

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARTINEZ APPROVING A ZONING TEXT AMENDMENT TO AMEND THE MARTINEZ MUNICIPAL CODE BY ESTABLISHING NEW AND AMENDING EXISTING REGULATIONS FOR ACCESSORY DWELLING UNITS (“ADU”) AND JUNIOR ACCESSORY DWELLING UNITS (“JADU”) BY: 1) ADDING CHAPTER 22.43 (ADUS AND JADUS); 2) AMENDING CHAPTER 22.04 (DEFINITIONS), 22.12 (RESIDENTIAL DISTRICTS), 22.23 (DOWNTOWN SHORELINE DISTRICT), 22.29 (ALHAMBRA VALLEY DISTRICTS), 22.34 (GENERAL REQUIREMENTS AND EXCEPTIONS), 22.36 (OFF-STREET PARKING AND LOADING FACILITIES), 22.49 (CHILD CARE FACILITIES), 22.51 (OBJECTIVE STANDARDS AND REGULATIONS FOR QUALIFIED SENATE BILL 9 SUBDIVISIONS AND DEVELOPMENT PROJECTS), AND 22.55 (IMPACT MITIGATION FEES); AND 3) AMENDING CHAPTER 22.02 (GENERAL PROVISIONS) TO GRANT THE COMMUNITY AND ECONOMIC DEVELOPMENT DIRECTOR, PLANNING MANAGER, OR DESIGNEE AUTHORITY TO INTERPRET THE ZONING ORDINANCE

WHEREAS, State law has frequently been amended regarding the creation of accessory dwelling units (“ADU”) and junior accessory dwelling units (“JADU”) including, but not limited to, Senate Bill (“SB”) 13, SB 897, Assembly Bill (“AB”) 68, AB 587, AB 670, AB 671, and AB 881 to address barriers to development of ADUs and JADUs; and

WHEREAS, the City proposed Zoning Text Amendments for ADUs and JADUs by adding Martinez Municipal Code (“MMC”) Chapter 22.43 (ADUs and JADUs) to modify the development standards for ADUs and JADUs consistent with State law; and

WHEREAS, the City proposes additional Zoning Text Amendments, including amending MMC Chapters 22.02 (General Provisions), 22.04 (Definitions), 22.12 (Residential Districts), 22.23 (Downtown Shoreline District), 22.29 (Alhambra Valley Districts), 22.34 (General Requirements and Exceptions), 22.36 (Off-Street Parking and Loading Facilities), 22.49 (Child Care Facilities), 22.51 (Objective Standards and Regulations for Qualified Senate Bill 9 Subdivisions and Development Projects), and 22.55 (Impact Mitigation Fees); and

WHEREAS, the City further proposes Zoning Text Amendments, including amending MMC Chapter 22.02 (General Provisions) to grant the Community and Economic Development Director, Planning Manager, or designee authority to

interpret the Zoning Ordinance; and

WHEREAS, the Planning Commission held a public hearing on the proposed Zoning Text Amendments on May 23, 2023, during which all interested persons were heard, and adopted Planning Commission Resolution No. 23-07 recommending City Council adoption of the proposed Zoning Text Amendments; and

WHEREAS, the City Council held a public hearing on the proposed Zoning Text Amendments on June 21, 2023, at which time all interested parties had the opportunity to be heard; and

WHEREAS, proper notice of said hearing was given in all respects as required by law; and

WHEREAS, the City Council did hear and consider all said reports, recommendations and testimony herein above set forth and used its independent judgement to evaluate the project.

NOW THEREFORE, the City Council of the City of Martinez does hereby ordain as follows:

SECTION I:

Pursuant to Section 22.46.020 of the MMC, the City Council hereby finds that the Zoning Text Amendments are consistent with the General Plan 2035 and all applicable Specific Plans in that the amendments are necessary to comply with State law and are consistent with applicable land use regulations and development policies.

SECTION II:

The California Environmental Quality Act (“CEQA”), together with State Guidelines require that certain projects be reviewed for environmental impacts and that environmental documents be prepared. Pursuant to the CEQA, the City Council hereby finds the project statutorily exempt from the requirements of CEQA pursuant to Public Resource Code Section 21080.17 and Section 15282(h) of the CEQA Guidelines, which exempts adoption of an ordinance regarding second units to implement provisions of Government Code Sections 65852.2 and 65852.22.

SECTION III:

Chapter 22.02 (General Provisions) of Title 22 (Zoning) of the MMC is hereby amended to read as follows:

22.02.050 Authority.

The Community and Economic Development Director, Planning Manager, or designee shall have the authority to interpret and apply the provisions of this Title as necessary to carry out its purposes and objectives when the requirements of this Title are unclear. In exercising such authority, the Community and Economic Development Director, Planning Manager, or designee may consider any relevant factors, including but not limited to the intent and purpose of this Title, applicable laws and regulations, and the specific circumstances of each case. Such interpretations shall be in writing.

SECTION IV:

The definitions in Chapter 22.04 (Definitions) of Title 22 (Zoning) of the MMC are hereby amended to read as follows:

22.04.021 – Accessory Dwelling Unit

An “accessory dwelling unit” or ADU is a dwelling unit that is accessory to a primary dwelling and has complete independent living facilities for one or more persons and has a few variations:

- Detached: The unit is separated from the primary dwelling.
- Attached: The unit is attached to the primary dwelling by a common wall.
- Converted Existing Space: Permitted habitable or non-habitable space (e.g., master bedroom, attached garage, storage area, or similar use, or an accessory structure) on the lot of the primary residence that is converted into an independent living unit.

22.04.022 – Accessory Dwelling Unit, Junior

A “junior accessory dwelling unit” or JADU is a specific type of conversion of existing space into a separate dwelling unit that is contained entirely within an existing or proposed single-family dwelling and does not exceed 500 square feet.

22.04.023 – Accessory Dwelling Unit, Statewide Exemption

A “statewide exemption ADU” is an ADU of up to 800 square feet, has four-foot side and rear yard setbacks, and complies with the height limitations of

Section 22.43.070. State ADU Law requires that no lot coverage, floor area ratio, open space, or minimum lot size will preclude the construction of a Statewide Exemption ADU.

22.04.08022.04.075 – Building

"Building" means any structure having a roof, supported by columns or walls, for the housing or enclosure of persons, animals, chattels, or property of any kind.

22.04.078 – Building Height.

"Building height" means the vertical distance at any point of the surface of the ground covered by the structure directly over said point between the natural grade and the highest point of the structure, not including the exceptions outlined in Section 22.34.170.B.

22.04.155 – Dwelling, Primary.

"Primary dwelling" means a means a one-family dwelling, multiple dwelling, lodging house or apartment hotel on the parcel and is the larger of the two if there is an existing accessory dwelling unit on the parcel.

22.04.156 – Dwelling, Single-family.

"Single-family dwelling" means a structure containing no more than one dwelling unit, designed for occupancy or occupied by no more than one family not occupied on a transient basis.

22.04.265 – Kitchen, Efficiency.

"Efficiency Kitchen" means a kitchen that includes a cooking facility with appliances, a food preparation counter of at least three linear feet and no more than eight linear feet, and storage cabinets of at least three linear feet and no more than 15 linear feet. All appliances must be electric and shall not require propane or natural gas.

22.04.446 Secondary Housing Unit.

"Secondary housing unit" means an additional dwelling unit constructed or adapted within, onto, or apart from an existing, or built concurrently with, a single-family dwelling in any residential district.

22.04.530 – Structure, Accessory.

