

ORDINANCE NO.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE AMENDING TITLE 16 OF THE ARROYO GRANDE MUNICIPAL CODE AND ADDING SECTIONS 16.32.060 AND 16.20.180 PERTAINING TO REGULATIONS FOR TWO-UNIT RESIDENTIAL DEVELOPMENT WITHIN SINGLE-FAMILY RESIDENTIAL ZONES AND TO PARCEL MAPS FOR URBAN LOT SPLITS TO COMPLY WITH SENATE BILL 9 (SB 9), CALIFORNIA GOVERNMENT CODE SECTIONS 65852.21 AND 66411.7 (DEVELOPMENT CODE AMENDMENT 2-1-002)**

**WHEREAS**, on September 16, 2021, Governor Gavin Newsom signed Senate Bill 9 into law, which establishes a series of new regulations to allow for ministerial approval of two units on parcels located in single-family residential zones as set forth in Government Code Section 65852.21 and ministerial approval of urban lot splits pursuant to Government Code Section 66411.7; and

**WHEREAS**, Government Code sections 65852.21 and 66411.7 permit the imposition of objective zoning standards, objective design standards and objective subdivision standards on two-unit residential development projects and urban lot splits, provided that they do not physically preclude the construction of up to two units of at least 800 square feet in floor area; and

**WHEREAS**, the City of Arroyo Grande desires to amend Title 16 of the Arroyo Grande Municipal Code to comply with the provisions of Government Code sections 65852.21 and 66411.7; and

**WHEREAS**, the City of Arroyo Grande has duly initiated this amendment to the Arroyo Grande Municipal Code to add Section 16.32.060 pertaining to Regulations for Two-Unit Residential Development within Single-Family Residential Zones and Section 16.20.180 pertaining to Parcel Maps for Urban Lot Splits; and

**WHEREAS**, the Planning Commission of the City of Arroyo Grande, after giving notices thereof as required by law, held a public hearing on May 3, 2022 concerning this code amendment and carefully considered all pertinent testimony and the staff report offered in the case as presented; and

**WHEREAS**, on May 3, 2022, the Planning Commission of the Arroyo Grande recommended to the City Council adding Sections 16.20.180 and 16.32.060 to the AGMC; and

**WHEREAS**, the City Council of the City of Arroyo Grande has, after giving notice thereof as required by law, held a public hearing on May 24, 2022, concerning the

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addition of AGMC Sections 16.20.180 and 16.32.060; and

**WHEREAS**, the City Council of the City of Arroyo Grande, at its regularly scheduled public meeting on May 24, 2022 introduced this Ordinance to add Section 16.20.180 to Title 16, Chapter 20 and 16.32.060 to Title 16, Chapter 32 of the AGMC; and

**WHEREAS**, the City Council has carefully considered all pertinent testimony and the staff report, its attachments and all supporting materials referenced therein or offered in the matter as presented at the public hearing.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE DOES ORDAIN AS FOLLOWS:**

SECTION 1. The above recitals and findings are true and correct and are incorporated herein by this reference.

SECTION 2. Section 16.20.180 is hereby added to Title 16, Chapter 20 of the Arroyo Grande Municipal Code to read as follows:

Section 16.20.180 Parcel Maps for Urban Lot Splits

A. Purpose and Scope

1. This Section implements Government Code section 66411.7 to provide an owner of property in a single-family zoning district an additional method to subdivide the parcel for the purpose of housing development.
2. Urban lot split means the subdivision of an existing legal parcel in a single-family zoning district to create no more than two new parcels.

B. Application and Approval

1. A parcel map for an urban lot split may not be approved except in conjunction with a concurrently submitted application for building permits for two-unit residential development pursuant to Section 16.32.060. Development on the resulting parcels is limited to the residential development approved in the concurrently submitted building permit applications.
2. A parcel map for an urban lot split must be prepared by a registered civil engineer or licensed land surveyor in accordance with Government Code sections 66444 – 66450 and this Section, and submitted for approval to the City Engineer. A fee in an amount established by City Council resolution must be paid concurrently with the submission of the parcel map.
3. The City Engineer is the approval authority for parcel maps under this Section. The City Engineer shall approve a parcel map for an urban lot split if the Engineer determines that it meets all of the requirements of this Section.

