RESOLUTION NO. PC2022-012

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, RECOMMENDING CITY COUNCIL ADOPTION OF CODE AMENDMENT NO. CA2022-007 TO IMPLEMENT NEW STATE LAW REQUIREMENTS RELATED TO SENATE BILL 9 HOUSING DEVELOPMENTS AND URBAN LOT SPLITS (PA2021-277)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. On September 16, 2021, Governor Gavin Newsom signed Senate Bill 9 (“SB 9”) into law, which among other things, allows for the ministerial approval of urban lot splits and the construction of two units on each single-family residential lot.

2. The City does not have development standards or procedural standards in Titles 19 (Subdivisions) and 20 (Planning and Zoning) of the Newport Beach Municipal Code (“NBMC”) related to SB 9 projects (“SB 9 Housing Development”).

3. SB 9 allows local agencies to adopt an ordinance imposing objective zoning standards, subdivision standards, and development standards that do not otherwise conflict with State law.

4. The City’s regulations contained in Title 21 (Local Coastal Program Implementation Plan) impacting the Coastal Zone remain unaffected by the subject ordinance until such time as the City’s LCP is duly amended in accordance with SB 9 and the California Coastal Act.

5. A study session was held by the Planning Commission on April 21, 2022, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the study session was given in accordance with the California Government Code Section 54950 et seq. (“Ralph M. Brown Act”). Evidence, both written and oral, was presented to, and considered by, the Planning Commission at the meeting.

6. A public hearing was scheduled by the Planning Commission on May 12, 2022, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with the Ralph M. Brown Act and Chapter 20.62 (Public Hearings) of the NBMC. The Planning Commission continued the Project to the May 26, 2022, Planning Commission meeting.

7. A public hearing was held by the Planning Commission on May 26, 2022, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with the Ralph M. Brown Act and Chapter 20.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing.
SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

Pursuant to California Government Code Sections 65852.21(j) and 66411.7(n), the adoption of an ordinance by a city or county implementing the provisions of Government Code Sections 66411.7 and 65852.21 regulating urban lot splits and SB 9 Housing Developments is statutorily exempt from the requirements of the California Environmental Quality Act (“CEQA”). Therefore, the code amendment is statutorily exempt from CEQA in that the proposed ordinance implements the new laws enacted by SB 9. Additionally, the code amendment is categorically exempt from CEQA under Section 15303 and 15315 as set forth in Title 14, Division 6, Chapter 3 of the California Code of Regulations which categorically exempts the construction of a second dwelling unit in a residential zone and the division of property in urbanized areas zoned for residential use into four or fewer parcels. Sections 15303 and 15315 apply here in that the code amendment regulates the construction of two dwelling units on a lot or the subdivision of a lot to create an additional unit. Moreover, none of the “exceptions” to the use of the Class 3 exemption, set forth in State CEQA Guidelines Section 15300.2, apply here. Specifically, the code amendment will (1) not result in a potentially significant cumulative impact, in that it is limited to single-unit residential properties; (2) not result in a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances; (3) not result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway, in that no residential property located adjacent to a state scenic highway; (4) not be located on a hazardous waste site included on any list compiled pursuant to § 65962.5 of the Government Code, in that no applicable property is located on a hazardous waste site; or (5) not result in a substantial adverse change in the significance of a historical resource.

SECTION 3. FINDINGS.

1. Adopting an ordinance consistent with Government Code Sections 65852.21 and 66411.7 ensures that the character of the City is preserved to the maximum extent possible and that the City’s regulation of SB 9 Housing Developments continues to promote the health, safety, and welfare of the community.

2. As permitted by California Government Code Section 65852.21, the City finds that maintaining unobstructed rear alley setbacks is essential to preserve vehicular maneuverability for residents, fire and life safety personnel traveling through the City’s narrow alleyways.

3. Consistent with limitations of the Housing Crisis Act of 2019, specifically Government Code Section 66300(b)(a)(A), this code amendment does not affect, change, or otherwise lessen the intensity of land use below what was allowed for single-family development on these applicable lots than what was in effect on January 1, 2018. Rather, this code amendments provides additional and alternative development allowances for SB 9 Housing Developments and urban lot splits that were not previously allowed.
4. The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

The Planning Commission of the City of Newport Beach hereby recommends to the City Council approve Code Amendment No. CA2022-007 as set forth in Exhibit “A,” which is attached hereto and incorporated herein by reference.