"Accessory structure" means an attached or detached subordinate structure, which is, subordinate in size and incidental to the use of the main structure or the main use of the land, and which is located on the same site with the main structure or use. Examples of attached accessory structures include, but are not limited to, unenclosed structures and unconditioned enclosed structures such as: decks that are 18 inches or more above grade, trellises, and patio covers/enclosures. Examples of detached accessory structures include, but are not limited to, those features permitted as attached accessory structures, as well as: garages, carports, storage sheds, greenhouses, and gazebos, ~~and secondary housing units~~. The size of an enclosed accessory structure is defined as the floor area within the structure. The size of an unclosed accessory structure, such as a carport, gazebo, or deck, is defined as the structure's projected roof or deck area. In-ground swimming pools where no part of the pool and/or ancillary features is more than 18 inches above grade, are not defined as accessory structures for purposes of height, minimum yard and/or maximum coverage limitations.

SECTION V:

Chapter 22.12 (Residential Districts) of Title 22 (Zoning) of the MMC is hereby amended to read by removing Sections 22.12.084 and 22.12.085 as follows:

~~22.12.084 — Purpose.~~

~~The purpose of this Section is to comply with amendments made in 2002, to State Law Section 65852.2 which provides for Cities to set standards for the development of second dwelling units so as to increase the supply of smaller and affordable housing while ensuring that they remain compatible with the existing neighborhood.~~

~~22.12.085 — Secondary Housing Units as Permitted Use.~~

~~A. Intent. This Section is intended to implement the City's Housing Element of the General Plan, and is adopted to comply with State Law (Government Code Section 65852.1 et seq.), by allowing secondary housing units through administrative review in all residential districts, subject to meeting the standards prescribed below.~~

~~B. **Where Permitted.** A secondary housing unit may be permitted, subject to the design and development standards prescribed in subsection C of this Section, on a lot in any residential district with a single family dwelling. At no case shall more than a total of 2 dwelling units; 1 primary, the other secondary, be permitted on any such lot.~~

~~C. **Design and Development Standards.**~~

- ~~1. **Location on Lot.** A secondary housing unit may only be located within the area of the lot where the zoning code permits either the primary single-family dwelling, or accessory structure, as per the applicable requirements for minimum yards, maximum height and maximum lot coverage for the subject residential district, and if applicable, the special property line setback requirements prescribed for accessory structures, Section 22.12.265. Secondary housing units may be attached to the primary single-family residence, or detached from the residence subject to separation requirements prescribed by the zoning code, and the building code as adopted and enforced at time of application.~~
- ~~2. **Minimum Size and Facilities.** The secondary housing unit shall contain no less than the 150 square feet area minimum required for an efficiency dwelling unit as defined in Section 17958.1 of the Health and Safety Code. This unit shall include provisions for living, sleeping, eating, cooking and sanitation.~~
- ~~3. **Maximum Size.** A secondary housing unit may be no larger than 1,000 square feet, excluding the garage. Additional size limitations may apply to a secondary housing unit built as an accessory structure, as per the size limitations applied to all accessory structures prescribed in Section 22.12.265(A).~~
- ~~4. **Parking.** A minimum of 1 independently usable off-street parking space shall be provided for the secondary housing unit, which shall be provided in addition to the required parking for the primary single-family dwelling. This space need not be covered, and shall comply with all development standard set forth in Chapter 22.36 (Off-Street Parking and Loading Facilities). A tandem parking space may also be used to meet the parking requirement for the secondary housing unit, providing such space will not encumber access to a required parking space for the primary single-family dwelling. Required parking for the primary single-family dwelling may~~

not be removed for the creation of a secondary housing unit (e.g., garage conversions), or allocated to meet the parking requirement for the secondary housing unit, unless replacement covered parking is provided in a location permitted by the zoning code.

5. **Architectural and Site Plan Standards.**

- a. The secondary housing unit shall be visually subordinate to the primary single-family dwelling on the parcel, by its size, location, and design. The exterior entry to the secondary housing unit shall clearly appear as a secondary entry when compared to the entry for the primary single-family dwelling.
- b. The exterior appearance and character shall echo the architectural form and style of the primary single-family dwelling. Siding materials, roof pitches and colors are to be substantially the same as those of the primary dwelling.
- c. Outside stairways leading to a second story secondary housing unit shall not be in the front of the primary single-family dwelling, or in an exterior side yard if visible from the public right-of-way. Access to a first story unit by stairs or ADA accessible ramp may be permitted in the front of the primary dwelling.

D. **Exceptions.**

- 1. **Variances May Be Granted.** As with the development of a single-family dwelling, a variance to the minimum yard and maximum site coverage requirements of this zoning code may be granted pursuant to the requirements of Chapter 22.44. The findings for or against such a variance request shall be limited to the review standards in Section 22.44.070, and the secondary housing unit use shall not be a factor in making findings for or against the application.
- 2. **Use Permits May Be Granted.** As with the development of a single-family dwelling, a use permit to exceed the maximum permitted height of a zoning district and the maximum permitted height and size limitations prescribed for accessory structure, Section 22.12.265, as well as to the quantitative requirements of subsections (C)(3) and (C)(4) of this Section,

may be granted pursuant to the requirements of Chapter 22.40. The findings for or against such a use permit request shall be limited to the review standards in Section 22.40.070, and the secondary housing unit use shall not be a factor in making findings for or against the application.

E. General Requirements.

1. **Use of Nonconforming Structures.** An existing primary single-family dwelling that is nonconforming to the height limitations, minimum yard and maximum lot coverage requirements of the zoning code may be used for a secondary housing unit, provided that such units are in compliance with all other standards of this Section, and any modifications made to such a structure do not increase the nonconformity.
2. **Compliance with Building Codes.** All secondary housing units shall comply with all applicable requirements of the building code as adopted and enforced at time of application. In cases where a secondary dwelling unit is to be created through the reconfiguration of a portion of an existing single-family dwelling, both the secondary and primary dwelling shall be upgraded to comply with such building code requirements, which include but is not limited to noise separation between units sharing common walls, emergency egress and heating/ventilation requirements, as required by the building official.
3. **Permanent Foundation.** A permanent foundation shall be required for all second housing units.
4. **Requirement for Owner Occupancy.** On all lots containing secondary housing units, either the primary or secondary dwelling shall be owner-occupied and eligible for a "homeowner's exemption" for property tax purposes. The owner shall sign a notice of occupancy restriction, which the City will record with the County Recorder's office, prior to issuance of a building permit for the secondary housing unit.
5. **Privacy.** Any window or door of a second story second housing unit shall utilize techniques to lessen the privacy impacts onto adjacent properties. These techniques may include, use of obscured glazing, window placement above eye level, windows and doors located toward the existing on-site residence or screening treatments.

6. **Number Per Lot.** A maximum of 1 secondary housing shall be permitted on any lot.

F. **Application Requirements.** Prior to submitting a building permit application, an application for administrative design review shall first be submitted, per Section 22.06.040, which, at a minimum, shall include:

1. **Plot Plan (Drawn to Scale).** Dimensions of the perimeter of parcel on which the second dwelling will be located. Indicate the location and dimensioned setbacks of all existing and proposed structures on the project site and structures located within 50 feet of the project site. All easements, building envelopes, and special requirements of the subdivision as shown on the final map and improvement plans shall be included. Provide average slope calculations for the project site.
2. **Floor Plans.** Each room shall be dimensioned and the resulting floor area calculation included. The use of each room shall be identified. The size and location of all windows and doors shall be clearly depicted.
3. **Elevation Views.** Provide north, south, east and west elevations which show all openings, exterior finishes, original and finish grades, stepped footing outline, roof pitch, materials and color board for the existing residence and the proposed second dwelling unit.
4. **Cross-Section.** Provide building cross-sections including, but not limited to: structural wall elements, roof, foundation, fireplace and any other sections necessary to illustrate earth-to-wood clearances and floor to ceiling heights.
5. **Fees.** The fee for review shall be the same as required for administrative design review, or as required by currently adopted fee resolution.

