

ORDINANCE NO. 738

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF ROLLING HILLS ESTATES, CALIFORNIA, AMENDING
THE ROLLING HILLS ESTATES MUNICIPAL CODE TO ADD
CHAPTER 16.06 (URBAN LOT SPLIT PROCEDURES) AND
CHAPTER 17.80 (URBAN DWELLING UNITS)**

The City Council of the City of Rolling Hills Estates ordains as follows:

SECTION 1. Findings. The City Council of the City of Rolling Hills Estates finds as follows:

A. Senate Bill 9 (SB 9) (Chapter 162, Statutes of 2021) became effective on January 1, 2022, and enacted new Government Code sections 65852.21 and 66411.7.

B. These provisions require cities to ministerially approve “urban lot splits” and new “urban dwelling units” located within a single-family residential zone if an application meets certain requirements.

C. SB 9 authorizes a city to establish objective zoning standards, objective subdivision standards, and objective design review standards with respect to such development applications, provided the regulations do not conflict with state law or have the effect of physically precluding the construction of two urban dwelling units on either of the resulting parcels form an urban lot split or would result in an urban dwelling unit size of less than 800 square feet.

D. The Rolling Hills Estates Municipal Code (RHEMC) currently does not have any provisions that address urban lot splits or new urban dwelling units within its single family (R-1) zone in the manner required under SB 9. Without SB 9 compliant provisions, there is currently a period where there may be a lack of detailed policies, procedures, or objective standards available to guide and promote the orderly development of such urban lot splits and urban dwelling units in the manner envisioned under SB 9.

E. SB 9 also allows 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.

F. The entire City is included in a Very High Fire Hazard Severity Zone (VHFHSZ), as officially designated by the California Department of Forestry and Fire Protection (CalFire). The City is also included in the list of Communities at Risk from wildfires on the Federal and/or California Fire Alliance list of Communities at Risk in Los Angeles County. In addition, the City contains multiple neighborhoods that do not have a secondary egress route available in case of fire or natural disaster.

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

H. The City Council has the power under Government Code sections 36934 and 36937 to adopt an ordinance that takes effect immediately if it is an ordinance for the immediate preservation of the public peace, health or safety, and is passed by a four-fifths vote of the City Council.

I. This urgency ordinance is necessary to address the danger to public health, safety, and general welfare articulated by the state related to the housing crisis, and

immediately provide the provisions to implement SB 9-related development in a manner that protects the City's interest in orderly planning and aesthetics.

J. Accordingly, the City Council desires to adopt this ordinance as an urgency ordinance, effective immediately, pursuant to Government Code sections 36934 and 36937.

SECTION 2. Environmental Review. The City Council exercises its independent judgment and finds that this ordinance is not subject to California Environmental Quality Act (CEQA). The adoption of this ordinance serves to implement ministerial approvals as required by state law and, pursuant to Government Code sections 65852.21(j) and 66411.7(n), it is not a project, and therefore, is exempt from CEQA.

SECTION 3. Addition of RHEMC Chapter 16.06. The RHEMC is amended to add Chapter 16.06 (Urban Lot Splits), as set forth in Exhibit A.

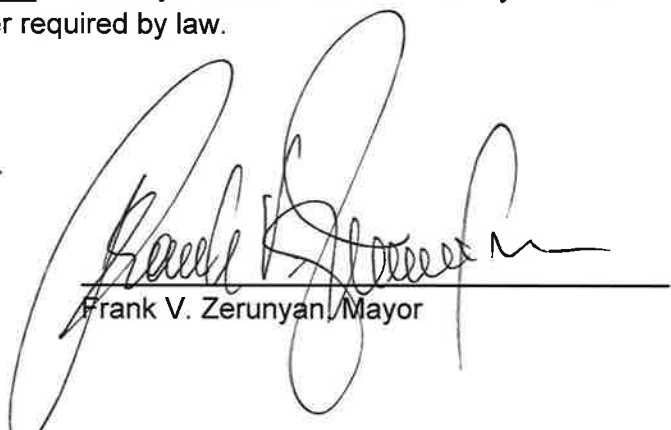
SECTION 4. Addition of RHEMC Chapter 17.80. The RHEMC is amended to add Chapter 17.80 (Urban Dwelling Units), as set forth in Exhibit A.

