

ORDINANCE NO. 2022-2894

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA MESA ADOPTING AMENDMENTS TO LA MESA MUNICIPAL CODE TITLE 22 (SUBDIVISIONS) AND TITLE 24 (ZONING) TO ESTABLISH STANDARDS FOR THE IMPLEMENTATION OF THE TWO-UNIT RESIDENTIAL DEVELOPMENT AND URBAN LOT SPLIT PROVISIONS OF SENATE BILL NO. 9

WHEREAS, Senate Bill No. 9, signed by the Governor of California on September 16, 2021, and effective January 1 2022, requires the City to approve the development of two residential units on a lot in a single-family zone that meets specified requirements and to approve the subdivision of lots in single-family zones into two lots of approximately the same area through ministerial processes;

WHEREAS, Senate Bill No. 9 provides that a local jurisdiction may establish standards for implementation of its provisions, but only established objective subdivision, zoning, and design standards may be applied; no discretion or subjective judgment may be exercised;

WHEREAS, the amendments proposed to Title 22 (Subdivisions) and Title 24 (Zoning) in the draft ordinance include and address all of the provisions of Senate Bill 9, and include or reference all of the objective subdivision, zoning, and design standards applicable to single-family residential development and to parcel map subdivision;

WHEREAS, Senate Bill No. 9 provides that the adoption of standards to implement its provisions is not considered a project as defined in the California Environmental Quality Act (CEQA) and therefore not subject to environmental review;

WHEREAS, the City Council did receive and consider a staff report on this matter (Project 2021-46);

WHEREAS, the City Council did hold a duly noticed public hearing on January 25, 2022, and accepted public testimony in considering the proposed amendments; and

WHEREAS, this Ordinance is enacted pursuant to the powers vested in the City pursuant to Article XI, Sections 5 and 7, of the California Constitution.

NOW, THEREFORE, BE IT AND IT IS HEREBY ORDAINED by the Council of the City of La Mesa, California as follows:

SECTION 1: The City Council finds and determines the following:

A. That the foregoing recitals are true and correct and an integral part of the City Council's decision, and hereby adopts such recitals as findings.

B. Senate Bill No. 9 provides that the adoption of an ordinance to implement its provisions is not a project under the California Environmental Quality Act.

SECTION 2: La Mesa Municipal Code (LMMC) Section 22.01.030 – Definitions is hereby amended as follows:

. . .

"N. 'Urban lot split' means a residential subdivision of an existing single, legal lot in a single-family residential zone into two parcels of approximately equal lot area as authorized by California Government Code Section 66411.7.'"

~~NO.~~ 'Vesting Tentative Map' is a map for a residential subdivision that shall have printed conspicuously on its face the words "Vesting Tentative Map" at the time it is filed in accordance with the proceedings established in Chapter 22.07 of the Subdivision Code of the City of La Mesa. "Vesting tentative parcel map" means a vesting tentative map prepared in conjunction with a parcel map.'

SECTION 3: The LMMC is hereby amended by adding a new chapter, Chapter 22.045 – Urban Lot Split, as follows:

