

## CALIFORNIA COASTAL COMMISSION

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# W17a

**LCP-3-PSB-22-0012-1 (SB 9)  
MARCH 8, 2023 HEARING  
EXHIBITS**

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**ORDINANCE NO. O-2022-001**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PISMO BEACH, CALIFORNIA ADDING CHAPTER 17.119 TWO-UNIT RESIDENTIAL DEVELOPMENT AND URBAN LOT SPLITS TO TITLE 17 (1983 COASTAL ZONING CODE) OF THE CITY OF PISMO BEACH MUNICIPAL CODE, RELATING TO URBAN LOT SPLITS AND TWO-UNIT RESIDENTIAL DEVELOPMENT BUILT IN ACCORDANCE WITH SENATE BILL 9 AND MAKING A DETERMINATION OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

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**WHEREAS**, on September 16, 2021 California Governor Gavin Newsom signed SB 9, entitled the “California Home Act,” 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 outlined in California Government Code Section 65852.21 and 66411.7; SB 9 took effect on January 1, 2022; and

**WHEREAS**, SB 9 requires cities to ministerially approve a parcel map for an urban lot split and/or a proposed housing development containing a maximum of two residential units within a single-family residential zone, if the two-unit or subdivision project meets certain statutory criteria; SB 9 specifies, subject to certain exceptions, that proposed projects and subdivisions cannot be proposed in prohibited locations under California Government Code Section 65913.4(a)(6)(B)-(K), such as in an earthquake fault zone, lands under conservation easement, a federally designated flood plain, and high fire hazard severity zones as defined under state law and that SB 9 shall not be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act; and

**WHEREAS**, SB 9 further restricts the standards and regulations that local agencies may impose on qualifying two-unit or subdivision projects; In addition, SB 9 permits a local agency to deny a proposed two-unit or subdivision project only if the agency makes a written finding based on preponderance of the evidence that the proposed project would have a specific, adverse impact upon public health and safety or the physical environment, which is a very high standard for municipalities to meet under the statute; and

**WHEREAS**, some parcels within the city of Pismo Beach are also within the Coastal Zone, others are in locations where increased density may cause safety concerns due to limited ingress and egress from the neighborhood; The City has substantial interests in protecting the coastal access and promoting safety in development projects; Unregulated or disorderly development represents an ever-increasing and true threat to the health, welfare, and safety of the community; and

**WHEREAS**, SB 9 specifically authorizes local agencies to impose objective zoning, subdivision, and design standards consistent with the bill’s provisions, and to adopt an ordinance to implement its provisions; The default standards contained in the new state

law lack sufficient objective zoning, subdivision, and design standards to preserve the health, welfare and safety of the community; The City of Pismo Beach desires to clarify the objective zoning and design standards that will apply to the ministerial review of qualifying urban lot splits and residential developments in the City's single-family residential zones; and

**WHEREAS**, the City Council finds that under the City's current zoning standards and current general plan policies, the approval of qualifying urban lot splits and residential developments pursuant to SB 9 might cause a disproportionate public health, safety, and welfare impact to the city of Pismo Beach community and to its residents—including potential detrimental impacts on coastal resources and access, safety, and emergency response in high fire zones—without compensating benefits to the community; and

**WHEREAS**, the City Council finds it necessary to impose additional objective standards consistent with SB 9 to ensure coastal access and address potential safety concerns; and

**WHEREAS**, the Planning Commission held a duly noticed public hearing on January 25, 2022, at which time it heard public input, considered the drafted amendments to the City's regulations, and recommended the City Council approve the amendments.

**NOW, THEREFORE**, the City Council of the City of Pismo Beach does ordain as follows:

**SECTION 1.**

The foregoing recitals are adopted as findings of fact in support of this ordinance.

