

PC RESOLUTION NO. 2023-22

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF TEMECULA RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE ENTITLED, “AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMECULA AMENDING TITLES 16 AND 17 OF THE TEMECULA MUNICIPAL CODE TO IMPLEMENT THE REQUIREMENTS OF SENATE BILL 9 (“SB 9”) (2021) AND MAKE A FINDING THAT THE PROJECT IS EXEMPT FROM CEQA PURSUANT TO GOVERNMENT CODE SECTIONS 65852.21(J) AND 66411.7(N), AND CEQA GUIDELINES SECTIONS 15303 AND 15061(B)(3)”

Section 1. Procedural Findings. The Planning Commission of the City of Temecula does hereby find, determine and declare that:

A. On February 22, 2022, pursuant to Government Code Section 65858, the Temecula City Council enacted Interim Urgency Ordinance No. 2022-03. Adoption of the Interim Urgency Ordinance imposed a moratorium on the approval of applications for housing development projects and urban lot splits permitted by Senate Bill 9 that do not meet the objective zoning and design standards contained in Interim Urgency Ordinance No. 2022-03.

B. Interim Urgency Ordinance No. 2022-03 was subsequently extended twice by the City Council and is scheduled to expire on February 21, 2024.

C. City staff identified the need to adopt a permanent ordinance to address urban lot splits permitted under Government Code Section 66411.7 and SB 9 two unit developments permitted under Section 65852.21(j) before Interim Urgency Ordinance No. 2022-03 expires.

D. The Planning Commission, at a regular meeting, considered the proposed amendments to Title 16 (Subdivisions), and Title 17 (Zoning) of the Temecula Municipal Code on November 15, 2023, at a duly noticed public hearing as prescribed by law, at which time the City staff and interested persons had an opportunity to, and did testify either in support or opposition to this matter.

E. The proposed amendments to Title 16, & 17 are consistent with the City of Temecula General Plan, and each element thereof.

F. At the conclusion of the Planning Commission hearing and after due consideration of the testimony, the Planning Commission recommended that the City Council adopt the Ordinance attached hereto as Exhibit “A”.

G. All legal preconditions to the adoption of this Resolution have occurred.

Section 2. Further Findings. In recommending adoption of the proposed Ordinance, the Planning Commission of the City of Temecula does hereby make the following additional

findings as required by Section 17.01.040 (“Relationship to General Plan”) of the Temecula Municipal Code:

1. The proposed use is allowed in the land use designation in which the use is located, as shown on the land use map, or is described in the text of the general plan.

The proposed Ordinance implements the requirements of Senate Bill (SB) 9, which requires local jurisdictions to ministerially approve urban lot splits and residential development of up to four units. The proposed Ordinance is drafted in a manner to ensure compliance with state law. Residential land uses are permitted in the General Plan and therefore, the uses are consistent with the residential land districts identified in the General Plan.

2. The proposed uses are in conformance with the goals, policies, programs and guidelines of the elements of the general plan.

The proposed Ordinance does not propose any land use that is inconsistent with the General Plan. The changes proposed would expand or increase the intensity of residential uses in areas that already permits such uses. The proposed Ordinance furthers Goal 3 of Land Use Element of the Temecula General Plan, which is to encourage “A City of diversified development character, where rural and historical areas are protected and co-exist with newer urban development.”

3. The proposed uses are to be established and maintained in a manner which is consistent with the general plan and all applicable provisions contained therein.

The proposed amendments to Title 16, and 17 of the Temecula Municipal Code do not propose any land use that is inconsistent with the Temecula General Plan. The proposed changes are consistent with Goal 2 of the Growth Management/Public Facilities Element of the Temecula General Plan which is “Orderly and efficient patterns of growth that enhance quality of life for Temecula Residents.”

Section 3. Environmental Compliance. Under California Government Code Sections 65852.21, subdivision (j), and 66411.7, subdivision (n), the adoption of an ordinance by a city implementing the provisions of Government Code Sections 66411.7 and 65852.21 regulating two-unit residential developments and urban lot splits is statutorily exempt from the requirements of the California Environmental Quality Act (“CEQA”). Therefore, this Ordinance is statutorily exempt from CEQA in that the Ordinance implements Government Code Sections 65852.21 and 66411.7 these new laws enacted by SB 9. In addition to being statutorily exempt from CEQA, this Ordinance is also categorically exempt from CEQA under Class 3 as outlined in State CEQA Guidelines section 15303. The Class 3 exemption categorically exempts the construction and location of new, small structures and the conversion of existing small structures from one use to another. This Ordinance is categorically exempt under the Class 3 exemption because the Ordinance regulates the construction of two primary dwelling units or, if there is already a primary dwelling unit on the lot, the development of a second primary dwelling unit in a residential zone. Further, this Ordinance is not subject to CEQA under the general rule in CEQA Guidelines Section 15061(b)(3) that CEQA applies only to projects which have the

potential for causing a significant effect on the environment. Any development that would be contemplated under this Ordinance must be treated ministerially, and any such projects would be exempt from the environmental review requirements. For the reasons stated above, it can be seen with certainty that there is no possibility that this Ordinance will have a significant effect on the environment.

Section 4. Recommendation. The City of Temecula Planning Commission hereby recommends the City Council approve Planning Application No. LR22-0158, a proposed Citywide Ordinance as set forth on Exhibit "A", attached hereto, and incorporated herein by this reference.

