

ORDINANCE NO. 2243

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWTHORNE, CALIFORNIA, ESTABLISHING A NEW CHAPTER 16.64 (URBAN LOT SPLITS) OF TITLE 16; AND ESTABLISHING A NEW CHAPTER 17.102 (TWO-UNIT RESIDENTIAL DEVELOPMENT AND URBAN LOT SPLITS) OF TITLE 17

WHEREAS, on September 16, 2021, the State of California passed Senate Bill 9, the California Home Act, as part of a “Building Opportunities for All” housing package of legislation;

WHEREAS, Senate Bill 9 created a new streamlined process for homeowners to build a duplex on an existing single-family lot, or subdivide an existing single-family lot;

WHEREAS, a streamlined process for duplexes and urban lot splits in single-family zones provides for additional housing capacity, preventing tenants from being displaced, creating intergenerational wealth, and providing access to more rental and ownership options for working families;

WHEREAS, a new chapter will be established, Chapter 17.102 (Two-Unit Residential Development and Urban Lot Splits), to comply with the State requirements of Senate Bill 9;

WHEREAS, a new chapter will be established, Chapter 16.64 (Urban Lot Splits), to comply with the State requirements of Senate Bill 9;

WHEREAS, on September 6, 2023, the Planning Commission of the City of Hawthorne considered the zone text amendment and, after a duly noticed public hearing where all persons in support and in opposition were heard, adopted Resolution No. PC2023-20 recommending approval of the ordinance to the City Council; and

WHEREAS, on October 24, 2023, the City Council considered the Planning Commission’s recommendation and, after a duly noticed public hearing where all persons in support and in opposition were heard, introduced this ordinance; and

WHEREAS, the City Council of the City of Hawthorne wishes now to adopt Ordinance No. 2243 to establish State-compliant regulations for Two-Unit Residential Development and Urban Lot Splits.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HAWTHORNE DOES ORDAIN AS FOLLOWS:

SECTION 1. The foregoing recitals are true and correct.

SECTION 2. Chapter 16.64 shall be created and entered into the zoning code as the following:

Chapter 16.64: URBAN LOT SPLITS

16.64.010 Purpose

The purpose of this chapter is to appropriately regulate qualifying SB 9 urban lot splits within single-family residential zones in accordance with California Government Code Sections 65852.21 and 66411.7.

16.64.020 Definitions

“SB 9 two-unit residential development” means a housing development containing no more than two primary residential units within a single-family residential zone that qualifies for ministerial review pursuant to California Government Code Section 65852.21 and this chapter. A housing development contains two residential units if the development proposes no more than a total of two new units or if it proposes to add one new unit to one existing unit.

“Urban lot split” shall have the same meaning as stated in California Government Code Section 66411.7.

16.64.30 Requirements for Urban Lot Splits

A. An urban lot split must conform to all applicable objective requirements of the Subdivision Map Act, including implementing requirements in this code, except as otherwise provided in this chapter. Notwithstanding the foregoing, no dedication of rights-of-way or construction of offsite improvements is required solely for an urban lot split.

B. Lot Size. The parcel map for an urban lot split must subdivide an existing lot to create no more than two new lots of approximately equal lot area, provided that one lot shall not be smaller than 40 percent of the lot area of the original lot proposed for subdivision. Both newly created lots must each be no smaller than 1,200 square feet.

C. Easements.

1. The owner must enter into an easement agreement with each utility provider to establish easements that are sufficient for the provision of public services and facilities to each of the resulting lots.

2. Each easement must be shown on the tentative parcel map and the final parcel map.

3. Copies of the unrecorded easement agreements must be submitted with the application. The easement agreements must be recorded against the property before the final parcel map may be approved.

D. Lot Access and preservation of street parking.

1. Each resulting lot must provide access to the public right-of-way.

2. A flag lot or a rear lot without a property line adjacent to a public right-of way must use the same curb cut and driveway as the other lot involved in the urban lot split. The curb cut and driveway may be relocated if necessary, but under no circumstances may an urban lot split result in more than one curb cut.

3. A reciprocal access easement for an urban lot split may not exceed 10 feet in width.

E. Required Affidavit. The applicant for a parcel map for an urban lot split must sign an affidavit provided by the city stating that the applicant intends to occupy one of the dwelling units on one of the resulting lots as the applicant's principal residence for a minimum of three years after the final parcel map for the urban lot split is approved.

