Date: December 10, 2024

Honorable Mayor and Council Members:

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Title: Urgency Ordinance Adopting Development Code Amendments for Urban Lot Splits/Two-Unit Projects (Senate Bill 9, Chapter 18.95) and Accessory Dwelling Units (Section 18.58.025)

Jen Callaway, Town Manager

Recommended Action: That the Town Council conduct a public hearing to introduce, waive oral reading and adopt Urgency Ordinance 2024-10, determining the Senate Bill 9 ordinance amendments statutorily exempt from CEQA, the Senate Bill 450 and Senate Bill 1211 amendments exempt pursuant to CEQA Sections 15060(c)(2), 15060(c)(3) and 15061(b)(3), and the Senate Bill 1211 ADU amendments statutorily exempt from CEQA pursuant to Public Resources Code Section 21080.17, approving Development Code amendments to the Town's Urban Lot Splits/Two-Unit Projects (Senate Bill 9) ordinance (Chapter 18.95) and Accessory Dwelling Units (Section 18.58.025).

Discussion:

Senate Bill 9 and SB 450 Overview- Urban Lot Splits/Two-Unit Projects

On September 16, 2021, Governor Newsom signed Senate Bill 9 (SB 9), which allows residential property owners to split a single-family lot into two lots (referred to below as an Urban Lot Split) and place up to two units on each (referred to below as a Two-Unit Project), creating the potential for up to four housing units on certain properties that were previously limited to single-family houses. Under SB 9, cities and counties across California were required to approve development proposals that meet specified size and design standards. On December 14, 2021, the Town Council adopted Urgency Ordinance 2021-10 authorizing changes to the Development Code in response to the requirements of SB 9. These changes allowed the Town to implement the necessary objective subdivision and design standards in order to approve the required lot splits and developments.

SB 9 requires all local agencies to consider proposed two-unit projects and lot splits ministerially. An SB 9 lot split followed by an SB 9 two-unit project on each of the two new lots would result in four total dwellings on what was formerly one single-family residential lot—all with only ministerial approval. When initially adopted, SB 9 only imposed a handful of restrictions and allowed local governments to impose a few more. Most notably, jurisdictions were required to adopt subdivision ordinances that only included objective design standards by which the subdivisions can be approved. Objective design standards are quantifiable standards that do not rely on interpretation or professional experience.

SB 9 allows both lot splits from underlying single-family lots AND the provision of two-unit projects on single-family lots. The below table summarizes the maximum number of units that are allowed in different situations under SB 9:

Table 1: Maximum Number of Units allowed under SB 9

In single-family residential zones …	**Detached**. Primary units are detached from each other.	**Attached**. Primary units are attached to each other.
Split. On each of the two lots that are formed by an SB 9 urban lot split	**4**: **Two** "units" of **any kind** on **each lot** (an original main house, new primary unit or units under SB 9, ADU, JADU)	**4**: **Two** "units" of **any kind** on **each lot** (an original main house, new primary unit or units under SB 9, ADU, JADU)
Not Split. On a lot that was ***not*** formed by an SB 9 lot split	**4**: [**Two** primary dwellings (original or SB 9)] + [**one** JADU + **one** ADU] For just one of the primary dwellings, not both. Applying SF ADU rules	**5**: **Two** primary dwellings (original or SB 9) + [**one** converted ADU + **two** detached ADUs] Applying MF ADU Rules

On September 19, 2024, Governor Newsom signed Senate Bill 450 (SB 450) which will take effect on January 1, 2025. This bill reduces the scope of local authority to regulate SB 9 projects. Most notably, under SB 450 local agencies:

- May no longer impose standards on second primary dwelling unit projects "that do not apply uniformly to development within the underlying zone" … that is, unless the SB 9-specific standards "are more permissive."
- May only impose standards on urban lot splits that are "related to the design or to improvements of a parcel" (e.g., lot size, access, and grading).
- Must approve or deny a "completed application" for an urban lot split or second primary dwelling unit project within 60 days. (Failure to act results in the application being deemed approved.)
- Must provide detailed comments with any denial of an urban lot split or second primary dwelling unit application.
- May no longer deny an application for an urban lot split or second primary dwelling due to specific adverse, impacts to the "physical environment" (now only adverse impacts on "public health and safety" are a valid basis for denying an SB 9 application).

As a result of SB 450, the Town's ordinance no longer complies with the underlying requirements for SB 9 projects and amendments to this Development Code Chapter are now required. Below staff has provided an overview of these proposed amendments. The full text of the proposed ordinance amendments is available in Attachment 1. Below are key changes required by SB 450:

- Section 18.95.020.D7 (Requirements, Lot Size)—Language added to specify that the Town's lot width standards do not apply to Urban Lot Splits/Two-Unit Projects

- Section 18.95.020.D10/Section 18.95.040G.6.b (Requirements, Unit Standards)—Prior unit size restrictions have been removed to comply with SB 450 regulations. Statement added that underlying zone district standards apply, subject to the restrictions imposed within each standard.

- Section 18.95.020.D11/Section 18.95.040G.7 (Requirements, Height Restrictions)—Prior height limitations have been removed to comply with SB 450 regulations. Statement added that the Town's standard height restrictions apply, including the required height calculation methodology.

