ORDINANCE NO. 18-21-B

SECOND EXTENSION OF AN INTERIM ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORANGE AMENDING TITLE 16 (SUBDIVISIONS) AND TITLE 17 (ZONING) OF THE ORANGE MUNICIPAL CODE BY ENACTING MINISTERIAL STANDARDS APPLICABLE TO LOT SPLITS IN SINGLE-FAMILY RESIDENTIAL ZONES ALLOWED AS A RESULT OF SB 9, ENACTING MINISTERIAL STANDARDS APPLICABLE TO THE LOCATION, ACCESS, SIZE AND SETBACK OF SECOND DWELLING UNITS IN SINGLE-FAMILY RESIDENTIAL ZONES ALLOWED AS A RESULT OF SB 9, AND REVISING DEFINITIONS TO CLARIFY SAID DEVELOPMENT STANDARDS.

WHEREAS, the City Council of the City of Orange, pursuant to its police powers afforded under the California Constitution, Article XI, Section 7, California Government Code 37100, et seq., may adopt regulations to protect the peace, health, safety and welfare of the community, and may declare that certain uses and conditions constitute a public nuisance; and

WHEREAS, California Government Code 38771 authorizes the City, through its legislative body, to declare actions and activities that constitute a public nuisance in its community; and

WHEREAS, California Government Code 65858 authorizes the City, through its legislative body, to protect the peace, health, safety and welfare of the community by adopting as an urgency measure an ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time; and

WHEREAS, the Governor of the State of California signed into law legislation ("SB 9"), effective January 1, 2022, which requires the City to ministerially approve certain applications for a lot split on a single-family residentially-zoned property, which allows the creation of two half-sized lots where there was previously one lot; and

WHEREAS, SB 9 also requires the City to ministerially approve certain applications to build a second unit on a single-family residentially-zoned property, which allows two residential dwellings on a single-family (R1) lot where there was previously only one dwelling permitted; and

WHEREAS, these two provisions of SB 9 – allowing a lot split and allowing a second unit on a single-family lot - may be combined, resulting in the transformation of a single-family residential lot with one dwelling unit becoming two lots with two dwelling units each for a total of four dwelling units on the same-sized piece of property; and

WHEREAS, the single-family residential (R1) zones in the City, which include neighborhoods with lots ranging from 6,000 to 20,000 square feet, one acre, and one-and-a-half acres and up, were thoughtfully planned based on the goals of the General Plan of the City, the quality of life in single-family residential neighborhoods, the public safety resources, the utility and transportation infrastructure, City recreational resources, including parks and libraries, school district considerations, and many other elements associated with sound and established planning practices; and

WHEREAS, the City's Zoning Code and General Plan also designate numerous duplex and multi-family residential zones allowing higher density housing opportunities, that were also carefully planned to ensure a high quality of life in multi-family residential neighborhoods, access to public safety resources, an efficient utility and transportation infrastructure, and an appropriate level of City recreational, park and library resources; and

WHEREAS, SB 9 has the effect of a wholesale conversion of each of the carefully designed single-family residential zones in the City into residential zones with double, triple and up to quadruple the anticipated density of those zones, creating incompatibility with the City's single-family neighborhood development standards for those zones, among other City resource concerns; and

WHEREAS, if unrestricted and left unregulated, the increase in potential density in the City's single-family zones would cause numerous deleterious effects on the City's infrastructure as well as the families residing therein, including parking and traffic problems, overuse of existing utility systems, loss of privacy, application of development standards not designed for higher density housing, fire safety and other public safety concerns, all of which effects constitute a public nuisance to the community; and

WHEREAS, SB 9 allows the City to impose certain objective requirements regulating said applications to split and/or to build additional residential units on a single-family residentially-zoned property; and

WHEREAS, the Orange Municipal Code (OMC) does not currently contain a process or objective development standards for ministerially processing lot split applications; and

WHEREAS, the OMC does not currently contain a process or objective development standards for ministerially processing applications to build non-ADU second dwelling units in single-family zones; and

