

# CITY COUNCIL COMMITTEE

## **POLICY DEVELOPMENT AND INTERNAL OPERATIONS**

Mayor Laura Hoffmeister, Chair  
Ron Leone, Committee Member

5:30 p.m.  
Thursday, June 9, 2016

Wing A, Garden Conference Room  
1950 Parkside Drive, Concord

### **ROLL CALL**

### **PUBLIC COMMENT PERIOD**

1. **REVIEW** – Review of Subdivision Ordinance Update Process. Report by Ryan Lenhardt, Senior Planner.
2. **REVIEW** – Sidewalk Inspection and Repair Policy. Report by Justin Ezell, Director of Public Works.
3. **ADJOURNMENT**

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**REPORT TO POLICY DEVELOPMENT AND INTERNAL  
OPERATIONS COMMITTEE****TO THE HONORABLE MAYOR AND VICE-MAYOR:**

DATE: June 9, 2016

**SUBJECT: REVIEW OF SUBDIVISION ORDINANCE UPDATE PROCESS****Report in Brief**

The City Council identified preparation of an update of the City's existing Subdivision Ordinance as a priority that will improve service to Concord's development community by aligning the Development Code with the General Plan vision through a unified set of regulations and design standards for development. The existing Subdivision Ordinance does not address current development standards for infrastructure, such as designing and constructing streets that integrate walking, biking, transit use, and green infrastructure. Updating the Subdivision Ordinance will bring it into alignment with the more recently adopted Development Code (2012) and with the General Plan goals through a unified set of regulations and design standards for development.

The Planning Commission conducted a study session on January 6, 2016 and the City Council conducted a study session on March 1, 2016 to provide the consultant and staff feedback and direction regarding proposed updates to the Subdivision Ordinance. Staff requests the Council Committee to review this report, the consultant's presentation, and provide feedback that will be incorporated into the Draft Subdivision Ordinance.

**Background**

On July 7, 2015, the City Council approved a Professional Services Agreement with Ben Noble from City and Regional Planning (Consultant) to complete an analysis of the discrepancies between the current Subdivision Ordinance and the Development Code, other pertinent state and federal regulations, and to develop proposed modifications to address the conflicts. Funding for the project was included in the 2014/2015 Capital Improvement Project budget. The terms of the agreement specify the City's Consultant will facilitate two study sessions to receive feedback on the Assessment Memo and two study sessions on the Public Review Draft Subdivision Ordinance. Staff subsequently determined it was also appropriate to present the Draft Ordinance to the Policy Development and Internal Operations Committee.

The Consultant has conducted a review of the existing Subdivision Ordinance and related documents, and will propose revisions to the ordinance to reflect current conditions, city policies, methods, and nomenclature. Emphasis is placed on development of a clear, concise, and legally defensible Subdivision

## CITY OF CONCORD SUBDIVISION ORDINANCE UPDATE

June 9, 2016

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Ordinance that meets the varied subdivision needs of the community. The new Subdivision Ordinance will comply with State statutes and be consistent with the Subdivision Map Act, Development Code, and General Plan and will consider the Concord Reuse Project Area Plan and unincorporated areas of the City. This project is scheduled to be completed within calendar year 2016.

On August 26, 2015, staff conducted a “Stakeholder Meeting” to discuss key issues regarding the City’s subdivision requirements, the strengths, and weaknesses of the existing Subdivision Ordinance, and how the ordinance could be improved. Twenty-five development professionals, agencies, and staff were invited to participate; two developers participated and the two finalist candidates for Master Developer of the Concord Reuse Project Area were interviewed.

The Planning Commission previously discussed the Subdivision Ordinance Update at their January 6, 2016 meeting. During that meeting, the Commission provided the Consultant and staff feedback and direction regarding proposed updates to the Subdivision Ordinance and directed staff to forward their comments to the City Council.

The City Council considered the Planning Commission’s recommendations at their March 1, 2016 meeting and was supportive with one exception, which was Vice Mayor Leone’s opposition to changing the City’s street naming policy.

Since the City Council meeting, the Consultant completed a “33%” Administrative Draft Subdivision Ordinance (see Attachment #2). The following updates are incorporated thus far.

<b>Section</b>	<b>Brief Description of edits to Subdivision Ordinance</b>
17.05.130.B	Detailed list of projects exempt from the Subdivision Ordinance replaced with reference to Map Act section that lists these exceptions
17.05.080, 17.05.150- 160	Some new content to address important issues not in the current subdivision ordinance such as how to interpret the provisions of the ordinance, when to waive the requirement for a tentative parcel map, and when land may be designated as a remainder parcel.
17.05.070	Expanded description of responsibilities in administration of subdivision ordinance
Table 17.05-1	Table that summarizes review authority for different types of approvals
17.05.090, 17.10.060	More detail on application submittal and review process
17.05.100, 17.10.070	Updated references to new Development Code
17.10.040, 17.10.180	Reference to submittal requirements in City checklists, rather than in ordinance
17.10.100	Focus on discretionary extensions to tentative maps with reference to additional possible extensions in Map Act
17.10.110	Additional detail on what qualifies as a “minor change” to a tentative map
17.10.140 et seq.	Use of plain English to describe requirements, when they are required, who approves, submittal requirements, etc.
Misc.	Consolidation of separate chapters for tentative maps and tentative parcel maps into a single chapter, and consolidation of parcel and final map

	chapters into a single chapter
Misc.	Increased use of headings at the subsection and paragraph levels
Misc.	Decreased length of sentences and division of long paragraphs into smaller sections each with their own heading

**Response to Previous City Council Study Session Comments**

On March 1, 2016, the City Council held a study session to receive the Consultant’s assessment of the existing Subdivision Ordinance and recommendations for amendments, to present the Planning Commission’s recommendations, and provide comments and direction to staff and the Consultant. During the presentation, the City Council asked a number of questions and provided the following recommendations.

Condominium Conversions

The Consultant proposes a “requirement for new non-residential condominiums.” It was noted that commercial condominiums provide investors with a way to control their fixed costs and are becoming commonplace in Bay Area cities. The Consultant indicated the Subdivision Ordinance update (Update) would address the creation of non-residential condominiums and the conversion of existing commercial property to condominiums as the current Ordinance primarily addresses residential property.

The Council strongly supported the addition of language to address commercial condominiums and felt it would encourage more diverse commercial property ownership and long-term investments in Concord.

General Readability

The Consultant’s assessment memorandum observes that the existing Subdivision Ordinance is generally clear and concise. Frequent use of descriptive headers, short paragraphs and sentences, consistent terminology, and use of everyday language supports reader comprehension. The Consultant also notes there are opportunities for improvements including: breaking up long paragraphs into shorter subparagraphs or numerated lists, simplifying long and complex sentences, eliminating unnecessary legal jargon or replacing it with everyday language, and presenting complicated material in tables.

The Council agreed with the Consultant’s recommendation that the language be simplified where appropriate and that the ordinance be understandable by not only design professionals but also homeowners. There was a recommendation that staff solicit input from “non-stakeholders” to determine whether the document is understandable prior to its adoption.

Street Naming Policy

The Consultant recommends the City consider revising the street naming policy to allow the decision-making body with subdivision map review authority to concurrently approve street names for new subdivisions. The Consultant noted that if the City Council needs to approve names for all new streets, there is the potential for delays in the approval of final maps where there is a review authority that is different from the City Council. For example, the Zoning Administrator is the review authority for minor (four or fewer parcel) subdivisions.

Vice Mayor Leone indicated his preference that the street-naming policy remains as is which requires the Council's approval of street names. He believes the current process does not unreasonably delay the final approval of these projects. Staff and the consultant will discuss this issue at the June 9 Committee meeting.

**Next Steps**

The Administrative Draft Subdivision Ordinance will be completed in June 2016. A second stakeholder meeting and study sessions with the Planning Commission and City Council are scheduled for July 2016. Environmental review will be completed in September 2016 with public hearings and the final adoption of the Ordinance currently scheduled for October 2016 (see Attachment 3).

**Recommendation for Action**

Because this is a Study Session, the Policy Development and Internal Operations Committee may wish to provide feedback on the issues and information presented.

**Fiscal Impact**

Funding for the Subdivision Ordinance Update has been attained through an agreement in a not-to-exceed amount of \$100,000, which was adopted by the City Council and included in the Community and Economic Development Department's 2014/2015 approved Capital Improvement Project budget funded by the General Plan Update Surcharge. There are no significant cost implications to the City of Concord for the current recommendation to amend the Subdivision Ordinance.



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- Attachment 1: Subdivision Ordinance Assessment Memo date stamp received November 4, 2015
- Attachment 2: Administrative Draft Subdivision Ordinance
- Attachment 3: Subdivision Ordinance Update Project Schedule



# EXISTING ORDINANCE ASSESSMENT REPORT

## SUBDIVISION ORDINANCE UPDATE

City of Concord  
November 4, 2015

Prepared by:  
**Ben Noble, Urban and Regional Planning**  
with Bellecci & Associates and ARUP

Attachment 1



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**Appendix A: Adopted Policies Related to the Subdivision Ordinance**



## **I. INTRODUCTION**

This report presents an assessment of Concord's Subdivision Ordinance (Municipal Code Title 17) and recommendations for the updated Subdivision Ordinance. This report was prepared by the City's consultant team for the Subdivision Ordinance Update with input from City staff and local development professionals. The assessment of the existing Subdivision Ordinance and recommendations for the updated Subdivision Ordinance covers the following topics:

- Overall Assessment
- Organization and Style
- Compliance with Map Act and other Legal Requirements
- Subdivision Design and Improvement Standards
- Subdivisions in Base Reuse Project Area
- Condominiums
- Dedications
- Other Issues

The recommendations in this report will serve as a roadmap to help guide the Subdivision Ordinance Update. At study sessions in December 2015 and January 2016, the Planning Commission and City Council will review this report and provide input on its findings and recommendations. After receiving public input and direction from the Planning Commission and City Council, City staff and consultants will prepare a detailed outline for the updated Subdivision Ordinance and begin drafting the Ordinance.

## II. SUBDIVISION ORDINANCE ASSESSMENT

### A. Overall Assessment

In general, the existing Subdivision Ordinance is a complete document. In most cases it covers the major subdivision requirements in a manner consistent with the Subdivision Map Act and other legal requirements. It is written in a plain English style that is clear and concise. Readers are generally able to find what they are looking for and to understand what they read.

Some changes and improvements to the existing Subdivision Ordinance will be needed. Inconsistencies with the Development Code will need to be corrected, and the Subdivision Ordinance needs a stronger connection to the General Plan, Downtown Specific Plan, and other policy documents. Design and improvement standards need to be updated to better accommodate infill subdivisions and reflect current development practices. Some minor changes to the style and organization of the document will also enhance its usability.

In some cities, the Subdivision Ordinance is in such poor shape that it is virtually incomprehensible and generally ignored. In these cases, it is best to replace the existing Subdivision Ordinance with an entirely new ordinance based on model provisions tailored to local needs. For Concord, this is not the recommended approach. Instead, Concord should retain the existing Subdivision Ordinance and make targeted revisions to address necessary changes. This approach will enable the City to maintain aspects of the existing ordinance that have worked well, avoid the challenges associated with administering an entirely new ordinance, and focus on a limited number of key issues that are most important to the City.

- **Recommendation A-1: Revise, rather than replace, the existing Subdivision Ordinance.**

### B. Organization and Style

#### Chapter Levels and Numbering System

The chapter levels and numbering system of the current Subdivision Ordinance are as follows:

Title (17)

Chapter (17.05)

Article (I)

Section (17.050.010)

The section numbering system is consistent with the Development Code and other titles of the Concord Municipal Code.

Chapter levels in the current Subdivision Ordinance are slightly different from the Development Code. The Subdivision Ordinance does not use a division level below the title and above the chapter levels, as in the Development Code, and the Subdivision Ordinance uses an article level below the chapter and above the section levels, which is not in the Development Code.

The division level in the Development Code is useful as a way to give order to over 100 individual chapters. Because there are only ten chapters in the existing Subdivision Ordinance, the article levels would be less useful.

While the article level is not used in the Development Code, it is used in other titles of the Concord Municipal Code. The article level is useful in the Subdivision Ordinance as a way to organize content within individual chapters.

- ▶ **Recommendation B-1: Maintain existing chapter levels and numbering system.** The existing system effectively organizes the contents of the Subdivision Ordinance and is consistent with other titles of the Municipal Code. Differences with the Development Code are not significant enough to warrant changes to a system that currently works well.

### Subdivision Ordinance Chapters

The Subdivision Ordinance is currently divided into the following ten chapters:

- 17.05 General Provisions
- 17.10 Definitions
- 17.15 Major Subdivisions
- 17.20 Minor Subdivisions
- 17.25 Vesting Tentative Maps
- 17.30 Dedications and Reservations
- 17.35 Improvements and Design Standards
- 17.40 Reversions, Mergers, and Lot Line Adjustments
- 17.45 Amendments and Enforcement
- 17.50 Common Interest Developments (Condominiums)

The division and order of these chapters is generally good – nothing major is missing and contents are presented in a logical manner.

One organization issue concerns tentative map requirements for major and minor subdivisions. Requirements for tentative maps in Article 1 of Chapter 17.15 (Major Subdivisions) are almost identical to the requirements for tentative parcel maps in Article 1 in Chapter 17.20 (Minor Subdivisions). The only major difference between the two articles is the map approval procedures – tentative maps are approved by the Planning Commission and tentative parcel maps are approved by the Zoning Administrator. Repetition in these two articles unnecessarily increases the length of the ordinance and introduces opportunities for unintended differences in the requirements that apply to the two types of tentative maps.

