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Proposed Ordinance (Clean)

ORDINANCE NO.

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF NAPA COUNTY, STATE OF CALIFORNIA, AMENDING SECTIONS 17.17.020 (APPROVAL OF MAP) AND 17.17.040 (SPECIFIC ADVERSE IMPACT) OF CHAPTER 17.17 (URBAN LOT SPLITS) OF TITLE 17 (SUBDIVISIONS) AND SECTION 18.104.440 (TWO UNIT DEVELOPMENTS) OF CHAPTER 18.104 (ADDITIONAL ZONING DISTRICT REGULATIONS) OF TITLE 18 (ZONING) OF THE NAPA COUNTY CODE TO BRING THE CODE INTO ALIGNMENT WITH LEGISLATIVE CHANGES IN STATE LAW AND THE COUNTY’S RECENTLY CERTIFIED 2023-2031 HOUSING ELEMENT

WHEREAS, on September 16, 2021, Senate Bill 9 (Chapter 162, Statutes of 2021) was approved by the Governor of the State of California and filed with the Secretary of State, adding to the Government Code Sections 65852.21 and 66411.7, allowing additional housing units on properties within single-family zones and providing for parcel map approval of an Urban Lot Split (“SB 9”); and

WHEREAS, the Napa County Board of Supervisors adopted Ordinance Number 1495 on September 24, 2024, to add Chapter 17.17 (Urban Lot Splits) and Section 18.104.440 (Two Unit Developments) to the Napa County Code, implementing the provisions of SB 9; and

WHEREAS, Senate Bill 450 (Chapter 286, Statutes of 2024) which went into effect January 1, 2025, and Assembly Bill 1061 (Chapter 505, Statutes of 2025) which went into effect January 1, 2026, amended SB 9; and

WHEREAS, on December 19, 2023, the Napa County Board of Supervisors adopted the 2023-2031 Housing Element; and

WHEREAS, the California Department of Housing and Community Development notified Napa County in July, 2024, that the County’s Housing Element is in substantial compliance with Housing Element law; and

WHEREAS, the Housing Element contains programs requiring amendments to the Napa County

Code that would implement programs and requirements related to affordable housing; and

WHEREAS, the Board of Supervisors has found that the provisions of this ordinance are consistent with the Housing Element and would like to amend the Napa County Code to reflect recent legislative changes to State housing law; and

WHEREAS, the proposed code amendments are intended to implement SB 9 and are not considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code, as provided in Government Code Sections 65852.21(k) and 66411.7(n).

NOW, THEREFORE, the Napa County Board of Supervisors, State of California, ordains as follows:

SECTION 1. Section 17.17.020 (Approval of map) of Chapter 17.17 (Urban Lot Splits) of the Napa County Code is amended to read in full as follows:

17.17.020 – Approval of map.

As provided by Government Code Section 66411.7 and this section, urban lot splits that meet the qualifying criteria for ministerial approval under this section shall be processed in accordance with Title 17 and approved by the director without a hearing. Within sixty days of the county’s receipt of a complete urban lot split application, the director shall determine if a parcel map for the urban lot split meets all the requirements of this Chapter 17.17 and ministerially approve or deny the urban lot split application. If the urban lot split application is denied, the director will provide, within the sixty-day review period, a complete list of the application's deficiencies and describe how the applicant can remedy the application.

A. The parcel being subdivided meets the location requirements specified in Section 18.104.440.B.

B. Both resulting parcels are no smaller than one thousand two hundred square feet.

C. Neither resulting parcel shall be smaller than forty percent of the lot area of the parcel proposed for the subdivision.

D. 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 through a public entity's valid exercise of its police power.

3. A parcel or parcels on which an owner of residential real property has exercised the owner's rights under Government Code Chapter 12.75 (commencing with Section 7060) of Division 7 of

Title 1 to withdraw accommodations from rent or lease within fifteen years before the date that the development proponent submits an application.

4. Housing that has been occupied by a tenant in the last three years.

5. A contributing structure located within either a historic district that is included on the California Register of Historical Resources or within a historic district listed or designated pursuant to a Napa County ordinance.

6. An existing exterior structural wall of a structure located within either a historic district that is included on the California Register of Historical Resources or within a historic district listed or designated pursuant to a Napa County ordinance.

E. The parcel is not located within a historical landmark included on the State Historic Resources Inventory, as defined in Public Resources Code Section 5020.1, or within a site that is designated or listed as a Napa County landmark pursuant to a Napa County ordinance.

