

**URGENCY ORDINANCE NO. \_\_\_\_**

**AN URGENCY ORDINANCE OF THE CITY OF CITRUS HEIGHTS, CALIFORNIA, ADOPTING CHANGES TO TITLE 82 (SUBDIVISIONS AND LAND DEVELOPMENT) AND TITLE 106 (ZONING) RELATING TO THE IMPLEMENTATION OF SENATE BILL 9 FOR THE CREATION OF URBAN LOT SPLITS AND TWO (2) RESIDENTIAL UNITS PER LOT**

**WHEREAS**, on September 16, 2021 Governor Gavin Newsom approved Senate Bill 9 (SB 9, Chapter 162) related to the creation of two residential units per lot which requires local agencies to ministerially approve housing development containing no more than two residential units per lot and ministerially approve an urban lot split; and

**WHEREAS**, SB 9 takes effect on January 1, 2022; and

**WHEREAS**, SB 9 allows local agencies to impose objective zoning, subdivision, and design review standards; and

**WHEREAS**, given that SB 9 was not signed into law until mid-September 2021, there was insufficient time to process this Ordinance through noticed hearings before the Planning Commission and City Council and have the Ordinance in place by January 1, 2022; and

**WHEREAS**, the public is already beginning to express interest in developing under this new law and it is necessary to have standards in place by the time SB 9 becomes effective; and

**WHEREAS**, for the immediate preservation of the public peace, health and safety, it is declared that the adoption of the Ordinance is an urgency under Section 36937(b) of the Government Code; and

**WHEREAS**, a public notice of the proposed Ordinance was published in the newspaper on November 26, 2021; and

**WHEREAS**, the Ordinance must be passed by a four-fifths vote of the City Council.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CITRUS HEIGHTS DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.** Article XXII Section 82-750 through Section 82-758 is hereby added to the Citrus Heights Municipal Code to read as follows:

**ARTICLE XXII. PARCEL MAPS FOR URBAN LOT SPLITS**

Sec. 82-750. Definitions.

For purposes of this Section, the following definition shall apply:

*Lot Area* means the area included within the lot lines of the lot, expressed in square feet or acres, and exclusive of floodways and area of easements on the lot for streets or driveways that are not for the exclusive use of the lot.

*Single-family Residential Zone* means a lot with a zoning classification of RD-1 through RD-5 and Special Planning Areas that allow single-family residential.

*Unit* means any dwelling unit, including but not limited to a primary dwelling unit, an accessory dwelling unit, or a junior accessory dwelling unit.

*Urban lot split* means a lot split of a single-family residential lot into two parcels that meets the requirements of this section.

#### Sec. 82.751 Approval Process

The city shall ministerially approve a parcel map for a lot split that meets the following requirements:

- (1) The parcel is located within a single-family residential zone.
- (2) The parcel map divides an existing parcel to create no more than two new parcels of approximately equal lot area, provided that one parcel shall not be smaller than 40 percent of the lot area of the original parcel.
- (3) Both newly created parcels are no smaller than 1,200 square feet.
- (4) The parcel is not located in any of the following areas and does not fall within any of the following categories:
  - a. A special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency (FEMA) in any official maps published by FEMA. If an applicant is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, the city shall not deny the application on the basis that the applicant did not comply with any additional permit requirement, standard, or action adopted by the city that is applicable to that site. A development may be located on a site described in this subparagraph if either of the following are met:
    - i. The site has been subject to a Letter of Map Revision prepared by FEMA and issued to the city; or

- ii. The site meets FEMA requirements necessary to meet minimum flood plain management criteria of the Nation Flood Insurance Program as further spelled out in Government Code section 65913.4(a)(6)(G)(ii);
  - b. A regulatory floodway as determined by FEMA in any of its official maps, published by FEMA unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If an applicant is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, the city shall not deny the application on the basis that the applicant did not comply with any additional permit requirement, standard, or action adopted by the city that is applicable to that site.
  - c. Lands under a conservation easement.
  - d. Within a historic district or on a site that is designated as historic.
- (5) The proposed lot split would not require 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 by the city;
  - c. Housing that has been occupied by a tenant in the last three years;
  - d. Housing on a parcel or parcels on which an owner of residential real property exercised rights under Government Code section 7060 et seq. to withdraw accommodations from rent or lease within 15 years before the date of the application.
- (6) The lot split does not create more than two units on a parcel.

Sec. 82-752. Standards and Requirements.

