

## **Article 9:**

# **MERGER OF CONTIGUOUS PARCELS**

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- Sec. 9-2.0900: Purpose
- Sec. 9-2.0905: When Parcels may be Merged
- Sec. 9-2.0910: City Initiated Merger
- Sec. 9-2.0915: Property Owner Requested Merger
- Sec. 9-2.0920: Effective Date of Merger
- Sec. 9-2.0925: Appeal of Merger

### **Sec. 9-2.0900:**

#### **Purpose**

The purpose of this article is to provide procedures by which the City may require or provide the merger of contiguous parcels under common ownership. This Article has been adopted in compliance with the provisions of Sections 66451.11 of the Subdivision Map Act and complies with the provisions of Sections 66451.10 through 66451.21 inclusive, of the Subdivision Map Act, which provides the City with authority for the merger of contiguous parcels.

### **Sec. 9-2.0905:**

#### **When Parcels May be Merged**

The Development Director or the owner of any contiguous parcel may initiate the merger of any parcel. The Director, Planning Commission or City Council may require the owner of any contiguous parcel to request the merger of any or all contiguous parcels within the City in conjunction with the approval of any development plan (Article 8) or conditional use permit (Article 9) of the Zoning Chapter of the Ontario Development Code.

### **Sec. 9-2.0910:**

#### **City Initiated Merger**

**A. Merger Requirements.** The merger of a parcel with a contiguous parcel(s) may only occur if all the following requirements are satisfied:

1. Any contiguous parcels are held by the same owner or owners.
2. That at least one of the affected parcels is undeveloped and does not contain a structure for which a building permit was not required at the time of construction, or is developed only with an accessory structure or other structure which is sited or partially sited on a contiguous parcel.
3. That one or more of the following conditions applies to any affected parcel:
  - a. At least one of the parcel(s) involved comprises less than 5,000 square feet in area at the time of the determination of merger.
  - b. The parcel was not legally created in compliance with applicable laws and ordinances in effect at the time of its establishment.
  - c. The parcel does not meet slope stability standards
  - d. The parcel does not meet current standards for sewage disposal and domestic water supply.
  - e. The parcel has no legal access, which is adequate for motor vehicles or safety equipment.

- f. The development of the parcel would create health and safety hazards.
  - g. The parcel is inconsistent with the City's General Plan; any approved Specific Plan, or the provisions of the City's development code.
  - h. A lot line passes through a structure within a development project that has been approved pursuant to the Development Code.
- 4. That the parcels when merged will not:
  - a. Be inconsistent or create a conflict with the City Development Code or General Plan, or any approved Specific Plan.
  - b. Create a conflict with the location of any existing structures.
  - c. Deprive or restrict another parcel of access.
  - d. Create new lot lines.
- B. Prior to merging any contiguous parcels, the City Engineer shall, by Certified Mail to the property owner(s) of record at the address shown on the latest available assessment roll of the County of San Bernardino, mail Notice of Intent to Merge which notifies the owner(s) that the affected parcels may be merged pursuant to the provisions of the Section. The notice shall include the statement that the owner(s) will be given the opportunity to request a hearing and to present evidence that the proposed contiguous parcel merger does not meet the criteria for a merger. For the purpose of this Ordinance, a property owner is any person holding any portion of the title for any involved property.
- C. The Notice of Intent to Merge shall be recorded with the San Bernardino County Recorder of the date that the notice is given to all property owner(s) of record.
- D. Within thirty (30) days of the recordation of the Notice of Intent to Merge, the owner of the affected property must file a request for a hearing regarding the proposed merger, with the Planning Department.
  - 1. If the owner of the affected property does not file a request for a hearing within the thirty (30) day time period specified above, the City Engineer shall determine whether or not to merge the contiguous parcels. To merge contiguous parcels the City Engineer shall make the following findings:
    - a. The merged parcel complies with the appropriate provisions of the Subdivision Map act and all applicable City Requirements for the merging of contiguous parcels.
    - b. The merged parcel does not adversely affect the purpose and intent of the City's General Plan or the public health, safety and welfare.
  - 2. If the owner of the affected property requests a hearing on the merger, then the Planning Commission, after a hearing, shall make the determination whether or not the affected parcels are or are not to be merged.
- E. The Planning Director shall set a time, date, and location for the hearing upon receiving a request for a hearing from the property owner of the affected property or on the thirty-first (31) day following the recordation of the Notice of Intent to Merge. The hearing shall be conducted within sixty (60) days following the receipt of the owner's request, but may be continued with the mutual consent of the Planning Commission and the property owner.

- F. At the hearing the property owner shall be given the opportunity to present evidence that the affected property does not meet the merger requirements set forth in Subsection C of this Section. At the conclusion of the hearing, the Planning Commission shall make a determination to whether the affected parcels are to be merged or not to be merged. To merge contiguous parcels the Planning Commission shall make the following findings:
1. The merged parcel complies with the appropriate provisions of the Subdivision Map Act and all applicable City Requirements for the merging of contiguous parcels.
  2. The merged parcel does not adversely affect the purpose and intent of the City's General Plan or the public health, safety and welfare.
- G. If the Planning Commission determines that the subject parcels shall be merged, it shall cause the Notice of Intent to Merge to be recorded as provided for in Section 66451.12 of the Government Code. If notification cannot be made at the time of the hearing to the parcel owner in person, notification shall be made by Certified Mail. The Commission shall notify the owner of its determination no later than five working days after the conclusion of the hearing.
- H. If the Planning Commission determines that the parcels should not be merged, the Commission shall instruct the Planning Director to release the Notification of Intent to Merge and mail a copy of the release to the property owner.

**Sec. 9-2.0915:****Property Owner Requested Merger**

- A. **Requirements.** A voluntary merger of lots may be requested by an applicant. A lot may be merged with one or more contiguous lots held by the same owner if any one of the contiguous lots held by the same owner does not conform to standards for minimum lot size or dimension specified by the applicable land use district or if at least one (1) such lot meets one (1) or more of the requirements specified in Section 9-2.0910(A)(3).
- B. When the owner or owners of record of any contiguous parcel, as defined in Subsection A, requests the merger of four (4) or fewer contiguous parcels, application shall be made on the forms and in the manner specified by the Planning Director.
- C. Within thirty (30) days of the application to merge parcels, the Planning Director shall determine whether the affected parcels are to be merged. To merge contiguous parcels the Planning Director shall make the following findings:
1. The merged parcel complies with the appropriate provisions of the Subdivision Map Act and all applicable City Requirements for the merging of contiguous parcels.
  2. The merged parcel does not adversely affect the purpose and intent of the City's General Plan or the public health, safety and welfare.
- D. If the Planning Director determines that the subject parcels shall be merged, it shall cause the Notice of Merger to be recorded as provided for in Section 66451.12 of the Government Code. If notification cannot be made at the time of the hearing to the parcel owner in person, notification shall be made no later than five working days after conclusion of the hearing.
- E. If the Planning Director determines that the parcels should not be merged, the Planning Director shall release the notification of intent to merge and mail a copy of the release to the property owner.

**Sec. 9-2.0920:**

**Effective Date of Merger**

The merger of any contiguous parcels shall become effective upon recordation of the Notice of Merger with the County Recorder. The Notice of Merger shall specify the date of the Director's determination, the names of the recorded owners, and a legal description of the properties.

**Sec. 9-2.0925:**

**Appeal of Merger**

The appeal of the Planning Director's determination to merge contiguous parcels to the appropriate advisory agency shall be made in accordance with the appeal provisions contained in Section 9-1.0500 of the Development Code.