"Chapter 22.045 URBAN LOT SPLIT

22.045.010 – Urban lot splits generally

- A. Purpose and Intent. The purpose of this Chapter is to provide regulations for urban lot split parcel maps in single-family residential zones in accordance with Government Code Section 66411.7, or any successor statute. The intent of this Chapter is to increase opportunities to provide more housing in single-family residential zones consistent with state housing laws, and to provide objective standards for the orderly development of urban lot splits.
- B. An application for an urban lot split parcel map shall be considered ministerially, without discretionary review or a hearing, if it meets all of the standards in this Chapter.
- C. No person shall create an urban lot split subdivision except by the filing of an urban lot split parcel map approved pursuant to this Title and the Subdivision Map Act.
- D. Parcels created by an urban lot split shall have a minimum area of 1,200 square feet, and one of the parcels shall not be less than 40% of the area of the original parcel before subdivision.
- E. An urban lot split shall be prohibited in each of the following circumstances:
 - 1. The parcel contains a designated historic landmark or is on the State Historic Resources Inventory, or is within a designated historic district.
 - 2. The urban lot split would require demolition or alteration of any of the following:
 - 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 has been occupied by a tenant in the last three years.
- 3. The parcel was created by prior urban lot split as provided by this Chapter.
- 4. The owner of the parcel or any person acting in concert with the owner of the parcel has previously subdivided an adjacent parcel utilizing the urban lot split process.
- F. Parcels created by an urban lot split shall be limited to only residential uses.
- G. Notwithstanding any other provision, regulation, or standard, the development of at least two units of a minimum of 800 square feet shall not be precluded on each lot of a parcel otherwise eligible for an urban lot split.
- H. Prior to recordation of the urban lot split parcel map, an applicant, except a community land trust or qualified nonprofit corporation, for an urban lot split shall sign an affidavit 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 of the urban lot split.
- I. Prior to recordation of the urban lot split parcel map, the property owner shall cause to be recorded Covenants, Conditions, and Restrictions (CC&Rs) against the property, of a form and content satisfactory to the Director of Community Development. The CC&Rs shall require that the use and development of the property be in accordance with this chapter, and to notify future owners of the restrictions on rental terms and the restrictions on the number of dwelling units permitted.

22.045.020 Application and approval of urban lot split

- A. The subdivider applying for an urban lot split shall file the following material with the director of community development.
 - 1. A fee determined by city council resolution.
 - 2. Urban lot split parcel map copies in the quantity to be specified by the director of community development.
 - 3. A grading plan showing any grading proposed for the creation of building sites or for construction or installation of improvements. The grading plan together with the original topographical contours may both be shown on the urban lot split parcel map.
 - 4. A county health department certification for each lot for which a sanitary sewer is not available, that the lot is approved for installation of an on-site sewage disposal system.
 - 5. An urban lot split parcel map shall be acceptable only with the written consent of all parties having any record title interest in the real property to be subdivided.

- B. The Director of Community Development is authorized as the approval agency for urban lot splits and is directed to:
1. Prescribe, subject to the approval of the city council, such additional rules and regulations as are advisable with respect to processing procedures or requirements for urban lot split subdivisions.
 2. Prescribe such additional rules and regulations as are advisable with respect to the form and contents of urban lot split parcel maps or data supplemental thereto.
 3. Obtain the recommendations of the city engineer, building official, and fire marshal with respect to the design and the kind, nature and extent of the required improvements. Such recommendations shall be in writing and a copy shall be furnished to the subdivider at least three days before any action on the map by the director of community development.
 4. Prescribe the kind, nature and extent of the improvements to be constructed or installed in or to serve the subdivision for which an urban lot split parcel map is filed, and to establish agreements with the subdivider regarding the time when such improvements shall be required.
 5. Approve, conditionally approve or disapprove urban lot split parcel maps filed pursuant to this Chapter.
 6. Extend the time at which an urban lot split parcel map expires. Such an extension shall not exceed twelve months at any one time nor shall the aggregate of all extensions equal more than twenty-four months.
 7. Certify each urban lot split parcel map in accordance with this title.
- C. An urban lot-split may be denied if the Building Official makes a written finding, based on a preponderance of the evidence, that the proposed housing development would have a specific, adverse impact as defined and determined in California Government Code Section 65589.5(d)(2), upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate the specific, adverse impact.
- D. The correction of nonconforming zoning conditions shall not be required as a condition of approval of an urban lot split parcel map.
- E. An urban lot split parcel map shall be disapproved for failure to meet or perform any of the requirements or conditions imposed by this Chapter or the Subdivision Map Act, and city of La Mesa ordinances enacted pursuant thereto.
- F. After the approval by the city of an urban lot split parcel map, the applicant or its agent shall transmit the map the County Recorder.

22.045.030 Requirements for urban lot splits

- A. An urban lot split parcel map must be prepared in full compliance with the objective standards of the Subdivision Map Act and this Title.

