

CHAPTER 18.95 – URBAN LOT SPLIT AND TWO-UNIT PROJECTS (SENATE BILL 9)

Sections:

- 18.95.010** – Urban Lot Splits, Purpose of Chapter
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18.95.010 – Urban Lot Splits, Purpose of Chapter

This chapter establishes requirements for the preparation, filing, approval and recordation of Urban Lot Splits and Two-Unit Projects, consistent with the requirements of Government Code section 66411.7, enacted in 2020 as part of SB 9.

18.95.020 Urban Lot Split Preparation, Application Contents, Approval

- A. Definition.** An “urban lot split” means the subdivision of an existing, legally subdivided lot into two lots in accordance with the requirements of this section.

- B. Application.** 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). Any person with a mortgage interest in the lot to be split under this section must sign the application and the parcel map indicating the person’s consent to the project.
 1. An application for an urban lot split must be submitted on the Town’s approved form. Only a complete application will be considered. The Town will inform the applicant in writing of any incompleteness within 30 days after the application is submitted.
 2. The Town may establish a fee to recover its costs for adopting, implementing, and enforcing this section of the code, in accordance with applicable law. The Town Council may establish and change the fee by resolution. The fee must be paid with the application.

- C. Approval.** An application for a Parcel Map for an urban lot split shall be approved or denied ministerially, by the Director, without discretionary review.
 1. A Tentative Parcel Map for an urban lot split shall be approved ministerially if it complies with all the requirements of this section. Recordation of a Tentative Parcel Map is not required. A Final Parcel Map shall be 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 expiration date of the Tentative Map is determined by Subdivision Map Act Sections 66452.6 and 66463.5 and Development Code Section 18.96.140. An approved Tentative Map is valid for 24 months after its effective date (Section 18.96.090).

2. The approval must require the owner and applicant to hold the Town harmless from all claims and damages related to the approval and its subject matter.
3. The approval must require the owner and applicant to reimburse the Town for all costs of enforcement, including attorneys' fees and costs associated with enforcing the requirements of this code.
4. The lot created pursuant to the Urban Lot Split cannot be sold/transferred until the Final Parcel Map has been recorded.

D. Requirements. An urban lot split must satisfy each of the following requirements:

1. **Map Act Compliance.** 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. If an urban lot split violates any part of the SMA, the Town'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 Town has all the remedies available to it under the SMA, including but not limited to the following:
 - (1) An action to enjoin any attempt to sell, lease, or finance the property.
 - (2) An action for other legal, equitable, or summary remedy, such as declaratory and injunctive relief.
 - (3) 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.
 - (4) Record a notice of violation.
 - (5) 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.
2. **Zone.** The lot to be split is located a single-family residential zone, which only includes lots in the RS (Single Family Residential) and DRS (Downtown Single Family Residential) zone districts.

- 3. Lot Location.** The lot to be split is not located on a site that is any of the following:
- a. Prime farmland, farmland of statewide importance, or land that is zoned or designated for agricultural protection or preservation by the voters.
 - b. A wetland.
 - c. Within a very high fire hazard severity zone, unless the site complies with all fire-hazard mitigation measures required by the Truckee Fire Protection District.
 - d. A hazardous waste site that has not been cleared for residential use.
 - e. Within a delineated earthquake fault zone, unless all development on the site complies with applicable seismic protection building code standards.
 - f. Within a 100-year flood hazard area, unless the site has either:
 - (1) Been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction, or
 - (2) Meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program.
 - g. Within a regulatory floodway, unless all development on the site has received a no-rise certification.
 - h. Land identified for conservation in an adopted natural community conservation plan, habitat conservation plan, or other adopted natural resource protection plan.
 - i. Habitat for protected species.
 - j. Land under conservation easement.

The purpose of the 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).)

The applicant must provide evidence that the requirements of Government Code section 65913.4(a)(6)(B)–(K) are satisfied.

- 4. 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.
- 5. No Prior Urban Lot Split.** The lot to be split was not established through a prior urban lot split.

- a. 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. “Any person acting in concert with the owner” here includes any third-party that coordinates or assists the owners of two adjacent lots with their respective urban lot splits.

6. 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.

(1) As part of the urban lot split application, the applicant and the owner of a property must provide a sworn statement by affidavit representing and warranting that subpart (D)(6) is satisfied. The sworn statement must state that:

- (a) No housing that is income-restricted for households of moderate, low, or very low income will be demolished or altered.
- (b) No housing that is subject to any form of rent or price control will be demolished or altered.
- (c) No housing that has been withdrawn from rental or lease under the Ellis Act at any time in the last 15 years will be demolished or altered.
- (d) No housing that has been occupied by a tenant in the last three years will be demolished or altered.

(2) The Town 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 Town may require additional evidence of the applicant and owner as necessary to determine compliance with this requirement.

7. Lot Size. The lot to be split must be at least 2,400 square feet.

- a. The resulting lots must each be at least 1,200 square feet.