SECTION 5. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 6. Urgency Declaration and Effective Date. The City Council finds and declares that the adoption and implementation of this ordinance is necessary to address the danger to public health, safety, and general welfare as articulated above, and to immediately provide provisions to implement the SB 9 legislation, which took effect on January 1, 2022. The City Council therefore finds and determines that this ordinance be enacted as an urgency ordinance pursuant to Government Code section 36937 and take effect immediately upon adoption by four-fifths of the City Council.

SECTION 7. Publication. The City Clerk is directed to certify this ordinance and cause it to be published in the manner required by law.

ADOPTED on March 22, 2022.



Frank V. Zerunyan, Mayor

ATTEST:



Lauren Pettit, City Clerk

APPROVED AS TO FORM:



DONALD M. DAVIS, CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF ROLLING HILLS ESTATES)

I, Lauren Pettit, City Clerk of the City of Rolling Hills Estates, do hereby certify that the foregoing Urgency Ordinance No. 738, was duly adopted and passed at a regular meeting of the City Council on March 22, 2022, by the following vote:

AYES: HUFF, SCHMITZ, STEGURA, ZERUNYAN, ZUCKERMAN
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE



Lauren Pettit, City Clerk

Exhibit A

Chapter 16.06 – URBAN LOT SPLITS.

16.06.010 – Purpose.

The purpose of this chapter is to implement Government Code section 66411.7, which requires a city to ministerially approve an application for an urban lot split located within a single-family residential zone if it meets certain state and municipal requirements. In the event of any conflict between the provisions of this chapter and Government Code section 66411.7, as amended, Government Code section 66411.7 will govern.

16.06.020 – Definitions.

The following definitions will apply to this chapter:

“Urban lot split” means a subdivision or proposed subdivision of land established in accordance with the standards, procedures, and requirements set forth in Government Code section 66411.7 and this code, including Chapter 17.80.

16.06.030 – Urban lot split general requirements.

- A. Location Requirements. An urban lot split parcel map application must meet all the following location requirements:
 - 1. The subject parcel must be located in one of the following residential zones: R-A-E, R-A-10, R-A-15, R-A-20, or RPD where the property was developed using the R-A-20 development standards
 - 2. The subject parcel may not be located in an area designated in Government Code sections 65913.4(a)(6)(B) through (K).
 - 3. The subject parcel may not be located within a historic district or property, as set forth in Government Code section 65852.21(a)(6).
- B. Legal Lot. The applicant must demonstrate that the existing property is a legal lot at the time of filing application.
- C. Limitation on Demolition and Alterations. A proposed urban lot split may not involve demolition or alteration of:
 - 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. Housing that has been occupied by a tenant in the last three years.
- D. Limitation on Parcels Withdrawn from Rental Market. A proposed urban lot split may not involve property withdrawn from the rental market under Government Code section 7060 and following, within 15 years before the date that the development proponent submits an application.

- E. Lot Size. Both proposed newly created parcels must be of approximately equal lot area, which for purposes of this subsection means that one parcel may not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision.
- F. Compliance with Homeowners' Association Declaration. If the underlying parcel is subject to a recorded declaration of a homeowners' association, the applicant must provide a letter from the homeowners' association authorizing or consenting to the urban lot split, and, if applicable, the development of an urban dwelling unit on the parcel. Alternatively, if the applicable homeowners' association believes the proposed urban lot split and development of one or more urban dwelling units is inconsistent with the recorded declaration, it may file a notice of objection with the community development department setting forth the basis for its objection. For the purpose of this section, a "homeowners' association" means any "association" as defined under Civil Code section 4080 that is created for the purpose of managing a common interest development, and the term "declaration" has the meaning set forth in Civil Code section 4135. The intent of this subsection is to alert homeowners' associations of a pending urban lot split and urban dwelling unit application in their neighborhood. Accordingly, the filing of a notice of objection by a homeowners' association will not constitute independent grounds for the denial of an application, as the homeowners' association may privately enforce an alleged violation of its declaration.
- G. Owner Affidavit. The owner of the parcel to be subdivided must submit a signed affidavit under penalty of perjury declaring all of the following to be true:
 - 1. Any 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.
 - 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.
- H. Fees. Urban lot splits will be subject to all applicable development fees as established by city council resolution. The amount of fees to be paid will be those in effect at the actual time of payment of such fees.

