



Agenda Item

Planning Commission

Item #: 4.1.

10/2/2023

File #: 23-0663

TO: Chair and Members of the Planning Commission

THRU: Anna Pehoushek, Assistant Community Development Director

FROM: Chad Ortlieb, Principal Planner

1. SUBJECT

Continued public hearing to consider an ordinance amending Titles 16 and 17 of the Orange Municipal Code to enact definitions and development standards applicable to lot splits and second dwelling units in single-family residential zones allowed as a result of Senate Bill 9, and a finding of CEQA exemption. (Continued from September 7, 2023)

2. SUMMARY

Senate Bill 9 (SB 9), effective January 1, 2022, regulates development of single-family zoned (R1) property by allowing both the splitting of single-family (R1) zoned property into two lots and constructing two single-family residences on each single-family zoned lot. The proposed permanent Ordinance implements development standards, to the extent allowed under SB 9, regulating lot splits and second unit development in R1 zones.

3. RECOMMENDED ACTION

Adopt Planning Commission Resolution No. 13-23 entitled:

A Resolution of the Planning Commission recommending that the City Council of the City of Orange adopt an ordinance amending Title 16 and Title 17 of the Orange Municipal Code enacting ministerial standards applicable to lot splits in single-family residential zones allowed as a result of SB 9, enacting ministerial standards applicable to the location, access size and setback of second dwelling units in single-family residential zones, and revising definitions to clarify said development standards.

4. PROJECT DESCRIPTION

Planning Commission consideration of this SB 9 ordinance was continued from the September 7, 2023, Planning Commission meeting. The information in the September 7, 2023, staff report remains the same with the exception of the changes noted in the attached memo (Attachment 1). The revised ordinance (Attachment 2) and a detailed record of changes (Attachment 3) are included.

5. ATTACHMENTS

- Attachment 1 - Planning Commission Memo

- Attachment 2 - SB 9 Ordinance
- Attachment 3 - Updated Attachment 3 - Zoning Code Text Amendment Revisions



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Memo

To: Planning Commission

Through: Anna Pehoushek, Assistant Community Development Director

From: Chad Ortlieb, Principal Planner

Date: September 28, 2023

Re: Continued Public Hearing from September 7, 2023 to consider an ordinance amending Titles 16 and 17 of the Orange Municipal Code to enact definitions and development standards applicable to lot splits and second dwelling units in single-family residential zones allowed as a result of Senate Bill 9.

The subject SB 9 ordinance was continued from the Planning Commission's September 7, 2023 meeting to their October 2, 2023 meeting to enable staff additional time to evaluate the City's needs within the ordinance. The staff report remains accurate but the following ordinance changes have been made:

- Recitals deemed unnecessary have been removed from the ordinance.
- Added language that SB 9 lot splits shall include a condition for parking pursuant to the SB 9 statute.
- Language has been clarified for exempting SB 9 units from Minor Site Plan Review when access easements are created to accommodate their construction.
- Added language that SB 9 units may not be conveyed separately, including via condominium maps.
- Added language that lots created pursuant to SB 9 may be conveyed separately and structures may be separated on resulting lots to accommodate the lot split.

Attachments include the revised ordinance and a list of changes to the Orange Municipal Code organized by text remaining unchanged, text that was changed for the City Council's approved interim ordinance, and text that has changed between now and the original September 7, 2023 Planning Commission staff report.

Attachments: SB 9 Ordinance
Updated Attachment 3 - Zoning Code Text Amendment Revisions

ORDINANCE NO. XX-23

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORANGE AMENDING TITLE 16 (SUBDIVISIONS) AND TITLE 17 (ZONING) OF THE ORANGE MUNICIPAL CODE BY ENACTING MINISTERIAL STANDARDS APPLICABLE TO LOT SPLITS IN SINGLE-FAMILY RESIDENTIAL ZONES ALLOWED AS A RESULT OF SB 9, ENACTING MINISTERIAL STANDARDS APPLICABLE TO THE LOCATION, ACCESS, SIZE AND SETBACK OF SECOND DWELLING UNITS IN SINGLE-FAMILY RESIDENTIAL ZONES ALLOWED AS A RESULT OF SB 9, AND ADDING AND REVISING DEFINITIONS TO CLARIFY SAID DEVELOPMENT STANDARDS.

WHEREAS, the Governor of the State of California signed into law legislation (“SB 9”), effective January 1, 2022, which requires the City to ministerially approve certain applications for a lot split on a single-family residentially-zoned property, which allows the creation of two half-sized lots where there was previously one lot; and

WHEREAS, SB 9 also requires the City to ministerially approve certain applications to build a second unit on a single-family residentially-zoned property, which allows two residential dwellings on a single-family (R-1) lot where there was previously only one dwelling permitted; and

WHEREAS, the single-family residential (R-1) zones in the City, which include neighborhoods with lots ranging from 6,000 to 20,000 square feet, one acre, and one-and-a-half acres and up, were thoughtfully planned based on the goals of the General Plan of the City, the quality of life in single-family residential neighborhoods, the public safety resources, the utility and transportation infrastructure, City recreational resources, including parks and libraries, school district considerations, and many other elements associated with sound and established planning practices; and

WHEREAS, the City’s Zoning Code and General Plan also designate numerous duplex and multi-family residential zones allowing higher density housing opportunities, that were also carefully planned to ensure a high quality of life in multi-family residential neighborhoods, access to public safety resources, an efficient utility and transportation infrastructure, and an appropriate level of City recreational, park and library resources; and

WHEREAS, SB 9 allows the City to impose certain objective requirements regulating said applications to split and/or to build additional residential units on a single-family residentially-zoned property; and

WHEREAS, on December 14, 2021, the City Council adopted interim Ordinance No. 18-21, imposing development standards on lot split and second dwelling unit development projects submitted pursuant to SB 9, which Ordinance was effective for forty-five days; and on January 11, 2022, the City Council extended interim Ordinance No. 18-21 for an additional ten months and fifteen days, until December 13, 2022; and

WHEREAS, on November 15, 2022, the City Council extended interim Ordinance No. 18-21 with the adoption of interim Ordinance 18-21-B, continuing the imposition of development standards on lot split and second dwelling unit development projects submitted pursuant to SB 9, for an additional year, until December 13, 2023; and

WHEREAS, pursuant to Government Code Section 65858(a), no further extension of the interim Ordinance imposing development standards on lot split and second dwelling unit development projects submitted pursuant to SB 9, is available; and

WHEREAS, during the effective period of interim Ordinance Nos. 18-21 and 18-21-B no applications were received for either lot splits or second dwelling units on single family lots pursuant to SB 9; and

WHEREAS, on _____, at a regularly scheduled public hearing noticed in accordance with Government Code Section 65090, the Planning Commission of the City of Orange recommended by a vote of X to X that the City Council of the City of Orange adopt Ordinance No. XX-23 imposing development standards on lot split and second dwelling unit development projects submitted pursuant to SB 9, is available; and

WHEREAS, notice of a City Council of the City of Orange public hearing on the subject matter was published in a newspaper of general circulation in accordance with Government Code Section 65090; and

WHEREAS, the City Council of the City of Orange public hearing was held on October 24, 2023, to consider Ordinance No. XX-23; and

WHEREAS, this Ordinance has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City’s environmental procedures, and has been found to be exempt, consistent with the findings in Section XIX of this interim Ordinance; and

WHEREAS, the City Council having considered the proposed revisions to the Orange Municipal Code (OMC) at a public hearing held on _____, including review of the staff report, and having received public testimony on the item, therefore determine that Ordinance No. XX-23 incorporates reasonable development standards for lot split and second dwelling unit development projects submitted pursuant to SB 9, and the Ordinance would promote orderly

development in the City necessary for the preservation of the public peace, health, safety and welfare of the community; and

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

SECTION I:

That the recitals and findings contained herein are true and correct, incorporated herein, and with the public record, form the basis for the extension of this interim Ordinance.

