

# BEFORE THE CITY COUNCIL OF THE CITY OF ORINDA

**Ordinance 21-8**

In the Matter of:

An Ordinance Updating Section 17.3.4 (Accessory Dwelling Units) and Section 17.3.12 (Short-Term Rentals) of the City's Zoning Code in Response to SB 9, a Housing Law Passed by the State Legislature in 2021

The City Council of the City of Orinda DOES ORDAIN as follows:

## **SECTION 1.**

The City Council of the City of Orinda intends, by adopting this ordinance, to update Section 17.3.4 (Accessory Dwelling Units) and Section 17.3.12 (Short-Term Rentals) of the City's Zoning Code in response Senate Bill No. 9 (SB 9), a law passed by the State Legislature in 2021.

## **SECTION 2.**

The following portions of the Zoning Code are amended and added as specified below and in Attachment A. Attachment A shows additions with double-underlined text and deletions with ~~strike-out text~~.

| <b>Municipal Code Provision</b> | <b>Action</b>                        |
|---------------------------------|--------------------------------------|
| §17.3.4(L)                      | Text added as shown in Attachment A. |
| §17.3.12(K)                     | Text added as shown in Attachment A. |

## **SECTION 3 – PURPOSE AND INTENT.**

- A. On September 16, 2021, the Governor signed into law SB 9, which will take effect on January 1, 2022.
- B. The purpose of this ordinance is to make certain amendments to the City's Zoning Code in response to changes in state law effected by SB 9. The Council may adopt further amendments later.
- C. The Council wishes to fully exercise the authority reserved to cities by SB 9 to not permit an accessory dwelling unit and/or a junior accessory dwelling unit on parcels that use the authority contained in Government Code Section 65852.21 and Government Code Section 66411.7. Specifically:
  1. SB 9 added the following language as Government Code Section 65852.21(f): "(f) Notwithstanding Section 65852.2 or 65852.22, a local agency shall not be required to permit an accessory dwelling unit or a junior accessory dwelling unit on parcels

that use both the authority contained within this section and the authority contained in Section 66411.7.”

2. SB 9 added the following language as Government Code Section 66411.7(j): “(j) (1) Notwithstanding any provision of Section 65852.2, 65852.21, 65852.22, 65915, or this section, a local agency shall not be required to permit more than two units on a parcel created through the exercise of the authority contained within this section. (2) For the purposes of this section, “unit” means any dwelling unit, including, but not limited to, a unit or units created pursuant to Section 65852.21, a primary dwelling, an accessory dwelling unit as defined in Section 65852.2, or a junior accessory dwelling unit as defined in Section 65852.22.”

D. The Council wishes to implement the restriction on short-term rentals described in SB 9. Specifically:

1. SB 9 added the following language as Government Code Section 65852.21(e): “(e) A local agency shall require that a rental of any unit created pursuant to this section be for a term longer than 30 days.”
2. SB 9 added the following language as Government Code Section 66411.7(h): “(h) A local agency shall require that a rental of any unit created pursuant to this section be for a term longer than 30 days.”

#### **SECTION 4.**

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such a decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance irrespective of the invalidity of any section, subsection, subdivision, paragraph, sentence, clause or phrase.

#### **SECTION 5.**

This ordinance is consistent with the Orinda General Plan.

#### **SECTION 6.**

The City Council finds that this ordinance is not subject to the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines (Title 14 of the California Code of Regulations) Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) because it has no potential for resulting in physical change in the environment, directly or indirectly. Further, this action is exempt from CEQA under CEQA Guidelines section 15061(b)(3) (the amendments are exempt because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment). Additionally, this action is exempt from CEQA under Government Code section 65852.21, which states: “A local agency may

adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be considered a project under [CEQA].”

**SECTION 7.**

This ordinance becomes effective thirty (30) days after adoption.

**SECTION 8.**


The City Clerk shall either (a) have this ordinance published once within fifteen (15) days after adoption in a newspaper of general circulation, or (b) have a summary of this ordinance published twice in a newspaper of general circulation, once five (5) days before its adoption and again within fifteen (15) days after adoption.

Following a duly-noticed public hearing, the foregoing ordinance was introduced at a meeting of the City Council of the City of Orinda held on December 14, 2021 and was adopted and ordered published at a regular meeting held on January 11, 2022 by the following vote:

AYES: COUNCILMEMBERS: Fay, Gee, Kosla, Miller, Worth  
NOES: COUNCILMEMBERS: None  
ABSENT: COUNCILMEMBERS: None

  
Dennis Fay, Mayor

ATTEST:

  
Sheri Marie Smith, City Clerk

## **ATTACHMENT A**

### **1. Accessory Dwelling Units.**

The following new text is added as Orinda Municipal Code section 17.3.4(L):

Pursuant to Senate Bill 9 (2021), no accessory dwelling unit or junior accessory dwelling unit will be permitted by the City on a parcel that has used both the authority contained in California Government Code Sections 65852.21 and 66411.7. No more than two dwelling units of any kind will be permitted by the City on a parcel created through the exercise of the authority contained in California Government Code Section 66411.7.

### **2. Short-Term Rentals.**

The following new text is added as Orinda Municipal Code section 17.3.12(K):

Pursuant to Senate Bill 9 (2021), short-term rentals are prohibited in units created pursuant the authority contained in California Government Code Sections 65852.21 and/or 66411.7.

1434393.1