

**ORDINANCE NO. 22-459U**

**AN INTERIM URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, ENACTED PURSUANT TO GOVERNMENT CODE SECTION 65858 ESTABLISHING ZONING, DESIGN, AND SUBDIVISION STANDARDS CONSISTENT WITH STATE LAW ENACTED BY SENATE BILL 9 (URBAN LOT SPLITS AND DUPLEX DWELLING UNITS), DECLARING THE URGENCY THEREOF, AND MAKING A FINDING OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

**THE CITY COUNCIL OF THE CITY OF AGOURA HILLS DOES ORDAIN AS FOLLOWS:**

WHEREAS, on September 15, 2021, Governor Newsom signed Senate Bill (SB) 9 into law, effective January 1, 2022 following its approval by the State Legislature to increase housing production and affordability by allowing the development of up to two units per lot and so-called urban lot splits in single-family residential neighborhoods, and by limiting cities' discretion over such development.

WHEREAS, SB 9 authorizes a city to establish objective zoning standards, objective subdivision standards, and objective design review standards, if those standards do not conflict with state law. Such objective zoning standards, objective subdivision standards, and objective design review standards may not have the effect of "physically precluding the construction of two units on either of the resulting parcels or that would result in a unit size of less than 800 square feet," among certain other limitations.

WHEREAS, Government Code Sections 65858, 36934 and 36937 allow the City Council to adopt an interim zoning ordinance that takes effect immediately if it is an ordinance for the immediate preservation of the public peace, health or safety, and is passed by a four-fifths vote of the City Council.

WHEREAS, on March 9, 2022, the City Council of the City of Agoura Hills conducted and concluded a duly noticed public hearing concerning the Ordinance as required by law.

WHEREAS, at the public hearing on March 9, 2022, the City Council received testimony from City staff and all interested parties regarding the proposed amendments.

NOW, THEREFORE, the City Council of the City of Agoura Hills hereby ordains as follows:

**Section 1.** The City Council of the City of Agoura Hills hereby finds and determines that all of the above Recitals are true and correct and incorporates such

Recitals into this Ordinance as if fully set forth herein.

**Section 2.** CEQA. Pursuant to the California Environmental Quality Act (“CEQA”), City staff determined that this ordinance is not subject to CEQA pursuant to Government Code sections 65852.21(j) and 66411.7(n) because it is an ordinance to implement SB 9’s duplex and urban lot split authority, including objective standards applicable thereto.

**Section 3.** Legislative Findings and Declaration of Urgency. This Ordinance is hereby declared to be an urgency measure necessary for the immediate preservation of the public's health, safety and welfare, based on the recitals and findings in this Ordinance:

A. Government Code Section 65858, together with Section 36937, subdivision (b) authorizes the City Council to adopt an interim ordinance, as an urgency measure that takes effect immediately, that prohibits any uses that may be in conflict with a contemplated zoning proposal that the City Council is considering, studying, or intends to study within a reasonable period of time for the immediate preservation of the public peace, health or safety, with a declaration of the facts constituting the urgency.

B. The proposed amendments would be consistent with the objectives of Article IX (Zoning) and Article X (Subdivisions) of the Agoura Hills Municipal Code and with the City General Plan. The Ordinance is consistent with Goal H-3 of the General Plan Housing Element, which calls for the City to provide opportunities for a range of housing types suited to residents of varying lifestyle needs and income levels. The Ordinance is consistent with Policy H-3.4 of Goal H-3, which encourages the provision of ADUs in all residential districts as a means of dispersing small, affordable units throughout the community.

C. This Ordinance is intended to establish zoning and subdivision provisions that are consistent with the provisions for urban dwelling units and urban lot splits under SB 9 in single-family residential zoning districts while preserving public peace, health and safety.

D. The City Council concludes that it is essential that this Ordinance be effective immediately to establish a balance between preserving neighborhood character and providing the appropriate amount of flexibility in project design to meet the SB 9 requirements.

E. SB 9 projects have the potential to impact the health, safety, and welfare of residents in the City, particularly those residing in single-family residential neighborhoods, vehicular and pedestrian safety, on-street parking demand, and housing affordability. In addition, the potential increase to residential density in areas of the City designed for single-family development may cause increased demand on



utilities and access routes that were not designed for such density. As a result, the City Council finds that there is an immediate need to establish objective zoning and subdivision standards for SB 9 projects in order to protect the public health, safety, and welfare while it studies permanent land use regulations for such projects and to ensure SB 9 does not have a detrimental impact on single-family residential neighborhoods within the City.