SECTION II:

Section 16.08.010.E of the Orange Municipal Code, “Subdivisions – Maps – General Provisions,” is hereby amended to read as follows:

E. The advisory agency with the power of final approval over the tentative parcel map, shall thereupon make a finding that the proposed division of land complies with all requirements of the Subdivision Map Act or this title, and all other resolutions and ordinances of this City, including, but not limited to, requirements concerning area, improvements and design, floodwater drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, public safety facilities and environmental protection. For parcel maps submitted pursuant to SB 9, the Community Development Director shall approve or deny the application for a parcel map for an urban lot split ministerially without discretionary review.

SECTION III:

The title of Section 16.12.030 of the Orange Municipal Code, “Subdivisions – Procedure – Tentative Parcel Map – Staff Review Committee Approval,” is hereby amended to read as follows:

16.12.030 Tentative Parcel Map — Approval or Denial.

SECTION IV:

Section 16.12.030 of the Orange Municipal Code, “Subdivisions – Procedure – Tentative Parcel Map –Approval or Denial,” is hereby amended to add the following:

E. The Community Development Director shall have authority to approve all parcel map applications for an urban lot split proposed in a single-family residential zone, pursuant to SB 9. Approval shall be a ministerial action without discretionary review.

1. For approval of a parcel map, the Community Development Director shall find the following:

a. The parcel map subdivides an existing parcel to create no more than two (2) 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.

b. Both newly created parcels are no smaller than 1,200 square feet.

c. The parcel being subdivided meets all the following requirements:

i. The parcel is located within a single-family residential zone.

ii. The parcel meets all requirements of Section 17.13.040.GGG.1.

iii. The parcel has not been established through prior exercise of an urban lot split as provided for in SB 9.

iv. 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 SB 9.

v. The parcel map conforms to all applicable objective requirements of the Subdivision Map Act (commencing with Section 66410), except as otherwise expressly provided in SB 9.

d. In furtherance of the intent of SB 9 to create dwelling units, plans for units on a lot undergoing a parcel map application shall have received approval through the building permit plan check process and be ready for building permit issuance concurrently with final parcel map approval.

2. The Community Development Director shall place the following conditions on approval of the parcel map, as appropriate:

a. A requirement for easements for the provision of public safety services and facilities.

b. A requirement that the parcels have access to, provide access to, or adjoin the public right-of-way.

c. A requirement for off-street parking pursuant to the single-family residence parking requirement specified in Table 17.34.060.A, except as otherwise expressly provided under SB 9.

d. A requirement that the uses allowed on the lots be limited to residential uses.

3. The City shall not require dedications of rights-of-way or the construction of offsite improvements for the parcels being created as a condition of issuing a parcel map.

4. The authority for denial of a parcel map submitted pursuant to SB 9 is the building official. For denial of a parcel map the building official shall make a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in Government Code Section 65589.5(d)(2), upon public health and safety or the physical environment, for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

SECTION V:

Section 16.16.020 of the Orange Municipal Code, “Subdivisions – Requirements-Dedications-Fees – Street, Alley and Easement Dedications,” is hereby amended to add the following:

E. The City shall not require dedications of rights-of-way or the construction of offsite improvements for parcels created pursuant to SB 9. Easements for public safety services and facilities for such parcels may be required by the Community Development Director.

SECTION VI:

Section 16.16.170 of the Orange Municipal Code, “Subdivisions – Requirements-Dedications-Fees – Soils Report Required,” is hereby amended to add the following:

D. For parcel maps submitted pursuant to SB 9, with residential units connected to an onsite wastewater treatment system, the applicant may submit a percolation test completed within the last five (5) years, or, if the percolation test has been recertified, within the last ten (10) years.

SECTION VII:

Section 17.04.021 of the Orange Municipal Code, “Zoning – Definitions – “B” Definitions,” is hereby amended to read as follows:

“Bedroom” - Any habitable room in a dwelling unit other than a bathroom, kitchen, dining room or living room with the following features: an interior door that can be closed or an opening into the room in which an interior door or double door can be easily installed; a window; and a closet or room for a wardrobe in addition to a bed. For planning development standards purposes, not to be confused with any building code standards, a room may be deemed not a bedroom if a floor to ceiling horizontal distance of at least 7 feet remains open and without any type of door and no closet exists.

SECTION VIII:

Section 17.04.023 of the Orange Municipal Code, “Zoning – Definitions – “D” Definitions,” is hereby amended to read as follows:

“Duplex or duplex residential” - An attached or detached building containing two dwelling units wherein the occupants of each individual dwelling unit are living and functioning together as a single housekeeping unit, meaning that they have established ties and familiarity with each other, jointly use common areas, interact with each other, share meals, household activities, expenses and responsibilities, membership in the single housekeeping unit is fairly stable as opposed to transient, and members have some control over who becomes a member of the single housekeeping unit. A property designated Duplex Residential is neither a single-family nor a multi-family property.

SECTION IX:

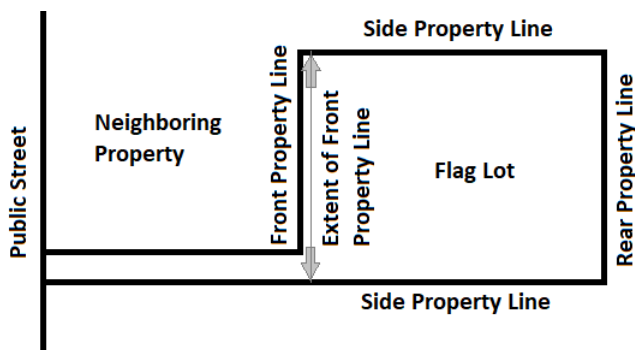
Section 17.04.025 of the Orange Municipal Code, “Zoning – Definitions – “F” Definitions,” is hereby amended to read as follows:

“Floor area ratio” (F.A.R. or FAR) - The building square footage divided by lot area. Building square footage shall include all structures on a lot, including garages and accessory structures, unless otherwise provided in this Code. Parking structures and patio covers open on at least two sides shall not be included in the calculation of F.A.R. F.A.R. shall not include ADUs but ADUs shall count against future primary building additions and future accessory structures.

SECTION X:

Section 17.04.031 of the Orange Municipal Code, “Zoning – Definitions – “L” Definitions,” is hereby amended to read as follows:

LOT LINE, FRONT - In the case of an interior lot, the line dividing the lot from the street. In the case of a corner lot or through lot, the shorter lot line abutting a street shall be deemed the front lot line and the longer lot line abutting a street shall be deemed an exterior side, unless determined otherwise by the Zoning Administrator. In the case of a through lot or a corner lot whose exterior lot lines are the same length, the lot line where the principal access to the lot is provided shall be deemed to be the front lot line. In the case of an interior lot, when the lot line abutting a street is curved, the front lot line follows the curve; for corner lots, separation of lines occurs at the middle of the curve. For a flag lot, the front lot line is the shortest lot line adjoining the pole portion of the lot including the width of the pole as shown in the figure that follows.



SECTION XI:

Section 17.04.038 of the Orange Municipal Code, “Zoning – Definitions – “S” Definitions,” is hereby amended to read as follows:

“Story, half” - One half-story as opposed to full story buildings are structures in which the top floor area is within the established roof line, and room heights within the half-story space conform to the California Building Code regulations for “habitable” space. The building has two floors of habitable rooms but appears as a one story structure from an architectural standpoint. The half-story may contain dormers. Within the Old Towne or established Historic District, the habitable space for the expansion of existing half-story structures and/or the new construction of half-story structures, including any dormers, shed roofs, and unfinished areas, shall not exceed sixty (60) percent of the gross floor area of the floor below.

