GARDEN GROVE

AGENDA

GARDEN GROVE PLANNING COMMISSION

REGULAR MEETING

December 2, 2021

COMMUNITY MEETING CENTER
11300 STANFORD AVENUE

Members of the public who wish to comment on matters before the Commission, in lieu of doing so in person, may submit comments by emailing planning@ggcity.org no later than 3:00 p.m. the day of the meeting. The comments will be provided to the Commission as part of the meeting record. Members of the public are asked to consider very carefully before attending this meeting in person and are encouraged to wear face masks and maintain a six foot distance from others. Please do not attend this meeting if you have had direct contact with someone who has tested positive for COVID-19, or if you are experiencing symptoms such as coughing, sneezing, fever, difficulty breathing or other flu-like symptoms.

REGULAR SESSION – 7:00 P.M.

ROLL CALL: CHAIR PEREZ, VICE CHAIR LINDSAY
COMMISSIONERS ARESTEGUI, CUNNINGHAM, LEHMAN, RAMIREZ, SOEFFNER

Members of the public desiring to speak on any item of public interest, including any item on the agenda except public hearings, must do so during Oral Communications at the beginning of the meeting. Each speaker shall fill out a card stating name and address, to be presented to the Recording Secretary, and shall be limited to five (5) minutes. Members of the public wishing to address public hearing items shall do so at the time of the public hearing.

Meeting Assistance: Any person requiring auxiliary aids and services, due to a disability, should contact the Department of Community & Economic Development at (714) 741-5312 or email planning@ggcity.org 72 hours prior to the meeting to arrange for special accommodations. (Government Code §5494.3.2).

All revised or additional documents and writings related to any items on the agenda, which are distributed to all or a majority of the Planning Commissioners within 72 hours of a meeting, shall be available for public inspection (1) at the Planning Services Division during normal business hours; and (2) at the City Community Meeting Center at the time of the meeting.

Agenda item descriptions are intended to give a brief, general description of the item to advise the public of the item's general nature. The Planning Commission may take legislative action it deems appropriate with respect to the item and is not limited to the recommended action indicated in staff reports or the

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A. ORAL COMMUNICATIONS - PUBLIC

B. APPROVAL OF MINUTES: November 18, 2021 minutes will be available at the next scheduled Planning Commission meeting in January 2022.

C. PUBLIC HEARING(S) (Authorization for the Chair to execute Resolution shall be included in the motion.)

C.1. AMENDMENT NO. A-033-2021

APPLICANT: CITY OF GARDEN GROVE
LOCATION: CITYWIDE

REQUEST: A request by the City of Garden Grove to amend portions of Title 9 of the Garden Grove Municipal code to implement the provisions of California Government Code Sections 65852.21 and 66411.7, added by Senate Bill 9, and to add regulations and development standards for two-unit housing developments and parcel maps for urban lot splits in single-family residential zones. The project is exempt from CEQA pursuant to Government Code Sections 65852.21(j) and 66411.7(n) and Sections 15303 and 15315 of the State CEQA Guidelines.

STAFF RECOMMENDATION: Recommend approval of Amendment No. A-033-2021 to City Council.

D. MATTERS FROM COMMISSIONERS

E. MATTERS FROM STAFF

F. ADJOURNMENT

COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT PLANNING STAFF REPORT

AGENDA ITEM NO.: C.1.	**SITE LOCATION:** Citywide
HEARING DATE: December 2, 2021	**GENERAL PLAN:** N/A
CASE NO.: Amendment No. A-033-2021	**ZONE:** N/A
APPLICANT: City of Garden Grove	
OWNER: N/A	**CEQA DETERMINATION:** Exempt

REQUEST:

A request that the Planning Commission recommend City Council approval of a City-initiated text amendment to Title 9 of the Garden Grove Municipal Code to implement the provisions of California Government Code Sections 65852.21 and 66411.7, added by Senate Bill 9, by adding regulations and development standards for two-unit housing developments and parcel maps for urban lot splits in single-family residential zones.

BACKGROUND:

On September 16, 2021, Governor Newsom signed Senate Bill (SB) 9 into law. Effective January 1, 2022, SB 9 adds Sections 66585.21 and 66411.7 to the Government Code. Section 65852.21 requires cities to consider a proposed housing development containing no more than two residential units within a single-family residential zone ministerially, without discretionary review or hearing, if the proposed housing development meets certain requirements. Section 66411.7 requires local agencies to ministerially approve a parcel map for an "urban lot split" that meets certain requirements. Both statutes permit the City to impose objective zoning, subdivision, and design standards on such projects as long as those standards would not have the effect of physically precluding the construction of up to two units on a lot or physically preclude either of the two units from being at least 800 square feet in floor area. The proposed text amendment would establish objective development standards for proposed SB 9 two-unit residential developments and urban lot splits and establish procedures for ministerial review consistent with these new State laws.

DISCUSSION:

Summary of SB 9

To qualify for ministerial approval under SB 9, a two-unit development or urban lot split must satisfy specified criteria. These qualifying criteria include, but are not limited to the following:

- The property must be located within a single-family residential zone.
- The proposed development cannot be located within a historic district or on property included on the State Historic Resources Inventory, or within a site that is designated or listed as a city landmark or historic property pursuant to a city ordinance.
- The development site cannot be prime farmland, wetlands, a site identified for conservation or habitat preservation, or a regulatory floodway and the development must meet specified standards if it is located in high or very high fire hazard severity zone, the flood zone, or within an earthquake fault zone.
- The proposed development cannot require the demolition or alteration of housing that has been occupied by a tenant within the last 3 years.
- The proposed development cannot 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.
- The proposed development cannot require the demolition or alteration of housing that is subject to any form of rent or price control.
- An owner of the property cannot have removed residential units on the property from the rental market under the Ellis Act within the last 15 years.
- If the site has been occupied by a tenant within the last 3 years, the proposed development cannot allow for the demolition of more than 25% of the existing exterior structural walls (unless allowed by local ordinance).

