

TOWN OF LOS ALTOS HILLS
Staff Report to the City Council

November 18, 2021

SUBJECT: URGENCY ORDINANCE OF THE TOWN OF LOS ALTOS HILLS AMENDING TITLE 10 (ZONING AND SITE DEVELOPMENT) OF THE LOS ALTOS HILLS MUNICIPAL CODE TO ADD ARTICLE 15 TO CHAPTER 1 ESTABLISHING REGULATIONS FOR THE SUBDIVISION AND DEVELOPMENT OF QUALIFIED SENATE BILL 9 PROPERTIES; FILE MCA21-0002

FROM: Steve Padovan, Principal Planner



APPROVED: Peter Pirnejad, City Manager *P.P.*

RECOMMENDATION: That the City Council:

Waive reading, introduce and adopt the attached urgency ordinance establishing regulations for the subdivision and development of qualified Senate Bill 9 properties within the Town of Los Altos Hills.

BACKGROUND

On September 16, 2021, Governor Newsom signed Senate Bill 9 (SB 9) into law, substantially altering low-density, single-family zoning throughout the state. The most significant component of this bill is that it requires ministerial approval of a one-time, two-lot subdivision and/or development projects for up to two (2) units per lot. The proposed subdivision or development project is required to meet certain qualifying location and development criteria. Although the new law supersedes varying Town regulations regarding subdivision and development standards, SB 9 preserves some authority for local agencies to enact regulations through the adoption of new objective subdivision and zoning regulations. The law is scheduled to become effective on January 1, 2022.

On October 21, 2021, staff presented a summary of the new state regulations to the City Council. Following discussion of the issues surrounding the new law, the City Council directed staff to prepare an Urgency Ordinance which would allow the Town to establish regulations prior to January 1, 2022. The urgency ordinance would be adopted pursuant to California Government Code § 36937(b) which states that ordinances adopted to protect the health, safety and welfare of the public require a four-fifths vote of the City Council and become effective immediately. Although the urgency ordinance is not required to be reviewed by the Planning Commission, the Council wanted feedback from the Commission and Town residents at a public hearing. Subsequently, the Council created an ad-hoc committee (2 commissioners) of the Planning Commission to work with staff and prepare draft regulations and discussion points for inclusion in the Urgency Ordinance (see Attachment 2). In addition, a special meeting of the Planning Commission was scheduled for November 8, 2021.

DISCUSSION

The purpose of the Urgency Ordinance is to establish objective standards and regulations to govern the subdivision of parcels and the development of new dwellings on residential parcels in Town that are subject to recently passed Senate Bill 9. The establishment of these regulations will result in the orderly subdivision and development of parcels while ensuring that the new units are consistent with the semi-rural character of the Town and to minimize impacts with regards to public infrastructure and public safety. The draft regulations establish what types of parcels are eligible for a lot-split, the size and shape of the parcels, the scale of development, and design standards for proposed dwellings. The Urgency Ordinance is effective for a period of forty-five (45) days from its date of adoption. However, within that time period, the City Council can hold a public hearing to extend the ordinance for an additional 22 months and 2 weeks. Staff is anticipating that the Urgency Ordinance will be placed on the December 16, 2021 agenda to extend the effective date of the ordinance.

Based on the initial guidance provided by staff and the City Council, the ad-hoc committee met with several residents and staff during the week of October 22nd to the 29th to discuss potential code language options. A list of talking points was created and the ad-hoc committee met with staff on November 1, 2021, to clarify and organize the list. The primary focus of the ordinance code language was to focus on limiting overdevelopment of existing parcels and to discourage lot splits by providing a floor area incentive if a parcel remains intact. Based on these ideas, staff prepared the draft ordinance.

Contents of Proposed Urgency Ordinance

The urgency ordinance establishes an applicable set of regulations to allow for the ministerial review of SB 9 projects in a comprehensive and thorough manner while being consistent with the Town's rural character and its General Plan. Its adoption will also permit staff additional time to develop a more comprehensive set of regulations that thoroughly address all issues.

