



## COMMUNITY DEVELOPMENT DEPARTMENT

CITY HALL  
10300 TORRE AVENUE • CUPERTINO, CA  
95014-3255 TELEPHONE: (408) 777-3308 • FAX: (408) 777-3333  
CUPERTINO.ORG

### CITY COUNCIL STAFF REPORT

Meeting: February 1, 2021

#### **Subject**

Consider an extension of an Interim Ordinance to implement new state legislation (Senate Bill 9) that provides for ministerial approval of up to two units and/or a lot split in a residential single-family zone (Application No.: MCA-2021-005; Applicant: City of Cupertino; Location: Citywide in all single family residential zones)

#### **Recommended Action**

Conduct a public hearing pursuant to Government Code section 65858(a), and following that hearing:

1. Find that the proposed action is exempt from CEQA; and
2. Adopt an ordinance extending the effective date of the previously adopted interim Ordinance No. 22-2235 for a period of 10 months and 15 days.

#### **Discussion**

##### ***Background***

Senate Bill (SB) 9 uses a two-pronged approach to encourage increased housing density in single family residential zones throughout the State. First, the statute requires ministerial approval of up to two units, in one structure or two separate structures, in single-family residential zones, subject to certain conditions. Second, the statute requires ministerial approval of lot splits in single family residential districts, subject to similar conditions, with no public hearing. If the conditions are met for both of these approvals, the approvals can result in the development of up to a maximum of four units on what was formally one single family residential lot.

While SB 9 precludes discretionary review of qualifying projects on single family zoned property, the statute expressly authorizes the City to impose objective standards to the extent they do not reduce the development allowed under SB 9. On December 21, 2021, the City Council adopted objective standards for ministerial approval of up to two dwelling units on a parcel and for approval of lots splits pursuant to SB 9. Because SB 9 took effect on January 1, 2022, the City Council enacted the standards as an interim

ordinance pursuant to Government Code section 65858(a), effectively immediately. The details of the adopted Ordinance No. 21-2235 are discussed in the Staff Report for the December 21, 2021 meeting agenda packet.<sup>1</sup>

Under Government Code section 65858(a), Ordinance No. 21-2235 expires on February 4, 2022, but may be extended by 10 months and 15 days upon consideration at a public hearing. The extension of the Ordinance must be approved by a four-fifths vote of the Council.

### ***Analysis***

The proposed extension of the Interim Ordinance must be approved without modification for the City's interim standards for the implementation of SB 9 to remain in effect. A regular ordinance to implement SB 9 is being prepared for presentation to the Planning Commission in Spring 2022 with City Council approval in Summer 2022. To ensure that regulations remain in place while the regular ordinance is being developed and considered by the City, staff recommends approval of the proposed extension.

### **Sustainability Impact**

No sustainability impact.

### **Fiscal Impact**

No fiscal impact. Staff will request that Council approve a permit fee for the new Miscellaneous Ministerial Permit to allow the City to recoup the costs of processing such permits.

### **California Environmental Quality Act (CEQA)**

An ordinance adopted to implement SB 9 "shall not be considered a project" under CEQA and is therefore statutorily exempt. (Gov. Code, §§ 66411.7(n), 65852.21(j).)

### **Next Steps**

The extension of an interim ordinance under Government Code Section 65858 requires a four-fifths vote of the City Council. If the proposed Ordinance is adopted, interim standards for the implementation of SB 9 would be extended for an additional 10 months and 15 days. In addition, it is anticipated that staff will develop a permanent ordinance to implement SB 9 prior to the expiration of the Interim Ordinance. An updated ordinance is expected to be presented to the Planning Commission and City Council by the Summer 2022.

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<sup>1</sup> Staff report and attachments available online at:  
<https://cupertino.legistar.com/LegislationDetail.aspx?ID=5362273&GUID=CB9F500E-8E12-41FA-8E97-2B33CCED758F&Options=&Search=>

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Prepared by: Piu Ghosh, Planning Manager  
Reviewed by: Benjamin Fu, Director of Community Development  
Christopher Jensen, City Attorney  
Approved for Submission: Dianne Thompson, Assistant City Manager

Attachments:  
A – Draft Interim Ordinance No: 22-22XX