In addition, in the case of an urban lot split:

- The parcel map must subdivide an existing lot to create no more than two new lots of approximately equal lot area, provided that one lot shall not be smaller than 40% of the lot area of the original lot;
- Unless the city otherwise allows, both newly created lots must be no smaller than 1,200 square feet;
- The lot proposed to be subdivided must not have been established through a prior urban lot split;
- The subject lot cannot be adjacent to any lot that was established through an urban lot split by the owner of the subject lot or by any person acting in concert with the owner of the subject lot; and
- Except as otherwise provided in SB 9, the proposed subdivision must comply with all objective requirements of the Subdivision Map Act.

In limited circumstances, a city may deny an application for an SB 9 two-unit development or urban lot split where the proposed project would have a specific, adverse impact upon health and safety or the physical environment and for which

there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

SB 9 permits cities to impose objective zoning, subdivision, and design standards on two-unit housing developments and urban lot splits, subject to the following caveats:

- The city's objective standards cannot conflict with any of SB 9's provisions.
- The city cannot impose any objective standards that would have the effect of physically precluding the construction of two units per lot or that would result in a unit size of less than 800 square feet.
- The city cannot require a setback for an existing structure constructed in the same location and to the same dimensions as an existing structure (but may otherwise require at least 4-foot side and rear setbacks in all circumstances).
- The city cannot require off-street parking of more than one space per unit.
- The city cannot impose any parking requirements where the subject lot is located within one-half mile walking distance of a high-quality transit corridor or a major transit stop or if there is a car share vehicle located within one block of the lot.
- The city cannot reject an application for an SB 9 two-unit development or urban lot split solely because it proposes adjacent or connected structures, provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.
- The city cannot require the construction of offsite improvements or right-of-way dedications in conjunction with approval of a parcel map for an urban lot split.
- The city cannot require the correction of nonconforming zoning conditions as a condition for ministerial approval of a parcel map application for the creation of an urban lot split.

SB 9 also contains the following provisions:

- Cities are not required to permit an ADU or JADU on a lot that utilizes *both* the urban lot split and the two-unit development provisions of SB 9.
- Cities may require easements for the provision of public services and facilities in conjunction with a parcel map for an urban lot split.
- Cities may require that the two lots resulting from an urban lot split have access to, provide access to, or adjoin the public right-of-way.
- Cities must require that rental of a unit created under SB 9 be for a term longer than 30 days.
- Cities must require that the uses allowed on a lot created through an urban lot split be limited to residential uses.

- Cities must 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 approval of the urban lot split (but cities may not impose any other owner occupancy standards on an urban lot split).

SB 9 expressly authorizes cities to adopt an ordinance to implement its provisions and provides that such ordinances are exempt from review under the California Environmental Quality Act ("CEQA").

Proposed Land Use Code Amendments

In order to implement SB 9, Staff is proposing that a new Chapter 9.56 be added to the Land Use Code. This new Chapter would establish objective development standards and application and ministerial review procedures for proposed SB 9 two-unit residential developments and urban lot splits.

Staff is also proposing adding a new section to the City's existing subdivision ordinance (Section 9.40.250) to specifically address parcel maps for urban lot splits. Consistent with the Subdivision Map Act, the City's current subdivision regulations contemplate and require a discretionary review process for parcel maps, pursuant to which all tentative parcel maps require Planning Commission approval. Since parcel maps for urban lot splits must be approved ministerially, and the city will not have the ability to impose discretionary conditions of approval, new procedures for these unique new types of subdivision maps must be adopted.

In addition to the requirements, qualifications, and limitations expressly required by SB 9, these proposed new Code provisions contain objective design and development standards to ensure that new residential units and lots developed pursuant to SB 9 are attractive, and compatible with the existing development and, to the extent allowed by law, do not substantially alter the residential character of the neighborhoods in which they are located. The proposed regulations include standards specifically addressing multiple matters, including the following:

- Unit Size (minimum 500 sq. ft. / maximum 800 sq. ft.)
- Height/Stories (limited to one story and a maximum of 17 feet)
- Setbacks
- Building Separation
- Maximum Lot Coverage
- Maximum Front Setback Hardscape Coverage Limit
- Minimum Required Open Space/Recreation Areas
- Landscaping
- Perimeter Block Walls

- Minimum Unit Design Standards
- Minimum Storage Space within Units
- Required Laundry Facilities and Water Heaters for each Unit
- Screening of Mechanical Equipment
- Requirements for Driveways, Access, and Circulation
- Requirements that new lots adjoin the public right-of-way and have 25 feet of street frontage
- Refuse Storage Areas
- Drainage and Stormwater Management
- Address Identification
- Utilities

Where a specific development standard is not addressed, the standards for the underlying zone will apply.

SB 9 requires that the City's development standards must yield if necessary to allow the development of two 800 square foot units on a lot. To address application of this exception, the proposed regulations prioritize certain development standards above others so that standards perceived to be of higher priority to the City may only be waived if the waiver of lower priority development standards is insufficient to facilitate development of two 800 square foot units.

The proposed regulations also include provisions:

- limiting lots created by urban lot splits to having two housing units of any kind (i.e., any combination of primary units, ADUs, or JADUs);
- limiting separate conveyance of units on the same lot;
- Prohibiting condominium airspace divisions and common interest developments;
- limiting applicants to natural persons;
- establishing application procedures and requirements, including requirements pertaining to verification that the subject property has not been occupied by tenants within the last 3 years;
- requiring compliance with OCFA's emergency access and service requirements;
- clarifying that SB 9 projects are subject to development impact fees;
- requiring recordation of a deed restriction containing specified provisions;
- specifying that SB 9 projects are subject to the replacement housing obligations imposed by the Housing Crisis Act;
- providing that approval of an SB 9 development expires if not acted on within one year;
- authorizing the Director of Economic and Community Development to promulgate standard conditions to implement the regulations; and

- authorizing the City Engineer to interpret and establish guidance and procedures for the processing, approving, and finalizing parcel maps for urban lot splits.

