

CITY OF WESTMINSTER
URGENCY ORDINANCE NO. 2580U

AN URGENCY ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF WESTMINSTER, ADOPTING AMENDMENTS TO TITLE 16 (SUBDIVISIONS) AND TITLE 17 (LAND USE) OF THE WESTMINSTER MUNICIPAL CODE IMPLEMENTING A SENATE BILL RELATING TO THE CREATION OF URBAN LOT SPLITS AND TWO RESIDENTIAL UNITS PER LOT IN THE R1 DISTRICT

WHEREAS, on September 16, 2021 Governor Gavin Newsom approved Senate Bill 9 (SB 9, Chapter 162) relating to the creation of two residential units per lot, which requires local agencies to ministerially approve housing development containing no more than two residential units per lot and ministerially approve an urban lot split; and

WHEREAS, SB 9 took effect on January 1, 2022; and

WHEREAS, SB 9 allows local agencies to impose objective zoning, subdivision, and design review standards; and

WHEREAS, given that SB 9 was not signed until mid-September, there was insufficient time to process this Ordinance through noticed hearings before the Planning Commission and City Council and have the Ordinance in place by January 1, 2022; and

WHEREAS, the public is already beginning to express interest in developing under this new law and it is necessary to have standards in place at the beginning of 2022.

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

SECTION 1. Pursuant to Section 17.620.030 (Findings) of Chapter 17.620 (General Plan, Zoning Map and Zoning Code Amendments) of Article 6 (Zoning Code Administration) of Title 17 (Land Use) of the Westminster Municipal Code, the Mayor and City Council approve this Urgency Ordinance related to implementation of Senate Bill 9, based upon the following findings:

- 1. The proposed amendment ensures and maintains internal consistency with the goals, policies, and strategies of all elements of the General Plan and will not create any inconsistencies with this Title, in the case of a Zoning Code amendment;*

The Zoning Text Amendment conforms to the City's General Plan because it facilitates the construction of two-unit residential development and urban lot splits (subject to limitations in terms of size, height, location, design, and parking standards) as a source of housing consistent with goals and policies of the General Plan Housing Element.

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

The proposed amendment, ensures the character of the City's residential neighborhoods is preserved to the maximum extent possible. The new standards establish regulations upon height, size, location, and parking; which will ensure that two-unit residential developments and urban lot splits will not create negative impacts and will be in harmony with the character of the community.

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

Pursuant to the provisions of SB 9, the adoption of this ordinance is not considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

SECTION 2. Chapter 16.12 (Division of Land by Parcel Map for an Urban Lot Split) is hereby added to Title 16 (Subdivisions) of the Westminster Municipal Code to read as follows:

Chapter 16.12 DIVISION OF LAND BY PARCEL MAP FOR AN URBAN LOT SPLIT

16.12.010 Definitions

Definitions. For purposes of this Section, the following definition shall apply:

"Urban lot split" means a lot split of a single-family residential R1 zoned lot into two parcels that meets the requirements of this section.

16.12.020 Minimum Qualifying Requirements for Ministerial Approval

The city shall ministerially approve a parcel map for a lot split that meets the following requirements:

- A. The parcel is located within a single-family residential R1 zone.
- B. The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.
- C. The proposed lot split would not require 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 by the city;

3. A parcel or parcels on which an owner of residential real property exercised rights under Government Code section 7060 et seq. to withdraw accommodations from rent or lease within 15 years before the date of the application; or
4. Housing that has been occupied by a tenant in the last three years.
- D. The parcel map divides an existing parcel to create no more than two new parcels of approximately equal lot area, provided that one parcel shall not be smaller than 40 percent of the lot area of the original parcel.
- E. Both newly created parcels shall not be smaller than 1,200 square feet in area.
- F. The lot split does not create more than two units on a parcel, including any new or existing primary dwelling unit, existing accessory dwelling unit, or existing junior accessory dwelling unit.

16.12.040 Standards and Requirements

Standards and Requirements. The following requirements shall apply to an urban lot split and any development on a lot created through an urban lot split:

- A. The lot split shall conform to all applicable objective requirements of the Subdivision Map Act and Title 16 of the Westminster Municipal Code, except as the same are modified by this section.
- B. Each resulting lot shall have direct access of at least 20-feet in width to the public right-of-way. This may be by way of direct lot frontage or through an access easement.
- C. No setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.
- D. Except for those circumstances described in D. above, the setback for side and rear lot lines shall be four feet. The front setback shall be as set forth in the single-family residential R1 zone.
- E. The development of any new dwelling unit on each lot, or the modification/expansion of any existing dwelling unit must comply with the requirements set forth in Section 17.400.122.
- F. The development of a new accessory dwelling unit or junior accessory dwelling unit shall not be permitted on any lot created through an urban lot split.
- G. The applicant shall provide easements for the provision of public services and facilities as required, and any proposed public services and facilities easement(s) must be shown on the Tentative and Final Parcel Map.

- H. The applicant shall provide easements for the provision of pedestrian and/or vehicular access as required, and any proposed access easement(s) must be shown on the Tentative and Final Parcel Map.

