



SAN RAFAEL
THE CITY WITH A MISSION

Community Development Department – Planning Division

Meeting Date: May 24, 2022
Agenda Item: 2
Case Numbers: P22-005
Project Planner: Leslie Mendez, Planning Manager
Jeff Ballantine, Senior Planner

REPORT TO PLANNING COMMISSION

SUBJECT: Proposed Amendments to the San Rafael Municipal Code to Implement Two-Unit Developments and Urban Lots Splits consistent with Senate Bill (SB) 9, The California Home Act

EXECUTIVE SUMMARY

Senate Bill (SB) 9, which took effect on January 1, 2022, is part of the legislature’s multi-year efforts to address the state’s housing crisis by streamlining approval and encouraging production of certain residential developments. Staff has prepared a Draft Ordinance that incorporates the requirements of SB 9 for Two-Unit Developments and Urban Lot Splits and includes City specific standards where allowed. Because residential units created pursuant to SB 9 contribute to the housing stock and contribute towards the City’s regional housing obligation, the Ordinance is intended to facilitate this process and includes a provision to allow Accessory Dwelling Units (ADUs) under 500 square feet in size, which count toward meeting the City’s low-income obligation.

RECOMMENDATION

It is recommended that the Planning Commission accept public comment, discuss and provide feedback regarding proposed amendments to Title 14 and Title 15 of the San Rafael Municipal Code to add provisions to implement Senate Bill 9 and adopt a resolution recommending approval of the proposed ordinance and associated amendments.

BACKGROUND

On September 16, 2021, Governor Newsom signed [SB 9, the California Home Act](#), into law which requires municipalities to allow additional housing development in single-family zoned neighborhoods through subdivisions and additional primary residential units.

This bill, which took effect on January 1, 2022, consists of two primary components:

- 1) Two-Unit Developments (Government Code Section 65852.21). Provisions to allow development of up to two primary residential units on lots in single-family zoning districts; and
- 2) Urban Lot Splits (Government Code Section 6441.7). Provisions to allow the subdivision of lots in single-family zoning districts into two lots.

These two components can be combined such that an Urban Lot Split in conjunction with a Two-Unit Development on each of the resulting parcels would allow for a total of four primary residential units on what was previously a single-family residential parcel. Municipalities must process SB 9 applications ministerially, without discretionary review or a hearing.

SB 9 contains eligibility criteria addressing environmental site constraints (e.g., wetlands, wildfire risk, etc.), anti-displacement measures for renters and low-income households, and the protection of historic structures and districts (see detailed eligibility requirements below). SB 9 requires the City to approve a Two-Unit Development and Urban Lot Split only if the project conforms to all applicable objective requirements, except as otherwise provided in SB 9. A key exception is that a local agency must eliminate objective development standards on a project-by-project basis if they would prevent an otherwise eligible lot from being split or prevent the construction of up to two units of at least 800 square feet in size.

Eligibility Requirements for Two-Unit Developments

SB 9 requires that a Two-Unit Development be considered ministerially, if the proposed housing development meets all the following requirements:

1. The project site is in a single-family residential zoning district.
2. The proposed housing development would not require demolition or alteration of existing housing that:
 - a. Is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
 - b. Is subject to any form of rent or price control through a public entity's valid exercise of its police power.
 - c. Has been occupied by a tenant in the last three years.
3. The proposed housing development would not result in the demolition of more than 25 percent of the existing exterior structural walls unless site has not been occupied by a tenant in the last three years.
4. The development is not on a parcel on which the owner has withdrawn it from renting or leasing under Section 7060 of the Government Code (Ellis Act) within 15 years preceding the development application.
5. The project site is not a historic landmark or located within a state or local historic district.
6. The development is not located in specified designated areas, unless certain standards are met. Such designated areas include: high fire hazard severity zone, farmland, wetland, hazardous waste site (according to listing on the Cortese list), flood hazard area as determined by FEMA maps, lands within conservation plans, lands under conservation easement, or lands designated as habitat protection areas for species identified in the California Endangered Species Act (CESA) and the U.S. Endangered Species Act (ESA).

In addition, SB 9 requires that any residential unit created pursuant to the law must be rented for a term longer than 30 days (i.e. no short term rentals are permitted).

Eligibility Requirements for Urban Lot Splits

Similar to eligibility criteria established for Two-Unit Developments, SB 9 requires that the parcel map for an Urban Lot Splits be considered ministerially, if the proposed lot split complies with the following requirements:

1. The parcel being subdivided is located within a single-family residential zoning district and would not result in the demolition or alteration of the following types of housing units:
 - a. Housing unit that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

- b. Housing unit that is subject to any form of rent or price control through a public entity’s valid exercise of its police power.
 - c. Housing units that have been occupied by a tenant in the last three years.
 - d. Housing units that are located on a parcel on which the owner has withdrawn it from renting or leasing under Section 7060 of the Government Code within 15 years preceding the development application (i.e., an exit of the rental housing business pursuant to the Ellis Act).
2. The Site is not a historic landmark, or located within a historic district, either state or local.
 3. The development is not located in specified designated areas, including a high fire hazard severity zone, farmland, wetland, hazardous waste site (according to listing on the Cortese list), flood hazard area as determined by FEMA maps, lands within conservation plans, lands under conservation easement, or lands designated as habitat protection areas for species identified in the California Endangered Species Act (CESA) and the U.S. Endangered Species Act (ESA).
 4. The parcel has not been established through a prior exercise of an urban lot split authorized by SB 9, and neither the parcel owner nor any person acting in concert with the owner has previously exercised an urban lot split under SB 9 on an adjacent parcel.