The complete proposed text amendments are set forth in Attachment "A" to the proposed Resolution included with this Report.

RECOMMENDATION:

Staff recommends that the Planning Commission:

1. Adopt the proposed Resolution recommending approval of Amendment No. A-033-2021 to the City Council.

LEE MARINO
Planning Services Manager

Attachments:
Planning Commission Resolution No. 6035-21
Exhibit "A" Proposed Land Use Code Amendments
Senate Bill SB-9

RESOLUTION NO. 6035-21

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GARDEN GROVE RECOMMENDING THE CITY COUNCIL APPROVE AMENDMENT NO. A-033-2021, A ZONING TEXT AMENDMENT TO TITLE 9 OF THE GARDEN GROVE MUNICPAL CODE TO ADOPT NEW REGULATIONS FOR TWO-UNIT RESIDENTIAL DEVELOPMENTS AND PARCEL MAPS FOR URBAN LOT SPLITS IN SINGLE-FAMILY RESIDENTIAL ZONES IN ACCORDANCE WITH SENATE BILL 9.

BE IT RESOLVED that the Planning Commission of the City of Garden Grove, in regular session assembled on December 2, 2021, does hereby recommend approval of Amendment No. A-033-2021 to the City Council.

BE IT FURTHER RESOLVED in the matter of Amendment No. A-033-2021, the Planning Commission of the City of Garden Grove does hereby report as follows:

1. The case was initiated by the City of Garden Grove.

2. The City of Garden Grove is proposing to add Chapter 9.56 and Section 9.40.250 to Title 9 of the Municipal Code to establish regulations and objective development standards for SB 9 Two-Unit Residential Development and Parcel Maps for Urban Lot Splits pursuant to Senate Bill (SB) 9.

3. The proposed Code Amendment is statutorily exempt from review under the California Environmental Quality Act ("CEQA") pursuant to new Government Code Sections 65852.21(j) and 66411.7(n).

4. Pursuant to legal notice, a public hearing was held on December 2, 2021, and all interested persons were given an opportunity to be heard.

5. Report submitted by City staff was reviewed.

6. The Planning Commission gave due and careful consideration to the matter during its meeting of December 2, 2021; and

BE IT FURTHER RESOLVED, FOUND AND DETERMINED that the facts and reasons supporting the conclusion of the Planning Commission are as follows:

FACTS:

The proposed Code Amendment is a text amendment intended to implement recent changes in State law requiring ministerial review of proposed parcel maps for urban lot splits and certain proposed housing developments containing no more than two residential units in single-family residential zones.

Effective January 1, 2022, Senate Bill (SB) 9 adds Sections 66585.21 and 66411.7 to the Government Code. Section 65852.21 requires local agencies to consider a proposed housing development containing no more than two residential units within a

single-family residential zone ministerially, without discretionary review or hearing, if the proposed housing development meets certain requirements. Section 66411.7 requires local agencies to ministerially approve a parcel map for an urban lot split that meets certain requirements. Both statutes permit the City to impose objective zoning, subdivision, and design standards on such projects as long as those standards would not have the effect of physically precluding the construction of up to two units on a lot or physically preclude either of the two units from being at least 800 square feet in floor area. The proposed text amendment would establish objective development standards for proposed SB 9 two-unit residential developments and urban lot splits and establish procedures for ministerial review consistent with these new State laws.

FINDINGS AND REASONS:

1. The Amendment is internally consistent with the goals, objectives and elements of the City's General Plan.

   The proposed Land Use Code Amendment will implement SB 9, which is consistent with several goals and policies in the General Plan Housing Element, including (a) Policy H-3.1, which calls for the City to maintain land use policies and regulations that create capacity for development of a range of residential development types that can fulfill local housing needs; (b) Policy H-3.2, which calls for adequate sites be provided to encourage housing development that will meet the needs of all income groups; (c) Policy H-3.7, which calls for the City to encourage infill housing development that is compatible in character with established residential neighborhoods; (d) Policy H-4.3, which calls for the City to monitor State housing-related legislation and update City plans, ordinances, and processes pursuant to such legislation; and Policy H-5.3, which calls for the City to encourage investments and the siting of new housing in an equitable and fair manner that prevents discrimination, overcomes patterns of segregation, avoids concentrations of lower-income households, addresses pollution burdens, and fosters inclusive communities. In addition, the Housing Element update recently adopted by the City Council contemplates the development of second housing units on single-family residential lots pursuant to SB 9 will contribute to the City's ability to meet its Regional Housing Needs Allocation.

   The proposed Amendment, which establishes objective development standards and procedures for ministerial review of SB 9 projects, is also consistent with several goals and policies in the City's General Plan Land Use Element, including (a) Policy LU-1.3, which calls for the City to support the production of housing citywide that is affordable to lower- and moderate-income households consistent with the policies and targets set forth in the Housing Element; (b) Policy LU-2.2, which calls for the City to strive to provide a diverse mix of housing types; and (c) Implementation Program LU-IMP-2B, which calls for the City to review new development with the goal of ensuring it is similar in scale to the adjoining residential neighborhood to preserve its character.

2. The Amendment will promote the public interest, health, safety and welfare.

The proposed Land Use Code Amendment is intended to foster the development of additional housing in the City consistent with State law and the City's Housing Element, while establishing development standards for SB 9 projects to minimize their impacts on existing residential neighborhoods as much as possible and to help ensure that the character of the City's single-family residential neighborhoods is maintained.

INCORPORATION OF FACTS AND FINDINGS SET FORTH IN STAFF REPORT:

In addition to the foregoing, the Planning Commission incorporates herein by this reference, the facts and reasons set forth in the staff report.

BE IT FURTHER RESOLVED that the Planning Commission does conclude:

1. Amendment No. A-033-2021 possesses characteristics that would indicate justification of the request in accordance with Municipal Code Section 9.32.030.D.1 (Code Amendment).

2. The Planning Commission recommends that the City Council approve Amendment No. A-033-2021 and adopt an Ordinance making the text amendments set forth in Exhibit "A" attached hereto.

