

URGENCY ORDINANCE NO. 1838

AN URGENCY ORDINANCE OF THE CITY OF GARDENA, CALIFORNIA, ADOPTING CHANGES TO TITLE 17 (SUBDIVISIONS) AND TITLE 18 (ZONING) IMPLEMENTING SENATE BILL 9 RELATING TO THE CREATION OF URBAN LOT SPLITS AND TWO RESIDENTIAL UNITS PER LOT

WHEREAS, on September 16, 2021, the Governor approved Senate Bill 9 (SB 9, Chapter 162) relating to the creation of two residential units per lot which requires local agencies to ministerially approve housing development containing no more than two residential units per lot and ministerially approve an urban lot split; and

WHEREAS, SB 9 took effect on January 1, 2022; and

WHEREAS, SB 9 allows local agencies to impose objective zoning, subdivision, and design standards; and

WHEREAS, given that SB 9 was not signed until mid-September, there was insufficient time to process this ordinance through noticed hearings before the Planning Commission and City Council and have the ordinance in place by January 1, 2022; and

WHEREAS, the public is already beginning to express interest in developing under this new law and it is necessary to have standards in place to protect the public health and safety; and

WHEREAS, the Planning Commission held a duly noticed public hearing on this Ordinance on December 7, 2021 at which time it considered all evidence presented, both written and oral; and

WHEREAS, after the close of the public hearing the Planning Commission adopted Resolution No. PC 14-21 recommending that the City Council adopt this Ordinance; and

WHEREAS, the City Council considered this Ordinance on January 11, 2022 at which time it considered all evidence presented, both written and oral;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDENA, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Section 17.08.270 is hereby added to the Gardena Municipal Code to read as follows:

Section 17.08.270 Parcel Maps for Urban Lot Splits.

- A. Definitions. For purposes of this Section, the following definition shall apply:
1. "Urban lot split" means a lot split of a single-family residential lot into two parcels that meets the requirements of this section.
- B. The city shall ministerially approve a parcel map for a lot split that meets the following requirements:
1. The parcel is located within a single-family residential zone.
 2. The parcel map divides an existing parcel to create no more than two new parcels of approximately equal lot area, provided that one parcel shall not be smaller than 40 percent of the lot area of the original parcel.
 3. Both newly created parcels are no smaller than 1,200 square feet.
 4. The parcel is not located in any of the following areas and does not fall within any of the following categories:
 - a. 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 historic property or district pursuant to a city ordinance.
 - b. A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Health and Safety Code section 25356, unless the State Department of Public Health, State Water Resources Control Board, or Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.
 - c. A delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law and by the city's building department.
 - d. A special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency (FEMA) in any official maps published by FEMA. If an applicant is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise

eligible for streamlined approval under this section, the city shall not deny the application on the basis that the applicant did not comply with any additional permit requirement, standard, or action adopted by the city that is applicable to that site. A development may be located on a site described in this subparagraph if either of the following are met:

- i. The site has been subject to a Letter of Map Revision prepared by FEMA and issued to the city; or
 - ii. The site meets FEMA requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program as further spelled out in Government Code section 65913.4(a)(6)(G)(ii);
- e. A regulatory floodway as determined by FEMA in any of its official maps, published by FEMA unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If an applicant is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, the city shall not deny the application on the basis that the applicant did not comply with any additional permit requirement, standard, or action adopted by the city that is applicable to that site.
- f. Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).
5. The proposed 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 on a parcel or parcels on which an owner of residential real property exercised rights under Government Code section 7060 et seq. to withdraw accommodations from rent or lease within 15 years before the date of the application; or