G. **Review Approval and Authority.**

1. **Application to be Administratively Approved.** The Community Development Director shall administratively approve applications that are compliance with the requirements of this Section. Appeals of the Director's action

~~may be appealed to the Planning Commission who will review the application pursuant to the criteria in this Section.~~

2. ~~**Approval of Unit Does Not Permit Land Division.** Approval of a secondary housing unit shall not be deemed to be a division of land for purposes of Government Code Section 66410 et seq. or Title 21 of the Municipal Code, nor shall the administrative approval above entitle the applicant to either: (a) such a division of land; or (b) to have each of the 2 dwelling units on the parcel separately assessed for property tax purposes.~~

SECTION VI:

Chapter 22.23 (Downtown Shoreline District) of Title 22 (Zoning) of the MMC is hereby amended to read as follows:

22.23.020 Permitted Uses.

The following uses are permitted in the Downtown Shoreline District:

- A. Single-family dwelling units, including semi-attached (duplex) and fully-attached (townhouse) units.
- B. ~~Secondary~~ Accessory dwelling units, per Section ~~22.12.080~~22.43.020 of the zoning code.
- C. Multi-family residential structures.
- D. Home occupations pursuant to the definition established in Section 22.40.240 of the zoning ordinance.
- E. State authorized, certified or licensed family care, foster care or group home serving six ~~6~~ or fewer mentally disordered or otherwise handicapped persons.
- F. Parks and open spaces.
- G. Accessory uses, incidental and subordinate to the principal permitted use, pursuant to the requirements of the zoning code.

SECTION VII:

Chapter 22.29 (Alhambra Valley Districts) of Title 22 (Zoning) of the MMC is hereby amended to read as follows:

22.29.040 Use Regulations.

Table 1: Permitted and Conditional Uses⁽¹⁾

| Uses | Districts | | | Specific Use Regulations |
|---|--------------|--------------|--------------|--------------------------|
| | AV/R-20 | AV/R-40 | AV/A-5 | |
| Residential Uses | | | | |
| <u>Accessory dwelling unit</u> | <u>P</u> | <u>P</u> | <u>P</u> | <u>22.43.020</u> |
| Family day care home | P | P | P | |
| Day care, general | UP | UP | UP | |
| Foster family home | P | P | P | |
| Residential congregate care facility | P | P | P | |
| One family dwelling | P | P | P | |
| Secondary housing units | P | P | P | 22.12.085 |
| Additional one family dwelling | UP | UP | UP | 22.29.050.A |
| Free-standing exterior lighting over seven feet in height | UP | UP | — | 22.29.050.B |
| Home occupation | UP | UP | UP | |
| Wind generator | UP | UP | UP | 22.12.090.N |
| Agricultural Uses | | | | |
| Agriculture - Large Scale | — | — | P | |
| Agriculture - Small Scale | P | P | P | |
| Aviaries | P | P | P | 22.29.050.C.1 |
| Christmas tree farms | UP | UP | UP | 22.29.050.D |
| Dog kennels | — | — | UP | |
| Horse riding academies and horse riding instruction | UP | UP | UP | 22.29.050.C.3 |
| Livestock | P | P | P | 22.29.050.C.2 |
| Services incidental to agricultural uses | — | — | UP | |
| Small | P | P | P | 22.29.050.C.4 |

| | | | | |
|---|----|----|----|--|
| animal farming | | | | |
| Institutional Uses | | | | |
| Community recreation facilities, such as golf, tennis or swimming clubs | UP | UP | UP | |
| Museums in which objects of historical, artistic, scientific or cultural importance are preserved and displayed | — | — | UP | |
| Public and Recreational Uses | | | | |
| Publicly owned buildings and structures | UP | UP | UP | |
| Publicly owned parks and playgrounds | P | P | P | |
| Other Uses | | | | |
| Temporary real estate offices and construction yards | UP | UP | UP | |
| Pumping stations, power stations, drainage ways and structures, storage tanks, and transmission lines found by the City Planning Commission | UP | UP | UP | |

| | | | | |
|--|--|--|--|--|
| to be necessary for the public health, safety or welfare | | | | |
|--|--|--|--|--|

SECTION VIII:

Chapter 22.34 (General Requirements and Exceptions) of Title 22 (Zoning) of the MMC is hereby amended to read as follows:

22.34.030 Design Review—Applicability—~~R and RR Districts.~~

Each application made for a building permit to construct or alter the exterior of a structure shall be subject to architectural and site design review by the Planning Department Division prior to issuance of the permit, except for Accessory Dwelling Units consistent with Chapter 22.43 or as provided below relative to the R and RR Single-Family Residential Districts.

This section and Sections 22.34.040 through 22.34.070 shall apply to applications for building permits in the R and RR districts only when one or more of the following conditions exist:

- A. The permit site is an undeveloped parcel adjoining one or more additional undeveloped parcels under the same ownership, as shown on the current Tax Assessor's rolls. "Adjoining" for purposes of this section and Section 22.34.030 through 22.34.070 includes parcels separated by public rights-of-way, including streets and nonexclusive easements.
- B. The permit site is located in a visually significant area. "Visually significant" areas are those labeled as "visually significant hilltops and ridges," "visually significant hillsides," "visually significant riparian vegetation" and "visually significant skyline vegetation" on the map entitled "visual environment" within the open space and conservation element of the 1973 General Plan, as amended.
- C. The permit site is located within a seismic or geologic hazard area. A permit site shall be considered as located within a seismic or geologic hazard area if it appears to lie on a fault trace or on "slopes, twenty (20) to thirty (30) percent having high landslide susceptibility" or on "slopes over thirty (30) percent in grade" as

identified on the map entitled seismic and geologic hazards within the open space and conservation element of the General Plan.

- D. The natural grade of the permit site under the proposed structure has an average slope of ten (10) percent or greater. The method for computing slope shall be specified in Section 22.12.170.

SECTION IX:

Chapter 22.36 (Off-Street Parking and Loading Facilities) of Title 22 (Zoning) of the MMC is hereby amended to read as follows:

22.36.030 Parking—Residential Uses.

Parking shall be provided for residential development in accordance with the following table:

RESIDENTIAL USES TABLE

| Dwelling Type | Zoning Districts | Required Parking Spaces Per Dwelling Unit** | |
|---------------------|--|---|------|
| | | Covered | Open |
| A. Single family | All districts except R-1.5, R-2.5 and R-3.5 | 2 | 0 |
| Single family | R—1.5, R—2.5 and R—3.5 | 1 | 1 |
| B. Multiple family* | All districts except sites included in the Downtown Overlay District | 1 | 1 ¼ |
| C. Multiple family* | Downtown Overlay District (except projects on streets where bike lanes are proposed) | 1 | |
| Studio | | 1 | |
| 1 bedroom | | 1 | ½ |
| 2+ bedrooms | | 1 | 1 |

Guest Parking: Additional required guest parking spaces shall be ¼ space if there are over 4 units. The required guest spaces shall be additive and rounded off to the higher number. The Planning commission may approve tandem guest spaces if it can be found that residents will not be

inconvenienced by this arrangement.

| | |
|---|---|
| <p>D. Lodging houses, apartment hotels, motels and private clubs providing sleeping accommodations.</p> | <p>All districts The greater of 1 space per guest room or 1 space per 2 beds.</p> |
|---|---|

Note: Additional off-street parking may be required in amounts to be determined by the Planning Commission. ;b1;*;em;;hg;

*_ Garages shall not be used for storage by any outside party nor used for habitation by any party. There shall be at all times in every garage in the City sufficient space to park at least one automobile

** Off-street, screened and fenced parking for recreational vehicles may be required in amounts to be determined by the Planning Commission for all projects in excess of 10 dwelling units.

For ADUs and JADUs, refer to Section 22.43.080 for parking requirements.

For subsidized or assisted senior citizen housing, there shall be a minimum of .35 parking spaces per dwelling unit.

Driveways shall not be counted as part of any required parking.

SECTION X:

Title 22 (Zoning) of the MMC is hereby amended to add Chapter 22.43 (Accessory Dwelling Units and Junior Accessory Dwelling Units) as follows:

Chapter 22.43 Accessory Dwelling Units and Junior Accessory Dwelling Units.