**SECTION 2.**

The Pismo Beach Municipal Code is revised to add a new Chapter 17.119 to read as follows:

**Chapter 17.119 TWO-UNIT RESIDENTIAL DEVELOPMENT AND URBAN LOT SPLITS**

**17.119.010 Purpose and intent.**

This chapter is intended to:

- A. Preserve, protect, and enhance the character of the city's different residential neighborhoods;
- B. Provide for and regulate urban lot splits and two-unit residential development in a manner consistent with the requirements of Senate Bill 9;
- C. Continue to protect coastal resources and allow and protect coastal access;

D. Promote and ensure safe development in high fire zones.

**17.119.020 Definitions.**

For the purposes of this chapter, terms shall be defined as follows:

- A. "Accessory dwelling unit" has the same meaning ascribed in Section 17.117.030(A).
- B. "Coastal Zone unit" means a unit developed pursuant to SB 9 and this chapter on property located in the coastal zone and meeting all of the following criteria:
1. Property is located within the Coastal Zone;
  2. Property is located west of U.S. Route 101; and
  3. Located within one-quarter mile (1,320 feet) walking distance of one of the following:
    - a. A vertical access point to the beach;
    - b. A segment of the California Coastal Trail;
    - c. A coastal park; or
    - d. A coastal view area.
- C. "Junior accessory dwelling unit" has the same meaning ascribed in Section 17.117.030(J).
- D. "Existing structure" means an original dwelling on the property.
- E. "SB 9" or "Senate Bill 9" means the state law approved by the Governor on September 16, 2021, amending California Government Code Section 66452.6 and adding California Government Code Section 65852.21 and 66411.7.
- F. "Two-residential unit development" means a housing development containing no more than two (2) residential units within a single-family residential zone permitted pursuant to the regulations set forth in SB 9.
- G. "Unit" means any dwelling unit or units created pursuant to California Government Code Section 66452.21, an existing structure, a primary dwelling unit, an accessory dwelling unit or a junior accessory dwelling unit.

- H. “Urban lot split” means a parcel map subdivision permitted pursuant to the regulations set forth in SB 9 that creates no more than two (2) parcels of approximately equal size.

**17.119.030 Applicability; Ministerial compliance review.**

- A. This chapter shall apply to all two-residential unit developments and urban lot splits proposed for lots in R1 (Single Family Residential) zones pursuant to the regulations set forth in SB 9. Except as expressly provided in this chapter or SB 9, all other regulations of the underlying zone of a property developed pursuant to SB 9, including all applicable regulations from the Pismo Beach Municipal Code, shall apply.
- B. Required Approvals.
1. All two-residential unit developments and urban lot splits outside the Coastal Zone shall be required to obtain zoning clearance and a building permit and shall be subject to ministerial review by the Community Development Director or 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 if all required criteria have been met.
  2. Projects in the Coastal Appeal Zone shall be required to obtain a coastal development permit and a building permit. The requirement for public hearing is hereby waived. An urban lot split shall be processed as a parcel map, but no discretionary review or public hearing shall be conducted if all required criteria have been met. Action on a project is final, unless appealed to the California Coastal Commission within ten (10) days of the Coastal Commission’s receipt of the notice of final action.
  3. Projects in the Coastal Zone, Non-Appealable, shall be required to obtain a coastal development permit and a building permit. The requirement for public hearing is hereby waived. An urban lot split shall be processed as a parcel map, but no discretionary review or public hearing shall be conducted if all required criteria have been met.
  4. For two-residential unit developments and urban lot splits in the Coastal Zone, Appealable or Non-Appealable, for which a public hearing requirement has been waived pursuant to this subsection, at least ten (10) calendar days prior to the issuance of a coastal development permit, the City shall provide notice by first class mail of the pending application for development. This notice shall be provided to the persons, and contain the information, identified in

Section 17.124.090 for appealable and non-appealable developments, as applicable.

- C. All applicants for a two-residential unit development or an urban lot split shall submit an application including:
  - 1. A sworn statement affirming eligibility under SB 9 regulations;
  - 2. All materials required by the Community Development Director;
  - 3. Applicants for an urban lot split shall, in addition, sign an affidavit stating that the owner intends to occupy one of the housing units as their principal residence for at least three (3) years from the date of the approval of the urban lot split. Provided, however, this provision shall not apply to an owner that is a community land trust or qualified nonprofit corporation as those terms are defined and described in California Revenue and Taxation Code Sections 402.1 and 214.15, respectively;
- D. The City may, at the applicant's expense, conduct independent inquiries and investigation to ascertain the veracity of any or all portions of the sworn statement.

