

**ORDINANCE NO. 2022-\_\_**

**AN URGENCY ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MAMMOTH LAKES, COUNTY OF MONO, STATE OF CALIFORNIA, APPROVING ZONING CODE AMENDMENT 21-001 TO ADD SECTION 17.52.270, AND TO AMEND SECTIONS 17.20.020, 17.20.030, 17.60.030, and 17.144.020 OF THE TOWN OF MAMMOTH LAKES MUNICIPAL CODE, RELATING TO SINGLE-FAMILY RESIDENTIAL URBAN LOT SPLITS AND TWO-UNIT PROJECTS**

**WHEREAS**, the Town of Mammoth Lakes California (“Town”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

**WHEREAS**, in 2021, the California Legislature approved, and the Governor signed into law Senate Bill 9 (“SB 9”), which among other things, adds Government Code §§ 65852.21 and 66411.7 to impose new limits on local authority to regulate urban lot splits and two-unit projects; and

**WHEREAS**, SB 9 allows local agencies to adopt objective design, development, and subdivision standards for urban lot splits and two-unit projects; and

**WHEREAS**, SB 9 became effective January 1, 2022, and preempted any conflicting local ordinance; and

**WHEREAS**, the Town desires to amend its local regulatory scheme to comply with Government Code §§ 65852.21 and 66411.7 and to appropriately regulate projects under SB 9; and

**WHEREAS**, there is a current and immediate threat to the public health, safety, or welfare based on the passage of the SB 9 law because if the Town does not adopt appropriate objective standards for urban lot splits and two-unit projects under SB 9, the Town is limited to applying the few objective standards that already are in the Zoning Code, which did not anticipate and were not enacted with urban lot splits and ministerial two-unit projects in mind; and

**WHEREAS**, the approval of urban lot splits and two-unit projects based solely on the Town’s default standards, without appropriate regulations governing lot configuration, unit size, height, and setbacks, among other things, would threaten the character of existing neighborhoods, and negatively impact property values, personal privacy, and fire safety. These threats to public safety, health, and welfare justify adoption of this ordinance as an urgency ordinance to be effective immediately upon adoption by a four-fifths vote of the Town Council; and

**WHEREAS**, to protect the public safety, health, and welfare, the Town Council may adopt this ordinance as an urgency measure in accordance with Government Code §36937(b).

**NOW THEREFORE, THE TOWN COUNCIL OF THE TOWN OF MAMMOTH LAKES, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:**

**Section 1.** Recitals. The above recitals are all true and correct and are each incorporated by reference and adopted as findings by the Town Council.

**Section 2.** Urgency Findings. The Town Council hereby finds, determines, and declares, on the basis of the findings set forth above, that an urgency exists, and that this Ordinance is necessary and appropriate to preserve the public health, safety, and welfare.

**Section 3.** Environmental Review. The Town Council makes the following findings and takes the following actions pursuant to the requirements of the California Environmental Quality Act (CEQA):

- A. Under California Government Code §§ 65852.21(j) and 66411.7(n), the adoption of an ordinance by a city or county implementing the provisions of Government Code §§ 65852.21 and 66411.7 and regulating urban lot splits and two-unit projects is statutorily exempt from the requirements of the California Environmental Quality Act (CEQA). Therefore, this Ordinance is statutorily exempt from CEQA in that the ordinance implements these new laws enacted by SB 9.
- B. In addition to being statutorily exempt from CEQA, this Ordinance is categorically exempt from the provisions of CEQA pursuant to the following CEQA Guidelines sections:
  1. CEQA Guidelines §15315 (*Class 15, Minor Land Divisions*) of Title 14 of the California Code of Regulations. CEQA Guidelines §15315 applies to projects that consist of the division of property in urbanized areas zoned for residential, commercial, or industrial use into four or fewer parcels, which the State has determined to be a class of projects that will not have a significant effect on the environment. Here, the ordinance is consistent with the exemption class description specified above because the ordinance regulates a single urban lot split of one parcel into two separate lots between 60 percent and 40 percent of the original lot are in a residential zone.
  2. CEQA Guidelines §15303 (*Class 3, New Construction or Conversion of Small Structures*) of Title 14 of the California Code of Regulations. CEQA Guidelines §15303 applies to projects that consists of construction and location of limited numbers of new, small structures and the conversion of existing small structures from one use to another, including the construction of a second dwelling unit in a residential zone and a duplex or similar multi-family residential structure totaling no more than four dwelling units. Here, the ordinance is consistent with the exemption class described above because the ordinance regulates the construction 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, in a residential zone.

Furthermore, the Town Council finds that none of the exceptions set forth in CEQA Guidelines §15300.2, which would preclude a project from using a categorical exemption, are applicable since the ordinance will:

1. Not result in a potentially significant cumulative impact. Because the Town is an urbanized area and the targeted parcels already allow residential uses, the Council finds that the additional residential units which will result from Urban Lot Splits/Two-Unit Projects will not result in significant cumulative impacts.
2. Not result in a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. The targeted parcels already allow residential uses and the potential increase in residential units from the Urban Lot Splits/Two-Unit Projects would not result in unusual circumstances as the appropriateness of residential uses on these parcels and their associated impacts has already been evaluated through prior environmental review.
3. Not result in damage to scenic resources, including, but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated

as a state scenic highway. The Town does not have any state scenic highways, so this finding is not applicable.

