



VICE CHAIR MARVIN PEREZ
COMMISSIONER DAVID BERNAL
COMMISSIONER HECTOR PACHECO
COMMISSIONER YVONNE PEÑA

PLANNING & PRESERVATION COMMISSION

SPECIAL MEETING NOTICE AND AGENDA

MONDAY, DECEMBER 19, 2022 – 6:30 P.M.

CITY HALL COUNCIL CHAMBER

117 MACNEIL STREET

SAN FERNANDO, CALIFORNIA 91340

TELECONFERENCE – PURSUANT TO PROVISIONS OF ASSEMBLY BILL 361

SPECIAL NOTICE REGARDING COVID-19

NOTICE OF TELECONFERENCE: Pursuant to Adopted Resolution No. 8098 by the City Council of the City of San Fernando, effective January 12, 2022, the City of San Fernando's Legislative Bodies may participate via teleconference and/or video in Accordance with Government Code Section 54953 as permitted under the provisions of Assembly Bill 361

PUBLIC PARTICIPATION OPTIONS

- 1. WATCH THE MEETING:** Pursuant to the Executive Order and given the current health concerns, members of the public can access meetings live on-line, with audio and video via YouTube Live, at: <https://www.youtube.com/c/CityOfSanFernando>
- 2. SUBMIT PUBLIC COMMENT IN PERSON:** Members of the public may provide comments in the City Council Chambers during the Public Comments section of the Agenda by submitting a comment card to the Board Secretary.
- 3. SUBMIT PUBLIC COMMENT VIA EMAIL:** Members of the public may submit comments by email to MDeSantiago@sfcity.org no later than **5:00 p.m. the day of the meeting**, to ensure distribution to the Planning and Preservation Commission prior to consideration of the agenda. Comments received via email will read into the record, limited to three minutes, and made part of the official public record of the meeting.
- 4. CALL-IN TO PROVIDE PUBLIC COMMENT LIVE AT THE MEETING:** Members of the Public may **call-in between 6:30 p.m. and 6:45 p.m.** Comments will be heard in the order received, and limited to three minutes. If necessary, the call-in period may be extended by the Chair.

Call-in Telephone Number: (669) 900-6833

Meeting ID: 896 2370 9376

Passcode: 194996

When connecting to the Zoom meeting, you will be placed in a virtual “waiting area,” with your audio disabled, until it is your turn to speak and limited to three minutes. Note: This is audio only.

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CALL TO ORDER/ROLL CALL

Vice-Chair Marvin Perez
Commissioner David Bernal
Commissioner Hector Pacheco
Commissioner Yvonne Peña

PLEDGE OF ALLEGIANCE

Led by Yvonne Peña

APPROVAL OF AGENDA

DECORUM AND ORDER

City Commissioners are appointed by City Council and must be free to discuss issues confronting the city in an orderly environment. Public members attending City Commission meetings shall observe the same rules of order and decorum applicable to the City Council ([SF Procedural Manual](#)). Any person making impertinent derogatory or slanderous remarks or who becomes boisterous while addressing a City Commission or while attending a City Commission meeting, may be removed from the room if the Presiding Officer so directs the Sergeant-At-Arms and such person may be barred from further audience before the City Commission.

PUBLIC STATEMENTS – WRITTEN/ORAL

Members of the public may [provide comments in the City Council Chambers](#) during the Public Comments section of the Agenda by submitting a comment card to the Board Secretary.

Members of the public may submit comments by email to MDeSantiago@sfcity.org no later than **5:00 p.m. the day of the meeting**, to ensure distribution to the Planning and Preservation Commission prior to consideration of the agenda. Comments received via email will be distributed to the Planning and Preservation Commission and read into the record.

Members of the public may provide a [live public comment by calling in between 6:30 p.m. and 6:45 p.m.](#) **CALL-IN INFORMATION: Telephone Number: (669) 900-6833; Meeting ID: 896 2370 9376; Passcode: 194996**

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CONSENT CALENDAR

Items on the Consent Calendar are considered routine and may be disposed of by a single motion to adopt staff recommendation. If the Planning and Preservation Commission wishes to discuss any item, it should first be removed from the Consent Calendar.

No Items

PUBLIC HEARING

- 1. Zone Text Amendment 2022-001 (ZTA 2022-001) – Amendment to Implement Senate Bill 9 (SB 9) Regulations for Urban Lot Splits and Two Unit Residential Development within the Single-Family Residential (R-1) Zone.**

Recommended that the Planning and Preservation Commission:

- a. Approve Planning and Preservation Resolution No. 2022-003 recommending that the City Council adopt a Zone Text Amendment 2022-001 amending the San Fernando Municipal Code to implement the Two Unit Residential Development and Urban Lot Splits requirements imposed by SB 9 and to replace the current Interim Urgency Ordinance.**

GENERAL COMMISSION COMMENTS

STAFF COMMUNICATION

ADJOURNMENT

I hereby certify under penalty of perjury under the laws of the State of California that the foregoing agenda was posted on the City Hall bulletin board not less than 72 hours prior to the meeting.

Michelle De Santiago, Community Development Technician

Signed and Posted: December 16, 2022 (12:00 p.m.)

Agendas and complete Agenda Packets (including staff reports and exhibits related to each item) are posted on the City's Internet Web site (www.sfcity.org). These are also available for public reviewing prior to a meeting at the Community Development Department Public Counter. Any public writings distributed by the Planning and Preservation Commission to at least a majority of the Commissioners regarding any item on this regular meeting agenda will also be made available at the Community Development Department Public Counter located at 117 Macneil Street, San Fernando, CA, 91340 during normal business hours. In addition, the City may also post such documents on the City's Web Site at www.sfcity.org. In accordance with the Americans with Disabilities Act of 1990, if you require a disability-related modification/ accommodation to attend or participate in this meeting, including auxiliary aids or services please call the Community Development Department Office at (818) 898-1227 at least 48 hours prior to the meeting.

