

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF NAPA COUNTY, STATE OF CALIFORNIA, AMENDING VARIOUS SECTIONS OF CHAPTER 17.46 (LOT LINE ADJUSTMENTS), 17.51.020 (APPLICATION REQUIREMENTS FOR VOLUNTARY MERGER), AND CHAPTER 17.52 (CERTIFICATES OF COMPLIANCE AND CONDITIONAL CERTIFICATES OF COMPLIANCE) AS THEY RELATE TO LOT LINE ADJUSTMENTS, VOLUNTARY MERGERS AND CERTIFICATES OF COMPLIANCE**

**WHEREAS**, in December, 2009, the Board adopted numerous updates to the Lot Line Adjustment Ordinance;

**WHEREAS**, since that time, staff have been implementing the provisions of the 2009 updates and have identified some additional changes which will further clarify requirements and improve customer service;

**WHEREAS**, the Certificate of Compliance Ordinance also contains some language that could benefit from further clarification and refinement in order to assist both staff and customers;

**WHEREAS**, staff have identified changes to the Certificate of Compliance Ordinance to clarify requirements and improve customer service in this area as well;

**WHEREAS**, in June, 2014, staff introduced all these potential changes to the Board of Supervisors, requesting direction to initiate stakeholder outreach;

**WHEREAS**, in July, 2014, staff conducted stakeholder outreach and received feedback on the proposed changes;

**WHEREAS**, in August, 2014, staff prepared and circulated responses to the feedback received from stakeholders;

**WHEREAS**, staff incorporated changes resulting from the public outreach process into the ordinance, which was introduced at a public hearing on November 25, 2014;

**WHEREAS**, at the hearing the Board directed staff to respond to additional concerns;

**WHEREAS**, staff have completed the process of responding to these additional concerns and has re-circulated the ordinance for review by all stakeholders.

The Board of Supervisors of Napa County, State of California, ordains as follows:

**SECTION 1.** Section 17.46.030 (Lot line adjustment - Application; determination of completeness) of Chapter 17.46 (Lot line adjustments) of the Napa County Code is amended to read in full as follows:

**17.46.030 Lot line adjustment - Application; determination of completeness.**

A. An application for a lot line adjustment shall be filed with the public works department in a form approved by the county surveyor.

B. Each application for a lot line adjustment shall be accompanied by all of the following:

1. Copies of the document(s) which establish each of the parcels involved in the lot line adjustment as a legal lot of record. If the parcels meet the criteria for a legal lot as described in subsections (A)(7), (A)(8) or (A)(9) of Section 17.02.320, a title guarantee shall be required. If the county surveyor determines that any of the parcels is not a legal lot of record, processing of the lot line adjustment shall be suspended until a conditional certificate has been applied for, issued, and recorded for each such parcel;

2. One copy of a preliminary title report, not more than sixty days old, that describes the nature and ownership of all current fee title interests, liens, easements and other encumbrances of record affecting each of the parcels involved in the lot line adjustment;

3. Three copies of a tentative lot line adjustment map accurately drawn to scale. Measurements shall be identified by feet, square feet or acres to the nearest tenth. The map shall be in the format and contain the information generally shown on the sample map approved by the county surveyor and available from the department of public works. The tentative lot line adjustment map shall specifically conform to all of the following:

a. All exterior and interior lines of the involved parcels shall be shown and shall be identified by course and bearing description, based on survey data, calculated data or information of record;

b. Proposed new lines and lines to be eliminated shall be so identified in written notation or by legend. Lines to be eliminated shall be dashed or otherwise drawn so as to be clearly distinguished from and subordinate to the proposed new lines;

c. All existing structures shall be accurately located on the map identifying the original parcels, together with their current existing uses;

d. The distance from each existing structure to the nearest boundary line of the resulting parcel on which that structure will be located following the lot line adjustment shall be noted;

e. The distance from existing wells, septic tanks, leach fields, and special design sewage disposal systems as defined in Title 13 of this code to the nearest proposed boundary line of the resulting parcels shall be noted;

f. The locations, purpose and width of all existing and proposed easements, streets and utilities shall be noted;

- g. The approximate location of all watercourses and existing drainage structures, including the location of any floodway and the top of the bank, if discernible, shall be noted;
- h. The recording information for any existing Williamson Act agreement affecting any of the parcels involved in the lot line adjustment shall be noted, and a copy of the agreement shall be provided with the application; and
- i. All assessor's parcel numbers currently assigned to each parcel involved in the application shall be noted. In the case of newly recognized parcels, a copy of the vesting instrument, deed, or certificate reference shall be provided;

4. The signed consent and mailing addresses of all owners of recorded fee title interests and of all lienholders of record of each parcel involved in the lot line adjustment. For Corporations, LLCs, LPs, Companies, Non-Profits, Associations, and Partnerships, consent shall be evidenced by a copy of a resolution of the Corporation's Board of Directors designating which corporate officer(s) shall have the power to execute on behalf of the corporation, or documentation showing which individual(s) in an LLC, LP, Company, Non-Profit, Association or Partnership has authority to make decisions affecting real estate. If such owners and/or lienholders change after the application has been filed and before the lot line adjustment has been consummated by recordation of deeds, the signed consent of such new owners and/or lienholders shall also be filed with the director of public works or the application shall be deemed withdrawn;

5. A preliminary title report containing a list of the names and addresses of all owners, of all parcels within one thousand feet of the parcels involved in the lot line adjustment, as shown on the last equalized assessment roll and any updates issued by the county assessor; and

6. An indemnification agreement consistent with Chapter 1.30 of the Napa County Code together with a signed statement that the application is complete and accurate to the best of applicant's knowledge.

