

# Article 9

## State-Mandated Procedures

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## Chapter 17.900 – General

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### Sections:

- 17.900.010 – Purpose
- 17.100.020 – Adoption
- 17.900.020 – Applicability
- 17.900.030 – Definitions
- 17.900.040 – Approval Authority

### **17.900.010 – Purpose**

The purpose of this Article is to implement the provisions of Senate Bill 9 and any other land use procedure that state law mandates on the City but that would otherwise be inconsistent with the City's land use and development policies, procedures or regulations. The purpose of this Article is to implement all City land use and development policies, procedures or regulations to the maximum extent allowed under state law.

### **17.900.020 – Applicability**

This Chapter shall only apply to the extent that the City is required to ministerially approve applications for development actions under state law provisions. This Article shall not be construed to allow any greater rights to approval of a development application than the City is required to grant under state law. To the extent any state-mandated procedure in this Article is repealed, determined to be unlawful or is otherwise not mandatory upon the City, then this Article shall not allow for approval of any such applications. This provisions of this Article shall continue to apply to any development applications previously approved hereunder.

Specifically, this Article shall apply to:

- A. Urban lot splits under Government Code section 66411.7.
- B. Two unit projects under Government Code section 65852.21.

### **17.900.030 – Definitions**

Terms defined in Chapter 17.800 of this Development Code shall have the same meanings in this Article. The following terms used in this Article shall be defined as follows:

- A. "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 Revenue and Taxation Code section 402.1(a)(11)(C)(ii)) or a qualified nonprofit corporation (as defined by Revenue and Taxation Code section 214.15).
- B. "MSHCP" means the Western Riverside County Multiple Species Habitat Conservation Plan, as implemented by City Council through Resolution No. 2479 and all related actions and obligations incorporated thereunder.
- C. "MSHCP Area" means the land that is identified by the MSHCP for conservation, including reserve assembly, has the potential for on-site biological resources outlined in the MSHCP, or is subject a HANS or JPR process. Terms used in this paragraph shall have the meanings utilized by the Western Riverside County Regional Conservation Authority in its implementation of the MSHCP.
- D. "Specific adverse impact" has the same meaning as in Government Code section 65589.5(d)(2), which is 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).
- E. 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.
- F. "Urban lot split" means the subdivision of an existing, legally subdivided lot into two lots in accordance with the requirements of Government Code section 66411.7 and this Chapter pursuant to a ministerial approval process.

#### **17.900.040 – Approval Authority**

- A. **Director.** The Director shall have authority to approve or deny all applications that are subject to ministerial approval in accordance with this Article.
- B. **Appeal.** The applicant may appeal a decision of the Director under this Article in accordance with Chapter 17.715. Review on appeal shall be ministerial and shall be limited to a determination as to whether the application meets all requirements

for approval. The applicant shall have the burden of showing in all respects that the City must ministerially approve the application as presented.

1. **Specific Adverse Impacts.** If the applicant contends that specific adverse impacts of the proposed project can be satisfactorily mitigated or avoided, then the appeal must set forth in detail how the applicant will mitigate or avoid such specific adverse impacts. If the applicant contends that there are no specific adverse impacts, the applicant shall submit all information to rebut the Director's finding with the appeal.

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## Chapter 17.905 – SB 9 – Urban Lot Splits

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### Sections:

- 17.905.010 – Applicants; Approval Authority
- 17.905.020 – Development and Subdivision Standards
- 17.905.030 – Grounds for Denial
- 17.905.040 – Standards Specific to Urban Lot Splits
- 17.905.050 – Separate Conveyance
- 17.905.060 – Restriction of Uses
- 17.905.070 – Deed Restriction
- 17.905.080 – Review for Parcel Merger or Reversion to Acreage

