ORDINANCE NO. NS-229

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTE SERENO AMENDING CHAPTER 9.04 (GRADING), CHAPTER 10.05 (ZONING DISTRICT REGULATIONS), SECTION 10.06.140 (ACCESSORY DWELLING UNITS), CHAPTER 10.08 (SITE DEVELOPMENT PERMITS AND PLANNED DEVELOPMENT PERMITS), AND CHAPTER 10.15 (TREE PRESERVATION), AND ENACTING CHAPTER 13.06 (URBAN LOT SPLITS) FOR THE IMPLEMENTATION OF GOVERNMENT CODE SECTIONS 65852.21 AND 66411.7

WHEREAS, SB-9 (Chapter 162, Statutes of 2021) enacted sections 65852.21 and 66411.7 to the Government Code, effective January 1, 2022; and

WHEREAS, these provisions require cities to provide ministerial approval of urban lot splits and the construction of up to two dwelling units on single family residential lots within any urbanized area of the City, as designated by the US Census Bureau, subject to certain limitations; and

WHEREAS, Government Code Sections 66411.7(a) limits eligibility of urban lot splits by size and proportionality; and

WHEREAS, Government Code Sections 65852.21(a)(2) and 66411.7(a)(3)(C) limits such urban lot splits and construction to sites that are not located on or within certain farmland, wetlands, very high fire hazard severity zones, hazardous waste sites, earthquake fault zones, special flood hazard areas, regulatory floodways, lands identified for conservation, habitats for protected species, and historic properties; and

WHEREAS, Government Code Sections 65852.21(a)(3) through (a)(5), limits eligibility of such construction of secondary units that proposes to demolish or alter housing subject to affordability restrictions, housing subject to rent or price controls, housing that has been occupied by a tenant in the last three years, housing that has been withdrawn from rent or lease within the past 15 years, and housing that requires demolition of existing structural walls unless authorized by local ordinance or has not been tenant-occupied within the past 3 years; and

WHEREAS, Government Code Sections 66411.7(a)(3)(D) also limits eligibility of an urban lot split that proposes to proposes to demolish or alter housing subject to affordability restrictions, housing subject to rent or price controls, housing that has been occupied by a tenant in the last three years, housing that has been withdrawn from rent or lease within the past 15 years, and housing that requires demolition of existing structural walls unless authorized by local ordinance or has not been tenant-occupied within the past 3 years; and

WHEREAS, Government Code Sections 65852.21(a)(6) and 66411.7(a)(3)(E) allows a city to deny an urban lot split for properties within an historic district or listed on the State's

Historic Resource Inventory or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance; and

WHEREAS, Government Code Sections 65852.21(b) and 66411.7(c) allows a city to establish objective zoning standards, objective subdivision standards, and objective design review standards for projects, subject to limits within state law; and

WHEREAS, such objective zoning standards, objective subdivision standards, and objective design review standards may not have the effect of "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"; and

WHEREAS, Government Code Sections 65852.21 and 66411.7 allow a city to deny a proposed housing development or urban lot split if the project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon 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; and

WHEREAS, the City of Monte Sereno has multiple parcels in the Wildland Urban Interface (WUI) zone, as well as parcels in a designated as being included in the Very High Fire Hazard Severity Zone (VHFHSZ), as officially designated by CalFIRE; and

WHEREAS, Monte Sereno in included in the list of Communities at Risk from wildfires on the Federal and/or California Fire Alliance list of Communities at Risk in Santa Clara County; and

WHEREAS, the City of Monte Sereno contains multiple neighborhoods, including those within the WUI and VHFHSZ , that do not have an secondary egress route available in case of fire or natural disaster; and

WHEREAS, the City desires to enact a clear application process to ensure that projects involving parcels within the WUI and VHFHSZ will be reviewed carefully to ensure compliance with eligibility requirements and in light of the public health, safety, and welfare; and

WHEREAS, the City of Monte Sereno has multiple parcels with considerable slopes; and

WHEREAS, grading for construction or access on heavily sloped lots creates adverse impacts to the physical environment by denuding natural vegetation and destabilizing soils, and the City desires to enact overall size limits on ministerially-approved projects under Sections 65852.21 and 66411.7 to minimize the potential for issues related to runoff or excessive grading that may occur in the absence of clear size limitations; and

WHEREAS, the City of Monte Sereno has numerous creeks, wetlands, drainages and sensitive habitat through the City, which may be harmed without appropriate impervious

structural and impervious coverage limitations for ministerially-approved projects under Sections 65852.21(a)(2) and 66411.7; and

WHEREAS, in order to protect the public health and safety, the City Council desires to provide guidelines for projects subject Government Code Sections 65852.21 and 66411.7; and

NOW THEREFORE, the City Council of Monte Sereno does ordain as follows:

SECTION 1. Amendment of Chapter 9.04. Section 9.04.080 (Engineered grading permit) and Section 9.04.090 (Exception to permit requirement) of Chapter 9.04 of the Monte Sereno Municipal Code is hereby amended to read in entirety as follows:

9.04.080 Engineered grading permit.

Any cumulative grading on any parcel which exceeds one thousand (1,000) cubic yards shall require an engineered grading permit which shall be issued in accordance with the same procedures required for a use permit in the zoning title of the Monte Sereno Municipal Code, except for where such grading is to be performed in conjunction with a project first permitted under section 10.05.080, section 10.06.140, or chapter 13.06, in which case the engineered grading permit shall be issued by the city engineer in accordance with the provisions of section 9.04.160. All building and grading permit applications shall include an established, permanent elevation within reasonable proximity to the proposed building pad. The benchmark shall be set by a licensed surveyor.

9.04.090 Exception to permit requirement.

Unless it constitutes cumulative grading requiring an engineered grading permit, a permit under this chapter is not required for the following:

A. An excavation which:

   1. Is less than five (5) feet in depth below natural grade and adequately supported by a retaining structure designed in accordance with the Uniform Building Code; or

   2. Does not create a cut slope greater than seven (7) feet in height, or steeper than two (2) horizontal to one vertical; or

   3. Does not exceed fifty (50) cubic yards.

B. A fill not intended to support structures and which does not obstruct a drainage course or alter existing drainage patterns if:

   1. Such fill is placed on natural grade that has a slope not steeper than five (5) horizontal to one vertical; or

   2. Is less than three (3) feet in depth at its deepest point, measured vertically upward from natural grade to the surface of the fill; or

   3. Does not exceed fifty (50) cubic yards.

C. An excavation below finished grade for basements and footings of structures authorized by a valid building permit or trench excavations for the purpose of installing underground utilities, if to be backfilled to natural grade.

