

ORDINANCE _____

**AN URGENCY ORDINANCE OF THE CITY OF SEASIDE, CA
AMENDING TITLE 17 (ZONING ORDINANCE CODE) OF THE CITY
OF SEASIDE MUNICIPAL CODE TO ADD CHAPTER 17.13 (SENATE
BILL 9 DUPLEXES AND PARCEL MAPS FOR URBAN LOT SPLITS) TO
IMPLEMENT RECENT HOUSING BILLS**

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

- a) On or about September 16, 2021, Governor Newsom signed into law Senate Bill 9 (“SB 9”), entitled the “California Home Act”, an act to amend Section 66452.6 of and to add Sections 65852.21 and 66411.7 to the Government Code relating to land use; and
- b) SB 9 requires a proposed housing development containing no more than two residential units within a single-family residential zone to be considered ministerially, without discretionary review or hearing, if the proposed housing development meets certain requirements; and
- c) SB 9 further requires a local agency to ministerially approve a parcel map for a lot split for a parcel in a single-family residential zone that meets certain requirements; and
- d) The increased density and intensity of development authorized by SB 9 has the potential to negatively impact privacy, access for emergency vehicles, cost of services, and aesthetics of residential neighborhoods.
- e) SB 9 authorizes local jurisdictions to apply objective zoning standards, objective subdivision standards, and objective design standards, subject to certain limitations in the statute, and provides that these standards may be embodied in alternative objective land use specifications adopted by a local agency; and
- f) The City of Seaside’s natural beauty including views of the Bay, and significant residential communities is a uniquely valuable public resource. The reasonably regulated and orderly development of single-family residential construction and subdivision projects as permitted by SB 9 is desirable; and
- g) The City of Seaside is locked into a structural deficit as it pertains specifically to serving, maintaining, and replacing municipal infrastructure in existing single-family residential zones; and

- h) SB 9 does not provide for the conditioning of new duplexes and lot splits, qualified under SB 9 for ministerial approval, with the fair and proportionate exaction of fees to maintain infrastructure in single-family residential neighborhoods; and
- i) Any increase to the consumption of municipal services and infrastructure will exacerbate the existing structural deficit in single-family residential zones and compete for funding from other general fund services such as life-saving emergency medical services, police, and fire; and
- j) On December 2, 2021, the staff analysis estimated that approximately 1,800 lots could be split pursuant to SB9 and approximately 682 residential parcels could add a new duplex, resulting in, if all developed in over 6,764 new single family units; and
- k) The City of Seaside 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 City to update its regulatory scheme to bring it into compliance with the requirements of the bill; and
- l) Prior to SB 9 taking effect on January 1, 2022, the City Council wishes to adopt objective standards for the approval of housing development projects and parcel maps that are protective of the health, safety, peace, and general welfare of Seaside residents and consistent with the requirements of State law; and
- m) The implementation of SB 9 without standards for the ministerial approval of development projects and lot splits would create a current and immediate threat to the public health, safety, or welfare, and therefore the City Council wishes to adopt an urgency ordinance that will allow for the orderly and effective implementation of SB 9; and
- n) Unregulated or disorderly development represents an ever-increasing and true threat to the health, welfare and safety of the community.
- o) The new California Home Act does not include objective zoning, subdivision, and design standards, such as floor area, height, fencing regulations, subdivision and site development standards and regulations that require development projects including accessory dwelling units (ADUs) 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.
- p) The City Council finds that the public health need of the community is met by the immediate adoption of Chapter 17.13 of the Seaside Municipal Code (SMC) as objective standards, since rampant and unplanned development and lots splits will be aesthetically displeasing and out of harmony with the character of this community so as to constitute visual blight which reduces the quality of life within the community to the extent that the overall public health is detrimentally affected. Given the short time the City has prior to the State provisions going into effect, there is an immediate need for such policy.
- q) There is insufficient time for consideration of and recommendation on the vast amount of options for objective standards and related code amendments by the Planning

Commission (Commission) prior to action by the City Council. The Council therefore declares that an urgency ordinance, pursuant to City of Seaside Section 65858 is an appropriate measure to adopt standards, pending consideration of a permanent ordinance by the Commission.

