

Introduced by _____

ORDINANCE NO _____

AN EXTENSION OF INTERIM URGENCY ORDINANCE OF THE CITY OF PASADENA PERTAINING TO CONSTRUCTION OF MULTIPLE DWELLINGS ON SINGLE-FAMILY ZONED PARCELS PURSUANT TO SENATE BILL 9

WHEREAS, in September of 2020, the State Legislature enacted Senate Bill 9, Housing development: approvals ("SB 9"), which will take effect on January 1, 2022. In summary, SB 9 requires that local agencies must ministerially approve certain subdivisions of one single-family residential lot into two without discretionary review, and requires a local agency to ministerially approve a proposed two-unit development project on a lot in a single-family residential zone without discretionary review (whether the project is the building of two new units or adding a second one); and

WHEREAS, prior to the passage of SB 9, on August 26, 2021 the City of Pasadena submitted a letter in opposition to SB 9, noting that "Pasadena is acutely aware of the statewide housing crisis, and acknowledges that significant steps must be taken to address housing affordability." The letter also noted that the legislation was "being undertaken without serious study or consideration of the potential impacts related to traffic, greenhouse gas emissions, air quality, and other environmental factors." The City did not seek to undermine the entirety of SB 9 and its goals, but rather requested that the Legislature "consider

accommodations or exemptions for good actors like Pasadena that would allow us to achieve the same worthy goals of this bill in a manner that is rooted in community participation and thoughtful planning principles.” Despite the City’s expressed opposition, the City is seeking to comply with SB 9; and

WHEREAS, the California Environmental Quality Act does not apply ministerial actions, so any of the new lots and new construction undertaken pursuant to SB 9 would not be subject to environmental review; and

WHEREAS, pursuant to SB 9, local agencies may adopt objective standards for the mandatory, ministerial lot splits and two-unit development projects so that the standards take effect before January 1, 2022. Pasadena must act quickly to address the numerous shortcomings of SB 9 through the adoption of such objective standards, as set forth in Exhibits 1-3; and

WHEREAS, even with the adoption of the objective standards set forth in Exhibits 1-3, City staff needs adequate time to study the full impact of SB 9, to understand whether there may be additional objective standards warranted to offset the negative impacts of SB 9 and at the same time to achieve the purported Legislative goals of providing increased housing, particularly increased affordable housing, and to complete the public hearing process for potential Pasadena Municipal Code revisions; and

WHEREAS, without holding a public hearing and as authorized by California Government Code Section 65858, on December 6, 2021, the City

Council considered, made findings in support of, and conducted first reading of an Interim Urgency Ordinance of the City of Pasadena Pertaining to Construction of Multiple Dwelling Units on Single-Family Zoned Parcels Pursuant to Senate Bill 9, and conducted second reading of the same on December 13, 2021; and

WHEREAS, on this date of January 10, 2021, the City Council held a duly noticed public hearing to consider an extension of said ordinance, and continues to find that the City of Pasadena's land use planning efforts to provide well thought-out high density residential housing in appropriate areas of the City can be undermined each time an SB 9 lot split and/or project is undertaken; and there is a current and immediate threat to public health, safety and welfare because without this urgency ordinance, unfettered SB 9 lot splits and/or projects could occur without consideration for the environmental and land use impacts thereof; and

WHEREAS, pursuant to California Government Code Section 65858, and in order to protect the public health, safety and welfare, the City Council may adopt, and extend for a specified time, as an urgency measure, an interim ordinance regulating any uses that may be in conflict with a contemplated general plan or zoning proposal that the City intends to study within a reasonable time.

NOW THEREFORE, the People of the City of Pasadena ordain as follows:

SECTION 1. This ordinance, due to its length and the corresponding cost of publication, will be published by title and summary as permitted by Section 508 of the Pasadena City Charter. The approved summary of this ordinance is as follows:

“SUMMARY

Ordinance No. _____ extends until December 11, 2022, objective standards applicable to mandatory, ministerial lot splits and two-unit development projects that may be undertaken pursuant to Senate Bill 9 (Housing development: approvals).

Ordinance No. _____ shall take effect upon publication.”

SECTION 2. Pasadena Municipal Code, Title 17, Article 2, Chapter 17.22 (Residential Zoning Districts); Article 4, Chapter 17.40 (General Property Development and Use Standards); and Article 8, Chapter 17.80 (Glossary of Specialized Terms and Land Use Types) is amended as shown in Exhibit 1, attached hereto and incorporated by reference.