16.06.040 – Urban lot split development standards.

A proposed urban lot split must comply with the following development and use standards:

- A. Compliance with the Subdivision Map Act. Urban lot splits must conform to all applicable objective requirements of the Subdivision Map Act (Division 2 (commencing with Section 66410)) and Title 16 of this code, except as expressly provided in this chapter.

- B. Urban Dwelling Unit Requirements. Any proposed new urban dwelling unit on a parcel proposed for an urban lot split must also comply with all applicable development standards as set forth in Section 17.80.040 of this code.
- C. Sewer or septic requirement. Resulting parcels from an urban lot split must be connected to sewer facilities or septic tanks if a sewer connection is not available at the property line of one of the resulting parcels. If the resulting parcels are connected to a septic system, a percolation test must be completed within the last 5 years, or, if the percolation test has been recertified, within the last 10 years.
- D. Easements and access to rights-of-way. Urban lot splits must meet the following requirements:
 1. Fire department and quasi-public utility easements. An easement at least 15-feet wide must be provided over the front parcel to the rear parcel for access to the public right of way, providing quasi-public services and facilities, maintenance of utilities, and fire department access.
 2. Private access easement. If a resulting lot is not directly adjacent to a public right of way, a private access easement at least 15-feet wide must be provided over the front parcel to the rear parcel for access to the public right of way.
 3. Sewer lateral, water lateral and drainage easements. Ten-foot wide easements must be provided over one of the parcels being created for private sewer lateral, water lateral and/or drainage that may cross over the shared property line in favor of the other parcel being created.
 4. Existing easements must be shown and called out on the parcel map.
 5. Proposed easements with locations and widths must be shown on the parcel map labeled with a reference to be recorded by separate instrument.
 6. New easements may be in the form of a deed restriction until one of the created parcels is sold at which time an easement document must be recorded.
 7. No new access from an arterial street will be permitted.
- E. Other Objective Standards Adopted by Resolution. The city may adopt by resolution of the city council additional objective standards for urban lot splits, including the incorporation by reference to existing provisions of this code. A compilation of such standards will be maintained on the city's website.
- F. Residential Use Requirement. The use of a parcel subdivided as an urban lot split is limited to residential use.

16.06.050 – Filing of application, review and action.

- A. Application. A complete tentative parcel map application for the proposed urban lot split must be submitted to the community development department with all applicable fees.
- B. Notice of Application. Upon receipt of a complete application for an urban lot split, the department of community development will send notice of such application to the owners of all properties located within a 500 feet radius of the subject parcel. The cost of such mailing will be paid by the applicant.

- C. Staff Review. The director will circulate the application for an urban lot split, along with the parcel map, to applicable city departments and outside agencies for review and comment. City comments will be provided back to the applicant for review and any necessary revisions.
- D. Timing of Action. The department will act on an application for an urban lot split within 60 days from the date the department receives a completed application. If the applicant requests a delay in writing, the 60-day time period will be tolled for the period of the delay. The department has acted on the application if it:
 - 1. Approves or denies the application for the urban lot split; or
 - 2. Informs the applicant in writing that changes to the proposed project are necessary to comply with this chapter.
- E. Director Action.
 - 1. The director will ministerially approve the application if meets all of the requirements of this chapter. No discretionary review or public hearing is required. The approval will be conditioned 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 director is further authorized to approve any final maps consistent with that approval.
 - 2. The director must deny an urban lot split if either of the following is found:
 - a. The urban lot split fails to meet one of more objective requirements imposed by the Subdivision Map Act or by this chapter. Any such noncompliance with a requirement or condition will be specified in writing.
 - b. The building official makes a makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in Government Code Section 65589.5(d)(2), upon 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.

16.06.060 – Appeals.

