out the administration of this chapter.

16.48.050 Definitions.

As used in this chapter, the following terms are defined in this section:

“Assessable space” means the same as in Government Code Section 65995(b)(1).

“Building permit” means an official document or certificate issued by the city authorizing the construction of any structure used or intended for sup-orting or sheltering any use or occupancy.

“City” means the city of Visalia, a Charter Law city.

“Development permit” means a regulatory approval by the city.

“District” means the Visalia Unified School District.

“Feepayer” means a person commencing a land development activity that requires the issuance of a building permit or permit for mobile home installation.

“School development impact fee” means a fee, charge, dedication or other requirement the district is authorized to levy against a development project pursuant to Government Code Section 53080 and as said fee may be adjusted from time-to-time by the state Allocation Board pursuant to Government Code Section 65995(b)(2).

16.48.060 Imposition of environmental impact mitigation – School overcrowding – Fee.

A. Any person who, after the effective date of this chapter, seeks to develop land within the city by applying for: a building permit; an extension of a building permit issued prior to that date; a permit for manufactured home installations; or an extension of a permit for manufactured home

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installation issued prior to that date, is required to pay an environmental impact mitigation – school overcrowding – fee in the manner set forth in this chapter.

B. No new building permit or new permit for manufactured home installation for any activity requiring payment of an impact fee pursuant to Section 16.48.060(A) shall be issued unless and until the environmental impact mitigation – school over-crowding – fee required has been paid.

C. No extension of a building permit or permit for manufactured home installation issued prior to the effective date of this chapter, for any activity requiring payment of an impact fee pursuant to Section 16.48.060(A) shall be granted unless and until the environmental impact mitigation – school overcrowding – fee required has been paid. This subsection shall not apply if the applicant applying for an extension of a building permit or permit for manufactured home installation can demonstrate that a good faith effort has been applied to begin construction or that substantial completion has occurred in conformance with the approved building permit or permit for manufactured home installation.

16.48.070 Fee schedule.

A. The council shall establish by resolution, a schedule of environmental impact mitigation – school overcrowding – fees calculated to provide the sum of money necessary to pay for the share of the new facilities estimated total construction cost identified to be funded with environmental impact mitigation – school overcrowding – fees, as set forth in the report entitled “Environmental Impact Mitigation – School Overcrowding – Fee Justification Report”. Such schedule shall be conditional and based on the following findings by the council:

1. The planned school facilities are in conformity with the land use element of the general plan of the city;
2. The development of property will require construction or acquisition of additional school facilities and that the fees are fairly apportioned on the basis of benefit conferred on property developed or to be developed or on the need for planned school facilities created by proposed or existing development of property;
3. That school facilities planned, including the conversion of additional elementary schools to year-round education, are in addition to any existing school facilities serving the district at the time of adoption of the land use element and are necessary to complete the plan for school facilities.

B. The schedule of fees shall be those amounts in effect on July 1, 1995 as established by Resolution No. 92-76 of the council and as adjusted pursuant to ordinance provisions adopted prior to the effective date of the ordinance codified in this section and shall remain in effect until July 1, 1997. Effective July 1, 1997, and each succeeding July 1st thereafter, the schedule of fees shall be adjusted in accordance with the following criteria:

1. On April 1st of each year the city engineer shall review the current National Engineering News Record Construction Cost Index (ENRCCI). When such index differs from the index for the preceding April 1st, the factor of increase or decrease shall be applied to the schedule of fees.

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Such factor shall be computed by dividing the ENRCCI for the current April 1st by that pertaining to the previous April 1st. The individual environmental impact mitigation – school overcrowding – fees may be multiplied by said factor to determine the adjusted schedule of fees. The engineer shall present the new fee schedule for adoption by resolution of council after at least one public hearing. The revised fees shall become effective on the July 1st following except in no case shall the revised fees become effective until sixty (60) days following the publication of the revised fees.

2. If in the determination of the city engineer the adjustments of the schedule of fees produced by the procedure in subdivision 1 of this subsection is not representative of the actual change in costs of the planned school facilities, the city engineer may, in lieu of the procedures set forth in said subdivision, compute a new schedule of fees for adoption by resolution of the council after at least one public hearing. In addition, the district may request that the City Council review the fees to ensure that they are representative of the actual change in costs of the planned school facilities.