In addition, SB 9 requires that the City require an applicant for an urban lot split to sign an affidavit stating that the applicant intends to occupy one of the housing units as their principal residence for a minimum of three years from the date of the approval of the urban lot split. However, no such affidavit is required of a community land trust or qualified nonprofit.

SB9 allows a city to deny a proposed Two-Unit Development or Urban Lot Split if the project would have a specific, adverse impact, as defined in Public Health and Safety Code Section 65589.5(d)(2), 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.

ANALYSIS

SB 9 requires that, except as specifically provided within the bill, local agencies may only apply existing objective development standards (i.e. objective zoning, design review, and subdivision standards) provided the standards do not physically preclude the construction of up to two units that are at least 800 square feet in floor area with four-foot side and rear yard setbacks, on each of the existing or newly created lots.

The City’s Municipal Code currently contains objective standards in Title 14 (Zoning) and Title 15 (Subdivisions) that are currently applied to residential projects and/or lot splits and can continue to be applied to these types of projects.

Two-Unit Housing Development Objective Development Standards:

A description of the development standards imposed by SB 9, the City’s existing objective standards, and development standards that are left to the City’s discretion are below followed by staff’s recommendation of the discretionary standards.

Objective Standards Imposed by SB 9

- | | |
|----------------------------|--|
| 1. Min. floor area: | 800 sq. ft. per dwelling |
| 2. Max. rear yard setback: | 4 ft. for dwelling units ≤ 800 sq. ft. |
| 3. Max. side yard setback: | 4 ft. for dwelling units ≤ 800 sq. ft. |

4. No setback may be imposed on an existing structure, or a structure constructed in the same location and to the same dimensions as an existing structure.
5. Max. off-street parking space: 1 per dwelling. No parking required if:
 - a. Parcel is located within one-half mile walking distance of either a high-quality transit corridor; or
 - b. There is a car share vehicle located within one block of the parcel.

Existing Objective Development Standards in the SRMC

The following existing objective development standards in San Rafael Municipal Code (SRMC) Section 14.04.030 would apply to SB 9 applications:

1. Min. front yard setback: 15 ft. to 20 ft., depending on zoning district
2. Max. height: 30 ft.
3. Max. lot coverage: 20% to 40%, depending on zoning district
4. Max. Upper Floor: 50% of max. lot coverage for lots less than 5,000 sq. ft.
5. Max. Upper Floor: 75% of max. lot coverage for lots 5,000 sq. ft. or larger

If a property is in an overlay district, then additional standards would apply. If located in the Eichler and Alliance Homes Overlay District (SRMC Ch. 14.14), then the maximum allowable height is 17 feet. If located in the Hillside Overlay District (SRMC Ch. 14.12), then there are additional restrictions on building height, lot coverage, natural state, gross building square footage, and street and driveway grades. The Wetland Overlay District (Chapter 14.12) and creek setback requirements (Section 14.16.080), also apply to properties that are in the Wetland Overlay District or nearby a creek.

Objective Standards Left to City’s Discretion

Municipalities have the discretion to adopt the following additional standards specifically for SB 9 applications:

1. Impose a maximum floor area of 800 sq. ft. or greater
2. Impose a maximum height for units greater than 800 sq. ft.
3. Impose minimum setbacks for units greater than 800 sq. ft. up to the district minimum
4. Impose no side or rear yard setbacks—other than to accommodate life and safety
5. Impose no required parking
6. Restrict the total number of units to four inclusive of ADUs for sites that utilize both the Urban Lot Split and Two-Unit Development provisions in SB 9
7. Allow ADUs in addition to the primary unit and/or allow and restrict the size of ADUs constructed on sites that utilize both the Urban Lot Split and Two-Unit Development provisions in SB 9

Staff Recommended Objective Standards for Two-Unit Housing Developments

SB 9 is an opportunity to accommodate significant growth and improved diversity in the City’s housing stock. Housing and homelessness is included as one of the four core focus areas adopted by the City Council in the City’s Goals & Objectives FY2021-2022. A key ingredient of this focus area is creating new housing and, particularly, creating new affordable housing. The provisions in SB 9 have the potential to accommodate a significant increase in residential units, as well as accommodate units that are affordable by design. Since SB 9 allows both the production of additional parcels through subdivision, and the development of up to four residential units per parcel on single-family zoned lots, many of these new in-fill units are expected to be smaller than the existing single-family houses, and thus more affordable by design.

To further promote and streamline the production of housing in compliance with the City’s housing goals and to address the region’s housing crisis, while simultaneously considering the impact parking could have on access and evacuation routes, staff has proposed the following objective development standards to

apply to SB 9 applications and has incorporated them in the draft ordinance found in Attachment A of Exhibit 1:

1. No maximum floor area requirement
2. Minimum 4 ft. side and rear setbacks
3. One off street parking space per unit, unless (as required by SB 9):
 - a. Parcel is located within ½ mile of a transit corridor or major transit stop
 - b. Car share vehicle located within one block of the parcel.
4. Allowing ADUs of under 500 square feet in size—which count towards the City’s low income housing obligation—on developments utilizing both the Urban Lot Split and Two Unit Development provisions in SB 9.