PASSED, APPROVED, AND ADOPTED THIS 26TH DAY OF MAY, 2022.

AYES: Ellmore, Klaustermeier, Kleiman, Koetting, Lowrey, and Weigand

NOES: None

ABSTAIN: None

ABSENT: Rosene

BY: Lee Lowrey, Chair

BY: Curtis Ellmore, Secretary

Attachment(s): Exhibit A – Code Amendment No. CA2022-007
EXHIBIT “A”

CODE AMENDMENT NO. CA2022-007

Section 1: Subsection (D)(2) of Section 20.12.020 (Rules of Interpretation) of Chapter 20.12 (Interpretation of Zoning Code Provisions) of Title 20 (Planning and Zoning) of the NBMC is amended to read as follows:

2. Agreements, Planned Communities, or Specific Plans. If conflicts occur between the requirements of this Zoning Code and standards adopted as part of a planned community development plan, development agreement, specific plan, or annexation agreement, the requirements of the planned community development plan, development agreement, specific plan, or annexation agreement shall prevail unless otherwise provided in the planned community development plan, development agreement, specific plan, or annexation agreement. Notwithstanding the foregoing, if a conflict occurs between the standards adopted as part of a planned community development plan and an application for a tentative parcel map for an urban lot split that meets all of the requirements of Section 20.48.205 (SB 9 Housing Developments and Urban Lot Splits in Single-Unit Residential Zoning Districts) and Chapter 19.90 (Tentative Parcel Maps for Urban Lot Splits), Section 20.48.205 (SB 9 Housing Developments and Urban Lot Splits in Single-Unit Residential Zoning Districts) and Chapter 19.90 (Tentative Parcel Maps for Urban Lot Splits) apply.

Section 2: The rows entitled “SB 9 Housing Developments” and “Urban Lots Splits” are hereby added to Table 2-1 (Allowed Uses and Permit Requirements) of Section 20.18.020 (Residential Zoning Districts Land Uses and Permit Requirements) of Chapter 20.18 (Residential Zoning Districts (R-A, R-1, R-BI, R-2, RM, RMD)) of Title 20 (Planning and Zoning) of the NBMC as follows:

<table>
<thead>
<tr>
<th>TABLE 2-1 ALLOWED USES AND PERMIT REQUIREMENTS</th>
<th>Residential Zoning Districts Permit Requirements *</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Use See Part 7 of this title for land use definitions. See Chapter 20.12 for unlisted uses.</td>
<td>R-A</td>
</tr>
<tr>
<td>SB 9 Housing Development</td>
<td>P</td>
</tr>
</tbody>
</table>
TABLE 2-1
ALLOWED USES AND PERMIT REQUIREMENTS

<table>
<thead>
<tr>
<th>Land Use</th>
<th>R-A</th>
<th>R-1**</th>
<th>R-BI</th>
<th>RM</th>
<th>Specific Use Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential Zoning Districts</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Chapter 19.90 and Section 20.48.205</td>
</tr>
<tr>
<td>Residential Lot Splits</td>
<td>P</td>
<td>P</td>
<td>—</td>
<td>—</td>
<td></td>
</tr>
</tbody>
</table>

**Residential Zoning Districts Permit Requirements *

- **P** Permitted by Right
- **CUP** Conditional Use Permit (Section 20.52.020)
- **CUP-HO** Conditional Use Permit in Residential Zoning Districts (Section 20.52.030)
- **MUP** Minor Use Permit (Section 20.52.020)
- **LTP** Limited Term Permit (Section 20.52.040)

---

**Section 3**: Footnote 2 of Table 2-2 (Development Standards for Single-Unit Residential Zoning Districts) of Section 20.18.030 (Residential Zoning Districts General Development Standards) of Chapter 20.18 (Residential Zoning Districts) of Title 20 (Planning and Zoning) of the NBMC is hereby amended to read as follows:

(2) Lots may be subdivided so that the resulting lot area and dimensions for each new lot are less than that identified in this table in compliance with the provisions of Title 19 (Subdivisions). The minimum lot size shall not be less than the original underlying lots on the same block face and in the same zoning district. Lot width and length may vary according to the width and depth of the original underlying lots. With the exception of tentative parcel maps for urban lot splits that meet the requirements of Section 20.48.205 (SB 9 Housing Developments and Urban Lot Splits in Single-Unit Residential Zoning Districts) and Chapter 19.90 (Tentative Parcel Maps for Urban Lot Splits), new subdivisions that would result in additional dwelling units beyond what the original underlying lots would allow are not permitted unless authorized by an amendment of the General Plan (GPA).

