

# Urgency Ordinance Duplex Construction in RS Zones (SB 9)

City Council  
December 6, 2021





# Background

## Housing Crisis

- > Housing production has not kept pace with population growth
- > Rents have increased while income has decreased
- > Majority of households are rent-burdened



# Background

## Affordable Housing in Pasadena

- > Inclusionary Housing
- > In-lieu Fees
- > Funding Affordable Housing
- > Establishment of Local Menu
- > Conversion of Hotels to Affordable Housing
- > Establishment of SROs as an Allowed Land Use

## Affordable Housing Pipeline

- > Total Units: **1,021 units**
- > Affordability Levels
  - 142 – Extremely Low Income
  - 374 – Very Low Income
  - 355 – Low Income
  - 108 – Moderate Income
  - 42 – Workforce



# SB 9 Summary

## Senate Bill 9 (Atkins)

- > Requires ministerial approval of duplexes and “urban lot splits” in RS zones, resulting in at least 4 units on an existing property



# SB 9 Provisions

## Senate Bill 9 (Atkins)

- > Exempts historic landmarks, sites within a historic district, and sites in the State Historic Resources Inventory
- > Cannot alter or demolish deed-restricted affordable housing or rent-controlled housing, and limited alterations for housing occupied by a tenant in the last 3 years
- > May only impose objective standards, as long as they do not preclude 2 units of at least 800 sf each
- > May require 1 parking space/unit, unless within ½ mile of transit
- > May impose up to 4 ft rear and side setbacks
- > Units cannot be used for short-term rentals (less than 30 days)



# SB 9 Provisions

## Senate Bill 9 (Atkins)

- > If “urban lot split” is used, owner-occupancy affidavit of intent is required for at least 3 years
- > “Urban lot split” must result in 2 approximately equal-sized lots (60/40 split max)
- > Each new lot must be at least 1,200 square feet
- > Only one lot split allowed (no subsequent splits)
- > Same owner or any person acting in concert with owner cannot split adjacent lots



# Proposed Interim Standards

## Objective Standards

- > Allow 4 units per existing lot
- > Development shall comply with existing RS development standards. If it does not, then properties will be allowed:
  - Maximum unit size of 800 sf per new unit
  - One-story height limit
- > All new duplex units shall comply with the proposed standards, unless they prevent the construction of two 800 sf units per lot:
  - Garden area required (similar to City of Gardens)





# Urgency Ordinance

## Requirements

- > An Urgency Ordinance may be passed by City Council for an initial 45-day period, without public noticing (Gov't Code Section 65868(a))
- > With public noticing and hearing, an Urgency Ordinance may be extended twice:
  - Once for an additional 10 months and 15 days; and
  - Subsequent extension for an additional year
  - With both extensions, the urgency ordinance would be in effect for two years
- > No more than two extensions allowed



# Staff Recommendation

## It is recommended that the City Council:

- > Find that the Municipal Code Amendments are exempt from environmental review pursuant to provisions in Senate Bill 9 which explicitly state that an ordinance adopted by a local agency to implement provisions of SB 9 shall not be considered a project under Division 13 of the Public Resources Code (PRC) and State CEQA Guidelines Sections 15378 (not a project), 15301 (existing facilities) and 15303 (new construction/conversion of small structures); and
- > Adopt an interim urgency ordinance for single-family (RS) zoned properties pertaining to development standards for the construction of multiple primary dwellings (duplexes) pursuant to Senate Bill 9.

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# Authority to Adopt

## Government Code Section 65858(c)

The legislative body shall not adopt or extend any interim ordinance pursuant to this section unless the ordinance contains legislative findings that *there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in that threat to public health, safety, or welfare...*



# SB 9 Summary

## Senate Bill 9 (Atkins)

- > Building Official may deny an SB 9 project by making a written finding, based on a preponderance of evidence, that the project would have a specific adverse impact on public health/safety or physical environment, and that there is no feasible method to mitigate or avoid such an impact.
  - A “specific adverse impact” must be significant, quantifiable, and direct, based on an objective written public health or safety standard that existed at the time the project application was deemed complete.
  - Inconsistency with a city’s General Plan or zoning ordinance does not constitute a specific adverse impact.<sup>3</sup>



# Commission Input

## Urban Forestry Advisory Committee

(11/10/21)

- > Strengthen provisions in the Tree Protection Ordinance (Chapter 8.52 of the PMC) and preservation of existing trees on-site