D. Improvement of watercourses and construction of drainage, irrigation and domestic water supply systems and facilities performed under the supervision of the Flood Control District, an agency of the Federal or State Government, a water or sanitation district, or an irrigation or reclamation district or the City.

E. The construction, repair and maintenance of levees for river and local drainage control performed by a governmental agency.

F. Emergency work, as authorized by the City Engineer necessary to protect life, limb or property, or to maintain the safety, use or stability of a public way or drainage way.

G. Excavation for installation of underground storage tanks where the capacity of the tanks does not exceed twenty thousand (20,000) gallons.

H. The structural section of subdivision streets in tracts for which subdivision improvement plans have been reviewed by the City Engineer and the work is being inspected by that department.

I. Temporary stockpiles of topsoil materials required for landscaping lots being graded in the immediate area for building purposes if the stockpiles are not placed within a public right-of-way, do not obstruct drainage ways, are not subject to erosion which will cause silting problems in drainage ways, do not endanger other properties, and do not create a public nuisance or safety hazard, as determined by the City Engineer. The land shall be graded to comply with this Chapter after removal of stockpiles.

J. Clearing vegetation when all of the following conditions are met:

1. The slope of the ground is ten percent (10%) or less.
2. The area to be cleared is one (1) acre or less.
3. Land disturbance is at least one hundred (100) feet from the centerline of the watercourse or at least one hundred (100) feet from the water line of a waterbody.

In the event any of the above-listed will result in cumulative grading requiring an engineered grading permit, no grading shall be permitted until such permit is issued pursuant to section 9.04.080.

SECTION 2. Enactment of Section 10.05.080. Section 10.05.080 of the Monte Sereno Municipal Code is enacted to read as follows:

10.05.080 Residential Developments Under Government Code Section 65852.21

A. The purpose of this section is to provide regulations for the establishment of residential developments pursuant to Government Code section 65852.21.

B. Incompatibility with the City's density limitations shall not provide a basis to deny a two-unit residential development that otherwise conforms to the requirements of this section.

C. Notwithstanding anything in this Title 10 to the contrary, a residential development containing no more than two residential units on one legal lot within any residential zone may be constructed following approval of a site development permit issued by the City Planner under section 10.08.050.E, without discretionary review or a public hearing, if the proposed housing meets all of the standards set forth below. A residential development may be permitted under this section if the development proposes no more than two new units in total on the parcel or if it proposes to add one new unit to a lot with one existing unit. If a parcel includes an existing single-family dwelling, one additional unit may be developed pursuant to this section. If a parcel does not include an existing single-family dwelling, or if an existing single-family dwelling is proposed to be demolished in connection with the creation of a two-unit residential development, two units may be developed pursuant to this section.

D. A residential development shall not be approved in each of the following circumstances:

1. The residential development would 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 through a public entity's valid exercise of its police power.

c. Housing that has been occupied by a tenant in the last three years.

2. The parcel subject to the proposed housing development is a parcel on which an owner of residential real property has exercised the owner's rights under Government Code Section 7060 et seq. to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

3. The parcel subject to the proposed housing development is located within a historic district or property included on the State Historic Resources Inventory, as defined in Public Resources Code Section 5020.1, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.

4. The parcel does not satisfy the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.

E. Residential developments under this section shall conform to all objective property development regulations of the zone and in which the property is located including, but not limited to, setbacks, building height, building size, structural coverage, and impervious coverage, and any objective requirements in the City's design guidelines, unless the unless the applicant demonstrates that such zoning or design standard would have the effect of physically precluding the construction of up to two units or that would physically preclude either of the two units from being at least 800 square feet in floor area, subject to the following modifications:

1. 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. Verification of size and location of the existing and proposed structure requires pre- and post-construction surveys by a California licensed land surveyor.

2. A setback of at least four feet is required from the rear and side property lines. Front yard setbacks shall be as required for the zone in which the property is located.

F. Residential developments under this section shall be subject to the following additional standards and requirements:

1. If any portion of any proposed new dwelling unit would be located in any of the front, side, or rear setbacks applicable to a single-story building district in the same zoning district as set forth in Chapter 10.05, the height of the proposed new dwelling unit shall not exceed 16 feet in height.

2. If a proposed dwelling unit will be connected to an onsite wastewater treatment system, the applicant shall provide a percolation test completed within the last 5 years, or, if the percolation test has been recertified, within the last 10 years.

3. All dwelling units created shall have independent exterior access. Interior access between attached dwelling units shall be prohibited.

4. Any dwelling unit, or portion thereof, that is constructed pursuant to an approval under this section shall only be used for rentals of terms of longer than thirty days. It shall be unlawful to rent, offer to rent or lease, or to advertise for rent or lease, any dwelling unit or portion thereof built pursuant to authority under this section for a term that is thirty days or less.

5. A minimum of one off-street parking space shall be provided for each dwelling unit except where the parcel meets one of the following instances:

a. The parcel is located within one-half mile walking distance of either a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code.

b. There is a car share vehicle located within one block of the parcel.

6. When construction of a new dwelling unit is proposed on a parcel with an existing dwelling unit, any new dwelling unit shall utilize the same exterior materials and colors as the existing dwelling unit, subject to any restrictions on use of building materials in Title 9. Where two new units are proposed to be constructed on a parcel, each unit shall utilize the same exterior materials and colors as the other unit.

7. Each dwelling unit constructed under this section shall be on a separate utility connection directly between each dwelling unit and the utility for water, sewer, and electrical utilities. Gas utility connections shall be prohibited for such dwelling units.

8. The building size for each dwelling unit constructed shall be a maximum of eight hundred (800) square feet.

9. Each unit in a two-unit residential development shall be separated by a distance of at least ten feet from any other structure on the parcel; however, units may be adjacent or connected if the structures meet building code safety standards and are sufficient to allow a separate conveyance.

10. Second story exterior decks and balconies, and rooftop decks, shall be prohibited on dwelling units constructed under this section.