PASSED, APPROVED AND ADOPTED by the City of Temecula Planning Commission this 15th day of November 2023.


Lanae Turley-Trejo, Chair

ATTEST:



Luke Watson *for*
Secretary

[SEAL]

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss
CITY OF TEMECULA)

I, Luke Watson, Secretary of the Temecula Planning Commission, do hereby certify that the forgoing PC Resolution No. 2023-22 was duly and regularly adopted by the Planning Commission of the City of Temecula at a regular meeting thereof held on the 15th day of November, 2023, by the following vote:

AYES:	4	PLANNING COMMISSIONERS:	Hagel, Solia, Turley-Trejo, Watts
NOES:	0	PLANNING COMMISSIONERS:	None
ABSTAIN:	0	PLANNING COMMISSIONERS:	None
ABSENT:	1	PLANNING COMMISSIONERS:	Ruiz

Matt Pelton
for

Luke Watson
Secretary

ORDINANCE NO. 2023-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMECULA AMENDING TITLES 16 AND 17 OF THE TEMECULA MUNICIPAL CODE TO IMPLEMENT THE REQUIREMENTS OF SENATE BILL 9 (“SB 9”) (2021) AND MAKE A FINDING THAT THE PROJECT IS EXEMPT FROM CEQA PURSUANT TO GOVERNMENT CODE SECTIONS 65852.21(J) AND 66411.7(N), AND CEQA GUIDELINES SECTIONS 15303 AND 15061(B)(3)

THE CITY COUNCIL OF THE CITY OF TEMECULA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Findings. The City Council of the City of Temecula does hereby find, determine and declare that:

A. City staff identified the need to make revisions and clarifications to portions of Title 17 (Zoning) of the Temecula Municipal Code.

B. The code amendments are being made to ensure the Temecula Municipal Code is amended in conformity with the housing programs that the City committed to when it adopted the 2021-2028 Housing Element and amendments needed to conform to changes in State law.

Section 2. Procedural Findings. The City Council of the City of Temecula does hereby find, determine, and declare that:

A. On November 15, 2023, the Temecula Planning Commission considered this Ordinance at a duly noticed public hearing, as prescribed by law, at which time the City Staff and interested persons had an opportunity to and did testify either in support or opposition to this matter.

B. At the conclusion of the Planning Commission hearing and after due consideration of the testimony, the Planning Commission adopted Resolution No. 2023-XX recommending approval of the Ordinance by the City Council.

C. On December 12, 2023, the City Council, at a regular meeting, considered the Ordinance at a duly noticed public hearing, as prescribed by law, at which time the City Staff and interested persons had an opportunity to and did testify either in support or opposition to this matter.

D. Following the public hearing, the City Council considered the entire record of information received at the public hearings before the Planning Commission and City Council.

Section 3. Further Findings. The City Council of the City of Temecula in approving the proposed Municipal Code amendments hereby makes the following additional findings as required by Section 17.01.040 (“Relationship to General Plan”) of the Temecula Municipal Code:

- A. The use is allowed in the land use designation in which the use is located, as shown on the land use map, or is described in the text of the General Plan;
 - a. On September 16, 2021, Senate Bill 9 (Chapter 162, Statutes of 2021) was approved by the Governor of the State of California and filed with the Secretary of State, amending Section 66452.6 of the California Government Code and adding to the Government Code Sections 65852.21 and 66411.7, allowing additional housing units on properties within single-family zones and providing for parcel map approval of an Urban Lot Split. Whenever there is a conflict between a state law and a local ordinance, the state law has precedence and must be obeyed.

- B. The use is in conformance with the goals, policies, programs, and guidelines of the elements of the general plan; and
 - a. Land Use Element Policy 1.2 Promote the use of innovative site planning techniques that contribute to development of a variety of residential product styles and designs, including housing suitable for the community’s labor force.
 - b.
 - c. Housing Element Policy 1.2 Encourage residential development that provides a range of housing types in terms of cost, density, and type, and presents the opportunity for local residents to live and work in the same community by balancing jobs and housing types.

- C. The proposed use is to be established and maintained in a manner which is consistent with the General Plan and all applicable provisions contained therein.
 - a. Housing Element Policy 3.3 Periodically review City development standards to ensure consistency with the General Plan and to ensure high-quality affordable housing.

Section 4. A new Section 17.06.120 (Urban Lot Split) is hereby added to Chapter 17.06 (Residential Districts) of Title 17 (Zoning) of the Temecula Municipal Code to read as follows:

“Section 17.06.120 SB 9 Two Unit Development

A. Purpose and Applicability. On condition that Government Code Section 65852.21 is not repealed, the purpose of this section is to allow and appropriately regulate SB 9 two unit developments in accordance with Government Code Section 65852.21. If Government Code Section 65852.21 is repealed, then this Section 17.06.120 shall automatically become null and void. Development applications that do not satisfy the definition for a SB 9 two unit development provided below in Section B shall not be subject to this ordinance.

B. Definitions. In addition to definitions contained in Chapter 17.34 (Definitions and Illustrations of Terms) and Chapter 16.54 (Definitions of Terms), the following definitions apply

for the purposes of this Section. Where a conflict may exist, the definitions in this Section shall apply.