The ordinance regulations contain the following sections:

- Purpose and Intent.
- Definitions. – Provides definitions and clarification for commonly used terms in the new code.
- Eligibility of properties for a subdivision. – Establishes the types of properties that cannot be subdivided due to the following: a previous SB 9 subdivision; historical designation; demolition of existing affordable housing or rental unit; existing natural hazards; environmental constraints, parcels encumbered with an open space easement; farmlands; wetlands; hazardous waste sites. These criteria are taken primarily from the state law.
- Objective standards and requirements for a subdivision. – Provides objective requirements for the ministerial evaluation of a two-lot subdivision by regulating minimum lot area, parcel width, access, grant of easements, utilities, and deed restrictions on further subdivisions and the provision of income restricted units.
- Objective standards and requirements for dwelling units on a parcel that is not being subdivided. – Continues to use the Town's current formulas to determine maximum floor

area (MFA) and maximum development area (MDA) for the existing parcel, allows for 4 units on the parcel, requires a signed affidavit that the owner intends to live on the parcel for 3 years, and places limits on SB 9 units with a maximum permitted floor area of 800 square feet, one parking space, 16-foot height limit, and rental limitations. The regulations also provide an incentive to increase the floor area of an SB 9 unit if the parcel is not subdivided.

- Objective standards and requirements for dwelling units on a subdivided parcel. – Similar to the previous section but strictly limits the number of units to 2 (no ADU or JADU) and limits the floor area of any new SB 9 units to a maximum of 800 square feet. The regulations also require that all new units are affordable to very low and low-income residents.
- Objective building design requirements for all SB 9 projects. – Provides objective standards for the development of dwelling units on all SB 9 projects. Includes materials types, exterior and roof colors, lighting, fire sprinklers, landscaping and location of structures.
- Permit review process. – Requires ministerial review of all projects.
- Fees.
- Owner Occupancy Compliance.

Planning Commission Discussion

On November 8, 2021, the Planning Commission held a public hearing to discuss the draft ordinance and the proposed code language. Four commissioners were present with the fifth being absent and unable to attend. The Commission accepted numerous public comments from residents who spoke overwhelmingly in favor of limits on SB 9 developments and staff responded to questions.

Following the conclusion of public comments, the Commission went line by line through the text of the ordinance making clarifications, corrections and deletions. The Commissioners agreed that development should be limited to the minimum required by state law (800 square feet for any new SB 9 units, 16 feet in height, etc.), that new units should be deed restricted to very low and low-income residents to aid the Town's in achieving its new RHNA figure, and that lot splits should be strongly discouraged. The code language was subsequently modified to include an incentive that allows an undivided parcel to have a primary unit, a 1,600 square foot SB 9 unit, an ADU and a JADU if the owner voluntarily places a deed restriction on their property that precludes subdivision of the parcel.

At the conclusion of their discussion, the Commission voted 3-0 (the internet connection failed and one commissioner could not reconnect to the meeting for the final 30 minutes) to forward a recommendation to the City Council to adopt the amended ordinance language. Not all issues raised at the meeting were resolved, including potential penalties for non-compliance with the 3-year residency requirement. However, the Commission was unanimous on their primary focus of limiting overdevelopment of existing parcels and to discourage lot splits. All agreed upon corrections from the meeting have been incorporated into the language of the attached urgency ordinance.

CONCLUSION

This urgency ordinance establishes a thorough and complete set of regulations that will allow staff to comprehensively review all new SB 9 related development applications starting January 1, 2022 and enforce objective standards that retain the character of the community. In addition, it will ensure that the Town remains compliant with current state law. This ordinance will also provide the basis for developing permanent regulations through future public hearings with the Planning Commission, where residents can provide additional public input and ultimately be reviewed and adopted by the City Council. Staff will also monitor and track the number of projects submitted under this article and provide updates to the City Council as requested.

PUBLIC COMMENTS/NOTICE

A public notice was placed in the local paper and posted throughout the Town at least ten days prior to the meeting. Attachment 2 contains public comments that were received as of the November 8, 2021 Planning Commission meeting and up to the preparation of this report on November 10, 2021.

FISCAL IMPACT

The preparation of the urgency ordinance has resulted in staffing costs which are borne directly by the Town. Fees currently established and approved by the City Council will be collected to cover the review of SB 9 subdivision and development projects.

ENVIRONMENTAL CLEARANCE (CEQA)

The adoption of this urgency ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to the general rule described in Section 15061(b)(3) of the CEQA Guidelines, because the ordinance does not have the potential to cause a significant effect on the environment.

