



# CITY OF EAST PALO ALTO

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## Notice of Exemption California Environmental Quality Act

**TO: COUNTY CLERK**

County of San Mateo

555 County Center Redwood City, California

94063-1665

**TO:**

**FROM: CITY OF EAST PALO ALTO**

City Attorney's Office

2415 University Avenue

East Palo Alto, California 94303

**PROJECT TITLE:** Amendment of the Inclusionary Housing Ordinance

**PROJECT LOCATION SPECIFIC:** Citywide (City of East Palo Alto)

**PROJECT LOCATION, CITY, COUNTY:**

City of East Palo Alto, San Mateo County

**PROJECT DESCRIPTION:**

Adoption of an ordinance amending Chapter 18.37 of the East Palo Alto Municipal Code ("Inclusionary Housing") to facilitate lot splits pursuant to Government Code Section 66411.7 ("SB 9") by exempting them from requirements of the Inclusionary Housing Ordinance.

**NAME OR PUBLIC AGENCY APPROVING PROJECT:** City of East Palo Alto, a municipal corporation

**NAME OF PERSON OR AGENCY CARRYING OUT PROJECT:** City of East Palo Alto

**EXEMPT STATUS (Check One)**

- Ministerial (Sec. 21080 (b) (1); 15268)
- Declared Emergency (Sec 21080 (b) (4); 15269 (a))
- Emergency Project (Sec 21080 (b) (4) 15269 (b) (c))
- Categorical Exemption – CEQA Guidelines Section 15378(d) - regulatory actions, 15061(b)(3) - common sense exemption 15378(b)(4) - funding government services, 15183 – actions consistent with General Plan/zoning and 15195 –residential infill
- Statutory Exemption

**REASON WHY PROJECT IS EXEMPT**

The proposed action does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines sections 15378. Even if it were a project subject to CEQA review, this project would be exempt from CEQA Guideline Section 15378(d) (regulatory actions), Section 15061(b)(3) (common sense exemption), Section 15378(b)(4) (funding government services), Section 15183 (actions consistent with the general plan and zoning) and Section 15195 (residential infill development).

**LEAD AGENCY CONTACT PERSON**

**AREA CODE, TELEPHONE, Extension**

John D Lê

(650) 853-3100

**SIGNATURE**

**TITLE**

City Attorney

**DATE**

9/16/2025

Signed by \_\_\_ Applicant  Lead Agency

### AFFIDAVIT OF COUNTY CLERK FILING AND POSTING

I declare that on \_\_\_\_\_ I received and posted this Notice as required by California Public Resources Code Section 2115.2. Said Notice will remain posted for thirty (30) days from the filing date.

By \_\_\_\_\_ Date \_\_\_\_\_



# **EAST PALO ALTO CITY COUNCIL STAFF REPORT**

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**DATE:** September 16, 2025

**TO:** Honorable Mayor and Members of the City Council

**BY:** John D. Lê, City Attorney

**SUBJECT:** Inclusionary Housing Ordinance

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## **Recommendation**

1. Waive the second reading and adopt an ordinance, set forth as Attachment 1 to this staff report, amending Chapter 18.37 to the East Palo Alto Municipal Code to facilitate lot splits pursuant to Government Code Section 66411.7 (“SB 9”); and
2. Find that the proposed action does not constitute a “project” within the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines sections 15378. Even if it were a project subject to CEQA review, this project would be exempt from CEQA Guideline Section 15378(d) (regulatory actions), Section 15061(b)(3) (common sense exemption), Section 15378(b)(4) (funding government services), Section 15183 (actions consistent with the general plan and zoning), and Section 15195 (residential infill development).

## **Alignment with City Council Strategic Plan**

This recommendation is primarily aligned with:

- Promote Housing, Economic and Workforce Development

## **Background**

On September 10, 2025, the City Council introduced an ordinance amending Chapter 18.37 to the Municipal Code with no modifications from the dais.

The City Council introduced the attached ordinance with the following vote:

AYES: Abrica, Barragan, Lincoln, Dinan, and Romero



## CONSENT ITEM 3.7

NOES:  
ABSENT:  
ABSTAIN:

### **Analysis**

As no modifications have been made since the first reading, staff recommends that the Council adopt the proposed ordinance.