3. In the event of the adoption of a new schedule of fees by resolution of the council, such new schedule shall become effective sixty (60) days after the adoption thereof by the council. The adjustment of such schedule provided in subdivision 1 of this subsection shall begin the April 1st next occurring after adoption of the new schedule.

16.48.080 Computation of the amount of environmental impact mitigation – School overcrowding – Fee.

A. The environmental impact mitigation – school overcrowding – fee shall be equal to the difference between the fee established by the schedule of fees adopted or revised pursuant to Section 16.48.070 and the school development impact fee already assessed and collected by the district but in no case shall this difference be considered a credit to the fee payer.

B. Government Code Section 6599(b)(3) requires the State Allocation Board to review, at regular intervals, the school development impact fees. If within one hundred eighty (180) days of any action by the State Allocation Board to modify the school development impact fee either upward or downward, the district does not adjust the school development impact fee already assessed and collected by the district to reflect the action of the State Allocation Board, the city shall use the amount authorized by the State Allocation Board in its calculations to determine the amount of the environmental impact mitigation – school overcrowding – fee.

C. For new residential construction the fee paid pursuant to this chapter shall be equal to the product of the environmental impact mitigation – school overcrowding – fee identified in subsection (A) of this section and the assessable space for the building under consideration. For residential remodel construction the criteria imposed by Government Code Section 53080(a)(1) shall apply. For senior citizen housing, a residential care facility, or a multilevel facility for the elderly, criteria imposed by Government Code Section 65995.1 shall apply.

D. This chapter shall not apply to building permits issued for commercial, office or industrial projects.

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16.48.090 Payment of fee.

A. The feepayer shall pay the environmental impact mitigation – school overcrowding – fee required by this chapter prior to the issuance of a building permit or a permit for mobile home installation. This fee paid shall be in addition to and collected in the same manner as the school development impact fee already assessed and collected by the district.

B. All funds collected shall be properly identified and used solely for the purposes specified in Section 16.48.110.

16.48.100 Timing of fee payment.

A. Notwithstanding the requirements of Section 16.48.090, the City Council may, by resolution, authorize the payment of the fee at a time other than that identified in Section 16.48.090.

B. In adopting the resolution identified in subsection (A) of this section the City Council shall make the following findings:

1. That the state of the economy in the city is such that the deferment of the fee required by this chapter will stimulate the economy and enhance the provision of jobs; and
2. That the deferment of the fee required by this chapter will not materially affect the ability of the city to deliver its five-year capital improvement program.

C. In adopting the resolution identified in sub-section (A) of this section, the City Council shall:

1. Identify the point in time at which the fee shall be paid; provided, that in no event shall the deferral be extended beyond the time of the final inspection or issuance of the certificate of occupancy, whichever occurs first;
2. Identify to which major land use category (i.e., residential, commercial, office and/or industrial) the resolution applies;
3. Identify whether or not a contract shall be entered into by and between the property owner, or lessee if the lessee's interest appears of record, and the city prior to the issuance of the building permit. If a contract is required to be executed, it shall be processed and recorded in accordance with Government Code Section 66007(c). In lieu of entering into a contract, if one is required, the feepayer may provide such other form of surety instrument guaranteeing payment of the fee as may be acceptable to the city engineer or his/her designees and the city attorney;
4. Impose a penalty, equal to one hundred (100) percent of the amount of the fees deferred on any party who fails to pay the deferred fee by the point in time specified in said resolution; and

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5. Provide that a party who fails to pay said deferred fees by the point in time specified in said resolution shall further forfeit the future right to defer such fees on parcels in which said party has a financial interest.

16.48.110 Use of funds.

A. Funds collected from environmental impact mitigation – school overcrowding – fees shall be used to fund or partially fund the construction or reconstruction of school facilities to meet the needs of new residential development in the district to include residential infill projects and residential remodel projects that meet the criteria of Section 16.48.080(B). The use of these fees shall be in accordance with Government Code Section 53080 et seq. and Government Code Section 65995 et seq.

B. Funds may be used to provide refunds as described in Government Code Section 53080.3. Refunds shall be processed in accordance with Section 16.48.120.

C. The city may retain a portion of the fee per building permit issued for which the fee is paid as compensation for the expense of collecting the fee and administering this chapter consistent with Government Code Section 53080(a)(5). The City Council shall establish this amount by resolution.

