



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: COMMUNITY DEVELOPMENT

Prepared by: Alicia Giudice, Community Development Director
Leslie Mendez, Planning Manager
Jeff Ballantine, Senior Planner

City Manager Approval: 

TOPIC: SB 9 HOUSING DEVELOPMENT AND URBAN LOT SPLIT REGULATIONS

SUBJECT: AN ORDINANCE AMENDING TITLE 14 (ZONING ORDINANCE) AND TITLE 15 (SUBDIVISIONS) OF THE SAN RAFAEL MUNICIPAL CODE RELATED TO REGULATIONS TO IMPLEMENT PROVISIONS OF SB 9

RECOMMENDATIONS:

Pass to print an Ordinance of the City of San Rafael Amending Title 14 (Zoning Ordinance) and Title 15 (Subdivisions) of the San Rafael Municipal Code Related to Regulations for Two-Unit Housing Developments and Urban Lot Splits.

BACKGROUND:

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

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

- 1) SB 9 Housing Development (Government Code Section 65852.21).¹ 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 66411.7). Provisions to allow the subdivision of lots in single-family zoning districts into two lots.

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. 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

¹ Staff previously referred to SB 9 Housing Development as Two-Unit Development. However, as these developments allow the construction of one or two units, to avoid confusion, staff has renamed these as "SB 9 Housing Developments."

FOR CITY CLERK ONLY

Council Meeting:

Disposition:

subdivision standards) to SB 9 projects, provided the standards do not physically preclude the division of an otherwise eligible lot into two parcels and 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.

SB 9 projects may only 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 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.

At the [December 20, 2021 City Council Meeting](#), the City Council adopted a [resolution](#) directing staff to prepare an interim guidance document establishing standards and review procedures for ministerial review of SB 9 residential developments and Urban Lot Splits to implement SB 9. In addition, the Council requested staff to prepare an ordinance to implement SB 9 for Council consideration.

At the [May 24, 2022 Planning Commission meeting](#), the Planning Commission considered the draft ordinance, received all public comment, and unanimously recommended City Council adopt the ordinance establishing regulations to implement the components of SB 9. One member of the public from Sustainable San Rafael expressed support for smaller, affordable by design units that this Ordinance would support and expressed concern about setting aside the Natural State standards (see follow up discussion in Analysis below).

Subsequent to the Planning Commission hearing, staff received verbal community comment on the draft ordinance which expressed concern as to: 1) the allowable height of structures within reduced setbacks; and 2) the ability to create more than four residential units on an existing single-family zoned parcel. The attached ordinance (Attachment 1) includes the regulations reviewed and recommended by the Planning Commission with modifications made by staff as more fully discussed below.

ANALYSIS:

Senate Bill 9 is the product of a multi-year effort by the California Legislature to develop solutions to address the state's housing crisis. The bill aims to streamline and encourage the production of infill housing by allowing ministerial (by-right) review of such development on single-family zoned parcels and requiring a local agency to impose only existing objective zoning standards, objective subdivision standards, and objective design standards. SB 9 would apply to approximately 10,000 parcels within the City. See Attachment 2 for a map of parcels zoned single-family, including single-family Planned Development (PD) within the City.

The City's Municipal Code contains objective standards in Title 14 (Zoning) and Title 15 (Subdivisions) that will apply to SB 9 Housing Developments and Urban Lot Splits, except where preempted by the standards imposed by SB 9.

The following is a discussion of the standards imposed by SB 9, those left to the City's discretion, and staff's recommendation on implementation of the discretionary standards.

