

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY OF CAPITOLA ADDING MUNICIPAL CODE CHAPTERS 16.78 AND 17.75, ADDING MUNICIPAL CODE SECTION 16.08.020, AND AMENDING SECTION 17.74.040 FOR THE IMPLEMENTATION OF GOVERNMENT CODE SECTIONS 66411.7 AND 65852.21 RELATED TO URBAN LOT SPLITS AND SB9 RESIDENTIAL DEVELOPMENTS

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

WHEREAS, these provisions require the City to provide ministerial approval of urban lot splits, (“Urban Lot Splits”) and the construction of up to two residential dwelling units (“SB9 Residential Developments”) on each single-family residential zoned lot within the City, subject to certain limitations; and

WHEREAS, Government Code section 66411.7(a) limits eligibility of Urban Lot Splits by size and proportionality; and

WHEREAS, Government Code sections 66411.7(a)(3)(C) and 65852.21(a)(2) limit Urban Lot Splits and SB9 Residential Developments, respectively, 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, unless projects on such sites meet specified conditions; and

WHEREAS, Government Code sections 66411.7(a)(3)(D) and 65852.21(a)(3) through (a)(5) limit eligibility of an Urban Lot Split and a SB9 Residential Development, respectfully, 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to rent or price controls, housing that has been occupied by a tenant in the last three years, housing that has been withdrawn from rent or lease within the past 15 years, and housing that requires demolition of existing structural walls unless authorized by local ordinance or has not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 65852.21(a)(6) and 66411.7(a)(3)(E) allow 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 66411.7(c) and 65852.21(b) allow a city to establish objective zoning standards, objective subdivision standards, and objective

design review standards for Urban Lot Splits and SB9 Residential Developments, respectively, 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 from an Urban Lot Split or that would result in a unit size of less than 800 square feet” for a SB9 Residential Development; and

WHEREAS, Government Code sections 66411.7 and 65852.21 allow a city to deny a proposed SB9 Residential Development or Urban Lot Split, respectively, 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, pursuant to Government Code sections 65852.21(j) and 66411.7(n), the City may adopt an ordinance to implement the provisions of Government Code sections 65852.21 and 66411.7, and such an ordinance shall not be considered a project under the California Environmental Quality Act (“CEQA”); and

WHEREAS, in recognition of the City of Capitola’s unique geography and proximity to the Pacific Ocean, the City Council desires to implement objective standards and an application process for projects undertaken pursuant to Government Code Sections 65852.21 and 66411.7 by the adoption of such an ordinance;

WHEREAS, on February 3, 2022, and March 31, 2022, the Planning Commission provided feedback on draft objective standards.

WHEREAS, on April 21, 2022, the Planning Commission recommended to the City Council adoption of the objective standards.

BE IT ORDAINED by the City of Capitola as follows:

Section 1. The above findings are adopted and incorporated herein.

Section 2. Section 16.08.120 (Urban Lot Split) is added to Chapter 16.08 (Definitions) to read as follows:

16.08.020 Urban Lot Split.

The subdivision of a parcel within a residential single-family (R-1) zone into two parcels pursuant to Section 66411.7 of the Government Code and Chapter 16.78 of the Capitola Municipal Code.

Section 3. Chapter 16.78 (Urban Lot Splits) is added to Title 16 (Subdivisions) of the Capitola Municipal Code as set forth in Attachment 1, attached hereto and incorporated herein by this reference.

Section 4. The following subsection M is added to Section 17.74.040 (General Requirements) of Chapter 17.74 (Accessory Dwelling Units) of the Capitola Municipal Code to read as follows:

M. Pursuant to the authority provided by section 65852.21(f) of the Government Code, no accessory dwelling unit or junior accessory dwelling unit shall be permitted on any lot in a single-family zoning district if: 1) an Urban Lot Split has been approved pursuant to Chapter 16.78 herein; and 2) a SB9 Residential Development with two units has been approved for construction pursuant to Chapter 17.75 herein.

Section 5. Chapter 17.75 (SB9 Residential Developments) is added to Title 17, Part 3 (Zoning, Citywide Standards) of the Capitola Municipal Code as set forth in Attachment 2, attached hereto and incorporated herein by this reference.