THE CITY OF
SAN FERNANDO



MEETING DATE: December 19, 2022

COMMISSION CONSIDERATION:

1. VICE-CHAIR TO OPEN THE ITEM AND REQUEST STAFF REPORT
2. STAFF PRESENTS REPORT
3. COMMISSION QUESTIONS ON STAFF REPORT
4. OPEN THE PUBLIC HEARING
5. CLOSE THE PUBLIC HEARING
6. PLANNING AND PRESERVATION COMMISSION DISCUSSION
7. RECOMMENDED ACTION:
 - a. To Approve:

“I move to approved Planning and Preservation Commission Resolution No. 2022-003 recommending to the City of San Fernando City Council adoption of Zone Text Amendment 2022-001 amending the San Fernando Municipal Code to implement the Two Unit Residential Development and Urban Lot Split requirements imposed by SB 9 and to replace the current Interim Urgency Ordinance ”... (Roll Call Vote)
 - b. To Deny:

“I move to deny Zone Text Amendment 2022-001, based on the following...” (Roll Call Vote)
 - c. To Continue:

“I move to continue consideration Zone Text Amendment 2022-001, to the following date...” (Roll Call Vote)

Moved: _____ Seconded: _____

Roll Call: _____

ITEM 1:
Zone Text Amendment 2022-001



AGENDA REPORT

To: Vice-Chair Perez and Planning and Preservation Commissioners

From: Kanika Kith, Director of Community Development
By: Malinda Lim, Contract Planner

Date: December 19, 2022

Subject: ZTA 2022-001 - Zone Text Amendment to implement Senate Bill 9 (SB 9) regulations for Urban Lot Splits and Two Unit Residential Development within the Single-Family Residential (R-1) Zone.

RECOMMENDATION:

Staff recommends that the Commission adopt Planning and Preservation Commission Resolution No. 2022-003 recommending that the City Council adopt an ordinance amending the San Fernando Municipal Code to implement the Two Unit Residential Development and Urban Lot Split requirements imposed by SB 9 and to replace the current Interim Urgency Ordinance.

BACKGROUND:

1. On September 16, 2021, Governor Newsom signed Senate Bill 9 into law that requires local agencies to ministerially approve urban lot splits and development of two residential units in single-family residential zones. SB 9 became effective on January 1, 2022.
2. On January 18, 2022, the City Council adopted Interim Urgency Ordinance No. U-1706 to establish interim regulations and procedures for urban lot splits and two-unit residential development projects pursuant to SB 9.
3. On February 14, 2022, the regulations established in Interim Urgency Ordinance No. U-1706 were presented to the Planning and Preservation Commission (“Commission”) and the Commission discussed options for initiating permanent regulations. The Commission continued the discussion to their next regular meeting of March 14, 2022.
4. On March 1, 2022, the City Council adopted Urgency Ordinance No. U-1707 extending the temporary regulations to January 19, 2023, to allow time for staff to develop permanent regulations that balance the requirements of SB 9 with the City’s objective to ensure that residential development in the City is properly managed in the best interests of the public health, safety, and welfare.
5. On March 14, 2022, the Commission continued discussion to their April 11, 2022, meeting.

6. On April 11, 2022, the Commission was provided an overview of proposed provisions for urban lot splits and two unit housing developments pursuant to SB 9 for discussion and consideration. The Commission directed staff to further evaluate permanent regulations and prepare a draft ordinance.
7. On November 14, 2022, the Commission was presented with a draft ordinance with proposed regulations for urban lot splits and two unit housing developments in single family residential zones to amend the San Fernando Zoning Code to implement SB-9. The Commission discussed the proposed regulations and directed staff to research the inclusion of the affordable housing provision and further amend the draft ordinance.

DISCUSSION AND ANALYSIS:

The purpose of the proposed Ordinance is to replace the Interim Urgency Ordinance and to establish certain objective zoning, subdivision, and design review standards as allowed by the state law governing SB 9 projects and to promote the orderly subdivision of parcels and development of housing under SB 9.

The updated draft ordinance contains provisions that further clarify and refine the City's permanent SB 9 regulations. Below is a summary of key provisions that have been developed based on further research by staff and input from the Commission.

Two-Unit Residential Development Proposed Regulations:

- Flag lots may be created and the front setback for the back lot is measured from the back property line of the front lot.
- Revision of parking location restrictions.
- Would not require the demolition or alteration of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income; or that is subject to any form of rent or price control.
- All units built on a vacant parcel shall use the same architectural style, materials, and colors.
- Landscaping shall be provided in compliance with the R-1 zoning district.

Urban Lot Split Proposed Regulations:

- Each lot must be capable of accommodating two 800-square-foot dwelling units in conformance with the applicable setbacks and height limits.

- Flag lots may be created and the front setback for the back lot is measured from the back property line of the front lot.
- Each lot must have water, sewer, storm drain, gas, and electric utility service.
- A deed restriction is required that prevents the use of dwelling units on lots created with the Urban Lot Split process to be used for short-term rentals.
 - Several specific terms are used in the new Zoning Code sections that require definitions. These are, “Acting in Concert With,” “Car Share,” “Flag-lot,” “Tenant,” “Two-Unit Urban Residential Development.”

Affordable Housing:

The Interim Urgency Ordinance currently requires one rental unit in a two unit development pursuant to SB 9 to be rented at rates affordable to low-income families to help address the need for affordable housing in San Fernando.

As directed by the Commission, staff has further researched the affordable housing provision to determine whether this requirement should be included in the proposed permanent regulations. SB 9 allows local cities discretionary authority to impose (or not impose) affordability requirements when it comes to new units built pursuant to SB 9. SB 9 does not prohibit or require that the new units be affordable.

