

ORDINANCE NO. _____

ORDINANCE OF THE CITY OF CHULA VISTA AMENDING CHULA VISTA MUNICIPAL CODE CHAPTERS 18.18 (TENTATIVE PARCEL MAPS) AND 19.58 (USES); AND SECTIONS 5.68.050 (SHORT-TERM RENTALS – ELIGIBILITY REQUIREMENTS), 19.22.020 (R-E – RESIDENTIAL ESTATE ZONE – PERMITTED USES) AND 19.24.020 (R-1 – SINGLE-FAMILY RESIDENCE ZONE – PERMITTED USES) TO IMPLEMENT SENATE BILL 9

WHEREAS, in January 2022, the State of California Legislature (the “Legislature”) enacted Senate Bill 9 (SB 9) that established new provisions for two-unit residential developments and urban lot split subdivisions in single-family residential zones; and

WHEREAS, the Legislature is increasingly concerned about the lack of supply of housing units in the State of California; and

WHEREAS, the Legislature found and declared that ensuring access to affordable housing is a matter of statewide concern and not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution; and

WHEREAS, the provisions of SB 9 apply to all jurisdictions, including charter cities; and

WHEREAS, SB 9 requires jurisdictions to adopt the objective standards provided therein to amend local single-family residential zoning and Tentative Parcel Map Ordinances to allow for two-unit residential developments and urban lot split subdivisions in single-family residential zones; and

WHEREAS, certain provisions of Chula Vista Municipal Code (CVMC) Chapters 5.68 (Short-Term Rentals), 18.18 (Tentative Parcel Maps), 19.22 (R-E – Residential Estates Zone), 19.24 (R-1 – Single-Family Residence Zone) and 19.58 (Uses) are not in compliance with SB 9; and

WHEREAS, the City of Chula Vista staff therefore recommends amending CVMC Chapters 5.68, 18.18, 19.22, 19.24, and 19.58 to be in compliance with SB 9; and

WHEREAS, the City of Chula Vista Planning Commission held an advertised public hearing on the proposed amendments to CVMC Chapters 5.68 (Short-Term Rentals), 18.18 (Tentative Parcel Maps), 19.22 (R-E – Residential Estates Zone), 19.24 (R-1 – Single-Family

Residence Zone), and 19.58 (Uses), and voted **X-X-X-X** to adopt Resolution No. **XX-XXX** and thereby recommended that the City Council adopt an Ordinance amending Chapters 5.68, 18.18, 19.22, 19.24, and 19.58 of the Chula Vista Municipal Code; and

WHEREAS, the City Council reviewed the proposed legislative action for compliance with the California Environmental Quality Act (“CEQA”) and determined that the action is not a “Project” as defined under Section 15378 of the CEQA State Guidelines; therefore, pursuant to State Guidelines Section 15060(c)(3) no environmental review is required. In addition, notwithstanding the foregoing, the City Council has also determined that the action is not a “Project” pursuant to Government Codes Sections 65852.21(j) and 66411.7(n); and

WHEREAS, the City Council set a time and place for a hearing on the subject amendments to CVMC Chapters 5.68 (Short-Term Rentals), 18.18 (Tentative Parcel Maps), 19.22 (R-E – Residential Estates Zone), 19.24 (R-1 – Single-Family Residence Zone), and 19.58 (Uses), and notice of said hearing, together with its purpose, was given by its publication in a newspaper of general circulation in the City at least ten days prior to the hearing; and

WHEREAS, the City Council held a duly noticed public hearing to consider said ordinance amending CVMC Chapters 5.68 (Short-Term Rentals), 18.18 (Tentative Parcel Maps), 19.22 (R-E – Residential Estates Zone), 19.24 (R-1 – Single-Family Residence Zone), and 19.58 (Uses), at the time and place as advertised in the Council Chambers, 276 Fourth Avenue, and said hearing was thereafter closed.

NOW, THEREFORE, the City Council of the City of Chula Vista does hereby ordain as follows:

Section I. Chula Vista Municipal Code Section 5.68.050 is hereby amended to add Subsection 5.68.050(H), as follows:

H. The Dwelling Unit shall not have been developed or converted as part of a Two-Unit Residential Development or Urban Lot Split Parcel Map pursuant to Section 19.58.450 of this Code.

