

CITY OF ALAMEDA ORDINANCE NO. \_\_\_\_\_

New Series

AMENDING ALAMEDA MUNICIPAL CODE CHAPTER XXX TO IMPLEMENT SENATE BILL 9 REGARDING TWO-UNIT HOUSING DEVELOPMENTS AND URBAN LOT SPLITS IN SINGLE-FAMILY RESIDENTIAL ZONES, AS RECOMMENDED BY THE PLANNING BOARD

WHEREAS, on September 16, 2021, the Governor approved Senate Bill 9 (SB 9), which amended Section 66452.6 of the Government Code and added Government Code Sections 65852.21 and 66411.7, changing the requirements for additional housing units on properties within a single-family zone and for parcel map approval of an urban lot split; and

WHEREAS, SB 9, which became effective on January 1, 2022, provides that a local agency may adopt an ordinance that requires ministerial approval for: (1) a proposed housing development containing no more than two residential units on a lot within a single-family residential zone, and (2) a parcel map for an urban lot split, both subject to certain conditions; and

WHEREAS, SB 9 also provides that a local agency may require these applications to meet objective zoning standards, objective subdivision standards, and objective design standards; and

WHEREAS, the proposed amendments to the Alameda Municipal Code implement the provisions of SB 9 and add local policies that are within the scope of SB 9; and

WHEREAS, the Housing Element of the Alameda General Plan is being updated to accommodate Alameda's Regional Housing Needs Allocation (RHNA) of 5,353 units for the eight-year period 2023 to 2031; and

WHEREAS, a portion of the RHNA can be met through small-scale projects on underutilized residentially zoned properties in existing neighborhoods; and

WHEREAS, the proposed amendments will ease restrictions that currently limit the development of additional units on properties in the R-1 District; and

WHEREAS, this Ordinance will protect the public health, safety and general welfare for the reasons set forth in the accompanying Staff Report, and incorporates such reasons herein by reference; and

WHEREAS, pursuant to Government Code sections 65852.21(j) and 66411.7(n), adoption of an ordinance to implement SB 9 is not considered a project under the California Environmental Quality Act (California Public Resources Code section 21000 *et seq.*); and

WHEREAS, on December 13, 2021, the Planning Board held a duly noticed public hearing on the proposed amendments, and on a vote of 6-1 recommended that the City Council adopt amendments to the Alameda Municipal Code to implement SB 9; and

WHEREAS, this Ordinance was considered at a regular, duly noticed public hearing of the City Council on January 4, 2022, and all interested parties were provided an ample opportunity to participate in said hearing and express their views.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Alameda that:

Section 1. Findings. In enacting this Section, the City Council finds as follows:

1. **The amendments maintain the integrity of the General Plan.** The amendments are consistent with General Plan Policy LU-2 (Complete Neighborhoods) to create complete neighborhoods with a variety of rental and ownership housing opportunities and Policy LU-15 (Housing Needs) to provide opportunities to accommodate the RHNA and optimize the number of housing units allowed on each acre of residentially zoned land.
2. **The amendments will support the general welfare of the community.** The proposed zoning text amendments will increase housing opportunities and opportunities for smaller, more affordable housing in Alameda's high resource neighborhoods.
3. **The amendments are equitable.** The proposed zoning text amendments are equitable in that they further clarify and streamlined processes and procedures for the development of small-scale residential projects in Alameda. The amendments increase the range of housing types permitted in the R-1 District. They minimize distinctions between residential use types based on the incomes or needs of occupants and shift the focus toward urban form.
4. **Adoption of the amendments is in compliance with the California Environmental Quality Act.** Pursuant to Government Code sections 65852.21(j) and 66411.7(n), adoption of an ordinance to implement SB 9 is not considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

Section 2. Subsection 30-4.1 of the Alameda Municipal Code is hereby amended as follows:

**30-4.1 - R-1, One-Family and Two-Family Residence District.**

a. *General.* The following specific regulations, and the general rules set forth in Section 30-5, shall apply in all R-1 Districts as delineated and described in the zoning maps. It is intended that this district classification be applied in areas subdivided and used or designed to be used for one-family and two-family residential development, and that the regulations established will promote and protect a proper residential character in such districts.

b. *Uses Permitted.*

1. One-family dwellings, including private garages, accessory buildings and uses; reconstruction of destroyed two-family dwellings, provided that all zoning requirements other than density shall be met and that any requirement that would reduce the number or size of the units shall not apply; private, noncommercial swimming pools, boat landings, docks, piers and similar structures; and home occupations in compliance with the standards as set forth in Section 30-2 of this Code to the satisfaction of the Planning and Building Director. Upon the approval of the Planning and Building Director, a Registration of Home Occupation form shall be completed and filed with the Planning and Building Department. Any property owner aggrieved by the approval or non-approval of the Planning and Building Director shall have the right to appeal such action to the City Planning Board in the manner and within the time limits set forth in Section 30-25 of this Code. Nothing contained herein shall be deemed to deny the right of appeal under Section 30-25 following the determination of the City Planning Board.

