

URGENCY ORDINANCE NO. 21-0009-U

AN INTERIM ORDINANCE OF THE CITY OF MANHATTAN BEACH
ADOPTING EMERGENCY REGULATIONS RELATED TO URBAN LOT
SPLITS AND HOUSING UNITS BUILT IN ACCORDANCE WITH SENATE
BILL 9 AND DECLARING THE URGENCY THEREOF

RECITALS

WHEREAS, during the 2021 legislative session, the California Legislature passed, and the Governor signed, Senate Bill 9 (SB 9), which requires local agencies to ministerially approve urban lot splits and development of two residential units per single-family residential lot provided the projects meet certain criteria. SB 9 will become effective on January 1, 2022;

WHEREAS, the City intends to study and formulate permanent regulations for the implementation of SB 9 projects in the City, but will not be able to complete that exercise prior to January 1, 2022, when SB 9 will become effective. This process may be lengthy. Moreover, given the anticipated increase of split lots and new units built on these lots under SB 9, the City Council wishes to adopt an interim ordinance that will take effect immediately and specify standards for urban lot splits and units constructed under SB 9 while permanent standards are studied and formulated; and

WHEREAS, SB 9 projects have the potential to impact the health, safety, and welfare of residents in the City, and particularly on the quality of the community, and ensure the long-term operability of residential units complies with regulations. As such, the City Council finds that there is an immediate need to establish objective zoning and subdivision standards for SB 9 projects in order to protect the public health, safety, and welfare while it studies permanent land use regulations for such projects and to ensure SB 9 projects do not have a detrimental impact within the City while permanent regulations are being studied. This process may be lengthy and therefore the City Council wishes to adopt an interim ordinance that will take effect immediately to ensure that the health, safety and welfare is not impacted by SB 9 projects while permanent regulations are studied, formulated, and adopted.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH
DOES ORDAIN AS FOLLOWS:**

SECTION 1. Prohibition on SB 9 Projects that Fail to Comply with Certain Standards. Notwithstanding any other ordinance or provision of the Manhattan Beach Municipal Code or City of Manhattan Beach Local Coastal Program, SB 9 Development Projects, as defined herein, are prohibited unless the project complies with the following requirements:

- A. Purpose. The provisions of this Ordinance establish standards and procedures for projects developed pursuant to the regulations included in Senate Bill 9 (SB 9) in order to qualify for ministerial approval.
- B. Definitions. For the purposes of this Ordinance, certain words and phrases used in this Ordinance are defined as follows:
1. "Primary Residence" means the original dwelling on the property.
 2. "Senate Bill 9 (SB 9)" means a state law passed by the California state senate and approved by the Governor on September 16, 2021. The bill amends Government Code section 66452.6 and adds Government Code sections 65852.21 and 66411.7.
 3. "Senate Bill 9 (SB 9) Development Project" consists of an Urban Lot Split or development project approved pursuant to SB 9.
 4. "Urban Lot Split" means a parcel map subdivision permitted pursuant to SB 9 that creates no more than two parcels of approximately equal size.
- C. Applicability; Ministerial Compliance Review.
1. Notwithstanding any other provision of the Manhattan Beach Municipal Code or City of Manhattan Beach Local Coastal Program, the provisions of this Ordinance shall apply to Development Projects and Urban Lot Splits that are proposed for lots in the Single-family Residential (RS) zoning district pursuant to the regulations in SB 9. Except as expressly provided in this Ordinance or SB 9, all other regulations of the underlying zone of a property developed pursuant to SB 9 shall apply, along with all other applicable regulations from the Manhattan Beach Municipal Code or City of Manhattan Beach Local Coastal Program.
 2. Proposed SB 9 Development Projects shall be subject to ministerial review by the Director of Community Development or her designee to determine whether the criteria for approval have been met. An Urban Lot Split shall be processed as a parcel map, but no discretionary review or public hearing shall be conducted, and with ministerial approval if all required criteria have been met.
 3. Applicants are required to submit an application, accompanied by a fee set by City Council Resolution, and including submittal requirements designated by the Community Development Director. The applicant and the owner of a property, for which an SB 9

Development Project is sought, must provide a sworn statement affirming eligibility with SB 9 regulations.

4. The City, at the applicant's expense, may conduct independent inquiries and investigation to ascertain the veracity of any or all portions of the sworn statement.

D. General Requirements. A property owner seeking approval of an SB 9 Development Project shall comply with the following general requirements:

1. SB 9 and all objective requirements of other applicable state law including the Subdivision Map Act.
2. The Municipal Code, including Titles 9 (Building Regulations), 10 (Planning and Zoning) and 11 (Subdivisions), except as expressly provided in SB 9 or in this Ordinance.
3. Execution and recording of a covenant, supplied by the City and subject to the approval of the City Attorney, that contains the following provisions:
 - a. Non-residential uses on the site shall be prohibited;
 - b. The short term rental for periods less than 30 days of any units and Accessory Dwelling Units (ADUs) on the site shall be prohibited;
 - c. Any subsequent Urban Lot Split of land that was previously subdivided with an Urban Lot Split shall be prohibited;
 - d. Except as provided in Government Code Section 66411.7 for community land trusts and qualified nonprofit corporations, the owner of the property for which an Urban Lot Split is proposed shall sign an affidavit stating that the owner intends to occupy one of the housing units as their principal residence for at least three years from the date of the approval of the Urban Lot Split;
 - e. Ongoing compliance with all SB 9 requirements and restrictions shall be required;
 - f. Access to the public right-of-way shall be maintained in perpetuity; and
 - g. All required parking shall be maintained.