F. The City intends to study and develop permanent land use regulations for the implementation of SB 9 projects in the City. Given that SB 9 took effect on January 1, 2022, the City could not complete the process of developing and adopting such permanent regulations prior to SB 9 taking effect. Thus, the City Council desires to adopt an interim urgency ordinance that will take effect immediately in order to ensure that SB 9 projects do not unreasonably impact the character of single-family residential neighborhoods or threaten public health, safety, or welfare while permanent regulations are studied and prepared.

G. The City Council finds and determines that there is an immediate threat to the public health, safety, or welfare caused by SB 9 projects, which threat will significantly limit the City's ability to preserve community character, affordability, and environmental and public health and safety. As described above, the staff report accompanying this Ordinance, and other evidence in the record, such development in the City could threaten the health, safety and welfare of the community through negative impacts that include, but are not limited to, emergency access during emergencies, appropriate sizing for utilities and streets, parking, and housing affordability. The City Council finds and determines that there is an immediate threat to public health, safety, or welfare if the City does not have enforceable zoning, subdivision, and design standards for such projects. Therefore, it is necessary that this Interim Urgency Ordinance take effect immediately upon adoption.

**Section 4.** Applicability. This Ordinance shall apply to all urban dwelling units and urban lot splits within single-family residential zones (including RV, RL, RS, RM, RH zoning districts) subject to SB 9 provisions within the Agoura Hills city limits. Where a conflict exists between this Ordinance and the Agoura Hills Municipal Code, this Ordinance shall take precedence unless otherwise stated herein.

**Section 5.** Terms of this Ordinance. This Urgency Ordinance shall take effect immediately upon passage and adoption by at least a four-fifths vote of the City Council pursuant to California Government Code Sections 65858 and 36937, subdivision (b).

**Section 6.** Prohibition on SB 9 Projects that Fail to Comply with this Interim Urgency Ordinance. Based on the facts and findings set forth in Sections 1 through 4 of this Ordinance, and notwithstanding any other ordinance or provision of the Agoura Hills Municipal Code, residential development projects and urban lot splits proposed pursuant to Senate Bill 9, are prohibited unless the project complies with the requirements of Sections 7 and 8 of this Ordinance.

**Section 7.** Objective Standards for All Ministerial Applications Under SB 9. The following objective standards are proposed that would apply to all ministerial applications subject to SB 9:

1. Except where superseded by this Section, development shall comply with the objective development standards of the zone in which the lot is located;
2. Size. Excluding any existing dwelling unit, the maximum habitable square footage allowed per residential unit developed pursuant to SB 9 (hereinafter sometimes referred to as an “urban dwelling unit”) is 800 square feet. The maximum size of a proposed urban dwelling unit must provide at least one full bathroom that includes a shower, toilet, and sink, and must provide a kitchen that includes the following: a cooking facility with appliances (which must include, at minimum, a sink and a refrigerator); and a food preparation counter and storage cabinets;
3. Size. The existing single-family residence can be enlarged up to 20 percent, for example to add a second kitchen or additional bathroom (with a minimum setback of four feet as required by SB 9). Each unit is limited to 60 percent of the total floor area, provided that under no circumstances shall this provision be construed to limit the development of an urban dwelling unit of up to 800 square feet;
4. Height. If the existing residence is single-story, a second story cannot be added. If the existing residence is two-story, the urban dwelling unit shall not exceed the height limit applicable to the underlying zone or the actual height of the existing primary residence, whichever is less. An urban dwelling unit shall not exceed a roof peak height of 16 feet above grade if the actual height of the existing residence is less than 16 feet;
5. Setbacks. All new urban dwelling units must have a front setback consistent with the zoning district they are located in, provided that front setback does not preclude the development of at least two units of at least 800 square feet each. Side and rear setbacks must provide a minimum of four feet;
6. Design and Other Improvements. If a new urban dwelling unit is constructed on an existing developed lot, the exterior building materials and colors must match the building materials and colors of the existing residence;
7. Landscaping. Landscaping and irrigation must be in compliance with the AHMC §9658 (Division 8 - Guidelines for Landscaping, Planting and Irrigation);
8. Parking Requirements. One parking space per unit is required where an existing single-family residence is converted into two urban dwelling units unless the property is located within one-half mile walking distance of a “high quality transit corridor” within the meaning of Government Code §21155(b) or a “major transit stop” within the meaning of Government Code §21064.3 or located within one block of a car share vehicle parking location;