- ▶ **Recommendation B-2: Consolidate tentative map and tentative parcel map requirements into a single article.** Within this article common requirements for major and minor subdivisions would be stated only once. The few differences between tentative maps and tentative parcel maps, such as review authority, would be noted within this article. Consolidating the tentative

map and tentative parcel map requirements would, however, require changes to the organization of map requirements for major and minor subdivisions.

- ▶ **Recommendation B-3: Locate all map requirements in a single chapter.** As shown in the box below, requirements for tentative maps, vesting tentative maps, parcel maps, and final maps would be in articles nested below a single Subdivision Map chapter. An alternative to this approach is to create separate chapters for each type of map, though keeping them at the article level is preferred due to the relatively short length of the parcel map and final map articles.
- ▶ **Recommendation B-4: Move Definitions to the end of the Subdivision Ordinance.** Moving the definitions to the end of the Subdivision Ordinance is consistent with modern drafting practice and helps to maintain the flow of general provisions to subdivision map requirements.

#### **Recommended Updated Subdivision Ordinance Organization**

- 17.05 General Provisions
- 17.10 Subdivision Maps
  - Article 1: Tentative and Vesting Tentative Maps
  - Article 2: Parcel Maps
  - Article 3: Final Maps
- 17.15 Dedications, Reservations, Vacations, and Abandonments
- 17.20 Improvements and Design Standards
- 17.25 Reversions, Mergers, and Lot Line Adjustments
- 17.30 Amendments and Enforcement
- 17.35 Common Interest Developments (Condominiums)
- 17.40 Definitions

#### General Readability

As mentioned above, the existing Subdivision Ordinance is generally clear and concise. Frequent use of descriptive headers, short paragraphs and sentences, consistent terminology, and use of everyday language supports reader comprehension.

Still, there are some improvements that can be made to the Subdivision Ordinance, including the following:

- Break up the occasional long paragraphs (e.g., 17.05.130.b) into shorter subparagraphs or numerated lists.
- Simplify the occasional long and complex sentence. Keep syntax simple and limit sentence length to 20 to 40 words.

- Eliminate unnecessary legal jargon (e.g., *thereto, beforementioned*) or replace with everyday language.
  - Present complicated material in tables. For example, a summary of administrative responsibilities in Section 17.05.070 could be presented in a table similar to Development Code Table 18.400.020.
  - Adding diagrams to illustrate subdivision design and improvement requirements, such as typical street sections.
- **Recommendation B-5: Make targeted and limited stylistic changes to the existing ordinance.**  
Text in the existing Subdivision Ordinance will be edited to enhance clarity rather than replaced in its entirety.

## C. Compliance with Map Act and Other Legal Requirements

### General Compliance

Generally speaking, the Subdivision Ordinance complies with Map Act requirements. The Subdivision Ordinance covers major Map Act requirements relating to the preparation of different types of maps, improvement and design standards, and other types of approvals such as reversions, mergers, and lot line adjustments. Inconsistencies with the Map Act generally concern small details, possibly due to amendments to the Map Act made since the last comprehensive update to the Subdivision Ordinance. Specific inconsistencies with the Map Act include the following:

- Dedication Improvement Agreements (See Recommendation D-12)
- California Coordinate System (See Recommendation H-3)
- Mergers initiated by property owner. Subdivision Ordinance Section 17.40.120 (Mergers initiated by property owner) establishes procedures that do not fully align with those in Government Code Section 66451.10 et seq.

There are not many specific cases of the Subdivision Ordinance clearly conflicting with the Map Act. Major issues related to Map Act compliance for the Subdivision Ordinance Update relate to how best to incorporate Map Act requirements into the Subdivision Ordinance and whether to exceed or go beyond minimum Map Act requirements.

### Incorporation of Map Act Requirements

Concord's Subdivision Ordinance must be consistent with the Map Act and implement Map Act requirements at the local level. With this purpose, the Subdivision Ordinance incorporates specific Map Act requirements in a variety of ways.

In many cases the Subdivision Ordinance presents Map Act provisions verbatim. For example, Section 17.05.120, which lists the types of subdivisions requiring a tentative and final map, is verbatim to Government Code Section 66426.

In some cases the Subdivision Ordinance incorporates detailed Map Act requirements, but omits some details. For example, Section 17.05.040 (Exceptions) lists exceptions to the Map Act from Government

Code Section 44412, but leaves out some exceptions, such as exceptions for subdivisions exclusively for wind energy devices and wireless transmission facilities.

The Subdivision Ordinance also summarizes and simplifies Map Act requirements in some places. For example, detailed and lengthy off-site improvement requirements in Section 66462.5 of the Map Act are succinctly summarized in Section 17.35.020(m) of the Subdivision Ordinance.

Finally, in some places the Subdivision Ordinance references a specific Map Act section and states that the proposed subdivision must comply with this section. Examples include water supply assessment requirements in Section 17.15.060 (d)(3) and details of tentative map extensions in Section 17.15.070(a)(1)

The different ways in which the Subdivision Ordinance incorporates Map act requirements raises a number of questions.

- Which Map Act requirements should be incorporated into the Subdivision Ordinance, and which ones should be left out?
  - What is the best method for the Subdivision Ordinance incorporates Map Act requirements?
  - Should the Subdivision Ordinance consistently incorporate Map Act requirements in the same manner (e.g., verbatim vs. summarized)? If not, is a particular approach best suited for certain types of Map Act requirements?
  - How can Concord best ensure that the Subdivision Ordinance remains consistent with the Map Act as the Map Act is amended over time?
- **Recommendation C-1: Incorporate into Subdivision Ordinance frequently used provisions from the Map Act.** Examples of frequently used provisions include requirements for types of maps (Article III of Chapter 17.05), the approval process for maps (Chapters 17.15 and 17.20) findings for map approval (Section 17.15.060), allowed corrections and amendments to final and parcel maps (Article I of Chapter 17.45), and map expiration (Section 17.15.070).
- **Recommendation C-2: Incorporate verbatim short and clear Map Act requirements.** For example, Government Code Section 66426, specifying when tentative and final maps are required, is important, frequently referenced, and relatively clear and concise. It should be incorporated into the Subdivision Ordinance verbatim. Consider some form of notation, such as italicized text, to denote when Map Act requirements are included verbatim.
- **Recommendation C-3: Summarize long and complicated Map Act requirements.** If a Map Act requirement is long and complicated, but also important and frequently used, it should be summarized in the Subdivision Ordinance with the summary accompanied by a reference to the Map Act. Existing Section 17.35.070 (improvement security) is an example of this approach.
- **Recommendation C-4: Exclude from the Subdivision Ordinance Map Act provisions that are not applicable to Concord.** The existing Subdivision Ordinance does a good job of excluding Map Act provisions that are not applicable to Concord. The updated Subdivision Ordinance will continue this approach.

- ▶ **Recommendation C-5: Include references for all Map Act requirements.** All Map Act provisions incorporated into the Subdivision Ordinance will be accompanied by a reference.

#### Provisions that Exceed Minimum Map Act Requirements

The existing Subdivision Ordinance contains some requirements that exceed or go beyond minimum Map Act requirements. In some cases the Subdivision Ordinance includes provisions authorized but not required by the Map Act; for example, Section 17.30.110 (Reservations) as authorized by Government Code Section 66479. In other cases the Subdivision Ordinance adds requirements or restrictions without specific Map Act authorization, for example additional grounds for denial of a tentative map in Section 17.15.060(f)(8) and (9) which are not included in Government Code Section 66474.

- ▶ **Recommendation C-6: Closely examine provisions that exceed or go beyond Map Act requirements.** When revising the Subdivision Ordinance, identify all examples of provisions that exceed or go beyond minimum Map act requirements. Determine if these provisions are legally defensible and desirable, and delete or revise them if either is not the case. Consider adding notation in the Subdivision Ordinance that distinguishes local requirements from Map Act requirements.

#### **D. Subdivision Design and Improvement Standards**

The Map Act vests in cities broad powers to regulate and control the design and improvement of subdivisions. The definition of “design” and “improvements” includes physical infrastructure such as streets and utilities, but also other improvements necessary to ensure consistency with and implementation of the General Plan.

Section 17.35.020 lists required subdivision improvements typically found in subdivision ordinances, reflecting the Map Act definition of subdivision design and improvements. However, Concord is not limited by these types of improvements and may add other types of improvements consistent with and necessary to implement the General Plan. Concord could also remove from Section 17.35.020 types of improvements which may be less critical or addressed by other public agencies or laws (e.g., fire hydrants).

Appendix A lists policies from the General Plan and other City plans that are relevant to the Subdivision Ordinance and subdivision improvement and design standards. Major goals from these plans include the following:

- Promote infill development
- Encourage variety of housing types
- Support higher density housing Downtown and near transit centers
- Design complete streets for all travel modes
- Maximize bicycle and pedestrian connections
- Provide a variety of parks and recreational facilities
- Conserve energy and support renewable energy generation

- Conserve water
- Protect sensitive natural resources

► **Recommendation D-1: Determine if existing subdivision improvement and design standards adequately address major City goals.** The City should decide whether new types of improvement and design standards are needed and if existing standards should be removed. The City also needs to decide if substantive requirements for the standards are sufficient or if existing requirements should be modified, strengthened, or clarified.

#### Subdivision and Neighborhood Design

Section 17.35.120 (Subdivision Design) states that the Planning Division may refer a tentative map or parcel map to the Design Review Board to “ensure quality design.” The Subdivision Ordinance is not clear on what constitutes “quality design.” The Subdivision Ordinance also does not reflect or acknowledge General Plan policies to utilize land resources efficiently, provide a variety of housing choices, accommodate all modes of transportation, and protect natural resources.

Some Subdivision Ordinances contain specific standards related to general neighborhood design. The City of Chino Subdivision Ordinance, for example, states that “street configuration within subdivisions shall provide maximum connectivity for pedestrians, bicycles and automobiles.” The City of Livermore Development Code contains subdivision standards mandating minimum pedestrian accessibility standards to commercial areas and civic uses.

Prescriptive neighborhood form standards may be suitable for larger subdivisions on the urban edge, but are less appropriate for infill development constrained by an existing block pattern and smaller development sites. Prescriptive subdivision standards for infill sites may be infeasible in Concord. In the Base Reuse Project Area where prescriptive standards may be more feasible, existing and future plans already establish the desired form for new neighborhoods in a manner consistent with the General Plan.

► **Recommendation D-2: Strengthen connections with neighborhood design policies in the General Plan.** This could be accomplished by adding language to Section 17.35.120 summarizing the intent of General Plan policies. Findings for the approval of tentative and parcel maps could be added with a more explicit connection to General Plan policies that call for quality infill development, housing diversity, and connectivity for all modes of transportation.

#### Bicycle and Pedestrian Facilities

Section 17.35.020(c), (d), and (e) state that the City may require the installation of pedestrian ways, bikeways, and trails consistent with the Trails Master Plan. The Trails Master Plan was adopted in 2002 and may not reflect current plans for non-motorized transportation infrastructure. The City is also now preparing a new Bicycle, Pedestrian, and Safe Routes to Transit Plan which will be adopted prior to the adoptions of the updated Subdivision Ordinance.

► **Recommendation D-3: Add a requirement to install bicycles and pedestrian improvements consistent with the Bicycle, Pedestrian, and Safe Routes to Transit Plan.** Also, modify terminology to be consistent with this Plan.

## Stormwater Management

Section 17.35.020(g) establishes general requirements for the collection and conveyance of storm water runoff from a subdivision. These requirements do not reference or reflect the C.3 requirements of the regional stormwater management plan.

- ▶ **Recommendation D-4: Add specific requirements for subdivisions to comply with C.3 requirements of the Regional Stormwater Management Plan.** Section 17.35.020 (g) should include a reference to the Regional Water Quality Control Board clean water requirements and compliance needed.

## Natural Resource Protection

Section 17.35.150 requires subdivisions to provide for future passive heating and cooling opportunities to the extent feasible. This requirement is directly from Section 66473.1 of the Map Act.

The Climate Action Plan for the Base Reuse Plan establishes stronger solar access requirements for the Base Reuse Project Area. Section 3.2.1 in the Climate Action Plan requires specific street orientation to maximize solar exposure. A similar mandatory requirement could be added to the subdivision ordinance to apply city-wide. However, as the street and block pattern is mostly established in areas outside of the Base Reuse project area, it may not be feasible for infill subdivisions to always comply with this requirement.

- ▶ **Recommendation D-5: Maintain existing city-wide passive heating and cooling design standard language.**

Section 17.35.170 authorizes the City to preserve “significant rock outcroppings and other unusual land forms” and trees of a certain size. This section is inconsistent with Development Code 18.310 and Municipal Code Chapter 8.40 (Trees and Shrubs) which establishes more specific tree protection and preservation requirements.

- ▶ **Recommendation D-6: Replace tree protection provision in Section 17.35.170 with reference to Development Code Section 18.310 and Municipal Code Chapter 8.40.** Require subdivision map applications to show all trees protected by Section 18.310 and Chapter 8.40 and to follow the permit requirements for these protected trees.

The Concord General Plan identifies a range of important natural resources in Concord, including creeks, riparian corridors, surface waters, marshes, wetlands, tidal areas, water supplies, wildlife habitat, special status species, and significant vegetation. Development Code Chapter 18.305 contains specific standards for the protection of creek and riparian habitat. The existing Subdivision Ordinance does not address the protection of these natural resources.