Urban Lot Split Subdivision Objective Standards:

A description of the development standards imposed by SB 9, the City’s existing objective standards, and development standards that are left to the City’s discretion are below followed by staff’s recommendation of the discretionary standards.

SB 9 Mandated Standards

SB 9 mandates that the following subdivision standards apply to Urban Lot Split applications:

1. The parcel subdivision would create no more than two new parcels of approximately equal lot area and the smaller parcel shall be not less than forty (40) percent of the lot area proposed for subdivision; and
2. Each parcel would have a minimum size of 1,200 square feet, unless authorized by ordinance.

The City cannot impose standards that would physically preclude 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. In addition, the City is prohibited from requiring dedications of rights-of-way or the construction of offsite improvements and shall not require the correction of nonconforming zoning conditions as part of any approval for these types of projects.

Objective Standards Left to City’s Discretion

Municipalities have the discretion to adopt the following additional objective standards specifically for SB 9 Urban Lot Split applications:

1. Adopt a minimum lot size smaller than 1,200 square feet per parcel
2. Require easements for the provision of public services and facilities
3. Require that each parcel shall have access to, provide access to, or adjoin the public right-of-way

Staff Recommended Objective Standards for Urban Lot Splits

To encourage resilient development of our neighborhoods, including creation of lots and housing units that have access to utility and effective emergency services, staff recommends and has included the following object standards in the draft ordinance:

1. Require easements for the provision of public services and facilities
2. Require that each parcel shall have access to, provide access to, or adjoin the public right-of-way

Elections to Objective Development standards:

SB 9 requires a local agency to eliminate objective development standards applicable to either an Urban Lot Split or a Two-Unit Development on a project-by-project basis if the standards would prevent an

otherwise eligible lot from being split or prevent the construction of up to two units of at least 800 square feet in size.

Staff Recommended Election Standards

To assist in the streamlined processing of such future applications that require exceptions to the objective standards and to provide transparency to both applicants and neighboring residents, staff recommends the City adopt a hierarchy of development standards. Staff has suggested, as incorporated in the draft ordinance, that standards be set aside in the following order until the site can contain two, 800-square-foot units:

1. Natural State (where applicable)
2. Lot Coverage
3. Front Setbacks
4. Second Floor Area limitations

ENVIRONMENTAL DETERMINATION

Pursuant to Government Code sections 65852.21(j) and 66411.7(n), the City may adopt an ordinance to implement the provisions of Government Code Sections 65852.21 and 66411.7, and such an ordinance shall not be considered a project under the California Environmental Quality Act (“CEQA”).

NEIGHBORHOOD MEETING / CORRESPONDENCE

Notice of hearing for the project was conducted in accordance with noticing requirements contained in Chapter 29 of the Zoning Ordinance. A Notice of Public Hearing was published in the Marin IJ on May 7, 2022 and mailed to all stakeholders, agencies and special interest groups on May 6, 2022. A subsequent email notification was sent to all stakeholders, agencies and special interest groups on May 11, 2022. Those noticed included, among others, all neighborhood associations, the Federation of San Rafael Neighborhoods, and housing advocacy groups. As of the writing of this staff report, no public comment has been received. Any communication received will be forwarded to the Planning Commission.

OPTIONS

The Planning Commission has the following options to consider on this matter:

1. Adopt the Resolution recommending City Council Adoption of the proposed ordinance.
2. Adopt the Resolution recommending City Council Adoption of the proposed ordinance with modifications.
3. Direct staff to return with more information.

EXHIBITS

1. Resolution recommending City Council adopt an Ordinance implementing the provisions of SB 9 Attachment A: Draft SB 9 Ordinance

RESOLUTION NO. 22-

**RESOLUTION OF THE CITY OF SAN RAFAEL PLANNING COMMISSION
RECOMMENDING TO THE CITY COUNCIL ADOPTION OF AN ORDINANCE OF THE
CITY OF SAN RAFAEL ADDING SECTION 14.16.282 (TWO-UNIT HOUSING
DEVELOPMENTS) TO CHAPTER 14.16 (SITE AND USE REGULATIONS) OF
DIVISION IV (REGULATIONS APPLYING IN ALL OR SEVERAL DISTRICTS) OF
TITLE 14 (ZONING) AND CHAPTER 15.155 (URBAN LOT SPLITS) TO TITLE 15
(SUBDIVISIONS) OF THE SAN RAFAEL MUNICIPAL CODE, TO IMPLEMENT
GOVERNMENT CODE SECTIONS 66411.7 AND 65852.21 (SENATE BILL 9)
RELATED TO TWO-UNIT HOUSING DEVELOPMENTS AND URBAN LOT SPLITS
(ZO22-003)**

WHEREAS, SB-9 the California Home Act (Chapter 162, Statutes of 2021) enacted Sections 66411.7 and 65852.21 to the Government Code, effective January 1, 2022; and

WHEREAS, these provisions require the City to provide ministerial approval of urban lot splits, (“Urban Lot Splits”) and the construction of up to two residential dwelling units (“Two-Unit Developments”) on each single-family residential zoned lot within the City, subject to certain limitations; and