**17.119.040 General requirements.**

An applicant seeking approval of a two-residential unit development or urban lot split shall:

- A. Comply with SB 9; all objective requirements of other applicable state law including the Subdivision Map Act; the Pismo Beach Municipal Code, including Title 17 and Title 16, except as expressly provided in SB 9, or in this chapter; and all objective standards of this chapter.
- B. Execute and record a covenant, supplied by the City and subject to the approval of the City Attorney or designee, that contains the following provisions:
  - 1. Non-residential uses are prohibited on the property subject to development under SB 9 and this chapter;
  - 2. Rental or leasing of any unit or units on the property for a period of thirty (30) days or less is prohibited;
  - 3. Ongoing compliance with SB 9 requirements and restrictions is required;

4. Access to the public right-of-way shall be maintained in perpetuity;
5. All required parking shall be maintained;
6. If the applicant is seeking approval of an urban lot split, any subsequent urban lot split of the property is prohibited.

#### **17.119.050 Parking.**

All two-residential unit developments and urban lot splits shall comply with the following objective standards for parking:

- A. One (1) enclosed or partially enclosed parking space is required for each unit created pursuant to the regulations in SB 9 and this chapter and such parking space shall be located on the same parcel as the unit.
- B. Parking required for a unit created pursuant to SB 9 and this chapter is in addition to any parking required for the existing structure, should it remain on the property. If an existing garage, carport, or other parking is converted or demolished in order to construct the new unit, the required parking space(s) that are displaced shall be replaced on the same property to satisfy the parking requirements of the existing structure.
- C. Exceptions. Additional parking spaces required under subsection 17.119.050.A shall not be required for units developed pursuant to SB 9 and this chapter if the property upon which the unit is created meets one or more of the following criteria:
  1. Is within one-half (1/2) mile walking distance of a high-quality transit corridor, as defined in California Public Resources Code Section 21155e, or a major transit stop, as defined in California Public Resources Code Section 21064.3, or
  2. There is a car share vehicle located within one (1) block of the project.
- D. Parking in the Coastal Zone.
  1. For Coastal Zone units, the following additional requirements apply due to the number of individuals that visit the Pismo Beach coast and to ensure adequate public access to coastal resources in compliance with California Public Resources Code Section 30001.5(c) and the California Coastal Act:
    - a. Subsection 17.119.050A shall not apply, and the total number of off-street parking spaces required for a unit shall meet the

minimum off-street parking requirements in PBMC Section 17.108.020 and be on the same parcel as the unit.

- b. The parking exceptions identified in subsection 17.119.050.C of this chapter do not apply.
- E. Required off-street parking may be provided as tandem parking on an existing driveway provided all requirements in subsection 17.108.030.A.7.a are met.
- F. Each required parking space shall meet the following standards:
  - 1. Each parking space shall have minimum dimensions of nine (9) feet by twenty (20) feet.
  - 2. All parking spaces shall be located behind existing or future sidewalk, or other public right-of-way.
  - 3. All parking spaces shall be located on an all-weather surface as approved by the City Engineer or designee (e.g., hardscape, gravel) and be accessed by a driveway apron or curb cut.

**17.119.060 Development standards.**

All two-residential development units and urban lot splits shall comply with the following objective development standards:

- A. Driveways.
  - 1. A driveway may be shared by not more than two (2) units and no more than two (2) lots.
  - 2. More than one (1) driveway per lot is prohibited on lots with less than 60 feet of public street frontage.
- B. Setback Requirements. All units in a two-residential unit development and/or on an urban lot split shall comply with the setback standards for R1 zones and be subject to environmental buffers and constraints under the Coastal Act. Provided, however, no setback shall be required for an existing structure or structure constructed in the same location and to the same dimensions as the existing structure, unless otherwise identified in the City's Local Coastal Plan in order to protect coastal resources.
- C. Occupancy.
  - 1. Non-residential uses on the property subject to a two-residential unit development or an urban lot split are prohibited.