However, for the reasons discussed below, staff does not recommend including the affordability requirements in the permanent ordinance at this time.

- 1) Should the City decide to impose affordability requirements, this would trigger compliance with Government Code Section 65850 et seq (Assembly Bill (AB) 1505), which authorizes cities to adopt an inclusionary housing ordinance that requires development of residential rental units to include a percentage of units to be affordable to lower- and moderate-income households to meet their affordable housing needs subject to certain restrictions.

Government Code, § 65850, subd. (g) specifies the following:

- Requires alternative means of compliance,
- Grants the California Department of Housing and Community Development (HCD) review authority, under limited circumstances, to request an ***economic feasibility study to ensure the ordinance does not unduly constrain the production of housing***, and
- Establishes criteria for HCD to review economic feasibility studies.

The law states that inclusionary ordinances with rental housing must provide alternative means for compliance including but not limited to, in-lieu fees, land dedication, off-site construction, or acquisition and rehabilitation of existing units.

Conditions triggering submittal to HCD: The City would be required to prepare and submit economic feasibility studies if all of the following conditions exist:

- The inclusion of affordability requirements for *rental* units (as opposed to ownership units).
 - Adoption or amendment of the ordinance after September 15, 2017. Cities may consider adopting an economic feasibility study *prior* to adopting the ordinance, but are not required to do so.
 - The ordinance requires affordability levels that are more than 15 percent of the total number of units to be rented by households at 80 percent or less of area median income (AMI). Requiring one unit of a two-unit development would far exceed the 15 percent threshold. Affordability levels at 80 percent or less would apply to extremely low, very low and low income households.
- 2) A requirement of the Housing Element is information on the adequacy of sites to meet the Regional Housing Needs Assessment (RHNA) for all income levels. Staff assessed the Housing Element to determine which income levels could be targeted to impose an affordability requirement relating to SB-9.

Table 35 below is taken from the Housing Element of the General Plan. The table summarizes the City's applicable RHNA credit and the remaining units needed through October 15, 2029, to meet the RHNA number. As indicated in the table, there would be a surplus of units for the low-income group and considerable need in the moderate, extremely low and very low income groups.

Table 35: Sites Adequacy

Income Group	RHNA	Potential ADU	Credits	Remaining Need	Sites Capacity	Surplus
Extremely Low-Income (< 30 percent MFI)	230	96	0	134		
Very Low-Income (31–50 percent MFI)	231	54	0	177		
Low-Income (51–80 percent MFI)	273	273	0	0	518	160
Moderate-Income (81–120 percent MFI)	284	26	0	258		
Above Moderate-Income (>120 percent MFI)	777	191	91	495	750	-116
Total	1,795	640	91	1,064	1,268	44
15% No Net Loss				160		
Total Remaining Need				1,224		

* On June 6, 2022, the City Council adopted the City’s 6th Cycle (2021-2029) Housing Element and on August 9, 2022, the Department of Housing and Community Development (HCD) certified the document.

Based on the Table above, if affordability provisions were to be reincorporated in the SB-9 regulations, staff would recommend targeting required affordability for the moderate, extremely low and/or very low-income levels to assist in meeting the City’s RHNA numbers for those income levels where there is a remaining need.

Options to consider:

- A. Do not include an affordability provision.
- B. Include an affordability provision that solely targets moderate-income households (81-120 percent of AMI) that would not trigger the feasibility study requirement.
- C. Include an affordability provision that targets very low or extremely low income households that would trigger submittal of an economic feasibility study under AB 1505.

Staff does not recommend that permanent SB 9 regulations include an affordability requirement for rental units. Such requirements would potentially trigger compliance with rental inclusionary housing regulations and HCD review. Additionally, conducting an economic feasibility study, establishing appropriate in-lieu fees, and monitoring and enforcing such affordability restrictions would require significant staff time and resources (covenants are typically recorded for 55 years). If the Commission would elect to include an affordability provision or provide additional

feedback, staff would propose extending the Interim Urgency Ordinance further and returning at a later date with an amendment to the SB-9 regulations that incorporates such feedback.

CONCLUSION:

Staff recommends that the Commission recommend to the City Council adoption of the proposed Ordinance amending the San Fernando Municipal Code to establish procedures and standards for urban lot splits and two unit developments in single-family residential zones as required by SB-9.

ATTACHMENTS:

- A. Planning and Preservation Commission Resolution No. 2022-003
 - a. Exhibit 1 - Draft SB-9 Regulations: "Two Unit Residential Development" and "Urban Lot Split"

RESOLUTION NO. 2022-003

A RESOLUTION OF THE PLANNING AND PRESERVATION COMMISSION OF THE CITY OF SAN FERNANDO, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL REPEAL INTERIM URGENCY ORDINANCE U-1706 AND ADOPT AN ORDINANCE AND APPROVE PROPOSED AMENDMENTS TO THE SAN FERNANDO MUNICIPAL CODE TO ADD CHAPTER 78, ARTICLE 2, DIVISION 6, "URBAN LOT SPLIT" AND TO ADD SECTION 359, CHAPTER 106, ARTICLE III, DIVISION 2, "TWO UNIT URBAN RESIDENTIAL DEVELOPMENT" TO ESTABLISH REGULATIONS AND STANDARDS FOR URBAN LOT SPLITS AND TWO-UNIT RESIDENTIAL DEVELOPMENT PROJECTS IN SINGLE-FAMILY RESIDENTIAL (R-1) ZONES PURSUANT TO SENATE BILL 9 (PROJECT NO. ZTA2022-001)

WHEREAS, California Constitution Article XI, Section 7, enables the City of San Fernando (the "City") to enact local planning and land use regulations; and