SECTION 3. Pasadena Municipal Code, Title 8, Chapter 8.52, Section 8.52.025 (Applicability) is amended as shown in Exhibit 2, attached hereto and incorporated by reference.

SECTION 4. Pasadena Municipal Code, Title 16, Chapter 16.08, Section 16.08.240 (Urban Lot Split) is amended as shown in Exhibit 3, attached hereto and incorporated by reference.

SECTION 5. Unless extended pursuant to California Government Code Section 65858, the provisions of this ordinance shall expire on December 11, 2022.

SECTION 6. This ordinance is additional to and supplemental to, and shall not affect, except as specifically provided herein, any provision of the Pasadena Municipal Code, which shall be operative and remain in full force and effect without limitation with respect to all such land uses.

SECTION 7. The City Council hereby declares that, should any section, paragraph, sentence, phrase, term or word of this ordinance, hereby adopted, be declared for any reason to be invalid, it is the intent of the City Council that it would have adopted all other portions of this ordinance irrespective of any such portion declared invalid.

SECTION 8. The City Clerk shall certify the adoption of this ordinance and shall cause this ordinance to be published by title and summary.

SECTION 9. This ordinance shall take effect upon publication, and shall remain in effect until December 11, 2022, unless extended further in accordance with California Government Code Section 65858.

Signed and approved this _____ day of _____, 2022.

Victor M. Gordo
Mayor of the City of Pasadena

I HEREBY CERTIFY that the foregoing ordinance was adopted by the City Council of the City of Pasadena at its meeting held this _____ day of _____, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Date Published:

Mark Jomsky
City Clerk

APPROVED AS TO FORM:

/s/ Theresa Fuentes
Theresa E. Fuentes
Assistant City Attorney

17.22.040 - RS and RM-12 Residential Districts General Development Standards.

Subdivisions, new land uses and structures, and alterations to existing land uses and structures, shall be designed, constructed, and established in compliance with the requirements in Table 2-3, in addition those in Section 17.22.050 (RS and RM-12 District Additional Development Standards), and the applicable standards (e.g., landscaping, parking and loading, etc.) in Article 3 (Site Planning and General Development Standards).

LAND USE (1)	PERMIT REQUIREMENT BY ZONE					Specific Use Standards
	RS (2)	RM-12	RM-16 (3)	RM-32	RM-48	
RESIDENTIAL USES						
Accessory Dwelling Unit	P	P(6)	P(6)	P(6)	P(6)	17.50.275
Boarding houses	-	-	-	P	P	17.50.065
Dormitories	-	-	-	P	P	
Fraternities, sororities	-	-	-	P	P	
Home occupations	P	P	P	P	P	17.50.110
Multi-family housing	P(5)	P	P(7)	P(7)	P(7)	17.22.050.G, H
Residential accessory uses and structures	P	P	P	P	P	17.50.210, 250
Residential care, limited	P	P	P	P	P	
Residential care, general	-	-	C(4)	C(4)	C(4)	
Single-family housing	P(8)	P(6)	P(6)	P(6)	P(6)	
Transitional housing	-	P(9)	P(9)	P(9)	P(9)	
RECREATION, EDUCATION & PUBLIC ASSEMBLY USES						
Clubs, lodges, private meeting halls	-	-	-	-	C(4)	
Cultural institutions	C(4)	C(4)	C(4)	C(4)	C(4)	
Park and recreation facilities	C	C	C	C	C	
Religious facilities	C(4)	C(4)	C(4)	C(4)	C(4)	17.50.230
with columbarium	MC(4)	MC(4)	MC(4)	MC(4)	MC(4)	17.50.230
with temporary homeless shelter	C	C	C	C	C	17.50.230
Schools – public and private	-	C(4)	C(4)	C(4)	C(4)	17.50.270
Street fairs	P	P	P	P	P	
Tents	TUP	TUP	TUP	TUP	TUP	17.50.170
OFFICE, PROFESSIONAL & BUSINESS SUPPORT USES						
Offices – administrative business professional	-	-	MC(10)	MC(10)	MC(10)	17.50.170
RETAIL SALES						
Personal property sales	P	P	P	P	P	17.50.190
Temporary uses	TUP	TUP	TUP	TUP	TUP	
SERVICES						
Adult day care, general	C(4)	C(4)	C(4)	C(4)	C(4)	
Adult day care, limited	P	P	P	P	P	