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C. The following supplemental information is required to be submitted with a parcel map to establish compliance with the construction plans and all provisions of this Code and applicable State law:

1. A map of appropriate size and to scale showing all of the following:
  - a. Total area (in acreage and square feet) of each proposed lot;
  - b. Location and dimensions of existing and proposed property lines;
  - c. Zoning District;
  - d. The location and use of all existing and proposed structures;
  - e. All required zoning setbacks for the existing and proposed lots;
  - f. The location of all existing water, sewer, electricity, storm drain, or gas service lines, pipes, systems, or easements;
  - g. The location of all proposed new water, sewer, storm drain, lines, pipes, or systems;
  - h. The location of any proposed easements for access or public utilities to serve a lot created by the subdivision;
  - i. The location of any existing trees larger than four inches in diameter measured four feet six inches above the base and any such trees proposed for removal;
  - j. Any area of the parcel that has a slope of 25% or greater by way of contours at 5-foot intervals;
  - k. Name and dimensions, including right-of-way and improved area, of public and private streets or public alleys adjoining the parcel;
  - l. Curb, gutter, sidewalk, parkway, and street trees: type, location, and dimensions;
  - m. Location of existing or proposed driveway dimensions, materials, and slope (including cross slope); and
  - n. Location of existing or proposed pedestrian pathway access to the public right of way.
2. A statement of the owner, signed under penalty of perjury under the laws of California, that:
  - a. The proposed urban lot split would not require or authorize 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 Section 12.75 (commencing with Section 7060) of Division 7 of Title 1 of the Government Code 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.
- b. The parcel has not been established through prior exercise of an urban lot split under this Section;
  - c. Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel under the provisions of this Section.
  - d. The owner intends to occupy one of the housing units located on a lot created by the parcel map as their principal residence for a minimum of three years from the date of the recording of the parcel map.
  - e. Rental terms of any unit created in the subdivision shall not be less than 31 consecutive days, nor shall rental terms allow termination of the tenancy prior to the expiration of at least one thirty-one (31) day period of occupancy by the same tenant.
  - f. The uses allowed on a lot created by the parcel map shall be limited to residential uses.

**D. Design and Improvement Requirements**

1. A parcel map may subdivide an existing legal parcel to create no more than two parcels of approximately equal lot area. One parcel shall not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision and neither parcel shall be smaller than 1,200 square feet.:
2. Each parcel must be served by a separate water service meter and a separate sewer connection.
3. Each parcel shall either drain to a developed drainage easement or in accordance with the City's Standard Specification and Engineering Standards.

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4. Rights-of-way as required for access along all natural watercourses as necessary for flood control, maintenance, and improvement shall be dedicated.
5. The parcel must satisfy the requirements of Government Code section 66411.7(a).
6. A lot line shall not bisect or be located within 4 feet of any of the following:
  - a. A dwelling that has been occupied by a tenant at any time during the three years before the date of the parcel map;
  - b. A structure designated as a historic structure or a candidate structure under any City ordinance or included on the State Historic Resources Inventory;
  - c. A dwelling 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.
  - d. Existing easements if the resulting lot would create a developable area that would interfere with the use of the easement for its intended purpose.
7. The location and orientation of new lot lines shall meet the following standards:
  - a. Front lot lines shall conform to the minimum public street frontage requirements of the Development Code; a flag lot, or a lot with a narrow projecting strip of land extending along a street, is not permitted.
  - b. Each parcel shall have approximately equal lot width and lot depth, consistent with the minimum lot sizes described in subsection D.1, above. Lot depth shall be measured at the midpoint of the front lot line. Lot width shall be measured by a line connecting two points on opposite interior lot lines that will result in a line parallel to the front lot line.
  - c. New lot lines must be straight lines, unless there is a conflict with existing improvements or the natural environment in which case the line may be not be straight but shall follow the appropriate course.
  - d. Lot lines facing a street shall generally be parallel to the street. Unless the minimum public street frontage is provided, the lot line dividing the two parcels must be parallel to and not less than 50 feet from an existing front lot line, or outside the front half of the existing lot, whichever is greater.
  - e. Interior lot lines not facing the street shall be at right angles perpendicular to the street on straight streets, or radial to the street on curved streets.
  - f. Lot lines shall be located within appropriate physical locations such as the top of creek banks, at appropriate topographical changes (top or bottom

of slopes etc.) or at locations which clearly separate existing and proposed land uses.

