

**CITY OF HAWAIIAN GARDENS**  
**ORDINANCE NO. ORD-2021-598U**

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWAIIAN GARDENS AMENDING TITLE 17 ADDING CHAPTER 17.06 (URBAN LOT SPLITS), ADDING SECTION 18.40.025, AND AMENDING SECTION 18.40.070 TO INCLUDE TWO-UNIT PROJECTS AS PERMITTED USES IN THE R-1 AND R-1:10,000 RESIDENTIAL ZONES AND PERMIT THEM SUBJECT TO OBJECTIVE STANDARDS AS ALLOWED BY THE STATE OF CALIFORNIA SENATE BILL 9 AND A DETERMINATION THE PROJECT IS EXEMPT FROM CALIFORNIA ENVIRONMENTAL QUALITY ACT**

The City Council of the City of Hawaiian Gardens does ordain as follows:

**Section 1.** On September 16, 2021, Governor Gavin Newsom enacted a series of housing bills including Senate Bill (SB) 9 which mandates cities to ministerially allow single-family lots to be developed with two single-family dwellings known as “Two-unit projects.” SB 9 becomes effective on January 1, 2022.

**Section 2.** SB 9 allows the City to adopt objective design, development, and subdivision standards for urban lot splits and two-unit projects.

**Section 3.** SB 9 takes effect January 1, 2022 and preempts any conflicting City ordinance.

**Section 4.** The City desires to amend its local regulatory scheme to comply with Government Code sections 66411.7 and 65852.21 and to appropriately regulate projects under SB 9.

**Section 5.** There is a current and immediate threat to the public health, safety, or welfare based on the passage of SB 9 because if the City does not adopt appropriate objective standards for urban lot splits and two-unit projects as of January 1, 2022, the City would thereafter be limited to applying the few objective standards that are already in its code, which did not anticipate and were not enacted with urban lot splits and ministerial two-unit projects in mind.

**Section 6.** Approval of urban lot splits and two-unit projects based solely on the City’s default standards, without appropriate regulations governing lot configuration, unit size, height, setbacks, parking, utilities, among other things, would threaten the character of existing neighborhoods, and negatively impact property values, personal privacy, and public safety. These threats to public safety, health, and welfare justify adoption of this Ordinance as an urgency ordinance to be effective January 1, 2022 (same date SB 9 takes effect) upon adoption by a four-fifths vote of the City Council.

**Section 7.** To protect the public safety, health, and welfare, the City Council may adopt this Ordinance as an urgency measure in accordance with Government Code section 36937(b).

**Section 8.** The City Council has considered the staff report, supporting documents, public testimony, and all appropriate information that has been submitted with this Ordinance and all legal prerequisites to the adoption of the Ordinance have occurred.

**Section 9.** The City Council approves of the following amendments to the Hawaiian Gardens Municipal Code:

I. Chapter 17.06 is added to Title 17 to read as follows:

### **Chapter 17.06 Urban Lot Splits**

**Section 17.06.10 Purpose.** The purpose of this section is to allow and appropriately regulate urban lot splits in accordance with Government Code section 66411.7.

**Section 17.06.20 Definition.** An "urban lot split" means the subdivision of an existing, legally subdivided lot in to two lots in accordance with the requirements of this section.

### **Section 17.06.30 Application.**

- A. Only individual property owners may apply for an urban lot split. "Individual property owner" means a natural person holding fee title individually or jointly in the person's own name or a beneficiary of a trust that holds fee title. "Individual property owner" does not include any corporation or corporate person of any kind (partnership, LP, LLC, C corp, S corp, etc.) except for a community land trust (as defined by Rev. & Tax Code § 402.1(a)(11)(C)(ii)) or a qualified nonprofit corporation (as defined by § 214.15).
- B. An application for an urban lot split must be submitted on the city's approved form. Only a complete application will be considered. The city will inform the applicant in writing of any incompleteness within 30 days after the application is submitted.
- C. The city may establish a fee to recover its costs for adopting, implementing, and enforcing this section of the code, in accordance with applicable law. The city council may establish and change the fee by resolution. The fee must be paid with the application.