22.43.010 — Intent.

This Section is intended to comply with State Law (including, but not limited to, California Government Code Sections 65852.2 and 65852.22 et seq.), by allowing accessory dwelling units (ADU) and junior accessory dwelling units (JADU) through ministerial review, subject to meeting the standards prescribed below. In the event of any conflict or inconsistency between this Section and State law or other Sections in the Municipal Code, the more permissive regulations shall prevail.

22.43.020 — Where Permitted.

H. An ADU may be permitted on any lot zoned for a residential use, or on any non-residentially zoned lot which is currently occupied with a single-family or multiple-family dwelling.

- I. ADUs shall not be located in the following locations:
 - 3. In areas encumbered by a recorded easement, including but not limited to, public utility easements, conservation easements, access easements, pedestrian pathway easements and open space easements; or
 - 4. In areas that extend into a creek bank.

22.43.030 — Quantity of Units.

The following number of ADUs and JADUs shall be the maximum number of accessory units permitted on lots subject to this Section.

- A. Lot with one Single-Family Dwelling: one ADU and one JADU.
- B. Lot with more than one legal, conforming Single-Family Dwelling: one ADU total and one JADU.
- C. Lot with Multiple-Family Dwelling, either:
 - 1. Up to two detached ADUs; or
 - 2. At least one ADU converted from non-habitable portions of the existing primary structure that are not within the living space of a Dwelling Unit (e.g., basement, attic, garages storage room). The maximum number of ADUs converted from portions of the existing primary structure that are not within the living space of a Dwelling Unit shall not exceed 25 percent of the total number of existing Dwelling Units on the lot.

22.43.040 — Unit Size.

- A. **Minimum Size.** An ADU/JADU shall be a minimum of 150 square feet or the size necessary to accommodate an efficiency unit as defined by California Health and Safety Code Section 17958.1, whichever is greater.
- B. **Maximum Size.**
 - 1. **ADU.** The total floor area of an attached or detached ADU shall not exceed 1,200 square feet, excluding any garage area. In no case shall an ADU attached to the primary dwelling exceed 50 percent of the existing primary dwelling square footage, except a State Exemption ADU shall be permitted.

2. **JADU.** The total floor area of a JADU shall not be more than 500 square feet, excluding any shared sanitation facility within the primary dwelling structure.
- C. **Conversion Restrictions.** A JADU created entirely through conversion of an existing permitted structure is allowed a physical addition of no more than 150 square feet and shall be limited to accommodating ingress and egress, subject to all other applicable provisions of this Chapter. The conversion of an existing permitted accessory structure or a portion of an existing primary structure to an ADU is not subject to unit size requirements.
- D. **Lot Coverage and Floor Area Ratio.** Newly constructed ADUs shall be exempt from the maximum lot coverage or floor area ratio allowed in the zoning or overlay district.

22.43.050 — Setbacks

- A. **Front.** Both attached and detached ADUs shall be subject to the same front setback requirements as the primary dwelling.
- B. **Side.** A setback of no less than four feet from the side lot line shall be required for either an attached or detached ADU.
- C. **Rear.** A setback of no less than four feet from the rear lot line shall be required for either an attached or detached ADU.
- D. **Expansion of Converted Existing Structures.** The first floor of an existing permitted structure which has setbacks of less than four feet and is planned for conversion into an ADU can be expanded, so long as the expansion does not result in additional encroachment into the required setbacks.
- E. **Architectural Features.** Architectural features including sills, eave overhangs, awnings, and cornices may extend into a required setback or space between buildings not more than 18 inches.

22.43.060 — Building Separation.

- A. **Non-State Exemption ADU.** For any detached ADU which does not qualify as a State Exemption ADU, the distance between the ADU and any other structures shall be at least five feet.
- B. **State Exemption ADU.** Detached ADUs located closer than five feet to any other structures without an automatic residential fire sprinkler system shall be subject to a minimum of one-hour fire-

resistance rating and shall comply with all California Building Code and California Fire Code fire-rating requirements.

22.43.070 — Height.

Building height shall be measured as the vertical distance from any point on the natural grade, to the topmost point of the building immediately above.

A. **Detached ADU.**

1. **New Construction.** A maximum height of 18 feet for a new detached ADU shall be permitted. An additional two feet in height to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit shall also be permitted.
2. **Addition to an Existing Detached Structure.** An ADU which results in an addition to an existing detached structure that is not the primary dwelling shall have a maximum height of 25 feet or the height limitation associated with the primary dwelling, whichever is lower, and shall not exceed two stories. A Detached ADU shall be either a one-story structure or second-story addition to an existing legal structure.

- B. **Attached ADU.** A maximum height of 25 feet or the height limitation associated with the primary dwelling, whichever is lower, shall be permitted for an ADU that is attached to a primary dwelling.

22.43.080 — Parking.

- A. **Minimum Parking.** A minimum of one independently usable off-street parking space shall be provided for each ADU, which shall be provided in addition to the required parking for the primary residential dwelling(s), except as outlined in Subsections C and D. No parking is required for a JADU.
- B. **Parking Design.** This space need not be covered, and shall comply with all development standards set forth in Chapter 22.36 (Off-Street Parking and Loading Facilities), except the space may be compact and/or uncovered. A tandem parking space may also be used to meet the parking requirement for an ADU, providing

such space will not encumber access to a required parking space for the primary single-family dwelling.

- C. **Replacement Parking.** When a garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of an ADU or JADU, no parking replacement spaces for the primary residence shall be required. Any other required off-street parking spaces shall be maintained for the primary residence, and may be located in any configuration on the same lot as the ADU, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. A demolition permit for a detached garage that is to be replaced with an accessory dwelling unit shall be reviewed with the application for the accessory dwelling unit and issued at the same time. The applicant is not required to provide written notice or post a placard for the demolition of a detached garage, that is to be replaced with an accessory dwelling unit, unless the property is located within the Historic Overlay District or another architecturally and historically significant historic district.
- D. **Parking Exceptions.** Off-street parking shall not be required for an ADU in any of the following instances:
1. The ADU is a studio unit.
 2. The ADU is located within one-half mile walking distance of public transit, including various means of transportation that charge set fees, run on fixed schedules, and are available to the public.
 3. The ADU is located within the Historic Overlay District or another architecturally and historically significant historic district.
 4. The ADU is part of the proposed or existing primary dwelling or an accessory structure.
 5. When on-street parking permits are required but not offered to the occupant of the ADU.
 6. When there is a designated pick-up or drop-off location for car share vehicles located within one block of the ADU.
 7. The ADU is consistent with affordability requirements outlined in Section 22.43.140.

22.43.090 — Design Standards.

- A. **Aesthetics.** The design of the ADU and/or JADU shall be as follows:
1. For a detached ADU, the exterior materials and design shall match the design of any existing primary unit on the property through the use of the same exterior wall materials, identified color tones, window types, door and window trims, roofing materials and roof pitch. The Planning Manager or designee may determine without the requirement for a public hearing or a public review process that similar materials substantially comply with this requirement.
 2. For an attached ADU, the exterior materials, windows, and other architectural features shall match the existing structure by employing the same building form, exterior wall materials, color tones, window design, door and window trims, roofing materials and roof pitch.
- B. **Lighting.** Exterior building lighting shall be fully shielded and downward-facing and limited to one exterior light fixture per exterior doorway, or the minimum necessary to comply with the California Building Standards Code.
- C. **Utility Connections.** All electrical and utility services to a new dwelling unit shall be undergrounded.

22.43.100 — Ingress and Egress.

