

Instructions to reader: This is a new chapter in the Unified Development Code. For a summary of the effect of this chapter from current standards, please visit the Rethink Zoning Library at <https://everettwa.gov/2453/Rethink-Zoning-Library>.

Chapter 19.26 Land Division Development Standards

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19.26.010 Applicability.

Unless otherwise indicated in each section below, these standards apply to all divisions of land in the city, including subdivision, short subdivision, unit lot subdivision and alteration or vacation. Also refer to Chapter 19.08, Residential Development Standards, and Chapter 19.06 Lot and Building Placement.

19.26.020 Public use reservations.

A. Reservation or Dedication.

If the city concludes in the review of the division of land that the dedication or reservation of areas or sites for schools, school grounds, park land, and playgrounds are reasonably necessary and are a direct result of the proposal, the city may require that such reservation or dedication be provided.

B. Street Right-of-Way Realignment or Widening.

If the city concludes that the street right-of-way adjacent to a proposed division of land is inadequate for widening, and realignment of the existing streets is necessary as a direct result of the proposed project, the city may require a dedication of necessary right-of-way and improvement of that right-of-way.

C. Voluntary Agreements.

Nothing herein shall prohibit voluntary agreements with the city or a school district that allows a payment in lieu of dedication of land for parklands, playgrounds, and school sites or to mitigate a direct impact that has been identified as a consequence of a proposed project as authorized in Chapter 82.02 RCW.

19.26.030 Nonconforming single-family dwellings.

This section applies to divisions or redivisions of land with more than one existing single-family residence on one lot.

- A. When divisions or redivisions of land are submitted proposing the creation of new lots with existing structures that are nonconforming in accordance with Chapter 19.38 of this title, the existing structures shall comply with all Everett Unified Development Code requirements including, but not limited to, setbacks or parking requirements; provided, however, nothing shall prohibit the division of such land as long as the division does not make the structures more nonconforming.
- B. Exception. If the lots cannot meet Unified Development Code and lot area requirements and the structures are legal nonconforming structures, the applicant may apply for an exception from the Everett Unified Development Code lot area, dimensional, lot coverage and setback requirements using the review process as defined in EMC 15.02, Local Project Review Procedures. The planning director shall use the criteria in Chapter 19.06.080.D as a basis for reviewing all such requests.

19.26.040 Floodplain regulations.

Land identified in the Everett Flood Insurance Study dated June 19, 2020, or subsequent update, with accompanying flood insurance maps, shall not be subdivided unless the requirements of the city’s flood damage prevention regulations as set forth in Chapter 19.30, as amended, are met.

19.26.050 Vehicle access requirements.

- A. Every residential lot and unit created through the land division process shall provide vehicle access in accordance with the standards in this section. All required access improvements shall be installed prior to final approval, except as otherwise allowed by chapters 19.24 - 19.27 and this title. The following standards apply based on the maximum potential development and length of the access road. Pavement width, thickness, subgrade and other detailed specifications may be found in the city’s Design and Construction Standards and Specifications (DCSS). To view the detailed standards, follow links in Table 26-1 below, or obtain a copy of the standards from the engineering/permit services division.

Table 26-1: Vehicle Access Road Types – Residential Land Divisions

Type of Access	Potential Number of Dwelling Units Served ⁽¹⁾	Length of Access Road	Access Road Classification per DCSS 300 Series Standard Drawings
Private Access Drive A (two lot short plat only) Easement or panhandle lots	1—2 dwelling units	150’ or less	Private Drive Standard A (14’ width. Not a fire lane) -walkway not required-
		More than 150’	With fire code official approval
Private Access Drive B	3-9 dwelling units ⁽²⁾	More than 150’	Private Drive Standard B (20’ fire lane) -walkway required for 3 or more units
Private Access Drive C	10 or more dwelling units ⁽³⁾	More than 150’	Private Drive Standard C (26’ fire lane) -walkway required-

Type of Access	Potential Number of Dwelling Units Served ⁽¹⁾	Length of Access Road	Access Road Classification per DCSS 300 Series Standard Drawings
Public Streets	---	Not Applicable	See Design and Construction Standards and Specifications (300 Series)

Footnotes:

- (1) Accessory dwelling units are not included in the potential number of units served. All other dwelling types are included.
- (2) Private Drive B standard if building height is less than or equal to 30' as determined by the fire code official; or, Private Drive C standard if building height is more than 30'.
- (3) Private access drive is not allowed for any land division which creates ten (10) or more lots, except if approved through the Unit Lot Subdivision process set forth in EMC 19.27.