Section II. Chula Vista Municipal Code Chapter 18.18 is hereby amended to add Section 18.18.140 as follows:

18.18.140 – Tentative Parcel Map – Urban Lot Split Parcel Map Subdivision

No person shall create an urban lot split subdivision except by the filing of an urban lot split parcel map approved pursuant to Section 19.58.450 and the Subdivision Map Act. Maps shall be titled “Urban Lot Split Parcel Map.”

Section III. Chula Vista Municipal Code Section 19.22.020 is hereby amended to add Subsection 19.22.020(C), as follows:

C. Notwithstanding Section 19.22.020(A), two-unit residential developments pursuant to Section 19.58.450.

Section IV. Chula Vista Municipal Code Section 19.24.020 is hereby amended to add Subsection 19.24.020(E), as follows:

E. Notwithstanding Section 19.24.020(A), two-unit residential developments pursuant to Section 19.58.450.

Section V. Chula Vista Municipal Code Title 19 is hereby amended to add Section 19.58.450 as follows:

19.58.450 – Two-Unit Residential Developments and Urban Lot Split Parcel Maps in Single-Family Zones

A. The purpose of this section is to provide regulations for the establishment of two-unit residential developments and urban lot split parcel maps in single-family zones, to define the approval process for such two-unit residential developments and urban lot split parcel maps in compliance with, inter alia, California Government Code Section [65852.21](#). Two-unit residential developments and urban lot split parcel maps in single-family zones are potential sources of affordable housing and shall be deemed consistent with the General Plan and zoning designation of the lot as provided.

B. For the purposes of this section, the following words are defined:

“Objective development standards” means standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. These standards may be embodied in alternative objective land use specifications adopted by the City of Chula Vista, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.

“Objective subdivision standards” means standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent

and the public official prior to submittal. These standards may be embodied in alternative objective land use specifications adopted by the City of Chula Vista, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.

“Objective zoning standards” means standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. These standards may be embodied in alternative objective land use specifications adopted by the City of Chula Vista, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.

“Two-unit residential development” means a development which proposes no more than two new residential units or proposes to add one new residential unit with one existing residential unit on a single parcel in accordance with this Chapter.

“Unit” means any dwelling unit, including, but not limited to, a unit or units created pursuant to Section 65852.21, a primary dwelling, an accessory dwelling unit as defined in Section 65852.2, or a junior accessory dwelling unit as defined in Section 65852.22.

“Urban Lot Split Parcel Map” means a parcel map which seeks to subdivide an existing single-family zoned parcel to create no more than two new single-family zoned parcels of approximately equal lot area provided that one parcel shall not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision.

“Urban Lot Split Subdivision” means a subdivision of an existing single-family zoned parcel to create no more than two new single-family zoned parcels of approximately equal lot area provided that one parcel shall not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision.

C. Two-Unit Residential Development in Single-Family Zones – A proposed housing development containing no more than two residential units within a single-family residential zone shall be considered ministerially, without discretionary review or a hearing, if the proposed housing development meets all of the following requirements:

1. The two-unit residential development would not require demolition or alteration of any of the following types of housing:
 - a. Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

- b. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.
 - c. Housing that has been occupied by a tenant in the last three years.
2. The parcel subject to the proposed housing development is not a parcel on which an owner of residential real property has exercised the owner's rights under [Chapter 12.75](#) (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.
3. The proposed housing development does not allow the demolition of more than 25 percent of the existing exterior structural walls, unless the housing development has not been occupied by a tenant in the last three years.
4. The development is not located within a historic district or property included on the State Historic Resources Inventory, as defined in [Section 5020.1](#) of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.
5. The proposed housing development shall be prohibited if it is on a parcel that qualifies under the prohibitions listed in paragraph (2) of subdivision (a) of Government Code section 65852.21 or any successor provision thereof. Types of prohibited parcels include:
 - a. A coastal zone, as defined in Division 20 (commencing with Section 30000) of the Public Resources Code;
 - b. Prime farmland or farmland of statewide importance;
 - c. Wetlands;
 - d. Within a high fire hazard severity zone;
 - e. Hazardous waste site;
 - f. Within a delineated earthquake fault zone;
 - g. Within a special flood hazard area subject to inundation by the 1 percent annual flood (100-year flood) unless it meets one of the following;

