

CALIFORNIA CODES

GOVERNMENT CODESECTION 66473-**66474**.10

66473. A local agency shall disapprove a map for failure to meet or perform any of the requirements or conditions imposed by this division or local ordinance enacted pursuant thereto; provided that a final map shall be disapproved only for failure to meet or perform requirements or conditions which were applicable to the subdivision at the time of approval of the tentative map; and provided further that such disapproval shall be accompanied by a finding identifying the requirements or conditions which have not been met or performed. Such local ordinance shall include, but need not be limited to, a procedure for waiver of the provisions of this section when the failure of the map is the result of a technical and inadvertent error which, in the determination of the local agency, does not materially affect the validity of the map.

66473.1. (a) The design of a subdivision for which a tentative map is required pursuant to Section 66426 shall provide, to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision.

(b) (1) Examples of passive or natural heating opportunities in subdivision design, include design of lot size and configuration to permit orientation of a structure in an east-west alignment for southern exposure.

(2) Examples of passive or natural cooling opportunities in subdivision design include design of lot size and configuration to permit orientation of a structure to take advantage of shade or prevailing breezes.

(c) In providing for future passive or natural heating or cooling opportunities in the design of a subdivision, consideration shall be given to local climate, to contour, to configuration of the parcel to be divided, and to other design and improvement requirements, and that provision shall not result in reducing allowable densities or the percentage of a lot that may be occupied by a building or structure under applicable planning and zoning in effect at the time

the tentative map is filed.

(d) The requirements of this section do not apply to condominium projects which consist of the subdivision of airspace in an existing building when no new structures are added.

(e) For the purposes of this section, "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.

66473.3. The legislative body of a city or county may, by ordinance, require the design of a subdivision for which a tentative map or parcel map is required pursuant to Section 66426 to provide for appropriate cable television systems and for communication systems, including, but not limited to, telephone and Internet services, to each parcel in the subdivision.

"Appropriate cable television systems," as used in this section, means those franchised or licensed to serve the geographical area in which the subdivision is located.

This section shall not apply to the conversion of existing dwelling units to condominiums, community apartments, or stock cooperatives.

66473.5. No local agency shall approve a tentative map, or a parcel map for which a tentative map was not required, unless the legislative body finds that the proposed subdivision, together with the provisions for its design and improvement, is consistent with the general plan required by Article 5 (commencing with Section 65300) of Chapter 3 of Division 1, or any specific plan adopted pursuant to Article 8 (commencing with Section 65450) of Chapter 3 of Division 1.

A proposed subdivision shall be consistent with a general plan or a specific plan only if the local agency has officially adopted such a plan and the proposed subdivision or land use is compatible with the objectives, policies, general land uses, and programs specified in such a plan.

66473.6. Whenever a city or county imposes as a condition to its approval of a tentative map or a parcel map a requirement that

necessitates replacing, undergrounding, or permanently or temporarily relocating existing facilities of a telephone corporation or cable television system, the developer or subdivider shall reimburse the telephone corporation or cable television system for all costs for the replacement, undergrounding, or relocation. All these costs shall be billed after they are incurred, and shall include a credit for any required advance payments and for the salvage value of any facilities replaced. In no event shall the telephone corporation or cable television system be reimbursed for costs incurred in excess of the cost to replace the facilities with substantially similar facilities.

66473.7. (a) For the purposes of this section, the following definitions apply:

(1) "Subdivision" means a proposed residential development of more than 500 dwelling units, except that for a public water system that has fewer than 5,000 service connections, "subdivision" means any proposed residential development that would account for an increase of 10 percent or more in the number of the public water system's existing service connections.

(2) "Sufficient water supply" means the total water supplies available during normal, single-dry, and multiple-dry years within a 20-year projection that will meet the projected demand associated with the proposed subdivision, in addition to existing and planned future uses, including, but not limited to, agricultural and industrial uses. In determining "sufficient water supply," all of the following factors shall be considered:

(A) The availability of water supplies over a historical record of at least 20 years.

(B) The applicability of an urban water shortage contingency analysis prepared pursuant to Section 10632 of the Water **Code** that includes actions to be undertaken by the public water system in response to water supply shortages.

(C) The reduction in water supply allocated to a specific water use sector pursuant to a resolution or ordinance adopted, or a contract entered into, by the public water system, as long as that resolution, ordinance, or contract does not conflict with Section 354 of the Water **Code**.

