

TITLE 16 SUBDIVISIONS

16.15.005 Purpose and applicability.

The purpose of this chapter is to appropriately regulate qualifying “urban lot splits” within qualifying locations in ~~low-density residential (R-1) zones in accordance with California Government Code Sections 66411.7, state law.~~

For the purposes of this chapter, urban lot splits subject to California Government Code Sections 65852.21 and 66411.7 (and other comparable provisions which may hereafter be added by the legislature) shall be referred to as “minor urban lot splits.” Urban lot splits subject to California Government Code Sections 65852.28, 65913.4.5, and 66499.41 (and other comparable provisions which may hereafter be added by the legislature) shall be referred to as “major urban lot splits.” The use of the phrase “urban lot split” on its own is in reference to both major and minor urban lot splits.

A. *Applicability.* The standards and limitations set forth in this chapter shall apply to minor urban lot splits under California Senate Bill 9 of 2021 (“SB-9”) within the R-1 zone residential zones in the city, and major urban lot splits within the R-1 (vacant lots only; no larger than one and one-half acre), R-2, R-3, and R-4 zones, notwithstanding any other conflicting provisions of this code. In the event of a conflict between the provisions of this chapter and any other provision of this code, the provisions of this chapter shall prevail.

B. *Interpretation.* The provisions of this chapter shall be interpreted to be consistent with the provisions of California Government Code ~~Section~~ Sections 66411.7 and 66499.41, and shall be applied in a manner consistent with state law. The city shall not apply any requirement or development standard provided for in this chapter to the extent prohibited by any provision of state law.

C. *Permitted Locations.* ~~A lot on which an urban lot split is proposed must be located within an R-1 zone and meet all qualifying requirements of Section 16.15.020. A lot subject to a minor urban lot split must be located within an R-1 zone and meet all qualifying requirements of Section 16.15.020. A lot subject to a major urban lot split must be located within an R-1 (vacant lot only; no larger than one and one-half acre), R-2, R-3, or R-4 zone that is no larger than five acres, substantially surrounded by urban uses, and meet all qualifying requirements of Section 16.15.022. (Ord. 1729 § 4 (Exh. A), 2023)~~

16.15.010 Permit application and review procedures.

A. *Application.* ~~An~~ Per state law, an applicant for an ~~SB-9~~ urban lot split shall submit all required items from the tentative map application on file at the community development department. The application shall be accepted if it is completed as prescribed and accompanied by payment for all applicable fees. In addition to all required submittal checklist items for a tentative map, sufficient information shall be provided in the application to demonstrate, through objective review, the following: (1) the lots will accommodate development that complies with development standards and city codes, (2) information is provided to justify any proposed exceptions to objective standards, (3) sufficient access to the public right-of-way is provided or preserved, (4) the lots accommodate needed easements, infrastructure, and emergency access, and (5) any information deemed necessary by the director for objective review as needed evidence that the proposal will not result in any specific adverse impacts.

B. *Review.* Consistent with state law, the director will review and determine compliance of a complete application for an ~~SB-9~~ urban lot split pursuant to this Chapter ministerially, without discretionary review or public hearing.

C. *Effectiveness of Approval.* The ministerial approval of a final parcel map for an urban lot split does not take effect until the city has confirmed that all required documents have been recorded at the county clerk-recorder.

D. *Specific, Adverse Impacts.* Notwithstanding anything else in this section, the director shall deem an application for ~~a tentative parcel map~~ an urban lot split noncompliant upon written findings, based on a preponderance of the evidence, that the ~~project~~ proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of California Government Code Section 65589.5, ~~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. (Ord. 1729 § 4 (Exh. A), 2023)

E. *Procedural Requirements.* Within sixty days of receiving a complete application for an urban lot split, the city shall ministerially approve any such application which complies with all applicable requirements and development standards identified in this chapter. If the application does not comply with the listed requirements and standards identified in this chapter, the applicant will receive a full set of comments with a list of items that are defective or deficient and a description of how the application can be

remedied by said applicant. These procedural requirements shall also apply to the housing development project associated with the urban lot split.

16.15.020 Qualifying requirements

~~A proposed urban lot split~~ Minor and major urban lot splits must meet all of the following requirements, unless otherwise stated in this chapter, in order to be an eligible urban lot split under their respective Government Code sections. ~~Government Code Section 66411.7 (urban lot split)~~ It shall be the responsibility of the applicant to demonstrate to the satisfaction of the director that each of these requirements is satisfied. The applicant and/or owner of the property shall provide a sworn statement, in a form approved by the director, attesting to all facts necessary to establish that each requirement is met.