9. Permits. All necessary permits must be obtained, including encroachment, grading, sewer and building permits;
10. Fees. Urban dwelling units are subject to applicable development fees, including park in- lieu, school facility, and underground utility in-lieu;
11. Grading. Grading improvement plans and erosion control plans for the development must be submitted to the Public Works Department for review and approval;
12. Construction. A minimum of 75 percent of the exterior structural walls of the existing development must be maintained during demolition and construction if the property has been occupied by a tenant in the last three years;
13. Construction. If the property is in the Very High Fire Hazard Severity Zone (“VHFHSZ”), the urban dwelling unit must meet current Building Code requirements for fire hazard mitigation or state fire mitigation measures;
14. Construction. All development must comply with the applicable Los Angeles County Public Works Department provisions;
15. Covenant. As required by SB 9, all units would be subject to a restrictive covenant stating that they cannot be rented for less than 31 days;
16. Exceptions. The Community Development Director shall approve an exception to any of the standards specified in this Section upon determining that complying with the standard would physically preclude the construction of up to two residential units or would physically preclude either of the two residential units from being 800 square feet in floor area; and
17. Denial. The Building Official may deny a zoning clearance upon making both of the following findings in writing based upon a preponderance of evidence:
  - a. The proposed housing development project 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); and
  - b. There is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

**Section 8.** Additional Objective Standards for Urban Lot Splits. In addition to the standards in Section 7 of this Ordinance, as applicable, the following, additional objective standards shall apply in situations where a property owner subdivides one lot into two lots pursuant to SB 9 (urban lot split):

1. Each lot can have only two units of any kind, inclusive of a JADU or ADU;
2. As required by SB 9, the property owner must sign an affidavit stating that they will live in one of the units on one of the lots for at least three years, the newly created parcels shall be restricted to residential uses, and any units developed thereon may not be rented for less than 31 days, ;
3. Lot size requirements. The urban lot split shall meet all of the following size requirements:
  - a. Both newly created parcels must be at least 1,200 square feet;
  - b. Both newly created parcels must be of approximately equal lot area. One parcel may not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision;
  - c. All necessary easements and access to rights-of-way must be provided for fire department, utilities, and private access. If the lot split results in the creation of a lot behind another lot, a private access easement that meets the fire department requirements must be provided over the front parcel to the rear parcel for access to the public right of way;
  - d. No new access from an arterial street will be permitted; and
  - e. No further urban lot splits are permitted once one has occurred on a lot.
4. Exceptions. The Planning Director shall approve an exception to any of the standards specified in this Section upon determining that complying with the standard would physically preclude the construction of up to two residential units or would physically preclude either of the two residential units from being 800 square feet in floor area.
5. Denial. The Building Official may deny a zoning clearance upon making both of the following findings in writing based upon a preponderance of evidence:
  - A. The proposed housing development project 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); and
  - B. There is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

**Section 9.** Severability Clause. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or its application to any person or circumstances, is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs,




sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council declares that it would have adopted each section, subsections, subdivision, paragraph, sentence, clause, phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

**Section 10.** Effective Date. This Ordinance shall take effect immediately upon passage and adoption if passed and adopted by at least four-fifths vote of the City Council pursuant to California Government Code Sections 65858 and 36937(b) and shall continue in effect for a period of no longer than forty-five (45) days. The City Council may extend the effectiveness of this Urgency Ordinance as provided in Government Code Section 65858.


**Section 11.** 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 The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause its publication in accordance with applicable law.

**PASSED, APPROVED, AND ADOPTED** this 9<sup>th</sup> day of March, 2022, by the following vote to wit:

AYES: (5) Lopez, Anstead, Buckley Weber, Northrup, Weber  
NOES: (0)  
ABSENT: (0)  
ABSTAIN: (0)

  
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Deborah Klein Lopez, Mayor

ATTEST:

  
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Kimberly M. Rodrigues, MMC, City Clerk



APPROVED AS TO FORM:

  
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Candice K. Lee, City Attorney