### 17.905.010 – Applicants; Approval Authority

- A. **Owners/Lienholders.** Only individual property owners may apply for an urban lot split. Any person with a security interest in, or other senior lien against, the lot to be split as an urban lot split must consent and subordinate to recordation of the restrictions resulting from the urban lot split against the title of the property.
- B. **Application.** An application for an urban lot split must be submitted on a form approved by the Director and shall contain all information that the Director requires. Only a complete application will be considered. The City's application form shall, at a minimum, require the applicant to submit the following:
  - 1. Evidence that the applicant is an individual property owner of the lot to be split.
  - 2. If applicable, compliance with the consent and subordination requirements provided in subsection (A) above.
  - 3. A signed 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.
  - 4. A signed affidavit indicating that the applicant acknowledges and agrees that each lot created by the urban lot split will be used for residential purposes only and that the applicant intends to use the lots for that purpose.
  - 5. A signed affidavit stating that there are no conditions, covenants or restrictions on the property that prohibit subdivision of the property, and if requested by city, any supporting documentation showing that there are

- no such conditions, covenants or restrictions on the property.
6. If the lot would result in the demolition or alteration of existing housing, proof that no housing on the lot has been occupied by a tenant within the last three years.
  7. Proof that none of the circumstances set forth in section 17.905.030(F) (Prior Urban Lot Split) are present.
  8. Proof that none of the circumstances set forth in section 17.905.030(E) (Historic Properties and Districts) and section 17.905.030(G) (Impact on Protected Housing) are present.
  9. Proof of any inspections required under section 17.905.030(D).
  10. A title report, litigation guarantee or other documentation showing evidence of any senior security interests or liens against the property.
- C. **Application Fee.** The City may establish a fee to recover its costs for adopting, implementing, and enforcing this Chapter, in accordance with applicable law. The City Council may establish and change the fee by resolution. The fee must be paid with the application. In absence of an established fee that is specific to an urban lot split, an applicant shall pay all fees related to processing a parcel map. The fee may be in the form of a deposit for the City's actual costs incurred.

#### 17.905.020 – Development and Subdivision Standards

- A. **Objective Development Standards.** An urban lot split, and any development of a parcel created from an urban lot split, shall comply with all requirements of this Chapter, all objective development standards set forth in this Code or otherwise established by the City, and all other City requirements that are not in conflict with Government Code section 66411.7.
- B. **Subdivision Standards.** Except as otherwise expressly provided in this Chapter, an urban lot split must conform to all applicable objective requirements of the Subdivision Map Act (Government Code section 66410 *et. seq.*) and Title 16 of the San Jacinto Municipal Code. The Director shall be the approval authority for both the tentative and final map.
1. **Exception.** No dedication of rights-of-way or construction of offsite improvements shall be required for an urban lot split. This exception shall only apply to the extent that Government Code section 66411.7 precludes

the city from requiring dedications of rights-of-way or construction of offsite improvements. This section shall not preclude denial of an urban lot split if the project would have a specific adverse impact on either public health and safety or on the physical environment unless the applicant dedicates rights-of-way or constructs offsite improvements.

### 17.905.030 – Grounds for Denial

The Director shall deny an application for an urban lot split if any of the following are true:

- A. **Development and Subdivision Standards.** The lot to be split does not satisfy the requirements of 17.905.020 – Development and Subdivision 17.905.020 – Development and Subdivision Standards, or 17.905.040 – Standards Specific to Urban Lot Splits).
- B. **Zone.** The lot to be split is not zoned for single family residential uses. If the lot is designated as a Specific Plan area, then it will be considered to be zoned for residential uses under this section if the lot is within a portion of the Specific Plan where a single family residence is a permitted use.
- C. **Statutory Exemptions.** The lot to be split does not satisfy the requirements of Government Code section 65913.4(a)(6)(B)–(K). (See Government Code section 66411.7(a)(3)(C).)
  1. **Protected Habitat.** The exemption under Government Code section 65913.4(a)(6)(J) shall apply to all land within the MSHCP Area.
- D. **Inspection.**
  1. **Very High Fire Hazard Severity Zone.** For lots within a very high fire hazard severity zone, the application does not include proof of an inspection by the City’s building official or other City designee confirming full compliance all existing fire and building code standards.
  2. **Earthquake Fault Zone.** For lots within a delineated earthquake fault zone, the application does not include proof of an inspection by the City’s building official or other City designee confirming full compliance with applicable seismic protection building code standards. Such inspection

shall include all standard City requirements for development within an earthquake fault zone.