C. If an application for a lot line adjustment fails to contain any of the foregoing information, or if it is determined not to be in compliance with the Subdivision Map Act (Government Code Section 66410 et seq., Section 66412(d)), it shall be determined by the department of public works to be incomplete and the applicant shall be notified within thirty days of the date the application was received. The applicant shall be given thirty-five days following the mailing date of such notice to remedy the defects by filing an amended application, except that if such remedy requires the issuance of a certificate or conditional certificate, this time period shall be tolled while the application for such document is being processed. If the defect is not remedied within the foregoing time period, the application for the lot line adjustment shall be deemed withdrawn.

**SECTION 2.** Section 17.46.040 (Lot line adjustment - Approval standards) of Chapter

17.46 (Lot line adjustments) of the Napa County Code is amended to read in full as follows:

**17.46.040 Lot line adjustment - Approval standards.**

A. Upon receipt of the application, the county surveyor shall refer the matter for comments to the director of planning and any other public officers or public agencies required to be notified by applicable state or federal law. Except when required by state or federal law, no notice of the filing of the application need be given to any other person. Upon receipt of such comments, the county surveyor shall either deny or tentatively approve the lot line adjustment as provided in this section. The tentative approval may not include conditions of approval other than a deed condition consistent with subsection (E) of Section 17.46.060.

B. The denial or tentative approval of the application by the county surveyor shall take place no more than sixty days after the application was deemed complete, except when a longer period is needed to comply with any applicable state or federal law.

C. The county surveyor shall tentatively approve the lot line adjustment if it meets the following standards at the time the filed application is deemed complete, provided however that the county surveyor may impose conditions as part of such tentative approval to ensure that the standard established by subsection (E) of Section 17.46.060 will be satisfied prior to recordation of the deed(s) consummating the lot line adjustment. Applications complying with the following standards are deemed to conform to the county general plan, any applicable specific plan, and county zoning and building ordinances:

1. The lot line adjustment will result in the transfer of property between at least two, but no more than four, existing adjoining legal parcels. Parcels are adjoining only if each of the parcels proposed for adjustment abuts at least one of the other parcels involved;

2. A greater number of parcels than originally existed will not result from the lot line adjustment;

3. A nonbuildable parcel will not be made buildable by the lot line adjustment. For purposes of this standard, a lot is considered buildable if it meets all three of the following criteria:

a. The parcel contains a minimum two thousand four hundred square feet of net lot area as defined in Section 17.02.350;

b. The parcel has existing access rights to a public street as defined in Section 17.02.020; and

c. The parcel contains a building site, as defined in Section 17.02.080, which is a minimum of twenty-five feet wide and twenty-five feet deep;

4. Parcels that equal or exceed the minimum parcel size established by the applicable zoning district, or forty acres in the case of parcels located within the Agricultural Watershed Zoning District, will not be reduced by the lot line adjustment below the minimum size allowed by the applicable zoning district, or forty acres in the case of parcels located within the Agricultural Watershed Zoning District, unless a corresponding number of parcels involved in the lot line adjustment which are located within the same zoning district and are smaller than such minimum parcel size, or less than forty acres in the case of parcels located within the Agricultural Watershed Zoning District, prior to the lot line adjustment will be increased by the lot line adjustment to exceed such minimum parcel size, or forty acres in the case of parcels located within the Agricultural Watershed Zoning District. Closure calculations shall be required for any existing or proposed parcels at or within one-tenth acre of the minimum parcel size;

5. The resultant parcels will not be bisected or otherwise internally severed by a road previously offered for dedication to a public agency for public use and accepted by that agency, unless previously bisected or otherwise severed, except that this standard shall not apply if the proposed bisection or other severance will facilitate the elimination or significant reduction of a previously existing risk to the safety of users of the road or to the physical integrity of the structure of the road;

6. The resultant parcels will comply with all of the provisions of Section 18.104.110, unless compliance with such requirements is waived by variance granted pursuant to Chapter 18.128 (commencing with Section 18.128.010) in conjunction with the tentative approval of the lot line adjustment;

7. Each resulting parcel will have legal access to a publicly maintained road, either by frontage on that road or by a right-of-way having a minimum width of twenty feet. The right-of-way shall be reflected in a recorded deed, easement, a grant of reservation for future access, quiet

title judgment, or dedication on a parcel or final subdivision map, a copy of which has been provided by the applicant to the county surveyor. Notwithstanding the previous sentence, this requirement shall not be construed as requiring the applicant to increase any existing access to twenty feet on property the applicant does not own. All required existing and proposed access shall be shown on the application map and will be confirmed in the field by the county surveyor or its designee;

8. No public utility easement shown on a final map or parcel map will be adversely affected by the lot line adjustment;

9. The size of any adjusted parcel that will utilize an individual sewage system will equal or exceed the minimum parcel size established by Section 13.32.040. For purposes of this subsection, the size of the adjusted parcel shall be computed by deducting from the gross area of the parcel that portion of the parcel which has been dedicated or offered for dedication to a public agency for public roadway purposes and utility easements. This approval standard shall not apply to parcels less than the minimum parcel size that have an existing legal individual sewage disposal system, provided the adjusted parcel is not being reduced in size and still has the required one hundred percent expansion area as required by Section 13.40.040;

10. If a parcel greater than ten acres will be reduced by the lot line adjustment to a size less than ten acres or if a parcel less than ten acres is being further reduced, exclusive of public road and utility easements, the reduced parcel must either be connected to a public sewer or, either be suitable for an on-site sewage disposal system meeting the requirements of Division II of Title 13 of this code, or meet the requirements for use of an on-site sewage disposal system on an abutting parcel as set forth in Section 13.28.050. The deeds effecting the lot line adjustment shall incorporate the requirements of subsection (B) of Section 13.28.050 as applicable; and

11. The transfer of property from one parcel to the adjoining parcel will not enable more parcels to be created through future subdivision of any of the adjusted parcels than could have been created through merger and resubdivision of the original unadjusted parcels.