WHEREAS, on December 14, 2021, the City Council adopted interim Ordinance No. 18-21, imposing development standards on lot split and second dwelling unit development projects submitted pursuant to SB 9, which Ordinance was effective for forty-five days; and on January 11, 2022, the City Council extended interim Ordinance No. 18-21 for an additional ten months and fifteen days, until December 13, 2022; and

WHEREAS, pursuant to Government Code Section 65858(a), after notice and a public hearing as required by law, the City Council may, by a four-fifths vote, extend the interim Ordinance for an additional one year, until December 13, 2023; and

WHEREAS, extension of interim Ordinance No. 18-21 will extend the development standards applicable to lot split and second dwelling unit projects submitted pursuant to SB 9; and

WHEREAS, notice of a public hearing on the subject matter was published in a newspaper of general circulation in accordance with Government Code Section 65090; and

WHEREAS, a public hearing was held on November 15, 2022, to consider extension of interim Ordinance No. 18-21, for one year, until December 13, 2023; and

WHEREAS, the City is continuing to study the required procedure for evaluating applications for lot splits and additional residential units in single-family zones to determine the proper level of review required to protect the peace, health, safety and welfare of the public; and

WHEREAS, the City is also continuing to study the development standards contained in its Zoning Code to examine under what circumstances and to what extent SB 9 allows the City to impose reasonable and objective regulations on the potential lot splits and/or additional residential units; and

WHEREAS, the City Council of the City of Orange finds:

1. That the ministerial approval of lot splits and second dwelling units on single-family residentially-zoned properties is not currently addressed by the current Subdivision Code or Zoning Code and, without appropriate standards, would result in a threat to public peace, health, safety or welfare; and

2. That in the absence of objective standards applicable to lot splits and second dwelling units created by SB 9, there is a current and immediate threat to the public peace, health, safety and welfare; and

3. That the second extension of interim Ordinance No. 18-21 as set forth herein is necessary to mitigate and avoid the specific adverse impacts stated herein and will help preserve the public peace, health, safety and welfare; and

4. That there is no feasible alternative to satisfactorily mitigate or avoid the specific, adverse impacts stated herein as well or better, with a less burdensome or restrictive effect, than extension of interim Ordinance No. 18-21; and

WHEREAS, the City finds that the provisions of this interim Ordinance are consistent with the City of Orange General Plan; and

WHEREAS, this interim Ordinance has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City's environmental

procedures, and has been found to be exempt, consistent with the findings in Section XIX of this interim Ordinance; and

WHEREAS, the City Council does therefore determine, by at least a four-fifths vote, that a second extension of this interim Ordinance is necessary for the immediate preservation of the public peace, health, safety and welfare of the community.

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

SECTION I:

That the recitals and findings contained herein are true and correct, incorporated herein, and with the public record, form the basis for the extension of this interim Ordinance.

SECTION II:

Section 16.08.010.E of the Orange Municipal Code, "Subdivisions – Maps – General Provisions," is hereby amended to read as follows:

E. The advisory agency with the power of final approval over the tentative parcel map, shall thereupon make a finding that the proposed division of land complies with all requirements of the Subdivision Map Act or this title, and all other resolutions and ordinances of this City, including, but not limited to, requirements concerning area, improvements and design, floodwater drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, public safety facilities and environmental protection. For parcel maps submitted pursuant to SB 9, the Community Development Director shall approve or deny the application for a parcel map for an urban lot split ministerially without discretionary review.

SECTION III:

The title of Section 16.12.030 of the Orange Municipal Code, "Subdivisions – Procedure – Tentative Parcel Map – Staff Review Committee Approval," is hereby amended to read as follows:

16.12.030 Tentative Parcel Map — Approval or Denial.

SECTION IV:

Section 16.12.030 of the Orange Municipal Code, "Subdivisions – Procedure – Tentative Parcel Map –Approval or Denial," is hereby amended to add the following:

E. The Community Development Director shall have authority to approve all parcel map applications for an urban lot split proposed in a single-family residential zone, pursuant to SB 9. Approval shall be a ministerial action without discretionary review.

