

ORDINANCE NO. 2021-0035

Adopted by the Sacramento City Council

December 14, 2021

An Interim Ordinance Adding Chapter 17.864 to, and Amending Section 17.808.160 of, the Sacramento City Code, Relating to the Ministerial Approval of Two Dwelling Units on a Lot and Urban Lot Splits, and Declaring the Ordinance to be an Emergency Measure to take Effect January 1, 2022

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. Background

In September 2021, Governor Newsom signed Senate Bill 9, which requires local agencies to ministerially approve housing developments containing no more than two dwelling units on a lot zoned for single-unit dwelling development, provided the project meets certain criteria. The legislation also requires local agencies to ministerially approve parcel maps for “urban lot splits” that create no more than two new lots on an existing lot zoned for single-unit residential development. Senate Bill 9 goes into effect on January 1, 2022.

The city council is adopting this interim ordinance as an emergency measure, consistent with section 17.916.030.A of the Sacramento City Code, to comply with Senate Bill 9, preserve local land use control, and allow the city additional time to further study ministerial approval of residential development.

SECTION 2.

The city council finds the following:

1. This interim ordinance complements, supports, and facilitates the implementation of the goals, policies, and other provisions of the general plan and the city’s specific plans and transit village plans; and
2. This interim ordinance promotes the public health, safety, convenience, and welfare of the city by promoting additional affordable housing opportunities and conserving land by constructing housing on existing developed housing sites.

SECTION 3.

Chapter 17.864 is hereby added to the Sacramento City Code to read as follows:

Chapter 17.864 MINISTERIAL APPROVAL OF TWO DWELLING UNITS ON A LOT AND URBAN LOT SPLITS.

17.864.010 Purpose and intent.

The purpose of this chapter is to comply with Senate Bill 9 (Chapter 162, Statutes of 2021), related to housing development approvals and urban lot splits. Consistent with that bill, this chapter authorizes a ministerial review process for housing developments containing no more than two dwelling units in compliance with California Government Code section 65852.21. Under that section, a “housing development contains two [dwelling] units if the development proposes no more than two new units or if it proposes to add one new unit to one existing unit.” This chapter also, consistent with Senate Bill 9, authorizes a ministerial review process for parcel maps that create no more than two new lots (referred to in state law as an “urban lot split”) in compliance with California Government Code section 66411.7.

Nothing in this chapter precludes an applicant from applying for a development permit under another section of this code.

17.864.020 Housing development projects eligible for ministerial review under Government Code section 65852.21.

A. Administrative permit. Except as provided in subsection B, the city will grant an administrative permit to any housing development containing no more than two dwelling units if it complies with all the following:

1. General requirements.
 - a. The site is located within the RE or R-1 zones.
 - b. The project qualifies for ministerial approval under California Government Code section 65852.21.
 - c. Dwelling units created pursuant to this section may not be used as short-term rentals, bed and breakfast inns, hotels, or any other nonresidential use, excluding a use authorized by article II of chapter 17.228, related to home occupations.
2. Development standards.
 - a. Height. New construction must comply with the height limit of the applicable zone.

b. Density. The maximum density is two dwelling units per lot.

c. Lot coverage. The housing development must comply with the lot coverage requirement applicable to the zone in which the development is located unless that requirement would have the effect of physically precluding the construction of up to two dwelling units or would physically preclude either of the two dwelling units from being at least 800 square feet.

d. Bulk control. All dwelling units, excluding accessory dwelling units, must be contained within the base building envelope, which may not exceed a height of 35 feet. The base building envelope is the three-dimensional air space contained between the front-yard, side-yard, and rear-yard setbacks of a lot and conforming to the following planes:

i. Side planes and roofline planes. The side planes of the envelope begin at the side property lines at the average elevation of the finished lot grade at the front setback line and rise directly vertical and perpendicular to each side property line to a height of 12 feet; at this point, the envelope slopes inward from each side at a 45 degree angle to form the roofline planes that continue inward until the roofline planes intersect or until these planes reach a height of 35 feet, whichever is shorter.

ii. Front plane. The front plane of the base building envelope starts at a line equal to the shortest setback of the adjacent residences on the same side of the street, or across the street if there are not two typical adjacent residences, and rise directly vertical and perpendicular to the front property line to a height of 14 feet; at this point, the envelope slopes towards the rear property line at a 45-degree angle to a height no greater than 35 feet above the average elevation of the finished lot grade at the front setback.

e. Setbacks. The following setbacks apply:

i. Front-yard setback. The minimum front-yard setback is as follows:

(a) If there are at least two other buildings with front-yard setbacks on the same side of the street on the same block as the lot for which the setback is being determined, the minimum front-yard setback is the average of the two front-yard setbacks of the nearest two buildings.

(b) If there is only one other building with a front-yard setback on the same side of the street on the same block as the lot for which

the setback is being determined, the minimum front-yard setback is the front-yard setback of the other building.

(c) If there is no other building with a front-yard setback on the same side of the street on the same block as the lot for which the setback is being determined, the minimum front-yard setback is 20 feet.

ii. Interior side-yard setback. The minimum interior side-yard setback is 4 feet.

iii. Street side-yard setback. The minimum street side-yard setback is 12.5 feet.

iv. Rear-yard setback. The minimum rear-yard setback is 4 feet.

v. No setback is required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.

f. Accessory dwelling units. If one of the two proposed dwelling units is an accessory dwelling unit, it must comply with section 17.228.105.

g. Private protected trees. No private protected tree, as defined in section 12.56.020, may be removed unless: (i) leaving the tree in place would have the effect of physically precluding the construction of up to two dwelling units; (ii) leaving the tree in place would physically preclude either of the two dwelling units from being at least 800 square feet; or (iii) removal is authorized by a tree permit under section 12.56.050.