## Planning Commission (11/10/21)

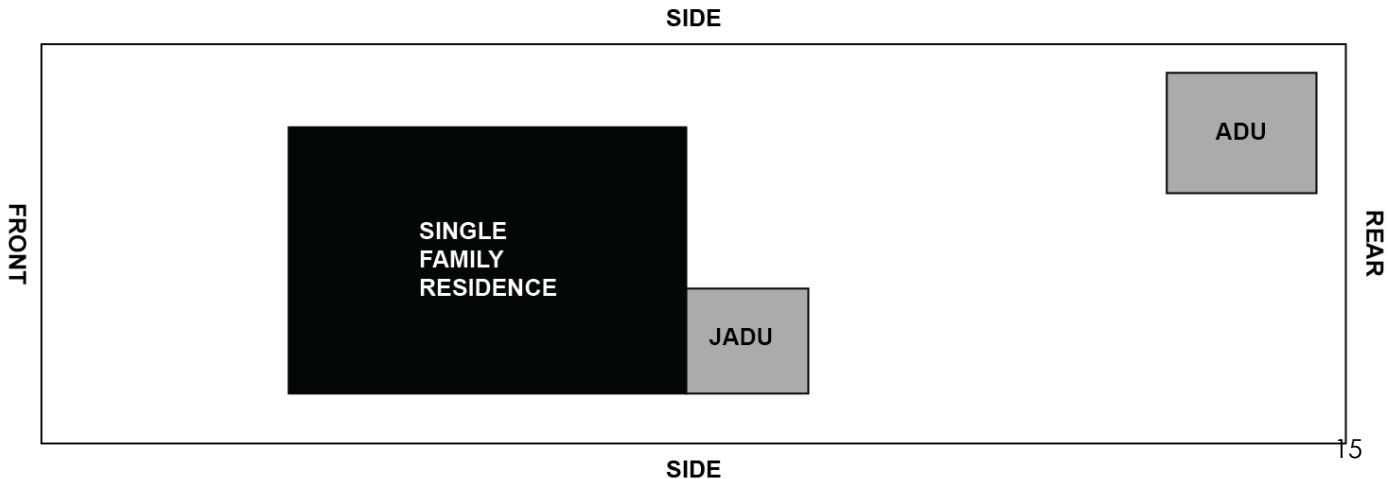
- > Retain existing trees and plant new trees
- > Require an affordability component for new units and owner-occupancy requirement
- > Conduct an updated citywide historic survey
- > Require open space to be calculated as a percentage of lot area (not including front yard



# Existing Regulations

## Pre-Senate Bill 9

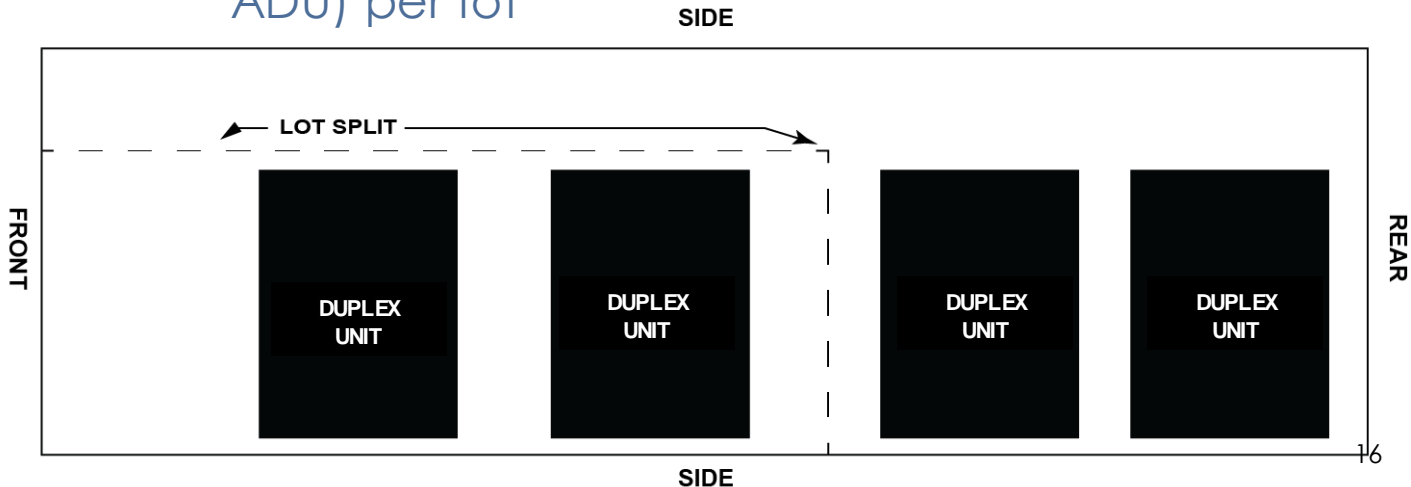
- > Existing Regulations → up to 3 units
  - 1 Single Family Residence + 1 ADU + 1 JADU