16.12.060 Exceptions

The city shall not (1) require any of the following, or (2) deny an application based upon any of the following:

- A. The city shall not require dedications of rights-of-way or the construction of offsite improvements for the parcels being created as a condition of issuing a parcel map.
- B. The city shall not require the correction of legal nonconforming zoning provisions as a condition for the lot split.
- C. The city shall not deny an application solely because it proposes adjacent or connected structure provided that that all building code safety standards are met and they are sufficient to allow a separate conveyance.
- D. The City shall not impose objective subdivision standards that 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.

16.12.080 Land Use Restrictions

The following land use restrictions apply to any lot created through an urban lot split, and an applicant for an urban lot split shall be required to sign an affidavit in a form approved by the City Attorney stating the following land use restrictions:

- A. The applicant shall intend to occupy one of the housing units as their principal residence for a minimum of three years from the date of approval. This requirement does not apply when the applicant is a "community land trust" or a "qualified nonprofit corporation" as the same are defined in the Revenue and Taxation Code.
- B. The uses shall be limited to residential uses.
- C. Any rental of any unit created by the lot split shall be for a minimum of thirty-one days.
- D. The maximum number of units to be allowed on each parcel is two, including but not limited to units otherwise allowed pursuant to density bonus provisions, existing accessory dwelling units, existing junior accessory dwelling units, or units allowed pursuant to Section 17.400.122.

16.12.100 Grounds for Denial

The city may deny the lot split if the building official makes 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 Government Code section

65589.5(d)(2), upon the 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.

16.12.110 Exclusions

This section shall not apply to:

- A. Any parcel which has been established pursuant to a lot split in accordance with this section; or
- B. Any parcel where the owner of the parcel being subdivided or any person acting in concert with the owner has previously subdivided an adjacent parcel in accordance with this section. For purposes of this section, "acting in concert" shall include, but not be limited to, where the owner of a property proposed for an urban lot split is the same, related to, or connected by partnership to the owner, buyer or seller (if transferred within the previous three years) of an adjacent lot.

SECTION 3. Section 17.210.005 (Purpose) of Chapter 17.210 (Residential Zoning Districts) of Article 2 (Zoning Districts, Permitted Land Uses, and Zone-Specific Standards) of Title 17 (Land Use) of the Westminster Municipal Code is hereby amended as follows (new text underlined and removed text is ~~strikethrough~~):

17.210.005 Purpose

This Chapter provides development and land use regulations for the residential zoning districts established by Section 17.200.010. The purpose of the individual residential zoning districts and the manner in which they are applied are as follows.

- A. R1 (Single-Family Residential) District. The R1 zoning district identifies areas characterized by single-family dwellings and provides areas for the development of detached dwelling units at densities no greater than 7 units per acre, except for SB 9 two-unit housing developments pursuant to section 17.400.122. The standards of this district are intended to protect the existing density and maintain the character of single-family residential neighborhoods. The R1 zoning district is consistent with the Low Density Residential land-use designation of the General Plan.
- B. R2 (Multiple-Family Residential—12 Units/Acre) District. The R2 zoning district is intended for the development of dwelling units within a density range of 8 to 12 units per acre. The R2 zoning district is consistent with the Residential Medium land-use designation of the General Plan.
- C. R3 (Multiple-Family Residential 13 to 14 Units/Acre) District. The R3 zoning district provides opportunity for the development of dwelling units with densities of 13 to 14 units per acre. The R3 zoning district is consistent with the Residential Medium land-use designation of the General Plan.
- D. R4 (Multiple-Family Residential 15 to 18 Units/Acre) District. The R4 zoning district is intended to provide opportunities for the development of multiple-family housing

with densities of 15 to 18 units per acre. The R4 zoning district is consistent with the Residential High land-use designation of the General Plan.

- E. R5 (Multiple-Family Residential 19 to 25 Units/Acre) District. The R5 zoning district is intended to provide opportunities for the development of residential projects with densities of 19 to 25 units per acre. The R5 zoning district is consistent with the Residential High land-use designation of the General Plan. (Ord. 2456 § 2, 2010)

SECTION 4. Table 2-2 (Permitted Uses and Permit Requirements for Residential Zoning Districts) of Section 17.210.010 (Residential Zoning District Land Uses and Permit Requirements) of Chapter 17.210 (Residential Zoning Districts) of Article 2 (Zoning Districts, Permitted Land Uses, and Zone-Specific Standards) of Title 17 (Land Use) of the Westminster Municipal Code is hereby amended as follows (new text underlined and removed text is ~~strikethrough~~):

**Table 2-2
Permitted Uses and Permit Requirements
For Residential Zoning Districts**

Land Use ¹	Permit Requirements by District					See Specific Use Regulations
	R1	R2	R3	R4	R5 ⁴	
Residential						
Accessory dwelling units and junior accessory dwelling units (in conjunction with a single-family or multifamily residence)	P	P	P	P	P	Section 17.400.135
Accessory garage structures exceeding allowed maximum area	AUP	-	-	-	-	Section 17.400.120
Accessory structures and uses ³	P	P	P	P	P	Section 17.400.130
Accessory structures and uses exceeding allowed maximum area ³	AUP	AUP	AUP	AUP	AUP	Section 17.400.130
Boarding and lodging house	-	-	CUP	CUP	CUP	
Conversion of apartments to condominiums	-	CUP	CUP	CUP	CUP	Section 17.400.045
Conversion of hotels and motels to apartments	-	CUP	CUP	CUP	CUP	Section 17.400.080
Multiple-family dwellings	-	P	P	P	P	Section 17.400.125
Fraternities and sororities	-	-	CUP	CUP	CUP	
Home schooling, without a fee or charge	P	P	P	P	P	
Home-based business:	P	P	P	P	P	Section 17.400.075 Chapter 17.530
Manufactured/modular housing	P	P	-	-	-	
Mobile-home park (minimum 10 acres)	CUP	CUP	CUP	CUP	CUP	

