

**ORDINANCE NO. 2048**

**AN ORDINANCE OF THE CITY OF SANTA CLARA, CALIFORNIA, AMENDING TITLE 18 (“ZONING”) BY ADDING A NEW CHAPTER 18.13 (“TWO-UNIT DWELLING RESIDENTIAL DEVELOPMENT AND URBAN LOT SPLITS”) TO “THE CODE OF THE CITY OF SANTA CLARA, CALIFORNIA”**

**BE IT ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:**

**WHEREAS**, on September 16, 2021, Governor Newsom signed into law legislation known as Senate Bill 9, the “California H.O.M.E. Act” (SB 9), which added Sections 65852.21 and 66411.7 to the California Government Code;

**WHEREAS**, beginning January 1, 2022, SB 9 requires local agencies to ministerially approve the construction of two primary dwellings and lot splits, pursuant to a parcel map, on single-family residential zoned lots upon satisfaction of a number of qualifying criteria;

**WHEREAS**, SB 9 allows local agencies to impose objective zoning, subdivision, and design review standards on the construction of two residential dwellings on single-family lots, subject to certain limitations;

**WHEREAS**, this ordinance amends Title 18 to implement the provisions of SB 9 with specific objective zoning, subdivision, and design review standards; and

**WHEREAS**, pursuant to Government Code Sections 65852.21 (j) and 66411.7 (n), a local agency may adopt an ordinance to implement SB 9 and that ordinance shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

**NOW THEREFORE, BE IT FURTHER ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:**

**SECTION 1:** That a new Chapter 18.13 (entitled “Two Unit Dwelling Residential

Development and Urban Lot Splits”) is hereby added to Title 18 (entitled “Zoning”) of “The Code of the City of Santa Clara, California” (“SCCC”) to read as follows:

### **“Chapter 18.13**

#### **Two Unit Dwelling Residential Development and Urban Lot Splits**

**18.13.010 Purpose.** The purpose of this Chapter is to regulate two dwelling unit residential development and urban lot splits in compliance with California Government Code Sections 65852.21 and 66411.7 to allow two detached or attached housing units on one parcel, and ancillary uses and structures, and to allow urban lot splits. Proposed two dwelling unit housing developments and urban lot splits shall be considered ministerially, without discretionary review or a hearing, if the proposed housing development meets all of the requirements of this Chapter.

#### **18.13.020 Applicability.**

This Chapter shall apply to properties within the Single-Family Residential Zone (R1-6L) and Single-Family Residential, Larger Parcel Zone (R1-8L), with the following exceptions:

(a) The development site is within a state or local historic district or is included on the State Historical Resources Inventory or on the City’s Historic Resource Inventory.

(b) The property is located on a hazardous waste site, as defined by Government Code Section 65913.4(a)(6)(E).

(c) The property is within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood), as defined by Government Code Section 65913.4(a)(6)(G).

(d) The property is within a regulatory floodway, as defined by Government Code Section 65913.4(a)(6)(H).

(e) The development would demolish or alter any existing dwelling unit that is subject to affordability restrictions under a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(f) The development would demolish or alter any existing dwelling unit on the lot that has been occupied by a tenant in the last three years prior to the date of application.

#### **18.13.030 Construction of Multiple Units in Single Family Zones**

Notwithstanding Sections 18.10.030 and 18.12.030, up to two homes are permitted on a single parcel within the R1-6L and R1-8L zones, subject to the requirements of this Chapter. On a parcel that has not been divided pursuant to Section 18.13.050, accessory dwelling units meeting the requirements of Sections 18.10.030(d) or 18.12.030(d) are also permitted.

#### **18.13.040 Development Standards Applicable to All Lots With Two Units.**

(a) **Off-Street Parking Requirements.** For development that will result in two units on a lot, the minimum parking requirement shall be one space per unit, with the exception that no parking is required if 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 if the parcel is located within one block of a car share facility.

(b) **Off-Street Parking Design Standards.** If off-street parking is required, the parking shall meet the parking design standards in Chapter 18.74.

(c) **Solar Access.** After the installation of solar collector, a person owning or in control of another property shall not construct or alter a residence so as to cast a shadow greater than 10 percent of the collector absorption area upon that solar collector surface at any one time between the hours of 10 a.m. and 2 p.m., Pacific Standard Time.