- g. Lot lines shall be contiguous with existing zoning boundaries.
- h. The placement of lot lines shall not result in an accessory building or accessory use on a lot without a main building or primary use on the same lot, as defined in the Development Code.
- i. Lot lines shall not render an existing structure as nonconforming in any respect (e.g., setbacks, Floor Area Ratio, parking), nor increase the nonconformity of an existing nonconforming structure.

**E. Access Standards**

- 1. Each lot shall front upon or have access to a public street, or be served by an access easement serving no more than two lots. Access shall be provided in compliance with these standards:

- a. Vehicle access easements serving a maximum of two units shall meet the following standards:
  - i. Easement width shall be a minimum of 10 feet and a maximum of 16 feet, unless a wider driveway is required by the California Fire Code due to distance of the structure from the easement, or as needed to meet the driveway and parking standards in the City's standards.
  - ii. The minimum length for a vehicle access easement is 20 feet. No maximum easement length shall be set. If easement length is more than 75 feet, a vehicle turnaround shall be provided.
  - iii. No residential structure shall be closer than 3 feet to the easement.
- b. Vehicle access easements serving three to four units shall meet the following standards:
  - i. Easement width shall be a minimum of 20 feet.
  - ii. The minimum length for a vehicle access easement is 20 feet. No maximum easement length shall be set. If easement length is more than 75 feet, a vehicle turnaround shall be provided.
  - iii. No residential structure shall be closer than 5 feet to the easement.
- c. Where a lot does not abut a public street, and where no automobile parking spaces are required or proposed for the residential development, a vehicle access easement is not required. An easement providing pedestrian access to a street from each lot shall be provided meeting the following standards:
  - i. Easement width shall be a minimum of five feet;

- ii. Pedestrian access easements shall not exceed 200 feet in length.
2. Vehicle access easements shall not be located closer than 25 feet to an intersection.
3. Access and provisions for fire protection consistent with the California Fire Code shall be provided for all structures served by an access easement.
4. Surfacing of easements, pedestrian walkways required within easements, and turnaround dimensions shall meet the requirements of the California Fire Code, the City's Design Standards, and the parking design standards in the Development Code.
5. Lots taking access by an easement must record a shared maintenance agreement for the driveway. The agreement shall be recorded prior to or concurrently with the final map.

**F. Map Requirements**

1. The content and form of a parcel map shall meet all the requirements of Government Code sections 66444 – 66450.
2. The parcel map shall show all easements for public utilities necessary to serve each lot created by the subdivision.
3. The parcel map shall show all easements necessary to provide each lot with access to the public or private street or alley abutting the original parcel.
4. The parcel map shall contain a declaration that:
  - a. Each lot created by the parcel map shall be used solely for residential dwellings;
  - b. That rental of any dwelling unit on a lot created by the parcel map shall not be less than 31 consecutive days, nor shall rental terms allow termination of the tenancy prior to the expiration of at least one 31-day period occupancy by the same tenant.

**G. Concurrent Processing With Other Ministerial Permits for Housing Development**

1. No development, including grading or vegetation removal, shall commence on either lot, concurrent or subsequent to an urban lot split, unless it is approved with a valid building permit for the construction of a housing development and complies with all the objective development and design standards outlined for two-unit residential development or accessory dwelling units in this Code, or any other adopted objective design standards in effect at the time a complete application is submitted.

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2. A building permit for development on an urban lot split cannot be issued until the parcel map is recorded.
3. The City Engineer shall deny an urban lot split if the building official has made 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 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.

