

ORDINANCE NO.: 10529 (N.S.)

AN ORDINANCE AMENDING TITLE 8, DIVISION 1, OF THE SAN DIEGO COUNTY CODE TO DELEGATE AUTHORITY TO APPROVE FINAL MAPS AND ASSOCIATED IMPROVEMENT AGREEMENTS; AND ADDITIONAL MINOR EDITS

The Board of Supervisors of the County of San Diego, State of California, ordains as follows:

Section 1. The Board of Supervisors intends by this ordinance to delegate authority to the Director, Planning & Development Services (PDS), or any successor director of a County department responsible for overseeing the subdivision of property and the designees of such directors responsibility for approving final maps in accordance with Government Code § 66458(d).

Section 2. Cross reference(s) of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

General provisions, Title 1; licenses, business regulations and business taxes, Title 2; public safety, morals and welfare, Title 3; public property, Title 4; regulation of buildings, mobile home and special occupancy parks and trailer coaches, Title 5; health and sanitation, Title 6; highways and traffic, Title 7; construction codes and fire code, Title 9.

Section 3. Section 81.102 (j) and (m) of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 81.102. DEFINITIONS.

(j) "County fire official" means a person designated by the Director of Public Safety to implement and enforce the County Fire Code.

(m) "Director" means the Director of Planning & Development Services or a person the Director designates to implement or enforce this division.

Section 4. Section 81.105 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 81.105. SUBDIVISIONS CONVERTING EXISTING RESIDENTIAL AND NON-RESIDENTIAL DEVELOPMENTS TO CONDOMINIUMS.

(a) An applicant to convert an existing residential or non-residential development to condominiums shall submit a tentative map for five or more units or a tentative parcel map for four or fewer units. As used in this section, an existing

residential or non-residential development means a development that has received a final certificate of occupancy. The subdivision map shall indicate all sub-lots including common-held sub-lots. If the project is to be an air space condominium, a one-lot subdivision is required.

(b) A tentative subdivision map involving conversion to condominiums of any existing residential or non-residential building, other than a residential mobile home development, shall have conditions which:

(1) Bring the development into conformance with current Zoning Ordinance requirements for a new development except that Zoning Ordinance section 4115 dealing with "Computation of Permitted Dwelling Units" shall only apply if the tentative map or tentative parcel map proposes additional dwelling units.

(2) Bring all structures on the site into conformance with the requirements of the County Building, Plumbing, Electrical, Mechanical and Fire Codes as they were amended and in effect in San Diego County at the time the structures were constructed and with the requirements of those codes in effect at the time the tentative map or tentative parcel map is approved with regard to all of the following items:

(A) Interior fire sprinklers.

(B) Smoke detectors.

(C) Railings, guardrails and handrails.

Section 5. Section 81.109 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 81.109. FIRE SAFE REGULATIONS, AUTHORITY AND COMPLIANCE.

(a) State Responsibility Area (SRA) Fire Safe Regulations, 14 California Code of Regulations (CCR) sections 1270 et seq., authorize a local jurisdiction to conduct inspections and consider requests for exceptions to fire safe regulations standards related to an application for a subdivision, when the local jurisdiction has implemented the State regulations through its subdivision approval process. Title 14 CCR section 1270.03 provides that the State Board of Forestry may certify local ordinances as equaling or exceeding the State regulations. No application for a subdivision shall be approved unless the proposed subdivision complies with 14 CCR sections 1270 et seq. or comparable provisions relating to subdivisions in the County Fire Code or fire district's fire code, whichever applies to the property, when

the State Board of Forestry has certified the applicable local fire code as equaling or exceeding the State regulations.

(b) The County fire official shall (1) serve as the inspection authority for the County, as provided in 14 CCR section 1270.05 and (2) consider written requests for exceptions to the State fire safe regulations, as provided in 14 CCR sections 1270.07 and 1270.08 or local fire code regulations.

(c) An applicant for a subdivision who requests an exception to the applicable State or local fire safe regulations relating to subdivisions shall state the specific sections for which the applicant requests an exception, the material facts that support the applicant's contentions, the details of the exception or mitigating measure proposed and provide a map showing the proposed location and siting of the exception or mitigation measure.

(d) The Director shall provide the applicant requesting an exception with a written decision granting or denying the request within 30 days from the date the applicant files a request that complies with subsection (c).

