
Chapter 17.34 TWO-UNIT PROJECTS

17.34.010 Purpose.

The purpose of this section is to allow and appropriately regulate two-unit projects in accordance with Government Code section 65852.21.

17.34.020 Definition.

A “two-unit project” means the development of two primary dwelling units or, if there is already a primary dwelling unit on the lot, the development of a second primary dwelling unit on a legally subdivided lot in accordance with the requirements of this section.

17.34.030 Application.

- A. Only individual property owners may apply for a two-unit project. “Individual property owner” means a natural person holding fee title individually or jointly in the person’s own name or a beneficiary of a trust that holds fee title. “Individual property owner” does not include any corporation or corporate person of any kind (partnership, LP, LLC, C corp, S corp, etc.) except for a community land trust (as defined by Rev. & Tax Code § 402.1(a)(11)(C)(ii)) or a qualified nonprofit corporation (as defined by § 214.15).
- B. An application for a two-unit project must be submitted on the city’s approved form. 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.
- C. 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.

17.34.040 Approval.

- A. An application for a two-unit project is approved or denied ministerially, by the Community Development director, without discretionary review.
- B. 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.

17.34.050 Requirements.

A two-unit project must satisfy each of the following requirements:

- A. **Map Act Compliance.** The lot must have been legally subdivided.
- B. **Zone.** The lot is in a single-family residential zone which includes:
 - A. R-1 Single Family Residential zone citywide; the R-3, R-4, and R-5 Single Family Residential zones in the Spring Lake Specific Plan; and the R-4 and R-5 Single Family zones in the Southeast Area Specific Plan.
- C. **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:
 - 1. been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction, or
 - 2. meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program.
- i. Within a regulatory floodway, unless all development on the site has received a no-rise certification.
- ii. Land identified for conservation in an adopted natural community conservation plan, habitat conservation plan, or other adopted natural resource protection plan.
- iii. Habitat for protected species.
- iv. Land under conservation easement.

D. **Not Historic.** The lot must not be a historic property or within a historic district that is included on the State Historic Resources Inventory. Nor may the lot be or be within a site that is designated by ordinance as a city or county landmark or as a historic property or district.

E. **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 (Gov. Code §§ 7060–7060.7) at any time in the 15 years prior to submission of the urban lot split application.
- d. Housing that has been occupied by a tenant in the last three years. The applicant and the owner of a property for which a two-unit project is sought must provide a notarized statement as to this fact with the application for the parcel map.

F. **Unit Standards.**

a. Quantity.

- i. 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 this section of the 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.
- iii. In no case shall there be more than four total units of any kind in total provided as a result of an urban lot split or on a lot that is not created by an urban lot split.

b. Unit Size.

- i. Each primary dwelling built that is developed under this section is limited to 800 square feet of floor area.
- ii. A primary dwelling that was legally established on the lot prior to the two-unit project and that is larger than 800 square feet is limited to the lawful floor area at the time of the two-unit project.
- iii. A primary dwelling that was legally established prior to the two-unit project and that is smaller than 800 square feet may be expanded to 800 square feet after or as part of the two-unit project.
- iv. Exception. One or both primary dwelling units may be expanded if able to meet lot coverage and setback requirements in the standard R-1 District, Section 17.32, inclusive of all units and accessory structures on the property.

c. Height Restrictions.

- i. On a lot that is larger than 2,000 square feet, a new primary dwelling may be 30 feet in height if the rear setback is 20 feet or the side setback is five feet, otherwise, no new primary dwelling unit may exceed 16 feet in height, measured from grade to peak, or tallest point, of the structure.
- ii. On a lot that is smaller than 2,000 square feet, no new primary dwelling unit may exceed two stories or 22 feet in height, measured from grade to peak of the structure. Any portion of a new primary dwelling that exceeds 16 feet in height as measured from grade to peak or tallest point, must be stepped back by an additional seven feet; no balcony deck or other portion of the second story may project into the setback.
- iii. No rooftop deck is permitted on any new or remodeled dwelling or structure on a lot with a two-unit project.

d. 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.

e. Lot Coverage.

Structures shall not cover more than 50% of the total lot area. 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. Open Space.

A minimum of 30% of the required rear yard shall be open space. This open space standard is only enforced to the extent that it does not prevent two primary dwelling units on the lot at 800 square feet each.

g. Setbacks.