~~A. Maximum Number of Dwellings. An urban lot split shall not result in more than two dwelling units of any kind on the resulting parcels. As described by Government Code Section 66411.7(j), the two-unit limitation applies to any combination of primary dwelling units, ADUs, or JADUs.~~

1. A minor urban lot split shall not result in more than two dwelling units of any kind on the resulting parcels. As described by California Government Code Section 66411.7(j), the two-unit limitation applies to any combination of primary dwelling units, ADUs, or JADUs.

2. A major urban lot split shall contain at least one dwelling unit on each resulting parcel (see California Government Code Section 66499.41(e)). A maximum of ten dwelling units may be developed on the parcel to be subdivided. As described by Section 66499.41(g), the City may deny an application which proposes accessory dwelling units and/or junior accessory dwelling units on the resulting parcel(s).

~~B. Hazardous and Protected Areas. The proposed lot split shall not be located on any site identified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of California Government Code Section 65913.4, unless the development satisfies the requirements specified therein. Such sites include, but are not limited to, prime farmland, wetlands, high or very high fire hazard severity zones, special flood hazard areas, regulatory floodways, and lands identified for conservation or habitat preservation as specifically defined in Government Code Section 65913.4.~~

1. A minor urban lot split shall not be located on any site identified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of California Government Code Section 65913.4, unless the development satisfies the requirements specified therein. Such sites include, but are not limited to, prime farmland, wetlands, high or very high fire hazard severity zones, special flood hazard areas, regulatory floodways, and lands identified for conservation or habitat preservation as specifically defined in Government Code Section 65913.4.

2. A major urban lot split shall not be located on any site identified in subparagraphs (A) to (J), inclusive, of paragraph (9) of subdivision (a) of California government Code Section 66499.41, unless the development satisfies the requirements specified therein. Such sites include, but are not limited to, prime farmland, wetlands, very high fire hazard severity zones, special flood hazard areas, regulatory floodways, and lands identified for conservation or habitat preservation.

C. *Historic Properties.* ~~The proposed~~ A minor urban lot split shall not be located within a historic district or on property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the California Public Resources Code, or within a site that is designated or listed as a historic resource pursuant to the city's historic preservation ordinance.

D. ~~*Affordable Housing. Demolition or Alteration of Housing.*~~ ~~The proposed~~ A minor urban lot split shall not require the demolition or alteration of the types of housing ~~that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.~~ identified in subparagraph (D), inclusive, of paragraph (3) of subdivision (a) of California Government Code Section 66411.7. A major urban lot split shall not require the demolition or alteration of the types of housing identified in paragraph (8), inclusive, of subdivision (a) of California Government Code Section 66499.41.

E. *Subsequent Urban Lot Splits.* In the case of an urban lot split, the lot proposed to be subdivided shall not have been established through a prior urban lot split.

F. *Adjacent Urban Lot Splits.* In the case of ~~an~~ a minor urban lot split, the lot proposed to be subdivided ("subject lot") shall not be adjacent to any lot that was established through ~~an~~ a minor urban lot split by the owner of the subject lot or by any person acting in concert with the owner of the subject lot.

G. *Subdivision Map Act*. An urban lot split must conform to all applicable objective requirements of the Subdivision Map Act, including implementing requirements in this code, except as otherwise provided in this chapter. Notwithstanding the foregoing, no dedication of rights-of-way or construction of off-site improvements is required solely for ~~an~~ a minor urban lot split.

H. ~~*Lot Size*~~ *Lot Requirements and Limits*. ~~An urban lot split application may subdivide an existing lot to create no more than two new lots of approximately equal lot area; provided, that one lot shall not be smaller than forty percent of the lot area of the original lot proposed for subdivision. Both newly created lots must each be no smaller than one thousand two hundred square feet.~~

1. A minor urban lot split application may subdivide an existing lot to create no more than two new lots of approximately equal lot area; provided, that one lot shall not be smaller than forty percent of the lot area of the original lot proposed for subdivision. Both newly created lots must each be no smaller than one thousand two hundred square feet.

2. A major urban lot split may subdivide an existing lot to create no more than ten new lots, with each lot being no smaller than six hundred square feet. If the property subject to a major urban lot split is zoned for single-family use, each lot shall be no smaller than one thousand two hundred square feet. The average total area of floorspace for the proposed dwelling units to be located on lots created via a major urban lot split shall not exceed one thousand seven hundred fifty net habitable square feet, as defined by California Government Code Section 66499.41.