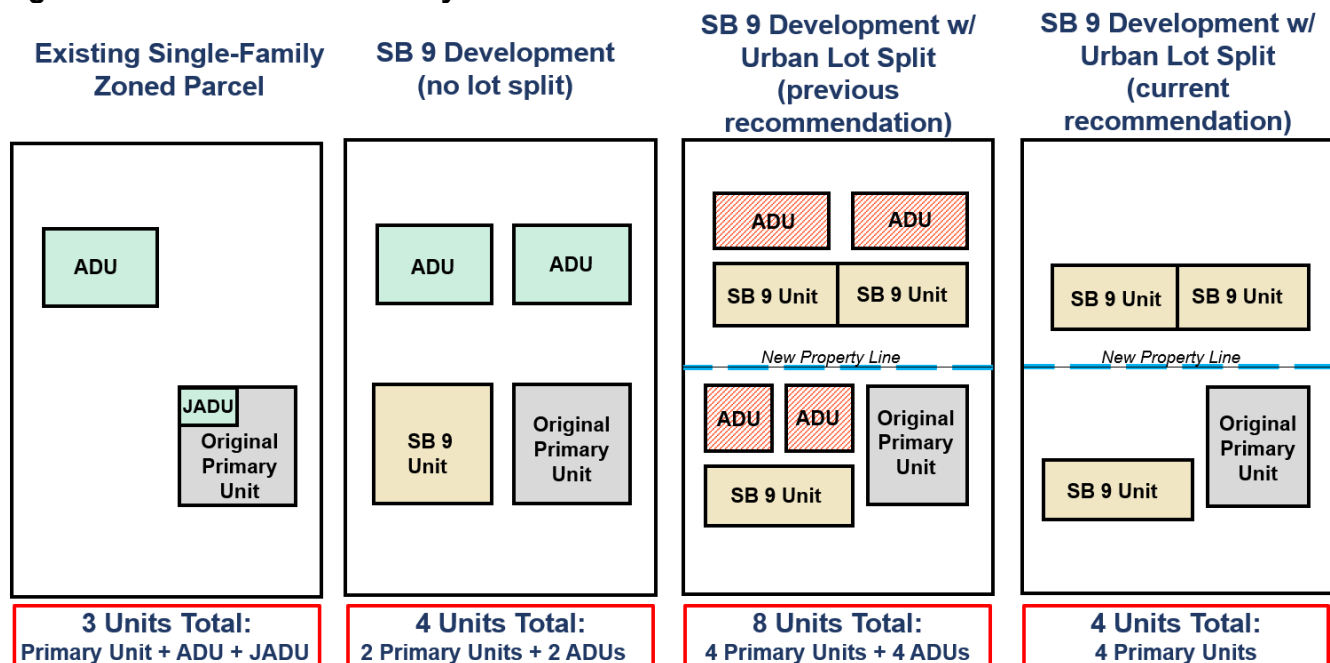
SB 9 Housing Development Standards:

- Density: SB 9 prohibits the imposition of any development standard that would preclude the construction of up to two primary residential units of 800 square feet in size. SB 9 Developments that do not include an Urban Lot Split may construct additional ADUs as per the City's adopted ADU

ordinance. SB 9 does allow the City to restrict the total number of units to four, inclusive of ADUs, for sites that utilize both the Urban Lot Split and SB 9 Development provisions in SB 9.

Analysis: Initially, staff recommended that ADUs be permitted in addition to two primary units on SB Developments that utilize the Urban Lot Split. This would have allowed a total of eight (8) residential units on a current single-family zoned parcel. Based on feedback received after the May 24th Planning Commission hearing, staff conducted further analysis on various potential scenarios. Based on this analysis, staff has revised the recommendation to limit the total unit count to two per parcel, or four total, for SB 9 developments that utilize the Urban Lot Split. See Figure 1 below for various SB 9 Development Scenarios. Staff believes that restricting the unit count to four provides the optimal balance of encouraging infill housing production while minimizing impacts to the surrounding community.

Figure 1: Maximum SB 9 Density Scenarios



- **Maximum Floor Area:** The City may choose to limit the size of SB 9 Units to 800 square feet or greater.

Analysis: Staff believes that existing development standards, particularly lot coverage restrictions and Natural State restrictions where applicable will adequately limit the overall size of SB 9 development consistent with other types of residential development

Setbacks: SB 9 imposes a maximum four-foot rear and side yard setback—cities may opt for less—but does not allow any setback to be imposed on an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.