ATTACHMENTS

1. Urgency Ordinance Establishing Regulations for Qualified SB 9 Subdivisions and Development
2. Public Comments Received as of November 8, 2021

ORDINANCE _____

**AN URGENCY ORDINANCE OF THE TOWN OF LOS ALTOS HILLS
AMENDING TITLE 10 (ZONING AND SITE DEVELOPMENT) OF THE
LOS ALTOS HILLS MUNICIPAL CODE TO ADD ARTICLE 15 TO
CHAPTER 1 ESTABLISHING REGULATIONS FOR THE SUBDIVISION
AND DEVELOPMENT OF QUALIFIED SENATE BILL 9 PROPERTIES**

WHEREAS, this Ordinance is adopted as an urgency ordinance pursuant to Government Code Section 65858. The facts constituting the urgency are as follows:

- a) A severe housing crisis exists in the state with the demand for housing outstripping supply.
- b) In September 2021, Governor Newsom signed into law Senate Bill 9 (“SB 9”), entitled the “California Home Act”. Among other provisions, this bill adds Sections 65852.21 and 66411.7 to the Government Code and becomes effective on January 1, 2022.
- c) SB 9 requires cities and counties, including the Town of Los Altos Hills (“Town”), to ministerially approve a parcel map for an urban lot split and/or a proposed housing development containing a maximum of two residential units within a single-family residential zone, if the two-unit or subdivision project meets certain statutory criteria. SB 9 specifies that proposed projects and subdivisions cannot be proposed in prohibited locations under Government Code Section 65913.4(a)(6)(B)-(K), such as in an earthquake fault zone, lands under conservation easement, a federally designated flood plain, and high fire hazard severity zones as defined under state law.
- d) SB 9 further restricts the standards and regulations that local agencies, including the Town, may impose on qualifying two-unit or subdivision projects. For example, SB 9 specifies that local agencies may impose only objective zoning, subdivision, and design standards that do not conflict with the statutes, but such standards must not physically preclude a unit size of 800 square feet. In addition, SB 9 permits a local agency to deny a proposed two-unit or subdivision project only if the agency’s Building Official makes a written finding based on preponderance of the evidence that the proposed project would have a specific, adverse impact upon public health and safety or the physical environment, which is a very high standard for municipalities to meet under the statute.
- e) The Town’s natural beauty including the hills and views of the Bay, and significant residential communities is a uniquely valuable public resource. A significant number of parcels within the Town are also within high fire hazard severity zones, earthquake fault zones and/or covered by conservation/open space easements. The Town has substantial interests in protecting the community against these hazards and restrictions in promoting development projects. The reasonably regulated and orderly development of single-family residential construction and subdivision projects as permitted by SB 9 is desirable, and

unregulated or disorderly development represents an ever-increasing and true threat to the health, welfare and safety of the community.

- f) The default standards contained in the new state law include no objective zoning, subdivision, and design standards, including those contained in the Town's Zoning Ordinance such as, for example, floor area, height, fencing regulations, subdivision and site development standards and regulations that require development projects including accessory dwelling units be designed to respect the visual and acoustic privacy of primary residences on contiguous lots and to preserve the scenic views of principle structures on contiguous lots.
- g) The Town has received multiple public inquiries from architects, developers, and residents regarding SB 9 development projects and the new state law, underscoring the need for the Town to update its regulatory scheme to bring it into compliance with the requirements of the bill.
- h) SB 9 specifically authorizes local agencies to impose objective zoning, subdivision, and design standards consistent with the bill's provisions, and to adopt an ordinance to implement its provisions. SB 9 further provides that such ordinances are not considered a "project" under the California Environmental Quality Act (CEQA).
- i) On November 18, 2021, the City Council considered the following amendment to the Zoning Ordinance for the purpose of amending its local regulatory scheme pertaining to single-family home developments and subdivisions in a manner that complies with the new state law and is consistent with California Government Code Sections 65852.21 and 66411.7, as amended.
- j) California Government Code Section 65858 authorizes the Town to adopt an interim urgency measure by a four-fifths (4/5ths) vote where necessary to protect the public health, safety, and welfare without following the procedures otherwise required prior to adoption of a zoning ordinance.
- k) Any interim urgency measure adopted pursuant to Government Code Section 65858 shall be of no further force and effect forty-five (45) days from its date of adoption unless extended by the legislative body. During the effective term of the urgency ordinance, Town staff intends to undertake further study and present its recommendations to the City Council regarding permanent revisions to the Town's regulatory scheme pertaining to residential development and subdivision projects and consistent with the goals and policies of the Town's General Plan, California Planning and Zoning Law, and the provisions of California Government Code Section 65858.