### **Section 17.06.40 Approval.**

- A. An application for a parcel map for an urban lot split is approved or denied ministerially, by the Community Development Director, without discretionary review.
- B. A tentative parcel map for an urban lot split is approved ministerially if it complies with all the requirements of this section. The tentative parcel map may not be recorded. A final parcel map is approved ministerially as well, but not until the owner demonstrates that the required documents have been recorded, such as the deed restriction and easements. The tentative parcel map expires three months after approval.

- C. The approval must require the owner and applicant to hold the city harmless from all claims and damages related to the approval and its subject matter.
- D. The approval must require the owner and applicant to reimburse the city for all costs of enforcement, including attorneys' fees and costs associated with enforcing the requirements of this code.

**Section 17.06.50 Requirements.** An urban lot split must satisfy each of the following requirements:

- A. **Map Act Compliance.**
  - 1. The urban lot split must conform to all applicable objective requirements of the Subdivision Map Act (Gov. Code § 66410 et. seq., "SMA"), including implementing requirements in this code, except as otherwise expressly provided in this section.
  - 2. If an urban lot split violates any part of the SMA, the city's subdivision regulations, including this section, or any other legal requirement:
    - a. The buyer or grantee of a lot that is created by the urban lot split has all the remedies available under the SMA, including but not limited to an action for damages or to void the deed, sale, or contract.
    - b. The city has all the remedies available to it under the SMA, including but not limited to the following:
      - i. An action to enjoin any attempt to sell, lease, or finance the property.
      - ii. An action for other legal, equitable, or summary remedy, such as declaratory and injunctive relief.
      - iii. Criminal prosecution, punishable by imprisonment in county jail or state prison for up to one year, by a fine of up to \$10,000, or both; or a misdemeanor.
      - iv. Record a notice of violation.
      - v. Withhold any or all future permits and approvals.
    - c. Notwithstanding section 66411.1 of the SMA, no dedication of rights-of-way or construction of offsite improvements is required for an urban lot split.
  - 3. **Zone.** The lot to be split is in either the Single-Family Estate (R-1: 10,000) zone or the Single Family Residential (R-1) zone.
  - 4. **Lot Location.**
    - a. The lot to be split is not located on a site that is any of the following:

- i. Prime farmland, 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 measures required by existing building standards.
  - iv. A hazardous waste site that has not been cleared for residential use.
  - v. Within a delineated earthquake fault zone, unless all development on the site complies with applicable seismic protection building code standards.
  - vi. Within a 100-year flood hazard area, unless the site 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 all development on the site has received a no-rise certification.
  - viii. Land identified for conservation in an adopted natural community conservation plan, habitat conservation plan, or other adopted natural resource protection plan.
  - ix. Habitat for protected species.
  - x. Land under conservation easement.
- b. The purpose of subpart A.4.a above is merely to summarize the requirements of Government Code section 65913.4(a)(6)(B)–(K). (See Gov. Code § 66411.7(a)(3)(C).)
5. **Not Historic.** The lot to be split must not be a historic property or within a historic district that is included on the State Historic Resources Inventory. Nor may the lot be or be within a site that is designated by ordinance as a city or county landmark or as a historic property or district.
6. **No Prior Urban Lot Split.**