(D) The amount of water that the water supplier can reasonably rely on receiving from other water supply projects, such as conjunctive use, reclaimed water, water conservation, and water

transfer, including programs identified under federal, state, and local water initiatives such as CALFED and Colorado River tentative agreements, to the extent that these water supplies meet the criteria of subdivision (d).

(3) "Public water system" means the water supplier that is, or may become as a result of servicing the subdivision included in a tentative map pursuant to subdivision (b), a public water system, as defined in Section 10912 of the Water **Code**, that may supply water for a subdivision.

(b) (1) The legislative body of a city or county or the advisory agency, to the extent that it is authorized by local ordinance to approve, conditionally approve, or disapprove the tentative map, shall include as a condition in any tentative map that includes a subdivision a requirement that a sufficient water supply shall be available. Proof of the availability of a sufficient water supply shall be requested by the subdivision applicant or local agency, at the discretion of the local agency, and shall be based on written verification from the applicable public water system within 90 days of a request.

(2) If the public water system fails to deliver the written verification as required by this section, the local agency or any other interested party may seek a writ of mandamus to compel the public water system to comply.

(3) If the written verification provided by the applicable public water system indicates that the public water system is unable to provide a sufficient water supply that will meet the projected demand associated with the proposed subdivision, then the local agency may make a finding, after consideration of the written verification by the applicable public water system, that additional water supplies not accounted for by the public water system are, or will be, available prior to completion of the subdivision that will satisfy the requirements of this section. This finding shall be made on the record and supported by substantial evidence.

(4) If the written verification is not provided by the public water system, notwithstanding the local agency or other interested party securing a writ of mandamus to compel compliance with this section, then the local agency may make a finding that sufficient water supplies are, or will be, available prior to completion of the subdivision that will satisfy the requirements of this section. This finding shall be made on the record and supported by substantial evidence.

(c) The applicable public water system's written verification of its ability or inability to provide a sufficient water supply that

will meet the projected demand associated with the proposed subdivision as required by subdivision (b) shall be supported by substantial evidence. The substantial evidence may include, but is not limited to, any of the following:

(1) The public water system's most recently adopted urban water management plan adopted pursuant to Part 2.6 (commencing with Section 10610) of Division 6 of the Water **Code**.

(2) A water supply assessment that was completed pursuant to Part 2.10 (commencing with Section 10910) of Division 6 of the Water **Code**.

(3) Other information relating to the sufficiency of the water supply that contains analytical information that is substantially similar to the assessment required by Section 10635 of the Water **Code**.

(d) When the written verification pursuant to subdivision (b) relies on projected water supplies that are not currently available to the public water system, to provide a sufficient water supply to the subdivision, the written verification as to those projected water supplies shall be based on all of the following elements, to the extent each is applicable:

(1) Written contracts or other proof of valid rights to the identified water supply that identify the terms and conditions under which the water will be available to serve the proposed subdivision.

(2) Copies of a capital outlay program for financing the delivery of a sufficient water supply that has been adopted by the applicable governing body.

(3) Securing of applicable federal, state, and local permits for construction of necessary infrastructure associated with supplying a sufficient water supply.

(4) Any necessary regulatory approvals that are required in order to be able to convey or deliver a sufficient water supply to the subdivision.

(e) If there is no public water system, the local agency shall make a written finding of sufficient water supply based on the evidentiary requirements of subdivisions (c) and (d) and identify the mechanism for providing water to the subdivision.

(f) In making any findings or determinations under this section, a local agency, or designated advisory agency, may work in conjunction with the project applicant and the public water system to secure water supplies sufficient to satisfy the demands of the proposed subdivision. If the local agency secures water supplies pursuant to this subdivision, which supplies are acceptable to and approved by the governing body of the public water system as suitable for delivery to customers, it shall work in conjunction with the public

water system to implement a plan to deliver that water supply to satisfy the long-term demands of the proposed subdivision.

(g) The written verification prepared under this section shall also include a description, to the extent that data is reasonably available based on published records maintained by federal and state agencies, and public records of local agencies, of the reasonably foreseeable impacts of the proposed subdivision on the availability of water resources for agricultural and industrial uses within the public water system's service area that are not currently receiving water from the public water system but are utilizing the same sources of water. To the extent that those reasonably foreseeable impacts have previously been evaluated in a document prepared pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources **Code**) or the National Environmental Policy Act (Public Law 91-190) for the proposed subdivision, the public water system may utilize that information in preparing the written verification.