4. Not be located on a hazardous waste site included on any list compiled pursuant to Government Code §65962.5. There are no residentially-zoned properties located on hazardous waste site in the Town, so this finding is not applicable.
  5. Not result in a substantial adverse change in the significance of a historical resource. Pursuant to Government Code §65852.21(a)(6), Urban Lot Splits/Two-Unit Projects are not allowed in designated historic districts or property included on the State Historic Resources Inventory, so this finding is not applicable.
- C. Therefore, the adoption of this Ordinance is exempt from CEQA pursuant to CEQA Guidelines §15061(b)(1) since the ordinance meets the criteria for use of the statutory exemption described in Government Code §§ 65852.21 and 66411.7 related to the implementation and regulation of urban lot splits and two-unit projects and CEQA Guidelines §15061(b)(2) since the ordinance meets the criteria for use of the Minor Land Divisions (Class 15) and New Construction or Conversion of Small Structures (Class 3) categorical exemptions and the application of those categorical exemptions are not barred by one of the exceptions set forth in §15300.2. Each of the foregoing exemptions is asserted in the alternative and each is independently sufficient to fully exempt the whole of the project.
- D. CEQA Action – The Town Council hereby directs staff to file a Notice of Exemption within five (5) working days of the adoption of this Ordinance.

**Section 3.** Approval. The Town Council hereby approves Zoning Code Amendment 21-001 and adds Municipal Code Section 17.52.270 (Single-Family Residential Urban Lot Splits and Two-Unit Projects) to read as shown in Exhibit “A” attached hereto and incorporated herein by this reference, and amends Municipal Code Sections 17.20.020, 17.20.030, 17.60.030, and 17.144.020 as set forth in Exhibit “B” attached hereto and incorporated herein by this reference.

**Section 4.** Severability. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this Ordinance, or any part thereof, is held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining sections or portions of this Ordinance or any part thereof. The Town Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases may be declared unconstitutional, invalid, or ineffective.

**Section 5.** Effective Date. This urgency ordinance was adopted by the necessary four-fifths (4/5) vote of the members of the Town Council pursuant to Government Code §§ 36934 and 36937 and shall take effect immediately. The Mayor shall sign and the Town Clerk shall certify passage and adoption of this Ordinance, and shall cause the same to be published and posted in accordance with the law.

**Section 6.** Custodian of Records. The documents and materials that constitute the record of proceedings on which this Ordinance has been based are located at Town of Mammoth Lakes, Town Hall, 437 Old Mammoth Road, Suite 230, Mammoth Lakes, CA 93546. The custodian for these records is the Town Clerk. This information is provided pursuant to Public Resources Code §21081.6.

***ADOPTED, SIGNED and APPROVED*** this 19<sup>th</sup> day of January 2022.

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LYNDA SALCIDO, Mayor

ATTEST:

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JAMIE GRAY, Town Clerk

**EXHIBIT “A”**

**Ordinance No. 2022-\_\_  
Case No. ZCA 21-001**

**Amendments to the Zoning Code**

Municipal Code Section 17.52.270 (Single-Family Residential Urban Lot Splits and Two-Unit Projects) is hereby added to read as follows:

**17.52.270 Single-Family Residential Urban Lot Splits and Two-Unit Projects**

A. **Purpose and Applicability.** This Section establishes requirements for:

1. This section implements Government Code §§ 66411.7 (“urban lot splits”) and 68582.21 (“two-unit projects”), herein referred to as Senate Bill 9 (SB 9). The purpose of this section is to apply objective local development standards for projects covered by SB 9. This section is applicable only so long as SB 9 is operative.
2. Where this section or SB 9 conflict with any other provision of this code, this section and SB 9 shall control. Any development standard or requirement not specifically addressed by this section or SB 9 shall conform to all other provisions of this code and all other objective policies and requirements governing subdivisions and/or construction of single-family or two-family dwellings. Nothing in this section precludes an applicant from applying for a development permit under another section of this code.

B. **Urban Lot Splits.** This section authorizes a ministerial review process for parcel maps that create no more than two new lots in a single-family residential zone (“urban lot split”) in compliance with Government Code §66411.7.

1. ***Application.***

- a. Urban lot split is defined as a subdivision involving the division of an existing, legally subdivided parcel in a single-family residential zone into no more than two parcels in accordance with the requirements of this section.
- b. A parcel map application for an urban lot split shall be made to the Department on a form provided for that purpose pursuant to Chapter 17.60 (Applications, Processing, and Fees). All required information identified on the form shall be provided by the applicant, and any additional information required by the Director in order to determine the projects consistency with the objective standards applicable to urban lot splits. No application shall be accepted unless it is completed as prescribed and is accompanied by payment of all applicable fees.
- c. Only individual property owners may apply for an urban lot split. “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 CA Revenue and Taxation Code [RTC] §402.1(a)(11)(C)(ii)) or a qualified nonprofit corporation (as defined by RTC §214.15). Any person with a

mortgage interest in the lot to be split under this section must sign the application and the parcel map indicating the person's consent to the project.

- d. Projects that include a two-unit project in addition to an urban lot split, shall require an administrative permit for a two-unit project and adherence to the requirements specified in Section 17.52.270(C), in addition to adherence to all applicable urban lot split requirements.

