

SB9 Proposed Ordinance

Planning Commission
February 24, 2022



SB 9: What does it do?

Allows for ministerial approval (without discretionary review) of housing development projects of no more than two primary dwelling units on a single-family zoned parcel in. This can be accomplished in two ways:

- 1. Urban Lot Splits**
- 2. Two-unit projects on a single parcel**



Urban Lot Splits and Two Unit Projects

- Starting January 1, 2022, all local agencies must approve certain proposed lot splits and two-unit projects ministerially (no discretion, no hearing).
- On December 1, 2021 the Town Council adopted an urgency ordinance to preserve as much local control as possible, where SB 9 allows it. The ordinance before you tonight codifies that Ordinance.



Urban Lot Splits—Restrictions on Town Standards

- Objective standards only.
- Two units at 800 sf each.
- Limited parking required.
- Setbacks of 4 ft. or less
- Residential only.
- Other structures permitted.
- No dedications or offsite improvements.
- No corrections of nonconformities.
- Three-year owner occupancy (by affidavit).
- Grounds for Denial.



Urban Lot Splits—Qualifications

Urban Lot Split qualify for ministerial approval if the following requirements are met:

1. **At least 1,200 sf.** Each new lot must be at least 1,200 square feet.
2. **Roughly equal.** The split must result in two new lots of approximately equal (60/40).
3. **Not protected housing.** The split must not involve the demolition or alteration of affordable housing, housing occupied by a tenant in the past 3 years, or rent-controlled housing under the Ellis Act or housing that was withdrawn from rent by the owner within the last 15 years.
4. **Single-family zone.** The lots must be located in a single-family zone.
5. **Not historic.** The lot must not be a historic landmark or within a designated historic district.



Urban Lot Splits—Qualifications (cont'd)

6. **Urban or suburban.** “Within an urbanized area or urban cluster” defined by U.S. Census Bureau.
7. **First time.** No prior SB 9 lot split.
8. **No coordination.** “Neither the owner nor anyone acting in concert with the owner previously subdivided an adjacent parcel through an SB 9 lot split.”
9. **Subdivision Map Act.** Otherwise meets objective criteria.
10. **Lot is not located on a site that is on an enumerated list of exceptions, which include:** Farmland; Wetlands; Very High Fire Hazard Severity Zone; Hazardous Waste Sites; Within a 100-year flood hazard area as determined by FEMA; Endangered Species Habitat; etc.
 - These are highly specific designation; often designated by State or Federal government.



Two-Units-on-a-Single-Lot Projects (“Two Unit Projects”)

This applies whether building two new units or adding a second unit.

- **Qualifications for Ministerial Approval:** Very similar to Lot Splits but one key difference is that unlike Urban Lot Splits, Two Unit Projects have a **demolition cap**—*i.e.*, the Two Unit Project cannot involve demolition of more than 25% of the existing exterior walls of an existing dwelling unless: (a) the local agency chooses to allow otherwise, or (b) the site has not been occupied by a tenant in the last 3 years.
- **Restraints on Local Ordinance Standards:** Largely mimic the restraints for Lot Splits.



General Plan Consistency

- Land Use Element Policy LU-5.1.1: New and renewed development shall occur primarily as infill development.
- Land Use Element Policy LU-8.1: Maintain an economically diverse population by providing a variety of choices in the type, size, cost and location of new housing.
- Conservation Element Program CON-1.1.2.2: Adopt planning policies that promote infill rather than sprawl, including incorporation of second units to existing Fairfax Housing.



Recommended Modification

Fire-Hazard Mitigation Measures Section
16.22.010 (3)(11)(A)(iv) page 9 and
17.049.010(e)(7)(A)(iv) page 18

“A lot shall have direct access to a public right of way with a paved street on a designated evacuation route.”



Recommended Action

Recommend the Town Council to adopt the “Ordinance of the Town Council of the Town of Fairfax Adding Chapter 16.22 Urban Lot Splits and Chapter 17.049 Two-Unit Projects to the Town of Fairfax Town Code” with the amendment to the Fire Hazard Mitigation Sections