The applicant, or any aggrieved person, may appeal any decision of the director concerning an application for an urban lot split and new urban dwelling unit. Such appeal must be made in writing and filed with the department of community development within 15 days from the date of the issuance of the decision. The appeal must be made on the approved form available from the department of community development and must include the grounds for the appeal and the appeal processing fee established by the city council. The city manager will schedule a date and time to hear the appeal within 15 days after receipt of the appeal and will notify the appellant of such date and time. The city manager will issue a written decision within 15 days after the conclusion of the appeal. The decision on the appeal will be final 10 days following the date of the city manager's decision, and thereafter subject only to judicial review.”

Chapter 17.80 – URBAN DWELLING UNITS

17.80.010 – Purpose.

The purpose of this chapter is to implement Government Code section 65852.21, which requires a city to ministerially approve urban dwelling units located within a single-family residential zone if an application meets certain state and municipal requirements. In the event of any conflict between the provisions this chapter and Government Code section 65852.21, as it may be amended, Government Code section 65852.21 will govern.

17.80.020 – Definitions.

The following definitions will apply to this chapter:

“Urban dwelling unit” means a dwelling unit established or proposed to be developed in accordance with the standards, procedures, and requirements set forth under Government Code section 65852.21 and this code.”

17.80.030 – Urban dwelling unit general requirements.

- A. Location Requirements. An application for development of an urban dwelling unit must meet all the following location requirements:
 - 1. The subject parcel must be located in one of the following residential zones: R-A-E, R-A-10, R-A-15, R-A-20, or RPD where the property was developed using the R-A-20 zone development standards.
 - 2. The subject parcel may not be located in an area designated in Government Code sections 65913.4(a)(6)(B) through (K).
 - 3. The subject parcel may not be located within a historic district or property or within a site that is designated or listed as a city or county landmark or historic property or district under a city or county ordinance, as set forth in Government Code section 65852.21(a)(6).
- B. Limitation on Demolition and Alterations. A proposed urban dwelling unit may not involve demolition or alteration of:
 - 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. Housing that has been occupied by a tenant in the last three years.
 - 4. More than 25% of the existing exterior structural walls, unless the housing has not been occupied by tenants within the last three years.
- C. Limitation on Parcels Withdrawn from Rental Market. A proposed urban dwelling unit may not involve property withdrawn from rental market under Government Code section 7060 and following, within 15 years before the date that the submittal of an application.

- D. Two Residential Unit Limitation. No more than two dwelling units may be developed on the underlying parcel. Existing accessory dwelling units and junior accessory dwelling units will be counted toward this maximum number of units.
- E. Owner Occupancy Affidavit. The owner of the property proposing to develop an urban dwelling unit must sign an affidavit stating that the owner will occupy one of the dwelling units as their principal residence for a minimum of three years from the date of the approval of the occupancy of the urban dwelling unit. This affidavit is required to be recorded.
- F. Compliance with Homeowners' Association Declaration. If the underlying parcel is subject to a recorded declaration of a homeowners' association, the applicant must provide a letter from the homeowners' association authorizing or consenting to the development of an urban dwelling unit on the parcel. Alternatively, if the applicable homeowners' association believes the proposed urban lot split and development of one or more urban dwelling units is inconsistent with the recorded declaration, it may file a notice of objection with the community development department setting forth the basis for its objection. For the purpose of this section, a "homeowners' association" means any "association" as defined under Civil Code section 4080 that is created for the purpose of managing a common interest development, and the term "declaration" has the meaning set forth in Civil Code section 4135. The intent of this subsection is to alert homeowners' associations of a pending urban lot split and urban dwelling unit application in their neighborhood. Accordingly, the filing of a notice of objection by a homeowners' association will not constitute independent grounds for the denial of an application, as the homeowners' association may privately enforce an alleged violation of its declaration.
- G. Residential Use Requirement. Urban dwelling units are limited to residential uses.
- H. Short-Term Rental Limitation. Urban dwelling units may not be rented for a term shorter than 30 days in accordance with Chapter 17.47 of this code.
- I. Fees. Urban dwelling units will be subject to applicable development fees as established by resolution. The amount of fees to be paid will be those in effect at the actual time of payment of such fees.

17.80.040 – Urban dwelling unit development standards.