- A. ADUs and JADUs shall have an independently accessible entrance that does not require passage through the primary residence.
- B. With the exception of JADUs, attached ADUs shall not be allowed a connecting doorway or other permanent ingress or egress between the primary dwelling and the ADU.
- C. Unless it would preclude the development of a Statewide Exemption ADU, an exterior stairway proposed to serve an ADU or JADU on a second story or higher shall not be visible from the public right-of-way. Access to a first story dwelling by stairs or ADA accessible ramp may be permitted in the front of the primary dwelling.
- D. A JADU created entirely through conversion of an existing permitted structure is allowed a physical addition of no more than

150 square feet and shall be limited to accommodating ingress and egress consistent with the remainder of this Chapter.

22.43.110 — Privacy.

- E. **Windows.** ADUs that do not meet the setback requirements that would apply to a primary dwelling in the same district shall require windows that face neighboring property lines to:
1. Be clerestory with a minimum sill height of six feet above the subject interior floor elevation; or
 2. Have frosted or opaque glass and not be operable.
- F. **Balconies and Decks.** ADUs that do not meet the setback requirements that would apply to a primary dwelling in the same zoning district shall have no rooftop decks, and no portion of any balcony or deck shall be located above ten feet in height, exclusive of railings, except on the side of the ADU facing the primary dwelling. ADUs that meet the setback requirements that would apply to a primary dwelling in the same district may have rooftop decks and balconies to the extent otherwise allowed in the relevant zoning district.

22.43.120 — General Requirements.

- A. **Compliance with Building Codes.** All ADUs and JADUs shall comply with all applicable requirements of the building code as adopted and enforced at time of submitting a complete application. In cases where an ADU or JADU is to be created through the reconfiguration of a portion of an existing single-family dwelling, both the secondary and primary dwelling shall be upgraded to comply with such building code requirements, which include but is not limited to noise separation between units sharing common walls, emergency egress and heating/ventilation requirements, as required by the Chief Building Official or designee.
- B. **Permanent Foundation.** A permanent foundation shall be required for all attached and detached ADUs and for any ADU or JADU created entirely through conversion to the existing structure with a physical addition.

- C. **Public Utilities and Services.** ADUs shall be served by public water and sewer and shall have access to an improved public street.
- D. **Required Facilities.** With the exception of JADUs, all attached or detached ADUs must include:
1. Independent facilities for living, sleeping, cooking, and sanitation.
 2. A kitchen area containing a refrigerator, sink, and permanently installed cooking appliance, which must include at least a fixed stovetop.
 3. A fully plumbed bathroom including sink, shower, and toilet.
 4. If a permitted JADU does not include a separate bathroom, the JADU must include a separate entrance from the main entrance to the structure, with an interior entry to the main living area.
- E. **Fire Sprinklers.** All newly constructed or converted ADUs are required to have automatic residential fire sprinklers consistent with California Residential Code Section R313.2, unless the existing primary structure was constructed prior to the requirement for automatic residential sprinkler system. The construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling.
- F. **Windows.** Detached ADUs with a wall(s) located closer than five feet to a primary dwelling shall not include any openings such as windows or doors on the subject wall(s).
- G. **Occupancy.** ADUs and JADUs may be rented separately from the primary dwelling, but may not be sold or otherwise conveyed separately from the primary residence, with the exception of separate conveyance of ADUs with the involvement of qualified nonprofit housing organizations consistent with California Government Code Section 65852.26(a)(1). Dwellings with JADUs require owner occupancy of either the primary dwelling or the newly constructed JADU, but shall not be required if the owner is another governmental agency, land trust, or housing organization. No dwelling unit shall be rented for a period of less than 31 days and cannot be occupied as a short-term rental unit.
- H. **Common Sanitation Facilities.** JADUs are permitted to have common sanitation facilities with the primary dwelling. Any JADU

with common sanitation facilities shall have interior access to the primary dwelling.

- I. **Protected Trees.** Where an ADU is proposed within the dripline of a protected tree, as defined in Section 8.12.020, an arborist report prepared by a licensed arborist shall be required and all ensuing recommendations shall be followed.
- J. **Hillside Properties.** For areas with slopes greater than 30 percent, the preparation of a geotechnical investigation report shall be required and all ensuing recommendations shall be followed.

22.43.130 — Exceptions.

- A. **Exceptions May Be Granted.** The Zoning Administrator may grant an exception to height, size, setback, building separation, parking, ingress and egress, privacy, and design standards consistent with the procedures set forth in Section 22.06.020 and subject to the following findings:
 - 1. The project will substantially comply with the Zoning Ordinance and the purpose and intent of the zoning district where the property is located.
 - 2. The project will not pose a detrimental impact to the site, adjacent properties, or neighborhood.
 - 3. The project will otherwise comply with applicable Zoning Ordinance standards and requirements.
- B. **Limitations of this Section.** Consistent with California Government Code Section 65852.2, this Section shall not preclude or impede the development of any Statewide Exemption ADU and in compliance with all other local development standards.

22.43.140 — ADU Bonus Program.

- A. **Applicability.** Applicants that are proposing to deed-restrict an ADU to the following affordability levels are eligible for the bonuses described below:
 - 1. Moderate-Income, deed-restricted: Provide affordability between 80 to 120 percent of area median income with affordability restrictions in place for 55 years.

2. Lower-Income, deed-restricted: Provide affordability at less than 80 percent of area median income with affordability restrictions in place for 35 years.
- B. **Bonuses.** The Planning Manager or designee shall approve one of the following exceptions for an ADU consistent with affordability requirements outlined in Subsection A:
1. One additional unrestricted ADU for every deed-restricted ADU, subject to the following provisions:
 - a. If the project is located in within a Transit Priority Area, defined by California Public Resources Code Section 21099(a)(7) as an area within one-half mile of a major transit stop that is existing or planned, there are no limits to the number of bonus ADUs, subject to space limitations and compliance with other standards and requirements of this Chapter.
 - b. If the project is not located within a Transit Priority Area, the limit shall be one deed-restricted and one unrestricted ADU.
 2. Waiver from another development standard listed in this Chapter that would otherwise make development of a deed-restricted ADU infeasible.
- C. **Requirements.** Property owners shall work with the City and Housing Authority of the County of Contra Costa (HACCC) to establish an Affordable Housing program, which at a minimum shall establish tenant eligibility, income verification and reporting requirements, and procedures for when a tenant's income raise beyond income limits.

22.43.150 — Application Requirements.

An application for an ADU or JADU shall be allowed with a building permit. In addition to the normal building permit submittal requirements, a completed application must include, at a minimum:

- A. **Site Plan.**
1. Drawn to scale.
 2. Dimensions of the perimeter of parcel on which the proposed dwelling will be located.

3. Indicate the location and dimensioned setbacks of all existing, proposed, and adjacent structures abutting the project site.
4. Data on the floor space of the existing structure(s) and proposed unit.
5. All easements, building envelopes, and special requirements of the subdivision as shown on the final map and improvement plans shall be included.
6. Provide average slope calculations for the project site.
7. Calculations indicating the square footage of the structure and the lot, including calculations on the plan for the percentage of lot area covered by the foundation of the existing and proposed dwelling units.

B. Floor Plans.

1. Each floor and room shall be dimensioned, and the resulting floor area calculation included.
2. The use of each room shall be identified.
3. The size and location of all windows and doors shall be clearly depicted.

C. Elevation Views.

1. Provide north, south, east, and west elevations.
2. Show all heights for all existing and proposed structures on site. Height shall be calculated as the vertical distance of a building at any point, within a given plane, from finished grade to the top of the roof or parapet walls.
3. Show all openings, exterior finishes, original and finish grades, stepped footing outline, roof pitch, and materials.
4. For ADUs and/or JADUs that include modifications to the exterior of the primary structure or new construction, provide elevations showing all openings, exterior finishes, original and finish grades, stepped footing outline, roof pitch, materials and color board for the existing primary structure and the proposed unit.

22.43.160 — Review and Approval Authority.