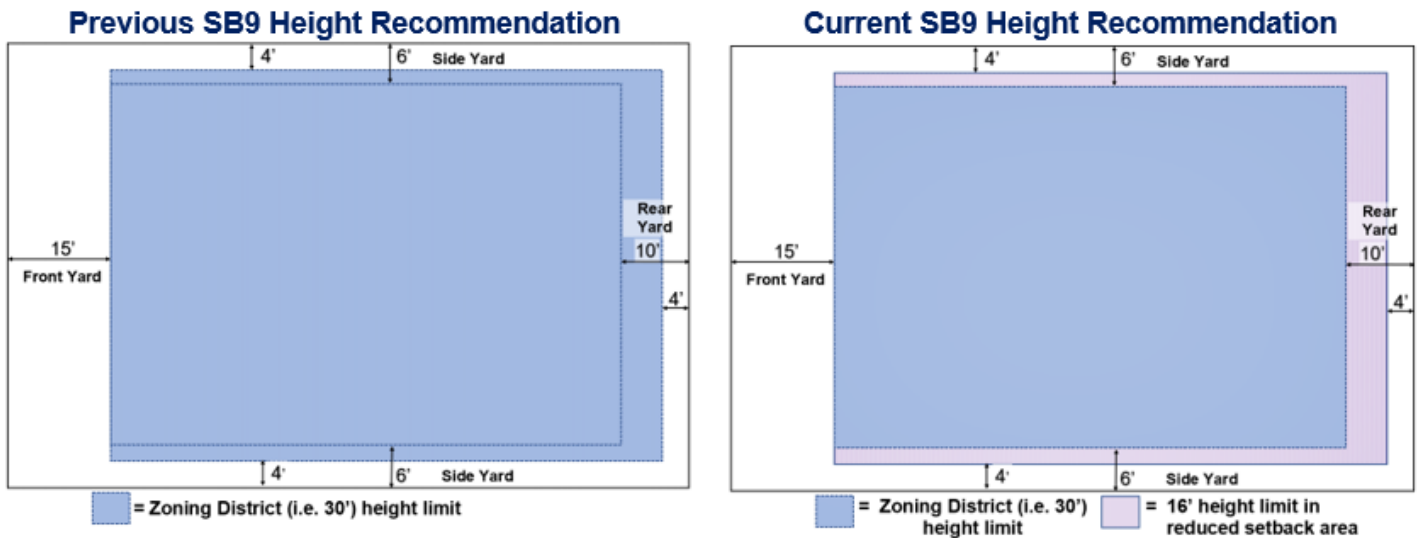
Analysis: Staff does not believe setbacks less than the 4-foot rear and side yard are warranted.

- **Height:** The City may choose to limit the height of SB 9 development.

Analysis: Initially, staff recommendation did not include a height limitation on SB 9 development beyond the underlying zoning district standard. After further reflection based on feedback after the May 24th Planning Commission hearing, staff is recommending the adoption of a 16-foot height limit

for any portion of an SB 9 Development that is located outside the underlying zoning District’s required side and rear setbacks. This option would allow the flexibility for development that falls within the underlying district’s setbacks to take advantage of the 30-foot height limit. Buildings or portions of buildings located outside the underlying district’s side and rear yard setbacks would be subject to a 16-foot height limit, commensurate with the allowable height of ADUs that also have a maximum four-foot rear and side yard setback.

Figure 2: Recommended Height SB 9 Developments (on sample R7.5 parcel)



Parking: SB 9 imposes a maximum of one parking space per dwelling unit—cities may opt for less—however, no parking is required if a parcel is located within one-half mile walking distance of a high-quality transit corridor or if there is a car share vehicle located within one block of the parcel.

Analysis: Staff does not believe the City should allow for fewer parking spaces.

See Attachment 3 for a table summarizing SB 9 Development Standards as recommended by staff.