16.48.120 Refund of fees paid.

A. If a building permit or permit for manufactured home installation expires without commencement of construction, then the fee payer shall be entitled to a refund, without interest, of the fee paid plus a condition of its issuance; except, that the city and district shall retain three percent of the fee, to be shared equally, to offset a portion of the costs of collection and refund. The fee payer must submit an application for such refund to the city engineer within thirty (30) days of the expiration of the permit. Within ten working days of receipt of an application for refund the city engineer shall notify the district in writing of such refund request and the status of the building permit. The district shall issue a refund within twenty (20) working days or issue written findings as to why the refund shall not be made.

B. Any funds not expended or encumbered by the end of the calendar quarter immediately following five years from the date the fee was paid shall, upon application of the then current landowner, be returned to such landowner with any interest incurred thereon; provided, that the landowner submits an application for a refund to the city engineer within one hundred eighty (180) days of the expiration of the six-year period. Within ten working days of receipt of an application for refund the city engineer shall notify the district in writing of such refund request. The district shall issue a refund within twenty (20) working days or issue written findings as to why the refund shall not be made.

16.48.130 Exemption and credits.

A. The following shall be exempted from payment of the environmental impact mitigation – school overcrowding – fee. Any claim of exemption must be made no later than the time of

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application for a building permit or permit for mobile home installation. Any claim not so made shall be deemed waived.

1. The reconstruction of any residential structure that is damaged or destroyed as a result of a disaster pursuant to Government Code Section 53080.6;
 2. An applicant for a development permit who has prepared and submitted a mitigation plan identifying how he/she plans to provide for the mitigation of the impacts the proposed project may have on the facilities of the district; provided that the district presents the city with a written statement signed by its superintendent, or his/her designee, indicating that the district accepts the mitigation plan. The phrase "mitigation plan" as used in this chapter shall include, but not be limited to, financing or construction measures that provides funds or structures (through purchase, sale, or lease-back) for permanent school district facilities or any modification to the proposed project that reduces or eliminates the impact on the district.
- B. The District may grant a credit for land and facilities dedicated to the district consistent with the policies of the City's General Plan. The responsibility for negotiating such a credit shall rest with the district and the fee payer and any such credit granted shall not be considered by the city unless and until a written statement signed by the superintendent, or his/her designee, of the district indicating that the district grants the credit. The responsibility for managing the accounting of such credits shall rest with the district.

16.48.140 Penalty provisions.

A violation of this chapter shall be prosecuted in the same manner as misdemeanors are prosecuted and upon conviction the violator shall be punishable according to law; however, in addition to or in lieu of any criminal prosecution the city shall have the power to sue in civil court to enforce the provisions of this chapter.

16.48.150 Sunset clause.

This chapter shall terminate one hundred eighty (180) days following any action taken by the state of California to either eliminate the provisions of Government Code Section 53080 et seq., or the elimination of the caps on school development fees imposed by Government Code Section 65995 et seq.

16.48.160 Severability.

If any section, phrase, sentence or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Chapter 16.50

GENERAL FACILITIES IMPACT FEES

Sections:

- 16.50.010 Intent and purposes.**
- 16.50.020 Definitions.**
- 16.50.030 Fees and application.**
- 16.50.040 Fees schedule and computation of fee.**
- 16.50.050 Imposition and timing of fees.**
- 16.50.060 Disposition and use of fees.**
- 16.50.070 Refunds.**
- 16.50.080 Credits.**
- 16.50.090 Protest.**
- 16.50.100 Exemptions.**

16.50.010 Intent and purposes.

This chapter is intended to assist in the implementation of the policies of the General Plan by providing for adequate general government public facilities (excluding public safety facilities for which a separate fee has been imposed per VMC Chapter 16.46) to support orderly development. Further, the purpose of this chapter is to regulate the use and development of land so as to assure that new development bears a proportionate share of the cost of capital expenditures necessary to provide for public facilities that serve such development.

16.50.020 Definitions.

As used in this chapter, the following terms are defined in this section:

“General Government Facilities” means Civic Center and related parking structure, Library Facilities, as well as Public Works Corporation Yard Expansion Facilities identified in the Impact Fee Study conducted by MAXIMUS dated October 8, 2004.