12. The transfer of property from one parcel to the adjoining parcel will not create any new non-conformance with county zoning or building ordinances of any existing uses or improvements, on either parcel. For purposes of this approval standard, "new non-conformance" shall mean the addition of any new uses or structures to a parcel, or the new creation of inadequate setbacks, caused by the adjustment of lot lines, which as a result creates non-conformance with the county zoning and building ordinances.

**SECTION 3.** Section 17.46.050 (Lot line adjustment - Withdrawal) of Chapter 17.46 (Lot line adjustments) of the Napa County Code is amended to read in full as follows:

**17.46.050 Lot line adjustment - Withdrawal.**

A. The applicant may withdraw the application for lot line adjustment at any time prior to recordation of the deeds by filing a written request for withdrawal with the director of public works. Upon receipt of such request, all approvals and other actions and determinations of the county surveyor or the board of supervisors on appeal in connection with the lot line adjustment shall be deemed thereafter null and void.

B. Following tentative approval of a lot line adjustment, failure by the applicant to file the deeds with the county surveyor within the time period required by Section 17.46.060 shall be deemed a withdrawal of the lot line adjustment application by the applicant.

C. Failure by the applicant to record the deeds consummating the lot line adjustment within three hundred sixty-five days of the date of the tentative approval of the lot line adjustment by the county surveyor or, on appeal, by the board of supervisors, shall void all such approvals and be deemed a withdrawal of the application for the lot line adjustment.

D. The county surveyor may grant one forty-five day extension of time for recording deeds. The request for the one time extension must be in writing to the county surveyor at a minimum of five working days prior to the expiration date for recording, and must state the reason for requesting the extension.

**SECTION 4.** Section 17.46.060 (Lot line adjustment - Final processing) of Chapter 17.46

(Lot line adjustments) of the Napa County Code is amended to read in full as follows:

**17.46.060 Lot line adjustment - Final processing.**

A. When a lot line adjustment application has received tentative approval from the county surveyor or, on appeal, from the board of supervisors, the applicant shall, within two hundred seventy-five days from the date of approval, provide the director of public works with an appropriate deed(s) consistent with the tentative approval and demonstrating compliance with all approval standards for lot line adjustments. In the event a tentative approval by the county surveyor is appealed and the appeal is subsequently withdrawn prior to a hearing, the time for filing the deed(s) shall be tolled and extended for a period equal to the number of days between the filing of the appeal and its withdrawal in writing. The deed(s) shall clearly describe each of the resultant parcels and shall contain the express statement of intent by the grantor to eliminate any underlying boundary lines consistent with the requirements of Civil Code Section 1093. No record of survey shall be required unless required by Business and Professions Code Section 8762.

B. Whenever any of the affected parcels are or will be subject to a lien for real property taxes or special assessments collected as real property taxes which are not yet payable, the applicant shall prepay to the treasurer/tax collector, or provide the treasurer/tax collector with security for the prepayment of, real property taxes and the current installment of principal and interest on all special assessments collected as taxes, which as of the date the lot line adjustment is recorded will be a lien against the property but which are not yet payable.

C. Upon receipt of the deed(s) required by subsection (A), the county surveyor shall review the deed(s) and authorize them to be recorded if the county surveyor finds that they are consistent with the tentative approval, including compliance with all approval standards for lot line adjustments. The approved deed(s) shall then be recorded by and at the expense of the applicant and one copy of the recorded deed(s) shall be transmitted to the county surveyor. The lot line adjustment shall be deemed final only when the deed(s) have been recorded by the county recorder.

D. If the county surveyor determines that the deed(s) submitted as required by subsection (C) are not consistent with the tentative approval, including compliance with the approval standards of the tentative approval, the county surveyor shall disapprove the deed(s) and notify the applicant of such disapproval in writing. Upon receipt of notice of disapproval of the deed(s), the applicant shall have the right to resubmit revised deed(s) to the county surveyor as long as such resubmission occurs before expiration of the period specified in subsection (A), exclusive of any time between submission of the deed(s) to the county surveyor and notification of the applicant that the deed(s) have been disapproved.

E. No recorded mortgage, deed of trust or other security interest will, after recordation of the deed(s) consummating the lot line adjustment, encumber only a portion of any of the resulting

parcels, except where such encumbrance applies only to a lienholder's security interest in a leasehold exempt from the Subdivision Map Act pursuant to Government Code Section 66412, 66412.2 and 66412.5.

F. Each deed required by subsections (A) and (C) shall include the following language in the express written statement of intent immediately following the legal description: "This parcel was involved in a lot line adjustment pursuant to which the boundaries of [insert number of parcels adjusted] parcels comprising [insert total acreage of parcels] acres were adjusted and is therefore subject to the provisions of Napa County Code Section 17.46.040(C)(11), as that Section may be amended or replaced from time to time."

