

ORDINANCE NO. 2024-513

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS
ALTOS ADDING CHAPTER 14.64 TO TITLE 14 (ZONING) OF THE
LOS ALTOS MUNICIPAL CODE ENACTING REGULATIONS FOR
DUAL OPPORTUNITY DEVELOPMENTS PURSUANT TO
SENATE BILL 9 (SB9)**

WHEREAS, on September 16, 2021, the State of California enacted legislation known as Senate Bill 9 (“SB 9”), which added Sections 65852.21 and 66411.7 to the California Government Code, to require local public agencies, beginning January 1, 2022, to ministerially approve lot splits and the construction of two (2) primary dwelling units on single-family zoned lots meeting certain conditions; and

WHEREAS, the purpose of SB 9 is to address California’s affordable housing crisis by promoting small-scale neighborhood residential development to provide for increased housing opportunities; and

WHEREAS, SB 9 allows for streamlined ministerial approval for certain residential dwelling units and lot splits in single-family residential zones; and

WHEREAS, SB 9 requires the City to apply objective design standards to residential dwelling units approved pursuant to the legislation and prohibits discretionary design review for such units; and

WHEREAS, SB 9 allows cities to impose certain standards for projects approved under that legislation, which the City Council desires to adopt; and

WHEREAS, the City adopted Resolution 2021-57 establishing objective residential site development and design standards pursuant to SB9; and

WHEREAS, on January 24, 2023, the City Council approved the City’s Sixth Cycle Housing Element Update; and

WHEREAS, Program 1.M of the Housing Element Update requires the City of Los Altos to implement SB9; and

WHEREAS, the Planning Commission held a duly noticed public hearing on April 18, 2024 and provided a recommendation to the City Council; and

WHEREAS, the City Council held a duly noticed public hearing on May 14, 2024 introducing an Ordinance adding Chapter 14.64 to Title 14 (Zoning) of the Los Altos Municipal Code with amended SB9 regulations. Council requested modifications to the draft regulations and continued the item for consideration and reintroduction of the Ordinance at their next regular meeting; and

WHEREAS, the City Council held a duly noticed public hearing on May 28, 2024 introducing an Ordinance adding Chapter 14.64 to Title 14 (Zoning) of the Los Altos Municipal Code with amended SB9 regulations; and

WHEREAS, this Ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970, as amended.

NOW THEREFORE, the City Council of the City of Los Altos does hereby ordain as follows:

SECTION 1. AMENDMENT OF TITLE 14 OF THE MUNICIPAL CODE: Chapter 14.64 is hereby added to Title 14 (Zoning) of the Los Altos Municipal Code as set forth in Appendix A to this Ordinance.

SECTION 2. CONSTITUTIONALITY; AMBIGUITIES. If any section, subsection, 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 hereof. Any ambiguities in the Los Altos Municipal Code created by this Ordinance shall be resolved by the Development Services Director, in their reasonable discretion, after consulting the City Attorney.

SECTION 3. PUBLICATION. This ordinance shall be published as provided in Government Code section 36933.

SECTION 4. EFFECTIVE DATE. This Ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

The foregoing Ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on May 14, 2024, and was thereafter, at a regular meeting held on May 28, 2024, passed and adopted by the following vote:


AYES: Dailey, Fligor, Meadows, Weinberg


NOES: Lee Eng

ABSENT:

ABSTAIN:

Attest:


Melissa Thurman, MMC,
CITY CLERK


Jonathan D. Weinberg, MAYOR

APPENDIX A
ADDITION OF CHAPTER 14.64 TO TITLE 14

Chapter 14.64 – DUAL OPPORTUNITY DEVELOPMENTS (SB9)

14.64.010 - Purpose

Senate Bill (SB) 9 requires ministerial approval of a housing development with no more than two primary units in a single-family zone, the subdivision of a parcel in a single-family zone into two parcels, or both. SB 9 enables the creation of up to four housing units in the lot area typically used for one single-family home. This chapter allows residential housing developments to implement Government Code Section 65852.21 for developing two (2) primary residential units on single-family (R1) zoned lots and Section 66411.7 for urban lot splits.