3. Design standards.

a. New construction must comply with the Citywide Infill Housing Design Standards and, if the development is located within a planned unit development, the objective standards set forth in the planned unit development's development guidelines.

b. No portion of an open balcony, deck, stairs, or landing within 10 feet of a rear lot line or side lot line may be higher than 3 feet from the ground unless the rear lot line or side lot line abuts a nonresidential use, alley, public street, or city-approved private street.

c. Garbage, recycling, and organic waste containers for each dwelling unit must have a designated storage area onsite that is screened from view from public streets.

4. Other standards.

a. Fencing. All new fencing must comply with sections 17.620.100 and 17.620.1110, and chapter 12.28.

b. Streets. All housing developments must comply with the applicable, objective standards in chapter 17.502.

c. Alleys. Prior to issuance of a certificate of occupancy or final inspection for any dwelling with alley access, the alley must be named as required by the city and a street sign must be installed as required by the city.

d. Parking.

i. One parking space per dwelling unit is required, except no parking is required in either of the following circumstances:

(a) The site is located within one-half mile of either a high-quality transit corridor, as defined in subdivision (b) of California Public Resources Code section 21155, or a major transit stop as defined in California Public Resources Code section 21064.3; or

(b) There is a car share vehicle located within one block of the lot.

ii. Garages, carports, and parking pads must be at least 10 feet wide and 20 feet deep.

iii. Access to the required on-site parking must be provided by a driveway that complies with the following:

(a) The driveway must be at least 5 feet from the property line.

(b) Driveways must have a width of at least 10 feet and a depth of at least 20 feet measured from the right-of-way line, unless the lot is located within the central city and less than 3,200 square feet, in which case the minimum required depth is 18 feet.

(c) Garages accessed from an alley shall be setback at least 4 feet from the right-of-way line.

(d) All driveways and parking pads shall be paved with concrete, decorative pavers, asphaltic concrete, or Portland cement.

(e) All applicable objective standards and other requirements in chapter 17.508.

e. All housing development must comply with the California Building Standards Code, as set forth in title 24 of the California Code of Regulations, including the California Fire Code.

f. All housing developments must comply with all applicable, objective standards set forth in the city code.

B. Findings for denial. Notwithstanding subsection A, the city may deny a housing development project if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined in subdivision (d)(2) of section 65589.5 of the California Government Code, 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.

17.864.030 Urban lot splits eligible for ministerial review under Government Code section 66411.7.

A. Notwithstanding any other law, the city will ministerially approve a parcel map for an urban lot split if all the following requirements are met:

1. General requirements.

a. The site is located within the RE or R-1 zones.

b. The parcel map subdivides an existing lot to create no more than two new lots of approximately equal lot area provided that one lot shall not be smaller than 40% of the lot size of the original lot proposed for subdivision.

c. Applicants must sign an affidavit stating that the applicant intends to occupy a dwelling unit on the property as their principal residence for a minimum of three years from the date of the approval of the urban lot split.

d. The project qualifies for ministerial approval under subdivision (a) of California Government Code section 66411.7.

2. Subdivision standards.
 - a. The minimum lot size for each new lot is 1,200 square feet.
 - b. Each lot shall have either of the following:
 - i. At least 20 feet of developed public street frontage or public alley frontage; or
 - ii. An easement for access and the provision of public services and facilities or, in the absence of such an easement, the applicant enters into an agreement for conveyance of easements pursuant to subsection A.2.i of this section.
 - c. Each lot must have separate water and sewer services.
 - d. Existing water, sewer, and drainage mains located on the property without easements require dedication of easements in consultation with the Department of Utilities.
 - e. Prior to recording a parcel map, all existing tax assessments on the property must be paid, excluding taxes owed on any portion of the parcel subject to a pending tax bill segregation application.
 - f. The parcel map must adequately delineate all existing public easements and any new public easements.
 - g. The parcel map must comply with all applicable objective requirements of the Subdivision Map Act.
 - h. The parcel map must comply with all applicable objective standards in chapter 17.832.
 - i. As determined applicable by the city, prior to or concurrent with recording a parcel map, the subdivider shall enter into agreements for conveyance of easements for the provision of public services and facilities and for the provision of access to the public rights-of-way.
 - j. All urban lot splits must comply with the California Building Standards Code, as set forth in title 24 of the California Code of Regulations, including the California Fire Code.

k. All urban lot splits must comply with all applicable objective standards set forth in the city code.

B. Findings for denial. Notwithstanding subsection A, the city may deny an urban lot split if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined in subdivision (d)(2) of section 65589.5 of the California Government Code, 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.

SECTION 4.

A. Section 17.808.160 of the Sacramento City Code is hereby amended as follows:

1. Subsection E is hereby amended to read as follows:

E. Housing projects that are subject to ministerial review under another provision of this title.

2. Subsection F is hereby added to read as follows:

F. Urban lot splits that are subject to ministerial review under chapter 17.864.

B. Except as amended by subsection A above, all provisions of section 17.808.160 remain unchanged and in full effect.

SECTION 5.

To timely comply with Senate Bill 9, this interim ordinance is adopted as an emergency measure under City Charter section 32(g)(2) and is effective January 1, 2022.

Adopted by the City of Sacramento City Council on December 14, 2021, by the following vote:

Ayes: Members Ashby, Guerra, Harris, Jennings, Loloee, Schenirer, Valenzuela, Vang and Mayor Steinberg

Noes: None

Abstain: None

Absent: None

Attest: **Mindy Cuppy** Digitally signed by Mindy Cuppy
Date: 2021.12.21 11:28:56
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Mindy Cuppy, City Clerk

The presence of an electronic signature certifies that the foregoing is a true and correct copy as approved by the Sacramento City Council.

Passed for Publication: Not applicable
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