(e) If the County fire official denies a request for an exception the applicant may appeal the denial by following the appeals procedures in section 96.1.108 of the Consolidated Fire Code, for projects located within the jurisdiction of a local fire district, and section 96.1.108 of the County Fire Code, for projects located outside of a local fire district.

Section 6. Section 81.205 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 81.205. IMPROVEMENTS AND SERVICES FEES.

Where a subdivider is required as a condition of approval of a tentative map or tentative parcel map to pay fees relating to providing improvements or performing services to the subdivision and the subdivider enters into an agreement secured pursuant to this division to defer installing improvements required by section 81.404 or section 81.708, the subdivider may defer payment of these fees. In that case the agreement shall provide that the fees shall be paid before the work commences for which the fee was required or before the County issues a building permit, whichever comes first. The amount of the security accompanying the agreement shall be increased to include the amount of the fees. The amount of the fees shall include an adjustment factor to represent the effects of inflation as represented in the Market Trends Index as published in the "Engineering News Record" or a similar index as determined appropriate by the Director. This section shall not apply to any fee that State law or a County ordinance provides for a different payment time.

Section 7. Section 81.402 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 81.402. DEDICATION AND ACCESS.

No tentative map filed pursuant to the division shall be approved unless the map and its proposed conditions satisfy the following requirements:

(2) Private road easements at least 40 feet wide in accordance with the San Diego County Standards for Private Roads, if the Director determines the roads will ultimately serve no more than estimated 100 ADT or will not feasibly provide a current or future connection to another public road or another subdivision.

(c) For subdivision access roads, the property owner shall: (1) enter into a private road maintenance agreement with the County, on a form provided by the Director, that requires the property owner to perform maintenance in perpetuity for each private road that is a subdivision access road and provides that the obligation to repair and maintain the roads shall be a covenant that runs with the land and is enforceable against all subsequent property owners, or (2) when required by the Director, with concurrence from the Director DPW, dedicate for public use all subdivision access roads that meet San Diego County Standards for Private Roads. In that case, the roads shall be maintained by a permanent road division zone established pursuant to Streets and Highway Code section 1162.6.

Section 8. Section 81.405 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 81.405. TIME TO CONSTRUCT REQUIRED IMPROVEMENTS AND EXTENSIONS.

(a) Where the subdivider agrees to install improvements pursuant to section 81.404, the agreement shall provide that the subdivider shall complete the improvements within two years after recording the map.

(b) In those instances consistent with subsection (c) below where a subdivider has obtained all permits to construct improvements required by the agreement and has begun installation of the improvements, the Director DPW may extend the time for the subdivider to complete improvements once for up to two years provided the Director DPW is satisfied the security the subdivider has provided is adequate. In all other instances and except as provided in subdivision (c), the Director may extend the time for a subdivider to complete improvements once, for up to two additional years provided the Director is satisfied that the

security provided by the subdivider is adequate. The Director may require the subdivider to provide additional or modified security as a condition of the extension.

(c) The Director and Director DPW may extend the time for a subdivider to complete improvements once, for up to two additional years and shall not grant an extension for completion of the improvements if the subdivider has previously been granted a time extension or the subdivider has substituted security for the security originally furnished under section 81.408. The Board, however, may grant additional time extensions.

Section 9. Section 81.409 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 81.409. LIEN CONTRACT AS SECURITY.

(a) Pursuant to Government Code section 66499(a)(4), when the County finds that it would not be in the public interest to require installation of required improvements sooner than two years after recording the map the County may allow the subdivider, in lieu of posting the security described in section 81.408, to enter into a lien contract with the County to construct the required improvements in the future, securing the subdivider's performance by granting the County a lien on the property to be subdivided.

(b) Where the County agrees to allow the subdivider to enter into a lien contract with the County, the subdivider shall execute the lien contract at the time the subdivider enters into an agreement with the County to construct required improvements pursuant to section 81.404. The County may at its sole option allow a subdivider to substitute a lien contract for existing security that the subdivider furnished under section 81.408. The County shall not accept a lien contract from any subdivider, however, either at the time the subdivider executes an agreement to construct subdivision improvements or as a substitute for existing security, if any lots have been sold, if permits have been issued on any of the property or if construction of any of the required improvements has begun.

