

Chapter 255 Improvements

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255.02 General

The subdivider shall construct all required improvements both on- and off-site, in accordance with standard engineering specifications and other approved standards as provided by this chapter. No final map shall be presented to the City Council or parcel map to the City Engineer for approval until the subdivider either completes the required improvements, or enters into an agreement with the City agreeing to do the work.

255.04 Improvements Required

- A. General. All improvements as may be required as conditions of approval of the tentative map or by City ordinance or resolution, together with, but not limited to, the required improvements set forth below shall be required of all subdivisions. Requirements for construction of on-site and off-site improvements for subdivisions by Parcel Map shall be noted on the parcel map, waiver of parcel map, or the subdivision improvement agreement recorded prior to or concurrent with the parcel map.
- B. Frontage Improvements. The frontage of each parcel shall be improved to its ultimate adopted geometric section, including street structural section, curbs, sidewalks, driveway approaches and transitions.
- C. Storm Drainage. Storm water runoff from the subdivision shall be collected and conveyed by an approved storm drain system. The storm drain system shall be designed for ultimate development of the watershed. The storm drain system shall provide for the protection of abutting and off-site properties that would be adversely affected by any increase in runoff attributed to the development. Off-site storm drain improvements may be required to satisfy this requirement.

- D. Sanitary Sewers. Each unit or parcel within the subdivision shall be served by an approved sanitary sewer system.
- E. Water Supply. Each unit or parcel within the subdivision shall be served by an approved domestic water system.
- F. Utilities. Each unit or parcel within the subdivision shall be served by gas (if required), electric, telephone and cablevision facilities.
- G. Underground Utilities.
 - 1. All proposed utilities within the subdivision and along frontage streets shall be placed underground consistent with Chapter 17.64 of the Huntington Beach Municipal Code. Existing utilities within the subdivision shall be placed underground unless specifically exempted by Public Utilities Commission regulations.
 - 2. The developer may request that the Planning Commission, or the Zoning Administrator, as the case may be, waive the requirement to underground existing or proposed utilities along frontage streets. The Planning Commission or Zoning Administrator, may, at its discretion, require a fee in lieu of the undergrounding.

If the undergrounding requirement along frontage streets is waived, the City Engineer may require the developer to install a service panel or other acceptable facility to facilitate conversion to underground utilities at a future date.

The amount of fee shall be determined by the City Engineer and shall be based upon the reasonable estimated cost of that portion of a future undergrounding project attributable to the subdivision. The requirement for undergrounding or payment of an in-lieu fee and shall be a condition of approval of the tentative map.

- 3. Requirements to place existing and proposed utilities underground throughout the subdivision may be waived or modified by the Planning Commission or Zoning Administrator, as the case may be, only upon finding:
 - a. The subdivision is within an area where existing utilities have not been placed underground; and
 - b. Physical constraints make undergrounding of existing and proposed utilities impractical; and
 - c. Overhead utilities will have no significant visual impact.
- 4. If the undergrounding requirement is waived as allowed in subsection 255.04(G)(3) above, an in-lieu fee as established by the City Engineer shall be made a condition of approval of the tentative map.
- 5. In-lieu fees shall be deposited in a special account to be used as approved by the City Council for future undergrounding of utilities throughout the City.

- H. Other Improvements. Other improvements such as street lights, fire hydrants, signs, street trees and shrubs, and monuments, or fees in lieu of any of the foregoing, shall also be required as determined by the City Engineer in accord with this Code and City standards and specifications.
- I. Off-Site Improvements. If the subdivider is required to construct off-site improvements on land in which neither the subdivider nor the City has sufficient title or interest to allow construction, the City shall, within 120 days of recording the final map, begin the process of acquiring by negotiation or condemning the land. If the City fails to begin this process within 120 days, the condition for the construction shall be waived.

Prior to approval of the final map, the City may require the subdivider to enter into an agreement to complete the off-site improvements at the time the City acquires title or an interest in the land. The subdivider shall pay the cost of acquiring off-site land or an interest in the land required to construct the off-site improvements.