WHEREAS, the authority to adopt and enforce zoning regulations is an exercise of the City's police power to protect the public health, safety, and welfare; and

WHEREAS, the City desires to ensure that residential development occurs in an orderly manner, in accordance with the goals and objectives of the General Plan and reasonable land use planning principles; and

WHEREAS, on September 16, 2021, California Governor Gavin Newsom signed Senate Bill 9 (SB 9) into law as part of an effort to address the State's housing crisis by streamlining housing production; and

WHEREAS, the new legislation became effective on January 1, 2022, and requires local agencies to ministerially approve urban lot splits and development of two residential units per single family residential lots provided the projects meet certain criteria; and

WHEREAS, the City wishes to balance compliance with State law with the rights still preserved under the new legislation authorizing the City to establish objective zoning, subdivision and design review standards consistent with SB 9 required to approve urban lot splits and two-unit residential development; and

WHEREAS, on January 18, 2022, the City Council adopted Interim Urgency Ordinance No. U-1706 to establish interim regulations and procedures for urban lot splits and two-unit residential development projects pursuant to SB 9; and

WHEREAS, on February 22, 2022, the City Council approved the extension of Urgency Ordinance No. U-1706 to January 19, 2023 to allow time for City staff to develop permanent regulations that balance the requirements of SB 9 with the City's objectives for ensuring that

residential development in the City is properly managed in the best interests of the public health, safety, and welfare; and

WHEREAS, the Planning and Preservation Commission at their March 14th, April 11th, and November 14, 2022, meetings were presented with proposed regulations from the Planning Department and discussed, considered, and gave staff input on the proposed regulations; and

WHEREAS, on December 8, 2022, the City Clerk published a notice of a special public hearing to be held on December 19, 2022, to consider and make a recommendation to City Council for approval of a proposed Zone Text Amendment (ZTA 2022-001) to establish regulations for implementation of SB 9 in the *San Fernando Sun* as required by Government Code Section 65858(a); and

WHEREAS, the Planning and Preservation Commission, as part of its special meeting of December 19, 2022, conducted a duly noticed public hearing on the proposed code amendment, and all testimony was received and made a part of the public record, and

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF SAN FERNANDO DOES ORDAIN AS FOLLOWS:

SECTION 1. Environmental Review Findings

This project is exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15061(b)(3) (the “common sense exemption”) and Section 15378 (“not a project”) since it can be seen with certainty that adopting an ordinance to comply with the state law provisions of SB 9 will not have a significant effect on the environment. Adopting the ordinance is also exempt under Government Code Section 66411.7, subd. (n) which exempts cities’ adoption of ordinances implementing that section of SB 9 from CEQA.

SECTION 2. Zone Text Amendment Findings

Pursuant to San Fernando City Code Section 106-19 (Zoning Text Amendments) the Planning Commission recommends that the City Council makes the following findings for adoption of the proposed amendment:

- a. The proposed amendment is consistent with the objectives, policies, general land uses and programs of the City’s general plans.

The proposed zone text amendment will establish development standards and regulations for Urban Lot Splits and Housing Development in Single-Family Residential (R-1) Zone for implementation of Senate Bill 9. The proposed amendment will satisfy Policy 1.2 of the San Fernando General Plan Housing Element. Policy 1.2 calls for the preservation of character, scale, and quality of established residential neighborhoods. The proposed zone text amendment will provide objective development standards such

as: building height, square footage minimums, setbacks, open space and architectural design standards. The proposed amendment meets state law requirements while allowing the City to impose local regulations to ensure consistency with objectives, policies, general land uses and programs of the City's general plans.

- b. The adoption of the proposed amendment would not be detrimental to the public interest, health safety, convenience, or welfare.

The proposed zone text amendment establishes development standards and regulations that addresses any adverse impacts that may come from the implementation of SB 9. The amendment includes language that gives the City Building Official the authority to deny a proposed urban lot split or construction of units pursuant to the regulations of SB 9 based upon the preponderance of evidence that the proposed housing development project would have a specific, adverse impact (as defined in paragraph (2) of subdivision (d) of Government Code Section 65589.5) upon the public health and safety or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. Additionally, the amendment satisfies Policy 2.8 of the San Fernando General Plan Housing Element. Policy 2.8 promotes the creation of second-dwelling units within residential neighborhoods as a means of providing additional rental housing and addressing household overcrowding. The proposed amendment complies with state objectives of creating additional housing and would not be detrimental to the public interest, health, safety, convenience or welfare.

SECTION 3. Record of Proceeding

The documents and other materials that constitute the record of the proceedings upon which the Planning and Preservation Commission's decision is based, which include, but are not limited to, the environmental documents, staff reports, as well as all materials that support the staff reports for the proposed project, are located in the Community Development Department of the City of San Fernando at 117 Macneil Street, San Fernando, CA 91340. The custodian of these documents is the City Clerk of the City of San Fernando.

SECTION 4. Determination

Based upon the findings outlined in Sections 1 through 3 above, the Planning and Preservation Commission of the City of San Fernando does hereby recommend that the City Council 1) repeal Interim Urgency Ordinance U-1706 and 2) adopt an ordinance and approve the proposed Zone Text Amendment (ZTA 2022-001) to establish regulations for Two Unit Urban Residential Development and Urban Lot Splits in the Single-Family Residential (R-1) Zone for Implementation of Senate Bill 9, hereto attached as Exhibit "A".

(SIGNATURE PAGE TO FOLLOW)

PASSED, APPROVED AND ADOPTED by the Planning and Preservation Commission of the City of San Fernando at a special meeting held on this 19th day of December 2022.

Vice-Chair Marvin Perez

ATTEST:

Kanika Kith, Secretary to the Planning and Preservation Commission

STATE OF CALIFORNIA)

COUNTY OF LOS ANGELES) SS.