**Section 4**: Section 20.48.205 (SB 9 Housing Developments and Urban Lot Splits in Single-Unit Residential Zoning Districts) of Chapter 20.48 (Standards for Specific Land Uses) of Title 20 (Planning and Zoning) of the NBMC is hereby added to read as follows:


This section provides regulations for the creation of SB 9 housing developments and urban lot splits as required pursuant to California Government Code Sections 65852.21 and 66411.7, or any successor statute. This section shall sunset automatically without action of the City in the event California Government Code Sections 65852.21 and 66411.7 are repealed or no longer mandated by State law.
A. Zoning Districts and Planned Communities. SB 9 housing developments and urban lot splits shall be allowed in the R-A and R-1 zoning districts or areas designated for single-unit residential within a planned community development plan or specific plan.

B. Permit and Review Procedures.

1. SB 9 Housing Developments. An applicant for an SB 9 housing development shall obtain a zoning clearance in the form of an approval letter issued by the Community Development Director.

2. Urban Lot Split. An applicant for an urban lot split shall obtain a parcel map that meets the requirements set forth in Chapter 19.90 (Parcel Maps for Urban Lot Splits) and the applicable requirements set forth in this section.

3. Review Criteria. An SB 9 housing development or urban lot split is prohibited if any of the following conditions exist:

   a. Noncompliance. The property does not conform to the development standards and requirements as provided in this section.

   b. Demolition or Alteration of Certain Types of Housing Units. The development requires the demolition or alteration of any of the following types of housing:

      i. Dwelling unit that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to very low-, low-, or moderate-income households;

      ii. Dwelling unit that is subject to any form of rent or price control; or

      iii. Dwelling unit that has been occupied by a tenant in the last three (3) years. The applicant and property owner of the development must provide a sworn statement confirming the prior occupancy of the dwelling unit. The City may conduct its own inquiries and investigation to ascertain the veracity of the sworn statement; and the City may require additional evidence of the applicant and property owner as necessary to determine compliance with this requirement.

   c. Alteration of Existing Structures on Lots Occupied by Tenants. The development requires demolition of more than 25 percent of the existing exterior walls of any structure on a lot that has been occupied by a tenant in the last three (3) years.

   d. Ellis Act. The development is located on a lot on which the owner has exercised rights under the Ellis Act (Government Code Sections 7060-7060.7) to withdraw accommodations from rent or lease within fifteen (15) years before the date that the development proponent submits an application.

   e. Historic Resource. The development is located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the California Public Resources Code, or on a lot that is designated or listed as a City landmark or historic property.
f. Environmental Resource or Hazard. As specified in more detail in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Government Code Section 65913.4, the development is located on a lot that is any of the following:
   i. Either prime farmland or farmland of statewide importance;
   ii. Wetlands;
   iii. Within a very high fire hazard severity zone, unless the development is designed to comply with Section 9.04.380 (Requirements for Wildland Urban Interface Fire Areas).
   iv. A hazardous waste site, unless the lot has been appropriately cleared for residential use;
   v. Within a delineated earthquake fault zone, unless the development complies with applicable seismic protection building code standards;
   vi. Within a special flood hazard area as mapped by the most recent adopted Floor Insurance Rate Plan unless the development is designed to comply with Chapter 15.50 (Floodplain Management);
   vii. Within a regulatory floodway;
   viii. Lands identified for conservation in an adopted natural resource protection plan;
   ix. Lands that include habitat for protected species; and
   x. Lands subject to a conservation easement.

g. Coastal Zone. The property is located in the coastal zone, unless Title 21 (Local Coastal Program Implementation Plan) is amended to allow for SB 9 housing developments and urban lot splits.

h. Additional exclusions for urban lot splits. The review authority shall deny an urban lot split if any of the following conditions exist:
   i. The lot has been established through a prior urban lot split; or
   ii. The owner of the lot being subdivided or a person acting in concert with the owner has previously subdivided an adjacent lot using an urban lot split. For the purposes of this subsection, “acting in concert” means pursuing a shared goal to subdivide adjacent lots pursuant to an agreement or understanding, whether formal or informal.

