

URGENCY ORDINANCE NO. 2493

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF WEST COVINA, CALIFORNIA, ADOPTING
CHANGES TO CHAPTER 20 (SUBDIVISION
REGULATIONS) AND CHAPTER 26 (ZONING) OF THE
WEST COVINA MUNICIPAL CODE RELATING TO THE
IMPLEMENTATION OF SENATE BILL 9 FOR THE
CREATION OF URBAN LOT SPLITS AND TWO (2)
RESIDENTIAL UNITS PER LOT**

WHEREAS, on September 16, 2021, Governor Gavin Newsom approved Senate Bill 9 (SB 9, Chapter 162) relating to the creation of two residential units per lot which requires local agencies to ministerially approve housing development containing no more than two residential units per lot and ministerially approve an urban lot split; and

WHEREAS, SB 9 takes effect on January 1, 2022; and

WHEREAS, SB 9 allows local agencies to impose objective zoning, subdivision, and design review standards; and

WHEREAS, given that SB 9 was not signed until mid-September, there was insufficient time to process this Ordinance through noticed hearings before the Planning Commission and City Council and have the Ordinance in place by January 1, 2022; and

WHEREAS, the public is already beginning to express interest in developing under this new law and it is necessary to have standards in place by the time SB 9 becomes effective.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Amendment to Chapter 20. Article XI (Parcel Maps for Urban Lot Splits) is hereby added to Chapter 20 (Subdivision Regulations) of the West Covina Municipal Code to read as follows:

Article XI. - Parcel Maps for Urban Lot Splits

Sec. 20-120. - Definitions.

For purposes of this article, the following definition shall apply:

“Urban lot split” means a lot split of a single-family residential lot into two parcels that meets the requirements of this article.

Sec. 20-121. - Ministerial approval.

The city shall ministerially approve a parcel map for a lot split that meets the following requirements:

1. The parcel is located within a single-family residential (R-1) zone.
2. The parcel map divides 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.
3. Both newly created parcels are no smaller than 1,200 square feet.
4. The parcel is not located in any of the following areas and does not fall within any of the following categories:
 - a. 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 landmark or historic property or district pursuant to a city ordinance.
 - b. A very high fire hazard severity zone as further defined in Government Code section 65913.4(a)(6)(D). This does not apply to sites excluded from the specified hazard zones by a local agency, pursuant to subdivision (b) of Section 51179, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.
 - c. A delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law and by the city's building division.
5. The proposed lot split would not require demolition or alteration of any of the following types of housing:
 - a. 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;
 - b. Housing that is subject to any form of rent or price control by the city;
 - c. A parcel or parcels on which an owner of residential real property exercised rights under Government Code section 7060 et seq. to withdraw

accommodations from rent or lease within 15 years before the date of the application; or

- d. Housing that has been occupied by a tenant in the last three years.
- 6. The lot split does not create more than two units on a parcel, including any accessory dwelling units or junior accessory dwelling units.

Sec. 20-122. Standards and requirements.

The following requirements shall apply:

- 1. The lot split conforms to all applicable objective requirements of the Subdivision Map Act and Chapter 20 of the West Covina Municipal Code, except as the same are modified by this section.
- 2. Setbacks:
 - a. Existing Structures - 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.
 - b. Side and Rear Setback for New Structures and Additions - The minimum setback from the side and rear property line is 4 feet. The proposed residential unit(s) occupying an urban lot subdivision may be constructed directly along the side property line adjoining and attached to the unit within the same urban lot split subdivision, if the construction of an 800 square-foot unit would not be physically possible without the setback reduction.
 - c. Front Setback for New Structures and Additions – The minimum setback from the front property line is 25 feet.
 - i. The front setback may be reduced if the construction of an 800 square-foot unit would not be physically possible without the front setback reduction after the implementation of 2.b. of this Section is incorporated with the project design.
- 3. The applicant shall provide easements for the provision of public services and facilities as required.
- 4. All lots shall have a minimum street frontage of 12 feet to provide for vehicular access.
- 5. Only structures that comply with the requirements of urban dwellings, as set forth in Article XII (Special Regulations for Unique Uses), Division 30 (Urban Dwelling Units), shall be allowed on lots created by this process.

Sec. 20-123. - Limitations.