(c) Lien contracts shall:

(1) Only be used to secure the completion of improvements.

(2) Contain an itemization of the required improvements and an estimate of cost approved by the Director and provide that the subdivider's or subsequent owner's obligation to complete the improvements extends to the actual cost of construction if the cost exceeds the estimate.

(3) Be recorded with the County Recorder and have the priority of a judgment lien as prescribed by Government Code section 66499(b).

(4) Be approved concurrently with the approval of the map with a note of the lien contract's existence placed on the map, except where the lien contract is being substituted after map approval for other security previously deposited with the Clerk of the Board pursuant to section 81.408. In that case, the lien contract shall be signed and acknowledged by all parties having any record title interest in the real property, as prescribed by Government Code section 66436, consenting to the subordination of their interests to the lien contract.

(d) The lien contract shall provide that the subdivider shall substitute security acceptable to the County for the lien contract and commence constructing the improvements required pursuant to section 81.404: (1) within two years after recording the map or (2) in the case of a lien contract which has been substituted for existing security pursuant to subsection (b), above, within two years after recording the lien contract.

(e) For lien contracts executed at the time the map is recorded, the Director may extend the time for substituting acceptable security and commencing construction of the required improvements once, for no more than two additional years. The Director may not grant these extensions if the subdivider has substituted a lien contract for the security originally furnished under section 81.408. The Board, however, may grant additional time extensions, on a case-by-case basis, for substituting acceptable security and commencing construction of the required improvements pursuant to agreements secured either by: (1) lien contracts executed at the time the map is recorded or (2) lien contracts substituted for existing security furnished under section 81.408.

(f) During the term of the lien contract no individual lots shall be sold. Fee title to the entire property encumbered by the lien contract, however, or to all lots designated on any individual final map or parcel map that are encumbered by the lien contract, may be sold in the aggregate to a single purchaser, provided that the proposed purchaser of the property, prior to assuming title to the property, shall either: (1) execute a new lien contract in a form acceptable to the County which will encumber the property to be conveyed, specifying the respective obligations of the property owners subject to the original and the new lien contract or (2) replace the existing lien contract with alternative security acceptable to the County to guarantee completion of the required improvements. The alternative security shall meet the requirements of section 81.408. If the proposed purchaser is a holding company or a limited liability company, however, the property owner shall obtain approval from the Director before entering into the sales agreement. Any new lien contract shall

require that the new property owner commence construction of the improvements secured by the lien contract by the same date provided in the lien contract with the original owner, unless the Board extends the date as provided in subsection (d), above. The new lien contract shall also provide that the new property owner shall deposit alternative security acceptable to the County that meets the requirements of section 81.408 at the time the property owner is required to commence construction of the improvements.

(g) At the time the Board approves a lien contract, the subdivider shall provide a cash deposit in the amount of \$15,000 to the Clerk of the Board for the purpose of reverting the property to acreage if the subdivider breaches the terms of the lien contract. In addition, at the time title to any property subject to a lien contract is conveyed, the transferee of the property, if the transferee executes a new lien contract to secure construction of the improvements imposed on the property as described in subsection (f), above, shall also provide a cash deposit in the amount of \$15,000 to the Clerk of the Board for the purpose of reverting the property to acreage if the transferee breaches the terms of the lien contract. The purpose of these requirements is so that each owner of property which is encumbered by a lien contract shall at all times have a \$15,000 deposit per lien contract with the County for the purpose described. Any unused portion of a deposit shall be refunded following completion of the reversion to the person who made the deposit. If the cost to revert the property to acreage exceeds \$15,000 the property owner shall pay the additional costs to the County prior to recording the reversion to acreage map.

(h) When a lien contract is utilized as security upon approval of the map, notwithstanding the provisions of sections 81.402 and 81.404, the County shall not accept offers of dedication for street purposes until the lien contract is released following substitution of acceptable alternative security and the required street improvements are completed to the satisfaction of the Director DPW.

(i) The County shall release a lien contract after: (1) the subdivider or subsequent property owner substitutes security for the lien contract that complies with section 81.408 or (2) recording a reversion to acreage map.

Section 10. Section 81.410 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 81.410. AGRICULTURAL SUBDIVISIONS.