**SECTION 5.** Section 17.46.070 (Lot line adjustment - Notice of denial or tentative approval) of Chapter 17.46 (Lot line adjustments) of the Napa County Code is amended to read in full as follows:

**17.46.070 Lot line adjustment - Notice of denial or tentative approval.**

A. The county surveyor shall send a notice of denial or a notice of tentative approval of a lot line adjustment under this chapter to all of the following:

1. The applicant at the last address of the applicant on file with the department;
2. Public or private property owners located within one thousand feet of the outer perimeter of the parcels involved in the lot line adjustment as shown on the latest equalized assessment roll;
3. Any person who has filed a written request within the last twelve months that he or she be notified of any approvals or denials of lot line adjustments involving parcels that are specifically identified in the written request by parcel number or map;
4. Owners of all record title interests or holders of recorded liens in the involved parcels, if different; and
5. The local office of any state or federal agency that owns a parcel contiguous to any parcel involved in the lot line adjustment even if such parcel or the ownership thereof is not shown on the assessor's roll.

B. Notice of the tentative approval of a lot line adjustment pursuant to this chapter shall also be given by the county surveyor by publishing a notice once in a newspaper of general circulation in the county.

C. All notices under this section shall inform the persons notified of their right to appeal the decision pursuant to Section 17.46.080, including the time within which any such appeal must be filed.

D. A written request for mailed notice pursuant to subsection (A)(3) above shall be valid only for one year from the date on which it was filed, unless a renewal request is filed.

**SECTION 6.** Section 17.51.020 (Application requirements) of Chapter 17.51 (Voluntary Merger of Contiguous Parcels Under Common Ownership Without Reverting to Acreage) of the Napa County Code is amended to read in full as follows:

**17.51.020 Application requirements.**

A. The voluntary merger by the owner or owners of contiguous parcels into a single parcel without reverting to acreage shall be initiated by application to the director of planning and processed and approved by the county surveyor if all of the standards set forth in Section 17.51.030 are met.

B. Each application for a merger without reverting to acreage shall be accompanied by all of the following:

1. One copy of a preliminary title report, not more than thirty days old, that describes the nature and ownership of all current fee title interests, liens, easements and other encumbrances of record affecting each of the parcels involved in the lot line adjustment;

2. Two copies of a tentative map accurately drawn to scale. Measurements shall be identified by feet, square feet, or in acres to the nearest tenth. The map shall be eight and one-half by eleven inches in size and shall be in the format and contain the information generally shown on the sample map approved by the director of public works and available from the department of public works. The tentative map shall specifically conform to all of the following:

a. All exterior and interior lines of the involved parcels shall be shown and shall be identified by course and bearing description, based on survey data, calculated data or information of record;

b. All existing structures shall be accurately located on the original parcels;

c. The locations, purpose and width of all existing and proposed easements, streets and utilities shall be noted;

d. The recording information for any existing Williamson Act agreement affecting any of the parcels involved in the merger shall be noted, and a copy of the agreement shall be provided with the application; and

e. All assessor’s parcel numbers currently assigned to each existing parcel involved in the application shall be noted.

3. One copy of the legal description of the merged parcel(s).

**SECTION 7.** Chapter 17.52 (Certificates of Compliance and Conditional Certificates of Compliance) of the Napa County Code is amended to read in full as follows:

**Chapter 17.52**

**CERTIFICATES OF COMPLIANCE AND  
CONDITIONAL CERTIFICATES OF COMPLIANCE**

**Sections:**

**17.52.010 Application for certificate or conditional certificate.**

**17.52.011 Expedited certificate - Application, processing and issuance.**

**17.52.020 Processing and recordation of a certificate.**

**17.52.030 Processing a conditional certificate.**

**17.52.040 Satisfaction of conditional certificate - Effect.**

**17.52.045 Correction of certificate or conditional certificate - Grounds.**

**17.52.046 Amendment of conditional certificate - Grounds.**

**17.52.047 Information required in certificate or conditional certificate.**

- 17.52.048 Information required in an expedited certificate of compliance application.**
- 17.52.050 [Reserved]**
- 17.52.060 Notice and recordation of a conditional certificate.**
- 17.52.061 Appeals.**

**17.52.010 Application for certificate or conditional certificate.**

Any person owning real property, or a vendee of that person pursuant to a contract of sale, may file an application for issuance of a certificate or a conditional certificate. The application shall be filed with the advisory agency and shall include all of the following:

A. A map which is legibly drawn in ink to an engineer's scale, with the scale shown on the map. The map shall show the property with dimensions, the gross and net area, and the location, width and names of all streets and roads adjacent to and providing access to the property. The map shall also show the location and use of all improvements and structures on the property, the distances from the structures to the parcel boundaries, the distances between structures, and all existing utilities and easements. An appropriate legend identifying all improvements and the current assessor's parcel number shall be included;

B. The name, address, telephone number and signature of the applicant, the current owner of the property if the owner is not the applicant, and the name, address and telephone number of the person preparing the map if different from the owner or applicant;

C. A legible copy of the current owner's deed and, if the applicant is a vendee, a copy of the contract of sale;

D. The date of creation of the parcel or contiguous parcels for which the certificate or conditional certificate is sought and the date the applicant obtained interest in the property containing such parcel or parcels;

E. A map and copies of the deeds of all other property owned by the applicant contiguous to the property for which the application has been filed;