11. Each new dwelling unit shall have installed a listed raceway to accommodate a dedicated 208/240-volt branch circuit. The raceway shall not be less than trade size 1 (nominal 1-inch inside diameter). The raceway shall originate at the main service or subpanel and shall terminate into a listed cabinet, box or other enclosure in close proximity to the required off-street parking in order to accommodate installation of an EV charger. Raceways are required to be continuous at enclosed, inaccessible or concealed areas and spaces. The service panel and/or subpanel shall provide capacity to install a 40-ampere 208/240-volt minimum dedicated branch circuit and space(s) reserved to permit installation of a branch circuit overcurrent protective device.

12. Exterior covered space that is attached to the dwelling unit, including but not limited to covered porches and patios, shall not exceed a total of 150 square feet, and at least one third of the square footage of the attached exterior covered space shall be attached to the front of the dwelling unit.

G. In cases of conflict between this section and any other provision of this title, the provisions of this section shall prevail. To the extent that any provision of this section is in conflict with state law, the applicable provision of state law shall control, but all other provisions of this section shall remain in full force and effect.

SECTION 3. Amendment of Section 10.06.140. Section 10.06.140 of the Monte Sereno Municipal Code is amended to read in entirety as follows:

10.06.140 Accessory dwelling units; junior accessory dwelling units; standards and requirements.

Notwithstanding any other provision of this code, an accessory dwelling unit or junior accessory dwelling unit shall not be constructed without prior submission of an application to the Building Official and approval of a permit. The Building Official shall, with the Planning Director, review each application ministerially for compliance with the standards in this Section without public hearing. The decision of the Building Official shall be final, and notwithstanding any other provisions of this code, shall not be subject to further appeal or review to the City Council. The following standards and requirements shall

apply to all accessory dwelling units and junior accessory dwelling units, and in the event of conflict with any provision of this code, the below standards shall be deemed to apply:

A. *Accessory Dwelling Unit Standards:*

1. Accessory dwelling units shall be permitted on all residential lots in accordance with the requirements of this Section.
2. The accessory dwelling unit shall be either attached to the existing primary dwelling, or located within the living area of the existing dwelling, or attached to an existing accessory structure, or detached from the existing primary dwelling and located on the same lot as the existing primary dwelling.
3. Size. Accessory dwelling units are limited to the following sizes:

Zoning District	**Size Limitation**
R-1-8	850 sq. ft. or 1,000 square feet for an accessory dwelling unit that provides more than one bedroom, with or without parking.
R-1-20	850 sq. ft. or 1,000 square feet for an accessory dwelling unit that provides more than one bedroom, with or without parking.
R-1-44	1,200 square feet for an accessory dwelling unit that provides more than one bedroom, with or without parking.
RM-Multi-Family Residential District	850 sq. ft. or 1,000 square feet for an accessory dwelling unit that provides more than one bedroom, with or without parking.
P	850 sq. ft. or 1,000 square feet for an accessory dwelling unit that provides more than one bedroom, with or without parking.
PD	850 sq. ft. or 1,000 square feet for an accessory dwelling unit that provides more than one bedroom, with or without parking.

The floor area of an attached accessory dwelling unit shall not exceed fifty percent (50%) of the existing living area of the primary dwelling up to a maximum of 850 square feet, unless the accessory dwelling unit will include more than one (1) bedroom. However, where a restriction to fifty percent (50%) of existing living area would result in a maximum size of less than eight hundred (800) square feet, an attached accessory dwelling unit of no more than eight hundred (800) square feet shall be permitted, subject to the zoning regulations and development standards in this Section.

4. Parking. At least one (1) parking space shall be provided for each accessory dwelling unit in addition to the minimum number of parking spaces required for the primary dwelling. No additional driveways shall be permitted, except for corner lots. Parking may be provided in setback areas or in a tandem configuration on an existing driveway, unless the Director determines that that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

Should a garage, carport or covered parking structure be demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the off-street parking spaces shall not be required to be replaced. No parking shall be required for any accessory dwelling unit that meets any of the following criteria:

a. The accessory dwelling unit is located within one-half mile of public transit; or
b. The accessory dwelling unit is located within an architecturally and historically significant historic district; or
c. The accessory dwelling unit is part of the existing primary residence or an existing accessory structure; or
d. When there is a car share vehicle located within one (1) block of the accessory dwelling unit.

5. Access. An accessory dwelling unit which is attached to or within the primary residence on the lot shall not have any direct access to the primary residence but shall have a separate exterior entry which shall not be located on the same side of the primary residence as the principal exterior entry to the primary residence. The entry to any accessory dwelling unit shall be so configured and located that only one (1) main entrance to any property is visible from the adjacent street or road.

6. Locations Permitted. The accessory dwelling unit shall be allowed only on a lot or parcel which is connected to sanitary sewers and has adequate access to a street conforming to City of Monte Sereno street standards.

7. Coverage Limits and Exceptions. The accessory dwelling unit shall comply with the structural and impervious coverage limits of the applicable zoning district. Notwithstanding any provision in this code, should the construction of an accessory dwelling unit cause the lot to exceed the allowed structural and impervious coverages permitted under the applicable zoning district, an eight hundred (800) square foot accessory dwelling unit shall be permitted.

8. Height limits. The height limit for a detached accessory dwelling unit shall be a maximum of sixteen (16) feet. No height restriction shall apply to an attached accessory dwelling unit, however, the primary structure shall comply with any height restrictions for the zoning district.

9. Setbacks.

a. An attached accessory dwelling unit shall comply with the front, side and rear yard setbacks required for a primary dwelling in the residential zoning district within which it is located.
b. A detached accessory dwelling unit shall comply with the front setback required for an accessory structure in the residential zoning district within which it is located, and notwithstanding any other provision in this code, shall have no less than a four-foot side and four-foot rear yard setback.
c. No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an

existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit.

d. Notwithstanding any other provision of the code, a setback of no more than four (4) feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

10. Design. Accessory dwelling units shall comply with the following design standards:

    a. The dwelling unit shall be constructed with the materials substantially identical in color, texture, and appearance to the primary dwelling, including but not limited to, roofing, siding, windows, and doors so as to blend with the existing architecture.
    b. The dwelling unit shall, to the extent feasible, match the roof pitch and roof form of the primary dwelling so as to blend with the existing architecture.
    c. Accessory dwelling units shall also comply with any applicable objective design standards adopted in the City's design guidelines.