B. Development Standards for Private Access Drives.

1. Where permitted. Private access drives are allowed to provide access to dwellings and off-street parking areas within any land division authorized under chapters 19.24 - 19.27 and this title, provided, however that any land division which creates ten (10) or more lots not authorized by EMC 19.27 is required to provide a public street as set forth in subsection (C) below. Under certain circumstances, the city may require installation of a public street, rather than a private access drive (see Section 26.050.C). As an alternative to the private access drive, the applicant may provide a public street meeting the city design and construction standards, subject to approval by the city engineer.
2. Calculation of number of units served. For determining the number of units served by an private access drive, the city shall count the maximum number of potential units that may be served by the proposed land division, including future development that may be built out at a later date, and development potential for land beyond the road end. Accessory dwelling units are not included in the number of units served.
3. Design. All private access drives shall be designed and constructed to city Design and Construction Standards and Specifications. Fire lane requirements in the DCSS and Title 14 shall be administered by the fire code official and city engineer through review of all land division applications. The fire code official will determine when the access drive is considered a fire lane based on number of units served, length and other factors. See Table 26-1.
4. All units in a development that abut or are adjacent to a private access drive are required to use the access drive, unless it is determined by the city engineer that:
 - a. An existing dwelling and its off-street parking are in a location where access would be impractical or impossible due to the topography or physical constraints of the site; or
 - b. A potential safety issue would be created as a result of using the private access drive as determined by the city engineer.
5. For any private access drive with public utilities, the city engineer shall determine the required easement width based on city standards.
6. Vehicle turnaround. All dwellings accessed by a private drive shall provide a vehicle turnaround as required by the city's DCSS and approved by the city engineer and fire code official. For land divisions that require site plan approval, the vehicle turnaround for each dwelling must be shown on the site plan.
7. Maintenance. The access drive shall be maintained to the design standard as shown on approved permit documents. The maintenance responsibility shall be with the Homeowners' Association or, if no HOA, by the property owners benefitting from use of the access drive.

8. Easements and tracts. All private access roads shall be placed within either an access and utility easement, or a separate tract. Where the road is placed in a tract, it shall be dedicated to the homeowners. The ownership, use rights and maintenance responsibilities shall be clearly shown on the final land division map and supporting documents.
9. Common Private Access Drive Use. The city engineer may allow the use of a common private access drive on an existing or adjacent land division if the unit count for the property to be divided together with the adjacent property does not exceed the maximum number of units allowed and such private access drive can or currently meets the DCSS standards. The applicant shall provide the following:
 - a. An easement providing for access, utilities, and maintenance from all owners of property that the private access drive crosses over and who have legal access to such easement;
 - b. An amendment to the existing land division map to accurately reflect the proposed changes; and
 - c. All improvements as if the lot were included in the original land division.

C. Public Streets.

These standards are applicable to all land divisions that extend an existing public street or install a new public street.

1. When required. Installation of a new public street or improvements of an existing street is required for all land divisions except for Boundary Line Adjustments or as allowed under EMC 19.26.050.A, or if the applicant can demonstrate to the city engineer that none of the following applies:
 - a. The improvement of a public street is necessary to facilitate adequate supply of sewer and utilities;
 - b. The improvement of a public street is necessary to provide on-street parking;
 - c. The improvement of a public street is necessary to provide access to potential additional lots or future developable area;
 - d. The improvement of a public street is necessary to provide a through connection to existing or potential future development that is currently, or will be accessed by a public street; and
 - e. The improvement of a public street is necessary to protect the public health, safety and welfare of the residents and general public.
2. Street Standards. All streets shall be built to current city standards as required in Everett Municipal Code Title 13 and the city's Design and Constructions Standards and Specifications, and shall meet minimum requirements for right-of-way width, pavement width, sidewalks and off-street parking as defined in classification of streets . The minimum requirement for each street classification shall be based on the maximum potential number of dwelling units served by the logical extension of common streets to serve other land. The city engineer will have the authority to deviate from construction and street classification standards.
3. Right-of-way width in excess of the standards of chapters 19.24 - 19.27 and this title may be required if, or when in the opinion of the city engineer, topography so requires.
4. Proposed streets for all divisions of land shall be extended to the boundary lines of the tract being developed to provide for the logical extension of streets and utilities for coordinated development of contiguous tracts or parcels of land. If in the opinion of the city such extension is not necessary due to physical conditions that may exist on or adjacent to the site, the city shall not be obligated to require an extension.
5. Access to Local and Arterial Streets. For all divisions of land, the city may require that access to city streets be limited. Such requirement may include but not be limited to providing for common lot access points, shared driveways, and alley access.
6. Dead End Streets. All permanent and temporary dead end streets shall provide a turnaround in accordance with city standards. The city engineer and fire marshal may, in certain cases, eliminate or reduce the size of the required turnaround if residential sprinkler systems are provided in accordance with standards as specified by the city's fire marshal.

