

ITEM 8 ATTACHMENT A
Draft Ordinance for Discussion at April 27, 2022 Council Meeting
Subject to Public Review and Comment, and possible revisions, at
forthcoming Planning Commission and City Council Meetings

ORDINANCE NO. 2022-398

**AN ORDINANCE OF THE CITY OF CALABASAS,
CALIFORNIA ADDING CHAPTERS 17.82 (URBAN
LOT SPLITS) AND 17.84 (MINISTERIAL DESIGN
REVIEW PERMITS) TO TITLE 17 (LAND USE AND
DEVELOPMENT) OF THE CALABASAS MUNICIPAL
CODE**

WHEREAS, on September 16, 2021, Governor Gavin Newsom signed into law Senate Bill (SB) 9, the "California Housing Opportunity and More Efficiency (HOME) Act";

WHEREAS, SB 9 adds Sections 65852.21 and 66411.7 to the Government Code and took effect January 1, 2022;

WHEREAS, SB 9 requires cities to magisterially 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 meeting certain state standards;

WHEREAS, SB 9 allows cities to establish objective zoning standards, objective subdivision standards, and objective design review standards, if those standards do not conflict with state law, and if those standards do not have the effect of "physically precluding the construction of two units on either of the resulting parcels or that would result in a unit size of less than 800 square feet," among other restrictions;

WHEREAS, the City desires to establish certain objective zoning, subdivision, and design review standards as allowed by the City's constitutional powers and state law governing SB 9 projects to promote the orderly subdivision of parcels and development of housing under SB 9; and

WHEREAS, the Planning Commission held a properly noticed public hearing on _____ and adopted Resolution 22-_____ recommending approval of this Ordinance to the City Council.

THEREFORE, CITY COUNCIL OF THE CITY OF CALABASAS DOES HEREBY ORDAIN AS FOLLOWS:

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

SECTION 2. Based upon the foregoing the City Council finds:

1. Notice of the _____, 2022 City Council public hearing was posted at Juan de Anza Bautista Park, the Calabasas Tennis and Swim Center, Agoura Hills/Calabasas Community Center, Gelson's Market and at Calabasas City Hall.
2. Notice of the _____, 2022 City Council public hearing was posted in the *Acorn* ten (10) days prior to the hearings.
3. Following a public hearing held on _____, 2022, the Planning Commission adopted Resolution No. 2022-__ recommending to the City Council approval of Ordinance No. 2022-__.

SECTION 3. In view of all of the evidence and based on the foregoing findings, the City Council concludes as follows:

FINDINGS

Section 17.76.040 of the Calabasas Municipal Code allows the City Council to approve the proposed text amendment below, provided the following findings are made:

1. The proposed amendment is consistent with the goals, policies, and actions of the General Plan.

The proposed amendment is consistent with General Plan Objective V.D to provide adequate housing sites through appropriate land use and zoning designations to accommodate the needs of existing and future Calabasas residents. Specifically, it is consistent with Policy V-8 to provide site opportunities for development of housing that respond to the diverse housing needs of Calabasas residents and workforce in terms of density, location and cost as well as Policy V-9 to provide opportunities for additional housing.

2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

The proposed development code amendment promotes affordable and multi-generational housing within the City, provides an alternative source of income for homeowners, and helps the City satisfy its Regional Housing Needs Allocation.

3. The proposed amendment is in compliance with the provisions of the California Environmental Quality Act (CEQA).

The City Council has considered all the evidence in the record, including the staff reports, the testimony received during the public hearing on the matter held by the City Council, and hereby determines that this Ordinance is statutorily exempt pursuant to Government Code section 65852.21, subdivision (j), and Government Code section 66411.7, subdivision (n). The City Council finds the adoption of this Ordinance is not a project for purposes of the California Environmental Quality Act (CEQA) and is statutorily exempt. Further, this Ordinance is not subject to CEQA because it does not involve exercise of a discretionary power under 14 CCR section 15060, subdivision (c)(1) as the ordinance is adopted in response to a state mandate.