### **H. Prohibition of Further Subdivision**

1. A lot created by a parcel map under this Section shall not be further subdivided.

SECTION 3. Section 16.32.060 is hereby added to Title 16, Chapter 32 of the Arroyo Grande Municipal Code to read as follows:

### **Section 16.32.060 Two-Unit Residential Development**

#### **A. Purpose and Intent.**

1. It is the intent of these regulations to provide opportunities for two units on one legal parcel, consistent with state law and local regulations. In the event of an inconsistency between this Section and Government Code Section 65852.21, Government Code Section 65852.21 shall prevail. Provided that Government Code Sections 65852.21 or 66411.7 are not repealed, qualifying two-unit residential development in the single-family zoning districts shall be located, developed, and used in compliance with this Section.
2. In accordance with Government Code Section 65852.21(a)(2), two-unit residential development shall not be permitted under this Section in any of the following circumstances:
  - a. Parcels located in:
    - i. Wetlands;
    - ii. Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation;



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- iii. Very high fire severity zones, except if the site has adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development;
  - iv. A hazardous waste site, unless the site has been cleared by the State for residential use;
  - v. Delineated earthquake fault zones, unless the development complies with applicable seismic protection building code standards;
  - vi. Special flood hazard areas (100-year flood zones), unless the site has been subject to a FEMA Letter of Map Revision issued to the City or the site meets FEMA requirement necessary to meet minimum flood plain management criteria of the National Flood Insurance Program;
  - vii. A regulatory flood way identified in a FEMA map, unless the development has received a no-rise certification;
  - viii. Lands identified for conservation in an adopted natural resource protection plan, habitat for protected species, or under a conservation easement; and
  - ix. A historic district or property designated pursuant to a local ordinance or included on the State Historic Resources Inventory.
- b. The proposed development would 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 moderate, low, or very low incomes;
  - ii. A unit that has been occupied by a tenant within the past three years; and
  - iii. A rent-controlled unit.
- c. The proposed development would result in the demolition of more than 25 percent of the existing exterior structural walls, unless the site has not been occupied by a tenant in the last three years.
- d. The building official finds that the proposed development would have a specific, adverse impact on public health and safety or the physical environment that cannot be feasibly mitigated or avoided, as defined and determined in paragraph (2) of subdivision (d) of Government Code Section 65589.5.

**B. Restrictions.**

A qualifying two-unit residential project shall be subject to the following restrictions:

1. The development and use of the dwelling units shall only be valid and permitted based on the terms established in the Section.
2. The dwelling unit(s) shall not be rented for a period of less than thirty-one (31) consecutive days, nor shall rental terms allow termination of the tenancy prior to the expiration of at least one thirty-one (31) day period of occupancy by the same tenants.

**C. Ministerial Approval of Two-Unit Residential Development Projects.**

1. The Community Development Director or his/her designee shall ministerially review and approve a two-unit residential development application and shall not require a public hearing, provided that the submitted application is complete and demonstrates that the two-unit residential development project complies with the requirements contained in this Title 16 and qualifies under Government Code Section 65852.21(a).
2. In addition to obtaining planning approval for the two-unit residential development project, the applicant shall be required to obtain a building permit, and comply with other applicable construction permit requirements prior to the construction of the dwelling units.

**D. Unit Configurations.**

The new unit in a two-residential unit development may be permitted in the following configurations. For the purpose of this section, "unit" means any dwelling unit, including, but not limited to, two-unit residential development, additional residential unit, primary residential unit, accessory dwelling unit, or junior accessory dwelling unit.

1. One new unit incorporated entirely within an existing residential unit.
2. One new unit incorporated entirely within an existing accessory building, including garages.
3. One new unit attached to and increasing the size of an existing residential unit or an existing accessory building.
4. One new unit detached from and located on the same lot as an existing unit. A unit that is attached to another detached accessory building, but not another residential unit, or is attached by a breezeway or porch, is considered detached.

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5. Two newly constructed attached units (duplex) or two detached residential units on a vacant lot.
6. A two-unit residential development in any of the configurations described above may be added to a newly created lot concurrently with an approval for a parcel map for an urban lot split, pursuant to AGMC Section 16.20.180, Parcel Maps for Urban Lot Splits.
7. Up to two accessory dwelling units pursuant to AGMC Section 16.52.150, Accessory Dwelling Units, may be proposed in addition to the two units constructed pursuant to this Section. One accessory dwelling unit may be added to a lot created through an Urban Lot Split, **but only if the resulting lot is larger than 10,000 square feet in size.**

### E. Parking.

1. ~~No parking shall be required for dwelling units developed pursuant to this Section.~~ **Pursuant to Government Code Section 65852.21(c), one off-street parking space is required per dwelling unit, unless the parcel is located within one-half mile of 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 or there is a car share vehicle located within one block of the parcel.**
2. **All required parking spaces, driveways, and maneuvering areas shall be paved and permanently maintained with asphalt or concrete to applicable requirements.**

### F. Rear and Side Setbacks.

1. No setback shall be applied to existing structures or structures constructed in the same location and to the same dimensions as an existing structure.
2. For projects not meeting the requirements of subsection 1 above, a minimum four-foot setback shall be provided from side and rear lot lines.