1. For approval of a parcel map the Community Development Director shall find the following:

a. The parcel map subdivides an existing parcel to create no more than two (2) 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 proposed for subdivision.

b. Both newly created parcels are no smaller than 1,200 square feet.

c. The parcel being subdivided meets all the following requirements:

i. The parcel is located within a single-family residential zone.

ii. The parcel meets all requirements of Section 17.13.040.GGG.1.

iii. The parcel has not been established through prior exercise of an urban lot split as provided for in SB 9.

iv. Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel using an urban lot split as provided for in SB 9.

v. The parcel map conforms to all applicable objective requirements of the Subdivision Map Act (commencing with Section 66410), except as otherwise expressly provided in SB 9.

d. In furtherance of the intent of SB9 to create dwelling units, plans for units on a lot undergoing a parcel map application shall have received approval through the building permit plan check process and be ready for building permit issuance concurrently with final parcel map approval.

2. The Community Development Director shall place the following conditions on approval of the parcel map as appropriate:

a. A requirement for easements for the provision of public safety services and facilities.

b. A requirement that the parcels have access to, provide access to, or adjoin the public right-of-way.

c. A requirement for off-street parking pursuant to the single-family residence parking requirement specified in Table 17.34.060.A.

d. A requirement that the uses allowed on the lots be limited to residential uses.

3. 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.

4. The authority for denial of a parcel map submitted pursuant to SB 9 is the building official. For denial of a parcel map the building official shall make 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 public health and safety or the physical environment, for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

SECTION V:

Section 16.16.020 of the Orange Municipal Code, "Subdivisions – Requirements-Dedications-Fees – Street, Alley and Easement Dedications," is hereby amended to add the following:

E. The City shall not require dedications of rights-of-way or the construction of offsite improvements for parcels created pursuant to SB 9. Easements for public safety services and facilities for such parcels may be required by the Community Development Director.

SECTION VI:

Section 16.16.170 of the Orange Municipal Code, "Subdivisions – Requirements-Dedications-Fees – Soils Report Required," is hereby amended to add the following:

D. For parcel maps submitted pursuant to SB 9, with residential units connected to an onsite wastewater treatment system, the applicant may submit a percolation test completed within the last five (5) years, or, if the percolation test has been recertified, within the last ten (10) years.

SECTION VII:

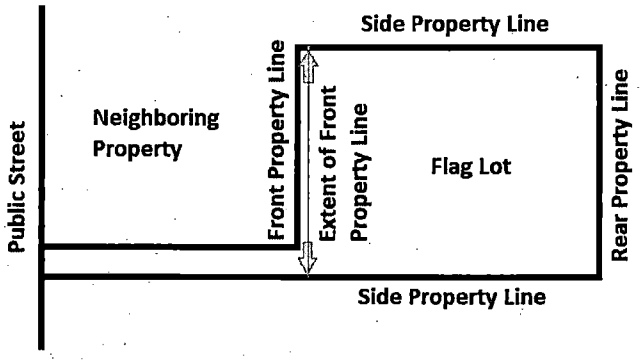
Section 17.04.023 of the Orange Municipal Code, "Zoning – Definitions – "D" Definitions," is hereby amended to read as follows:

DUPLEX OR DUPLEX RESIDENTIAL - An attached or detached building containing two dwelling units wherein the occupants of each individual dwelling unit are living and functioning together as a single housekeeping unit, meaning that they have established ties and familiarity with each other, jointly use common areas, interact with each other, share meals, household activities, expenses and responsibilities, membership in the single housekeeping unit is fairly stable as opposed to transient, and members have some control over who becomes a member of the single housekeeping unit. A property designated Duplex Residential is neither a single-family nor a multi-family property.

SECTION VIII:

Section 17.04.031 of the Orange Municipal Code, "Zoning – Definitions – "L" Definitions," is hereby amended to read as follows:

LOT LINE, FRONT - In the case of an interior lot, the line dividing the lot from the street. In the case of a corner lot or through lot, the shorter lot line abutting a street shall be deemed the front lot line and the longer lot line abutting a street shall be deemed an exterior side, unless determined otherwise by the Zoning Administrator. In the case of a through lot or a corner lot whose exterior lot lines are the same length, the lot line where the principal access to the lot is provided shall be deemed to be the front lot line. In the case of an interior lot, when the lot line abutting a street is curved, the front lot line follows the curve; for corner lots, separation of lines occurs at the middle of the curve. For a flag lot, the front lot line is the shortest lot line adjoining the pole portion of the lot including the width of the pole as shown in the figure that follows.