WHEREAS, the City Council finds and determines that the immediate preservation of the public health, safety and welfare requires that this Ordinance be enacted as an urgency ordinance pursuant to Government Code Section 65858, and take effect immediately upon adoption. Therefore, this Ordinance is necessary for the immediate preservation of the public peace, health, safety and welfare and its urgency is hereby declared.

WHEREAS, pursuant to Section 15001 of the California Environmental Quality Act (CEQA) Guidelines, this ordinance is exempt from CEQA based on the following:

- (1) This Ordinance is not a project within the meaning of Section 15378 of the State CEQA Guidelines, because it has no potential for resulting in physical change in the environment, directly or ultimately.
- (2) This Ordinance is categorically exempt from CEQA under Section 15308 of the CEQA Guidelines as a regulatory action taken by the Town pursuant to its police power and in accordance with Government Code Section 65858 to assure maintenance and protection of the environment pending the evaluation and adoption of contemplated local legislation, regulation and policies.
- (3) 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. For the reasons set forth in subparagraphs (1) and (2), above, it can be seen with certainty that there is no possibility that this ordinance will have a significant effect on the environment.

NOW, THEREFORE, the City Council of the Town of Los Altos Hills does hereby ordain as follows:

SECTION I. FINDINGS.

Based on the entirety of the record as described above, the City Council for the Town of Los Altos Hills hereby makes the following findings:

1. All of the facts and recitals above are true, correct, incorporated herein and made a part hereof such that there exists a current and immediate threat to the public health, safety, and welfare requiring immediate implementation of an urgency ordinance to regulate residential development projects, subdivisions and site developments in the Town of Los Altos Hills.
2. The urgency ordinance is necessary for the immediate preservation of the public peace, health, and safety because the subdivision of lots and design and construction of single-family residences, duplexes and accessory dwelling units pursuant to Senate Bill 9 (SB 9) without adequate standards can cause: land use and site development conflicts and incompatibilities including public safety, visual, privacy, acoustic and aesthetic impacts which would negatively impact the public welfare and the unique quality and character of the Town.
3. Based on the recent amendments to state law with respect to the regulation of SB 9 units and lot subdivisions, there is a need for the Town to update its current codes.
4. Pursuant to Section 15001 of the California Environmental Quality Act (CEQA) Guidelines, this ordinance is exempt from CEQA based on the following:

- (a) This Ordinance is not a project within the meaning of Section 15378 of the State CEQA Guidelines, because it has no potential for resulting in physical change in the environment, directly or ultimately.
- (b) This Ordinance is categorically exempt from CEQA under Section 15308 of the CEQA Guidelines as a regulatory action taken by the Town pursuant to its police power and in accordance with Government Code Section 65858 to assure maintenance and protection of the environment pending the evaluation and adoption of contemplated local legislation, regulation and policies.
- (c) 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. For the reasons set forth in subparagraphs (1) and (2), above, it can be seen with certainty that there is no possibility that this ordinance will have a significant effect on the environment.

SECTION II. AMENDMENT.

A new Article 15, entitled Objective Standards for Qualified Senate Bill 9 Subdivisions and Development Projects is hereby added to Chapter 1 of Title 10 of the Los Altos Hills Municipal Code to read as set forth in Exhibit A to this Ordinance, which is hereby incorporated as though set forth in full herein.

SECTION III. CONFLICTING PROVISIONS DEEMED INEFFECTIVE DURING ORDINANCE OPERATIVE PERIOD.

Any provision of the Municipal Code relating to residential development and lot subdivision standards which is in conflict with this ordinance is hereby deemed ineffective during the ordinance's operative period.

SECTION IV. SEVERABILITY.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional the remainder of this ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable. The City Council of the Town of Los Altos Hills hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION V. EFFECTIVE DATE AND PUBLICATION.

This ordinance is an urgency ordinance enacted under California Government Code 65858. This urgency ordinance is effective upon adoption by a four-fifths (4/5) vote of the City Council.

This urgency ordinance shall be of no further force and effect forty-five (45) days from its date of adoption unless extended by the City Council.

Within fifteen days after the passage of this ordinance, the Town Clerk shall cause this ordinance or a summary thereof to be published once, with the names of those Town Councilmembers voting for or against it in a newspaper of general circulation in the Town of Los Altos Hills, as required by law.