F. The parcel being subdivided was not created by an urban lot split as provided in this chapter.

G. 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 in this section.

H. The development proposed on the parcels complies with all objective zoning standards, objective subdivision standards (including Chapter 13.32), and objective design review standards applicable to the parcel and that are related to the design or to improvements of a parcel as provided in the zoning district in which the parcel is located, and all applicable objective Napa County ordinances; provided, however, that:

1. The application of such standards shall be modified if the standards would have the effect of physically precluding the construction of two units on either of the resulting parcels created pursuant to this chapter or would result in a unit size of less than eight hundred square feet. Any modifications of development standards shall be the minimum modification necessary to avoid physically precluding two units of eight hundred square feet each on each parcel.

2. Notwithstanding subsection (H)(1) above, required rear and side yard setbacks shall equal four feet, except that no setback shall be required for an existing legally created structure or a structure constructed in the same location and to the same dimensions as an existing legally created structure.

3. The standards do not otherwise conflict with this Chapter 17.17.

I. Each resulting parcel shall have access to, provide access to, or adjoin the public right-of-way.

J. Proposed adjacent or connected dwelling units shall be permitted if they meet building code safety standards and are designed sufficient to allow separate conveyance. The proposed dwelling units shall provide a separate gas, electric and water utility connection directly between each dwelling unit and the utility.

K. Parking. One parking space shall be required per unit constructed on a parcel created pursuant to the procedures in this section, except that no parking may be required where:

1. The parcel is located within one-half mile walking distance of either a stop located in a high-quality transit corridor, as defined in Public Resources Code Section 21155(b), or a major transit stop, as defined in Public Resources Code Section 21064.3; or

2. There is a designated parking area for one or more car-share vehicles within one block of the parcel.

L. Compliance with Subdivision Map Act. The urban lot split shall conform to all applicable objective requirements of the Subdivision Map Act (commencing with Government Code Section 66410)), except as otherwise expressly provided in Government Code Section 66411.7. Notwithstanding Government Code Section 66411.1, no dedications of rights-of-way or the construction of offsite improvements may be required as a condition of approval for an urban lot split, although easements may be required for the provision of public services and facilities.

M. The correction of nonconforming zoning conditions may not be required as a condition of approval.

N. Parcels created by an urban lot split may be used for residential uses only and may not be used for rentals of less than thirty days. No more than two dwelling units may be located on any lot created through an urban lot split, including primary dwelling units, accessory dwelling units, junior accessory dwelling units, density bonus units, and units created as a two-unit development.

O. If any existing dwelling unit is proposed to be demolished, the applicant will comply with the replacement housing provisions of Government Code Section 66300.5 et seq.

SECTION 2. Section 17.17.040 (Specific adverse impact) of Chapter 17.17 (Urban Lot Splits) of the Napa County Code is amended to read as in full as follows:

17.17.040 – Specific adverse impact.

In addition to the criteria listed in this chapter, a proposed urban lot split may be denied if the building official makes a written finding, based on a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact upon public health and safety, for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. A "specific adverse impact" is a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation and eligibility to claim a welfare exemption are not specific health or safety impacts.

SECTION 3. Section 18.104.440 (Two-unit developments) of Chapter 18.104 (Additional Zoning District Regulations) of the Napa County Code is amended to read as in full as follows:

18.104.440 – Two-unit developments.

This section provides objective zoning standards for two-unit developments within single-family residential zones to implement the provisions of Government Code Section 65852.21, to facilitate the development of new residential housing units consistent with the County's Housing Element, and to ensure sound standards of public health and safety.

A. Definitions: As used in this chapter.

1. A person "acting in concert with the owner," means a person that has common ownership or control of the subject parcel with the owner of the adjacent parcel, a person acting on behalf of, acting for the predominant benefit of, acting on the instructions of, or actively cooperating with, the owner of the parcel being subdivided.

2. "Adjacent parcel" means any parcel of land that is (a) touching the parcel at any point; (b) separated from the parcel at any point only by a public right-of-way, private street or way, or public or private utility, service, or access easement; or (c) separated from another parcel only by other real property which is in common ownership or control of the applicant.

3. "Car share vehicle" means a motor vehicle that is operated as part of a regional fleet by a public or private care sharing company or organization and provides hourly or daily service.

4. "Common ownership or control" means property owned or controlled by the same person, persons, or entity, or by separate entities in which any shareholder, partner, member, or family member of an investor of the entity owns ten percent or more of the interest in the property.