WHEREAS, Government Code Section 66411.7(a) limits eligibility of Urban Lot Splits by size and proportionality; and

WHEREAS, Government Code Sections 66411.7(a)(3)(C) and 65852.21(a)(2) limit Urban Lot Splits and Two-Unit Developments, respectively, to sites that are not located on or within certain farmland, wetlands, very high fire hazard severity zones, hazardous waste sites, earthquake fault zones, special flood hazard areas, regulatory floodways, lands identified for conservation, habitats for protected species, and historic properties, unless projects on such sites meet specified conditions; and

WHEREAS, Government Code Sections 66411.7(a)(3)(D) and 65852.21(a)(3) through (a)(5) limit eligibility of an Urban Lot Split and a Two-Unit Development, respectively, that propose to demolish or alter housing subject to affordability restrictions, housing subject to rent or price controls, housing that has been occupied by a tenant in the last three years, housing that has been withdrawn from rent or lease within the past 15 years, and housing that requires demolition of existing structural walls unless authorized by local ordinance or has not been tenant-occupied within the past three years; and

WHEREAS, Government Code Sections 65852.21(a)(6) and 66411.7(a)(3)(E) allow a city to deny an Urban Lot Split for properties within a historic district or listed on the State’s Historic Resource Inventory or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance; and

WHEREAS, Government Code Sections 66411.7(c) and 65852.21(b) allow a city to establish objective zoning standards, objective subdivision standards, and objective design review standards for Urban Lot Splits and Two-Unit Developments, respectively, subject to limits within state law; and

EXHIBIT 1

WHEREAS, such objective zoning standards, objective subdivision standards, and objective design review standards may not have the effect of “precluding the construction of two units on either of the resulting parcels from an Urban Lot Split or that would result in a unit size of less than 800 square feet” for a Two-Unit Development; and

WHEREAS, Government Code Sections 66411.7 and 65852.21 allow a city to deny a proposed Two-Unit Development or Urban Lot Split, respectively, if the 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; and

WHEREAS, pursuant to Government Code Sections 65852.21(j) and 66411.7(n), the City may adopt an ordinance to implement the provisions of Government Code Sections 65852.21 and 66411.7, and such an ordinance shall not be considered a project under the California Environmental Quality Act (“CEQA”); and

WHEREAS, on May 24, 2022, the Planning Commission held a duly-noticed public hearing on the proposed amendments to the San Rafael Municipal Code, Title 14 and Title 15, accepting all public testimony and the written report of the Community Development Department, and recommended to the City Council the approval of the amendments; and

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission recommends to the City Council adoption of the amendments to the San Rafael Municipal Code as outlined in the Attachments A of this resolution, based on the following findings as required under Zoning Code Section 14.27.060:

1. The amendments to San Rafael Municipal Code Title 14 – Zoning Ordinance and Zoning Map are consistent with the policies and programs of the San Rafael General Plan 2020 in that as proposed the amendments would:
 - a. Align the city’s regulations to Government Code Sections 66411.7 and 65852.21;
 - b. Be consistent with General Plan Program LU-2.12B (Alternative Housing Types) which supports accommodating innovative housing types and amending the zoning code to support the conversion of existing underutilized buildings into housing units; and
 - c. Be consistent with Policy LU-3.3 (Housing Mix) which encourage a diverse mix of housing choices in terms of affordability, unit type, and size.
2. The public health, safety and general welfare are served by adoption of the proposed amendments to the SRMC, in that they would: (1) implement standards in line with state regulations related to Two-Unit Housing Developments and Urban Lot Splits; and (2) accommodate additional housing units within the City.

EXHIBIT 1

The foregoing Resolution was adopted at the regular City of San Rafael Planning Commission meeting held on the 24th day of May 2022.

Moved by Commissioner _____ and seconded by Commissioner

_____.

AYES:

NOES:

ABSENT:

SAN RAFAEL PLANNING COMMISSION

ATTEST: _____
Leslie Mendez, Secretary

BY: _____
Jon Previtali, Chair

ATTACHMENTS:

- A. Amendments to San Rafael Municipal Code Title 14 (Zoning) and Title 15 (Subdivisions)

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY OF SAN RAFAEL ADDING SECTION 14.16.282 (TWO-UNIT HOUSING DEVELOPMENTS) TO CHAPTER 14.16 (SITE AND USE REGULATIONS) OF DIVISION IV (REGULATIONS APPLYING IN ALL OR SEVERAL DISTRICTS) OF TITLE 14 (ZONING) AND CHAPTER 15.155 (URBAN LOT SPLITS) TO TITLE 15 (SUBDIVISIONS) OF THE SAN RAFAEL MUNICIPAL CODE, TO IMPLEMENT GOVERNMENT CODE SECTIONS 66411.7 AND 65852.21 (SENATE BILL 9) RELATED TO TWO-UNIT HOUSING DEVELOPMENTS AND URBAN LOT SPLITS

WHEREAS, SB-9 (Chapter 162, Statutes of 2021) enacted Sections 66411.7 and 65852.21 to the Government Code, effective January 1, 2022; and