(h) Where a water supply for a proposed subdivision includes groundwater, the public water system serving the proposed subdivision shall evaluate, based on substantial evidence, the extent to which it or the landowner has the right to extract the additional groundwater needed to supply the proposed subdivision. Nothing in this subdivision is intended to modify state law with regard to groundwater rights.

(i) This section shall not apply to any residential project proposed for a site that is within an urbanized area and has been previously developed for urban uses, or where the immediate contiguous properties surrounding the residential project site are, or previously have been, developed for urban uses, or housing projects that are exclusively for very low and low-income households.

(j) The determinations made pursuant to this section shall be consistent with the obligation of a public water system to grant a priority for the provision of available and future water resources or services to proposed housing developments that help meet the city's or county's share of the regional housing needs for lower income households, pursuant to Section 65589.7.

(k) The County of San Diego shall be deemed to comply with this section if the Office of Planning and Research determines that all of the following conditions have been met:

(1) A regional growth management strategy that provides for a comprehensive regional strategy and a coordinated economic development and growth management program has been developed pursuant to Proposition C as approved by the voters of the County of San

Diego in November 1988, which required the development of a regional growth management plan and directed the establishment of a regional planning and growth management review board.

(2) Each public water system, as defined in Section 10912 of the Water **Code**, within the County of San Diego has adopted an urban water management plan pursuant to Part 2.6 (commencing with Section 10610) of the Water **Code**.

(3) The approval or conditional approval of tentative maps for subdivisions, as defined in this section, by the County of San Diego and the cities within the county requires written communications to be made by the public water system to the city or county, in a format and with content that is substantially similar to the requirements contained in this section, with regard to the availability of a sufficient water supply, or the reliance on projected water supplies to provide a sufficient water supply, for a proposed subdivision.

(1) Nothing in this section shall preclude the legislative body of a city or county, or the designated advisory agency, at the request of the applicant, from making the determinations required in this section earlier than required pursuant to subdivision (b).

(m) Nothing in this section shall be construed to create a right or entitlement to water service or any specific level of water service.

(n) Nothing in this section is intended to change existing law concerning a public water system's obligation to provide water service to its existing customers or to any potential future customers.

(o) Any action challenging the sufficiency of the public water system's written verification of a sufficient water supply shall be governed by Section 66499.37.

66474. A legislative body of a city or county 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:

(a) That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451.

(b) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.

(c) That the site is not physically suitable for the type of development.

(d) That the site is not physically suitable for the proposed density of development.

(e) That 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.

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

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

66474.01. Notwithstanding subdivision (e) of Section **66474**, a local **government** may approve a tentative map, or a parcel map for which a tentative map was not required, if an environmental impact report was prepared with respect to the project and a finding was made pursuant to paragraph (3) of subdivision (a) of Section 21081 of the Public Resources **Code** that specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report.

66474.1. A legislative body shall not deny approval of a final or parcel map if it has previously approved a tentative map for the proposed subdivision and if it finds that the final or parcel map is in substantial compliance with the previously approved tentative map.

66474.2. (a) Except as otherwise provided in subdivision (b) or (c), in determining whether to approve or disapprove an application for a tentative map, the local agency shall apply only those ordinances, policies, and standards in effect at the date the local agency has determined that the application is complete pursuant to Section 65943 of the **Government Code**.

(b) Subdivision (a) shall not apply to a local agency which, before it has determined an application for a tentative map to be complete pursuant to Section 65943, has done both of the following:

(1) Initiated proceedings by way of ordinance, resolution, or motion.

(2) Published notice in the manner prescribed in subdivision (a) of Section 65090 containing a description sufficient to notify the public of the nature of the proposed change in the applicable general or specific plans, or zoning or subdivision ordinances.

A local agency which has complied with this subdivision may apply any ordinances, policies, or standards enacted or instituted as a result of those proceedings which are in effect on the date the local agency approves or disapproves the tentative map.

(c) If the subdivision applicant requests changes in applicable ordinances, policies or standards in connection with the same development project, any ordinances, policies or standards adopted pursuant to the applicant's request shall apply.

66474.3. (a) If the legislative body of a city or county finds, based upon substantial evidence in the record, that any project for which a tentative map or a vesting tentative map has been approved will be affected by a previously enacted initiative measure to the extent that there is likely to be a default on land-secured bonds issued to finance infrastructure on the project, the legislative body shall allow that portion of the project served by that infrastructure to proceed in a manner consistent with the approved tentative map or vesting tentative map.