11. No certificate of occupancy for an accessory dwelling unit shall be issued before a certificate of occupancy has been issued for the primary dwelling.

12. Utility Connections. For an accessory dwelling unit constructed within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and that involves an expansion of not more than one hundred fifty (150) square feet beyond the same physical dimensions as the existing accessory structure, the accessory dwelling unit shall not be required to install a new or separate utility connection directly between the accessory dwelling unit and the utility unless the accessory dwelling unit shall be constructed concurrently with a new single-family dwelling.

13. Fire Sprinklers. Accessory dwelling units shall not be required to have fire sprinklers if they are not required for the primary residence. Fire sprinklers shall be considered "required for the primary dwelling unit" in any of the following circumstances:

    a. When fire sprinklers are currently installed in the primary dwelling unit;
    b. When fire sprinklers will be installed in a new primary dwelling unit constructed concurrently with an accessory dwelling unit; or
    c. When fire sprinklers will be installed in an existing primary dwelling unit as the result of an addition to the primary dwelling unit, including an addition for the purpose of establishing an accessory dwelling unit, which addition triggers any requirement for retroactive installation of fire sprinklers in the primary dwelling unit.

14. No minimum lot area or lot size. Notwithstanding anything in this code, no minimum lot area or lot size shall be required or imposed for approval of a permit for an accessory dwelling unit.

B. *Junior Accessory Dwelling Unit Standards.* The following provisions shall apply to junior accessory dwelling units:

1. A junior accessory dwelling unit shall not be considered a separate or a new dwelling unit for purposes of applying building or fire codes. Installation of fire sprinklers in a junior accessory dwelling unit of any type shall be required only if they are required for the primary dwelling unit. Fire sprinklers shall be considered "required for the primary dwelling unit" under the circumstances as specified in Subsection A.13 of this Section.

2. Floor Area. The minimum floor area for a junior accessory dwelling unit shall be one hundred fifty (150) square feet. The maximum floor area for a junior accessory dwelling unit shall not exceed five hundred (500) square feet. If the sanitation facility (i.e., bathroom) is shared with the remainder of the single-family dwelling, it shall not be included in the square footage calculation for the junior accessory dwelling unit.

3. Setbacks. Setbacks for a junior accessory dwelling unit constructed with a new single-family dwelling shall be that of the underlying zoning district. No setback shall be required for a junior accessory dwelling unit contained within the existing space of a single-family dwelling or accessory structure. However, as permitted in this Section, an expansion to an accessory structure of up to one hundred fifty (150) square feet to accommodate ingress and egress may be constructed only if the following setbacks are maintained:

    a. A front setback accordance with the applicable zoning district.
    b. A minimum side yard setback of four feet.
    c. A minimum rear yard setback of four feet.

4. No parking shall be required for a junior accessory dwelling unit.

5. Coverage Limits. No structural or impervious coverage requirement shall apply to a junior accessory dwelling unit.

6. Height. No height restriction shall apply to a junior accessory dwelling unit; however, the primary structure shall comply with any height restrictions for the zoning district.

7. Utilities. A junior accessory dwelling unit shall not be required to install a new or separate utility connection directly between the junior accessory dwelling unit and the utility.

8. A junior accessory dwelling unit may be constructed on a site that does not meet the minimum lot or parcel size requirements or minimum dimensional requirements of the underlying zoning district, provided that it is constructed in compliance with all building standards and other standards of this division. Notwithstanding anything in this code, no minimum lot area or lot size shall be required or imposed for approval of a permit for a junior accessory dwelling unit.

9. An expansion to an accessory structure of up to one hundred fifty (150) square feet to accommodate ingress and egress for a proposed junior accessory dwelling unit must meet applicable design criteria in Subsection A.10 of this Section.

C. *Owner occupancy and use restrictions.*

1. For any accessory dwelling unit built between January 1, 2020 and January 1, 2025 there is no requirement for owner occupancy. For accessory dwelling units permitted before January 1, 2020 or after January 1, 2025, either the accessory dwelling unit or the primary dwelling on the same lot must be the bona fide principal residence of at least one (1) legal owner of the lot or parcel containing said dwelling, as evidenced at the time of building permit approval by appropriate documents of title and residency. Prior to issuance of a certificate of occupancy, each applicant shall submit a declaration, under penalty of perjury, stating that the property shall remain owner-occupied as defined herein, for so long as the accessory dwelling unit shall exist, or until this provision is repealed, whichever occurs first.

2. For junior accessory dwelling units, owner-occupancy is required unless the owner is a governmental agency, land trust, or housing organization. The owner may reside in either the remaining portion of the primary structure or the newly created junior accessory dwelling unit.

3. The following restrictions shall apply to junior accessory dwelling units unless the owner is a government agency, land trust, or housing organization:

   a. The property owner shall record a deed restriction with the County Recorder Office and file a copy of the recorded deed restriction with the City. The deed restriction shall prohibit the sale or other conveyance of the junior accessory dwelling unit separate from the single-family dwelling; specify that the deed restriction runs with the land and is therefore enforceable against future property owners; and restrict the size and features of the junior accessory dwelling unit in accordance with this Section.
   b. The site's owner may at any time offer for rent either the single-family dwelling unit or the junior accessory dwelling unit. The site's owner shall be required to reside in the single-family dwelling unit as its primary residence at any time while the junior accessory dwelling unit is occupied by a tenant.
   c. A site's owner shall not allow occupancy of a junior accessory dwelling unit by a tenant for any reason, with or without payment of rent, unless the site owner maintains occupancy of the primary dwelling unit as its primary residence.

D. *Short-term Rentals Prohibited.* No accessory dwelling unit or junior accessory dwelling unit shall be rented for a period of less than thirty (30) consecutive days.

E. *Waiver of fees.* The planning fees associated with an accessory dwelling unit shall be waived in the event the owner agrees to rent the accessory dwelling unit for a period of no less than ten (10) years to people who qualify as low income or very low income households. Such agreement shall be evidenced by a deed restriction recorded against the property on which the accessory dwelling unit is located and shall be recorded prior to the issuance of a

certificate of occupancy for the accessory dwelling unit. "Low-income household" means a household with an adjusted income which is not less than fifty (50%) nor more than eighty percent (80%) of median income. "Very-low-income household" means a household with less than fifty (50%) of median income.