### G. Objective Zoning and Design Standards for Two-Unit Residential Developments.

Government Code Section 65852.21 permits the imposition of objective zoning standards and objective design standards **provided the standards do not physically preclude the construction of up to two units of at least 800 square feet.** Accordingly, the follow objective standards shall apply to two-unit residential development projects:

1. Massing and Articulation

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- a. Maximum Unit Size: The total gross floor area of the unit(s), excluding garages, shall not exceed the floor-area ratios maximums found in Section 16.32.050 of this Title. ~~These maximums, however, shall not preclude the construction of at least two (2) 1,200 square foot units per lot.~~
  - b. Building Separation: detached dwelling units shall have a minimum of 10 feet of separation whether the units are on one lot or adjacent lots.
  - c. Height: ~~The maximum height of a unit developed pursuant to this Section shall be 30 feet.~~ The maximum height of a unit developed pursuant to this Section shall be 16-feet for any structure, or portions thereof, located within the setback of the underlying zoning district. Structures, or any portion thereof, located outside of the setbacks of the underlying zoning district shall conform to the height requirements of that district.
  - d. Rooftop decks ~~shall be permitted in accordance with the design standards established by Subsection D of Section 16.48.180 of this Title~~ are not allowed.
2. Colors and Materials.
    - a. The primary cladding shall be stone, brick, fiber cement, composite wood or stone, wood, stucco, or other cementitious material. Plywood, such as T1-11 siding, is prohibited.
    - b. Color schemes shall consist of one primary color and at least one secondary color, at a minimum. The roof color shall not be considered a color for purposes of this standard.
3. Parking and Circulation.
    - a. ~~When parking is proposed, the~~ Parking areas shall not be located between a structure and a public sidewalk within the front setback, with the exception of permitted driveways. When parking areas are located in the front yard, outside of the front setback, a landscape buffer of at least 10 feet between the sidewalk and parking area shall be provided.
    - b. All parking areas serving more than one unit shall be internally connected and shall use shared driveways.
4. Utility and Service Areas.
    - a. All new dwelling units must connect to City utilities in accordance with Section 13.12.060 of Title 13.

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- b. Areas for the storage of trash, recycling, and green waste receptacles shall not be visible from the public right of way.
- c. All mechanical equipment shall be either screened or hidden from view from the public street.

SECTION 4. The adoption of this Ordinance is not considered a project, therefore is statutorily exempt from the requirements of California Environmental Quality Act (CEQA) pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code. The City Clerk shall file a Notice of Exemption from CEQA review in accordance with CEQA Guidelines.

SECTION 5. A summary of this Ordinance shall be published in a newspaper published and circulated in the City of Arroyo Grande at least five (5) days prior to the City Council meeting at which the proposed Ordinance is to be adopted. A certified copy of the full text of the proposed Ordinance shall be posted in the office of the City Clerk. Within fifteen (15) days after adoption of the Ordinance, the summary with the names of those City Council members voting for and against the Ordinance shall be published again, and the City Clerk shall post a certified copy of the full text of such adopted Ordinance.

SECTION 6. This Ordinance shall take effect and be in full force and effect thirty (30) days after its passage.

SECTION 7. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

On motion by Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, and by the following roll call vote to wit:

**AYES:**

**NOES:**

**ABSENT:**

the foregoing Ordinance was adopted this \_\_\_\_ day of \_\_\_\_\_, 2022.

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**CAREN RAY RUSSOM, MAYOR**

**ATTEST:**

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**JESSICA MATSON, CITY CLERK**

**APPROVED AS TO CONTENT:**

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**WHITNEY McDONALD, CITY MANAGER**

**APPROVED AS TO FORM:**

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**TIMOTHY J. CARMEL, CITY ATTORNEY**