- c. Housing that has been occupied by a tenant in the last three years.
- 6. The lot split does not result in more than two units on a parcel, including any accessory dwelling units or junior accessory dwelling units.
- 7. Flag lots are not permitted.
- C. Standards and Requirements. Notwithstanding any other provisions of this Municipal Code to the contrary, the following requirements shall apply:
 - 1. The lot split conforms to all applicable objective requirements of the Subdivision Map Act and Title 17 of the Municipal Code, except as the same are modified by this section.
 - 2. 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.
 - 3. Except for circumstances described in Section C.2 above, the setback for side and rear lot lines shall be four feet.
 - 4. The applicant shall provide easements for the provision of public services and facilities as required.
 - 5. Landlocked parcels created by an urban lot split shall have an access easement over the other parcel on the same map. The easement shall be not less than 10 feet in width and must connect to the same curb cut and apron as the other parcel on the same map.
 - 6. Residential units developed on a lot created pursuant to this section shall be subject to the provisions of Section 18.12.060.
- D. The city shall not require or deny an application based on any of the following:
 - 1. The city shall not require dedications of rights-of-way or the construction of offsite improvements for the parcels being created as a condition of issuing a parcel map.
 - 2. The city shall not impose any subdivision standards that would have the effect of physically 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.
 - 3. The city shall not require the correction of nonconforming zoning provisions as a condition for the lot split.

4. The city shall not deny an application solely because it proposes adjacent or connected structures provided that all building code safety standards are met, and they are sufficient to allow a separate conveyance.
- E. An applicant for an urban lot split shall be required to sign an affidavit in a form approved by the City Attorney to be recorded against the property stating the following:
1. That applicant intends to occupy one of the housing units as their principal residence for a minimum of three years from the date of approval. This requirement does not apply when the applicant is a "community land trust" or a "qualified nonprofit corporation" as the same are defined in the Revenue and Taxation Code.
 2. That the uses shall be limited to residential uses.
 3. That any rental of any unit created by the lot split shall be for a minimum of 31 days.
 4. That the maximum number of units to be allowed on each parcel is two, including units otherwise allowed pursuant to density bonus provisions, accessory dwelling units, junior accessory dwelling units, or units allowed pursuant to Section 18.12.060.
- F. The city may deny the lot split if the building official 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 the 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.
- G. This section shall not apply to:
1. Any parcel which has been established pursuant to a lot split in accordance with this section; or
 2. Any parcel where the owner of the parcel being subdivided or any person acting in concert with the owner has previously subdivided an adjacent parcel in accordance with this section. For purposes of this section, "acting in concert" shall include, but not be limited to, where the owner of a property proposed for an urban lot split is the same, related to, or connected by partnership to the owner, buyer or seller (if transferred within the previous three years) of an adjacent lot.

SECTION 2. Section 18.12.060 is hereby added to the Gardena Municipal Code to read as follows:

Section 18.12.060 Two-unit Housing Development

A. For purposes of this section, the following definitions shall apply:

1. "Housing development" shall mean no more than two residential units within a single-family zone that meets the requirements of this section. The two units may consist of two new units or one new unit and one existing unit.
2. "Unit" shall mean any dwelling unit, including but not limited to a primary dwelling unit, an accessory dwelling unit, a junior accessory dwelling unit, or any unit created pursuant to this section.
3. "Urban lot split" shall have the same meaning as set forth in Section 17.08.270.

B. The city shall ministerially approve a housing development containing no more than two residential units if it meets the following requirements:

1. The parcel is not located in any of the following areas and does not fall within any of the following categories:
 - a. 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 historic property or district pursuant to a city ordinance.
 - b. A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Health and Safety Code Section 25356, unless the State Department of Public Health, State Water Resources Control Board, or Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.
 - c. A delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law and by the city's building department.
 - d. A special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency

Management Agency (FEMA) in any official maps published by FEMA. If an applicant is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, the city shall not deny the application on the basis that the applicant did not comply with any additional permit requirement, standard, or action adopted by the city that is applicable to that site. A development may be located on a site described in this subparagraph if either of the following are met:

- i. The site has been subject to a Letter of Map Revision prepared by FEMA and issued to the city; or
 - ii. The site meets FEMA requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program as further spelled out in Government Code section 65913.4(a)(6)(G)(ii);
 - e. A regulatory floodway as determined by FEMA in any of its official maps, published by FEMA unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If an applicant is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, the city shall not deny the application on the basis that the applicant did not comply with any additional permit requirement, standard, or action adopted by the city that is applicable to that site.
 - f. Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).
2. The proposed housing development 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 on a parcel or parcels on which an owner of residential real property exercised rights under Government Code section 7060 et seq. to withdraw accommodations from rent or lease within 15 years before the date of the application; or
 - c. Housing that has been occupied by a tenant in the last three years.
 - 3. Unless demolition or alteration is prohibited pursuant to subsection B.2 above, up to 25 percent of the existing exterior structural walls may be demolished.
- C. Standards and Requirements. Notwithstanding any other provisions of the Municipal Code to the contrary, the following requirements shall apply in addition to all other objective standards applicable to this zone:
 - 1. Setbacks.
 - a. No setback shall be required for an existing structure, or a structure constructed in the same location and within the same dimensions as an existing structure.
 - b. Except for those circumstances described in section C.1 above, the setback for side and rear lot lines shall be four feet.
 - c. The front setback shall be 20 feet on a lot that fronts on a street, except on lots where the street-facing side (width) is longer than the depth, in such case the setback from the street-facing lot line shall be 10 feet.
 - d. For landlocked parcels side yard setbacks shall apply to all property lines.
 - 2. The applicant shall provide easements for the provision of public services and facilities as required.
 - 3. One parking space per unit shall be required on the lot unless the parcel is located within one-half mile walking distance of either a high-quality transit corridor as defined by Public Resources Code section 21155(b) or a major transit stop as defined in Public Resources Code section 21064.3. The parking space need not be covered, but tandem parking between units shall not be allowed.
 - 4. On landlocked lots, a residential structure shall maintain a separation of 8 feet to all other habitable structures from its front-facing facade.

Front-facing facade shall be defined for this purpose as the building side most closely parallel to the plane of the main entrance doorway.

5. Lot coverage shall not exceed 75 percent.
- D. Limitations on city actions.
1. The city shall not impose any zoning or design standards that would have the effect of physically precluding the construction of two units on a lot or that would result in a unit size of less than 800 square feet.
 2. The city shall not deny an application solely because it proposes adjacent or connected structures provided that all building code safety standards are met, and they are sufficient to allow a separate conveyance.
- E. An applicant for a second house on a lot shall be required to sign an affidavit in a form approved by the City Attorney to be recorded against the property stating the following:
1. That the uses shall be limited to residential uses.
 2. That the rental of any unit created pursuant to this section shall be for a minimum of 31 days.
 3. That the maximum number of units to be allowed on the parcels is two, including but not limited to units otherwise allowed pursuant to density bonus provisions, accessory dwelling units, junior accessory dwelling units, or units allowed pursuant to Section 17.08.270.
- F. The city may deny the housing development if the building official 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 the 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.

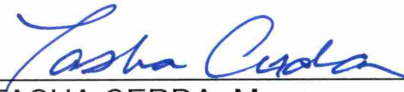
SECTION 3. Adoption of this ordinance is not a project under CEQA pursuant to SB 9.

SECTION 4. In accordance with Government Code section 36937, this Ordinance shall take effect immediately because of the need for the preservation of the public peace, health and safety as set forth in the Whereas clauses in the beginning of this Ordinance.

SECTION 5. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional.

SECTION 6. Certification. The City Clerk shall certify the passage of this ordinance and shall cause the same to be entered in the book of original ordinances of said City; shall make a minute passage and adoption thereof in the records of the meeting at which time the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published as required by law, in a publication of general circulation.

Passed, approved, and adopted this 11th day of January, 2022 by a 4/5 vote.


TASHA CERDA, Mayor

ATTEST:


for MINA SEMENZA, City Clerk

APPROVED AS TO FORM:


LISA KRANITZ, Assistant City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss:
CITY OF GARDENA)

I, **MINA SEMENZA**, City Clerk of the City of Gardena, do hereby certify that the whole number of members of the City Council of said City is five; that the foregoing Ordinance being **Urgency Ordinance No. 1838** was duly passed and adopted by the City Council of said City of Gardena, approved and signed by the Mayor of said City, and attested by the City Clerk, all at a meeting of said City Council held on the **11th** day of **January, 2022**, and that the same was so passed and adopted by the following roll call vote:

AYES: MAYOR PRO TEM TANAKA, COUNCIL MEMBERS HENDERSON AND
 KASKANIAN, AND MAYOR CERDA

NOES: COUNCIL MEMBER FRANCIS

ABSENT: NONE



City Clerk of the City of Gardena, California

(SEAL)