SECTION IX:

Section 17.10.060.D.1.b of the Orange Municipal Code, "Zoning – Specific Administrative Procedures – Site Plan Review – Minor Site Plan Review - Criteria," is hereby amended to read as follows:

b. Construction of six (6) or fewer residential units on a single parcel, when only one parcel is being developed. Units constructed in single-family (R-1) districts pursuant to SB 9 shall not require site plan review under this section.

SECTION X:

Section 17.10.060.D.1.f of the Orange Municipal Code, "Zoning – Specific Administrative Procedures – Site Plan Review – Minor Site Plan Review - Criteria," is hereby amended to read as follows:

f. Creation of lots or building sites with no direct access to a public street except for those with access easements created to accommodate the construction of a single-family dwelling in a single-family (R-1) district pursuant to SB 9.

SECTION XI:

Section 17.10.070.B.7 of the Orange Municipal Code, "Zoning – Specific Administrative Procedures – Design Review – When Design Review is Required - Exception," is hereby added to read as follows:

7. Exception. Units created in a single-family (R-1) residential zone pursuant to SB 9 shall not require design review but shall instead meet all objective design review standards specified in Section 17.13.040.GGG and Chapter 17.14.

SECTION XII:

Table 17.13.030 of the Orange Municipal Code, "Zoning – Master Land Use Table – Permitted Uses," is hereby amended to add the following:

Table 17.13.030 Permitted Uses.

ZONING	RESIDENTIAL									COMMERCIAL					MIXED USE				INDUSTRIAL		AGRICULTURAL OPEN SPACE			PI	OVERLAY		SAND & GRAVEL
LAND USE	R1-5	R1-6 to R-15	R1-20 to R-140 & R1-R	R2-6 to R2-8	R-3	R-4	MH	OP	CP/C1	CTR	C2	C3	CR	OTMU-155	OTMU-15	OTMU-24	NMU-24	UMU	M1	M2	A1	RO	SH	PI	FP-1	FP-2	SG
Housing—Includes all structures permitted as living quarters whether they be for short or long-term occupancy. Includes all uses identified in California Building Code definitions that are preceded with main entry words (key terms) that include one of the following: Dwelling, unit, house, housing, congregate, residence, multifamily, dormitory, home(s), hotel, motel, residential care facility, residential facility, or lodging.																											
Single-family dwelling	P#	P	P	P	P	P	-	P	-	-	-	-	-	P*	P*	P*	-	-	-	-	P	-	-	-	-	-	-
Single-family dwelling created pursuant to SB 9	P*	P*	P*	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

SECTION XIII:

Section 17.13.040 of the Orange Municipal Code, "Zoning – Master Land Use Table – Special Use Regulations," is hereby amended to add the following:

GGG. Single-family Dwelling Created Pursuant to SB 9.

1. Approval shall be subject to the proposed housing development meeting all the requirements of SB 9 which include:

a. The parcel is not located on a site specified in subparagraphs (B) to (K), inclusive, of Government Code Section 65913.4(a)(6) that is any of the following:

i. Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.

ii. Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

iii. Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This subparagraph does not apply to sites excluded from the specified hazard zones by a local agency, pursuant to subdivision (b) of Section 51179, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.

iv. A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the State Department of Public Health, State Water Resources Control Board, or Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.

v. Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.

vi. Within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site. A development may be located on a site described in this subparagraph if either of the following are met: (1) The site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction; or (2) The site meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.

vii. Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site.

viii. Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.

ix. Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).

x. Lands under conservation easement.

b. The proposed housing development would not require demolition or alteration of any of the following types of housing:

i. Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

ii. Housing that has been occupied by a tenant in the last three (3) years.

c. The parcel subject to the proposed housing development is not a parcel on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

d. Notwithstanding any provision in the Orange Municipal Code to the contrary, the proposed housing development does not allow the demolition of more than 25 percent of the existing exterior structural walls, unless the site has not been occupied by a tenant in the last three (3) years.

e. The development is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.