- E. **Historic Properties and Districts.** The lot to be split is a historic property or within a historic district that is included on the State Historic Resources Inventory or the lot to be split is within a site that is designated by ordinance as a city landmark or as a historic property or within a historic district.
- F. **Prior Urban Lot Split.** The lot to be split was established through a prior urban lot split, or the lot to be split is adjacent to a 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.
- G. **Impact on Protected Housing.** The urban lot split requires or includes the demolition or alteration of any of the following types of housing:
1. Housing that is income-restricted for households of moderate, low, or very low income.
  2. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.
  3. Housing, or a lot that used to have housing, that has been withdrawn from rental or lease under the Ellis Act (Government Code sections 7060–7060.7) at any time in the 15 years prior to submission of the urban lot split application.
  4. Housing that has been occupied by a tenant in the last three years.
- H. **Lot Size.**
1. The lot to be split is smaller than 2,400 square feet.
  2. Either resulting lot is less than 1,200 square feet.
  3. Either resulting lot is more than 60 percent or less than 40 percent of the original lot area.

- I. **Unit Count.** Either or both of the resulting lots will have more than two units. For purposes of this section, a “unit” is any type of dwelling, including but not limited to an ADU or JADU, except to the extent such definition is determined to be inconsistent with Government Code section 66411.7.
- J. **Easements.** The applicant does not convey all easements required for the provision of public services and facilities.
- K. **Specific Adverse Impacts.** If the Director 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.
1. A specific adverse impact includes, but is not limited to, the following:
    - a. The subdivision or development within the MSHCP Area, which is based on the specific and defined environmental impacts on protected species and habitat, as well as established procedures for mitigating and avoiding such impacts as set forth in the MSHCP.
    - b. Any lot split which results in a driveway or other vehicular access that does not provide safe access into traffic or onto the lot from traffic.
  2. Because Government Code section 66411.7 precludes the City from requiring any dedication of rights-of-way or construction of offsite improvements, the Director shall deny any application where either dedication of rights-of-way and/or construction of offsite improvements is necessary to satisfactorily mitigate a specific adverse impact, including but not limited to where a subdivision or development of property would otherwise require a dedication for sidewalk, parkways, curbs, gutters, street and road improvements or other traffic improvements.
  3. The City Council may establish additional guidelines that set forth circumstances where a project will have a specific adverse impact on either the public health and safety or on the physical environment. Nothing herein shall hinder or constrain the Director’s discretion to make written findings, based on a preponderance of the evidence, that a 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.

- L. **Not Feasible For Residential Use.** If either resulting lot is not feasible for residential use.
- M. **No Legal Requirement.** If for any reason, including but not limited to repeal of Government Code section 66411.7, initiative or referendum, court decision or any circumstance in which section 66411.7 does not obligate the ministerial approval of an urban lot split, or if for any reason the Director is not required to ministerially approve an urban lot split.

#### 17.905.040 – Standards Specific to Urban Lot Splits

- A. **Applicability.** The following development standards shall apply to urban lot splits subject to approval under this Chapter. This section shall govern in the event of a conflict between this section and any other development standard contained outside of Chapter 17.905.
- B. **Lot Access.** Each resulting lot must have direct access to the public right-of-way, which shall be shown on the tentative and final map.
- C. **Unit Quantity.** No more than two units of any kind are permitted on any lot 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 Chapter 17.910 (SB 9 Two-Unit Projects), an ADU or a JADU.
- D. **Unit Size.** Notwithstanding any other provisions of the Development Code, a unit other than an ADU or JADU on any lot resulting from an urban lot split shall be limited as follows:
  - 1. The total floor area of each residential unit developed on a lot to be split must be less than or equal to 800 square feet and more than 500 square feet.
  - 2. A primary dwelling that was legally established prior to the urban lot split and that is larger than 800 square feet in floor area is limited to the lawful floor area and structural footprint at the time of the urban lot split. It may not be expanded.