WHEREAS, these provisions require the City to provide ministerial approval of urban lot splits, (“Urban Lot Splits”) and the construction of up to two residential dwelling units (“Two-Unit Developments”) on each single-family residential zoned lot within the City, subject to certain limitations; and

WHEREAS, Government Code Section 66411.7(a) limits eligibility of Urban Lot Splits by size and proportionality; and

WHEREAS, Government Code Sections 66411.7(a)(3)(C) and 65852.21(a)(2) limit Urban Lot Splits and Two-Unit Developments, respectively, to sites that are not located on or within certain farmland, wetlands, very high fire hazard severity zones, hazardous waste sites, earthquake fault zones, special flood hazard areas, regulatory floodways, lands identified for conservation, habitats for protected species, and historic properties, unless projects on such sites meet specified conditions; and

WHEREAS, Government Code Sections 66411.7(a)(3)(D) and 65852.21(a)(3) through (a)(5) limit eligibility of an Urban Lot Split and a Two-Unit Development, respectively, that proposes to demolish or alter housing subject to affordability restrictions, housing subject to rent or price controls, housing that has been occupied by a tenant in the last three years, housing that has been withdrawn from rent or lease within the past 15 years, and housing that requires demolition of existing structural walls unless authorized by local ordinance or has not been tenant-occupied within the past 3 years; and

WHEREAS, Government Code Sections 65852.21(a)(6) and 66411.7(a)(3)(E) allow a city to deny an Urban Lot Split for properties within a historic district or listed on the State’s Historic Resource Inventory or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance; and

WHEREAS, Government Code Sections 66411.7(c) and 65852.21(b) allow a city to establish objective zoning standards, objective subdivision standards, and objective design review standards for Urban Lot Splits and Two-Unit Developments, respectively, subject to limits within state law; and

WHEREAS, such objective zoning standards, objective subdivision standards, and objective design review standards may not have the effect of “precluding the construction of two units on either of the resulting parcels from an Urban Lot Split or that would result in a unit size of less than 800 square feet” for a Two-Unit Development; and

WHEREAS, Government Code Sections 66411.7 and 65852.21 allow a city to deny a proposed Two-Unit Development or Urban Lot Split, respectively, if the 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; and

WHEREAS, pursuant to Government Code Sections 65852.21(j) and 66411.7(n), the City may adopt an ordinance to implement the provisions of Government Code Sections 65852.21 and 66411.7, and such an ordinance shall not be considered a project under the California Environmental Quality Act (“CEQA”); and

WHEREAS, the City Council desires to implement objective standards and an application process for projects undertaken pursuant to Government Code Sections 65852.21 and 66411.7 by the adoption of such an ordinance;

BE IT ORDAINED by the City of San Rafael as follows:

Section 1. The above findings are adopted and incorporated herein.

Section 2. Section 14.16.282 (Two-Unit Housing Developments) is added to Chapter 14.16 (Site and Use Regulations) of Division IV (Regulations Applying in All or Several Districts) of Title 16 (Zoning) of the San Rafael Municipal Code as set forth below.

14.16.282 – Two-Unit Housing Developments.

- A. Purpose. The purpose of this section is to provide procedures and development standards for the establishment of Two-Unit Housing Developments pursuant to Government Code Section 65852.21. To accomplish this purpose, the regulations outlined herein are determined to be

necessary for the preservation of the public health, safety and general welfare, and for the promotion of orderly growth and development.

B. Filing, Processing and Action.

1. Ministerial Review. A Two-Unit Housing Development shall be ministerially approved, without discretionary review or hearing, if the proposed housing development meets all provisions of this chapter. Review shall be done through submittal of a building permit application.
2. The City shall act on an application for a Two-Unit Housing Development within 60 days of receipt of a complete application. If the applicant requests a delay in writing, the sixty-day time period shall be tolled for the period of the delay. The City has acted on the application if it:
 - a. Approves or denies the building permit for the Two-Unit Development; or
 - b. Informs the applicant in writing that changes to the proposed project are necessary to comply with this chapter or other applicable laws and regulations.
3. Adverse Impact Upon Health and Safety. A proposed Two-Unit Housing Development shall be denied if the Building Official makes a written finding, based upon a preponderance of the evidence, that the proposed Two-Unit Housing Development would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5 of the Government Code, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.
4. Limitations on Approval. A proposed Two-Unit Housing Development shall not be eligible for approval pursuant to this Chapter if any of the following circumstances apply:
 - a. The Two-Unit Housing Development would require demolition or alteration of "protected housing." Protected housing includes:
 - i. 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.
 - ii. Housing that is subject to rent control through valid local rent control provisions.
 - iii. Housing that has been occupied by a tenant in the last 3 years
 - b. The Two-Unit Housing Development would be located on a parcel on which the owner has withdrawn it from renting or leasing under

Section 7060 of the Government Code within 15 years preceding the development application (i.e. an exit of the rental housing business pursuant to the Ellis Act).

- c. The Two-Unit Housing Development would be located within a historic district, would be included on the State Historic Resources Inventory, or would be within a site that is legally designated or listed as a city or county landmark or historic property or district.
- d. The Two-Unit Housing Development would be located in any of the specified designated areas set forth in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4 of the California Government Code, unless requirements therein are met.

C. Development Standards. The following objective development standards shall apply to Two-Unit Housing Developments. In addition to these standards, all provisions of the California Building Code shall apply to Two-Unit Housing Developments.