- A. **Application to be Administratively Approved.** All ADUs and JADUs require a building permit. The building permit will be reviewed for compliance with applicable building codes, California

Government Code Section 65852.2 and 65852.22, and development and design standards from this Section. If an application to create an ADU or JADU is submitted as part of a project that requires discretionary review, a Building Permit shall not be issued for the ADU or JADU until the discretionary approval(s) has/have been granted and any applicable appeal periods have expired.

- B. **Approval of Unit Does Not Permit Land Division.** Approval of an ADU or JADU shall not be deemed to be a division of land for purposes of California Government Code Section 66410 et seq. or Title 21 of the Municipal Code, nor shall the administrative approval above entitle the applicant to either: (a) such a division of land; or (b) to have each of the dwelling units on the parcel separately assessed for property tax purposes.

SECTION XI:

Chapter 22.49 (Child Care Facilities) of Title 22 (Zoning) of the MMC is hereby amended to read as follows:

22.49.020 Definitions.

- A. "Child Care Facility" or "facility" means an existing or proposed child day care facility and related improvements and structures as defined in Health and Safety Code Sections 1596.750.
- B. Such facility includes the building, indoor and outdoor equipment, landscaping, and other site development costs, and any accessory structures and programs licensed by the State for direct child care services providing but not limited to shelter, food and educational and play opportunities for less than 24 hours per day.
- C. "Project" means any new residential development resulting in the addition of more than one bedroom, and any new non-residential development resulting in more than 2,500 gross square feet and any subdivision which is granted an extension of time for which to file the final or parcel map except buildings or improvements related to the following:
1. Day Care Centers
 2. Schools
 3. Churches

4. ~~Secondary Residential Units~~ Accessory Dwelling Units, as defined in Section 22.04.441021 of the Municipal Code-
5. Repair and reconstruction of any building damaged by flood, fire, or other disaster
6. Senior housing project
7. Subdivisions for which, during the five-year period prior to this ordinance becoming effective (which date is May 10, 1990), a final or parcel map has been recorded.
8. Subdivisions, the applications for which were deemed complete on or before February 3, 1990, the date notice of this ordinance was given per Section 66474.2 (b) of the Subdivision Map Act.

SECTION XII:

Chapter 22.51 (Objective Standards and Regulations for Qualified Senate Bill 9 Subdivisions and Development Projects) of Title 22 (Zoning) of the MMC is hereby amended to read as follows:

22.51.010 Purpose and Intent.

The purpose of this chapter is to establish objective standards and regulations to govern the development of qualified Senate Bill 9 subdivisions and development projects on single-family residential zoned properties within the City of Martinez. The establishment of these regulations will result in the orderly subdivision and development of qualified Senate Bill No. 9 (2021) ("SB 9") projects while ensuring that the new units are consistent with the character of the City and do not create any significant impacts with regards to public infrastructure or public safety. The regulations are established to implement the requirements under California Government Code Sections 65852.21 and 66411.7. In the event of any conflict or inconsistency between this Section and State law or other Sections in the Municipal Code, the more permissive regulations shall prevail.

22.51.020 Definitions.

For purposes of this chapter, the following definitions apply:

- A. ~~"Accessory dwelling unit" or "ADU", means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located~~

~~on a parcel with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is or will be situated.~~

- ~~B~~A. "Dwelling unit" includes an ADU, JADU, a primary dwelling unit, and a SB 9 dwelling unit.
- ~~C~~. "~~Junior accessory dwelling unit~~" or "JADU", or "efficiency unit", means a dwelling unit that is up to 500 square feet in size and contained entirely within an existing primary dwelling unit that provides an efficiency kitchen and a separate exterior entrance, and may include separate sanitation facilities, or may share sanitation facilities with the existing structure.
- ~~D~~B. "Conservation Easement" means restrictive covenants that run with the land and bind upon successive owners that protects against future development such as preservation of open space, scenic, riparian, historical, agricultural, forested, or similar conditions. Open space and riparian easements are included in this definition.
- ~~E~~C. "Existing dwelling unit" means a primary dwelling unit or other dwelling unit on a parcel that exists prior to any voluntary demolition or reconstruction or remodel where more than 50 percent of the exterior wall framing has been removed or altered. Any existing dwelling unit where more than 50 percent of the exterior wall framing has been removed is considered a new dwelling for purposes of this article.
- ~~F~~D. "Panhandle" means the narrow strip of land on a flag lot, typically less than 30 feet in width, that provides access to a public or private road.
- ~~G~~. "~~Primary dwelling unit~~" means a single-family residence on the parcel and is the larger of the two if there is an existing accessory dwelling unit on the parcel.
- ~~H~~E. "Private Road" means a road, way, or street in private ownership and under private maintenance, not offered for dedication as a public road, way, place, or street, which affords the principal means of access to three or more lots or parcels which do not have frontage on a public street.
- ~~I~~F. "SB 9 dwelling unit" or "SB 9 unit" means a dwelling unit that is developed using the provisions in this article and the provisions identified in California Government Code Sections 65852.21 and 66411.7.

JG. "Single-family residential zone" means a zoning district in which one family residence is a permitted use and is limited to the following zoning districts: R-6.0, R-7.5, R-10, R-15, R-20, R-40, R-65, R-80, R-100, and RR.

22.51.030 Eligibility of properties for a subdivision.

The following parcels are not eligible for a subdivision under this article:

- A. Any parcel which is not located in a single-family residential zone, as defined by this chapter.
- B. Any parcel that was established through a prior exercise of a subdivision as provided for in this chapter.
- C. Any parcel proposing to be subdivided that is adjacent to another parcel where either the owner of the parcel proposing to be subdivided or any person acting in concert with said owner has previously subdivided that adjacent parcel using the provisions in this article. For the purposes of this chapter, "any person acting in concert" with the owners includes, but is not limited to, an individual or entity operating on behalf of, acting jointly with, or in partnership or another form of cooperative relationship with, the property owner.
- D. Any parcel located within an historic district or included on the State Historic Resources inventory, as defined in Section 5020.1 of the Public Resources Code, or a parcel within a site that is designated or listed as a City of Martinez or Contra Costa County landmark or historic property or district pursuant to a City of Martinez or Contra Costa County ordinance.
- E. Any parcel where the subdivision would require the demolition or alteration of any of the following types of housing:
 1. Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very-low income.
 2. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.
 3. A parcel or parcels on which an owner of residential real property has exercised the owner's rights under Government Code section 7060 et seq. to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

4. Housing that has been occupied by a tenant in the last three years.
- F. Any parcel fully encumbered with a conservation easement or 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.
 - G. Any parcel that is designated 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 and Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure.
 - H. Any parcel containing wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993), that would prevent the development of the parcel.
 - I. Any parcel within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Government Code 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 subsection does not apply to parcels that have been excluded from specific hazard zones by actions of the City pursuant to Government Code section 51179(b), or parcels that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.
 - J. Any parcel with a hazardous waste site that is listed pursuant to Government Code 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.
 - K. Any parcel within a special flood hazard area subject to inundation by the one percent annual chance flood (100-year

flood) as determined by the Federal Emergency Management Agency (FEMA) in any official maps published by the FEMA. However, a subdivision and/or development project may be located on a parcel described in this subsection if (1) the parcel is otherwise eligible for approval under the provisions of this chapter and (2) the project applicant is able to satisfy all applicable federal qualifying criteria demonstrating either of the following are met:

1. The site has been subject to a Letter of Map Revision prepared by the FEMA and issued to the City.
 2. The site meets FEMA 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.
- L. Any parcel within a regulatory floodway as determined by the FEMA in any official maps published by the FEMA, unless the subdivision and/or development project has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations.
- M. Any parcel containing 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).

22.51.040 Objective standards and requirements for a subdivision.

The following objective standards and regulations apply to all subdivisions under this chapter:

- A. A Parcel Map and a Subdivision Application shall be submitted to the City for all proposed subdivisions.
- B. The subdivision shall create no more than two new parcels of approximately equal area provided that one parcel shall not be

smaller than 40 percent of the lot area of the original parcel proposed for subdivision. In no instance shall any resulting parcel be smaller than 1,200 square feet in area.