The city shall not require or deny an application based on any of the following:

1. 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.
2. The city shall not impose any objective subdivision standards that would have the effect of physically precluding the construction of two units on either of the resulting parcels or that would result in a unit size of less than 800 square feet.
3. The city shall not require the correction of nonconforming zoning provisions as a condition for the lot split.
4. The city shall not deny an application solely because it proposes adjacent or connected structure provided that all building code safety standards are met and they are sufficient to allow a separate conveyance.

Sec. 20-124. - Affidavit.

An applicant for an urban lot split shall be required to sign an affidavit in a form approved by the city attorney to be recorded against the property stating the following:

1. 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 approval. This requirement does not apply when the applicant is a "community land trust" or a "qualified nonprofit corporation" as the same are defined in the Revenue and Taxation Code.
2. That the uses shall be limited to residential uses.
3. That any rental of any unit created by the lot split shall be for a minimum of thirty-one days.
4. That the site is not eligible for any street parking permits.
5. That the maximum number of units to be allowed on the parcels is two, including but not limited to units otherwise allowed pursuant to density bonus provisions, accessory dwelling units, junior accessory dwelling units, or units allowed pursuant to Article XII (Special Regulations for Unique Uses), Division 30 (Urban Dwelling Units) of this Code.

Sec. 20-125. - Building official denial.

The city may deny the lot split if the building official makes 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 the public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

Sec. 20-126. - Inapplicability of article.

This article shall not apply to:

1. Any parcel which has been established pursuant to a lot split in accordance with this article; or
2. Any parcel where the owner of the parcel being subdivided or any person acting in concert with the owner has previously subdivided an adjacent parcel in accordance with this article. For purposes of this section, "acting in concert" shall include, but not be limited to, where the owner of a property proposed for an urban lot split is the same, related to, or connected by partnership to the owner, buyer or seller (if transferred within the previous three years) of an adjacent lot.

SECTION 2. Amendment to Article XII of Chapter 26. Division 30 (Urban Dwelling Units) is hereby added to Article XII (Special Regulations for Unique Uses) of Chapter 26 (Zoning) of the West Covina Municipal Code to read as follows:

Division 30. - Urban Dwelling Units

Sec. 26-685.13000. - Definitions. For purposes of this division, the following definition shall apply:

"Urban dwelling units" shall mean no more than two residential units within a single-family zone that meets the requirements of this division. The two units may consist of two new units or one new unit and one existing unit.

Sec. 26-685.13100. - Applicability. The city shall ministerially review a housing development containing no more than two residential units through the second-unit review process pursuant to Section 26-300.02, if it meets the following requirements:

1. The parcel is located within a single-family residential zone.
2. The parcel is not located in any of the following areas and does not fall within any of the following categories:
 - a. 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 landmark or historic property or district pursuant to a city ordinance.
 - b. A very high fire hazard severity zone as further defined in Government Code section 65913.4(a)(6)(D). This does not apply to sites excluded from

the specified hazard zones by a local agency, pursuant to subdivision (b) of Section 51179, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.

- c. A delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law and by the city's building department.
3. The proposed housing development would not require demolition or alteration of any of the following types of housing:
- a. 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;
 - b. Housing that is subject to any form of rent or price control by the city;
 - c. A parcel or parcels on which an owner of residential real property exercised rights under Government Code section 7060 et seq. to withdraw accommodations from rent or lease within 15 years before the date of the application; or
 - d. Housing that has been occupied by a tenant in the last three years.
4. Demolition of an existing unit that has not been occupied by a tenant in the last three years shall not exceed more than 25 percent of the existing exterior structural walls.

Sec. 26-685.13200. - Standards and requirements.

The following requirements shall apply:

- 1. Number of Units: A proposed urban dwelling shall contain no more than two units per lot. Accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) will be counted toward the maximum number of units.
- 2. Setbacks:
 - a. Existing Structures - 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.
 - b. Side and Rear Setback for New Structures and Additions - The minimum setback from the side and rear property line is 4 feet. The proposed

residential unit(s) occupying an urban lot subdivision may be constructed directly along the side property line adjoining and attached to the unit within the same urban lot split subdivision, if the construction of an 800 square-foot unit would not be physically possible without the setback reduction.