“Story, habitable” - A story maintaining room heights conforming to the California Building Code regulations for “habitable” space. Height-qualifying habitable stories shall be considered a story regardless of interior finish status.

SECTION XII:

Section 17.10.060.D.1.b of the Orange Municipal Code, “Zoning – Specific Administrative Procedures – Site Plan Review – Minor Site Plan Review - Criteria,” is hereby amended to read as follows:

b. Construction of six (6) or fewer residential units on a single parcel, when only one parcel is being developed. Units constructed in single-family (R-1) districts pursuant to SB 9 shall not require site plan review under this section.

SECTION XIII:

Section 17.10.060.D.1.f of the Orange Municipal Code, “Zoning – Specific Administrative Procedures – Site Plan Review – Minor Site Plan Review - Criteria,” is hereby amended to read as follows:

f. Creation of lots or building sites with no direct access to a public street except for those units with access easements created to accommodate the construction of units pursuant to SB 9.

SECTION XIV:

Section 17.10.070.B.7 of the Orange Municipal Code, “Zoning – Specific Administrative Procedures – Design Review – When Design Review is Required - Exception,” is hereby added to read as follows:

7. Exception. Units created in a single-family (R-1) residential zone pursuant to SB 9 shall not require design review but shall instead meet all objective design review standards specified in Section 17.13.040.GGG and Chapter 17.14.

SECTION XV:

Table 17.13.030 of the Orange Municipal Code, “Zoning – Master Land Use Table – Permitted Uses,” is hereby amended to add the following:

Table 17.13.030 Permitted Uses.

ZONING	RESIDENTIAL							COMMERCIAL					MIXED USE					INDUSTRIAL		AGRICULTURAL OPEN SPACE			PI	OVERLAY		SAND & GRAVEL			
LAND USE	R1-5	R1-6 to R-15	R1-R	R1-20 to R-140 & R1-R	R2-6 to R2-8	R-3	R-4	MH	OP	CP/C1	CTR	C2	C3	CR	OTMU-15S	OTMU-15	OTMU-24	NMU-24	UMU	M1	M2	A1	RO	SH	PI	FP-1	FP-2	SG	
<p>Housing—Includes all structures permitted as living quarters whether they be for short or long-term occupancy. Includes all uses identified in California Building Code definitions that are preceded with main entry words (key terms) that include one of the following: Dwelling, unit, house, housing, congregate, residence, multifamily, dormitory, home(s), hotel, motel, residential care facility, residential facility, or lodging.</p>																													
Single-family dwelling	P#	P	P	P	P	P	-	P	-	-	-	-	-	-	P*	P*	P*	-	-	-	-	P	-	-	-	-	-	-	-
Single-family dwelling created pursuant to SB 9	P*	P*	P*	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

SECTION XVI:

Section 17.13.040 of the Orange Municipal Code, “Zoning – Master Land Use Table – Special Use Regulations,” is hereby amended to add the following:

GGG. Single-family Dwelling Created Pursuant to SB 9.

1. Approval shall be subject to the proposed housing development meeting all the requirements of SB 9 which include:

a. The parcel is not located on a site specified in subparagraphs (B) to (K), inclusive, of Government Code Section 65913.4(a)(6) as summarized below:

i. Prime farmland, farmland or statewide importance, or land that is zoned or designated for agricultural protection or preservation by the voters.

ii. A wetland

iii. Within a very high fire hazard severity zone, unless the site complies with all fire-hazard mitigation required by existing building standards.

iv. A hazardous waste site that has cleared the site for residential use or residential mixed uses.

v. Within a delineated earthquake fault zone unless the development complies with applicable seismic protection building code standards.

vi. Within a 100 year flood hazard area, unless it has either:

(I) Been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction, or

(II) Meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program.

vii. Within a regulatory floodway unless the development has received a no-rise certification.

viii. Land identified for conservation in an adopted natural community conservation plan or other adopted natural resource protection plan.

ix. Habitat for protected species.

x. Land under conservation easement.

b. The proposed housing development would not require demolition or alteration of any of the following types of housing:

i. 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.

ii. Housing that has been occupied by a tenant in the last three (3) years.

c. The parcel subject to the proposed housing development is not a parcel on 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 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

d. Notwithstanding any provision in the Orange Municipal Code to the contrary, the proposed housing development does not allow the demolition of more than 25 percent of the existing exterior structural walls, unless the site has not been occupied by a tenant in the last three (3) years.

e. The development is not 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 a city or county ordinance.

2. The proposed housing development may be denied if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project or urban lot split would have a specific, adverse impact, as defined and determined in Government Code Section 65589.5(d)(2), upon public health and safety or the physical environment, for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

3. The ministerial approval may include the conditions for a parcel map specified in section 16.12.030.E.

4. All rental units shall be rented for a term longer than 30 days.

5. An applicant for a parcel map to create an urban lot split shall sign an affidavit stating their intent to occupy one of the housing units as their principal residence for a minimum of three (3) years from the date of the approval of the urban lot split. Any "community land trust," as defined in Revenue and Taxation Code Section 402.1(a)(11)(C)(ii), or a "qualified nonprofit corporation" as described in Revenue and Taxation Code Section 214.15, shall be exempt from the affidavit.

6. Separate conveyance of units and lots shall be subject to the following:

a. Within a lot resulting from a lot split or where units are placed on an undivided lot:

i. Primary dwelling units on a lot that is created by an urban lot split may not be owned or conveyed separately from each other.

- ii. Condominium airspace divisions and common interest developments are not permitted on a lot that is created by an urban lot split.
- iii. All fee interest in a lot and all dwellings on the lot must be held equally and undivided by all individual property owners.
- b. Between resulting lots:
 - i. Separate conveyance of the resulting lots 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.

7. All development, design, and parcel map standards in this section and in Chapter 17.14 shall be applied to units created under SB 9, provided that at least an 800 square foot unit is allowed to be constructed.

8. The following objective design standards shall apply to all single-family dwellings created pursuant to SB 9 and to associated on-site improvements:

a. Units with identical building elevations and/or floor plans shall not be located on adjacent lots or directly across the street from each other.

b. Design elements and detailing shall be continued completely around the structure. Such design elements shall include window treatments, trim detailing, exterior wall materials, and color pallet. Firewalls are not exempt from the required design elements.

c. At least two (2) building materials shall be used on any building frontage (excluding roof and foundation) in addition to glazing and railings. Any one material shall comprise at least 20% of the building frontage.

d. At least two (2) exterior colors shall be used. Elements that count toward this requirement include cladding material, trim/accent colors, and visually significant colors for doors, and similar elements. Primary colors shall be used as accent colors only.

e. Trash receptacles locations shall be identified on project plans and shall demonstrate screening from public view via equivalent-height landscaping or a solid wall or fence.

f. The main entry shall not be the garage door and shall be prominently placed on the elevation facing the street.

g. Linear streetscape appearance in the building facade shall be avoided by providing variations in horizontal plane in a minimum of 50% of the building front and street side elevations. Variations shall include indentations, recesses, or projections of two (2) feet or greater. Vertical architectural elements (pilasters, columns, piers, other structural elements) shall vertically

project a minimum of eight (8) feet in height and project a minimum of eight (8) inches from the building face.

h. Units shall include a minimum three (3) element(s) from the following list to add visual variety and interest to building facades and enhance the connection between public and private realms: eaves, cornices, trellises, overhangs, exposed structural elements such as rafters, recessed windows, columns, bay windows. Other elements may be approved if they provide equivalent visual variety and interest.