F. *Applicable Animal Regulations.* The number of animals which may be kept on each lot as specified in the zoning regulations for the residential zoning district within which the lot is situated, shall remain unchanged after construction of an accessory dwelling unit or junior accessory dwelling unit.

G. *Enforcement.* Enforcement of notices to correct a violation of any provision of any building standard for any accessory dwelling unit shall comply with Section 17980.12 of the Health and Safety Code.

H. *State Law Mandated Approval.* Notwithstanding anything in this code to the contrary, the Building Official shall ministerially approve permits required to create any of the following within a residential or mixed-use zone:

1. One (1) accessory dwelling unit and one (1) junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:
    a. The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than one hundred fifty (150) square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.
    b. The accessory dwelling unit has exterior access that is separate from the exterior entrance for the proposed or existing single-family dwelling.
    c. The side and rear setbacks are sufficient for fire and safety.
    d. The junior accessory dwelling unit complies with the standards for a junior accessory dwelling unit set forth above.

2. One detached, new construction, accessory dwelling unit per lot, that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling, is subject to the following requirements:

    a. A total floor area limitation of not more than eight hundred (800) square feet.
    b. A height limitation of sixteen (16) feet.

    The new construction detached accessory dwelling unit in this Subsection may include a junior accessory dwelling unit described in Subsection H.1 above.

3. On a lot that has an existing multi-family dwelling, not more than two (2) detached accessory dwelling units that are located, subject to a height limit of sixteen (16) feet and four-foot rear yard and side yard setbacks.

4. Conversion of portions of existing multi-family dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, into new accessory dwelling units, provided that each unit

shall comply with state building standards for dwellings. The number of new accessory dwelling units authorized for conversion under this Subsection shall not exceed twenty-five percent (25%) of the existing dwelling units in the multi-family dwelling structure or one (1) new accessory dwelling unit, whichever is greater.

I. *Numerical limitations.* The total number of accessory dwelling units and junior accessory dwelling units per lot or parcel shall not exceed the total number of such units that that may be permitted under Subsection H.

J. Pursuant to Government Code Section 65852.21(f), no accessory dwelling unit or junior accessory dwelling unit shall be permitted on any lot if (1) an urban lot split has been approved pursuant to chapter 13.06 on such lot; and (2) two residential units have been approved for construction on each lot of the urban lot split pursuant to section 10.05.080.

SECTION 4. Amendment of Chapter 10.08. Sections 10.08.040 and 10.08.050 of the Monte Sereno Municipal Code are amended to read in entirety as follows:

10.08.040 Site development permit required.

The following proposed projects shall require a site development permit, which shall be issued prior to the issuance of a building permit or a demolition permit:

A. Any new building exceeding one hundred twenty (120) square feet, except any accessory dwelling unit permitted in accordance with Section 10.06.140.

B. Any addition that adds five hundred (500) square feet or more to an existing building or structure in the R-1-8 zoning district or seven hundred fifty (750) square feet or more to an existing building or structure in the R-1-20 or R-1-44 zoning district.

C. Any modification to the roof that results in a new or modified roof design or that increases the roof height of an existing structure by more than twenty-four (24) inches.

D. Any additions that add two hundred fifty (250) square feet or more to the second story of an existing two-story building in the R-1-8 zoning district or five hundred (500) square feet or more in the R-1-20 and R-1-44 zoning district.

E. Any additions of a second story to an existing single-story building.

F. The addition of an architectural element to a legally existing light post or entry column if such addition would cause the total height of the light post or entry column to exceed the height limitations outlined in Section 10.17.040. An architectural element may be added to an existing light post or entry column with a site development permit if the height of the architectural element does not exceed one-half of the height (up to nine (9) feet) of the legally existing light post or entry column. The proposed architectural element shall be setback one (1) foot from the property line for every two (2) feet in height of the architectural element and light post or entry column.

G. The construction of a light post or entry column which includes an architectural element if the total height of the light posts or entry column with the architectural element exceeds the height limits outlined in Section 10.17.040. In no event shall the total height of the light post or entry column with the architectural element exceed eight (8) feet. In no event shall the architectural element be taller than one-half of the light post or entry column.

H. The addition of a pedestrian arbor that exceeds seven (7) feet in height to any fence, or a fence greater in height than three (3) feet in any part of any front yard, within ten (10) feet of any side corner property line of a lot in the R-1-8 zoning district, or within fifteen (15) feet of any side corner property line of a lot in the R-1-20 and R-1 44 zoning district.

I. Residential development projects pursuant to section 10.05.080.

Issuance of a site development permit shall be reviewed and acted upon by the Commission at a regular or special meeting, except that a residential development project meeting the requirements of section 10.05.080 shall be reviewed ministerially and without public hearing by the city planner.

10.08.050 Permit process.

For any project for which a site development permit is required, the following process shall be followed:

A. *Application.* Application for site development permits shall be in writing in such form as may be prescribed by the City. An application fee to be established by the City from time to time shall be collected at the time of submittal of the application. In addition to any application and application fee, the following information shall be provided with the number of copies required by the City:

1. A full set of plans (no larger than twenty-four (24) inches by thirty-six (36) inches) in a form acceptable to the City, containing (as applicable):
    a. Site plan, including allowable and proposed setbacks and indicating all structures proposed and existing. The site plan must be completed by a licensed land surveyor or licensed civil engineer;
    b. Floor plan;
    c. Elevations, including allowable and proposed height. Height shall be indicated as an elevation based off a boundary survey utilizing the City's benchmarks;
    d. Cross-sections;
    e. Landscape plan;
    f. Roof plan;
    g. Scale and dimensions on each page;
    h. Site address;
    i. Grading plan;
    j. Materials. For all new single-family dwelling, duplexes or triplexes, a physical materials board that accurately represents the actual finish materials being proposed; for all other projects, color photos that accurately reflect the finish materials and colors being proposed; and

k. Streetscape/neighborhood context for new homes and second story additions within the R-1-8 zoning district please provide elevations illustrating building height and mass (including major architectural features) in relationship to:
(i) Structures on either side of the property; identify property addresses.