Section 6: 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 7: Effective Date.

This Ordinance shall be in full force and effect thirty (30) days from its passage and adoption except that it will not take effect within the coastal zone until certified by the California Coastal Commission. This Ordinance shall be transmitted to the California Coastal Commission and shall take effect in the coastal zone immediately upon certification by the California Coastal Commission or upon the concurrence of the Commission with a determination by the Executive Director that the Ordinance adopted by the City is legally adequate.

Section 8: Severability.

The City Council hereby declares every section, paragraph, sentence, cause, and

phrase of this ordinance is severable. If any section, paragraph, sentence, clause, or phrase of this ordinance is for any reason found to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, clauses, or phrases.

Section 9: 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 ____ day of _____ 2022, and was adopted at a regular meeting of the City Council on the ____ day of _____ 2022, by the following vote:

AYES:
NOES:
ABSENT:

Sam Story, Mayor

Attest: _____
Chloe Woodmansee, City Clerk

Approved as to form:

Samantha Zutler, City Attorney

CHAPTER 16.78 – URBAN LOT SPLITS

Sections:

- 16.78.010 Purpose and Intent
- 16.78.020 Eligibility
- 16.78.030 Objective Standards
- 16.78.040 Parcel Map Application Review and Action
- 16.78.050 Use and Development Requirements
- 16.78.060 Deed Restrictions

16.78.010 Purpose and Intent

This chapter contains requirements for urban lot splits to implement Government Code Section 66411.7. These requirements are necessary to preserve of the public health, safety, and general welfare, and to promote orderly growth and development. In cases where a requirement in the chapter directly conflicts with Government Code Section 66411.7, the Government Code governs.

16.78.020 Eligibility

- A. Parcel Map Required.** A parcel map is required for all urban lot splits pursuant to Government Code Section 66411.7.
- B. Requirements to Accept Application.** The City shall accept a parcel map application for an urban lot split only if the application complies with all of the following requirements:
 - 1. **Existing Parcel Size.** The area of the existing parcel is 2,400 square feet or more.
 - 2. **Number of New Parcels.** The urban lot split creates no more than two new parcels.
 - 3. **New Parcel Size.** The area of each newly created parcel is:
 - a. At least 1,200 square feet; and
 - b. No smaller than 40 percent of the parcel area of the original parcel.
 - 4. **Zoning District.** The parcel is located within the Residential Single-Family (R-1) zoning district.
 - 5. **Environmental Resources and Hazards.**
 - a. The parcel satisfies the requirements of Government Code subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4, which prohibits development on sites subject to specified environmental resources and hazards.
 - b. The parcel is not located in any of the following areas as identified in the City's certified Local Coastal Program:
 - (1) Geological hazard areas.

- (2) 100-year and/or 500-year flood hazard areas.
 - (3) Environmentally Sensitive Hazard Habitat Areas (ESHA).
6. **Affordable and Rental Housing.** The proposed urban lot split would not 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. 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 of the Government Code (the Ellis Act) to evict tenants due to the property owner's decision to no longer use the property for rental housing within 15 years before the date that the development proponent submits an application.
 - d. 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.
7. **Historic Resources.**
- a. 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.
 - b. The parcel is not located on a site which includes a structure that is a Designated Historic Resource or that meets the criteria provided in Municipal Code Section 17.84.020.B. to qualify as a Designated Historic Resource.
8. **No Prior Urban Lot Split.**
- a. The parcel has not been established through prior exercise of an urban lot split provided for in Government Code Section 66411.7 of this chapter.
 - b. 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.

16.78.030 Objective Standards

All urban lot splits shall comply with the following standards, unless the applicant can demonstrate that a standard would have the effect of physically precluding the construction of two units on either of the resulting parcels or would preclude a unit size of 800 square feet for either unit.

- A. Parcel Line Angles.** 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. Street Frontage/Flag Lots.** Parcels without 20 feet or more of frontage on a street are not permitted, except that flag lots are permitted if:

1. The front corridor portion of the flag lot is at least 5 feet in width; and
2. The lot shares with the other newly created lot a driveway or private road at least 10 feet in width and no more than 40 percent of the parcel width or 20 feet, whichever is less.