**Table 2-2
Permitted Uses and Permit Requirements
For Residential Zoning Districts**

Land Use ¹	Permit Requirements by District					See Specific Use Regulations
	R1	R2	R3	R4	R5 ⁴	
Mobile homes – outside of approved mobile home parks, on foundation system	P	–	–	–	–	
Model home sales complex	P	P	P	P	P	
One-family dwellings	P	P	P	P	P	Section 17.400.120
Residential care facilities, 6 or fewer clients	P	P	P	P	P	
Residential care facilities, 7 or more clients	CUP	CUP	CUP	CUP	CUP	
Secondary dwelling units	P		–	–	–	Section 17.400.135
Senior housing	CUP	CUP	CUP	CUP	CUP	Section 17.400.085
Small lot subdivisions	–	P	P	P	P	Section 17.400.150
Supportive housing	–	P	P	P	P	
Dwelling unit (excluding residential group living and/or boarding house)	P	P	P	P	P	
Residential group living, 6 persons or less	P	P	P	P	P	
Residential group living, 7 persons or more	CUP	CUP	CUP	CUP	CUP	
Transitional housing	–	P	P	P	P	
<u>SB 9 two-unit housing development in the R1 District</u>	<u>P</u>	–	–	–	–	<u>Section 17.400.122</u>
Residential (cont'd)						
Dwelling unit (excluding residential group living and/or boarding house)	P	P	P	P	P	
Residential group living, 6 persons or less	P	P	P	P	P	
Residential group living, 7 persons or more	CUP	CUP	CUP	CUP	CUP	
Two-family dwellings	–	P	P	P	P	Section 17.400.125

SECTION 5. Section 17.300.020 (Setback Regulations and Exceptions) of Chapter 17.300 (General Property Development and Land Use Standards) of Article 3 (Site Planning and General Development Standards) of Title 17 (Land Use) of the Westminster Municipal Code is hereby amended as follows (new text underlined and removed text is ~~strikethrough~~):

17.300.020 Setback Regulations and Exceptions

- A. Purpose and Intent. This Section establishes standards to ensure the provision of open areas for access to and around structures, access to natural light and ventilation, landscaping, recreation, separation of incompatible land uses, and space for privacy, traffic safety, and visibility.
- B. Setback Requirements
1. All structures shall conform to the setback requirements identified for each zoning district as outlined in Article 2 and with any special setbacks established by this Title for specific uses.
 2. All setbacks shall be open and unobstructed from the ground upward, with the exception of trees and other plant materials and except as provided elsewhere in this Title.
- C. Exemptions from Setback Requirements. The minimum setback requirements of this Title shall apply to all uses/structures with the exception of:
1. Fences, hedges, walls and other like structures as listed in Section 17.300.030, and within the height limitations of this Title;
 2. Landscaping;
 3. Grade-level decks, with or without hand rails, steps, terraces, and other site design elements that are placed directly upon the finish grade and are up to 24 inches above the surrounding finish grade;
 4. Refuse and recyclable materials storage areas as provided in Section 17.300.045 (*Refuse and Recyclable Materials Storage Requirements*).
- D. Limitations on the Use of Setback Areas. Required setback areas shall only be used as follows:
1. *Structures*. Required setback areas shall not be occupied by structures other than:
 - a. Structures and uses that are exempt from the setback requirements as outlined in Section 17.300.020.C;
 - b. Accessory structures in compliance with Section 17.400.130, *Residential Uses—Accessory Structures*;
 - c. Detached accessory structures and architectural features as outlined in Table 3-1.

2. *Parking.* Required residential front and street side yard setbacks shall be landscaped and may not be used for off-street parking, the temporary standing of vehicles or for the permanent storage of motor or recreational vehicles, except as may be permitted under the provisions of Section 17.320.030.J, *Parking Standards for Recreational Vehicles in the R1 Zoning District*. In the R1 zoning district, and for single-family uses in any residential district, temporary standing of vehicles shall be permitted on driveways in required front yards and street side yards. Driveways, inclusive of walkways, shall not cover more than the percentages listed below unless the property contains an SB 9 Two-Unit Housing Development, Accessory Dwelling Unit and/or Junior Accessory Dwelling Unit in which case the maximum width for driveways, excluding walkways, shall be allowed an additional 5 feet:
- a. Fifty percent of the front yard for lots greater than or equal to 60 feet wide or wider.
 - b. Fifty-five percent of the front yard for lots less than 60 feet wide, but greater than or equal to more than 55 feet wide.
 - c. Sixty percent of the front yard for lots less than 55 feet wide, but greater than or equal to more than 50 feet wide.
 - d. Sixty-five percent of the front yard for lots less than 50 feet wide, but greater than or equal to more than 45 feet wide.
 - e. Seventy percent of the front yard for lots less than 45 feet wide, but greater than or equal to more than 40 feet wide.
 - f. Seventy-five percent of the front yard for lots less than 40 feet wide or less.
 - g. Fifty percent of the street side yard on corner lots.

