

## ATTACHMENT 2

### ZONING ORDINANCE AMENDMENT – TRACKED CHANGES

**SECTION 1. Amendment to Palm Desert Municipal Code.** Palm Desert Municipal Code Section 25.34.180 is hereby amended as follows:

25.34.180 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. ~~Notwithstanding any other provision of this section or this code, the City shall follow requirements of state law for reviewing and approving or denying applications for two-unit projects director of development services may approve an application for an urban lot split if required by state law.~~

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**A.B. Definition.** A "two-unit project" means the development of 2 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 ~~(Government Code Section 66499.34)~~ in accordance with the requirements of this section and Government Code Section 65852.21.

**B.C. Application.**

~~1. 1.~~

~~2. 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 Revenue and Taxation Code Section 402.1(a)(11)(C)(ii)) or a qualified nonprofit corporation (as defined by Section 214.15).~~

~~3-1.~~ An application for a two-unit project must be submitted on the City's approved form.

~~4-2.~~ The applicant must obtain a certificate of compliance with the Subdivision Map Act for the lot and provide the certificate with the application.

~~5-3.~~ Only a complete application will be considered. The City will inform the applicant in writing of any incompleteness within 30 days after the application is submitted.

4. The City will review and approve or deny an application within 60 days from the date a complete application is received. If an application is denied, the City will provide written comments to the applicant with a list of items that

are defective or deficient, with a description of how the application may be remedied.

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- 6-5. The City may establish a fee to recover its costs for adopting, implementing, and enforcing this section of the code, in accordance with applicable law. The City Council may establish and change the fee by resolution. The fee must be paid with the application.

**C.D. Approval.**

1. An application for a two-unit project is approved or denied ministerially, by the Director of Development Services, without discretionary review.
2. The ministerial approval of a two-unit project does not take effect until the City has confirmed that the required documents have been recorded, such as the deed restriction and easements.
3. The approval must require the owner and applicant to hold the City harmless from all claims and damages related to the approval and its subject matter.
4. The approval must require the owner and applicant to reimburse the City for all costs of enforcement, including attorneys' fees and costs associated with enforcing the requirements of this code.
5. The City will review and approve or deny an application within 60 days from the date a complete application is received. If an application is denied, the City will provide written comments to the applicant with a list of items that are defective or deficient, with a description of how the application may be remedied. If the City has not approved or denied a complete application within 60 days, the application is deemed approved.

**D.E. 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 in a single-family residential zone. For purposes of this section, a single-family residential zone is a zone where the only residential use that is allowed as a primary use is a single residential dwelling on a lot.
3. Lot Location.
  - a. The lot is not located on a site that is any of the following:
    - i. Prime farmland, farmland of statewide importance, or land that is zoned or designated for agricultural protection or preservation by the voters.

- ii. A wetland.
- iii. Within a very high fire hazard severity zone, unless the site complies with all fire-hazard mitigation measures required by existing building standards.
- iv. A hazardous waste site that has not been cleared for residential use.
- v. Within a delineated earthquake fault zone, unless all development on the site complies with applicable seismic protection building code standards.
- vi. Within a 100-year flood hazard area, unless the site has either:
  - (A) Been subject to a letter of map revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction, or
  - (B) Meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program.
- vii. Within a regulatory floodway unless all development on the site has received a no-rise certification.
- viii. Land identified for conservation in an adopted natural community conservation plan, habitat conservation plan, or other adopted natural resource protection plan.
- ix. Habitat for protected species.
- x. Land under conservation easement.

The purpose of ~~this subsection (E)(3)subpart~~ is merely to summarize the requirements of Government Code Sections 65913.4(a)(6)(B)–(K). ~~(See Government Code Section 66411.7(a)(3)(C)).~~

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~~6.4.~~ 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 policy power.

- c. 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.
- d. Housing that has been occupied by a tenant in the last 3 years.
  - i. The applicant and the owner of a property for which a two-unit project is sought must provide a sworn statement as to this fact with the application for the parcel map. The City may conduct its own inquiries and investigation to ascertain the veracity of the sworn statement, including, but not limited to, surveying owners of nearby properties; and the City may require additional evidence of the applicant and owner as necessary to determine compliance with this requirement.

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5. Unit Standards. [Except as otherwise provided in this section or state law \(including, but not limited to, Government Code section 65852.21\), development on the resulting lots must comply with the objective standards of the underlying zone.](#)

~~e.~~a. Quantity.

- i. No more than 2 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 this section of this code, an ADU, or a JADU.
- ii. A lot that is not created by an urban lot split may have a two-unit project under this section, plus any ADU or JADU that must be allowed under state law and the City's ADU ordinance.

~~f.~~ ~~Unit Size.~~

~~e.~~c. Lot Coverage. The lot coverage of the subject property's zoning district or specific plan designation shall apply to the existing and newly created parcel, the application of this lot coverage standard is only enforced to the extent that it does not prevent two primary dwelling units on the lot at 800 square feet each.

~~f.~~d. Setbacks.

- i. Generally. All setbacks must conform to those objective setbacks that are imposed through the underlying zone.