- B. Easements sufficient to permit installation and maintenance of publicly maintained storm drainage facilities, sewerage, street lighting, and other public utilities shall be provided and shall be shown on the map.
- C. Except as provided in Section 22.045.030D, each lot shall have frontage on a dedicated street or a street offered for dedication; provided that access to the land to be subdivided may be effected by a private road easement, if no access to the property to be subdivided exists on the effective date of this title, and subdivision of the area to provide improved street access would not be practical without extensive redevelopment because of the built-up character of the area.
 - 1. The minimum width of an easement access, if permitted, shall be:
 - a. Sixteen feet for an easement serving a one-family dwelling, or
 - b. Twenty-two feet for an easement serving two or more family dwelling units.
 - 2. Emergency vehicular access shall be provided to all lots in accordance with the California Fire Code. Turnaround areas may be required.
- D. For urban lot splits that are not required to provide parking spaces and do not provide parking spaces, vehicular access shall not be required. In such circumstances for lots that do not have direct access to a public street, a pedestrian easement of a minimum of five feet in width and not more than 200 feet in length shall be provided from the public street to the lot.
- E. The side lines of lots with street frontage shall be approximately at right angles to the street line on straight streets or radial to curved streets.
- F. Improvements required for the subdivision shall be shown on or indicated as a condition of approval on the urban lot split parcel map. The minimum required improvements shall be:
 - 1. Storm drainage and flood control facilities within the subdivision sufficient to carry storm runoff both tributary to and originating within the subdivision.
 - 2. A public sewerage system serving each lot of the subdivision.
 - 3. A water supply system providing an adequate supply of potable water to each lot and fire hydrant within the subdivision. The water system shall be of the size and design prescribed by the Helix Water District, subject to the approval of the city engineer.
 - 4. Fire hydrants and connections which shall be of the types and at locations specified by the fire marshal.
 - 5. Survey monuments.
 - 6. Public utilities including gas, electric and telephone distribution facilities necessary to separately serve each lot of the subdivision.

7. Plans, profiles and specifications of required improvements shall be furnished to, and approved by, the city engineer prior to the approval of the parcel map by the director of planning. Construction of improvements shall not be required until such time as a permit or other grant of approval for development of the parcel is issued.
 8. Security for improvements shall be provided in accordance with Section 24.04.020D.
- G. An urban lot split map shall be based upon a field survey made in accordance with the Land Surveyor's Act, or it may be compiled from recorded or filed data when sufficient survey information exists on filed maps to retrace the exterior boundary lines of the subdivision, and at least one boundary line can be established by locating two existing monuments of record located on that line.
- H. The subdivider shall cause survey monuments to be set by a licensed land surveyor or registered civil engineer prior to the approval of the parcel map by the Director of Community Development. The required monuments to be set shall include monuments at each corner and the beginning and end points of each curve on the subdivision boundary and each lot boundary; provided that only one monument shall be set at subdivision and lot corners which are coincident, and that any existing record and identified monument which meets all other requirements of this section need not be replaced. Monuments may be offset and as a minimum shall consist of:
1. An iron pipe three-fourths inch in diameter at least eighteen (18) inches in length. The top of the pipe shall be filled with a metal, plastic, or cement plug to a depth of at least three inches and centered with a tack and disc, or
 2. An iron rod one-half inch in diameter at least one foot in length, or
 3. A metal plug with tack and disc set flush with the surface in Portland Cement Concrete sidewalk, curb or pavement.
- I. Urban lot split parcel maps shall comply with and provide all of the information required by Section 22.04.030B."

SECTION 4: LMMC Section 24.01.100 – Definitions is hereby amended as follows:

"Two-unit residential development' means residential development of not more than two residential units on one legal lot in a single-family residential zone as authorized by California Government Code Section 65852.21. A residential development contains two residential units if the development proposes no more than two units or if it proposes to add one new unit to one existing unit."