- C. Existing parcels shall be split approximately perpendicular to the longest contiguous property line.
- D. The subdivision shall not result in a new parcel with an average width that is less than the average width of the original parcel. Any panhandle on a flag lot shall not be used to calculate the average width. However, this requirement shall be waived if the subdivision applicant demonstrates that it would prohibit a subdivision that otherwise meets the requirements of subsection (b).
- E. The front parcel line of any newly created parcel shall be the parcel line that is closest to or parallel to the public or private road that serves the parcel.
- F. A 25-foot-wide panhandle (for a flag lot) or an ingress/egress easement shall be provided for all new parcels that do not have direct frontage on a public or private road. Driveway access to the new parcels shall be shared unless the new driveways are a minimum of 100 feet apart.
- G. Easements for access and public and private utilities shall be provided for any newly created parcel that does not front on a public or private street.
- H. Separate utility meters shall be provided for each parcel prior to recordation.
- I. All newly created parcels shall be connected to public sewer.
- J. No setbacks shall be required for an existing structure on the parcel from a proposed property line.
- K. The subdivision is subject to all impact or development fees related to the creation of a new parcel.
- L. Upon receipt of a subdivision application using the provisions of this chapter, the City shall notify all owners and occupants within a 500-foot radius from the subject parcel that a parcel map has been filed with the City.
- M. A note on the parcel map and a recorded deed restriction in a form approved by the City Attorney's Office shall be applied to all newly created parcels indicating that the parcel was split using the provision of this chapter and that no further subdivision of the parcels is permitted.

- N. Prior to the recordation of the parcel map, the applicant shall sign and record an affidavit stating that the applicant intends to reside in one of the proposed or existing primary dwelling units or SB 9 units for three years from the date of the approval of the subdivision. This requirement shall not apply if the applicant is a community land trust or a qualified nonprofit corporation as provided in Sections 402.1 and 214.15 of the Revenue and Taxation Code.

22.51.050 Objective standards and requirements for new dwelling units on a parcel that is not being subdivided.

The following objective standards and regulations apply to all new development on a parcel located within a single-family zone, as defined by this chapter, including primary dwellings, SB 9 dwelling units, an ADU, or a JADU attached to the primary dwelling, that are developed under the provisions of this chapter on a parcel that is not being subdivided:

A. **Where Permitted.** The following development is permitted on the parcel:

1. An existing primary dwelling unit and a new construction SB 9 unit; or
2. Two new construction SB 9 units on a vacant lot; or
3. An existing primary dwelling units, ~~and an~~ one ADU or one JADU.;
4. Lot with Multiple-Family Dwelling, either:
 - a. Up to two detached ADUs; or
 - b. At least one ADU converted from non-habitable portions of the existing primary structure that are not within the living space of a Dwelling Unit (e.g., basement, attic, garages storage room). The maximum number of ADUs converted from portions of the existing primary structure that are not within the living space of a Dwelling Unit shall not exceed 25 percent of the total number of existing Dwelling Units on the lot.

~~or~~

3. ~~An existing primary dwelling unit and a JADU.~~

- B. **Floor Area.** The maximum floor area of any new dwelling unit developed under SB 9 shall be 850 square feet. Basements and bunkers are not permitted.
- C. **Lot Coverage.** The maximum lot coverage shall be that assigned to the zoning district in which the development will be located.
- D. **Setbacks.**
1. The minimum setback for any new SB 9 dwelling unit shall be 40 feet from the front parcel line and four feet from the side and rear parcel lines.
 2. Notwithstanding sub-section (c) above, no setback is required for a new SB 9 dwelling unit constructed in the same location as an existing structure on the parcel.
- E. **Height.** The maximum height of any new dwelling unit developed under SB 9 shall be 16 feet. The maximum height of ADUs shall be consistent with Section 22.43.070.
- F. **Parking.** One uncovered parking space, located a minimum of 40-feet from the front parcel line and 30 feet from the side and rear parcel lines, is required for each dwelling unit, except where:
1. The parcel is located within one-half mile walking distance of either a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code.
 2. When there is a car share vehicle facility, as defined herein, located within one block of the subject property.
 3. As provided in Section 22.43.080 for ADUs/JADUs.
- G. **Fire Wall.** A solid (no openings) one-hour rated fire wall is required between any SB 9 unit and the primary dwelling unit or an ADU.
- H. **Driveway.** Driveway access to all new units shall be compliant with the City's standard details and specifications for driveways and turnarounds.
- I. **Owner Occupancy.**
1. The owner shall sign and record an affidavit placing a covenant that will run with the parcel to confirm that the owner will reside in either the primary dwelling unit or an SB 9 unit on the parcel for three years from the issuance of an SB 9

dwelling unit's Certificate of Occupancy and closing of all construction permits pertaining to the parcel.

2. No dwelling unit shall be rented for a period of less than 31 days and cannot be occupied as a short-term rental unit.
3. An SB 9 dwelling unit may be rented separately from the primary dwelling unit.

J. **Utilities.** All newly created dwelling units shall be connected to public water and separately metered, and to public sewer.

~~L. No dwelling unit shall be rented for a period of less than 31 days and cannot be occupied as a short-term rental unit.~~

~~M. An SB 9 dwelling unit may be rented separately from the primary dwelling unit.~~

K. **N. Fees.** Development projects pursuant to this section shall be subject to all impact or development fees related to the development of a new dwelling unit.

22.51.060 Objective standards and requirements for dwelling units on a parcel subdivided pursuant to this chapter.

The following objective standards and regulations apply to all development on a parcel that has been subdivided or subdivided under the provisions of this chapter:

A. **Where Permitted.** ~~No more than two~~ three dwelling units may be permitted on a parcel that has been subdivided under the provisions of this chapter. The following development is permitted on the parcel:

1. A primary dwelling unit and an SB 9 limit; or
2. Two SB 9 units; or
3. If there is an existing primary dwelling unit, and ADU, and JADU on the property, then no further development is permitted for that property.

B. **Floor Area.** The maximum floor area (MFA) permitted on each lot shall be 1,700 square feet.

Exception: If there is an existing primary dwelling unit on the parcel, then the floor area of the existing dwelling unit cannot be increased, and any SB 9 dwelling unit shall not exceed 850 square feet.

- C. **Setbacks and Floor Area.** The minimum setback for any new primary dwelling unit or SB 9 dwelling unit shall be 40 feet from the front property line and four feet from the side and rear property lines and the maximum combined floor area for all dwelling units on the property shall be 1,700 square feet. Basements and bunkers are not permitted.
Exception: No setback is required for a new SB 9 dwelling unit constructed in the same location as an existing structure on the parcel.
- D. **Height.** The maximum height of all new SB 9 dwelling units shall be 16 feet. If there is an existing primary dwelling on the parcel then then the maximum height of the existing residence cannot be increased. The height of ADUs shall be consistent with Section 22.43.070.
- E. **Parking.** All parking required for an existing primary dwelling on the parcel shall be retained. One parking space, located a minimum of 40-feet from the front property line and 30 feet from the side and rear property lines, is required for each new dwelling unit. The parking space shall be at least ten feet wide by 20 feet deep. In order to allow access to fire and emergency response vehicles, no structure shall be closer than three feet to the driveway or access easement.
Exception: An onsite parking space is not required for new dwelling units where:
1. The parcel is located within one-half mile walking distance of either a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code.
 2. When there is a car share vehicle facility, as defined herein, located within one block of the subject property.
 3. As provided in Section 22.43.080 for ADUs/JADUs.
- F. **Fire Wall.** If the two SB 9 dwelling units are a duplex on a parcel, a solid one-hour fire wall between the units is required. In addition, a deed restriction in a form approved by the City Attorney's Office shall be recorded stipulating that the duplex shall be maintained as two separate units. _
- G. **Deed Restriction.** If the parcel is fully developed with the number of units permitted under 22.51.060(a) above, then the applicant or

property owner shall record a deed restriction in a form approved by the City Attorney's Office stipulating that no further development of the parcel is permitted.