255.06 Deferred Improvement Agreements

- A. Subdivisions of Four or Fewer Parcels. The frontage improvements along existing peripheral streets may be deferred when deemed necessary by the City Engineer. When improvements are deferred, the subdivider and/or owner of the real property shall enter into an agreement with the City in form acceptable to the City Engineer and City Attorney, for the installation of all frontage improvements at a time in the future as specified by the City. The agreement shall provide:
 - 1. Construction of improvements shall commence within 90 days of the receipt of the notice to proceed from the City;
 - 2. That in the event of a default by the subdivider and/or owner, operator, the City is authorized to cause construction to be done and charge the entire cost and expense to the subdivider and/or owner, including interest from the date of notice of said cost and expense until paid;
 - 3. That the agreement shall be recorded with the County Recorder at the expense of the subdivider and/or owner and shall constitute notice to all successors and assigns of title to the real property of the obligations set forth therein. The agreement shall also constitute a lien in such amount necessary to fully reimburse the City, including interest as provided above, subject to foreclosure in the event of a default in payment.
 - 4. That in event of litigation occasioned by any default of the subdivider and/or owner, the subdivider and/or owner agree to pay all costs involved, including reasonable attorneys' fees, and that the same shall become a part of the lien against the real property.

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

The agreement shall not relieve the subdivider or owner from any other specific requirements of the Subdivision Map Act, this Code or law. The construction of deferred improvements shall conform to the provisions of this Chapter and all applicable provisions of this Title in effect at the time of construction.

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

255.08 Design

- A. General. The design and layout of all required improvements, both on- and off-site, private and public, shall conform to generally accepted engineering standards, standard engineering specifications, the Subdivision Map Act and applicable provisions of this Code.
- B. Energy Conservation. The design of a subdivision for which a tentative map is required excluding conversions, shall provide to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision.

For the purpose of this subsection, "feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.

Compliance with this provision shall not result in reducing allowable densities, or the percentage of a lot which may be occupied by a building or structure under applicable planning and zoning in force at the time the tentative map is filed.

- C. Cable Television Service. A subdivider for a residential project, excluding conversions, is required to provide one or more franchised or licensed operators serving the area an opportunity to construct, install and maintain, on land dedicated or to be dedicated to public utility use, any equipment necessary to extend cable television services to each residential lot in the subdivision.

- D. Water Conservation. All applicable requirements of the Regional Water Conservation Plan adopted by the City shall be incorporated into the design of a subdivision for which a tentative map is required, excluding subdivisions.

255.10 Access

All parcels created shall have access to a public street improved to City standards. Private streets shall not normally be permitted. However, if the Planning Commission or Zoning Administrator determines that the most logical development of the land requires that parcels be created with access to private streets, such a development may be approved. The subdivider shall submit a development plan showing the alignment, width, grade, and material specifications of any proposed private street, the topography and means of access to each parcel, and the drainage and sewerage of the parcels served by such private street. Construction of the private street, as approved by the City Engineer, shall be completed prior to the completion of the construction and/or occupancy of the parcels. The subdivider shall be required to provide a feasible method for the maintenance of such private streets.

255.12 Improvement Plans

- A. General. Improvement plans shall be prepared under the direction of and signed by a California-registered civil engineer; and shall conform to the standard engineering specifications of the City. Improvement plans shall include, but not be limited to, grading, storm drains, landscaping, streets and related facilities.
- B. Supplementary Plans and Calculations. Hydrology, hydraulic plans and calculations, bond or other security estimates and any structural calculations, as may be required, shall be submitted with the improvement plans to the City Engineer. All calculations shall be legible, systematic and signed and dated by a California-registered civil engineer in a form approved by the City Engineer.
- C. Review by the City Engineer. The subdivider shall submit the improvement plans and all computations to the City Engineer for review. Within 60 working days of submittal, the City Engineer shall complete this review and return to the subdivider one set of the preliminary improvement plans, with any required revisions indicated. The 60-working-day period shall not include any days during which the improvement plan has been returned to the subdivider for correction, has been subject to review by other than the City Engineer, or following that review, has been returned to the subdivider for correction.
- D. Approval by the City Engineer. After completing any required revisions, the subdivider shall transmit the originals of the improvement plans to the City Engineer for signature and retention.

Upon finding that any required revisions have been made and that the plans conform to all applicable City ordinances and plans, design requirements and conditions of approval of the tentative map, the City Engineer shall sign and date the plans.

Approval of the improvement plans shall not be construed as approval of the gas, electric, telephone and cable television service construction plans.

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

E. Revision to Approved Plans

1. By Subdivider. Requests by the subdivider for revisions to the approved plans appearing necessary or desirable during construction shall be submitted in writing to the City Engineer or authorized representative and shall be accompanied by revised drawings showing the proposed revision. If the revision is acceptable to the City Engineer and consistent with the tentative map, the originals shall be revised and returned to the City Engineer's office for initialing and retention.