2. The proposed housing development may be denied if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project or urban lot split would have a specific, adverse impact, as defined and determined in Government Code Section 65589.5(d)(2), upon public health and safety or the physical environment, for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

3. The ministerial approval may include the conditions for a parcel map specified in section 16.12.030.E.

4. All rental units shall be rented for a term longer than 30 days.

5. An applicant for a parcel map to create an urban lot split shall sign an affidavit stating their intent to occupy one of the housing units as their principal residence for a minimum of three (3) years from the date of the approval of the urban lot split. Any "community land trust," as defined in Revenue and Taxation Code Section 402.1(a)(11)(C)(ii), or a "qualified nonprofit corporation" as described in Revenue and Taxation Code Section 214.15, shall be exempt from the affidavit.

6. Accessory Dwelling Units (ADUs) and/or Junior Accessory Dwelling Units (JADUs) shall not be permitted in association with lots or units created pursuant to SB 9

if three units on that lot would result. ADUs or JADUs existing on a lot shall preclude the ability to construct a second unit or obtain an urban lot split pursuant to SB 9.

7. All development, design, and parcel map standards in this section and in Chapter 17.14 shall be applied to units created under SB 9, provided that at least an 800 square foot unit is allowed to be constructed.

8. The following objective design standards shall apply to all single-family dwellings created pursuant to SB 9 and to associated on-site improvements:

a. Units with identical building elevations and/or floor plans shall not be located on adjacent lots or directly across the street from each other.

b. Design elements and detailing shall be continued completely around the structure. Such design elements shall include window treatments, trim detailing, exterior wall materials, and color pallet. Firewalls are not exempt from the required design elements.

c. At least two (2) building materials shall be used on any building frontage (excluding roof and foundation) in addition to glazing and railings. Any one material shall comprise at least 20% of the building frontage.

d. At least two (2) exterior colors shall be used. Elements that count toward this requirement include cladding material, trim/accent colors, and visually significant colors for doors, and similar elements. Primary colors shall be used as accent colors only.

e. Trash receptacles locations shall be identified on project plans and shall demonstrate screening from public view via equivalent-height landscaping or a solid wall or fence.

f. The main entry shall not be the garage door and shall be prominently placed on the elevation facing the street.

g. Linear streetscape appearance in the building facade shall be avoided by providing variations in horizontal plane in a minimum of 50% of the building front and street side elevations. Variations shall include indentations, recesses, or projections of two (2) feet or greater. Vertical architectural elements (pilasters, columns, piers, other structural elements) shall vertically project a minimum of eight (8) feet in height and project a minimum of eight (8) inches from the building face.

h. Units shall include a minimum three (3) element(s) from the following list to add visual variety and interest to building facades and enhance the connection between public and private realms: eaves, cornices, trellises, overhangs, exposed structural

elements such as rafters, recessed windows, columns, bay windows. Other elements may be approved if they provide equivalent visual variety and interest.

i. Primary interior living spaces (bedroom and living areas) shall be offset a minimum eight (8) feet from a facing neighboring primary interior space on the same story.

j. A minimum eight (8) feet shall be maintained between any primary interior living space (bedroom and living area) and an existing neighboring primary living space on the same story.

k. Trim surrounds shall be provided at all exterior window and door openings. Trim shall be substantial, visible, and at least two (2) inches in depth.

l. Classical window proportions shall be provided such as 2:1, 3:2, or 4:3.

m. No building facade may extend in a continuous plane for more than 20 feet without a window, door, variation in horizontal plane, or vertical architectural element.

n. A minimum three (3) foot wide interior clear planter width landscaping shall be provided between the closest parallel property line to a driveway and the subject property. For flag lots, the planter shall only be required adjacent to the property not part of the project. Within the planter area, landscaping shall be maintained at a height of no greater than 42 inches to allow for line of sight to pedestrians and motorists for vehicles exiting the driveway.

o. Driveways to required parking shall not be asphalt, shall be a minimum 12 feet in width, and shall be concrete, pavers, stone, brick, or similar material. No driveway shall be allowed for units that do not require an on-site covered parking space and are not electing to include covered parking. Controlled or restricted entrances to required or provided parking are prohibited.