- ▶ **Recommendation D-7: Add design standards to protect all important natural resources.** These design standards would require applicants to show important natural resources on all maps and to protect and preserve these resources to the extent feasible consistent with the General Plan, Development Code, and other applicable regulations. Design standards may include minimum setbacks from natural resources limitations on uses allowed within proximity of natural resources. Typical mitigation measures and conditions of approval applied to projects near to

important natural resources could be added to the Subdivision Ordinance to protect and preserve these resources.

### Streets

Section 17.35.190 (Streets) specifies minimum right-of-way widths for public and private streets. The subdivision ordinance does not define or provide standards for different types of streets (e.g., arterial, collector). The Subdivision Ordinance also does not address “green street” or “complete street” concepts.

Section 17.35.190(d) establishes design standards for private streets with standards that are more detailed than for public streets. This level of detail for private streets is unusual in a Subdivision Ordinance – typically a Subdivision Ordinance will describe circumstances when private streets are permitted and requirements for their approval.

- ▶ **Recommendation D-8: Prepare standards for a hierarchy of street types.** Prepare typical cross section diagrams for a full range of street types, including alleys and narrow streets important for infill projects. Incorporate these standards into City Engineering Specifications, not in the Subdivision Ordinance. State in the Subdivision Ordinance that streets must comply with street standards in the City Engineer Specifications.
- ▶ **Recommendation D-9: Standardize street standards with Fire District requirements.** Fire District requirements often dictate minimum width and other roadway dimension standards.
- ▶ **Recommendation D-10: Remove private street design standards from Subdivision Ordinance.** Require private streets to be designed the same as public streets. Consider adding criteria to allow the City to approve on a limited basis private streets that deviate from public street design requirements subject to approval of the City Engineer and the Fire District.

### Lot Configuration

Section 17.35.180 (Standards) establishes a minimum lot width of 60 feet and minimum lot depth of 85 feet for standard single-family subdivisions. This standard conflicts with Development Code, which establishes 24 to 150-foot minimum lot widths depending on the zoning district.

- ▶ **Recommendation D-11: Remove lot configuration standards from the Subdivision Ordinance.** Replace with a statement that lot width and depth must comply with the Development Code lot configuration standards for the applicable zoning district.

### Deferred Improvement Agreements

Section 17.35.060 (Deferred Improvement Agreements) contains a highly unusual procedure. Typically, a Deferred Improvement Agreement (DIA) is an agreement to construct or pay for improvements in the future with no cost to the property owner at the current time. The existing procedure is not a DIA but actually a cash payment for improvements that may/will occur in the future. If paid by the property owner, the obligation would be deemed fulfilled and nothing further would be required by the agreement.

- ▶ **Recommendation D-12: Establish a standard Deferred Improvement Agreement procedure.** Replace Section 17.35.060 with a DIA procedure that creates a binding agreement between the City and the property owner to either pay for or construct a defined list of improvements. New DIA procedures would not specify a specific date to construct improvements but rather would identify circumstances which would trigger the requirement to construct improvements.

## **E. Subdivisions in Concord Reuse Project Area**

Subdivision in the Concord Reuse Project (CRP) Area will be different than elsewhere in the city. Currently this area has no mapping, and subdivisions will involve large areas subdivided in multiple stages with involvement of different developers and builders.

Subdivisions in the CRP Area will be guided by the CRP Area Plan, which includes many requirements relating to subdivisions, including street orientation, resource protection, view corridors, and maximum block perimeter. There will likely be more detail added to these at the Specific Plan phase, including laying out at least some of the blocks. Subdivision improvements may also be constrained by CEQA documents for the Area Plan and Specific Plan, which may identify specific improvements as required mitigation measures.

While the Area Plan and Specific Plan will dictate some design aspects of new subdivisions, the preferred process to subdivide property remains uncertain at this time. It is possible that the CRP Area master developer, in partnership with the City, will sell of one or more parcels to a major commercial tenant who would install infrastructure themselves at a future date. The master developer and City may also choose to go through the mapping process to sell small parcels to builders. The master developer and City will need maximum flexibility to respond to situations and opportunities that cannot be anticipated at this time.

During CRP Area redevelopment, developers will be required to upsize infrastructure to support future phases. If the Phase One developer doesn't develop subsequent phases, they'll be reimbursed. Also, there will likely be times when the "backbone" infrastructure is installed well in advance of vertical construction. The City may need to follow unique security requirements given extended period of time between large lot subdivision/"backbone" infrastructure and future improvements.

- ▶ **Recommendation E-1: Scrutinize all Subdivision Ordinance provisions to ensure they will support CRP Area reuse plans.** The master developer for CRP Area reuse selected by the City will be involved in this review. All requirements of the Subdivision Ordinance will be scrutinized through the "lens" of CRP Area reuse, including required map contents, procedures for map approval, subdivision design and improvement standards, modifications to approved maps, and other types of approvals (e.g., lot line adjustments, reversion to acreage).
- ▶ **Recommendation E-2: Consider adding special flexibility for all subdivisions within the CRP Area.** The City could add a catch-all provision to the Subdivision Ordinance that would allow exceptions to the Subdivision Ordinance for subdivision approvals in the CRP Area reuse plan area. During the preparation of the Subdivision Ordinance, the City should consider if such a provision is needed. Exceptions would be allowed only if the subdivision otherwise complies with the Map Act and other applicable laws and regulations.

## F. Condominiums

### Condominium Development Standards

Section 17.50.020 (Development Standards) and Section 17.50.080 (Development Standards) establish development standards for residential condominiums. Many of these standards are also addressed in the Development Code. For example, open space requirements are in Development Code Section 18.150.100, guest parking is in 18.160.050, trash and recycling is in 18.150.150, and utilities is in 18.150.080.C. Listing these standards in both the Subdivision Ordinance and Development Code is redundant and creates opportunities for inconsistent requirements.

- ▶ **Recommendation F-1: Remove from Subdivision Ordinance condominium standards that are also in the Development Code.**

Sections 17.50.020 and 17.50.080 also contains standards for new condominium which are not in the Development Code (e.g., storage space). Some of the standards may be unnecessary, excessively detailed, inconsistent with current building practices, or inconsistent with the Building Code.

- ▶ **Recommendation F-2: Review development standards for condominiums that are not in the Development Code.** Remove standards that are not needed, and revise standards to reflect current development practices and building code requirements.

### Inclusionary Requirement for Condominium Conversions

The City of Concord has an inclusionary housing program to promote the development of affordable housing (Development Code Chapter 18.185). The program requires residential developments of five or more units to include either 10% or 6% of the units as affordable, depending on the level of affordability. Developers may choose to pay a fee in-lieu of constructing the affordable units and may construct the affordable units off-site in certain circumstances. Currently, this inclusionary housing requirement does not apply to condominium conversions, though it does apply to the construction of new condominiums.

- ▶ **Recommendation F-3: Apply the inclusionary housing requirement to condominium conversions.** This can be achieved simply by stating in Development Code Section 18.185.020 that the inclusionary housing requirement applies to condominium conversions of 5 units or more.

### Non-Residential Condominiums

Article I (Standards for New Residential Condominiums) in Chapter 17.50 (Common Interest Developments) contains requirements for residential condominiums, but is silent on new non-residential condominiums. The City will likely receive applications for new non-residential condominiums in the future. It would be helpful for the Subdivision Ordinance to contain requirements for this type of application.

- ▶ **Recommendation F-4: Establish requirement for new non-residential condominiums.** An important requirement will be the preparation of documents establishing responsibility for the maintenance of shared facilities, similar to the CC&R's prepared for residential condominiums.

## G. Dedications

### Roadway Dedications

Existing roadway dedications language (Section 17.30.020) only addresses the street and not the utilities underneath.

- ▶ **Recommendation G-1: Revise roadway dedication language to include dedication of the public utilities.**

### School Site Dedications

Section 17.30.070 (School Sites) establishes requirements for dedication of elementary school sites. These requirements are based on Map Act Section 66478. This is not a true dedication provision, but instead a reservation requirement for an elementary school site with a right to purchase at a later date. According to *Curtin's California Land Use and Planning Law*, this provision is rarely used as cities and school districts rely on other laws to require school dedications.

- ▶ **Recommendation G-2: Remove 17.30.070 (School Sites) from ordinance.** The City and school district could continue to use Map Act Section 66478 if desired or use other laws to require school dedications.

## H. Other Issues

### Submittal Requirements

Section 17.15.020 (Form and Content) requires tentative maps to “contain the information as established by the City Engineer and Zoning Administrator in the city’s application checklists.”

Referencing submittal requirements in a checklist helps to keep lengthy details out of the ordinance. It also allows the City to easily change submittal requirements without amending the ordinance and increases flexibility to adjust requirements for individual applications.

In other sections, however, the ordinance lists detailed submittal requirements (e.g., Section 17.15.030 (accompanying data and reports) and Section 17.15.150 (submittal for city approval)).

- ▶ **Recommendation H-1: Remove detailed submittal requirements from ordinance.** Delegate to staff authority to create and periodically amend submittal checklists. For all types of maps and approvals, reference the City’s application checklists. Update these checklists as part of the Subdivision Ordinance Update.

### Enforcement

Article II (Enforcement and Judicial Review) in Chapter 17.45 (Amendments and Enforcement) specifies penalties and remedies for violation of the Subdivision Ordinance. Chapter 1.05 (General Provisions) in Title 1 of the Municipal Code also contains code enforcement provisions that apply to subdivisions. Section 18.540 (Enforcement) of the Development Code contains zoning code enforcement provisions similar to those in Chapter 17.45.

- ▶ **Recommendation H-2: Standardize the Subdivision Ordinance enforcement chapter with enforcement provisions elsewhere in the Municipal Code.** At a minimum, resolve any clear conflicts in enforcement procedures found in different chapters of the Municipal Code. Consider revising Chapter 17.45 to more closely match the enforcement provisions in the Development Code.

#### California Coordinate System

Section 17.15.140 (Form and Contents) contains incorrect references to the California Coordinate System.

- ▶ **Recommendation H-3: Revise Section 17.15.140 to correctly reference the California Coordinate System.** The section should be clarified to require and read "... bearing based on the California Coordinate System, Zone III, NAD 83."

#### Definitions

The definition of some key terms in Chapter 17.10 (Definitions) differ from definitions in the Development Code and General Plan. For example, the definitions of "development" and "lot area" are different within the Subdivision Ordinance and Development Code. As the Development Code was comprehensively updated in 2012, the Development Code definitions are generally preferable to the definitions in the Subdivision Ordinance.

- ▶ **Recommendation H-4: Revise definitions to be consistent with the Development Code and General Plan.** In some cases there are internal inconsistencies in the Development Code definitions that need clarification. As part of the Subdivision Ordinance Update, resolve these inconsistencies and reflect these changes in the updated Subdivision Ordinance definitions.

There are also definitions that are internally inconsistent within the Development Code and other Municipal Code chapters, including definitions for "easement," "lot area," and "right of way." Conflicting definitions interfere with the City's ability to process requested permits and approvals in a consistent and efficient manner.

- ▶ **Recommendation H-5: Resolve conflicting and inconsistent definitions in the Development Code and Municipal Code.** This will require amendments to the Development Code and other Municipal Code chapters outside of the Subdivision Ordinance.

Chapter 17.10 also embeds rules and standards in the definition of some terms. For example, the definition for "alley" includes the statement that "Area devoted to alleys shall not be included in net density calculations." Rules for the calculation of net density should not be hidden in a definition within the Subdivision Ordinance.

- ▶ **Recommendation H-6: Remove standards and rules from the definition of terms.** If necessary, these standards and rules should be moved elsewhere in the subdivision ordinance or other part of the Municipal Code.

## Street Naming

The City of Concord recently adopted a street naming policy that requires all street names to be approved by the City Council (Administrative Directive No. 82). This requirement effectively means that final and parcel maps cannot be approved without City Council first approving the street names. This process may add time and cost to the approval of final and parcel maps and increase burdens on City staff.

- ▶ **Recommendation H-7: Consider revising the street naming policy to allow new street names without City Council approval.** The revised street naming policy could establish guidelines for the naming of streets to be utilized by staff when establishing new street names.

### **III. SUMMARY OF RECOMMENDATIONS**

Below is a summary list of recommendations for the Subdivision Ordinance Update presented in Part II of this report.

#### **Overall Assessment**

A-1: Revise, rather than replace, the existing Subdivision Ordinance.

#### **Organization and Style**

B-1: Maintain existing chapter levels and numbering system.

B-2: Consolidate tentative map and tentative parcel map requirements into a single article.

B-3: Locate all map requirements in a single chapter

B-4: Move definitions to the end of the Subdivision Ordinance.

B-5 Make targeted and limited stylistic changes to the existing ordinance.

#### **Compliance with Map Act and Other Legal Requirements**

C-1: Incorporate into Subdivision Ordinance frequently used provisions from the Map Act.

C-2: Incorporate verbatim short and clear Map Act requirements.

C-3: Summarize long and complicated Map Act requirements.

C-4: Exclude from the Subdivision Ordinance Map Act provisions that are not applicable to Concord.

C-5: Include references for all Map Act requirements.

C-6: Closely examine provisions that exceed or go beyond Map Act requirements.

#### **Subdivision Design and Improvement Standards**

D-1: Determine if existing subdivision improvement and design standards adequately address major City goals.

D-2: Strengthen connections with neighborhood design policies in the General Plan.

D-3: Add a requirement to install bicycles and pedestrian improvements consistent with the Bicycle, Pedestrian, and Safe Routes to Transit Plan.