1. "Accessory dwelling unit" or "ADU" has the same meaning ascribed in Government Code section 65852.2, as the same may be amended from time to time. Accessory dwelling unit includes an "efficiency unit" as defined in Health and Safety Code Section 17958.1 and a "manufactured home" as defined in Health and Safety Code Section 18007.
2. "Junior accessory dwelling unit" or "JADU" has the same meaning ascribed in Government Code Section 65852.22, as the same may be amended from time to time. A junior accessory dwelling unit contains at least an efficiency kitchen, which may include plumbing, electrical, mechanical, and/or physical space set aside for cooking or meal preparation facilities, which may include space for a refrigerator, sink, wet bar, and/or dishwasher.
3. "Objective design standards" mean design standards that involve no personal or subjective judgement by a public official and are uniformly verifiable by reference to an external benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal.
4. "Primary dwelling unit" or "Primary dwelling" for the purposes of this section, means the existing or proposed single-family dwelling on the lot where an ADU would be located. For the purposes of this section, a primary dwelling unit may include a duplex unit.
5. "SB 9" means a state law passed by the California state senate and approved by the Governor on September 16, 2021. SB 9 added Sections 65852.21 and 66411.7 to the Government Code.
6. "SB 9 two unit development" means a housing development containing no more than two primary residential units within a single family residential zone that qualifies for ministerial review according to California Government Code Section 65852.21. 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. "Substantial redevelopment" means when a development project proposes that an existing structure is either completely demolished or when more than twenty five (25) percent of any of the following is removed: 1) load bearing or structural walls, 2) roof or roof frame, or 3) foundation.
8. "Urban Lot Split" means a parcel map subdivision of a single family residential parcel as permitted pursuant to SB 9 that creates no more than two parcels of approximately equal lot area.

C. General Requirements and Restrictions.

1. Short Term Rental Prohibited. Short term rental units are not permitted within the City of Temecula, per Table 17.06.030 (Residential Districts). Any unit constructed under this section shall not be rented for less than 31 days.

2. Prohibited Development. A SB 9 two unit development as described in this section shall be prohibited in the following locations and circumstances, pursuant to State Law and as specified below:

- a) Historic Resources. On a lot located within property located in the State Historic Resource Inventory, as defined in Section 5020.1 of the Public Resources Code, or on a lot identified in Table III-1, Historic Buildings and Structures Outside of Old Town as identified in the Old Town Specific Plan.
- b) Prime farmland or farmland of statewide importance. On Prime farmland or farmland of statewide importance, as defined pursuant to United State Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the State Department of Conservation.
- c) Wetlands. In wetlands as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).
- d) Deed Restrictions. On a lot with a recorded affordability covenant or any other form of rent or price control through a public entity's valid exercise of its police power.
- e) High and Very High Fire Hazard Severity Zone. On a lot located within a Very High Fire Hazard Severity Zone as determined by the Department of Forestry and Fire Protection pursuant to Government Code section 51178, or within a High or Very High Fire Severity Zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Public Resources Code 4202. This exception does not apply to sites excluded from the specified hazard zones by the City pursuant to subdivision (b) of Section 51179, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development. No variance, minor exception, or modification to any Fire Code requirements or high fire construction standards shall be permitted, without exception.
- f) Tenant Housing. On a lot improved with a housing unit that has been occupied at any time by a tenant within the last three years.
- g) Nonconforming Development. Single family zoned lots already developed with two or more existing residential units, nonresidential units, or mixed-use, shall not use the provisions of this section to add residential units, or make any other alterations to the buildings or site otherwise prohibited by this title, unless the development complies with all of the standards of this section.
- h) Hazardous Waste Site. On a hazardous waste site that is listed pursuant to Government Code Section 65962.5 or a hazardous waste site designated by the State Department of Toxic Substances Control pursuant to Health and Safety Code Section 25356, unless the State Department of Toxic Substances Control has cleared the site for residential use or residential mixed use, or the site is an underground storage tank site that received a uniform closure letter issued pursuant to Health and Safety Code Section

25295.10(g) based on closure criteria established by the State Water Resources Control Board for residential use or residential mixed uses..

i) **Fault Zone.** In a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2 of the Government Code.

j) **Flood Zone.** In a special flood hazard area subject to inundation by the 1 percent annual chance flood (100- year flood) as determined by the Federal Emergency Management Agency ("FEMA") in any official maps published by the Federal Emergency Management Agency, unless either of the following are met: (1) the site has been subject to a Letter of Map Revision prepared by the FEMA and issued to the City, or (2) the site meets FEMA requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59. 1) and Part 60 (commencing with Section 60. 1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.

k) **Regulatory Floodway.** Within a regulatory floodway as determined by the FEMA in any official maps published by the FEMA, unless the development has received a no - rise certification in accordance with Section 60. 3(d)(3) of Title 44 of the Code of Federal Regulations.

l) **Conserved Lands.** On lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S. C. Sec. 1531 et seq.), or other adopted natural resource protection plan.

m) **Conservation easement.** Lands under a conservation easement.

n) **Protected Habitat.** On any parcel identified as candidate, sensitive, or species of special status by State or Federal agencies, fully protected species, or species protected by the Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).

3. **Substantial Redevelopment.** A SB 9 two unit development shall not include the substantial redevelopment of existing buildings, unless the replacement building conforms to current development standards in the zoning district, or the replacement of a nonconforming structure is reconstructed in the same location and with the same dimensions and floor area as the existing building.