H. **Driveway.** Driveway access to all new units shall be compliant with the City's standard details and specifications for driveways and turnarounds.

I. **Owner Occupancy.**

1. If the proposed dwelling units are developed subsequent to a subdivision completed pursuant to this chapter, the owner shall sign and record an affidavit placing a covenant that will run with the parcel to confirm that the owner intends to reside in either the primary dwelling unit or an SB 9 unit on the parcel for three years from the issuance of a Certificate of Occupancy for the SB 9 dwelling unit and closing of all construction permits pertaining to the parcel. Owner occupancy requirements related to ADUs/JADUs shall comply with Section 22.43.120.G.

2. No dwelling unit shall be rented for a period of less than 31 days and cannot be occupied as a short-term rental unit.

3. An SB 9 dwelling unit may be rented separately from the primary dwelling unit.

J. **Utilities.** All newly created dwelling units shall be connected to public water utilities and sewer.

~~K. No dwelling unit shall be rented for a period of less than 31 days and cannot be occupied as a short-term rental unit.~~

~~L. An SB 9 dwelling unit may be rented separately from the primary dwelling unit.~~

L. **Fees.** Any development constructed in accordance with this section shall be subject to all impact or development fees related to the development of a new dwelling unit.

22.51.070 Objective building and design requirements for all SB 9 dwelling units.

All SB 9 dwelling units shall be reviewed and approved without discretionary review or a hearing. ADUs/JADUs proposed as SB 9 dwelling units shall also comply with the applicable design requirements provided in Chapter 22.43. As part of the Community Development

Department's ministerial approval, the following objective design requirements shall be confirmed:

- A. The design of the dwelling unit shall be as follows:
1. For a detached unit, the exterior materials and design shall match the design of any existing primary dwelling unit on the property through the use of the same exterior wall materials, identified color tones, window types, door and window trims, roofing materials and roof pitch.
 2. For an attached unit, the exterior materials, windows and other architectural features shall match the existing structure by employing the same building form, color tones, window design, door and window trims, roofing materials and roof pitch.
- B. Exterior wall colors and materials shall have a light reflectivity value (LRV) of 50 or less and roof materials shall have a light reflectivity value (LRV) of 40 or less.
- C. Exterior building lighting shall be fully shielded and downward-facing and limited to one exterior light fixture per exterior doorway, or the minimum necessary to comply with the California Building Standards Code.
- D. All new dwelling units are required to have fire sprinklers, subject to section 22.43.120 subsection (E) of this Municipal Code.
- E. All portions of the SB 9 dwelling unit, including eave overhangs and other projections, shall meet the required setbacks as set forth in this chapter.
- F. No roof decks are permitted on SB 9 dwelling units.
- G. New or modified detached dwelling units shall be separated from any other dwelling unit or building by ten feet to prevent the spread of fire. Building separation requirements related to ADUs/JADUs shall comply with Section 22.43.060.
- H. Structures, except ADUs and JADUs, shall not be located in the following locations:
1. In areas encumbered by a recorded easement, including but not limited to, public utility easements, conservation easements, access easements, pedestrian pathway easements and open space easements;
 2. In areas within 25 feet of the top of a creek bank;

3. In areas within the critical root zone of any protected tree as defined in Section 8.12.020A.1.a. of this code. Review and approval of an arborist report prepared by a licensed or consulting arborist is required if a structure is proposed within the critical root zone of a protected tree.
4. Areas with slopes greater than 30 percent.

Exception: ADUs and JADUs shall comply with Sections 22.43.020, 22.43.050, and 22.43.060.

- I. All electrical and utility services to a new dwelling unit shall be undergrounded.
- J. Notwithstanding the foregoing subsections, any development or design standards that physically precludes an SB 9 dwelling unit from being 850 square feet in floor area shall be waived.

22.51.080 Permit review process.

All applications for lot splits and new development using this chapter shall be ministerially approved without public hearings or discretionary review.

22.51.090 Fees.

The City Council may establish and set by resolution all fees and charges, consistent with Government Code ~~s~~ Sections 65852.2 and 65852.22, and related provisions, as may be necessary to effectuate the purpose of this chapter.

SECTION XIII:

Chapter 22.55 (Impact Mitigation Fees) of Title 22 (Zoning) of the MMC is hereby amended to read as follows:

22.55.020 Definitions.

For purposes of this Chapter, the following terms shall have the following meanings:

- A. "**City**" means the City of Martinez, including its future boundaries.
- B. "**Developer**" means the person(s) or legal entity(ies), who also may be the property owner, who is developing a particular project in the City.

- C. "**Development**" means the construction, alteration, extension, enlargement or addition of any building or structure within the City. "Development project" shall have the same meaning as specified in Cal. Government Code Section 66000(a).
- D. "**Director**" or "**Community Development Director**" means the Director of the Department of Community Development or his or her designee.
- E. "**Industrial development**" or "**industrial**" means warehouse, industrial, manufacturing and research and development ("R&D") buildings.
- F. "**Impact mitigation fee**" or "**IM Fee**" means any one of the five impact mitigation fees established pursuant to Section 22.55.030 of this Chapter.
- G. "**Impact mitigation fee technical report**" or "**technical report**" refers to the current and subsequent "technical reports" to be undertaken in order to establish, justify and update IM fee amounts, which are approved by City Council resolution.
- H. "**Multi-family dwelling**" means any building or portion thereof which is occupied, or intended for occupancy, as the same residence of 2 or more families living independently of each other and doing their own cooking in such building, including, but not limited to, duplexes, triplexes, fourplexes, apartments, flats, condominiums, and townhouses. "Multi-family dwelling" also includes ~~secondary housing units~~ accessory dwelling units created on a lot with a primary single-family dwelling.
- I. "**Office development**" or "**Office**" means professional, medical, and administrative office buildings.
- J. "**Public facility or Facility(ies)**" means public facilities as defined in subsection (d) of Section 66000 of the California Government Code, and also includes, but is not limited to, capital improvements for transportation and transit facilities, parks and recreation facilities, public safety facilities and such other facilities as may be identified in the technical report.
- K. "**Retail development**" or "**retail**" means retail stores, commercial service shops and hotel buildings.
- L. "**Single-family dwelling**" means an attached or detached single-family residential dwelling occupied or intended for occupancy by one household.

SECTION XIV. SEVERABILITY.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this ordinance, or its application to any other person or circumstance. The City Council of the City of Martinez hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases hereof be declared invalid or unenforceable.

SECTION XV. PUBLICATION AND EFFECTIVE DATE

This ordinance shall become effective 30 days after the date of adoption.

At least five days prior to its final adoption, a certified copy of the full text of this ordinance shall be posted in the office of the City Clerk.

Within fifteen days after adoption, the City Clerk shall publish a summary of this ordinance with the names of those City Council members voting for or against the ordinance in a newspaper of general circulation published and circulated in the City of Martinez.

The City Clerk shall post in the office of the City Clerk a certified copy of the full text of the adopted ordinance.

APPROVED

BRIANNE ZORN
MAYOR

ATTEST

KAT GALILEO
ASSISTANT CITY CLERK

* * * * *

I HEREBY CERTIFY that the foregoing is a true and correct copy of an Ordinance

that was duly introduced at a Regular Meeting of the City Council of the City of Martinez, held on the 21st day of June, 2023, and adopted at a regular meeting of the City Council of the City of Martinez, held on the ____ day of _____, 2023, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RICHARD G. HERNANDEZ
CITY CLERK

Approved as to form:

TERRI HIGHSMITH
CITY ATTORNEY