D-4: Add specific requirements for subdivisions to comply with C.3 requirements of the Regional Stormwater Management Plan.

D-5: Maintain existing city-wide passive heating and cooling design standard language.

D-6: Replace tree protection provision in Section 17.35.170 with reference to Development Code Section 18.310 and Municipal Code Chapter 8.40.

- D-7: Add design standards to protect all important natural resources.
- D-8: Prepare standards for hierarchy of street types.
- D-9: Harmonize street standards with Fire District requirements.
- D-10: Remove private street design standards from Subdivision Ordinance.
- D-11: Remove lot configuration standards from Subdivision Ordinance.
- D-12: Establish a standard Deferred Improvement Agreement procedure.

### **Subdivisions in Concord Reuse Project Area**

- E-1: Scrutinize all Subdivision Ordinance provisions to ensure they will support CRP Area reuse plans.
- E-2: Consider adding special flexibility for all subdivisions within the CRP Area.

### **Condominiums**

- F-1: Remove from Subdivision Ordinance condominium standards that are also in the Development Code.
- F-2: Review development standards for condominiums that are not in the Development Code.
- F-3: Apply the inclusionary housing requirement to condominium conversions.
- F-4: Establish requirement for new non-residential condominiums.

### **Dedications**

- G-1: Revise roadway dedication language to include dedication of the public utilities.
- G-2: Remove 17.30.070 (School Sites) from ordinance.

### **Other Issues**

- H-1: Remove detailed submittal requirements from ordinance.
- H-2: Standardize the Subdivision Ordinance enforcement chapter with enforcement provisions elsewhere in the Municipal Code.
- H-3: Revise Section 17.15.140 to correctly reference the California Coordinate System.
- H-4: Revise definitions to be consistent with the Development Code and General Plan.
- H-5: Resolve conflicting and inconsistent definitions in the Development Code and Municipal Code.
- H-6: Remove standards and rules from the definition of terms.
- H-7: Consider revising the street naming policy to allow new street names without City Council approval.



## **APPENDIX A: EXISTING POLICIES RELEVANT TO SUBDIVISION ORDINANCE UPDATE**

GP = General Plan

DSP = Downtown Specific Plan

CAP = Climate Action Plan

CRP = Concord Reuse Project Area Plan

### **GENERAL DEVELOPMENT PATTERN**

**GP Policy LU-1.3.1:** Encourage a variety of housing types on infill development sites.

**GP Policy LU-9.2.2:** Allow unique, diverse, and creative design solutions for infill development that are compatible with and enhance existing neighborhoods and shopping areas.

**GP Policy LU-1.3.3:** Support higher density and mixed use development in Downtown and near transit centers and corridors.

**DSP Objective:** Promote high quality infill development [Downtown] that successfully integrates new development with existing development.

**DSP Objective:** Provide a variety of living opportunities [Downtown] through a range of housing types and prices.

**CRP Principle A — Character.** Create a complete community [in the CRP area] that provides well-connected, pedestrian-oriented neighborhoods and districts with high quality urban design and convenient access to open spaces, daily necessities and regional transit.

### **HOUSING TYPES**

**GP Goal H-1:** Promote a balanced supply of housing types, densities, and prices to meet the needs of all income groups residing or who wish to reside in Concord.

**GP Policy H-1.2:** Encourage a variety of housing types in new subdivisions, including duplexes, townhomes, small apartment buildings or condominiums.

**GP Program H-1.3.1:** Encourage the development of small lot subdivisions and continue to implement standards for small-lot single-family homes.

**CRP Principle B — Housing Diversity.** Provide a range of housing types, rental and ownership opportunities, and price levels [in the CRP area] that meet the needs of a diverse population.

## **STREETS**

**GP Policy T-1.1.3** Ensure that streets are designed to balance the needs of multiple travel modes, including vehicles, pedestrians, bicycles, and transit.

**GP Policy T-1.1.14:** Enhance the visual quality of public space through the design and landscaping of streets, and the control of visual and functional aspects of abutting improvements.

**DSP Objective:** Develop a green street framework of pedestrian friendly streets to promote healthy, active lifestyles.

**DSP Objective:** Design and construct streets that integrate walking, biking, transit use and green infrastructure.

**DSP STRATEGY:** Enhance the streetscapes on key streets that link major open spaces and destinations throughout the downtown.

**CRP Complete Streets Standards.** Standards for Through, Collector, and Local Streets.

## **PEDESTRIAN FACILITIES**

**GP Policy T-1.5.1:** Develop pedestrian linkages to minimize walking distance and enhance pedestrian circulation throughout the City.

**GP Policy T-1.5.4:** Encourage new development to provide pedestrian connections to adjacent open spaces and trails.

**DSP GOAL C-3:** Quality pedestrian facilities and amenities that create a safe and aesthetically pleasing environment that encourages walking and accommodates increased pedestrian activity.

**CRP Standard CF-18.** All public sidewalks and parking lots [in the CRP area] shall receive at least 50 percent shade coverage when outdoor landscaping is mature.

**CRP Standard CF-11.** Provide an integrated trail and street network [in the CRP area] that connects key destinations within Development Districts, open spaces, and surrounding neighborhoods;

## **BICYCLE CIRCULATION**

**GP Policy T-1.6.1:** Implement strategies and actions for enhanced bicycle circulation throughout the City.

**GP Policy T-1.6.2:** Require provision of bicycle facilities in new developments, where appropriate.

**DSP GOAL C-4:** A [Downtown] bicycle network with safe and efficient connections to major destinations within the Plan Area and throughout the City of Concord and adjacent communities.

**CAP TL5. Bike parking installations.** Require bike parking facilities for all multi-family projects and non-residential uses.

**CRP Bicycle Network.** Standards for Class 1, Class II, and Class III bicycle facilities with CRP area.

## **ENERGY CONSERVATION AND RENEWABLE ENERGY**

**GP Policy LU-9.1.6:** Establish standards for new development and additions to existing development to incorporate green building measures.

**CAP BE1. Green Building Ordinance.** Implement the Tier I CALGreen Reach Code for building energy efficiency according to the following schedule:

**CAP BE2: Prepare for California Zero Net Energy Standards.** Prepare for and implement Zero Net Energy Standards to be developed by the State of California by 2020.

**GP Policy H-5.1:** Encourage the incorporation of energy and water conservation design features in existing and future residential developments to conserve resources, reduce greenhouse gas emissions, and reduce housing costs.

**CRP Standard CF-15.** Maximize solar exposure and penetration of summer winds by designing the street network so that the longest face of each block is oriented between +20 and +40 degrees from due south, measured clockwise.

**CRP Standard CF -17.** All buildings [in the CRA area] shall exceed Title 24 energy standards by at least 30 percent.

**CRP Standard CF -16.** Require that all south, southwest, and southeast facing rooftops [in the CRA area] receive unobstructed access to the sky at a +22 degree angle, measured counterclockwise from due south.

## **NATURAL RESOURCES, GENERAL**

**GP GOAL POS-3: WELL-PLANNED NATURAL RESOURCE CONSERVATION** (creeks, riparian corridors, surface waters, marshes, wetlands, tidal areas, water supplies, wildlife habitat, special status species, significant vegetation)

## **WATER CONSERVATION**

**Policy PF-1.1.2:** Encourage water conservation through City programs and cooperation with the CCWD.

**BH1 Water Efficient Indoor Fixtures and Appliances.** ... contin[ue] to ensure implementation of the CALGreen code.

**CAP BH2 Water-Efficient Outdoor Irrigation.** Minimize water used to irrigate outdoor areas through application of the Development Code and promotion of expanded water-efficiency opportunities.

**CAP BH3 Water-Metering and Monitoring.** Incorporate best-in-class water use metering and monitoring for all new commercial and multi-family development.

## **PARKS, TRAILS, AND RECREATIONAL FACILITIES**

**GP Principle LU-10.1:** Create Attractive, Inviting Public Spaces and Streets that Enhance the Image and Character of the City.

**GP Policy POS-1.1.1:** Acquire and develop additional neighborhood and community parks to serve existing and future needs, working toward a goal of 6 acres of park land per 1,000 residents.

**GP Policy POS-1.1.2** Ensure that new residential development provides for a substantial share of the 6 acre per 1,000 resident goal cited above. New residential development shall be required to dedicate on-site parkland or pay an in-lieu fee for park acquisition. The dedication and/or fee requirement shall be based on a standard of 5 acres per 1,000 residents, consistent with the Quimby Act.

**GP Policy POS-1.1.3:** Provide a variety of recreation spaces and facilities to serve the needs of the community.

**GP Policy POS-1.1.6:** Pursue the development of park and recreation facilities within reasonable walking distance of all residences.

**GP Policy LU-1.1.3:** Ensure that the scale, operation, location, and other characteristics of community facilities, including parks, schools, childcare facilities, religious institutions, and other public and quasi-public facilities, enhance the character and quality of neighborhoods.

**GP Policy POS-1.2.2:** Work with proposed development projects to provide new linkages to existing trails and create new trails where feasible.

**GP Policy POS-2.1.3:** Utilize the Trails Master Plan and Map to develop connections between open space areas.

## **FRONTAGE IMPROVEMENTS**

**GP Policy LU-10.1.2:** Require new development to provide and maintain right-of-way improvements along project frontages such as landscaping, street trees, and other amenities that enhance the streetscape appearance.

## **LOT STANDARDS**

**Policy T-1.1.6:** Require all new development to locate structures to accommodate ultimate street widths and required setbacks.

**Policy T-1.1.7:** Require all new development to provide adequate right-of-way and to construct ultimate on and off-site improvements.

## **UTILITIES**

**GP Policy PF-1.1.3:** Coordinate with the San Francisco Bay Regional Water Quality Control Board to provide for the implementation of Storm Water Management Programs intended to protect receiving water sources from pollutants.

**GP Policy PF-1.2.2:** Reduce the need for sewer system improvements by requiring new development to incorporate water conservation measures.

**GP Policy PF-1.3.1:** Require new development to provide any needed storm drains that are not part of the City's master storm drain system and to incorporate features into site improvement plans to minimize surface runoff.

**GP Policy PF-1.3.5:** Ensure that new development contributes needed drainage improvements in proportion to a project's impacts, to assure an equitable distribution of costs to construct and maintain the City's master storm drainage system.

**CAP BH4 Recycled Water.** Extend CRP recycled water system to the rest of the City for appropriate use in outdoor places and in buildings, and plan ahead for future expansion of the system.

## **CONDOMINIUMS**

**GP Program H-1.4.1:** Encourage duplex condominiums, where consistent with the General Plan density standards, to increase opportunities for home ownership.

**GP Policy H-1.7:** Promote the development of new condominiums and cooperatives.

**GP Program H-1.7.1:** Ensure that condominiums and cooperatives continue to meet high standards of quality while providing for entry level rental and ownership housing by approving density bonuses in accordance with the City ordinance.

**GP Program H-1.7.2:** Implement the Condominium Conversion Ordinance to limit the number of rental housing stock converted into condominiums each year.

## **SUBDIVISION APPROVAL PROCESS**

**GP Program H-1.7.2:** Implement the Condominium Conversion Ordinance to limit the number of rental housing stock converted into condominiums each year.

## **OTHER**

**Policy LU-1.1.9:** Preserve visible hillsides and open space areas through techniques such as cluster development or density transfers.

**Principle LU-1.4:** Protect the Unique Character of Rural Residential Areas Throughout the City.

## CHAPTER 17.05 GENERAL PROVISIONS

### **Article I. Introductory Provisions**

- 17.05.010 – Title and Authority
- 17.05.020 – Purpose
- 17.05.030 – Applicability
- 17.05.040 – Compliance Required
- 17.05.050 – Severability
- 17.05.060 – Conflicts with Map Act

### **Article II. Administration and Common Procedures**

- 17.05.070 – Responsibilities
- 17.05.080 – Interpretation
- 17.05.090 – Application Submittal and Review
- 17.05.100 – Public Notice and Hearings
- 17.05.110 – Appeals and Calls for Review

### **Article III. Maps Required**

- 17.05.120 – General
- 17.05.130 – Five or More Parcels (Major Subdivisions)
- 17.05.140 – Four or Fewer Parcels (Minor Subdivisions)
- 17.05.150 – Map Waivers
- 17.05.160 – Designated Remainder, Omitted Areas

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## Article II – Introductory Provisions

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### Sections:

- 17.05.010 – Title and Authority
- 17.05.020 – Purpose
- 17.05.030 – Applicability
- 17.05.040 – Compliance Required
- 17.05.050 – Severability
- 17.05.060 – Conflicts with Map Act

### **17.05.110 – Title and Authority** [*Modifies 17.05.010*]

Title 17 of the Concord Municipal Code shall be known and cited as the Subdivision Ordinance of the City of Concord and referred to in this title as “the Subdivision Ordinance” or “this title.” The Subdivision Ordinance is adopted pursuant to the authority in California Government Code Section 66410 et seq., referred to in this title as the “California Subdivision Map Act” or “Map Act.”

### **17.05.120 – Purpose** [*Modifies 17.05.020*]

- A. General.** The Subdivision Ordinance is adopted to implement the California Subdivision Map Act and to protect the health, safety, and general welfare of the residents of the City of Concord.
- B. Specific.** The Subdivision Ordinance is intended to:
  1. Implement the General Plan, specific plans, and other adopted plans and policies of the City of Concord relative to the subdivision of land and development of subdivisions.
  2. Facilitate and ensure orderly development of lands in the City of Concord.
  3. Establish responsibilities by the Zoning Administrator, City Engineer, Planning Commission, City Council, City Attorney, and Community and Economic Development Department in the administration of the Subdivision Ordinance.
  4. Establish requirements for the preparation, processing, and filing of Tentative Maps, Parcel Maps, and Final Maps in a manner consistent with the Map Act.
  5. Establish procedures and requirements for dedications, reservations, and vacations required as conditions of subdivision approval.
  6. Ensure that the design of subdivisions and subdivision improvements advances community goals expressed in the General Plan and other applicable City plans and policies.

