



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

**PLANNING & PRESERVATION COMMISSION**

**REGULAR MEETING NOTICE AND AGENDA**

**FEBRUARY 14, 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**

**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>

**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.

**SUBMIT PUBLIC COMMENT VIA EMAIL:** Members of the public may submit comments by email to [MDeSantiago@sfcity.org](mailto: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.

**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.

# PLANNING AND PRESERVATION COMMISSION

Regular Meeting Notice and Agenda – February 14, 2022

Page 2 of 3

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## **CALL TO ORDER/ROLL CALL**

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

## **PLEDGE OF ALLEGIANCE**

Led by Vice Chair Marvin Perez

## **APPROVAL OF AGENDA**

## **REORGANIZATION OF THE PLANNING AND PRESERVATION COMMISSION**

- Calls for nominations for Chairperson
- Calls for nominations for Vice Chair

## **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.

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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**

# PLANNING AND PRESERVATION COMMISSION

Regular Meeting Notice and Agenda – February 14, 2022

Page 3 of 3

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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 HEARINGS

- Subject:** Zone Text Amendment 2022-001 (ZTA 2022-001) – Zone Text Amendment to establish regulations for Urban Lot Splits and Housing Development in Single-Family Residential (R-1) Zone for Implementation of Senate Bill 9 (SB9)

**Recommendation:** It is recommended that the Planning and Preservation Commission continue consideration of Zone Text Amendment 2022-001 to the regularly scheduled Planning and Preservation Commission of March 14, 2022 to allow staff to develop a permanent ordinance for long-term implementation of SB9.

## GENERAL COMMISSION COMMENTS

## STAFF COMMUNICATION

## ADJOURNMENT

March 14, 2022

*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: February 11, 2022 at 3:45 p.m.*

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*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](http://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](http://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.*

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**MEETING DATE: February 14, 2022**

**COMMISSION CONSIDERATION:**

1. CHAIRPERSON 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 Continue:

“I move to continue consideration of Zone Text Amendment 2022-001, to March 14, 2022 regular meeting of the Planning and Preservation Commission Meeting...” (Roll Call Vote)
  - b. To Approve:

“I move to approve Planning and Preservation Commission Resolution No. 2022-001 recommending to the City Council approval of Zone Text Amendment 2022-001 reaffirmation of the established development standards and regulations of Urgency Ordinance U-1706 for Urban Lot Splits and Housing Development in Single-Family Residential (R-1) Zone for implementation of Senate Bill 9”... (Roll Call Vote)
  - c. To Deny:

“I move to recommend denial of Zone Text Amendment 2022-001, based on the following...” (Roll Call Vote)

Moved: \_\_\_\_\_

Seconded: \_\_\_\_\_

Roll Call: \_\_\_\_\_

**ITEM 1:**  
**ZONE TEXT AMENDMENT 2022-001**

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## AGENDA REPORT

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**To:** Chairperson Fajardo and Commissioners

**From:** Kanika Kith, Director of Community Development  
By: Gerardo Marquez, Associate Planner

**Date:** February 14, 2022

**Subject:** ZTA 2022-001- Zone Text Amendment to establish regulations for Urban Lot Splits and Housing Development in Single-Family Residential (R-1) Zone for Implementation of Senate Bill 9 (SB 9)

### **RECOMMENDATION:**

It is recommended that the Planning and Preservation Commission continue consideration of Zone Text Amendment 2022-001 to March 14, 2022 for staff to develop a permanent ordinance for long-term implementation of SB 9.

### **BACKGROUND:**

1. On July 19, 2021, the City Council discussed Senate Bill 9 (SB 9) and directed staff to submit a letter in opposition to SB 9.
2. On July 30, 2021, the City submitted a letter of opposition of SB 9 to Senate President pro Tempore Atkins.
3. On August 26, 2021, a Ballot Initiative seeking to supersede the requirements included in SB 9 with a constitutional amendment that will return land use authority to local land use agencies was initiated and is currently being circulated for supporting signatures. Should the ballot measure be certified by the State Registrar, it will be placed on November 8, 2022 ballot.
4. On August 30, 2021, the California Legislature approved SB 9 and sent it to the Governor's Office for signature.
5. On September 8, 2021, the City submitted a letter to Governor Newsom requesting a veto of SB 9.
6. On September 16, 2021, Governor Newsom signed Senate Bill 9 into law that requires all local land use agencies to ministerially approve urban lot splits and development of two residential units per single-family residential lot.

7. SB 9 became effective on January 1, 2022.
8. On January 18, 2022 City Council adopted Urgency Ordinance U-1706 which:
  - a. Established regulations for Urban Lot Splits and Housing Development in Single-Family Residential (R-1) Zone for implementation of Senate Bill 9; and
  - b. Authorized the Mayor and City Manager to submit a letter of support to the Brand-Huang-Mendoza Tripartisan Land Use Initiative committee and take other related actions supporting the ballot initiative titled, "Provides That Local Land-Use and Zoning Laws Override Conflicting State Laws. Initiative Constitutional Amendment."

**ANALYSIS:**

Senate Bill 9

SB 9 is part of the Senate housing package "Building Opportunities for All" from California State Senators Atkins, Caballero, Skinner, and Wiener. SB 9 created two Government Code sections:

- Section 66441.7 establishes a new land subdivision method that allows a single-family residential zoned property be subdivided into two lots, known as "urban lot splits."
- Section 65851.21 allows each single-family residential zoned lot to be developed with two single-family homes.

Under SB 9, the subdivision and development of two-residential units per lot must be approved ministerially (i.e. without discretionary review or hearing), if certain conditions are met. SB 9 effectively allows an existing single-family lot to be developed with four residential units with no public hearing or other review other than a staff review for compliance with state codes and objective City standards.

Prior to SB 9, a single-family lot was allowed to contain a primary housing unit, a detached accessory dwelling unit (ADU), and a junior ADU under State ADU law. SB 9 expands the potential density of existing single-family lot from three units to four units. The significant changes under SB 9 is that State law now requires all cities and counties to ministerially approve a second primary residential unit outside of the State ADU law, and it also allows the creation of second lot within the original lot. However, SB 9 does not require local agencies to permit an ADU or JADU in addition to the four units allowed under SB 9.

*Urban Lot Splits under SB 9 (Govt Code Section 66441.7)*

Land subdivision under SB 9 must be approved ministerially if the following conditions are met:

1. The lot is zoned single-family residential.



2. The property is located in an urbanized area or urban cluster as designated by the United States Census Bureau.
3. No more than two new lots of approximately equal size can be created, with one lot being no smaller than 40% of the original lot area.
4. Neither lot is less than 1,200 square feet.
5. The property is not within prime farmland, a wetland, a high or very high fire severity zone, a hazardous waste site, a special flood area or floodway, a delineated earthquake fault zone, a conservation easement, or other conditions listed in Gov't Code Section 65913.4.
6. The subdivision does not require demolition or alteration of affordable housing, local rent-controlled housing, or housing occupied by a tenant in the last three years.
7. The property is not located in "a historic district, or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as city or county landmark or historic property or district pursuant to a city or county ordinance."

If these conditions are met, the proposed subdivision must be approved and requirements for dedication for right-of-way or construction of off-site improvements are not permitted under SB 9. However, local agencies can impose objective standards that do not conflict with the SB 9.

Local agencies cannot impose standards that would physically preclude the construction of two units on either of the resulting lots or would result in a unit size of less than 800 square feet. The local agency can require a four-foot setback from the side and rear lot lines. However, no setbacks can be required for existing structures or for a new structure built at the same location and same dimensions as an existing structure. Local agencies also cannot require correction of non-conforming zoning conditions (e.g., setbacks, height, lot coverage, etc.).