C. Parking.

1. Number of Spaces.

- a. A minimum of one off-street parking space shall be provided for each dwelling unit except that no parking is required where the parcel satisfies one or more of the following circumstances:
 - (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.
- b. The exception for parcels that satisfy subparagraphs (1) or (2) does not apply to areas identified in Figure 1.

Figure 1



2. Shared Driveways.

- a. Both newly created parcels shall share one driveway providing vehicle access to the parcels. A maximum of one curb cut is permitted to serve both newly created parcels.
- b. The maximum width of the new driveway crossing a public sidewalk is 12 feet.

D. Access to Public Right-of-way. The newly created parcels shall provide access to or adjoin the public right-of-way, sufficient to allow development on the parcel to comply with all applicable property access requirements under the California Fire Code section 503 (Fire Apparatus Access Roads) and California Code Regulations Title 14, section 1273.00 et seq. (Intent).

E. Setbacks.

1. No setback is required for an existing structure or a structure reconstructed in the same location and to the same dimensions as an existing structure. In all other circumstances minimum setbacks consistent with Zoning Code Section 17.75.050 (Objective Development Standards) are required.
2. Within the coastal zone, structures must comply with minimum setbacks from environmentally sensitive habitat areas and geologic hazards as specified in Zoning Code Chapter 17.64 (Environmentally Sensitive Habitat Areas) and Chapter 17.68 (GH Geologic Hazards District).
3. Verification of size and location of the existing and proposed structure requires pre- and post-construction surveys by a California licensed land surveyor.

F. Existing Structure on One Parcel. The proposed lot split shall not result in the splitting of any structure between the two parcels and shall not create a new encroachment of an existing structure over a property line.

G. Residential Land Use. The proposed new parcels must be intended for residential use.

H. Floor Area Calculation. Floor area calculation exclusions in 17.48.040(B)(6) do not apply to an SB9 residential development.

I. Compliance with Subdivision Requirements. The parcel map shall satisfy the objective requirements of the Subdivision Map Act and this title regarding parcel maps, including Chapter 16.24 (Design Standards) except as provided in this chapter.

16.78.040 Parcel Map Application Review and Action

A. Application Contents. A parcel map application for an urban lot split must be filed with the Community Development Department on an official City application form. Applications shall be filed with all required fees, information, and materials as specified by the Community Development Department. At a minimum, an application package shall include the following:

1. Title report showing the current ownership and all liens and encumbrances.
2. Copies of deeds for all properties included in the request.

3. A plat map drawn to scale by a licensed land surveyor or registered civil engineer depicting all of the following:
 - a. Existing and proposed parcel lines.
 - b. Location of easements required for the provision of public services and facilities to each of the proposed parcels.
 - c. Location of any easements necessary for each parcel to have access to the public right-of-way.
 - d. Survey of existing conditions signed and stamped by licensed land surveyor or civil engineer.
 - e. Site plan with existing conditions, proposed parcel lines, driveways, and location of utility easements.
4. An affidavit, signed by the property owner under penalty of perjury, declaring all of the following to be true:
 - a. 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.
 - b. 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.
 - c. The owner has not previously subdivided an adjacent parcel using an urban lot split.
 - d. 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.

B. Ministerial Approval. The Community Development Director shall ministerially approve a parcel map for an urban lot split if the application complies with all requirements of this chapter. No public hearing or discretionary review is required.

C. Basis for Denial.

1. The Community Development Director shall deny the urban lot split if either of the following is found:
 - a. The urban lot split fails to meet or perform one of more objective requirements imposed by the Subdivision Map Act or by this chapter. Any such requirement or condition that is the basis for denial shall be specified by the Community Development Director in writing.

- b. 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 of the Government Code, 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.
2. For an urban lot split in the coastal zone, the Community Development Director shall deny the application upon finding that the development is inconsistent with policies of the Local Coastal Plan and/or will have an adverse impact on coastal resources.
3. The Community Development Director shall not deny an urban lot split solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.

D. Conditions of Approval.

1. **Easements.** The Community Development Director shall condition parcel map 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.
2. **Nonconforming Zoning Conditions.** The Community Development Director may not require the correction of nonconforming zoning conditions on the parcel a condition of parcel map approval.