F. Documentation of any recorded access to each parcel for which the certificate or conditional certificate is sought, either in the form of a final or parcel map, deed, or quiet title judgment unless each such parcel has unrestricted frontage on a public street or highway;

G. A legal description of each parcel for which the certificate or conditional certificate is sought, typed on plain white paper, eight and one-half by eleven inches in size, with one-inch margins at the top, sides and bottom. This legal description shall be reproducible so as to yield a legible copy that can be used as a part of a recorded certificate or conditional certificate;

H. A narrative explaining why each parcel sought to be recognized in the certificate or conditional certificate should be treated as a legal lot, including whether creation of the lot complied with or was in violation of the Subdivision Map Act, any predecessor statutes, or any ordinance of the county enacted pursuant thereto, and whether the applicant, or current owner if different, has owned the property since the date of creation of the lot. The narrative shall be accompanied by a chain of title from the creation of the parent parcel to the present, including legible copies of all deeds or other recorded legal documents in the chain of title with simple plats of description keyed to the chain of title;

I. The names and addresses of all owners of real property as shown on the latest equalized assessment roll within one thousand feet of the property for which the conditional certificate is sought. In lieu of utilizing the assessment roll, the records of the county assessor or tax collector may be utilized to the extent such records contain more recent information;

J. The fee adopted by resolution of the board for processing a certificate or conditional certificate; and

K. One copy of a preliminary title report, not more than sixty days old, that describes the nature and ownership of all current fee title interests, liens, easements and other encumbrances of record affecting each of the parcels involved in the application.

**17.52.011 Expedited certificate - Application, processing and issuance.**

A. Notwithstanding Section 17.52.010, any person owning real property currently recognized by the assessor as an assessor's parcel other than SFAP (separated for purposes of assessment), or a vendee of that person pursuant to a contract of sale, may file an application for and be issued an expedited certificate if the parcel meets the criteria for a legal parcel or lot under subsections (A)(7), (A)(8) or (A)(9) of Section 17.02.320 and the applicable fee for the processing and recordation of an expedited certificate, as approved by resolution of the board of supervisors, has been paid to the advisory agency.

B. An expedited certificate may also be applied for in conjunction with an application for a lot line adjustment under Chapter 17.46, if desired by the applicant for the lot line adjustment or determined necessary by the county surveyor during the processing of the lot line adjustment application.

C. Except as otherwise provided in this chapter and in Chapter 17.46, the processing, recordation and appeal of an expedited certificate shall proceed in the same manner as the processing, recordation and appeal of a certificate except that if the expedited certificate is processed and issued concurrently with the tentative approval of a lot line adjustment, the expedited certificate shall be filed with the advisory agency but not recorded and the application fee for the expedited certificate shall be reduced by the portion of the fee for an expedited certificate relating to the cost of recordation of an assessor's map amendment.

D. If, during the processing of an expedited certificate, the advisory agency determines that although the parcel has been separated from all contiguous property, the parcel does not otherwise meet the criteria for a legal lot as described in subsections (A)(7), (A)(8) or (A)(9) of Section 17.02.320, the advisory agency shall notify the applicant that the application for an expedited certificate is denied. Any fees not used by the advisory agency by the time of such denial will be refunded to the applicant unless the applicant applies for a certificate or conditional certificate within thirty-five days of notification of the denial, in which case the unused portion of the fees will be applied against the fee for processing the application for a certificate or conditional certificate.

E. Actions of the advisory agency under this section are ministerial in nature and shall not be performed in such a manner as to be construed to be discretionary actions.

**17.52.020 Processing and recordation of a certificate.**

A. Upon receipt of a completed application, the advisory agency shall first determine whether the parcels have been divided from all contiguous property and, if so, whether each such parcel was divided in violation of the Subdivision Map Act, any predecessor statutes, or any ordinance of the county enacted pursuant thereto, in effect at the time of such division. Except as hereinafter provided, no notice of the filing of an application for a certificate or action taken relating thereto need be given to any person.

B. If the advisory agency determines that none of the property has been divided from all of the contiguous property or, although divided, has since been merged into such contiguous

property, the advisory agency shall deny the application for issuance of a certificate or conditional certificate and shall notify the applicant in writing of that determination. The notice of denial shall inform the applicant of the right to appeal the determination of the advisory agency to the board pursuant to Chapter 2.88. If notice of appeal is not filed within the time set forth in subsection (B) of Section 17.52.061, the advisory agency shall refund to the applicant within twenty working days thereafter a portion of the application fee for a certificate or conditional certificate in the amount established by resolution of the board. If the determination of the advisory agency is upheld on appeal, the advisory agency shall refund to the applicant within twenty working days of such decision a portion of the application fee for a certificate or conditional certificate in that amount established by resolution of the board. If the determination of the advisory agency that no parcel currently exists is not upheld on appeal, or if the advisory agency determines that at least one of the parcels for which the certificate or conditional certificate is sought was divided from the contiguous property even if the remainder of the property was not so divided or has since been merged into the contiguous property, then processing of the application shall continue in relation to such parcel or parcels as an application for a certificate or conditional certificate and no refund shall be made to the applicant under this subsection.