SECTION XIV:

Section 17.14.060 of the Orange Municipal Code, "Zoning – Residential Districts – Reserved," is hereby replaced with the following:

17.14.060 - Units Created in a Single-family (R-1) Residential Zone Pursuant to SB 9.

The development standards specified in Section 17.13.040.GGG and Table 17.14.060 shall apply to dwelling units created under SB 9. In addition, the following shall apply:

A. In the event development standards physically preclude the construction of up to two (2) units or preclude either of the two (2) units from being at least 800 square feet in floor area, a minimum 800 square foot unit shall be allowed with code waivers chosen and authorized by the Community Development Director based on prioritizing preservation of neighborhood character and privacy to adjacent properties. The Director may consider waivers such as, but not limited to:

1. Allowing half basement construction to facilitate two-story construction no greater than 16 feet tall.

2. Allowing a reduced front yard setback.

3. Reducing distancing from an existing structure on the original parcel.

B. Parking shall be provided as specified in Chapter 17.34

C. One (1) bedroom is allowed for each five hundred (500) square foot increment of unit square feet. Increments are rounded up, e.g., a 1,001 square foot unit may have 3 bedrooms. Bedroom and bathroom square feet shall be limited to no greater than 63.5% of the total square feet of the unit. Direct exterior access to bedrooms is prohibited, except for the largest bedroom.

D. All accessory structures, including garages, shall be subject to the provisions of Title 17, including but not limited to setbacks, floor area ratio, lot coverage, distancing from other structures, ratio of structures to dwelling, open space, and height. No Accessory Dwelling Units or Junior Accessory Dwelling Units shall be allowed on property created or developed pursuant to SB 9.

Table 17.14.060
RESIDENTIAL DEVELOPMENT STANDARDS FOR UNITS CREATED IN A SINGLE-FAMILY (R-1) RESIDENTIAL ZONE PURSUANT TO SB 9
[See next page]

Table 17.14.060
RESIDENTIAL DEVELOPMENT STANDARDS FOR UNITS CREATED IN A SINGLE-FAMILY (R-1) RESIDENTIAL ZONE PURSUANT TO SB 9

District	Maximum Units Per Lot	Minimum Lot Area in Sq. Ft. (a)	Minimum Lot Area Per Unit in Sq. Ft. (a)	Minimum Lot Frontage in Feet (b)	Minimum Lot Depth in Feet	Minimum Yard Setback in Feet (c)(d)(e)			Maximum Height (Feet-Stories) whichever height is less	Maximum Floor Area Ratio (f)	Minimum Usable Open Space in Sq. Ft.
						Front	Side	Rear			
All R1 districts	2	1,200	(a)	30	40	20	4	4	16′ -1 story	N/R (g)	(h)
N/R = No requirement											

(a) If the lot is created by a new parcel map and the parcel map subdivides an existing parcel to create no more than two (2) new parcels, the parcels shall be of approximately equal lot area, provided that one parcel shall not be smaller than 40% of the lot area of the original parcel proposed for subdivision. No lot shall be smaller than 1,200 square feet.

(b) The required width of the pole segment of a flag lot, or easement for access to a lot with required parking, shall be 15 feet, which includes the required 12-foot driveway width and a three-foot property line landscape buffer. Such width is also required for lots without required driveways and parking. A lesser or greater easement width may be authorized by the Community Development Director based on evidence justifying the adjustment. Units located further than Fire Department hose pull reach requirements shall provide a 20-foot wide easement for emergency vehicle access and a paved surface meeting Fire Code weight bearing requirements.

(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) An application shall not be rejected solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance. Therefore, connected units may be authorized, including units connected to units on an adjacent lot pursuant to SB 9.

(e) Garages are accessory structures. Attached garages shall adhere to setback requirements of each respective zoning district in Table 17.14.070. Detached garages and accessory structures shall adhere to the requirements of Section 17.14.160.

(f) Where accessory structures are proposed or exist, including attached or detached garages, the maximum Floor Area Ratio (FAR) for accessory structures shall be calculated by combining the sum of square feet of the proposed unit, any existing units, and all accessory structures, and shall be limited by the district maximum FAR specified in Table 17.14.070.