- r) California Government Code Section 65858 authorizes the City to adopt an 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.
- s) Any 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, City staff intends to undertake further study and present its recommendations to the City Council regarding permanent revisions to the City's regulatory scheme pertaining to residential development and subdivision projects and consistent with the goals and policies of the City's General Plan, California Planning and Zoning Law, and the provisions of California Government Code Section 65858.

WHEREAS, The Council declares that this urgency ordinance, which is effective immediately, is necessary as an emergency measure to preserve the public peace, health, or safety, by adopting objective standards for the approval of two-unit development and urban lot splits on single-family zoned lots and related code amendments prior to SB 9 taking effect on January 1, 2022.

WHEREAS, pursuant to Government Code Sections 66411.7(n) and 65852.21(j), an ordinance adopted to implement the requirements of SB 9 shall not be considered a project under CEQA. The proposed ordinance is therefore exempt from CEQA.

NOW, THEREFORE, the City of Seaside City Council hereby ordain as follows:

SECTION I. FINDINGS.

Based on the entirety of the record as described above, the City of Seaside City Council for the 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 City of Seaside.

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 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 City. The City intends to study, within a reasonable period of time, the establishment of objective standards and to update its current codes.

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 City to update its current codes. The City

intends to study, within a reasonable time, the adequacy of its existing ordinances and the potential need to adopt or amend its regulations establishing objective standards to address SB 9 units and lot subdivisions. The City Council and the people of Seaside require a sufficient and reasonably limited time to consider and study legally appropriate and reasonable policies regulating duplex development and urban lot splits.

4. This Ordinance is not subject to CEQA as it is not a project pursuant to Government Code section 66411.7(n) and 65852.21(j).

SECTION II. AMENDMENT.

A new Chapter 17.13 entitled Objective Standards for Qualified Senate Bill 9 Subdivisions and Development Projects is hereby added to Title 17 of the City of Seaside 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 City of Seaside 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 City Clerk shall cause this ordinance or a summary thereof to be published once, with the names of those City Councilmembers voting for or against it in a newspaper of general circulation in the City of Seaside, as required by law.

INTRODUCED: December 16, 2021

PASSED:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

Ian N. Oglesby, Mayor

ATTEST:

Dominique Davis, City Clerk

APPROVED AS TO FORM:

City Attorney

DRAFT

DRAFT

EXHIBIT A

Title 17. Zoning Ordinance Code **Chapter 17.13 Residential Zones Objective** **Standards for Qualified Senate Bill 9** **Subdivisions and Development Projects**

17.13.010 Purpose and Intent.

The purpose of this Chapter is to establish objective standards and regulations to govern the development of qualified Senate Bill 9 subdivisions and development projects on single family residential zoned properties within the City of Seaside. 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 character of the City 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.

17.13.020 Definitions.

For purposes of this Chapter, 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 Chapter.
- (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. “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.

- (g) “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.
- (h) “SB 9 dwelling unit” or “SB 9 unit” means a dwelling unit that is developed using the provisions in this Chapter and the provisions identified in California Government Code Sections 65852.21 and 66411.7.
- (i) “Objective zoning standards,” “objective subdivision standards,” and “objective design review standards” mean 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 a local agency, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.

17.13.030 Eligibility of properties for a subdivision.

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

- (a) Any parcel that was established through a prior exercise of a subdivision as provided for in this Chapter.
- (b) Any parcel that is not located within existing single family residential zoning (R-8 and R-12).
- (c) Any parcel proposing to be subdivided by a person or any person acting in concert with that person who has previously subdivided an adjacent parcel using the provisions of this Chapter. For the purposes of this Chapter, “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.
- (d) 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 City of Seaside or Monterey County landmark or historic property or district pursuant to a City of Seaside or Monterey County ordinance.
- (e) 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.

- (f) Any parcel located with a severe earthquake hazard zone as designated on the Geotechnical and Seismic Hazard Zones Map for the City of Seaside 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 City's Building Department pursuant to Government Code section 8875 et seq.
- (g) 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.
- (h) 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.
- (i) 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.
- (j) 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 adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.
- (k) 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.
- (l) 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 Chapter 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 City.
 - (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.