E. Within Coastal Zone.

1. A proposed urban lot split that is located in the coastal zone may require a Coastal Development Permit (CDP) as specified by Chapter 17.44 (Coastal Overlay Zone) and the findings for approval of a CDP as specified in 17.44.130 (Findings for Approval).
2. A public hearing for a CDP application for an urban lot split is not required.
3. Nothing in this chapter shall be construed to supersede or in any way alter or lessen the effect of application of the California Coastal Act of 1976 (Division 20, commencing with Section 30000, of the Public Resources Code).

16.78.050 Use and Development Requirements

- A. Short-term Rentals Prohibited.** It is unlawful to use a dwelling unit constructed on a parcel created under this chapter for vacation rentals as defined in Chapter 17.160 (Glossary).
- B. Residential Use.** The primary use of a dwelling unit constructed on a parcel created under this chapter must be residential.
- C. Maximum Unit Size.** New dwelling units constructed on a parcel created under this chapter shall be no more than 800 square feet in floor area, or 1,200 square feet if each newly created parcels contain only one dwelling unit.
- D. Compliance with Zoning Requirements**

1. New dwelling units constructed on a parcel created under this chapter are subject to the requirements of Zoning Code Chapter 17.75 (Two-Unit Developments) and shall also comply with all applicable objective zoning requirements set forth in Zoning Code.
2. The standards described in this paragraph (1) of this subsection apply to all urban lot splits except where a standard directly conflicts with a provision of this chapter, or where the applicant demonstrates that a standard would:
 - a. Have the effect of physically precluding the construction of two units on either of the newly created parcels; or
 - b. Necessarily result in a unit size of less than 800 square feet.

E. Maximum Number of Dwelling Units. Notwithstanding any other provision of the Municipal Code, no more than two dwelling units, including any accessory dwelling units or junior accessory dwelling units, are permitted on a parcel created under this chapter.

16.78.060 Deed Restrictions

- A.** Before obtaining a building permit for a dwelling unit constructed on a parcel created under this chapter, the property owner shall file with the County Recorder a declaration of restrictions containing a reference to the deed under which the property was acquired by the current owner. The deed restriction shall state that:
1. The maximum size of the dwelling unit is limited to 1,200 square feet for two-unit projects and 800 square feet for three and four-unit projects;
 2. The primary use of the unit must be residential;
 3. Use of shared driveway must be permanently provided and maintained for both newly created parcels through a reciprocal access easement or other comparable mechanism; and
 4. The unit may not be used for vacation rentals as defined in Zoning Code Chapter 17.160 (Glossary).
- B.** The above declarations are binding upon any successor in ownership of the property. Lack of compliance shall be cause for code enforcement.
- C.** The deed restriction shall lapse upon removal of all dwelling units established on a parcel created under this chapter.

CHAPTER 17.75 – SB 9 RESIDENTIAL DEVELOPMENTS

Sections:

17.75.010	Purpose and Intent
17.75.020	Definitions
17.75.030	Permitting Process
17.75.040	General Requirements
17.75.050	Objective Development Standards
17.75.060	Objective Design Standards.
17.75.070	Deed Restrictions

17.75.010 Purpose and Intent

This chapter contains requirements for SB 9 residential developments pursuant to Government Code Section 65852.21. These requirements are necessary to preserve the public health, safety and general welfare, and to promote orderly growth and development. In cases where a requirement in the chapter directly conflicts with Government Code Section 65852.21, the Government Code governs.

17.75.020 Definitions

- A. SB 9 Residential Development.** An SB 9 residential development is a proposed residential project pursuant to Government Code Section 65852.21.
- B. Urban Lot Split.** The subdivision of a parcel within the Residential Single-family (R-1) zoning district into two parcels pursuant to Government Code Section 66411.7 and Municipal Code Chapter 16.78 (Urban Lot Splits).