“Gross acreage” means the area of a parcel of land, or the area of a proposed division, including those portions designated for streets and alleys and including those portions of all abutting streets

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and alley measured to the center lines thereof or to a line parallel with and thirty (30) feet from the property line, whichever shall be the lesser. In the case of a single-family residential use occupying a corner parcel, the area of the street abutting the shortest side of such parcel, or one side in the case of a square parcel, shall not be included.

“Impact fee” means a monetary exaction imposed by the city pursuant to this chapter as a condition of or in conjunction with approval of a development project for the purpose of defraying all or some of the city’s cost or repaying costs previously expended from other city funds for capital improvements.

“Impose” means to determine that a particular development project is subject to the collection of impact fees as a condition of development approval.

“New development” or “development project” means any new building, structure or improvement of any parcels of land, upon which no like building, structure or improvement previously existed.

16.50.030 Fees and application.

A. This chapter establishes development impact fees that are imposed as a condition of approval upon all new development projects for which a building permit is issued on or after the effective date of this chapter. Those impact fees are hereby established for the following public facilities:

1. Civic Center and related parking structure;
2. Library Facilities; and
3. Public Works Corporation Yard Expansion.

B. These impact fees are established in order to pay for the capital costs of General Governmental Facilities reasonably related to the needs of new development in the city.

16.50.040 Fees schedule and computation of fee.

A. The City Council shall establish by resolution a schedule of fees to be imposed on new development, calculated to provide the sum of money necessary to pay the estimated total capital costs of the General Governmental Facilities, as identified in and in the manner prescribed by the October 8, 2004 fee study approved by council, to serve new development within the urban growth boundary. Subsequent revised fee schedules shall become effective sixty (60) days after the adoption thereof following a Public Hearing before the City Council.

B. Annual review of the fee schedule initially adopted by ordinance will be made in the following manner. Each April of each year the chief financial officer shall review the current Engineering News Record Construction Cost Index (ENRCCI) for the cities of Los Angeles and San Francisco, California. When the average of such indices differs from the average of the indices for the preceding April 1st, the factor of increase or decrease shall be applied to the schedule of fees. Such factor shall be computed by dividing the average ENRCCI for the current

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April 1st by that pertaining to the previous April 1st. The individual General Governmental Facilities impact fee rates may be multiplied by said factor to determine the adjusted schedule of fees. The chief financial officer shall present the new fee schedule for adoption by resolution of council after at least one public hearing.

C. If in the determination of the chief financial officer the adjustment of the schedule of fees produced by the procedure in Subdivision (B) above of this section is not representative of the actual change in costs of the planned General Governmental Facilities, the chief financial officer may, in lieu of such procedure compute a new schedule of fees calculated to provide the sum of money necessary to pay the capital costs of the General Governmental Facilities.

D. At least once every five (5) years, the council shall review the basis for the impact fees to determine whether the fees are still reasonably related to the needs of new development. If it is necessary to update the previously approved fee study to do so, council may amortize the cost of doing so over the following five (5) year period and include such cost as an element of the impact fee.

16.50.050 Imposition and timing of fees.

A. Except as provided in this chapter, and any amendment to this chapter, the city may impose impact fees as a condition of approval of all new development projects.

B. After an individualized determination that each fee has been calculated as provided in this chapter, the impact fees shall be imposed prior to any development permit for new development.

C. The development impact fee shall be collected at the time and as a condition for issuance of a building permit, except as otherwise provided in Government Code Section 66007 or as provided herein.

D. The payment of the impact fees may be deferred until final inspection. In no case shall a certificate of occupancy be issued without the payment of the above referenced impact fee.

E. Companies classified within the following standard industrial codes shall be able to pay the impact fees over a period of five (5) years without interest or administrative fee. The first installment of twenty (20) percent shall be due upon occupancy and the balance shall be paid in five (5) equal annual installments thereafter and will be collected on the property tax roll. The collection of the balance on the property tax roll shall not preclude the earlier payment of any outstanding balance.

2000-2099 Food Processing

2200-3999 Certain other manufactures

4200-4299 Trucking and warehousing

4500-4599 Air transportation

4700-5199 Transportation services and warehouse trade

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F. A penalty equal to the amount of one hundred (100) percent of the amount of the fees deferred shall be imposed on any party who fails to pay such deferred fees by the point of time the fee is due. Further, said party will have forfeited the right to defer such fees on parcels in which said party has a financial interest.