- ii. Exceptions. Notwithstanding subsection 25.34.180(E)(6)(f)(i) above:
  - (A) 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.
  - (B) 800 Square Feet; Four-Foot Side and Rear. 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.
- iii. Front Setback Area (Street Facing). Notwithstanding any other part of this code, dwellings that are constructed after an urban lot split must have the front setback street as required by the underlying zone.

~~(A)~~

(A) 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.

(B) There is a car share vehicle located within one block of the parcel.

~~s. i.~~

~~t. h.~~

- i. Each primary dwelling unit on the lot must have its own direct utility connection to the utility service provider.
- ii. Each primary dwelling unit on the lot that is or that is proposed to be connected to an on-site wastewater treatment system must first have a percolation test completed within the last 5 years or, if the percolation test has been recertified, within the last 10 years.

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- v. ~~Building and Safety.~~ All structures built on the lot must comply with all current local building standards. A project under this section is a change of use and subjects the whole of the lot, and all structures, to the City's current code.~~7-~~

~~7-6.~~ 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.

~~8-7.~~ Deed Restriction. The owner must record a deed restriction, acceptable to the City, 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.

~~6.~~ ~~6-~~

**E.F. Specific Adverse Impacts.**

1. Notwithstanding anything else in this section, the City may deny an application for a two-unit project if the building official makes a written finding, based on a preponderance of the evidence, that the project would have a "specific, adverse impact" on either public health and safety or on the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.
2. "Specific adverse impact" has the same meaning as in Government Code Section 65589.5(d)(2): "a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete" and does not include: (a) inconsistency with the zoning ordinance or general plan land use designation; or (b) the eligibility to claim a welfare exemption under Revenue and Taxation Code Section 214(g).
3. The building official may consult with and be assisted by planning staff and others as necessary in making a finding of specific, adverse impact.

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

1. The buyer, grantee, or lessee of any part of the property has an action for damages or to void the deed, sale, or contract.

2. The City may:
- a. Bring an action to enjoin any attempt to sell, lease, or finance the property.
  - b. Bring an action for other legal, equitable, or summary remedy, such as declaratory and injunctive relief.
  - c. Pursue criminal prosecution, punishable by imprisonment in County Jail or state prison for up to 1 year, by a fine of up to \$10,000.00, or both, or a misdemeanor.
  - d. Record a notice of violation.
  - e. Withhold any or all future permits and approvals.
  - f. Pursue all other administrative, legal, or equitable remedies that are allowed by law or the City's code.

(Ord. 1373 § 3, 2021)

**SECTION 2. Amendment to Palm Desert Municipal Code.** Palm Desert Municipal Code Section 26.30.010 is hereby amended as follows:

26.30.010. Urban lot splits.

A. Purpose. The purpose of this section is to allow and appropriately regulate urban lot splits in accordance with Government Code Section 66411.7. Notwithstanding any other provision of this section or this code, the City shall follow requirements of state law for reviewing and approving or denying director of development services may approve an application for an urban lot split if required by state law.

A.B. Definition. An "urban lot split" means the subdivision of an existing, legally subdivided lot (~~Government Code Section 66499.34~~) into two lots in accordance with the requirements of Government Code Section 66411.7 and this section.

B.C. Application.

a. ~~Revenue and Taxation Code Section 402.1(a)(11)(C)(iii) or a qualified nonprofit corporation (as defined by Section 214.15).~~

3-2. The city may establish a fee to recover its costs for adopting, implementing, and enforcing this section of the code, in accordance with applicable law. The city council may establish and change the fee by resolution. The fee must be paid with the application.

G-D. Approval.

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1. An application for a parcel map for an urban lot split is approved or denied ministerially, by the director of development services, without discretionary review.
2. A tentative parcel map for an urban lot split is approved ministerially if it complies with all the requirements of this section. The tentative parcel map may not be recorded. A final parcel map is approved ministerially as well, but not until the owner demonstrates that the required documents have been recorded, such as the deed restriction and easements. The tentative parcel map expires three months after approval.
3. The approval must require the owner and applicant to hold the city harmless from all claims and damages related to the approval and its subject matter.
4. The approval must require the owner and applicant to reimburse the city for all costs of enforcement, including attorneys' fees and costs associated with enforcing the requirements of this code.
5. The City will review and approve or deny an application within 60 days from the date a complete application is received. If an application is denied, the City will provide written comments to the applicant with a list of items that are defective or deficient, with a description of how the application may be remedied. If the City has not approved or denied a complete application within 60 days, the application is deemed approved.

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

1. Map Act Compliance.
  - a. The urban lot split must conform to all applicable objective requirements of the Subdivision Map Act (Government Code Section 66410 et seq., "SMA"), including implementing requirements in this code, and a list of application requirements except as otherwise expressly provided in this section.
  - b. If an urban lot split violates any part of the SMA, the city's subdivision regulations, including this section, or any other legal requirement:
    - i. 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.
    - ii. The city has all the remedies available to it under the SMA, including, but not limited to, the following:
      - (A) An action to enjoin any attempt to sell, lease, or finance the property.

