



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 12/21/2021

ITEM NO: 20

DATE: December 16, 2021
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Consider Adoption of a 45-Day Urgency Ordinance to Implement Senate Bill 9 to Allow for Two-Unit Housing Developments and Urban Lot Splits in All Single-Family Residential Zoning Districts.

RECOMMENDATION:

Staff recommends that the Town Council adopt a 45-day Urgency Ordinance (Attachment 1) to implement Senate Bill 9 (Attachment 2) to allow for two-unit housing developments and urban lot splits in all single-family residential Zoning districts.

BACKGROUND:

California Senate Bill 9 (SB 9) requires ministerial (staff-level) approval of certain housing development projects and lot splits on a single-family zoned parcel. SB 9 was passed by the California Legislature on September 1, 2021, signed into law by Governor Newsom on September 16, 2021, and takes effect January 1, 2022.

SB 9 requires approval of the following development activities:

- **Two-unit housing development** – Two homes on an eligible single-family residential parcel (whether the proposal adds up to two new housing units or adds one new unit to one existing unit).
- **Urban lot split** - A one-time subdivision of an existing single-family residential parcel into two parcels. This would allow up to four units (two units on each parcel).

SR 9 also outlines how jurisdictions may regulate SB 9 projects. Jurisdictions may only apply objective zoning, subdivision, and design standards to these projects, and these standards may not preclude the construction of up to two units of at least 800 square feet each. Jurisdictions

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Planning Manager

Reviewed by: Assistant Town Manager, Town Attorney, and Public Works Director

BACKGROUND (continued):

can conduct objective design review, but may not have hearings for units that meet the State rules (with limited exceptions).

SB 9 applies to all single-family residential (R-1 and R-1D) zoned properties within an urbanized area with several key exceptions:

- Environmentally sensitive areas;
- Environmental hazard areas if mitigations are not possible (see full list later in this report, but note that SB 9 does apply, with modifications, in wildfire zones);
- Historic properties and districts; and
- Projects that would include demolition of existing units rented in the last 3 years, rent-controlled units, or units restricted to people of low or moderate incomes.

This law is similar to recent state Accessory Dwelling Unit (ADU) legislation, in that it allows jurisdictions to apply local objective standards as long as they do not prevent the development of a small new home (or multiple homes in the case of lot splits). Market analysis predicts the uptake will be limited in part because homeowners already have many of the same rights under ADU law. The bigger change is likely permitting the splitting and sale of lots by homeowners.

To comply with the January 1, 2022 effective date, many jurisdictions are implementing this new law through an Urgency Ordinance that provides an initial process and regulations while additional work can proceed to develop a process that will be integrated into the Town Code.

Urgency Ordinance

An “Urgency Ordinance” allows for the adoption of the Ordinance and immediate enforcement, without typical noticing prior to the Ordinance being considered by the Town Council. An Urgency Ordinance requires a four-fifths majority for adoption and lasts for up to 45 days. The Town Council may extend the Ordinance for a period of 10 months and 15 days, subject to noticing and public hearing requirements. Adoption of an Urgency Ordinance also requires that the Ordinance be published in a newspaper within 15 days of adoption.

DISCUSSION:

The proposed Urgency Ordinance (Attachment 1) includes the following sections: Purpose (Section I); Applicability (Section II); Definitions (Section III); General Eligibility (Section IV); Two-Unit Housing Developments (Section V); and Urban Lot Splits (Section VI).

Sections I and II describe the reason for the Urgency Ordinance and how it applies to future development projects.

DISCUSSION (continued):

Section III includes definitions of words used in the Urgency Ordinance that are either not defined in Town Code or where a modified definition is important for implementation of these new development projects.

Section IV provides specifics regarding what properties are eligible for the two-unit housing development and urban lot split applications, and which types of property are exempt, per State law.

Section V includes: Zoning Standards; Design Review Standards; General Requirements and Restrictions; and an Application Process for two-unit residential development project application. The details in this section were developed to provide initial guidance to applicants and staff, but could be modified prior to adoption. Two examples of items that could be deleted or modified while still maintaining conformance with State law include:

- The provision allowing parking in the front or side setback, or in tandem configuration, as is allowed within our current regulations for Accessory Dwelling Units; and
- The prohibition of ADUs or JADUs on any lot that has a two-unit housing development and/or an urban lot split.

Section VI includes: Subdivision Standards; General Requirements and Restrictions; and an Application Process for urban lot split project application. The details in this section were developed to provide initial guidance to applicants and staff, but could be modified prior to adoption.

Sections VII, VII, IX and X address any potential inconsistencies with State law, the possibility of a repeal of SB 9, severability, and the necessity of this Urgency Ordinance for the preservation of the public peace, health, and safety of the Town of Los Gatos.

CONCLUSION:

Adoption of an Urgency Ordinance provides an initial process and regulatory framework while additional work can proceed to develop a process that is in compliance with SB 9 and integrated into the Town Code.

COORDINATION:

This project has been coordinated with the Town Manager's Office, Town Attorney, and Public Works Department.

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SUBJECT: Senate Bill 9 Implementation Urgency Ordinance

DATE: December 16, 2021

FISCAL IMPACT:

Application fees for ministerial staff review, consistent with approved fees for Accessory Dwelling Unit permits, would be charged for all applications submitted under this Urgency Ordinance.

ENVIRONMENTAL ASSESSMENT:

This is not a project as defined under CEQA and is categorically exempt from CEQA pursuant to SB 9.

Attachments:

1. Draft Urgency Ordinance
2. Senate Bill 9
3. Public Comment received by 11:00 a.m., Thursday, December 16, 2021