I. *Easements*. The owner must enter into an easement agreement with each utility/public-service provider to establish necessary easements that are sufficient for the provision of public services and facilities to each of the resulting lots.

1. Each easement must be shown on the tentative parcel map and the final parcel map.

2. Copies of the unrecorded easement agreements must be submitted with the application. The easement agreements must be recorded against the property before the final parcel map may be approved.

J. *Required Affidavit*. The applicant for a final parcel map for ~~an~~ a minor urban lot split must sign an affidavit provided by the city 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 from the date of approval of the minor urban lot split, or in the case of a vacant property a minimum of three years from the date of issuance of occupancy certification of any new residential dwellings on either of the resulting lots.

K. *Rental Term.* Rental of any unit created pursuant to this section shall be for a term longer than thirty days. (Ord. 1729 § 4 (Exh. A), 2023)

L. *Housing Unit Specifications.* Housing units on a major urban lot split shall be one of the housing unit types identified in paragraph (4), inclusive, of subdivision (a) of California Government Code Section 66499.41.

M. *Housing Element.* The proposed housing development associated with a major urban lot split shall meet one of the following, as applicable:

1. If the parcel is identified in the city's Housing Element for the current planning period, the housing development will result in at least as many units as projected for that parcel. Additionally, if the parcel is identified to accommodate any portion of the city's share of the regional housing need for low- or very low-income households, the development will result in at least as many low- or very low-income units as projected in the housing element and shall be subject to a recorded affordability restriction of at least 45 years.

2. If the parcel is not identified in the city's Housing Element for the current planning period, the development will result in at least sixty-six percent of the maximum allowable residential density or sixty-six percent of the applicable residential density specified in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65583.2, whichever is greater.

N. *Water and Sewer Requirement.* All parcels created through a major urban lot split shall be served by a public water system and municipal sewer system.

O. *Separately Alienable.* A major urban lot split shall not result in any existing dwelling unit being alienable separate from the title to any other existing dwelling unit on the lot.

P. *Floor Area Ratio.* For major urban lot splits, a floor area ratio standard not less than 1.0 shall apply for housing development projects consisting of three to seven units,

inclusive, and a floor area ratio standard not less than 1.25 shall apply for housing development projects consisting of eight to ten units, inclusive.

16.15.025 Property improvement standards.

A. *Objective Standards.* The design and improvements of any lot created through an urban lot split shall be subject to the standards and criteria set forth in this section. In addition, except as modified or provided by this section or state law, any lot created through an urban lot split shall conform to all objective standards applicable to the lot as set forth in this title and/or in an applicable specific plan or planned unit development ordinance or resolution, along with all applicable objective standards and criteria contained in standard plans and specifications, policies, codes, regulations, and/or standard conditions duly promulgated and/or adopted by the city.

B. *Lot Access.* Each resulting lot must have frontage on the public right-of-way of at least twenty feet or be served by an access easement serving no more than two lots. Access shall be provided in compliance with these standards:

1. Vehicle access easements serving a maximum of two parcels shall meet the following standards:
 - i. Easement width shall be a minimum of twenty feet and shall comply with Engineering Standard 2120 for driveway ramp improvements and widths.
 - ii. The minimum length for a vehicle access easement is twenty feet. No maximum easement length shall be set. If easement length is more than seventy-five feet, a vehicle turnaround shall be provided.
 - iii. No residential structure shall be closer than three feet to the easement.
 - iv. Vehicle access easements shall not be located closer than twenty-five feet to an intersection.
2. Where a lot does not abut a public street, and where no automobile parking spaces are required under subsection D of this section, a vehicle access easement is not required. An easement providing pedestrian access to a street from each lot shall be provided meeting the following standards:
 - i. Easement width shall be a minimum of ten feet;

ii. Pedestrian access easements shall not exceed two hundred feet in length.

3. Access and provisions for fire protection consistent with the California Fire Code shall be provided for all structures served by an access easement.

4. Surfacing of easements, pedestrian walkways required within easements, and turnaround dimensions shall meet the requirements of the California Fire Code and the city's engineering standards.

5. Lots taking access by an easement must record a shared maintenance agreement for the driveway/accessway. The agreement shall be recorded prior to or concurrently with the final parcel map.

