

## ATTACHMENT 3

For the purposes of this attachment, all new language has been identified in underline font and all existing language is identified in normal font:

### **Chapter 16.24 Urban Lot Splits**

**Section 16.24.10 Purpose.** The purpose of this section is to allow and appropriately regulate urban lot splits in accordance with Government Code section 66411.7.

**Section 16.24.20 Definition.** An “urban lot split” means a the subdivision of an existing, legally subdivided lot in to two lots in accordance with the requirements of this section.

### **Section 16.24.30 Application.**

- A. Only individual property owners may apply for an urban lot split. “Individual property owner” means a natural person holding fee title individually or jointly in the person’s own name or a beneficiary of a trust that holds fee title. “Individual property owner” does not include any corporation or corporate person of any kind (partnership, LP, LLC, C corp, S corp, etc.) except for a community land trust (as defined by Rev. & Tax Code § 402.1(a)(11)(C)(ii)) or a qualified nonprofit corporation (as defined by § 214.15).
- B. An application for an urban lot split must be submitted on the city’s approved form. Only a complete application will be considered. The city will inform the applicant in writing of any incompleteness within 30 days after the application is submitted.
- C. The city may establish a fee to recover its costs for adopting, implementing, and enforcing this section of the code, in accordance with applicable law. The city council may establish and change the fee by resolution. The fee must be paid with the application.

### **Section 16.24.40 Approval.**

- A. An application for a parcel map for an urban lot split is approved or denied ministerially, by the Community Development Director, without discretionary review.
- B. A tentative parcel map for an urban lot split is approved ministerially if it complies with all the requirements of this section. The tentative parcel map may not be recorded. A final parcel map is approved ministerially as well, but not until the owner demonstrates that the required documents have been recorded, such as the deed restriction and easements. The tentative parcel map expires three months after approval.

- C. The approval must require the owner and applicant to hold the city harmless from all claims and damages related to the approval and its subject matter.
- D. The approval must require the owner and applicant to reimburse the city for all costs of enforcement, including attorneys' fees and costs associated with enforcing the requirements of this code.

**Section 16.24.050 Requirements.** An urban lot split must satisfy each of the following requirements:

- A. Map Act Compliance.
  - 1. The urban lot split must conform to all applicable objective requirements of the Subdivision Map Act (Gov. Code § 66410 et. seq., "SMA"), including implementing requirements in this code, except as otherwise expressly provided in this section.
  - 2. If an urban lot split violates any part of the SMA, the city's subdivision regulations, including this section, or any other legal requirement:
    - a. The buyer or grantee of a lot that is created by the urban lot split has all the remedies available under the SMA, including but not limited to an action for damages or to void the deed, sale, or contract.
    - b. The city has all the remedies available to it under the SMA, including but not limited to the following:
      - i. An action to enjoin any attempt to sell, lease, or finance the property.
      - ii. An action for other legal, equitable, or summary remedy, such as declaratory and injunctive relief.
      - iii. Criminal prosecution, punishable by imprisonment in county jail or state prison for up to one year, by a fine of up to \$10,000, or both; or a misdemeanor.
      - iv. Record a notice of violation.
      - v. Withhold any or all future permits and approvals.
    - c. Notwithstanding section 66411.1 of the SMA, no dedication of rights-of-way or construction of offsite improvements is required for an urban lot split.
  - 3. **Zone.** The lot to be split is in the R-1 Single-Family Residential Zone.

4. **Lot Location.**

- a. The lot to be split is not located on a site that is any of the following:
- i. Prime farmland, farmland of statewide importance, or land that is zoned or designated for agricultural protection or preservation by the voters.
  - ii. A wetland.
  - iii. Within a very high fire hazard severity zone, unless the site complies with all fire-hazard mitigation measures required by existing building standards.
  - iv. A hazardous waste site that has not been cleared for residential use.
  - v. Within a delineated earthquake fault zone, unless all development on the site complies with applicable seismic protection building code standards.
  - vi. Within a 100-year flood hazard area, unless the site has either:
    - (I) been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction, or
    - (II) meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program.
  - vii. Within a regulatory floodway, unless all development on the site has received a no-rise certification.
  - viii. Land identified for conservation in an adopted natural community conservation plan, habitat conservation plan, or other adopted natural resource protection plan.
  - ix. Habitat for protected species.
  - x. Land under conservation easement.
- b. The purpose of subpart A.4.a above is merely to summarize the requirements of Government Code section 65913.4(a)(6)(B)–(K). (See Gov. Code § 66411.7(a)(3)(C).)

