

City of Piedmont
COUNCIL AGENDA REPORT

DATE: December 20, 2021

TO: Mayor and Council

FROM: Sara Lillevand, City Administrator

SUBJECT: Consideration of an Amendment to the Piedmont Schedule of Fees and Charges to Include Fees for New SB 9 Permit Applications

RECOMMENDATION:

Approve a resolution adding two fees to the City of Piedmont Schedule of Fees and Charges for Fiscal Year 2021/2022 to establish fees for two new Planning application types that result from the implementation of Senate Bill 9 (SB 9), as follows:

1. A fee of \$1,980 for an application for SB 9 Urban Lot Split; and
2. A fee of \$2,000 for an application for SB 9 Housing Development Review.

BACKGROUND:

SB 9 was signed by Governor Newsom on September 16, 2021. SB 9 adds Sections 6585.21 and 66411.7 to the California Government Code and amends Government Code Section 66452.6. The Bill has been adopted by the State as a way to minimize restrictions and limitation on development in single-family zones by permitting ministerial (by-right) single-family lot splits and the construction of up to two units, of at least 800 square feet each, on existing or newly created lots. SB 9 becomes effective January 1, 2022.

SB 9 requires local jurisdictions, like Piedmont, to grant ministerial approval of housing developments of one to two units and urban lot splits for property within single-family zoning districts, such as Piedmont's Zone A and Zone E.¹ SB 9 also sets some minimum standards for housing development and lot split proposals, filed under SB 9 regulations.

City staff recommends amendments to the City of Piedmont Schedule of Fees and Charges for the 2021/2022 fiscal year to establish permit types and processing fees for ministerial SB 9 project applications. The staff recommended Planning fee types and charges are as follows:

- A. Under the category of "Subdivision/Map Act Fees," add:
SB 9 Urban Lot Split \$1,980
- B. Under the category of "Other Fees," add:
SB 9 Housing Development Review \$2,000

¹ The provisions of SB 9 do not apply in the multifamily zone (Zone C) or mixed-use multifamily commercial zone (Zone D), respectively.

Construction of a new residential building or renovation of an existing residential building that adds housing units would also require an application for building permit.

FISCAL CONSIDERATION:

Adding the proposed processing fees for SB 9 applications will help City staff implement the new State law and coordinate the review of multiple departments.

Under State law, fees charged for processing applications must not exceed the estimated reasonable cost of providing the service for which the fee is charged. Staff's analysis is that the proposed fees are reasonable in light of the expected City costs needed to process SB 9 applications, such as staff time and review by subject matter experts, such as contract staff. The fees are based on similar fees for permits of similar complexity and based on the time required to evaluate and process them. Both the SB 9 Urban Lot Split application processing fee of \$1,980 and the SB 9 Housing Development Review processing fee of \$2,000 would account for multiple completeness checks, preview by the Building Division and Fire Department, applicant meetings, site visit, and analysis. Both also include a \$52 records management fee.

The establishment of these two fees will allow the City to be compensated for the cost of the services provided for SB 9 related applications, preserving General Fund revenue for other essential services and facilities.

By: Kevin Jackson, Planning & Building Director
Pierce Macdonald-Powell, Senior Planner

ATTACHMENTS:

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|---|-------------|--|
| A | Page 3 | Resolution |
| B | Pages 4 - 6 | Senate Bill 9 Legislative Counsel's Digest |

RESOLUTION _____

AMENDING THE 2021-2022 SCHEDULES OF FEES AND CHARGES TO ADD FEES
RELATED TO THE IMPLEMENTATION OF SENATE BILL 9

WHEREAS, Senate Bill 9, related to housing development approvals, was signed into law by the Governor on September 16, 2021; and

WHEREAS, the language of the bill requires local jurisdictions, like Piedmont, to grant ministerial approval of housing developments of one to two units and urban lot splits for property within single-family zoning districts; and

WHEREAS, on June 21, 2021 the City Council adopted the Schedule of Fees and Charges, which did not include fees for the application types required by SB 9;

WHEREAS, given the time and effort required by Planning & Building Department staff to process these SB 9 applications, the fees are in line with existing processing charges and do not exceed the estimated reasonable cost of providing the service for which the fee is charged;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Piedmont does hereby resolve, declare, determine, and order as follows:

SECTION 1. The following fees are added to the City of Piedmont Schedule of Fees and Charges:

1. \$1,980 for an application for SB 9 Urban Lot Split
2. \$2,000 for an application for SB 9 Housing Development Review.