F. Prior to approval of a parcel map for an urban lot split and the issuance of a building permit for the development of an SB 9 two-unit residential development, the owner(s) of record of the property shall provide the Director a copy of a covenant agreement, declaration of restrictions, or similar deed restriction (deed restriction) recorded against the property, which is in a form acceptable to the Director, and that does each of the following:

1. Expressly requires the rental of any dwelling unit on the property be for a term longer than 30 consecutive days.

2. Expressly prohibits any non-residential use of the lot.

3. Expressly prohibits primary dwelling units located on the same lot from being owned or conveyed separately from one another.

4. Expressly requires all fee interest in each lot and all dwellings to be held equally and undivided by all individual owners of the lot.

5. Expressly prohibits condominium airspace divisions and common interest developments on the property.

6. States that the property was formed or developed pursuant to the provisions of this chapter and is therefore subject to the city regulations set forth in this chapter, including all applicable limits on dwelling size and development.

7. Expressly prohibits more than two dwelling units of any kind from being constructed or maintained on a lot that results from an urban lot split.

8. States (i) that the deed restriction is for the benefit of and is enforceable by the city, (ii) that the deed restriction shall run with the land and shall bind future owners, their heirs, and successors and assigns, (iii) that lack of compliance with the deed restriction shall be good cause for legal action against the owner(s) of the property; (iv) that, if the city is required to bring legal action to enforce the deed restriction, then the city shall be entitled to its attorneys' fees and court costs; and (v) that the deed restriction may not be modified or terminated without the prior written consent of the Director.

SECTION 3. Chapter 17.103 shall be created and entered into the zoning code as the following:

**Chapter 17.102 TWO-UNIT RESIDENTIAL DEVELOPMENT
AND URBAN LOT SPLITS**

17.102.010 Purpose.

A. **Purpose and Intent.** The purpose of this chapter is to appropriately regulate qualifying SB 9 two-unit residential developments and urban lot splits within single-family residential zones in accordance with California Government Code Sections 65852.21 and 66411.7.

B. **Applicability.** The standards and limitations set forth in this chapter shall apply to urban lot splits and the development and use of SB 9 two-unit residential developments within the single-family residential zone in the City, notwithstanding any other conflicting provisions of this code. In the event of a conflict between the provisions of this chapter and any other provision of this code, the provisions of this chapter shall prevail.

17.102.020 Definitions.

As used in this chapter, the following terms shall have the following meanings:

C. “ADU” and “JADU” shall have the meanings ascribed to these terms in chapter 17.21.020.

D. “Interior setback” shall mean the setback to a property line created by an urban lot split where one lot does not have street frontage.

E. “Single-family residential zone” shall have the same meaning as in California Government Code Section 65852.21. A single-family residential zone includes the R-1 (Low Density Residential Zoning District) and any property within a planned unit development district or a specific plan area where a single-family dwelling is a permitted use, but a duplex, triplex, or multiple-family dwelling is not a permitted or conditionally permitted use.

F. “SB 9 two-unit residential development” means a housing development containing no more than two primary residential units within a single-family residential zone that qualifies for ministerial review pursuant to California Government Code Section 65852.21 and this chapter. A housing development contains two residential units if the development proposes no more than a total of two new units or if it proposes to add one new unit to one existing unit.

G. “Urban lot split” shall have the same meaning as stated in California Government Code Section 66411.7.

17.102.030 Qualifying Requirements

A proposed urban lot split or SB 9 two-unit residential development shall meet all the following requirements to qualify for ministerial review pursuant to the provisions of this chapter. It shall be the responsibility of the applicant to demonstrate to the reasonable satisfaction of the Director that each of these requirements is satisfied. The applicant and each owner of the property shall provide a sworn statement, in a form approved by the Director, attesting to all facts necessary to establish that each requirement is met.

A. Location Requirements.

1. The subject property shall be located within a single-family residential zone. A lot located within a multiple-family or mixed-use zone shall not be eligible to be subdivided through an urban lot split or developed with an SB 9 two-unit residential development pursuant to this chapter.

2. The proposed development shall not be located on any site identified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of California Government Code Section 65913.4, unless the development satisfies the requirements specified therein. Such sites include, but are not limited to, prime farmland, wetlands, high or very high fire hazard severity zones, special flood hazard areas, regulatory floodways, and lands identified for conservation or habitat preservation as specifically defined in Government Code Section 65913.4.

3. The proposed development shall not be located within a historic district or on property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the California Public Resources Code, or within a site that is designated or listed as a city landmark or historic property pursuant to a city ordinance.

B. Demolition Restrictions.

1. The proposed development shall not require the demolition or alteration of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

2. The proposed development shall not require the demolition or alteration of housing that is subject to any form of rent or price control.