D. Development Standards for Non-Residential Zones.

Street standards applicable to commercial, industrial and other non-residential zones shall follow EMC 16.68 and the city's Design and Construction Standards and Specifications (DCSS).

19.26.060 Frontage improvements.

- A. Whenever a division, redivision, or alteration of such division of land is on an existing public street, such frontage shall be fully improved in accordance with city standards, as administered by the city engineer, including pedestrian improvements. In lieu of providing frontage improvements, the applicant may pay a voluntary fee. A fee in lieu of frontage improvements may be permitted when:
 - 1. The proposed frontage improvement(s) including pedestrian improvements would not result in a smooth transition to existing improvements;
 - 2. Providing a sidewalk or walkway on a single property's frontage would not effectively provide for pedestrian safety; or
 - 3. The proposed frontage improvement(s) may negatively impact drainage or traffic facilities in the area.
- B. The fees shall be based on the cost to design and install frontage improvements per city standards. Such cost shall be determined by the applicant's engineer, who must be a licensed engineer in the state of Washington. The cost estimate must be approved by the city engineer.
- C. The city engineer may establish a fee for the cost to design and install frontage improvements per the city standards, which the applicant can choose to pay in lieu of calculation of his own fee as defined in the design and development provisions of this chapter.
- D. Fees collected per subsections B and C of this section shall be used by the city to install frontage improvements including, but not limited to, pedestrian improvements, curb, gutter and sidewalks in the vicinity of the applicant's project. Such fees must be paid prior to final approval.

19.26.070 Off-street parking improvements.

All existing and proposed uses for a division of land are required to provide parking to meet the requirements of Chapter 19.34.

19.26.080 Clearing and grading.

- A. Before any site modification where existing natural features would be disturbed or removed, a grading plan meeting city standards and the provisions of chapters 19.24 - 19.27 and this title must be submitted and approved by the city engineer showing the extent of the proposed modification.
- B. Debris and waste materials of any kind shall not be buried in any land or deposited in any critical area.
- C. All erosion control plans must be in compliance with city standards and the city's drainage ordinance.
- D. In critical drainage areas or on sites that are classified as critical areas, the city may prohibit clearing of lots until building permits have been issued.
- E. All clearing and grading shall be based on sound engineering techniques and meet the following minimum standards:
 - 1. The project design and grading shall follow good engineering practices. Consideration shall be given to protection of slope stability, prevention of erosion, structural suitability for future building sites, driveways, and public streets;
 - 2. Building sites, driveways, and public streets shall not be located on fill unless approved by the city based on information provided to the city by the applicant in a geotechnical report prepared by a Washington State licensed geotechnical engineer;
 - 3. Grading shall be done in such a manner as to minimize the need for rockeries and retaining walls along lot lines, streets and the exterior boundaries of the project;
 - 4. Clearing and grading limits shall be established so as to not impact critical areas, the required buffers, and adjacent properties;

5. Each lot shall have a suitable building site and driveway access. All grading should gradually transition to the approved grading limit and the projects exterior boundaries; and
 6. Excavation of foundation material, utility trenches, and required public improvements shall not be distributed within the project boundaries and must be disposed of at a preapproved site, unless otherwise approved by the city engineer and shown on an approved grading plan.
- F. On projects that have critical area features and in critical drainage areas, clearing and grading and other significant earth work may be limited to a specific time period as determined by the city.
- G. All projects must be in compliance with the approved grading plan prior to final approval being granted. The planning director or city engineer may require a final as-built topography map to show compliance with the approved grading plan and to calculate building height as required by chapters 19.24 - 19.27 and this title.