CITY OF SAN FERNANDO)

I, Kanika Kith, Secretary to the Planning and Preservation Commission of the City of San Fernando, California, do hereby certify that the foregoing Resolution was adopted at a special meeting of the Planning and Preservation Commission of the City of San Fernando, California held on the 19th day of December, 2022 and was carried by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAINED:

Kanika Kith, Secretary to the Planning and Preservation Commission

“Exhibit 1”

Section 359, Chapter 106, Article III, Division 2 – Two Unit Urban Residential Development DRAFT 12-12-22

106-359. Two Unit Urban Residential Development

(a) *Purpose.* This section is adopted in accordance with California Government Code Sections 65852.21 and 66411.7, also known as Senate Bill 9 (SB-9). The purpose of this section is to establish development standards for two unit residential development pursuant to SB-9.

(b) *Term of Effect.* This section is applicable only while California Government Code section 65852.21 created by SB-9 remains in effect.

(c) *Definitions*

“Car Share” A service through which vehicles are made available for hourly or daily use. Vehicles are typically picked up and dropped off at designated parking locations within the community and are made available to provide flexible access to a vehicle.

“Dwelling Unit” As used in this section, “dwelling unit” refers to any primary residential unit which is not an Accessory Dwelling Unit as defined in section 106-6 of this Code or a Junior Accessory Dwelling Unit (“Junior ADU”) as defined in Government Code section 56852.22.

“Residential Unit” or “Unit” As used in this section, “residential unit” or “unit” refers to a dwelling unit, Accessory Dwelling Unit and Junior ADU.

“Tenant” A person who occupies land or property rented from a landlord.

“Two Unit Urban Residential Development” Development of no more than two primary dwelling units pursuant to this section.

“Urban Lot Split” As used in this section, refers to an Urban Lot Split as defined in section 78-182 of the Code.

(d) *Applicable Zones and Projects.* The provisions of this section apply to all lots in the R-1 (Single Family Residential) zoning district.

(e) *Ministerial Approval and Findings.* The following apply to Two Unit Urban Residential Development as defined in this section:

(1) Two Unit Urban Residential Development is subject to staff review and approval only, subject to the objective criteria and standards of this section.

(2) Two Unit Urban Residential Development which meets all the criteria listed in Section 106-359(f) of this Division shall be approved unless the building official makes a written finding, based upon a preponderance off the evidence, that:

- (i) The proposed Two Unit Urban Residential Development would have a specific adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Government Code Section 65589.5, upon public health and safety or the physical environment and that there no feasible method to satisfactorily mitigate or avoid the impact; or
 - (ii) The proposed development would not comply with all the criteria for approval per this section.
- (f) *Criteria for Approval.* A proposed Two Unit Urban Residential Development shall be approved if it meets all the following criteria:
- (1) The parcel proposed for Two Unit Urban Residential Development is located in the R-1 (Single Family Residential) zone.
 - (2) The Two Unit Urban Residential Development would not require the demolition or alteration of housing that:
 - i. Is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income; or that is subject to any form of rent or price control; or
 - ii. Has been occupied by a tenant in the last three years.
 - (3) If any existing Dwelling Unit(s) is proposed to be demolished, the proposed Two Unit Urban Residential Development would comply with the replacement housing provisions of Government Code Section 66300(d).
 - (4) The parcel proposed for the Two Unit Urban Residential Development is not a parcel on which an owner of residential real property exercised rights under California Government Code Section 7060 et seq. to withdraw accommodations from rent or lease within 15 years before the date the application is submitted.
 - (5) The parcel proposed for the Two Unit Urban Residential Development is not located:
 - i. Within a historic district, is not included on the State Historic Resources Inventory, and is not within a site that is designated or listed as a city landmark or historic property or district pursuant to a City ordinance;
 - ii. On prime farmland or farmland of statewide importance as further defined in Government Code Section 65913.4(a)(6)(B);
 - iii. On wetlands as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993); or
 - iv. On a hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic pursuant to Section 25356 of the Health and Safety Code, unless the State Department of Public Health, State Water Resources Control Board, or Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses; or

- v. In a special flood hazard area subject to induction by the 1 percent annual chance flood (100-year flood) or regulatory floodway as determined by FEMA. This criteria shall not apply if either of the following are met:
 - a. The site has been subject to a Letter of Map Revision prepared by FEMA and issued to the city; or
 - b. The site meets FEMA requirements necessary to meet minimum flood plain management criteria of the Nation Flood Insurance Program as further spelled out in Government Code Section 65913.4 (a)(6)(G)(ii).
- (6) The proposed Two Unit Urban Residential Development would not create a nonconforming condition related to the placement of buildings or to any other development standard of this Zoning Code, except as specified in this Section.
- (7) A signed affidavit has been provided in accordance with Section 106-359(g).
- (8) The application complies with all provisions of Government Code Section 65852.21 and Section 66411.7, if the proposed development includes a concurrent application for an Urban Lot Split.
- (g) *Covenant and Affidavits Required.* A property owner seeking to develop a Two Unit Urban Residential Development on a parcel located in the R-1 zone pursuant to the regulations set forth in Government Code Section 65852.21 and the standards in this section, shall be subject to the following general requirements, which shall be accepted and acknowledged by the property owner by signing and recording a covenant against the property. The covenant shall be supplied by the City and provide as follows:
 - (1) The short term rental defined as rentals of any duration less than 31 consecutive calendar days of any dwelling unit(s) on the site created pursuant to Government Code Section 65852.21 shall be prohibited.An affidavit shall be filed to verify information regarding the rental or ownership history of any pre-existing dwelling units, Accessory Dwelling Units and Junior ADUs.
- (h) *Development Standards.*
 - (1) The following development standards shall apply to all Two Unit Urban Residential Developments, except to the extent that the development standards would preclude the construction of two (2) dwelling units of at least 800 square feet each. Any modifications of development standards shall be the minimum modification necessary to avoid physically precluding the construction of two (2) dwelling units of 800 square feet each on the parcel proposed for the Two Unit Urban Residential Development.
 - (2) Except as otherwise prescribed in this section, the standards for residential development set forth in Chapter 106, Article III, Division 2 of this Code shall apply.
 - (3) Except as otherwise prescribed in this section, the standards for Accessory Dwelling Units set forth in Section 106-358 of this Code shall apply to any Accessory Dwelling Units.