14.64.020 - Eligibility

A proposed housing development or urban lot split shall comply with the following eligibility requirements:

- A. Property is zoned R1 (Single-Family Residential). Lots located in multi-family residential, commercial, mixed-use zones, etc. are not subject to these regulations even if single-family residential uses are a permitted use.
- B. Property is not located in a historic district, listed on the State Historic Resources Inventory, or designated a city landmark or historic resource.
- C. Shall not result in the demolition or structural modification of any portion of an existing residential unit that:
 1. Is protected by a recorded covenant, ordinance or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
 2. Housing that is subject to any form of rent or price control.
 3. Has been occupied by a tenant within the three (3) years prior to the submittal of an application to the city.
- D. Property does not contain a dwelling unit that was withdrawn from rental or lease under the Ellis Act at any time within fifteen (15) years before the date of application to the city.
- E. The lot to be subdivided shall not be a lot that was established through a prior urban lot split.
- F. The lot to be subdivided shall not abut any lot that was previously subdivided through an urban lot split by the owner of the lot proposed to be subdivided or any party acting in concert with the owner. For the purpose of this section, any party acting in concert with the owner shall include any individual with a familial relation to the property owner (including, but not limited to, parents, children, siblings and spouses), trusts, or any business entity in which the property owner has more than ten (10) percent ownership.
- G. Property does not contain any of the site conditions listed in Government Code Section 65913.4, subdivision (a)(6)(B-K), as may be amended from time to time, summarized as follows:

1. Prime farmland, farmland of statewide importance or land that is zoned or designated for agricultural protection or preservation by the voters.
2. A wetland.
3. Within a very high fire hazard severity zone, unless the site complies with all fire-hazard mitigation measures required by existing building standards.
4. A hazardous waste site that has not been cleared for residential use.
5. Within a delineated earthquake fault zone, unless all development on the site complies with applicable seismic protection building code standards.
6. Within a one hundred (100) year flood hazard area, unless the site has either been subject to a letter of map revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction or meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program.
7. Within a regulatory floodway, unless all development on the site has received a no-rise certification.
8. Land identified for conservation in an adopted natural community conservation plan, habitat conservation plan or other adopted natural resource protection plan.
9. Habitat for protected species.
10. Land under conservation easement.

14.64.030 - Number of Lots and Minimum Site Area

An existing lot shall not be subdivided into more than two lots. Each newly subdivided lot shall not be smaller than 40 percent of the original lot size and shall not be less than 1,200 square feet.

14.64.040- Lot Frontage Width and Design

Each lot shall adjoin a public or private street with a minimum frontage of 20 feet in width. Lot lines shall be organized to be parallel and perpendicular to the street on straight streets and approximately radial on curved streets, to the extent possible.

14.64.050 - Owner Occupancy

Upon submittal of an application for an urban lot split, the property owner shall sign an affidavit stating they intend to occupy one of the units as their primary residence for at least three years, unless the owner is a community land trust, as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code, or is a qualified nonprofit corporation as described in Section 214.15 of the Revenue and Taxation Code.

14.64.060 - Map Act Compliance

The urban lot split shall conform to all applicable objective requirements of the Subdivision Map Act (Gov. Code § 66410, et. seq.), including implementing requirements in this chapter.

14.64.070 - Rental Term

No unit created pursuant to this chapter may be used as a short-term rental. Short term rental shall be defined as a use that provides lodging in a dwelling unit for compensation for a period of fewer than thirty (30) consecutive calendar days.

14.64.080 - Maximum Number of Units

- A. No more than two (2) primary dwelling units are permitted on a single existing lot or newly created lot through an urban lot split.
- B. For existing lots not established through an urban lot split, in addition to a primary dwelling unit(s) an accessory dwelling unit(s) may be allowed for a maximum of four (4) total units (inclusive of primary units and accessory dwelling units).
- C. For lots established through an urban lot split, in addition to a primary dwelling unit, a second primary unit or an accessory dwelling unit may be allowed for a maximum of two (2) units per resulting lot (inclusive of primary units and accessory dwelling units).
- D. A total of two (2) junior accessory dwelling units are permitted per existing lot or one (1) per lot for lots established through an urban lot split. Junior accessory dwelling units shall not count towards the four (4) unit maximum.