INTRODUCED: November 18, 2021

PASSED:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

BY: _____
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

5007794.1

DRAFT

EXHIBIT A

Title 10. Zoning and Site Development

Chapter 1. Zoning

Article 15. Objective Standards for Qualified Senate Bill 9 Subdivisions and Development Projects

10-1.1501 Purpose and Intent.

The purpose of this article is to establish objective standards and regulations to govern the development of qualified Senate Bill 9 subdivisions and development projects on residential zoned properties within the Town of Los Altos Hills. The establishment of these regulations will result in the orderly subdivision and development of qualified Senate Bill No. 9 (2021) (“SB 9”) projects while ensuring that the new units are consistent with the semi-rural character of the Town and do not create any significant impacts with regards to public infrastructure or public safety. The regulations are established to implement the requirements under California Government Code Sections 65852.21 and 66411.7.

10-1.1502 Definitions.

For purposes of this article, the following definitions apply:

- (a) “Accessory dwelling unit” or “ADU”, means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a parcel with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multi-family dwelling is or will be situated. An accessory dwelling unit also includes an efficiency unit and a manufactured home, as defined in Section 18007 of the Health and Safety Code.
- (b) “Dwelling unit” includes an ADU, JADU, a primary dwelling unit, and a SB 9 dwelling unit.
- (c) “Junior accessory dwelling unit” or “JADU”, or “efficiency unit”, means a dwelling unit that is up to 500 square feet in size and contained entirely within an existing primary dwelling unit that provides an efficiency kitchen and a separate exterior entrance, and may include separate sanitation facilities, or may share sanitation facilities with the existing structure.
- (d) “Conservation Easement” means restrictive covenants that run with the land and bind upon successive owners that protects against future development such as preservation of open space, scenic, riparian, historical, agricultural, forested, or similar conditions. Open space and riparian easements are included in this definition.
- (e) “Existing dwelling unit” means a primary dwelling unit or other dwelling unit on a parcel that exists prior to any voluntary demolition or reconstruction or remodel where more than 50% of the exterior wall framing has been removed or altered. Any existing dwelling

unit where more than 50% of the exterior wall framing has been removed is considered a new dwelling for purposes of this article.

- (f) “Panhandle” means the narrow strip of land on a flag lot, typically less than 30 feet in width, that provides access to a public or private road.
- (g) “Primary dwelling unit” means a single-family residence on the parcel and is the larger of the two if there is an existing accessory dwelling unit on the parcel.
- (h) “Private Road” means a road, way, or street in private ownership and under private maintenance, not offered for dedication as a public road, way, place, or street, which affords the principal means of access to three or more lots or parcels which do not have frontage on a public street.
- (i) “SB 9 dwelling unit” or “SB 9 unit” means a dwelling unit that is developed using the provisions in this article and the provisions identified in California Government Code Sections 65852.21 and 66411.7.

10-1.1503 Eligibility of properties for a subdivision.

The following parcels are not eligible for a subdivision under this article:

- (a) Any parcel that was established through a prior exercise of a subdivision as provided for in this article.
- (b) Any parcel proposing to be subdivided that is adjacent to another parcel where either the owner of the parcel proposing to be subdivided or any person acting in concert with said owner has previously subdivided that adjacent parcel using the provisions in this article. For the purposes of this article, “any person acting in concert” with the owners includes, but is not limited to, an individual or entity operating on behalf of, acting jointly with, or in partnership or another form of cooperative relationship with, the property owner.
- (c) Any parcel located within an historic district or included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or a parcel within a site that is designated or listed as a Town of Los Altos Hills or Santa Clara County landmark or historic property or district pursuant to a Town of Los Altos Hills or Santa Clara County ordinance.
- (d) Any parcel where the subdivision would require the 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 is subject to any form of rent or price control through a public entity's valid exercise of its police power.
 - (3) A parcel or parcels on which an owner of residential real property has exercised the owner's rights under Government Code section 7060 et seq. to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.
 - (4) Housing that has been occupied by a tenant in the last three years.
- (e) Any parcel located with a “Zone F” or “Zone L” hazard zone as designated on the Geotechnical and Seismic Hazard Zones Map for the Town of Los Altos Hills 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 the Town's Building Department pursuant to Government Code section 8875 et seq.