4. Standards. Except as modified below, an application for an SB 9 housing development or future development on a lot created through an urban lot split shall conform to all requirements of the underlying R-A or R-1 zoning districts, planned community standards, specific plan area, any applicable overlay district, and other applicable objective development standards of this title (Planning and Zoning), including but not
limited to height, setback, site coverage, parking, floor area limit, and other applicable requirements.

a. Setbacks.
   i. No increased setback is required for an existing legally established structure or for a new dwelling unit that is constructed in the same dimensions as an existing legally established structure, provided that the new dwelling unit shall not be greater than 800 square feet.
   ii. If it is demonstrated that a required minimum side or rear setback not abutting an alley would physically preclude the development or maintenance of at least two (2) 800-square-foot dwelling units on a single lot, said setbacks may be reduced to the minimum degree necessary. In no case, however, shall the setbacks be reduced to less than four (4) feet from a side or rear property line.

b. Parking. A minimum of one (1) garage parking space that meet the standards set forth in Section 20.40.090 shall be provided for each additional SB 9 housing development or urban lot split unless the development is within:
   i. One-half mile walking distance of a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code;
   ii. One-half mile walking distance of a major transit stop, as defined in Section 21064.3 of the Public Resources Code; or
   iii. One block of a car-share vehicle. For the purposes of this section, “car-share vehicle” shall mean part of an established program intended to remain in effect at a fixed location for at least ten (10) years and available to the public.

c. Maximum Number of Units Allowed.
   i. A maximum of two (2) dwelling units of any kind may be built on a lot that results from an urban lot split. For the purposes of this paragraph, “unit” means any dwelling unit, including, but not limited to, a primary unit, a unit created under this section, an accessory dwelling unit, or a junior accessory dwelling unit.
   ii. A lot that is not created by an urban lot split may have a maximum of four (4) units consisting of single-unit or two-unit dwellings, plus any accessory dwelling units and/or junior accessory dwelling units allowed in compliance with Section 20.48.200.

d. Unit Size.
   i. The dwelling unit shall not exceed eight hundred (800) square feet.
ii. A dwelling unit that was legally constructed prior to the addition of a second dwelling unit as part of an SB 9 housing development and that is larger than those limits identified in (4)(d)(i) is limited to the existing floor area at the time of the SB 9 housing development approval. Any expansion of the existing dwelling unit is prohibited.

iii. A dwelling unit that was legally constructed prior to the addition of a second dwelling unit as part of an SB 9 housing development and that is smaller than those limits identified in (4)(d)(i) may be expanded up to those limits after, or as part of the SB 9 housing development.

e. Building Height.

i. Each unit within the development shall not exceed one story and a height of sixteen (16) feet. A dwelling unit that was legally established prior to the addition of a second dwelling unit as part of a SB 9 housing development that exceeds one story or sixteen (16) feet in height may be retained but shall not be increased beyond said height.

ii. Only in the event existing site development conditions cannot accommodate a second 800-square-foot dwelling unit designed consistent with the standards of the section, an increased height limit of two-stories and twenty-four (24) feet shall be permitted, subject to the following:

1. No exterior stairway to a second story shall be located on any front or side building frontage facing a street.

2. No exterior stairway to a second story shall be located in a required front or side yard setback area, or a rear yard setback area abutting an alley.

3. New second-story floor area shall be stepped back a minimum of five (5) feet from the first story wall plane on all street facing elevations.

4. Balconies are prohibited when facing interior side yards and rear yards abutting neighboring property.

f. Design.

i. Each proposed dwelling unit shall match the existing dwelling unit in materials, color and architectural style.

ii. Roof decks are prohibited.

iii. The roof pitch/slope and roof style (e.g., hip, gable, mansard, dutch gable, flat, etc.) of the proposed dwelling unit must be the same as the existing dwelling.
g. Utility Connections. Each dwelling unit shall provide separate connections to public utilities (or their equivalent), including water, electric, and sewer services.

h. Short-Term Lodging. Any dwelling unit permitted pursuant to an SB 9 housing development or urban lot split shall not be rented for periods of thirty (30) days or less.

i. Nonconforming Conditions. All nonconforming structures, uses or parking on a lot where an SB 9 housing development is proposed shall be brought into compliance with the development standards of this Zoning Code.

