

ORDINANCE NO. 1225

AN ORDINANCE OF THE CITY OF HOLLISTER AMENDING THE ZONING ORDINANCE TO ADOPT CHAPTER 17.26, TWO-UNIT RESIDENTIAL DEVELOPMENTS AND URBAN LOT SPLITS (ZOA 2022-2)

WHEREAS, The Governor of California signed Senate Bill 9 “California H.O.M.E Act” into law which took effect on January 1, 2022 which added Government Code Sections 65852.21 and 66411.7; and

WHEREAS, Senate Bill 9 allows local agencies to impose objective zoning, subdivision, and design review standards on the construction of two residential dwellings and urban lot splits on a single-family property; and

WHEREAS, the Planning Commission held a duly noticed Planning Commission Study Session on August 4, 2022 to discuss the requirements of Senate Bill 9; and

WHEREAS, during the Study Session on August 4, 2022, the Planning Commission directed Staff to prepare a Zoning Ordinance Amendment related to Senate Bill 9; and

WHEREAS, on November 17, 2022, the Planning Commission held a duly noticed public hearing on the proposed amendments to the Zoning Ordinance during which all interested persons were heard and adopted Planning a resolution recommending City Council adoption of the proposed Zoning Ordinance Amendments; and

WHEREAS, a Staff Report was submitted to the City Council of the City of Hollister recommending approval of the proposed Zoning Ordinance Amendment; and

WHEREAS, the City Council held a public hearing on the proposed Zoning Ordinance Amendments on December 5, 2022, at which time all interested parties had the opportunity to be heard; and

WHEREAS, proper notice of said heading was given as required by law; and

WHEREAS, the City Council did hear and consider all said reports, recommendations and testimony herein and used its independent judgement to evaluate the proposed amendments; and

WHEREAS, The City Council of the City of Hollister hereby makes the following findings related to the Zoning Ordinance Amendments as required by Section 17.02.120.D of the Municipal Code:

1. The proposed amendment is consistent with the General Plan because: the proposed Chapter 17.26, Two-Unit Residential Developments and Urban Lot Splits will codify the requirements of Government Code Sections 65852.21 and

66411.7 into the Zoning Ordinance and pursuant to the Government Code this type of development is permitted on single family properties.

2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare because: the proposed Zoning Ordinance Amendment will provide clear language on the requirements for lot splits, list of development standards, submittal requirements, review procedures, and will include objective design standards.
3. The public necessity, general community welfare, and good zoning practice shall be served and furthered; and that the proposed amendments are in general conformance with the principles, policies and land use designations in the General Plan and any adopted area or specific plan because: by including a Chapter in the Zoning Ordinance related to the requirements of Senate Bill 9, the City will provide a clear, easy to use method for determining the requirements to gain approval of these developments within the City and by implementing a Chapter in the Zoning Ordinance the City can include objective design standards and other requirements to ensure compatibility with the character of the City.

WHEREAS, the City Council of the City of Hollister hereby makes the following findings regarding the California Environmental Quality Act:

1. The California Environmental Quality Act (CEQA) together with State Guidelines, require that certain projects be reviewed for environmental impacts. The City Council hereby finds that the California Environmental Quality Act does not apply to a SB 9 lot split and/or two-unit development because the project is a ministerial project and CEQA does not apply to ministerial projects (Pub. Resources Code, Section 21080(b)(1); CEQA Guidelines, Section 15268.) Additionally, the adoption of an Ordinance related to the implementation of SB 9 is exempt from CEQA because the Ordinance is not a project under CEQA (CEQA Guidelines, Section 15378).

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Hollister does hereby ordain as follows:

SECTION 1. The Hollister Municipal Code is hereby amended to include a new Chapter (entitled Two-Unit Residential Developments and Urban Lot Splits to Title 17 (Zoning) to read as follows:

Chapter 17.26 –Two-Unit Residential Developments and Urban Lot Splits

17.26.010 - Purpose

The purpose of this Chapter is to establish objective standards for qualified developments in order to implement the provisions Government Code Sections 65852.21 and 66411.7

otherwise known as The California Home Act (Senate Bill 9)

17.26.020 - Applicability

The standards and limitations set forth in this Chapter shall apply to qualified SB 9 urban lot splits and two-unit residential developments within a Single family residential zone. In the event of a conflict between the provisions of this Chapter and any other provision of the Hollister Municipal Code, the provisions of this Chapter shall prevail. This Chapter shall not apply in the following situations:

