

- b. In case of denial, the applicant shall have the option of:
 - (1) Appealing the decision to the Commission in compliance with Chapter 9.81 *Appeals*; or
 - (2) Filing a parcel or tract map in compliance with this Article.
 - (3) Modify the application to comply with the requirements and resubmit.

9.93.040 – Lot Mergers

A. Purpose

- 1. This Section is provided in compliance with Government Code Chapter 3, Article 1.5 (Merger of Parcels) for the purpose of establishing the authority of the Town to merge two or more parcels or units of land held by the same owner.
- 2. Lot mergers may be voluntary mergers initiated by the property owner(s) or mandatory mergers initiated by the Town.
- 3. Parcels may also be merged in compliance with Government Code Sections 66499.20.2, or 66499.20.3 pertaining to the reversion to acreage.

B. Voluntary Merger of Contiguous Parcels

- 1. Description and Purpose. It is the purpose of this Subsection to allow property owners to request a voluntary merger of contiguous parcels that are under the same ownership.
- 2. Review Authority. The Director shall be the review authority for reviewing and either approving or denying lot mergers.
- 3. Process
 - a. The property owner shall file an application for a Lot merger.
 - b. The merger of the subject parcels become effective when the Director causes a notice of merger specifying the names of the record owners and a description of the real property to be filed for recordation with the County Recorder.
- 4. Requirements. A parcel may be voluntarily merged with one or more contiguous parcels held by the same owner: if any one of the contiguous parcels held by the same owner does not conform to standards for minimum parcel size or dimension specified by the applicable zone; if the property owner wishes to construct a structure across the property line(s) of two or more contiguous parcels; or, if at least one of the parcels meet one or more of the requirements specified in the Government Code Section 66451.11(b).

C. Where These Provision Do Not Apply

1. This Subsection shall not apply to the sale, lease, or financing of one or more contiguous parcels or units of land which have been created under the provisions of Town ordinances regulating the subdivision of real property and Government Code Sections 66410 et seq., applicable at the time of their creation, or to parcels or units which were not subject to the provisions at the time of their creation, even though the contiguous parcels or units are held by the same owner.
2. However, if any one of the contiguous parcels or units held by the same owner does not conform to standards for minimum parcel size to allow use or development in compliance with this Development Code and the standards established by Subsection D *Unmerged Parcels Prior to January 1, 1984*, below, then those parcels or units shall be merged.

D. Unmerged Parcels Prior to January 1, 1984. Any parcels or units which were deemed unmerged, before January 1, 1984, under the Act and which have not been merged subsequently shall be considered separate parcels or units for purposes of this Subsection.

E. Mandatory Merger of Nonconforming Contiguous Parcels under Single Ownership. Contiguous parcels or units of land held by the same owner on the date that notice of intention to determine status is filed shall be involuntarily merged if one of the parcels or units does not conform to the minimum parcel size to allow use or development in compliance with this Development Code, and if all of the following requirements are satisfied in compliance with Government Code Section 66451.11(b):

1. At least one of the affected parcels is not developed with any structure for which a Building Permit was issued or for which a Building Permit was not required at the time of construction, or is developed only with an accessory structure(s), or is developed with a single structure, other than an accessory structure, that is also partially sited on a contiguous parcel or unit.
2. With respect to any affected parcel, one or more of the following conditions exists:
 - a. Comprises less than 5,000 square feet in area at the time of the determination of merger.
 - b. Was not created in compliance with applicable laws and ordinances in effect at the time of its creation.
 - c. Does not meet current standards for sewage disposal and domestic water supply.
 - d. Does not meet slope stability standards.
 - e. Has no legal access which is adequate for vehicular and safety equipment access and maneuverability.
 - g. Its development would create health or safety hazards.
 - h. Is not consistent with the applicable General Plan and any applicable specific plan, other than minimum parcel size or density standards.