Applicants of urban lot splits must sign an affidavit stating that the applicant intends to occupy one of the housing units as a primary residence for a minimum of three years from the date of the approval of the urban lot splits. No other owner-occupancy requirements may be imposed by local agencies. An agency may limit the use of the lots to residential uses and rental terms may be restricted to a minimum of 30 days.

*Housing Development under SB 9 (Govt Code Section 65852.21)*

Additionally, SB 9 allows developing a second primary unit on the same lot on single-family residential properties. The same conditions and restrictions that apply to urban lot splits under SB 9, described above, also apply to such housing development under SB 9.

Cities may require one parking space per unit if the property is not located within one-half mile walking distance from a high-quality transit corridor or a major transit stop, or not located within one block of a car share vehicle facility. Most residential properties in San Fernando are located within one-half mile from a high-quality transit corridor or major transit stop. Therefore, the City is precluded from requiring an additional parking space in most cases.

A local agency may deny a housing development if the building official makes a written finding based on the preponderance of the evidence that the proposed development would have a specific, adverse impact upon the public health and safety, or physical environment for which there is no feasible method to mitigate or avoid such impact.

#### Adopted Urgency Ordinance Development Standards

The adopted Urgency Ordinance established a number of regulations to minimize the initial impact of SB 9 while allowing the City to establish permanent regulations to comply with SB 9. The adopted ordinance focused on the urban lot splits and development of properties in the Single-Family Residential (R-1) zone. The adopted ordinance includes standards in SB 9 that were restated and clarified, and additional City regulations that established objective standards for SB 9 subdivisions and housing units.

Most importantly, the adopted Urgency Ordinance allows the City to impose local regulations to the maximum extent allowed by SB 9, such as limiting the number of housing units to four units, requiring an affordability covenant for at least one unit, and establishing objective design standards.

The regulations in the Urgency Ordinance were established to minimize the impacts of new development on public infrastructure and public safety. For example, the adopted Urgency Ordinance prohibits adding an ADU and a junior ADU to each split-lot created under SB 9. This prohibition ensures the original single-family lot will only be allowed to have a maximum of four units, rather than a total of eight units.

The adopted Urgency Ordinance is a temporary ordinance that is in effect until March 4, 2022 (45 days from adoption), and can be extended to allow time to create a permanent ordinance for regulating the implementation of SB 9. On February 22, 2022, staff will be requesting the Council to extend the Urgency Ordinance for 10 months to allow time for staff and the Commission to propose a permanent ordinance to City Council for consideration.

#### **CITY COUNCIL DISCUSSION:**

On January 18, 2022 staff presented Urgency Ordinance U-1706 to City Council for their discussion and adoption. City Council had a number of questions regarding clarification on what SB 9 allows for as well as how it would coincide with existing accessory dwelling units. Concerns about parking were expressed and staff clarified that SB 9 prohibits the City from requiring off-street parking. Questions regarding specific development standards such as height and allowable

floor areas were also discussed. Staff clarified that the purpose of the urgency ordinance was to allow for the City to establish restrictive regulations for implementation of SB 9 while staff works with the Commission to develop a permanent ordinance that is most appropriate for the City.

**CONSIDERATION OF ZONE TEXT AMENDMENT:**

Pursuant to San Fernando City Code Section 106-19 (Zoning Text Amendments) the City Council may amend the City’s Zoning Code whenever required by public necessity, convenience and general welfare. As part of the amendment process, the Commission shall review all proposed amendments to the Zoning Code and provide recommendation to the City Council.

Staff recommends the Commission considers the two options below:

1. Direct staff to revise the adopted Urgency Ordinance to include additional regulations for design and to address comments from City Council; or
2. Recommend adoption of the adopted Urgency Ordinance without changes as a permanent ordinance to City Council.

**Option 1. Regulations to Consider for a Revised Ordinance**

The regulations in the adopted ordinance are restrictive. If the Commission would like to create a less restrictive regulations or develop additional design standards, staff recommends that the Commission discuss and consider the following regulations:

Adopted Regulations	Alternative Regulations	Result
<p><b>Unit Size Limitations:</b></p> <ul style="list-style-type: none"> <li>• 800 sq. ft. max</li> <li>• 14 ft. or 1-story</li> </ul>	<ul style="list-style-type: none"> <li>• Floor Area Ratio (FAR) for the entire lot; and</li> <li>• Allow same height per R-1 Zone (35 feet high)</li> </ul> <p><i>(FAR: Size of building in relation to size of lot.) ex. 5,000 sq. ft. lot with FAR of .5 = 2,500 sq. ft. max building size</i></p>	<p>Would allow larger units based on the size of the lot. This alternative would address the comment from Vice Chair Pacheco regarding size limitation.</p>
<p><b>Design of Unit:</b></p> <ul style="list-style-type: none"> <li>• Front most unit on a front lot shall have a front door facing the street.</li> <li>• Each unit shall have a separate entrance.</li> </ul>	<p>No Suggestion</p>	<p>Keeping these design standards will ensure that new units will be minimally visible to the street and maintain the character of single-family residential neighborhood.</p>

**ZTA 2022-001 Establishing Regulations for Urban Lot Splits and Housing Development in Single-Family Residential (R-1) Zone for Implementation of Senate Bill 9 (SB 9)**

Adopted Regulations	Alternative Regulations	Result
<ul style="list-style-type: none"> <li>Any unit other than the front most unit on the front lot shall be completely screened by either: 1) other unit(s) on the lot; or 2) landscaping.</li> <li>Additions or new second primary dwelling units added to sites where an existing structure will be retained must match the architectural style of the existing dwelling including but not limited to the roof pitch, window size, window type, exterior building materials, lighting fixtures, and paint colors.</li> </ul>		
<p><b>Setbacks:</b></p> <ul style="list-style-type: none"> <li>Side and rear setbacks shall be four foot</li> <li>Front setback for front lot shall be the setback established in the Zoning Code for R-1 zoned parcels</li> <li>Front setback for rear lot shall be 10 feet. Front lot line shall be the lot line closest to and parallel to primary street</li> <li>Existing structures shall not have to modify its setbacks</li> </ul>	No Suggestion	Side and rear yard setbacks cannot be more than 4 feet as they are dedicated by SB 9.
<p><b>Width of Building:</b></p> <p>The front most unit constructed on a site with street frontage shall have a minimum unit width of 40 feet or 75% of lot width, whichever is less</p>	The front most unit constructed on a site with street frontage shall provide a minimum 5 foot setback on one side or 10% of lot width, and a 10 foot wide	This will maintain the existing single-family characteristic as well as providing adequate emergency and vehicle access to the rear lot

**ZTA 2022-001 Establishing Regulations for Urban Lot Splits and Housing Development in Single-Family Residential (R-1) Zone for Implementation of Senate Bill 9 (SB 9)**

Adopted Regulations	Alternative Regulations	Result
	driveway easement for the rear lot when applicable.	
<p><b>Open Space:</b> Urban dwelling units must provide a minimum of 400 square feet of private open space. The open space must be directly accessible to the unit it serves.</p>	No Suggestion	This will create a private open space for each unit.
<p><b>Building Separation:</b> No detached second primary dwelling unit shall be closer than six feet to any other accessory building or primary dwelling unit, 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.</p>	Require for a 10 foot setback between structures to allow for additional open space.	Create larger open space for each lot
<p><b>No Flag Lots</b></p>	<ol style="list-style-type: none"> <li>1. Allow Flag Lot and identify the property line abutting the street as the front yard line; or</li> <li>2. Allow Flog Lot and identify the property line abutting the front lot as the front yard line.</li> </ol>	<p>Alternative 1 would allow the units in the back lot to be built at 4 feet front the front lot because the lot line abutting the front lot would be considered a side yard, not a front yard lot line.</p> <p>Alternative 2 would create a 10-foot front yard setback area between the front lot and the units in the back.</p>

If the Commission select Option 1, staff will bring back a revised ordinance that includes the comments from the Commission for consideration and recommendation to City Council at a future meeting.