7. Establish requirements for land division, merger, reversion, and lot line adjustments not governed by the Map Act.
8. Establish requirements for the establishment of new condominiums and the conversion of existing properties into condominiums.

**17.05.130 – Applicability** [*Modifies 17.05.030 and 040*]

- A. General.** This title applies to all subdivisions of land within the City of Concord except for exceptions granted by the Map Act as identified in Subsection B below.
- B. Exceptions.** This title shall not apply to projects exempt from Map Act requirements as specified in Map Act Sections 66412, 66412.1, 66412.2, 66412.5 or as stated elsewhere in the Map Act.

**17.05.140 – Compliance Required** [*Expands on 17.05.030*]

- A.** Prior to the subdivision of any land in the City of Concord, the subdivider shall conform to and comply with the requirements of this title.
- B.** No land shall be subdivided or developed for any purpose that is not in conformity with the General Plan, any applicable specific plan, or any title of the Concord Municipal Code, including but not limited to Title 18 (Development Code).
- C.** The City may not approve a subdivision or issue a certificate of compliance that would create or recognize a lot inconsistent with the requirements of this title.

**17.05.150 – Severability** [*Modifies 17.05.060*]

The articles, sections, paragraphs, sentences, clauses, and phrases of this title are severable. If any provision of this title or the application of this title to any person or circumstance is held invalid, the remainder of this title or the application of a provision to other persons or circumstances shall not be affected.

**17.05.160 – Conflicts with Map Act** [*New*]

In the event of any conflict between this title and the Map Act, the Map Act shall govern.

## Article III – Administration and Common Procedures

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### Sections:

- 17.05.070 – Responsibilities
- 17.05.080 – Interpretation
- 17.05.090 – Application Submittal and Review
- 17.05.100 – Public Notice and Hearings
- 17.05.110 – Appeals and Calls for Review

### **17.05.070 – Responsibilities** [*Modifies 15.05.070*]

This article describes the role of the Zoning Administrator, City Engineer, Planning Commission, City Council, City Attorney, and Community and Economic Development Department in the administration of the Subdivision Ordinance.

**A. Decision-Making Authority.** Table 17.05-1 identifies the decision-making authority for subdivision maps and other approvals required by the Subdivision Ordinance.

**B. Zoning Administrator.**

1. The responsibilities of the Zoning Administrator include the following:
  - a. Serving as the decision-making authority on Tentative Maps and Vesting Tentative Maps for minor subdivisions, amendments to Tentative Maps and Vesting Tentative Maps for minor subdivisions, and minor changes to Tentative Maps and Vesting Tentative Maps for major subdivisions.
  - b. Making a recommendation to the City Engineer, Planning Commission, or City Council on Final Maps, final map amendments, Tentative Maps and Vesting Tentative Maps for major subdivisions, substantive changes to Tentative Maps and Vesting Tentative Maps for major subdivisions, dedications and reservations, improvement agreements and deferred improvement agreements, and lot line adjustments.
2. When necessary to carry out the responsibilities above, the Zoning Administrator may designate and authorize a representative to act on the Zoning Administrator's behalf.

**C. City Engineer.**

1. The responsibilities of the City Engineer include the following:
  - a. Serving as the decision-making authority on Final Maps, final map amendments for minor subdivisions, final map amendments for major subdivisions to correct for errors and omissions, improvement agreements and deferred improvement

Table 17.05-1: **Review Authority**

	<b>Role of Review Authority</b>			
	<b>Zoning Administrator</b>	<b>City Engineer</b>	<b>Planning Commission</b>	<b>City Council</b>
<b>Minor Subdivisions (less than five parcels)</b>				
Tentative Maps and Vesting Tentative Maps	Decision	Recommend	Appeal	Appeal
Final Maps	Recommend	Decision	Appeal	Appeal
Tentative Map and Vesting Tentative Map Amendments	Decision	Recommend	Appeal	Appeal
Final Map Amendments	Recommend	Decision	Appeal	Appeal
<b>Major Subdivisions (five or more parcels)</b>				
Tentative Maps and Vesting Tentative Maps	Recommend	Recommend	Decision	Appeal
Final Maps	Recommend	Recommend	-	Decision
Minor Changes to Tentative Maps and Vesting Tentative Maps	Decision	Recommend	Appeal	Appeal
Substantive Changes to Tentative Maps and Vesting Tentative Maps	Recommend	Recommend	Decision	Appeal
Final Map Amendments to Correct Errors and Omissions	Recommend	Decision	Appeal	Appeal
Amendment to a Final Map to Reflect Changed Circumstances	Recommend	Recommend	-	Decision
<b>Other Decisions</b>				
Dedications and Reservations for Major Subdivisions	Recommend	Recommend	-	Decision
Dedications and Reservations for Minor Subdivisions	Recommend	Decision	-	Appeal
Improvement Agreements and Deferred Improvement Agreements	Recommend	Approve	-	Appeal
Improvement Securities	-	Approve	-	Appeal
Parcel Mergers	Recommend	Decision	Appeal	Appeal
Lot Line Adjustment	Recommend	Decision	Appeal	Appeal
Certificate of Compliance	-	Decision	-	Appeal
Reversion to Acreage	-	Recommend	-	Decision

agreements, improvement securities, parcel mergers, lot line adjustments, and certificates of compliance.

- b. Making recommendations to the Planning Commission or City Council on Tentative Maps and Vesting Tentative Maps, amendments to Tentative Maps and Vesting Tentative Maps, amendments to Final Maps for major subdivisions to reflect changed circumstances, dedications and reservations, and reversions to acreage.
  - c. Establishing subdivision design and construction details, standards, and specifications for approval by City Council.
  - d. Determining if proposed subdivision improvements comply with this title and the Map Act.
  - e. The inspection and approval of subdivision improvements.
  - f. Accepting dedications and improvements for minor subdivisions and offsite dedications lying outside a subdivision boundary that require a separate grant deed.
  - g. The recording of a notice of completion of private subdivision improvements when not to be maintained by the City.
  - h. Processing applications and collecting fees and deposits for materials requiring approval of the City Engineer or City Council.
2. When necessary to carry out these responsibilities, the City Engineer may designate and authorize a representative to act on the City Engineer's behalf.

**D. Planning Commission.** The responsibilities of the Planning Commission include the following:

1. Serving as the decision-making authority on Tentative Maps and Vesting Tentative Maps for major subdivisions, and substantive changes to Tentative Maps and Vesting Tentative Maps for major subdivisions.
2. Serving as the appeal body for decisions of the Zoning Administrator and City Engineer as shown in Table 17.05-1.

**E. City Council.** The responsibilities of the City Council include the following:

1. Serving as the decision-making authority on Final Maps, amendments to final map for major subdivisions to reflect changed circumstances, and reversions to acreage.
2. Accepting dedications and reservations for major subdivisions.
3. Serving as the appeal body for decisions of the Planning Commission and City Engineer as shown in Table 17.05-1.

**F. City Attorney.** The responsibilities of the City Attorney include reviewing and approving as to form all:

1. Subdivision improvement agreements and improvement securities.
2. Governing documents for condominiums.
3. Dedication instruments separate from a Final Map.
4. Other miscellaneous agreements and instruments related to the subdivision of land.

**G. Community and Economic Development Department.** The responsibilities of the Community and Economic Development Department include:

1. Processing applications and collecting fees and deposits for approvals required by this title.
2. Reviewing applications for compliance with City requirements.
3. Verifying that all subdivisions and other approvals required by this title comply with the General Plan, Development Code, and applicable specific plans.
4. Ensuring that subdivision maps and the City's review process complies with the Map Act and other legal requirements.
5. Completing environmental review of proposed subdivisions as required by the California Environmental Quality Act (CEQA).
6. Ensuring that public notice and hearing for proposed subdivisions is given in accordance with this title and applicable state laws.
7. Completing other tasks in the administration of this title as assigned by the Zoning Administrator, City Engineer, Planning Commission, and City Council.

**17.05.080 – Interpretation** [*New*]

The Community and Economic Development Department has the authority to interpret any provision of this Subdivision Ordinance or its application to a specific site. Whenever the Department determines that the meaning or applicability of a requirement is subject to interpretation, the Department may issue an official interpretation. The Department may also refer any issues of interpretation to the Planning Commission for their determination. The Department shall keep a record of interpretations made in compliance with this section, which shall be available for public review.

**17.05.090 – Application Submittal and Review**

This section establishes procedures for the preparation, filing, and processing of applications for approvals required by this title.

**A. Application Preparation and Filing.** [*New*]

1. **Application Contents.**
  - a. All applications shall be filed with the Community and Economic Development Department on an official City application form.

- b. Applications shall be filed with all required fees, information, and materials as specified by the Community and Economic Development Department.

2. **Eligibility for Filing.**

- a. An application may only be filed by the property owner or the property owner's authorized agent.
- b. The application shall be signed by the property owner or the property owner's authorized agent if written authorization from the owner is filed concurrently with the application.

**B. Application Fees and Deposits.** [*Modifies 17.05.100*]

1. **Requirement of Payment.**

- a. The City may deem an application complete and begin processing the application only after all required fees have been paid.
- b. Failure to pay any required supplemental application fees is a basis for denial or revocation of an application.

2. **Refunds and Withdrawals.**

- a. Application fees cover City costs for public hearings, mailings, staff and consultant time, and the other activities involved in processing applications. Consequently, the City will not refund fees for a denied application.
- b. In the case of an application withdrawal, the Community and Economic Development Director may authorize a partial refund of a deposit account based upon the pro-rated costs to date and the status of the application at the time of withdrawal.
- c. Flat fees submitted in conjunction with an application are non-refundable.

**C. Applications Deemed Withdrawn** [*New*]

1. **Response Required.** If an applicant does not pay required supplemental fees or provide information requested in writing by the City within nine months following the date of the letter, the application shall expire and be deemed withdrawn without any further action by the City.
2. **Resubmittal.** After the expiration of an application, future City consideration shall require the submittal of a new complete application and associated filing fees.

**17.05.100 – Public Notice and Hearings** [*Modifies 17.05.080*]

When public notice and hearing is required by the Subdivision Ordinance, such notice and hearing shall be given as specified in Development Code Chapter 18.500 (Public Hearings).

**17.05.110 – Appeals and Calls for Review** [*Modifies 17.05.090*]

All decisions of the Zoning Administrator, City Engineer, and Planning Commission as required by the Subdivision Ordinance may be appealed or called up for review as specified in Development Code Chapter 18.510 (Appeals and Calls for Review).

## Article III – Maps Required

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### Sections:

- 17.05.110 – General
- 17.05.120 – Five or More Parcels (Major Subdivisions)
- 17.05.130 – Four or Fewer Parcels (Minor Subdivisions)
- 17.05.140 – Map Waivers
- 17.05.150 – Designated Remainder, Omitted Areas

### 17.05.120 – General [Modifies 17.05.110]

- A. City Approval Required.** The subdivision of an existing parcel into two or more parcels requires City approval in accordance with this title and the Map Act.
- B. Types of Maps.** A proposed subdivision first requires City approval of a Tentative Map and then City approval of a parcel map (for a subdivision that results in four or fewer parcels) or a final map (for a subdivision that results in five or more parcels) to complete the subdivision process.
- C. Tentative Map.** The City’s review of a Tentative Map evaluates the compliance of the proposed subdivision with applicable City standards, and the appropriateness of the proposed subdivision design.
- D. Parcel and Final Maps.** Parcel Maps and Final Maps are precise surveying documents that detail the location and dimensions of all parcel boundaries in an approved subdivision and, after approval, are recorded in the office of the County Recorder.

### 17.05.130 – Five or More Parcels (Major Subdivisions) [Modifies 17.05.120]

- A. Tentative Map and Final Map.** A Tentative Map and a final map is required for all subdivisions creating five or more parcels, five or more condominiums as defined in Section 783 of the Civil Code, a community apartment project containing five or more parcels, or for the conversion of a dwelling to a stock cooperative containing five or more dwelling units.
- B. Tentative Parcel Map and Parcel Map.** A tentative parcel map and a parcel map (but not a final map) is required where any one of the following occurs:
  1. The land before division contains less than five acres, each parcel created by the division abuts upon a maintained public street or highway and no dedications or improvements are required by the City Council.
  2. Each parcel created by the division has a gross area of 20 acres or more and has an approved access to a maintained public street or highway.

3. The land consists of a parcel or parcels of land having approved access to a public street or highway, which comprises part of a tract of land zoned for industrial or commercial development, and which has the approval of the City as to street alignments and widths.
4. Each parcel created by the division has a gross area of not less than 40 acres or is not less than a quarter of a quarter section.
5. The land being subdivided is solely for the creation of an environmental subdivision pursuant to Section 66418.2 of the Map Act.