14.64.090 - Objective Development Standards

<u>Coverage</u>	<u>One-story structures with a maximum height of 20 feet shall have a maximum lot coverage of 35 percent of the total site area. One-story structures exceeding 20 feet in height or two-story structures shall have a maximum lot coverage of 30 percent of the total site area.</u>
<u>Floor Area Ratio</u>	<u>None</u>
<u>Setbacks</u>	<u>Front: 25 feet for the first story; and 30 feet for the second story.</u>
	<u>Side: 4 feet</u>
	<u>Rear: 4 feet</u>
<u>Height</u>	<u>Maximum building height is two stories and 27 feet. Flag lots shall be limited to one story and 20 feet in height.</u>
	<u>Maximum first floor plate height: 10 feet</u>
	<u>Maximum second floor plate height: 9 feet</u>
	<u>Maximum entry porch plate height: 12 feet</u>
<u>Basements</u>	<u>Basements shall not extend beyond the floor area of the first floor.</u>
	<u>Light wells, ingress and egress wells, patio wells, and other similar elements shall not be permitted within a required setback.</u>
	<u>Light wells, ingress and egress wells, patio wells, and other similar elements shall utilize vertical retaining walls. Contour graded slopes, which expose the basement as a story, are prohibited.</u>
	<u>Light wells, ingress and egress wells, patio wells, and other similar elements shall be at least 75 percent open in area to light and air above.</u>
<u>Second Story Decks or Balconies</u>	<u>Second-story decks and balconies are allowed only on the front elevation facing a public or private street and shall meet the side setbacks. The maximum size of any one deck or balcony shall be 25 square feet and have a maximum depth of four feet. A deck on the roof of a two-story structure is prohibited.</u>
<u>Landscaping</u>	<u>A minimum of 50 percent of the required front yard setback area shall be landscaping.</u>
<u>Parking</u>	<u>A minimum of one covered space per unit within a garage or carport with a minimum interior dimension of nine feet in width by 18 feet in length. Parking for accessory dwelling units shall be provided separately as required under Chapter 14.14.</u>
<u>Fences</u>	<u>Fences shall be subject to the zoning standards of the underlying zoning district.</u>

<u>Outdoor Kitchen, Barbeques, Fireplaces, and Swimming Pools</u>	<u>Outdoor kitchen, barbeques, fireplaces, and swimming pools shall be subject to the zoning standards of the underlying zoning district.</u>
<u>Accessory Structures</u>	<u>Accessory structures shall be subject to the zoning standards of the underlying zoning district.</u>
<u>Signs</u>	<u>Signs shall be subject to the zoning standards of the underlying zoning district.</u>

1. All development standards shall be modified as necessary if they preclude two single-family units with a minimum size of 800 square feet and four-foot side and rear yard setbacks.
2. Development of an ADU shall be subject to the separate development standards and requirements pursuant to Chapter 14.14.
3. No architectural features (i.e. cantilevers, bay windows, and/or other architectural projection) shall be allowed within the required side and rear setbacks except for 12-inch maximum eaves with four-inch maximum gutters.
4. No parking is required if the property is located within one half mile walking distance of either a high-quality transit corridor or major transit stop; or a car share vehicle program is located within one block of the property.

14.64.100 - Objective Design Standards

A. Site and Building Design

1. Attached garages shall be recessed a minimum of one foot from the front elevation wall plane of the residence.
2. When a three-car attached garage is proposed, visual impact shall be reduced by, (i) using a tandem parking layout inside a two-car-wide garage; (ii) using three single-car-wide garage doors instead of a double and a single garage door; or (iii) setting back one of the doors from the others.
3. Each property is prohibited from more than one curb cut or driveway accessing a street unless the subject site is fronting a city's arterial or collector street.
4. A curb cut or driveway width connecting to a public or private street shall be no greater than 20 feet in width.
5. No more than two types of roof forms and two roof pitches shall be used.
6. Building entrances shall be oriented towards the street.
7. Facade articulation shall be provided with at least six corners on the first floor.
8. Building entrances shall have a roofed projection (such as a porch) or recess with a minimum depth of at least five feet and a minimum horizontal area of thirty (30) square feet. Any corners within the building entrances shall not count as part of the corners as required above.
9. Windows and doors shall either be trimmed or recessed. When trimmed, the trim material shall not be less than 3.5" in width by 1" in depth when protruding from the wall. When recessed, the building primary siding material shall cover the recessed edge faces and wrap toward the interior face of the window glazing or door face by not less than 2 inches in depth.

10. On elevations that are facing interior side property lines, a minimum sill height of 5' is required for all second-floor windows.
11. Provide an inset/offset or plane change on long walls of greater than 25 feet in length.
12. First floor finished elevation shall be no more than twenty-two (22) inches above existing natural grade on a non-hillside lot.
13. For a hillside property, a stepped foundation is required where the average slope beneath the proposed structure is 10% or greater.
14. No exterior staircases above grade shall be allowed.
15. Except for pathway lighting, outdoor lighting fixtures shall be downward facing and fully shielded or recessed.