- A. The project is located on a lot(s) that are located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to an Ordinance by the City of Hollister or San Benito County.
- B. Projects located on any site described in Government Code sections 65913.4(a)(6)(B) through (K), as may be amended.
- C. Projects involving the demolition or alteration of any of the following:
 - 1. Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to affordable levels for persons and families of moderate, low, or very low income.
 - 2. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.
 - 3. Housing that has been occupied by a rental tenant at any time within the last three years.
- D. The project is located on lots which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 of the California Government Code to withdraw accommodations from rent or lease within the last 15 years.
- E. The subject property is owned by more than one individual property owner as defined by Section 17.26.030.C of this Chapter.
- F. 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.
- G. In the case of an urban lot split, the lot proposed to be subdivided ("subject lot") shall not be adjacent to a 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.

- H. The project shall not create any unpermitted construction or illegal nonconforming zoning conditions. However, the correction of preexisting nonconforming zoning conditions is not required as a condition for ministerial approval of a parcel map application for the creation of an urban lot split.

17.26.030 Definitions

For the purposes of this Chapter, the following definitions apply:

- A. *Accessory Dwelling Unit (ADU)* shall have the same meaning as defined under Section 65852.2(j) of the Government Code and shall mean an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling.
- B. *Existing primary dwelling unit* shall mean a dwelling unit that currently exists on the subject parcel and does not include any existing, permitted ADU or JADU on the parcel.
- C. *Individual property owner* means a natural person holding fee title individually or jointly in the person's own name or a beneficiary of a trust that holds fee title. Individual property owner does not include any corporation or corporate person of any kind (partnership, limited partnership, limited liability company, C corporation, S corporation, etc.), except for a community land trust (as defined by Revenue and Taxation Code section 402.1(a)(11)(C)(ii)) or a qualified nonprofit corporation (as described by Revenue and Taxation Code section 214.15).
- D. *Junior Accessory Dwelling Unit (JADU)* shall mean an independent accessory dwelling unit that is contained within the primary dwelling unit of a property.
- E. *New primary dwelling unit* shall mean either a new additional dwelling unit that is constructed pursuant to this Chapter, but does not include an ADU or a JADU.
- F. *Primary dwelling unit* shall mean a residential dwelling, other than an ADU or JADU, with provisions for living, sleeping, eating, a single kitchen for cooking, and sanitation facilities.
- G. *Two-unit residential development* shall mean a residential development that proposes no more than two primary dwelling units or proposes to add one New primary dwelling unit to an Existing primary dwelling unit, per parcel. For properties with an Existing primary dwelling unit and an existing ADU or JADU, the combination of these two dwelling units shall constitute the two units allowed per parcel.

- H. *Single family residential zone* shall have the same meaning as in California Government Code section 65852.21. A Single family residential zone includes the RE (Residential Estate), R1 (Low Density Residential), R1 L/PZ (Low Density Residential/Performance Overlay) Zoning Districts and any property within a planned unit development or a specific plan area where a detached single-family dwelling is permitted by right.
- I. *Sufficient for Separate Conveyance* shall mean a development created by this Chapter that is constructed in a manner adequate to allow for the transfer of title, ownership, rights, and interests in the property, from one entity to another.
- J. *Urban lot split* shall have the same meaning as in California Government Code section 66411.7 and shall refer to the subdivision of a parcel in a Single family residential zone into two parcels, and in accordance with all other requirements of Section 66411.7.

17.26.040 Number of Dwelling Units Permitted

- A. *Urban Lot Splits*. For parcels where an urban lot split is proposed, the following shall apply as specified in Government Code section 65852.21:
 - 1. **Developed Lots**. No more than two (2) dwelling units of any kind may be constructed on each of the resulting parcels. For lots with an existing ADU or JADU, the ADU or JADU shall count towards the total number of allowed dwelling units. For new construction, only a primary dwelling unit shall be constructed.
 - 2. **Vacant Lots**. A maximum of two primary dwelling units shall be allowed on each lot created by an urban lot split.
- B. *All Other Lots*. For parcels where an Urban Lot split is not proposed or has not been previously approved, the following shall apply as specified in Government Code Section 65852.21:
 - 1. **Developed Lot**. No more than two primary dwelling units may exist on the lot.
 - 2. **Vacant Lot**. A maximum of two primary dwelling units are allowed per lot.
 - 3. **Accessory Dwelling Units and Junior Accessory Dwelling Units**.
 - a. In addition to two detached primary dwelling units, the property may also have one Accessory Dwelling Unit and/or one Junior Accessory Dwelling unit which conforms to the requirements of the Municipal Code and Government Code Sections 65852.2 and 65852.22.