SECTION 2. The Finance Director is hereby directed to codify these fees in the Schedule of Fees and Charges.

SECTION 3. The City Council finds that above fees for processing SB 9 related applications do not exceed the estimated reasonable cost of providing the service for which the fee is charged.

[END OF RESOLUTION]

Senate Bill No. 9
CHAPTER 162

An act to amend Section 66452.6 of, and to add Sections 65852.21 and 66411.7 to, the Government Code, relating to land use.

[Approved by Governor September 16, 2021. Filed with Secretary of State September 16, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 9, Atkins. Housing development: approvals.

The Planning and Zoning Law provides for the creation of accessory dwelling units by local ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, in accordance with specified standards and conditions.

This bill, among other things, would require a proposed housing development containing no more than 2 residential units within a single-family residential zone to be considered ministerially, without discretionary review or hearing, if the proposed housing development meets certain requirements, including, but not limited to, that the proposed housing development would not require demolition or alteration of 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, that the proposed housing development does not allow for the demolition of more than 25% of the existing exterior structural walls, except as provided, and that the development is not located within a historic district, is not included on the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district.

The bill would set forth what a local agency can and cannot require in approving the construction of 2 residential units, including, but not limited to, authorizing a local agency to impose objective zoning standards, objective subdivision standards, and objective design standards, as defined, unless those standards would have the effect of physically precluding the construction of up to 2 units or physically precluding either of the 2 units from being at least 800 square feet in floor area, prohibiting the imposition of setback requirements under certain circumstances, and setting maximum setback requirements under all other circumstances.

The Subdivision Map Act vests the authority to regulate and control the design and improvement of subdivisions in the legislative body of a local agency and sets forth procedures governing the local agency's processing, approval, conditional approval or disapproval, and filing of tentative, final, and parcel maps, and the modification of those maps. Under the Subdivision Map Act, an approved or conditionally approved tentative map expires 24 months after its approval or conditional approval or after any additional period of time as prescribed by local ordinance, not to exceed an additional 12 months, except as provided.

This bill, among other things, would require a local agency to ministerially approve a parcel map for an urban lot split that meets certain requirements, including, but not limited to, that the urban lot split would not require the demolition or alteration of 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, that the parcel is located within a single-family residential zone, and that the parcel is not located within a historic district, is not included on the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district.

The bill would set forth what a local agency can and cannot require in approving an urban lot split, including, but not limited to, authorizing a local agency to impose objective zoning standards, objective subdivision standards, and objective design standards, as defined, unless those standards would have the effect of physically precluding the construction of 2 units, as defined, on either of the resulting parcels or physically precluding either of the 2 units from being at least 800 square feet in floor area, prohibiting the imposition of setback requirements under certain circumstances, and setting maximum setback requirements under all other circumstances. The bill would require an applicant to sign an affidavit stating that they intend to occupy one of the housing units as their principal residence for a minimum of 3 years from the date of the approval of the urban lot split, unless the applicant is a community land trust or a qualified nonprofit corporation, as specified.

The bill would prohibit a local agency from imposing any additional owner occupancy standards on applicants. By requiring applicants to sign affidavits, thereby expanding the crime of perjury, the bill would impose a state-mandated local program.

The bill would also extend the limit on the additional period that may be provided by ordinance, as described above, from 12 months to 24 months and would make other conforming or nonsubstantive changes.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment. CEQA does not apply to the approval of ministerial projects.

This bill, by establishing the ministerial review processes described above, would thereby exempt the approval of projects subject to those processes from CEQA.

The California Coastal Act of 1976 provides for the planning and regulation of development, under a coastal development permit process, within the coastal zone, as defined, that shall be based on various coastal resources planning and management policies set forth in the act.

This bill would exempt a local agency from being required to hold public hearings for coastal development permit applications for housing developments and urban lot splits pursuant to the above provisions.

By increasing the duties of local agencies with respect to land use regulations, the bill would impose a state-mandated local program.

The bill would include findings that changes proposed by this bill address a matter of statewide

concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.



For the complete text of SB 9, click the following link or scan the QR code:

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB9