2. Calculations for the following:
   a. Lot area;
   b. Allowable maximum square footage of main dwelling;
   c. Proposed square footage of main dwelling;
   d. Allowable and proposed structural coverage figure;
   e. Allowable and proposed impervious coverage figure;
   f. Proposed grading quantity (cut and fill); and
3. For applications requesting a site development permit for: (1) a new single-family dwelling, duplex or triplex (main house); or (2) a new accessory structure exceeding five hundred (500) square feet; or (3) any second story addition; or (4) any addition of more than five hundred (500) square feet to an existing dwelling unit (main house), erection of story poles depicting the proposed building elevations and maximum ridge height. The height and the location of the story poles shall be certified in writing by a licensed land surveyor or engineer to the satisfaction of the City Planning Director.
4. Any other information which the Commission may determine to be necessary to consider the project.

B. *Hearings before the Commission.* For projects subject to approval by the Commission, upon receipt of a complete application, the City shall cause notice of the time and place at which all interested persons may appear before the Commission to be sent to the applicant and his/her agents and all property owners within three hundred (300) feet of the proposed project and shall thereafter hold a hearing at the time and place specified.

Prior to the hearing, the City Manager or his/her designee shall prepare a staff report summarizing the project and recommending action to the Commission. At the hearing, the Commission shall consider the City Manager's or his/her designee's staff report, any development guidelines applicable to the project, and hear and consider any evidence, oral or written, which has been presented at or prior to the hearing. At the conclusion of the hearing, the Commission may approve, conditionally approve or deny the application for a site development permit. Any approval, conditional approval or denial by the Commission shall become final unless the matter is appealed to the City Council as provided in Section 10.08.060.

No site development permit shall be issued unless the Commission makes the following findings:

1. Whether the proposed improvement and/or use is compatible with the character of the surrounding neighborhood in which it would be located.

2. Whether the orientation and location of the buildings take into consideration the visual impact which could result from the proposed improvement and/or use.

3. Whether the proposed improvements, including architecture, are consistent with the City's design guidelines.

4. If applicable, whether the proposed improvement and/or use will provide for minimum grading and retention of the natural contours of the land then existing in order to protect the natural slope of the lot.

5. If applicable, whether the proposed improvement and/or use provides for:

    a. Retention of significant trees as defined elsewhere in the Code, unless the findings required by Section 10.15.070 of the Code can be made;
    b. Preservation of solar access.

6. If applicable, whether the landscaping for the proposed improvement and/or use emphasizes the use of native materials in the area.

In connection with its review of each of the foregoing matters, the Commission may include in any site development permit such conditions as it may determine to be necessary in order to ameliorate or mitigate identified impacts of the project. Such conditions, without limiting the discretion of the Commission, may include a time limitation, site planning limitations, architectural conditions, setback restrictions, occupancy regulations, landscape regulations or drainage and sewage regulation.

C. *Findings.* The Commission shall have written findings and conclusions regarding the application prepared and placed in the mail to the applicant within fifteen (15) days of its final decision.

D. *No decision.* In the event the Commission is unable to reach a decision on an application, the application will be reviewed by the City Council in the manner prescribed in Section 10.08.060 of this Chapter.

E. *Review by City Planner for Residential Development Projects Under Section 10.05.080.* A residential development project meeting the requirements of section 10.05.080 shall be reviewed ministerially and without public hearing by the city planner. In considering such application, the city planner shall approve the project unless (1) the proposed project does not meet the requirements of section 10.05.080, or (2) if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon 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. Any approval, conditional approval or denial by the city planner of a site development permit under this subsection shall be final with no further appeal. All permits granted under this subsection shall be conditioned on (1) compliance with the objective zoning standards that are applicable to the parcel based on the applicable zoning district as set forth in Chapter 10.05 of this code, except for as such standards may be modified under section 10.05.080, and (2) compliance with any objective design standards adopted into the City's design guidelines, unless the applicant demonstrates that such objective zoning or design standard would have the effect of physically precluding the construction of up to two units or that would physically preclude either of the two units from being at least 800 square feet in floor area. The City Planner shall cause notice to be sent to property owners within 600 feet upon the submission of an application, and again upon completion of such application.

SECTION 5. Amendment of Chapter 10.15. Sections 10.15.040, 10.15.070, 10.15.080, and 10.15.090 of the Monte Sereno Municipal Code are amended to read in entirety as follows:

10.15.040 Significant tree; removal; permit required.

Except as provided in Section 10.15.020, it shall be unlawful for any person to remove, or cause to be removed, any significant tree, dead tree or unsuitable tree from any parcel of property in the City without first applying for and obtaining a permit for the removal from the City Manager or City Planner for (1) dead or unsuitable trees on any parcel, or (2) for any tree removal performed in conjunction with a project first permitted under section 10.05.080, section 10.06.140, or chapter 13.06. In all other instances, it shall be unlawful for any person to remove, or cause to be removed, any significant tree without first applying for and obtaining a permit for the removal from the Site and Architecture Commission or City Council.

10.15.070 Permit; application; review.

Each application shall be reviewed to determine the condition of the tree or trees with respect to disease, danger of falling, proximity to existing or proposed structures and interference with utility services. With respect to dead trees or unsuitable trees, each application shall be reviewed to validate the health of the tree and/or species. In addition, in the case of a significant tree the following shall be determined:

A. The significant tree or trees need to be removed to allow reasonable economic enjoyment of the property or the significant tree or trees need to be removed due to disease, danger of falling or threat to owner or surrounding residents;

B. If the topography of the land and the effect of the removal of the significant tree will have a significant effect on erosion, soil retention and diversion or increased flow of surface waters;

C. The number of trees existing in the neighborhood on improved property and the effect the removal would have on the established standard of the area and the property values; and

D. The number of trees the particular parcel can adequately support according to good forestry practices.

In reviewing applications, the Site and Architectural Commission shall give priority to those based on hazard or danger of disease and may refer any application to the City Engineer or other officer of the City for a report and recommendation. In approving a tree removal permit, the Site and Architectural Commission may impose conditions requiring replacement of trees as may be deemed appropriate to mitigate impacts of development or provide equivalent aesthetic benefits in terms of size, height, location, appearance, and other characteristics of the removed tree.