- (m) 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.
- (n) 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) or Environmentally Sensitive Habitat Areas (ESHA) in the Coastal Zone.

17.13.040 Objective standards and requirements for a subdivision.

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

- (a) A Parcel Map and a Subdivision Application shall be submitted to the City for all proposed subdivisions, including but not limited to any ownership and rental questionnaires and affidavits.
- (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. 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).
- (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) The property owner for a lot served by a private road or common driveway shall, prior to issuance of a building permits, record an appropriate deed restriction guaranteeing the following to adjoining property owners who utilize the private road or common driveway for the primary access to their lot(s): a) a reciprocal ingress/egress easement; and b) participation in a reciprocal maintenance agreement. A 25-foot-wide panhandle (for a flag lot) or an ingress/egress easement and maintenance agreement 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.
- (j) Any existing structure must meet the setback requirements in section 17.13.060 from a newly proposed property line unless by doing so would prohibit the creation of a parcel that otherwise meets the requirements of this Chapter.
- (k) The subdivision is subject to all impact or development fees related to the creation of a new parcel and shall provide proof that all school fees, water or other impact fees have been paid.
- (l) Upon receipt of a subdivision application using the provisions of this Chapter, the City shall notify all owners and occupants within a 500-foot radius from the subject parcel that a parcel map has been filed with the City of Seaside.
- (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 Chapter, no further subdivision of the parcels is permitted and the parcels may only be used for residential use. In addition, the deed restriction shall stipulate that all new units developed on the new parcels shall be for residential use only and income restricted to low and very low-income households based on the most recent Monterey County Area Median Income (AMI) levels. A timeshare or short term rental of less than 30 days is not considered residential use.
- (n) The parcel map shall include a note stating the requirement for off-street parking of up to one space per unit, except if the parcel is located within ½ 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.
- (o) 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.

17.13.045 Map Extension. Any parcel map created pursuant to the provisions of this Chapter shall be subject to extension in compliance with the provisions of Government Code section 66452.6.

17.13.050 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 SB 9 development on a parcel that is **not** being subdivided:

- (a) Notwithstanding Government Code Section 65852.2 or 65852.22 or any provision of this Chapter, no accessory dwelling unit or a junior accessory dwelling unit shall be permitted on any lot in single-family residence district (R-8 or R-12) if a lot split has been approved pursuant to Section 17.13.040 and two residential units have been approved for construction pursuant to this chapter 17 (Government Code Section 65852.21).

- (b) The maximum floor area ratio (FAR) permitted on the parcel shall be determined as defined in Section 17.12.050 of the Municipal Code unless application of that FAR prohibits a 800 square foot SB 9 unit, in which case, additional floor area shall be allowed.
- (c) The maximum floor area of an SB 9 unit shall be 800 square feet. Basements and bunkers are not permitted.
- (d) Setbacks: The minimum setback for any new SB 9 dwelling unit shall be 15 feet from the front parcel line and four (4) feet from the side and rear parcel lines.

Exception:

A new SB9 dwelling unit shall not be required to meet the setbacks above if it replaces a non-conforming existing structure.

- (e) The maximum height of all new SB 9 dwelling units shall be no higher than the height of the primary dwelling, but shall not exceed 24 feet and shall not impede 100% of an ocean or mountain viewshed of any property owners within 500' radius of the property. In the case where viewshed or height limitations preclude the minimum sized SB 9 unit, the unit shall be placed in the least impactful location.
- (f) One uncovered parking space, located a minimum of 5-feet from the front parcel line abutting the street frontage and one (1) feet from the side and rear parcel lines, is required for each dwelling unit, except as provided in Chapter 17.34 of the Seaside Municipal Code. The parking space shall be at least 8 feet wide by 16 feet deep, except where such project is located within ¼ mile of a transit stop.
- (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 Monterey 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.
- (k) All outdoor patios, covered patios, decks, and other hardscape shall meet the City's minimum 5-foot front yard and 4-foot side and rear yard setbacks.
- (l) No dwelling unit shall be rented for a period of less than thirty (30) days and cannot be occupied as a short-term rental unit, as defined under section 17.52.251.
- (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.