SECTION 5: The LMMC is hereby amended by adding Section 24.04.050A(11) as follows:

"(11) Units in two-unit residential development, or on lots created by urban lot split

One or no parking spaces. See Section 24.05.032]"

SECTION 6: La Mesa Municipal Code (LMMC) Section 24.05.020A – Permitted Principal Uses and Structures is hereby amended as follows:

“A. Permitted Principal Uses and Structures.

1. In Zones R1E, R1R, R1S and R1:

- a. Agriculture other than the raising of animals or fowl.
- b. One, one-family dwelling unit per lot.
- c. Mobilehomes and homes manufactured offsite, installed on a permanent foundation in accordance with Section 65852.3 of the California Government Code.
- d. Residential care facility, licensed by the state of California, serving six or fewer persons.
- e. Two-unit residential development in accordance with Section 24.05.032.

2. In zone R1A:

- a. One, one-family dwelling unit per lot; except that, on a lot of at least nine thousand square feet in area, one additional detached one-family dwelling is permitted; or
- b. Residential care facility, licensed by the state of California, serving six or fewer persons.
- c. Two-unit residential development in accordance with Section 24.05.032.”

SECTION 7: The LMMC is hereby amended by adding Note 8 to Section 24.05.030B as follows:

“Notes: Irrespective of these requirements the following shall apply:

. . .

- 8) The minimum lot size for an urban lot split is 1,200 square feet as per Section 22.045.010D.”

SECTION 8: The LMMC is hereby amended by adding Section 24.05.032 – Two-Unit Residential Development and Urban Lot Split Development as follows:

“24.05.032 Two-unit residential development and urban lot split development

A. Purpose and Intent

- 1. The purpose of this section is to provide regulations for two-unit residential development in single-family residential zones in accordance with Government Code Section 65852.21 and, as applicable, Government Code Section 66411.7, or any successor statutes. The intent of this section is to increase opportunities to provide more housing in single-family residential

zones consistent with state housing laws, and to provide objective standards for the orderly development of two-unit residential development.

2. The reductions and exceptions to the development standards normally applicable to residential development allowed in this section are for the express purpose of promoting the development and maintenance of more than one dwelling unit on the lot. If for any reason the development is not maintained on the lot in conformance with this section, the lot shall be brought into compliance with all of the requirements for the residential development, or with the legal nonconforming condition of the lot prior to the development of the two-unit residential development, including, but not limited to, the requirements for open yard, setbacks, and covered parking.
- B. An application for a two-unit residential development shall be considered ministerially, without discretionary review or a hearing, if it meets all of the standards in this section.
- C. A two-unit residential development shall not include a request for an exception to any objective standards by applying for a variance, modification, exception, waiver, or other discretionary approval for height, density, setbacks, or similar design or development standard.
- D. Prior to issuance of any permit for a two-unit residential development and/or prior to the recordation of an urban lot split parcel map, the property owner shall cause to be recorded Covenants, Conditions, and Restrictions (CC&Rs) against the property, of a form and content satisfactory to the Director of Community Development. The CC&Rs shall require that the use and development of the property be in accordance with this section, and to notify future owners of the restrictions on rental terms and the restrictions on the number of dwelling units permitted.
- E. Two-unit residential development shall be prohibited in each of the following circumstances:
 1. On lots with a designated historic landmark or that are on the State Historic Resources Inventory, or within a designated historic district.
 2. The two-unit residential development would require demolition or alteration of any of the following:
 - 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 has been occupied by a tenant in the last three years.
- F. Notwithstanding any other provision, regulation, or standard, the development of at least two units of a minimum of 800 square feet shall not be precluded on a lot otherwise eligible for two-unit residential development.
- G. Except as provided in this section, all objective development standards of this Title shall apply to two-unit residential development.