2. Short-Term Rental Prohibited. A short-term rental use of thirty days or less shall not be permitted in units developed pursuant to SB 9 and this chapter. Units developed pursuant to SB 9 and this chapter shall be occupied for terms longer than thirty (30) days.
- D. Height. Height of a unit developed pursuant to SB 9 and the chapter shall be no greater than permitted in R1 zones and shall be consistent with the City's Local Coastal Plan in order to protect coastal resources.
- E. Lot Coverage and Maximum Building Areas. Lot coverage and maximum building areas shall comply with the applicable standard for R1 zones, except as provided in Section 17.119.070.
- F. No accessory dwelling unit or junior accessory dwelling unit shall be permitted on a parcel subject to an urban lot split under this chapter and also improved with a two-residential unit development under this chapter.
- G. Two-residential unit developments and urban lot splits are not permitted on parcels located in the R-1 zone above the intersection of Longview Avenue and Stratford Street in the Pismo Heights planning area due to being in very high fire hazard severity zones, as determined by the California Department of Forestry and Fire Protection pursuant to California Government Code Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the California Department of Forestry and Fire Protection pursuant to California Public Resources Code Section 4202 and is coextensive with traffic flow and public safety concerns as this area has only one ingress and egress.
- H. More than twenty-five (25) percent of the exterior structural walls of the existing structure shall not be demolished if the existing structure has been occupied by a tenant in the three (3) years prior to the submission of an SB 9 Development Project application.
- I. An urban lot split shall comply with SB 9 and the following standards:
  1. No lot resulting from an urban lot split shall be smaller than one thousand two hundred (1,200) square feet.
  2. No lot resulting from an urban lot split shall have more than two (2) residential units inclusive of any accessory dwelling unit or junior accessory dwelling unit.
  3. The two lots resulting from an urban lot split shall be approximately equal, and no smaller than forty (40) percent or larger than sixty (60) percent of the lot area of the original parcel.

4. 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.
  5. The width of any lot resulting from an urban lot split shall not be less than twenty (20) feet wide.
  6. The proposed parcel map shall demonstrate ability to access the public right-of-way in perpetuity.
- J. Two-residential unit developments and urban lot splits are not permitted on parcels located in the R-1 zone in areas determined by the Community Development Director to be vulnerable to sea level rise unless such urban lot split or two-residential unit development is consistent with applicable provisions of the Coastal Act and meets the following criteria:
1. The two-residential unit development or urban lot split is designed to minimize risks to life and property in areas of geologic and flood hazard;
  2. The two-residential unit development or urban lot split is designed to assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area;
  3. The two-residential unit development or urban lot split does not require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs;
  4. The two-residential unit development or urban lot split is sited and designed to prevent significant degradation of adjacent sensitive habitats and recreation areas;
  5. The two-residential unit development or urban lot split is sited and designed to maintain coastal resources and public access to coastal resources.

#### **17.119.070 Exceptions.**

The Community Development Director shall approve an exception to any of the standards specified in this chapter, other than those required for compliance with the Coastal Act, upon determining that complying with the standards would physically preclude the construction of up to two (2) residential units per lot or would physically preclude either of the two residential units from being eight hundred (800) square feet in floor area.

### **17.119.080 Denial.**

The Building Official or Community Development Director may deny an application for a two-residential unit development or an urban lot split upon making both the following findings in writing based on a preponderance of the evidence:

- A. The proposal would have a specific, adverse impact upon the public health and safety or the physical environment as defined and determined in California Government Code Section 65589.5(d)(2).
- B. There is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

### **SECTION 3.**

This Ordinance/Local Coastal Plan Amendment shall be carried out in a manner fully in conformity with the Coastal Act consistent with California Public Resources Code Section 30510.

### **SECTION 4.**

Under the provisions of the California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3), this ordinance is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, such as the adoption of the regulations contained herein, the activity is not subject to CEQA. Furthermore, this ordinance is exempt from CEQA pursuant to Government Code Section 65852.21(j) effective January 1, 2022.

### **SECTION 5.**

This ordinance shall not be interpreted in any manner to conflict with controlling provisions of state or federal law, including, without limitation, the Constitution of the State of California. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. If this ordinance, or any section, subsection or clause of this ordinance shall be deemed unconstitutional or invalid as applied to a particular appeal, the validity of this ordinance and its sections, subsections, and clauses in regard to other contracts shall not be affected.

### **SECTION 6.**

This ordinance shall become effective automatically upon final certification by the California Coastal Commission (CCC), unless the CCC proposes suggested modifications to the proposed ordinance. In this case, the ordinance shall become

effective on the date the CCC concurs that the City Council properly accepted the modified ordinance with suggested modifications.