16.50.060 Disposition and use of fees.

The chief financial officer shall establish a separate account for each type of facility listed in Section 16.50.030. All impact fees collected by the city shall be deposited in the account established for the specific type of facility for which the fee is collected. Any interest earned on funds deposited in a fund or account shall be deposited in that fund or account. Funds deposited in those accounts shall be used only to pay for facilities resulting from new development within the urban growth boundary, as identified in the resolution adopted by City Council setting the rate of the fee.

16.50.070 Refunds.

If impact fees collected by the city have not been expended or designated for the intended purpose within five (5) years following their collection, the city shall either refund those fees as provided in Government Code Section 66001, or make the findings as required by said section to retain the fees.

16.50.080 Credits.

A. A property owner who dedicates land or otherwise contributes funds for the capital costs of the facilities identified herein may be eligible for a credit for such contribution against the impact fee otherwise due.

B. The chief financial officer shall determine: (1) the value of the developer contribution; (2) whether the contribution meets capital improvement needs for which the particular impact fee has been imposed; and (3) whether the contribution will substitute or otherwise reduce the need for capital improvements anticipated to be provided with impact fee funds. In no event, however, shall the credit exceed the amount of the otherwise applicable impact fee.

C. Any application for credit must be submitted on forms provided by the city before development project approval. The application shall contain a declaration under oath of those facts that qualify the property owner for the credit, accompanied by the relevant documentary evidence.

16.50.090 Protest.

Any party subject to the fees established by this chapter may protest the imposition of those fees by complying with the protest provisions in the Mitigation Fee Act (Gov. Code § 66000, et seq.) in effect at the time of the protest.

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16.50.100 Exemptions.

The fees imposed under this chapter shall not apply to the following:

- A. Remodeling or alteration of an existing dwelling or building.
- B. Additions to an existing dwelling or building that does not cause the site upon which the dwelling or building is situated to be expanded.

Chapter 16.52

AREA OF BENEFIT

Sections:

- 16.52.010 Purpose and authority.**
- 16.52.020 Findings required.**
- 16.52.030 General.**
- 16.52.040 Interest provision.**
- 16.52.050 Separate funds.**
- 16.52.060 Life of area of benefit.**
- 16.52.070 Surplus distribution.**
- 16.52.080 Credits.**
- 16.52.090 Payment of fees required.**
- 16.52.100 Exemptions.**
- 16.52.110 Reimbursements.**
- 16.52.120 Notice of hearing.**
- 16.52.130 Hearing.**

16.52.010 Purpose and authority.

The purpose of this chapter is to make provision for assessing and collecting fees as a condition of approval of a map, condition of development approval, or as a condition of issuing a building permit for the purpose of defraying the actual or estimated cost of constructing the public improvements pursuant to the city's authority to make and enforce all ordinances and regulations with respect to municipal affairs under the California Constitution, Article 11, Section 5 and Visalia Municipal Charter, Article III, Sections 1 and 2.

This chapter shall be the exclusive procedure for the establishment and operation of areas of benefit in the city.

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16.52.020 Findings required.

No area of benefit shall be established hereunder unless the City Council finds that the construction of the public facilities or improvements provided for by the area of benefit fees is required for subsequent subdivisions and developments, and that the fees are fairly apportioned within the area on either the basis of benefits conferred on property proposed for development or subdivision, or on the need for such facilities created by the proposed development and development of other property within the area.

16.52.030 General.

A. The City Council may by resolution adopt an area of benefit for the purpose of defraying the actual or estimated costs of public improvements. An area of benefit may be used for the following purposes:

1. To reimburse a subdivider or developer who installs public or public utility improvements that benefit property outside the subdivision or development.
2. To reimburse the city or county that constructs public or public utility improvements that benefit property.
3. To establish a fund for the future construction of a needed public or public utility improvement.

B. Public or public utility improvements for which area of benefits can be established are as follows:

1. curb, gutter and sidewalk
2. street structural sections
3. tree wells and sprinkler systems
4. fences
5. street lighting
6. street signs
7. traffic signals
8. storm drainage facilities
9. sanitary sewer facilities
10. water facilities
11. fire hydrants

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12. storm drain and sanitary sewer pump stations
13. railroad crossings
14. bridges, culverts and major thoroughfares
15. fire stations
16. police substations

C. By resolution, the City Council shall establish the boundaries of the area of benefit, the estimated or actual cost, a fair method of allocation of costs, fee apportionment, and the applicable fee to be paid. The cost shall include design, construction, inspection, acquisition of land or easements, contingencies, and incidental expenses.