19.26.090 Easements.

Permanent easements shall be provided for utilities and other public services whenever requested by the city engineer.

19.26.100 On-site open space and recreation facilities.

- A. Land divisions shall provide common on-site open space and/or recreation facilities in accordance with the standards of Chapter 19.08 or 19.09 of this title. All required improvements must be installed prior to final approval.
- B. Common on-site open space and recreation facilities shall be placed within a tract under common ownership of all lot or unit owners within the development. The ownership, use rights and maintenance responsibilities shall be clearly shown on the final land division map and supporting documents.

19.26.110 Underground utilities.

It is the intent of this provision to require underground installation of all new utilities.

- A. All divisions of land shall have all necessary power lines, telephone wires, television cables, fire alarm systems and other communication wires, cables or lines placed in an underground location.
- B. All such underground installations or systems shall be approved by the appropriate utility company and shall adhere to all governing applicable regulations including, but not limited to, the city and state applicable regulations and specific requirements of the appropriate utility.
- C. All utility easements within a proposed project shall be approved by the appropriate utility company before final acceptance of the project and shall be shown in their exact location on the final drawing of said project.
- D. Nothing in this section or any other section of chapters 19.24 - 19.27 and this title in relation to underground wiring shall apply to power lines carrying a voltage of fifteen KV or more, nor shall it be construed to prohibit the placement of pad mounted transformers, terminal pedestals or other electrical and communications devices above ground, as determined by the appropriate utility involved.
- E. Exceptions.
 1. If the appropriate utility company determines that an underground system as proposed above cannot reasonably be installed according to accepted engineering practices, this requirement may be waived upon receipt of a written notice from said utility to the city engineer.
 2. Where a utility service must be extended to access the proposed development, the city may waive the underground requirement for the portion of the service located within public right-of-way, if the city engineer identifies a significant conflict due to any of the following circumstances:
 - a. There are topographic constraints present that make constructing the improvement impractical;
 - b. The location of existing underground utilities; or
 - c. Placement of the required utilities underground would create a potential safety hazard for property owners, the city or the general public.

19.26.120 Homeowners' association incorporation.

Construction of privately owned common improvements will require maintenance and upkeep over time. This includes roads, fire lane access requirements, pedestrian facilities, open space and recreation areas, and utility infrastructure. This section is intended to provide a framework by which future homeowners will be required to manage and maintain these improvements by establishing when a homeowners' association (HOA) must be created for this purpose and what must be included in the relevant HOA documentation.

A. Applicability. This section applies to any land division that includes a common private access drive, **and** at least one of the following:

1. Privately owned common open space or recreation areas required by chapters 19.24 - 19.27 and this title;
2. Privately owned common parking areas; or
3. Privately owned common private utilities (water, sewer, electric, gas, fiber, cable) or stormwater detention/treatment facilities.

A land division that includes only a private access drive and does not include other privately owned common facilities is not required to form an HOA under this chapter.

B. Prior to the recording of the subdivision, the applicant shall provide evidence that the HOA has been incorporated pursuant to the laws of the State of Washington, including the filing of the association's articles of incorporation with the Washington Secretary of State. In the event the homeowners' association should cease to be a corporation under the laws of the State of Washington and as required by this section, such association shall continue as an unincorporated association governed by the Homeowners' Association Act (Chapter 64.38 RCW).

C. HOA Covenants. Prior to the issuance of building permits or final land division approval, whichever occurs first, the applicant shall provide a preliminary draft of covenants, declarations and restrictions for review by the city. Prior to the recording of the subdivision, the applicant shall provide final covenants, declarations and restrictions in a form satisfactory to the city attorney, which shall be recorded with the county auditor's office providing that the HOA shall be subject to and comply with:

1. Such covenants, declarations and restrictions;
2. The Homeowners' Association Act (Chapter 64.38 RCW);
3. The applicable Washington corporation statute; and
4. Any applicable conditions, or other provisions of the city code required to be shown on the land division map.