3. Subparagraph E. 2. above, shall not apply if any of the conditions specified in Government Code Sections 66451.11(A), (B), (C), (D) or (E) exist.

F. Proceedings for Notice of Intention to Determine Status

1. Whenever the Director has knowledge that real property has merged in compliance with this Section, the Director shall mail, by certified mail, to the current record owner(s) of the property a notice of intention to determine status.
 - a. The notice of intention shall state that the affected parcels may be merged in compliance with this Subsection; that the owner may request, within 30 days from the date the notice of intention was recorded, a hearing before the Commission to present evidence that the property does not meet the standards for merger; and that the notice of intention was recorded with the County Recorder on the date the notice of intention was mailed to the property owner(s).
 - b. Upon receipt of a request for a hearing, the Director shall set the hearing for a date not less than 30 days but not more than 60 days from the date of receipt of the request.
 - c. The property owner shall be notified of the hearing by certified mail.
 - d. After the hearing, the Commission shall determine whether the affected property has merged in compliance with this Section.
 - e. A determination of non-merger may be made whether or not the affected property meets the standards for merger specified in Subsection E., above.
 - f. The determination shall be made and notification of the determination shall be mailed to the property owner(s) within five working days following the date of the hearing.
2. If the parcels have merged, the Director shall file a notice of merger with the County Recorder within 30 days following the date of the hearing, unless the determination has been appealed in compliance with Subparagraph 3. below and Chapter 9.81 *Appeals*.
 - a. The notice of merger shall specify the name(s) of the record owner(s) and shall particularly describe the real property.
 - b. If the parcels have not merged, the Director shall record a release of the notice of intention within 30 days following the date of the determination, and shall mail a copy of the release to the owner(s).
 - c. If no hearing is requested, the determination shall be made not later than 90 days after the mailing of the notice of the opportunity for a hearing.
3. If the owner(s) requested a hearing, the determination of the Commission may be appealed to the Council within 10 days following the date of mailing the notice of determination by filing a written appeal with the Town Clerk, in compliance with Chapter 9.81 (*Appeals*).

- a. A fee in compliance with the planning fee schedule shall be paid at the time of filing the appeal.
- b. Upon receipt of an appeal and payment of the fee, the Town Clerk shall place the matter on the Council agenda not less than 30, but not more than 60, days following the date the appeal was filed.
- c. If, after a hearing, the Council grants the appeal, the Town Clerk shall, within 30 days, record a release of the notice of intention with the County Recorder.
- d. If the appeal is denied, the Town Clerk shall, within 30 days, record a notice of merger with the County Recorder.
- e. A copy of either the release or the notice of merger shall be sent to the property owner(s).

G. Unmerger

1. Deemed Unmerged. Any parcel or unit of land which merged in compliance with the provisions of any law before January 1, 1984, but for which a notice of merger was not recorded on or before that date are deemed unmerged, if on January 1, 1984, all of the criteria established by Government Code Section 66451.30(a) are met, and if none of the conditions specified in Government Code Section 66451.30(b) exist.
2. Filing of a Certificate of Compliance. Upon request of an owner, the Director shall file a certificate of compliance whenever the Director determines that a parcel is unmerged in compliance with this Subsection.

H. Request for Determination of Merger

1. Director's Determination of Merged or Unmerged
 - a. A property owner may request that the Director determine whether property has merged in compliance with Subsection E, *Mandatory Merger of Nonconforming Contiguous Parcels under Single Ownership*, above, or is deemed unmerged in compliance with Subsection G, *Unmerger*, above.
 - b. A request for determination shall be made in writing and shall be accompanied by a fee in compliance with the Planning Fee Schedule.
2. Determination of Merged. Upon determination that property has merged, the Director shall issue to the owner(s) and record with the County Recorder a notice of merger.
3. Determination of Unmerged. Upon determination that property is deemed unmerged, the Director shall issue to the owner(s) and record with the County Recorder a certificate of compliance showing each parcel as a separate parcel.