



CITY OF CITRUS HEIGHTS
CITY COUNCIL STAFF REPORT
MEMORANDUM

DATE: December 9, 2021

TO: Mayor and City Council Members
 Christopher W. Boyd, Interim City Manager

FROM: Casey Kempenaar, Community Development Director
 Alison Bermudez, Associate Planner

SUBJECT: Urgency Ordinance and Resolution– Urban Lot Splits and Two-Unit Residential Development related to SB 9

Summary and Recommendation

SB 9 (Atkins) was signed by Governor Newsom on September 16, 2021 and will become effective January 1, 2022. This law requires local agencies to ministerially approve two new types of housing developments:

- 1) Housing developments of no more than two single-family units on a lot; and
- 2) Urban lot splits.

Given that SB 9 was not signed until mid-September, there was insufficient time to adopt an ordinance through standard hearings before the Planning Commission and City Council and have it in place by January 1, 2021. Therefore, the ordinance is proposed to be introduced as an urgency basis pursuant to GC Section 36937(b). Urgency ordinances require a 4/5th vote of the City Council.

The following motions are recommended to amend both Municipal Code and amend the Master Fee Schedule in regard to the implementation of SB 9:

Motion 1: Move to adopt urgency Ordinance No. 2021_____ of the City of Citrus Heights, California, adopting changes to Title 82 (Subdivisions and Land Development) and Title 106 (Zoning) relating to the implementation of Senate Bill 9 for the creation of urban lots splits and two (2) residential units per lot.

Motion 2: Move to adopt Resolution No. 2021_____ of the City Council of the City of Citrus Heights, California, authorizing the addition of a new application type referred to as Urban Lot Splits, to the Master Fee Schedule.

Fiscal Impact

There is no direct fiscal impact. A resolution has been provided which includes an update to the Master Fee Schedule to include the new application type of Urban Lot Splits. The fee collected will be fully funded by Urban Lot Split applicants to cover staff's time to review the Urban LotSplit application. More information is provided under the Application and Development Fee section of this report.

Background and Analysis

SB 9 can be broken into two primary components: 1) provisions that allow subdivisions of a single-family zoned lot into two individual lots; and 2) provisions that allow construction of two units on a single-family zoned property. These provisions can be used in concert, so an applicant could also subdivide and build two units on each parcel.

Below is an overview of the key components to SB 9:

Qualifying Properties

SB 9 applies to any property zoned single-family. In Citrus Heights, this includes the RD-1 through RD-5 zones and Special Planning Areas that allow single-family residences. Properties are precluded from using SB 9 for two-unit projects and/or subdivisions if they are located in any of the following areas:

- Within a special flood hazard area or regulatory floodway, unless certain requirements are met;
- Lands identified for conservation in an adopted conservation plan or under a conservation easement; and
- Within a historic district or on a site that is designated as historic.

Number of Units

The legislation allows for the development of two-units on qualified properties. It is possible that a property developed under SB 9 may utilize both the lot split and two-unit development provisions resulting in an ultimate build out of four units, even though the property is zoned single-family.

Development Standards

The law allows the city to apply objective development standards, however; those standards cannot preclude construction of at least two units, each at least 800 square feet in size. Objective standards are standards that involve no exercise in judgment to apply, such as numeric setback requirements, height, lot coverage, etc. The city has developed an Urban Lot Split and Two-Unit Development Ordinance for developments that take advantage of SB 9.

SB 9 includes the following mandatory development standards for both the urban lot split and two-unit development projects:

- Cannot require more than four-foot side and rear setbacks;
- No setback can be required for existing structures nor can the city require the correction of non-conforming zoning conditions on a property as a condition of approval of a project or deny a project due to existing non-conforming conditions (applies only to the Urban Lot Split);
- Easements must be provided for public services and facilities;
- Cannot require more than one parking space per unit. Cannot require any parking for projects within a half-mile walking distance of high-quality transit or major transit stops, as defined by state law, or if there is a car share vehicle located within one block; and
- Must allow construction of attached units; however, attached units must be designed to meet all requirements for selling each unit individually.

SB 9 also includes several protections for existing affordable and rental housing stock and provisions to ensure that the units created by SB 9 add to a jurisdiction's housing stock. Specifically:

- Units created by SB 9 cannot be rented for terms of 30 days or less. This applies to both two-unit projects under SB 9 and to properties that are subdivided according to SB 9; and
- SB 9 projects cannot alter or demolish deed-restricted units or units that have been occupied by a tenant within the prior three years.