B. Construction Materials and Colors

1. Foam trim with a painted stucco finish is prohibited.
2. Mixing roof materials and colors are not allowed except for curved dormers and shed roof structures.
3. Exterior finish including wainscoting used for one structure shall be no greater than three different materials. Each material may be a different color, but every part of exterior finish comprised of a single material shall be a single color.
4. Architectural detailing shall be incorporated such as window and door trim, belly bands, cornices, shutters, column accents to the entry porch, and railings in an integrated composition.

C. Landscaping and Screening Vegetation

1. For lots five thousand (5,000) square feet in size or greater, a minimum of two medium to large canopy size trees shall be planted with at least one tree planted in the front yard. For each additional five thousand (5,000) square-foot lot size, an additional medium to large canopy size tree shall be planted onsite.
2. For lots with less than five thousand (5,000) square feet in size, a minimum of one, medium to large canopy size tree shall be planted onsite.
3. Screening vegetation shall be required within lines of sight from each jamb of any second-floor windows with a sill height of less than 5' to the side or rear property lines and within lines of sight to any side property line for any proposed second story deck or balcony.
4. Any required screening vegetation shall be evergreen species reaching at least fifteen feet through twenty feet in height at maturity with permanent irrigation.
5. All projects shall comply with the City's Water Efficiency Landscape Ordinance (WELO).

14.64.110 - Nonconforming Conditions

Corrections of nonconforming zoning conditions shall not be required for the ministerial approval of a housing development or urban lot split.

There shall be no required setbacks for an existing structure or for a structure constructed in the same location and to the same dimensions as an existing structure (i.e., a building reconstructed on the same footprint), subject to compliance with all applicable building and fire codes.

14.64.120 - Administration

Applications for a housing development or parcel map for an urban lot split pursuant to this chapter shall be processed ministerially without discretionary review, processes, or provisions. Review and submittal of an application for a housing development and/or parcel map for an urban lot split shall require submittal of all items listed on the City's application submittal checklist.

The city may deny an application for a housing development or parcel map 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.

SB 9 allows for ministerial approval of certain "new" residential dwelling units. The term "new unit" as used in SB 9 shall be construed to mean any of the following:

- A. A new residential dwelling unit (other than an accessory dwelling unit) proposed to be constructed on a vacant lot.
- B. A new residential dwelling unit (other than an accessory dwelling unit) is constructed in place of a demolished residential dwelling unit.
- C. A residential dwelling unit (other than an accessory dwelling unit) is reconstructed to the substantial equivalence of new.

As used above, a residential dwelling unit is reconstructed to the "substantial equivalence of new" if any of the following sets of criteria apply:

- A. The residential dwelling unit is stripped to the studs and/or foundation and reconstructed.
- B. A substantial remodel is proposed in connection with a substantial addition so that the home will have the appearance of a new home and a remaining physical and economic life comparable to that of a new home. These criteria shall be deemed to be met if all the following apply:
 - 1. An addition is proposed to an existing residential dwelling unit equal to or greater in size than 50% of the floor area of the existing residential dwelling unit (excluding garages, accessory dwelling units, other accessory structures, crawl spaces, unfinished attics, and basement floor areas).
 - 2. At least 25% (or more, if necessary to bring the structure into compliance with applicable building codes) of the existing roof will be demolished, repaired, or replaced, and the entire roof covering will be replaced.
 - 3. At least 25% (or more, if necessary to bring the structure into compliance with applicable building codes) of the existing facade will be demolished, repaired, or replaced, the entire facade will be repainted or otherwise resurfaced, and the entire facade for the residential dwelling unit in its completed condition is designed to match.

4. All existing floor coverings and plumbing fixtures will be removed and, as applicable, replaced.
5. Sprinklers will be installed if not already provided.
6. At least 25% (or more, if necessary to bring the structure into compliance with applicable building codes) of existing drywall or other wall coverings will be demolished, repaired, or replaced, and all retained wall covering will be repainted or otherwise resurfaced.
7. All exterior doors and windows will be replaced.

Applications to remodel and/or build single-family residences not subject to this chapter in their entirety shall continue to be subject to the requirements of the underlying zoning district and Chapter 14.76. Future additions or modifications to "new units" that were built under this chapter pursuant to SB9 shall utilize the standards and process pursuant to this chapter.