**SECTION 7.**

The City Clerk shall certify to the passage and adoption of this Ordinance, shall enter the same in the book of original ordinances of the City and shall make a minute of the passage and adoption thereof in the records of the meeting at which the same is passed and adopted.

Before the expiration of fifteen (15) days after the passage of this Ordinance, the City Clerk shall cause the same to be posted in three public places within the City of Pismo Beach, to wit: 1) City Hall, 760 Mattie Road, Pismo Beach, 2) U.S. Post Office, Shell Beach Road, Pismo Beach, 3) U.S. Post Office, Crest Drive, Pismo Beach.

**INTRODUCED** at a regular meeting of the City Council held this 15<sup>th</sup> day of February, 2022, on motion of Council Member Blake, seconded by Council Member Guthrie, and on the following roll call vote, to wit:

**AYES: 5 Blake, Guthrie, Newton, Reiss, Waage**  
**NOES: 0**  
**ABSENT: 0**  
**ABSTAIN: 0**  
**RECUSED: 0**

**Approved:**

**Attest:**

\_\_\_\_\_  
**Ed Waage, Mayor**

\_\_\_\_\_  
**Erica Inderlied, City Clerk**

**ADOPTED** at a regular meeting of the City Council held this 1<sup>st</sup> day of March, 2022, on motion of Council Member Blake, seconded by Mayor Pro Tem Reiss, and on the following vote:

**AYES: 5 Blake, Reiss, Guthrie, Newton, Waage**  
**NOES: 0**  
**ABSENT: 0**  
**ABSTAIN: 0**  
**RECUSED: 0**

**Approved:**

**Attest:**

\_\_\_\_\_  
**Ed Waage, Mayor**

\_\_\_\_\_  
**Erica Inderlied, City Clerk**

APPROVED AS TO FORM:

\_\_\_\_\_  
Chelsea O’Sullivan, Assistant City Attorney

**CERTIFICATION OF ORDINANCE POSTING**  
Government Code §40806

STATE OF CALIFORNIA            }  
  } ss.  
COUNTY OF SAN LUIS OBISPO }

I, Erica Inderlied, the City Clerk of the City of Pismo Beach, California, hereby certify in accordance with California Government Code Section 40806 that the foregoing document is a true and correct copy of **Ordinance No. O-2022-001**, titled **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PISMO BEACH, CALIFORNIA ADDING CHAPTER 17.119 TWO-UNIT RESIDENTIAL DEVELOPMENT AND URBAN LOT SPLITS TO TITLE 17 (1983 COASTAL ZONING CODE) OF THE CITY OF PISMO BEACH MUNICIPAL CODE, RELATING TO URBAN LOT SPLITS AND TWO-UNIT RESIDENTIAL DEVELOPMENT BUILT IN ACCORDANCE WITH SENATE BILL 9 AND MAKING A DETERMINATION OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**, and that I caused the same to be duly posted in three public places within the City within fifteen (15) days of adoption thereof, pursuant to the requirements of California Government Code Section 36933.

Dated this 3rd day of March, 2022. Witness my hand and official seal.

\_\_\_\_\_  
Erica Inderlied, City Clerk

**ORDINANCE NO. O-2022-001**

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**17.119.040 General requirements.**

An applicant seeking approval of a two-residential unit development or urban lot split shall:

- A. Comply with SB 9; all objective requirements of other applicable state law including the Subdivision Map Act; [the Coastal Act and the City of Pismo Beach Local Coastal Program](#); the Pismo Beach Municipal Code, including Title 17 and Title 16, except as expressly provided in SB 9, or in this chapter; and all objective standards of this chapter.
- B. Execute and record a covenant, supplied by the City and subject to the approval of the City Attorney or designee, that contains the following provisions:
1. Non-residential uses are prohibited on the property subject to development under SB 9 and this chapter;
  2. Rental or leasing of any unit or units on the property for a period of thirty (30) days or less is prohibited;
  3. Ongoing compliance with SB 9 requirements and restrictions is required;

4. Access to the public right-of-way shall be maintained in perpetuity;
5. All required parking shall be maintained;
6. If the applicant is seeking approval of an urban lot split, any subsequent urban lot split of the property is prohibited.