**17.05.140 – Four or Fewer Parcels (Minor Subdivisions)** [*Modifies 17.05.130*]

A tentative parcel map and a parcel map are required for all divisions of land into four or fewer parcels, except that a tentative parcel map and parcel map are not required for the following:

- A. Right-of-Way Subdivisions.** Subdivisions of a portion of the operating right-of-way of a railroad corporation, defined by Section 230 of the Public Utilities Code that are created by short-term leases terminable by either party on not more than 30 days' notice in writing.
- B. Conveyances.** Land conveyed to or from a governmental agency, public entity or public utility, or for land conveyed to a subsidiary of a public utility for conveyance to the public utility for rights-of-way, unless a showing is made in individual cases, upon substantial evidence, that public policy necessitates a parcel map. Land conveyed to or from a governmental agency includes a fee interest, a leasehold interest, an easement, or a license.
- C. Lot Line Adjustments.** Lot line adjustments that meet the requirements of Section 17.XX.XXX (Permitted Lot Line Adjustments).

**17.05.150 – Map Waivers** [*New*]

- A. Waiver of Tentative Parcel Maps and Parcel Maps.** The City may waive the requirement for a tentative parcel map and a parcel map in accordance with Map Act Section 66428.1.
- B. Mobile Home Parks.** The City shall waive the requirement subdivision maps for the conversion of a mobile home park to resident ownership in accordance with Map Act Section 66427.4.

**17.05.160 – Designated Remainder, Omitted Areas** [*New*]

- A. When Allowed.** A subdivider of unimproved land may designate as a remainder or omit entirely that area which is not divided for the purpose of sale, lease, or financing.
- B. Not Counted as Parcel.** The designated remainder or omitted area shall not be counted as a parcel for the purpose of determining whether a parcel map or final map is required.

- C. Required Documentation.** The remainder or omitted area shall be shown and labeled on the required maps as part of the original parcel from which the subdivision occurred. At the time of submittal of the tentative parcel map or Tentative Map application, the subdivider shall provide a written declaration certifying that the remainder or omitted area is not intended for the purpose of sale, lease, or financing.
- D. Timing of Improvements and Fees.** The fulfillment of construction requirements for improvements and payment of improvement fees for a remainder or omitted area shall be consistent with the requirements in Map Act Section 66424.6.
- E. Certificate of Compliance Required.** A designated remainder or omitted parcel may not be sold until a certificate of compliance or conditional certificate of compliance is obtained in accordance with Section 17.XX.XX (Certificate of Compliance).



## CHAPTER 17.10 SUBDIVISION MAPS

### **Article I. Tentative Maps and Tentative Parcel Maps**

- 17.10.010 – Purpose
- 17.10.020 – When Required]
- 17.10.030 – Review Authority
- 17.10.040 – Form and Contents
- 17.10.050 – Application Materials
- 17.10.060 – Application Submittal and Review
- 17.10.070 – Public Notice and Hearing
- 17.10.080 – City Action
- 17.10.090 – Map Expiration
- 17.10.100 – Map Extensions
- 17.10.110 – Amendments to Approved Maps
- 17.10.120 – Appeals and Calls for Review
- 17.10.130 – Vesting Tentative Maps

### **Article II. Parcel Maps and Final Maps**

- 17.10.140 – Purpose
- 17.10.150 – When Required
- 17.10.160 – Review Authority
- 17.10.170 – Form and Contents
- 17.10.180 – Submittal Requirements
- 17.10.190 – Surveys and Monuments
- 17.10.200 – Phasing of Final Maps
- 17.10.210 – City Review and Approval
- 17.10.220 – Corrections and Amendments

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# Article I – Tentative Maps and Tentative Parcel Maps

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## Sections:

- 17.10.010 – Purpose
- 17.10.020 – When Required]
- 17.10.030 – Review Authority
- 17.10.040 – Form and Contents
- 17.10.050 – Application Materials
- 17.10.060 – Application Submittal and Review
- 17.10.070 – Public Notice and Hearing
- 17.10.080 – City Action
- 17.10.090 – Map Expiration
- 17.10.100 – Map Extensions
- 17.10.110 – Amendments to Approved Maps
- 17.10.120 – Appeals and Calls for Review
- 17.10.130 – Vesting Tentative Maps

### **17.10.010 – Purpose** [*Modifies 17.15.010 and 17.20.010*]

This article establishes procedures for submittal, review, and action on Tentative Maps and Tentative Parcel Maps.

### **17.10.020 – When Required** [*New*]

- A. Tentative Maps.** A Tentative Map is required for subdivisions of five or more parcels (major subdivisions) as described in Section 17.05.130 (Major Subdivisions).
- B. Tentative Parcel Maps.** A Tentative Parcel Map is required for subdivisions of four or fewer parcels (minor subdivisions) as described Section 17.05.140 (Minor Subdivisions).

### **17.10.030 – Review Authority** [*New*]

- A. Tentative Maps.** The Planning Commission shall take action on all Tentative Maps for major subdivisions.
- B. Tentative Parcel Maps.** The Zoning Administrator shall take action on all Tentative Parcel Maps for minor subdivisions.

### **17.10.040 – Form and Contents** [*Modifies 17.15.020 and 17.20.020*]

Tentative Maps and Tentative Parcel Maps shall be prepared in accordance with requirements specified in the City’s application checklists for major and minor subdivisions.

**17.10.050 – Application Materials** [*Modifies 17.15.030*]

Tentative Map and Tentative Parcel Map applications shall include all required fees, information, and materials as specified in the City’s application checklists for major and minor subdivisions.

**17.10.060 – Application Submittal and Review** [*Modifies 17.15.040*]

Tentative Map and Tentative Parcel Maps applications shall be submitted to the City and processed in accordance with Section 17.05.090 (Application Submittal and Review) and as follows:

**A. Application Review.** [*Modifies 17.15.040 and 17.20.030*]

1. **Initial Review.** The Community and Economic Department (“Department”) shall review applications for completeness and accuracy before it is accepted as being complete and officially filed.
2. **Determination of Completeness.** The Department’s determination of completeness shall be based on the City’s list of required application contents, any additional written instructions provided to the applicant during the initial application review period, and any other information required by this title and the Subdivision Map Act.
3. **Notification of Applicant.** Within 30 calendar days of application filing, the Department shall inform the applicant in writing that the application is complete and has been accepted for processing, or that the application is incomplete and that additional information is required. If the application is deemed incomplete, the Department will provide the applicant with a comprehensive list of additional information to be submitted and reviewed before the Department can make the finding of a complete application.
4. **Environmental Information.** After the Department has accepted an application as complete, the Department may require the applicant to submit additional information for the environmental review of the project in compliance with the California Environmental Quality Act (CEQA).

**B. Referrals.** The Department shall forward copies of application materials to other City departments and interested governmental agencies for review and comment. [*Modifies 17.15.040.B and 17.20.030.B*]

**C. Environmental Review.** [*New*]

1. **CEQA Review.** After acceptance of a complete application, the City shall review the project in compliance with the California Environmental Quality Act (CEQA) to determine whether:
  - a. The proposed project is exempt from the requirements of CEQA;
  - b. The proposed project is not a project as defined by CEQA;

- c. A Negative Declaration or Mitigated Negative Declaration is required; or
  - d. An Environmental Impact Report (EIR) is required.
2. **Compliance with CEQA.** These determinations and, where required, the preparation of appropriate environmental documents shall be in compliance with CEQA and any adopted City CEQA guidelines.
  3. **Special Studies Required.** Special studies, paid for in advance by the applicant, may be required to supplement the City's CEQA compliance review.

**D. Project Evaluation and Staff Reports.** [*Modifies 17.15.040.C*]

1. **Staff Evaluation.** The Department shall review all applications to determine if they comply with this title, the General Plan, the Development Code, the Map Act, and other applicable City policies and regulations.
2. **Staff Report.** The Department shall prepare a staff report describing the proposed subdivision and including, where appropriate, a recommendation to approve, approve with conditions, or deny the application.
3. **Report Distribution.** Staff reports shall be furnished to the applicant at the same time as they are provided to the review authority before action on the application.

**17.10.070 – Public Notice and Hearing** [*Modifies 17.15.050 and 17.20.040*]

The review authority shall take action on a Tentative Map or Tentative Parcel Map application at a noticed public hearing in accordance with Development Code Chapter 18.500 (Public Hearings).

**17.10.080 – City Action** [*Modifies 17.15.060 and 17.20.050*]

- A. Timing.** The review authority shall take action on a Tentative Map or Tentative Parcel Map application within 50 days after certification of an environmental impact report, adoption of a negative declaration or mitigated negative declaration or a determination by the City that the project is exempt from the requirements of the California Environmental Quality Act.
- B. Findings.** The review authority may approve the Tentative Map or Tentative Parcel Map application only after making all of the following findings:
  1. The proposed map is consistent with the General Plan, any applicable specific plan, any policy or guideline implementing the General Plan, the Development Code, and all other applicable provisions of the Municipal Code.
  2. The site is physically suitable for the proposed type and density of development.
  3. The design of the subdivision or the proposed improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

4. The design of the subdivision or the type of improvements will not cause serious public health problems.
5. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. The City may approve a Tentative Map if it finds that alternative easements for access will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This finding applies only to easements of record or to easements established by judgment of a court of competent jurisdiction.
6. The design of the subdivision shall provide, to the extent feasible, for future passive and natural heating and cooling features in accordance with Map Act Section 66473.
7. Water will be available and sufficient to serve a proposed subdivision with more than 500 dwelling units in accordance with Map Act Section 66473.7.

**C. Conditions of Approval.** The review authority may attach conditions to the approval of a Tentative Map or Tentative Parcel Map as necessary to ensure compliance with the General Plan, any applicable specific plan, the Development Code, or other applicable provisions of the Municipal Code.

#### **17.10.090 – Map Expiration** [*Modifies 17.15.070 and 17.20.060*]

- A. Timing of Expiration.** A Tentative Map or Tentative Parcel Map approval expires after 24 months except where the City approves an extension of time is approved as allowed by Section 17.10.100 (Map Extensions).
- B. Effect of Expiration.** The expiration of a Tentative Map or Tentative Parcel Map terminates all subdivision proceedings; no Parcel Map or Final Map may be filed without first processing a new Tentative Map or Tentative Parcel Map.
- C. Subsequent Actions after Timely Filing.** Once a timely filing is made, subsequent actions of the City, including, but not limited to, processing, approving, and recording, may lawfully occur after the date of expiration of the Tentative Map or Tentative Parcel Map. Delivery to the City engineer shall be deemed a timely filing for purposes of this section.

#### **17.10.100 – Map Extensions** [*Modifies 17.15.070 and 17.20.060*]

An applicant may request City approval of an extension to the life of a Tentative Map or Tentative Parcel Map in accordance with this section.

##### **A. Discretionary Extensions.**

1. **Maximum Extension.** An applicant may request City approval of a discretionary extension to the life of a Tentative Map or Tentative Parcel Map for up to a maximum of six years.

2. **Review Authority.** The review authority for a requested discretionary extension shall be the same as for the original approval (i.e., Zoning Administrator for a Tentative Parcel Map extension and Planning Commission for a Tentative Map extension).
3. **Application Filing.**
  - a. All discretionary extension requests shall be filed with the Community and Economic Development Department on an official City application form at least 30 days before the expiration date. The application shall be accompanied by all fees, information, and materials as required by the Community and Economic Development Department.
  - b. Once the application for a Tentative Map or Tentative Parcel Map extension is timely filed, the map is automatically extended for 60 days or until the City acts on the extension, whichever occurs first.
  - c. The City may approve an application to extend a Tentative Map or Tentative Parcel Map after the automatic 60-day extension period has expired, so long as the application itself was filed at least 30 days before the original expiration date.
4. **Public Notice and Hearing.** The review authority shall hold a noticed public hearing to consider the requested discretionary extension in accordance with Development Code Chapter 18.500 (Public Hearings).
5. **Findings.** The review authority may approve a discretionary extension only if all of the following findings can be made:
  - a. The portions of the General Plan, specific plans, the Development Code, and other ordinances of the City applicable to the subdivision have not changed.
  - b. The character of the site and its surroundings that affect the applicability of the General Plan, specific plans, the Development Code, and other ordinances of the City has not changed.
  - c. The capacity of public services, utilities, and roads serving the project has not decreased.
6. **Conditions of Approval.** As a condition of the extension of a Tentative Map or Tentative Parcel Map, the review authority may impose new conditions, or revise existing conditions, on the approved map.
7. **Appeals and Calls for Review.** City decisions on requested extensions may be appealed or called for review in accordance with Development Code Chapter 18.510 (Appeals and Calls for Review).

**B. Non-Discretionary Extensions.**

1. As allowed by the Map Act, a Tentative Map or Tentative Parcel Map may be eligible for additional non-discretionary extensions, including the following:

- a. Automatic extensions for phased Final Maps (Map Act Sections 66456.1, 66452.6(a)(1))
  - b. Automatic statutory extensions granted by the State legislature (Map Act Sections 66452.11, 66452.13, 66452.21, 66452.22, 66452.23, and 66452.24.)
  - c. Tolling periods results from a development moratorium or pending litigation (Map Act Sections 66452.6(b)(1), 66452.6(c))
  - d. Extensions authorized by a Development Agreement with the City (Map Act Section 66452.6(a)(1)).
2. Non-discretionary extensions requested by an applicant consistent with the Subdivision Map Act and other applicable law may be approved by the Zoning Administrator without a noticed public hearing.

#### **17.10.110 – Amendments to Approved Maps** [*Modifies 17.15.080*]

Before a Parcel Map or Final Map is filed with the County Recorder, an applicant may request amendments to an approved Tentative Map or Tentative Parcel Map in accordance with this section.