In addition to standards stipulated under the law, the city has included the following objective standards into the Urban Lot Split ordinance:

- Parcels must provide easements for the provision of public services and facilities;
- Lots proposed adjacent to or crossed by a watercourse shown on Figure 3-1 of Section 106.30.040 shall meet the minimum lot area exclusive of the creekside setback requirements; and
- Parcels must have frontage on or direct access to a public street. To be considered direct access, the proposed lot split may allow one lot to access a public street by way of a recorded 20-foot minimum width easement.

The city has included the following objective standard into the Two-Unit Development ordinance:

- The required parking space may be covered or uncovered but shall be at least 9 feet wide x 20 foot in length; and
- New units proposed adjacent to or crossed by a watercourse shown on Figure 3-1 of Section 106.30.040 shall meet the creekside setback requirements.

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It should also be noted the city cannot impose these objective standards if the application of the standards precludes the development of at least two units of 800 square feet each.

Application Review

Both two-unit projects and urban lot splits authorized under SB 9 must be processed ministerially, meaning no public hearing and no review under the California Environmental Quality Act (CEQA). While this is not a significant change for the two-unit developments, it's significantly different from the traditional parcel map processing which requires Planning Commission approval when land is subdivided.

To allow the required ministerial review of land divisions under SB 9, the creation of a new application review process called "Urban Lot Split" has been added to Section 82 of the city's Municipal Code (Attachment 1). The following allowances and restrictions will apply to Urban Lot Split applications:

- Urban Lot Splits will apply to single-family zoned property;
- The lots must be subdivided into two roughly proportional lots. To ensure rough proportionality, SB 9 specifies that one lot cannot be less than 40 percent the size of the other;
- Lots must be at least 1,200 square feet in area;
- Dedication of right-of-way or construction of off-site improvements (such as installation of sidewalk where there is none) are not required; and
- Applicant must sign an affidavit stating that the applicant intends to live on one of the properties as their primary residence for at least three years after the date of the subdivision approval. This requirement does not apply to an urban land trust or qualified non-profit.

To accommodate the allowance for ministerial review of two-unit developments proposed under SB 9, a new application review process called "Two-Unit Development" has been created. Two-Unit Development projects will initially file an application through the Planning Division for site plan review. This process will confirm the proposed SB 9 development meets the criteria of the ordinance prior to the applicant submitting for a building permit. Additionally, this initial review will provide the necessary data needed to track the number of developments under SB 9.

SB 9 provides limited ability for the denial of an SB 9 project. Two-Unit Development projects or Urban Lot Splits that otherwise meet the requirements of SB 9, may be denied only if the Building Official determines it will result in a specific, adverse impact on health and safety and there is no feasible way to mitigate the impact.

Application & Development Fees

Two-Unit Developments will initially be processed through the Planning Division for review of the site plan. The Planning Division will not collect any fee for this review. The development will be required to pay the required fees when the project is submitted to the Building Division for permits. It should also be noted that unlike ADU legislation, which eliminated and reduced many of the impact fees collected on ADU development, SB 9 does not provide the same exemptions.

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Residential units developed under SB 9 will pay impact fees at the same rate currently collected for single-family developments.

Urban Lot Splits will require the processing of a formal application to review compliance with SB 9 as well as the Subdivision Map Act. Since the review of Urban Lot Split application will require significant staff time to review and process, an application fee is proposed to cover the costs.

The most recent Master Fee Schedule (Effective October 15, 2021) does not have a provision for Urban Lot Splits since this is a new process and was not considered in previous fee studies. As a result, staff is proposing the application fee be based upon a time and material basis, the same process currently used to review final maps.

The applicant will pay an initial deposit at the time the application is submitted and funds will be deducted from the deposit based upon staff's actual time reviewing the application. Any unused portions will be returned to the applicant following the final action on the application. A motion has been provided to adopt a resolution adding the Urban Lot Split application type to the Master Fee Schedule.

Conclusion

At the time of the writing of this memorandum, no guidance has been issued and the ordinance is considered compliant with SB 9. It is expected that as this new legislation is put into practice, interpretations and clarifications will be provided from the State Department of Housing and Community Development (HCD). As that occurs, the ordinance may require amendments to satisfy new interpretations. Any future changes will be brought forth to the Planning Commission and City Council for review and approval.

Attachments:

1. Urgency Ordinance No. 2021_____ of the City of Citrus Heights, California, adopting changes to Title 82 (Subdivisions and Land Development) and Title 106 (Zoning) relating to the implementation of Senate Bill 9 for the creation of urban lots splits and two (2) residential units per lot.
2. Resolution No. 2021_____ of the City Council of the City of Citrus Heights, California, authorizing the addition of a new application type referred to as Urban Lot Splits, to the Master Fee Schedule.
3. SB 9 Text
4. City of Citrus Heights FAQ's Related to SB 9 (draft)