D. Maintenance of Private Common Areas and Infrastructure. All common open space and recreation areas and all private utility infrastructure located within a land division shall be maintained in perpetuity by the homeowners' association. Prior to the recording of the land division, the applicant shall provide the covenants, declarations and restrictions required by subsection C of this section for review by the city, which shall provide that the following common areas and infrastructure are maintained by the HOA in accordance with all applicable provisions of the city code. Said covenants, declarations and restrictions shall provide authority for the city, after providing reasonable written notice to the HOA and opportunity to perform required maintenance, to recover any costs incurred by the city to maintain private infrastructure or common areas due to a failure of the homeowners' association to adequately maintain privately owned improvements, including a lien on the property or other appropriate assurance device, as determined by the city.

1. Private access drives;
2. Vehicle and pedestrian access easements;
3. Joint use and maintenance agreements;
4. Common off-street parking;
5. Common open space (including, but not limited to, landscape areas, gardens, woodlands, walkways, courtyards or lawns, and outdoor recreation areas);
6. Private utility infrastructure (including, but not limited to, stormwater facilities, underground utilities and utility easements); and

7. Any other common buildings or improvements.
- E. **Maintenance of Lot, Buildings and Facilities.** Buildings, utilities and facilities on individual lots shall be maintained by the property owner in accordance with city codes and the requirements of the covenants, declarations and restrictions applicable to the development. Prior to the recording of the land division, the applicant shall provide the covenants, declarations and restrictions required by subsection C of this section for review by the city, which shall provide that buildings, utilities and facilities on individual lots shall be maintained by the property owner in accordance with city codes and the requirements of such covenants, declarations and restrictions. The city may require a separate covenant for stormwater facility operation and maintenance.
- F. Recorded conditions for unit lot land divisions. Notes shall be placed on the final land division map recorded with the county auditor's office to acknowledge the following:
 1. Approval of the design and layout of the development was granted by the review of the development, as a whole, on the parent site by the development plan approval (stating the project file number);
 2. Subsequent platting actions, additions or modifications to the structure(s) may not create or increase any nonconformity of the parent site as a whole, and shall conform to the approved site development plan;
 3. If a structure or portion of a structure has been damaged or destroyed, any repair, reconstruction or replacement of the structure(s) shall conform to the approved site development plan;
 4. The individual unit lots are not separately buildable outside of the context of the approved development plan for the subdivision and additional development of the individual unit lots may be limited as a result of the application of development standards to the parent site.
 5. Minor additions, decks and alterations may be approved if consistent with the approved site plan and underlying zoning. The applicant is responsible for obtaining necessary authorization from the HOA.

19.26.130 Suitable guarantee.

A. Performance Guarantee Requirements for All Divisions or Redivisions of Land.

1. In lieu of completing the required improvements in the proposed division of land, the applicant may request final approval subject to the approval of a suitable guarantee. The guarantee must be in a form acceptable to the city and an amount commensurate with improvements to be completed. The amount of the guarantee is established at one hundred percent of the cost of the city having to construct the improvements plus twenty percent. The guarantee amount will require yearly review by the city and the applicant will be required to revise the guarantee amount to reflect current inflation rate. Based on the revised amount, the applicant will resubmit a suitable guarantee to the city. Also, the guarantee will be restricted as far as the amount of permissible time in which the improvements must be completed. The guarantee must be acceptable to the city attorney.
2. Guarantee funds will not be released by the city unless approval has been received from all applicable departments that are responsible for acceptance and/or maintenance of such improvements.
3. All improvements begun by the applicant must be completed. Once the applicant has begun making improvements, the applicant shall not be eligible for submitting a guarantee to the city to cover the incomplete improvements unless specifically approved by the city engineer in accordance with final approval. If approved, the amount of the guarantee may exceed the limits noted in the provisions of this section to offset additional city exposure.

B. Warranty Requirements for Acceptance of Final Improvements.

1. At the time of final acceptance of the improvements, the applicant shall provide to the city a one-year warranty guarantee at ten percent of the established final cost of the improvements in a form which must be acceptable to the city attorney.
2. For the purpose of chapters 19.24 - 19.27 and this title, final approval shall not be deemed given until such time as all of the required improvements have been satisfactorily installed in accordance with the requirements of preliminary approval.

3. The planning director shall require a maintenance assurance device acceptable to the city for common or private landscaped areas in accordance with Chapter 19.41.