4. The proposed amendment is internally consistent with other applicable provisions of the Development Code.

SECTION 4. Code Amendment. Chapter 17.82 (Urban Lot Splits) of Title 17 (Land Use and Development) is added to the Calabasas Municipal Code to read as stated in Attachment A.

SECTION 5. Code Amendment. Chapter 17.84 (Ministerial Design Review Permits) of Title 17 Land Use and Development) is added to the Calabasas Madre Municipal Code to read as stated in Attachment B.

SECTION 6. Policy Declaration. The City Council hereby declares that it expressly declines to exercise the authority granted by Government Code section 65913.5, added by Senate Bill 10, Chapter 163 of the Statutes of 2021.

SECTION 7. Severability. If any sections, subsections, subdivisions, paragraph, sentence, clause or phrase of this Ordinance or any part hereof or exhibit hereto is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining portions of this Ordinance or any part thereof or exhibit thereto. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that anyone or more sections, subsections, subdivisions, paragraph, sentences, clauses or phrases be declared invalid.

SECTION 8. Publication. The City Clerk shall cause this Ordinance to be published or posted in accordance with California Government Code Section 36933. She shall certify to the adoption of this Ordinance and her certification, together with proof of the publication, will be entered in the book of Ordinances of the City Council.

SECTION 9. Effective Date. This Ordinance shall take effect thirty days after its adoption pursuant to California Government Code Section 36937.

PASSED, APPROVED AND ADOPTED this ____ day of ___, 2022.

Mary Sue Maurer, Mayor

ATTEST:

APPROVED AS TO FORM:

Maricela Hernandez, City Clerk
Master Municipal Clerk
California Professional Municipal Clerk

Matthew T. Summers
Colantuono, Highsmith & Whatley, PC
City Attorney

ATTACHMENT A

Chapter 17.82 - URBAN LOT SPLITS

Sec. 17.82.010 Purpose, Intent, and Automatic Repeal.

The purpose of this chapter is to establish objective standards and regulations to govern the subdivision of parcels under Government Code Section 66411.7, which was adopted into law by Senate Bill No. 9, Chapter 162 of the Statutes of 2021, effective January 1, 2022. If Government Code section 66411.7 is ever repealed or ruled unconstitutional, unlawful, or no longer in effect by a court of competent jurisdiction, this section shall be automatically repealed. The director shall approve an exception to any of the standards specified in this chapter if necessary upon determining that strict compliance with the standard would physically preclude the construction of up to two residential units per parcel or would physically preclude either unit from being 800 square feet in area.

Sec. 17.82.020 Eligibility.

- A. Under Government Code section 66411.7(a)(3)(A), only parcels located within single-family residential zones are eligible for urban lot splits, that is parcels located in the following zones:
1. RS (Residential, Single-Family) District;
 2. RR (Rural Residential) District; and
 3. RC (Rural Community) District.
- B. Further, an applicant applying for an urban lot split must meet the following criteria:
1. The applicant's parcel was not established through a prior exercise of an urban lot split as provided for in this chapter.
 2. The applicant's parcel is not adjacent to another parcel that was subject to an urban lot split by either the applicant or any person acting in concert with the applicant as provided for in this chapter. For the purposes of this chapter, "any person acting in concert" with the applicant includes, but is not limited to, an individual or entity operating on behalf of, acting jointly with, or in partnership or another form of cooperative relationship with, the applicant.
 3. The applicant's parcel is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Public Resources Code Section 5020.1, or within a site that is designated a local historic landmark or a local historic district under Chapter 17.36 of this Code.
 4. The applicant's parcel is not located on a site that includes any of the

- characteristics listed in Government Code Section 65913.4(a)(6)(B)-(K).
5. 5. The project meets all applicable requirements of Government Code section 66411.7.
 6. The applicant must receive approval of any other permit required for the project by this Code, including, as applicable, encroachment and grading permits.
- C. An urban lot split is not available for any parcel where the urban lot split would require the demolition or alteration of any of the following types of housing:
1. 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.
 2. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.
 3. A parcel or parcels on which an owner of residential real property has exercised the owner's rights under Government Code Section 7060 et seq. to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.
 4. Housing that has been occupied by a tenant in the last three years.