j. Owner-Occupancy. For SB 9 housing developments not located on a lot created by an urban lot split, a natural person with legal or equitable title to the lot must reside in either the primary dwelling unit or the second SB 9 housing development as the person’s legal domicile and permanent residence.

k. No Separate Conveyance within a Resulting Lot. Dwelling units within a SB 9 housing development may be rented, but no dwelling units, including accessory dwelling units or junior accessory dwelling units, may be sold or otherwise conveyed separately from the lot. Additionally, condominium airspace divisions and common interest developments are not permitted within the lot and all fee interest in a lot and all dwelling units on the lot must be held equally and undivided by all individual property owners.

l. Affordability Restrictions. Excluding accessory dwelling units, the second primary unit within the SB 9 housing development shall be restricted to occupancy by very low- or low-income households for a 30-year period.

m. Findings for Denial of an SB9 Housing Development or Urban Lot Split. Notwithstanding the foregoing, the City may deny an application for an SB 9 housing development if Director and Building Official make written finding(s), based upon a preponderance of the evidence, the development would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Government Code Section 65589.5, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

5. Additional Standards for Urban Lot Splits. In addition to the requirements set forth in Title 19 (Subdivisions), an application for an urban lot split shall conform to all requirements of the underlying R-A or R-1 zoning district or single-unit residential property within a planned community or specific plan, and any applicable overlay district including but not limited to objective design criteria related to lot dimensions, subdivision design, and park dedications and fees.

a. Lot Design.
i. Minimum Lot Area. The urban lot split shall result in two (2) lots with a minimum lot area of one thousand two hundred (1,200) square feet each; and

ii. Lot Area Proportionality. The urban lot split shall result in two (2) lots of approximately equal lot area but in no case less than forty (40) percent of the lot area of the original lot.

b. Lot Lines.

i. Proposed lot lines shall be straight lines unless existing improvements or the physical characteristics of the lot prohibit straight lot lines;

ii. Proposed interior lot lines not facing the street shall be at right angles perpendicular to the street on straight streets, or radial to the street on curved streets; and

iii. Proposed lot lines shall not render an existing structure as nonconforming in any respect (e.g., setbacks, open volume areas, floor area limitations, parking, etc.), nor increase the nonconformity of an existing nonconforming structure.

c. Access.

i. Each newly created lot shall have access to, provide access to, or adjoin a public right-of-way.

ii. Arterials and Collector Roads. For lots that currently maintain access from a local street, each newly created lot shall be designed such that access to on-site parking spaces is provided from the local street. Vehicular access from an arterial or collector road is prohibited;

iii. Driveways. Driveways shall be designed and constructed in accordance with City Design Criteria and Council Policy on driveway approaches, except as modified below:

1. Shared Driveways. Each newly created lot shall be designed such that access to on-site parking spaces is provided by a shared driveway approach through the recordation of a vehicular access easement across one lot;

2. Exception to Shared Driveway Approach. When alley access is provided to one (1) resulting new lot, separate access through the side yard setback area of a corner lot is permissible when access by the abutting street would not result in the loss of existing on-street parking spaces or prevent the creation of new on-street parking spaces by the closure of existing curb cuts. There shall be no new vehicular access driveway approach through a required front setback area.
iv. Alley Access. Except as allowed by (5)(b)(iii)(2), for an existing lot that abuts an alley, each newly created lot shall be designed such that access to on-site parking spaces is accessed from the alley. The recordation of a vehicular access easement across one (1) lot is acceptable.

v. Vehicular Access Width.

1. Vehicular Access Easements. An easement providing a vehicular access driveway measuring no less than twelve (12) feet in width shall be provided.

2. Flag Lots. A narrow accessway portion of a flag lot shall measure no less than eighteen (18) feet in width to accommodate a driveway approach.

d. Easements. The owner shall provide easements to the City related to the provision of public services and facilities as determined to be necessary by the City.

e. Utilities and Drainage. Each lot must be served by a separate water service meter and a separate sewer connection. In addition, each lot shall drain to the street, alley, or public storm drain.

f. Limitation on Conditions of Approval. The City may not require dedication of rights-of-way, off-site improvements, or correction of nonconforming zoning conditions as a condition of approval of a parcel map for an urban lot split.