**17.119.050 Parking.**

All two-residential unit developments and urban lot splits shall comply with the following objective standards for parking:

- A. One (1) enclosed or partially enclosed parking space is required for each unit created pursuant to the regulations in SB 9 and this chapter and such parking space shall be located on the same parcel as the unit.
- B. Parking required for a unit created pursuant to SB 9 and this chapter is in addition to any parking required for the existing structure, should it remain on the property. If an existing garage, carport, or other parking is converted or demolished in order to construct the new unit, the required parking space(s) that are displaced shall be replaced on the same property to satisfy the parking requirements of the existing structure.
- C. Exceptions. Additional parking spaces required under subsection 17.119.050.A shall not be required for units developed pursuant to SB 9 and this chapter if the property upon which the unit is created meets one or more of the following criteria:
  1. Is within one-half (1/2) mile walking distance of a high-quality transit corridor, as defined in California Public Resources Code Section 21155e, or a major transit stop, as defined in California Public Resources Code Section 21064.3, or
  2. There is a car share vehicle located within one (1) block of the project.
- D. Parking in the Coastal Zone.
  1. For units in the Coastal Zone units, the parking standards set forth in Section 17.190.050 A-C above shall apply except that due to the number of individuals that visit the Pismo Beach coast, and to comply with Public Resources Code Section 30001.5(c) and the California Coastal Act, the requirements in paragraphs (2) and (3) below shall apply to properties meeting all of the following: the following additional requirements apply due to the number of individuals that visit the

~~Pismo Beach coast and to ensure adequate public access to coastal resources in compliance with California Public Resources Code Section 30001.5(c) and the California Coastal Act:~~

~~a. Subsection 17.119.050A shall not apply, and the total number of off-street parking spaces required for a unit shall meet the minimum off-street parking requirements in PBMC Section 17.108.020 and be on the same parcel as the unit.~~

~~b. The parking exceptions identified in subsection 17.119.050.C of this chapter do not apply.~~

i. Property located within the Coastal Zone;

ii. Property located west of U.S. Route 101; and

iii. Located within one-quarter mile (1,320 feet) walking distance of one of the following:

1. A vertical access point to the beach;

2. A segment of the Coastal Trail;

3. A coastal park; or

4. A coastal view area.

2. One (1) off street parking space is required for each studio and one-bedroom unit created pursuant to the regulations in SB 9 and this chapter and such parking space shall be located on the same parcel as the unit.

3. Two (2) off-street parking spaces are required for each two bedroom or larger unit created pursuant to the regulations in SB 9 and this chapter and such parking space shall be located on the same parcel as the unit.

E. Required off-street parking may be provided as tandem parking on an existing driveway provided all requirements in subsection 17.108.030.A.7.a are met.

F. Each required parking space shall meet the following standards:

1. Each parking space shall have minimum dimensions of nine (9) feet by twenty (20) feet.

2. All parking spaces shall be located behind existing or future sidewalk, or other public right-of-way.

3. All parking spaces shall be located on an all-weather surface as approved by the City Engineer or designee (e.g., hardscape, gravel) and be accessed by a driveway apron or curb cut.

**17.119.060 Development standards.**

All two-residential development units and urban lot splits shall comply with the following objective development standards:

A. Driveways.

1. A driveway may be shared by not more than two (2) units and no more than two (2) lots.
2. More than one (1) driveway per lot is prohibited on lots with less than 60 feet of public street frontage.

B. Setback Requirements. All units in a two-residential unit development and/or on an urban lot split shall comply with the setback standards for R1 zones and be subject to environmental buffers and constraints under the Coastal Act and Local Coastal Program. Provided, however, no setback shall be required for an existing structure or structure constructed in the same location and to the same dimensions as the existing structure, unless otherwise identified in the City's Local Coastal Plan in order to protect coastal resources (e.g., bluff, wetland, stream, Environmentally Sensitive Habitat Areas setbacks).

C. Occupancy.

1. Non-residential uses on the property subject to a two-residential unit development or an urban lot split are prohibited.
2. Short-Term Rental Prohibited. A short-term rental use of thirty days or less shall not be permitted in units developed pursuant to SB 9 and this chapter. Units developed pursuant to SB 9 and this chapter shall be occupied for terms longer than thirty (30) days.