- a. The lot to be split was not established through a prior urban lot split.
  - b. The lot to be split is not adjacent to any lot that was established through a prior urban lot split by the owner of the lot to be split or by any person acting in concert with the owner.
7. **No Impact on Protected Housing.** The urban lot split must not require or include the demolition or alteration of any of the following types of housing:
- a. Housing that is income-restricted for households of moderate, low, or very low income.
  - b. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its policy power.
  - c. Housing, or a lot that used to have housing, that has been withdrawn from rental or lease under the Ellis Act (Gov. Code §§ 7060–7060.7) at any time in the 15 years prior to submission of the urban lot split application.
  - d. Housing that has been occupied by a tenant in the last three years. The applicant and the owner of a property for which an urban lot split is sought must provide a sworn statement as to this fact with the application for the parcel map. The city may conduct its own inquiries and investigation to ascertain the veracity of the sworn statement, including but not limited to, surveying owners of nearby properties; and the city may require additional evidence of the applicant and owner as necessary to determine compliance with this requirement.
8. **Lot Size.**
- a. The lot to be split must be at least 2,400 square feet.
  - b. The resulting lots must each be at least 1,200 square feet.
  - c. Each of the resulting lots must be between 60 percent and 40 percent of the original lot area.
9. **Easements.**
- a. The owner must enter into an easement agreement with each public-service provider to establish easements that are sufficient for the provision of public services and facilities to each of the resulting lots.
  - b. Each easement must be shown on the tentative parcel map.
  - c. Copies of the unrecorded easement agreements must be submitted with the application. The easement agreements must be recorded against the property before the final map may be approved, in accordance with subpart B above.

10. **Lot Access.**

- a. Each resulting lot must adjoin the public right of way.
- b. Each resulting lot must have frontage on the public right of way of at least 25 feet.

11. **Unit Standards.**

- a. Lots created via this Urban Lot Split Chapter shall only be permitted to be developed with Two-unit Projects pursuant to section 18.40.025 and all other applicable provisions of this Code.

12. **Separate Conveyance.**

- a. Within a resulting 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. 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. If any attached structures span or will span the new lot line, the owner must record appropriate CC&Rs, easements, or other documentation that is necessary to allocate rights and responsibility between the owners of the two lots.

13. **Regulation of Uses.**

- a. **Residential-only.** No non-residential use is permitted on any lot created by urban lot split.
- b. **No STRs.** No dwelling unit on a lot that is created by an urban lot split may be rented for a period of less than 30 days.
- c. **Owner Occupancy.** The applicant for an urban lot split must sign an affidavit stating that the applicant intends to occupy one of the dwelling units on one of the resulting lots as the applicant's principal

residence for a minimum of three years after the urban lot split is approved.

14. **Notice of Construction.**

- a. At least 30 business days before starting any construction of a structure on a lot created by an urban lot split, the property owner must give written notice to all the owners of record of each of the adjacent residential parcels, which notice must include the following information:
  - i. Notice that construction has been authorized,
  - ii. The anticipated start and end dates for construction,
  - iii. The hours of construction,
  - iv. Contact information for the project manager (for construction-related complaints), and
  - v. Contact information for the Building & Safety Department.
- b. This notice requirement does not confer a right on the noticed persons or on anyone else to comment on the project before permits are issued. Approval is ministerial. Under state law, the City has no discretion in approving or denying a particular project under this section. This notice requirement is purely to promote neighborhood awareness and expectation.

15. **Deed Restriction.** The owner must record a deed restriction, acceptable to the city, that does each of the following:

- a. Expressly prohibits any rental of any dwelling on the property for a period of less than 30 days.
- b. Expressly prohibits any non-residential use of the lots created by the urban lot split.
- c. Expressly prohibits any separate conveyance of a primary dwelling on the property, any separate fee interest, and any common interest development within the lot.
- d. States that the property is formed by an urban lot split and is therefore subject to the city's urban lot split regulations, including all applicable limits on dwelling size and development and the only development permitted on the lot are two-unit projects subject to Section 18.40.025.

**Section 17.06.60 Specific Adverse Impacts.**

1. Notwithstanding anything else in this section, the city may deny an application for an urban lot split if the building official makes a written finding, based on a preponderance of the evidence, that the project would have a "specific, adverse impact" on either public health and safety or on the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.
2. "Specific adverse impact" has the same meaning as in Gov. Code § 65589.5(d)(2): "a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete" and does not include (1) inconsistency with the zoning ordinance or general plan land use designation or (2) the eligibility to claim a welfare exemption under Revenue and Taxation Code section 214(g).
3. The building official may consult with and be assisted by planning staff and others as necessary in making a finding of specific, adverse impact.