g. Owner-Occupancy. The owner of the lot proposed for an urban lot split shall comply with the requirements provided herein and sign an affidavit stating that the owner intends to occupy one (1) of the housing units as their principal residence for a minimum of three (3) years from the date of the final, recorded parcel map for the urban lot split, unless the applicant is a community land trust, as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code, or is a qualified nonprofit corporation as described in Section 214.15 of the Revenue and Taxation Code.

h. Separate Conveyance of Resulting Lots.

i. Separate conveyance of the resulting lots is permitted.

ii. 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 (B)(5)(c)(iii)(1), appropriate covenants, easements or similar documentation allocating legal and financial rights and responsibilities between the owners of the two (2) 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, 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.

i. Park Dedication Fee. An in-lieu park dedication fee shall be paid in compliance with Chapter 19.52 (Park Dedications and Fees) for each new dwelling unit.

6. Deed Restriction and Recordation Required. Prior to the issuance of a building permit for a dwelling within an SB 9 housing development or the recordation of a parcel map for an urban lot split, the property owner shall record a deed restriction with the County Recorder’s Office, the form and content of which is satisfactory to the City Attorney. The deed restriction document shall notify future owners of the applicable owner occupancy requirements, affordability restrictions, prohibition on the separate conveyance, the approved size and attributes of the development, and restrictions on short-term rentals.

Section 5: Footnote 3 of Table 5-1 (Review Authority) of Section 20.50.030 (Multiple Permit Applications) of Chapter 20.50 (Permit Application Filing and Processing) of Title 20 (Planning and Zoning) of the NBMC is hereby amended to read as follows:

(3) The Director or Zoning Administrator may defer action and refer the request to the Commission for consideration and final action, unless said zoning clearance is for the ministerial approval of an SB 9 Housing Development pursuant to Section 20.48.205 in which case the Director is the final review authority.

Section 6: Subsection (E) of Section 20.52.100 (Zoning Clearances) of Chapter 20.52 (Permit Review Procedures) of Title 20 (Planning and Zoning) of the NBMC is hereby amended to read as follows:

E. Appeal to Commission. The Department’s action on a zoning clearance request may be appealed to the Commission in compliance with Chapter 20.64 (Appeals), unless said zoning clearance is for the ministerial approval of an SB 9 Housing Development pursuant to Section 20.48.205 in which case the Director is the final review authority.

Section 7: The following definitions are hereby added to the alphabetical list of definitions contained in Section 20.70.020 (Definitions of Specialized Terms and Phrases) of Chapter 20.70 (Definitions) of Title 20 (Planning and Zoning Code) of the NBMC to read as follows:

“SB 9 Housing Development (Land Use)” means a residential development that contains two (2) new dwelling units or proposes to add one (1) new dwelling unit on a lot designated for single-family residential use with one (1) existing dwelling unit, pursuant to California Government Code Section 65852.21 or any successor statute.
“Urban Lot Splits (Land Use)” means the subdivision of an existing, legally subdivided lot intended for single-family residential use to create one (1) new additional lot, pursuant to California Government Code Section 66411.7 or any successor statute.

Section 8: Section 19.12.010 (Tentative Map Review Authority) of Chapter 19.12 (Tentative Map Review) of Title 19 (Subdivisions) of the NBMC is hereby amended to read as follows:

19.12.010 Tentative Map Review Authority

The Planning Commission shall have the authority to approve, conditionally approve, or deny tentative tract maps and tentative parcel maps referred by the Zoning Administrator to the Planning Commission for review. The Zoning Administrator shall have the authority to approve, conditionally approve, or deny tentative parcel maps. Appeals or calls for review from actions of the above reviewing bodies shall be processed in accordance with Sections 19.12.050 and 19.12.060, respectively. The Zoning Administrator shall have the authority to approve, conditionally approve, or deny tentative parcel maps for urban lot splits in accordance with Chapter 19.90 (Parcel Maps for Urban Lot Splits). Tentative parcel maps for urban lot splits may be denied in accordance with Subsection 19.90.020(F) (Findings for Denial).

Section 8: Section 19.12.060 (Review of Tentative Parcel Maps) of Chapter 19.12 (Tentative Map Review) of Title 19 (Subdivisions) of the NBMC is hereby amended to read as follows:


A. Review by Zoning Administrator.

1. Authority. Tentative parcel maps shall be reviewed and approved, conditionally approved or denied by the Zoning Administrator unless the Zoning Administrator determines that the public interest would be better served by review by the Planning Commission. In such a case, the tentative parcel map shall be reviewed in the same manner as tentative tract maps as set forth in Section 19.12.050. Notwithstanding the foregoing, the Zoning Administrator shall not refer a tentative parcel map for an urban lot split to the Planning Commission.