**Option 2. Adoption of the Urgency Ordinance Without Changes**

If the Commission would like to recommend adoption of the adopted Urgency Ordinance without changes as a permanent ordinance, staff recommends that the Commission recommends the following findings to support adoption of the ordinance:

**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.

Additionally, the zone text amendment will satisfy Policy 2.3 of the San Fernando General Plan Housing Element. Policy 2.3 calls for the provision of affordable housing opportunities for San Fernando's lower income population. The proposed amendment calls for an affordable rental rate requirement which shall be accepted and acknowledged by the property owner by signing and recording a covenant against the property.

The proposed amendment satisfies 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. Thus, it is staff's assessment that this finding can be made in this case.

**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 will establish development standards and regulations that look to mitigate any adverse impacts that may come from the implementation of SB 9. The amendment shall introduce language to the San Fernando Municipal Code that gives the City Building Official authority to deny and urban lot split of 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 amendment complies with state objectives of creating additional housing while also ensuring that there will not be detriment to the public interest, health, safety, convenience or welfare. Thus, it is staff's assessment that this finding can be made.

If the Commission selects Option 2, staff will present the Urgency Ordinance to City Council for adoption at the City Council meeting of March 7, 2022.

**ENVIRONMENTAL REVIEW:**

The adoption of this Zone Text Amendment 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 amendment 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.

**CONCLUSION:**

Staff recommends that the Planning and Preservation Commission

1. Discuss the regulations in the adopted Temporary Urgency Ordinance U-1706 for implementation of Senate Bill 9 (SB 9); and
2. Provide direction to staff for establishing a permanent ordinance for long-term implementation of SB 9.

If the Commission would like to recommend using the adopted Temporary Urgency Ordinance as the permanent ordinance for implementing SB 9, the Commission may do so by adopting the attached resolution, Resolution No. 2022-001. The resolution has been drafted to state that the Commission recommend that City Council approve ZTA 2022-001, which reaffirming the established development standards and regulations of Urgency Ordinance U-1706 for Urban Lot Splits and Housing Development in Single-Family Residential (R-1) Zone for implementation of Senate Bill 9.

**ATTACHMENTS:**

- A. Adopted Urgency Ordinance
- B. ZTA 2022-001 Resolution No. 2022-001 & Exhibit "A"
- C. Text of SB 9



**URGENCY ORDINANCE NO. U-1706**

**AN INTERIM URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN FERNANDO, CALIFORNIA MAKING FINDINGS AND ESTABLISHING OBJECTIVE STANDARDS FOR URBAN LOT SPLITS AND TWO-UNIT RESIDENTIAL DEVELOPMENT PROJECTS IN SINGLE-FAMILY RESIDENTIAL (R-1) ZONE PURSUANT TO SENATE BILL 9**

**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 is 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**, Government Code section 65858 authorizes the City Council to adopt an urgency ordinance by a four-fifths vote for the immediate preservation of the public health, safety, or welfare, and to prohibit a land use that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the City Council, Planning and Preservation Commission, or the Community Development Department is considering or studying or intends to study within a reasonable time.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN FERNANDO, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1. Recitals.**

The above recitals are true and correct and incorporated herein by reference.

**SECTION 2. Purpose, Legislative Findings, and Intent.**

- (1) During the 2021 legislative session, the California Legislature passed, and the Governor signed Senate Bill 9 (SB 9), which requires local agencies to ministerially approve urban lot splits and development of two residential units per single family residential lot in single family residential zones provided the projects meet certain criteria. SB 9 is effective on January 1, 2022.
- (2) SB 9 projects have the potential to significantly impact the character of the City's well established single family neighborhoods and well-thought out community planning and housing strategy and requires further study.
- (3) The City intends to study and formulate permanent regulations for the implementation of SB 9 projects in the City, but will need adequate time to complete that process following SB 9's effective date. Thus, the City Council wishes to adopt an interim ordinance that will take effect immediately and impose baseline standards for land subdivisions and units constructed under SB 9 while permanent standards are studied and formulated.
- (4) SB 9 projects have the potential to impact the health, safety, and welfare of residents in the City, and particularly on the character of single family residential neighborhoods, vehicular and pedestrian safety, on-street parking demand and impacts, and housing affordability. As such, the City of San Fernando City Council finds that there is an immediate need to establish objective zoning and subdivision standards for SB 9 projects in order to protect the public health, safety, and welfare while it studies permanent land use regulations for such projects and to ensure SB 9 does not have a detrimental impact on single family residential neighborhoods within the City. This process may be lengthy and therefore the City Council wishes to adopt an interim ordinance that will take effect immediately to mitigate the potential health, safety and welfare impacts of SB 9 projects.
- (5) The California Legislature has declared a statewide housing emergency, to be in effect until January 1, 2025.
- (6) California is experiencing a housing supply crisis, with housing demand far outstripping supply. In 2018, California ranked 49th out of the 50 states in housing units per capita. Seven of the 10 most expensive real estate markets in the United States are in California.
- (7) The housing crisis has particularly exacerbated the need for affordable homes at prices below market rates, and for the current 2021-2029 planning period, the City must accommodate the development of 1,795 residential units of which 734 units must be very-low to low income households.

- (8) To address these issues of affordability in San Fernando, it is necessary for the City to limit the size of units developed pursuant to SB 9 and to require that some units be affordable to low income families, as an interim measure to ensure that SB 9 developments do not conflict with forthcoming permanent regulations.

**SECTION 3. Urgency Findings.**

In accordance with Government Code Section 65858(a), and pursuant to the findings stated herein, the City Council hereby finds and declares: (1) that the findings and determinations in Section 2 are true and correct; (2) that there exists a current and immediate threat to the public health, safety, and welfare requiring this Ordinance; (3) that this Ordinance is necessary for the immediate preservation of the public peace, health, and safety as set forth herein.

**SECTION 4. Imposition of Interim Regulations**

- A. Notwithstanding any other ordinance or provision of the San Fernando City Code, no application for a building permit or other land use entitlement shall be approved for a new “urban lot split” or “two-unit development” (whether the project is the construction of two new units or adding a second unit) unless it satisfies all the requirements in Section C of this Ordinance. These interim regulations shall remain in effect for so long as this Ordinance remains in place or until such time as the same are amended by new permanent regulations that comply with new State regulations.
- B. The City shall not approve an application for a new urban lot split and/or two-unit development unless the proposed subdivision and/or housing project satisfies all of the standards below. An application for a new urban lot split and/or two-unit development that satisfies each of the below standards shall be approved by the Community Development Director following a ministerial review for compliance. A proposal for development under this section shall be initiated by an application on a form prescribed by the City together with the required fee.
- C. Except as otherwise provided under this Ordinance or under Government Code Section 65852.21 and Section 66411.7 the following conditions and restrictions shall apply to any proposed urban lot split and two-unit development:

**1. Purpose.**

The provisions of this section establish interim standards and procedures for projects developed pursuant to the regulations included in state Senate Bill 9 (SB 9).