C. If the advisory agency determines that a parcel for which the certificate is sought was divided from all contiguous property in compliance with the Subdivision Map Act, any predecessor statutes, or any ordinance of the county enacted pursuant thereto, in effect and applicable at the time the involved parcel was so divided, the advisory agency shall issue a certificate containing the information set forth in subsections (A) and (B) of Section 17.52.047, shall cause the certificate to be filed for record with the recorder within fifteen working days of rendering such determination, and shall mail a copy of the certificate to the applicant along with a refund of that portion of the application fee for a conditional certificate in an amount established by resolution of the board. If such determination is made by the board on appeal, the certificate shall be issued and filed for record within five working days following such determination by the board, and a copy shall thereafter be mailed to the applicant along with the refund of a portion of the application fee for a certificate in the amount established by resolution of the board.

D. If the advisory agency determines that all of the parcels for which certificates are sought were divided from the contiguous property but that some of the parcels were divided in violation of the Subdivision Map Act, any predecessor statutes, or any ordinance of the county enacted pursuant thereto, in effect at the time of such division, a certificate shall be issued and recorded only for the parcel or parcels divided in compliance with such enactments. Processing of the application shall continue as an application for a conditional certificate for the remaining parcels, and no refund shall be made to the applicant under this subsection.

E. If the advisory agency determines that any parcel for which a certificate or conditional certificate is sought was divided from all contiguous property in violation of the Subdivision Map Act, any predecessor statutes, or any ordinance of the county enacted pursuant thereto, in effect at the time of such division, the advisory agency shall deny the application for a certificate in relation to that parcel. The advisory agency shall notify the applicant in writing of the denial of issuance of a certificate, stating in the notice the nature and date of the violations upon which the determination is based. Following the appeal period the advisory agency shall proceed to process the application as an application for a conditional certificate in the manner set forth in Section 17.52.030.

F. Actions of the advisory agency under this section are ministerial in nature and shall not be performed in such a manner as to be construed to be discretionary actions.

**17.52.030 Processing a conditional certificate.**

A. Upon determination by the advisory agency under subsection (E) of Section 17.52.020 that an application for a certificate shall be processed in whole or in part as an application for a conditional certificate, the advisory agency shall issue a conditional certificate after completion of the procedures set forth in this section.

B. The advisory agency shall circulate the application to and shall request written comments from all departments, agencies and persons entitled under the provisions of the Subdivision Map Act and this title to have notice of and to review and comment on tentative parcel maps. The request for comments shall indicate that the person, department or agency should identify in their comments only those conditions of approval that would have been applicable to a division of property on the date that interest in the property was acquired by the applicant, except that if the applicant was the owner of record at the time of the division of the property in violation of the Subdivision Map Act or county ordinances enacted pursuant thereto and the applicant is still the owner of record of one or more of the parcels resulting from such division, then the commenting person, department or agency should identify the conditions of approval that would be applicable to a current division of such property under the Subdivision Map Act and county ordinances enacted pursuant thereto. The notice shall further state that after identifying the applicable conditions of approval, the commenting person, department or agency should recommend to the advisory agency whether all or only a portion of such potentially applicable conditions should be imposed as conditions of development of the parcel or parcels for which the conditional certificate is sought and if imposition of less than all of the potentially applicable conditions are recommended, the reasons for such recommendation.

C. Upon receipt by the advisory agency of the comments requested under subsection (B), the advisory agency shall prepare a list of proposed conditions to be required by the conditional certificate, shall forward a copy of the proposed conditions and the application and comments to the planning department, and shall request that the planning department prepare a proposed environmental determination and circulate such environmental determination for public review in the manner required by the California Environmental Quality Act, the state CEQA guidelines, and local regulations enacted pursuant thereto.

D. Upon receipt of the proposed environmental determination and comments received by the planning department during the public review process, the advisory agency shall either adopt the required environmental determination or refer the matter back to the planning department for further environmental review. Following completion of all public review by the planning department and adoption of the environmental determination by the advisory agency, the advisory agency shall issue the conditional certificate containing the information specified in subsections (A) and (C) of Section 17.52.047 and give notice of approval of issuance of the conditional certificate in the manner set forth in Section 17.52.060.

**17.52.040 Satisfaction of conditional certificate - Effect.**

A. The conditions of development set forth in a conditional certificate may be fulfilled and implemented by the applicant or by any subsequent owner of the involved parcel; provided, however, that compliance with the conditions shall not be required until such time as an application for a building permit or other grant of approval for the development of the property is approved by the county or any other jurisdiction authorized to grant such an approval. Notwithstanding the preceding sentence, compliance with the conditions shall not be required if an application is filed to divide the property or adjust the boundaries thereof with one or more adjacent parcels pursuant to the provisions of the Subdivision Map Act and county ordinances enacted regulating such division

or adjustment and if equivalent conditions are imposed as conditions of approval of such subdivision or lot line adjustment.

B. Upon completion of the conditions of development of the conditional certificate, equivalent conditions of development required in connection with approval of a lot line adjustment, or recordation of a final map or parcel map containing equivalent conditions, the owner of the parcel shall notify the advisory agency. Upon receipt of such notification and the fee prescribed by resolution of the board, and upon verifying that the conditions have been completed or superseded by equivalent conditions, the advisory agency shall issue and record a notice with the recorder releasing the conditions of development set forth in the recorded conditional certificate and noting where the final map or parcel map is recorded if the equivalent conditions contained in such map have not yet been completed.

C. Actions of the advisory agency under this section are ministerial in nature and shall not be performed in such a manner as to be construed to be discretionary actions.