For tree removals that are in conjunction with a project permitted under section 10.05.080, section 10.06.140, or chapter 13.06, the City Manager or City Planner shall approve such permit subject a requirement to replace each tree removed with no less than two trees, each of a native or drought

tolerant species, with a minimum circumference of ten inches measured at a height of 48 inches above the grade as planted. The City Manager or City Planner shall not approve a permit for removal of a significant tree that is an oak species measuring at least 115 inches in circumference at 48 inches above grade, unless the applicant demonstrates one of the following: (1) the project subject to mandatory approval pursuant to Government Code section 65852.2(e) and Monte Sereno Municipal Code section 10.06.140.H, (2) for projects subject to Monte Sereno Municipal Code section 10.05.080, the denial would have the effect of physically precluding the construction of up to two units on the lot or would physically preclude either of the two units from being at least 800 square feet in floor area, or (3) for projects subject to chapter 13.06, the denial would have the effect of physically precluding the construction of up to two units per created parcel or would physically preclude such units from being at least 800 square feet in floor area.

10.15.080 Penalties.

Any person who unlawfully removes a significant tree without having first obtained a permit for its removal may be subject to a citation in the amount of One Thousand Dollars ($1,000.00). Any person who unlawfully removes a significant tree, dead tree or unsuitable shall be required to apply for and obtain a tree removal permit at double the application fee.

Additionally, and in addition to any other penalty provided by this Code, any person who unlawfully removes a significant tree without having first obtained a permit for its removal issued by the City shall be subject to the following requirements which shall be imposed on the permit:

A. Replacement of the tree unlawfully removed with one or more new trees which will provide equivalent aesthetic quality in terms of size, height, location, appearance, and other characteristics of the unlawfully removed tree; or

B. If replacement trees will not provide equivalent aesthetic quality because of the size, age, or other characteristic of the removed tree or cannot be planted on the subject parcel, the City Manager shall calculate the value of the removed tree in accordance with the latest edition of the Guide Establishing Values of Trees and Other Plants, as prepared by the Council of Tree and Landscape Appraisers. The authority approving the permit may require either a cash payment to the City of such value, together with estimated costs of planting as determined by the City Manager, to be used for replacement planting elsewhere or the actual planting of replacement trees in a manner designated by the City, or any combination thereof.

The amount of any cash payments imposed pursuant to this Chapter shall constitute a debt to the City and any person required to make such a payment shall be subject to an action in the name of the City in any court of competent jurisdiction for the collection of the amount of the cash payment.

10.15.090 Appeal of permit.

Any action taken by the Site and Architecture Commission pursuant to this Chapter to grant, conditionally grant or deny a tree removal permit may be appealed to the City Council by filing, with the City Clerk, a written notice of appeal within ten (10) calendar days after a copy of the decision of the Commission has been placed in the mail to the applicant. The applicant, any property owner or tenant of property within three hundred (300) feet of the subject site, a City Council member or the City Manager

may file such a notice of appeal. When such notice has been accepted by the City Clerk for filing the following shall occur:

A. *Notice and time of the hearing.* The City Clerk shall, subject to the rules of the City Council, set a date for the public hearing which shall be held by the City Council. The date of hearing shall be not less than ten (10), nor more than sixty (60) calendar days after the notice of appeal was received by the City Clerk.

B. *Information provided to City Council.* The City Manager or his/her designee shall provide a report to the City Council summarizing the project and outlining the decision and findings of the Commission. In addition thereto, the City Manager or his/her designee shall file with the City Council at its hearing all relevant papers, documents and exhibits which are part of the file.

C. *Hearing.* The City Council shall hold a public hearing to consider the appeal at the time and place set by the City Clerk. The City Council shall hear the matter de novo. The City Council shall hear and consider only those issues which were presented to the Commission, except for any new issues which could not have been known at the time of the Commission hearing.

D. After hearing and considering all the evidence, the City Council shall uphold the decision of the Commission, reverse the decision of the Commission or modify the decision of the Commission. Nothing in this Chapter shall preclude the City Council from modifying, adding or deleting any condition of the tree removal permit in order to protect the public peace, health, safety and welfare.

E. *Findings and decision.* Within a reasonable time after the City Council has concluded its hearing, it shall, by resolution, set forth its findings and decision on the matter. The decision of the City Council shall be final. The decision of the City Council shall be mailed to the applicant and his/her agent, at the addresses shown on the application and the appellant, at the address shown on the notice of appeal.

Any action taken by the City Manager or the City Planner related to a permit is final and not subject to appeal, with the exception that the applicant may submit an application to be heard before the Site and Architecture Commission should they disagree with the decision of the City Manager or the City Planner with respect to their original application for removal of an unsuitable or dead tree.

SECTION 6. Enactment of Chapter 13.06. Chapter 13.06 of the Monte Sereno Municipal Code is enacted to read in entirety as follows:

MONTE SERENO MUNICIPAL CODE 13.06
URBAN LOT SPLITS

13.06.010 Purpose and Intent
13.06.020 Requirements
13.06.030 Filing, Processing, and Action
13.06.040 Use and Development Requirements

13.06.010 Purpose and Intent

It is the purpose of this chapter to provide procedures necessary for the implementation of Section 66411.7 of the Government Code pertaining to urban lot splits. To accomplish this purpose, the regulations outlined herein are determined to be necessary for the preservation of the public health, safety and general welfare, and for the promotion of orderly growth and development. Except where such provisions directly conflict with Section 66411.7 of the Government Code, the provisions of this title 13 shall apply to this chapter.

13.06.020 - Requirements

A parcel map shall be required for all urban lot splits pursuant to section 66411.7 of the Government Code. An application for a parcel map urban lot split shall be approved ministerially by the City Engineer where the applicant has submitted an application in a form prescribed by the City, paid the application fee, which may be established by resolution of the City Council, and demonstrates that the application meets all the following requirements:

A. The proposed urban lot split will create no more than two new parcels, and each of the newly created parcels meets the following requirements:

1. Has at least 1,200 square feet in size,

2. Has at least 40 percent of the lot area of the original parcel,

3. Has access to or adjoins the public right-of-way, sufficient to allow development on the parcel to comply with any property access requirements under the California Fire Code section 503 and Title 14, California Code Regulations section 1273.00 et seq., when applicable to the parcel, and

4. New parcel lines that abut a street shall maintain right angles to streets or radial to the centerline of curved streets, or be parallel to existing parcel lines.

B. The parcel to be subdivided is located within a single-family residential zone.

C. The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.

D. The proposed urban lot split would not require demolition or alteration of any of the following types of housing:

1. 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.

2. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

3. A parcel or parcels on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

4. Housing that has been occupied by a tenant in the last three years based on the date of the application for an urban lot split.

E. The parcel is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city landmark or city heritage resource.

F. The parcel has not been established through prior exercise of an urban lot split provided for in Section 66411.7 of the Government Code and this section.

G. Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel using an urban lot split as provided for in this chapter.

H. The proposed new parcels are intended for exclusively residential use.

I. The owner of the parcel to be subdivided signs an affidavit under penalty of perjury declaring all of the following to be true:

1. The housing units proposed to be demolished or altered have not been occupied by a tenant at any time within three years of the date of the application for an urban lot split.

2. The owner of the parcel intends to occupy one of the housing units as their principal residence for a minimum of three years from the date of the approval of the urban lot split. Owner-occupancy is not required if the owner is a community land trust or qualified nonprofit corporation under Sections 214.15 or 402.1 of the Revenue and Taxation Code.

3. The owner has not previously subdivided an adjacent parcel using an urban lot split.

4. The owner has not previously acted in concert with any person to subdivide an adjacent parcel using an urban lot split. "Acted in concert" means that the owner, or a person acting as an agent or representative of the owner, knowingly participated with another person in joint activity or parallel action toward a common goal of subdividing the adjacent parcel.

J. A minimum of one off-street parking space shall be provided on each parcel except where the parcel meets one of the following instances:

1. The parcel is located within one-half mile walking distance of either a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code.

2. There is a car share vehicle located within one block of the parcel.

K. 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, and in all other circumstances a setback of four feet from the side and rear lot lines shall be provided, unless the applicant can demonstrate that this would have the effect of the effect of physically precluding the construction of two units on either of the resulting parcels or would necessarily result in a unit size of less than 800 square feet. Verification of size and location of the existing and proposed structure requires pre- and post-construction surveys by a California licensed land surveyor.

L. The parcel map satisfies the objective requirements of the Subdivision Map Act and this title regarding parcel maps, except as provided herein.

13.06.030 Filing, processing, and action

A. Parcel Maps shall be prepared, filed and recorded in accordance with the Map Act. The City Engineer shall, from time to time, prepare and provide detailed specifications to any subdivider setting forth the specific requirements necessary for preparing, filing and recording a parcel map.

B. The subdivider for an urban lot split shall not be required to dedicate right-of-way, construct off-site improvements, or correct non-conforming conditions except as necessary for a parcel to have access to the right-of-way. Any work in the right-of-way shall be subject to the requirements of this code.

C. In addition to other information requirement by this title, an application for a parcel map for an urban lot split shall include the following:

1. Location of easements required for the provision of public services and facilities to each of the proposed parcels.

2. Location of any easements necessary for each parcel to have access to the public right-of-way.

D. The City Engineer shall deny the tentative map if any of the following is found:

1. The map fails to meet or perform one of more objective requirements imposed by the Subdivision Map Act or by this title. Any such requirement or condition shall be specified.

2. The building official makes a written finding, based upon a preponderance of the evidence, that the proposed subdivision would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon 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.

E. The City Engineer shall cause notice to be sent to property owners within 600 feet upon submission of an application, and again upon completion of such application.

F. The City Engineer shall not reject an application solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance. The City Engineer shall condition approval on the dedication of any easements deemed necessary for the provision of public services to the proposed parcels and any easements deemed necessary for access to the public right-of-way. The City Engineer shall not require the correction of nonconforming zoning conditions.

13.06.040 Use and Development Requirements

A. It shall be unlawful to rent, offer to rent or lease, or to advertise for rent or lease, any dwelling unit or portion thereof built on a parcel that is created by parcel map under this chapter for a term that is thirty days or less.

B. It shall be unlawful to use any parcel created by parcel map under this chapter for any use other than a residential use.

C. New dwelling units constructed on any parcel created following the approval of an urban lot split under this chapter shall be no more than 800 square feet per dwelling unit.

D. Development of new dwelling units on any lot created under this chapter shall be subject to the requirements of Section 10.05.080, subdivisions (E) and (F), and shall also comply with all applicable objective zoning requirements set forth in Chapter 10.05 applicable to the subject parcels and any objective requirements in the City's design guidelines. Notwithstanding section 10.05.020.C.11 and section 10.05.030.C.11, the maximum impervious coverage percentage applicable to each parcel created by an urban lot split under this chapter shall be percentage specified in the zoning district regulation applicable to the original parcel prior to the approval of the urban lot split as set forth in Chapter 10.05. The standards described in this paragraph shall apply to all urban lot splits except where such standard directly conflicts with a provision of this title, or whether the applicant demonstrates that such zoning district standard or design standard would have the effect of the effect of physically precluding the construction of two units on either of the resulting parcels or would necessarily result in a unit size of less than 800 square feet.

E. Notwithstanding section 10.06.140 or any other provision of this code, no more than two dwelling units shall be permitted on any parcel created under the provisions of this chapter.

SECTION 7. Environmental Review.

The City Council finds and determines that enactment of this Ordinance is statutorily exempt from the provisions of the California Environmental Quality Act ("CEQA"), pursuant to Government Code sections 65852.21(j) and 66411.7(n), as this action is to adopt an ordinance to implement the requirements of sections 65852.21 and 66411.7 of the Government Code.

SECTION 8. Effective Date.

This ordinance shall be in full force and effective 30 days after its adoption.

SECTION 9. Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate, distinct and independent provision of such Ordinance and shall not affect the validity of the remaining portions thereof.

SECTION 10. Certification.

The City Clerk shall cause this ordinance to be posted and/or published in the manner required by law.

This Ordinance was introduced at the meeting of the City Council on the 21st day of December 2021, and was adopted at a regular meeting of the City Council on the 4th day of January 2022, by the following vote:

AYES:	LAWLER, LEUTHOLD, TURNER, MEKECHUK, ELLAHIE
NOES:	NONE
ABSENT:	NONE
ABSTAIN:	NONE

DocuSigned by:
Javed Ellahie
E95EE33F3FE049B...
Javed I. Ellahie, Mayor

Attest: DocuSigned by:
Michelle Radcliffe
486E81727D0A486...
Michelle Radcliffe, City Clerk

Approved as to form:
DocuSigned by:
Sergio Rudin
EB0D55348B2D435...
Sergio Rudin, City Attorney