## 2. **Definitions.**

For the purposes of this section, certain words and phrases used in this section are defined as follows:

*Front lot* means when an urban lot split creates two lots where there was previously one lot, the lot with the most frontage on the primary street shall be considered the front lot.

*Rear lot* means when an urban lot split creates two lots where there was previously one lot, the lot with the least frontage on the primary street shall be considered the rear lot.

*Rear lot front setback* means the distance between the front lot line and closest element of a building or structure on the site area of a rear lot created by an urban lot split. The front lot line of such rear lot may also be the rear lot line of the front lot, and shall be the lot line closest to, and parallel to the primary street.

*Second primary dwelling unit* means a dwelling unit constructed on a lot zoned single-family residential as permitted pursuant to the requirements of this Ordinance and SB 9.

*Senate Bill 9* or *SB 9* means the state law passed by the California state senate and approved by the Governor on September 16, 2021. The bill amends Government Code section 66452.6 and adds to sections 65852.21 and 66411.7 of Chapter 162, and takes effect on January 1, 2022.

*Two-unit development* means a housing development containing two dwelling units on a lot zoned single-family residential (R-1) pursuant to the requirements of this Ordinance and SB 9.

*Urban lot split* means a parcel map subdivision of a single family residential parcel as permitted pursuant to SB 9 that creates no more than two parcels of approximately equal lot area.

## 3. **Applicability.**

The provisions of this section shall apply to residential projects and urban lot splits with Single-Family Residential (R-1) zone that are proposed pursuant to the regulations in SB 9. Except as expressly provided in SB 9 or in this section, all other regulations of the underlying zone of a property developed pursuant to SB 9 shall apply, along with all other applicable regulations related to any urban lot split or two-unit development.

**4. General Requirements; Covenant Required.**

A property owner seeking to complete an urban lot split, or develop units on a single-family residential property pursuant to the regulations set forth in SB 9 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:

- A. The short term rental defined as rentals of any duration less than 31 consecutive calendar days of any units on the site shall be prohibited;
- B. Non-residential uses on the site shall be prohibited;
- C. Any subsequent urban lot split of land that was previously subdivided with an urban lot split shall be prohibited;
- D. 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 housing units as their principal residence for at least three years from the date of the approval of the urban lot split; and
- E. If, pursuant to SB 9, more than one unit is developed on a lot, one of such units shall be rented or leased at a rate affordable to low income tenants, if it is rented. Upon request from the City, the property owner shall furnish a copy of the rental or lease agreement of any unit created by SB 9 that is rented or leased; and
- F. 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 section.

**5. Urban Lot Split Regulations.**

Approval of a tentative parcel map or parcel map for urban lot split shall not result in a subdivision of more than two lots for a single-family residential lot, pursuant to the regulations contained in SB 9 as follows:

- 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.
- C. No flag lots shall be created as a result of an urban lot split.

- D. The width of any lot resulting from an urban lot split shall not be less than 75% of the original lot width.
- E. No right-of-way dedications shall be imposed upon urban lot split projects.

**6. Maximum Number of Units.**

- A. For projects that include an urban lot split, no more than two units may be located on a lot that results from an urban lot split. The units must conform to the objective standards included in this section. Existing and proposed ADUs and Junior ADUs shall be counted toward the maximum number of units permitted.
- B. For projects that do not include an urban lot split, no more than three units (including one ADU, and one Junior ADU) may be located on a site. The units must conform to the objective standards included in this section and as otherwise regulated by ADU or Junior ADU regulations.
- C. No second primary dwelling units shall be permitted on a property already developed with an ADU and/or Junior ADU. No ADU or Junior ADU shall be permitted on a property developed with a second primary dwelling unit.

**7. Maximum Unit Size.**

No unit constructed pursuant to SB 9 regulations shall be more than 800 square feet in size. For the purposes of this section, basements shall count as floor area.

**8. Maximum Unit Height.**

No unit constructed pursuant to SB 9 regulations shall exceed 14 feet and one story in height.

**9. Setbacks.**

- A. Side and rear setbacks. Any units constructed pursuant to the provisions of SB 9 shall have a minimum four foot setback from all side and rear lot lines.
- B. Front setback for a front lot shall be the setback as established in the Zoning Code for R-1 Zone.
- C. Front setback for a rear lot created by the urban lot split shall be ten feet. The front lot line shall be the lot line closest to, and parallel to the primary street.
- D. Setbacks for existing structures. No setbacks shall be required if a unit is constructed within the footprint of an existing structure on a lot.

**10. Minimum Width of Building.**

The front most unit constructed on a site with street frontage shall have a minimum unit width of 40 feet or 75% of the lot width, whichever is less.

**11. Design of Unit.**

- A. The front most unit constructed on a front lot shall have a front door facing the street.
- B. Each unit on each lot created by an urban lot split shall have a separate entrance.
- C. Any unit other than front most unit, or the front most unit on the front lot, shall be completely screened by either: 1) other unit(s) on the lot; or 2) landscaping.
- D. Additions or new second primary dwelling units added to sites where an existing structure will be retained must match the architectural style of the existing dwelling including but not limited to the roof pitch, window size, window type, exterior building materials, lighting fixtures, and paint colors.

**12. Parking.**

- A. Parking required - One uncovered parking space is required for each unit created pursuant to SB 9, unless the parcel upon which the unit is created is within one-half mile of a high quality transit corridor or a major transit stop, or a car share vehicle facility located within one block of the project.
- B. Parking location restrictions
  - 1. Parking shall not be provided within a front setback.
  - 2. Rear lot parking shall be accessed via an alley, if there is an alley.

**13. Affordable Rental Rate Required.**

If more than one unit is developed on a single lot using SB 9, one of such units shall be available at a rental rate affordable to low income tenants if it is rented. Upon request by the City, a property owner shall furnish the rental or lease agreements for any units rented or leased on a parcel that was developed pursuant to the regulations outlined in this section.

**14. Open Space.**

Urban dwelling units must provide a minimum of 400 square feet of private open space. The open space must be directly accessible to the unit it serves.

**15. Building Separation.**

No detached second primary dwelling unit shall be closer than six feet to any other accessory building or primary dwelling unit, 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.

**16. Compliance with Standards Cannot Physically Preclude Minimum Unit Size Requirements.**

The standards set forth in this Chapter shall not physically preclude the construction of up to two dwelling units per parcel and shall not preclude each unit from being at least 800 square feet in floor area, unless otherwise permitted by law. In such event, the housing development shall comply with the objective standards to the maximum extent necessary as determined by the Community Development Director that will not preclude the construction of up to two units per parcel with at least 800 square feet in floor area.

**17. Adverse Impact Findings**

The Building Official, or his or her designee, may make a written finding to deny an urban lot split or the construction of units pursuant to the regulations of SB 9. Such findings shall be 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.”

**SECTION 5. CEQA Finding.**

The City Council hereby finds that this Ordinance 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 Urgency 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 6. Penalty.**

Violation of any provision of this Ordinance shall constitute a misdemeanor and a civil violation subject to the penalties provided for under Article II (General Penalties) and Article III (Administrative Penalties – Citations) of Chapter 1 (General Provisions and Penalties) of the San Fernando City Code. Each and every day such a violation exists shall



constitute a separate and distinct violation of this Ordinance. In addition to the foregoing, any violation of this Ordinance shall constitute a public nuisance and shall be subject to abatement as provided by all applicable provisions of law.