**17.52.045 Correction of certificate or conditional certificate - Grounds.**

A. After a certificate, expedited certificate or conditional certificate has been recorded, the advisory agency may issue and record without notice or public hearing a corrected certificate, expedited certificate or conditional certificate for any of the following reasons, either on its own initiative or, after payment of the fee imposed by resolution of the board, upon application by the owner of the affected parcel or parcels in the form prescribed by the advisory agency:

1. To correct an error in the description of the parcel or parcels; or
2. To correct any other error or omission provided the correction will not impose any additional burden on or otherwise adversely affect or alter any right, title or other record interest of any other person that existed prior to recordation of the certificate, expedited certificate or conditional certificate. Such errors and omissions include, but are not limited to, lot numbers, acreage, street names or the manner in which adjacent parcels are identified.

B. Actions of the advisory agency under this section are ministerial in nature and shall not be performed in such a manner as to be construed to be discretionary actions.

**17.52.046 Amendment of conditional certificate - Grounds.**

A. After a conditional certificate has been recorded, the advisory agency may amend and record an amended conditional certificate either on its own initiative or, after payment of the fee imposed by resolution of the board, upon application by the owner of the parcel in the form prescribed by the advisory agency, if the advisory agency finds that either of the following exist:

1. Special circumstances applicable to the parcel exist, including size, shape, topography, location or surroundings, because of which strict imposition of the conditions of the conditional certificate would deprive such property of the privileges enjoyed by other property in the vicinity; or
2. A change or changes in circumstances make one or more of the conditions of the conditional certificate no longer appropriate or necessary and all of the following conditions are satisfied:
  - a. The amendment will not impose any additional burden on the present fee owner of the parcel;
  - b. The amendment does not alter any right, title or interest of any person in the parcel;
  - c. The amendment is based upon information that was not known or could not reasonably have been known when the advisory agency approved the conditional certificate; and

d. If the information had been known, the amendment would have been approved as part of the approval of the conditional certificate.

B. Notwithstanding (A), amendment of a conditional certificate shall be approved only after following the procedures set forth in Section 17.52.030, except that the advisory agency shall confine its review to the proposed amendment.

**17.52.047 Information required in certificate or conditional certificate.**

A. Each certificate, expedited certificate or conditional certificate shall state all of the following, clearly identifying and distinguishing between the information specific to each parcel:

1. The number of parcels for which the certificate or conditional certificate is issued;
2. The name or names of all owners of each parcel;
3. The assessor's parcel number or numbers assigned to the property contained in each parcel on the assessor's maps in effect immediately prior to issuance of the certificate or conditional certificate;

4. The legal description of each parcel;

5. A notice stating as follows: "This certificate (or conditional certificate) relates only to issues of compliance or noncompliance with the Subdivision Map Act, any predecessor statutes, or any ordinance of the county enacted pursuant thereto. The parcel or parcels described herein may be sold, leased, or financed without further compliance with the Subdivision Map Act, any predecessor statutes, and any ordinance of the county enacted pursuant thereto. However, issuance and recordation of this certificate (or conditional certificate) is not a representation that the parcel or parcels may be developed under applicable laws and regulations of the county and development or use of the parcel or parcels may require issuance of a permit or permits or other grant or grants of approval."; and

6. The recording information for any notice of violation recorded under Section 17.56.020 which relates to the parcel or parcels recognized in the certificate or conditional certificate.

B. Each certificate shall contain the following additional statement: "Division of the property into the parcels identified in this certificate complied with the provisions of the Subdivision Map Act, any predecessor statutes, or any ordinance of the county enacted pursuant thereto, in effect at the time of the division."

C. Each conditional certificate shall contain the following additional information:

1. A statement that the division of the property into the parcels identified in the conditional certificate did not comply with the provisions of the Subdivision Map Act, any predecessor statutes, or any ordinance of the county enacted pursuant thereto, in effect at the time of the division; and

2. Any conditions required by the conditional certificate that must be fulfilled and implemented prior to subsequent issuance of any permit or permits or other grant or grants of approval for development of the parcel or parcels.

**17.52.048 Information required in an expedited certificate of compliance application.**

When applying for an expedited certificate under Section 17.52.011, the applicant shall provide the following documents to the advisory agency:

A. If the expedited certificate is sought to recognize a parcel as a legal lot as described in subsection (A)(7) of Section 17.02.320, the application shall include a copy of the permit to build the residence or other primary structure on the parcel; a certified copy of the deed by which the

applicant acquired the parcel; a certified copy of that deed which last transferred ownership of the property prior to issuance of the building permit; the title company guarantee described in subsection (A)(9)(b) of Section 17.02.320; and the owner's affidavit described in subsection (A)(9)(c) of Section 17.02.320.

B. If the expedited certificate is sought to recognize a parcel as a legal lot as described in subsection (A)(8) of Section 17.02.320, the application shall include a certified copy of the Certificate of Legal Nonconformity issued under Chapter 18.132 recognizing the legal nonconforming status of a residence or other primary structure on the parcel; a certified copy of the deed by which the applicant acquired the parcel; a certified copy of that deed which last transferred ownership of the property prior to issuance of the Certificate of Legal Nonconformity; the title company guarantee described in subsection (A)(9)(b) of Section 17.02.320; and the owner's affidavit described in subsection (A)(9)(c) of Section 17.02.320.

C. If the expedited certificate is sought to recognize a parcel as a legal lot as described in subsection (A)(9) of Section 17.02.320, the application shall include a certified copy of the deed by which the applicant acquired the parcel; a certified copy of that deed claimed by the applicant to have first separated the parcel from all contiguous property; the title company guarantee described in subsection (A)(9)(b) of Section 17.02.320; and the owner's affidavit described in subsection (A)(9)(c) of Section 17.02.320.

