

Two-Unit Projects and Urban Lot Splits

CITY COUNCIL PRESENTATION
MARCH 4, 2024

Overview – SB 9

Senate Bill 9 is part of the State's effort to encourage the production of housing across California by:

- ▶ **Adding Gov. Code § 65852.21:** requiring ministerial approval of qualifying Two-Unit projects within R1 Single-family residential zones.
- ▶ **Adding Gov. Code § 66411.7:** ministerial approval of qualifying “Urban Lot Splits” within R1 Single-family residential zones.
- ▶ **Amending Gov. Code § 66452.6 (Subdivision Map Act):** allows jurisdictions to provide, by local ordinance, up to 24 additional months before the expiration of an approved or conditionally approved tentative map.

Overview – SB 9

- ▶ SB 9 applies only to R-1 Single Family zones and would allow property owners the option to create up to four homes on an existing parcel, through two possible means – Two Lot Projects and/or Urban Lot Splits.
- ▶ The law does not change the allowable land uses in the local agency's single-family residential zone(s). For example, if the local agency's single-family zone(s) does not currently allow commercial uses such as hotels or restaurants, SB 9 would not allow such uses.
- ▶ SB 9 does not mandate owners of R-1 Single Family properties to make any changes to their respective lots.

Overview – SB 9 continued

SB 9 mandates ministerial review and approval by the City of applications for the following changes to existing R-1 single-family residential properties within the City:

- ▶ **Two-Unit Project** – means the development of two primary homes on a single-family residential parcel. There is no legal requirement for a lot split/creation of two legal lots with this provision.
- ▶ **Urban Lot Split** – means a one-time subdivision of an existing single-family residential parcel into two parcels for the development of a primary unit on the newly created second lot.
- ▶ The units created using SB 9 are for residential use only.

Overview – SB 9 continued

Ministerial Review and Approval

- ▶ Applications made under SB 9 must be considered ministerially (or, by right) by the City without discretionary review or a hearing.
- ▶ Ministerial review means a process for development approval involving no personal judgment by the public official as to the wisdom of carrying out the project.
- ▶ Reviews of the application are limited to comparing the plans against objective development standards and objective design standards. The proposed ordinance contains objective standards.

Overview – SB 9 continued

Objective Standards

Objective standards mean standards that involve no personal or subjective judgment by a public official and are published and known by both the applicant and public officials before the submittal of an application.

- ▶ Development Standards – (e.g., setbacks, heights, etc.);
- ▶ Subdivision standards (e.g., minimum lot depths, access, etc.), and
- ▶ Design standards (e.g., roof pitch, roof overhang, façade materials, etc.)

Standards may be applied as long as they do not physically prevent the development of the allowed number of units.

Two-Unit Projects

A Two-Unit Project means the development of two primary dwelling units or, if there is already a primary dwelling unit on the lot, the development of a second primary dwelling unit on an existing legally subdivided lot.

- ▶ Only individual property owners may apply for a Two-Unit Project. "Individual property owner" means a natural person holding fee title individually or jointly in the person's own name or a beneficiary of a trust that holds fee title. "Individual property owner" does not include any A corporation or corporate person of any kind (partnership, LP, LLC, C Corp, S Corp, etc.).

Two-Unit Projects continued

- ▶ The total floor area of the new primary dwelling built that is developed under this section cannot be less than 500 SF or exceed 800 SF.
- ▶ Each new primary dwelling unit must have at least one enclosed off-street parking space within a garage unless the site meets specific criteria related to public transit as detailed in proposed Ordinance 24-1007 Chapter 11.21.080.
- ▶ A Parcel Map is not required for this type of development if the existing single lot remains intact and is not subdivided to create two legal lots.
- ▶ A deed restriction is required to prohibit short-term rentals of created units.

Urban Lot Split

SB 9 provides for ministerial, or by-right, approval of subdivision of an existing R-1 lot into two separate lots meeting objective subdivision standards.

- ▶ A parcel may only be subdivided once under Government Code section 66411.7. This provision prevents an applicant from pursuing multiple urban lot splits over time for the purpose of creating more than two lots.
- ▶ SB 9 also does not require the City to approve a lot split if an adjacent lot has been subject to a lot split in the past by the same property owner or a person working in concert with that same property owner.

Urban Lot Split continued

An application for an Urban Lot Split may receive ministerial approval IF:

- ▶ Split results in two approx. equal-sized lots (60-40 split max).
- ▶ Each new lot is at least 2,000 square feet.
- ▶ The original lot was not established through a prior SB 9 lot split.
- ▶ Neither the owner nor anyone acting with the owner previously subdivided an adjacent parcel through an SB 9 lot split.
- ▶ Lots can only be used for residential purposes and development
- ▶ A deed restriction is required to prohibit short-term rentals of created units.

Urban Lot Split continued

- ▶ A Parcel Map prepared by a licensed civil engineer is required for an Urban Lot Split.
- ▶ Applications are subject to review and approval by the City Engineer only. No public hearing is required.
- ▶ Urban Lot Split proposals are subject to applicable provisions of the California Subdivision Map Act.
- ▶ New parcels are required to provide separate utilities including sewer connection.
- ▶ Access from major roadways or across pedestrian, equestrian, or bike trails is prohibited.

Urban Lot Split continued

- ▶ Fire Marshal review of the parcel map for access is required with the cost of review charged to the applicant.
- ▶ The city may only deny a proposed Urban Lot Split proposal if the project would have a specific adverse impact on public health and safety or the physical environment and there is no feasible and satisfactory means of mitigating the impact.

Urban Lot Split continued

City review and approval of an Urban Lot Split application cannot:

- ▶ Impose regulations that require right-of-way dedications or construction of off-site improvements.
- ▶ Require the correction of non-conforming zoning conditions as a condition of ministerial approval of the parcel map application.

SB 9 – Quick Takeaways

- ▶ The proposed ordinance will comply with State law.
- ▶ SB 9 applies only to R-1 zones and is optional. It is not a mandate for property owners to make any changes to their property.
- ▶ Urban Lot Splits must comply with the Subdivision Map Act and require Fire Marshal review.
- ▶ Urban Lot Split requires separate utility connections, including sewer.
- ▶ Lots created by an Urban Lot Split can only be for residential purposes and the development of housing. If no housing is built, nothing else can be built on the site.
- ▶ A deed restriction is required to prohibit short-term rentals of created units.