



CITY OF SAN JOSÉ, CALIFORNIA

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City Clerk

STATE OF CALIFORNIA)
COUNTY OF SANTA CLARA)
CITY OF SAN JOSE)

I, Toni J. Taber, CMC, City Clerk & Ex-Officio Clerk of the Council of and for the City of San Jose, in said County of Santa Clara, and State of California, do hereby certify that Urgency **Ordinance No. 30706** the original copy of which is attached hereto, was adopted on the **14th day of December, 2021**, by the following vote:

AYES: CARRASCO, COHEN, DAVIS, ESPARZA, FOLEY, JONES,
JIMENEZ, MAHAN, PERALEZ, LICCARDO.

NOES: NONE.

ABSENT: ARENAS.

ABSTAIN: NONE.

VACANT: NONE.

Said ordinance is effective as of **December 14, 2021**.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of San Jose, this **16th day of December, 2021**.

(SEAL)

TONI J. TABER, CMC
CITY CLERK & EX-OFFICIO
CLERK OF THE CITY COUNCIL

/RMK

ORDINANCE NO. 30706

**AN URGENCY ORDINANCE OF THE CITY OF SAN JOSE
ADDING A NEW PART 8 TO CHAPTER 20.30 OF TITLE 20
OF THE SAN JOSE MUNICIPAL CODE TO IMPLEMENT
SENATE BILL 9 TO ALLOW FOR ADDITIONAL DENSITY
IN SINGLE-FAMILY NEIGHBORHOODS AND SETTING
FORTH THE FACTS CONSTITUTING SUCH URGENCY**

WHEREAS, pursuant to Section 15168(c)(2) of the CEQA Guidelines, the City of San José has determined that this Ordinance is pursuant to, in furtherance of and within the scope of the previously approved program evaluated in the Final Program Environmental Impact Report for the Envision San José 2040 General Plan (the “FEIR”), for which findings were adopted by City Council through its Resolution No. 76041 on November 1, 2011, and Supplemental Environmental Impact Report (the “SEIR”), through Resolution No. 77617, adopted by City Council on December 15, 2015, and Addenda thereto, and does not involve new significant effects beyond those analyzed in the FEIR and SEIR; and

WHEREAS, the City Council of the City of San José is the decision-making body for this Ordinance; and

WHEREAS, this Council of the City of San José has considered and approves the information contained in the FEIR, as supplemented and addenda thereto, and related City Council Resolution Nos. 76041 and 77617 and the determination of consistency therewith prior to taking any approval actions on this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. Chapter 20.30 of Title 20 of the San José Municipal Code is hereby amended by adding a Part to be numbered and entitled and to read as follows:

Part 8
Senate Bill 9 Implementation

20.30.800 Purpose and Applicability

- A. This Part implements Government Code sections 68582.21 and 66411.7, herein referred to as Senate Bill 9. The purpose of this Part is to apply objective local development standards for projects covered by Senate Bill 9. This Part is applicable only so long as Senate Bill 9 is operative.

- B. Where this Part or Senate Bill 9 conflict with any other provisions of this Code, this Part and Senate Bill 9 shall control. Any development standard or requirement not specifically addressed by this Part or Senate Bill 9 must conform to all other provisions of this Code and all other objective policies and requirements governing subdivisions and/or construction of one-family or two-family dwellings.

20.30.810 Urban Lot Split Standards

- A. Lot design requirements:
 - 1. Lot frontage:
 - a. Where 55 feet of frontage on a public right-of-way is not proposed for both lots created by an Urban Lot Split , pursuant to Government Code Section 66411.7, each lot shall have a minimum

- of 30 feet of frontage on a public right-of-way and an average width of 30 feet, or
- b. Where 30 feet of frontage on a public right-of-way is not proposed for both lots created by an Urban Lot Split, one of the lots shall be provided with access by a corridor with at least 12 feet but no more than 15 feet of frontage on a public street.
 - i. Said access corridor shall maintain a width of at least 12 feet but no more than 15 feet for the entire length of the corridor.
 - ii. The length of said access corridor shall be at minimum the required front setback of the zoning district in which the lot is situated.
 - iii. The access corridor shall be kept free and clear of building or structures of any kind except for lawful fences and underground or overhead utilities.
 - c. Where one of the lots created by an Urban Lot Split does not propose frontage on a public right-of-way, direct access to the public right of way must be provided through an easement for ingress and egress and emergency access.
 - i. Said easement shall be a minimum 12 feet but no more than 15 feet in width for the entire length of the easement.
 - ii. The length of said easement shall be at minimum the length of the required front setback of the zoning district in which the lot is situated.