5. **Not Historic.** The lot to be split must not be a historic property or within a historic district that is included on the State Historic Resources Inventory. Nor may the lot be or be within a site that is designated by ordinance as a city or county landmark or as a historic property or district.
6. **No Prior Urban Lot Split.**
  - a. The lot to be split was not established through a prior urban lot split.
  - b. The lot to be split is not adjacent to any lot that was established through a prior urban lot split by the owner of the lot to be split or by any person acting in concert with the owner.
7. **No Impact on Protected Housing.** The urban lot split must not require or include the demolition or alteration of any of the following types of housing:
  - a. Housing that is income-restricted for households of moderate, low, or very low income.
  - b. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its policy power.
  - c. Housing, or a lot that used to have housing, that has been withdrawn from rental or lease under the Ellis Act (Gov. Code §§ 7060–7060.7) at any time in the 15 years prior to submission of the urban lot split application.
  - d. Housing that has been occupied by a tenant in the last three years. [The applicant and the owner of a property for which an urban lot split is sought must provide a sworn statement as to this fact with the application for the parcel map. The city may conduct its own inquiries and investigation to ascertain the veracity of the sworn statement, including but not limited to, surveying owners of nearby properties; and the city may require additional evidence of the applicant and owner as necessary to determine compliance with this requirement.
8. **Lot Size.**
  - a. The lot to be split must be at least 2,400 square feet.
  - b. The resulting lots must each be at least 1,200 square feet.
  - c. Each of the resulting lots must be between 60 percent and 40 percent of the original lot area.
9. **Easements.**

- a. The owner must enter into an easement agreement with each public-service provider to establish easements that are sufficient for the provision of public services and facilities to each of the resulting lots.
- b. Each easement must be shown on the tentative parcel map.
- c. Copies of the unrecorded easement agreements must be submitted with the application. The easement agreements must be recorded against the property before the final map may be approved, in accordance with subpart B above.

10. **Lot Access.**

- a. Each resulting lot must adjoin the public right of way.
- b. Each resulting lot must have frontage on the public right of way of at least 25 feet.

11. **Unit Standards.**

- a. Lots created via this Urban Lot Split Chapter shall only be permitted to be developed with Two-unit Projects pursuant to section 17.08.50 and all other applicable provisions of this Code.

12. **Separate Conveyance.**

- a. Within a resulting lot.
  - i. Primary dwelling units on a lot that is created by an urban lot split may not be owned or conveyed separately from each other.
  - ii. Condominium airspace divisions and common interest developments are not permitted on a lot that is created by an urban lot split.
  - iii. All fee interest in a lot and all dwellings on the lot must be held equally and undivided by all individual property owners.
- b. Between resulting lots. Separate conveyance of the resulting lots is permitted. If dwellings or other structures (such as garages) on different lots are adjacent or attached to each other, the urban lot split boundary may separate them for conveyance purposes if the structures meet building code safety standards and are sufficient to allow separate conveyance. If any attached structures span or will span the new lot line, the owner must record appropriate CC&Rs,

easements, or other documentation that is necessary to allocate rights and responsibility between the owners of the two lots.

13. **Regulation of Uses.**

- a. **Residential-only.** No non-residential use is permitted on any lot created by urban lot split.
- b. **No STRs.** No dwelling unit on a lot that is created by an urban lot split may be rented for a period of less than 30 days.
- c. **Owner Occupancy.** The applicant for an urban lot split must sign an affidavit stating that the applicant intends to occupy one of the dwelling units on one of the resulting lots as the applicant's principal residence for a minimum of three years after the urban lot split is approved.

14. **Deed Restriction.** The owner must record a deed restriction, acceptable to the city, that does each of the following:

- a. Expressly prohibits the use of any lot created by an Urban lot split for any rental of any dwelling on the property for a period of less than 30 days.
- b. Expressly prohibits any non-residential use of the lots created by the urban lot split.
- c. Expressly prohibits any separate conveyance of a primary dwelling on the property, any separate fee interest, and any common interest development within the lot.
- d. States that the property is formed by an urban lot split and is therefore subject to the city's urban lot split regulations, including all applicable limits on dwelling size and development and the only development permitted on the lot are two-unit projects subject to Section 17.05.50.

**Section 16.24.60 Specific Adverse Impacts.**

1. Notwithstanding anything else in this section, the city may deny an application for an urban lot split if the building official makes a written finding, based on a preponderance of the evidence, that the project would have a "specific, adverse impact" on either public health and safety or on the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.
2. "Specific adverse impact" has the same meaning as in Gov. Code § 65589.5(d)(2): "a significant, quantifiable, direct, and unavoidable

impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete” and does not include (1) inconsistency with the zoning ordinance or general plan land use designation or (2) the eligibility to claim a welfare exemption under Revenue and Taxation Code section 214(g).

3. The building official may consult with and be assisted by planning staff and others as necessary in making a finding of specific, adverse impact.

**Section 16.24.70 Coastal Regulations Apply in Full.**

Nothing in this section alters or lessens the effect or application of the California Coastal Act.