i. Primary interior living spaces (bedroom and living areas) shall be offset a minimum eight (8) feet from a facing neighboring primary interior space on the same story.

j. A minimum eight (8) feet shall be maintained between any primary interior living space (bedroom and living area) and an existing neighboring primary living space on the same story.

k. Trim surrounds shall be provided at all exterior window and door openings. Trim shall be substantial, visible, and at least two (2) inches in depth.

l. Classical window proportions shall be provided such as 2:1, 3:2, or 4:3.

m. No building facade may extend in a continuous plane for more than 20 feet without a window, door, variation in horizontal plane, or vertical architectural element.

n. A minimum three (3) foot wide interior clear planter width landscaping shall be provided between the closest parallel property line to a driveway and the subject property. For flag lots, the planter shall only be required adjacent to the property not part of the project. Within the planter area, landscaping shall be maintained at a height of no greater than 42 inches to allow for line of sight to pedestrians and motorists for vehicles exiting the driveway.

o. Driveways to required parking shall not be asphalt, shall be a minimum 12 feet in width, and shall be concrete, pavers, stone, brick, or similar material. No driveway shall be allowed for units that do not require an on-site covered parking space and are not electing to include covered parking. Controlled or restricted entrances to required or provided parking are prohibited.

SECTION XVII:

Section 17.14.060 of the Orange Municipal Code, "Zoning – Residential Districts – Reserved," is hereby replaced with the following:

17.14.060 - Units Created in a Single-family (R-1) Residential Zone Pursuant to SB 9.

The development standards specified in Section 17.13.040.GGG and Table 17.14.060 shall apply to dwelling units created under SB 9. In addition, the following shall apply:

A. In the event development standards physically preclude the construction of up to two (2) units or preclude either of the two (2) units from being at least 800 square feet in floor area, a minimum 800 square foot unit shall be allowed with code waivers chosen and authorized by the Community Development Director based on prioritizing preservation of neighborhood character and privacy to adjacent properties. The Director may consider waivers such as, but not limited to:

1. Allowing half basement construction to facilitate two-story construction no greater than 16 feet tall.
2. Allowing a reduced front yard setback.
3. Reducing distancing from an existing structure on the original parcel.

B. Parking shall be provided as specified in Chapter 17.34

C. One (1) bedroom is allowed for each five hundred (500) square foot increment of unit square feet. Increments are rounded up, e.g., a 1,001 square foot unit may have 3 bedrooms. Bedroom and bathroom square feet shall be limited to no greater than 63.5% of the total square feet of the unit. Direct exterior access to bedrooms is prohibited, except for the largest bedroom.

D. All accessory structures, including garages, shall be subject to the provisions of Title 17, including but not limited to setbacks, floor area ratio, lot coverage, distancing from other structures, ratio of structures to dwelling, open space, and height.

Table 17.14.060
RESIDENTIAL DEVELOPMENT STANDARDS FOR UNITS CREATED IN A SINGLE-FAMILY (R-1) RESIDENTIAL ZONE PURSUANT TO SB 9
[See next page]

**Table 17.14.060
RESIDENTIAL DEVELOPMENT STANDARDS FOR UNITS CREATED IN A SINGLE-FAMILY (R-1)
RESIDENTIAL ZONE PURSUANT TO SB 9**

District	Maximum Units Per Lot	Minimum Lot Area in Sq. Ft. (a)	Minimum Lot Area Per Unit in Sq. Ft. (a)	Minimum Lot Frontage in Feet (b)	Minimum Lot Depth in Feet	Minimum Yard Setback in Feet (c)(d)(e)			Maximum Height (Feet-Stories) whichever height is less	Maximum Floor Area Ratio (f)	Minimum Usable Open Space in Sq. Ft.
						Front	Side	Rear			
All R1 districts	4 (i)	1,200	(a)	30	40	20	4	4	16' -1 story	N/R (g)	(h)
N/R = No requirement											

- (a) If the lot is created by a new parcel map and the parcel map subdivides an existing parcel to create no more than two (2) new parcels, the parcels shall be of approximately equal lot area, provided that one parcel shall not be smaller than 40% of the lot area of the original parcel proposed for subdivision. No lot shall be smaller than 1,200 square feet.
- (b) The required width of the pole segment of a flag lot, or easement for access to a lot with required parking, shall be 15 feet, which includes the required 12-foot driveway width and a three-foot property line landscape buffer. Such width is also required for lots without required driveways and parking. A lesser or greater easement width may be authorized by the Community Development Director based on evidence justifying the adjustment. Units located further than Fire Department hose pull reach requirements shall provide a 20-foot wide easement for emergency vehicle access and a paved surface meeting Fire Code weight bearing requirements.
- (c) No setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.
- (d) An application shall not be rejected solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance. Therefore, connected units may be authorized, including units connected to units on an adjacent lot pursuant to SB 9.
- (e) Garages are accessory structures. Attached garages shall adhere to setback requirements of each respective zoning district in Table 17.14.070. Detached garages and accessory structures shall adhere to the requirements of Section 17.14.160.
- (f) Where accessory structures are proposed or exist, including attached or detached garages, the maximum Floor Area Ratio (FAR) for accessory structures shall be calculated by combining the sum of square feet of the proposed unit, any existing units, and all accessory structures, and shall be limited by the district maximum FAR specified in Table 17.14.070.

(g) In lieu of a Floor Area Ratio requirement, each unit shall be limited in square feet based on lot size as follows:

Lot Area in Square Feet	Maximum Unit Square Feet*
1,200 – 4,999	800 square feet
5,000 – 5,999	800 square feet
6,000 – 6,999	800 square feet
7,000 – 7,999	800 square feet
8,000 – 9,999	850 square feet
10,000 – 11,999	900 square feet
12,000 – 14,999	950 square feet
15,000 – 19,999	1,000 square feet
20,000 – 39,999	1,100 square feet
40,000 and greater	1,200 square feet

* Existing units may maintain existing FAR and lot coverage but any expansion shall comply with development standards in Table 17.14.070

(h) Minimum usable open space, as defined in Section 17.04.034, shall require the following square feet per district:

District	Minimum Usable Open Space in Sq. Ft. (q)
R1-5	1,000 sf
R1-6	1,100 sf
R1-7	1,100 sf
R1-8	1,200 sf
R1-10	1,200 sf
R1-12	1,300 sf
R1-15	1,700 sf
R1-20	2,500 sf
R1-40	2,500 sf

- (i) Up to four (4) units are allowed which may consist of two (2) units on a lot or a primary dwelling and an accessory dwelling unit on a lot .However, all units must meet safety needs and all specified development standards.