EXHIBIT 1

Lodging – Bed and breakfast inns	-	-	MC(10)	MC(10)	MC(10)	17.50.140
Child day-care centers	C	C	C	C	C	17.50.080
Child day care, large, 9-14 persons	P	P	P	P	P	17.50.080
Child day care, small, 1 to 8 persons	P	P	P	P	P	
Filming, long-term	C	C	C	C	C	
Filming, short-term	P	P	P	P	P	
Medical services – Extended care	-	-	-	C(4)	C(4)	
Neighborhood garden	MC	MC	MC	MC	MC	
Public safety facilities	C(4)	C(4)	C(4)	C(4)	C(4)	
INDUSTRY, MANUFACTURING & PROCESSING USES						
Commercial growing area	C	C	C	C	C	17.50.180
TRANSPORTATION, COMMUNICATIONS & UTILITY USES						
Utility, major	C (4)	C (4)	C (4)	C (4)	C (4)	
Utility, minor	P	P	P	P	P	
Notes:						
(1) See Section 17.80.020 for definitions of the listed land uses.						
(2) Includes the RS district with all suffixes (e.g., RS-1 through RS-6).						
(3) Includes the RM-16 districts with all suffixes (e.g., RM-16, RM-16-1).						
(4) Uses established after June 30, 1985, on sites greater than two acres shall require a zone change to PS (Public and Semi-Public).						
(5) Two dwellings (Duplex Units) may be developed in RS zones subject to the underlying zoning district standards as well as Section 17.22.050.G and Section 17.22.050.H. Short-term rentals of less than 30 days are prohibited. Accessory Dwelling Units and Junior Accessory Dwelling Units are prohibited in conjunction with an Urban Lot split as defined in Section 16.08.240						
(6) Allowed subject to the development standards of the RS-6 district, section 17.22.040.						
(7) Two units on a lot shall meet the development standards of the RM-12 district, section 17.22.040.						
(8) A lot with a single-family residence may rent a maximum of two bedrooms.						
(9) The maximum interior or exterior area in which support services are offered or located shall not exceed 250 sq. ft.						
(10) Limited to buildings designated as a landmark or listed individually in the National Register of Historic Places.						

17.22.050 - RS and RM-12 District Additional Development Standards

A. Front-yard setback measurement. The minimum front yard setback in the RS and RM-12 zoning districts shall be as follows. See also 17.40.160 (Setback and Encroachment Plane Requirements and Exceptions).

1. Where 40 percent or more of the lots on a blockface in the same zoning district (excluding corner yards of reversed corner lots) are developed with primary structures (including the existing setback of the proposed development site), the minimum front setback shall be the average of the front setbacks of the developed lots, but not less than 25 feet. In calculating the blockface average, measurement shall be from the front property line to the primary structure. Building projections and unenclosed porches shall not be used as the reference point for this measurement.
2. Where less than 40 percent of the lots on a blockface within the same zoning district (excluding corner yards or reversed corner lots) are developed with primary structures (including the existing setback of the proposed development site), the minimum front setback shall be 25 feet.
3. For blockfaces with two or fewer lots between two reversed corner lots, the minimum front setback shall be the larger required corner yard of the reversed corner lots. See Section 17.40.160 for allowed projections into front-yard setbacks.

B. Garage and carport requirements for all districts.

1. **Garages.** A garage proposed on a blockface, including reverse corner lots, where 50 percent or more of the existing garages are located behind the primary structure shall also be located behind the primary structure. If the garage is required to be located to the rear of the primary structure and is attached, the garage shall be located so that the garage door is not visible from the street and the garage shall be the closest portion of the structure to the rear property line. This requirement shall not apply within the HD (Hillside Development) overlay zone. See 17.50.250.H for additional requirements for attached garages. A garage on a corner lot in which the garage doors face the street shall be set back a minimum of 18 feet from a street property line.
2. **Carports.** Carports shall be completely screened from view from the street and shall be located between the primary structure and the rear property line, so as to not be within the view down the driveway from the street. A carport shall not be permitted on a corner lot.
3. **Exception to maximum floor area requirement.** The maximum floor area requirement in Section 17.22.040, Table 2-3, may be exceeded to accommodate the reconstruction of a garage that previously existed on the site, but only to the extent of the floor area necessary or a two-car garage in compliance with the parking space dimension requirements of Section 17.46.110 (Parking Space Dimensions).