D. The area of benefit fees shall include a city administrative charge of ten percent of the total cost. Where used in this chapter, the phrase "subdivider or developer" shall also mean "city or county" as used in Subsection A above.

16.52.040 Interest provision.

A. Interest shall accrue on the unpaid balance of the area of benefit fee and the area of benefit fee shall be adjusted accordingly. The interest rate shall be equal to the local agency invest fund (LAIF) rate in effect at the time the resolution approving the area of benefit fee is adopted and shall be so indicated in the resolution. The interest shall begin to accrue from the time the notice of completion is filed with the county recorder for the improvements covered by the area of benefit fee. The amount of the accumulated interest shall not exceed one hundred (100) percent of the principal amount of the area of benefit fee.

B. The revised area of benefit fee shall equal the adjusted cost plus a city administrative fee of ten percent of the adjusted cost.

16.52.050 Separate funds.

A. Area of benefit fees less the ten percent city administrative charge shall be deposited in separate funds. Moneys in such funds shall be expended solely for the construction or reimbursement for construction of the public improvements serving the area to be benefited.

B. The funds shall also accrue interest.

16.52.060 Life of area of benefit.

Fees collected twenty (20) years after the date the area of benefit is formed shall be retained by the city.

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16.52.070 Surplus distribution.

A. After completion of the public improvements and payment of all claims from any area of benefit, the City Council may determine by resolution the amount of the surplus, if any, remaining in any of those funds.

B. There shall be transferred to the general fund any remaining portion of the surplus that has not been paid to or claimed by the persons entitled thereto within two years from the date of either the completion of the improvements, or the adoption by the resolution declaring a surplus, whichever is later to occur.

16.52.080 Credits.

A. Where the city has established an area of benefit for the future construction of a needed public improvement, a subdivision or development will be credited for any portion of the improvement installed by the subdivider or developer.

B. Whenever the area of benefit fees exceed the credits, the subdivider or developer shall pay to the city the balance. Whenever the credits exceed the area of benefit fees, the city will reimburse the subdivider or developer from subsequent payments.

16.52.090 Payment of fees required.

A. Prior to the issuance of a building permit or the filing of any final or parcel map, the subdivider or developer shall pay all area of benefit fees.

B. The fees shall be paid for the entire area included within the map, including developed parcels.

16.52.100 Exemptions.

Payment of the area of benefit fees shall not be required for:

A. The following accessory buildings and structures: Private garages, children's playhouse, radio and television receiving antennas, windmills, silos, tank houses, shops, barns, coops and other buildings that are accessory to one-family or two-family dwellings.

B. The use, alteration or enlargement of an existing building or the erection of one or more buildings or structures accessory thereto, or both, on the same lot or parcel of land; provided, the total value, as determined by the building division of the community development department, of all such alteration, enlargement or construction does not exceed, in the aggregate, twenty-five (25) percent of the current market value, as determined by the building division of all existing buildings on such lot or parcel of land, and the alteration or enlargement of the building is not such as to change its classification or occupancy as defined by Section 501 of the Uniform Building Code.

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Additional exemption(s) from the payment of the area of benefit fee may be obtained so long as the total accumulated value of all such alterations, enlargements or construction does not exceed twenty-five (25) percent of the then current market value, as determined above, of all existing buildings on such lot or parcel of land at the time the first such exemption is obtained.

16.52.110 Reimbursements.

A subdivider or developer who installs public improvements that benefit property outside the subdivision or development is eligible for reimbursement. An area of benefit will be established to reimburse the subdivider or developer a proportionate share of the cost. The subdivider or developer will be reimbursed from area of benefit payments from future subdivisions and development. The amount of reimbursement shall equal the area of benefit payments less the ten (10) percent city administrative charge.

Reimbursements shall be payable to heirs, successors and assigns of the subdivider or developer. Payment to more than one individual, corporation, or partnership must be approved by the finance director.

16.52.120 Notice of hearing.

Prior to the adoption of a resolution creating an area of benefit under this chapter the city shall:

- A. At least ten (10) days prior to the date and time set for the hearing before the ccCity Council, give a notice by first class mail, to the addresses as shown on the latest equalized assessment roll of Tulare County, to the owners of all property proposed for inclusion in the area of benefit.
- B. Publish in a newspaper pursuant to Government Code Section 6062a, as the same may be amended from time to time, notice of the date, time and location set for such hearing.
- C. Include in such notice to property owners as required under subsection A or B above a statement of the nature of the improvement to be constructed under the area of benefit, the actual or estimated costs of the project and the proposed boundaries of the area of the benefit.