2. ***Review Procedures & Action.***

- a. *Completeness Review.* The Director shall determine whether the application is complete pursuant to the requirements of Government Code §65943. The Director shall provide an applicant for an urban lot split with written documentation identifying items that were not complete or inconsistencies with the objective standards applicable to urban lot splits within 30 days after the application is submitted.
- b. *Ministerial Action.* Consistent with state law, the Director shall render a ministerial decision without a public hearing on an urban lot split application upon such application being deemed complete. Notwithstanding anything to the contrary set forth in this code, the Director's action to grant or deny an application for an urban lot split is final and not subject to appeal.
  - i. A Tentative Parcel Map for an urban lot split shall be approved ministerially if it complies with all requirements of this section. Recordation of a Tentative Parcel Map is not required. A Final Parcel Map shall be approved ministerially as well, but not until the owner demonstrates that all required documents have been recorded (e.g., deed restriction, easements). The expiration date of the Tentative Map is determined by the Subdivision Map Act §§ 66452.6 and 66463.5 and the Town's Subdivision Ordinance. An approved Tentative Map is valid for 24 months after its effective date.
  - ii. The approval shall require the owner and applicant to hold the Town harmless from all claims and damages related to the approval and its subject matter.
  - iii. The approval shall require the owner and applicant to reimburse the Town for all costs of enforcement, including attorney's fees and costs associated with enforcing the requirements of this code.
  - iv. The lot created pursuant to the urban lot split cannot be sold/transferred until the Final Parcel Map has been recorded.

3. ***Requirements.*** An urban lot split shall satisfy each of the following requirements.

- a. *Map Act Compliance.* The urban lot split shall conform to all applicable objective requirements of the Subdivision Map Act (Gov. Code §66410 et. seq., "SMA"), including implementing requirements in this code, except as otherwise expressly provided in this section. The buyer or grantee and/or the Town has the following remedies if an urban lot split violates any part of the SMA, the Town's subdivision ordinance, 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 Town has all the remedies available to it under the SMA, including, but not limited to, the following:
    - (1) An action to enjoin any attempt to sell, lease, or finance the property.
    - (2) An action for other legal, equitable, or summary remedy, such as declaratory and injunctive relief.
    - (3) Criminal prosecution, punishable by imprisonment in county jail or state prison for up to one year, by a fine of up to \$10,000, or both; or a misdemeanor.
    - (4) Record a notice of violation.
    - (5) Withhold any or all future permits and approvals.
  - iii. Notwithstanding SMA §66411.1, no dedication of rights-of-way or construction of offsite improvements is required for an urban lot split.
- b. *Zone.* The lot to be split is located in a zone where a single-family dwelling is the only permitted primary residential use pursuant to Table 17.20.020 (Allowed Uses and Permit Requirements for Residential Zoning Districts), which only includes lots in the Residential Single-Family (RSF) and Rural Residential (RR) zoning districts.
- c. *Lot Location.* The purpose of the following list is merely to summarize the requirements of Government Code §65913.4(a)(6)(B)-(K) (*see Gov. Code §66411.7(a)(3)(C)*), which identifies unique site characteristics for when a lot cannot be split through the urban lot split process. The applicant shall provide evidence that the requirements of Government Code §65913.4(a)(6)(B)-(k) are satisfied.

The lot to be split shall not be 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 the Mammoth Lakes Fire Protection District (MLFPD).
- 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.
  - 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.
- d. *Not Historic.* The lot to be split shall 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 town or county landmark or as a historic property or district.
- e. *No Prior Urban Lot Split.* The lot to be split shall:
- i. not have been established through a prior urban lot split; and
  - ii. not be 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. “Any person acting in concert with the owner” here includes any third-party that coordinates or assists the owners of two adjacent lots with their respective urban lot splits.
- f. *No Impact on Protected Housing.*
- i. The urban lot split shall not require or include 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 policy power.
    - (3) 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.
    - (4) Housing that has been occupied by a tenant in the last three years.
  - ii. As part of the urban lot split application, the applicant and the owner of a property shall provide a sworn statement by affidavit representing and warranting that this subsection f is satisfied. The sworn statement shall state that:

- (1) No housing that is income-restricted for households of moderate, low, or very low income will be demolished or altered.
  - (2) No housing that is subject to any form of rent or price control will be demolished or altered.
  - (3) No housing that has been withdrawn from rental or lease under the Ellis Act at any time in the last 15 years will be demolished or altered.
  - (4) No housing that has been occupied by a tenant in the last three years will be demolished or altered.
- iii. The town may conduct its own inquiries and investigation to ascertain the veracity of the sworn statement, including, but not limited to, surveying owners of nearby properties; and the Town may require additional evidence of the applicant and owner as necessary to determine compliance with this requirement.
- g. *Lot Size.* The lot to be split shall be at least 2,400 square feet.
- i. The resulting lots shall be at least 1,200 square feet.
  - ii. Each of the resulting lots shall be between 60 percent and 40 percent of the original lot area.
  - iii. The minimum lot depth and width dimensions and/or the minimum width/depth for a building site specified in Table 17.20.030 (Residential Zoning Districts Development Standards) for the underlying zones shall yield to the degree necessary to avoid physically precluding the construction of up to two units on each resulting lot or either of the two units from being at least 800 square feet in floor area.
- h. *Easements.* The owner shall 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.
- i. Each easement shall be shown on the Tentative Parcel Map.
  - ii. Copies of the unrecorded easement agreements shall be submitted with the application. The easement agreements shall be recorded against the property before the Final Map may be approved, in accordance with subpart (a)(i) above.
  - iii. If an easement is recorded and the project is not completed, making the easement moot, the property owner may request, and the Town will provide, a notice of termination of the easement, which the owner may record.
- i. *Lot Access.* Each resulting lot shall have access to, provide access to, or adjoin the public right of way. Access shall be designed, constructed, and properly maintained in compliance with the “Residential Driveway Standards” specified in the Public Works Town Standards, unless otherwise modified and approved by the Public Works Director.