C. Restoration of a porte cochère. A porte cochère may be rebuilt or restored if evidence is provided to the City that the residence originally had a porte cochère. The porte cochère shall meet all building requirements. The Historic Preservation Commission shall review such requests in landmark districts or for designated landmarks. The Zoning Administrator shall review all other such requests.

D. Flagpoles. A flagpole can be constructed if it meets the following requirements.

1. The flagpole shall be located outside a required setback area. Flagpoles are allowed in front of a residence if located outside the required front setback.
2. The maximum height of the flagpole shall be the maximum height allowed for the principal structure.
3. The flagpole shall not be located in an encroachment plane.

E. Neighborhood Compatibility. For the purposes of neighborhood compatibility, the "neighborhood" is determined by the median square footage of all houses on properties within a 500-foot radius around the subject property. The "neighborhood" is not required to include:

- Properties located outside of the City of Pasadena;
- Properties not located in an RS district, or in a different RS district; and
- Properties separated by a significant manmade structure (e.g. freeway) or a significant natural feature (e.g. canyon) that, to the extent determinable by staff, is not the result of grading or other man-made alteration of the natural terrain.

F. Design Standards. The following design standards are applicable to all single-family zoned properties, excluding properties in historic districts, LD (Landmark District), HD (Hillside Overlay District), HD-1 (Upper Hastings Ranch Area), and ND (Neighborhood Overlay) overlay zones:

1. Prohibited materials in all RS zones include:
 - a. Unfinished concrete is prohibited as an exterior finish
 - b. Architectural foam is prohibited as an exterior trim material
2. Window placement:
 - a. New second-story windows shall not directly overlap with existing second story windows located within 30 feet of abutting properties. Clerestory windows and windows determined by the Building Official to be necessary for safe egress are exempt from this requirement.

G. Duplex Units in Single-Family Residential Zones. In addition to the requirements of Section 17.22.040 (Residential Districts General Development Standards), additional development and design standards related to Duplex Units (whether attached or detached) apply to all single-family zoned properties, excluding properties in historic districts, LD (Landmark District), and individually designated historic landmark properties. Duplex Units are prohibited within the aforementioned Landmark Districts and on properties with individually designated landmarks.

Proposed adjacent or connected Duplex Units shall be permitted if they meet building code standards, are designed sufficient to allow separate conveyance, and comply with the development standards of the underlying zoning district or additional standards prescribed by this section, as applicable. If any existing dwelling unit is proposed to be demolished, the applicant will comply with the replacement housing provisions of Government Code Section 66300(d). The following additional standards are for new construction of an additional dwelling, or for up to two new dwellings where no existing dwelling is present. "Existing Dwelling" includes existing Accessory Dwelling Units for the purposes of this section. In cases where the following standards preclude development of an 800 square-foot dwelling, the plan check review process shall only allow deviations sufficient to accommodate such development.

Development feature	Development Standard
Minimum lot size	Minimum lot size establishes the minimum lot size and the minimum width required for new parcels
Minimum area	1,200 square feet
Width	Per Section 17.22.040, Table 2-3
ROW Access (1)	All newly created lots are required to have access to or abut a Public Right-of-Way.
Maximum Density	Two dwellings per lot
Setbacks	Minimum setbacks required. See Section 17.40.160 for setback measurement, allowed projections and encroachments into setbacks, and exceptions to setbacks.(2)
Front – Main facade	See Section 17.22.050
Front – Garage	See Section 17.22.050
Sides	The required setback shall be no less than 4 feet.
Corner side	The required setback shall be no less than 4 feet.
Rear	The required setback shall be no less than 4 feet.
Building separation	A minimum separation of 10 feet (measured from wall to wall) shall be required between detached dwelling units located on the same site. Eaves may encroach into this building separation.
Maximum floor area	As prescribed by the underlying zoning district (3).
Exceptions to floor area	1) Habitable attic space that does not exceed 60% of the surface of the building footprint (including attached garages and porches), is not adjacent to a rooftop deck, patio attachment and/or exterior staircase and the combined width of all dormers along a roofline do not exceed 40% of the roofline. 2) An unenclosed area where only one side does not abut enclosed space (floor area), and that side is a minimum 80% open. 3) An unenclosed area where more than one side does not abut enclosed space (floor area), and each side is a minimum 60% open.