A proposed urban dwelling unit must comply with the following development standards:

- A. Development Standards of Applicable Zone. All applicable objective development standards of the zoning district in which the property is located will apply, including, but not limited to, setbacks and lot coverage.
- B. Design Guidelines. All objective requirements of the city's design guidelines will apply.
- C. Unit Size. Urban dwelling units must be at least 800 square feet in floor area.
- D. Parking. At least one off-street parking space is required per urban dwelling unit; provided, however, no parking space will be required when at least one of the following conditions exists:
 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 available within one block of the parcel.
- E. Height. Urban dwelling units may not exceed 16 feet in height; provided, however, that if an applicant desires to have a two-story structure, the applicant may voluntarily elect to pursue approval of a neighborhood compatibility determination in order to allow the height to exceed 16 feet.
 - F. Building and Construction Standards. Any proposed urban dwelling unit must be built in accordance with the building and construction standards set forth in Title 15 of this code, and must obtain all applicable building and construction permits required under Title 15 of this code.
 - G. Other Objective Standards Adopted by Resolution. The city may adopt by resolution of the city council additional objective standards for the development of urban dwelling units including the incorporation by reference to existing provisions of this code. A compilation of such standards will be maintained on the city's website.
 - H. Exceptions to Development Standards. If an applicant shows, to the satisfaction of the director, that the application of certain standards in this section will physically preclude the development of at least two 800 square foot units on a parcel, then such standards may be reduced in the following order of priority until the parcel can contain two, 800 square foot units:
 1. Enclosed parking requirements;
 2. Required setbacks between a residence and any horse keeping area required under Chapter 17.36 of this code; provided, however, that a setback of at least 15 feet is required;
 3. The overall size of any horse keeping area required under Chapter 17.36 of this code; provided, however, that to the extent feasible, the size of the horse keeping area should not be reduced below 500 square feet;
 4. Lot coverage under Section 17.06.070 of this code; and
 5. Setbacks with the priority in reduction first applied to the front yard setback provided, however, that a setback of at least four feet is required from the rear and side property lines.

17.80.050 –Filing of application, review and action.

- A. Application. A completed application on the form prescribed by the city must be submitted to the community development department along with any applicable fees.
- B. Notice of Application. Upon receipt of a complete application for an urban dwelling unit, the department of community development will send notice of such application to the owners of all properties located within a 500 feet radius of the subject parcel. The cost of such mailing will be paid by the applicant.
- C. Staff Review. The director will circulate the application for an urban dwelling unit to applicable city departments for review and comment. All comments will be provided back

to the applicant for review and any necessary revisions to the application and plans to meet required building and development standards.

D. Timing of Action. The department will act on the application for an urban dwelling unit within 60 days from the date the department receives a completed application. If the applicant requests a delay in writing, the 60-day time period will be tolled for the period of the delay. The department has acted on the application if it:

1. Approves or denies the application for the urban dwelling unit; or
2. Informs the applicant in writing that changes to the proposed project are necessary to comply with this chapter.

E. Director Action.

1. The director will ministerially approve the application if it meets all of the requirements of this chapter and issue the applicable permit. No discretionary review or public hearing is required. The director may condition approval on the dedication of any easements deemed necessary for the provision of public services to the proposed urban dwelling units and any easements deemed necessary for access to the public right-of-way.
2. The director must deny the application if either of the following is found:
 - a. The application fails to meet one of more objective requirements by this chapter. Any such noncompliance with a requirement will be specified in writing.
 - b. The building official makes a makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in Government Code Section 65589.5(d)(2), upon 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.

17.80.060 – Appeals.

The applicant, or any aggrieved person, may appeal any decision of the director or building official concerning an application for an urban dwelling unit. Such appeal must be made in writing and filed with the department of community development within 15 days from the date of the issuance of the decision. The appeal must be made on the approved form available from the department of community development and must include the grounds for the appeal and the appeal processing fee established by the city council. The city manager will schedule a date and time to hear the appeal within 15 days after receipt of the appeal and will notify the appellant of such date and time. The city manager will issue a written decision within 15 days after the conclusion of the appeal. The decision on the appeal will be final 10 days following the date of the city manager's decision, and thereafter subject only to judicial review.