(a) When the land to be subdivided is located within the boundaries of an Agricultural Preserve established by a resolution of the Board and the property owner has entered into a Land Conservation Contract with the County, the

subdivision shall be known as an "agricultural subdivision." In addition to the limitations in Government Code section 66474.4 for land subject to a Land Conservation Contract no tentative map for an agricultural subdivision shall be approved if it proposes lots smaller than the minimum lot size specified in the contract.

(b) Notwithstanding any other provision of this division to the contrary, the dedication requirements for an agricultural subdivision shall be as follows:

(1) The road or roads providing access to an agricultural subdivision shall meet the same standards of easement width and improvements as required for access to a minor subdivision pursuant to section 81.702(b).

(2) Except as required by subsection (b)(1), an agricultural subdivision shall not be subject to the dedication requirements in subsections 81.402(a), (b), (f), (g), (h) and (m).

(c) Notwithstanding any other provision of this division to the contrary, a subdivider for an agricultural subdivision shall be required to complete the following improvements:

(1) Grade and improve roads in accordance with County Standards for Private Roads.

(2) Install all drainage and erosion control structures, surfacing and facilities required by the Director in accordance with County Standards.

(3) Install water supply pipelines, fire hydrants and connections as may be required by the Planning Commission or Board.

(d) For an agricultural subdivision where each parcel shown on a parcel map contains a gross area of 20 acres or more, the subdivider shall meet all improvement requirements as specified in subsection (c)(1) above.

(e) Except as required by subsection (c)(1) and (2) above, an agricultural subdivision shall not be subject to the improvement requirements in subsection 81.404(a)(6), (a)(7) and (b).

Section 11. Section 81.501 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 81.501. MAPS TO CONFORM TO REQUIREMENTS.

In addition to conforming to the requirements of the SMA and this division, a final map shall comply with all requirements and conditions of the approved or

conditionally approved tentative map. Whenever a final map is filed, the Director shall make a determination as to whether the final map is in substantial conformance with the approved tentative map and resolution of approval. The Director shall prepare written findings identifying the requirements or conditions that were not met or performed if the final map is disapproved.

Section 12. Section 81.502 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 81.502. APPROVAL OF FINAL MAPS.

No final map shall be filed in the Office of the County Recorder until approved by the Director. Upon receipt of a final map, the Director shall:

- (a) Notify the Board, at its next regular meeting after receiving the map, that the map is being reviewed for approval.
- (b) Cause the Clerk of the Board to post the notice of any pending approval by the Director, and include it on the Board's regular agenda. The Director will also notify community planning and sponsor group chairs, and other interested parties who request notice.
- (c) Approve or disapprove the final map within ten (10) days following the meeting of the Board at which notice of the pending approval was given.

Approvals or disapprovals of final maps by the Director may be appealed to the Board within ten (10) days of the Director's decision. The Board shall periodically review the delegation of authority to approval final maps.

Section 13. Section 81.503 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 81.503. REQUIRED OFFER OF DEDICATION AND IMPROVEMENT AGREEMENTS.

No final map shall be approved unless the subdivider has offered for dedication all parcels of land shown on the map that are intended for public use. In those instances where a final map is approved by the Director, the Director may accept, accept subject to improvement or reject dedications and offers of dedication that are made by a statement on the face of the map or by separate instrument. The Director approving a final map where required improvements are secured by an agreement in accordance with Section 81.404 is delegated the authority to execute improvement agreements, accept security in the form prescribed by the SMA and Sections 81.408 and 81.409, and execute lien contracts, holding agreements and

such additional agreements as may be necessary to secure the construction of the required improvements.

Section 14. Section 81.510 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 81.510. TITLE COMPANY RECORD TITLE INTEREST GUARANTEE.

(a) In lieu of the title company certificate required by section 81.509 the subdivider may obtain and file with the Director a guarantee from a qualified title insurance company that the parties who signed and acknowledged the final map are the only parties having any record title interest in the land subdivided, who are required to sign the final map.

(b) If a subdivider obtains a guarantee from a title insurance company under this section the guarantee shall also list the name of each party who owns an interest described in Government Code section 66436(a) who did not sign the final map, together with a description of each party's interest and the reason why that party was not required to sign the final map.