- i. Subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction;
 - ii. Meets Federal Emergency Management Agency requirements 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;
 - h. Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, 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.
 - i. Lands identified for conservation in an adopted natural community conservation plan, habitat conservation plan, or other adopted natural resource protection plan;
 - j. Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal 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 the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code);
 - k. Lands under conservation easement.
- D. Development Standards for Two Unit Residential Development in Single-Family Zones – Two-unit residential developments in single-family zones shall be subject to the following requirements and objective development standards:
- 1. Number and Size of Units –
 - a. If a parcel includes an existing single-family home, one additional unit may be developed pursuant to this section.
 - b. If a parcel does not include an existing single-family home, or if an existing single-family home is proposed to be demolished in connection with the creation of a two-unit residential development, two units may be developed pursuant to this section.

- c. No more than four units, including primary dwelling units, accessory dwelling units, and/or junior accessory dwelling units may exist on a single-zoned residential parcel on which an Urban Lot Split Parcel Map as been approved.
2. Parking - Off-street parking of up to one space per unit is required, except in either of the following instances:
 1. The parcel is located within one-half mile walking distance of either a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code.
 - m. There is a car share vehicle located within one block of the parcel.
3. Setbacks -
 - a. No setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.
 - b. For all other dwelling units proposed in connection with a two-unit residential development, a minimum setback of four feet, or the applicable setback for the zone district, whichever is less, is required from the rear and side property lines.
 - c. Units may be adjacent or connected if the structures meet building code safety standards and are sufficient to allow separate conveyance.
4. Design - When a two-unit residential development dwelling unit is proposed on a parcel with an existing single-family dwelling unit, the new unit(s) shall utilize the same exterior materials and colors as the existing dwelling unit to the extent practical.
5. Accessory Dwelling Unit Development Exemptions – If an applicant for a dwelling unit developed under Section 19.58.022 (Accessory Dwelling Units) of this Code seeks to convert the dwelling unit to a two-unit development pursuant to this Section, any and all development exemptions granted to the dwelling unit pursuant to Sections 19.58.022.C.9 and 19.58.022.C13 shall be null and void subject to the final decision of the Director of Development Services.
6. Short-Term Rental Prohibition - Dwelling units created pursuant to this section shall have rental terms of thirty (30) days or longer and shall not be considered eligible for Short-Term Rental pursuant to Section 5.68.050.

- E. Urban Lot Split Parcel Map in Single-Family Zones – A proposed parcel map for an urban lot split within a single-family residential zone shall be considered ministerially, without discretionary review or a hearing, if the proposed parcel map meets all of the following requirements:
1. The parcel map subdivides an existing parcel to create no more than two new parcels of approximately equal lot area provided that one parcel shall not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision.
 2. Both newly created parcels are no smaller than 1,200 square feet.
 3. The parcel being subdivided meets all the following requirements:
 - a. The parcel is located within a single-family residential zone as defined in Sections 19.22 (R-E – Residential Estate Zone) and 19.24 (R-1 – Single-Family Residence Zone).
 - b. The parcel subject to the proposed urban lot split complies with all provisions of Sections 19.58.450 C. and 19.58.450 D.
 - c. The parcel has not been established through prior exercise of an urban lot split as provided for in this section.
 - d. Neither the owner of the parcel being subdivided, nor any person acting in concert with the owner, has previously subdivided an adjacent parcel using an urban lot split as provided for in this section.
 - e. The parcel conforms to all applicable objective requirements of the Subdivision Map Act [Division 2 (commencing with Section 66410)], except as otherwise expressly provided in this section.
 4. Any parcel created by this section shall be used for residential purposes only.
 5. All easements required for the provision of public services and facilities shall be dedicated or conveyed by an instrument in a form acceptable to the Director of Development Services Department, or their designee.
 6. Units constructed on an Urban Lot Split Subdivision approved pursuant to this Chapter shall be subject to and comply with the minimum setback requirements specified in Section 19.58.450 D. 3.