#### **18.13.050 Development Standards within R-1 Building Envelope**

For development that will result in two units on a lot, if both units proposed will be located entirely within the allowed R-1 building envelope, the development standards of the R1-6L or R1-8L zone will apply to each house, except that the maximum number of houses shall be two per lot.

#### **18.13.060 Development Standards outside of R-1 Building Envelope**

For development that will result in two units on a lot, where any portion of a building or buildings is proposed to be located outside of the allowed R-1 building envelope, the following development standards apply.

Residential developments shall comply with the development standards in this Chapter and for the R1-8L and R1-6L Zones, as applicable, set forth in Chapters 18.10 and 18.12 (Single-Family, Larger Lot Area Zoning and Single-Family Zoning Districts) and additional parking regulations set forth in Chapter 18.74 (Parking Regulations), with the following exceptions:

(a) **Size.** Units may be as small as 220 square feet in floor area or as large as 1,000 square feet in floor area.

(b) **Maximum Height/Stories.**

(1) Rear 15 feet of a parcel: Buildings or structures shall not exceed one story in height or 16-feet.

(2) All other areas on the parcel: Buildings or structures shall not exceed one and one-half stories or 25 feet in height

(c) **Side and Rear Setbacks.** Minimum side and rear setbacks shall be the least of the following:

(1) As required by Chapters 18.10 (R1-8L) or 18.12 (R1-6L), as applicable;

(2) 4 feet;

(3) The setbacks of an existing structure for which there is no proposal to alter its dimensions, or a structure constructed in the same location and to the same dimensions as an existing structure.

(d) **Upper Story Windows.** Second story egress windows shall face the front property line or interior of the project. Otherwise second story windows must be either of the following:

(1) 5-foot minimum sill height above finished floor; or

(2) Clerestory; or

(3) Opaque/frosted glass.

(f) **Second Story Balconies and Roof Decks.** Balconies with a maximum depth of 4-feet allowed within the R1-6L and R1-8L setbacks. Roof decks are not allowed.

(g) **Front Door Placement/Orientation.** For units within 30-feet of a street, the main entrance door or entry porch must be oriented to the street and be located no more than 5-feet behind the front most wall of the unit.

(h) **Garage Location/Size.** For garages within 30-feet of a street, the maximum width for a garage with a garage door facing the street is 40 percent of the lot width.

(i) **Front Yard Landscaping.** A minimum of 50 percent of the front yard shall be maintained as un-paved landscaping, except as may be required to meet minimum off-street parking and access requirements of the Zoning Code.

(j) **Modification or Waiver of Standards.** An applicant for a residential development that will result in two homes on a lot may apply for a modification or waiver of specific development standards, if all of the following requirements are met:

(1) The applicant must demonstrate, to the satisfaction of the Zoning Administrator, that the strict application of development standards in this Chapter, or the standards for the R1-6L or R1-8L Zones (set forth in Chapters 18.12 and 18.10) would preclude the construction of a maximum of two units, where each unit is at least 800 square feet in floor area.

(2) The applicant shall have the burden of proof to establish that the modification or waiver is necessary and that there is no redesign possible that would still allow for the construction of two dwellings of at least 800 square feet without the modification or waiver.

(3) Notwithstanding the foregoing, a modification or waiver shall not be used to reduce the minimum setback size to less than four feet, unless the setback is on

an existing legal structure with setbacks of less than four feet, and the proposed development either (A) does not propose to modify the dimensions of that existing structure, or (B) will replace the structure with another structure with exactly the same dimensions.

**18.13.070 Urban Lot Splits.**

An application for a parcel map for an urban lot split within the R1-6L or R1-8L zones shall go through a streamlined review process pursuant to Section 17.05.430 if it meets all of the requirements of this Section.

(a) **Subdivision Requirements.** A parcel map for an urban lot split must meet all of the following requirements:

(1) The parcel map subdivides an existing parcel to create no more than two new parcels of approximately equal lot area provided that one parcel shall not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision.

(2) Both newly created parcels are no smaller than 1,200 square feet.

(3) Both newly created parcels have a minimum 24 feet of street frontage with a minimum average width of 24 feet. For flag lots, the flagpole portion, whether this is part of the flag lot or an easement to the flag lot, shall have a minimum width of 12 feet and a maximum width of 15 feet and the flag portion shall have a minimum depth of 40 feet.

(4) Both parcels resulting from the urban lot split have access to, provide access to, or adjoin the public right-of-way through right-of-way frontage or recorded access easements (as a Covenant of Easement on the parcel map).