- A. Application.** All requests for amendments to an approved Tentative Map or Tentative Parcel Map shall be filed with the Community and Economic Development Department on an official City application form. The application shall be accompanied by all fees, information, and materials as required by the Community and Economic Development Department.
- B. Minor Changes.** The Zoning Administrator may approve minor changes to a Tentative Map or Tentative Parcel Map without a noticed public hearing if the requested changes comply with the following criteria:
  1. The changes do not increase the number of lots, units or building sites within the subdivision.
  2. The changes are consistent with the spirit and intent of the original Tentative Map approval.
  3. The changes do not involve a feature of the subdivision that was a basis for findings in a negative declaration, mitigated negative declaration, or environmental impact report for the project.
  4. The changes do not involve a feature of the subdivision that was a basis for conditions of approval for the project.
  5. The changes do not involve a feature of the subdivision that was a specific consideration by the review authority in granting the approval.
  6. The changes do not result in any violations of the General Plan, applicable specific plan, the Development Code, or other applicable provisions of the Municipal Code.

- C. Substantive Changes.** Requested amendments to a Tentative Map or Tentative Parcel Map that do not qualify as a minor change as defined in subsection B above shall be processed and considered by the City in the same manner as the application for the original map.
- D. Effect of Amendments.** Approved changes to a Tentative Map or Tentative Parcel Map shall not be considered as approval of a new map, and shall not extend the time limits provided by Section 17.10.090 (Tentative Map Expiration), nor extend any rights in compliance with a Vesting Tentative Map.
- E. Recording of Amendments.** Amendments to a Tentative Map or Tentative Parcel Map shall be indicated on the approved map and certified by the Zoning Administrator and City Engineer.

#### **17.10.120 – Appeals and Calls for Review** [*Modifies 17.15.090*]

- A. General.** City decisions on Tentative Map or Tentative Parcel Map applications may be appealed or called for review in accordance with Development Code Chapter 18.510 (Appeals and Calls for Review).
- B. Appeal Bodies.**
  - 1. **Tentative Maps.** Planning Commission decisions on a Tentative Map application may be appealed to the City Council.
  - 2. **Tentative Parcel Maps.** Zoning Administrator decisions on a Tentative Parcel Map application may be appealed to the Planning Commission.

#### **17.10.130 – Vesting Tentative Maps** [*Revises 17.25*]

- A. Function.** The approval of a Vesting Tentative Map confers a vested right to proceed with development in substantial compliance with the City's ordinance, policies, and standards in effect at the time the Vesting Tentative Map application is deemed complete.
- B. When Allowed.** Whenever this title or the Map Act requires that a Tentative Map or Tentative Parcel Map be filed, a Vesting Tentative Map may instead be filed.
- C. Procedures - General.** The process for application and City review and action on a vesting Tentative Map is the same as for a Tentative Map or Tentative Parcel Map except as otherwise provided in this title or in the Map Act.
- D. Preliminary Conference.**
  - 1. During the preliminary conference for the Vesting Tentative Map, City staff shall identify any additional informational items which shall be filed with the Vesting Tentative Map to enable the City to adequately examine the vested rights being requested
  - 2. Following the preliminary conference City staff shall submit to the applicant a written letter identifying additional requested information.

- E. Identification.** At the time a Vesting Tentative Map is filed it shall have printed conspicuously on its face the words “Vesting Tentative Map” or “Vesting Tentative Parcel Map.”
- F. Noted Inconsistencies.** If the Vesting Tentative Map is for a subdivision whose intended development is inconsistent with the Development Code, this inconsistency shall be noted on the vesting tentative subdivision map.
- G. Duration.** The rights conferred by a Vesting Tentative Map last for a period of two years after the recording of the Final Map or Parcel Map. This period may be extended by the City as allowed by Section 17.10.100 (Map Extensions).
- H. Amendments.** If the City changes and ordinances, policies, or standards following the approval of a Vesting Tentative Map, the subdivider may at any time prior to the map’s expiration apply for an amendment to the map to secure a vested right to proceed with the amended ordinances, policies, or standards.
- I. Expiration of Rights.** The rights conferred by an approved Vesting Tentative Map shall expire if a Final Map or Parcel Map is not recorded prior to the expiration of the Vesting Tentative Map.
- J. Exceptions.** The City may condition or deny a permit, approval, extension, or entitlement in a manner contrary to a Vesting Tentative Map only in the following cases:
1. A failure to do so would place the residents of the subdivision or the immediate community in a condition dangerous to their health or safety.
  2. The condition or denial is required in order to fully comply with state or federal law.

## Article II – Parcel Maps and Final Maps

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### Sections:

- 17.10.140 – Purpose
- 17.10.150 – When Required
- 17.10.160 – Review Authority
- 17.10.170 – Form and Contents
- 17.10.180 – Submittal Requirements
- 17.10.190 – Surveys and Monuments
- 17.10.200 – Phasing of Final Maps
- 17.10.210 – City Review and Approval
- 17.10.220 – Corrections and Amendments

### 17.10.140 – Purpose *[Modifies 17.15.100 and 17.20.090]*

This chapter establishes procedures for submittal, review, and action on Parcel Maps and Final Maps.

### 17.10.150 – When Required *[New]*

- A. Parcel Maps.** A Parcel Map is required for subdivisions of four or fewer parcels (minor subdivisions). Parcel Maps are submitted to the City after approval of a Tentative Parcel Map.
- B. Final Maps.** A Final Map is required for subdivisions of five or more parcels (major subdivisions). Final Maps are submitted to the City after approval of a Tentative Map.

### 17.10.160 – Review Authority *[New]*

- A. Parcel Maps.** The City Engineer shall take action on all Tentative Parcel Maps for minor subdivisions. Dedications or improvements agreements associated with a Parcel Map must be accepted by the City Council.
- B. Final Maps.** The City Council shall take action on all Final Maps for major subdivisions.

### 17.10.170 – Form and Contents *[Modifies 17.15.140 and 17.20.110]*

Parcel Maps and Final Maps shall be prepared as required by Map Act Section 66433 and in accordance with requirements specified in the City’s application checklists for Parcel Maps and Final Maps.

**17.10.180 – Submittal Requirements** [*Modifies 17.15.150*]

- A. Timing.** Final Maps and Parcel Maps shall be filed with the City Engineer before the Tentative Map or Tentative Parcel Map expires. The expiration of a Tentative Map or Tentative Parcel Map terminates all proceedings, and no Parcel Map or Final Map may be filed without first processing a new Tentative Map or Tentative Parcel Map. Once a timely filing is made, subsequent actions of the City, including, but not limited to, processing, approving, and recording, may lawfully occur after the date of expiration of the Tentative Map or Tentative Parcel Map. Delivery to the City Engineer shall be deemed a timely filing for purposes of this section.
- B. Applications.** Applications for approval of Parcel Maps and Final Maps shall be submitted in accordance with Section 17.05.090 (Application Submittal and Review) and shall be accompanied by all required fees, information, and materials as specified in the City's application checklists for Parcel Maps and Final Maps.

**17.10.190 – Surveys and Monuments****A. Survey Required.** [*Modifies 17.15.120 and 17.20.100*]

1. Final Maps and Parcel Maps shall be based upon a complete, precise, and accurate field survey of the land to be subdivided prepared by a California-registered civil engineer or land surveyor.
2. All found monuments, property lines, centerlines of streets, and alleys adjoining or within the subdivision shall be tied into the survey.

**B. Monuments Required.** [*Modifies 17.15.130*] [*SMA 66495*]

1. At the time of making the survey for a Final Map or Parcel Map, the engineer or surveyor shall set sufficient, durable monuments which conform with California Business and Professions Code Section 8771 so that another engineer or surveyor may readily retrace the survey.
2. In conjunction with the filing of a Final Map or Parcel Map, at least one exterior boundary line shall be monumented. Additional monuments shall be set as required by the City Engineer.

**17.10.200 – Phasing of Final Maps** [*Modifies 17.15.110*] [*SMA 66456.1, 66463.1*]

- A. When Permitted.** Multiple Final maps relating to an approved Tentative Map may be filed if:
1. The subdivider states in the Tentative Map application the subdivider's intention to file multiple Final Maps; or
  2. After filing of the Tentative Map, the Planning Commission and the subdivider agree to the filing of multiple Final Maps.

- B. Separate Subdivision Numbers.** Each Final Map which constitutes a part of the approved Tentative Map shall have a separate subdivision number.
- C. Improvement Agreements.** The subdivision improvement agreement executed by the subdivider shall provide for the construction of improvements as required to ensure a logical and orderly development of the whole subdivision.

**17.10.210 – City Review and Approval** [*Modifies 17.15.150.b, 17.15.160, and 17.15.170*]

**A. City Engineer Review.**

1. The City Engineer, in consultation with the Zoning Administrator, shall review the Final Map or Parcel Map for conformance with the approved Tentative Map or Tentative Parcel Map, conditions of approval, and all applicable requirements of this title and the Map Act.
2. The subdivider shall make corrections and additions until the map is acceptable to the City Engineer.
3. The City Engineer shall certify approval of the corrected Final Map within 20 days of receiving the corrected map, all required certificates and submittals, and any required fees.

**B. Final Map Approval.**

1. The City Council shall conduct a noticed public hearing to consider approval of a Final Map within 45 days of its certification by the City Engineer.
2. The City Council shall approve the Final Map if it complies with all requirements of this title and the Map Act. At the time of approval, the City Council shall also accept or reject any offers of dedication.
3. City Council disapproval of a Final Map shall be accompanied by a finding that identifies the conditions that have not been met.

**C. Parcel Map Approval.**

1. Parcel maps that do not include dedications or improvement agreements may be approved in full by the City Engineer.
2. Dedications or improvements agreements associated with a Parcel Map must be accepted by the City Council. In such a case, the City Council shall conduct a noticed public hearing to accept or reject the improvement agreement or any offers of dedication within 45 days of Parcel Map certification by the City Engineer.

- D. Recordation.** After the City approves a Final Map or Parcel Map, the City Engineer shall transmit the map to the County Recorder. The Final Map or Parcel Map becomes valid and goes into effect after it is filed by the County Recorder.

**17.10.220 – Corrections and Amendments** [*Modifies 17.45.030*]

A recorded Final Map or Parcel Map may be amended to correct errors and omissions in the map or to reflect changed circumstances subsequent to map approval. Amendments may be requested using an amending map or a certificate of corrections and shall be approved by either the City Engineer or the Planning Commission depending on the nature of the amendments. Amendments shall be reviewed and approved in a manner consistent with this section and Map Act Sections 66469 and 66472.1.

**A. General.** The following applies to requested amendments reviewed by both the City Engineer and the Planning Commission.

1. Requested amendments shall be submitted to the Community and Economic Development Department in accordance with Section 17.05.090 (Application Submittal and Review).
2. The form and contents of amending maps be prepared in accordance with requirements specified in the City's application checklist for major and minor subdivisions.
3. Amending maps and certificates of correction shall identify the corrections made, the names of the property owner affected by the correction or amendment, and the date of the filing or recording of the original map.
4. Amending maps and certificates of correction shall be prepared and signed by a registered civil engineer or licensed land surveyor.
5. Requested amendments may not impose any additional burden on the property owners and may not alter any right, title, or interest in the property reflected on the recorded map.

**B. Amendments Allowed with City Engineer Approval.** The City Engineer may approve map amendments to correct for errors and omissions as specified in Map Act Section 66469.

1. Within 20 working days of receiving an application for amending map or certificate, the City Engineer shall review the submittal for compliance with the requirements of this section.
2. If the certificate complies, the City Engineer shall endorse a statement on it of examination and certification, and present it to the County Recorder for recordation.
3. If an amending map or certificate fails to comply with the requirements of this section, the City Engineer shall notify the applicant in writing of the changes needed for compliance.
4. Within 10 working days of receiving a revised amending map or certificate, the City Engineer shall review the revised submittal for compliance.
5. Once the amending map or certificate is in compliance, the City Engineer shall present it to the County Recorder for recordation.

**C. Amendments Requiring Planning Commission Approval.** Map amendments to reflect changed circumstances that make map conditions no longer necessary or appropriate may be approved by the Planning Commission in a manner consistent with this section and Map Act Section 66472.1.

1. Within 30 days of receiving an amending map or certificate, the City Engineer shall examine the certificate of correction for compliance with the requirements of this section.
2. After the application is deemed complete and a CEQA determination has been made, the requested amendments shall be scheduled for review by Planning Commission at a noticed public hearing.
3. The Planning Commission may approve the requested amendment if all of the following findings can be made:
  - a. There are changes in circumstances that make any or all of the conditions of the map no longer appropriate or necessary.
  - b. The modifications do not impose any additional burden on the property owners.
  - c. The modifications do not alter any right, title, or interest in the property
  - d. The modifications comply with the findings required for approval of a Tentative Map or Tentative Parcel Map in Section 17.05.080.B (Findings) can be made.
4. The Planning Commission shall confine the hearing to consideration of, and action on, the proposed modification.

**D. Recording.**

1. The certified amending map or certificate of correction shall be filed or recorded in the office of the County Recorder.
2. After accepted and indexed by the County Recorder, the original map shall be deemed to have been conclusively corrected.

**E. Amendment of an Approved Subdivision.**

1. If an applicant wishes to amend a recorded Final Map or Parcel Map in a manner that affects a property right, the applicant must file a new Tentative Map or Tentative Parcel Map in compliance with this title.
2. New maps are also required for amendments to the characteristics of an approved subdivision including but not limited to the number or configuration of parcels, location of streets or easements, or the nature of required improvements.