EXHIBIT "A"

PROPOSED LAND USE CODE AMENDMENTS

ADD NEW CHAPTER 9.56 TO TITLE 9 (LAND USE) AS FOLLOWS:

CHAPTER 9.56 SB 9 TWO-UNIT RESIDENTIAL DEVELOPMENTS AND URBAN LOT SPLITS

9.56.010 Purpose, Applicability, Definitions, Interpretation.

A. Purpose. The purpose of this chapter is to appropriately regulate qualifying SB 9 two-unit residential developments and urban lot splits within single-family residential zones in accordance with California Government Code Sections 65852.21 and 66411.7.

B. Applicability. The standards and limitations set forth in this chapter shall apply to urban lot splits and the development and use of SB 9 two-unit residential developments within a single-family residential zone in the City, notwithstanding any other conflicting provisions of this code. In the event of a conflict between the provisions of this chapter and any other provision of this code, the provisions of this chapter shall prevail.

C. Definitions. As used in this chapter, the following terms shall have the following meanings:

1. The terms ADU and JADU shall have the meanings ascribed to these terms in chapter 9.54.

2. The term "Director" means the City of Garden Grove Director of Community and Economic Development, or his or her designee.

3. The term "individual property owner" means a natural person holding fee title individually or jointly in the person's own name or a beneficiary of a trust that holds fee title. "Individual property owner" does not include any corporation or corporate person of any kind (partnership, limited partnership, limited liability company, C corporation, S corporation, etc.) except for a community land trust (as defined by Revenue and Taxation Code Section 402.1(a)(11)(C)(ii)) or a qualified nonprofit corporation (as defined by Revenue and Taxation Code Section 214.15).

4. The term "new primary dwelling unit" means either a new, additional dwelling unit that is created or an existing dwelling unit that is expanded, but does not include an ADU or a JADU.

5. The term "single-family residential zone" shall have the same meaning as in California Government Code Section 65852.21. A single-family residential zone includes the R-1 (Single-Family Residential) zoning district and any property within a planned unit development district or a specific plan area where a single-family dwelling is a permitted use, but a duplex, triplex, or multiple-family dwelling is not a permitted or conditionally permitted use.

6. The term "SB 9 two-unit residential development" shall mean a housing development containing no more than two primary residential units within a single-family residential zone that qualifies for ministerial review pursuant to California Government Code Section 65852.21 and this chapter. 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 primary unit.

7. The term "urban lot split" shall have the same meaning as stated in California Government Code Section 66411.7.

D. Interpretation. The provisions of this chapter shall be interpreted to be consistent with the provisions of California Government Code Sections 65852.21 and 66411.7 and shall be applied in a manner consistent with state law. The city shall not apply any requirement or development standard provided for in this chapter to the extent prohibited by any provision of state law.

9.56.020 Permit Application and Review Procedures

A. Application. An applicant for an SB 9 two-unit residential development or an urban lot split shall submit an application on a form prepared by the city, along with all information and materials prescribed by such form. No application shall be accepted unless it is completed as prescribed and is accompanied by payment for all applicable fees.

B. Review. Consistent with state law, the Director will consider and approve or disapprove a complete application for an SB 9 two-unit residential development or an urban lot split ministerially, without discretionary review or public hearing.

C. Nonconforming Conditions. An SB 9 two-unit residential development may only be approved if all nonconforming zoning conditions are corrected. The correction of legal nonconforming zoning conditions is not a condition for ministerial approval of a parcel map for an urban lot split.

D. Effectiveness of Approval. The ministerial approval of an SB 9 two-unit residential development or a parcel map for an urban lot split does not take effect until the city has confirmed that all required documents have been recorded.

E. Hold Harmless. Approval of an SB 9 two-unit residential development or a parcel map for an urban lot split shall be conditioned on the applicant agreeing to defend, indemnify and hold harmless the city, its officers, agents, employees and/or consultants from all claims and damages (including attorney's fees) related to the approval and its subject matter.

F. Specific, Adverse Impacts. Notwithstanding anything else in this section, the Director may deny an application for an SB 9 two-unit residential development or a parcel map for an urban lot split if the building official makes a written finding, based on a preponderance of the evidence, that the project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of California Government Code Section 65589.5, on either public health and safety or on the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.

9.56.030 Qualifying Requirements.

A proposed urban lot split or SB 9 two-unit residential development must meet all of the following requirements in order to qualify for ministerial review pursuant to the provisions of this chapter. It shall be the responsibility of the applicant to demonstrate to the reasonable satisfaction of the Director that each of these requirements is satisfied. The applicant and each owner of the property shall provide a sworn statement, in a form approved by the Director, attesting to all facts necessary to establish that each requirement is met. The city may conduct its own inquires and investigation to ascertain the veracity of the sworn statements, including, but not limited to, interviewing prior owners and occupants of the subject property, interviewing owners and occupants of nearby properties, and reviewing tax records, and may require additional evidence necessary to support the sworn statements, as determined by the Director in his or her reasonable discretion.

A. The subject property shall be located within a single-family residential zone.

B. The proposed development shall not be located on any site identified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of California Government Code Section 65913.4, unless the development satisfies the requirements specified therein. Such sites include, but are not limited to, prime farmland, wetlands, high or very high fire hazard severity zones, special flood hazard areas, regulatory floodways, and lands identified for conservation or habitat preservation as specifically defined in Government Code Section 65913.4.

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

D. The proposed development shall 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.

E. The proposed development shall not require the demolition or alteration of housing that is subject to any form of rent or price control.

F. The proposed development shall not require the demolition or alteration of housing that has been occupied by a tenant within the last three (3) years.

G. If any existing or previously demolished housing unit on the lot has been occupied by a tenant in the last three (3) years, the proposed development shall not involve the demolition of more than 25 percent of the existing exterior structural walls of any housing unit on the lot.

H. The subject property shall be owned solely by one or more individual property owners.

I. In the case of an urban lot split, the lot proposed to be subdivided shall not have been established through a prior urban lot split.