**SECTION 7. Severability.**

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

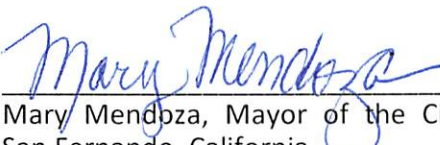
**SECTION 8. Savings Clause.**

Neither the adoption of this Ordinance nor the repeal or amendment by this Ordinance of any ordinance or part or portion of any ordinance previously in effect in the City, or within the territory comprising the City, shall in any manner affect the prosecution for the violation of any ordinance, which violation was committed prior to the effective date of this Ordinance, nor be construed as a waiver of any license, fee or penalty or the penal provisions applicable to any violation of such ordinances.

**SECTION 9. Effective Date and Extension of Ordinance.**

If adopted by at least four-fifths vote of the City Council, this Ordinance shall be effective commencing immediately. This Ordinance shall expire, and its standards and requirements shall terminate, forty-five (45) days after the date of adoption of this Interim Urgency Ordinance, unless extended by the City Council at a regularly noticed public hearing, pursuant to Government Code Section 65858.

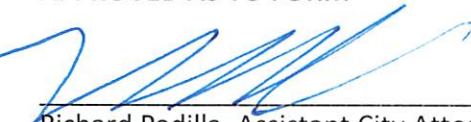
**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of San Fernando at a regular meeting on this 18<sup>th</sup> day of January 2022.

  
\_\_\_\_\_  
Mary Mendoza, Mayor of the City of San Fernando, California

**ATTEST**

  
\_\_\_\_\_  
Julia Fritz, City Clerk

**APPROVED AS TO FORM**

  
\_\_\_\_\_  
Richard Padilla, Assistant City Attorney

STATE OF CALIFORNIA)  
COUNTY OF LOS ANGELES) SS.  
CITY OF SAN FERNANDO)

I, Julia Fritz, City Clerk of the City of San Fernando, do hereby certify that the foregoing Interim Urgency Ordinance was adopted at a regular meeting of the City Council held on the 18<sup>th</sup> day of January, 2022, and was carried by the following roll call vote:

**AYES:** Rodriguez, Montañez, Ballin, Mendoza – 4

**NOES:** None

**ABSTAIN:** Pacheco – 1

**ABSENT:** None

  
\_\_\_\_\_  
Julia Fritz, City Clerk

**RESOLUTION NO 2022-001**

**RESOLUTION OF THE PLANNING AND PRESERVATION COMMISSION  
RECOMMENDING ADOPTION OF A ZONE TEXT AMENDMENT (ZTA  
2022-001) ESTABLISHING REGULATIONS FOR URBAN LOT SPLITS AND  
HOUSING DEVELOPMENT IN THE SINGLE-FAMILY RESIDENTIAL (R-1)  
ZONE FOR IMPLEMENTATION OF SENATE BILL 9 TO THE CITY COUNCIL**

**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 is 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**, in accordance with state law, on February 3, 2022, City of San Fernando Community Development Department published a legal notice in compliance with San Fernando Municipal Code concerning the proposed Zone Text Amendment in the San Fernando Sun, a local newspaper of general circulation, regarding the City of San Fernando Planning and Preservation Commission meeting of February 14, 2022; and

**WHEREAS**, on February 14, 2022, the Planning and Preservation Commission conducted a duly noticed public hearing, at which time public testimony was taken concerning the proposed Zone Text Amendment, and considered the proposed Zone Text Amendment.

**NOW, THEREFORE, THE PLANNING AND PRESERVATION COMMISSION OF THE CITY OF SAN FERNANDO, CALIFORNIA, DOES HEREBY FIND, DETERMINE AND RESOLVE 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 Urgency 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.

Additionally, the zone text amendment will satisfy Policy 2.3 of the San Fernando General Plan Housing Element. Policy 2.3 calls for the provision of affordable housing opportunities for San Fernando’s lower income population. The proposed amendment calls for an affordable rental rate requirement which shall be accepted and acknowledged by the property owner by signing and recording a covenant against the property.

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 amendment complies with state objectives of creating additional housing while also ensuring that there will not be detriment 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, and 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 hereby recommend that the City Council adopt the proposed Zone Text Amendment (ZTA 2022-001) to establish regulations for Urban Lot Splits and Housing Development in 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** at a regular meeting on this 14<sup>th</sup> day of February 2022.

\_\_\_\_\_  
CHAIRPERSON

**ATTEST**

\_\_\_\_\_  
KANJIKA 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, do hereby certify that the foregoing Resolution was adopted at a regular meeting of the Planning and Preservation Commission held on the 14<sup>th</sup> day of February, 2022, and was carried by the following roll call vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
KANJIKA KITH, SECRETARY TO THE PLANNING AND  
PRESERVATION COMMISSION

## EXHIBIT "A"

### Urban Lot Splits and Housing Development in Single-Family Residential (R-1) Zone for Implementation of Senate Bill 9

#### I. Purpose.

The provisions of this section establish standards and procedures for projects developed pursuant to the regulations included in state Senate Bill 9 (SB 9).

#### II. Definitions.

For the purposes of this section, certain words and phrases used in this section are defined as follows:

*Front lot* means when an urban lot split creates two lots where there was previously one lot, the lot with the most frontage on the primary street shall be considered the front lot.

*Rear lot* means when an urban lot split creates two lots where there was previously one lot, the lot with the least frontage on the primary street shall be considered the rear lot.

*Rear lot front setback* means the distance between the front lot line and closest element of a building or structure on the site area of a rear lot created by an urban lot split. The front lot line of such rear lot may also be the rear lot line of the front lot, and shall be the lot line closest to, and parallel to the primary street.

*Second primary dwelling unit* means a dwelling unit constructed on a lot zoned single-family residential as permitted pursuant to the requirements of this Ordinance and SB 9.

*Senate Bill 9* or *SB 9* means the state law passed by the California state senate and approved by the Governor on September 16, 2021. The bill amends Government Code section 66452.6 and adds to sections 65852.21 and 66411.7 of Chapter 162, and takes effect on January 1, 2022.

*Two-unit development* means a housing development containing two dwelling units on a lot zoned single-family residential (R-1) pursuant to the requirements of this Ordinance and SB 9.

*Urban lot split* means a parcel map subdivision of a single family residential parcel as permitted pursuant to SB 9 that creates no more than two parcels of approximately equal lot area.

**III. Applicability.**

- (1) The provisions of this section shall apply to residential projects and urban lot splits with Single-Family Residential (R-1) zone that are proposed pursuant to the regulations in SB 9. Except as expressly provided in SB 9 or in this section, all other regulations of the underlying zone of a property developed pursuant to SB 9 shall apply, along with all other applicable regulations related to any urban lot split or two-unit development.
- (2) Except as otherwise provided under this Ordinance or under Government Code Section 65852.21 and Section 66411.7 the conditions and restrictions in this Section shall apply to any proposed urban lot split and two-unit development utilizing SB 9.

**IV. Review Process**

- (1) An application for a new urban lot split and/or two-unit development that satisfies each of the below standards shall be approved by the Community Development Director following a ministerial review for compliance.
- (2) A proposal for development under this section shall be initiated by an application on a form prescribed by the City together with the required fee.