3. A primary dwelling that was legally established prior to the urban lot split and that is smaller than 800 square feet in floor area may be expanded to 800 square feet in floor area after the urban lot split.

**E. Setbacks.**

1. Subject to subsections (2) and (3) below, development on either or both of the resulting lots does must comply with all standard setbacks for its location.
2. Only to the extent necessary to avoid a conflict with Government Code section 66411.7, 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.
3. A unit may encroach into the side or rear setback only if strict application of the setback standard would have the effect of physically precluding the construction of two units of up to 800 square feet on a resulting parcel, in which case the encroachment into the setback shall be only as necessary to enable construction of the unit or units at a maximum size of 800 square feet. However, in no event may any unit be constructed without at least providing a four foot setback from the side and rear lot lines.

- F. Parking.** Subject to Government Code section 66411.7(e)(3)(A)-(B), each new primary dwelling unit that is built on a lot after the urban lot split must provide at least one off-street parking space per unit. This section does not preclude an applicant from complying with the City's standard parking requirements.

- G. Utilities.** Each dwelling unit on the resulting lots must have its own direct utility connection to the utility service provider.

1. For each dwelling unit on the resulting lots that is or that is proposed to be connected to an onsite wastewater treatment system, the applicant must: (1) demonstrate that each primary dwelling unit will have its own septic tank and leach line; (2) submit a percolation test completed within the last five years or, if the percolation test has been recertified, within the last 10 years. This section shall not be interpreted to allow an onsite water treatment system where a sewer connection is available or where the property is required to connect to sewer.

**17.905.050 – Separate Conveyance**

- A. **Within Resulting Lots.** Within a resulting lot:
1. Dwelling units on a single lot that is created by an urban lot split may not be owned or conveyed separately from each other.
  2. Condominium airspace divisions and common interest developments are not permitted on a lot that is created by an urban lot split.
  3. All fee interest in a lot must be held equally and undivided by all individual property owners.
- B. **Between Resulting Lots.** 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 conditions, covenant, restrictions, easements or other documentation that is necessary to allocate risk and responsibility between the owners of the two lots.

**17.905.060 – Restriction of Uses**

- A. **Residential-only.** No non-residential use is permitted on any lot created by an urban lot split.
- B. **No Short Term Rentals.** 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.

**17.905.070 – Deed Restriction**

A. **Required Provisions.** An urban lot split shall not become effective unless the owner records a deed restriction with senior-lien priority for the benefit of the City, in a form acceptable to the Director and the City Attorney, that provides constructive notice of the restrictions resulting from an urban lot split and does each of the following:

1. Gives notice that the parcel was created through an urban lot split.
2. Gives notice of any site limitations resulting from the urban lot split, including but not limited to the size of units on the parcel and the allowable uses for the parcel.
3. Expressly prohibits any development or construction on the parcel that would be inconsistent with this Chapter.
4. Expressly prohibits any rental of any dwelling on the property for a period of less than 30 days.
5. Expressly prohibits any non-residential use of the lots created by the urban lot split.
6. Expressly prohibits any separate conveyance of a primary dwelling on the property, any separate fee interest, and any common interest development within the lot.
7. Identifies the City as an intended third-party beneficiary with the right, but not the obligation, to enforce its terms and provisions.

B. **Mortgagee Consent and Subordination.**

1. The owner shall obtain the consent of any person holding a security interest in the lot, or any other senior lienholder, to subordinate such interest to the deed restriction, and the subordination agreement shall be recorded together with the deed restriction.
2. The Director may require the owner to submit a title report, litigation guarantee or similar document in order to show proof that the deed restriction will be in senior position.