H. Setbacks

1. Two-unit residential developments and lot created by urban lot split shall comply with the front setback of the underlying zoning designation.
 2. Two-unit residential developments and lots created by urban lot split shall provide side and rear setbacks of not less than four feet.
 3. Notwithstanding Section 24.05.032H1 or any other setback regulation, the setback from a common, interior property line created by an urban lot split shall be not less than four feet.
 4. Two-unit residential development and development on lots created by urban lot split that does not comply with the rear yard setback established by the underlying zoning designation or overlay zone shall be limited to a height of one story and 16 feet within 10 feet of the rear property line. This provision shall not apply to rear yards adjacent to a common, interior property line created by an urban lot split.
 5. In zoning designations where the required side yard setback is 10 feet or more, two-unit residential development and development on lots created by urban lot split that does not comply with the side yard setback established by the underlying zoning designation or overlay zone shall be limited to a height of one story and 16 feet within 10 feet of the side property lines. This provision shall not apply to side yards adjacent to a common, interior property line created by an urban lot split.
 6. Adjacent or connected structures may be allowed for two-unit residential development and urban lot splits provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.
 7. Notwithstanding any other provision, regulation, or standard, for two-unit residential developments and lots created by urban lot split, 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. Additions to an existing structure or a structure constructed in the same location as an existing structure shall be allowed provided that the addition complies with all standards of this section and this Title, including setbacks and height limitations.
- I. Parking: Each unit in a two-unit residential development or on a lot created by urban lot split shall be provided with one parking space, except no parking is required when:
1. The lot is within one-half mile walking distance of a major transit stop or a high-quality transit corridor.
 2. There is a car share vehicle within one block of the lot.
- J. Rental terms for any residential unit created under the provision of this section or for any unit on a lot created by urban lot split shall be for periods of 31 consecutive days or longer. Rental tenancy cannot terminate, and new tenancy

cannot commence, prior to the expiration of at least one 31-consecutive-day occupancy period by the same tenant.

K. Dwelling units permitted

1. No more than a total of four dwelling units, inclusive of accessory dwelling units, shall be permitted on any one lot utilizing two-unit development standards.
2. A total of two accessory dwelling units may be allowed on a property utilizing the two-unit development standards. One of the accessory dwelling units may be a junior accessory dwelling unit.
3. Notwithstanding Sections 24.05.032K1 and K2, no more than a total of two units shall be permitted on any one lot that was created utilizing the urban lot split provisions of Chapter 22.045. Accessory dwelling units or junior accessory dwelling units shall not be permitted on lots created utilizing the urban lot split provisions of Chapter 22.045 and that additionally utilize the two-unit residential development standards of this section.

L. All applicable Building and Fire Codes shall apply to two-unit residential developments, including but not limited to construction standards related to building separation, fire sprinkler requirements, accessibility standards, and Fire Department access and water availability requirements.

M. A two-unit residential development may be denied if the Building Official makes a written finding, based on a preponderance of the evidence, that the proposed housing development would have a specific, adverse impact as defined and determined in California Government Code Section 65589.5(d)(2), upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate the specific, adverse impact.

SECTION 9: This ordinance shall be effective 30 days after its adoption and the City Clerk shall certify to the adoption of this Ordinance. The City Clerk is hereby authorized to use summary publication procedures pursuant to Government Code Section 36933 utilizing a newspaper of general circulation published in the City of La Mesa.

INTRODUCED AND FIRST READ at a Regular meeting of the City Council of the City of La Mesa, California, held on the 25th day of January 2022, and thereafter PASSED AND ADOPTED at a Regular meeting of said City Council held the 8th day of February 2022, by the following vote, to wit:

AYES: Councilmembers Baber, Lothian, Parent, and Shu

NOES: Mayor Arapostathis

ABSENT: None

APPROVED:

Mark Arapostathis, Mayor

ATTEST:

MEGAN WIEGELMAN, CMC, City Clerk

CERTIFICATE OF CITY CLERK

I, MEGAN WIEGELMAN, City Clerk of the City of La Mesa, California, do hereby certify the foregoing to be a true and correct copy of Ordinance No. 2022-2894, duly passed and adopted by the City Council of said City on the date and by the vote therein recited and that the same has been duly published according to law.

MEGAN WIEGELMAN, CMC, City Clerk

(SEAL OF CITY)