- c. Front Setback for New Structures and Additions - The minimum setback from the front property line is 25 feet. The front setback may be reduced to 10 feet if the construction of an 800 square-foot unit would not be physically possible without the front setback reduction after the implementation of 2.b. of this section is incorporated with the project design.
3. Maximum size: The maximum size of an urban dwelling unit shall not exceed 800 square feet.
4. Minimum size: The minimum size of an urban dwelling unit shall be 500 square feet.
5. Maximum Height: An urban dwelling unit, or additions to an existing structure within a proposed urban lot split subdivision shall not be more than one-story and shall not exceed 16 feet in height. Projects may be exempt from the one-story height limitation and may be constructed up to 25 feet in height if the construction of an 800 square-foot unit would not be physically possible without the height increase after the implementation of 2.b. and 2.c of this section is incorporated with the project design.
 - a. In cases where an urban dwelling is being added by subdividing an existing structure, the height requirements of this subsection do not apply.
6. Front Yard Landscaping and Paving/Hardscape
 - a. The driveway/pavement/hardscape width in the front yard shall be limited to the width of the garage, or 12 feet if the lot does not have a garage.
 - b. Within the front yard, a minimum of 50 percent of the land area shall be maintained with landscaping consisting of live organic plant materials. Paving which incorporates planting cells such as turf block, grass grid, open-cell unit paver, geoblock, or grasscrete may be counted towards the landscaping requirement with the exclusion of the hard surface. Parking on such composite planted paving is not allowed.
 - c. A minimum of one 24" box-sized tree shall be planted on the front yard.
7. Objective Design Standards

- a. Additions to Existing Structures. Additions to existing structures shall utilize the same exterior materials, color, roof pitch, and architecture of the existing structure on the lot.
- b. New Construction. The following standards shall apply to all new construction:
 - i. The front elevation shall include the primary entrance to the unit and a roofed porch. The porch may utilize a protruding or recessed design that provides for a roofed porch that is a minimum 6 feet deep and 6 feet wide.
 - ii. All structures shall have at least two exterior building wall materials. The building wall material option shall be limited to stucco, wood, rock/stone, brick, or decorative hand-painted tile. The building materials utilized shall be continued throughout the exterior of the house on all elevations. Window or door trims shall not be counted towards the material requirement.
 - iii. Windows –
 - (1) Treatment on windows shall be incorporated into the window design. Allowable window treatments shall be limited to the following: stucco pop outs, wood trim, pot shelves, shutters, or recessed windows.
 - (a) Recessed windows shall be 1"-2" from the exterior building wall.
 - (b) The height and width of window shutters shall be proportionate to the height and width of the window utilizing the treatment. The shutters shall be wide and tall enough to completely cover the exterior of each side of the window without exceeding the dimensions of the window by greater than 2".
 - (2) Second-floor side windows shall be limited to clerestory windows for light and ventilation measured no less than 5 feet above the interior floor level.
 - iv. The roof design shall be limited to gable, dutch-gable, or hipped. Flat-roofs and/or shed roofs are prohibited. For the purposes of this subsection, "flat-roof" shall mean having a roof pitch of less than 2:12.

- (1) Spanish and/or Mediterranean style urban dwellings shall utilize rounded or “S” roof tiles, or a combination thereof.
- v. The color palette for the urban dwelling shall include a minimum of two colors. The color utilized for the main wall shall be a different color than the color used for the architectural trim (e.g., window/door trim).
 - vi. Balconies, second-story decks and/or exterior staircases are prohibited. All staircases shall be located within an enclosed structure.
- 8. Residents of urban dwelling units are not eligible for any type of street parking permit.
- 9. The applicant shall provide easements for the provision of public services and facilities as required.
- 10. All lots shall have a minimum street frontage of 12 feet to provide for vehicular access.
- 11. Off-street parking shall be limited to one space per unit, except that no parking requirements shall be imposed in either of the following circumstances:
 - a. The parcel is located within one-half mile walking distance of either a high-quality transit corridor as defined by Public Resources Code section 21155(b) or a major transit stop as defined in Public Resources Code section 21064.3; or
 - b. There is a car share vehicle located within one block of the parcel.
- 12. For residential units connected to an onsite wastewater treatment system (septic tank), the applicant provides a percolation test completed within the last 5 years, or if the percolation test has been recertified, within the last 10 years, which shows that the system meets acceptable infiltration rates.

Sec. 26-685.13300. - Authority.