- b. Each of the resulting lots must be between 60 percent and 40 percent of the original lot area.
- 8. **Easements.** 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.
 - a. Each easement must be shown on the Tentative Parcel Map.
 - b. 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 (C)(1) above.
 - c. If an easement is recorded and the project is not completed, making the easement moot, the property owner may request, and the Town will provide, a notice of termination of the easement, which the owner may record.
- 9. **Lot Access.** Each resulting lot must have access to, provide access to, or adjoin the public right of way. Access shall comply with Section 18.30.020 (Access, General Standard).
 - a. Each resulting lot must have frontage on the public right of way of at least 20 feet.
 - b. Access driveways shall be developed in compliance with the standards in Section 18.48.080 (Driveways and Site Access).
- 10. **Unit Standards.**
 - a. **Quantity.** No more than two dwelling units of any kind may be built on a lot that results from an urban lot split. For purposes of this paragraph, “unit” means any dwelling unit, including, but not limited to, a primary dwelling unit, a unit created under section 18.95.040 of this code, an ADU, or a JADU
 - b. **Unit Size.** The total floor area of each primary dwelling that is developed on a resulting lot must be less than or equal to 800 square feet.
 - (1) A primary dwelling that was legally established prior to the urban lot split and that is larger than 800 square feet is limited to the lawful floor area at the time of the urban lot split. It may not be expanded.
 - (2) A primary dwelling that was legally established prior to the urban lot split and that is smaller than 800 square feet may be expanded to 800 square feet after the urban lot split.
- 11. **Height Restrictions.** No new primary dwelling unit may exceed two stories or 22 feet in height, measured from grade to peak of the structure. Any portion of a new primary dwelling that exceeds one story must be stepped back by an additional five feet from the ground floor; no balcony deck or other portion of the second story may project into the setback.

- a. No rooftop deck is permitted on any new or remodeled dwelling or structure on a lot resulting from an urban lot split.
- 12. Lot Coverage.** For lots in size ranging from 1,200 square feet to 5,000 square feet, the maximum lot coverage standard is 70%. For lots ranging in size from 5,001 square feet to 10,000 square feet, the maximum lot coverage standard is 50%. For lots greater than 10,000 square feet, the maximum lot coverage standard is 40%. These standards are only enforced to the extent that they do not prevent two primary dwelling units on the lot at 800 square feet each.
- 13. Setbacks.** All setbacks must conform to those objective setbacks that are imposed through the underlying zone.
- a. **Exceptions.** Notwithstanding the above:
 - (1) **Existing Structures.** No setback is required for an existing legally established structure or for a new structure that is constructed in the same location and to the same dimensions as an existing legally established structure.
 - (2) **800 square feet; four-foot side yard and rear yard.** The setbacks imposed by the underlying zone must yield to the degree necessary to avoid physically precluding the construction of up to two units on the lot or either of the two units from being a maximum of 800 square feet in floor area; but in no event may any structure be less than four feet from a side or rear property line.
 - b. **Front Setback Area.** Notwithstanding any other part of this code, dwellings that are constructed after an urban lot split must be at least 20 feet from the front property lines. There are no exceptions to this standard unless this standard would prevent two primary dwelling units on the lot at 800 square feet each.
- 14. Parking.** Each new primary dwelling unit that is built on a lot after an urban lot split must have at least one off-street parking space per unit unless one of the following applies:
- a. The lot is located within one-half mile walking distance of either a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours or, a site that contains:
 - (1) an existing rail or bus rapid transit station,
 - (2) a ferry terminal served by either a bus or rail transit service, or
 - (3) the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.
 - b. The site is located within one block of a car-share vehicle location.

- 15. Nonconforming Conditions.** An urban lot split may be approved without requiring a legal nonconforming zoning condition to be corrected.
- 16. Utilities.** Each primary dwelling unit on the resulting lots must have its own direct utility connection to the utility service provider.
- a. All water supply and sewage shall be provided by an established community system or by an on-site system approved by the Nevada County Environmental Health Department. A dwelling shall not be allowed on a parcel that is served by an on-site septic system unless approval is obtained from the Nevada County Environmental Health Department and the unit complies with the Lahontan Regional Water Quality Control Board requirements.
- 17. Building & Safety.** All new structures built on the lot must comply with all current local building standards. An urban lot split shall be considered a change of use.
- 18. Fire-Hazard Mitigation Measures.** A lot in a very high fire hazard severity zone must comply with all of the Truckee Fire Protection District fire hazard mitigation measures for residential construction.
- 19. Separate Conveyance.** Within a resulting lot:
- a. Primary dwelling units on a lot that is created by an urban lot split may not be owned or conveyed separately from each other.
 - b. Condominium airspace divisions and common interest developments are not permitted on a lot that is created by an urban lot split.
 - c. All fee interest in a lot and all dwellings on the lot must be held equally and undivided by all individual property owners.
 - (1) **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.
- 20. Regulation of Uses.**
- a. **Residential uses.** No non-residential use is permitted on any lot created by an urban lot split.
 - b. **Short-term rentals are prohibited.** 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.
21. **Deed Restriction.** The owner must record a deed restriction, acceptable to the Town, that does each of the following:
- a. Expressly prohibits 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 Town's urban lot split regulations, including all applicable limits on dwelling size and development.
22. **Specific Adverse Impacts.** Notwithstanding anything else in this section, the Town may deny an application for an urban lot split if the Chief 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.
- a. "Specific adverse impact" has the same meaning as in Gov. Code § 65589.5(d)(2), as it may be amended from time to time. As of January 1, 2022, this subsection provides as follows: "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).
 - b. The Chief Building Official may consult with and be assisted by Planning Division staff and others as necessary in making a finding of specific, adverse impact.

Section 18.95.030 Two-Unit Projects

- A. **Purpose.** The purpose of this section is to allow and appropriately regulate two-unit projects in accordance with Government Code section 65852.21.
- B. **Definition.** A "two-unit project" means the development of two primary dwelling units or, if there is already a primary dwelling unit on the lot, the development of a second primary dwelling unit on a legally subdivided lot in accordance with the requirements of this section.