### **Fiscal Impact**

There are no fiscal impacts associated with the proposed action.

### **Public Notice**

The public was provided notice by making the agenda and report available on the City's website and on a bulletin board located at City Hall: 2415 University Avenue, East Palo Alto.

### **Environmental**

The proposed action does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines sections 15378. Even if it were a project subject to CEQA review, this project would be exempt from CEQA Guideline Section 15378(d) (regulatory actions), Section 15061(b)(3) (common sense exemption), Section 15378(b)(4) (funding government services), Section 15183 (actions consistent with the general plan and zoning), and Section 15195 (residential infill development).

### **Government Code: 84308**

**Applicability of Levine Act:** No, as the proposed action does not involve an entitlement.

**Analysis of Levine Act Compliance:** Not applicable.

### **Attachment**

1. Ordinance

**ORDINANCE NO. 06-2025**

**AN ORDINANCE OF THE CITY COUNCIL  
OF THE CITY OF EAST PALO ALTO**

**AMENDING SECTION 18.37.040 (EXEMPTIONS) OF ARTICLE III (REGULATIONS APPLICABLE TO ALL ZONES) OF CHAPTER 18.37 (INCLUSIONARY HOUSING) OF THE EAST PALO ALTO MUNICIPAL CODE TO FACILITATE LOT SPLITS PURSUANT TO GOVERNMENT CODE SECTION 66411.7 ("SB 9")**

**WHEREAS**, California Government Code Section 65580(d) states that all cities have a responsibility to use the powers vested in them to facilitate the improvement and development of housing and to make adequate provision for the housing needs of all economic segments of the community; and

**WHEREAS**, at a duly noticed public hearing held on September 23, 2019, the Planning Commission considered adding Chapter 18.37 to the Municipal Code; and

**WHEREAS**, by Resolution PC 2019-08, on September 23, 2019, the Planning Commission recommended the City Council adopt the City's current Inclusionary Housing Ordinance (Chapter 18.37); and

**WHEREAS**, the East Palo Alto City Council held a duly noticed public hearing on October 15, 2019 to consider the proposed addition of Chapter 18.37 to the Municipal Code; and

**WHEREAS**, on November 19, 2019, the East Palo Alto City Council found and declared, and on that basis adopted the City's Inclusionary Housing Ordinance, codified at 18.37.010 et seq.; that the demand for housing in the City and the region more generally had increased steadily in recent years, that the City had and continues to have dire need for affordable housing as identified in its Housing Element (which has only increased substantially since that time), that the lack of affordable housing is a public health, safety and welfare issue well within the City's police power authority to address, and that the construction of market-rate housing exacerbates this problem because such housing increases the demand for services, the presence of service employees (e.g., construction, maintenance, food service, and administrative jobs), and the need for affordable housing to accommodate such workers; and

**WHEREAS**, several significant changes have occurred since the City adopted its current Inclusionary Housing Ordinance; and

**WHEREAS**, first, as housing affordability remains a significant issue in the State of California, the Legislature has adopted over 50 significant bills since 2019 that affect and incentivize the creation of housing, including SB 9 (2021), which aimed to address the State’s severe housing shortage by making it easier to create new, smaller housing units on existing single-family lots (i.e., to provide for the “missing middle”), thereby increasing the overall housing supply; and

**WHEREAS**, the East Palo Alto City Council approved and the California Department of Housing and Community Development (HCD) certified the City’s Housing Element Update (RHNA 5 Cycle) on April 24, 2024, a document in which HCD recognized that the City’s Inclusionary Housing Ordinance prevented displacement, addressed inequities, affirmatively furthered fair housing, and functioned as a tool to increase affordable housing; yet at the same time that document also included pledges from the City to conduct a periodic assessment of the Inclusionary Housing Ordinance to evaluate changing market and financing conditions and rising development costs (“Evaluate the effectiveness of the Inclusionary Housing Ordinance”) and which committed the City to conduct a financial feasibility analysis that would assess the impact of governmental constraints, including inclusionary housing requirements, on the financial feasibility of future projects as such an analysis would provide useful information for a subsequent assessment of the Inclusionary Housing Ordinance; and