Sec. 17.82.030 Pre-Filing Conference.

Prior to filing an application, a potential applicant shall meet with the director or his or her designee and pay all applicable fees to discuss the application process, subdivision design, and the need for supplemental information.

Sec. 17.82.040 Application.

- A. The applicant shall submit an urban lot split application in a form approved by the director.
- B. The applicant shall pay all filing fees and deposits as prescribed by resolution adopted by the city council of the city of Calabasas.
- C. Public notice of an application shall be provided by the City in a manner deemed reasonable in the sole discretion of the director.

Sec. 17.82.050 Development Standards

- A. Design and Development Standards. An urban lot split shall comply with all design and development standards for the RS, RR, and RC districts, as applicable, and all other applicable development standards of this Code except as modified by this section.
- B. Density Standards. Each of the two new parcels created under this chapter may have a maximum of two residential units. Each original parcel subdivided under this chapter may be developed with a total maximum of four residential units,

calculated as a maximum of two newly created parcels and a maximum of two residential units per each of those two newly created parcels.

C. Lot Line Standards.

1. An urban lot split may only subdivide one existing, legal parcel and shall create no more than two resulting new parcels.
2. All lot lines shall be contiguous to existing zoning boundaries.
3. All parcels created pursuant to this chapter shall have access to, provide access to, or adjoin the improved public right-of-way.
4. The subdivision shall not result in a new parcel with an average width that is less than the average width of the original parcel, unless this requirement would have the effect of physically precluding the construction of two units on either of the resulting parcels or that would result in a unit size of less than 800 square feet.
5. An urban lot split may not subdivide a parcel in a way that bisects an existing structure, unless the structure is proposed for demolition as part of the project.
6. All required ancillary improvements (new or existing) serving any existing or proposed structure, including private sewage disposal (septic) systems and required parking spaces, must be entirely on the same lot as the structure served by that improvement.

D. Lot Size and Access Standards. The urban lot split shall meet all of the following size and access requirements:

1. Both newly created parcels shall be at least 1,200 square feet.
2. Both newly created parcels must be of approximately equal lot area. The smaller parcel shall not be smaller than 40 percent of the lot area of the original parcel.
3. All necessary easements and access to rights-of-way must be provided fire department, utilities, and lot access. If the urban lot split results in the creation of a lot behind another lot, without direct frontage to a public or private street, then a private access easement, acceptable as to form to the City, must be provided over the front parcel for the back parcel to access a public or private street that meets all applicable fire department access requirements.
4. No new access from an arterial street is permitted.

E. Fire Safety Standards. In addition to complying with all applicable provisions of Title 15 of this Code, projects developed under this chapter shall comply with the following fire safety requirements:

1. Where two residential units are configured as sharing a common wall, a one-hour fire wall between the units is required.
2. All new residential units are required to have an automatic fire sprinkler system.
3. All new residential units are required to use fire-resistant building materials.
4. All new or modified detached residential units shall be separated from any

other residential unit or building by at least 10 feet to prevent the spread of fire.

- F. Unit Size Standard. The maximum unit size for any unit developed under this chapter is 800 square feet in size.

Sec. 17.82.060 Application Review & Findings.

- A. The director will review all applications under this chapter ministerially and without a public hearing or discretionary review.
- B. In order to grant a ministerial design review permit, the director must find that the proposed project:
 - 1. Complies with all provisions of this Chapter 17.82;
 - 2. Complies with all applicable objective General Plan, Zoning Code, and design standards;
 - 3. Complies with all applicable provisions of state law; and
- C. Denial Finding. The director may deny a proposed urban lot split, with written findings based upon a preponderance of the evidence, if the proposed project would have a specific, adverse impact upon public health and safety or the physical environment and there is no feasible method to satisfactorily mitigate or avoid that specific, adverse impact. For purposes of this section, "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

Sec. 17.82.070 Conditions of Approval.