E. Objective Standards. All SB 9 Development Projects shall comply with the following objective standards:

1. One enclosed or partially enclosed parking space is required for each unit created pursuant to the regulations in this Ordinance, unless the parcel upon which the unit is created is within one-half mile walking distance of a high quality transit corridor or a major transit stop or there is a car share vehicle located within one block of the project. Required parking for an Urban Lot Split lot shall be accessed via an alley, if there is an alley.
2. Non-public utility electrical elements such as wires, conduits, junction boxes, transformers, ballasts, and switch and panel boxes shall be concealed from view from adjacent public rights-of-way.
3. All flashing, sheet metal vents, and pipe stacks shall be painted to match the adjacent roof or wall material.
4. Refuse storage areas shall be enclosed or semi-enclosed in a structure and concealed from view from adjacent public rights-of-way and located outside of required setbacks.
5. Pedestrian access to a public street or alley shall be provided with an exterior pedestrian pathway from the primary entrances of each unit to the adjoining sidewalk, street, or alley.
6. Any garage that serves and is located within the same structure as an SB 9 Development Project may be permitted no closer than four feet from a side or rear property line, or shall otherwise conform to the applicable setbacks within the zoning district.
7. New driveways proposed for parcels created by SB 9 Development Projects on interior lots without alley access are limited to a maximum width of 10-feet if the proposed frontage of the new parcel is 30 feet or less.
8. An Urban Lot Split shall comply with SB 9 and the following standards:
 - a. No flag lots shall be created as a result of an Urban Lot Split if the subject property is adjacent to an alley, located on a corner, or on a through lot.
 - b. The width of any lot resulting from an Urban Lot Split shall not be less than 20 feet wide.
 - c. Proposed parcel map shall demonstrate ability to access the public right-of-way in perpetuity.

- F. Exceptions. The Community Development Director shall approve an exception to any of the standards specified in this Ordinance upon determining that complying with the standard would physically preclude the construction of up to two residential units per lot or would physically preclude either of the two residential units from being 800 square feet in floor area.
- G. Denial. The Community Development Director may deny an application for an SB 9 Development Project upon making both of the following findings in writing based upon a preponderance of evidence.
1. The proposal would have a specific, adverse impact upon the public health and safety or the physical environment as defined and determined in Government Code Section 65589.5(d)(2).
 2. There is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

SECTION 2. CEQA Findings. This Ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines, and the environmental regulations of the City. The City Council hereby finds and determines that the Ordinance is exempt from the CEQA pursuant to Government Code Section 65852.21(j) effective January 1, 2022. Furthermore, this Ordinance is exempt from CEQA based on the following reasons. This Ordinance is not a project within the meaning of Section 15378 of the State CEQA Guidelines, because it has no potential for resulting in physical change in the environment, directly or ultimately. This Ordinance is categorically exempt from CEQA under Section 15308 of the CEQA Guidelines as a regulatory action taken by the City pursuant to its police power and in accordance with Government Code Section 65858 to assure maintenance and protection of the environment pending the evaluation and adoption of contemplated local legislation, regulation and policies. This Ordinance is not subject to CEQA under the general rule in CEQA Guidelines Section 15061(b)(3) that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Any development that would be contemplated under this Ordinance must be treated ministerially, and any such projects would be exempt from the environmental review requirements. For the reasons set forth herein above, it can be seen with certainty that there is no possibility that this Ordinance will have a significant effect on the environment.

SECTION 3. Authority. Pursuant to Government Code Section 65858, the City Council may, to protect the public safety, health, and welfare, adopt, as an urgency measure, an interim ordinance that prohibits certain developments that may be in conflict with a contemplated zoning proposal that the City Council is considering, studying or intends to study within a reasonable period of time. The City Council finds and determines that there is a potential for an immediate threat to public health, safety, and welfare from SB 9 Development Projects that do not conform with certain objective standards established by the City because of the potential of SB 9 Development Projects to have a

detrimental impact on single-family residential neighborhoods in the City, as mentioned in the foregoing recitals, which are incorporated herein by referenced. Therefore, under the authority of Government Code Section 65858, the City Council seeks to establish interim objective standards to protect the public health, safety, and welfare, while the City studies permanent standards for SB 9 Development Projects.

SECTION 4. Effective Date. This Ordinance is adopted as an urgency ordinance for the immediate preservation of the public peace, health and safety pursuant to Government Code Section 65858, and therefore shall be passed immediately upon its introduction and shall become effective immediately upon its adoption by a minimum 4/5 vote of the City Council and shall continue in effect for a period of no longer than forty-five (45) days. After notice pursuant to Section 65090 of the California Government Code and public hearing, the City Council may extend the effectiveness of this Interim Ordinance as provided in Government Code Section 65858.

SECTION 5. Uncodified. This Ordinance shall not be codified.

SECTION 6. Severability. If any provision of this Ordinance is held invalid by a court of competent jurisdiction, such provision shall be considered a separate, distinct and independent provision and such holding shall not affect the validity and enforceability of the other provisions of this Ordinance.

SECTION 7. Certification and Publication. The City Clerk shall certify to the adoption of this Ordinance and shall cause this Ordinance or a summary thereof to be published in the manner required by law.

ADOPTED on December 21, 2021.

AYES: Montgomery, Franklin, Hadley, Napolitano and Mayor Stern.
NOES: None.
ABSENT: None.
ABSTAIN: None.

/s/ Hildy Stern
HILDY STERN
Mayor

ATTEST:

/s/ Liza Tamura
LIZA TAMURA
City Clerk