



# CITY OF CARSON

## Legislation Text

File #: 2022-187, Version: 1

### Report to Mayor and City Council

Tuesday, May 17, 2022

Special Orders of the Day

#### SUBJECT:

**A PUBLIC HEARING TO CONSIDER ADOPTING PROPOSED ORDINANCES AMENDING CHAPTER 1 (ZONING) OF ARTICLE IX (PLANNING AND ZONING) OF THE CARSON MUNICIPAL CODE, ESTABLISHING REGULATIONS FOR URBAN LOT SPLITS AND TWO UNIT DEVELOPMENTS IN ACCORDANCE WITH SENATE BILL 9 AND REVISING THE CITY'S REGULATIONS FOR ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS**

#### **I. SUMMARY**

On March 15, 2022, the City Council adopted Urgency Ordinance No. 22-2204U, establishing objective standards for the regulation of lot splits and new units developed under SB 9 (Exhibit 1). The City Council also directed staff to bring back a regular ordinance, specifically an ordinance that would first receive a review by the Planning Commission before going to City Council. At the same meeting, the City Council also directed City staff to prepare updates to the City's regulations on accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs). The City's ADU and JADU regulations are out of date and require updates to comply with recent changes to state law.

On April 12, 2022, the Planning Commission considered this item and recommended approval to the City Council (Exhibit 2). This item includes two proposed ordinances that would revise the City's zoning code to establish regulations in accordance with recent changes in state law.

Senate Bill No. 9 (SB 9) became effective on January 1, 2022. This bill requires the approval of up to two primary dwelling units per parcel in single-family residential zones, where previously only one primary dwelling unit would have been permitted. This is in addition to permitting accessory dwelling units (ADUs), in some cases. Additionally, SB 9 requires the approval of lot splits in single-family residential zones and allows up to two units to be built on each resulting parcel. SB 9 allows cities to establish objective standards to govern these units and lots splits as long as they do not conflict with state law. The first proposed ordinance established regulations regarding developments and lots splits authorized by SB 9.

Due to a change in State law regarding Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs), the City of Carson Municipal Code (CMC) accessory living quarters and second dwelling unit standards have been rendered invalid. The second proposed ordinance amends CMC Title IX (Planning and Zoning) providing new local regulations regarding the construction of ADUs and JADUs. The changes include but are not limited to the zoning districts that allow ADUs and JADUs, maximum allowable size, height limitation, and parking requirements.

## II. **RECOMMENDATION**

1. **OPEN** the Public Hearing;
2. **TAKE** public testimony; and
3. **CLOSE** the Public Hearing.
4. **INTRODUCE** for first reading, by title only and with full reading waived, of "ORDINANCE NO. 22-2210, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARSON ESTABLISHING REGULATIONS FOR URBAN LOT SPLITS AND TWO-UNIT DEVELOPMENTS IN ACCORDANCE WITH SENATE BILL 9 (Exhibit 3)."

AND

5. **INTRODUCE** for first reading, by title only and with full reading waived, of "ORDINANCE NO. 22-2211, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, AMENDING CHAPTER 1 (ZONING) OF ARTICLE IX (PLANNING AND ZONING) OF THE CARSON MUNICIPAL CODE, REVISING THE CITY'S REGULATIONS FOR ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS (Exhibit 4)."

## III. **ALTERNATIVES**

1. **MODIFY or DISAPPROVE** the recommendation of the Commission; provided, that any modification of the proposed ordinance by the City Council not previously considered by the Commission during its hearing, shall first be referred to the Commission for report and recommendation in accordance with CMC §9172.11(F).

## IV. **BACKGROUND**

The SB 9 and ADU laws are related as they both result in additional residential density and create additional options for the development of residential property, especially in single-family zones. Consequently, the two proposed ordinances, one related to SB 9 and one related to ADUs, are being presented together so that the City Council can consider how they relate to one another.

### SB 9 Ordinance

SB 9 has two primary effects on City land use regulations. First, it requires cities to permit up to two primary

residences on each parcel in single-family residential zones, where previously only one primary residence would be allowed. When combined with ADUs, this means that a parcel in a single-family residential zone could have up to 4 dwelling units, if it was not created through an SB 9 lot split.