- i. Access to the resulting lots and all resulting units on the subject lots shall be accessed by a single driveway entrance/exit and the driveway shall have a minimum-maximum width at the road right-of-way edge of 12 to 24 feet. The single driveway standard is only enforced to the extent that it does not preclude the construction of up to two units on each resulting lot or either of the two units from being at least 800 square feet in floor area.
- ii. Access to flag or rear lots (i.e., lots that do not have frontage on the public right-of-way) created by an urban lot split shall be provided through an access corridor. To the extent that it does not prevent two primary dwelling units on each resulting lot, the access corridor for the rear lot shall be integrated with the driveway for the front lot.
  - (1) The access corridor can be either a private right-of-way strip owned in fee by the rear property owner or an easement that provides unrestricted access to the rear property. Easements shall be recorded against the property before the Final Map may be approved, in accordance with subpart (a)(i) above
  - (2) The access corridor (i.e., private strip or easement) shall have a minimum-maximum width of 12 to 24 feet and the length shall be at minimum the required setback of the underlying zone.
  - (3) Access corridors shall remain free and clear of obstructions (e.g., structures, propane tanks, trees, large boulders, trash enclosures, utility pedestals, etc.) at all times.
- j. *Number of Units Allowed.* No more than two (2) dwelling units of any kind may be built, or exist, 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 17.52.270(C) (Two-Unit Projects) of this code, an ADU, or a JADU.
- k. *Unit Size.* The total floor area of each primary dwelling unit that is developed on a resulting lot shall be less than or equal to 800 square feet.
  - i. An existing unit (e.g., primary dwelling unit, ADU) that was legally established prior to the urban lot split and that is larger than 800 square feet is limited to the existing floor area at the time of the urban lot split. The unit may not be expanded.
  - ii. An existing unit (e.g., primary dwelling unit, ADU) that was legally established prior to the urban lot split and that is smaller than 800 square feet may be expanded up to a maximum size of 800 square feet after the urban lot split.
- l. *Setbacks.* All setbacks shall conform to those objective setbacks that are imposed through the underlying zone, with the following exceptions:
  - i. Existing Structures. An existing legally established structure or a new structure that is constructed in the same location and to the same

dimensions as an existing legally established structure shall not require any additional setback than what currently exists.

- ii. **Setback Encroachments.** The setbacks imposed by the underlying zone shall yield to the degree necessary to avoid physically precluding the construction of up to two units on each resulting lot or either of the two units from being at least 800 square feet in floor area; but shall maintain a minimum setback of four feet from the side and rear property lines.
- iii. **Front Setback.** Notwithstanding any other part of this code, dwellings that are constructed after an urban lot split shall maintain the front setback specified in Table 17.20.030 for the underlying zone. There are no exceptions to this standard, unless this standard would preclude the construction of up to two units on each resulting lot or either of the two units from being at least 800 square feet in floor area.
- m. **Height Restrictions.** No new primary dwelling unit may exceed two stories, with a maximum allowable height of 24 feet in height, measured from finished grade in accordance with the height calculation methods specified in Section 17.36.060. Any portion of a new primary dwelling unit that exceeds one story must be stepped back by an additional five feet from the ground floor.
- n. **Lot Coverage.** Maximum lot coverage shall conform to the objective lot coverage limitations imposed through the underlying zone. This standard is only enforced to the extent that it does not preclude the construction of up to two units on each resulting lot or either of the two units from being at least 800 square feet in floor area.
- o. **Design standards.**
  - i. **Roof design and materials.** When a primary dwelling unit is constructed with reduced side or rear yard setbacks, where allowed by this Section, the pitch of any portion of the roof within the reduced setback area shall not be directed towards the side or rear property line(s), or the structure shall have a non-shedding roof material and/or an engineered snowslide restraint device for the life of the structure.
  - ii. **Architectural projections.** When a primary dwelling unit is constructed with reduced side or rear yard setbacks, where allowed by this Section, no portion of the structure, including the architectural features specified in Table 17.36.100 (Allowed Projections into Setbacks), shall be located closer than four feet to the side and rear property lines.
- p. **Parking.** Each new primary dwelling unit that is built on a lot after an urban lot split shall have at least one off-street parking space per unit. The off-street parking space shall comply with Zoning and/or Public Works Standards for minimum size, location, and slope.

In instances when any of the following apply, no off-street parking is required for a new primary dwelling unit that is built on a lot after an urban lot split.