- i. 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.
- ii. Dwellings must be at least four feet from the interior side and rear property lines.
- iii. Dwellings must be at least 15 feet from a corner street side setback.
- iv. A front yard setback of at least 25 feet shall be maintained from the front of a new or existing dwelling unit to the required rear yard area of another dwelling unit.
- iv. Dwellings must be at least 25 feet from the front property lines. Exceptions are as follows:
 1. Front yard setbacks of 20 feet are permitted for houses where garages or carports are setback 25 feet. Front yard setbacks of 20 feet are allowed for garages equipped with roll up doors or carports.
- v. The front setback area must:
 1. Provide adequate line of sight visibility from driveways, corners, and intersections;
 2. Be at least 50 percent landscaped with drought-tolerant plants, with vegetation and irrigation plans approved by a licensed landscape architect; and
 3. Allow for vehicular and fire-safety access to the front structure.

h. Parking.

Each new primary dwelling unit must have at least one off-street parking space per unit unless one of the following applies:

- i. The lot is located within one-half mile walking distance of either
 1. a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours or
 2. a site that contains
 - (ia) an existing rail or bus rapid transit station,
 - (ib) 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 15 minutes or less during the morning and afternoon peak commute periods.

- ii. The site is located within one block of a permanent car-share pick up or drop off vehicle location.

- i. Accessibility.

All dwellings and structures built or substantially remodeled on the lot must be ADA accessible. "Substantially remodeled" here means that more than 10 percent of the existing floor area is the subject of a building permit or that the existing floor area, including non-livable space, increases by more than 10 percent.

- i. Pedestrians shall have a clear path of travel a minimum of 4 feet wide and ADA compliant from the principal building entrances to the street.

- j. Architecture.

- i. If there is a legal primary dwelling on the lot that was established before the two-unit project, any new primary dwelling unit must match the existing primary dwelling unit in exterior materials, color, and dominant roof pitch. The dominant roof slope is the slope shared by the largest portion of the roof.
- ii. If there is no legal primary dwelling on the lot before the two-unit project, and if two primary dwellings are developed on the lot, the dwellings must match each other in exterior materials, color, and dominant roof pitch. The dominant roof slope is the slope shared by the largest portion of the roof.
- iii. Locate structures so that entries, porches, and balconies face a public right of way, or common open space at least 10 feet in width.
- iv. Single family and duplex buildings on a site perimeter are to be oriented to the adjacent public street by providing windows from living rooms, dining rooms, kitchens and bedroom windows, porches, balconies, entryways or other entry features along the street.
- v. Individual buildings shall be designed with an articulated front; wall surfaces offset by at least 12-inches, bays, if provided, with a projections of at least 24-inches and porches closer to the street than recessed garages. A garage shall be recessed a minimum 24-inches from the front wall plane, including a porch.
- vi. Upper story windows shall be recessed from the wall surface by a minimum of two inches or shall have surface trim and sills.
- vii. Exterior finish materials shall consist of stucco, wood siding, dimensional profile metal architectural siding, fiber cement products, stone, and/or brick. Plywood siding, including T-111 is not allowed.
- viii. Roof materials such as concrete and clay tile are allowed. Composition shingles of the heavy laminated 35 year guarantee dimensional type is allowed. Dimensional profile metal architectural roofing is allowed.
- ix. Materials and colors shall be placed using the building mass elements as defined edges as a logical stopping point.

- x. The use of a variety and combination of building materials is required with a minimum of three materials required.
 - xi. All exterior lighting must be shielded and limited to down-lights.
 - xii. No window or door of a dwelling that is constructed on the lot may have a direct line of sight to an adjoining residential property. Fencing, landscaping, or privacy glass may be used to provide screening and prevent a direct line of sight.
 - xiii. If any portion of a dwelling is less than 5 feet from a side property line or 20 feet from a rear property line, that is not a public right-of-way line, then all windows and doors in that portion must either be (for windows) clerestory with the bottom of the glass at least six feet above the finished floor, or (for windows and for doors) utilize frosted or obscure glass.
- k. Landscaping.
- i. All required street front and street-facing side setbacks, except areas used for parking, exit and entry, shall be landscaped.
 - 1. Required landscape areas shall be planted with a combination of ground covers, shrubs, vines and trees. No more than 25 percent of the required landscaped area may be turf and shall not be used in areas less than 10 feet wide.
 - 2. Required landscape areas may include paved, gravel, or bark surfaces, provided they do not cover more than 30 percent of the required landscape area.
 - 3. Garden area and other areas dedicated to edible plants are considered landscaped areas and count toward required landscaping.
 - ii. To the extent possible, existing mature trees on the site shall be preserved whenever it is possible and practical to do so. The project shall comply with the City's Tree Preservation Ordinance.
 - iii. A landscape plan shall be provided with each submittal and shall at minimum include:
 - 1. Property lines and public utility easements; structures, streetlights, transformers, trash enclosures, utilities,
 - 2. Grading, including finished planter elevations, grade differentials with adjacent properties, retaining walls, on site drainage features.
 - 3. Proposed planting list including: botanical and common names, quantities of each species, container sizes, spread and height of plant at maturity, rate of growth (fast, moderate, slow).
 - 4. Distance of trees to all structures. Large trees (40-90 feet in height at maturity) shall not be planted closer than 15-feet to any structure. Medium sized trees (30-40 feet in height at maturity) shall not be planted closer than 10 feet to any structure.
 - iv. All landscaping must be drought-tolerant and shall be suitable for the local climate. All new landscaping shall comply with the City's Water Conservation Ordinance, California Model Water Efficient Landscape Ordinance, and the CalGreen Code.