2. Procedures. The provisions for tentative tract maps set forth in Sections 19.12.050(B) through (H) and (J), regarding staff reports, public hearings, time limits, required findings, approval by inaction, and indemnification shall apply to tentative parcel maps.

3. Finality of Decision. Decisions by the Zoning Administrator shall become final ten (10) days after the action unless appealed within the time limits specified in subsection (B) of this section.
4. Review of Tentative Parcel Maps for Urban Lot Splits. Tentative parcel maps for urban lot splits shall be reviewed and approved, conditionally approved, or denied by the Zoning Administrator pursuant to the provisions for tentative parcel maps for urban lot splits that are exclusively set forth in Chapter 19.90 (Parcel Maps for Urban Lot Splits).

B. Appeal or Call for Review of Zoning Administrator Action.

1. Initiation of Appeal or Call for Review. Any interested person may appeal any action of the Zoning Administrator regarding a tentative parcel map, except a tentative parcel map for an urban lot split, to the Planning Commission. Only an applicant can appeal an action by the Zoning Administrator or the Planning Commission on a tentative parcel map for an urban lot split. Calls for review of any action of the Zoning Administrator regarding a tentative parcel map, except for a tentative parcel map for an urban lot split, may be initiated by a member of the Planning Commission, to the Planning Commission, in the member’s official capacity, if the sole purpose for the call for review is to bring the matter in front of the entire body for review. Calls for review of any action of the Planning Commission regarding a tentative parcel map, except a tentative parcel map for an urban lot split, may be initiated by a member of the City Council, to the City Council, in the member’s official capacity, if the sole purpose for the call for review is to bring the matter in front of the entire body for review. In accordance with Government Code Section 66463.5, or any successor statute, an appeal of a denial of a tentative parcel map extension shall be heard by the City Council.

2. Time Limits for Filing. Appeals or calls for review to the Planning Commission shall be filed with the Community Development Director within ten (10) days after the action of the Zoning Administrator on a form provided by the Community Development Director. Appeals or calls for review to the City Council shall be filed with the City Clerk within ten (10) days after the action of the Planning Commission on a form provided by the City Clerk. An appeal of a denial of a tentative parcel map extension shall be filed with the City Clerk and heard by City Council in accordance with Government Code Section 66463.5, or any successor statute. The time limit for filing appeals on denials of a tentative parcel map extension shall be fifteen (15) days after the action of the Zoning Administrator. Upon the filing of an appeal or call for review, the original decision shall be stayed and the matter shall be set for public hearing.

3. Fees. Any appeal filed by an interested person shall be accompanied by a fee set by resolution of the City Council. A call for review is exempt from the payment of a filing fee under Section 3.36.030, or any successor provision.

C. Further Appeal or Call for Review. Any action by the Planning Commission, when acting as the Appeal Board, or any decision affirmed by the City Clerk due to Planning Commission inaction within the specified time limits in Sections 19.12.050(D) and (E) may in turn be appealed or called for review in accordance with the procedures and time limits set forth in Section 19.12.050.
Section 9: Chapter 19.90 (Parcel Maps for Urban Lot Splits) of Title 19 (Subdivisions) of the NBMC is hereby added in its entirety to read as follows:

Chapter 19.90 Parcel Maps for Urban Lot Splits.

19.90.010 Purpose and Scope.


19.90.030 Design and Improvement Requirements.

19.90.040 Concurrent Processing with Other Ministerial Permits for Housing Development.

19.90.050 Prohibition of Further Subdivision.

19.90.060 Amendments to Approved Tentative Parcel Maps for Urban Lot Splits.


19.90.010 Purpose and Scope.
This Chapter serves to implement Government Code Section 66411.7 to provide an owner an alternative method to subdivide the lot for residential development. For purposes of this Chapter, “urban lot split” means the subdivision of an existing, legal lot in designated for single-family residential use zone to create one (1) additional lot.


A. Filing. An application for a tentative parcel map for an urban lot split shall be filed with the Community Development Department by a record owner or owners of the property to be divided or by their authorized agents. The required number of copies of the map shall be established by the Community Development Director through an application form.