7. Parking spaces for new units constructed on an Urban Lot Split Subdivision approved pursuant to this Chapter shall be provided in accordance with Chapter 19.58.450 D.2.
8. Prior to the issuance of a building permit, the property owner shall record a covenant with the County Recorder's Office, the form and content of which is satisfactory to the Director of Development Services and City Attorney, or their designees. The covenant shall notify future owners of the owner occupancy requirements, the approved size and attributes of the units, and minimum rental period restrictions. The covenant shall also reflect the number of units approved and provide that no more than two total units may be permitted on any single parcel created using the Urban Lot Split Parcel Map procedures. If an Urban Lot Split Parcel Map was approved, the covenant shall provide that no variances shall be permitted other than those code deviations expressly allowed by this Chapter. This covenant shall remain in effect so long as a two-unit residential development exists on the parcel.
9. The Urban Lot Split Subdivision shall comply with all requirements of the City's Subdivision Ordinance and the California Subdivision Map Act except as expressly modified by this Chapter.
10. An applicant for an Urban Lot Split Parcel Map shall sign an affidavit, the form and content of which is satisfactory to the Director of Development Services and City Attorney, or their designees, stating that the applicant intends to occupy one of the housing units as their principal residence for a minimum of three years from the date of the approval of the Urban Lot Split Parcel Map. This subdivision shall not apply to an applicant that is a "community land trust," as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code, or is a "qualified nonprofit corporation" as described in Section 214.15 of the Revenue and Taxation Code.
11. Notwithstanding Government Code Section 66411.1, the City shall not impose regulations that require dedications of rights-of-way or the construction of offsite improvements for the parcels being created as a condition of issuing a parcel map for an urban lot split pursuant to this section.
12. Preliminary Title Report - There shall be filed with each Urban Lot Split Parcel Map, a current preliminary title report of the property being subdivided or altered.
13. Additional Subdivisions Prohibited - No further subdivision of parcels created using the Urban Lot Split Parcel Map or Urban Lot Split Subdivision procedures of this Chapter shall be permitted.
14. The parcels created by this section shall have access to, provide access to, or adjoin the public right-of-way.

- F. Application of Objective Standards - Development proposed on lots created by an Urban Lot Split Subdivision shall comply with all objective zoning standards, objective subdivision standards, and objective design review standards applicable to the parcel based on the underlying zoning including but not limited to: Title 18 and Chapters 19.22, and 19.24; provided, however, that the application of such standards shall be reduced if the standards would have the effect of physically precluding the construction of two units on either of the resulting parcels created pursuant to this chapter or would result in a unit size of less than 800 square feet. Any waivers or reductions of development standards shall be the minimum waiver or reduction necessary to avoid physically precluding two units of 800 square feet, and no additional variances shall be permitted. No waivers or reductions to applicable requirements regarding size, height, off-street parking, or setbacks shall be approved unless the applicant demonstrates to the Director of Development Service's satisfaction that there is no other way to physically accommodate two 800-square foot units on the site.
- G. Denial of Two-Unit Residential Development and/or Urban Lot Split Parcel Map - The Development Services Department shall not approve an Urban Lot Split Parcel Map under any of the following circumstances:
1. The land proposed for division is a lot or parcel which was part of an Urban Lot Split Parcel Map that the City previously approved.
 2. The subdivision proposes creation of more than two lots or more than four units total among the two lots.
 3. The Development Services Department finds that the Urban Lot Split Parcel Map does not meet the requirements of this code or that all approvals or permits required by this code for the project have not been given or issued.
 4. The urban lot split's failure to comply with applicable, objective requirements imposed by the Subdivision Map Act and this Code. Any decision to disapprove an Urban Lot Split Parcel Map shall be accompanied by a finding identifying the applicable, objective requirements imposed by the Subdivision Map Act and this Code.
 5. A proposed two-unit residential development and/or an Urban Lot Split Subdivision may be denied if the Director of Development Services, or their designee, makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project or urban lot split 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 VI. Severability

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The Planning Commission of the City of Chula Vista hereby declares that it is the intent of the body to have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

Section VII. Construction

The City Council of the City of Chula Vista intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

Section VIII. Effective Date

This Ordinance shall take effect and be in force on the thirtieth day after its final passage.

Section IX. Publication

The City Council of Chula Vista shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

Presented by:

Approved as to form by:

Tiffany Allen
Director of Development Services

Glen R. Googins
City Attorney