Second, SB 9 requires cities to permit owners of single-family residential lots to split their lots in half and create two separate smaller parcels, even if the resulting lots are smaller than the minimum lot size otherwise allowed. New lots resulting from an SB 9 lot split may only have up to two units on them, inclusive of ADUs and JADUs resulting in four total units for the original lot.

State law establishes many requirements, but also allows cities to impose additional objective standards that do not conflict with state law. The following listing includes the mandated state requirements and additional objective standards proposed by staff.

**State requirements for SB 9 Lot Splits include:**

1. Only allowed in single-family residential zones (RS zones in Carson);
2. Not allowed on parcels that are located in or on certain kinds of protected farmland; wetlands; high fire severity zones (subject to some exceptions); hazardous waste sites; earthquake fault zones; flood hazard areas; habitat for protected species; or land under a conservation easement;
3. Not allowed in historic districts (not applicable in Carson);
4. City may deny a proposed SB 9 lot split if the building official makes a written finding based upon a preponderance of the evidence, that the proposed project would have a specific adverse impact (as defined) upon public health and safety or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact;
5. Resulting lots must be at least 40% of the size of the original lot and must be at least 1,200 square feet;
6. An urban lot split cannot be used to split a lot that was previously split by an urban lot split;
7. An urban lot split cannot require or allow the demolition or alteration of any of the following types of housing:
  - a. Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income;
  - b. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power; and
  - c. Housing that has been occupied by a tenant in the last three years.
8. Vacant lots are not eligible for urban lot split;
9. Lots resulting from urban lot splits can only be used for residential uses;
10. Owner of the property must sign an affidavit stating intent to occupy a unit on one of the resulting parcels as their primary residence for three years after approval of lot split;
11. Resulting lots must have access to right-of-way and must dedicate easements for utilities and public facilities;
12. Units built on resulting parcels cannot be rented for terms of less than 31 days (no short-term rentals);

13. Resulting parcels may only have up to two units on them (including ADUs);
14. Lot splits must comply with all requirements of the Subdivision Map Act and all other City standards for lot splits; and
15. Urban lots splits will be ministerially approved without a public hearing.

**Additional City Standards for SB 9 Lot Splits include:**

1. City will mail a courtesy notice to the owner(s) of each property immediately adjacent to the property where the proposed lot split will be located informing the owner(s) of the submitted application;
2. If an urban lot split results in the creation of a vacant parcel, the only permitted use of such parcel shall be a two-unit development - namely, development of two SB 9 units subject to all requirements applicable to such units; and units; and;
3. The owner of the parcel to be divided must execute a deed restriction, which will be recorded on each of the resulting parcels, at the property owner's cost, and will limit the use of each parcel in accordance with the standards in the City's ordinance; and
4. Parcels resulting from a lot split under SB 9 must be at least 20 feet wide and have at least 20 feet of street frontage.

**State requirements for SB 9 units include:**

1. Only allowed in single-family residential zones - (RS zones in Carson);
2. Not allowed on parcels that located in, or on certain kinds of protected farmland; wetlands; high fire severity zones (subject to some exceptions); hazardous waste sites; earthquake fault zones; flood hazard areas; habitat for protected species; or land under a conservation easement;
3. Not allowed in historic districts (not applicable in Carson);
4. City may deny a proposed SB 9 development if the building official makes a written finding based upon a preponderance of the evidence, that the proposed project would have a specific adverse impact (as defined) upon public health and safety or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact;
5. An SB 9 development cannot require or allow the demolition or alteration of any of the following types of housing;
  - a. Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income;
  - b. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power; and
  - c. Housing that has been occupied by a tenant in the last three years.
6. SB 9 developments will be ministerially approved without a public hearing;

7. City can only impose up a 4-foot rear and side setback for SB 9 units;
8. City can only require one parking spot per SB 9 units, with some exceptions;
9. City cannot enforce standards that would prevent up to two primary units that are at least 800 square feet each;
10. Maximum of two primary units are allowed on property, plus ADUs; and
11. SB 9 units cannot be rented for terms of less than 31 days (no short-term rentals).