B. Application Fee. The application shall be accompanied by the required application fee(s), as established by resolution of the City Council. Such fees shall be in accordance with Section 66451.2 of the Subdivision Map Act and shall not exceed the amount reasonably required to administer provisions of this title.

C. Form and Content. A tentative parcel map for an urban lot split shall be prepared by a licensed surveyor or civil engineer registered in the State of California in accordance with the Subdivision Map Act and this Code. Maps shall be in map form in size, scale and format as specified by the Director and shall be accompanied by other reports, exhibits, information and materials as required by the Director. The Director shall provide application forms and a list of required tentative map information on request.

D. Supplemental Information. In addition to the items identified in (C) of this Section, the following supplemental information shall be submitted with a tentative parcel map application to establish compliance with the construction plans and all provisions of this Code and applicable State law:

1. A map of appropriate size and to scale showing all the following:
a. Total area (in acreage and square feet) of each proposed lot;
b. Zoning District and General Plan Land Use Category;
c. The location and use of all existing and proposed structures;
d. All required zoning setbacks for the existing and proposed lots;
e. The location of all existing water, sewer, electricity, storm drain, or gas service lines, pipes, systems, or easements;
f. The location of all proposed new water, sewer, electricity, storm drain, lines, pipes, or systems;
g. The location of any proposed easements for access or public utilities to serve a lot created by the subdivision;
h. Curb, gutter, sidewalk, parkway, and street trees: type, location, and dimensions;
i. Location of existing or proposed driveway dimensions, materials, and slope (including cross slope); and
j. Location of existing or proposed pedestrian pathway access to the public right of way.

2. A statement of the owner, signed under penalty of perjury under the laws of California, that:
   a. The proposed urban lot split would not require or authorize 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.
   b. A lot or lots 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 of the Government Code to withdraw accommodations from rent or lease within fifteen (15) years prior to the date that the development proponent submits an application;
   c. Housing that has been occupied by a tenant in the last three (3) years;
   d. The lot has not been established through prior exercise of an urban lot split under this Chapter;
   e. Neither the owner of the lot being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent lot under the provisions of this Chapter;
   f. The owner intends to occupy one (1) of the housing units located on a lot created by the parcel map as their principal residence for a minimum of three (3) years from the date of the recording of the final parcel map;
   g. Rental terms of any unit created by the subdivision shall not be rented for periods of thirty (30) days or less; and
   h. The uses allowed on a lot created by the parcel map shall be limited to residential uses.
E. Review Authority and Approval. If the Zoning Administrator determines, after consultation with the City Engineer, that a tentative parcel map for an urban lot split meets all requirements of this Chapter and Section 20.48.205(B) (Permit and Review Procedures), the Zoning Administrator shall approve the tentative parcel map. This action is a ministerial action in compliance with the provisions of this Chapter only. The findings under Section 19.12.070 (Required Findings for Action on Tentative Maps) do not apply.

F. Findings for Denial. The Zoning Administrator shall deny any application for a tentative parcel map for urban lot split if the Zoning Administrator and Building Official make written finding(s), based upon a preponderance of the evidence, that it would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Government Code Section 65589.5, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

19.90.030 Design and Improvement Requirements. For lot design and development standards, see Section 20.48.205(B)(5) (Additional Standards for Urban Lot Splits).

19.90.040 Concurrent Processing with Other Ministerial Permits for Housing Development.

A. No development, including grading, shall commence on either lot, concurrent or subsequent to an urban lot split, unless it is approved with a valid building permit for the construction of a housing development and complies with all the objective development and design standards in Sections 20.48.200 (Accessory Dwelling Units) and 20.48.205 (SB 9 Housing Developments and Urban Lot Splits in Single-Unit Residential Zoning Districts), or any other adopted objective design standards in effect at the time a complete application is submitted.

B. A building permit for development of an urban lot split cannot be issued until the parcel map records.

19.90.050 Prohibition of Further Subdivision.

A lot created by a parcel map under this Chapter shall not be further subdivided.

19.90.060 Amendments to Approved Tentative Parcel Maps for Urban Lot Splits.

See Section 19.12.090 (Amendments to Approved Tentative Maps) or its successor section.


See Chapter 19.16 (Tentative Map Expiration and Extension) or its successor section.

19.90.080 Final Parcel Map Filing and Review for Urban Lot Splits.
See Chapter 19.56 (Final Map Filing) and Chapter 19.60 (Final Map Review) or their successor sections.