D. Height. Height of a unit developed pursuant to SB 9 and the chapter shall be no greater than permitted in R1 zones and shall be consistent with the City's Local Coastal Plan in order to protect coastal resources.

E. Lot Coverage and Maximum Building Areas. Lot coverage and maximum building areas shall comply with the applicable standard for R1 zones, except as provided in Section 17.119.070.

- F. No accessory dwelling unit or junior accessory dwelling unit shall be permitted on a parcel subject to an urban lot split under this chapter and also improved with a two-residential unit development under this chapter.
- G. Two-residential unit developments and urban lot splits are not permitted on parcels located in the R-1 zone above the intersection of Longview Avenue and Stratford Street in the Pismo Heights planning area due to being in very high fire hazard severity zones, as determined by the California Department of Forestry and Fire Protection pursuant to California Government Code Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the California Department of Forestry and Fire Protection pursuant to California Public Resources Code Section 4202 and is coextensive with traffic flow and public safety concerns as this area has only one ingress and egress.
- H. More than twenty-five (25) percent of the exterior structural walls of the existing structure shall not be demolished if the existing structure has been occupied by a tenant in the three (3) years prior to the submission of an SB 9 Development Project application.
- I. An urban lot split shall comply with SB 9 and the following standards:
  - 1. No lot resulting from an urban lot split shall be smaller than one thousand two hundred (1,200) square feet.
  - 2. No lot resulting from an urban lot split shall have more than two (2) residential units inclusive of any accessory dwelling unit or junior accessory dwelling unit.
  - 3. The two lots resulting from an urban lot split shall be approximately equal, and no smaller than forty (40) percent or larger than sixty (60) percent of the lot area of the original parcel.
  - 4. 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.
  - 5. The width of any lot resulting from an urban lot split shall not be less than twenty (20) feet wide.
  - 6. The proposed parcel map shall demonstrate ability to access the public right-of-way in perpetuity.
- J. Two-residential unit developments and urban lot splits permitted on parcels located in the R-1 zone shall be consistent with all applicable provisions of the City's Local Coastal Program, including necessary setbacks from

~~coastal bluffs and other coastal hazards to be safe from the threat of bluff erosion for a minimum of one hundred years pursuant to Section 17.078.050, and shall be consistent with all of the following criteria: are not permitted on parcels located in the R-1 zone in areas determined by the Community Development Director to be vulnerable to sea level rise unless such urban lot split or two-residential unit development is consistent with applicable provisions of the Coastal Act and meets the following criteria:~~

1. The two-residential unit development or urban lot split is designed to minimize risks to life and property in areas of geologic and flood hazard;
2. The two-residential unit development or urban lot split is designed to assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area;
3. The two-residential unit development or urban lot split does not require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs;
4. The two-residential unit development or urban lot split is sited and designed to prevent significant degradation of adjacent sensitive habitats and recreation areas;
5. The two-residential unit development or urban lot split is sited and designed to maintain coastal resources and public access to coastal resources.

~~K. The creation of new building sites, lots, or parcels pursuant to this chapter, is prohibited in areas subject to coastal hazards, or in the area necessary to ensure a stable building site for the minimum 100-year lifetime.~~

#### **17.119.070 Exceptions.**

The Community Development Director shall approve an exception to any of the standards specified in this chapter, other than those required for compliance with the Coastal Act and Local Coastal Program, upon determining that complying with the standards would physically preclude the construction of up to two (2) residential units per lot or would physically preclude either of the two residential units from being eight hundred (800) square feet in floor area.

#### **17.119.080 Denial.**

The Building Official or Community Development Director may deny an application for a two-residential unit development or an urban lot split upon making both the following findings in writing based on a preponderance of the evidence:

- A. The proposal would have a specific, adverse impact upon the public health and safety or the physical environment as defined and determined in California Government Code Section 65589.5(d)(2).
- B. There is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

### **SECTION 3.**

This Ordinance/Local Coastal Plan Amendment shall be carried out in a manner fully in conformity with the Coastal Act consistent with California Public Resources Code Section 30510.

### **SECTION 4.**

Under the provisions of the California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3), this ordinance is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, such as the adoption of the regulations contained herein, the activity is not subject to CEQA. Furthermore, this ordinance is exempt from CEQA pursuant to Government Code Section 65852.21(j) effective January 1, 2022.