II. Section 18.40.025 is added to read as follows:

### **Section 18.40.025 Two-unit Projects**

- B. **Purpose.** The purpose of this section is to allow and appropriately regulate two-unit projects in accordance with Government Code section 65852.21.
- C. **Definition.** A "two-unit project" means the development of two primary dwelling units or, if there is already a primary dwelling unit on the lot, the development of a second primary dwelling unit on a legally subdivided lot in accordance with the requirements of this section.
- D. **Application.**
  1. Only individual property owners may apply for a two-unit project. "Individual property owner" means a natural person holding fee title individually or jointly in the person's own name or a beneficiary of a trust that holds fee title. "Individual property owner" does not include any corporation or corporate person of any kind (partnership, LP, LLC, C corp, S corp, etc.) except for a community land trust (as defined by Rev. & Tax Code § 402.1(a)(11)(C)(ii)) or a qualified nonprofit corporation (as defined by § 214.15).
  2. An application for a two-unit project must be submitted on the city's approved form.
  3. The applicant must obtain a certificate of compliance with the Subdivision Map Act for the lot and provide the certificate with the application.

4. Only a complete application will be considered. The city will inform the applicant in writing of any incompleteness within 30 days after the application is submitted.
5. The city may establish a fee to recover its costs for adopting, implementing, and enforcing this section of the code, in accordance with applicable law. The city council may establish and change the fee by resolution. The fee must be paid with the application.

**E. Approval.**

1. An application for a two-unit project is approved or denied ministerially, by the Community Development Director.
2. The ministerial approval of a two-unit project does not take effect until the city has confirmed that the required documents have been recorded, such as the deed restriction and easements.
3. The approval must require the owner and applicant to hold the city harmless from all claims and damages related to the approval and its subject matter.
4. The approval must require the owner and applicant to reimburse the city for all costs of enforcement, including attorneys' fees and costs associated with enforcing the requirements of this code.

**F. Requirements.** A two-unit project must satisfy each of the following requirements:

1. **Map Act Compliance.** The lot must have been legally subdivided.
2. **Zone.** The lot is located in the Single-Family Estate or Single Family Residential (R-1: 10,000 and R-1) zones.
3. **Lot Location.**
  - a. The lot is not located on a site that is any of the following:
    - i. Prime farmland, 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 measures required by existing building standards.
    - iv. A hazardous waste site that has not been cleared for residential use.

- v. Within a delineated earthquake fault zone, unless all development on the site complies with applicable seismic protection building code standards.
  - vi. Within a 100-year flood hazard area, unless the site 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 all development on the site has received a no-rise certification.
  - viii. Land identified for conservation in an adopted natural community conservation plan, habitat conservation plan, or other adopted natural resource protection plan.
  - ix. Habitat for protected species.
  - x. Land under conservation easement.
4. **Not Historic.** The lot must not be a historic property or within a historic district that is included on the State Historic Resources Inventory. Nor may the lot be or be within a site that is designated by ordinance as a city or county landmark or as a historic property or district.
5. **No Impact on Protected Housing.** The two-unit project must not require or include the demolition or alteration of any of the following types of housing:
- a. Housing that is income-restricted for households of moderate, low, or very low income.
  - b. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its policy power.
  - c. Housing, or a lot that used to have housing, that has been withdrawn from rental or lease under the Ellis Act (Gov. Code §§ 7060–7060.7) at any time in the 15 years prior to submission of the urban lot split application.
  - d. Housing that has been occupied by a tenant in the last three years. The applicant and the owner of a property for which a two-unit project is sought must provide a sworn statement as to this fact with the

application for the parcel map. The city may conduct its own inquiries and investigation to ascertain the veracity of the sworn statement, including but not limited to, surveying owners of nearby properties; and the city may require additional evidence of the applicant and owner as necessary to determine compliance with this requirement.