- b. For properties with two attached primary dwelling units, the following is permitted in accordance with the Municipal Code and Government Code Sections 65852.2 and 65852.22.
 - i. A minimum of one ADU located within the non-livable portions of the existing multi-family structure, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, and garages. The maximum number of accessory dwelling units shall not exceed 25% of the number of legally established dwelling units within the existing multifamily structure; or
 - ii. A maximum of two (2) accessory dwelling units that are detached from the multi-family structure.

17.26.050 Development Standards and Design Criteria

- A. *General.* All 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. If any objective standards within this Section will physically preclude the construction of up to two (2) 800 square foot-minimum units, the City shall provide relief, to the extent required by Government Code section 65852.21 (b)(2)(A), from the objective standards.
- B. *Minimum Unit Size.* Each New primary dwelling unit constructed as part of an urban lot split or as part of a two-unit residential development shall be at least 800 square feet in size.
- C. *Lot Coverage.* The lot coverage for each parcel shall be the same as for the Zoning District in which the parcel is located. Should the lot coverage prohibit the construction of a unit(s) as required by Government Code section 65852.21 (b)(2)(A), the lot coverage shall be increased accordance with section 17.26.050.A above.
- D. *Unit Height.* The primary dwelling unit shall have the same maximum height as the Zoning District in which the parcel is located.
- E. *Building Setbacks.*
 - 1. *Front Yard.* The minimum front yard setback shall conform to the requirements of the Zoning District which governs the property.
 - 2. *Interior Side Yard.* The minimum interior side yard setback shall be four feet.
 - 3. *Rear Yard.* The minimum rear yard setback shall be four feet.

4. *Street Side Yard.* The minimum street side yard setback shall be 10 feet.
 5. *Existing Structure.* The setback for an existing, legal nonconforming shall be allowed to continue on the site. Any addition to the existing structure shall be allowed to use the same setbacks that were approved for the existing structure
 6. *Planned Unit Development.* Where a Planned Unit Development allows a smaller setback for side, rear and/or street side yards than the setbacks under this Chapter, the New primary dwelling unit shall comply with those Planned Unit Development setbacks.
 7. *Two Story Structures.* For two story structures, the second story shall be set back five (5) feet from the main wall of the existing primary dwelling unit.
 8. All new structures shall be set back a minimum of five (5) feet from the eaves of an inhabited structure (measured from eave to eave) and a minimum of 3 feet to an uninhabitable structure.
 9. All building setbacks to a fence shall be in accordance with the Building Code.
- F. *Maximum Front Setback Coverage.* No more than 50% of the front setback area may contain hardscape, excluding the allowed driveway for garages pursuant to Chapter 17.18, Pedestrian, Bicycle, Parking and Loading Standards. Driveway width shall be a maximum of 20 feet in width for a double car garage and 30 feet for a three car garage.
- G. *Street Access.* Each parcel created through an urban lot split shall have driveway access or pedestrian access to the public right-of-way or private street. Design of all curb cuts and driveway location shall conform to the requirements of Section 17.18.120 of the Hollister Municipal Code for safety purposes, except that two curb cuts shall be permitted for two-unit residential developments created through this Chapter.
- H. *Design.* All new units shall have the same architectural style, detail, color and building materials as the Existing primary dwelling unit. Where two units are proposed on a parcel created through an urban lot split, the two new units on said parcel shall have the same architectural style, detail, color, and materials.
- I. *Mechanical Equipment.* All mechanical and utility equipment shall be screened from view from the street through a combination of wall or fencing and landscape plant materials sufficient to screen the height and width of the equipment.
- J. *Parking.* All new units shall have direct access to their required parking space via a walkway from the unit directly to the parking space. A minimum of one off-street

parking space (covered or uncovered) shall be provided per dwelling unit, unless the parcel is located within:

1. One-half mile walking distance of either a high-quality transit corridor, as defined in Public Resources Code Section 21155 or a major transit stop, as defined in the Public Resource Code section 21064.3; or
 2. One city block of a car share vehicle.
- K. *Residential Use Only.* With the exception of an approved Home Occupation, as defined in Hollister Municipal Code section 17.22.130, non-residential uses shall not be permitted on any lot created by an urban lot split or in a dwelling unit created by this Chapter. All uses shall conform to those uses established under Section 17.04.020 for the Zoning District in which the property is located.
- L. *Street Facing Elevation.* For new construction, street facing elevations which are greater than 100 feet in length, shall have a plane break along the facade composed of an offset of at least 5 feet in depth by 25 feet in length. The offset shall extend from grade to the highest story.
- M. *Short-Term Rentals are Prohibited.* The rental of any dwelling unit on a lot created through an urban lot split or any unit created pursuant to Government Code section 65852.21 shall be for a term longer than thirty (30) consecutive days.