The city shall not require or deny an application based on any of the following:

- 1. The city shall not impose any objective zoning or design review standards that would have the effect of physically precluding the construction of two units on either of the resulting parcels or that would result in a unit size of less than 800 square feet.

2. The city shall not deny an application solely because it proposes adjacent or connected structures, provided that that all building code safety standards are met and they are sufficient to allow a separate conveyance.

Sec. 26-685.13400. - Affidavit.

An applicant for an urban dwelling shall be required to sign an affidavit in a form approved by the city attorney to be recorded against the property stating the following:

1. That the uses shall be limited to residential uses.
2. That the rental of any unit created pursuant to this section shall be for a minimum of thirty-one days.
3. That the maximum number of units to be allowed on the parcels is two, including but not limited to units otherwise allowed pursuant to density bonus provisions, accessory dwelling units, junior accessory dwelling units, or units allowed pursuant to Chapter 26 (Zoning).
4. That the site and/or residence of the site is not eligible for any type of street parking permit.

Sec. 26-685.13500. - Building official denial procedure.

The city may deny the housing development if the building official makes 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 the public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

Sec. 26-685.13600. - Effect on other ordinances.

The provisions of this division supersede any contrary provisions in the West Covina Municipal Code to the contrary.

SECTION 3. Amendment to Section 26-391(1). Section 26-391(1) of the West Covina Municipal Code is hereby amended to read as follows:

- (1) One (1) single-family dwelling per lot, or urban dwelling unit pursuant to Article XII, Division 30 of this chapter. Any additions or accessory buildings shall maintain architectural consistency with the house regarding roof profile and pitch, materials, colors, roofing, scale, exterior treatment and details.

SECTION 4. Amendment to Article IV. Division 15 (Second Unit Review) is hereby added to Article VI (Procedure, Hearings, Notices, Fees, and Cases) of Chapter 26 (Zoning) of the West Covina Municipal Code to read as follows:

Division 15. - Second Unit Review

Sec. 26-300.02. - Process.

- (a) A second unit review is the procedure used by the city to verify that a proposed accessory dwelling unit pursuant to Division 11 of Article XII of this chapter and/or urban dwelling unit pursuant to Division 30 of Article XII of this chapter complies with the applicable development standards.
 - (1) The director or his/her/their designee shall issue a second unit review approval letter after determining that the request complies with all zoning code provisions applicable to the project.
 - (2) The director or his/her/their designee shall provide the applicant an incomplete/correction letter if the application is incomplete or if corrections are needed in order for the application and plans to comply with zoning code standards.
- (b) Building permits shall not be issued without a second unit review approval letter.

SECTION 5. CEQA. This adoption of this Ordinance is exempt from CEQA. The provisions relating to the implementation of SB 9 are not a project pursuant to the terms of SB 9. The addition of a Second Unit Review Process is also exempt from CEQA under the common sense exception of CEQA Guidelines 15061(b)(3) as it can be seen with certainty that adding a processing procedure will not have any environmental impact.

SECTION 6. Effective Date. This Ordinance shall take effect immediately pursuant to California Government Code section 36937 because of the need for the preservation of the public peace, health and safety as set forth in the recitals of this Ordinance and to immediately establish a process to review applications for urban lot splits and urban dwellings.

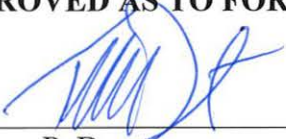
SECTION 7. Certification. The City Clerk shall certify to the adoption of this Ordinance and shall cause this Ordinance to be published or posted as required by law.

PASSED, APPROVED AND ADOPTED this 7th day of December, 2021.




Dario Castellanos
Mayor

APPROVED AS TO FORM



Thomas P. Duarte
City Attorney

ATTEST




Lisa Sherrick
Assistant City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF WEST COVINA)

I, LISA SHERRICK, Assistant City Clerk of the City of West Covina, do hereby certify the foregoing Ordinance, being Urgency Ordinance No. 2493, was introduced and adopted by the City Council of the City of West Covina at a regular meeting of the City Council held on the 7th of December 2021, by the following vote:

AYES:	Castellanos, Diaz, Lopez-Viado, Tabatabai, Wu
NOES:	None
ABSENT:	None
ABSTAINED:	None



Lisa Sherrick
Assistant City Clerk