6. **Unit Standards.**

a. **Quantity.**

- i. No more than two dwelling units of any kind may be built on a lot that results from an urban lot split. For purposes of this paragraph, "unit" means any dwelling unit, including, but not limited to, a primary dwelling unit, a unit created under this section of this code, an ADU, or a JADU.
- ii. A lot that is not created by an urban lot split may have a two-unit project under this section, plus any ADU or JADU that must be allowed under state law and the city's ADU ordinance.

b. **Unit Size.**

- i. The total floor area of the second primary dwelling built that is developed under this section cannot exceed 800 square feet.

c. **Demo Cap.** The two-unit project may not involve the demolition of more than 25 percent of the existing exterior walls of an existing dwelling unless the site has not been occupied by a tenant in the last three years.

d. **Lot Coverage.** The City's existing lot coverage standards for its Single-Family Estate and Single Family Residential (R-1: 10,000 and R-1) zones shall apply to projects subject to the Section per the applicable zone based on project location. This lot coverage standard shall apply to the maximum extent feasible so that two primary dwelling units on the lot at 800 square feet are permitted.

e. **Open Space.** The City's existing open space standards for its Single-Family Estate and Single Family Residential (R-1: 10,000 and R-1) zones shall apply to projects subject to the Section per the applicable zone based on project location. This open space standard shall apply to the maximum extent feasible so that two primary dwelling units on the lot at 800 square feet are permitted.

f. **Setbacks.**

- i. **Generally.** The City's existing setbacks standards for its Single-Family Estate and Single Family Residential (R-1:

10,000 and R-1) zones shall apply to projects subject to the Section per the applicable zone based on project location. These setbacks standards shall apply to the maximum extent feasible so that two primary dwelling units on the lot at 800 square feet are permitted.

ii. **Exceptions.** Notwithstanding subpart F.6.f above:

(I) **Existing Structures.** No setback is required for an existing legally established structure or for a new structure that is constructed in the same location and to the same dimensions as an existing legally established structure.

(II) **800 sf; four-foot side and rear.** The setbacks imposed by the underlying zone must yield to the degree necessary to avoid physically precluding the construction of up to two units on the lot or either of the two units from being at least 800 square feet in floor area; but in no event may any structure be less than four feet from a side or rear property line.

iii. **Front Setback Area.** Notwithstanding any other part of this code, dwellings that are constructed under this section must be equal to at least ten (10) percent of the depth of the lot; however, the maximum setback shall be ten (10) feet, and the minimum setback shall be five (5) feet. The front setback area must:

(I) be kept free from all structures greater than three feet high;

(II) be at least 50 percent landscaped with drought-tolerant plants, with vegetation and irrigation plans approved by a licensed landscape architect;

(III) allow for vehicular and fire-safety access to the front structure.

g. **Parking.** Each new primary dwelling unit must have at least one off-street parking space per unit unless one of the following applies:

i. The lot is located within one-half mile walking distance of either

(I) a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours or

(II) a site that contains

- (ia) an existing rail or bus rapid transit station,
    - (ib) a ferry terminal served by either a bus or rail transit service, or
    - (ic) the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.
  - ii. The site is located within one block of a car-share vehicle location.
- h. **Architecture.**
- i. If there is a legal primary dwelling on the lot that was established before the two-unit project, any new primary dwelling unit must match the existing primary dwelling unit in exterior materials, color, and dominant roof pitch. The dominant roof slope is the slope shared by the largest portion of the roof.
  - ii. If there is no legal primary dwelling on the lot before the two-unit project, and if two primary dwellings are developed on the lot, the dwellings must match each other in exterior materials, color, and dominant roof pitch. The dominant roof slope is the slope shared by the largest portion of the roof.
  - iii. All exterior lighting must be limited to down-lights.
  - iv. No window or door of a dwelling that is constructed on the lot may have a direct line of sight to an adjoining residential property. Fencing, landscaping, or privacy glass may be used to provide screening and prevent a direct line of sight.
- i. **Nonconforming Conditions.** A two-unit project may only be approved if all illegal nonconforming zoning conditions are corrected.
- j. **Utilities.**
- i. Each primary dwelling unit on the lot must have its own direct utility connection to the utility service provider.
  - ii. Each primary dwelling unit on the lot that is or that is proposed to be connected to an onsite wastewater treatment system must first have a percolation test completed within the last five years or, if the percolation test has been recertified, within the last 10 years.