SECTION XVIII:

Table 17.14.070 of the Orange Municipal Code, “Zoning – Residential Districts – Residential Development Standards,” is hereby amended to read as follows:

Table 17.14.070
RESIDENTIAL DEVELOPMENT STANDARDS
[See next page]

**Table 17.14.070
RESIDENTIAL DEVELOPMENT STANDARDS**

District	Units Per Lot	Minimum Lot Area in Sq. Ft. (x)	Minimum Lot Area Per Unit in Sq. Ft.	Minimum Lot Frontage in Feet (a)	Minimum Lot Depth in Feet	Minimum Yard Setback in Feet (b,h)			Maximum Height (Ft.-Stories) whichever is less (g)	Maximum Floor Area Ratio (o) or Lot Coverage (p)	Minimum Usable Open Space in Sq. Ft. (q)
						Front	Side	Rear			
R1-5 (aa)	1	5,000(v.1)	N/R	50(k)	90	Bld-15 Gar-20 (v.2)	(c,v.2)	(v.2)	32'—2 stories	Based on bldg. pad(v.3.w)	875 sf
R1-6 (aa)	1	6,000	N/R	60(k)	100	20	5(c)	20(d,e,f)	32'—2 stories(y)	(u)	900 sf
R1-7 (aa)	1	7,000	N/R	60(k)	100	20	5(c)	20(d,e,f)	32'—2 stories	(u)	950 sf
R1-8 (aa)	1	8,000	N/R	60(k)	100	20	5(c)	20(d,e,f)	32'—2 stories	(u)	1,000 sf
R1-10 (aa)	1	10,000	N/R	80(k)	100	20	5(c)	20(d,e,f)	32'—2 stories	(u)	1,000 sf
R1-12 (aa)	1	12,000	N/R	80(k)	100	20	5(c)	20(d,e,f)	32'—2 stories	(u)	1,000 sf
R1-15 (aa)	1	15,000	N/R	80(k)	100	20	5(c)	20(d,e,f)	32'—2 stories	(u)	1,200 sf
R1-20 (aa)	1	20,000	N/R	100(k)	100	20	5(c)	20(d,e,f)	32'—2 stories	(u)	1,500 sf
R1-40 (aa)	1	43,560	N/R	100(k)	100	20	5(c)	20(d,e,f)	32'—2 stories	0.40 FAR	2,000 sf
R1-R (aa)	1	108,900	N/R	100(k)	100	20	5(c)	20(d,e,f)	32'—2 stories	0.40 FAR	2,000 sf

Notes:

(aa) For all units constructed or lots created pursuant to SB 9, apply the development standards in Table 17.14.060.

SECTION XIX:

The first paragraph of Section 17.14.080 of the Orange Municipal Code, “Zoning – Residential Districts – Building Lot Area Requirements,” is hereby amended to read as follows:

Tables 17.14.060 and 17.14.070 indicate the minimum building lot area for individual lots. The following portions of a lot shall not be included in the minimum building lot calculation:

SECTION XX:

The Single-family Dwelling Use provisions of Table 17.34.060.A of the Orange Municipal Code, “Zoning – Off-Street Parking and Loading – Required Number of Parking Spaces for Residential Uses,” is hereby amended to read as follows:

Table 17.34.060.A

REQUIRED NUMBER OF PARKING SPACES FOR RESIDENTIAL USES	
USE	REQUIRED NUMBER OF SPACES
Single-family Dwelling	<p>2 enclosed garage spaces/unit up to 4 bedrooms accessed by a 12 foot wide 20 foot long driveway. For 5 or more bedrooms, 1 additional enclosed space which may be in tandem configuration but may not be in a required front yard setback. For bedroom additions to homes built prior to the effective date of Ordinance 17-08, refer to Section 17.34.020(A). Enclosed spaces demolished or converted in association with construction of an accessory dwelling unit shall not require replacement.</p> <p>For PUDs, units with 3 or more bedrooms shall provide an additional 1.5 guest parking spaces per dwelling unit. Of this requirement, 1 open parking space may be provided at the residence subject to compliance with Section 17.16.060.</p> <p>Enclosed spaces demolished or converted in association with construction of an accessory dwelling unit shall not require replacement.</p> <p>For dwelling units created under SB 9: one enclosed parking space, accessed by a 12 foot wide 20 foot long driveway, shall be provided for parcels unless they are located within ½ mile walking distance of either a high-quality transit corridor, a major transit stop, or within 1 block of a car share vehicle. No parking space shall be required for parcels within ½ mile walking distance of either a high-quality transit corridor, a major transit stop, or within 1 block of a car share vehicle.</p>

SECTION XIX:

Section 17.38.080 of the Orange Municipal Code, “Zoning – Nonconforming Uses – Urban Lot Split (SB 9) Exception to Compliance (Nonconformities),” is hereby added to read as follows:

17.38.080 Urban Lot Split (SB 9) Exception to Compliance (Nonconformities).

The City shall not require the correction of nonconforming zoning conditions as a condition for ministerial approval of a parcel map application for the creation of an urban lot split pursuant to SB 9.

SECTION XXI:

As stated in the California Department of Housing and Community Development SB 9 Fact Sheet: "...the preparation and adoption of the ordinance is not considered a project under CEQA. In other words, the preparation and adoption of the ordinance is statutorily exempt from CEQA." The subject Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines 15060(c)(2), 15060(c)(3) and 15061(b)(3) because it will not result in a direct or reasonably foreseeable indirect physical change in the environment, because there is no possibility it will have a significant effect on the environment, and it is not a "project", as defined in Section 15378 of the State CEQA Guidelines. In the unlikely event the Ordinance would constitute a project under CEQA, it is exempt from the provisions of CEQA per State CEQA Guideline 15321 (Class 21, Enforcement Actions by Regulatory Agencies) because it is an action taken by the City as a regulatory agency, as authorized by local ordinance, to regulate as authorized by SB 9, the processing of lot splits and applications for construction of second dwelling units in single-family residential zones in order to prevent a public nuisance. As such, no further analysis is warranted or required. The proposed Ordinance is exempt from CEQA per Guideline 15061(b)(3) because it can be seen with certainty, after review and evaluation of the facts regarding parking standards in the City of Orange, that there is substantial evidence that adoption of this Ordinance would not have a significant effect on the environment and the common sense exemption applies.

SECTION XXII:

This Ordinance is intended to immediately supersede any existing provisions of the Orange Municipal Code to the extent those existing provisions are inconsistent with this interim Ordinance.

SECTION XXIII:

If any section, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this interim Ordinance. The City Council hereby declares that it would have passed this interim Ordinance, and each section, subdivision, paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one (or more) section, subdivision, paragraph, sentence, clause or phrase had been declared invalid or unconstitutional.

ADOPTED this ____ day of _____, 2023.

Daniel R. Slater, Mayor, City of Orange

ATTEST:

Pamela Coleman, City Clerk, City of Orange

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, PAMELA COLEMAN, City Clerk of the City of Orange, California, do hereby certify that the foregoing extension of an interim Ordinance was duly passed and adopted at the regular meeting of the City Council held on the ___ day of _____, 2023 by the following vote, to wit:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

Pamela Coleman, City Clerk, City of Orange

Attachment 3
Zoning Code Text Amendment Revisions

Blue text represents new text, including text previously approved for the interim ordinances by the City Council. Purple text represents changes since the Planning Commission meeting was continued from September 7, 2023. Red strikethrough text represents removed text.

Section 16.08.010 General Provisions.

- E. The advisory agency with the power of final approval over the tentative parcel map, shall thereupon make a finding that the proposed division of land complies with all requirements of the Subdivision Map Act or this title, and all other resolutions and ordinances of this City, including, but not limited to, requirements concerning area, improvements and design, floodwater drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, public safety facilities and environmental protection. For parcel maps submitted pursuant to SB 9, the Community Development Director shall approve or deny the application for a parcel map for an urban lot split ministerially without discretionary review.

Section 16.12.030

16.12.030 Tentative Parcel Map — ~~Staff Review Committee Approval.~~ Approval or Denial.

- E. The Community Development Director shall have authority to approve all parcel map applications for an urban lot split proposed in a single-family residential zone, pursuant to SB 9. Approval shall be a ministerial action without discretionary review.
1. For approval of a parcel map the Community Development Director shall find the following:
 - a. The parcel map subdivides an existing parcel to create no more than two (2) 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.
 - b. Both newly created parcels are no smaller than 1,200 square feet.
 - c. The parcel being subdivided meets all the following requirements:
 - i. The parcel is located within a single-family residential zone.
 - ii. The parcel meets all requirements of Section 17.13.040.GGG.1.
 - iii. The parcel has not been established through prior exercise of an urban lot split as provided for in SB 9.