5. "Sufficient for separate conveyance," means that each attached or adjacent dwelling unit is constructed in a manner adequate to allow for the separate sale of each unit in a common interest development as defined in Civil Code Section 1351 (including a residential condominium, planned development, stock cooperative, or community apartment project), or into any other ownership type in which the dwelling units may be sold individually.

6. "Two-unit development" means a development that proposes no more than two new units or proposes to add one new unit to one existing unit.

7. "Urban lot split" means a subdivision of an existing parcel into no more than two separate parcels pursuant to Chapter 17.17.

B. Location Requirements: As provided by Government Code Section 65852.21, and this section, the parcel proposed for a two-unit development must meet the following requirements:

1. The parcel is zoned Residential Single or Residential Country and is located entirely within the boundaries of an urban area as defined by the United States Census Bureau's Urban-Rural Classification.

2. The parcel does not contain or include any of the conditions listed in Government Code Section 65913.4(a)(6)(B) - (K) as that section read on September 16, 2021 and is not located within any of the following:

a. Land zoned or designated for agricultural protection or preservation by local ballot Measure J or Measure P approved by the voters of Napa County.

b. Land designated as a Groundwater Deficient Area, as defined and mapped under Napa County Code Chapter 13.15, unless:

1. Pursuant to Napa County Code Chapter 13.15, the applicant is able to secure a groundwater permit or modify an existing groundwater permit, as applicable, for the parcel, or in the case of an urban lot split, parcels.

2. The applicant is able to provide documentation that the two-unit development or the future dwelling units from an urban lot split will be directly plumbed to receive potable water from a groundwater well outside of the Groundwater Deficient Area or from an approved public water system. Hauled water is not approved to serve the domestic use of a dwelling and cannot be approved in lieu or a directly plumbed potable source of water.

C. Two-Unit Development: The director, without a hearing, shall ministerially approve or deny a complete permit application for a two-unit development within sixty days from the date the county receives the complete application. As provided by Government Code Section 65852.21 and this section, two-unit developments that meet the qualifying criteria for ministerial approval under this section shall be approved by the director without a hearing. If the application is denied, the director will provide, within the sixty day review period, a complete list of the application's deficiencies and describe how the applicant can remedy the application. The director shall determine if an application for a two-unit development meets the locational criteria prescribed in subsection B above and meets the follow requirements:

1. The proposed two-unit development would not require the 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 through a public entity's valid exercise of its police power.

c. Housing that has been occupied by a tenant in the last three years.

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

3. (Reserved.)

4. The parcel is not located in either of the following:

a. A contributing structure within a historic district included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or historic property or historic district pursuant to a Napa County ordinance.

b. A parcel individually listed as a historical resource included in the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a property individually designated or listed as a county landmark under Napa County ordinance.

5. The two-unit development complies with all objective zoning standards, objective subdivision standards, and objective design review standards applicable to the parcel as provided in the zoning district in which the parcel is located, and all applicable objective Napa County ordinances; provided, however, that:

a. The application of such standards shall be modified if the standards would have the effect of physically precluding the construction of two units on the parcel or would result in a unit size of less than eight hundred square feet. Any modifications of development standards shall be the minimum modification necessary to avoid physically precluding two units of eight hundred square feet each on each parcel.

b. Notwithstanding subsection (5)(a) above, required rear and side yard setbacks shall equal four feet, except that no setback shall be required for an existing legally created structure, or a structure constructed in the same location and to the same dimensions as an existing legally created structure.

c. For a two-unit development connected to an onsite wastewater treatment system, the applicant must provide a percolation test completed within the last five years, or if the

percolation test has been recertified, within the last ten years.

d. The standards do not otherwise conflict with this Section 18.104.440.

6. Proposed adjacent or connected dwelling units shall be permitted if they meet building code safety standards and are designed sufficient to allow separate conveyance. The two-unit development shall provide a separate gas, electric and water utility connection directly between each dwelling unit and the utility.

7. Parking. One parking space shall be required for each unit constructed on the site, except that no parking is required where:

a. The parcel is located within one-half mile walking distance of either a stop located in a high-quality transit corridor, as defined in Public Resources Code Section 21155(b), or a major transit stop, as defined in Public Resources Code Section 21064.3; or

b. There is a designated parking area for one or more car-share vehicles within one block of the parcel.

8. Dwelling units created by a two-unit development may be used for residential uses only and may not be used for rentals of less than thirty days.