1. General Standards.

- a. Two-Unit Housing Developments may either be detached or attached, as long as attached structures meet building code safety standards and are sufficient to allow separate conveyance.
- b. Two-Unit Housing Developments shall be permitted in all single-family residential zones including R2a, R1a, R20, R10, R7.5, and R5.
- c. Short Term Rentals Prohibited. The rental of any unit a Two-Unit Housing Development shall be for a term of longer than thirty (30) days.
- d. Utility Connections. Each primary unit in a Two-Unit Housing Development shall be served by separate water, sewer and electrical utility connections which connect each unit directly to the utility.
- e. Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) shall be permitted as set forth in Section 14.16.285 – Accessory Dwelling Units on parcels not created through an Urban Lot Split (Chapter 15.155).
- f. Accessory Dwelling Units (ADUs) shall be permitted as set below on parcels created through an Urban Lot Split (Chapter 15.155).
 - i. A Two-Unit Housing Development proposing one primary dwelling unit shall be permitted ADUs and JADUs as set forth in Section 14.16.285 – Accessory Dwelling Units.
 - ii. A Two-Unit Housing Development proposing a total of two primary dwelling units shall be permitted one ADU per dwelling unit with a maximum size of less than 500 square

- feet. All other provisions and development standards of Section 14.16.285. shall apply.
- iii. Any ADU 500 square feet or greater that was issued a building permit prior to the date of the first reading of this ordinance shall not otherwise preclude development pursuant to this Section.
 - iv. The rental of any ADU/JADU shall be for a term of longer than thirty (30) days.
2. Objective Development Standards. All applicable objective development standards set forth in Title 14 – Zoning of the San Rafael Municipal Code apply to a Two-Unit Housing Development. However, where the following standards conflict or are inconsistent with objective development standards in Title 14, the following standards shall prevail:
- a. Four-foot rear and side yard setbacks are required.
 - b. One off-street parking space is required per dwelling. No parking shall be required if:
 - i. The parcel is located within one-half mile walking distance of either a high-quality transit corridor as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop as defined in Section 21064.3 of the Public Resources Code; or
 - ii. There is a car share vehicle located within one block of the parcel.
3. Exceptions to Development Standards.
- a. Notwithstanding subsection 2 of this section, all development standards shall be subject to the following exceptions:
 - i. Any standards that would have the effect of physically precluding the construction of two units or that would physically preclude either of the two units from being at least 800 square feet, shall not be imposed.
 - ii. Election of development standards. If necessary, objective zoning, subdivision, or design standards will be set aside in the following order until the site can contain two, 800-square-foot units:
 - a) Natural State (where applicable)
 - b) Lot Coverage
 - c) Front Setbacks
 - d) Second Floor Area limitations
 - iii. No setback shall be imposed for a Two-Unit Housing Development constructed in the same location and to the same dimensions as an existing structure.

- b. Two-Unit Housing Developments are not eligible for any additional Exceptions, Variances, or other deviations from the objective development standards.

Section 3. Chapter 15.155 (Urban Lot Splits) is added to Title 15 (Subdivisions) of the San Rafael Municipal Code to read as follows:

**CHAPTER 15.155
URBAN LOT SPLITS**

15.155.010 Purpose and Intent

It is the purpose of this Chapter to provide procedures necessary for the implementation of Section 66411.7 of the Government Code pertaining to Urban Lot Splits. To accomplish this purpose, the regulations outlined herein are determined to be necessary for the preservation of the public health, safety and general welfare, and for the promotion of orderly growth and development.

15.155.020 Filing, Processing, and Action

- A. Ministerial Review. An Urban Lot Split shall be ministerially approved, without discretionary review or hearing, if the proposed subdivision meets all provisions of this chapter and conforms to all applicable objective requirements of the Subdivision Map Act (Division 2) commencing with Section 66410 of the Government Code.
- B. Parcel Map. Applicants for Urban Lot Splits shall submit a Parcel Map application.
- C. The City shall act on a Parcel Map application for an Urban Lot Split within 60 days of receipt of a complete application. If the applicant requests a delay in writing, the 60-day time period shall be tolled for the period of the delay. The City has acted on the application if it:
 - 1. Approves or denies a Parcel Map application for an Urban Lot Split; or
 - 2. Informs the applicant in writing that changes to the proposed project are necessary to comply with this Chapter or other applicable laws and regulations.
- D. Parcel maps for Urban Lot Splits shall not be conditioned on dedication of right of way or construction of offsite improvements.

