

- 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.

18.95.030 - Two-Unit Projects, Purpose of Section

- 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.

18.95.040 - Two-Unit Projects Preparation, Application Contents, Approval

- A.** Only individual property owners may apply for a two-unit project. “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 a two-unit project must be submitted on the Town’s approved form.
- C.** For any lot created in violation of the SMA, the applicant must obtain a certificate of compliance with the SMA for the lot and provide the certificate with the application.
- D.** 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.
- E.** 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.
- F. Approval.** An application for a two-unit project shall be approved or denied ministerially, by the Director, without discretionary review.
 - 1. The ministerial approval of a two-unit project does not take effect until the Town has confirmed that the required documents have been recorded, such as the deed restriction and easements.
 - 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.
- G. Requirements.** A two-unit project must satisfy each of the following requirements:
 - 1. **Map Act Compliance.** The lot must have been legally subdivided.
 - 2. **Zone.** The lot 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 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 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 Impact on Protected Housing.** The two-unit project 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 police 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 two-unit project application, the applicant and the owner of a property must provide a sworn statement by affidavit representing and warranting that subpart (G)(5) 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.

6. Unit Standards.

- a. **Quantity.** No more than two dwelling units of any kind may be built on a lot that was created by 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 18.95.030 of this code, an ADU, or a JADU. A lot that is not created by an urban lot split may have a two-unit project under this section, plus any ADU and/or JADU that must be allowed under state law and the Town’s ADU ordinance.
- 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 on the lot prior to the two-unit project and that is larger than 800 square feet is limited to the lawful floor area at the time of the two-unit project. The unit may not be expanded.

- (2) A primary dwelling that was legally established prior to the two-unit project and that is smaller than 800 square feet may be expanded to 800 square feet after or as part of the two-unit project.
- 7. **Height Restrictions.** On a resulting lot that is larger than 2,000 square feet, no new primary dwelling unit may exceed a single story or 16 feet in height, measured from grade to peak of the structure.
 - a. On a resulting lot that is smaller than 2,000 square feet, 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.
 - b. No rooftop deck is permitted on any new or remodeled dwelling or structure on a lot resulting from an urban lot split.
- 8. **Demolition Cap.** The two-unit project may not involve the demolition of more than 25 percent of the existing exterior walls of an existing dwelling unless the site has not been occupied by a tenant in the last three years.
- 9. **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..
- 10. **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 at least 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.

11. **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.
12. **Nonconforming Conditions.** A two-unit project may only be approved if all nonconforming zoning conditions are corrected.
13. **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.
14. **Building & Safety.** All new structures built on the lot must comply with all current local building standards.
15. **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.
16. **Separate Conveyance.**
 - a. Primary dwelling units on the lot may not be owned or conveyed separately from each other.
 - b. Condominium airspace divisions and common interest developments are not permitted within the lot.
 - c. All fee interest in a lot and all dwellings on the lot must be held equally and undivided by all individual property owners.

- d. No timeshare, as defined by state law or this code, is permitted. This includes any co-ownership arrangement that gives an owner the right to exclusive use of the property for a defined period or periods of time.

17. Regulation of Uses.

- a. **Residential-only.** No non-residential use is permitted on the lot.
- b. **No STRs.** No dwelling unit on the lot may be rented for a period of less than 30 days.
- c. **Owner Occupancy.** Unless the lot was formed by an urban lot split, the individual property owners of a lot with a two-unit project must occupy one of the dwellings on the lot as the owners' principal residence and legal domicile.

18. 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 lot.
- 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. If the lot does undergo an urban lot split: Expressly requires the individual property owners to live in one of the dwelling units on the lot as the owners' primary residence and legal domicile.
- e. Limits development of the lot to residential units that comply with the requirements of this section, except as required by state law.

20. Specific Adverse Impacts. Notwithstanding anything else in this section, the Town may deny an application for a two-unit project 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.

21. Remedies. If a two-unit project violates any part of this code or any other legal requirement:

- a. The buyer, grantee, or lessee of any part of the property has an action for damages or to void the deed, sale, or contract.
- b. The Town may:
 - (1) Bring an action to enjoin any attempt to sell, lease, or finance the property.
 - (2) Bring an action for other legal, equitable, or summary remedy, such as declaratory and injunctive relief.
 - (3) Pursue 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.
 - (6) Pursue all other administrative, legal, or equitable remedies that are allowed by law or the municipal code.