SECTION 6. Table 3-2 (Maximum Height of Fences, Hedges and Walls) of Section 17.300.030 (Fences, Hedges, and Walls) of Chapter 17.300 (General Property Development and Land Use Standards) of Article 3 (Site Planning and General Development Standards) of Title 17 (Land Use) of the Westminster Municipal Code is hereby amended as follows (new text underlined and removed text is ~~strikethrough~~):

**Table 3-2
Maximum Height of Fences, Hedges and Walls**

<i>Location</i>	<i>Maximum Height</i>	<i>Additional Requirements</i>
Specific Zone		
R1 zoning district, side and rear yard	6 feet	When an R1-zoned property abuts a freeway right-of-way,

**Table 3-2
Maximum Height of Fences, Hedges and Walls**

<i>Location</i>	<i>Maximum Height</i>	<i>Additional Requirements</i>
Specific Zone		
		fence, hedge, and wall height shall be no less than 8 feet
All zoning districts other than R1, side and rear yard	8 feet	When the fence does not abut property in an R1 zoning district
All Zones		
Front Yard Within the required front setback of any lot or the required rear yard of any through lot	3 feet	For properties located in the R2, R3, R4, and R5 zoning districts and that are developed with multiple-family units, refer to Section 17.300.030.E <u>Within the front yard setback of any flag lot, the maximum permitted height of a fence, block wall, or hedge shall be 6 feet. Within the 20-foot front yard of the 'flag pole' on any flag lot, the maximum permitted height of a fence, block wall, or hedge shall be 3 feet.</u>
Corner-Lot Exception Any point within 25 feet of the point of intersection or center of the corner cutoff of two streets or a street and an alley	3 feet	In the case of a corner lot that abuts an alley, not more than 3 feet in height at any point within 10 of said point of intersection
Any point within 10 feet of the point of intersection of a corner lot that abuts an alley	3 feet	Not applicable
That portion of the rear yard of a corner lot that abuts the front yard of any adjacent lot for a distance not to exceed 10, and for an equal distance not to exceed 10 along the exterior side lot line of said corner lot, in order to create a triangular area in which sight distance would not be impaired above 3 feet in height	3 feet	Not applicable

SECTION 7. Table 3-5 (Parking Requirements by Land Use) of Section 17.320.020 (Number of Parking Spaces Required) of Chapter 17.320 (Off-Street Parking and Loading) of Article 3 (Site Planning and General Development Standards) of Title 17 (Land Use) of the Westminster Municipal Code is hereby amended as follows (new text underlined and removed text is ~~strikethrough~~):

**Table 3-5
Parking Requirements by Land Use**

<i>Land Use</i>	<i>Required Parking Spaces</i>
Residential	
Accessory dwelling units	See Section 17.400.135
Boardinghouses, lodging houses, fraternity or sorority houses, student dormitories, student housing facilities	1 parking space for every 2 guest rooms, dwelling units, or living units
Emergency shelter facilities	1 parking space for each staff member , plus 1 parking space for each 5 beds and ½ space for each room designated for families with children
Multifamily dwellings (two or more units)	For units with 1 or fewer bedrooms (bachelor) – 1 enclosed garage space per unit and 0.5 off-street, open parking space per unit For units with 2 bedrooms – 1 enclosed garage space per unit and 1 off-street, open parking space per unit For units with 3 or more bedrooms – 2 enclosed garage spaces per unit and 0.5 off-street, open parking spaces per unit
Residential care facilities	6 or fewer residents – as required for the type of dwelling 7 or more residents – 1 parking space for every 3 patient beds
Secondary residential units	1 additional garage space in addition to the required garage space for the primary single-family dwelling
Single-family dwellings in any residential district	For dwellings with 4 or fewer bedrooms – two-car enclosed garage having minimum interior dimensions of 20 feet in width and 20 feet in depth For dwellings with 5 or more bedrooms – 3 enclosed garage spaces with minimum interior dimensions of 10 feet by 20 feet (for each space) and 3 open parking spaces with minimum dimensions of 9 feet by 19 feet
<u>SB 9 two-unit housing development in the R1 District</u>	<u>See Section 17.400.122</u>

SECTION 8. Subsection I. (Special Parking Requirements for Residential Uses) of Section 17.320.030. (Parking Design and Layout Standards and Guidelines) of Chapter 17.320 (Off-Street Parking and Loading) of Article 3 (Site Planning and General Development Standards) of Title 17 (Land Use) of the Westminster Municipal Code is hereby amended as follows (new text underlined and removed text is ~~strikethrough~~):

17.320.030 Parking Design and Layout Standards and Guidelines

I. Special Parking Requirements for Residential Uses

1. Parking spaces shall be conveniently located near the dwelling units they serve, and in no case shall they be more than 100 feet from an entrance to the building.
2. *Covered parking.*
 - a. In the R1 zoning district, all parking required to serve the primary residence shall be fully covered within a garage.
 - b. In the R1 zone, carports or coverings may be permitted only in addition to the minimum number of garage spaces required by this Title and subject to the R1 zoning district development standards outlined in Table 3-5, *Parking Requirements by Land Use*.
3. *Guest parking.* Guest parking for multiple-family residential uses shall be designated and restricted for the exclusive use of the guests with appropriate signs and pavement markings.
4. *Location.* Parking spaces shall be located only in garages, carports, parking structures, and in areas identified and approved for guest parking.
5. SB 9 two-unit housing developments. Notwithstanding Subsections 1.2., 1.3., and 1.4. above, required and non-required parking for property in the R1 zoning district developed with an SB 9 two-unit housing development may be provided within an enclosed garage, carport, as open spaces, or in a tandem configuration so long as the tandem spaces (one vehicle parked behind another vehicle) are designated for the same unit.