(4) Number of Residential Units Allowed

- i. Lot Split. A maximum of two residential units, including units which existed at the time of the lot split, may be built on each lot created using the Urban Lot Split provisions set forth in Chapter 78, Article II, Division 6 of this Code. Dwelling units, Accessory Dwelling Units and Junior ADUs count toward the maximum number of residential units on lots subdivided using the Urban Lot Split provisions set forth in Chapter 78, Article II, Division 6 of this Code.
- ii. No Lot Split. A maximum of four dwelling units may be built on a single lot which is not subdivided using the Urban Lot Split provisions set forth in Chapter 78, Article II, Division 6 of this Code. Any combination of dwelling units, Accessory Dwelling Units and Junior ADUs count toward the four residential unit maximum.

(5) Number of Accessory Dwelling Units Allowed

- i. Accessory Dwelling Units and Junior ADUs may be built pursuant to Section 106-358 of this Code and applicable State law and in conformance with the maximum number of residential units specified in this section.

(6) Maximum Floor Area

- i. No maximum floor area is specified by this section.

(7) Height

- i. Maximum height shall be 14 feet and one story, except that the height limit for dwellings units in the R-1 zoning district shall apply if there are no windows oriented toward any adjacent rear yards.

(8) Setbacks and Separations Between Buildings

- i. Front yard setback: Per the zoning district setback requirements for a primary dwelling unit.
- ii. Side and rear yard: Four (4) feet, except for an existing structure or structure constructed at the same location and to the same dimensions as an existing structure.
- iii. Building separation: No detached dwelling unit shall be closer than six feet to any other accessory building or dwelling unit, Accessory Dwelling Unit or Junior ADU, on the same lot or parcel. The six-foot distance shall be measured from the closet points of the building walls or structure walls. A minimum of four feet shall be maintained between eave overhangs, chimneys, bay windows or any other architectural feature.

(9) Site Coverage

- i. Site coverage and maximum coverage in a front yard area shall be per the standards for the R-1 zoning district. Coverage calculations shall include all structures, including all dwelling units, Accessory Dwelling Units, and Junior ADUs and all non-habitable accessory structures.

(10) Open Space

- i. Ten percent (10%) of the lot or a minimum of 400 square feet, whichever is greater, shall be dedicated for common open space and shall provide amenities such as but not limited to gardening, outdoor seating or furniture, playground equipment, patio, and/or outdoor grill appliance.
- ii. Private open space requirement for each dwelling unit?

(11) Landscaping

- i. Landscaping shall be provided as required by the R-1 zoning district.

(12) Design

- i. Additions or new dwelling units added to a parcel or lot where an existing structure will be retained must match the architectural style of the existing dwelling unit including but not limited to the roof pitch, window size, window type, exterior building materials, lighting fixtures, and paint colors.
- ii. All dwelling units built on a vacant parcel shall use the same architectural style, materials, and colors.
- iii. Accessory Dwelling Units and Junior ADUs shall be designed in conformance with the requirements in Section 106-358 of this Code.
- iv. Each dwelling unit built shall have a separate exterior entrance.
- v. To preserve the single-family appearance of the neighborhood, any dwelling unit other than the front most dwelling unit, or the front most dwelling unit on the front lot, shall be completely screened by other dwelling unit(s) on the lot, landscaping, fencing, or a combination of these.

(13) Parking

- i. A minimum of one off-street parking space shall be provided for each dwelling unit, unless the following apply, in which case no off-street parking is required:
 - a. The parcel is located within one-half mile walking distance of either a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code.
 - b. There is a car share vehicle facility located within one block of the parcel.
- ii. Parking location restrictions
 - a. Parking shall be in a covered garage or carport, or in a driveway located within a front setback. A driveway is the paved area that is equal to the width of the garage or carport opening plus up to one (1) foot on either side and extending from the garage or carport to the street.

b. Rear lot parking shall be accessed via an alley if the site has legal access to an alley.

(14) Non-Habitable Accessory Structures

- i. Development of non-habitable accessory structures as dwelling units shall be per the standards for accessory structures in the R-1 zoning district.
- (i) *Short Term Rentals Prohibited.* Any dwelling unit constructed per this section, if offered for rental, shall be rented for a minimum term of 31 consecutive days and shall not be used for short-term rentals.
- (j) *Owner-Occupancy Requirement.* Each applicant for a Two Unit Residential Development shall provide a signed affidavit stating that they intend to occupy one of the dwelling units as their principal residence for a minimum of three years from the date of the approval of the Two Unit Residential Development, unless the applicant is a "community land trust," as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code, or is a "qualified nonprofit corporation" as described in Section 214.15 of the Revenue and Taxation Code.
- (k) *Adverse Impact Findings for Denial of Application.*
 - (1) The City may deny the construction of dwelling units per this section if the Building Official makes a written finding, based upon a preponderance of the evidence, that the proposed dwelling unit(s) would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Government Code Section 65589.5, upon public health and safety or the physical environment and that there is no feasible method to satisfactorily mitigate or avoid the impact.
 - (2) An application for a Two Unit Urban Residential Development shall not be rejected solely because it proposes adjacent or connected structures, provided that the structures meet applicable building code standards and are sufficient to allow separate conveyance.
- (l) *Utility Connections.* Utility connections shall be provided per City standards.
- (m) *Application Requirements.* Applications for Two Unit Residential Development shall include all information required by the Planning Department, as shown on official City application forms.