- (B) An action for other legal, equitable, or summary remedy, such as declaratory and injunctive relief.
    - (C) Criminal prosecution, punishable by imprisonment in County Jail or state prison for up to one year, by a fine of up to ten thousand dollars, or both, or a misdemeanor.
    - (D) Record a notice of violation.
    - (E) 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. [Development Standards](#). The lot to be split is in a single-family residential zone. For purposes of this section, a single-family residential zone is a zone where the only residential use that is allowed as a primary use is a single residential dwelling on a lot. [Except as otherwise provided in this section or state law \(including, but not limited to, Government Code section 66411.7\(m\)\(65852.24\), development on the resulting lots must comply with the objective standards of the underlying zone.](#)
- 3. Lot Location.
  - a. The lot to be split is not located on a site that is any of the following:
    - i. Prime farmland, farmland of statewide importance, or land that is zoned or designated for agricultural protection or preservation by the voters.
    - ii. A wetland.
    - iii. Within a very high fire hazard severity zone, unless the site complies with all fire-hazard mitigation measures required by existing building standards.
    - iv. A hazardous waste site that has not been cleared for residential use.
    - v. Within a delineated earthquake fault zone, unless all development on the site complies with applicable seismic protection building code standards.
    - vi. Within a one hundred year flood hazard area, unless the site has either:

- (A) Been subject to a letter of map revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction, or
  - (B) Meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program.
- vii. Within a regulatory floodway unless all development on the site has received a no-rise certification.
- viii. Land identified for conservation in an adopted natural community conservation plan, habitat conservation plan, or other adopted natural resource protection plan.
- ix. Habitat for protected species.
- x. Land under conservation easement.
- b. The purpose of [this](#) subsection (E)(3) ~~(a)~~ is merely to summarize the requirements of Government Code Sections 65913.4(a)(6)(B)–(K). (See Government Code Section 66411.7(a)(3)(C)).
- 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.
  - a. The lot to be split was not established through a prior urban lot split.
  - b. The lot to be split is not adjacent to any lot that was established through a prior urban lot split by the owner of the lot to be split or by any person acting in concert with the owner.
- 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 ([Government Code Sections](#)

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7060–7060.7) at any time in the fifteen years prior to submission of the urban lot split application.

- d. Housing that has been occupied by a tenant in the last three years.
    - i. The applicant and the owner of a property for which an urban lot split is sought must provide a sworn statement as to this fact with the application for the parcel map. The city may conduct its own inquiries and investigation to ascertain the veracity of the sworn statement, including, but not limited to, surveying owners of nearby properties; and the city may require additional evidence of the applicant and owner as necessary to determine compliance with this requirement.
7. Lot Size.
- a. The lot to be split must be at least two thousand four hundred square feet.
  - b. The resulting lots must each be at least one thousand two hundred square feet.
  - c. Each of the resulting lots must be between sixty percent and forty percent of the original lot area.
8. Easements.
- a. The owner must enter into an easement agreement with each public-service provider to establish easements that are sufficient for the provision of public services and facilities to each of the resulting lots.
  - b. Each easement must be shown on the tentative parcel map.
  - c. Copies of the unrecorded easement agreements must be submitted with the application. The easement agreements must be recorded against the property before the final map may be approved, in accordance with subsection (D)(2) above.
9. Lot Access.
- a. Each resulting lot must adjoin the public street right-of-way.
  - b. Each resulting lot must have frontage on the public street right-of-way of at least twelve and one half feet.
  - c. All vehicular access must be at the frontage on the public right-of-way.

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 25.34.180 of this code, an accessory dwelling unit (ADU), or a junior accessory dwelling unit (JADU).

~~b. i.~~

- i. Generally. All setbacks must conform to those objective setbacks that are imposed through the underlying zone.
- ii. Exceptions. Notwithstanding subparagraph (e)(i) above:
  - (A) 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.
  - (B) Eight Hundred Square Feet; Four-Foot Side and Rear. 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 eight hundred square feet in floor area, but in no event may any structure be less than four feet from a side or rear property line.

~~u. iii.~~

- i. The lot is located within one-half mile walking distance of either:
  - (A) A corridor with fixed route bus service with service intervals no longer than fifteen minutes during peak commute hours; or
  - (B) 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 the intersection of two or more major bus routes with a frequency of service

interval of fifteen minutes or less during the morning and afternoon peak commute periods.

- (3) The site is located within one block of a car-share vehicle location.

~~(G) (4)~~

~~ff. j.~~

11. Regulation of Uses.

- a. Residential-Only. No non-residential use is permitted on any lot created by urban lot split.
- b. No Short-term Rentals (STRs). No dwelling unit on a lot that is created by an urban lot split may be rented for a period of less than thirty 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.

~~12. a.~~

- a. Expressly prohibits any rental of any dwelling on the property for a period of less than thirty days.
- b. Expressly prohibits any non-residential use of the lots created by the urban lot split.

~~e. c.~~

~~f.d.~~ Specific Adverse Impacts.

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

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

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

(Ord. 1373 § 3, 2021)