D. A letter from the title company issuing the guarantee advising that it will, on request by the advisory agency, produce for review by the advisory agency copies of all of the documents used to make the factual determinations in the guarantee document.

#### **17.52.050 [Reserved]**

#### **17.52.060 Notice and recordation of a conditional certificate.**

A. Notice of approval of issuance of a conditional certificate or amended conditional certificate shall be given by:

1. Publishing a notice once in a newspaper of general circulation in the county within ten days following approval of issuance of the conditional certificate or amended conditional certificate; and

2. Mailing notice to the applicant, the owner (if different) of the affected property, and the owners of all property within one thousand feet of the affected property within ten days following approval of issuance of the conditional certificate or amended conditional certificate.

B. The notices required under (A) shall include a copy of the conditional certificate or amended conditional certificate and shall advise the public and the persons given mailed notice of their right to appeal pursuant to Chapter 2.88 of this code the decision of the advisory agency to issue the conditional certificate or amended conditional certificate.

C. When the period specified in Section 17.52.061 for filing a notice of appeal has expired without the filing of an appeal, or when a final decision upholding issuance of a conditional certificate or amended conditional certificate has been made on any appeal filed, the conditional certificate or amended conditional certificate shall be filed for record with the recorder.

#### **17.52.061 Appeals.**

A. Except as otherwise provided in this section, all appeals of decisions of the advisory agency under this chapter shall be made pursuant to Chapter 2.88 of this title.

B. If the advisory agency has determined under subsections (A) and (B) of Section 17.52.020 to deny issuance of a certificate or conditional certificate for some of the parcels in an

application on the basis that they have not been divided from all contiguous property, but has also determined that the remainder of the parcels sought to be recognized in the application have been divided from all contiguous property, a notice of appeal of the denial of the issuance of a certificate or conditional certificate for the portion of the property determined not to have been divided from all contiguous property shall be filed no earlier than the time for filing a notice of appeal of the issuance of the certificate or conditional certificate for the parcels determined to have been divided from all contiguous property. No person other than the applicant or owner (if different) may appeal the decision of the advisory agency to deny an application or portion thereof under subsections (A) and (B) of Section 17.52.020.

C. If the advisory agency has determined under subsection (D) of Section 17.52.020 that one or more of the parcels sought to be recognized in the application were divided in violation of the provisions of the Subdivision Map Act, any predecessor statutes, or any ordinance of the county enacted pursuant thereto, in effect at the time of the division, the time for filing notice of appeal of that decision shall not commence until the time for filing notice of appeal of the issuance of the conditional certificate for such parcels. No person other than the applicant or owner (if different), may appeal the decision of the advisory agency to deny issuance of a certificate or expedited certificate pursuant to subsection (C) of Section 17.52.020.

D. The decision of the advisory agency to grant a certificate, corrected certificate, expedited certificate, corrected expedited certificate, or corrected conditional certificate for any parcel shall be final and no person may appeal such decision of the advisory agency to the board.

E. No person other than the applicant, owner (if different), or any person who was required to be given mailed notice under this chapter may appeal to the board the decision of the advisory agency to issue a conditional certificate or amended conditional certificate unless prior to the date of decision of the advisory agency to issue the conditional certificate or amended conditional certificate such person filed a written comment with the advisory agency regarding the application, including any comment relating to the environmental determination filed with the planning department during the public review period.

**SECTION 8.** This Ordinance shall be effective thirty (30) days from and after the date of its passage.

**SECTION 9.** A summary of this Ordinance shall be published at least once 5 days before adoption and at least once before the expiration of 15 days after its passage in the Napa Valley Register, a newspaper of general circulation published in the County of Napa, together with the names of members voting for and against the same.

The foregoing Ordinance was introduced and read at a regular meeting of the Board of Supervisors of the County of Napa, State of California, held on the 21st day of April, 2015, and

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passed at a regular meeting of the Board of Supervisors of the County of Napa, State of California,  
held on the \_\_\_\_ day of \_\_\_\_\_, 2015, by the following vote:

AYES: SUPERVISORS \_\_\_\_\_

\_\_\_\_\_

NOES: SUPERVISORS \_\_\_\_\_

ABSTAIN: SUPERVISORS \_\_\_\_\_

ABSENT: SUPERVISORS \_\_\_\_\_

\_\_\_\_\_  
DIANE DILLON, Chair  
Napa County Board of Supervisors

ATTEST: GLADYS I. COIL  
Clerk of the Board of Supervisors

By: \_\_\_\_\_

<b>APPROVED AS TO FORM  Office of County Counsel</b>	<b>Approved by the Napa County  Board of Supervisors</b>
By: <u>Chris R.Y. Apallas</u> (by e-signature) Deputy County Counsel	Date: _____
By: <u>Sue Ingalls</u> (by e-signature) County Code Services	Processed by: _____
Date: <u>April 23, 2015</u>	_____ Deputy Clerk of the Board

I HEREBY CERTIFY THAT THE ORDINANCE ABOVE WAS POSTED IN THE OFFICE OF  
THE CLERK OF THE BOARD IN THE ADMINISTRATIVE BUILDING, 1195 THIRD STREET  
ROOM 310, NAPA, CALIFORNIA ON \_\_\_\_\_.

\_\_\_\_\_, DEPUTY  
GLADYS I. COIL, CLERK OF THE BOARD