	4) Basements and uncovered patios, decks, balconies and porches.
Height limit	As prescribed by the underlying zoning district (4).
Landscaping	Minimum amount of garden space required on-site in addition to the requirements of Chapter 17.44 (Landscaping). Garden space
Required Tree Canopy	Project must include the retention of at least two existing trees of at least 19 DBH on-site. Sites without two existing trees of 19 DBH must provide at least two 24-in box trees to satisfy this requirement, selected from the City's Native and Protected Species list.
Parking	The required parking shall be one uncovered parking space per each newly constructed dwelling unit. No parking is required if the parcel is within ½ mile walking distance of a high-quality transit corridor or a major transit stop, as expressly defined in the California Public Resources Code, or if a car share vehicle (as defined in Section 17.80.020) is located within one block of the parcel.
<p style="text-align: center;">Notes:</p> <p>(1) See Chapter 17.40 for development on substandard lots and flag lots</p> <p>(2) No new setback shall be required for an existing legally created structure or a structure constructed in the same location and to the same dimensions as an existing legally created structure.</p> <p>(3) If all applicable development standards contained in the underlying zoning district cannot be met, the maximum size permitted is 800 square feet per dwelling unit.</p> <p>(4) If all applicable development standards contained in the underlying zoning district cannot be met, the maximum height permitted is one story, not to exceed 12 feet to the top plate and 17 feet to the highest ridgeline.</p>	

H. Garden requirements for Duplex Units in Single-Family Residential Zones Each Duplex Unit project shall have a landscaped open space area as its central focus. This space may take the form of a garden.

1. **Garden location.** The placement of a garden shall comply with at least one of the following standards. In cases where the following standards preclude development of an 800 square-foot dwelling, the plan check review process shall only allow deviations sufficient to accommodate such development
 - a. The garden may be placed so that a garden on an adjacent parcel combines to create the effect of one large garden or a wider connection between two spaces.
 - b. The garden may adjoin the minimum front setback line creating a deep, combined garden on the street. Decorative fences or other landscape elements shall be constructed so that the garden is visible from the street.
 - c. The garden may be an internal courtyard, entirely contained within the site, but visible from the street.

- d. When a site contains existing, mature trees, the garden may be placed to retain one of those trees. See also Chapter 17.44 (Landscaping).
- 2. **Minimum garden dimensions.** The garden shall be a rectangular shape and shall have a minimum dimension of 20 feet in either direction. In cases where the garden requirements preclude development of an 800 square-foot dwelling, the plan check review process shall only allow deviations sufficient to accommodate such development.
- 3. **Garden planting and paving standards.** In cases where the garden planting and paving requirements preclude development of an 800 square-foot dwelling, the plan check review process shall only allow deviations sufficient to accommodate such development. The garden may only occur under the following three conditions, either alone or in combination.
 - a. The garden shall be at existing grade with no parking structure below, subject to the following requirements:
 - i. At least 50 percent of the garden shall be planted;
 - ii. Concrete may be used for walkways up to four feet in width but is not acceptable for area paving unless mandated by the Uniform Building Code. Unplanted areas with a minimum dimension of five feet or more shall be paved with unit pavers such as brick, tile or concrete or covered with decomposed granite or garden gravel.
 - iii. The maximum dimension of unit pavers shall be 24 inches.
 - iv. All planting shall comply with the requirements of Chapter 17.44 (Landscaping).
- 4. **Allowed encroachments into a garden.**
 - a. Eaves may project up to three feet and fireplaces or chimneys may project up to two feet for a length of 10 feet measured parallel to the building into the garden without having to maintain the minimum 20-foot dimension. The following encroachments may occur within the garden as long as the minimum dimension in any direction of the garden is not reduced to less than 20 feet.
 - i. Exterior, unenclosed building elements such as stoops, balconies and open stairs may encroach into the garden subject to the following limitations:
 - 1. Encroaching stairs shall be either wood or masonry and have closed risers.
 - 2. Unenclosed encroachments shall have a maximum depth of four feet, measured perpendicular to the line defining the garden, and an unlimited width, measured parallel to the line defining the garden.
 - 3. The total area of unenclosed encroachments shall not exceed seven percent of the area of the garden.
 - ii. Enclosed living space may encroach into the garden subject to the following limitations:
 - 1. Enclosed encroachments shall have a maximum depth of four feet, measured perpendicular to the line defining the

EXHIBIT 1

- garden, and maximum width of 15 feet, measured parallel to the line defining the garden.
2. There shall be a minimum separation of four feet, measured parallel to the line defining the garden, between enclosed encroachments.
 3. The ground floor area of all enclosed encroachments shall not exceed 13 percent of the garden.