Urban Lot Split Subdivision Standards:

SB 9 allows the subdivision of a single-family zoned parcel into two, known as an Urban Lot Split. Urban Lot Splits are subject to the objective standards found within San Rafael’s Municipal Code (SRMC) Title 15 – Subdivisions, except as provided for below:

- General Prohibitions: 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.

Analysis: None warranted.

- Minimum Lot Size: SB 9 mandates that the Urban Lot Split create no more than two new parcels of approximately equal lot area and the smaller parcel shall be no less than forty (40) percent of the lot

area proposed for subdivision and that each parcel have a minimum size of 1,200 square feet, unless authorized by ordinance.

Analysis: Staff does not believe a lot size of less than 1,200 square feet for the development is warranted.

- Public Service Easements and Access to the Public Right-of-Way: SB 9 allows the City to require parcels created through an Urban Lot Split to provide public service (e.g., water, sewage, electricity, etc.) easements and to require access to the public right-of-way.

Analysis: Staff believes requiring parcels to provide public service easements and to have access to the public right-of-way are imperative for public health and safety.

Elections to Objective Development standards:

SB 9 requires a local agency to eliminate objective development standards applicable to either an Urban Lot Spit or a SB 9 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. 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 to be set aside until the site can contain two, 800-square-foot units. The order commences with the most restrictive standards, with the reasoning that accommodation could be achieved upon the first waiver without the need to waive all established standards, which could be the case if the order were reversed. Therefore, the recommended election of standards is:

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

The attached proposed ordinance would establish local regulations to implement provisions of SB 9 and would add a new Section to Title 14 of the San Rafael Municipal Code (SRMC) Zoning Ordinance to address SB 9 Housing Developments, a new Chapter to Title 15 of the SRMC Subdivision Ordinance to address Urban Lot Splits, and relevant text amendments throughout Title 14 and Title 15 to reflect SB 9 requirements.

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”).

COMMUNITY OUTREACH:

On May 24, 2022, the Planning Commission of the City of San Rafael held a duly noticed public hearing at which the Planning Commission received all public comments and a report provided by the Community Development Department and approved a resolution recommending the City Council amend the Municipal Code regarding the regulation of accessory dwelling units.

On June 30, 2022, a public hearing was mailed to interested parties and was noticed in the Marin Independent Journal on July 2, 2022 for the City Council to receive public comments and consider an ordinance amending the San Rafael Municipal Code.

FISCAL IMPACT: There is no direct fiscal impact to the City in connection with the action requested in this report.

OPTIONS:

1. Pass the ordinance to print,
2. Do not approve the ordinance, and direct staff to return with additional information or changes to the ordinance.

RECOMMENDED ACTION:

Pass to print an Ordinance of the City of San Rafael Amending Title 14 (Zoning Ordinance) and Title 15 (Subdivision Ordinance) of the San Rafael Municipal Code related to regulations to Implement the SB 9 Housing Development and Urban Lot Split provisions of SB 9.

ATTACHMENTS:

1. Ordinance
2. San Rafael Map showing Single-Family Zones (including single-family PD zoning)
3. Table of SB 9 Housing Development Standards for 1 & 2 Primary Units as Recommended by Staff
4. Planning Commission Resolution (without attachment)
5. [Report to the Planning Commission, dated May 24, 2022](#)

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN RAFAEL ADDING SECTION 14.16.282 (SB 9 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 SB 9 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 (“SB 9 Housing 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 SB 9 Housing 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 an SB 9 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 SB 9 Housing 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 an SB 9 Development; and

WHEREAS, Government Code Sections 66411.7 and 65852.21 allow a city to deny a proposed SB 9 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 (SB 9 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 – SB 9 Housing Developments.