- (f) Any parcel fully encumbered with a conservation easement or 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.
- (g) Any parcel that is designated prime farmland or farmland of statewide importance, as defined pursuant to United States 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 Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure.
- (h) Any parcel containing wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993), that would prevent the development of the parcel.
- (i) Any parcel 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 hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This subsection does not apply to parcels that have been excluded from specific hazard zones by actions of the Town pursuant to Government Code section 51179(b), or parcels that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.
- (j) Any parcel with a hazardous waste site that is listed pursuant to Government Code Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the State Department of Public Health, State Water Resources Control Board, or Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.
- (k) Any parcel within 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 FEMA. However, a subdivision and/or development project may be located on a parcel described in this subsection if (1) the parcel is otherwise eligible for approval under the provisions of this article and (2) the project applicant is able to satisfy all applicable federal qualifying criteria demonstrating 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 Town.

- (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.
- (l) Any parcel within a regulatory floodway as determined by the FEMA in any official maps published by the FEMA, unless the subdivision and/or development project has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations.
- (m) Any parcel containing 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).

10-1.1504 Objective standards and requirements for a subdivision.

The following objective standards and regulations apply to all subdivisions under this article:

- (a) A Parcel Map and a Subdivision Application shall be submitted to the Town for all proposed subdivisions.
- (b) The subdivision shall create no more than two new parcels of approximately equal area provided that one parcel shall not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision. In no instance shall any resulting parcel be smaller than 1,200 square feet in area.
- (c) Existing parcels shall be split approximately perpendicular to the longest contiguous property line.
- (d) The subdivision shall not result in a new parcel with an average width that is less than the average width of the original parcel. Any panhandle on a flag lot shall not be used to calculate the average width. However, this requirement shall be waived if the subdivision applicant demonstrates that it would prohibit a subdivision that otherwise meets the requirements of subsection (b).
- (e) The front parcel line of any newly created parcel shall be the parcel line that is closest to or parallel to the public or private road that serves the parcel.
- (f) A 25-foot-wide panhandle (for a flag lot) or an ingress/egress easement shall be provided for all new parcels that do not have direct frontage on a public or private road. Driveway access to the new parcels shall be shared unless the new driveways are a minimum of 100 feet apart.
- (g) Easements for access and public and private utilities shall be provided for any newly created parcel that does not front on a public or private street.
- (h) Separate utility meters shall be provided for each parcel prior to recordation.
- (i) All newly created parcels shall be connected to public sewer or provide a private wastewater system that is fully contained within the new parcel boundaries.

- (j) No setbacks shall be required for an existing structure on the parcel from a proposed property line.
- (k) The subdivision is subject to all impact or development fees related to the creation of a new parcel.
- (l) Upon receipt of a subdivision application using the provisions of this article, the Town shall notify all owners and occupants within a 500-foot radius from the subject parcel that a parcel map has been filed with the Town.
- (m) A note on the parcel map and a recorded deed restriction in a form approved by the City Attorney's Office shall be applied to all newly created parcels indicating that the parcel was split using the provision of this article and that no further subdivision of the parcels is permitted. In addition, the deed restriction shall stipulate that all new units developed on the new parcels shall be income restricted to low and very low-income households based on the most recent Santa Clara County Area Median Income (AMI) levels.
- (n) Prior to the recordation of the parcel map, the applicant shall sign and record an affidavit stating that the applicant intends to reside in one of the proposed or existing primary dwelling units or SB 9 units for three years from the date of the approval of the subdivision. This requirement shall not apply if the applicant is a community land trust or a qualified nonprofit corporation as provided in Sections 402.1 and 214.15 of the Revenue and Taxation Code.

10-1.1505 Objective standards and requirements for new dwelling units on a parcel that is not being subdivided.

The following objective standards and regulations apply to all new development on a parcel, including primary dwellings, SB 9 dwelling units, an ADU, or a JADU attached to the primary dwelling, that are developed under the provisions of this article on a parcel that is **not** being subdivided:

- (a) The following development is permitted on the parcel:
 - (1) a primary dwelling unit and an SB 9 unit (or two SB 9 units);
 - (2) an ADU; and
 - (3) a JADU
- (b) The maximum floor area (MFA) and maximum development area (MDA) permitted on the parcel shall be determined through the Lot Unit Factor (LUF) number as defined in Section 10-1.202 of the Municipal Code, excepting that 800 square feet of additional floor area and development area beyond the MFA/MDA is permitted for an ADU and 800 square feet of additional MFA/MDA is permitted for an SB 9 unit that is not the primary dwelling.
- (c) The maximum floor area of an SB 9 unit shall be 800 square feet. Basements and bunkers are not permitted.
- (d) The minimum setback for any new SB 9 dwelling unit shall be 40 feet from the front parcel line and four (4) feet from the side and rear parcel lines.