- E. Adverse Impact Upon Health and Safety. A proposed Urban Lot Split shall be denied if the Building Official makes a written finding, based upon a preponderance of the evidence, that the proposed Urban Lot Split would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5 of the Government Code, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.
- F. Limitations on Approval. A proposed Urban Lot Split shall not be eligible for approval pursuant to this Chapter if any of the following circumstances apply:
1. The proposed Urban Lot Split would require demolition or alteration of “protected housing.” Protected housing includes:
 - a. Housing that is subject to a recorded covenant, ordinance or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
 - b. Housing that is subject to rent control through valid local rent control provisions.
 - c. A parcel on which the owner of residential real property has withdrawn accommodations from rent or lease pursuant to Section 7060 of the Government Code within 15 years preceding the development application (i.e. an exit of the rental housing business pursuant to the Ellis Act).
 - d. Housing that has been occupied by a tenant in the last three years.
 2. The parcel to be subdivided is located within a historic district, is included on the State Historic Resources Inventory, or is within a site that is legally designated or listed as a city or county landmark or historic property or district.
 3. The parcel to be subdivided is located in any of the specified designated areas set forth in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4 of the California Government Code and does not satisfy the eligibility requirements therein.
 4. The parcel to be subdivided has been established through prior exercise of an Urban Lot Split pursuant to this Chapter.
 5. Either the owner of the parcel to be subdivided or any person acting in concert with the owner has previously subdivided an adjacent parcel using an Urban Lot Split pursuant to this Chapter. “Acting in concert” means the owner, or a person acting as an agent or representative of the owner, knowingly participated with another person in joint activity or parallel action toward a common goal of subdividing the adjacent parcel.

15.155.030 Development Standards

The following objective development standards shall apply to Urban Lot Splits. In addition to these standards, all provisions of the California Building Code shall apply to Urban Lot Splits.

A. General Standards

1. Urban Lot Splits shall be permitted in all single-family residential zones including R2a, R1a, R20, R10, R7.5, and R5.
 2. Uses created through an Urban Lot Split shall be limited to residential uses.
 3. Short Term Rentals Prohibited. The rental of any unit created through an Urban Lot Split, either primary or accessory, shall be for a term of longer than thirty (30) days.
 4. Accessory Dwelling Units. Accessory dwelling units and junior accessory dwelling units shall be permitted as set forth in Section 14.16.282.C.1.f.
 5. Objective Development Standards. All applicable objective development standards set forth in Title 14 – Zoning and Title 15 – Subdivisions of the San Rafael Municipal Code apply to an Urban Lot Split in addition to, or except as qualified, below.
 6. Parcels created through Urban Lot Splits shall conform to the following:
 - a. One of the two parcels shall not be smaller than 40% of the lot area of the original parcel area of the subdivision;
 - b. Each of the two parcels shall have a minimum lot size of 1,200 square feet.
 - c. Each parcel shall have access to, provide access to, or adjoin the public right-of-way.
 - d. Each parcel shall possess easements and/or other necessary property rights required for the provision of public services and facilities.
- B. Exceptions to Development Standards.** Notwithstanding subsection B of this section, all development standards shall be subject to the following:
1. Any standards that would 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, shall not be imposed.

2. No setback shall be imposed for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.
3. Correction of any legal nonconforming zoning condition shall not be required as a condition of approval of an Urban Lot Split.
4. Urban Lot Splits are not eligible for any additional Exceptions, Variances, or other deviations from the objective development standards.

Section 4: Text amendments are proposed to the following sections of Title 14 – Zoning. New wording is shown in underline and deletions are shown in ~~strike through~~.

- Section 14.03.030 – Definitions. The following definition is added to this Section:
“Two-Unit Housing Development” means a development in compliance with the provisions of SB 9 HOME Act of (SRMC Section 14.16.282) that contains no more than two primary dwelling units and no more than one ADU of less than 500 square feet per primary dwelling unit.
- Table 14.04.020 in Section 14.04.020 – Land Use Regulations (R, DR, MR, HR, PD) is amended as follows:

Type of Land Use	R	DR	MR	HR	PD	Additional Use Regulations
Residential Uses						
Duplex residential	<u>P*</u>	P	P	P	C	<u>*Pursuant to regulations and restrictions outlined in Section 14.16.282</u>

- Table 14.04.030 - Property development standards (R) with footnotes is amended as follows:

	R2a	R1a	R20	R10	R7.5	R5	Additional Standards
Minimum lot area (sq. ft.)	2 acres	1 acre	20,000	10,000	7,500	5,000/6,000 (corner)	(J)
Minimum	150	150	100	75	60	50/60	(J)

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	R2a	R1a	R20	R10	R7.5	R5	Additional Standards
lot width (ft.)						(corner)	
Minimum yards							
Front (ft.)	20	20	20	20	15	15	(A), (B)
Side/street side (ft.)	15	15	12'6"	10	6	10% of lot width, min. 3', max. 5'	(C), (D), (I)
Rear (ft.)	25	25	10	10	10	10	
Maximum height of structure (ft.)	30	30	30	30	30	30	(E)
Maximum lot coverage	20%	25%	30%	40%	40%	40%	
Maximum upper story floor size	50%/75% of lot coverage calculation	50%/75% of lot coverage calculation	50%/75% of lot coverage calculation	50%/75% of lot coverage calculation	50%/75% of lot coverage calculation	50%/75% of lot coverage calculation	(E), (F), (G)
Private yard area	NR	NR	NR	NR	NR	NR	
Parking	*	*	*	*	*	*	* Based on use. See 14.18

	R2a	R1a	R20	R10	R7.5	R5	Additional Standards
							.040., (I)

(I) See Section 14.16.282.C. for property development standard applicable to Two-Unit Developments.

(J) Parcels created through Chapter 15.155 (Urban Lot Splits) are exempt from these standards.