**WHEREAS**, since the last local election in 2024, the East Palo Alto City Council publicly noted the need to consider potential amendments to the City’s Inclusionary Housing Ordinance to address various issues, including incentivizing housing development; and

**WHEREAS**, the East Palo Alto Council recognizes that while the City of East Palo Alto has the plenary police power authority to provide for affordable housing through various local laws, including a robust Inclusionary Housing Ordinance, it also has a desire to support the construction of housing for the “missing middle”—households that can afford market-rate housing but not expensive single-family homes, as has been increasingly common in the greater Bay Area.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO DOES ORDAIN AS FOLLOWS:**

**SECTION 1. INCORPORATION OF RECITALS.** The City Council finds that all the foregoing recitals are true and correct and incorporated herein by reference.

**SECTION 2. AMENDMENT TO ADD AN EXEMPTION.** Section 18.37.040 (Exemptions) Article III (REGULATIONS APPLICATION TO ALL ZONES) of Chapter 18.37 (INCLUSIONARY HOUSING) of the City of East Palo Alto Municipal Code is hereby amended as follows (amendments in redline; otherwise, no change):

### 18.37.040 Exemptions

- A. The following residential developments shall be exempt from the provisions of this chapter:
1. Residential developments which are developed in accordance with the terms of a development agreement adopted by ordinance pursuant to the authority and provisions of California Government Code Section 65864 et seq., and that is executed prior to the effective date of the ordinance codified in this chapter, provided that such residential developments shall comply with any inclusionary housing requirements included in the development agreement or any predecessor ordinance in effect on the date the development agreement was executed.
  2. Residential developments exempted by California Government Code Section 66474.2 or 66498.1, provided that such residential developments shall comply with any predecessor ordinance, resolution, or policy in effect on the date the application for the development was deemed substantially complete.
  3. Residential developments for which a building permit has been issued and substantial work has been completed in good faith reliance on the permit no later than the effective date of this chapter, provided that such residential developments shall comply with any predecessor ordinance, resolution, or policy in effect on the date the application for the development was approved.
  4. Residential developments for which a lot split has been ministerially approved pursuant to Government Code Section 66411.7 ("SB 9").
- B. **Planning permit expiration.** Upon the expiration of any planning permit, and unless otherwise exempted, the residential development shall be subject to the inclusionary housing requirements of this chapter, and shall not proceed until such time as an inclusionary housing plan is approved in conjunction with any other required planning permit or amendment thereto. The provisions of this chapter shall also apply to any residential development which is granted a discretionary extension of a planning permit beyond its initial term, to the extent consistent with state law.

### SECTION 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT.

This Ordinance is not subject to CEQA because it is not a "project" which would have a direct physical change or a reasonably foreseeable indirect physical change on the environment pursuant to California Environmental Quality Act ("CEQA") Guidelines section 15378(a). Even if it were a project subject to CEQA review, this project would be exempt from CEQA Guideline Section 15378(d) (regulatory actions), Section 15061(b)(3) (common sense exemption), Section 15378(b)(4) (funding government services), Section

15183 (actions consistent with the general plan and zoning) and Section 15195 (residential infill development).

**SECTION 4. IMPLIED REPEAL.**

Any provision of the East Palo Alto Municipal Code inconsistent with this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to the extent necessary to effectuate this Ordinance.

**SECTION 5. SEVERABILITY.**

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

**SECTION 6. EFFECTIVE DATE.**

This Ordinance shall take effect and be in full force thirty (30) days after the date of its adoption.

**SECTION 7. PUBLICATION.**

The City Clerk is hereby directed to cause publication of this Ordinance as required by Government Code Section 36933.

This Ordinance was introduced at the September 10, 2025 meeting of the City Council of the City of East Palo Alto.

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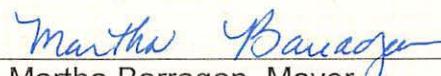
PASSED AND ADOPTED this 16<sup>th</sup> day of September 2025 by the following vote:

AYES:        ABRICA, BARRAGAN, DINAN, ROMERO, LINCOLN


NOES:

ABSENT:

ABSTAIN:

  
\_\_\_\_\_  
Martha Barragan, Mayor

ATTEST:

  
\_\_\_\_\_  
James Colin, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
John D. Lê, City Attorney