- iv. 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 SB 9.
 - v. The parcel map conforms to all applicable objective requirements of the Subdivision Map Act (commencing with Section 66410), except as otherwise expressly provided in SB 9.
 - d. In furtherance of the intent of SB 9 to create dwelling units, plans for units on a lot undergoing a parcel map application shall have received approval through the building permit plan check process and be ready for building permit issuance concurrently with final parcel map approval.
2. The Community Development Director shall place the following conditions on approval of the parcel map as appropriate:
 - a. A requirement for easements for the provision of public safety services and facilities.
 - b. A requirement that the parcels have access to, provide access to, or adjoin the public right-of-way.
 - c. A requirement for off-street parking pursuant to the single-family residence parking requirement specified in Table 17.34.060.A, except as otherwise expressly provided under SB 9.
 - d. A requirement that the uses allowed on the lots be limited to residential uses.
 3. The City shall not require dedications of rights-of-way or the construction of offsite improvements for the parcels being created as a condition of issuing a parcel map.
 4. The authority for denial of a parcel map submitted pursuant to SB 9 is the building official. For denial of a parcel map the building official shall make a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in Government Code Section 65589.5(d)(2), upon public health and safety or the physical environment, for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

Section 16.16.020 Street, Alley and Easement Dedications.

- E. The City shall not require dedications of rights-of-way or the construction of offsite improvements for parcels created pursuant to SB 9. Easements for public safety services and facilities for such parcels may be required by the Community Development Director.

Section 16.16.170 “Subdivisions – Requirements-Dedications-Fees – Soils Report Required,”

- D. For parcel maps submitted pursuant to SB 9, with residential units connected to an onsite wastewater treatment system, the applicant may submit a percolation test completed within the last five (5) years, or, if the percolation test has been recertified, within the last ten (10) years.

Section 17.04.021 “B” Definitions.”

“Bedroom” - ~~means any~~ Any habitable room in a dwelling unit other than a bathroom, kitchen, dining room or living room with the following features: an interior door that can be closed or an opening into the room in which an interior door or double door can be easily installed; a window; and a closet or room for a wardrobe in addition to a bed. For planning development standards purposes, not to be confused with any building code standards, a room may be deemed not a bedroom if a floor to ceiling horizontal distance of at least 7 feet remains open and without any type of door and no closet exists.

Section 17.04.023 “D” Definitions.”

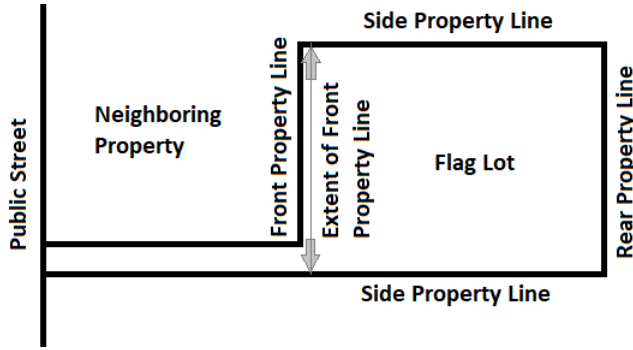
“Duplex or duplex residential” ~~means an~~ An attached or detached building containing two dwelling units wherein the occupants of each individual dwelling unit are living and functioning together as a single housekeeping unit, meaning that they have established ties and familiarity with each other, jointly use common areas, interact with each other, share meals, household activities, expenses and responsibilities, membership in the single housekeeping unit is fairly stable as opposed to transient, and members have some control over who becomes a member of the single housekeeping unit. A property designated Duplex Residential is neither a single-family nor a multi-family property.

Section 17.04.025 “F” Definitions.”

“Floor area ratio” (F.A.R. or FAR) - ~~means the~~ The building square footage divided by lot area. Building square footage shall include all structures on a lot, including garages and accessory structures, unless otherwise provided in this ~~code~~ Code. Parking structures and patio covers open on at least two sides shall not be included in the calculation of F.A.R. F.A.R. shall not include ADUs but ADUs shall count against future primary building additions and future accessory structures.

Section 17.04.031 “L” Definitions.

“Lot line, front” - ~~means the line separating the narrowest street frontage of the lot from the street right-of-way.~~ In the case of an interior lot, the line dividing the lot from the street. In the case of a corner lot or through lot, the shorter lot line abutting a street shall be deemed the front lot line and the longer lot line abutting a street shall be deemed an exterior side, unless determined otherwise by the Zoning Administrator. In the case of a through lot or a corner lot whose exterior lot lines are the same length, the lot line where the principal access to the lot is provided shall be deemed to be the front lot line. In the case of an interior lot, when the lot line abutting a street is curved, the front lot line follows the curve; for corner lots, separation of lines occurs at the middle of the curve. For a flag lot, the front lot line is the shortest lot line adjoining the pole portion of the lot including the width of the pole as shown in the figure that follows.



Section 17.04.038 “S” Definitions.

“Story, half” - ~~means one~~ One half-story as opposed to full story buildings are structures in which the top floor area is within the established roof line, and room heights within the half-story space conform to the ~~Uniform California~~ Building Code regulations for “habitable” space. The building has two floors of habitable rooms but appears as a one story structure from an architectural standpoint. The half-story may contain dormers. Within the Old Towne or established Historic District, the habitable space for the expansion of existing half-story structures and/or the new construction of half-story structures, including any dormers, shed roofs, and unfinished areas, shall not exceed ~~sixty (60)%~~ ~~percent~~ percent of the gross floor area of the floor below.

“Story, habitable” - A story maintaining room heights conforming to the California Building Code regulations for “habitable” space. Height-qualifying habitable stories shall be considered a story regardless of interior finish status.

Section 17.10.060.D.1.b and f. “Zoning – Specific Administrative Procedures – Site Plan Review – Minor Site Plan Review – Criteria.”

- b. Construction of six (6) or fewer residential units on a single parcel, when only one parcel is being developed. ~~Units constructed in single-family (R-1) districts pursuant to SB 9 shall not require site plan review under this section.~~
- f. Creation of lots or building sites with no direct access to a public street ~~except for those units with access easements created to accommodate the construction of a single-family dwelling in a single family (R-1) district units pursuant to SB 9.~~

Section 17.10.070.B.7 “Zoning – Specific Administrative Procedures – Design Review – When Design Review is Required – Exception.”

- 7. ~~Exception. Units created in a single-family (R-1) residential zone pursuant to SB 9 shall not require design review but shall instead meet all objective design review standards specified in Section 17.13.040.GGG and Chapter 17.14.~~

Table 17.13.030 “Zoning – Master Land Use Table – Permitted Uses.”

Table 17.13.030 Permitted Uses.

ZONING	RESIDENTIAL									COMMERCIAL				MIXED USE				INDUSTRIAL		AGRICULTURAL OPEN SPACE			PI	OVERLAY		SAND & GRAVEL		
LAND USE	R1-5	R1-6 to R-15	R1-R R1-20 to R-140 &	R2-6 to R2-8	R-3	R-4	MH	OP	CP/C1	CTR	C2	C3	CR	OTMU-155	OTMU-15	OTMU-24	NMU-24	UMU	M1	M2	A1	RO	SH	PI	FP-1	FP-2	SG	
Housing—Includes all structures permitted as living quarters whether they be for short or long-term occupancy. Includes all uses identified in California Building Code definitions that are preceded with main entry words (key terms) that include one of the following: Dwelling, unit, house, housing, congregate, residence, multifamily, dormitory, home(s), hotel, motel, residential care facility, residential facility, or lodging.																												
Single-family dwelling	P#	P	P	P	P	P	-	P	-	-	-	-	-	P*	P*	P*	-	-	-	-	P	-	-	-	-	-	-	-
Single-family dwelling created pursuant to SB 9	P*	P*	P*	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

Section 17.13.040 “Zoning – Master Land Use Table – Special Use Regulations.”