Construction of any proposed revision will not be permitted to commence until the revised plans have been approved by the City Engineer.

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

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

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

255.14 Improvement Agreement

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

- A. Construction of all improvements, including any required off-site improvements, according to the approved plans and specifications on file with the City Engineer.
- B. Completion of improvements within the time specified by Section 255.20.
- C. Warranty by the subdivider that construction will not adversely affect any portion of adjacent properties.

- D. Payment of inspection fees in accordance with the City's resolution.
- E. Payment of in-lieu fees for undergrounding of utilities on frontage streets.
- F. Improvement security as required by this chapter.
- G. Maintenance and repair of any defects or failures and their causes.
- H. Release and indemnification of the City from all liability incurred in connection with the development and payment of all reasonable attorneys' fees that the City may incur because of any legal action or other proceeding arising from the development.
- I. Any other deposits, fees or conditions as required by City ordinance or resolution and as may be required by the City Engineer.
- J. Right of the City to withhold occupancy permits until completion of improvements.
- K. Any other provisions required by the City as reasonably necessary to effectuate the purposes and provisions of the Subdivision Map Act and this Code.

255.16 Improvement Security

- A. General. Any improvement agreement, contract or act required or authorized by the Subdivision Map Act or this Chapter, for which security is required, shall be secured in accord with Section 66499 et seq. of the Subdivision Map Act and as provided below. No final map or parcel map shall be signed by the City Engineer or recorded until all improvement securities required by this section have been received and approved.
- B. Form of Security. The form of security shall be one or a combination of the following at the option and subject to the approval of the City:
 1. Bond or bonds by one or more duly authorized corporate sureties. The form of the bond or bonds shall be in accordance with Sections 66499.1 and 66499.2 of the Subdivision Map Act.
 2. A deposit, either with the City or a responsible escrow agent or trust company, at the option of the City, of money or negotiable bonds of the kind approved for securing deposits of public monies.
 3. An irrevocable instrument of credit or letter of credit from one or more financial institutions regulated by the state or federal government pledging that the funds necessary to carry out the act or agreement are on deposit and guaranteed for payment and will only be released upon receipt of written instructions from the City.
 4. Any other form of security, acceptable to the City, as provided in Section 66499 of the Subdivision Map Act.

- C. Amount of Security. A performance bond or other security in the amount of 100 percent of the total estimated construction cost to guarantee the construction or installation of all improvements shall be required of all subdivisions. An additional amount of 50 percent of the estimated construction cost shall be required to guarantee payment to subdivider's contractor, subcontractors, and to persons furnishing labor, materials or equipment for the construction or installation of improvements. As a part of the obligation guaranteed by the security and in addition to the full amount of the security, there shall be included costs and reasonable expenses and fees, including attorneys' fees, incurred by the City in enforcing the obligations secured.

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

1. Not less than 5 percent nor more than 10 percent of the total construction cost for contingencies.
 2. Increase for projected inflation computed to the estimated midpoint of construction.
 3. All utility installation costs or a certification acceptable to the City Engineer from the utility company that adequate security has been deposited to ensure installation.
- D. Cash Bond. The subdivider shall deposit with the City not less than \$1,000 cash for subdivisions by parcel map, and \$3,000 for other subdivisions, or an additional amount as required by the City Engineer, not to exceed 1 percent of the total estimated construction cost. The deposit may be used at the discretion of the City to correct deficiencies and conditions caused by the subdivider, contractor or subcontractors that may arise during or after the construction of the subdivision. Any unexpended amount will be returned to the subdivider at the time all bonds and other security are released.
- E. Warranty Security. Upon acceptance of the subdivision improvements by the City, the subdivider shall provide security in the amount as required by the City Engineer to guarantee the improvements against any defective work or labor done or defective materials used in the performance of the improvements throughout the warranty period which shall be the period of one year following completion and acceptance of the improvements. The amount of the warranty security shall not be less than 10 percent of the cost of the construction of the improvements, including the cash bond which shall be retained for the one-year warranty period.
- F. Reduction in Performance Security. The City Engineer may authorize in writing the release of a portion of the security in conjunction with the acceptance of the satisfactory completion of a part of the improvements as the work progresses upon application by the subdivider, but in no case shall the security be reduced to less than 10 percent of the total improvement security given for faithful performance. The amount of reduction of the security shall be determined by the City Engineer; however, in no event shall the City Engineer authorize a release of the improvement security which would reduce security to an amount below that required to guarantee the completion of the improvements and any other obligation imposed by the Subdivision Map Act, this Title or the improvement agreement.