- i. The lot is located within one-half mile walking distance of either:

- (1) a high-quality transit corridor, which is defined in Public Resources Code §21155(b) as “a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours”; or
  - (2) a major transit stop, which is defined in Public Resources Code §21064.3 as “a site containing an existing rail or bus rapid transit station, 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 car-share vehicle location.
- q. *Nonconforming Conditions.* An urban lot split may be approved without requiring a legal nonconforming zoning condition to be corrected.
- r. *Utilities.* Each primary dwelling unit on the resulting lot shall have its own direct utility connection to the utility service provider.
- s. *Building & Safety.* All new structures built on the lot shall comply with all current local building standards. An urban lot split shall be considered a change of use.
- t. *Fire-Hazard Mitigation Measures.* A lot in a very high fire hazard severity zone shall comply with all MLFPD fire hazard mitigation measures for residential construction.
- u. *Separate Conveyance.*
  - i. Within a resulting lot:
    - (1) Primary dwelling units on a 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 and all dwellings on the lot must be held equally and undivided by all individual property owners.
  - ii. Between resulting lots. Separate conveyance of the resulting lots is permitted. If dwellings or other structures (e.g., 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 CC&Rs, easements, or other documentation that is necessary to allocate rights and responsibility between the owners of the two lots.
- v. *Regulation of Uses.*

- i. Residential Uses Only. No non-residential use is permitted on any lot created by an urban lot split.
    - ii. Short-Term Rentals are Prohibited. No dwelling unit on a lot that is created by an urban lot split may be rented for a period of 30 consecutive days or less.
    - iii. Owner Occupancy. The applicant for an urban lot split shall 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 place of residence for a minimum of three years after the urban lot split is approved.
  - w. *Deed Restriction.* The owner shall record a deed restriction in a form approved by the Town that does each of the following:
    - i. Expressly prohibits any rental of any dwelling on the property for a period of less than 30 days.
    - ii. Expressly prohibits any non-residential use of the lots created by the urban lot split.
    - iii. Expressly prohibits any separate conveyance of a primary dwelling on the property, any separate fee interest, and any common interest development within the lot.
    - iv. States that the property is formed by an urban lot split and is therefore subject to the Town's urban lot split regulations, including all applicable limits on dwelling size and development.
  - x. *Specific Adverse Impacts.* Notwithstanding anything else in this section, the Town 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 or safety or on the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.
    - i. "Specific Adverse Impact" has the same meaning as in Gov. Code §65589.5(d)(2), as it may be amended from time to time. As of January 1, 2022, this subsection provides as follows: "a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete" and does not include (1) inconsistency with the zoning ordinance or general plan land use designation or (2) the eligibility to claim a welfare exemption under Revenue and Taxation Code section 214(g).
    - ii. The Building Official may consult with and be assisted by Planning Division staff and other as necessary in making a finding of "specific adverse impact."
- C. **Two-Unit Projects.** This section authorizes a ministerial review process for housing developments containing no more than two dwelling units on a lot in a single-family residential zone ("two-unit project") in compliance with Government Code §65852.21.

1. ***Application.***

- a. Two-unit project is defined as a housing development consisting of no more than two primary dwelling units on a lot, including a development which entails adding one new primary unit to an existing primary unit, in a single-family residential zone.
- b. An Administrative Permit application for two-unit project shall be made to the Department on a form provided for that purpose pursuant to Chapter 17.60 (Applications, Processing, and Fees). All required information identified on the form shall be provided by the applicant, and any additional information required by the Director in order to determine the projects consistency with the objective standards applicable to two-unit projects. No application shall be accepted unless it is completed as prescribed and is accompanied by payment of all applicable fees.
- c. Only individual property owners may apply for 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 CA Revenue and Taxation Code [RTC] §402.1(a)(11)(C)(ii)) or a qualified nonprofit corporation (as defined by RTC §214.15).
- d. For any lot created in violation of the SMA, the applicant shall obtain a certificate of compliance with the SMA for the lot and provide the certificate with the application.
- e. Projects that include an urban lot split in addition to a two-unit project, shall require a parcel map application for an urban lot split and adherence to the requirements specified in Section 17.52.270(B), in addition to adherence to all applicable two-unit project requirements.

2. ***Review Procedures & Action.***

- a. *Completeness Review.* The Director shall determine whether the application is complete pursuant to the requirements of Government Code §65943. The Director shall provide an applicant for a two-unit project with written documentation identifying items that were not complete or inconsistencies with the objective standards applicable to two-unit projects within 30 days after the application is submitted.
- b. *Ministerial Action.* Consistent with state law, the Director shall render a ministerial decision without a public hearing on a two-unit project application upon such application being deemed complete. Notwithstanding anything to the contrary set forth in this code, the Director’s action to grant or deny an application for a two-unit project is final and not subject to appeal.
  - i. A two-unit project shall be approved ministerially if it complies with all requirements of this section. The ministerial approval of a two-unit project

shall not take effect until the owner demonstrates that all required documents have been recorded (e.g., deed restriction, easements).

- ii. The approval shall require the owner and applicant to hold the Town harmless from all claims and damages related to the approval and its subject matter.
- iii. The approval shall require the owner and applicant to reimburse the Town for all costs of enforcement, including attorney's fees and costs associated with enforcing the requirements of this code.

3. **Requirements.** An urban lot split shall satisfy each of the following requirements.

- a. *Map Act Compliance.* The lot shall have been legally subdivided.
- b. *Zone.* The lot is located in a zone where a single-family dwelling is the only permitted primary residential use pursuant to Table 17.20.020 (Allowed Uses and Permit Requirements for Residential Zoning Districts), which only includes lots in the Residential Single-Family (RSF) and Rural Residential (RR) zoning districts.
- c. *Lot Location.* The purpose of the following list is merely to summarize the requirements of Government Code §65913.4(a)(6)(B)-(K) (*see Gov. Code §65852.21(a)(2)*), which identifies unique site characteristics for when a two-unit project is not permitted. The applicant shall provide evidence that the requirements of Government Code §65913.4(a)(6)(B)-(k) are satisfied.