- iii. Said easement shall be recorded as a Covenant of Easement on the Parcel Map for the Urban Lot Split.
 2. Maximum lot depth, as required by Section 19.36.230 of this Code, shall be waived for lots created by an Urban Lot Split.
- B. Property line and setbacks:
 1. For lots accessed by a corridor of 12 feet to 15 feet in width:
 - a. Front property line is the property line that abuts the public street.
 - b. The front setback area is the is the entire length of the 12 foot to 15 foot wide access corridor.
 - c. The rear property line is any property line that is generally parallel to the public right of way from which the lot gains access, and that abuts properties that are not a part of the Urban Lot Split.
 - d. The remaining property lines shall be considered side property lines.
 2. For lots that do not abut a public street that are accessed by an easement:
 - a. There shall be no front property line.
 - b. The rear property line is any property line that is generally parallel to the public right of way from which the lot gains access, and that abuts properties that are not a part of the Urban Lot Split.
 - c. The remaining property lines shall be considered side property lines.

- C. All required utility connections shall be placed on the same parcel as the unit or units the utilities are serving, or shall be located within a utility easement.
- D. A minimum of one dwelling unit shall exist on a lot being subdivided at time of recordation of a Parcel Map for an Urban Lot Split.
- E. Lots created through an Urban Lot Split shall not contain more than two dwelling units, inclusive of Accessory Dwelling Units and Junior Accessory Dwelling Units. In no case shall the city permit more than two units per lot created by an Urban Lot Split.
- F. Lots that contain a two family dwelling created pursuant to Senate Bill 9 without an Urban Lot Split shall be limited to one attached accessory dwelling unit or two detached accessory dwelling units per lot.
- G. For purposes of Government Code 66411.7(a)(3)(G), “acting in concert with” means knowing participation in a joint activity or parallel action towards a common goal whether or not pursuant to an express agreement. Examples include, but are not limited to, an adjacent parcel previously subdivided by a person acting on behalf of, acting for the predominant benefit of, acting on the instruction of, or actively cooperating with, the owner of the parcel that is being subdivided.

20.30.820 Dwelling Unit Standards

- A. The cumulative Floor Area Ratio of units that are constructed pursuant to Senate Bill 9, excluding Accessory Dwelling Units and Junior Accessory Dwelling Units, shall be limited to .45 per lot or 800 sf per unit, whichever is greater.

1. For purposes of this Part, Floor Area Ratio and unit square footage shall be calculated per Section 20.100.1020 of this Code.

- B. Height and stories. Units created pursuant to Senate Bill 9 shall be limited to a maximum height of no greater than thirty feet and no more than two stories. A maximum height of no greater than twenty feet and one story shall be applied to units situated within twenty feet of the rearmost property line.

- C. Additional standards for dwelling units permitted under Senate Bill 9.
 1. Garage frontage limit. The cumulative linear feet of the vehicular doors to a garage or garages that are oriented to face the front property line or side corner property line shall be no wider than one half of the width of the dwelling structure to which the garage or garages are attached.

- D. Encroachments into setback areas are allowed per Chapter 20.30, however, in no case shall an encroachment be closer than three feet from a side property line. Eaves are the only encroachment allowed into a rear property line and must maintain a setback of three feet in any case.

20.30.830 Additional Requirements

- A. For projects covered by Senate Bill 9, the applicant shall submit a statement under penalty of perjury that within the last three years there has been no tenant in a dwelling unit that is proposed to be altered or demolished.

- B. Prior to approval of a Parcel Map for an Urban Lot Split or Ministerial Approval for a Senate Bill 9 project, the applicant shall record a deed restriction identifying that the units on the parcel or parcels may not be rented for a term of 30 days or less.

SECTION 2. The City Council hereby finds that there is a current and immediate threat to the public health, safety and/or welfare and a need for immediate preservation of the public peace, health, or safety that warrants this urgency measure. The facts constituting such urgency are as follows: the Governor of the State California signed into law Senate Bill 9 which becomes effective January 1, 2022; Senate Bill 9 requires ministerial approval of a housing development of no more than two units in a single-family zone, the subdivision of a parcel zoned for residential use into two parcels, or both; certain zoning and subdivision standards of the City of San Jose, and their permitting procedures are inconsistent with the proposed housing developments and urban lot splits authorized by Senate Bill 9; and the City Council finds it is necessary to adopt this Ordinance as such an urgency ordinance to immediately address changes to State law to codify objective design standards and implementation procedures, to address peace, health and safety issues related to the development of the additional residential units enabled under Senate Bill 9, and avoid any statutory conflicts.

SECTION 3. This Ordinance is declared by the City Council to be an urgency measure necessary for the immediate preservation of the public peace, health or safety. The facts constituting such urgency are all of those certain facts set forth in Section 2 of this Ordinance.

SECTION 4. This Ordinance shall become effective immediately upon its adoption pursuant to Section 605 of the Charter of the City of San Jose and shall remain effective until the effective date of any superseding ordinance.

PASSED FOR PUBLICATION of title this 14th day of December, 2021, by the following vote:

AYES: CARRASCO, COHEN, DAVIS, ESPARZA, FOLEY,
JONES, JIMENEZ, MAHAN, PERALEZ, LICCARDO.

NOES: NONE.

ABSENT: ARENAS.

DISQUALIFIED: NONE.



SAM LICCARDO
Mayor

ATTEST:



TONI J. TABER, CMC
City Clerk