C. *Lot Line Configurations.* The location of property lines associated with an urban lot split application shall comply with all objective standards as identified in Section 16.18.040 (Location of lot lines), and as described below:

1. ~~No~~ Except as otherwise provided in state law, no portion of an urban lot split may result in a lot width or depth of less than twenty feet for any portion of the subdivision.

2. A lot line shall not bisect or be located within four feet of any existing or proposed structure.

D. *Parking Required.* Off-street parking of up to one space per unit shall be provided and comply with the city's parking and driveway design and development standards Section 17.72.090 except when:

1. The parcel is located within one-half mile walking distance of either a high-quality transit corridor as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop as defined in Section 21064.3 of the Public Resources Code.

2. There is a car share vehicle, as defined in Section 16.26.061, located within one block of the parcel. Owner shall enter into an agreement with the city to ensure that a car share vehicle will remain within one block of the parcel in perpetuity, unless and until owner provides off-street parking or development occurs such that subsection (D)(1) of this section applies. (Ord. 1729 § 4 (Exh. A), 2023)

16.15.030 Exceptions to objective standards.

A. All proposed lots and development proposed pursuant to this chapter shall comply with all city zoning codes, and objective policies, and guidelines unless an exception is granted. No exception shall be granted for any of the qualifying requirements as outlined in Section 16.15.020. Any proposed exception to any relevant objective standards, policies, guidelines, or codes shall not be granted unless the community development director can affirmatively determine the application meets all of the below requirements. For the purpose of these requirements, existing improvements or development is not considered a physical constraint.

B. The necessity to grant the exception(s) is based on site development feasibility where there are no options for other design alternatives such as modifying the footprint, moving lot lines, adding stories, or reducing floor area (to minimum eight hundred square feet) and where the applicant has demonstrated it is physically not possible to redesign the project to avoid the necessity of exceptions.

C. ~~The~~ For a minor urban lot split, the requested exceptions represent the minimum deviation necessary to allow the construction of two units on each resulting parcel and which would not require any of the units to be less than eight hundred square feet. For a major urban lot split, the requested exceptions represent the minimum deviation necessary to allow parcels that are no less than six hundred square feet in size, or parcels that are no less than one thousand two hundred square feet in size when the property is zoned R-1. (Ord. 1729 § 4 (Exh. A), 2023)

16.15.035 Separate conveyance.

A. Separate conveyance of the two lots resulting from ~~an urban~~ a minor urban lot split is permitted. If dwellings or other structures (such as garages) on different lots are adjacent or attached to each other, the minor 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, or if the two lots share a driveway, appropriate covenants, easements or similar documentation allocating legal and financial rights and responsibilities between the owners of the two lots ("CC&Rs") for construction, reconstruction, use, maintenance, and improvement of the attached structures and any related shared drive aisles, parking areas, or other portions of the lot must be recorded

before the city will approve a final parcel map for the minor urban lot split.

Notwithstanding the provision of such CC&Rs, however, where attached structures and/or related shared facilities span a lot line resulting from ~~an~~ a minor urban lot split, all owners of both lots shall be jointly and severally responsible for the use and maintenance of such structures and/or shared facilities in compliance with all provisions of this code.

1. Primary dwelling units located on the same lot may not be owned or conveyed separately from one another. All fee interest in a lot and all dwellings must be held equally and undivided by all individual owners of the lot.
2. Except as provided in ~~Government Code Section 65852.26~~ state law, accessory dwelling units (ADU) may not be sold or otherwise conveyed separate from the primary residence.
3. Junior accessory dwelling units (JADU) may not be sold or otherwise conveyed separate from the primary residence.

B. A lot created by a final parcel map under this section shall not be further subdivided. Condominium airspace division or common interest subdivisions are not permitted on a lot created through an urban lot split. (Ord. 1729 § 4 (Exh. A), 2023)

16.17.020 Airspace subdivisions, common interest subdivisions, and flexible lot design subdivisions.

A. *Applicability and Intent.* This section explains the review process and standards that apply to subdivision types that differ from the lot area minimums and dimensions in Section 16.18.030 (Table 2). This section covers projects (where allowed in subsection B of this section) that propose ownership boundaries or separate unit ownership within buildings or on parcels where property development standards such as lot coverage and density are determined by using the exterior boundaries of the property and where standards apply to the project as a whole instead of requiring conformance with all property development standards on each of the proposed parcels/units in the subdivision. These types of subdivisions can rely on shared ownerships as is the case with subdivisions with common interests (i.e., condominiums) or may also rely solely or

in part with easements for common areas such as recreation facilities, open space, parking, driveways, etc. (i.e., flexible lot subdivisions, and airspace subdivisions).