Exception:

No setback is required for a new SB 9 dwelling unit constructed in the same location as an existing structure on the parcel.

Incentive:

If the SB 9 dwelling unit meets the 40-foot front yard and 30-foot side and rear yard setbacks, the maximum floor area can be up to 1,600 square feet where 800 square feet is included in the MFA calculated pursuant to subsection (b) above (basement or bunker not permitted). The parcel owner utilizing this incentive shall record a deed restriction in a form approved by the City Attorney's Office stipulating that no further subdivision of the parcel is permitted.

- (e) The maximum height of the SB 9 dwelling unit shall be 16 feet.
- (f) One uncovered parking space, located a minimum of 40-feet from the front parcel line and 30 feet from the side and rear parcel lines, is required for each dwelling unit, except as provided in Section [10-1.1403](#) (g)(3) of the LAHMC. The parking space shall be at least 10 feet wide by 20 feet deep.
- (g) A solid (no openings) one-hour rated fire wall is required between any SB 9 unit and the primary dwelling unit or an ADU.
- (h) Driveway access to all new units shall be compliant with the Santa Clara County Fire Department standard details and specifications for driveways and turnarounds.
- (i) The owner shall sign and record an affidavit placing a covenant that will run with the parcel to confirm that the owner will reside in either the primary dwelling unit or an SB 9 unit on the parcel for three years from the issuance of an SB 9 dwelling unit's Certificate of Occupancy and closing of all construction permits pertaining to the parcel.
- (j) All newly created dwelling units shall be connected to public sewer or provide a private wastewater system that is fully contained within the parcel boundaries.
- (k) All outdoor patios, covered patios, decks, and other hardscape shall meet the Town's minimum 40-foot front yard and 30-foot side and rear yard setbacks.
- (l) No dwelling unit shall be rented for a period of less than thirty-one (31) days and cannot be occupied as a short-term rental unit, as defined under section 10-1.1202.
- (m) An SB 9 dwelling unit may be rented separately from the primary dwelling unit.
- (n) Development projects pursuant to this section shall be subject to all impact or development fees related to the development of a new dwelling unit.

10-1.1506 Objective standards and requirements for dwelling units on a parcel subdivided pursuant to this article.

The following objective standards and regulations apply to all development on a parcel that has been subdivided or concurrently subdivided under the provisions of this article:

- (a) The following development is permitted on the parcel:
 - (1) A primary dwelling unit and an SB 9 unit; or
 - (2) Two SB 9 units.
 - (3) If there is an existing primary dwelling unit and ADU on the property, then no further development is permitted for that property.
- (b) The maximum floor area (MFA) permitted on each lot shall be 1,600 square feet.

Exception:

If there is an existing primary dwelling unit on the parcel, then the floor area of the existing residence cannot be increased, and any SB 9 dwelling unit shall not exceed 800 square feet.

- (c) The maximum development area (MDA) permitted on the parcel shall be 1,600 square feet plus an additional 2,100 square feet.

Exception:

If there is an existing primary dwelling unit on the parcel, then the maximum development area on the parcel shall be limited to the existing approved development area on the parcel plus an additional 800 square feet.

- (d) Setbacks and Floor Area: The minimum setback for any new primary dwelling unit or SB 9 dwelling unit shall be 40 feet from the front property line and four (4) feet from the side and rear property lines and the maximum floor area on the property shall be 1,600 square feet. Basements and bunkers are not permitted.

Exception:

No setback is required for a new SB 9 dwelling unit constructed in the same location as an existing structure on the parcel.