16.52.130 Hearing.

The hearing on such proposed areas of benefit shall take place before the ccCity Council, at which time all interested parties shall be heard. The Council shall establish the boundaries of the area of benefit, the costs, whether actual or estimated, and a fair method of allocation of costs to the area of benefit and fee apportionment.

Following establishment of an area of benefit pursuant to this part, the city shall cause said resolution to be recorded with the Tulare County Recorder, that shall then bind and run with the land included therein.

Chapter 16.54

GROUNDWATER OVERDRAFT MITIGATION

Sections:

- 16.54.010** **Legislative findings.**
- 16.54.020** **Purpose.**
- 16.54.030** **Short title, authority, applicability.**
- 16.54.040** **Rules of construction.**
- 16.54.050** **Imposition of groundwater mitigation fee on new development.**
- 16.54.060** **Imposition of groundwater impact fee on providers of municipal water supplies, that include all residential, commercial and industrial water suppliers.**
- 16.54.070** **Computation of the amount of the fee.**
- 16.54.080** **Use of funds.**
- 16.54.090** **Refund of fees paid.**
- 16.54.100** **Modification of the fee.**
- 16.54.110** **Penalty.**
- 16.54.120** **Severability.**

16.54.010 **Legislative findings.**

The ccCity Council finds, determines and declares that:

- A. Local water resources are among the most precious resources of the city and surrounding area.
- B. Management of the water resources serving the residents of the city is critical to the long-term health, welfare and safety of the citizens of the city.
- C. The city's primary water supply is from underground water resources, which are being depleted by groundwater extraction in excess of groundwater replenishment ("groundwater overdraft").

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D. Conversion of land from agricultural to urban uses increases the local groundwater overdraft and has the potential to seriously deplete available groundwater resources over time.

E. Provision of municipal water supplies by private water companies and utilities contributes substantially to the continuing groundwater overdraft.

F. The impact of existing and proposed development on groundwater overdraft has been determined through a technical study prepared for the city by the consulting engineering firm of Provost & Pritchard, which study has been reviewed and considered by the ccCity Council prior to adoption of this chapter. The technical analysis provides the basis for the fees established by this chapter.

G. California Constitution, Article XI, Section 7, California Public Utilities Code Sections 6203 and 6294, Article III and XIV of the City Charter and objective 2.4 and policies 2.4.1 and 2.4.2 of the city's General Plan authorize the city to enact this chapter.

16.54.020 Purpose.

The purpose of this chapter is to assess impact fees upon new development and a volumetric fee upon existing urban water supplies to fund programs to mitigate the impact of such new development and existing water extractions upon conditions of groundwater overdraft. Specifically, this chapter is intended to fund activities and projects to mitigate impacts to conditions of groundwater overdraft. Such activities will include, but not be limited to, the following:

- A. Acquisition of surface water rights and surface water supplies.
- B. Development of groundwater recharge facilities.
- C. Reconfiguration of stormwater facilities designed to retain as much stormwater as possible within and near the city.
- D. Enhancement of cooperative programs with local water management agencies and companies.
- E. Development of more efficient water delivery systems.

16.54.030 Short title, authority and applicability.

A. This chapter shall be known and may be cited as the "City of Visalia Water Resource Management and Groundwater Overdraft Mitigation Fee Ordinance."

B. The City Council has the authority to adopt this chapter pursuant California Constitution, Article XI, Section 7, California Public Utilities Code Sections 6203 and 6294, Article III and XIV of the City Charter and objective 2.4 and policies 2.4.1 and 2.4.2 of the city's General Plan.

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C. This chapter shall apply in the incorporated area of the city to the extent permitted by Article XI of Section 7 of the Constitution of the State of California.

16.54.040 Rules of construction.

A. The provisions of this chapter shall be liberally construed so as to effectively carry out its purpose in the interest of the public health, safety and welfare.