**V. Covenant Required.**

A property owner seeking to complete an urban lot split, or develop units on a single-family residential property pursuant to the regulations set forth in SB 9 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:

- A. The short term rental defined as rentals of any duration less than 31 consecutive calendar days of any units on the site shall be prohibited;
- B. Non-residential uses on the site shall be prohibited;
- C. Any subsequent urban lot split of land that was previously subdivided with an urban lot split shall be prohibited;



- D. 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 housing units as their principal residence for at least three years from the date of the approval of the urban lot split; and
- E. If, pursuant to SB 9, more than one unit is developed on a lot, one of such units shall be rented or leased at a rate affordable to low income tenants, if it is rented. Upon request from the City, the property owner shall furnish a copy of the rental or lease agreement of any unit created by SB 9 that is rented or leased; and
- F. 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 section.

**VI. Urban Lot Split Regulations.**

Approval of a tentative parcel map or parcel map for urban lot split shall not result in a subdivision of more than two lots for a single-family residential lot, pursuant to the regulations contained in SB 9 as follows:

- 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.
- C. No flag lots shall be created as a result of an urban lot split.
- D. The width of any lot resulting from an urban lot split shall not be less than 75% of the original lot width.
- E. No right-of-way dedications shall be imposed upon urban lot split projects.

**VII. Maximum Number of Units.**

- A. For projects that include an urban lot split, no more than two units may be located on a lot that results from an urban lot split. The units must conform to the objective standards included in this section. Existing and proposed ADUs and Junior ADUs shall be counted toward the maximum number of units permitted.
- B. For projects that do not include an urban lot split, no more than three units (including one ADU, and one Junior ADU) may be located on a site. The units

must conform to the objective standards included in this section and as otherwise regulated by ADU or Junior ADU regulations.

- C. No second primary dwelling units shall be permitted on a property already developed with an ADU and/or Junior ADU. No ADU or Junior ADU shall be permitted on a property developed with a second primary dwelling unit.

VIII. **Maximum Unit Size.**

No unit constructed pursuant to SB 9 regulations shall be more than 800 square feet in size. For the purposes of this section, basements shall count as floor area.

IX. **Maximum Unit Height.**

No unit constructed pursuant to SB 9 regulations shall exceed 14 feet and one story in height.

X. **Setbacks.**

- A. Side and rear setbacks. Any units constructed pursuant to the provisions of SB 9 shall have a minimum four foot setback from all side and rear lot lines.
- B. Front setback for a front lot shall be the setback as established in the Zoning Code for R-1 Zone.
- C. Front setback for a rear lot created by the urban lot split shall be ten feet. The front lot line shall be the lot line closest to, and parallel to the primary street.
- D. Setbacks for existing structures. No setbacks shall be required if a unit is constructed within the footprint of an existing structure on a lot.

XI. **Minimum Width of Building.**

The front most unit constructed on a site with street frontage shall have a minimum unit width of 40 feet or 75% of the lot width, whichever is less.

XII. **Design of Unit.**

- A. The front most unit constructed on a front lot shall have a front door facing the street.
- B. Each unit on each lot created by an urban lot split shall have a separate entrance.

- C. Any unit other than front most unit, or the front most unit on the front lot, shall be completely screened by either: 1) other unit(s) on the lot; or 2) landscaping.
- D. Additions or new second primary dwelling units added to sites where an existing structure will be retained must match the architectural style of the existing dwelling including but not limited to the roof pitch, window size, window type, exterior building materials, lighting fixtures, and paint colors.

**XIII. Parking.**

- A. Parking required - One uncovered parking space is required for each unit created pursuant to SB 9, unless the parcel upon which the unit is created is within one-half mile of a high quality transit corridor or a major transit stop, or a car share vehicle facility located within one block of the project.
- B. Parking location restrictions
  - 1. Parking shall not be provided within a front setback.
  - 2. Rear lot parking shall be accessed via an alley, if there is an alley.

**XIV. Affordable Rental Rate Required.**

If more than one unit is developed on a single lot using SB 9, one of such units shall be available at a rental rate affordable to low income tenants if it is rented. Upon request by the City, a property owner shall furnish the rental or lease agreements for any units rented or leased on a parcel that was developed pursuant to the regulations outlined in this section.

**XV. Open Space.**

Urban dwelling units must provide a minimum of 400 square feet of private open space. The open space must be directly accessible to the unit it serves.

**XVI. Building Separation.**

No detached second primary dwelling unit shall be closer than six feet to any other accessory building or primary dwelling unit, 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.

**XVII. Compliance with Standards Cannot Physically Preclude Minimum Unit Size Requirements.**

The standards set forth in this Chapter shall not physically preclude the construction of up to two dwelling units per parcel and shall not preclude each unit from being at least 800 square feet in floor area, unless otherwise permitted by law. In such event, the housing development shall comply with the objective standards to the maximum extent necessary as determined by the Community Development Director that will not preclude the construction of up to two units per parcel with at least 800 square feet in floor area.

**XVIII. Adverse Impact Findings**

The Building Official, or his or her designee, may make a written finding to deny an urban lot split or the construction of units pursuant to the regulations of SB 9. Such findings shall be 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.”

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Date Published: 09/17/2021 09:00 PM

**Senate Bill No. 9**

## CHAPTER 162

An act to amend Section 66452.6 of, and to add Sections 65852.21 and 66411.7 to, the Government Code, relating to land use.

[ Approved by Governor September 16, 2021. Filed with Secretary of State September 16, 2021. ]

## LEGISLATIVE COUNSEL'S DIGEST

SB 9, Atkins. Housing development: approvals.

The Planning and Zoning Law provides for the creation of accessory dwelling units by local ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, in accordance with specified standards and conditions.

This bill, among other things, would require a proposed housing development containing no more than 2 residential units within a single-family residential zone to be considered ministerially, without discretionary review or hearing, if the proposed housing development meets certain requirements, including, but not limited to, that the proposed housing development would not require 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, that the proposed housing development does not allow for the demolition of more than 25% of the existing exterior structural walls, except as provided, and that the development is not located within a historic district, is not included on the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district.

The bill would set forth what a local agency can and cannot require in approving the construction of 2 residential units, including, but not limited to, authorizing a local agency to impose objective zoning standards, objective subdivision standards, and objective design standards, as defined, unless those standards would have the effect of physically precluding the construction of up to 2 units or physically precluding either of the 2 units from being at least 800 square feet in floor area, prohibiting the imposition of setback requirements under certain circumstances, and setting maximum setback requirements under all other circumstances.

The Subdivision Map Act vests the authority to regulate and control the design and improvement of subdivisions in the legislative body of a local agency and sets forth procedures governing the local agency's processing, approval, conditional approval or disapproval, and filing of tentative, final, and parcel maps, and the modification of those maps. Under the Subdivision Map Act, an approved or conditionally approved tentative map expires 24 months after its approval or conditional approval or after any additional period of time as prescribed by local ordinance, not to exceed an additional 12 months, except as provided.

This bill, among other things, would require a local agency to ministerially approve a parcel map for an urban lot split that meets certain requirements, including, but not limited to, that the urban lot split 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, that the parcel is located within a single-family residential zone, and that the parcel is not located within a historic district, is not included on the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district.

The bill would set forth what a local agency can and cannot require in approving an urban lot split, including, but not limited to, authorizing a local agency to impose objective zoning standards, objective subdivision standards, and objective design standards, as defined, unless those standards would have the effect of physically precluding the construction of 2 units, as defined, on either of the resulting parcels or physically precluding either of the 2 units from being at least 800 square feet in floor area, prohibiting the imposition of setback requirements under certain circumstances, and setting maximum setback requirements under all other circumstances. The bill would require an applicant to sign an affidavit stating that they intend to occupy one of the housing units as their principal residence for a minimum of 3 years from the date of the approval of the urban lot split, unless the applicant is a community land trust or a qualified nonprofit corporation, as specified. The bill would prohibit a local agency from imposing any additional owner occupancy standards on applicants. By requiring applicants to sign affidavits, thereby expanding the crime of perjury, the bill would impose a state-mandated local program.