- Section 18.95.020.D13/Section 18.95.040G.10.a.2 (Requirements, Setbacks)—Language added to address portions of structures that could be constructed—pursuant to SB 9 regulations—within Town setbacks (i.e. overriding Town setbacks). Requirement to have a flat roof pitch on all portions of a structure within the reduced setback area. This is recommended

due to concerns over snow shed which would occur across property lines from structures with pitched roofs.

- Section 18.95.020.D15/Section 18.95.040G.12 (Requirements, Nonconforming conditions)—This change is made in response to language required within existing SB 9 regulations which does not allow for corrections to be made to legal nonconforming zoning conditions.

- Section 18.95.020.D22/Section 18.95.040G.20 (Requirements, Specific Adverse Impacts)—This change was made in accordance with SB 450 which no longer allows the Chief Building Official to deny a SB 9 project due to an adverse impact on the physical environment.

Senate Bill 1211 Overview – Accessory Dwelling Units

On September 19, 2024, Governor Newsom also signed Senate Bill 1211 which will also take effect on January 1, 2025. The focus of this bill is on regulatory modifications for permitting accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs). Key changes that SB 1211 implements are described below along with the proposed Development Code amendments:

- "Livable Space" Definition:
    - Currently: Under existing law, local agencies must ministerially approve ADUs within "portions of existing multifamily dwelling structures that are not used as *livable space*, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages…."; however, the term "livable space" is not defined by state ADU law.
    - SB 1211: A new definition was added stating, "'livable space' means a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation."
    - Development Code Amendment: Although the existing Development Code definition of "dwelling" very closely parallels the SB 1211 definition, staff recommends adding the SB 1211 definition directly into the ADU section for clarity. (Section 18.58.025.C.2.b.i).
- Multifamily Detached ADUs:
    - Currently: On a lot with existing or proposed multifamily dwellings, up to two detached ADUs may be permitted.
    - SB 1211: The number of detached ADUs on a lot with *existing* multifamily dwellings was increased to a maximum of eight ADUs, not to exceed the number of existing multifamily units on the lot. Lots with proposed multifamily units are still limited to two detached ADUs. (Note: No change was made regarding the number of conversion ADUs allowed in multifamily dwellings regarding the "living space" definition above).
    - Development Code Amendment: Staff recommends incorporating a new paragraph to explain the updated standards for the maximum number of ADUs on multifamily lots. (Section 18.58.025.C.2.a.1).
- Parking Replacement Exemption:
    - Currently: When a garage, carport or covered parking structure is demolished to construct an ADU or is converted to an ADU, local agencies shall not require replacement parking.
    - SB 1211: Uncovered parking spaces were added to the list of exemptions above.

- Development Code Amendment: Staff recommends including "uncovered parking spaces" in the list of replacement parking exemptions. This applies to both single-family and multifamily lots with ADUs/JADUs. (Section 18.58.025.E.4)

- Objective Standards:
  - Currently: Objective design standards are allowed to be applied to most ADUs and JADUs.
  - SB 1211: Specific language was added to state, "A local agency shall not impose any objective development or design standard that is not authorized by this section upon any accessory dwelling unit that meets the requirements of any of paragraphs (1) to (4), inclusive, of subdivision (a)." This language applies only to 1) single-family conversion ADUs/JADUs within existing, permitted spaces, 2) single-family detached ADUs up to 800 s.f and up to 16 feet in height, and 3) all multifamily ADUs. Essentially, the only zoning standards that can be applied to those three types of ADUs are the number of ADUs allowed, setbacks, height. Building and Fire codes would still apply, unless specifically exempted.
  - Development Code Amendment: At this time, staff is not recommending changes to the ADU ordinance associated with this legislative modification; however, staff is currently consulting with legal counsel to determine if changes will be required and how best to implement any needed changes.

Urgency Ordinance

Because both new laws (i.e., SB 450 and SB 1211) were not signed into law until September 2024, staff is recommending implementation of the Development Code amendments through adoption of an urgency ordinance. California Government Code Sections 36934 and 36937(b) authorize the Council to adopt by four-fifths (4/5) vote—without following the procedures and timeframes normally required for the adoption of a zoning ordinance—an urgency ordinance that would go into effect immediately following its passage, if it is found to be necessary for the immediate preservation of the public peace, health or safety. In this case, staff is recommending adoption of an urgency ordinance to ensure Development Code Chapter 18.95 (Urban Lot Splits/Two-Unit Projects) and Section 18.58.025 (Accessory Dwelling Units) remain in compliance prior to the January 1, 2025 effective date of the recent State legislation.

Priority:

☐	Enhanced Communication	☐	Climate and Greenhouse Gas Reduction	☒	Housing
☐	Infrastructure Investment	☐	Emergency and Wildfire Preparedness	☒	Core Service

Fiscal Impact: All costs associated with staff's preparation of the above-referenced Development Code Amendments and Urgency Ordinance are included in the General Fund FY24-25 budget.

Public Communication: Notice of this meeting has been provided in accordance with standard noticing for Council agendas. Additionally, a display ad was published in the *Sierra Sun* on November 29, 2024 and December 6, 2024.

Attachments:

1. Draft Urgency Ordinance 2024-10