4. Accessory Buildings Allowed. Residential accessory buildings, such as garages and sheds, may be permitted concurrently or after a SB 9 two-unit development, pursuant to Temecula Municipal Code Section 17.06.050(D), Accessory Structures and Uses. Accessory structures are required to comply with the lot coverage limitations specified in the properties zoning designation.

D. Unit Configuration and Quantity.

1. This section allows for the construction of up to four units maximum per eligible single-family zoned parcel. This maximum shall apply whether an urban lot split is proposed or not, including existing and proposed dwellings, in the following combinations:

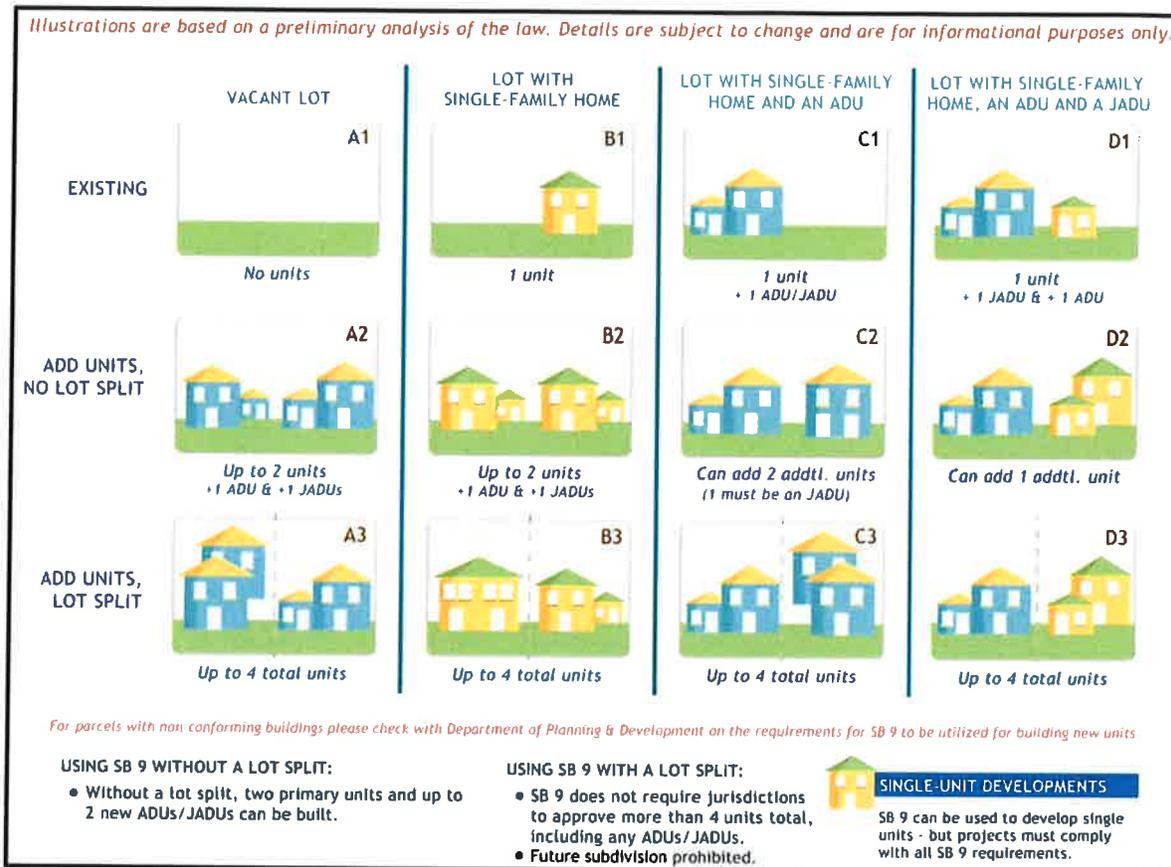
a) Without Urban Lot Split – 4 units maximum per existing parcel:

- (1) 2 primary dwellings and 2 ADU's; or
- (2) 2 primary dwellings and 1 ADU and 1 JADU

b) With Urban Lot Split – 2 units maximum on each parcel (4 maximum total):

- (1) 2 primary dwellings per parcel;
- (2) 1 primary dwelling and 1 ADU per parcel;
- (3) 1 primary dwelling and 1 JADU;
- (4) 1 primary dwelling per parcel, or
- (5) 1 primary dwelling on 1 parcel and 1 vacant parcel.

2. The graphic below is a visual representation of the information above and is meant to serve as a guide only and is not an exclusive list of potential options of development.



E. Qualifying SB 9 Two Unit Development. Qualifying SB 9 two unit developments shall comply with the following:

1. **Zoning Requirements.** All development proposed under this title is limited to residentially zoned parcels which permit single family residential development within the City.
2. **Building Height.** The height of residential units constructed under this section shall be limited as follows:
 - a) In no case shall any building height exceed the limit set in the applicable zoning district.
3. **Windows.** All upper story windows shall be:
 - a) Clerestory; or
 - b) Six-foot minimum sill height above finished floor; or
 - c) Constructed of opaque or frosted glass from the manufacturer, a window film or covering applied after manufacture does not satisfy this requirement.
4. **Fencing.** Fencing shall be compliant with Section 17.06.050(I), Fences, Hedges and Walls.

5. Floor Area Ratio and Lot Coverage.

a) The maximum Floor Area Ratio (FAR) and lot coverage shall be as specified by the applicable zoning regulations.