The bill would also extend the limit on the additional period that may be provided by ordinance, as described above, from 12 months to 24 months and would make other conforming or nonsubstantive changes.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment. CEQA does not apply to the approval of ministerial projects.

This bill, by establishing the ministerial review processes described above, would thereby exempt the approval of projects subject to those processes from CEQA.

The California Coastal Act of 1976 provides for the planning and regulation of development, under a coastal development permit process, within the coastal zone, as defined, that shall be based on various coastal resources planning and management policies set forth in the act.

This bill would exempt a local agency from being required to hold public hearings for coastal development permit applications for housing developments and urban lot splits pursuant to the above provisions.

By increasing the duties of local agencies with respect to land use regulations, the bill would impose a state-mandated local program.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 65852.21 is added to the Government Code, to read:

**65852.21.** (a) A proposed housing development containing no more than two residential units within a single-family residential zone shall be considered ministerially, without discretionary review or a hearing, if the proposed housing development meets all of the following requirements:

(1) The parcel subject to the proposed housing development is located within a city, the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(2) The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.

(3) Notwithstanding any provision of this section or any local law, the proposed housing development would not require demolition or alteration of any of the following types of housing:

(A) 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.

(B) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(C) Housing that has been occupied by a tenant in the last three years.

(4) The parcel subject to the proposed housing development is not a parcel on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

(5) The proposed housing development does not allow the demolition of more than 25 percent of the existing exterior structural walls, unless the housing development meets at least one of the following conditions:

(A) If a local ordinance so allows.

(B) The site has not been occupied by a tenant in the last three years.

(6) The development is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.

(b) (1) Notwithstanding any local law and except as provided in paragraph (2), a local agency may impose objective zoning standards, objective subdivision standards, and objective design review standards that do not conflict with this section.

(2) (A) The local agency shall not impose objective zoning standards, objective subdivision standards, and objective design standards that would have the effect of physically precluding the construction of up to two units or that would physically preclude either of the two units from being at least 800 square feet in floor area.

(B) (i) Notwithstanding subparagraph (A), no setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.

(ii) Notwithstanding subparagraph (A), in all other circumstances not described in clause (i), a local agency may require a setback of up to four feet from the side and rear lot lines.

(c) In addition to any conditions established in accordance with subdivision (b), a local agency may require any of the following conditions when considering an application for two residential units as provided for in this section:

(1) Off-street parking of up to one space per unit, except that a local agency shall not impose parking requirements in either of the following instances:

(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 located within one block of the parcel.

(2) For residential units connected to an onsite wastewater treatment system, a percolation test completed within the last 5 years, or, if the percolation test has been recertified, within the last 10 years.

(d) Notwithstanding subdivision (a), a local agency may deny a proposed housing development project if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon 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.

(e) A local agency shall require that a rental of any unit created pursuant to this section be for a term longer than 30 days.

(f) Notwithstanding Section 65852.2 or 65852.22, a local agency shall not be required to permit an accessory dwelling unit or a junior accessory dwelling unit on parcels that use both the authority contained within this section and the authority contained in Section 66411.7.

(g) Notwithstanding subparagraph (B) of paragraph (2) of subdivision (b), an application shall not be rejected solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.

(h) Local agencies shall include units constructed pursuant to this section in the annual housing element report as required by subparagraph (I) of paragraph (2) of subdivision (a) of Section 65400.

(i) For purposes of this section, all of the following apply:

(1) A housing development contains two residential units if the development proposes no more than two new units or if it proposes to add one new unit to one existing unit.

(2) The terms "objective zoning standards," "objective subdivision standards," and "objective design review standards" mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. These standards may be embodied in alternative objective land use specifications adopted by a local agency, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.

(3) "Local agency" means a city, county, or city and county, whether general law or chartered.

(j) A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

(k) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local agency shall not be required to hold public hearings for coastal development permit applications for a housing development pursuant to this section.

**SEC. 2.** Section 66411.7 is added to the Government Code, to read:

**66411.7.** (a) Notwithstanding any other provision of this division and any local law, a local agency shall ministerially approve, as set forth in this section, a parcel map for an urban lot split only if the local agency determines that the parcel map for the urban lot split meets all the following requirements:

(1) The parcel map subdivides an existing parcel to create no more than two new parcels of approximately equal lot area provided that one parcel shall not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision.

(2) (A) Except as provided in subparagraph (B), both newly created parcels are no smaller than 1,200 square feet.

(B) A local agency may by ordinance adopt a smaller minimum lot size subject to ministerial approval under this subdivision.

(3) The parcel being subdivided meets all the following requirements:

(A) The parcel is located within a single-family residential zone.

(B) The parcel subject to the proposed urban lot split is located within a city, the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(C) The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.



(D) The proposed urban lot split would not require demolition or alteration of any of the following types of housing:

(i) 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.

(ii) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(iii) A parcel or parcels on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

(iv) Housing that has been occupied by a tenant in the last three years.

(E) The parcel is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.

(F) The parcel has not been established through prior exercise of an urban lot split as provided for in this section.

(G) Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel using an urban lot split as provided for in this section.

(b) An application for a parcel map for an urban lot split shall be approved in accordance with the following requirements:

(1) A local agency shall approve or deny an application for a parcel map for an urban lot split ministerially without discretionary review.

(2) A local agency shall approve an urban lot split only if it conforms to all applicable objective requirements of the Subdivision Map Act (Division 2 (commencing with Section 66410)), except as otherwise expressly provided in this section.

(3) Notwithstanding Section 66411.1, a local agency shall not impose regulations that require dedications of rights-of-way or the construction of offsite improvements for the parcels being created as a condition of issuing a parcel map for an urban lot split pursuant to this section.

(c) (1) Except as provided in paragraph (2), notwithstanding any local law, a local agency may impose objective zoning standards, objective subdivision standards, and objective design review standards applicable to a parcel created by an urban lot split that do not conflict with this section.

(2) A local agency shall not impose objective zoning standards, objective subdivision standards, and objective design review standards that would have the effect of physically precluding the construction of two units on either of the resulting parcels or that would result in a unit size of less than 800 square feet.

(3) (A) Notwithstanding paragraph (2), no setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.

(B) Notwithstanding paragraph (2), in all other circumstances not described in subparagraph (A), a local agency may require a setback of up to four feet from the side and rear lot lines.

(d) Notwithstanding subdivision (a), a local agency may deny an urban lot split if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon 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.

(e) In addition to any conditions established in accordance with this section, a local agency may require any of the following conditions when considering an application for a parcel map for an urban lot split:

(1) Easements required for the provision of public services and facilities.

(2) A requirement that the parcels have access to, provide access to, or adjoin the public right-of-way.

(3) Off-street parking of up to one space per unit, except that a local agency shall not impose parking requirements in either of the following instances:

(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 located within one block of the parcel.

(f) A local agency shall require that the uses allowed on a lot created by this section be limited to residential uses.

(g) (1) A local agency shall require an applicant for an urban lot split to sign an affidavit stating that the applicant intends to occupy one of the housing units as their principal residence for a minimum of three years from the date of the approval of the urban lot split.

(2) This subdivision shall not apply to an applicant that 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.