- A. Purpose. The purpose of this section is to provide procedures and development standards for the establishment of SB 9 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. An SB 9 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 an SB 9 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 SB 9 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 SB 9 Housing Development shall be denied if the Building Official makes a written finding, based upon a preponderance of the evidence, that the proposed SB 9 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 SB 9 Housing Development shall not be eligible for approval pursuant to this Chapter if any of the following circumstances apply:
 - a. The SB 9 Housing Development would require demolition or alteration of "protected housing." Protected housing includes:
 - 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.
 - Housing that is subject to rent control through valid local rent control provisions.
 - Housing that has been occupied by a tenant in the last 3 years.
 - b. The SB 9 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 SB 9 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 SB 9 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 SB 9 Housing Developments. In addition to these standards, all provisions of the California Building Code shall apply to SB 9 Housing Developments.

1. General Standards.

- a. SB 9 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. SB 9 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 in an SB 9 Housing Development shall be for a term of longer than thirty (30) days.
- d. Utility Connections. Each primary unit in an SB 9 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. On parcels created through an Urban Lot Split (Chapter 15.155) that also contain an SB 9 Housing Development, accessory dwelling units (ADUs) shall be permitted as set forth below:
 - i. An SB 9 Housing Development proposing one primary dwelling unit shall be permitted either one ADU or one JADU as set forth in Section 14.16.285 – Accessory Dwelling Units on the parcel. All other provisions and development standards of Section 14.16.285 shall apply.
 - ii. An SB 9 Housing Development proposing a total of two primary dwelling units (where either of the two primary

dwelling units are existing or proposed) shall not be permitted any ADU/JADU on the same parcel.

- iii. A single-family home with an ADU and JADU that was issued a building permit prior to July 18, 2022, shall not otherwise preclude an applicant from developing an additional primary dwelling unit pursuant to the provisions of this Section on a lot created through an Urban Lot Split (Chapter 15.155).
 - iv. The rental of any ADU/JADU shall be for a term of longer than thirty (30) days. This applies retroactively to any existing ADU/JADU on a parcel that subsequently utilizes the provisions of an SB 9 Development or an Urban Lot Split (Chapter 15.155).
2. Objective Development Standards. All applicable objective development standards set forth in Title 14 – Zoning of the San Rafael Municipal Code apply to an SB 9 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. Sixteen-foot height limit for portions of new development located outside the minimum rear and side yard setbacks of the parcel's zoning district. This height limit shall not be imposed for an SB 9 Housing Development constructed in the same location and to the same dimensions as an existing structure.
 - c. 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 designated area where a car share vehicle may be accessed 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 of 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 an SB 9 Housing Development constructed in the same location and to the same dimensions as an existing structure.
- b. SB 9 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. On parcels created through Urban Lot Splits pursuant to this chapter, accessory dwelling units and junior accessory dwelling units shall be permitted as follows:
 - a. An SB 9 Housing Development proposing one primary dwelling unit shall be permitted either one ADU or one JADU as set forth in Section 14.16.285 – Accessory Dwelling Units on the parcel. All other provisions and development standards of Section 14.16.285 shall apply.
 - b. Lots with two SB 9 Housing Developments (where either of the two primary dwelling units are existing or proposed) shall not be permitted any ADU/JADU on the same parcel.
 - c. A single-family home with an ADU and JADU that was issued a building permit prior to July 18, 2022, shall not otherwise preclude an applicant from developing an additional primary dwelling unit pursuant to the provisions of SRMC 14.16.282 on a lot created through an Urban Lot Split (Chapter 15.155).
 - d. The rental of any ADU/JADU shall be for a term of longer than thirty (30) days. This applies retroactively to any existing

ADU/JADU on a parcel that subsequently utilizes the provisions of an SB 9 Development or an Urban Lot Split (Chapter 15.155).

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 A 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: The following sections of Title 14 – Zoning of the San Rafael Municipal Code are amended to read as follows. New wording is shown in underline and deletions are shown in ~~strikethrough~~.

- Section 14.03.030 – Definitions. The following definition is added to this Section:

“SB 9 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.

