



Agenda Item

City Council

Item #: 10.4.

12/14/2021

File #: 21-0652

TO: Honorable Mayor and Members of the City Council

THRU: Thomas R. Hatch, Interim City Manager

FROM: Susan Galvan, Interim Community Development Director

1. SUBJECT

An Urgency Ordinance of the City Council of the City of Orange amending Titles 16 and 17 of the Orange Municipal Code to enact definitions and development standards applicable to lot splits and second dwelling units in single-family residential zones allowed as a result of Senate Bill 9. Ordinance No. 18-21.

2. SUMMARY

Senate Bill 9 (SB 9), effective January 1, 2022, weakens City authority to regulate development of single-family zoned (R1) property by allowing both the splitting of single-family (R1) zoned property into two lots and constructing two single-family residences on each single-family zoned lot. The proposed Urgency Ordinance implements development standards, to the extent allowed under SB 9, regulating lot splits and second unit development in R1 zones.

3. RECOMMENDED ACTION

Adopt Ordinance No. 18-21 and the findings of urgency. An Urgency Ordinance of the City Council of the City of Orange amending Title 16 and Title 17 of the Orange Municipal Code by enacting ministerial standards applicable to lot splits in single-family residential zones allowed as a result of SB 9, enacting ministerial standards applicable to the location, access size and setback of second dwelling units in single-family residential zones allowed as a result of SB9, and revising definitions to clarify said development standards.

4. FISCAL IMPACT

None.

5. STRATEGIC PLAN GOALS

Goal 1: Provide for a safe community

d: Assure the development of the City occurs in a fashion that maximizes public safety.

6. DISCUSSION AND BACKGROUND

SB 9 was signed by the Governor on September 16, 2021, and becomes effective on January 1, 2022. SB 9 allows both the splitting of single-family (R1) zoned property into a maximum of two lots and allows the development of up to two single-family residences on each single-family zoned lot. Hence, a total of four units could be allowed on any existing single-family zoned lot where under current zoning standards, only one dwelling unit would be allowed (not including ADUs). The

recommended Urgency Ordinance proposes a number of development standards intended to limit the intensity and negative effects of increased density in R1 zones, to the extent that State Law allows, while permanent standards are developed.

A summary of the SB 9 provisions are included in Attachment 3.

The proposed Urgency Ordinance implements the provisions of SB 9 by imposing intensity-limiting regulations that comply with SB 9 in order to prioritize preservation of neighborhood character and privacy to adjacent properties. Such regulations include:

- Prohibiting SB 9 development in the Old Towne and Eichler districts.
- Prohibiting lot splits or second units where the existence of an ADU or JADU would result in more than two units on a lot.
- Preserving the intent of SB 9 to create units by requiring plans for units on both lots to be approved through building plan check prior to approving any final parcel map.
- Revising the definition of “Lot Line, Front” to reinforce the existing requirement for a 20-foot front yard setback and to clarify the required 20-foot front yard setback on SB 9 created flag-lots.
- Adding “Single-family dwelling created pursuant to SB 9” as a separate new land use in the Master Land Use Matrix to distinguish the use separately from other single-family uses, thereby simplifying the ability to distinguish development standards for the use.
- Establishing objective design standards to promote proper aesthetics. Standards address design elements, materials, colors, building orientation, variations/indentations in plane, offsets from primary windows of adjacent buildings, window proportions, and driveway widths and materials.
- Establishing Community Development Director authority to allow code waivers in the event development standards preclude a unit from being at least 800 square feet in floor area. Waivers are based on prioritizing preservation of neighborhood character and privacy to adjacent properties.
- Limiting bedrooms to one bedroom for each five hundred (500) square foot increment of unit square feet.
- Requiring all accessory structures, including garages, to be subject to the existing setback, height, and floor area ratio (FAR) provisions of the Zoning Code.
- Establishing a minimum lot frontage and depth for new SB 9 lots.
- Limiting SB 9 structures to a maximum of 16 feet high and one story.
- Requiring a 15-foot easement for public safety access and utilities for those units that do not have direct street frontage.
- Requiring accessory structures, including garages, to be combined with SB 9 unit floor area and be limited by floor area ratio (FAR) requirements of the zoning district.
- Regulating SB 9 unit size in relation to lot size (instead of FAR). Maximum unit size for lots between 1,200 and 7,999 square feet is 800 square feet and increases by 50 square feet for each R1 designation above R-1-7, for a maximum unit size of 1,200 square feet on lots 40,000 square feet and greater.
- Establishing adequate minimum usable open space requirements for SB 9 properties by zoning district.
- Establishing a general parking requirement of 1 garage parking space per unit, consistent with SB 9. (Most properties in the City would require 1 parking space.)

- Establishing nonconformity standards consistent with SB 9.

In addition to those provisions the City is allowed to regulate under SB 9, the proposed Urgency Ordinance has many development requirements that will prevent public nuisances and deterioration of the neighborhoods, including:

- A requirement for intensity-limiting development and design standards, particularly unit size, height, stories, open space, front yard setback, and setbacks and FAR applied to accessory structures, including garages.
- Impact fees are required.
- Standard fire code requirements including sprinklers, hose pull distance, and access, must be met.
- Infrastructure requirements including separate meters and water and fire sprinkler lines must be met.
- Public safety access and utility easements must be provided.
- The owner must sign an affidavit stating intention to occupy one of the units for three years.
- Home owner associations retain authority for review of proposals.

The proposed Urgency Ordinance will be in effect immediately for 45 days after adoption, after which it may be extended once for ten and a half months and a second time for one additional year. Having the urgency standards and procedures in place before SB 9 goes into effect on January 1, 2022, will allow the City to immediately impose reasonable and objective regulations on SB 9 applications in order to prevent the many negative and deleterious effects on the public health, safety and welfare that would occur if unrestricted lot splits and second units occurred in R1 neighborhoods. During the pendency of the Urgency Ordinance, Staff will continue to review and refine development standards designed to preserve the intent of SB 9 while eliminating the possibility of public nuisances created by SB 9 lot splits and second units.

Staff recommends City Council approval of the Urgency Ordinance.

7. ATTACHMENTS

- Attachment 1 Ordinance No. 18-21
- Attachment 2 Redline version of Ordinance No. 18-21
- Attachment 3 Summary Chart of SB 9 Provisions
- Attachment 4 SB 9 State Law
- Attachment 5 ½ Mile Buffer of Bus Stops Map