GGG. Single-family Dwelling Created Pursuant to SB 9.

1. Approval shall be subject to the proposed housing development meeting all the requirements of SB 9 which include:
 - a. The parcel is not located on a site specified in subparagraphs (B) to (K), inclusive, of Government Code Section 65913.4(a)(6) as summarized below:
 - i. Prime farmland or farmland of statewide importance, or land that is zoned or designated for agricultural protection or preservation by the voters.
 - ii. A wetland.
 - iii. Within a very high fire hazard severity zone, unless the site complies with all fire-hazard mitigation required by existing building standards.
 - iv. A hazardous waste site that has cleared the site for residential use or residential mixed uses.
 - v. Within a delineated earthquake fault zone unless the development complies with applicable seismic protection building code standards.
 - vi. Within a 100 year flood hazard area, unless it has either:
 - (I) Been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction, or
 - (II) Meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program.
 - vii. Within a regulatory floodway unless the development has received a no-rise certification.
 - viii. Land identified for conservation in an adopted natural community conservation plan or other adopted natural resource protection plan.
 - ix. Habitat for protected species.
 - x. Land under conservation easement.
 - b. The proposed housing development would not require demolition or alteration of any of the following types of housing:

- i. 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.
 - ii. Housing that has been occupied by a tenant in the last three (3) years.
 - c. The parcel subject to the proposed housing development is not a parcel on 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 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.
 - d. Notwithstanding any provision in the Orange Municipal Code to the contrary, the proposed housing development does not allow the demolition of more than 25 percent of the existing exterior structural walls, unless the site has not been occupied by a tenant in the last three (3) years.
 - e. The development is not 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 a city or county ordinance.
2. The proposed housing development may be denied if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project or urban lot split would have a specific, adverse impact, as defined and determined in Government Code Section 65589.5(d)(2), upon public health and safety or the physical environment, for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.
3. The ministerial approval may include the conditions for a parcel map specified in section 16.12.030.E.
4. All rental units shall be rented for a term longer than 30 days.
5. An applicant for a parcel map to create an urban lot split shall sign an affidavit stating their intent to occupy one of the housing units as their principal residence for a minimum of three (3) years from the date of the approval of the urban lot split. Any "community land trust," as defined in Revenue and Taxation Code Section 402.1(a)(11)(C)(ii), or a "qualified nonprofit corporation" as described in Revenue and Taxation Code Section 214.15, shall be exempt from the affidavit.
6. Separate conveyance of units and lots shall be subject to the following:
 - a. Within a lot resulting from a lot split or where units are placed on an undivided lot:

- i. Primary dwelling units on a lot that is created by an urban lot split may not be owned or conveyed separately from each other.
 - ii. Condominium airspace divisions and common interest developments are not permitted on a lot that is created by an urban lot split.
 - iii. All fee interest in a lot and all dwellings on the lot must be held equally and undivided by all individual property owners.
 - b. Between resulting lots:
 - i. Separate conveyance of the resulting lots 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.
7. All development, design, and parcel map standards in this section and in Chapter 17.14 shall be applied to units created under SB 9, provided that at least an 800 square foot unit is allowed to be constructed.
8. The following objective design standards shall apply to all single-family dwellings created pursuant to SB 9 and to associated on-site improvements:
 - a. Units with identical building elevations and/or floor plans shall not be located on adjacent lots or directly across the street from each other.
 - b. Design elements and detailing shall be continued completely around the structure. Such design elements shall include window treatments, trim detailing, exterior wall materials, and color pallet. Firewalls are not exempt from the required design elements.
 - c. At least two (2) building materials shall be used on any building frontage (excluding roof and foundation) in addition to glazing and railings. Any one material shall comprise at least 20% of the building frontage.
 - d. At least two (2) exterior colors shall be used. Elements that count toward this requirement include cladding material, trim/accent colors, and visually significant colors for doors, and similar elements. Primary colors shall be used as accent colors only.
 - e. Trash receptacles locations shall be identified on project plans and shall demonstrate screening from public view via equivalent-height landscaping or a solid wall or fence.
 - f. The main entry shall not be the garage door and shall be prominently placed on the elevation facing the street.
 - g. Linear streetscape appearance in the building facade shall be avoided by providing variations in horizontal plane in a minimum of 50% of the building front and street side

elevations. Variations shall include indentations, recesses, or projections of two (2) feet or greater. Vertical architectural elements (pilasters, columns, piers, other structural elements) shall vertically project a minimum of eight (8) feet in height and project a minimum of eight (8) inches from the building face.

- h. Units shall include a minimum three (3) element(s) from the following list to add visual variety and interest to building facades and enhance the connection between public and private realms: eaves, cornices, trellises, overhangs, exposed structural elements such as rafters, recessed windows, columns, bay windows. Other elements may be approved if they provide equivalent visual variety and interest.
- i. Primary interior living spaces (bedroom and living areas) shall be offset a minimum eight (8) feet from a facing neighboring primary interior space on the same story.
- j. A minimum eight (8) feet shall be maintained between any primary interior living space (bedroom and living area) and an existing neighboring primary living space on the same story.
- k. Trim surrounds shall be provided at all exterior window and door openings. Trim shall be substantial, visible, and at least two (2) inches in depth.
- l. Classical window proportions shall be provided such as 2:1, 3:2, or 4:3.
- m. No building facade may extend in a continuous plane for more than 20 feet without a window, door, variation in horizontal plane, or vertical architectural element.
- n. A minimum three (3) foot wide interior clear planter width landscaping shall be provided between the closest parallel property line to a driveway and the subject property. For flag lots, the planter shall only be required adjacent to the property not part of the project. Within the planter area, landscaping shall be maintained at a height of no greater than 42 inches to allow for line of sight to pedestrians and motorists for vehicles exiting the driveway.
- o. Driveways to required parking shall not be asphalt, shall be a minimum 12 feet in width, and shall be concrete, pavers, stone, brick, or similar material. No driveway shall be allowed for units that do not require an on-site covered parking space and are not electing to include covered parking. Controlled or restricted entrances to required or provided parking are prohibited.

17.14.060 - Units Created in a Single-family (R-1) Residential Zone Pursuant to SB 9.

The development standards specified in Section 17.13.040.GGG and Table 17.14.060 shall apply to dwelling units created under SB 9. In addition, the following shall apply:

- A. In the event development standards physically preclude the construction of up to two (2) units or preclude either of the two (2) units from being at least 800 square feet in floor area, a minimum 800 square foot unit shall be allowed with code waivers chosen and authorized by the Community Development Director based on prioritizing preservation of neighborhood character and privacy to adjacent properties. The Director may consider waivers such as, but not limited to:
 - 1. Allowing half basement construction to facilitate two-story construction no greater than 16 feet tall.
 - 2. Allowing a reduced front yard setback.
 - 3. Reducing distancing from an existing structure on the original parcel.
- B. Parking shall be provided as specified in Chapter 17.34
- C. One (1) bedroom is allowed for each five hundred (500) square foot increment of unit square feet. Increments are rounded up, e.g., a 1,001 square foot unit may have 3 bedrooms. Bedroom and bathroom square feet shall be limited to no greater than 63.5% of the total square feet of the unit. Direct exterior access to bedrooms is prohibited, except for the largest bedroom.
- D. All accessory structures, including garages, shall be subject to the provisions of Title 17, including but not limited to setbacks, floor area ratio, lot coverage, distancing from other structures, ratio of structures to dwelling, open space, and height.