The lot shall not be 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 the Mammoth Lakes Fire Protection District (MLFPD).
- 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.
- 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.
- d. *Not Historic.* The lot shall 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 town or county landmark or as a historic property or district.
- e. *No Impact on Protected Housing.*
- i. The two-unit project shall not require or include 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 policy power.
    - (3) 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 two-unit project application.
    - (4) Housing that has been occupied by a tenant in the last three years.
  - ii. As part of the two-unit project application, the applicant and the owner of a property shall provide a sworn statement by affidavit representing and warranting that his subsection e is satisfied. The sworn statement shall state that:
    - (1) No housing that is income-restricted for households of moderate, low, or very low income will be demolished or altered.
    - (2) No housing that is subject to any form of rent or price control will be demolished or altered.
    - (3) No housing that has been withdrawn from rental or lease under the Ellis Act at any time in the last 15 years will be demolished or altered.
    - (4) No housing that has been occupied by a tenant in the last three years will be demolished or altered.
  - iii. The town may conduct its own inquiries and investigation to ascertain the veracity of the sworn statement, including, but not limited to, surveying owners of nearby properties; and the Town may require additional evidence of the applicant and owner as necessary to determine compliance with this requirement.

- f. *Access.* Access to the site shall be designed, constructed, and properly maintained in compliance with the “Residential Driveway Standards” specified in the Public Works Town Standards, unless otherwise modified and approved by the Public Works Director. Access to the two-unit project shall be accessed by a single driveway entrance/exit and the driveway shall have a minimum-maximum width at the road right-of-way edge of 12 to 24 feet. The single driveway standard is only enforced to the extent that it does not preclude 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.
- g. *Number of Units Allowed.*
  - i. Lots that have not been created by an urban lot split pursuant to section 17.52.270(B) may have a two-unit project under this section, plus any ADU or JADU that must be allowed under state law and the Town’s ADU ordinance.
  - ii. Lots that have been created by an urban lot split pursuant to section 17.52.270(B), or lots that are subsequently split through the urban lot split process after the development of a two-unit project plus any allowable ADU or JADU, shall be subject to the limitations specified in section 17.52.270(B)(3)(j) related to the allowable number of units.
- h. *Unit Size.* The total floor area of each primary dwelling unit shall be less than or equal to 800 square feet.
  - i. An existing unit (e.g., primary dwelling unit, ADU) 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 existing floor area at the time of the two-unit project. The unit may not be expanded.
  - ii. An existing unit (e.g., primary dwelling unit, ADU) that was legally established prior to the two-unit project and that is smaller than 800 square feet may be expanded up to a maximum size of 800 square feet after or as part of the two-unit project.
- i. *Setbacks.* All setbacks shall conform to those objective setbacks that are imposed through the underlying zone, with the following exceptions:
  - i. Existing Structures. An existing legally established structure or a new structure that is constructed in the same location and to the same dimensions as an existing legally established structure shall not require any additional setback than what currently exists.
  - ii. Setback Encroachments. The setbacks imposed by the underlying zone shall yield to the degree necessary to avoid physically precluding the construction of up to two (2) units on the lot or either of the two (2) units from being a maximum of 800 square feet in floor area; but shall maintain a minimum setback of four feet from the side and rear property lines.
  - iii. Front Setback. Notwithstanding any other part of this code, dwellings that are constructed as part of a two-unit project shall maintain the front setback specified in Table 17.20.030 for the underlying zone. There are no

exceptions to this standard unless this standard would preclude 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.

- j. *Height Restrictions.* No new primary dwelling unit may exceed two stories, with a maximum allowable height of 24 feet in height, measured from finished grade in accordance with the height calculation methods specified in Section 17.36.060. Any portion of a new primary dwelling unit that exceeds one story must be stepped back by an additional five feet from the ground floor.
- k. *Lot Coverage.* Maximum lot coverage shall conform to the objective lot coverage limitations imposed through the underlying zone. This standard is only enforced to the extent that it does not preclude 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.
- l. *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.
- m. *Design standards.*
  - i. Roof design and materials. When a primary dwelling unit is constructed with reduced side or rear yard setbacks, where allowed by this Section, the pitch of any portion of the roof within the reduced setback area shall not be directed towards the side or rear property line(s), or the structure shall have a non-shedding roof material and/or an engineered snowslide restraint device for the life of the structure.
  - ii. Architectural projections. When a primary dwelling unit is constructed with reduced side or rear yard setbacks, where allowed by this Section, no portion of the structure, including the architectural features specified in Table 17.36.100 (Allowed Projections into Setbacks), shall be located closer than four feet to the side and rear property lines.
- n. *Parking.* Each new primary dwelling unit that is built on a lot as part of a two-unit project shall have at least one off-street parking space per unit. The off-street parking space shall comply with Zoning and/or Public Works Standards for minimum size, location, and slope.

In instances when any of the following apply, no off-street parking is required for a new primary dwelling unit that is built as part of a two-unit project.

