

ORDINANCE NO. 3157

AN URGENCY INTERIM ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, EXTENDING THE TERM OF ORDINANCE NO. 3155 THROUGH MAY 27, 2025, TO THEREBY TEMPORARILY PREVENT APPROVAL OF CERTAIN SB 9 HOUSING PROJECTS AND SUBDIVISIONS

RECITALS

- A. On January 1, 2022, Senate Bill 9 (SB 9) became effective.
- B. On its face, SB 9 requires local agencies to ministerially approve a housing development containing no more than two residential units per lot and to ministerially approve urban lot splits which result in two residential lots.
- C. On December 14, 2021, to ensure compliance with SB 9, the Whittier City Council adopted Urgency Ordinance No. 3132.
- D. On March 29, 2022, the City of Whittier, along with other cities, including the named plaintiff, the City of Redondo Beach, filed a petition for writ of mandate, and a first amended petition on February 7, 2023, to challenge the legality of SB 9.
- E. On April 22, 2024, the Honorable Curtis Kin issued a ruling in *City of Redondo Beach v. Rob Bonta*, Los Angeles Superior Court Case Number 22STCP01143, holding that SB 9 is unlawful as applied to charter cities, such as the City of Whittier.
- F. On May 28, 2024, the City Council adopted Ordinance No. 3155 to halt the applicability of Urgency Ordinance 3132 for a 45-day period.
- G. It remains unclear whether SB 9 will continue to not apply to the City of Whittier because the Attorney General has appealed the decision, and it is unclear the appeal will be successful, or whether the legislature will amend SB 9 to attempt to cause SB 9 to apply to charter cities.
- H. Consistent with Government Code 65858, without following the procedures otherwise required by a City to adopt a zoning ordinance, a City Council may adopt and then extend the term of an urgency measure and interim ordinance which prohibits any use that may be in conflict with a contemplated zoning proposal that the City Council, Planning Commission, or planning department is considering or studying or intends to study within a reasonable time.
- I. Because the law does not currently require the City of Whittier to approve SB 9 units, but because the law could change and the City subsequently be required to enforce SB 9 in the future, it is prudent to temporarily halt the application of Urgency Ordinance No. 3132 to certain applications to allow the city the time to study the implications of recent legal developments.

- J. The City Council could adopt a traditional ordinance to permanently repeal Urgency Ordinance No. 3132, but desires to keep such urgency ordinance on the books so that the city can immediately be in compliance with applicable law if the law is changed such that SB 9 is found to apply to the City of Whittier.
- K. There is a current and immediate threat to the public health, safety, and welfare in that SB 9 mandates the approval of subdivisions, which would allow resultant lots which are substantially smaller and incongruent with the community character of various communities. SB 9 is also a threat to the public health, safety and, welfare in that SB 9 requires cities approve additional dwelling units in locations and in manners which are inharmonious with community character and can create parking, congestion and noise problems in communities which are otherwise zoned to prevent those exact problems.
- L. One project for a lot split and new SB 9 unit has already been fully approved and recorded. Three additional projects have been approved with conditions (but construction/recordation is not fully complete), and six applications are currently incomplete but pending.
- M. Approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required to comply with SB 9 would result in the above-mentioned threats to public health, safety, and welfare.
- N. The City intends to consider or study within a reasonable period of time, regulations which would be in conflict with the uses which would otherwise be allowed if this ordinance were not enacted.
- O. Temporarily limiting the approval of the application of SB 9 via Urgency Ordinance No. 3132 will protect the public safety, health, and welfare of the community.
- P. This Ordinance is consistent with the City's General Plan.
- Q. At least 10 days prior to the date of the consideration of this Ordinance, the Director of Community Development issued a written report on behalf of the City Council describing the measures taken to alleviate the conditions which led to the adoption of this ordinance.
- R. The City Council desires to extend the term of Ordinance No. 3155 for an additional period of 10 months and 15 days beyond the date the ordinance would otherwise expire.
- S. All legal prerequisites prior to the adoption of this ordinance have occurred.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF WHITTIER DOES ORDAIN AS FOLLOWS:

SECTION 1: Findings. The City Council finds that all the statements set forth above in this Ordinance are correct.

SECTION 2: Extension of Term of Ordinance. The term of Ordinance 3155 is hereby extended for an additional period of 10 months, and 15 days. As such, Ordinance No. 3155 shall expire on May 27, 2025 unless prematurely terminated by action of the City Council.

SECTION 3. Interpretation. Any provision of the City of Whittier Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

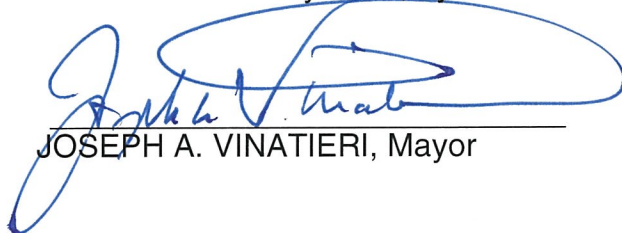
SECTION 4. Severability. Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable. The City Council of the City of Whittier declares that it would have adopted all the provisions of this ordinance that remain valid if any provision(s) of this ordinance is/are declared invalid.

SECTION 5. CEQA Exemption. This ordinance does not have the potential to cause significant effects on the environment because: (1) it reduces construction that might otherwise occur; (2) this ordinance is temporary in duration and therefore will not have a significant effect on the environment; (3) this ordinance will affect a limited number of single-family lots; (4) any effect on the environment as a result of this ordinance would be speculative at best and cannot currently be analyzed. Therefore, the project is exempt from the California Environmental Quality Act (CEQA) pursuant to 14 Cal. Code Regulations §15061(b)(3). There is no possibility that the proposed ordinance will have a significant effect on the environment.

SECTION 6. Certification. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published and posted pursuant to the provisions of law in that regard and this Ordinance shall take effect thirty (30) days after its final passage.

[signatures on next page]

PASSED, APPROVED, AND ADOPTED this 9th of July 2024, by no less than the required 4/5 vote.



JOSEPH A. VINATIERI, Mayor

ATTEST:



RIGOBERTO GARCIA JR., City Clerk

I CERTIFY THAT THE FOREGOING ORDINANCE NO. 3157 was introduced on the 9th day of July 2024, and was adopted by the City Council of the City of Whittier at the regular meeting held on the 9th day of July 2024, by the following vote:

AYES: 5 Council Members: Vinatieri, Warner, Martinez, Dutra, Pacheco
NOES: 0
ABSTAIN: 0
ABSENT: 0



RIGOBERTO GARCIA JR., City Clerk
(seal)