6. Grading. All grading activity shall be compliant with Chapter 18.06, Grading Permit, Application and Requirements.

7. Landscaping Requirements. All landscaping installed shall comply with Chapter 17.32, Water Efficient Landscape Design.

8. Roof Decks or Patios. No roof decks or patios at or above the eaves of a residence are permitted.

9. Lighting. All exterior lighting shall be fully shielded and facing downward to prevent light pollution on adjacent properties and shall be in compliance with Riverside County Ordinance No. 655 (Palomar Observatory Light Pollution Ordinance). No up lighting of any kind or intensity is permitted.

10. Trees. Any proposed development shall comply with the requirements for Heritage Trees specified in Chapter 8.48, Heritage Tree Ordinance.

11. Minimum Unit Size. The minimum living area of a dwelling unit constructed under this section shall be one hundred and fifty (150) square feet, subject to the restrictions specified in Health and Safety Code Section 17958.1.

12. Maximum Unit Size. There is no maximum unit size for two Primary Dwelling Units as required by SB9 except as limited by setbacks and lot coverage of the zoning district. Any other units beside the two Primary Dwelling Units shall be one thousand two hundred (1,200) square feet maximum size. This shall not include enclosed parking spaces or private open space at the front or rear of the unit.

13. Parking. Parking shall be provided as follows:

a) One off street automobile parking space, covered or uncovered, is required for each unit within a SB 9 two unit development.

b) No parking is required if the property 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; or if there is a car share vehicle located within one block of the parcel.

c) Replacement Parking Required. When an existing garage, carport, or other covered parking structure is converted or demolished in order to construct a new unit, at least one replacement parking space, which may be covered or uncovered, must be provided for each unit, unless the project is exempt from replacement parking requirements pursuant to Government Code Section 65852.2.

- d) Tandem Parking. Tandem parking spaces shall be allowed to meet the minimum parking requirements.
- e) Bicycle Parking. If each residential unit does not have access to a fully enclosed automobile parking space inside a garage, one long-term bicycle parking space shall be provided for each unit.
- f) Parking Location. Required parking must be on the same parcel as the residential unit which caused the required parking space to be constructed.
- g) Parking and Driveway Dimensions. All driveways and parking proposed shall be in compliance with Section 17.24.050, Parking facility and layout and dimensions.
- h) Paving Material. All paving materials shall be compliant with Section 18.15.120, Asphalt Concrete Pavement.

14. Building Separation. No detached habitable building shall be closer than ten (10) feet to any other habitable building on the same lot.

15. Setbacks. SB 9 two unit developments shall comply with the following setback requirements:

a) All residential structures in a SB 9 two unit development shall comply with the front yard setback standards of the parcels zoning district as specified in Table 17.06.040, Development Standards – Residential Districts.

(1) Interior side and rear yard setbacks shall be four feet minimum.

b) All accessory structures in a SB 9 two unit development shall comply with the setback standards of the parcels zoning district as specified in Table 17.06.050(A) – Accessory Structures Setbacks

(1) Accessory structures are required to maintain a minimum six foot separation from other structures.

16. Stormwater Management. The development must comply with the City's Stormwater Runoff requirements pursuant to Chapter 8.28, Stormwater and Urban Runoff Management and Discharge.

17. Utilities. SB 9 two unit developments shall be designed as individual units and shall have individual meters for utilities at each unit.

a) Prior to issuance of a building permit for the construction of a residential unit under this section, the applicant shall provide written verification from the water and wastewater utility provider(s) that adequate capacity is available.

b) All utility owned equipment shall be incorporated into the design of the site.

- c) Privately owned equipment such as window, roof or other cooling/heating devices shall be screened from the public view, as seen from the public right-of-way.

18. Onsite Wastewater Treatment Systems (OWTS). OWTS are systems that are sometimes commonly referred to as “septic systems,” and all development under this section that proposes the use of OWTS shall comply with Riverside County requirements for OWTS as specified in Riverside County Municipal Code Chapter 8.124, Sewage Discharges. A percolation test shall be provided to the City at the time of application, to the satisfaction of the Director of Public Works, if a new or expanded OWTS is proposed or required.

F. Design Review Standards.

1. Duplex. All duplex residential development shall comply with the City’s objective design standards in accordance with Section 17.06.090.

2. Single family residences. All single-family residences shall be subject to the following architectural design criteria, or any other adopted objective designs standards in effect at the time a complete application is submitted, as applicable to either new construction or exterior alterations, which shall be reviewed ministerially by the Director of Community Development.

- a) Roofing and siding materials that are shiny, mirror-like, or of a glossy metallic finish are prohibited.

- b) Roof tiles shall match the materials and colors of the existing residential unit. If a vacant parcel is to be developed, the roof tiles shall match roof material and color.

- c) If a garage is converted to a new residential unit, the garage door opening shall be replaced with exterior wall coverings, or residential windows and doors, to match the existing exterior garage wall covering to include paint and material color and detail.

- d) Design Style. Additions or new construction shall comply with the following:

- (1) On a site already developed with an existing residential unit, the new unit shall be designed and constructed to match the existing paint color and exterior building materials, including, but not limited to, siding, windows, doors, roofing, light fixtures, hardware and railings.