The following requirements shall apply to urban lot splits:

- (1) The lot split conforms to all applicable objective requirements of the Subdivision Map Act and Chapter 106 of the Citrus Heights Municipal Code, except as the same are modified by this section.
- (2) No setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.
- (3) Except for those circumstances described in Section 82-752.(2) above, the setback for side and rear lot lines shall be four feet. The front setback shall be as set forth in the underlying single-family residential zone.
- (4) The applicant shall provide easements for the provision of public services and facilities as required.
- (5) An application for an Urban Lot Split shall not require the correction of nonconforming zoning provisions as a condition for the lot split.
- (6) Except for those circumstances described in Section 82.751(5), the demolition or alteration of a structure is allowed for land divisions proposed under this Section.
- (7) Development of residential units on the lots created by the Urban Lot Split shall be governed by Section 106.42.260.

#### Sec. 82-753. Dedications and Improvements

Dedications of rights-of-way or the construction of offsite improvements for the parcels being created as a condition of approval for the parcel map shall not be imposed on urban lot splits.

#### Sec. 82-754 Objective Standards

The following objective standard shall apply to urban lot splits provided the objective subdivision standard shall not be imposed if it would have the effect of physically precluding the construction of two units on either of the resulting parcels in a unit size of less than 800 square feet.

- (1) Each lot shall have frontage on or direct access to a public street. To be considered direct access, the proposed lot split may allow one lot to access a public street by way of a recorded 20-foot minimum width easement.

- (2) Lots proposed adjacent to or crossed by a watercourse shown on Figure 3-1 of Section 106.30.040 shall meet the minimum lot area exclusive of the creekside setback requirements.

#### Sec. 82-755. Application Denial

- (1) An application for an urban lot split shall not be denied solely because it proposes adjacent or connected structures provided that that all building code safety standards are met and they are sufficient to allow a separate conveyance.
- (2) An application for an urban lot split may be denied 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 and determined in Government Code section 65589.5(d)(2), upon the 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.

#### Sec. 82-756 Affidavit Required

An applicant for an urban lot split shall be required to sign an affidavit in a form approved by the City Attorney stating the following:

- (1) That applicant intends to occupy one of the housing units as their principal residence for a minimum of three years from the date of approval. This requirement does not apply when the applicant is a “community land trust” or a “qualified nonprofit corporation” as the same are defined in the Revenue and Taxation Code.
- (2) That the uses shall be limited to residential uses.
- (3) That any rental of any unit created by the lot split shall be for a minimum of thirty-one days.
- (4) That the maximum number of units to be allowed on the parcels is two, including but not limited to units otherwise allowed pursuant to density bonus provisions, accessory dwelling units, or junior accessory dwelling units.

#### Sec. 82-757 Section Applicability

This section shall not apply to:

- (1) Any parcel which has been established pursuant to a lot split in accordance with this section; or
- (2) Any parcel where the owner of the parcel being subdivided or any person acting in concert with the owner has previously subdivided an adjacent parcel in accordance with this section. For purposes of this section, “acting in concert” shall include, but not be limited to, where the owner of a property proposed for an urban lot split is the same, related to, or connected by partnership to the owner, buyer or seller (if transferred within the previous three years) of an adjacent lot.

**SECTION 2.** Chapter 106 and Chapter 108 of the Citrus Heights Municipal Code are hereby amended to read as set forth below:

Section 106.42.260 is hereby added to the Citrus Heights Municipal Code to read as follows:

**Section 106.42.260 Two-Unit Housing Development**

This Section provides standards for housing developments of no more than two units, where allowed by this section. The provisions of this section supersede any contrary provisions in the Citrus Heights Municipal Code to the contrary.

- A. **Allowed Locations.** A housing development in compliance with this Section shall be approved ministerially if it meets the following requirements:
1. The parcel is located within a single-family residential zone.
  2. The parcel is not located in any of the following areas and does not fall within any of the following categories:
    - a. A special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency (FEMA) in any official maps published by FEMA. If an applicant is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, the city shall not deny the application on the basis that the applicant did not comply with any additional permit requirement, standard, or action adopted by the city that is applicable to that site. A development may be located on a site described in this subparagraph if either of the following are met:
      - i. The site has been subject to a Letter of Map Revision prepared by FEMA and issued to the city; or

- ii. The site meets FEMA requirements necessary to meet minimum flood plain management criteria of the Nation Flood Insurance Program as further spelled out in Government Code section 65913.4(a)(6)(G)(ii);
  - b. A regulatory floodway as determined by FEMA in any of its official maps, published by FEMA unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If an applicant is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, the city shall not deny the application on the basis that the applicant did not comply with any additional permit requirement, standard, or action adopted by the city that is applicable to that site.
  - c. Lands under a conservation easement.
  - d. Within a historic district or on a site that is designated as historic.
- 3. The proposed housing development would not require 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 by the city;
  - c. Housing on a parcel or parcels on which an owner of residential real property exercised rights under Government Code section 7060 et seq. to withdraw accommodations from rent or lease within 15 years before the date of the application; or
  - d. Housing that has been occupied by a tenant in the last three years.