(g) In lieu of a Floor Area Ratio requirement, each unit shall be limited in square feet based on lot size as follows:

Lot Area in Square Feet	Maximum Unit Square Feet*
1,200 – 4,999	800 square feet
5,000 – 5,999	800 square feet
6,000 – 6,999	800 square feet
7,000 – 7,999	800 square feet
8,000 – 9,999	850 square feet
10,000 – 11,999	900 square feet
12,000 – 14,999	950 square feet
15,000 – 19,999	1,000 square feet
20,000 – 39,999	1,100 square feet
40,000 and greater	1,200 square feet

* Existing units may maintain existing FAR and lot coverage but any expansion shall comply with development standards in Table 17.14.070

(h) Minimum usable open space, as defined in Section 17.04.034, shall require the following square feet per district:

District	Minimum Usable Open Space in Sq. Ft. (q)
R1-5	1,000 sf
R1-6	1,100 sf
R1-7	1,100 sf
R1-8	1,200 sf
R1-10	1,200 sf
R1-12	1,300 sf
R1-15	1,700 sf
R1-20	2,500 sf
R1-40	2,500 sf

SECTION XV:

Table 17.14.070 of the Orange Municipal Code, "Zoning – Residential Districts – Residential Development Standards," is hereby amended to read as follows:

Table 17.14.070
RESIDENTIAL DEVELOPMENT STANDARDS
[See next page]

Table 17.14.070
RESIDENTIAL DEVELOPMENT STANDARDS

District	Units Per Lot	Minimum Lot Area in Sq. Ft. (x)	Minimum Lot Area Per Unit in Sq. Ft.	Minimum Lot Frontage in Feet (a)	Minimum Lot Depth in Feet	Minimum Yard Setback in Feet (b,h)			Maximum Height (Ft.-Stories) whichever is less (g)	Maximum Floor Area Ratio (o) or Lot Coverage (p)	Minimum Usable Open Space in Sq. Ft. (q)
						Front	Side	Rear			
R1-5 (aa)	1	5,000(v.1)	N/R	50(k)	90	Bld-15 Gar-20 (v.2)	(c,v.2)	(v.2)	32'—2 stories	Based on bldg. pad(v.3.w)	875 sf
R1-6 (aa)	1	6,000	N/R	60(k)	100	20	5(c)	20(d,e,f)	32'—2 stories(y)	(u)	900 sf
R1-7 (aa)	1	7,000	N/R	60(k)	100	20	5(c)	20(d,e,f)	32'—2 stories	(u)	950 sf
R1-8 (aa)	1	8,000	N/R	60(k)	100	20	5(c)	20(d,e,f)	32'—2 stories	(u)	1,000 sf
R1-10 (aa)	1	10,000	N/R	80(k)	100	20	5(c)	20(d,e,f)	32'—2 stories	(u)	1,000 sf
R1-12 (aa)	1	12,000	N/R	80(k)	100	20	5(c)	20(d,e,f)	32'—2 stories	(u)	1,000 sf
R1-15 (aa)	1	15,000	N/R	80(k)	100	20	5(c)	20(d,e,f)	32'—2 stories	(u)	1,200 sf
R1-20 (aa)	1	20,000	N/R	100(k)	100	20	5(c)	20(d,e,f)	32'—2 stories	(u)	1,500 sf
R1-40 (aa)	1	43,560	N/R	100(k)	100	20	5(c)	20(d,e,f)	32'—2 stories	0.40 FAR	2,000 sf
R1-R (aa)	1	108,900	N/R	100(k)	100	20	5(c)	20(d,e,f)	32'—2 stories	0.40 FAR	2,000 sf

Notes:

(aa) For all units constructed or lots created pursuant to SB 9, apply the development standards in Table 17.14.060.