17.13.060 Objective standards and requirements for dwelling units on a parcel subdivided pursuant to this chapter 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 chapter:

- (a) The following development is permitted on the parcel:
 - (1) A primary dwelling unit and an SB 9 unit; or
 - (2) 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 ratio (FAR) permitted on the parcel shall be determined as defined in Section 17.12.050 of the Municipal Code unless application of that FAR prohibits a 800 square foot SB 9 unit, in which case, additional floor area shall be allowed. Basements and bunkers are not permitted.
- (c) Setbacks: The minimum setback for any new primary dwelling unit or SB 9 dwelling unit shall be 15 feet from the front parcel line and four (4) feet from the side and rear parcel lines.

Exception:

A new SB9 dwelling unit shall not be required to meet the setbacks above if it replaces a non-conforming existing structure.

- (d) The maximum height of all new SB 9 dwelling units shall be no higher than the height of the primary dwelling, but shall not exceed 24 feet and shall not impede 100% of an ocean or mountain viewshed of any property owners within 500' radius of the property. In the case where viewshed or height limitations preclude the minimum sized SB 9 unit, the unit shall be placed in the least impactful location. ...
- (e) One uncovered parking space, located a minimum of 5-feet from the front property line abutting the street frontage and One (1) feet from the side and rear property lines, is required for each new dwelling unit, except as provided in Chapter 17.34 of the Seaside Municipal Code. The parking space shall be at least 8 feet wide by 16 feet deep. All parking required for an existing primary dwelling on the parcel shall be retained.
- (f) 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.
- (g) If the parcel is fully developed with the number of units permitted under section 17.13.060 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.
- (h) Driveway access to all new units shall be compliant with the Monterey County Fire Department standard details and specifications for driveways and turnarounds.
- (i) If the proposed dwelling units are developed subsequent to a subdivision completed pursuant to this Chapter, 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.
- (j) All newly created dwelling units shall be connected to public sewer.
- (k) All outdoor patios, covered patios, decks, and other hardscape shall meet the minimum 5-foot front yard and 4-foot side and rear yard setbacks.
- (l) No dwelling unit shall be rented for a period of less than thirty (30) days and cannot be

occupied as a short-term rental unit, as defined under section 17.52.251.

- (m) An SB 9 dwelling unit may be rented separately from the primary dwelling unit.
- (n) 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.

17.13.070 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 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 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.
- (c) All new dwelling units are required to have fire sprinklers.
- (d) All portions of the SB 9 dwelling unit, include eave overhangs and other projections, shall meet the required setbacks as set forth in this Chapter.
- (e) Roof decks are permitted on SB 9 dwelling units.
- (f) 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 the critical root zone of any tree with a diameter of four (4) feet or greater measured at four (4) feet above grade. 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.
- (g) All electrical and utility services to a new dwelling unit shall be undergrounded.
- (h) 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.

17.13.070 Compliance with California Coastal Act. All projects seeking to either develop units or subdivide shall comply with the California Coastal Act and shall seek a coastal development permit. No public hearing shall be held for any such coastal development permit in accordance with Government Code section 66411.7.

17.13.080 Ineligible for Condominium Conversions. Any dwelling unit approved pursuant to

this Chapter shall be ineligible for conversion to a condominium, community apartment, or stock cooperative project. Any application for a tentative subdivision map or tentative parcel map for a residential condominium conversion of a unit created pursuant to this Chapter shall be denied.

17.13.090 Ministerial Reviews and Approvals. Any application submitted pursuant to the provisions of this Chapter for either a dwelling or urban lot split shall be reviewed and approved ministerially, if it meets the requirements of the Government Section 66411.7 and conforms to all the applicable requirements of this Chapter. Notwithstanding such review, an application, may be denied if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, 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.

17.13.100 Consistency. All SB 9 dwelling units shall comply with, to the extent permissible, and not be in conflict with the specific provisions of this Chapter with the provisions of Chapter 17.12 related to residential development.

17.13.200 Permit review process.

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

17.13.300 Effective Date. This Chapter shall remain in effect until such time as Government Code Section 65842.21 is repealed or superseded or its requirements for ministerial approval of housing development projects are materially amended, whether by legislation or initiative, or are held to be unenforceable by a court of competent jurisdiction, at which time this Section shall become null and void.

17.13.400 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 Chapter.