- A. As a standard condition of issuance of a parcel map by the director for an urban lot split under this chapter, the applicant shall sign and record a covenant stating the following:
 - 1. The applicant will occupy one of the residential units on the subdivided parcels as occupant's principal residence for at least three years from the date of the approval of the urban lot split.
 - 2. All resulting parcels will be used solely for residential use.
 - 3. All dwelling units on the new parcels shall not be rented for a period of less than 30 days and cannot be occupied as a short-term rental unit.
 - 4. Any development constructed in accordance with this chapter shall be subject to all development impact fees related to the development of a new residential unit.
 - 5. Separate utility connections shall be provided for each parcel prior to recordation.
 - 6. The applicant will comply with all other provisions of the Calabasas Municipal Code that are not in conflict with the provisions of this chapter.
 - 7. The applicant may apply for an accessory dwelling unit or junior

accessory dwelling unit permit under Section 17.12.170 or a ministerial design review permit under Chapter 17.84 on either or both resulting parcels, but under no circumstance may an applicant apply to develop more than two residential units of any kind per parcel created under this chapter or more than four total residential units of any kind on the combined originally subdivided parcel. Any parcel created under this chapter may be developed with a maximum of two residential units of any kind per parcel.

8. In all cases, the applicant is limited to developing a maximum of four total units on the two resulting subdivided parcels.
 9. Neither the applicant nor any successor in interest will apply for an urban lot split for either resulting parcel.
 10. Neither the applicant, a successor in interest, nor any person acting in concert with the applicant or successor in interest may apply for an urban lot split for any adjacent parcel. For the purposes of this provision, "any person acting in concert" with the applicant includes, but is not limited to, an individual or entity operating on behalf of, acting jointly with, or in partnership or another form of cooperative relationship with, the applicant.
- B. The recorded document shall include a note on the parcel map indicating that each parcel was created under this Chapter and that no further subdivision of the parcel is permitted.

Sec. 17.82.080 Appeal.

The determination of the director may be appealed to the planning commission per Chapter 17.74.

ATTACHMENT B

Chapter 17.84 – MINISTERIAL DESIGN REVIEW PERMITS

Sec. 17.84.010 Purpose, Intent, and Automatic Repeal.

The purpose of this chapter is to establish objective standards and regulations to govern the development of qualified residential units as authorized under Government Code Section 65852.21, which was adopted into law by Senate Bill No. 9, Chapter 162 of the Statutes of 2021, effective January 1, 2022. If Government Code section 65852.21 is ever repealed or ruled unconstitutional, unlawful, or no longer in effect by a court of competent jurisdiction, this section shall be automatically repealed. The director shall approve an exception to any of the standards specified in this chapter if necessary upon determining that strict compliance with the standard would physically preclude the construction of up to two residential units per parcel or would physically preclude either unit from being 800 square feet in area

Sec. 17.84.020 Eligibility.

- A. Only parcels located within single-family residential zones are eligible for a ministerial design review permit, that is parcels located in the following zones:
 - 1. RS (Residential, Single-Family) District;
 - 2. RR (Rural Residential) District; and
 - 3. RC (Rural Community) District.
- B. A ministerial design review permit may only be issued if:
 - 1. The proposed development consists of no more than two residential units on a single residential parcel.
 - 2. The parcel is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Public Resources Code Section 5020.1, or within a site that is designated a local historic landmark or within a local historic district under Chapter 17.36 of this Code.
 - 3. The parcel is not located on a site that includes any of the characteristics listed in Government Code Section 65913.4(a)(6)(B)-(K).
 - 4. The project meets all applicable requirements of Government Code section 65852.21.
 - 5. The applicant must receive approval of any other permit required for the project by this Code, including, as applicable, encroachment and grading permits.
- C. A ministerial design review permit may not be issued if approval would require the demolition or alteration of any of the following types of housing:
 - 1. 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;
 - 2. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power;

3. A parcel or parcels on which an owner of residential real property has exercised the owner's rights under Government Code Section 7060 et seq. to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application; or
4. Housing that has been occupied by a tenant in the last three years.