- (2) If single family residential development is proposed on a parcel where no residential units currently exist, the units shall be constructed using the same architectural style, exterior building materials, colors, and finishes

G. Development Impact Fees (DIF). Residential structures developed under this section shall be subject to DIF per City Council Resolution No. 03-63, as may be amended from time to time

H. Denial. The Building Official may deny an application for an SB9 Development Project upon making both of the following findings in writing based upon a preponderance of evidence:

1. The proposal would have a specific, adverse impact upon the public health and safety or the physical environment as defined and determined in Government Code section 65589.5(d)(2).

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

I. Covenant. Prior to 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 chief planning official 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 acceptable to the city attorney, and that acknowledges each of the following:

1. That the proposed SB 9 two unit development would not require or authorize demolition or alteration of any of the following types of housing:

(1) 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

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

2. Rental terms of any unit created by the subdivision shall not be less than 31 consecutive days, nor shall rental terms allow termination of the tenancy prior to the expiration of at least on 31-day period occupancy by the same tenant; and

3. The parcel 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.

4. (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 chief planning official.

J. The standards in this Section shall not be enforceable should they preclude the construction of up to two eight hundred (800) square foot units on a single lot.

K. Sunset Clause. If SB 9 is repealed or otherwise rescinded by the California Legislature or by the People of the State of California, this Section shall be repealed.

Section 5. A new Chapter 16.59 (Urban Lot Split) is hereby added to Title 16 (Subdivisions) of the Temecula Municipal Code to read as follows:

Chapter 16.59 URBAN LOT SPLIT

Section 16.59.010 – Purpose and Applicability

Section 16.59.020 – Definitions

Section 16.59.030 - Application and Approval

Section 16.59.040 – Design and Improvement Requirements

Section 16.59.050 – Access Standards

Section 16.59.060 – Map Requirements

Section 16.59.070 – Concurrent Processing with other Ministerial Permits

Section 16.59.010 Purpose and Applicability.

A. The purpose of this section is to allow for voluntary application(s) for Urban Lot Splits. On condition that Government Code Section 66411.7 is not repealed, qualifying Urban Lot Split in single family residential zones shall be developed in accordance with this Section.

Section 16.59.020 Definitions.

In addition to definitions contained in Chapter 17.34 (Definitions and Illustrations of Terms) and Chapter 16.54 (Definitions of Terms), the following definitions apply for the purposes of this Section. Where a conflict may exist, the definitions in this Section shall apply.

A. “Flag lot” means a lot having access to a street by means of a private driveway access easement, or parcel of land not meeting the requirements of this development code for lot width, but having a dimension of at least twenty (20) feet at its narrowest point.

B. “SB 9” means a state law passed by the California state senate and approved by the Governor on September 16, 2021. SB 9 added Sections 65852.21 and 66411.7 to the Government Code.

C. “Urban Lot Split” shall mean a parcel map subdivision of a single family residential parcel as permitted pursuant to SB 9 that creates no more than two parcels of approximately equal lot area.

Section 16.59.030 Application and Approval.

B. A parcel map for an urban lot split must be prepared by a registered civil engineer or licensed land surveyor in accordance with Government Code Sections 66444-66450 and this chapter, and submitted for approval to the City Engineer. A fee in the amount established by the City Council resolution must be paid concurrently with the submission of the parcel map.

1. A registered civil engineer may prepare the tentative parcel map however, the final parcel map must be signed by a licensed land surveyor.

C. The City Engineer is the approval authority for parcel maps under this chapter. The City Engineer shall approve a parcel map for an urban lot split if the City Engineer determines that it meets all of the requirements of this chapter.

D. The City Engineer shall not approve an urban lot split for a parcel:

1 That is located within any of the prohibited areas identified in Section 17.06.120(C)(2);

2. If the proposed urban lot split would 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; or

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

3. The parcel is 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.

E. The following supplemental information is required to be submitted with a parcel map 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 of the following:

a) Total area (in acreage and square feet) of each proposed lot;

b) Location and dimensions of existing and proposed property lines;

c) Zoning district;

d) The location and use of all existing and proposed structures;

e) All required zoning setbacks for the existing and proposed lots;

f) The location of all existing water, sewer, electricity, storm drain, or gas service lines, pipes, telephone, cable, systems, or easements;

- g) The location of all proposed new water, sewer, storm drain, lines, pipes, telephone, cable, or systems;
- h) The location of any proposed easements for access or public utilities to serve a lot created by the subdivision;
- i) The location of all trees, their species and their Diameter at Breast Height (DBH);
- j) Any area of the parcel that has a slope of 15% or greater by way of contours at 2-foot intervals;
- k) Any area of the parcel that is a watercourse as defined in Section 895.1 of Title 14 of the California Code of Regulations;
- l) Name and dimensions, including right-of-way and improved area, of public and private streets or public alleys adjoining the parcel;
- m) Curb, gutter, sidewalk, parkway, and street trees; type, location and dimensions;
- n) Location of existing or proposed driveway dimensions, materials, and slope (including cross slope);
- o) Location of existing or proposed pedestrian pathway access to the public right-of-way;
- p) Setbacks of structures, pools or spas on adjacent parcels that are less than 5 feet from the property line; and
- q) Location of non-utility easements including but not limited to access easements, maintenance easements, and similar easements for the access and/or maintenance of surrounding residential development.