- C. **Recordation.** The deed restriction and any subordination agreement shall be recorded concurrently with the final map. Submitting a final map for approval shall be deemed to be the applicant's consent to the City to record the deed restriction with the final map.
- D. **Building Permit.** The Director shall not issue a building permit for development on any lot created through an urban lot split unless the applicant provides a recorded copy of a deed restriction and any applicable subordination agreement that satisfies the provisions set forth in subsections (A) – (C) above.

#### 17.905.080 – Review for Parcel Merger or Reversion to Acreage

- A. **Grounds.** For any lot created by an urban lot split, the City Council may initiate proceedings to effectuate a reversion to acreage or a lot merger in accordance with the Subdivision Map Act and any applicable City procedures. City staff shall review whether a reversion to acreage or parcel merger is warranted if any of the following have occurred:
- a. If more than one year has elapsed since the lot was created and a building permit for residential development thereon has not been issued;
  - b. The holder of a building permit does not commence construction within 18 months of the date the permit was issued; or
  - c. The lot is otherwise subject to a reversion to acreage or a lot merger.

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**Chapter 17.905 – SB 9 – Two-Unit Projects**

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**Sections:**

- 17.910.010 – Applicants; Approving Authority
- 17.910.020 – Objective Development Standards
- 17.910.030 – Grounds for Denial
- 17.910.040 – Standards Specific to Two-Unit Projects
- 17.910.050 – Separate Conveyance
- 17.910.060 – Restriction of Uses
- 17.910.070 – Deed Restriction

**17.910.010 – Applicants; Approving Authority**

- A. **Owners/Lienholders.** Only individual property owners may apply for a two-unit project. Any person with a security interest in, or other senior lien against, the lot to be developed with a two-unit project must consent and subordinate to recordation of the restrictions resulting from the two-unit project against the title of the property.
- B. **Application.** An application for a two-unit project must be submitted on the City's approved form. Only a complete application will be considered. The City's application form shall, at a minimum, require the applicant to submit the following:
  - 1. Evidence that the applicant is an individual property owner.
  - 2. If applicable, compliance with the consent and subordination requirements provided in subsection (A) above.
  - 3. Proof that none of the circumstances set forth in section 17.910.030(F) (Historic Properties and Districts) and section 17.910.030(G) (Impact on Protected Housing) are present.
  - 4. A signed affidavit indicating that the applicant acknowledges and agrees that the lot will be used for residential purposes only.
  - 5. Proof of any inspections required under section 17.910.030(M.1).
  - 6. Proof that the requirements of section 17.910.040(E) (Demo Cap) are satisfied.

7. If the lot would result in the demolition or alteration of existing housing, proof that no housing on the lot has been occupied by a tenant within the last three years.
  8. A title report, litigation guarantee or other documentation showing evidence of any senior security interests or liens against the property.
- C. **Application Fee.** The City may establish a fee to recover its costs for adopting, implementing, and enforcing this Chapter, in accordance with applicable law. The City Council may establish and change the fee by resolution. The fee must be paid with the application. In the absence of a fee specific to two-unit projects, the applicant shall pay the fee related to site plan review. The fee may be in the form of a deposit for the City's actual costs incurred. Nothing in this section shall limit the requirements to pay any other City fees, including building permit processing fees.

#### 17.910.020 – Objective Development Standards

A two-unit project shall comply with all requirements of this Chapter, all objective development standards set forth in this Code or otherwise established by the City, and all other requirements that are not in conflict with Government Code section 65852.21.

#### 17.910.030 – Grounds for Denial

The Director shall deny an application for a two-unit project if any of the following are true:

- A. **Development Standards.** The two-unit project does not satisfy the requirements of 17.910.020 – Objective Development Standards) or 17.910.040 – Standards Specific to Two-Unit Projects).
- B. **Lawful Subdivision.** The lot was not legally subdivided.
- C. **Zone.** The lot is not zoned for single-family residential uses. If the lot is designated as a Specific Plan area, then it will be considered to be zoned for residential uses under this section if the lot is within a portion of the Specific Plan where a single family residence is a permitted use.
- D. **Statutory Exemptions.** The lot does not satisfy the requirements of Government Code section 65913.4(a)(6)(B)–(K). (See Government Code section 66411.7(a)(3)(C).)