3. The proposed development shall not require the demolition or alteration of housing that has been occupied by a tenant within the last three years.

4. If any existing or previously demolished housing unit on the lot had been occupied by a tenant in the last three years, the proposed development

shall not involve the demolition of more than 25% of the existing exterior structural walls of any housing unit on the lot.

5. The subject property shall be owned solely by one or more individual property owners.

6. In the case of an urban lot split, the lot proposed to be subdivided shall not have been established through a prior urban lot split.

7. In the case of an urban lot split, the lot proposed to be subdivided is not adjacent to any lot that was established through an urban lot split by the owner of the subject lot or by any person acting in concert with the owner of the subject lot.

C. Number of Dwelling Units Permitted on a Lot.

1. Notwithstanding any other provisions of this code, state law requires the city to permit a lot located within a single-family residential zone to contain two primary dwelling units, provided both units are developed and maintained in compliance with the standards and requirements set forth in this chapter.

2. Provided the lot is not subdivided or created through an urban lot split, development of two primary dwelling units on a lot through an SB 9 two-unit residential development in conformance with this chapter does not preclude the development or maintenance of one or more ADUs or JADUs on the lot to the extent permitted by chapter 17.21.020 and state law.

3. No more than two dwelling units of any kind may be constructed or maintained on a lot that results from an urban lot split. For purposes of this subdivision, the two-unit limitation applies to any combination of primary dwelling units, ADUs, and JADUs.

D. Separate Conveyance and Allowed Uses

1. Separate conveyance of the two lots resulting from an urban lot split is permitted. If dwellings or other structures (such as garages) on different lots are adjacent or attached to each other, the urban lot split boundary may separate them for conveyance purposes if the structures meet building code safety standards and are sufficient to allow separate conveyance. If any attached structures span or will span the new lot line, or if the two lots share a driveway pursuant to this section, appropriate covenants, easements or similar documentation allocating legal and financial rights and responsibilities between the owners of the two lots (CC&Rs) for construction, reconstruction, use, maintenance, and improvement of the attached structures and any related shared drive aisles, parking areas, or other portions of the lot shall be recorded before the city will approve a final parcel map for the urban lot split. Notwithstanding the provision of such CC&Rs, however, where attached structures or related shared facilities span a lot line resulting from an urban lot

split, all owners of both lots shall be jointly and severally responsible for the use and maintenance of such structures or shared facilities in compliance with all provisions of this Code.

2. Condominium airspace divisions and common interest developments are not permitted on a lot created through an urban lot split or containing an SB 9 two-unit residential development.

E. Residential Use Only. No non-residential primary use is permitted on any lot created through an urban lot split or containing an SB 9 two-unit residential development. Home occupations are permitted pursuant to Chapter 17.72.

F. No Short-Term Rentals Permitted. The rental of any dwelling unit on a lot created through an urban lot split or containing an SB 9 two-unit residential development shall be for a term longer than 30 consecutive days.

17.102.040 Development Standards and Design Criteria

A. Qualifying SB 9 two-unit residential developments and any development on a lot created through an urban lot split shall be subject to the standards and criteria set forth in this section. In addition, except as modified or provided by this section or state law, an SB 9 two-unit residential development and any development on a lot created through an urban lot split shall conform to all objective development standards applicable to the lot as set forth in this title or in an applicable specific plan or planned unit development ordinance or resolution, along with all applicable objective standards and criteria contained in standard plans and specifications, policies, or standard conditions duly promulgated and adopted by the city, the Sanitary District, and the Los Angeles County Fire Authority.

B. Minimum Unit Size. Each new primary dwelling unit shall be at least 800 square feet.

C. Building Height and Stories. Each new primary dwelling unit shall be no more than two stories, constructed at ground level, and should not be more than 22 feet in height measured as the vertical distance from the average elevation of the existing grade around the building to the top plate of the uppermost unit.

D. Setbacks.

1. New Primary Dwelling Units. The following minimum setbacks from the property lines shall be observed for each new primary dwelling unit and any garages and accessory structures that are attached to a new primary dwelling unit. Detached garages and accessory structures shall comply with the setbacks contained in this section. The required setbacks shall be maintained open and unobstructed from the ground to the sky, except for the permitted intrusions.

- a. Front Setback: 15 feet
- b. Front Setback Flag Lot: 10 feet
- c. Interior Setback: 4 feet
- d. Side Setback: 4 feet
- e. Rear Setback: 4 feet

f. Exception. The following permitted intrusions may project into any required setback above a maximum of two feet: cornices, eaves, belt courses, sills, buttresses, planter boxes, masonry planters, guard railings, chimneys, and architectural projections with no floor area, including, but not limited to, windows and pilasters.