2. Two-family dwellings or two one-family dwellings on the same lot, provided that:

(a) Any new unit added to a property with an existing single family home or any new unit added to a lot created pursuant to the provision of Lot Splits subsection d.2 below shall not exceed 1,600 square feet in size.

(b) The proposed housing development shall not require or result in the demolition or alteration of an existing dwelling unit that (1) is subject to a recorded covenant, deed restriction, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low incomes; (2) is subject to any form of rent or price control through a public entity's valid exercise of its police power; or (3) has been occupied by a tenant within the last three (3) years.

(c) The proposed housing development will not require the demolition of a structure 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 designated as a City Historic Monument, historic property, or historic district pursuant to a City ordinance. Notwithstanding the above, any demolition that is subject to the demolition controls of AMC Section 13-21 shall require approval of a Certificate of Approval prior to issuance of a demolition permit.

(d) The subject property 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 of the Government Code ("Ellis Act") to withdraw accommodations from rent or lease within the last 15 years before the date of application for the proposed housing development.

(e) The development is not within a special flood hazard area subject to inundation by the one-percent annual chance flood (100-year flood), as determined by the Federal Emergency Management Agency.

(f) No unit in the proposed housing development shall be rented for a period of less than 30 days.

(g) The total number of units shall be limited to two dwelling units and any accessory dwelling units permitted pursuant to AMC Section 30-5.18 Accessory Dwelling Units.

3. Agriculture, horticulture, home gardening, excluding retail sales of nursery products or the raising of rabbits, dogs, fowl or other animals for commercial purposes.

43. Underground and above-ground utility installations for local service, except that substations, generating plants, gas holders, and transmission lines must be approved by the Planning Board prior to construction.

54. Public parks, schools, playgrounds, libraries, fire stations and other public buildings and uses included in the General Plan.

65. Signs: As provided in Section 30-6 of these regulations.

76. Multiple houses.

87. Family day care homes, large and family day care homes, as licensed by the State of California.

98. Residential care facilities providing care for no more than six (6) persons.

109. Accessory dwelling units and junior accessory dwelling units.

1140. Supportive housing and transitional housing.

c. *Uses requiring use permits.* It is the intent in this paragraph that the following uses shall be reviewed by the Planning Board for their appropriateness in a specific location, or for such other factors as safety, congestion, noise, and similar considerations:

1. Public parks, schools, playgrounds, libraries, fire stations and other public buildings and uses not included in the General Plan.

2. Private and religious schools, day care centers and churches.

3. Community care facilities not listed under uses permitted.

4. Temporary tract sales offices, advertising signs, construction offices, equipment storage yards or structures therefore, which are incidental to the development during the construction and/or sales period.

5. Automobile parking lots and ancillary facilities for ferry terminals serving the general public, provided that:

(a) Parking lots and ancillary facilities adjoin a commercial planned development zoned area or an industrially zoned area in which terminals are permitted;

(b) There is an entrance to the automobile parking lots and ancillary facilities for ferry terminals adjacent to nonresidential areas; and

(c) Any additional parking lot entrances adjacent to residentially zoned areas shall be allowed only if conditions are imposed to minimize the nonlocal automobile traffic to the terminal through the residential areas.

d. *Minimum Height, Bulk and Space Requirements.*

1. Minimum Lot Area: Five thousand (5,000) square feet ~~per dwelling unit.~~ Lot area may be reduced through a lot split subject to subsection d.2.

2. Lot Splits: Pursuant to Government Code Section 66411.7, the division of an existing lot into two lots is permitted in an R-1 Zoning District, provided that all of the following requirements are met:

(a) The area of each lot is at least one thousand two hundred (1,200) square feet and at least forty (40%) percent of the area of the original lot prior to the lot split.

(b) Each lot provides frontage on a public street or a pedestrian or vehicular access easement to a public street.

(c) The land division will not require or result in the demolition or alteration of an existing dwelling unit that (i) is subject to a recorded covenant, deed restriction, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low incomes; (ii) is subject to any form of rent or price control through a public entity's valid exercise of its police power; or (iii) has been occupied by a tenant within the last three (3) years;

(d) The land division will not require or result in the demolition of an existing dwelling 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 designated as a City Historic Monument, historic property, or historic district pursuant to a City ordinance. Notwithstanding the above, any demolition that is subject to the demolition controls of AMC Section 13-21 shall require approval of a Certificate of Approval prior to issuance of a demolition permit.

(e) The existing lot has not been subject to the exercising of the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 of the Government Code ("Ellis Act") to withdraw accommodations from rent or lease within 15 years before the date of application for the land division.

(f) The existing lot is not within a special flood hazard area subject to inundation by the one-percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency.