Chapter 78, Article 2, Division 6 – Urban Lot Split

DRAFT 12-13-22

Section 78-180. Purpose

- (a) This division is adopted in accordance with California Government Code Sections 65852.21 and 66411.7, also known as Senate Bill 9 (SB-9). The purpose of this chapter is to establish a ministerial objective approval process and special lot design standards for the subdivision of single lots in the R-1 zoning district.

Section 78-181. Term of Effect

- (a) This division is applicable only while California Government Code Section 66411.7 created by SB-9 remains in effect.

Section 78-182. Definitions

“Acting in Concert With” A person "acting in concert with the owner" means a person that has common ownership or control of the subject parcel with the owner of the adjacent parcel, a person acting on behalf of, acting for the predominant benefit of, acting on the instructions of, or actively cooperating with, the owner of the parcel being subdivided.

“Car Share” A service through which vehicles are made available for hourly or daily use. Vehicles are typically picked up and dropped off at designated parking locations within the community and are made available to provide flexible access to a vehicle.

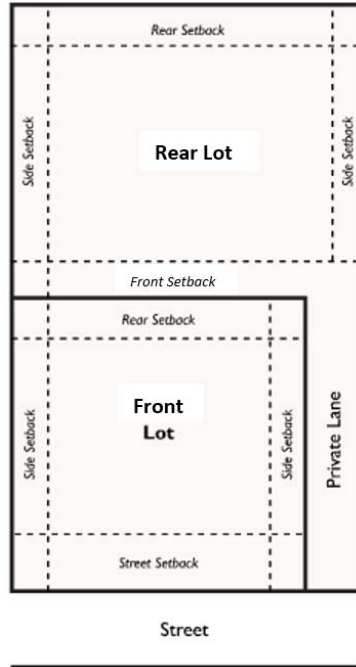
“Dwelling Unit” As used in this division, “dwelling unit” refers to any primary residential unit which is not an Accessory Dwelling Unit as defined in section 106-6 of this Code or a Junior Accessory Dwelling Unit (“Junior ADU”) as defined in Government Code Section 56852.22.

“Flag-Lot” Lots that have less than the minimum required frontage on a public or private street, have access to a public or private street by a narrow strip of land, and the largest portion of the lot is situated behind adjoining lots which front on a public or private street. The front yard of the flag lot starts from the back of the front lot.

“Residential Unit” or “Unit” As used in this division, “residential unit” or “unit” refers to a dwelling unit, Accessory Dwelling Unit and Junior ADU.

“Tenant” A person who occupies land or property rented from a landlord.

“Urban Lot Split” An urban lot split is the subdivision of a single-family residential lot into two parcels that meets the requirements of this chapter. An Urban Lot Split differs from other subdivisions only in the standards which apply to the lots created, the criteria which must be met, and the ministerial approval process which applies to this type of subdivision.



Section 78-183. Ministerial Approval and Findings

- (a) An application for a parcel map for an Urban Lot Split shall be approved in accordance with the following requirements:
 - (1) An Urban Lot Split is subject to staff review and ministerial approval only, without discretionary review or hearing, and
 - (2) The Urban Lot Split shall be subject to the objective criteria and standards of Chapter 78 – Subdivisions and conform to all applicable objective requirements of the Subdivision Map Act, except as expressly provided in this division.
- (b) Notwithstanding subsection (a) of this section, the City shall not require dedication of right-of-way, offsite improvements or the correction of nonconforming zoning conditions as a condition of issuing a parcel map for an Urban Lot Split pursuant to this division.
- (c) An Urban Lot Split that meets all the criteria listed below shall be approved unless the building official makes a written finding, based upon a preponderance off the evidence, that:
 - (1) The proposed Urban Lot Split would have a specific adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Government Code Section 65589.5, upon public health and safety or the physical environment and that there are no feasible methods to satisfactorily mitigate or avoid the impact; or
 - (2) The proposed Urban Lot Split would not comply with all the criteria for approval per this division.

Section 78-184. Covenant and Affidavits Required

- (a) A property owner seeking to complete an Urban Lot Split shall be subject to the following general requirements, which shall be accepted and acknowledged by the property owner by signing and recording a covenant against the property. The covenant shall be supplied by the City and provide as follows:
 - (1) Any subsequent Urban Lot Split of land that was previously subdivided with an Urban Lot Split shall be prohibited;
 - (2) The owner of the property for which an Urban Lot Split is proposed shall sign an affidavit stating that the owner intends to occupy one of the dwelling units on one of the lots created by the Urban Lot Split as their principal residence for at least three years from the date of the approval of the Urban Lot Split.
- (b) The owner of the property for which an Urban Lot Split is proposed shall sign an affidavit stating that neither the owner nor any person acting in concert with the owner of the parcel being subdivided has previously subdivided an adjacent parcel using an Urban Lot Split as provided for in this division.
- (c) Each owner of the property on which an Urban Lot Split is proposed shall provide a signed affidavit stating that the owner intends to occupy one of the dwelling units on one of the lots created by the Urban Lot Split as their principal residence for a minimum of three years from the date of the approval of the Urban Lot Split, unless the applicant is a “community land trust,” as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code, or is a “qualified nonprofit corporation” as described in Section 214.15 of the Revenue and Taxation Code.