SECTION 9. Section 17.400.122 (Two-Unit Housing Development in the R1 District) is hereby added to Chapter 17.400 (Standards for Specific Land Uses and Accessory Uses) of Article 4 (Standards for Specific Land Uses and Accessory Uses) of Title 17 (Land Use) of the Westminster Municipal Code to read as follows:

17.400.122 SB 9 Two-Unit Housing Development in the R1 District

- A. Definitions. For purposes of this section, the following definition shall apply:
 1. "SB 9 two-unit housing development" shall mean no more than two residential units within a single-family residential R1 zone that meets the requirements of this section. The two units may consist of two new units or one new unit and one existing unit.
- B. Minimum Qualifying Requirements for Ministerial Approval. The city shall ministerially approve a housing development containing no more than two residential units if it meets the following requirements:
 1. The parcel is located within a single-family residential R1 zone.

2. The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.
 3. The proposed housing development would not require demolition or alteration of any of the following types of housing:
 - a. 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;
 - b. Housing that is subject to any form of rent or price control by the city;
 - c. A parcel or parcels on which an owner of residential real property exercised rights under Government Code section 7060 et seq. to withdraw accommodations from rent or lease within 15 years before the date of the application; or
 - d. Housing that has been occupied by a tenant in the last three years.
 4. Unless demolition is prohibited pursuant to Section B.3.d. above, up to 25 percent of the existing exterior structural walls may be demolished.
- C. Standards and Requirements. The following requirements shall apply to each dwelling unit that is part of an SB 9 two-unit housing development in addition to all other objective standards pertaining to the single-family residential R1 zone:
1. *Maximum Number of Units.* The maximum number of dwelling units permitted on a lot shall not exceed two. This two-unit maximum includes any combination of new or existing primary dwelling units, existing accessory dwelling units, and existing junior accessory dwelling units.
 2. *Accessory Dwelling Units and Junior Accessory Dwelling Units.* New accessory dwelling units and new junior accessory dwelling units shall not be permitted in conjunction with any SB 9 two-unit housing development.
 3. *Maximum Unit Size.*
 - a. *New Units.* The gross floor area of each new primary dwelling unit developed as part of an SB 9 two-unit housing development shall not exceed 800 square feet.
 - b. *Existing Units.*
 - i. *Greater than 800 Square Feet.* An existing primary dwelling unit that was legally established on the lot prior to the submittal of a complete application for an SB 9 two-unit development and has a total gross floor area greater than 800 square feet shall be limited to its current lawful floor area and may not be expanded. If any floor area is removed from the existing unit, it

- may not be replaced unless the resulting unit will be 800 square feet or less.
- ii. Less than or Equal to 800 Square Feet. An existing primary dwelling unit that was legally established prior to the submittal of a complete application for an SB 9 two-unit housing development and that is smaller than 800 square feet may be expanded up to a maximum of 800 square feet.
 4. Maximum Height. The maximum permitted height for each primary dwelling unit is 16 feet with a maximum of one story.
 5. Minimum Setbacks.
 - a. Setbacks for an Existing Structure or Structure in the Same Location. No setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.
 - b. Minimum Front, Side, and Rear Setbacks for a New Structure. Except for those circumstances described in section C.5.a. above, the setback from side and rear lot lines shall be four feet. The front setback shall be as set forth in the single-family residential R1 zone.
 6. Minimum Open Space. A minimum of 225 square feet of contiguous open space area shall be provided per unit. Any open space within the front yard setback (and the 'flag pole' of a flag lot) shall not be counted towards this minimum requirement.
 7. Encroachment into Easements. No portion of a dwelling unit (whether new construction or converted from existing space) may encroach into any public or private easement, such as a utility easement, unless the easement holder has provided written permission to construct the dwelling unit in the manner proposed. Roof eaves may not be eliminated to meet this requirement. To establish a rebuttable presumption of compliance with this easement requirement, applicants may provide to the city a written declaration, in a form acceptable to the City Attorney, affirming under penalty of perjury compliance with this requirement.
 8. Minimum Distance between Structures on the Same Lot. Except as otherwise allowed by state law, the minimum distance between detached structures on the same lot shall be six feet.
 9. Allowed Projections/Intrusions into Setbacks. See Table 3-1 in Section 17.300.020.
 10. Maximum Lot Coverage. 40%, including any required or non-required accessory structures.