(g) The existing lot has not previously been divided through exercise of this regulation and neither the owner of the existing lot nor any person acting in concert with the owner previously subdivided an adjacent parcel using an urban lot split through exercise of this regulation.

(h) The total number of units on each lot shall be limited to two dwelling units and any accessory dwelling units permitted pursuant to AMC Section 30-5.18 Accessory Dwelling Units.

(i) Each lot shall be subject to a deed restriction specifying that: (i) no housing unit on the property may be rented for a term shorter than 30 days; (ii) the uses allowed on a lot created by this section shall be limited to residential uses; and (iii) the lots resulting from the land division may not be further subdivided using the provisions of this subsection.

(j) The applicant has provided a signed affidavit on a form provided by the City Attorney stating that the applicant intends to occupy a dwelling unit on one of the resulting lots as their principal residence for a minimum of three (3) years from the date of the approval of the land division. This requirement shall not apply to an applicant that is a "community land trust" or a "qualified nonprofit corporation" as defined the Revenue and Taxation Code.

3. Minimum Lot Width: Fifty (50') feet. Lot width may be reduced if the project meets the requirements of subsection d.2, Lot Splits.

43. Maximum Main Building Coverage: Forty (40%) percent of lot area; provided, however, that where the garage is attached to the main building the permitted lot coverage may be increased to forty-eight (48%) percent.

54. Maximum Building Height Limit: Not to exceed thirty (30') feet.

65. Minimum Front Yard: Twenty (20') feet. ~~In any full block frontage of lots in a new residential development the Planning Board may approve front yards which vary from fifteen (15') [feet] to thirty (30') feet, provided that the average of all front yards in the block shall not be less than twenty (20') feet.~~

76. Minimum Interior Side Yard: ~~Five (5') feet for one-family dwellings; four (4') feet for dwellings constructed pursuant to Government Code Section 65852.21. Side yards shall total not less than twenty (20%) percent of the lot width (as defined in Section 30-2—Definitions), and no side yard may either be less than five (5') feet or be required to be more than ten (10') feet.~~

8. Minimum Street Side Yard. The side yard on the street side of a corner lot shall not be less than ten (10') feet.

97. Minimum Rear Yard: Twenty (20') feet; four (4') feet for dwellings constructed pursuant to Government Code Section 65852.21. Not more than forty (40%) percent of the rear yard, as defined in Section 30-2 may be occupied by accessory buildings or structures (swimming pools excepted).

108. Yards for Corner Lot Adjacent to Key Lot: The side-yard setback on the street side of the corner lot, within twenty feet (20') of the side property line of the key lot, shall be equal to the front-yard of the key lot, as defined in Section 30-2, "yard, front," and no structure, excluding barriers, may be permitted within five (5') feet of the rear property line on the corner lot.

119. Off-Street Parking Space: As regulated in Section 30-7 of this Code.

12. Government Code Section 65852.21 and 66411.7 Exemptions.

(a) If a proposed housing development is being provided pursuant to Government Section 65852.21 or 66411.7 entirely within the footprint of an existing building or constructed in the same location and to the same dimensions as an existing building, no additional interior side or rear setback is required.

(b) No objective zoning standards, objective subdivision standards, or objective design standards, including but not limited to minimum lot width, maximum building coverage, minimum setback or other bulk and space requirement, shall apply if that standard would physically preclude a land division resulting in two lots consistent with the requirements of Subsection d.2, Lot Splits, or the development of a two-family dwelling, or two one-family dwellings on the same lot, each unit of which has at least eight hundred (800) square feet of floor area, or a one-family dwelling of one thousand six hundred (1,600) square feet of floor area, provided that such dwellings are set back at least four (4') feet from interior side and rear lot lines.

Section 3. Severability. If any provision of this Ordinance is held by a court of competent jurisdiction to be invalid, this invalidity shall not affect other provisions of this Ordinance that can be given effect without the invalid provision and therefore the provisions of this Ordinance are severable. The City Council declares that it would have enacted each section, subsection, paragraph, subparagraph and sentence notwithstanding the invalidity of any other section, subsection, paragraph, subparagraph or sentence.

Section 4. Implied Repeal. Any provision of the Alameda Municipal Code inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to the extent necessary to effect the provisions of this Ordinance.

Section 5. Effective Date. This Ordinance shall be in full force and effect from and after the expiration of thirty (30) days from the date of its final passage.

Section 6. Authority. This Ordinance is enacted pursuant to the City of Alameda's general police powers, Section 1-2 of the Charter of the City of Alameda, and Article XI of the California Constitution.

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Presiding Officer of the City Council

Attest:

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Lara Weisiger, City Clerk

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I, the undersigned, hereby certify that the foregoing Ordinance was duly and regularly adopted and passed by the Council of the City of Alameda at a regular meeting assembled on this day of 4th day of January 2022 by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 5th day of January 2022.

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Lara Weisiger, City Clerk  
City of Alameda

APPROVED AS TO FORM:

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Yibin Shen, City Attorney  
City of Alameda