Section 78-185. Criteria for Approval

- (a) Proposed Urban Lot Splits shall comply with all the following:
 - (1) The parcel proposed for an Urban Lot Split is located within the R-1 (Low Density Residential) zone.
 - (2) The Urban Lot Split would not require the demolition or alteration of housing that:
 - i. Is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income; or that is subject to any form of rent or price control through a public entity’s valid exercise of its police power;
 - ii. Has been occupied by a tenant in the last three years.
 - (3) If any existing residential unit is proposed to be demolished, the proposal would comply with the replacement housing provisions of Government Code Section 66300(d).
 - (4) The parcel proposed for an Urban Lot Split is not a parcel on which an owner of residential real property exercised rights under California Government Code Section 7060 et seq. to

- withdraw accommodations from rent or lease within 15 years before the date the application is submitted.
- (5) The parcel proposed for an Urban Lot Split was not previously created through a prior Urban Lot Split pursuant to this division.
 - (6) The parcel proposed for an Urban Lot Split is not located:
 - i. Within a historic district, is not included on the State Historic Resources Inventory, and is not within a site that is designated or listed as a city landmark or historic property or district pursuant to a city ordinance.
 - ii. On prime farmland or farmland of statewide importance as further defined in Government Code Section 65913.4(a)(6)(B).
 - iii. On wetlands as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).
 - iv. On a hazardous waste site that is listed pursuant to Government Code Section 65962.5 or a hazardous waste site designated by the Department of Toxic pursuant to Section 25356 of the Health and Safety Code, unless the State Department of Public Health, State Water Resources Control Board, or Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.
 - v. In a special flood hazard area subject to induction by the 1 percent annual chance flood (100-year flood) or regulatory floodway as determined by FEMA. This criteria shall not apply if either of the following are met:
 - a. The site has been subject to a Letter of Map Revision prepared by FEMA and issued to the City; or
 - b. The site meets FEMA requirements necessary to meet minimum flood plain management criteria of the Nation Flood Insurance Program as further spelled out in Government Code Section 65913.4 (a)(6)(G)(ii).
 - (7) The Urban Lot Split would not create a nonconforming condition related to the placement of buildings or to any other development standard of Chapter 106 - Zoning of this Code, except as specified in this division.
 - (8) A signed affidavit has been provided in accordance with Section 78-184 of this Code.
 - (9) Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel using the Urban Lot Split process.
 - (10) The application complies with all provisions of Government Code Sections 66411.7 and 65852.21, if the proposed Urban Lot Split includes a concurrent application for a Two Unit Urban Residential Development, as defined in section 106-359 of this Code.

Section 78-186. Urban Lot Split Lot Requirements

- (a) The following requirements apply to all lots created using the Urban Lot Split process pursuant to this division and Government Code Section 66411.7, except to the extent that they would preclude the creation of no more than two new parcels that comply with the lot requirements of this section. Any modifications of these requirements shall be the minimum modification necessary to avoid physically precluding the creation of no more than two new parcels that comply with the lot requirements of this section.
- (b) Lot Requirements:
- (1) Number: The parcel map subdividing an existing parcel pursuant to this division shall create no more than two (2) parcels. Both parcels shall be considered new parcels.
 - (2) Street frontage: Each lot shall have street frontage on or access to a public right of way as required by the Public Works Department. The lot split line shall be parallel to the street property line. If the street property line curves, the lot split line may have the same or similar curve radius or may be straight.
 - (3) Width Lot width shall be per the R-1 zoning district. The width of any lot resulting from an Urban Lot Split shall not be less than 75% of the original lot width. Flag lot width shall be measured across the large portion of the lot, not the narrow portion connected to the street.
 - (4) Depth: Lots created per this division are not required to have a minimum depth, provided that the minimum lot size stated in subsection (b)(5) below is maintained.
 - (5) Lot size:
 - a. No lot resulting from an Urban Lot Split shall be smaller than 1,200 square feet.
 - b. The two resulting lots shall be of approximately equal lot area, and not smaller than 48% or larger than 52% of the lot area of the original parcel.
 - (6) Parcel Configuration: Flag Lots are permitted, provided that the narrow portion of the lot connected to the public right of way has sufficient width for a driveway and for emergency vehicle access. An access easement shall be recorded providing street access for the rear parcel.
 - (7) Utilities:
 - a. Each parcel created by an Urban Lot Split shall have water, sewer, storm drain, gas and electric utility service that comply with City standards.
 - b. The subdivider shall be responsible to install connections to City facilities in accordance with City standards.
 - c. All required utility connections shall be placed on the same parcel as the unit or units the utilities are serving, or shall be located within a utility easement.
 - d. Unused connections shall be abandoned per City standard.

Section 78-187. Additional Requirements for Urban Lot Split

- (a) In addition to any requirements of this division, the following shall apply for any Urban Lot Split:
 - (1) Easements shall be provided for the provision of public services and facilities.
 - (2) All parcels shall have access to, provide access to, or adjoin the public right-of-way.

Section 78-188. Required Contents for Recorded Title

- (a) The recorded title for any lot or parcel created pursuant to this division shall include the following:
 - (1) That the Urban Lot Split provisions of this division were used to approve the subdivision and may not be used to further subdivide the lot or parcel.
 - (2) The signed affidavit required per Section 78-184.
 - (3) A rental of any unit created on the lot or parcel shall be for a minimum term of 31 consecutive days, and the unit shall not be used for short-term rentals.
 - (4) Uses on the lot or parcel shall be limited to residential uses.

Section 78-189. Pre-Existing Nonconforming Zoning Conditions

- (a) Approval of an application for the Urban Lot Split shall not be contingent upon the correction of a non-conforming zoning condition which existed at the time the application was filed.

Section 78-190. Expiration of Urban Lot Split Subdivisions

- (a) The expiration of tentative maps created per this chapter shall be the same as for a standard tentative map as specified in Section 78-71 of this Code.

Section 78-191. Application Requirements

- (a) Applications for Urban Lot Splits shall include all information required by the Public Works Department, as shown on official City application forms.