(5) The approved parcel map shall include a notation that the parcels were created using the Urban Lot Split provisions of this Chapter and the resulting parcels cannot be further subdivided under this Section.

(6) The urban lot split conforms to all applicable objective requirements of the Subdivision Map Act (Division 2 (commencing with Section 66410)), except as otherwise expressly provided in this Section.

(7) The parcel being subdivided was not established through prior exercise of an urban lot split as provided for in this Chapter.

(8) Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel using an urban lot split as provided for in this Chapter.

(b) **Development Standards.** Development standards for each new parcel resulting from an urban lot split shall conform to Section 18.13.030. Development standards shall be applied to each new parcel individually. New flag lots shall provide a 15-foot minimum front setback (measured from the property line shared between the front lot and the flag lot).

(c) **Nonconforming Zoning Conditions.** Correction of legal nonconforming zoning conditions shall not be required as a condition for ministerial approval of a parcel map application for the creation of an urban lot split.

(d) **Residency Requirement.** An applicant for an urban lot split shall sign an affidavit stating that the applicant intends to occupy one of the housing units as their principal residence for a minimum of three years from the date of the approval of the

urban lot split. This requirement shall not apply to an applicant that is a “community land trust” as defined in Revenue and Taxation Code Section 402.1(a)(11)(C), or is a “qualified nonprofit corporation” as described in Revenue and Taxation Code Section 214.15.

(e) **Residential Use.** Except as authorized by Chapter 18.100, any parcel created through this Chapter may only be used for residential purposes and any unit created through this Chapter shall not be used as a short-term rental (rented for a period of 30 days or less).

#### **18.13.080 Accessory Dwelling Units.**

On a parcel that has not been divided pursuant to Section 18.13.050, an Accessory Dwelling Unit (ADU) and/or a Junior ADU (JADU) that conform with California Government Code Sections 65852.2 (ADUs) and 65852.22 (JADUs) are allowed in addition to the units allowed in this Section. Once a parcel has been divided pursuant to Section 18.13.050, however, the maximum number of dwellings on each resulting parcel, inclusive of any ADU or JADUs, is two.

**18.13.090 Definitions.** For purposes of this Chapter the following definitions shall apply:

(a) “Acted in concert” means that 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.

(b) “Car Share Facility” means one or more parking spaces that have been designated permanently for car share vehicles, where the vehicles are leased for short periods of time, often by the hour.

(c) "Demolish or alter" means removal of more than 25-percent of exterior walls on a building even if the rental unit itself is not altered.

(d) "Egress window" means a window with a minimum net clear opening dimensions of at least 20" in width and 24" in height.

(e) "Flag Lot" means a parcel with access provided to the bulk of the lot by means of a corridor between 12 and 15 feet in width, inclusive.

(f) "Half Story" means a habitable living space with a sloping roof, which may have dormer windows.

(g) "R-1 Building Envelope" means an area defined by the minimum setback and maximum lot coverage requirements of Chapters 18.10 or 18.12, whichever is applicable.

(h) "Solar collector" means a fixed device, structure, or part of a device or structure, on the roof of a building, comprising photovoltaic panels, that is used primarily to transform solar energy into electrical energy.

(i) "Urban Lot Split" means a subdivision of a residential lot located in either the R1-6L or R1-8L zone into two lots subject to the requirements of this Chapter."

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**SECTION 2: Savings clause.** The changes provided for in this ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any right established or accruing before the effective date of this ordinance; nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered prior to the effective date of this ordinance. All fee schedules shall remain in force until superseded by the fee schedules adopted by the City Council.

**SECTION 3: Effective date.** This ordinance shall take effect thirty (30) days after its final adoption; however, prior to its final adoption it shall be published in accordance with the requirements of Section 808 and 812 of "The Charter of the City of Santa Clara, California."  
PASSED FOR THE PURPOSE OF PUBLICATION this 5<sup>TH</sup> day of July, 2022, by the following vote:

AYES:	COUNCILORS:	Becker, Chahal, Hardy, Jain, Park, and Watanabe and Mayor Gillmor
NOES:	COUNCILORS:	None
ABSENT:	COUNCILORS:	None
ABSTAINED:	COUNCILORS:	None

ATTEST:



NORA PIMENTEL, MMC  
ASSISTANT CITY CLERK  
CITY OF SANTA CLARA

Attachments incorporated by reference: None