Sec. 17.84.030 Pre-Development Review.

Prior to filing an application, a potential applicant shall meet with the director or his or her designee and pay all applicable fees to discuss the application process, project design, and the need for supplemental information.

Sec. 17.84.040 Application.

- A. The applicant shall submit a ministerial design review permit application in a form approved by the director.
- B. All design drawings, as determined by the department, shall be prepared by an architect licensed by the California Architects Board.
- C. The applicant shall pay all filing fees and deposits as prescribed by resolution adopted by the city council of the City of Calabasas.

Sec. 17.84.050 Development Standards.

- A. Design and Development Standards. A proposed one or two unit residential development project under this chapter shall comply with all design and development standards for the RS, RR, and RC districts, as applicable, and all other applicable development standards of this Code except as modified by this section.
- B. Angle Plane. The angle plane standards in this chapter shall be governed by the angle plane standards in the underlying zone.
- C. Building and Design Standards.
 1. For a detached unit, the exterior materials and design shall match the design of any existing primary dwelling unit on the property through the use of the same exterior wall materials, identified color tones, window types, door and window trims, roofing materials and roof pitch.
 2. For an attached unit, the exterior materials, windows and other architectural features shall match the existing structure by employing the same building form, color tones, window design, door and window trims, roofing materials and roof pitch.
 3. Roof decks are prohibited.
 4. All units ministerially approved under this chapter shall install a new or separate utility connection.
 5. All electrical and utility services to a new unit shall be undergrounded.

6. If an adjoining property installed a solar energy system, the applicant shall submit a shadow study prepared by an engineer licensed by the Board of Professional Engineers, Land Surveyors, and Geologists or by an architect licensed by the California Architects Board. The shadow of any proposed development shall not cover more than ten percent of the area of any solar energy system on any adjoining property.
 7. Any unit proposed to be served by a private sewage disposal system must meet all applicable requirements in Title 15 and Title 17.
 8. Any lighting shall comply with the requirements of Chapter 17.27.
- D. Density Standards. No development project under this chapter may include more than two residential units per parcel. Each original parcel subdivided under Chapter 17.82 may be developed with a total maximum of four residential units, calculated as a maximum of two newly created parcels and a maximum of two residential units per each of those two newly created parcels.
- E. Fire Safety Standards. In addition to complying with all applicable provisions of Title 15 of this Code, projects developed under this chapter shall comply with the following fire safety requirements:
1. Where two residential units are configured as sharing a common wall, a one-hour fire wall between the units is required.
 2. All new residential units are required to have an automatic fire sprinkler system.
 3. All new residential units are required to use fire-resistant building materials.
 4. All new or modified detached residential units shall be separated from any other residential unit or building by at least 10 feet to prevent the spread of fire.
- F. Unit Size Standard. The maximum unit size for any residential unit developed under this chapter is 800 square feet in size.
- G. Height Standards. The maximum height standards for any residential unit developed under this chapter shall be the height standards in the underlying zone. If there is an existing primary dwelling on the parcel, then all new units on the parcel cannot exceed the maximum height of the existing residence.
- H. Lot Coverage Standards. The lot coverage standards in this chapter shall be governed by the lot coverage standards in the underlying zone.
- I. Lot Size Standards. The minimum lot size standards in this chapter shall be governed by the lot size standards in the underlying zone.
- J. Open Space Standards. Two hundred fifty square feet per residential unit of on-site open space shall be provided on the ground level for use by residents. Open space may be common or private. To be counted toward the open space requirement, the minimum width and length of each dimension of the open space area shall be ten feet. Driveways and other vehicular access areas shall not count toward the open space requirement.
- K. Parking Standards.
1. One off-street, covered parking space is required for each residential unit.
 2. The parking space shall be a dimension of at least 10 feet wide, 8 feet

tall, and 20 feet deep.