- 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)	(I)
Minimum lot width (ft.)	150	150	100	75	60	50/60 (corner)	(I)
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), (H)
Rear (ft.)	25	25	10	10	10	10	(H)

	R2a	R1a	R20	R10	R7.5	R5	Additional Standards
Maximum height of structure (ft.)	30	30	30	30	30	30	(E), (H)
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 14.18.040., (H)

(H) See Section 14.16.282.C. for property development standard applicable to SB 9 Housing Developments.

(I) 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 SB 9 Housing 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 SB 9 Housing Developments (regulated by section 14.15.282) or Urban Lot Splits (regulated by Chapter 15.155 – Urban Lot Splits).

- Section 14.16.285. – Accessory Dwelling Units (ADUs) is amended to read as follows:

- B. Applicability. An ADU as defined in Chapter 14.03 is permitted in any zoning district that allows the development of single-family or multifamily dwelling residential uses. ADUs may be permitted on any lot with a legal nonconforming residential structure. See exceptions in Section 14.16.282.C.1.f for limitations on parcels created by an Urban Lot Split (Chapter 15.1555). The following are the four (4) types of accessory dwelling units permitted within the city:

- 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 SB 9 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	

Use Classification	Off-Street Parking Required	<u>Additional Standards</u>
	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 size	1 space per unit	
Studio (duplex unit), Greater than 500 sq. ft.	1.5 spaces per unit (including 1 covered space).	See Section <u>14.16.282.C.2</u> for parking requirements for <u>SB 9 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 - is amended to read as follows:

15.07.020 – Lot design standards.

Subsections (a)-(d) shall not apply to SB 9 Housing 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 SB 9 Housing 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.

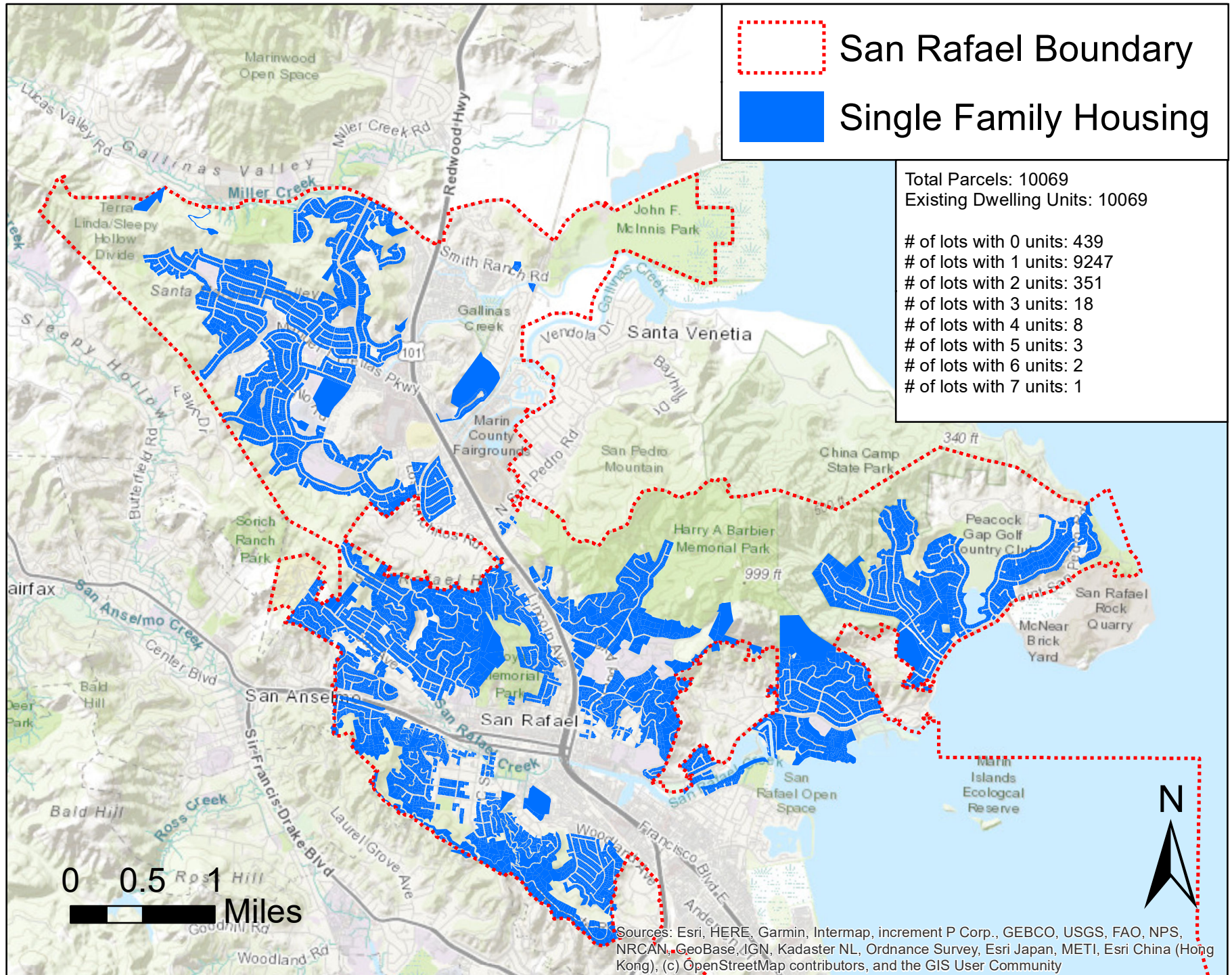
The City Clerk shall cause this ordinance to be posted and/or published in the manner required by law.