F. Prior to approval of a parcel map for an urban lot split, the owner(s) of record of the property shall provide the chief planning official 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 acceptable to the city attorney, and that acknowledges each of the following:

1. That the proposed urban lot split would not require or authorize demolition or alteration of any of the following types of housing:

(1) 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

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

2. The parcel has not been established through prior exercise of an urban lot split under this chapter;

3. Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel under the provisions of this chapter;
4. The owner intends to occupy one of the housing units located on a lot created by the parcel map as their principal residence for a minimum of three years from the date of the recording of the parcel map;
5. Rental terms of any unit created by the subdivision shall not be less than 31 consecutive days, nor shall rental terms allow termination of the tenancy prior to the expiration of at least on 31-day period occupancy by the same tenant;
6. The uses allowed on a lot created by the parcel map shall be limited to residential uses;
7. Primary dwelling units located on the same lot are prohibited from being owned or conveyed separately from one another;
8. No more than two dwelling units of any kind shall be constructed or maintained on a lot that results from an urban lot split;
9. No subsequent urban lot split for lots that were previously created by an urban lot split under SB 9 are allowed; and
11. (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 chief planning official.

Section 16.59.040 Design and Improvement Requirements.

- A. A parcel map may subdivide an existing legal parcel to create no more than two parcels of approximately equal lot area. One parcel shall not be smaller than 40% of the lot area of the original parcel proposed for subdivision and neither parcel shall be smaller than 1,200 square feet. The following areas are excluded from the calculation of lot area for the purposes of this subdivision:
 1. Any area on the property that would not allow a permanent residential structure be constructed or placed upon the area due to easements, or any other form of recorded restriction that presently exists and which would be created by the proposed subdivision.
- B. Each parcel must be served by a separate water service meter and separate sewer connection.
- C. Each parcel shall drain to the street or to a developed drainage easement.
- D. Rights-of-way as required for access along all natural watercourses as necessary for flood control, maintenance, and improvement shall be dedicated.
- E. The parcel must satisfy the requirements of Government Code Section 66411.7(a).

- F. A lot line shall not bisect or be located within four feet of any of the following:
1. Existing easements if the resulting lot would create a developable area that would interfere with the use of the easement for its intended purpose.
- G. The location and orientation of new lot lines shall meet the following standards:
1. Front lot lines shall conform to the minimum public street frontage requirements of the residential district, except as provided in Section H, (Flag Lots) below.
 2. Each parcel shall have approximately equal lot width and lot depth, consistent with the minimum lot sizes described in subsection A above. Lot depth shall be measured at the midpoint of the front lot lines. Lot width shall be measured by a line connecting two points on the opposite interior lot lines that result in a line parallel to the front lot line.
 3. Proposed lot lines shall be straight and free of jogs in alignment, with exceptions for the following:
 - a) In the creation of a flag lot as provided in Section 16.59.040(H).
 - b) When the creation of a straight lot line would intersect with an existing residential structure or a straight line would not result in lots compliant with Section 17.06.120(E).
 - (1) In such cases, the lot line shall maintain a four foot setback from the existing or proposed residence for the purpose of access for property and building maintenance.
 - (2) Such lot lines shall have the fewest number of turns possible to ensure reasonable property lines for residents.
 4. Access easements for all properties and residences involved in the subdivision shall be recorded against the properties prior to any building permit issuance.
 - a) Access easements greater than 150 feet in length shall provide a turnaround for emergency services per Title 15, Buildings and Construction, Chapter 15.16 Fire Code, D. Chapter 5: Fire Service Features, 503.2.5 Dead ends.
 5. The maximum difference between the two lots created is a sixty (60), forty (40) split in area and both must be a minimum of twelve hundred (1,200) square feet.
 6. New lot lines must be straight lines, unless there is a conflict with existing improvements or the natural environment in which case the line may not be straight but shall follow the appropriate course and use the least amount of turns as possible.
 7. Lot lines facing a street shall generally be parallel to the street. Unless the minimum public street frontage is provided, the lot line dividing the two parcels must be parallel to and not less than 50 feet from an existing front lot line, or outside the front half of the existing lot, whichever is greater.

8. 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.
9. Lot lines shall be located within appropriate physical locations such as at the top of creek banks, at appropriate topographical changes, such as at the top or bottom of slopes, or at locations which clearly separate existing and proposed land uses.
10. Lot lines shall be contiguous with existing zoning boundaries.
11. The placement of lot lines shall not result in an accessory building or accessory use on a lot without a main building or primary use on the same lot as defined in the Zoning Ordinance.
12. Lot lines shall not render an existing structure as nonconforming in any respect (setbacks, height, lot coverage, parking, etc.), nor increase the nonconformity of an existing nonconforming structure.
13. It is the intent of this section to permit urban lot splits. All urban lot splits proposed under this section shall be straight lines, with exceptions only for compliance with federal, state or local law.

H. Flag lots. Flag lots shall be allowed for urban lot splits, subject to the following requirements:

1. Each flag lot created shall have at least a twenty (20) foot width at its most narrow point.
2. The creation of a flag lot shall not create:
 - a) A legal nonconforming structure or use.
 - b) A structure, existing or proposed, with setbacks from the proposed lot line of less than four feet.
3. Boundary monuments shall be installed for all flag lots.

Section 16.59.050 Access Standards.