17.75.030 Permitting Process

- A. Administrative Permit.** The Community Development Director shall ministerially approve an Administrative Permit for an SB 9 residential development if the application complies with all requirements of this chapter and Municipal Code Chapter 16.78 (Urban Lot Split), when applicable. No discretionary review or public hearing is required.
- B. Basis for Denial.**
 - 1. The Community Development Director shall deny an application for an SB 9 residential development if either of the following is found:
 - a. The two-unit development fails to comply with any objective requirement imposed by this chapter. Any such requirement or condition that is the basis for denial shall be specified by the Community Development Director in writing; or

- b. The building official makes a written finding, based upon a preponderance of the evidence, that the proposed development 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.
 - 2. For an SB 9 residential development in the coastal zone, the Community Development Director shall deny the application upon finding that the development is inconsistent with policies of the Local Coastal Plan and/or will have an adverse impact on coastal resources.
 - 3. The Community Development Director shall not deny an SB 9 residential development solely because it conflicts with the City's density limitations for the R-1 zoning district.
- C. Within Coastal Zone.** A proposed Two-Unit Development that is located in the coastal zone may require a coastal development permit (CDP) as specified by Chapter 17.44 (Coastal Overlay Zone) and the findings for approval of a CDP as specified in Section 17.44.130 (Findings for approval).
 - 1. A public hearing for a CDP application for an SB 9 residential development is not required.
 - 2. Nothing in this chapter shall be construed to supersede or in any other way alter or lessen the effect of application of the California Coastal Act of 1976 (Division 20, commencing with Section 30000, of the Public Resources Code).
- D. Building Permit.** A building permit for an SB 9 residential development may be submitted only after:
 - 1. The City approves the Administrative Permit for the two-unit development; and
 - 2. A parcel map for the urban lot split parcel map is recorded by the Santa Cruz County Recorder if a dwelling unit will be constructed on a lot created by an urban lot split.

17.75.040 General Requirements

- A. Eligibility Requirements.** The City shall accept an application for an SB 9 residential development only if the project complies with the following requirements:
 - 1. **Zoning District.** The two-unit development is located in the Residential Single-Family (R-1) zoning district.
 - 2. **Compliance with Chapter.** The two-unit development complies with all applicable requirements of this chapter.
 - 3. **Environmental Resources and Hazards.**
 - a. The two-unit development satisfies the requirements of Government Code subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4, which prohibits development on sites subject to specified environmental resources and hazards.

b. The parcel is not located in any of the following areas as identified in the City's certified Local Coastal Program:

- (1) Geological hazard areas.
- (2) 100-year and/or 500-year flood hazard areas.
- (3) Environmentally Sensitive Hazard Habitat Areas (ESHA).

4. Affordable and Rental Housing.

a. The two-unit development will 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) Housing that has been occupied by a tenant in the last three years.

b. The parcel subject to the proposed Two-Unit Development is not a parcel on which an owner of residential real property has exercised the owner's rights under Government Code Section 7060 et seq. (the Ellis Act) to evict tenants due to the property owner's decision to no longer use the property for rental housing within 15 years before the date that the Two-Unit Development proponent submits an application.

5. Historic Resources.

a. The two-unit development is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Public Resources Code Section 5020.1.

b. The two-unit development is not located on a site which includes a structure that is a Designated Historic Resource or that meets the criteria provided in Capitola Municipal Code Section 17.84.020.B. to qualify as a Designated Historic Resource.

B. Number of Primary Dwelling Units.

1. A maximum of two primary dwelling units are allowed on a parcel.
2. If a parcel is subdivided pursuant to Municipal Code Chapter 17.78 (Urban Lot Splits), a maximum of two primary dwelling units are allowed on each newly created parcel. Up to four units are allowed on the two parcels combined.

C. Accessory Dwelling Units.

1. **Projects with Urban Lot Split.** The following accessory dwelling unit (ADU) rules apply to a parcel created through an urban lot split as provided in Chapter 16.78 (Urban Lot Split.)

- a. If the parcel contains one primary dwelling unit, one ADU or Junior ADU is also allowed on the parcel.
 - b. If the parcel contains two primary dwelling units, an ADU or Junior ADU is not allowed on the parcel.
2. **Projects Without Urban Lot Split.** Where a parcel has not been subdivided as provided in Chapter 16.78 (Urban Lot Split), one ADU and/or JADU is allowed on the parcel in addition to the two primary dwelling units.

D. Utility Connections.

1. Each dwelling unit shall be served by a separate utility connection for water, sewer, and electrical services.
2. The Community Development Director shall condition approval of a dwelling unit on the dedication of any easements deemed necessary to provide public services to the unit and access to the public right-of-way.