- i. The lot is located within one-half mile walking distance of either:
  - (1) a high-quality transit corridor, which is defined in Public Resources Code §21155(b) as “a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours”; or
  - (2) a major transit stop, which is defined in Public Resources Code §21064.3 as “a site containing an existing rail or bus rapid transit station, 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 car-share vehicle location.
- o. *Nonconforming Conditions.* A two-unit project may only be approved if all nonconforming zoning conditions are corrected.
- p. *Utilities.* Each primary dwelling unit shall have its own direct utility connection to the utility service provider.
- q. *Building & Safety.* All new structures built on the lot shall comply with all current local building standards.
- r. *Fire-Hazard Mitigation Measures.* A lot in a very high fire hazard severity zone shall comply with all MLFPD fire hazard mitigation measures for residential construction.
- s. *Separate Conveyance.*
  - i. Primary dwelling units on the lot may not be owned or conveyed separately from each other.
  - ii. Condominium airspace divisions and common interest developments are not permitted within the lot.
  - iii. All fee interest in a lot and all dwellings on the lot must be held equally and undivided by all individual property owners.
  - iv. No timeshare, as defined by state law, is permitted. This includes any co-ownership arrangement that gives an owner the right to exclusive use of the property for a defined period or periods of time.
- t. *Regulation of Uses.*
  - i. Residential Uses Only. No non-residential use is permitted on the lot.
  - ii. Short-Term Rentals are Prohibited. No dwelling unit on the lot may be rented for a period of 30 consecutive days or less.
  - iii. Owner Occupancy. Unless the lot was formed by an urban lot split, there are no owner-occupancy restrictions for long-term rentals of either primary dwelling unit. If one of the primary dwelling units has a legally established JADU, the owner-occupancy requirements specified in Section 17.52.055(C)(5)(d) (JADU Occupancy Requirements) shall apply.
- u. *Deed Restriction.* The owner shall record a deed restriction in a form approved by the Town that does each of the following:
  - i. Expressly prohibits any rental of any dwelling on the property for a period of less than 30 days.
  - ii. Expressly prohibits any non-residential use of the lot.

- iii. Expressly prohibits any separate conveyance of a primary dwelling on the property, any separate fee interest, and any common interest development within the lot.
  - iv. If the lot does undergo an urban lot split, expressly requires the individual property owners to live in one of the dwelling units on the lot as the owner's primary residence and legal domicile.
  - v. Limits development of the lot to residential units that comply with the requirements of this section, except as required by state law.
- v. *Specific Adverse Impacts.* Notwithstanding anything else in this section, the Town 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 or safety or on the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.
- i. "Specific Adverse Impact" has the same meaning as in Gov. Code §65589.5(d)(2), as it may be amended from time to time. As of January 1, 2022, this subsection provides as follows: "a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete" and does not include (1) inconsistency with the zoning ordinance or general plan land use designation or (2) the eligibility to claim a welfare exemption under Revenue and Taxation Code section 214(g).
  - ii. The Building Official may consult with and be assisted by Planning Division staff and other as necessary in making a finding of "specific adverse impact."
- w. *Remedies.* If a two-unit project violates any part of this code or any other legal requirements:
- i. The buyer, grantee, or lessee of any part of the property has an action for damages or to void the deed, sale, or contract.
  - ii. The Town may:
    - (1) Bring an action to enjoin any attempt to sell, lease, or finance the property.
    - (2) Bring an action for other legal, equitable, or summary remedy, such as declaratory and injunctive relief.
    - (3) Pursue criminal prosecution, punishable by imprisonment in county jail or state prison for up to one year, by a fine of up to \$10,000, or both; or a misdemeanor.
    - (4) Record a notice of violation.
    - (5) Withhold any or all future permits and approvals.

- (6) Pursue all other administrative, legal, or equitable remedies that are allowed by law or the municipal code.

**EXHIBIT “B”**

**Ordinance No. 2022-\_\_  
Case No. ZCA 21-001**

**Additional Zoning Code Amendments**

(Additions are shown in Blue Underlined and deletions are shown in ~~Red Strikeout~~)

- a.** Section 17.20.020 is hereby amended by adding the “Two-Unit Project” Residential Use Classification heading in Table 17.20.020, as depicted below.

<b>TABLE 17.20.020: ALLOWED USES AND PERMIT REQUIREMENTS FOR RESIDENTIAL ZONING DISTRICTS</b>					
<i>P: Permitted Use; U: Use Permit Required; A: Administrative Permit Required; - : Use Not Allowed; (#) Limitation Applies, See Footnote</i>					
<i>Land Use</i>	<i>RR</i>	<i>RSF</i>	<i>RMF-1</i>	<i>RMF-2</i>	<i>See Specific Use Regulations:</i>
<b>Residential Use Classifications</b>					
Single Family Dwelling	See subclassifications below				
<i>Detached</i>	P	P	P	P	
<i>Attached</i>	-	-	P	P	
<u>Two-Unit Project</u>	<u>P</u>	<u>P</u>	<u>-</u>	<u>-</u>	<u>See 17.52.270 (Single-Family Residential Urban Lot Split and Two-Unit Project)</u>
Multi-Family Residential	-	-	P	P	See 17.52.210 (Multi-Family Residential Projects)
Assisted Living Facility	-	-	U	U	See 17.52.260 (Residential Care and Assisted Living Facilities)
Family Day Care Home	See subclassifications below				
<i>Large</i>	P	P	P	P	See 17.52.100 (Child Day Care Facilities)
<i>Small</i>	P	P	P	P	
Group Living Quarters	-	-	U	U	
Residential Care Facility	See subclassifications below				
<i>General</i>	-	-	U	U	See 17.52.210 (Residential Care and Assisted Living Facilities)
<i>Limited</i>	P	P	P	P	See 17.52.210 (Residential Care and Assisted Living Facilities)