### **SECTION 5.**

This ordinance shall not be interpreted in any manner to conflict with controlling provisions of state or federal law, including, without limitation, the Constitution of the State of California. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. If this ordinance, or any section, subsection or clause of this ordinance shall be deemed unconstitutional or invalid as applied to a particular appeal, the validity of this ordinance and its sections, subsections, and clauses in regard to other contracts shall not be affected.

### **SECTION 6.**

This ordinance shall become effective automatically upon final certification by the California Coastal Commission (CCC), unless the CCC proposes suggested modifications to the proposed ordinance. In this case, the ordinance shall become effective on the date the CCC concurs that the City Council properly accepted the modified ordinance with suggested modifications.

### **SECTION 7.**



The City Clerk shall certify to the passage and adoption of this Ordinance, shall enter the same in the book of original ordinances of the City and shall make a minute of the passage and adoption thereof in the records of the meeting at which the same is passed and adopted.

Before the expiration of fifteen (15) days after the passage of this Ordinance, the City Clerk shall cause the same to be posted in three public places within the City of Pismo Beach, to wit: 1) City Hall, 760 Mattie Road, Pismo Beach, 2) U.S. Post Office, Shell Beach Road, Pismo Beach, 3) U.S. Post Office, Crest Drive, Pismo Beach.

**INTRODUCED** at a regular meeting of the City Council held this 15<sup>th</sup> day of February, 2022, on motion of Council Member Blake, seconded by Council Member Guthrie, and on the following roll call vote, to wit:

**AYES: 5 Blake, Guthrie, Newton, Reiss, Waage**  
**NOES: 0**  
**ABSENT: 0**  
**ABSTAIN: 0**  
**RECUSED: 0**

**Approved:**

**Attest:**

\_\_\_\_\_  
**Ed Waage, Mayor**

\_\_\_\_\_  
**Erica Inderlied, City Clerk**

**ADOPTED** at a regular meeting of the City Council held this 1<sup>st</sup> day of March, 2022, on motion of Council Member Blake, seconded by Mayor Pro Tem Reiss, and on the following vote:

**AYES: 5 Blake, Reiss, Guthrie, Newton, Waage**  
**NOES: 0**  
**ABSENT: 0**  
**ABSTAIN: 0**  
**RECUSED: 0**

**Approved:**

**Attest:**

\_\_\_\_\_  
**Ed Waage, Mayor**

\_\_\_\_\_  
**Erica Inderlied, City Clerk**

**APPROVED AS TO FORM:**

\_\_\_\_\_

Chelsea O'Sullivan, Assistant City Attorney

**CERTIFICATION OF ORDINANCE POSTING**  
Government Code §40806

STATE OF CALIFORNIA            }  
  }  
  } ss.  
COUNTY OF SAN LUIS OBISPO   }

I, Erica Inderlied, the City Clerk of the City of Pismo Beach, California, hereby certify in accordance with California Government Code Section 40806 that the foregoing document is a true and correct copy of **Ordinance No. O-2022-001**, titled **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PISMO BEACH, CALIFORNIA ADDING CHAPTER 17.119 TWO-UNIT RESIDENTIAL DEVELOPMENT AND URBAN LOT SPLITS TO TITLE 17 (1983 COASTAL ZONING CODE) OF THE CITY OF PISMO BEACH MUNICIPAL CODE, RELATING TO URBAN LOT SPLITS AND TWO-UNIT RESIDENTIAL DEVELOPMENT BUILT IN ACCORDANCE WITH SENATE BILL 9 AND MAKING A DETERMINATION OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**, and that I caused the same to be duly posted in three public places within the City within fifteen (15) days of adoption thereof, pursuant to the requirements of California Government Code Section 36933.

Dated this 3rd day of March, 2022. Witness my hand and official seal.

\_\_\_\_\_  
Erica Inderlied, City Clerk

# Accessory Dwelling Unit Ordinance City of Pismo Beach



### Legend

- Beach Access Points
- Coastal Zone
- U.S. Route 101
- 1/4 Mile Buffer from Beach Access Points
- ▭ City of Pismo Beach Limits