E. Residential Uses Only.

1. The primary use of a dwelling unit must be residential. A dwelling unit may not be utilized for a non-residential primary use otherwise permitted in the R-1 zoning district as identified in Table 17.16-1.
2. Home occupations and other accessory uses are permitted in a dwelling unit consistent with Section 17.96.040 (Home Occupations) and Section 17.52 (Accessory Uses).

F. Vacation Rentals. A dwelling unit may not be used for vacation rentals as defined in Chapter 17.160 (Glossary).

G. Guaranteed Allowance.

1. The standards in 17.75050 (Objective Development Standards) and 17.75.060 (Objective Design Standards) shall not prohibit up to two dwelling units each with up to 800 square feet of floor area, provided the dwelling units comply with all other applicable standards.
2. The Community Development Director shall determine which standards must be adjusted, if any, to comply with this section.

H. Floor Area Calculation. Floor area calculation exclusions in 17.48.040(B)(6) do not apply to an SB9 residential development.

I. Existing Nonconformities. Establishing a dwelling unit shall not require the correction of an existing legal nonconforming zoning condition on the property.

17.75.050 Objective Development Standards.

- A. General.** Table 17.75-1 shows development standards for two-unit development on parcels with an area of 5,500 square feet or more. Table 17.75-2 shows development standards on parcels with an area of less than 5,500. Parcel sizes are based on the area of a parcel prior to an urban lot split.

Table 17.75-1: Development Standards for Parcels 5,500 Sq. Ft. or More

Maximum Unit Size	
Projects with Two Units	1,200 sq. ft. per unit
Projects with Three and Four Units [1]	800 sq. ft. for each unit within the project
Minimum Setbacks	
Front	
Ground floor	15 ft.
Second story	15 ft.
Garage	20 ft.
New Interior Property Line [2]	0 ft.
Rear	4 ft.
Interior Side	4 ft.
Street Side	4 ft.
Maximum Height	
One-story Building	16 ft.
Two-story Building	
Plate height [3]	20 ft.
Roof peak	3 ft. above plate height
Three-story Building	Not allowed
Minimum Private Open Space [4]	
	48 sq. ft.

Notes:

[1] For projects with a dwelling unit on a parcel created through an urban lot split pursuant to Chapter 16.78 (Urban Lot Split).

[2] “New interior property line” means a property line created pursuant to 16.78 (Urban Lot Split) that does not abut an existing parcel outside of the property subject to the urban lot split.

[3] “Plate height” means the vertical distance from the assumed ground surface of the building to the point that exterior wall meets the roof eave.

[4] Private open space may include screened terraces, decks, balconies, and other similar areas.

Table 17.75-2: Development Standards for Parcels Less than 5,500 Sq. Ft.

	Number of Units [1]		
	Up to Two	Three	Four
Maximum Unit Size	1,200 sq. ft.	800 sq. ft.	800 sq. ft.
Minimum Setbacks			
Front			
Ground floor	15 ft. [2]	10 ft.	0 ft.
Second story	15 ft. [2]	10 ft.	0 ft.
Garage	20 ft. [2]	10 ft.	0 ft.
New Interior Property Line [3]	0 ft.	0 ft.	0 ft.
Rear	4 ft. [4]	4 ft. [4]	4 ft. [5]
Interior Side	4 ft. [4]	4 ft. [4]	4 ft. [6]
Street Side	4 ft. [4]	4 ft. [4]	4 ft. [6]
Maximum Height			
One-story Building	16 ft.	16 ft.	16 ft.
Two-story Building			
Plate height [7]	20 ft.	20 ft.	20 ft.
Roof peak	3 ft. above plate height	3 ft. above plate height	3 ft. above plate height
Three-story Building	Not allowed	Allowed [8]	Allowed
Plate height [7]	-	20 ft.	28 ft.
Roof peak	-	33 ft.	3 ft. above plate height
Minimum Private Open Space [9]	48 sq. ft.	48 sq. ft.	48 sq. ft.

Notes:

[1] Standards for three and four-unit projects apply to projects with a dwelling unit on a parcel created through an urban lot split pursuant to Chapter 16.78 (Urban Lot Split). Standards apply to all units established as part of the project.