- k. **Building & Safety.** All structures built on the lot must comply with all current local building standards. A project under this section is a change of use and subjects the whole of the lot, and all structures, to the city's current code.
  - l. **Other Standards.** All other applicable standards of this Code shall apply to the extent these standards do not conflict with this section of State law.
7. **Fire-Hazard Mitigation Measures.** A lot in a very high fire hazard severity zone must comply with each of the following fire-hazard mitigation measures:
- a. It must have direct access to a public right of way with a paved street with a width of at least 40 feet. The public right of way must have at least two independent points of access for fire and life safety to access and for residents to evacuate.
  - b. All dwellings on the site must comply with current fire code requirements for dwellings in a very high fire hazard severity zone.
  - c. All enclosed structures on the site must have fire sprinklers.
  - d. All sides of all dwellings on the site must be within a 150-foot hose-pull distance from either the public right of way or of an onsite fire hydrant or standpipe.
  - e. If the lot does not have a swimming pool, the lot must have a water reservoir of at least 5,000 gallons per dwelling, with fire-authority approved hookups compatible with fire-authority standard pump and hose equipment.
8. **Separate Conveyance.**
- a. Primary dwelling units on the lot may not be owned or conveyed separately from each other.
  - b. Condominium airspace divisions and common interest developments are not permitted within the lot.
  - c. All fee interest in the lot and all the dwellings must be held equally and undivided by all individual property owners.
9. **Regulation of Uses.**
- a. **Residential-only.** No non-residential use is permitted on the lot.
  - b. **No STRs.** No dwelling unit on the lot may be rented for a period of less than 30 days.

- c. **Owner Occupancy.** Unless the lot was formed by an urban lot split, the individual property owners of a lot with a two-unit project must occupy one of the dwellings on the lot as the owners' principal residence and legal domicile.

10. **Notice of Construction.**

- a. At least 30 business days before starting any construction of a two-unit project, the property owner must give written notice to all the owners of record of each of the adjacent residential parcels, which notice must include the following information:
  - i. Notice that construction has been authorized,
  - ii. The anticipated start and end dates for construction,
  - iii. The hours of construction,
  - iv. Contact information for the project manager (for construction-related complaints), and
  - v. Contact information for the Building & Safety Department.
- b. This notice requirement does not confer a right on the noticed persons or on anyone else to comment on the project before permits are issued. Approval is ministerial. Under state law, the City has no discretion in approving or denying a particular project under this section. This notice requirement is purely to promote neighborhood awareness and expectation.

11. **Deed Restriction.** The owner must record a deed restriction, acceptable to the city, that does each of the following:

- a. Expressly prohibits any rental of any dwelling on the property for a period of less than 30 days.
- b. Expressly prohibits any non-residential use of the lot.
- c. Expressly prohibits any separate conveyance of a primary dwelling on the property, any separate fee interest, and any common interest development within the lot.
- d. If the lot is not created by an urban lot split, expressly requires the individual property owners to live in one of the dwelling units on the lot as the owners' primary residence and legal domicile.
- e. If the lot is created by an urban lot split, then it is subject to the city's urban lot split regulations, including all applicable limits on dwelling size and development and the only development permitted on the lot are two-unit projects subject to this Chapter.