**SUBDIVISION ORDINANCE UPDATE PROJECT SCHEDULE**

<b>Task</b>	<b>Month Completed</b>
<b>1. Project Initiation</b>	
a. Kick-off Meeting	Completed
b. Background Material Review	Completed
c. Field Reconnaissance	Completed
<b>2. Issues and Options</b>	
a. Subdivision Ordinance Assessment	Completed
b. Staff Work Session	Completed
c. Stakeholder Meeting #1	Completed
d. Planning Commission and City Council Study Sessions #1	Completed
<b>2. Draft Subdivision Ordinance</b>	
a. Subdivision Ordinance Outline	Completed
b. Administrative Draft Subdivision Ordinance	
Chapters 17.05, 17.10, 17.15	May 16, 2016
Chapters 17.20, 17.25	May 30, 2016
Chapters 17.30, 17.35, 17.40	June 13, 2016
c. Improvement Standards Illustrations	June 2016
d. Staff Work Session	June 2016
e. Public Review Subdivision Ordinance	July 2016
f. Stakeholder Meeting #2	July 2016
g. Planning Commission/City Council Study Session #2	July 2016
<b>4. Environmental Review (Schedule Assumes Option 1)</b>	
a. Initial Study/ Mitigated Negative Declaration (IS/MND)	May 2016
b. Public Review	August 2016
c. Mitigation Monitoring and Reporting Program (MMRP)	September 2016
d. Responses to Comments	September 2016
e. Notice of Determination	September 2016
<b>5. Final Subdivision Ordinance</b>	

a. Draft Final Subdivision Ordinance	September 2016
b. Public Hearings	September 2016
c. Final Subdivision Ordinance	October 2016



**REPORT TO COUNCIL COMMITTEE ON  
POLICY DEVELOPMENT & INTERNAL OPERATIONS**

**TO THE HONORABLE COMMITTEE MEMBERS:**

DATE: June 9, 2016

**SUBJECT: SIDEWALK INSPECTION AND REPAIR POLICY**

**Report in Brief**

Staff is working to implement the On-Call Sidewalk Replacement Pilot Program that was approved by the City Council in September 2015. The Program is intended to streamline the repair of sidewalk areas, which are the responsibility of property owners, by allowing them to use the City's authorized sidewalk repair contractors and waive the requirement to obtain individual encroachment permits for the repairs.

To complement the pilot program, staff is proposing a formal policy and procedure on the permanent and temporary repairs of sidewalks. Developing formal sidewalk policy will aid staff in the decision-making and notification process when sidewalk defects are found. This staff report presents a history on sidewalk inspection and repairs and makes a recommendation to continue developing a formal City policy on sidewalk repairs that would eventually be considered by the full City Council. The pilot program is scheduled to begin in the upcoming 2016-17 fiscal year.

**Background**

City of Concord Municipal Code Sections 12.25.030 and 12.25.040 states that the adjacent or fronting property owner is responsible for maintenance and repair of sidewalk areas, including sidewalks, curbs and gutters and parking strips. Hazardous conditions presented by damaged sidewalks and driveways pose tripping hazards and accessibility barriers for pedestrians. The Public Works Department performs basic (asphalt) ramping and grinding of uplifted sidewalks under certain conditions. The application of these repairs are intended to reduce tripping hazards but do not absolve the property owners of their responsibilities under Concord Municipal Code.

City staff often receive requests to repair and/or replace sidewalks by property owners as well as complaints regarding broken and uplifted sidewalks. Once made aware of a hazardous sidewalk condition either from a request, complaint or inspection by staff, the Public Works Department will make a temporary repair by ramping and/or grinding to reduce the hazard. City staff then notifies the property owners that, in order for permanent repairs to be made, they are required to find their own contractor, acquire the necessary City permits, pay for and manage construction, and make sure the work is inspected by the City. After advising property owners of their responsibility to maintain and repair the sidewalk, as well as the standard associated costs, these repairs often go unaddressed.

## SIDEWALK INSPECTION AND REPAIR POLICY

June 9, 2016

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In September 2015 the City Council approved an On-Call Sidewalk Replacement Pilot Program. The program was designed to provide an option for property owners to have the City manage the replacement of damaged sidewalks, driveways, and curb and gutter, in the City right-of-way fronting their property. Under the pilot program, property owners will still be responsible for the costs of the work, and have the option of securing their own contractor to complete any repairs. The Sidewalk Replacement Program has been designed to provide a more cost effective option for property owners as they will not be required to obtain individual encroachment permits for the repairs and they benefit from economies of scale pricing through the City's contract.

The Engineering Division recently completed the Plans, Specifications, and Estimate package for the Sidewalk Replacement Program. The bid package was designed to provide prospective bidders with a biddable estimate of "on-call" services by including "estimated quantities" of the various items of work needed to establish "per unit" costs. Actual work will be outlined on work orders issued to the selected contractor, as needed, with a limited window for repair and the Contractor will then be paid based on the unit prices as each work order is completed. Once the contracting process is complete and a vendor is selected to perform work for the City and private property owners, the On-Call Sidewalk Replacement Pilot Program will begin. Staff plans to begin implementing the pilot program by the end of the first quarter of the upcoming 2016-17 fiscal year.

### Discussion

As previously discussed, the City currently has a practice of making temporary repairs to hazardous sidewalk conditions and notifying property owners of sidewalk maintenance and repair responsibilities. The City does not, however, have policy and procedure that formalizes the process. Staff believes that formal policies and procedures which address sidewalk maintenance and repair are necessary for a consistent and deliberate approach when considering these items. As it is now, City staff will respond to requests without guidance and direction, for formalized procedures for managing the repair and notification procedures do not exist. Staff believes that formalized policy is needed when carrying out the City's Sidewalk Replacement Pilot Program, so that it can be used as a guidance document when determining how to address city and privately owned sidewalk defects.

The attached draft *Sidewalk Inspection and Repair Policy* outlines sidewalk maintenance and repair responsibilities per municipal code, procedures for sidewalk preventative maintenance and inspection, property owner notification, including information on the City's Sidewalk Replacement Program, and retention of records. Staff believes that adoption of formal policy and procedure will ensure consistency when carrying out sidewalk inspection, maintenance and repairs and when implementing the Sidewalk Replacement Program. Staff is recommending that the Policy Development and Internal Operations Committee review and comment on the draft Sidewalk Inspection and Repair Policy, and direct staff to present the draft policy to the full City Council for consideration.

The attached policy does not address the On-Call Sidewalk Replacement Pilot Program, with the exception of requiring that information on the Program be included in property owner notification letters. The reason for this is that it is expected that the pilot program may change from time-to-time, potentially including the infusion of city funds to help private property owners offset the cost of sidewalk repairs. As it is now, the pilot program scheduled to begin during the 2016-17 fiscal year does not include City funds to help private property owners perform sidewalk repairs. Staff will develop

internal processes and procedures for carrying out the pilot program separate from the proposed Sidewalk Inspection and Repair Policy, allowing staff to easily modify the program in response to available resources and other changing conditions.

**Fiscal Impact**

There will be no fiscal impact should the Sidewalk Inspection and Repair Policy be adopted. The Sidewalk Replacement Program was designed to provide an option for property owners to have the City manage the replacement of damaged sidewalks; however, property owners will still be responsible for the costs of the work.

**Public Contact**

The City Council Committee Agenda was posted.

**Recommendation for Action**

Staff recommends that the Policy Development and Internal Operations Committee review and comment on the draft Sidewalk Inspection and Repair Policy, and direct staff to present the draft policy to the full City Council for consideration.



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Attachment A: Draft Sidewalk Inspection and Repair Policy

**DRAFT**

CITY OF CONCORD  
PUBLIC SERVICES DEPARTMENT  
SIDEWALK INSPECTION AND REPAIR POLICY

I. BACKGROUND

The City's Sidewalk Ordinance delineates the responsibility for maintaining and repairing sidewalks to the owners of real property that are adjacent to, or which front any portion of a sidewalk. The City's Streets Maintenance Division in Public Works will perform certain temporary sidewalk curb and gutter repairs on said sidewalks as set forth herein.

Upon receipt of a complaint of a sidewalk defect, made either directly to Public Works from a citizen, Public Works or another City department or division, or through the City Attorney's Office, or upon annual inspection, when feasible, as set forth herein, the Streets Maintenance Division will make temporary repairs upon inspection of sidewalks, as set forth below.

Any temporary repairs installed or performed by the Streets Maintenance Division on City sidewalks shall be performed as a courtesy only, and shall not void, supersede or replace any duties of an adjacent property owner to implement permanent repairs to the sidewalk in accordance with the City's Sidewalk Ordinance.

II. CITY'S SIDEWALK ORDINANCE

A. Property Owner Responsibility to Maintain. Pursuant to the City's Sidewalk Ordinance, Sections 12.25.030 and 12.25.040 of the Concord Municipal Code set forth below, the owner of real property that is adjacent or fronting any portion of a sidewalk is responsible for the maintenance and repair of said sidewalk. Additionally, any liability that occurs as a result of the failure to maintain sidewalks are also passed on to the adjacent property owner pursuant to the City's Sidewalk Ordinance.

1. Concord Municipal Code Sec. 12.25.030 Maintenance and repair of sidewalks.

The owners of lots or portions of lots adjacent to or fronting on any portion of a sidewalk area between the property line of the lots and the street line, including parking strips, sidewalks, curbs and gutters, and persons in possession of lots by virtue of any permit or right shall repair and maintain such sidewalk areas and pay the costs and expenses therefore. Maintenance and repair of sidewalk areas shall include, but not be limited to, maintenance and repair of surfaces including grinding, removal and replacement of sidewalks, repair and maintenance of curb and gutters, removal and filing or

replacement of parking strips, removal of weeds and/or debris, tree pruning and installing root barriers, trimming of shrubs and/or ground cover and trimming shrubs within the area between the property line of the adjacent property and the street pavement line including parking strips and curbs, so that the sidewalk area will remain in a condition that is not dangerous to property owners or persons using the sidewalk in a reasonable manner and in a condition which will not interfere with the public convenience and use of said sidewalk area.

2. Concord Municipal Code Sec. 12.25.040 Liability for personal injury and property damage.

The property owner required by section 12.25.030 to maintain and repair the sidewalk area shall owe a duty of care to the members of the public to keep and maintain this sidewalk area in a safe and non-dangerous condition. If, as a result of a failure of any property owner to maintain the sidewalk area in a non-dangerous condition as required by section 12.25.030, any person suffers injury or damage to personal property, the property owner shall be liable to such person for the resulting damage or injury.

- B. City's Responsibility to Maintain. The City shall be responsible to maintain and repair any sidewalk defects that are caused by City-owned and maintained trees and landscaping. (CMC Sec. 8.40.020 and 8.40.050).

### III. SIDEWALK PREVENTATIVE MAINTENANCE PROGRAM

- A. The City's Streets Maintenance Division shall use the following criteria for repairs and method of repair for temporary repairs of sidewalks:

1. Criteria for Sidewalk Repair includes, but is not limited to:

- a. Vertical displacement over 3/4".
- b. Horizontal displacement, including cracks without vertical displacement, over 3/4".
- c. Disruptions in longitudinal profile uniformity greater than 1" rise or fall per 1 foot horizontal run longitudinal (ramp effect).

2. Recommended Temporary Repair Method includes, but is not limited to:

- a. Grinding or ramping: to be used for vertical displacement up to 1 inch.
- b. Concrete Mortar: to be used on horizontal displacement, including cracks without vertical displacement.

- c. Best available technique: to be used on disruptions in longitudinal profile uniformity greater than 1" rise or fall per 1 foot horizontal run longitudinal (ramp effect).
  3. The Streets Maintenance Division shall document any temporary sidewalk repairs by entering the street location and method of repair into a log.
    - a. Upon request by the City Attorney's Office to inspect and/or repair a sidewalk based upon a citizen complaint, the Streets Maintenance Division shall complete the City Attorney's Office Sidewalk Inspection Request form (Attachment A), take measurements of the sidewalk defect and shall also take photographs of the defect and the repair.

B. Sidewalk Inspection Program. The City has over 14.5 million square feet of sidewalk within its City limits, divided into five (5) inspection and maintenance zones. If feasible (given budget and staffing restraints), the Streets Maintenance Division shall attempt to inspect each zone at least once every five (5) years, and maintain an inventory of existing sidewalk conditions.

If feasible, the downtown Todos Santos area sidewalks shall be inspected at least once a year.

1. Any inventory of existing sidewalk defects shall be maintained by the Street Maintenance Division to be included CIP sidewalk enhancement projects as resources become available.

C. Notification of Property Owner of Sidewalk Defect. Pursuant to Streets and Highway Code Section 5610, a City may at its option repair a sidewalk and lien the adjoining or fronting property owner for the costs of repair.

1. Once it is determined that a sidewalk defect exists and that a fronting property owner is responsible pursuant to the City's Sidewalk Ordinance and the Streets and Highway Code, the Streets Maintenance Division staff shall send a letter to the property owner to notify the property owner of his or her responsibility to repair the sidewalk defect.
  - a. The letter to the property owner shall include information on the City's Sidewalk Replacement Program, in which the property owner will have the option of performing the sidewalk repair at a flat rate (calculated either by job or by square feet of concrete) which may be less expensive to the property owner than hiring a

private contractor, and will not require the property owner to obtain a permit. A property owner who hires a private contractor for sidewalk repair outside of the City's Sidewalk Replacement Program will be required to obtain the necessary permits before performing work.

D. Retention of Records

1. The Public Works Department shall maintain all records of notification letters, temporary repairs and inspections for at least ten years.