(c) The Clerk of the Board shall notify the title company providing the guarantee the date the Clerk will transmit the final map to the County Recorder, at least 48 hours before the date the Clerk will transmit the map to the Recorder. In accordance with Government Code section 66465, the subdivider shall have the title company present written evidence to the County Recorder on the date the Clerk will transmit the map, that at the time of filing of the final map with the County Recorder, the information in the original guarantee is correct.

Section 15. Section 81.511 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 81.511. DRAFTING STANDARDS.

In addition to complying with Government Code sections 66433 et seq., each final map shall be suitable for microfilming and be of a drafting quality that when viewed or reproduced from microfilm at reduced scale, the map will be legible. The following standards shall also apply:

(g) In addition to a statement of scale, one graphic scale acceptable to the Director shall be shown on each sheet with one or more parcels. The graphic scale shall pertain to the predominant scale used on each sheet and be 4" minimum length.

Section 16. Section 81.512 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 81.512. SOIL AND GEOLOGY REPORTS.

When a soils report or geology report has been prepared for a subdivision, the report will be kept on file for public inspection with the Director.

Section 17. Section 81.513 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 81.513. CORRECTIONS AND AMENDMENTS TO FINAL MAPS.

A person requesting to amend a final map that has been recorded with the County Recorder to make one or more of the amendments listed in Government Code section 66469 or 66472.1, shall file a certificate of correction or an amending map with the Director. If the amending map or certificate of correction contains only those amendments allowed by Government Code section 66469 or 66472.1, complies with Government Code section 66470 and is certified by the County Surveyor, the Director shall file the amending map or certificate of correction with the County Recorder.

Section 18. Section 81.514 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 81.514. MODIFICATION OF FINAL MAPS.

(a) A person requesting modification of a filed final map due to a change in circumstances may only modify the final map by obtaining approval from the County, pursuant to this section, to file a certificate of correction or an amending map. The request for approval shall be filed with the Director. The request shall include the proposed certificate of correction or amending map, a statement of the changes in circumstances the applicant relies on and each condition of the recorded final map the applicant requests to modify.

(b) The Director shall hold a public hearing on the proposed modifications of the final map conditions and shall give notice of the public hearing according to Government Code section 66451.3. In addition, the Director will notify community planning and sponsor group chairs, and other interested parties who request notice. In order to approve the application to file a certificate of correction or an amending map the Director must find based on the evidence presented at the hearing that all of the following are true:

(1) There are changes in circumstances that make one or more of the conditions of the map no longer appropriate or necessary.

(2) The proposed modifications do not impose any additional burden on the fee owners of the real property.

(3) The proposed modifications do not alter any right, title or interest in the real property reflected on the recorded map.

(4) The map as modified conforms to Government Code section 66474.

(c) Within 10 days of the hearing the Director shall prepare a written decision approving or disapproving the application and include the reasons for the decision. A copy of the decision shall be mailed to the applicant, any person who opposed the application in writing or in person at the hearing and any other person who requested a copy of the decision.

(d) The applicant, a County officer or any person who opposed the application either in writing or in person at the public hearing may appeal the decision to the Board. The appeal shall be filed in writing with the Director within 10 days of the date of the Director's decision. The appeal before the Board shall be de novo.

Section 19. Section 81.702 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 81.702. DEDICATION AND ACCESS.

A tentative parcel map filed pursuant to chapter 6 of this division shall not be approved unless it conforms to the dedication and access requirement of section 81.402, subsections (a) through (f), (k), (r) through (u) and with the following requirements:

(d) Each easement required for public utilities or drainage including flood control or drainage easements shall be offered for dedication as provided in section 81.704 when the Director, with concurrence from Director DPW determines an offer of dedication is necessary to serve the subdivision or is a reasonable and logical extension of existing facilities in the vicinity.

Section 20. Section 81.704 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 81.704. DEDICATION PROCEDURE.

Pursuant to Government Code section 66447 all dedications or offers of dedication required by this division shall be made as follows:

(a) Except as provided in subsection (d) below, a subdivider shall make all dedications or offers of dedication lying within the boundary of the parcel map by a certificate on the map. This certificate shall be combined with the owner's certificate as described in section 81.811. Each dedication or offer of dedication shall be free of any liens or encumbrances that would interfere with the purpose for which the dedication or offer of dedication is required. The subdivider shall provide the Director with a parcel map report including an appropriate plat when the parcel map is submitted pursuant to section 81.707.