19.26.140 Survey.

A survey is required for all divisions, redivisions, alteration or vacation of land and boundary line adjustment meeting the following minimum standards:

- A. A survey for division, redivision, alteration or vacation, and a boundary line adjustment must be conducted by or under the supervision of a registered land surveyor in the state of Washington. The surveyor shall certify on the final map that it is a true and correct representation of the lands actually surveyed and that the survey was done in accordance with city and state law.
- B. In all divisions of land and boundary line adjustments, lot corners must be set before final approval can be granted, except for corners located within a critical area.
- C. In all divisions of land, perimeter monuments must be set before final approval can be granted.
- D. In all divisions of land, control monuments must be set before final acceptance of public improvements. Performance guarantees must include the installation of all control monuments. Control monuments must be installed per city design and construction standards.
- E. In all divisions of land where final approval is to be granted by the acceptance of a performance guarantee, lot corner and perimeter monuments must be set. The performance guarantee must include the resetting of any monument that has been lost during construction of public improvements.
- F. Regarding all residential condominium binding site plans where all lots are not to be shown: prior to the recording of the binding site plan, the boundary of the parcel must be surveyed and all lot corners set or found in accordance with the provisions of this section. If divisions are submitted in accordance with an approved phasing plan, all new lot corners must be set or found prior to recording.
- G. For boundary line adjustment, a record of survey must be filed with the county auditor in accordance with Chapter 58.09 RCW. The filing number of the boundary line adjustment must be on the boundary line adjustment/survey map with the legal description of the total area being adjusted before the boundary line adjustment/survey is ready for recording.

19.26.150 Encroachments and gaps.

Whenever an encroachment or gap is disclosed by a survey during the city's review of a land division action, the applicant shall either (1) remove the encroachment, or (2) resolve the encroachment or gap through an appropriate conveyance such as a quitclaim deed, or other device acceptable to the city, and disclose the same on the face of the final plat or short plat map; or, (3) resolve the encroachment or gap through other method as approved by the city. Once all requirements of the city's Unified Development Code are met, the resolution shall be disclosed on the face of the final map approving the application.

A. Resolution of Encroachments—Timing.

1. In cases where the encroachment is located on the abutting property and extends into the applicant's property, the resolution of the encroachment must occur prior to application submittal.
2. When the encroachment is located on the applicant's property, one of the following must occur:
 - a. If the applicant proposes to remove the encroachment as part of the land division action, preliminary approval may be issued subject to removal prior to the final approval; or
 - b. If the applicant does not propose to remove the encroachment, then resolution of the encroachment must occur prior to preliminary approval.
3. If the conveyance method is utilized to resolve an encroachment, provision (such as a penumbral easement) must be made for maintenance of the physical appurtenance which had been encroaching. The deed shall be recorded concurrently with or prior to final approval.

B. Resolution of Gaps—Timing.

Gaps shall be resolved by the following means: (1) the applicant shall, prior to final approval, execute a quitclaim deed releasing all interest in the gap; and (2) if the physical appurtenance belongs to the abutting property owner, it shall be left in place but a new fence, or other permanent form of demarcation of the lot line of record, acceptable to the city, shall be erected on the lot line of record. In the event the applicant constructs a new fence to resolve a gap, the fence shall be a minimum of four feet in height and shall meet city standards for such a fence; provided, however, the city reserves the right to allow gaps to be resolved through other means not specifically listed herein.

C. Resolution of Gaps by Conveyance Method—Failure of Abutting Property Owner to Accept Deed.

Where the conveyance method described in subsection B of this section is used to resolve a gap but the abutting (i.e., receiving) property owner refuses to accept the deed instrument, the quitclaim deed may be executed by the applicant and held in trust by the city for the abutting (receiving property) owner; provided, however, when that occurs, a notice shall be filed with the county auditor on the title of the abutting property indicating that the city is holding such an instrument in trust and that legal description of the gap will become the property of the abutting property owner at such time as the instrument is accepted and recorded.

19.26.160 Dedication.

Any dedication, donation or grant as shown on a land division map shall constitute a statutory warranty deed to the said grantee for the use intended. The intention to dedicate shall be evidenced by the owner through the presentment for filing of a final division map showing the dedication thereon; and the acceptance by the public shall be evidenced by the approval of such final maps for filing by the city.