A. Each lot shall front upon or have access to a public street or be served by an access easement serving no more than two lots. Access shall be provided in compliance with these standards:

1. Vehicle access easements serving a maximum of two units shall meet the following standards:
 - a) Easement width shall be a minimum of 20 feet and a maximum of 16 feet, unless a wider driveway is required by the California Fire Code due to distance of the structure from the easement, or as needed to meet the driveway and parking standards in the City's Parking Standards in Section 17.06.120(E)(14);
 - b) The minimum length for a vehicle access easement is 20 feet wide. No maximum easement length shall be set. If easement length is more than 75 feet, a vehicle turnaround shall be provided; and
 - c) No residential structure shall be closer than three feet to the easement.
2. Vehicle access easement serving three to four units shall meet the following standards:

- a) Easement width shall be a minimum of 20 feet;
 - b) The minimum length for a vehicle access easement is 20 feet. No maximum easement length shall be set. If easement length is more than 75 feet, a vehicle turnaround shall be provided; and
 - c) No residential structure shall be closer than five feet to the easement.
3. Where a lot does not abut a public street, and where no automobile parking spaces are required or proposed for the residential development, a vehicle access easement is not required. An easement providing pedestrian access to a street from each lot shall be provided meeting the following standards:
- a) Easement width shall be a minimum of five feet; and
 - b) Pedestrian access easements shall not exceed 200 feet in length.
4. Vehicle access easements shall not be located closer than 25 feet to an intersection.
5. Access and provisions for fire protection consistent with the California Fire Code shall be provided for all structures served by an access easement.
6. Surfacing of easements, pedestrian walkways required within easements, and turnaround dimensions shall meet the requirements of the Californian Fire Code, California Building Code, and the City's Parking and Design Standards in Section 17.24, Off-Street Parking and Loading.

Section 16.59.060 Map Requirements.

- A. The content and form of a parcel map shall meet all the requirements of Government Code Sections 66444-66450, except as otherwise set forth in this Chapter.
- B. The parcel map shall show all easements for public utilities necessary to serve each lot created by the subdivision.
- C. The parcel map shall show all easements necessary to provide each lot with access to the public or private street or alley abutting the original parcel.
- D. The parcel map shall contain a declaration that:
 - 1. Each lot created by the parcel map shall be used solely for residential dwellings;
 - 2. No more than two residential dwelling units may be permitted on each lot. As used in this subsection, residential dwelling unit includes a unit created pursuant to Government Code Section 65852.21, a primary dwelling unit, an accessory dwelling unit as defined in Government Code Section 65852.2, or a junior accessory dwelling unit as defined in Government Code Section 65852.22.
 - 3. Rental of any dwelling unit on a lot created by the parcel map shall not be less than 31 consecutive days, nor shall rental terms allow termination of the tenancy prior to the expiration of at least one 31-day period occupancy by the same tenant.

Section 16.59.070 Concurrent Processing with other Ministerial Housing Permits.

- A. No development, including grading or vegetation removal, 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 outlined for SB 9 two unit developments in Sections 17.06.090 or any other adopted objective design standards in effect at the time a complete application is submitted.
- B. A building permit for development on an urban lot split cannot be issued until the parcel map records.

C. The City Engineer shall deny an urban lot split if the building official has made 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 of the Government Code, 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.

Section 6. Environmental Findings. The City Council hereby makes the following environmental findings and determinations in connection with the approval of the Project:

Under California Government Code sections Sections 65852.21, subdivision (j), and 66411.7, subdivision (n), the adoption of an ordinance by a city implementing the provisions of Government Code sections Sections 66411.7 and 65852.21 regulating two-unit residential developments and urban lot splits is statutorily exempt from the requirements of the California Environmental Quality Act ("CEQA"). Therefore, this Ordinance is statutorily exempt from CEQA in that the Ordinance implements Government Code Sections 65852.21 and 66411.7 these new laws enacted by SB 9. In addition to being statutorily exempt from CEQA, this Ordinance is also categorically exempt from CEQA under Class 3 as outlined in State CEQA Guidelines section 15303. The Class 3 exemption categorically exempts the construction and location of new, small structures and the conversion of existing small structures from one use to another. This Ordinance is categorically exempt under the Class 3 exemption because the Ordinance regulates the construction of two primary dwelling units or, if there is already a primary dwelling unit on the lot, the development of a second primary dwelling unit in a residential zone. Further, this Ordinance is not subject to CEQA under the general rule in CEQA Guidelines Section 15061(b)(3) that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Any development that would be contemplated under this Ordinance must be treated ministerially, and any such projects would be exempt from the environmental review requirements. For the reasons stated above, it can be seen with certainty that there is no possibility that this Ordinance will have a significant effect on the environment.

Section 7. Severability. If any section or provision of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, or contravened by reason of any preemptive legislation, the remaining sections and/or provisions of this Ordinance shall remain valid. The City Council hereby declares that it would have adopted this Ordinance, and each section or provision thereof, regardless of the fact that any one or more section(s) or provision(s) may be declared invalid or unconstitutional or contravened via legislation.

Section 8. Certification. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same or a summary thereof to be published and posted in the manner required by law.

Section 9. Effective Date. This Ordinance shall take effect thirty (30) days after passage.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Temecula this day of , 2023.

Zak Schwank, Mayor

ATTEST:

Randi Johl, City Clerk

[SEAL]

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss
CITY OF TEMECULA)

I, Randi Johl, City Clerk of the City of Temecula, do hereby certify that the foregoing Ordinance No. 2023- was duly introduced and placed upon its first reading at a meeting of the City Council of the City of Temecula on the ____ day of _____, 2023, and that thereafter, said Ordinance was duly adopted by the City Council of the City of Temecula at a meeting thereof held on the day of , 2023, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

Randi Johl, City Clerk