SECTION XVI:

The first paragraph of Section 17.14.080 of the Orange Municipal Code, "Zoning – Residential Districts – Building Lot Area Requirements," is hereby amended to read as follows:

Tables 17.14.060 and 17.14.070 indicate the minimum building lot area for individual lots. The following portions of a lot shall not be included in the minimum building lot calculation:

SECTION XVII:

The Single-family Dwelling Use provisions of Table 17.34.060.A of the Orange Municipal Code, "Zoning – Off-Street Parking and Loading – Required Number of Parking Spaces for Residential Uses," is hereby amended to read as follows:

Table 17.34.060.A

REQUIRED NUMBER OF PARKING SPACES FOR RESIDENTIAL USES

USE	REQUIRED NUMBER OF SPACES
Single-family Dwelling	2 enclosed garage spaces/unit up to 4 bedrooms accessed by a 12 foot wide 20 foot long driveway. For 5 or more bedrooms, 1 additional enclosed space which may be in tandem configuration but may not be in a required front yard setback. For bedroom additions to homes built prior to the effective date of Ordinance 17-08, refer to Section 17.34.020(A). For PUDs, units with 3 or more bedrooms shall provide an additional 1.5 guest parking spaces per dwelling unit. Of this requirement, 1 open parking space may be provided at the residence subject to compliance with Section 17.16.060. Enclosed spaces demolished or converted in association with construction of an accessory dwelling unit shall not require replacement. For dwelling units created under SB 9: one enclosed parking space, accessed by a 12 foot wide 20 foot long driveway, shall be provided for parcels unless they are located within ½ mile walking distance of either a high-quality transit corridor, a major transit stop, or within 1 block of a car share vehicle. No parking space shall be required for parcels within ½ mile walking distance of either a high-quality transit corridor, a major transit stop, or within 1 block of a car share vehicle.

SECTION XVIII:

Section 17.38.080 of the Orange Municipal Code, "Zoning – Nonconforming Uses – Urban Lot Split (SB 9) Exception to Compliance (Nonconformities)," is hereby added to read as follows:

17.38.080 Urban Lot Split (SB 9) Exception to Compliance (Nonconformities).

The City shall not require the correction of nonconforming zoning conditions as a condition for ministerial approval of a parcel map application for the creation of an urban lot split pursuant to SB 9.

SECTION XIX:

The subject interim Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines 15060(c)(2), 15060(c)(3) and 15061(b)(3) because it will not result in a direct or reasonably foreseeable indirect physical change in the environment, because there is no possibility it will have a significant effect on the environment, and it is not a "project", as defined in Section 15378 of the State CEQA Guidelines. In the unlikely event the interim Ordinance would constitute a project under CEQA, it is exempt from the provisions of CEQA per State CEQA Guideline 15321 (Class 21, Enforcement Actions by Regulatory Agencies) because it is an action taken by the City as a regulatory agency, as authorized by local ordinance, to regulate as authorized by SB 9, the processing of lot splits and applications for construction of second dwelling units in single-family residential zones in order to prevent a public nuisance. As such, no further analysis is warranted or required.

SECTION XX:

This interim Ordinance is intended to immediately supersede any existing provisions of the Orange Municipal Code to the extent those existing provisions are inconsistent with this interim Ordinance.

SECTION XXI:

If any section, subdivision, paragraph, sentence, clause or phrase of this interim Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this interim Ordinance. The City Council hereby declares that it would have passed this interim Ordinance, and each section, subdivision, paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one (or more) section, subdivision, paragraph, sentence, clause or phrase had been declared invalid or unconstitutional.

SECTION XXII:

In accordance with Government Code 65858, Ordinance No. 18-21-B shall remain in effect for an additional one year, until December 13, 2023, in order to protect the public peace, health, safety and welfare of the community unless otherwise repealed or extended.

ADOPTED this 15th day of November, 2022.

Mark A. Murphy, Mayor, City of Orange

ATTEST:

Pamela Coleman, City Clerk, City of Orange

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, PAMELA COLEMAN, City Clerk of the City of Orange, California, do hereby certify that the foregoing extension of an interim Ordinance was duly passed and adopted at a regular adjourned meeting of the City Council held on the 15th day of November, 2022 by the following vote, to wit:

AYES:	COUNCILMEMBERS:	Murphy, Nichols, Monaco, Barrios, Dumitru, Tavoularis, Gutierrez
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	None
ABSTAIN:	COUNCILMEMBERS:	None

Pamela Coleman, City Clerk, City of Orange