11. Maximum Driveways and Walkways Coverage. See Subsection D.2. of Section 17.300.020.
12. Landscaping. All setback areas, and all areas that are not designated for walkways, parking, drive aisles, driveways, and private or common recreation areas, shall be fully landscaped and irrigated.
13. Perimeter Block Walls. Each development shall provide a six-foot-high masonry block wall around the perimeter of the lot. The wall shall comply with all objective requirements set forth in Section 17.300.030.
14. Off-Street Parking Spaces for New Primary Dwelling Units. One off-street parking space shall be required per unit, except that no parking requirements shall be imposed in either of the following circumstances:
 - a. The parcel is located within one-half mile walking distance of either a high-quality transit corridor as defined by Public Resources Code section 21155(b) or a major transit stop as defined in Public Resources Code section 21064.3; or
 - b. There is a car share vehicle located within one block of the parcel.
15. All required and non-required parking spaces must comply with the provisions in Chapter 17.320.
16. Off-Street Parking for an Existing Dwelling Unit. Off-street parking spaces for an existing single-family dwelling unit shall continue to be provided in accordance with all off-street parking standards applicable to a single-family residence. However, these parking spaces may be provided in accordance with the special parking requirements applicable to an SB 9 two-unit housing development set forth in Subsection I.5. of Section 17.320.030. Off-street parking spaces for an existing accessory dwelling unit shall continue to be provided in accordance with all off-street parking standards applicable to an accessory dwelling unit.
17. Architectural Design.
 - a. If there is an existing primary dwelling that was legally established on the lot prior to the filing of a complete application for a two-unit housing development, any new additional primary dwelling unit must be exactly the same as the existing primary dwelling unit in roof design and dominant roof pitch. The dominant roof pitch is the slope shared by the largest portion of the roof.
 - b. If two new primary dwelling units are proposed, the dwellings must be exactly the same as each other in roof design and dominant roof pitch. The dominant roof slope is the sloped shared by the largest portion of the roof. Flat or shed roofs are not permitted, and minimum roof pitch must be 3:12.

18. Access and Circulation.
- a. Each development shall be designed to provide on-site vehicular access, circulation, back-up, and turn-around areas that comply with all applicable City standards.
 - b. Where the street frontage of a lot (or the combined street frontage of the two lots created through an urban lot split) is less than 81 feet, all units on the lot (or all units on both lots created through an urban lot split) shall share and take vehicular access from the same drive approach and driveway.
 - c. Driveways shall maintain a minimum width of 20 feet, unless a wider width is required for emergency access.
 - d. Adequate access to each residential unit on the lot for fire and emergency medical service personnel and vehicles must be provided. The Orange County Fire Authority must confirm that all applicable fire and emergency access requirements are met before the City will approve a project.
19. Laundry Facilities. Each new primary dwelling shall have an area within the dwelling, or within the garage that serves the dwelling, designated for laundry facilities and equipped with wash and dryer hook-ups. Laundry facilities within an enclosed garage shall not encroach into the minimum required interior dimensions of the garage.
20. Water Heaters. Any water heater on the exterior of the new dwelling unit must be placed within an alcove to minimize its appearance from view.
21. Mechanical Equipment, Metering Devices. All roof and ground-mounted mechanical equipment and metering devices shall be completely screened from view from on or off the property. All ground-mounted equipment and above-ground utility meters, including, but not limited to, heating, cooling, or ventilating equipment; water or gas meters; and irrigation equipment, shall be shown on the site plan, and shall not be placed in the required front yard setback. If mechanical equipment or metering devices are to be located between a structure and the property line or between structures on the same property, an unobstructed path of at least three feet wide shall be maintained for access to the mechanical equipment or metering devices.
22. Refuse Storage Areas. All refuse, recyclable materials, and organic waste must be stored on site in compliance with Section 8.16.025 and all objective standards in Section 17.300.045.

23. Utilities.

- a. Each dwelling unit on a lot must have its own direct utility connection to the utility/public service provider.
- b. All necessary and/or required easements for the provision of electricity, gas, water, sewer, and other utility or public service to the lot and each primary dwelling unit must be provided by the property owner/applicant.
- c. Submitted plans shall show the location and dimension of all proposed above-ground and underground utility and public service facilities serving the lot and each dwelling unit and the location and dimensions of all related easements.

24. Onsite Wastewater Treatment System. For residential units connected to an onsite wastewater treatment system (septic tank), the applicant must provide a percolation test completed within the last 5 years, or if the percolation test has been recertified, within the last 10 years, which shows that the system meets acceptable infiltration rates.

25. Parks and Recreation Development Impact Fee: Each new dwelling unit is subject to the parks and recreation development impact fees set forth in Chapter 3.62.

D. Exceptions. The city shall not (1) require any of the following, or (2) deny an application based upon any of the following:

1. Any objective zoning or design standard that would have the effect of physically precluding the construction of up to two primary residential units on a lot or that would physically preclude each new unit from being 800 square feet in floor area shall be modified or waived to the extent necessary to allow the development of two primary residential units on a lot pursuant to this section that are each 800 square feet in floor area. The City prioritizes some objective development standards over others, as provided in Subsection 2 below. In applying the exceptions required by this subsection, a proposed project shall be designed such that a development standard given a lower priority is modified or waived before a development standard given a higher priority. If a proposed project can be designed such that each lot can accommodate two 800 square foot primary dwelling units by modifying or waiving a development standard with a lower priority, then an application that proposes a design requiring the modification or waiver of a development standard with a higher priority will be denied.