(b) A subdivider shall make all dedications or offers of dedication lying outside the boundary of the parcel map by a separate instrument and shall record the dedications or offers of dedication prior to filing the parcel map. An irrevocable offer of dedication shall provide that it is binding on each property owner, the property owner's heirs, assigns or successors in interest. Except as provided in Government Code section 66477.2(b), an irrevocable offer of dedication shall also provide that the offer shall continue until the Board accepts the offer or it is vacated pursuant to section 66477.2. Each dedication or offer of dedication shall be free of any liens or encumbrances that would interfere with the purpose for which the dedication or offer of dedication is required. The subdivider shall provide a current preliminary title report including an appropriate plat satisfactory to the Director.

(c) An easement for public utilities may be dedicated to and accepted by a public utility by certificate on the map.

(d) As an exception to subsection (a), if the Director determines that dedications or offers of dedication within the boundary of a parcel will not be needed immediately to serve the proposed subdivision the Director may require the dedication or offer of dedication to be made by separate instrument. In that case a dedication or offer of dedication shall be made as provided in subsection (b) above.

(e) When no parcel map is required, all dedications or offer of dedication shall be made as provided in subsection (b) above.

Section 21. Section 81.706 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 81.706. TITLE COMPANY PARCEL MAP REPORT AND GUARANTEE.

(a) When the subdivider submits the parcel map to the Director for approval the subdivider shall also provide a parcel map report from a qualified title insurance company. The report shall include a recorded map showing all easements that provide access to the property to be subdivided.

(b) After the Director determines that the boundary and survey procedure is technically correct as shown on the submitted parcel map, the subdivider shall provide the Director with a parcel map guarantee from a qualified title insurance company that includes a legal description of the property that conforms with the parcel map. The parcel map guarantee shall insure that the parties named in the guarantee are the only parties having any record title interest in the land subdivided and that all record easements upon the property are included therein. The easements shall be shown on the parcel map as required by the Director, with concurrence from the Director DPW, for any public street, drainage or other public easements.

(c) Each parcel map submitted to the Director shall bear the following statement to provide information about the title company issuing the guarantee to be affixed to the map:

PARCEL MAP GUARANTEE FOR THIS

SUBDIVISION FURNISHED

BY _____.

ORDER NO. _____.

(d) The Director shall notify the title company furnishing the parcel map guarantee of the date the parcel map will be transmitted to the County Recorder at least 48 hours before the date the Director will transmit the map. In accordance with Government Code section 66465, the subdivider shall have the title company present written evidence to the County Recorder that at the time of the filing of the parcel map with the County Recorder, the information in the original guarantee is correct.

Section 22. Section 81.708 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 81.708. SUBDIVIDER'S OBLIGATION TO COMPLETE IMPROVEMENTS.

(a) Whenever the subdivider is required to construct or install improvements as a condition of approval of a parcel map for a minor subdivision, the requirements

for the construction or installation of the improvements shall be noticed on the parcel map. The subdivider, if allowed, shall also execute a covenant of improvement requirements, which shall specify all improvements the subdivider is required to construct or install and shall be recorded with the County Recorder.

(b) The Director may require the subdivider to enter into a written agreement to construct all or part of the required improvements and require the subdivider to post security to guarantee performance. In that case, the subdivider shall provide security that complies with section 81.408, except that the subdivider shall not be allowed to post security under section 81.408(a)(1) unless the amount of security for performance exceeds \$25,000. The subdivider shall complete construction or installation of the improvements before the County issues any permit or other grant of approval for the development of the parcels being created by the subdivision. In the alternative, the subdivider and the Director may enter into an agreement for the subdivider to construct or install all improvements by a specified date.

(c) An agreement entered into between the subdivider and the Director to defer the completion of improvements until after the Director issues a building permit shall only be for road improvements. An agreement to defer improvements shall be subject to the following requirements:

(1) The agreement shall provide that the subdivider shall complete all road improvements and obtain approval from the Director DPW before the Director issues approval for the final building inspection for any building to be constructed, placed or erected on the property to be subdivided.

(2) The subdivider shall provide security for the agreement that complies with section 81.408.