Table 17.14.060
RESIDENTIAL DEVELOPMENT STANDARDS FOR UNITS CREATED IN A SINGLE-FAMILY (R-1)
RESIDENTIAL ZONE PURSUANT TO SB 9

District	Maximum Units Per Lot	Minimum Lot Area in Sq. Ft. (a)	Minimum Lot Area Per Unit in Sq. Ft. (a)	Minimum Lot Frontage in Feet (b)	Minimum Lot Depth in Feet	Minimum Yard Setback in Feet (c)(d)(e)			Maximum Height (Feet-Stories) whichever height is less	Maximum Floor Area Ratio (f)	Minimum Usable Open Space in Sq. Ft.
						Front	Side	Rear			
All R1 districts	24 (i)	1,200	(a)	30	40	20	4	4	16' -1 story	N/R (g)	(h)
N/R = No requirement											

- (a) If the lot is created by a new parcel map and the parcel map subdivides an existing parcel to create no more than two (2) new parcels, the parcels shall be of approximately equal lot area, provided that one parcel shall not be smaller than 40% of the lot area of the original parcel proposed for subdivision. No lot shall be smaller than 1,200 square feet.
- (b) The required width of the pole segment of a flag lot, or easement for access to a lot with required parking, shall be 15 feet, which includes the required 12-foot driveway width and a three-foot property line landscape buffer. Such width is also required for lots without required driveways and parking. A lesser or greater easement width may be authorized by the Community Development Director based on evidence justifying the adjustment. Units located further than Fire Department hose pull reach requirements shall provide a 20-foot wide easement for emergency vehicle access and a paved surface meeting Fire Code weight bearing requirements.
- (c) No setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.
- (d) An application shall not be rejected solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance. Therefore, connected units may be authorized, including units connected to units on an adjacent lot pursuant to SB 9.
- (e) Garages are accessory structures. Attached garages shall adhere to setback requirements of each respective zoning district in Table 17.14.070. Detached garages and accessory structures shall adhere to the requirements of Section 17.14.160.
- (f) Where accessory structures are proposed or exist, including attached or detached garages, the maximum Floor Area Ratio (FAR) for accessory structures shall be calculated by combining the sum of square feet of the proposed unit, any existing units, and all accessory structures, and shall be limited by the district maximum FAR specified in Table 17.14.070.

(g) In lieu of a Floor Area Ratio requirement, each unit shall be limited in square feet based on lot size as follows:

Lot Area in Square Feet	Maximum Unit Square Feet*
1,200 – 4,999	800 square feet
5,000 – 5,999	800 square feet
6,000 – 6,999	800 square feet
7,000 – 7,999	800 square feet
8,000 – 9,999	850 square feet
10,000 – 11,999	900 square feet
12,000 – 14,999	950 square feet
15,000 – 19,999	1,000 square feet
20,000 – 39,999	1,100 square feet
40,000 and greater	1,200 square feet

* Existing units may maintain existing FAR and lot coverage but any expansion shall comply with development standards in Table 17.14.070

(h) Minimum usable open space, as defined in Section 17.04.034, shall require the following square feet per district:

District	Minimum Usable Open Space in Sq. Ft. (q)
R1-5	1,000 sf
R1-6	1,100 sf
R1-7	1,100 sf
R1-8	1,200 sf
R1-10	1,200 sf
R1-12	1,300 sf
R1-15	1,700 sf
R1-20	2,500 sf
R1-40	2,500 sf

- (i) Up to four (4) units are allowed which may consist of two (2) units on a lot or a primary dwelling and an accessory dwelling unit on a lot. However, all units must meet safety needs and all specified development standards.

Table 17.14.070 “Zoning – Residential Districts – Residential Development Standards.”

**Table 17.14.070
RESIDENTIAL DEVELOPMENT STANDARDS**

District	Units Per Lot	Minimum Lot Area in Sq. Ft. (x)	Minimum Lot Area Per Unit in Sq. Ft.	Minimum Lot Frontage in Feet (a)	Minimum Lot Depth in Feet	Minimum Yard Setback in Feet (b,h)			Maximum Height (Ft.-Stories) whichever is less (g)	Maximum Floor Area Ratio (o) or Lot Coverage (p)	Minimum Usable Open Space in Sq. Ft. (q)
						Front	Side	Rear			
R1-5 (aa)	1	5,000(v.1)	N/R	50(k)	90	Bld-15 Gar-20 (v.2)	(c,v.2)	(v.2)	32'—2 stories	Based on bldg. pad(v.3.w)	875 sf
R1-6 (aa)	1	6,000	N/R	60(k)	100	20	5(c)	20(d,e,f)	32'—2 stories(y)	(u)	900 sf
R1-7 (aa)	1	7,000	N/R	60(k)	100	20	5(c)	20(d,e,f)	32'—2 stories	(u)	950 sf
R1-8 (aa)	1	8,000	N/R	60(k)	100	20	5(c)	20(d,e,f)	32'—2 stories	(u)	1,000 sf
R1-10 (aa)	1	10,000	N/R	80(k)	100	20	5(c)	20(d,e,f)	32'—2 stories	(u)	1,000 sf
R1-12 (aa)	1	12,000	N/R	80(k)	100	20	5(c)	20(d,e,f)	32'—2 stories	(u)	1,000 sf
R1-15 (aa)	1	15,000	N/R	80(k)	100	20	5(c)	20(d,e,f)	32'—2 stories	(u)	1,200 sf
R1-20 (aa)	1	20,000	N/R	100(k)	100	20	5(c)	20(d,e,f)	32'—2 stories	(u)	1,500 sf
R1-40 (aa)	1	43,560	N/R	100(k)	100	20	5(c)	20(d,e,f)	32'—2 stories	0.40 FAR	2,000 sf
R1-R (aa)	1	108,900	N/R	100(k)	100	20	5(c)	20(d,e,f)	32'—2 stories	0.40 FAR	2,000 sf

Notes: (aa) For all units constructed or lots created pursuant to SB 9, apply the development standards in Table 17.14.060.

Section 17.14.080 “Zoning – Residential Districts – Building Lot Area Requirements.”

Tables 17.14.060 and 17.14.070 indicates the minimum building lot area for individual lots. The following portions of a lot shall not be included in the minimum building lot calculation:

Table 17.34.060.A “Zoning – Off-Street Parking and Loading – Required Number of Parking Spaces for Residential Uses.”

Table 17.34.060.A

REQUIRED NUMBER OF PARKING SPACES FOR RESIDENTIAL USES

USE	REQUIRED NUMBER OF SPACES
Single-family Dwelling	<p>2 enclosed garage spaces/unit up to 4 bedrooms accessed by a 12 foot wide 20 foot long driveway. For 5 or more bedrooms, 1 additional enclosed space which may be in tandem configuration but may not be in a required front yard setback. For bedroom additions to homes built prior to the effective date of Ordinance 17-08, refer to Section 17.34.020(A). Enclosed or covered spaces demolished or converted by creation of an ADU in association with construction of an accessory dwelling unit shall not require replacement.</p> <p>For PUDs, units with 3 or more bedrooms shall provide an additional 1.5 guest parking spaces per dwelling unit. Of this requirement, 1 open parking space may be provided at the residence subject to compliance with Section 17.16.060.</p> <p>For dwelling units created under SB 9: one enclosed parking space, accessed by a 12 foot wide 20 foot long driveway, shall be provided for parcels unless they are located within ½ mile walking distance of either a high-quality transit corridor, a major transit stop, or within 1 block of a car share vehicle. No parking space shall be required for parcels within ½ mile walking distance of either a high-quality transit corridor, a major transit stop, or within 1 block of a car share vehicle.</p>

17.38.080 Urban Lot Split (SB 9) Exception to Compliance (Nonconformities).

The City shall not require the correction of nonconforming zoning conditions as a condition for ministerial approval of a parcel map application for the creation of an urban lot split pursuant to SB 9.