2. Priority of Development Standards. The City prioritizes the following development standards in the following descending order of priority, with the first development standard listed have the highest priority:

- a. Height; stories

- b. Front setback
 - c. Maximum driveway and/or walkway coverage
 - d. Open space
 - e. Lot coverage
 - f. Building separation
3. This subsection shall not be interpreted to allow the provision or development of non-required parking spaces that would physically preclude the development or maintenance of two 800-square-foot dwelling units on a lot.
 4. Building standards, standards required by federal, state or local law or for sanitation or safety reasons, the off-site parking requirements in subsection C. of this section, and the lot access, and frontage requirements set forth in Chapter 16.12 will not be waived or modified unless otherwise required by state law.
 5. As part of its application, the applicant shall provide a written explanation that (a) specifically describes every development standard the applicant seeks to modify and waive, and to what extent, (b) demonstrates why waiver or modification of each development standard is needed to prevent physically precluding the construction of up to two primary residential units on the lot and/or each new unit from being at least 800 square feet in gross floor area, and (c) demonstrates that the requested modifications and/or waivers are consistent with the priority of development standards set forth in this subsection.
 6. The city shall not deny an application solely because it proposes an adjacent or connected structure, provided that all building code safety standards are met and they are sufficient to allow a separate conveyance.
- E. Grounds for Denial. The city may deny the housing development if the building official makes 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 Government Code section 65589.5(d)(2), upon the 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.

SECTION 10. Section 17.515.010 (Applicability) of Chapter 17.515 (Zoning Clearance) of Article 5 (Land Use and Development Permit Procedures) of Title 17 (Land Use) of the Westminster Municipal Code is hereby amended as follows (new text underlined and removed text is ~~strikethrough~~):

17.515.010 Applicability

- A. General Applicability. Zoning Clearance shall be required in conjunction with Division review of any building or grading permit, business tax certificate (business license), or other authorization required by the WMC or this Title or for any new use or change of use. Where no other authorization is required, (e.g., Building

Permit) Zoning Clearance shall be obtained from the Division before the commencement of any business or land use activity. The Director has the discretion on a case-by-case basis to determine that an application is subject to Development Review and require noticing and/or defer the action to the Commission based on criteria including traffic, parking demand, building shade, shadow, scale, design and other potential impacts.

- B. ADUs and JADUs. Any application for an ADU or JADU that meets the requirements of Section 17.400.135 shall be approved ministerially. (~~Ord. 2572 § 5, 2021; Ord. 2563 § 5, 2019; Ord. 2490 § 2, 2012; Ord. 2478 § 2, 2011~~)
- C. SB 9 Two-Unit Housing Development. Any application for a qualifying SB 9 two-unit housing development that meets the requirements of Section 17.400.122 shall be approved ministerially.

SECTION 11. Section 17.520.010 (Applicability) of Chapter 17.520 (Development Review) of Article 5 (Land Use and Development Permit Procedures) of Title 17 (Land Use) of the Westminster Municipal Code is hereby amended as follows (new text underlined and removed text is ~~strikethrough~~):

17.520.010 Applicability

- A. Development Review shall be required for:
 - 1. Nonresidential projects over 1,000 gross square feet;
 - 2. New residential projects with three or more;
 - 3. Wireless communication facilities which are co-located with one or more existing wireless communication facilities;
 - 4. Small recycling collection facility as described in Section 17.400.115;
 - 5. Moving a building or structure onto a site;
 - 6. Demolition of historic structures;
 - 7. The construction or establishment of uses on utility owned land that are compatible with surrounding properties;
 - 8. An intensification of a use as determined by the Director.
- B. Subject to Commission Review. The Director has the discretion on a case-by-case basis to require noticing for any Development Review application and defer the application to the Commission for action. Projects not exempt from the California Environmental Quality Act (CEQA) are subject to Commission hearing and action.
- C. Exempt from Development Review. The following projects are exempt from Development Review but are subject to Zoning Clearance except subsection (34):

1. Any construction, addition, or alteration to an individual single-family or two-family dwelling or appurtenant structure, or 2 single-family dwellings on a single parcel or an accessory dwelling unit or junior accessory dwelling unit.
2. The addition of up to two new units to an existing residential development.
3. An SB 9 two-unit housing development.
4. Those activities and structures identified in Section 17.110.010, *Exemptions from Land Use Permit Requirements*.
5. Nonresidential projects up to 1,000 gross square feet of floor area.
6. Additions to multi-family residential projects not resulting in three or more new units.
7. Exterior design modifications including change in color or materials.
8. Minor revisions to a project as determined by the Director which previously received Development Review Approval and where such approval or permit has not expired.
9. Wireless communication facilities which meet the definition and design requirements of a “stealth facility.”
10. Wireless communication facilities which are co-located with one or more existing wireless communication facilities and are fully screened or camouflaged/disguised per Section 17.400.175(B)(3)(b) and (c).
11. Wireless communication facilities which meet the definition and design requirements of a “stealth facility” and are co-located on a public utility or City-owned pole, traffic or street light standard or other similar publicly owned structure, except when such structure is a building.
12. Six-foot high fences for multiple-family units in the R2 through R5 zones.
13. Master Sign Plan, where such plan does not require a building permit but is required by either Section 17.330.045 and/or a condition of approval.
14. Reverse vending machines as described in Section 17.400.115.