**B. Standards and Requirements.** The following requirements shall apply in addition to all other objective standards pertaining to the underlying single-family residential zone:

- 1. No setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.

2. Except for those circumstances described in section 106.42.260.B.1, the setback for side and rear lot lines shall be four feet. The front setback shall be as set forth in the single-family residential zone.
  3. Except for those circumstances described in section 106.42.260.A.3, the demolition or alteration of a structure is allowed for developments proposed under this Section.
  4. The applicant shall provide easements for the provision of public services and facilities as required.
  5. Off-street parking shall be limited to one space per unit, except that no parking requirements shall be imposed if the parcel is located within one-half mile walking distance of either a high-quality transit corridor as defined by Public Resources Code section 21155(b) or a major transit stop as defined in Public Resources Code section 21064.3.
  6. Any residential accessory structure proposed in conjunction with or following the development of, a two-unit development shall meet the requirements of Citrus Heights Municipal Code Chapter 106.
  7. The maximum number of units allowed under this Section is two per lot.
- C. **Objective Standards.** The following objective standard shall apply to two-unit developments provided the objective standard shall not be imposed if it would have the effect of physically precluding the construction of two units of less than 800 square feet.
1. The required parking space may be covered or uncovered but shall be at least 9 feet wide x 20 foot in length.
  2. New units proposed adjacent to or crossed by a watercourse shown on Figure 3-1 of Section 106.30.040 shall meet the creekside setback requirements.
  3. The applicant shall provide easements for the provision of public services and facilities as required.
- D. **Application Review.** A housing development in compliance with this Section shall be approved ministerially if it meets the requirements of this Section. An application project shall not be denied based on any of the following:

1. The imposition of any objective zoning or design review standards that would have the effect of physically precluding the construction of two units on either of the resulting parcels or that would result in a unit size of less than 800 square feet.
2. Solely because it proposes adjacent or connected structures provided that that all building code safety standards are met and they are sufficient to allow a separate conveyance.

E. **Housing Development in Conjunction with Urban Lot Split.** If the project includes an urban lot split, the shall be required to sign an affidavit in a form approved by the City Attorney to be recorded against the property stating the following:

1. That the uses shall be limited to residential uses.
2. That the rental of any unit created pursuant to this section shall be for a minimum of thirty-one days.
3. That the maximum number of units to be allowed on the parcels is two, including but not limited to units otherwise allowed pursuant to density bonus provisions, accessory dwelling units, junior accessory dwelling units, or units allowed pursuant to Section 106.42.015.

F. **Building Official Authority.** The city may deny the housing development 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 and determined in Government Code section 65589.5(d)(2), upon the 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 106.80.020 of the Citrus Heights Municipal code is hereby amended by adding the following definitions to read as follows:

**Single-family Residential Zone.** Zoning districts of RD-1 through RD-5 and Special Planning Areas that allow single-family residential.

**Two-Unit Housing Development.** A project of no more than two residential units within a single-family zone that meets the requirements of Section 106.42.260. A duplex is considered two-units.

**Unit.** Any dwelling unit, including but not limited to a primary dwelling unit, an accessory dwelling unit, or a junior accessory dwelling unit.

**SECTION 3.** This adoption of this Ordinance is not a project under CEQA pursuant to SB 9.

**SECTION 4.** This Ordinance shall take effect immediately because of the need for the preservation of the public peace, health and safety as set forth in the Whereas clauses in the beginning of this Ordinance.

**PASSED AND ADOPTED** by the City Council of the City of Citrus Heights this \_\_\_\_\_ day of \_\_\_\_\_ 2021 by the following vote:

**AYES: Council Members:**  
**NOES: Council Members:**  
**ABSENT: Council Members:**  
**ABSTAIN: Council Members:**

\_\_\_\_\_  
**Steve Miller, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Amy Van, City Clerk**