J. In the case of an urban lot split, the lot proposed to be subdivided ("subject lot") is not adjacent to any lot that was established through an urban lot split by the owner of the subject lot or by any person acting in concert with the owner of the subject lot.

K. No unpermitted construction or illegal nonconforming zoning conditions shall exist on the property.

9.56.040 Permitted Locations

A lot on which an urban lot split or SB 9 two-unit residential development is proposed must be located within a single-family residential zone. A lot located within a multiple-family or mixed-use zone shall not be eligible to be subdivided through an urban lot split or developed with an SB 9 two-unit residential development pursuant to this chapter.

9.56.050 Number of Dwelling Units Permitted on a Lot

A. Notwithstanding any other provisions of this code, state law requires the city to permit a lot located within a single-family residential zone to contain two primary dwelling units, provided both units are developed and maintained in compliance with the standards and requirements set forth in this chapter.

B. Provided the lot is not subdivided or created through an urban lot split, development of two primary dwelling units on a lot through an SB 9 two-unit residential development in conformance with this chapter does not preclude the development or maintenance of one or more ADUs and/or JADUs on the lot to the extent permitted by chapter 9.54 and state law.

C. No more than two (2) dwelling units of any kind may be constructed or maintained on a lot that results from an urban lot split. For purposes of this subdivision, the two-unit limitation applies to any combination of primary dwelling units, ADUs, and JADUs.

9.56.060 Separate Conveyance

A. Primary dwelling units located on the same lot may not be owned or conveyed separately from one another. All fee interest in a lot and all dwellings must be held equally and undivided by all individual owners of the lot.

B. Separate conveyance of the two lots resulting from an urban lot split is permitted. If dwellings or other structures (such as garages) on different lots are adjacent or attached to each other, the urban lot split boundary may separate them for conveyance purposes if the structures meet building code safety standards and are sufficient to allow separate conveyance. If any attached structures span or will span the new lot line, or if the two lots share a driveway pursuant to subsection 9.56.060(Q)(2), appropriate covenants, easements or similar documentation allocating legal and financial rights and responsibilities between the owners of the two lots ("CC&Rs") for construction, reconstruction, use, maintenance, and improvement of the attached structures and any related shared drive aisles, parking areas, or other portions of the lot must be recorded before the city will approve a final parcel map for the urban lot split. Notwithstanding the provision of such CC&Rs, however, where attached structures and/or related shared facilities span a lot line resulting from an urban lot split, all owners of both lots shall be jointly and severally responsible for the use and maintenance of such structures and/or shared facilities in compliance with all provisions of this Code.

C. Condominium airspace divisions and common interest developments are not permitted on a lot created through an urban lot split or containing an SB 9 two-unit residential development.

9.56.070 Residential Use Only

No non-residential use is permitted on any lot created through an urban lot split or containing an SB 9 two-unit residential development.

9.56.080 No Short-Term Rentals Permitted

The rental of any dwelling unit on a lot created through an urban lot split or containing an SB 9 two-unit residential development shall be for a term longer than 30 consecutive days.

9.56.090 Housing Crisis Act Replacement Housing Obligations.

If the proposed development will result in the demolition of protected housing, as defined in California Government Code Section 66300, the applicant shall replace each demolished protected unit and comply with all applicable requirements imposed pursuant to subsection (d) of Government Code Section 66300.

9.56.100 Development Standards and Design Criteria

A. Development Standards. A qualifying SB 9 two-unit residential development and any development on a lot created through an urban lot split shall be subject to the standards and criteria set forth in this section. In addition, except as modified or provided by this section or state law, an SB 9 two-unit residential development and any development on a lot created through an urban lot split shall conform to all objective development standards applicable to the lot as set forth in this title and/or in an applicable specific plan or planned unit development ordinance or resolution, along with all applicable objective standards and criteria contained in standard plans and specifications, policies, and/or standard conditions duly promulgated and/or adopted by the city, the Garden Grove Sanitary District, and the Orange County Fire Authority.

B. Unit Size.

1. Minimum Size. Each new primary dwelling unit shall be at least the following minimum sizes based on the number of sleeping rooms provided:

    a. Studio / One bedroom: 500 square feet.

    b. More than one bedroom: 700 square feet.

2. Maximum Size.

    a. The total floor area of each new primary dwelling unit developed as part of an SB 9 two-unit residential development or on a lot created through an urban lot split shall not exceed 800 square feet.

b. A primary dwelling that was legally established on the lot prior to the submittal of a complete application for an SB 9 two-unit development or an urban lot split and has a total floor area of 800 square feet shall be limited to its current lawful floor area and may not be expanded.

c. A primary dwelling that was legally established prior to the submittal of a complete application for an urban lot split or an SB 9 two-unit residential development and that is smaller than 800 square feet may be expanded to 800 square feet.

C. Unit Height; Stories. Each new primary dwelling unit shall be one story, constructed at ground level, and should not be more than 17 feet in height measured from ground level to the highest point on the roof.

D. Setbacks.

1. New Primary Dwelling Units. The following minimum setbacks from the property lines shall be observed for each new primary dwelling unit and any garages and accessory structures that are attached to a new primary dwelling unit. Detached garages and accessory structures shall comply with the setbacks contained in subsection 2. The required setbacks shall be maintained open and unobstructed from the ground to the sky, except for the permitted intrusions.

a. Front Setback: 20 feet

b. Interior Side Setback: 5 feet

c. Street Side Setback: 10 feet

d. Rear Setback: 15 feet.

2. Detached Garages and Accessory Structures. The following minimum setbacks from the property lines shall be observed for detached garages and accessory structures on a lot.

a. Front Setback: 20 feet

b. Interior Side Setback: 5 feet

c. Street Side Setback: 10 feet

d. Rear Setback: 5 feet.

3. Any construction occurring on a lot that abuts a street that has not been fully improved shall observe all building setbacks from the ultimate right-of-way of the street.