- v. Automated irrigation system shall be installed to provide coverage of all irrigated landscaped areas and shall have automatic rain shut-off valves.
- vi. Deciduous shade trees are permitted around the east, west, and south sides of residences to help reduce cooling loads during summer and allow solar gain during the winter months.
- vii. Landscaping and/or architectural treatments shall be provided to screen views of service elements that include storage areas, trash enclosures, mechanical equipment transformers, HVAC and other similar elements. Screening shall either be landscaping a minimum of 3 feet high or architectural screens designed to match building features.
- viii. Pedestrian walkways and paths of travel shall not be combined with, or be part of driveways unless textures, patterns, and colors are provided to designate separate pedestrian paths.
- ix. There shall be a clear transition between the City sidewalk or public property, and the development property. This is to be achieved through changes in pavement textures, landscaping, and front fencing.
 - 1. Fencing in the required front setback, or five feet from the corner side yard setback, shall not exceed three feet six inches, in compliance with Section 17.104.100. Chain link fencing is prohibited.
- x. When next to a side or rear property line of an adjacent property, a solid six-foot high wood or masonry fence shall be provided on the property line as a buffer.
- xi. Landscaping that is required to help achieve screening of views into an adjacent property shall be planted along the rear or side property line to achieve a 75 percent summer opacity and 60 percent winter opacity within three years of planting. At minimum, 4 medium to large size shrubs at maturity shall be planted per 50 linear feet of buffer. Shrubs shall be a minimum 5-gallon in size.
- xii. All landscaping shall be installed prior to issuance of certificate of occupancy.
- l. **Nonconforming Conditions.** A two-unit project may only be approved if all nonconforming zoning conditions are corrected, consistent with Section 17.104.130 of the Municipal Code.
- m. **Utilities.** Each primary dwelling unit on the lot must have its own direct utility connection to the utility service provider.
- n. **Building & Safety.** All structures built on the lot must comply with all local building code requirements.

G. Separate Conveyance.

- a. Primary dwelling units on the lot may not be owned or conveyed separately from each other.
- b. Condominium airspace divisions and common interest developments are not permitted within the lot.
- c. All fee interest in the lot and all the dwellings must be held equally and undivided by all individual property owners.

H. **Regulation of Uses.**

- d. **Residential-only.** No non-residential use is permitted on the lot.
- e. **No Short Term Rentals.** No dwelling unit on the lot may be rented for a period of less than 30 days.

I. **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.

J. **Notice of Construction.**

- f. At least 30 business days before starting any construction of a two-unit project, the property owner must give written notice to all the owners of record of each of the adjacent residential parcels, which notice must include the following information:
 - i. Notice that construction has been authorized,
 - ii. The anticipated start and end dates for construction,
 - iii. The hours of construction,
 - iv. Contact information for the project manager (for construction-related complaints), and
 - v. Contact information for the Building & Safety Department.
- g. This notice requirement does not confer a right on the noticed persons or on anyone else to comment on the project before permits are issued. Approval is ministerial. Under state law, the City has no discretion in approving or denying a particular project under this section. This notice requirement is purely to promote neighborhood awareness and expectation.

K. **Deed Restriction. The owner must record a deed restriction, acceptable to the city, that does each of the following:**

- h. Expressly prohibits any rental of any dwelling on the property for a period of less than 30 days.
- i. Expressly prohibits any non-residential use of the lot.
- j. Expressly prohibits any separate conveyance of a primary dwelling on the property, any separate fee interest, and any common interest development within the lot.
- k. 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.

L. **Specific Adverse Impacts.**

- a. 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.
- b. "Specific adverse impact" has the same meaning as in Gov. Code § 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).

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