(3) The subdivider shall enter into a separate right of entry agreement with the County that gives the County the right to enter the property during normal business hours to inspect the improvements. The right of entry agreement shall also provide that if the subdivider fails to complete the improvement as required the County shall have the right to enter and complete the improvements at the subdivider's expense.

Section 23. Section 81.711 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 81.711. LIEN CONTRACT FOR IMPROVEMENTS.

(a) If pursuant to Government Code section 66499(a), the County finds that it would not be in the public interest to require installation of required improvements

sooner than two years after the map is recorded, the County may allow a subdivider of a minor subdivision of industrial, commercial or multi-family residential property, but not of a single-family residential property, in lieu of posting the security required by sections 81.708 and 81.710, to enter into a lien contract with the County to construct the required improvements in the future, securing the subdivider's performance by granting the County a lien on the property to be subdivided.

(b) Where the County and the subdivider enter into a lien contract, the subdivider shall execute the lien contract with the County at the same time the subdivider enters into the agreement with the County to construct or install improvements required pursuant to section 81.709. The County may at its sole option allow a subdivider to substitute a lien contract for existing security that the subdivider furnished under sections 81.708 and 81.710. The County shall not accept a lien contract from any subdivider, however, either at the time the subdivider executes an agreement to construct subdivision improvements or as a substitute for existing security if: (1) any lots have been sold, (2) permits have been issued on any of the property or (3) construction of any of the required improvements has begun.

(c) Lien contracts shall:

(1) Only be used to secure completion of improvements.

(2) Contain an itemization of the required improvements, an estimate of the cost to complete the improvements that the Director has approved and provide that the subdivider's or subsequent owner's obligation to complete the improvements extends to the actual cost of construction if the cost to complete the improvements exceeds the estimate.

(3) Be recorded with the County Recorder and have the priority of a judgment lien as prescribed by Government Code section 66499(b).

(4) Be approved concurrently with the approval of the parcel map with a note of the lien contract's existence placed on the map, except where the lien contract is being substituted after parcel map approval for other security previously deposited with the Clerk of the Board pursuant to section 81.710. In that case, the lien contract shall be signed and acknowledged by all parties having any record title interest in the real property, as prescribed by Government Code section 66436, consenting to the subordination of their interests to the lien contract.

(d) The lien contract shall provide that the subdivider shall substitute security acceptable to the County for the lien contract and commence constructing the improvements required pursuant to section 81.707: (1) within two years after

recording the map or (2) in the case of a lien contract which has been substituted for existing security pursuant to subsection (b), above, within two years after recording the lien contract.

(e) For lien contracts executed at the time the map is recorded, the Director may extend the time for substituting acceptable security and commencing construction of the required improvements once, for no more than two additional years. The Director may not grant an extension if the subdivider has substituted a lien contract for the security originally furnished under sections 81.708 and 81.710. The Board, however, may grant additional time extensions on a case-by-case basis as it deems appropriate, for substituting acceptable security and commencing construction of required improvements pursuant to agreements secured either by: (1) lien contracts executed at the time the map is recorded or (2) lien contracts substituted for existing security furnished under sections 81.708 and 81.710.

(f) During the term of the lien contract no individual lots shall be sold. Fee title to the entire property encumbered by the lien contract may be sold to a single purchaser, provided that the proposed purchaser of the property, prior to assuming title to the property, shall either: (1) execute a new lien contract in a form acceptable to the County that will encumber the property to be conveyed, specifying the respective obligations of the property owners subject to the original and the new lien contract or (2) replace the existing lien contract with alternative security acceptable to the County to guarantee completion of the required improvements. The alternative security shall meet the requirements of section 81.408. If the proposed purchaser is a holding company or a limited liability company, however, the property owner shall obtain approval from the Director before entering into the sales agreement. Any new lien contract shall require that the new property owner commence construction of the required improvements secured by the lien contract by the same date provided in the lien contract with the original owner, unless the Board extends the date as provided in subsection (d), above. The new lien contract shall also provide that the new property owner shall deposit alternative security acceptable to the County that meets the requirements of section 81.408 at the time the property owner is required to commence construction of the improvements.