1. **Protected Habitat.** The exemption under Government Code section 65913.4(a)(6)(J) shall apply to all land within the MSHCP Area.
- E. **Inspection.**
1. **Very High Fire Hazard Severity Zone.** For lots within a high fire hazard severity zone, the application does not include proof of an inspection by the City's building official or other City designee confirming full compliance with all existing fire and building code standards.
  2. **Earthquake Fault Zone.** For lots within a delineated earthquake fault zone, the application does not include proof of an inspection by the City's building official or other City designee confirming full compliance with applicable seismic protection building code standards. Such inspection shall include all standard City requirements for development within an earthquake fault zone.
- F. **Historic Properties and Districts.** The lot is a historic property or within a historic district that is included on the State Historic Resources Inventory or is within a site that is designated by ordinance as a city landmark or as a historic property or within a historic district.
- G. **Impact on Protected Housing.** The two-unit project requires or includes the demolition or alteration of any of the following types of housing:
1. Housing that is income-restricted for households of moderate, low, or very low income.
  2. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.
  3. Housing, or a lot that used to have housing, that has been withdrawn from rental or lease under the Ellis Act (Government Code sections 7060–7060.7) at any time in the 15 years prior to submission of the urban lot split application.
  4. Housing that has been occupied by a tenant in the last three years.
- H. **Unit Count.** The applicant proposes to construct more than two units, to add a unit to a lot that already contains two or more units, to add two or more units to a lot with at least one existing unit, or the lot violates section 17.910.040(B).

- I. **Specific Adverse Impacts.** If the Director 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.
1. A specific adverse impact includes, but is not limited to, the following:
    - a. The lot is within the MSHCP Area, which is based on the specific and defined environmental impacts on protected species and habitat, as well as established procedures for mitigating and avoiding such impacts as set forth in the MSHCP.
    - b. The two-unit project would result in a driveway or other vehicular access that does not provide safe access into traffic or onto the lot from traffic.
  2. The City Council may adopt, by resolution or ordinance, guidelines that set forth additional circumstances that create a rebuttable presumption that a project will have a specific adverse impact on either the public health and safety or on the physical environment. Nothing herein shall hinder or constrain the Director’s discretion to make written findings, based on a preponderance of the evidence, that a 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.
- J. **No Legal Requirement.** If for any reason, including but not limited to repeal of Government Code section 65852.21, initiative or referendum, court decision or any circumstance in which section 65852.21 does not obligate the ministerial approval of a two-unit project, or if for any reason the Director is not required to ministerially approve a two-unit project.

#### 17.910.040 — Standards Specific to Two-Unit Projects

- A. **Applicability.** The following development standards shall apply to two-unit projects approved under this Chapter. This section shall govern in the event of a conflict between this section and any other development standard contained outside of Chapter 17.910.

- B. **No Multifamily Dwellings.** A two-unit project shall not result in the creation of a multifamily dwelling. “Multifamily dwelling” or “multifamily lot” means a property that has two (2) or more permitted attached dwellings on a single lot. Two-unit projects shall only consist of two detached dwellings on a single lot.
- C. **Dedications/Offsite Improvements.** The applicant shall dedicate right-of-way and impose offsite improvements as would be required for any subdivision dividing the property into two lots or as otherwise would be required under any City law, regulation or policy, including but not limited to the dedication of right-of-way for, and/or improvement of, sidewalks, curb, gutter, streets, or stormwater facilities.
- D. **Unit Size.** A unit developed under this Chapter shall be limited as follows:
1. The total floor area of each unit that is developed under this Chapter must be: (1) less than or equal to 800 square feet and (2) more than 500 square feet.
  2. A unit that was legally established on the lot prior to the two-unit project and that is larger than 800 square feet in floor area is limited to the lawful floor area and structural footprint at the time of the two-unit project. The unit may not be expanded.
  3. A unit that was legally established prior to the two-unit project and that is smaller than 800 square feet in floor area may be expanded to 800 square feet in floor area after or as part of the two-unit project.
- E. **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.
- F. **Setbacks.**
1. Subject to subsections (F.2) and (F.3) below, all setbacks must comply with the standard setbacks for its location.
  2. Only to the extent necessary to comply with Government Code section 65852.21, 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.