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



SB 9 Housing Development Standards for 1 & 2 Primary Units*

*No development standards can preclude the construction of up to two 800 square-foot units per parcel.

Underlined Standards are the discretionary standards as recommended by staff

SB 9 Primary Unit Construction (per parcel)	Without an Urban Lot Split		With an Urban Lot Split		EXPLANATION OF DISCRETIONARY STANDARDS
	1	2	1	2	
Minimum Lot size (sq.ft.)	n/a	n/a	<u>1,200</u>	<u>1,200</u>	<ul style="list-style-type: none"> City could allow less than 1,200 square foot lot
Maximum Floor Area (sq. ft.)	As restricted by District standard maximum lot coverage, and maximum upper story floor size (SRMC §14.04.030) Parcels in -H overlay are subject to additional stepback, natural state, and gross building square footage restrictions (SRMC §14.12.030)				
Total # of ADU/JADUs	Per ADU Ordinance SRMC 14.16.285			<u>0</u>	<ul style="list-style-type: none"> City could allow a combination of ADUs and primary units to exceed 2 units per parcel.
	1 JADU + 1 ADU	1 ADU per Primary Unit	<u>1 JADU or 1 ADU</u>		
Max. Residential Units (per parcel)	3	4	<u>2</u>	<u>2</u>	
Max. Residential Units on Initial Parcel	3	4	<u>4</u>	<u>4</u>	
Setbacks	Rear	<u>4</u>	<u>4</u>	<u>4</u>	
	Side	<u>4</u>	<u>4</u>	<u>4</u>	<u>4</u>
	Front	<u>Per SRMC §14.04.030</u>			
Height (ft.)	<u>16 max. for portions of structures located outside underlying district setbacks</u> otherwise, height per SRMC §14.04.030				<ul style="list-style-type: none"> City may restrict the height of SB 9 units.
Parking	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<ul style="list-style-type: none"> City may choose not to require parking for any SB 9 development.
	No parking if parcel located within ½ mi. of quality transit corridor or 1 block from car share vehicle				

RESOLUTION NO. 22-10

**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

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.

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

Commissioner Haveman moved, and Commissioner Samudzi seconded a motion to adopt the recommended action.

Attachment 5 – Report to the Planning Commission,
dated May 24, 2022

<https://storage.googleapis.com/proudcity/sanrafaelca/uploads/2022/05/2.-SB-9-Staff-Report-Final-w-Exhibits.pdf>