(b) For purposes of this section, land-secured bond means any bond issued pursuant to the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways **Code**), the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways **Code**), the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways **Code**), or the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5, so long as the bond was issued and sold at least 90 days before the proposed initiative was adopted by either popular vote at an election or by ordinance adopted by the legislative body.

(c) Notwithstanding subdivision (a), the legislative body may condition or deny a permit, approval, extension, or entitlement if it

determines any of the following:

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

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

(d) An approved or conditionally approved tentative or vesting tentative map shall be subject to the periods of time set forth in Section 66452.6.

(e) The rights conferred by this section shall expire if a final map is not approved prior to the expiration of the tentative map or of the vesting tentative map.

(f) An approved or conditionally approved tentative map or vesting tentative map shall not limit a legislative body from imposing reasonable conditions on subsequent required approvals or permits necessary for the development and authorized by the ordinances, policies, and standards described in Section **66474.2** or 66498.1.

66474.4. (a) The legislative body of a city or county shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, if it finds that either the resulting parcels following a subdivision of that 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, and if the legislative body finds that the land is subject to any of the following:

(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**.

(b) (1) For purposes of this section, land shall be conclusively presumed to be in parcels too small to sustain their agricultural use

if the land is (A) less than 10 acres in size in the case of prime agricultural land, or (B) less than 40 acres in size in the case of land that is not prime agricultural land.

(2) For purposes of this section, agricultural land shall be presumed to be in parcels large enough to sustain their agricultural use if the land is (A) at least 10 acres in size in the case of prime agricultural land, or (B) at least 40 acres in size in the case of land that is not prime agricultural land.

(c) A legislative body may approve a subdivision with parcels smaller than those specified in this section if the legislative body makes either of the following findings:

(1) The parcels can nevertheless sustain an agricultural use permitted under the contract or easement, or are subject to a written agreement for joint management pursuant to Section 51230.1 and the parcels that are jointly managed total at least 10 acres in size in the case of prime agricultural land or 40 acres in size in the case of land that is not prime agricultural land.

(2) One of the parcels contains a residence and is subject to Section 428 of the Revenue and Taxation **Code**; the residence has existed on the property for at least five years; the landowner has owned the parcels for at least 10 years; and the remaining parcels shown on the map are at least 10 acres in size if the land is prime agricultural land, or at least 40 acres in size if the land is not prime agricultural land.

(d) No other homesite parcels as described in paragraph (2) of subdivision (c) may be created on any remaining parcels under contract entered into pursuant to the California Land Conservation Act of 1965 (Chapter 7 (commencing with Section 51200) of Division 1 of Title 5) for at least 10 years following the creation of a homesite parcel pursuant to this section.

(e) This section shall not apply to land that is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (Chapter 7 (commencing with Section 51200) of Division 1 of Title 5) when any of the following has occurred:

(1) A local agency formation commission has approved the annexation of the land to a city and the city will not succeed to the contract as provided in Sections 51243 and 51243.5.

(2) Written notice of nonrenewal of the contract has been served, as provided in Section 51245, and, as a result of that notice, there are no more than three years remaining in the term of the contract.

(3) The board or council has granted tentative approval for cancellation of the contract as provided in Section 51282.

(f) This section shall not apply during the three-year period

preceding the termination of a contract described in paragraph (1) of subdivision (a).

(g) This section shall not be construed as limiting the power of legislative bodies to establish minimum parcel sizes larger than those specified in subdivision (a).

(h) This section does not limit the authority of a city or county to approve a tentative or parcel map with respect to land subject to an easement described in this section for which agriculture is the primary purpose if the resulting parcels can sustain uses consistent with the intent of the easement.

(i) This section does not limit the authority of a city or county to approve a tentative or parcel map with respect to land subject to an easement described in this section for which agriculture is not the primary purpose if the resulting parcels can sustain uses consistent with the purposes of the easement.

(j) Where an easement described in this section contains language addressing allowable land divisions, the terms of the easement shall prevail.

(k) The amendments to this section made in the 2002 portion of the 2001-02 Regular Session of the Legislature shall apply only with respect to contracts or easements entered into on or after January 1, 2003.

