

ORDINANCE NO. 25-12

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADOPTING AN INTERIM MEASURE REPEALING ORDINANCE NO. 22-01, WHICH ADDED CHAPTER 9.72 (REGULATING SINGLE FAMILY RESIDENTIAL DUPLEXES), AND CHAPTER 7.37 (REGULATING URBAN LOT SPLITS) TO THE CITY OF DANA POINT MUNICIPAL CODE, AND PROHIBITING USES CONFLICTING WITH THE CITY COUNCIL'S CONTEMPLATED ADOPTION OF REGULATIONS REPEALING THE FORGOING WHICH WERE ADOPTED TO IMPLEMENT SB9 IN AS MUCH AS IT IS NO LONGER CONSISTENT WITH RELATED STATE LAW

WHEREAS, California Senate Bill 9 (SB 9), enacted in 2021, allows for the duplex development of single-family and an increase in housing density by permitting property owners to split their lots and build up to four units on a single lot, with the goal of addressing housing shortages; and

WHEREAS, SB 9 authorized cities to adopt ordinances to implement its terms, and when adopted SB 9 contained language that enabled cities to implement provisions as part of a local ordinance that they deemed appropriate for their local circumstances; and

WHEREAS, amendments to SB 9 resulted in revisions that largely eliminated such options for cities; and

WHEREAS, the Council adopted Ordinance 22-01 in 2022 to implement SB 9, by which it adopted Chapter 9.72 (regulating single family residential duplexes), and Chapter 7.37 (regulating urban lot splits) of the Dana Point Municipal Code, however, due to revisions to SB 9, these provisions of the Municipal Code are out of date; and

WHEREAS, in response to concerns related to Ordinance 22-01, Staff advised the State Department of Housing and Community Development (HCD) that it would revise its SB 9 ordinance, and has so advised HCD for a number of years; and

WHEREAS, due to staffing availability, and other workload obligations, Staff has been unable to bring forward an amendment to Ordinance 22-01 to date, but has been applying State Law in connection with SB 9, rather than the provisions of Ordinance 22-01; and

WHEREAS, HCD has recently advised the City that the delay in updating its SB 9 Ordinance places the City in a position where it is potentially in violation of related provisions of its Housing Element, and advised the City it needs to address this issue with an acceptable plan not later than September 30, 2025; and

WHEREAS, The City Council intends to consider a zoning proposal by which to formally repeal Ordinance 22-01, thereby resulting in the application of State Law in connection with SB 9, as has been the practice in the City for several years; and

WHEREAS, the City Council finds that adoption of an interim measure, on an urgency basis such that it takes effective immediately, is necessary pending its consideration of the above noted zoning proposal, to ensure no action occurs in the interim period that might be inconsistent therewith, and does so based on the findings set forth below.

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

SECTION 1: The foregoing recitals are true and correct and incorporated herein as findings of the City Council, as if set forth in full. Moreover, the Council makes the following findings:

1. HCD has advised the City that the delay in updating its SB 9 Ordinance places the City in a position where it is potentially in violation of related provisions of its Housing Element.

2. HCD has advised the City it needs to address this issue with a plan acceptable to it not later than September 30, 2025, and that if the City does not do so, HCD's withdrawal if its certification of the City's Housing Element is a potential consequence.

3. HCD's withdrawal of its certification of the City's Housing Element would have tremendous negative impacts on the public health, safety, and welfare of the community, including by potentially resulting in the loss of grant funding, and the implementation of projects contrary to the City's General Plan and Zoning Code, which impacts the Council finds pose an eminent threat to public health safety and welfare.

4. To address and eliminate this risk, the Council is considering the adoption of a zoning proposal by which to repeal Ordinance 22-01, such that State Law will apply to SB 9 issues, as has been the case in the City for several years.

5. The process to adopt the forgoing zoning proposal involves a Planning Commission hearing, and a first and second reading by the Council, and in the interim the City Council desires to ensure that no activities inconsistent with the proposal occurs, as such activity would be contrary to the interests of the people of the State as expressed by the legislature in adopting SB 9 and its various amendments, and any such inconsistent activities would pose an immediate threat to public health safety and welfare.

6. By adopting this urgency, interim measure, and thereby by ensuring the City has in place clear regulations related to SB 9, the City will have complied with HCD's September 30th deadline thereby obviating the risks noted above.

SECTION 2: Ordinance 22-01, which it adopted Chapter 9.72 (regulating single family residential duplexes), and Chapter 7.37 (regulating urban lot splits) of the Dana Point Municipal

Code, is hereby repealed (including specifically the aforementioned sections of the Municipal Code which it adopted), with the express intention that the result shall be the application of State Law in connection with applications subject to SB 9, as it has been amended.

SECTION 3: This project is statutorily exempt under the California Environmental Quality Act ("CEQA") pursuant to Public Resources Code Sections 15303 (new Construction or Conversion of Small Structures) and 15305 (Minor Alterations in Land Use/Limitations). Similarly, the ministerial approval of urban lot splits and single family residential duplexes pursuant to SB 9, as amended, is not a "project" for CEQA purposes, and environmental review is not required prior to approving individual applications.

SECTION 4: This ordinance shall become effective immediately upon its passage as an interim urgency measure as authorized by the Planning and Zoning Law set forth in the California Government Code, and shall remain effective until it either expires by operation of law or is extended by lawful action of the City Council.

SECTION 6: The City Clerk shall certify as to the adoption of this Ordinance and cause the same to be published and posted as required by law.

PASSED, APPROVED, AND ADOPTED this 18th day of September, 2025.



MATTHEW PAGANO, MAYOR

ATTEST:



SHAYNA SHARKE
City Clerk

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF DANA POINT)

I, SHAYNA SHARKE, City Clerk of the City of Dana Point, California, do hereby certify that the foregoing Urgency Ordinance No. 25-12 was duly introduced and adopted as an urgency, interim measure, at a special meeting of the City Council on the 18th day of September, 2025, by the following vote, to wit:

AYES: Federico, Frost, Gabbard, Pagano

NOES: None

ABSTAIN: None

ABSENT: Villar



SHAYNA SHARKE, CITY CLERK