(g) At the time the Board approves a lien contract, the subdivider shall provide a cash deposit in the amount of \$15,000 to the Clerk of the Board for the purpose of reverting the property to acreage if the subdivider breaches the terms of the lien contract. In addition, at the time title to any property subject to a lien contract is conveyed, the transferee of the property, if the transferee executes a new lien contract to secure construction of the improvements imposed on the property as described in subsection (f), above, shall also provide a cash deposit in the amount of \$15,000 to the Clerk of the Board for the purpose of reverting the

property to acreage if the transferee breaches the terms of the lien contract. The purpose of these requirements is to have each owner of property which is encumbered by a lien contract, have a \$15,000 deposit per lien contract with the County for the purpose described. Any unused portion of a deposit shall be refunded to the current property owner following completion of the reversion. If the cost to revert the property to acreage exceeds \$15,000 the property owner shall pay the additional costs to the County prior to recording the reversion to acreage map.

(h) When a lien contract is utilized as security upon approval of the map, notwithstanding the provisions of sections 81.702 and 81.707, the County shall not accept offers of dedication for street purposes until the lien contract is released following substitution of acceptable alternative security and the required improvements are completed to the satisfaction of the Director DPW.

(i) The County shall release a lien contract after: (1) the subdivider or subsequent property owner substitutes security for the lien contract that complies with section 81.408 or (2) recording of a reversion to acreage map.

Section 24. Section 81.713 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 81.713. RELEASE OF IMPROVEMENT REQUIREMENTS.

The subdivider or a property owner of land subject to a certificate of improvement requirements may request the County file a release of improvement requirements in the office of the County Recorder. The person requesting the release shall submit the request in writing to the Director DPW along with proof that all required improvements have been completed. If the Director DPW determines from the proof submitted that all improvements required by the certificate of improvement requirements have been completed, the Director DPW shall file a release of improvement requirements with the County Recorder.

Section 25. Section 81.1106 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 81.1106. APPLICATION TO REMAND RELINQUISHED ACCESS RIGHTS.

(a) A person may submit an application to the Director to remand access rights to a public street that were relinquished when a final map or parcel map was recorded or when any other document was recorded pursuant to this division. Within two working days after an application has been filed, the Director shall

transmit a copy of the application to the Director DPW and coordinate with the Director DPW to develop a preliminary decision.

(b) The Director shall make a preliminary decision to approve, conditionally approve or disapprove the application within 45 days after the application is filed. Before making the final decision, the Director shall hold a public hearing to consider the application and shall provide notice of the public hearing as provided in Government Code Section 66451.3. Notices required to be delivered by U.S. mail shall be mailed at least 15 days before the public hearing and shall include the preliminary decision.

(c) The applicant requesting a remand of relinquished access rights shall have the burden of establishing all of the following:

(1) The proposed remand would not, as determined by the Director DPW, create a safety hazard for pedestrian or vehicular traffic.

(2) It is feasible to obtain access to the affected public street for which remand is requested in a manner consistent with applicable County ordinances, policies and standards.

(3) The proposed remand would not adversely affect uses adjacent to the affected public street.

(4) The remand would not result in a use of the property that does not substantially comply with the conditions of the approved subdivision where the affected street is located.

(d) The applicant, or any person who opposed the decision either in writing or in person at the public hearing may appeal the Director's decision to the Planning Commission by filing an appeal with the Director within 10 days of the Director's decision. The Planning Commission shall hold a notice public hearing by providing notice as required in subsection (b). The decision of the Planning Commission shall be final.

Section 26. This ordinance shall take effect thirty (30) days after its passage, and before the expiration of fifteen (15) days after its passage a summary shall be published, with the names of the members voting for and against the same, once in a local newspaper of general circulation in the County of San Diego, State of California.

APPROVED AS TO FORM AND LEGALITY
By COUNTY COUNSEL

BY: Randall R. Sjoblom, Senior Deputy County Counsel

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of San Diego this 18th day of April, 2018.



KRISTIN GASPAR
Chairwoman, Board of Supervisors
County of San Diego, State of California

The above Ordinance was adopted by the following vote:

AYES: Cox, Jacob, Gaspar, Horn
ABSENT: Roberts

ATTEST my hand and the seal of the Board of Supervisors this 18th day of April, 2018.

DAVID HALL
Clerk of the Board of Supervisors

By 
Elizabeth Miller, Deputy



Ordinance No.: 10529 (N.S.)

04/18/18 (4)