4. Exceptions. The above minimum setback requirements do not apply or shall be modified in the following circumstances

   a. No increased setback is required for an existing legally established structure or for a new primary dwelling unit that is constructed in the same dimensions as an existing legally established structure, provided that the new primary dwelling unit shall not be greater than 800 square feet.

   b. A required minimum setback may be reduced pursuant to subsection W of this section to the degree it would (i) physically preclude the development or maintenance of two dwelling units on a lot or (ii) physically preclude any new primary dwelling unit from being 800 square feet in floor area; but in no event may any structure be less than four feet from a side or rear property line.

   c. Permitted Intrusions. The following permitted intrusion may project into any required setback a maximum of two feet: cornices, eaves, belt courses, sills, buttresses, planter boxes, masonry planters, guard railings, chimneys, and architectural projections with no floor area, including, but not limited to, windows and pilasters.

E. Building Separation. Except as otherwise allowed by state law, a minimum building separation of six (6) feet shall be maintained between all detached structures on a lot, including all residential units, garages, and accessory structures.

F. Lot Coverage. The maximum lot coverage shall not exceed 50%. The lot coverage shall include all buildings and structures (primary and accessory), covered porches and patios, and covered parking areas.

G. Maximum Front Setback Coverage. No more than 50% of the front setback area may contain hardscape, excluding the allowed standard driveway in the front yard.

H. Open Space. Each new primary dwelling unit shall provide, at a minimum, a continuous private recreation area of 225 square feet with minimum interior dimensions of 10 feet. The private recreation area shall be open and unobstructed from the ground to the sky. The private recreation area may be located within the interior side, street side, or rear setback areas.

I. Landscaping. All setback areas, and all areas not designated for walkways, parking, drive aisles, and private recreation areas, shall be fully landscaped and irrigated. Each development shall comply with the landscaping and irrigation requirements contained in Chapter 9.08 of Title 9.

J. Perimeter Block Walls. Each development shall provide a masonry perimeter wall with a minimum height of six feet, as measured from the highest point of the finished grade next to the wall, and shall comply with the following stipulations:

1. All perimeter walls shall comply with the requirements as contained in Section 9.08.040.110, Wall, Fences and Hedges.

2. New walls shall not exceed a height of seven feet as measured from the finished point of grade next to the wall. At no time shall the overall height of the wall, as measured from adjacent neighbor's finished grade, exceed eight feet in height.

3. Walls located within the front yard areas, or adjacent to driveways shall not exceed 36 inches in height.

4. Perimeter walls located along any side street shall maintain a minimum setback of three feet from the property line for landscaping purposes.

5. All walls shall be designed to ensure proper vision clearance for cars entering or leaving the driveway and parking areas. No wall or fence shall cause an exceedance of the applicable site distance standards set forth in City of Garden Grove Traffic Engineering Policy TE 13 or in any revised or updated standard or policy promulgated by the city.

6. The property owner shall work with the adjoining property owners in designing and constructing the perimeter block walls to avoid the use of double walls. If the property owner cannot obtain approval from the adjoining property owners, the property owner shall construct the new wall with a decorative cap to be placed between the new and the existing wall.

7. Street facing perimeter block walls shall be decorative and utilize stucco finish, slump stone or split-face block and shall include trailing vines and other landscaping to deter graffiti.

K. Off-Street Parking.

1. Required Parking. One off-street parking space must be provided for each new primary dwelling unit unless one of the following applies:

   a. The lot is located within one-half mile walking distance of either (i) a high-quality transit corridor as defined in subdivision (b) of Section 21155 of the California Public Resources Code, or (ii) a major transit stop as defined in Section 21064.3 of the California Public Resources Code.

   b. The lot is located within one block of a car-share vehicle location.

2. Off-street parking spaces for an existing primary dwelling shall continue to be provided in accordance with the standards for the underlying zone.

3. Required parking for new primary dwelling units may be provided within an enclosed garage or as open spaces on the lot, but not as tandem parking. Open spaces may be located within the side or rear setbacks, and in the front setback for driveways that are not shared by more than one housing unit.

4. All required parking spaces provided shall be a minimum of 9 feet wide and 19 feet in depth and shall comply with the size requirements for full size stalls set forth in Standard B-311 of the Standard Plans and Specifications adopted by the city. Parking spaces adjacent and parallel to walls shall be a minimum of 11 feet wide.

5. Any proposed enclosed garage shall meet the following standards:

   a. Each enclosed garage shall maintain the following minimum interior parking clearance based on the number of cars it is designed to hold. No storage cabinets or mechanical equipment, including, but not limited to water heaters, utility sinks, or washers and dryers, shall encroach into the required parking area.

Number of Cars	Minimum Interior Parking Area
1	10 feet x 20 feet
2	20 feet by 20 feet

   b. The garage shall be equipped with an automatic roll-up garage door opener.

   c. Each garage shall maintain the ability to park the required number of vehicles at all times.

L. Unit Design Standards.

1. If there is an existing primary dwelling that was legally established on the lot prior to the filing of a complete application for a two-unit development or an urban lot split, any new additional primary dwelling unit must match the existing primary dwelling unit in exterior materials, color, and dominant roof pitch. The dominant roof slope is the slope shared by the largest portion of the roof.

2. If two new primary dwelling units are developed on the lot, the dwellings must match each other in exterior materials, color, and dominant roof pitch. The dominant roof slope is the slope shared by the largest portion of the roof.

3. All exterior lighting must be limited to down-lights.

4. Each new primary dwelling unit shall have a main entry that is clearly defined, and to the extent possible, be oriented directly toward the street(s) in order to provide consistency with the neighborhood. The main entry shall be covered, with a minimum depth of three feet. Each covered entry shall be in proportion with the building and shall incorporate architectural features that are used in the overall building design. All doors shall have standard door locks and dead bolts.

M. Storage Facilities. Each new primary dwelling unit shall provide a minimum 144 cubic feet of private secure storage space. Normal closets and cupboard space located within the unit shall not count toward meeting the requirement.