E. Building Separation. Except as otherwise allowed by state law, minimum building separation for a two-unit development shall comply with applicable fire safety code.

F. Maximum Front Setback Coverage. No more than 50% of the front setback area may contain hardscape, excluding the allowed standard driveway and parking spaces in the front yard.

G. Open Space. Each new primary dwelling unit shall provide, at a minimum, a continuous private outdoor recreation area of 500 square feet with minimum dimensions of 10 feet. The private recreation area may be located within the interior side, street side, or rear setback areas, but must be open and unobstructed from the ground to the sky in any setback area.

H. Landscaping. All new residential development shall comply with the landscaping requirements as applies to individual projects set forth in Chapter 17.89.030.

I. Screening. Each urban lot split development shall incorporate appropriate screening measures along lot lines to provide privacy pursuant to Chapter 17.99.120. Screening design shall comply with the following:

1. Solid walls and fencing such as brick and wood shall not be built higher than 6 feet from the measured grade.

a. Interior screening along the dividing lot line of an urban lot split may incorporate solid screening materials up to 6 feet.

b. In instances where new a new residential unit's window is within 10 feet of another unit, measured from wall plane to wall plane, a landscape screening shall obscure direct sight lines between dwelling units.

J. Windows. Window Treatment. Windows shall be recessed at least three inches from the plane of the surrounding exterior wall or shall have a trim or windowsill at least one-half inch in depth.

K. Off-Street Parking.

1. Required Parking. Off-street parking spaces for an existing primary dwelling shall continue to be provided in accordance with the standards for the underlying zone. One off-street parking space shall be provided for each new primary dwelling unit unless one of the following applies:

a. The lot is located within one-half mile walking distance of either (i) a high-quality transit corridor as defined in subdivision (b) of Section 21155 of the California Public Resources Code, or (ii) a major transit stop as defined in Section 21064.3 of the California Public Resources Code.

b. The lot is located within one block of a car-share vehicle location.

2. Required parking for new primary dwelling units may be provided as covered or uncovered parking on the lot, and may be provided as tandem parking. Uncovered parking spaces may be located within the side or rear setbacks, and in the front setback for driveways that provide access for one primary dwelling unit.

3. Vehicle parking areas shall be located, oriented, or screened to prevent visual intrusion of vehicle lights into interior ground-floor residential spaces. Where parking areas are located within 10 feet of a residential unit, they shall be located within a garage, carport, or screened by non-transparent fencing, wall, or landscaping a minimum of 4 feet in height.

L. Design Standards.

1. Building Materials. If there is an existing primary dwelling that was legally established on the lot prior to the filing of a complete application for a two-unit development or an urban lot split, any new additional primary dwelling unit shall complement the existing primary dwelling unit by using the same exterior materials (wall, roof, and trim). If two new primary dwelling units are developed on the lot, the dwellings shall use the same exterior materials (wall, roof, and trim).

2. Building Color. Primary dwelling units may vary in color from one another for elements such as wall, roof, and trim.

3. Roof Pitch. If there is an existing primary dwelling that was legally established on the lot prior to the filing of an application for a two-unit development or an urban lot split, any new additional primary dwelling unit shall use the same dominant roof pitch. If two new primary dwelling units are developed on the lot, the dwellings shall use the same dominant roof pitch. The dominant roof pitch is the angle or slope shared by the largest roof area.

4. Entry. Each new primary dwelling unit shall have a main entry that is clearly defined by a covered entry that is a minimum depth of three feet and a minimum width of 6 feet. The covered entry may be provided by a recessed entry or a projected sheltering element.

5. Lighting. All building-mounted exterior lighting shall have a maximum height of 15 feet, and be limited to downlights.

M. Mechanical Equipment, Metering Devices. All roof and ground mounted mechanical equipment and metering devices shall be screened from view from either on or off the property. All ground mounted equipment and above-ground utility meters, including, but not limited to, heating, cooling, or ventilating equipment, water meters, gas meters, and irrigation equipment, shall be shown on the site plan, and, to the extent possible, be placed outside of the required front setback area. If mechanical equipment or metering devices are to be located between a structure and the property line, an unobstructed path at least three feet wide shall be provided between the equipment and the property line.