[2] For parcels less than 3,200 sq. ft., minimum front setback is 10 feet for ground floor and second story and 15 feet for garage.

[3] “New interior property line” means a property line created pursuant to 16.78 (Urban Lot Split) that does not abut an existing parcel outside of the property subject to the urban lot split.

[4] For parcels less than 3,200 sq. ft., the minimum rear, interior side, and street side setback is 3 feet.

[5] On parcels less than 3,200 sq. ft., 0 ft. rear setback allowed where a side driveway provides vehicle access to parking located behind the front building. A 3-foot rear setback is allowed for all other 4-unit configurations on parcels less than 3,200 sq. ft.

[6] 0 ft. side setback allowed where a side driveway provides vehicle access to parking located behind the front building. A 3-foot side setback is allowed for all other 4-unit configurations on parcels less than 3,200 sq. ft.

[7] “Plate height” means the vertical distance from the assumed ground surface of the building to the point that exterior wall meets the roof eave.

[8] Third story must be built into roof element (2 ½ stories)

[9] Private open space may include screened terraces, decks, balconies, and other similar areas.

B. Additional Setback Standards.

1. **Converting and Replacing Existing Structures.** No setback is required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.
2. **Within Coastal Zone.** Within the coastal zone, structures must comply with minimum setbacks from environmentally sensitive habitat areas and geologic hazards as specified in Zoning Code Chapter 17.64 (Environmentally Sensitive Habitat Areas) and Chapter 17.68
3. (GH Geologic Hazards District).

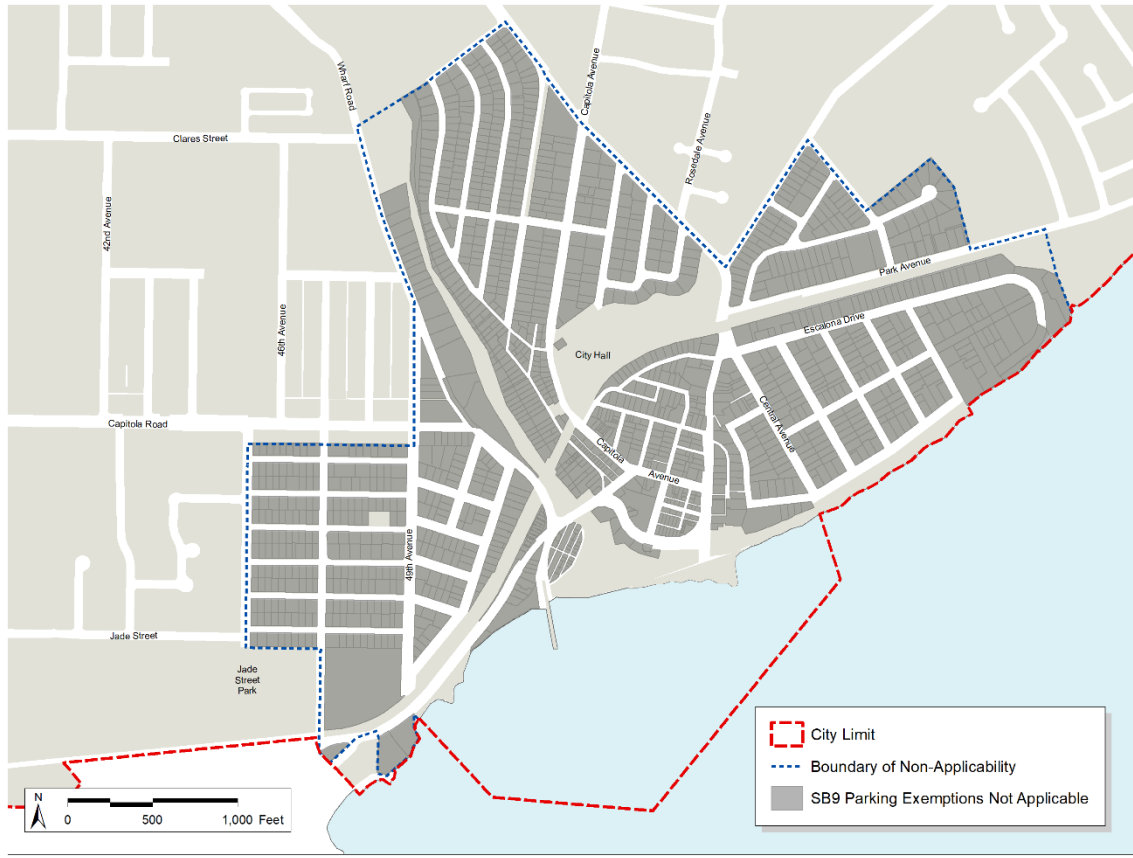
C. Separation Between Dwelling Units.