SECTION 12. Section 17.630.010 (Notice of Public Hearings and Administrative Review) of Chapter 17.630 (Public Hearings and Administrative Review) of Article 6 (Zoning Code Administration) of Title 17 (Land Use) of the Westminster Municipal Code is hereby amended as follows (new text underlined and removed text is ~~strikethrough~~):

17.630.010 Notice of Public Hearings and Administrative Review

Table 6-2, *Mandatory Public Hearings or Public Reviews Before the Commission or Council*, identifies the noticing requirements for public hearings or reviews before the Commission or Council. The Director, as the Zoning Administrator, is authorized to perform his or her duties, as described in this Title, without a public hearing. The Director also has the discretion on a case-by-case basis to require noticing and defer the application to the Commission for Development Review applications based on criteria including traffic, parking demand, building shade and shadow, noise, historic significance and other potential impacts. Development Review applications not exempt from the California Environmental Quality Act (CEQA) will be automatically subject to a public hearing before the Commission.

**Table 6-2
Mandatory Public Hearings or Public Reviews
Before the Commission or Council**

<i>Deadline</i>	<i>Type of Notice Required</i>		
	<i>Mailed Notice</i>	<i>Published Notice</i>	<i>Posted Notice</i>
	<i>10 days before the date of the public hearing or review</i>	<i>10 days before the date of the public hearing or review</i>	<i>10 days before the date of the public hearing or review</i>
Type of Discretionary Review Application:			
Affordable Housing Density Bonus Agreement	✓	✓	✓
Comprehensive Plan	✓	✓	✓
Conditional Use Permit (CUP)	✓	NA	✓
Development Agreement	✓	✓	✓
Development Review ²	✓	NA	✓
General Plan Amendment:			
Land Use Plan Change	✓	✓	✓
Text Amendment	NA	✓	✓ ¹
Major Wireless Telecommunications Facility Permit	✓	✓	✓
Specific Plan	✓	✓	✓
Subdivisions (WMC, Title 16) <u>except Urban Lot Splits pursuant to Chapter 16.12 of Title 16</u>	✓	NA	✓
Variance	✓	NA	✓
Zoning Code/Map Amendment:			
Map Change	✓	✓	✓
Text Amendment	NA	✓	✓ ¹

✓ = Required; NA = Not Applicable

¹ Posting only at the public places as required by Section 1.28.010 of WMC.

² Only if the Director requires a public notice and defers the application to the Commission for action or if the application is not exempt from CEQA.

SECTION 13. Section 17.700.010 (Definitions of Specialized Terms and Phrases) of Chapter 17.700 (Definitions of Specialized Terms) of Article 7 (Definitions) of Title 17 (Land Use) of the Westminster Municipal Code is hereby amended as follows (removed text is strikethrough):

17.700.010 Definitions of Specialized Terms and Phrases

~~Secondary Dwelling Unit. An attached or detached* dwelling unit which provides complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as an existing dwelling unit is situated. A second dwelling unit may also include an efficiency unit, as defined in Section 17958.1 of the California Health and Safety Code.~~

~~*WMC requires secondary dwelling units to be attached or located within the primarily single-family dwelling~~

SECTION 14. The adoption of this Ordinance is not a project under the California Environmental Quality Act pursuant to SB 9.

SECTION 15. Consistent with its authority to adopt an urgency ordinance pursuant to Government Code 36934 and 36937, this Ordinance shall take effect immediately because of the need for the preservation of the public peace, health, and safety as set forth in the 'Whereas' clauses in the beginning of this Ordinance.


SECTION 16. Any provision of this ordinance which is inconsistent with state law shall be interpreted in a manner to be consistent with state law. If any provision of the Westminster Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 17. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Westminster hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 18. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted in the manner required by law.


PASSED, APPROVED, AND ADOPTED this 12th day of January 2022.

CITY OF WESTMINSTER



TRI TA
MAYOR

ATTEST: ~



LUCIE COLOMBO, CMC, CPMC
INTERIM CITY CLERK

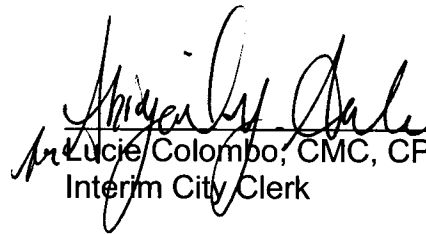
CITY OF WESTMINSTER
CITY CLERK'S OFFICE

CERTIFICATION
OF
URGENCY ORDINANCE

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF WESTMINSTER)

I, LUCIE COLOMBO, CMC, CPMC, Interim City Clerk of the City of Westminster, do hereby certify that the foregoing Ordinance No. 2580U was duly passed, approved, and adopted by the City Council of the City of Westminster at a Regular Meeting held on the 12th day of January 2022, with the following vote:

AYES:	COUNCIL MEMBERS:	TA, DO, HO, NGUYEN
NOES:	COUNCIL MEMBERS:	MANZO
ABSENT:	COUNCIL MEMBERS:	NONE
ABSTAIN:	COUNCIL MEMBERS:	NONE



Lucie Colombo, CMC, CPMC
Interim City Clerk

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