3. A unit may encroach into the side or rear setback only if strict application of the setback standard would have the effect of physically precluding the construction of up to two units on the lot or that would result in a unit size of less than 800 square feet in floor area, in which case the encroachment into the setback shall be only as necessary to enable construction of the unit or units at a maximum size of 800 square feet in floor area. However, in no event may any unit be constructed without at least providing a four foot setback from the side and rear lot lines.
- G. **Parking.** Subject to Government Code section 65852.21(c)(1)(A)-(B), each new primary dwelling unit must provide at least one off-street parking space per unit. This section does not preclude an applicant from complying with the standard parking requirements of the Development Code.
- H. **Nonconforming Conditions.** A two-unit project may only be approved if all nonconforming zoning conditions are corrected.
- I. **Utilities.** Each dwelling unit on the lot must have its own direct utility connection to the utility service provider.
1. Each dwelling unit on the lot that is or that is proposed to be connected to an onsite wastewater treatment system, the applicant must: (1) demonstrate that each primary dwelling unit will have its own septic tank and leach line; (2) submit a percolation test completed within the last five years or, if the percolation test has been recertified, within the last 10 years. This section shall not be interpreted to allow an onsite water treatment system where a sewer connection is available or required.

#### 17.910.050 — Separate Conveyance

- A. **Separate Ownership or Conveyance.** Primary dwelling units on the lot may not be owned or conveyed separately from each other.
- B. **Condominiums.** Condominium airspace divisions and common interest developments are not permitted within the lot.
- C. **Fee Interests.** All fee interest in the lot and all the dwellings must be held equally and undivided by all individual property owners.

**17.910.060 – Restriction of Uses**

- A. **Residential-only.** No non-residential use is permitted on the lot.
- B. **No Short-Term Rentals.** 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.

**17.910.070 – Deed Restriction**

- A. **Required Provisions.** The owner must record a deed restriction with senior priority for the benefit of the City, in a form acceptable to the Director and the City Attorney, that provides constructive notice of the restrictions resulting from the two-unit project and does each of the following:
  - 1. Gives notice that the two-unit project was created pursuant to this Chapter.
  - 2. Gives notice of any site limitations resulting from the two-unit project, including but not limited to restrictions on off-street parking, the size of units on the parcel and on the ability to obtain a standards modification for the parcel.
  - 3. Expressly prohibits any development or construction on the parcel that would be inconsistent with this Chapter.
  - 4. Expressly prohibits any rental of any dwelling on the property for a period of less than 30 days.
  - 5. Expressly prohibits any non-residential use of the lot.
  - 6. Expressly prohibits any separate conveyance of a primary dwelling on the property, any separate fee interest, and any common interest development within the lot.
  - 7. 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.

8. Identifies the City as an intended third-party beneficiary with the right, but not the obligation, to enforce its terms and provisions.

**B. Mortgagee Consent and Subordination.**

1. The owner shall obtain the consent of any person holding a security interest in the lot, or any other senior lienholder, to subordinate such interest to the deed restriction, and the subordination agreement shall be recorded together with the deed restriction.
2. The Director may require the owner to submit a title report, litigation guarantee or similar document in order to show proof that the deed restriction will be in senior position.

- C. Building Permit.** The Director shall not issue a building permit for any two-unit project unless the applicant provides a recorded copy of a deed restriction and applicable subordination agreement that satisfies the provisions set forth in subsections (A)-(B) above.