# SB 9 (with local ordinance)

## Senate Bill 9 (Atkins)

- > SB 9 with local ordinance → up to 4 units
  - Lot Split
  - 2 Duplex Units or 1 Single Family Residence (no ADU) per lot







# Fire Hazard Zone Information

## Section 65913.4

- > (6) The development is not located on a site that is any of the following:
  - (D) Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This subparagraph does not apply to sites excluded from the specified hazard zones by a local agency, pursuant to subdivision (b) of Section 51179, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.
  - (F) Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building

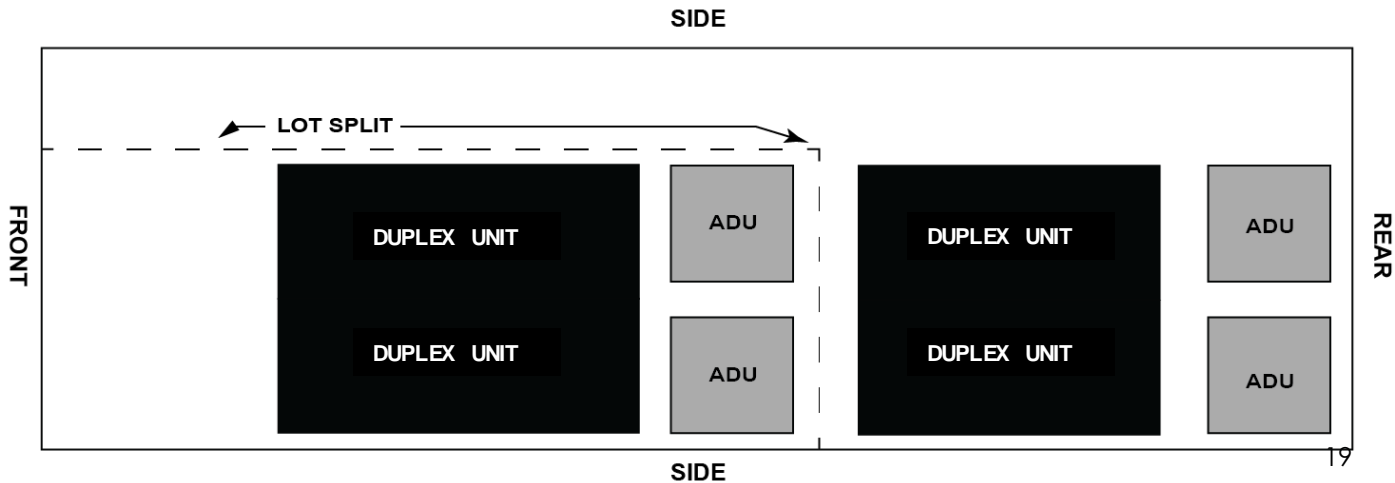




# SB 9 (without local ordinance)

## Senate Bill 9 (Atkins)

- > SB 9 without local ordinance → up to 8 units
  - Lot Split
  - 2 Duplex Units + 2 ADU Units per lot





## Turner Center Study

- > Estimated the number of eligible lots in California and analyzed the potential number of new units that could be created under SB 9
  - 20,400 parcels in Pasadena zoned single-family
  - 16,000 eligible parcels (approx.)
  - 2,000 market-feasible parcels (approx.)
- > Projects that over 700,000 new homes could be created (state-wide) that would otherwise not have been market-feasible
- > Projects that 97% of single-family homes (state-wide) would be retained, either without modification or possibly converted internally to duplexes
- > Majority of viable development likely to be two units per



# Public Input

## United Neighbors (coalition of neighborhood groups)

- > Prepared draft ordinance text for City of Los Angeles
- > Would establish maximum 4 units in conjunction with lot split and prohibit ADUs in conjunction with SB 9 development
- > Would require 4 foot setbacks for new SB 9 units
- > Would require an owner occupancy affidavit with a three-year term
- > Would require a 30-year affordability covenant for at least moderate-income level to be applied to one unit or pay in-lieu fee
- > Would exempt historic districts/structures, as well as equestrian, hillside, wildlife corridors, habitat blocks, and high