**G. Specific Adverse Impacts.**

1. Notwithstanding anything else in this section, the city may deny an application for a two-unit project if the building official makes a written finding, based on a preponderance of the evidence, that the project would have a "specific, adverse impact" on either public health and safety or on the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.
2. "Specific adverse impact" has the same meaning as in Gov. Code § 65589.5(d)(2): "a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete" and does not include (1) inconsistency with the zoning ordinance or general plan land use designation or (2) the eligibility to claim a welfare exemption under Revenue and Taxation Code section 214(g).
3. The building official may consult with and be assisted by planning staff and others as necessary in making a finding of specific, adverse impact.

**H. Remedies.**

If a two-unit project violates any part of this code or any other legal requirement:

1. The buyer, grantee, or lessee of any part of the property has an action for damages or to void the deed, sale, or contract.
2. The city may:
  - a. Bring an action to enjoin any attempt to sell, lease, or finance the property.
  - b. Bring an action for other legal, equitable, or summary remedy, such as declaratory and injunctive relief.
  - c. Pursue criminal prosecution, punishable by imprisonment in county jail or state prison for up to one year, by a fine of up to \$10,000, or both; or a misdemeanor.
  - d. Record a notice of violation.
  - e. Withhold any or all future permits and approvals.
  - f. Pursue all other administrative, legal, or equitable remedies that are allowed by law or the city's code.

**III.** Section 18.40.070 of the Hawaiian Gardens Municipal Code is amended to add the following row to the table in 18.40.070 (A) under Residential uses:

“Two-unit Projects”

This use shall be Permitted in the Single-Family Estate and Single Family Residential (R-1: 10,000 and R-1) zones. This use shall be Prohibited in all other Residential Zones in the City.

**Section 10.** Under California Government Code sections 65852.21(j) and 66411.7(n), the adoption of an ordinance by a city or county implementing the provisions of Government Code sections 66411.7 and 65852.21 and regulating urban lot splits and two-unit projects is statutorily exempt from the requirements of the California Environmental Quality Act (“CEQA”). Therefore, adoption of this Ordinance is statutorily exempt from CEQA because it implements these new laws enacted by SB 9.

The project is further exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines. Section 15061(b)(3) states that CEQA applies only to projects that have the potential for causing a significant effect on the environment. The proposed text amendments will not have a significant effect on the environment because the proposed zone text amendments would provide for new standards consistent with State Law and do not propose any physical construction.

**Section 11.** If any provision of this urgency ordinance or its application to any person or circumstance is held to be invalid, such invalidity has no effect on the other provisions or applications of the ordinance that can be given effect without the invalid provision or application, and to this extent, the provisions of this resolution are severable. The City Council declares that it would have adopted this resolution irrespective of the invalidity of any portion thereof.

**Section 12.** The City Council finds the proposed amendments to the Municipal Code to allow for Two-unit projects are consistent with the City’s General Plan. The urgency ordinance will also comply with State requirements of SB 9. The amendments will not impede the City’s ability to meet its General Plan goals, and the amendments are necessary to carry out the purposes of the Zoning Ordinance, including the orderly planned use of land resources.

**Section 13.** This Urgency Ordinance takes effect immediately upon its adoption and shall become operative on January 1, 2022.

**Section 14.** The Mayor of the City of Hawaiian Gardens is hereby authorized to affix his/her signature to this Urgency Ordinance signifying its approval and adoption by the City Council of the City of Hawaiian Gardens.

**Section 15.** The City Clerk of the City of Hawaiian Gardens, or his/her duly appointed Deputy, is hereby directed to attest hereto; and shall cause this Urgency Ordinance and its certification to be entered into the Book of Ordinances of the City Council of the City of Hawaiian Gardens.

PASSED, APPROVED and ADOPTED at a regular meeting of the City Council on the 14<sup>th</sup> day of December 2021.

**CITY OF HAWAIIAN GARDENS**

---

LUIS ROA  
MAYOR

**ATTEST:**

---

LINDA HOLLINSWORTH  
ACTING CITY CLERK