G. Release of Improvement Security.

1. Performance Security. The performance security shall be released only upon acceptance of the improvements by the City and when an approved warranty security has been filed with the City Engineer.
2. Material and Labor Security. Security given to secure payment to the contractor, subcontractors and to persons furnishing labor, materials or equipment may, six months after the completion and acceptance of the improvements by the City, be reduced to an amount equal to the amount of all claims therefore filed and of which notice has been given to the City Council. The balance of the security shall be released upon the settlement of all claims and obligations for which the security was given.
3. Warranty Security. The warranty security shall be released upon satisfactory completion of the warranty period, provided:
 - a. All deficiencies appearing on the warranty deficiency list for the subdivision have been corrected.
 - b. Not less than 12 months have elapsed since the acceptance of the improvements by the City.

255.18 Construction and Inspection

The construction methods and materials for all improvements shall conform to the standard engineering specifications and all other standard plans and specifications of the City. Construction shall not commence until all required improvement plans have been approved by the City Engineer. All improvements are subject to inspection by the City Engineer or authorized personnel in accordance with the City's approved specifications.

255.20 Completion of Improvements

- A. Subdivisions by Final Map. The improvements for subdivisions by Final Map shall be completed by the subdivider within 24 months, or a time as approved by the City Engineer, not to exceed 36 months, from the recording of the final map, unless an extension is granted by the City Council. Improvements shall be completed prior to final building inspection or the issuance of an occupancy permit for any unit within the subdivision.

Should the subdivider fail to complete the improvements within the specified time, the City may, by resolution of the City Council and at its option, cause any or all uncompleted improvements to be completed and the parties executing the security or securities shall be firmly bound for the payment of all necessary costs.

- B. Subdivisions by Parcel Map. The completion of improvements for subdivisions by parcel map shall not be required until application for a permit or other grant of approval for the development of any parcel within the subdivision. The completion of the improvements may be required by a specified date by the City when the completion of the improvements are found to be necessary for public health or safety or for the

orderly development of the surrounding area. This finding shall be made by the City Engineer or authorized representative. The specified date, when required, shall be stated in the subdivision improvement agreement. Improvements shall be completed prior to final building inspection or the issuance of an occupancy permit for any unit within the subdivision.

- C. Extensions. The completion date may be extended by the City Council, for subdivisions by final map, upon written request by the subdivider and the submittal of adequate evidence to justify the extension. The request shall be made not less than 30 days prior to expiration of the subdivision improvement agreement.

The subdivider shall enter into a subdivision improvement agreement extension with the City. For subdivisions by final map, the agreement shall be prepared and signed by the City Engineer, approved as to form by the City Attorney, executed by the subdivider and surety and transmitted to the City Council for its consideration. If approved by the City Council, the Mayor shall execute the agreement on behalf of the City.

In consideration of a subdivision improvement agreement extension, the following may be required:

1. Revision of improvement plans to provide for current design and construction standards when required by the City Engineer;
2. Revised improvement construction estimates to reflect current improvement costs as approved by the City Engineer;
3. Increase of improvement securities in accordance with revised construction estimates;
4. Inspection fees may be increased to reflect current construction costs but shall not be subject to any decrease or refund.

The City Council may impose additional requirements as recommended by the City Engineer or as it may deem necessary as a condition to approving any time extension for the completion of improvements.

The costs incurred by the City in processing the agreement shall be paid by the subdivider.

255.22 Acceptance of Improvements

- A. General. When all improvement deficiencies have been corrected and record drawings of the improvements submitted, the subdivision improvements shall be considered by the City for acceptance. The completed improvements for subdivisions by final map or subdivisions by parcel map shall be considered and, if acceptable, accepted by the City Engineer. Acceptance of the improvements shall imply only that the improvements have been completed satisfactorily and that public improvements have been accepted for public use.

- B. Acceptance. If the subdivision improvements have been accepted by the City and public improvements have been dedicated on the final map or parcel map, the City Clerk shall file an Acceptance of Public Improvements with the County Recorder.

- C. Acceptance of a Portion of the Improvements. When requested by the subdivider in writing, the City may consider acceptance of a portion of the improvements as recommended by the City Engineer. The improvements will be accepted by the City only if it finds that it is in the public interest and such improvements are for the use of the general public. Acceptance of a portion of the improvements shall not relieve the subdivider from any other requirements imposed by this chapter.