B. For the purpose of administration and enforcement of this chapter, unless otherwise stated in this chapter, the following rules of construction shall apply to the text of this chapter:

1. In case of any difference of meaning or implication between the text of this chapter and any caption, illustration, summary table, or illustrative table, the text shall control.
2. The word "shall" is always mandatory and not discretionary; the word "may" is permissive.
3. Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the single, unless the context clearly indicates the contrary.
4. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
5. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or" or "either...or," the conjunction shall be interpreted as follows:
 - a. "And" indicates that all the connected terms, conditions, provisions or events shall apply.
 - b. "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
 - c. "Either...or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
6. The word "includes" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.

16.54.050 Imposition of groundwater mitigation fee on new development.

A. Any person seeking to annex, subdivide or otherwise procure entitlement to develop property within the city, shall be required to pay the fee specified below.

1. The initial fee shall be \$950 per acre of land to be developed.
2. The obligation to pay the fee shall be made a condition of annexation or approval of a tentative subdivision map or other entitlement for development.

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3. The fee required by this chapter shall be paid as a condition of final map approval or other final discretionary development approval. The fee paid shall be in addition to all other impact fees paid prior to issuance of a building permit.

B. In lieu of payment of the fee specified in A. above, and with concurrence of the city, any person seeking to annex, subdivide or otherwise procure entitlement to develop property within the city may dedicate water rights to the city. The city, in its sole discretion, shall determine whether such dedication equals in value the amount of the fee otherwise applicable pursuant to A. above.

16.54.060 Imposition of groundwater impact fee on providers of municipal water supplies, which include all residential, commercial and industrial water suppliers.

A. Effective January 1, 2006, all municipal water suppliers providing water service in the city shall pay a groundwater impact mitigation fee of fourteen (14) dollars per acre foot of water pumped to provide such service.

B. The fee shall be paid within sixty (60) days of the end of each month. The payment shall be accompanied by a report of the volume of water pumped from each well utilized to provide water service within the city. Fees not paid within thirty (30) days shall be subject to late fees and interest consistent with the city's standard practice.

C. All municipal water suppliers shall maintain records of all pumping for the purpose of supplying water within the city. Such records shall identify the volume of water pumped from each well utilized to provide water service within the city. Such records shall be subject to inspection by the city during normal business hours after providing five working days notice of intent to inspect such records.

D. In lieu of payment of the fee specified in Subsection A. above, and with concurrence of the city, a municipal water supplier may dedicate water rights to the city. The city, in its sole discretion, shall determine whether such dedication equals in value the amount of the fee otherwise applicable pursuant to Subsection A. above.

16.54.070 Computation of the amount of the fee.

The fees established by Sections 16.54.050 and 16.54.060 were determined by evaluating the impact of development on existing conditions of groundwater overdraft and calculating the cost of the water and facilities necessary to mitigate such impact. A technical study was prepared by a qualified consulting engineering company of all of the data available to make such determination.

16.54.080 Use of funds.

All funds collected shall be used exclusively for the purposes specified in Section 16.54.020.

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16.54.090 Refund of fees paid.

If a building permit or permit for manufactured home installation expires without commencement of construction, then the feepayer shall be entitled to a refund, without interest, of the fee paid plus a condition of its issuance; except, that the city shall retain three (3) percent of the fee to offset a portion of the costs of collection and refund. The feepayer must submit an application for such refund to the city within 30 days of the expiration of the permit. Within twenty (20) working days of receipt of an application for refund the city shall issue a refund or issue written findings as to why the refund shall not be made.

16.54.100 Modification of the fee.

The ccCity Council may modify the fees established in Sections 16.54.050 and 16.54.060 annually by resolution if the assumptions utilized in calculating the fees have changed. The modifications adopted by resolution will not be based on a change in the method of calculating the fees. Absent action by the ccCity Council to modify the fees by resolution, each April of each year the chief financial officer shall review the current Engineering News Record Construction Cost Index (ENRCCI) for the cities of Los Angeles and San Francisco, California. When the average of such indices differs from the average of the indices for the preceding April first, the factor of increase or decrease shall be applied to the fees established in Sections 16.54.050 and 16.54.060.

16.54.110 Penalty.

Any violation of this chapter shall be prosecuted in the same manner as misdemeanors are prosecuted and upon conviction the violator shall be punishable according to law; however, in addition to or in lieu of any criminal prosecution the city shall have the power to sue in civil court to enforce the provisions of this chapter.

16.54.120 Severability.

If any section, phrase, sentence, or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.