3. If a new residential unit is located within one-half mile walking distance of either a high-quality transit corridor, as defined in Public Resources Code Section 21155(b), or a major transit stop, as defined in Public Resources Code Section 21064.3, or if there is a car share vehicle located within one block of the parcel, then off-street parking is not required.
- L. Setback Standards.
1. The front setbacks from the lot line will be determined by the zoning district in which the unit is located.
 2. The minimum side and rear setbacks from the lot line will be four feet.
 3. No additional setback is required for a new unit constructed in the same location as an existing structure on the parcel.
 4. Portions of the unit, including eaves, awnings, sills, cornices, chimneys, overhangs and other projections, may encroach into front, side or rear yards or setbacks in a manner consistent with the building design but in no case greater than one foot in depth.

Sec. 17.84.060 Tree Preservation

- A. When the director of public works determines that an application for a ministerial design review permit requires removal or substantial trimming of a protected tree, as defined in section 12.08 and Chapter 17.32 of this code, a certified arborist selected by the City and paid for by the applicant shall prepare a tree survey and arborist report in accordance with paragraph F of section 17.32.010 of this code.
- B. The arborist report will list measures to mitigate the harmful impact of the proposed project on the protected trees and those mitigation measures will be made a condition of approval of the ministerial design review permit.
- C. Prior to the removal or substantial trimming of any protected tree, the applicant must obtain a permit and pay all accompanying fees.

Sec. 17.84.070 Application Review & Findings.

- A. The director will review all applications under this chapter ministerially and without a public hearing or discretionary review.
- B. In reviewing an application, the director will ensure that no objective design standards have the effect of physically precluding the construction of up to two units or physically precluding either of the two units from being at least 800 square feet in floor area.
- C. In order to grant a ministerial design review permit, the director must find that the proposed project:
 1. Complies with all provisions of this Chapter 17.84;
 2. Complies with all applicable objective General Plan, Zoning Code, and design standards;
 3. Complies with all applicable provisions of state law; and

- D. Denial Finding. The director may deny a proposed project under this chapter, with written findings based upon a preponderance of the evidence, if the proposed project would have a specific, adverse impact upon public health and safety or the physical environment and there is no feasible method to satisfactorily mitigate or avoid that specific, adverse impact. For purposes of this section, "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

Sec. 17.84.080 Conditions of Approval.

- A. As a standard condition of issuance of a Ministerial Design Review Permit approving a one or two unit residential development project by the director under this chapter, the applicant shall sign and record a covenant stating the following:
1. The residential units shall not be rented for a period of less than 30 days and cannot be occupied as short-term rental units.
 2. Any development constructed in accordance with this chapter shall be subject to all development impact fees related to the residential unit.
 3. Separate utility connections shall be provided for each parcel prior to recordation.
 4. The applicant may apply for an accessory dwelling unit or junior accessory dwelling unit permit under Section 17.12.170 or ministerial design review permit under this Chapter, but under no circumstance may an applicant apply to develop more than two residential units of any kind per parcel if one of the units is developed under this chapter or if the parcel was created by a subdivision under Chapter 17.82. Any parcel developed under this chapter may be developed with a maximum of two units of any kind.
 5. The applicant will comply with all mitigation measures as provided in the arborist report, as applicable, under paragraph (B) of section 17.84.060.
 6. The applicant will comply with all other provisions of the Calabasas Municipal Code that are not in conflict with the provisions of this chapter.

Sec. 17.84.090 Appeal.

The determination of the director may be appealed to the planning commission, per Chapter 17.74.