N. Laundry Facilities. Each new primary dwelling unit shall have a laundry space located within the unit or within a garage accessible from the unit that is equipped with washer and dryer hook-ups. If the laundry facilities are located within an enclosed garage, the laundry equipment shall not encroach into the interior garage parking area.

O. Water Heaters. Each new primary dwelling unit shall have a separate hot water. The location of the water heater shall be incorporated into the design of each unit. No exterior water heater enclosures shall be permitted. Water heaters may be substituted with tankless water heaters provided all building codes are complied with.

P. Mechanical Equipment, Metering Devices. All roof and ground mounted mechanical equipment and metering devices shall be completely screened from view from either on or off the property. All ground mounted equipment and above-ground utility meters, including, but not limited to, heating, cooling, or ventilating equipment, water meters, gas meters, and irrigation equipment, shall be shown on the site plan, and, to the extent possible, be placed outside of the required front setback area. If mechanical equipment or metering devices are to be located between a structure and the property line, an

unobstructed path at least three feet wide shall be provided between the equipment and the property line.

Q. Access and Circulation.

1. Each development shall be designed to provide adequate on-site vehicular access, circulation, back-up, and turn-around areas that comply with all the applicable city standards.

2. Where the street frontage of a lot (or the combined street frontage of the two lots created through an urban lot split) is less than 81 feet, all units on the lot (or all units on both lots created through an urban lot split) shall share the same drive approach and driveway.

3. Driveways shall maintain a minimum width of 20 feet, unless a wider width is required for emergency access.

4. Adequate access to each residential unit on the lot for fire and emergency medical service personnel and vehicles must be provided. The Orange County Fire Authority must confirm that all applicable fire and emergency access requirements are met before the city will approve an application.

R. Refuse Storage Areas. All developments shall provide each unit with the appropriate number of containers for recyclables, organics, and non-recyclable solid waste ("trash containers") as required by the Garden Grove Sanitary District, and shall comply with the following:

1. Trash containers shall be stored within designated storage areas only and not within the garage parking area.

2. The placement of trash containers for pick-up, and the duration of time prior to and after trash collection of those trash containers, is subject to the Garden Grove Sanitary District requirements.

3. The area required for each container shall be a minimum of 38 inches by 38 inches.

4. The trash areas shall be paved and accessed by gates and a walkway for ease of taking trash containers to and from the street.

S. Utilities.

1. Each primary dwelling unit on a lot must have its own direct utility connection to the utility / public service provider.

2. All necessary and/or required easements for the provision of electricity, gas, water, sewer, and other utility or public service to the lot and each

primary dwelling unit must be obtained by the property owner / applicant. The city may condition approval of an application under this section upon the applicant providing evidence that such easements have been agreed to and/or recorded.

3. Submitted plans shall show the location and dimension of all proposed above-ground and underground utility and public service facilities serving the lot and each dwelling unit and the location and dimensions of all related easements.

T. Building and Safety. All structures built on the lot must comply with all current local building standards.

U. Drainage and Stormwater Management. Each lot shall drain to the street or to an approved storm drain facility. The design of parkway culverts and storm drain lateral pipe connections to city-maintained storm drains within the city right-of-way shall comply with applicable city standards. SB 9 two-unit residential developments and the development of lots created through an urban lot split are subject to Chapter 6.40 of this code ("Stormwater Quality") and must comply with all applicable related rules, requirements, and standards, including, but not limited to, the preparation and implementation of a water quality management plan that meets applicable requirements.

V. Address Identification. Each residential unit shall have a separate address and shall be provided with approved address identification that is visible from the street fronting the lot in accordance with Section R319 of the California Residential Code. Where the unit address on the building cannot be viewed from the street fronting the lot, a monument, pole, or other means consistent with city standards shall be used to identify the unit. Where required by the fire code official, address identification shall be provided in additional approved locations to facilitate emergency response.

W. Exceptions to Objective Standards.

1. Any objective zoning, subdivision, or design standard that would have the effect of physically precluding the construction of up to two primary residential units on a lot or that would physically preclude each new unit from being 800 square feet in floor area shall be modified or waived to the extent necessary to allow the development of two primary residential units on a lot pursuant to this chapter that are each 800 square feet in floor area. The city prioritizes some objective development standards over others, as provided in subsection 2, below. In applying the exceptions required by this subsection, a proposed project shall be designed such that a development standard given a lower priority is modified or waived before a development standard given a higher priority. If a proposed project can be designed such that each lot can accommodate two 800 square foot primary dwelling units by modifying or waiving a development standard with a lower priority,

then an application that proposes a design requiring the modification or waiver of a development standard with a higher priority will be denied.

2. Priority of Development Standards. The city prioritizes the following development standards in the following descending order of priority, with the first development standard listed having the highest priority:

   a. Height; Stories.

   b. Front setback.

   c. Maximum front setback hardscape coverage (50%).

   d. Open space (225 square feet).

   e. Minimum unit size.

   f. Side or rear setback (a minimum of 4 feet must be maintained).

   g. Lot coverage (50%).

   h. Building separation (minimum separation required by Building Code must be maintained).

3. This subsection shall not be interpreted to permit the construction of new garages or accessory structures, or the maintenance of existing accessory structures not providing required parking, where the development or maintenance of two 800 square foot dwelling units on the lot would not be physically precluded in the absence of such proposed or existing structures.

4. Building standards, standards required by federal, state or local law or for sanitation or safety reasons, the off-site parking requirements in subsection K of this section, and the lot size, access, and frontage requirements set forth in Section 9.56.110 will not be waived or modified unless otherwise required by state law.

5. As part of its application, the applicant shall provide a written explanation that (a) specifically describes every development standard the applicant seeks to modify and waive, and to what extent, (b) demonstrates why waiver or modification of each development standard is needed to prevent physically precluding the construction of up to two primary residential units on the lot and/or each new unit from being at least 800 square feet in floor area, and (c) demonstrates that the requested modifications and/or waivers are consistent with the priority set forth in this subsection.