1. No minimum separation is required between dwelling units on a parcel.
2. Dwelling units may be connected if the structures meet building code safety standards and are sufficient to allow a separate conveyance.

D. Parking.

1. **Required Parking.** A minimum of one off-street parking space is required per dwelling unit except as provided in subsection (D)(7) of this section.
2. **Tandem Spaces.** Required off-street parking for two separate dwelling units shall not be provided as tandem parking.
3. **Parking Placement.** Required off-street parking may not be located within minimum required front setback area.
4. **Number of Driveways.**
 - a. A maximum of one curb cut is allowed to provide vehicle access to the parking.
 - b. Shared driveways are required to serve parking on separate parcels created through an urban lot split.
5. **Driveway Width.** The maximum width of a new driveway crossing a public sidewalk is 12 feet.
6. **Alley Access.** Parking accessed from an alley shall maintain a 24-foot back-out area, which may include the alley.
7. **Exceptions to Required Parking.**
 - a. No off-street parking is required in the following cases:
 - (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.
 - b. The exception for parcels that satisfy subparagraphs (1) or (2) does not apply to areas identified in Figure 1.

Figure 1



17.75.060 Objective Design Standards

- A. Entrance Orientation.** The primary entrance to each new dwelling unit shall face the front or interior of the parcel unless the dwelling unit is directly accessible from an alley.
- B. Neighbor Privacy.** To minimize privacy impacts on adjacent properties, the following requirements apply to walls with windows within eight feet of an interior side or rear property line abutting a residential use:
 - 1. For a single-story wall or the first story of a two or three-story wall, privacy impacts shall be minimized by either:
 - a. A 6-foot solid fence on the property line; or
 - b. Clerestory or opaque windows for all windows facing the adjacent property.
 - 2. For a second or third-story wall, all windows facing an adjacent property shall be clerestory or opaque.

C. Upper Story Decks and Balconies. Second and third-story exterior decks and balconies and rooftop decks are prohibited.

D. Front Porches, Patios and Entry Features.

1. If a dwelling unit is set back 15 feet or more from a front property line, a front porch or covered patio may project up to 5 feet into the front setback area.
2. A front porch or covered patio less than 15 feet from a front property line may not exceed a width greater than 10 feet.
3. For a dwelling unit setback less than 15 feet from a front property line, the primary entrance may be covered by a roof element, or other similar overhanging feature provided that:
 - a. The covering is attached to the building wall and is not supported by columns, walls, or other vertical structural elements that extend to the ground; and
 - b. The covering dimensions do not exceed five feet width and three feet depth.

E. Pervious Surface Area. Pervious materials shall be used for all on-site paved areas including driveways, walkways, and patios.

F. Stormwater. SB 9 residential developments shall comply with Municipal Code Chapter 13.16 (Stormwater Pollution Prevention and Protection).

17.75.070 Deed Restrictions

- A.** Before obtaining a building permit for an SB 9 residential development, the property owner shall file with the County Recorder a declaration of restrictions containing a reference to the deed under which the property was acquired by the current owner. The deed restriction shall state that:
1. The maximum size of the dwelling unit is limited to 1,200 square feet for two-unit projects and 800 square feet for three and four-unit projects;
 2. The primary use of the dwelling unit must be residential;
 3. For SB 9 residential developments involving an urban lot split, use of shared driveway must be permanently provided and maintained for both newly created parcels through a reciprocal access easement or other comparable mechanism; and
 4. The dwelling unit may not be used for vacation rentals as defined in 17.160 (Glossary).
- B.** The above declarations are binding upon any successor in ownership of the property. Lack of compliance shall be cause for code enforcement.
- C.** The deed restriction shall lapse upon removal of all dwelling units established under this chapter.