(3) A local agency shall not impose additional owner occupancy standards, other than provided for in this subdivision, on an urban lot split pursuant to this section.

(h) A local agency shall require that a rental of any unit created pursuant to this section be for a term longer than 30 days.

(i) A local agency shall not require, as a condition for ministerial approval of a parcel map application for the creation of an urban lot split, the correction of nonconforming zoning conditions.

(j) (1) Notwithstanding any provision of Section 65852.2, 65852.21, 65852.22, 65915, or this section, a local agency shall not be required to permit more than two units on a parcel created through the exercise of the authority contained within this section.

(2) For the purposes of this section, "unit" means any dwelling unit, including, but not limited to, a unit or units created pursuant to Section 65852.21, a primary dwelling, an accessory dwelling unit as defined in Section 65852.2, or a junior accessory dwelling unit as defined in Section 65852.22.

(k) Notwithstanding paragraph (3) of subdivision (c), an application shall not be rejected solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.

(l) Local agencies shall include the number of applications for parcel maps for urban lot splits pursuant to this section in the annual housing element report as required by subparagraph (I) of paragraph (2) of subdivision (a) of Section 65400.

(m) For purposes of this section, both of the following shall apply:

(1) "Objective zoning standards," "objective subdivision standards," and "objective design review standards" mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. These standards may be embodied in alternative objective land use specifications adopted by a local agency, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(n) A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

(o) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local agency shall not be required to hold public hearings for coastal development permit applications for urban lot splits pursuant to this section.

**SEC. 3.** Section 66452.6 of the Government Code is amended to read:

**66452.6.** (a) (1) An approved or conditionally approved tentative map shall expire 24 months after its approval or conditional approval, or after any additional period of time as may be prescribed by local ordinance, not to exceed an additional 24 months. However, if the subdivider is required to expend two hundred thirty-six thousand seven hundred ninety dollars (\$236,790) or more to construct, improve, or finance the construction or improvement of public improvements outside the property boundaries of the tentative map, excluding improvements of public rights-of-way that abut the boundary of the property to be subdivided and that are reasonably related to the development of that property, each filing of a final map authorized by Section 66456.1 shall extend the expiration of the approved or conditionally approved tentative map by 48 months from the date of its expiration, as provided in this section, or the date of the previously filed final map, whichever is later. The extensions shall not extend the tentative map more than 10 years from its approval or conditional approval. However, a tentative map on property subject to a development agreement authorized by Article 2.5 (commencing with Section 65864) of Chapter 4 of Division 1 may be extended for the period of time provided for in the agreement, but not beyond the duration of the agreement. The number of phased final maps that may be filed shall be determined by the advisory agency at the time of the approval or conditional approval of the tentative map.

(2) Commencing January 1, 2012, and each calendar year thereafter, the amount of two hundred thirty-six thousand seven hundred ninety dollars (\$236,790) shall be annually increased by operation of law according to the adjustment for inflation set forth in the statewide cost index for class B construction, as determined by the State Allocation Board at its January meeting. The effective date of each annual adjustment shall be March 1. The adjusted amount shall apply to tentative and vesting tentative maps whose applications were received after the effective date of the adjustment.

(3) "Public improvements," as used in this subdivision, include traffic controls, streets, roads, highways, freeways, bridges, overcrossings, street interchanges, flood control or storm drain facilities, sewer facilities, water facilities, and lighting facilities.

(b) (1) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include any period of time during which a development moratorium, imposed after approval of the tentative map, is in existence. However, the length of the moratorium shall not exceed five years.

(2) The length of time specified in paragraph (1) shall be extended for up to three years, but in no event beyond January 1, 1992, during the pendency of any lawsuit in which the subdivider asserts, and the local agency that approved or conditionally approved the tentative map denies, the existence or application of a development moratorium to the tentative map.

(3) Once a development moratorium is terminated, the map shall be valid for the same period of time as was left to run on the map at the time that the moratorium was imposed. However, if the remaining time is less than 120 days, the map shall be valid for 120 days following the termination of the moratorium.

(c) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include the period of time during which a lawsuit involving the approval or conditional approval of the tentative map is or was pending in a court of competent jurisdiction, if the stay of the time period is approved by the local agency pursuant to this section. After service of the initial petition or complaint in the lawsuit upon the local agency, the subdivider may apply to the local agency for a stay pursuant to the local agency's adopted procedures. Within 40 days after receiving the application, the local agency shall either stay the time period for up to five years or deny the requested stay. The local agency may, by ordinance, establish procedures for reviewing the requests, including, but not limited to, notice and hearing requirements, appeal procedures, and other administrative requirements.

(d) The expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no final map or parcel map of all or any portion of the real property included within the tentative map shall be filed with the legislative body without first processing a new tentative map. Once a timely filing is made, subsequent actions of the local agency, including, but not limited to, processing, approving, and recording, may lawfully occur after the date of expiration of the tentative map. Delivery to the county surveyor or city engineer shall be deemed a timely filing for purposes of this section.

(e) Upon application of the subdivider filed before the expiration of the approved or conditionally approved tentative map, the time at which the map expires pursuant to subdivision (a) may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or

periods not exceeding a total of six years. The period of extension specified in this subdivision shall be in addition to the period of time provided by subdivision (a). Before the expiration of an approved or conditionally approved tentative map, upon an application by the subdivider to extend that map, the map shall automatically be extended for 60 days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first. If the advisory agency denies a subdivider's application for an extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension.

(f) For purposes of this section, a development moratorium includes a water or sewer moratorium, or a water and sewer moratorium, as well as other actions of public agencies that regulate land use, development, or the provision of services to the land, including the public agency with the authority to approve or conditionally approve the tentative map, which thereafter prevents, prohibits, or delays the approval of a final or parcel map. A development moratorium shall also be deemed to exist for purposes of this section for any period of time during which a condition imposed by the city or county could not be satisfied because of either of the following:

(1) The condition was one that, by its nature, necessitated action by the city or county, and the city or county either did not take the necessary action or by its own action or inaction was prevented or delayed in taking the necessary action before expiration of the tentative map.

(2) The condition necessitates acquisition of real property or any interest in real property from a public agency, other than the city or county that approved or conditionally approved the tentative map, and that other public agency fails or refuses to convey the property interest necessary to satisfy the condition. However, nothing in this subdivision shall be construed to require any public agency to convey any interest in real property owned by it. A development moratorium specified in this paragraph shall be deemed to have been imposed either on the date of approval or conditional approval of the tentative map, if evidence was included in the public record that the public agency that owns or controls the real property or any interest therein may refuse to convey that property or interest, or on the date that the public agency that owns or controls the real property or any interest therein receives an offer by the subdivider to purchase that property or interest for fair market value, whichever is later. A development moratorium specified in this paragraph shall extend the tentative map up to the maximum period as set forth in subdivision (b), but not later than January 1, 1992, so long as the public agency that owns or controls the real property or any interest therein fails or refuses to convey the necessary property interest, regardless of the reason for the failure or refusal, except that the development moratorium shall be deemed to terminate 60 days after the public agency has officially made, and communicated to the subdivider, a written offer or commitment binding on the agency to convey the necessary property interest for a fair market value, paid in a reasonable time and manner.

**SEC. 4.** The Legislature finds and declares that ensuring access to affordable housing is a matter of statewide concern and not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Sections 1 and 2 of this act adding Sections 65852.21 and 66411.7 to the Government Code and Section 3 of this act amending Section 66452.6 of the Government Code apply to all cities, including charter cities.

**SEC. 5.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act or because costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.