B. *Zones Allowed.* This chapter applies to the subdivision types listed in Section 16.17.010 (defined in Chapter 16.26) and can be allowed in multifamily and nonresidential zones with the exception of the AG and OS zones. In the R-1 zone, only flexible lot subdivisions are allowed consistent with Section 16.17.030.

C. *Application and Review Requirements.* Subdivisions subject to this chapter shall be consistent with development projects which have already received development review approval or shall be processed concurrently with a separate development review application. Subdivisions subject to this chapter shall not be approved without development review approval pursuant to Section 17.106.030. Tentative parcel map or tentative tract map application requirements are determined based on the number of lots or units and criteria of Sections 16.08.040 and 16.08.050.

D. *Property Development Standards.* Property development standards (Chapter 17.70), including (but not limited to) density, setbacks, floor area ratios, and lot coverage limitations, shall apply with respect to the exterior boundary lines (property lines) of the proposed subdivision and not to individual units or lots within the project. Interior setback standards for each newly created lot within the subdivision are dictated by minimum separation requirements of the building and fire codes and standard minimum setbacks of the zoning code are required at the exterior boundaries of the project.

1. *Lot Dimensions.* Subdivisions subject to this section may be any size or shape and shall not be subject to the minimum lot sizes, lot dimensions, and lot area requirements as described in Section 16.18.030, Table 2 (Minimum Lot Area and Dimensions).
2. *Access and Driveways.* Driveway and pedestrian access shall be provided by direct access to the public right-of-way or may be served by an easement or be within a separate lot that is commonly owned and managed by an association or agreement, subject to the approval of the public works director.
3. *Easements.* Subdivisions subject to this section shall provide for use easements or a commonly owned separate lot for any facilities such as driveways or open

space and must provide for a method of common area maintenance by means of association or agreement.

E. *Separate Conveyance*. Separate conveyance of the lots resulting from an airspace or common interest subdivision is permitted. If dwellings or other structures (such as garages) on different lots are adjacent or attached to each other, the subdivision 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, or if the lots share a driveway, appropriate covenants, easements or similar documentation allocating legal and financial rights and responsibilities between the owners of the lots (“CC&Rs”) for construction, reconstruction, use, maintenance, and improvement of the attached structures and any related shared drive aisles, parking areas, or other portions of the lot must be recorded before the city will approve a final map for the common interest subdivision.

Notwithstanding the provision of such CC&Rs, however, where attached structures and/or related shared facilities span a lot line resulting from a common interest subdivision, all owners of the lots shall be jointly and severally responsible for the use and maintenance of such structures and/or shared facilities in compliance with all provisions of this code.

1. Except as provided in ~~Government Code Section 65852.26~~ state law, accessory dwelling units may not be sold or otherwise conveyed separate from the primary residence. (Ord. 1729 § 4 (Exh. A), 2023)

16.26.060 Average cross slope.

“Average cross slope” means the ratio, expressed as a percentage, of the difference in elevation to the horizontal distance between two points on the perimeter of the area whose slope is being determined, with the line along which the slope is being measured running essentially perpendicular to the contours between the points. (Ord. 1729 § 4 (Exh. A), 2023)

16.26.065 Car share vehicle.

“Car share vehicle” means a motor vehicle that is operated as part of a regional fleet by a public agency or private car sharing company or organization that possesses a valid business license with the city of San Luis Obispo and provides hourly or daily services. Car share vehicles shall be stored on parking spaces dedicated to car share vehicles when not in use by a client. Execution of a contract between the public agency or private car sharing company or organization and the client, and retrieval of the car share vehicle’s keys, shall take place at the location of the car share vehicle.

16.26.070 Common interest subdivision/condominium.

“Common interest subdivision” includes subdivided lands which include a separate interest in real property combined with an interest in common with other owners. The following types of common interest subdivisions are recognized by the city of San Luis Obispo, consistent with the Davis Sterling Common Interest Development Act:

A. “Condominium project” consists of an undivided interest in common in a portion of real property coupled with a separate interest in space called a unit, the boundaries of which are described on a recorded final map, parcel map, or condominium plan in sufficient detail to locate all boundaries thereof. The area within these boundaries may be filled with air, earth, or water, or any combination thereof, and need not be physically attached to land except by easements for access and, if necessary, support. Generally, condominiums are recognized as airspace ownership.