17.80.020 – Definitions

Acting in Concert. Means a person that has common ownership or control of the subject parcel with the owner of the adjacent parcel, a person acting on behalf of, acting for the predominant benefit of, acting on the instructions of, or actively cooperating with, the owner of the parcel being subdivided.

Adjacent Parcel. Means any parcel of land that is (1) touching the parcel at any point; (2) separated from the parcel at any point only by a public right-of-way, private street or way, or public or private utility, service, or access easement; or (3) separated from another parcel only by other real property which is in common ownership or control of the applicant.

Car share vehicle. A motor vehicle that is operated as part of a regional fleet by a public or private care sharing company or organization and provides hourly or daily service.

Common ownership or control. Means property owned or controlled by the same person, persons, or entity, or by separate entities in which any shareholder, partner, member, or family member of an investor of the entity owns ten percent or more of the interest in the property.

Sufficient for Separate Conveyance. Means that each attached or adjacent dwelling unit is constructed in a manner adequate to allow for the separate sale of each unit in a common interest development as defined in Civil Code Section 1351 (including a residential condominium, planned development, stock cooperative, or community apartment project), or into any other ownership type in which the dwelling units may be sold separately.

8.52.025 - Applicability.

The provisions of this chapter providing protection for specific trees shall apply as follows, unless excepted by provisions of this chapter.

- A. Native and specimen trees located in the established front yard, required side yard, established corner yard, or required rear yard of all property located in a single-family residential or RM-12 multifamily residential zone, and in all areas of all other zoning districts within the city.
- B. Landmark trees and trees that meet the criteria for designation as a landmark as determined by the review authority.
- C. Public trees located at all places within the city.
- D. Mature trees in all zoning districts except for trees on properties with one primary unit in an RS zone, or properties subject to the RM-12 development standards.
 - a. On RS zoned parcels, native, specimen, and mature trees are protected in all areas on sites developed with duplex units per Section 17.22.050 or subdivided through an Urban Lot Split per Section 16.08.240.

16.08.240 – Urban Lot Split.

“Urban Lot Split” refers to any parcel zoned for single-family residential uses which is created through the division of an existing lot for the purpose of development with two dwelling units (duplex units). Applications for an Urban lot Split must comply with the following requirements:

1. An Urban Lot Split is not permitted on a parcel with one or more Accessory Dwelling Units.
2. Parcels resulting from the Urban Lot Split must be no less than 40% the size of the original parcel;
3. Applications for an Urban Lot Split must be submitted concurrently with an application for proposed residential development;
4. If any existing dwelling unit is proposed to be demolished, the applicant will comply with the replacement housing provisions of Government Code Section 66300(d);
5. Proposed adjacent or connected dwelling units shall be permitted if they meet building code safety standards and are designed sufficient to allow separate conveyance;
6. If any existing housing is proposed to be altered or demolished, the owner of the property proposed for an Urban Lot Split shall provide a comprehensive history of the occupancy of the units to be altered or demolished for the past three years (five years if an existing unit is to be demolished); and
 - a. Sign an affidavit, in the form approved by the City Attorney, stating that none of the proposed lot split would not require demolition or alteration of any of the following types of housing:
 - i. 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.
 - ii. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power
 - iii. A parcel or parcels on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.
 - iv. Housing that has been occupied by a tenant in the last three years.
7. The owner and applicant shall sign an affidavit, in the form approved by the City Attorney, stating that neither the owner nor applicant, nor any person acting in concert with the owner or applicant, has previously subdivided an adjacent parcel using an Urban Lot Split;
8. Prior to the approval and recordation of the parcel map, the applicant shall record a restrictive covenant in the form prescribed by the [city attorney/county counsel], which shall run with the land and provide for the following:

EXHIBIT 3

- a. A prohibition against further subdivision of the parcel using the Urban Lot Split procedures as provided for in this section; and
 - b. A prohibition on non-residential uses of any units developed or constructed on either resulting parcel, including a prohibition against renting or leasing the units for fewer than 30 consecutive calendar days.
9. The applicant for an Urban Lot Split shall sign an affidavit, in the form approved by the City Attorney, stating that the applicant intends to occupy one of the housing units on the newly created lots as its principal residence for a minimum of three years from the date of the approval of the Urban Lot Split. This subsection shall not apply to an applicant that is a "community land trust," as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code or is a "qualified nonprofit corporation" as described in Section 214.15 of the Revenue and Taxation Code