17.26.60 Permit Application and Review Procedures

- A. *Application.* An applicant for a two-unit residential development or an urban lot split shall submit an application on a form provided by the City, along with all information and materials prescribed by such form. No application shall be accepted unless it is completed as prescribed, all required materials are submitted, and the application fee is paid.
- B. *Affidavit.* The applicant for an urban lot split shall sign and submit an affidavit, on a form prepared by the City, stating that the applicant intends to occupy one of the primary dwelling units as their principal residence for a minimum of three years from the date of the approval of the urban lot split.
- C. *Deed Restriction.* Prior to the issuance of a Building Permit, the Applicant shall record a restrictive covenant in the form prescribed by the City, which shall run with the land and provide for the following:
1. A prohibition on non-residential use of any units, with the exception of Home Occupations approved by the City;
 2. A prohibition against renting or leasing the units for a period of less than thirty (30) days;

3. A prohibition on the new construction of an ADU or JADU on any property created through an urban lot split and pursuant to Government Code section 65852.11 (existing and approved by the City ADU or JADU will be allowed to remain); and
 4. For any lots created through an urban lot split, a prohibition against further lot splits.
- D. *Ministerial Review.* Consistent with state law, the Director of Development Services will administratively consider and approve or disapprove a complete application for an Administrative Site and Architectural Review Permit for a two-unit residential development or an urban lot split created under this Chapter ministerially, without discretionary review or public hearing.
- E. *Specific, Adverse Impacts.* Notwithstanding anything else in this section, the Director of Development Services may deny an application for a residential development or a parcel map for an urban lot split if the Director of Development Services 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, upon 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 2. Severability. Should any provision, section, paragraph, sentence, or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, or word of this ordinance as hereby adopted shall remain in full force and effect.

SECTION 3. Effective Date. This ordinance shall take effect and be in force thirty (30) days from and after its final passage.

SECTION 4. Publication. Within fifteen (15) days after passage, the City Clerk shall cause this ordinance to be published on time in the *Free Lance*, a newspaper of general circulation.

INTRODUCED at a regular City Council meeting on the 5th day of December, 2022.

PASSED AND ADOPTED, by the City Council of the City of Hollister at a regular meeting held this 19th day of December 2022, by the following vote:

AYES: Council Members Perez, Resendiz, Burns, and Mayor Casey.

NOES: None.

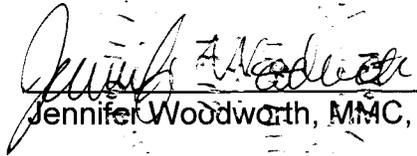
ABSENT: Council Member Morales.

ABSTAINED: None.



Mia Casey, Mayor

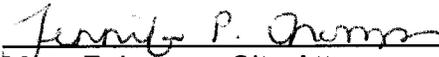
ATTEST:



Jennifer Woodworth, MMC, City Clerk

APPROVED AS TO FORM:

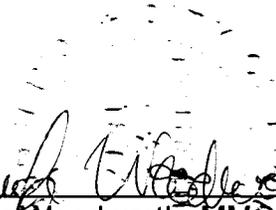
Lozano Smith Attorneys at Law

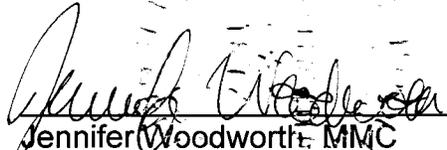


for Mary F. Lerner, City Attorney

I, JENNIFER WOODWORTH, MMC, City Clerk of the City of Hollister, do hereby certify that the attached Ordinance No. 1225 is an original Ordinance, or true and correct copy of a City Ordinance, duly adopted by the Council of the City of Hollister at a regular meeting of said Council held on the 19th day of December, 2022, at which meeting a quorum was present.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of the City of Hollister this 19th day of December, 2022.





Jennifer Woodworth, MMC
City Clerk of the City of Hollister