66474.5. (a) Notwithstanding any other provision of law, after the amendments required by Sections 65302.9 and 65860.1 have become effective, the legislative body of each city and county within the Sacramento-San Joaquin Valley shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, for a subdivision that is located within a flood hazard zone unless the city or county finds, based on substantial evidence in the record, one of the following:

(1) The facilities of the State Plan of Flood Control or other flood management facilities protect the subdivision to the urban level of flood protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas.

(2) The city or county has imposed conditions on the subdivision that will protect the project to the urban level of flood protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas.

(3) The local flood management agency has made adequate progress

on the construction of a flood protection system which will result in flood protection equal to or greater than the urban level of flood protection in urban or urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas for property located within a flood hazard zone, intended to be protected by the system. For urban and urbanizing areas protected by project levees, the urban level of flood protection shall be achieved by 2025.

(b) The effective date of amendments referred to in this section shall be the date upon which the statutes of limitation specified in subdivision (c) of Section 65009 have run or, if the amendments and any associated environmental documents are challenged in court, the validity of the amendments and any associated environmental documents has been upheld in a final decision.

(c) This section does not change or diminish existing requirements of local flood plain management laws, ordinances, resolutions, or regulations necessary to local agency participation in the national flood insurance program.

66474.6. The governing body of any local agency shall determine whether the discharge of waste from the proposed subdivision into an existing community sewer system would result in violation of existing requirements prescribed by a California regional water quality control board pursuant to Division 7 (commencing with Section 13000) of the Water **Code**. In the event that the governing body finds that the proposed waste discharge would result in or add to violation of requirements of such board, it may disapprove the tentative map or maps of the subdivision.

66474.7. The responsibilities of the governing body under the provisions of Sections 66473.5, **66474**, **66474.1** and **66474.6** may be assigned to an advisory agency or appeal board provided the governing body adopts an ordinance which allows any interested person to appeal any decision of the advisory agency or the appeal board relative to such matters to the governing body. Such appellant shall be entitled to the same notice and rights regarding testimony as are accorded a subdivider under Section 66452.5.

66474.8. No ordinance, regulation, policy, or procedure which regulates or prescribes standards for grading or drainage, adopted by or applicable to a local agency pursuant to Section 17922 or 17958 of the Health and Safety **Code**, shall apply to the construction of design or improvement work, including the rough grading of lots within the subdivision, performed pursuant to, or in connection with an approved or conditionally approved tentative map, final map, or parcel map unless the local agency has no other applicable ordinance, regulation, policy, or procedure which regulates or prescribes standards for grading or drainage for subdivision design or improvement.

66474.9. (a) Except as provided in subdivision (b), a local agency may not require, as a condition for a tentative, parcel, or final map application or approval, that the subdivider or an agent of the subdivider, defend, indemnify, or hold harmless the local agency or its agents, officers, and employees from any claim, action, or proceeding against the local agency as a result of the action or inaction of the local agency, advisory agency, appeal board, or legislative body in reviewing, approving, or denying the map.

(b) (1) A local agency may require, as a condition for a tentative, parcel, or final map application or approval, that the subdivider defend, indemnify, and hold harmless the local agency or its agents, officers, and employees from any claim, action, or proceeding against the local agency or its agents, officers, or employees to attack, set aside, void, or annul, an approval of the local agency, advisory agency, appeal board, or legislative body concerning a subdivision, which action is brought within the time period provided for in Section 66499.37.

(2) Any condition imposed pursuant to this subdivision shall include the requirement that the local agency promptly notify the subdivider of any claim, action, or proceeding and that the local agency cooperate fully in the defense. If the local agency fails to promptly notify the subdivider of any claim, action, or proceeding, or if the local agency fails to cooperate fully in the defense, the subdivider shall not thereafter be responsible to defend, indemnify, or hold harmless the local agency.

(c) Nothing contained in this section prohibits the local agency from participating in the defense of any claim, action, or proceeding, if both of the following occur:

(1) The agency bears its own attorney's fees and costs.

(2) The agency defends the action in good faith.

(d) The subdivider shall not be required to pay or perform any settlement unless the settlement is approved by the subdivider.

66474.10. If the legislative body or advisory agency determines that engineering or land surveying conditions are to be imposed on a tentative map or a parcel map for which a tentative map was not required, those conditions shall be reviewed by the city engineer, city surveyor, county engineer or county surveyor, as appropriate, to determine compliance with generally accepted engineering or surveying practices.