- Section 14.12.030 – Property development standards (-H) is amended as follows: Development standards shall be those of the underlying zoning district with which a hillside development overlay district is combined, provided that the following shall be in addition and shall govern where conflicts arise, except for subsection G, Lot Standards, where the lot size standard of the underlying zoning district applies when more restrictive than the subdivision ordinance. Subsections B, F, G, and I shall not apply to Two-Unit Developments (regulated by section 14.15.282) or Urban Lot Splits (regulated by Chapter 15.155 – Urban Lot Splits).

- Section 14.12.040 – Exceptions to property development standards is amended as follows:

City Council Exception Required. Exceptions to the property development standards of this chapter may be approved by the city council, upon the recommendation of the design review board and the planning commission, when the applicant has demonstrated that alternative design concepts carry out the objectives of this chapter and are consistent with the general plan based on the following criteria:

- A. The project design alternative meets the stated objectives of the hillside design guidelines to preserve the inherent characteristics of hillside sites, display sensitivity to the natural hillside setting and compatibility with nearby hillside neighborhoods, and maintain a strong relationship to the natural setting; and
- B. Alternative design solutions which minimize grading, retain more of the project site in its natural state, minimize visual impacts, protect significant trees, or protect natural resources result in a demonstrably superior project with greater sensitivity to the natural setting and compatibility with and sensitivity to nearby structures.

This section shall not apply to Two-Unit Developments (regulated by section 14.15.282) or Urban Lot Splits (regulated by Chapter 15.155 – Urban Lot Splits).

- Table 14.16.285 in Section 14.15.285 – Accessory dwelling units (ADUs) is amended as follows:

	Attached ADU	Detached ADU	Internal Conversion ADU	JADU*	NOTES
Minimum Floor Area	150 square feet	150 square feet	150 square feet	150 square feet	
Maximum Floor Area ⁽¹⁾	1,000 sq. ft. or 50% of the floor area of an existing primary dwelling unit, whichever is less	1,000 square feet	N/A	500 square feet	(1) <u>Less than 500 sq. ft. on parcels that utilize both SRMC Section 14.16.282 and SRMC Chapter 15.155</u>

- Table 14.18.040 – Parking requirements is amended as follows:

Use Classification	Off-Street Parking Required	<u>Additional Standards</u>
Residential		
Single-family residential	2 covered spaces per unit.	<u>See Section 14.16.282.C.2. for parking requirements for Two-Unit Housing Developments</u>
Single-family residential, hillside	On streets less than 26 feet wide, a minimum of two additional on-site parking spaces shall be provided (not on the driveway apron) per unit. These spaces should be conveniently placed relative to the dwelling unit which they serve. This requirement may be waived or reduced by the hearing body when the size or shape of the lot or the need for excessive grading or tree removal make the requirement infeasible.	
Studios (multifamily unit)	1 covered space per unit.	
Studio (duplex unit), 500 sq. ft. or less in	1 space per unit	<u>See Section 14.16.282.C.2 for</u>

Use Classification	Off-Street Parking Required	<u>Additional Standards</u>
size		
Studio (duplex unit), Greater than 500 sq. ft.	1.5 spaces per unit (including 1 covered space).	<u>parking requirements for Two-Unit Housing Developments</u>
1 bedroom unit	1.5 spaces per unit (including 1 covered space).	
Two-bedroom units	2 spaces (1 covered)	
Three or more bedroom units	2 spaces per unit (including 1 covered space).	

- Section 15.07.020 – Lot design standards amended as follows:

15.07.020 – Lot design standards.

Subsections (a)-(d) shall not apply to Two-Unit Developments (regulated by section 14.15.282) or Urban Lot Splits (regulated by Chapter 15.155 – Urban Lot Splits).

- Section 15.07.030 – Street, driveway and parking standards is amended as follows:

15.07.030 – Street, driveway and parking standards.

Subsection (c) shall not apply to Two-Unit Developments (regulated by section 14.15.282) or Urban Lot Splits (regulated by Chapter 15.155 – Urban Lot Splits).

- Chapter 15.18 – Definitions. The following definition is added to this Chapter:

15.18.375 - Urban Lot Split.

The subdivision of a parcel within a residential single-family zone into no more than two parcels pursuant to the authority set forth in Section 66411.7 of the Government Code.

Section 5: Environmental Review.

The City Council finds and determines that enactment of this Ordinance is statutorily exempt from the provisions of the California Environmental Quality Act ("CEQA"), pursuant to Government Code Sections 65852.21(j) and 66411.7(n), as this action is to adopt an ordinance to implement the requirements of Sections 65852.21 and 66411.7 of the Government Code.

Section 5: Effective Date.

This Ordinance shall be in full force and effect thirty (30) days from its passage and adoption.

Section 6: Severability.

The City Council hereby declares every section, paragraph, sentence, cause, and phrase of this ordinance is severable. If any section, paragraph, sentence, clause, or phrase of this ordinance is for any reason found to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, clauses, or phrases.

Section 7: Certification.

The City Clerk shall cause this ordinance to be posted and/or published in the manner required by law.

This Ordinance was introduced at the meeting of the City Council on the ___ day of _____ 2022, and was adopted at a regular meeting of the City Council of the City of San Rafael on the ___ day of _____ 2022, by the following vote:

AYES:
NOES:
ABSENT:

Kate Colin, Mayor

Attest: _____
Lindsay Lara, City Clerk