9.56.110 Additional Requirements for Urban Lot Splits

A. An urban lot split must conform to all applicable objective requirements of the Subdivision Map Act, including implementing requirements in this code, except as otherwise provided in this chapter. Notwithstanding the foregoing, no dedication of rights-of-way or construction of offsite improvements is required solely for an urban lot split.

B. Lot Size. The parcel map for an urban lot split must subdivide an existing lot to create no more than two new lots of approximately equal lot area, provided that one lot shall not be smaller than 40 percent of the lot area of the original lot proposed for subdivision. Both newly created lots must each be no smaller than 1,200 square feet.

C. Easements.

1. The owner must enter into an easement agreement with each utility/public-service provider to establish easements that are sufficient for the provision of public services and facilities to each of the resulting lots.

2. Each easement must be shown on the tentative parcel map and the final parcel map.

3. Copies of the unrecorded easement agreements must be submitted with the application. The easement agreements must be recorded against the property before the final parcel map may be approved.

D. Lot Access.

1. Each resulting lot must adjoin the public right-of-way.

2. Each resulting lot must have frontage on the public right-of-way of at least 25 feet.

E. Improvements Required. Each resulting lot must be developed in accordance with improvement plans processed concurrently with the parcel map application and approved by the city, showing the location and dimensions of all structures, drive aisles, parking areas, pedestrian pathways, and other improvements proposed to be constructed or to remain on each lot. Approval of a parcel map for an urban lot split shall be subject to the city's approval of such related improvement plans and all related entitlements or other approvals required by this code. Any proposed development on one of the lots that is inconsistent with or not shown on the improvement plans approved concurrently with the urban lot split shall be subject to review and approval by the city in accordance with the applicable requirements of this code.

F. Required Affidavit. The applicant for a parcel map for an urban lot split must sign an affidavit provided by the city stating that the applicant intends to occupy one of the dwelling units on one of the resulting lots as the applicant's principal residence for a minimum of three years after the final parcel map for the urban lot split is approved.

9.56.120 Compliance with Emergency Access and Service Requirements

Development of a lot pursuant to this chapter must conform and comply with all applicable provisions of the fire code and applicable requirements promulgated by the Orange County Fire Authority intended to ensure sufficient emergency access is provided or maintained. Prior to submitting a complete application for an SB 9 two-unit residential development or an urban lot split, the applicant shall obtain and provide city with written confirmation from the Orange County Fire Authority that the proposed development complies with all such requirements.

9.56.130 Deed Restriction.

Prior to approval of a parcel map for an urban lot split and/or the issuance of a building permit for the development of an SB 9 two-unit residential development, the owner(s) of record of the property shall provide the Director a copy of a covenant agreement, declaration of restrictions, or similar deed restriction ("deed restriction") recorded against the property, which is in a form prepared by and/or acceptable to the Director, and that does each of the following:

A. Expressly requires the rental of any dwelling unit on the property be for a term longer than 30 consecutive days.

B. Expressly prohibits any non-residential use of the lot.

C. Expressly prohibits primary dwelling units located on the same lot from being owned or conveyed separately from one another.

D. Expressly requires all fee interest in each lot and all dwellings to be held equally and undivided by all individual owners of the lot.

E. Expressly prohibits condominium airspace divisions and common interest developments on the property.

F. States that the property was formed and/or developed pursuant to the provisions of this chapter and is therefore subject to the city regulations set forth in this chapter, including all applicable limits on dwelling size and development.

G. Expressly prohibits more than two (2) dwelling units of any kind from being constructed or maintained on a lot that results from an urban lot split.

H. States (i) that the deed restriction is for the benefit of and is enforceable by the city, (ii) that the deed restriction shall run with the land and shall bind future owners, their heirs, and successors and assigns, (iii) that lack of compliance with the deed restriction shall be good cause for legal action against the owner(s) of the property; (iv) that, if the city is required to bring legal action to enforce the deed restriction, then the city shall be entitled to its attorneys' fees and court costs; and (v) that the deed restriction may not be modified or terminated without the prior written consent of the Director.

9.56.140 Fees

Development of lots pursuant to this section shall be subject to all applicable fees, including development impact fees, and assessments, duly adopted by the city.

9.56.150 Objective Standard Conditions.

The Director is authorized to promulgate objective standard conditions implementing this section, which are consistent with this Code and state law, that shall apply to the application and development of two-unit developments and urban lot splits, and to publish such standard conditions on the city's internet website. Applicants must comply with all standard conditions duly promulgated by the Director and published on the city's internet website.

9.56.160 Expiration of Approval.

The approval of an SB 9 two-unit residential development shall become null and void if construction is not commenced within one (1) year of the approval and diligently advanced until completion of the project. In the event construction of the project is commenced, but not diligently advanced until completion, the rights granted pursuant to the approval shall expire if the building permits for the project expire.

ADD NEW SECTION 9.40.250 TO CHAPTER 9.40 (SUBDIVISIONS) OF TITLE 9 (LAND USE) AS FOLLOWS:

9.40.250 Urban Lot Splits

A. The provisions of this section apply to the processing of parcel maps for urban lot splits pursuant to California Government Code section 66411.7 and chapter 9.56 of this code.

B. Approval. Notwithstanding the Subdivision Map Act or any other provision of this chapter, an application for a parcel map for an urban lot split is approved or denied ministerially, by the city's community and economic development director, without discretionary review. A tentative parcel map for an urban lot split is approved ministerially if it complies with the requirements of chapter 9.56 and applicable objective requirements of this chapter 9.40 and the Subdivision Map Act. The tentative parcel map may not be recorded. A final parcel map is approved ministerially as well, but not until the owner demonstrates that the required documents have been recorded, such as the deed restriction and easements.

C. Guidance and Procedures. The city engineer has the authority to interpret and establish guidance and procedures for the processing, approving, and finalizing parcel maps for urban lot splits, which are consistent with state and local law.

SB-9 Housing development: approvals. (2021-2022)

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.