- (e) The maximum height of all new SB 9 dwelling units shall be 16 feet. If there is an existing primary dwelling on the parcel, then the maximum height of the existing residence cannot be increased.
- (f) One uncovered parking space, located a minimum of 40-feet from the front property line and 30 feet from the side and rear property lines, is required for each new dwelling unit, except as provided in Section [10-1.1403](#) (g)(3) of the LAHMC. The parking space shall be at least 10 feet wide by 20 feet deep. All parking required for an existing primary dwelling on the parcel shall be retained.
- (g) If the two SB 9 dwelling units are configured as a duplex on a parcel, a solid one-hour fire wall between the units is required. In addition, a deed restriction in a form approved by the City Attorney's Office shall be recorded stipulating that the duplex shall be maintained as two separate units.
- (h) If the parcel is fully developed with the number of units permitted under 10-1.1506 (a) above, then the applicant or property owner shall record a deed restriction in a form approved by the City Attorney's Office stipulating that no further development of the parcel is permitted.
- (i) Driveway access to all new units shall be compliant with the Santa Clara County Fire Department standard details and specifications for driveways and turnarounds.
- (j) If the proposed dwelling units are developed subsequent to a subdivision completed pursuant to this Article, the owner shall sign and record an affidavit placing a covenant that will run with the parcel to confirm that the owner intends to reside in either the primary dwelling unit or an SB 9 unit on the parcel for three years from the issuance of an SB 9 dwelling unit's Certificate of Occupancy and closing of all construction permits pertaining to the parcel.

- (k) All newly created dwelling units shall be connected to public sewer or provide a private wastewater system that is fully contained within the parcel boundaries.
- (l) All outdoor patios, covered patios, decks, and other hardscape shall meet the minimum 40-foot front yard and 30-foot side and rear yard setbacks.
- (m) No dwelling unit shall be rented for a period of less than thirty-one (31) days and cannot be occupied as a short-term rental unit, as defined under section 10-1.1202.
- (n) An SB 9 dwelling unit may be rented separately from the primary dwelling unit.
- (o) Any development constructed in accordance with this section shall be subject to all impact or development fees related to the development of a new dwelling unit.

10-1.1507 Objective building and design requirements for all SB 9 dwelling units.

All SB 9 dwelling units shall be reviewed and approved without discretionary review or a hearing. As part of the Planning Department's ministerial approval, the following objective design requirements shall be confirmed:

- (a) The design of the dwelling unit shall be as follows:
 - (1) For a detached unit, the exterior materials and design shall match the design of any existing primary dwelling unit on the property through the use of the same exterior wall materials, identified color tones, window types, door and window trims, roofing materials and roof pitch.
 - (2) For an attached unit, the exterior materials, windows and other architectural features shall match the existing structure by employing the same building form, color tones, window design, door and window trims, roofing materials and roof pitch.
- (b) Exterior wall colors and materials shall have a light reflectivity value (LRV) of 50 or less and roof materials shall have a light reflectivity value (LRV) of 40 or less.
- (c) Exterior building lighting shall be fully shielded and downward facing and limited to one exterior light fixture per exterior doorway, or the minimum necessary to comply with the California Building Standards Code.
- (d) All new dwelling units are required to have fire sprinklers.
- (e) All portions of the SB 9 dwelling unit, include eave overhangs and other projections, shall meet the required setbacks as set forth in this article.
- (f) No roof decks are permitted on SB 9 dwelling units.
- (g) A hedge, consisting of 15-gallon minimum evergreen shrubs at 5-foot intervals, shall be planted along the parcel line (and outside of any easement) adjacent to the wall of the SB 9 dwelling unit that is closest to the parcel line.
- (h) Structures shall not be located in the following locations:
 - (1) In areas encumbered by a recorded easement, including but not limited to, public utility easements, conservation easements, access easements, pedestrian pathway easements and open space easements;
 - (2) In areas within twenty-five (25) feet of the top of a creek bank;

- (3) In areas within the critical root zone of a heritage oak as defined in Section 12-2-101 of the LAHMC. Review and approval of an arborist report prepared by a licensed or consulting arborist is required if a structure is proposed within the critical root zone of a heritage oak tree.
 - (4) Within 10 feet of a parcel line where a pathway is designated on the adopted Master Path Plan for the Town of Los Altos Hills.
 - (5) Areas with slopes greater than forty percent (40%).
- (i) All electrical and utility services to a new dwelling unit shall be undergrounded.
 - (j) Notwithstanding the foregoing subsections, any development or design standards that physically precludes an SB 9 dwelling unit from being 800 square feet in floor area shall be waived.

10-1.1508 Permit review process.

All applications for lot splits and new development using this article shall be ministerially approved without public hearings or discretionary review.

10-1.1509 Fees.

The City Council may establish and set by resolution all fees and charges, consistent with Government Code sections 65852.2 and 65852.22, and related provisions, as may be necessary to effectuate the purpose of this article.

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