**Additional City Standards for SB 9 units include:**

1. City will mail a courtesy notice to the owner(s) of each property immediately adjacent to the property where the proposed SB 9 development will be located informing the owner(s) of the submitted application;
2. SB 9 units can only be up to 800 square feet and 16 feet in height; units can only be built on a second story if required to allow two primary units on a lot or to allow both primary units to be at least 800 square feet;
3. New units must each have their own direct utility connection to the utility service provider for water, electric, and gas service;
4. City will require sewer capacity study for all new units;
5. If development of SB 9 results in removal of mature tree, owner must replace removed tree with a new 24-inch box tree on site;
6. Design of second units must match primary unit;
7. SB 9 units may not be turned into condos or sold separately from other units on the property;
8. Owner must execute deed restriction limiting use of units as required by state law and City ordinance; and
9. Owner must execute deed restriction requiring that SB 9 units may only be rented to very-low-income households at an affordable rent for 55 years.

**ADU Ordinance**

As with SB 9, many of the standards for ADUs/JADUs are established by state law, but the state does allow cities to establish regulations that do not conflict with state law. The following listing includes the mandated state requirements and additional objective standards proposed by staff.

**State requirements for ADUs/JADUs include:**

1. ADUs are permitted in single-family, multifamily, and mixed-use zones, and on properties with single-family and multifamily units;

2. Must be approved ministerially without a public hearing;
3. Parcel with one or more single-family dwelling can have one ADU; parcel with a multifamily dwelling can have two ADUs (or more for parcels with more than 8 multifamily units);
4. JADUs must be completely within a single-family dwelling;
5. City can impose up to a 4-foot rear and side yard setback for ADUs
6. ADUs can be attached to, detached from, or built within other dwelling structures, or be created by converting non-habitable structures;
7. ADUs must have complete independent living facilities;
8. JADUs must have independent living facilities except that they can share a bathroom with the primary unit and only have an efficiency kitchen; they are limited to 500 square feet;
9. City cannot impose owner-occupancy requirements on ADUs, but if property has a JADU, owner must either live in JADU or primary dwelling;
10. ADUs and JADUs cannot be sold separately from other units on property (with one minor exception);
11. Only one parking space can be required for ADUs (with some exceptions) and no additional parking can be required for JADUs; and
12. A deed restriction must be recorded for a JADU requiring compliance with state law regulations

**Additional City Standards for ADUs/JADUs include:**

1. Limits detached ADUs to 1,200 square feet. Limits attached ADUs to 850 square feet for studio/one-bedroom units and 1,000 square feet for units with two or more bedroom, or 50% of floor area of the primary dwelling, whichever is less (but in no event less than 800 square feet);
2. Limits detached ADUs to 16 feet in height, allows ADUs to be constructed above detached garages to the underlying zoning height;
3. Design of ADUs must be similar to primary unit with respect to architectural style, roof pitch, color, and materials;
4. ADUs and JADUs cannot be used for short-term rentals (less than 31 days); and
5. Requires ADUs as well as JADUs to record a covenant on property giving future buyers notice of development standards and limitations imposed on ADUs.

The proposed ordinance also repeals and removes several provisions that are outdated and rendered obsolete by the new regulations imposed in the ordinance.

If the ADU ordinance is adopted the City will be required to submit the ordinance to the Department of Housing and Community Development for compliance with state law.

Environmental Review

The adoption of SB 9 regulations is not a “project” for purposes of the California Environmental Quality Act (CEQA) pursuant to Government Code Sections 65852.21(j) and 66411.7(n). Additionally, the adoption of an ordinance regarding second units (ADUs) in a single-family or multifamily residential zone to implement the provisions of Government Code Sections 65852.2 and 65852.22 is exempt from CEQA review pursuant to Public Resources Code Section 21080.17. Therefore, the proposed ordinances do not require any environmental review under CEQA.

**V. FISCAL IMPACT**

None.

**VI. EXHIBITS**

1. City Council Staff Report, March 15, 2022 (pgs. 8-10)
2. Planning Commission Resolution 22-2829, April 12, 2022 (pgs. 11-12)
3. Ordinance No. 22-2210, Establishing Regulations for Urban Lot Splits and Two-Unit Developments in Accordance with Senate Bill 9 (pgs. 13-30)
4. Draft Ordinance No. 22-2211, Revising the City's Regulations for Accessory Dwelling Units and Junior Accessory Dwelling Units (pgs. 31-46)

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