9. No more than two dwelling units may be located on any lot created through an urban lot split pursuant to Chapter 17.17, including primary dwelling units, accessory dwelling units, junior accessory dwelling units, density bonus units, and units created as a two-unit development.

10. If any existing dwelling unit is proposed to be demolished, the applicant must comply with the replacement housing provisions of Government Code Section 66300(d).

D. Application Requirements. An application for a two-unit development shall include the following:

1. Declaration of Prior Tenancies. If any existing housing is proposed to be altered or demolished, the owner of the property proposed for a two-unit development shall sign an affidavit, in a form approved by county counsel, stating that none of the conditions listed in Section 18.104.440.C.1 and 18.104.440.C.2 above exist and shall provide a comprehensive history of the occupancy of the units to be altered or demolished for the past three years (five years if an existing unit is to be demolished).

2. No Subdivision. At the time of application for a two-unit development where there is no urban lot split, the property owner shall acknowledge in writing that neither of the two units may be sold separately unless a subdivision is recorded.

3. Recorded Covenant. Prior to the issuance of a building permit for a two-unit development, the owner shall record a covenant in the form approved by county counsel to notify future owners of the prohibition on non-residential uses of any units constructed on the site, including a prohibition against renting or leasing the units for fewer than thirty consecutive calendar days. requirements of this subsection.

E. Specific Adverse Impacts. In addition to the criteria listed in this section, a proposed two-unit development may be denied if the building official makes a written finding, based on a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact upon public health and safety, for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. A "specific adverse impact" is a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or

general plan land use designation and eligibility to claim a welfare exemption are not specific health or safety impacts.

F. Enforcement. County counsel shall be authorized to abate violations of this chapter and to enforce the provisions of this chapter and all implementing agreements and affidavits by civil action, injunctive relief, and any other proceeding or method permitted by law. Remedies provided for in this chapter shall not preclude the county from any other remedy or relief to which it otherwise would be entitled under law or equity.

SECTION 4. The proposed code amendments are intended to implement SB 9 and are not considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code, as provided in Government Code Sections 65852.21(k) and 66411.7(n).

SECTION 5. Pursuant Chapter 4, Title 7, commencing with Section 65800, of the California Government Code, this Ordinance is consistent with the following policies of the 2008 General Plan Update: AG/LU-22, AG/LU-23, AG/LU-28, and AG/LU-30, and with the following policies and programs of the 2023-2031 Housing Element: policies H-2b, H-2g, H-4a, H-4e, H-5b, and programs H-5b and H-5f.

SECTION 6. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Napa County Board of Supervisors hereby declares it would have passed and adopted this ordinance and each and all provisions hereof irrespective of the fact that any one or more of said provisions be declared invalid.

SECTION 7. This ordinance shall be effective thirty (30) days from and after the date of its passage.

SECTION 8. A summary of this ordinance shall be published at least once five (5) days before adoption and at least once before the expiration of fifteen (15) days after its passage in the Napa Valley Register, a newspaper of general circulation published in Napa County, together with the names of members voting for and against the same.

The foregoing Ordinance was recommended for adoption and public hearing held thereon before the Napa County Planning Commission on the ___ day of ___ 2026. The Planning Commission's recommendation was considered by the Board of Supervisors and this Ordinance was introduced and passed at a regular meeting of the Napa County Board of Supervisors ("the Board"), State of California, held on ___ day of ____ 2026, by the following vote:

AYES: SUPERVISORS _____

 NOES: SUPERVISORS _____
 ABSTAIN: SUPERVISORS _____
 ABSENT: SUPERVISORS _____

NAPA COUNTY, a political subdivision of the State of California

 AMBER MANFREE, Chair of the Board of Supervisors

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By: <u>Silva Darbinian</u> Deputy County Counsel</p> <p>By: <u>McKayla McMahon</u> Code Services</p> <p>Date: <u>6 / 3 / 2 0 2 6</u></p>	<p>APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS</p> <p>Date: _____ Processed By: _____ Deputy Clerk of the Board</p>	<p>ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors</p> <p>By: _____</p>
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I HEREBY CERTIFY THAT THE ORDINANCE ABOVE WAS POSTED IN THE OFFICE OF THE CLERK OF THE BOARD IN THE ADMINISTRATIVE BUILDING, 1195 THIRD STREET ROOM 310, NAPA, CALIFORNIA ON _____.

_____, DEPUTY
 NEHA HOSKINS, CLERK OF THE BOARD