N. Access and Circulation. Minimum Driveway Width. Driveways shall have a minimum width of 10 feet.

O. Refuse Storage Areas. All developments shall comply with trash, recycling and organics storage requirements set forth in Chapter 17.54.010.

P. Utilities.

1. Each primary dwelling unit on a lot must have its own direct utility connection to the utility service provider.

2. All necessary or required easements for the provision of electricity, gas, water, sewer, and other utility or public service to the lot and each primary dwelling unit must be obtained by the property owner/applicant. The city may condition approval of an application under this section upon the applicant providing evidence that such easements have been agreed to and/or recorded.

3. Submitted plans shall show the location and dimension of all proposed above-ground and underground utilities serving the lot and each dwelling unit, as well as the location and dimensions of all related easements.

Q. Drainage and Stormwater Management. Each lot shall drain to the street or to an approved storm drain facility. The design of parkway culverts and storm drain lateral pipe connections to city-maintained storm drains within the city right-of-way shall comply with applicable city standards. SB 9 two-unit residential developments and the development of lots created through an urban lot split are subject to city stormwater requirements.

R. Address Identification. Each residential unit shall have a separate address and shall be provided with approved address identification that is visible

from the street fronting the lot in accordance with Section R319 of the California Residential Code. Where the unit address on the building cannot be viewed from the street fronting the lot, a monument, pole, or other means consistent with city standards shall be used to identify the unit. Where required by the fire code official, address identification shall be provided in additional approved locations to facilitate emergency response.

S. Emergency Access. Development of a lot pursuant to this chapter must conform and comply with all applicable provisions of the fire code and applicable requirements promulgated by the Los Angeles County Fire Authority intended to ensure sufficient emergency access is provided or maintained. Prior to submitting a complete application for an SB 9 two-unit residential development or an urban lot split, the applicant shall obtain and provide city with written confirmation from the Los Angeles County Fire Department that the proposed development complies with all such requirements.

17.102.050 Permit Application and Review Procedures

A. Application. An applicant for an SB 9 two-unit residential development or an urban lot split shall submit an application on a form prepared by the city, along with all information and materials prescribed by such form. No application shall be accepted unless it is completed as prescribed and is accompanied by payment for all applicable fees.

B. Review. Consistent with state law, the Director will consider and approve or disapprove a complete application for an SB 9 two-unit residential development or an urban lot split ministerially, without discretionary review or public hearing.

C. Nonconforming Conditions. The correction of legal nonconforming zoning conditions is not a condition for ministerial approval of a parcel map for an urban lot split.

D. Effectiveness of Approval. The ministerial approval of an SB 9 two-unit residential development or a parcel map for an urban lot split does not take effect until the city has confirmed that all required documents have been recorded as required by Chapter 16.52, Lot Splits, unless expressly deemed unnecessary by California Government Code Section 65852.21, 66411.7, or 66452.6.

E. Specific, Adverse Impacts. Notwithstanding anything else in this section, the Director may deny an application for an SB 9 two-unit residential development or a parcel map for an urban lot split if the building official makes a written finding, based on a preponderance of the evidence, that the project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of California Government Code Section 65589.5, on either public health and safety or on the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.

SECTION 4. CEQA. There are no new significant environmental impacts or previously identified significant impacts made more severe by project modifications, new circumstances, or new information associated with the project. Therefore, the City determined that an Addendum to the Hawthorne General Plan Environmental Impact Report for Amendments to Municipal Code Chapter 17, Zoning is the appropriate California Environmental Quality Act (CEQA) document to address project modifications in accordance with CEQA Guidelines Section 15164. CEQA Guidelines Section 15164(c) provides that an addendum need not be circulated for public review.

SECTION 5. SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

SECTION 6. AUTHORIZATION TO PUBLISH SUMMARY OF ORDINANCE. Pursuant to Government Code Section 36933(c)(1), the City Attorney is authorized to prepare a summary of this ordinance. The City Clerk is also authorized to publish a summary of the text of this ordinance in the Hawthorne Press Tribune at least five days prior to the adoption of this ordinance. Within 15 days after adoption of the ordinance, the City Clerk is directed to publish a summary of this ordinance in the Hawthorne Press Tribune.

SECTION 7. EFFECTIVE DATE. This ordinance shall take effect 30 days after passage thereof.

PASSED, APPROVED AND ADOPTED this 14th day of November 2023.

ALEX VARGAS, Mayor
City of Hawthorne, California

ATTEST:

DAYNA WILLIAMS-HUNTER, City Clerk
City of Hawthorne, California

APPROVED AS TO FORM

ROBERT KIM,
City Attorney
City of Hawthorne, California