<b>TABLE 17.20.020: ALLOWED USES AND PERMIT REQUIREMENTS FOR RESIDENTIAL ZONING DISTRICTS</b>					
<i>P: Permitted Use; U: Use Permit Required; A: Administrative Permit Required; - : Use Not Allowed; (#) Limitation Applies, See Footnote</i>					
<i>Land Use</i>	<i>RR</i>	<i>RSF</i>	<i>RMF-1</i>	<i>RMF-2</i>	<i>See Specific Use Regulations:</i>
Accessory Dwelling Unit	P	P	P	P	See 17.52.055 (Accessory Dwelling Units)
Junior Accessory Dwelling Unit	P	P	P	P	See 17.52.055 (Accessory Dwelling Units)
Supportive Housing	See 17.52.290 (Transitional and Supportive Housing)				
Transitional Housing	See 17.52.290 (Transitional and Supportive Housing)				

**b.** Section 17.20.030 is hereby amended by adding thereto and deleting therefrom the following text:

**17.20.030 Residential Zoning Districts Development Standards**

Subdivisions, new land uses and structures, and alterations to existing land uses and structures, shall be designed, constructed, and established in compliance with the requirements in Table 17.20.030, in addition to the applicable standards (e.g., landscaping, parking and loading, etc.) in Article III (Site Planning and General Development Standards). However, where accessory dwelling units ([see 17.52.055](#)) or urban lot splits / two-unit projects ([see 17.52.270](#)) are a permitted use, the development standards specified in ~~Section 17.52.055 (Accessory Dwelling Units) applicable only to accessory dwelling units~~ [Chapter 17.52 for the specific land use](#) shall take precedence over the development standards specified below. Additional regulations are denoted in the right hand column. Section numbers refer to other sections of the Code while individual letters refer to subsections that directly follow the table.

**c.** Section 17.60.030 is hereby amended by adding the “Urban Lot Split Parcel Map” permit type in Table 17.60.030, as depicted below.

<b>TABLE ERROR! REFERENCE SOURCE NOT FOUND.: REVIEW AUTHORITY</b>				
<i>Type of Permit or Decision</i>	<i>Refer to Chapter</i>	<i>Role of Review Authority<sup>1</sup></i>		
		<i>Director<sup>2</sup></i>	<i>Planning and Economic Development Commission</i>	<i>Town Council</i>
Adjustment	<b>Error! Reference source not found.</b>	Decision	Appeal	Appeal
Administrative Permit	<b>Error! Reference source not found.</b>	Decision	Appeal	Appeal
<a href="#">Administrative Permit – Two-Unit Project</a>	<a href="#">Section 17.52.270</a>	<a href="#">Decision</a>		
Design Review - Minor	<b>Error! Reference source not found.</b>	Decision	Appeal	Appeal
Design Review - Major	<b>Error! Reference source not found.</b>		Decision	Appeal
Film Permit	N/A	Decision	Appeal	Appeal

<b>TABLE ERROR! REFERENCE SOURCE NOT FOUND.: REVIEW AUTHORITY</b>				
<i>Type of Permit or Decision</i>	<i>Refer to Chapter</i>	<i>Role of Review Authority<sup>1</sup></i>		
		<i>Director<sup>2</sup></i>	<i>Planning and Economic Development Commission</i>	<i>Town Council</i>
General Plan Amendment	<b>Error! Reference source not found.</b>		Recommend	Decision
Lot Line Adjustment	Subdivision Ordinance	Decision	Appeal	Appeal
Master Plan	<b>Error! Reference source not found.</b>		Recommend	Decision
Master Sign Program	<b>Error! Reference source not found.</b>		Decision	Appeal
Sign Permit	<b>Error! Reference source not found.</b>	Decision	Appeal	Appeal
Specific Plan	<b>Error! Reference source not found.</b>		Recommend	Decision
Tentative Parcel Map	Subdivision Ordinance		Decision	Appeal
Tentative Tract Map	Subdivision Ordinance		Decision	Appeal
<a href="#">Parcel Map - Urban Lot Split</a>	<a href="#">Section 17.52.270</a>	<a href="#">Decision</a>		
Time Extension	<b>Error! Reference source not found.</b>	Original Review Authority		
Tree Removal Permit	<b>Section Error! Reference source not found.Error! Reference source not found.</b>	Decision	Appeal	Appeal
Use Permit	<b>Error! Reference source not found.</b>		Decision	Appeal
Variance	<b>Error! Reference source not found.</b>		Decision	Appeal
Zoning Code Amendment	<b>Error! Reference source not found.</b>		Recommend	Decision
<p>1. <b>Recommend</b> means that the review authority makes a recommendation to a higher decision-making body; <b>Decision</b> means that the review authority makes the final decision on the matter; <b>Appeal</b> means that the review authority may consider and decide upon appeals of an earlier decision, in compliance with <b>Error! Reference source not found.</b> (Appeals).</p> <p>2. The Director may refer any matter subject to his/her decision to the Commission, so that the Commission may instead make the decision.</p>				

**d.** Section 17.144.020 is hereby amended by adding thereto the following text:

**17.144.020 Residential Use Classifications**

**Two-Unit Project.** A housing development consisting of no more than two primary dwelling units on a lot, including a development which entails adding one new primary unit to an existing primary unit, in a single-family residential zone.