



City of Encinitas Development Services Department

TWO-UNIT DEVELOPMENT AND/OR URBAN LOT SPLITS (SB 9)

January 2022

This FAQ provides a summary of the major provisions of the City's Urgency Ordinance No. 2021-25 related to SB 9. Early consultation with the City is strongly recommended since codes, standards and other requirements may apply to your project that could affect the anticipated scope. Please note that SB 9 is complex, and applicants should also review the adopted Urgency Ordinance and the specific provisions of Government Code Sections 65852.21, 66411.7, and 66452.6 before making an application which is available at:

www.encinitasca.gov/SB9Implementation

WHAT IS SB 9?

California Senate Bill 9 (SB 9) was signed by Governor Gavin Newsom on September 16, 2021 and went into effect on January 1, 2022.

SB 9 requires Cities and Counties in an urbanized area or urban cluster to ministerially approve (no public hearing) a subdivision parcel map for an urban lot split and/or a proposed housing development containing a maximum of two residential units within a single-family residential zone, if the two-unit development or subdivision project meets certain statutory criteria.

The Encinitas City Council adopted the Urgency Ordinance on December 15, 2021, to establish interim objective development and design standards for implementing SB 9 while the City completes the process to amend the General Plan, Specific Plan(s), Municipal Code, and Local Coastal Program.

WHAT IS A TWO-UNIT RESIDENTIAL DEVELOPMENT?

A two-unit residential development is defined in Government Code Section 65852.21 to consist of two primary residential dwelling units located on a single lot that is zoned for single-family residential development. As defined in the Urgency Ordinance, the residential units may be located in a single building that contains two residential units (also known as a duplex) or in two detached buildings on a single lot with one unit in each building.

WHAT IS AN URBAN LOT SPLIT?

SB 9 added Government Code Section 66411.7 to the State's Subdivision standards. This provision allows the City to ministerially approve (no public hearing) a parcel map that subdivides a single-family residentially zoned parcel into a maximum of two new parcels that are no smaller than 1,200 square feet and have a minimum parcel split of 60/40 from the original parcel size. An urban lot split parcel can only be approved one time and shall be limited to residential uses.

WHAT LOTS ARE ELIGIBLE FOR SB 9?

Lots or parcels that are zoned for single-family residential development within the City include: RR, RR-1, RR-2, R-3, R-5, R-8, and RS-11.

HOW MANY UNITS CAN BE BUILT UNDER SB 9?

The City's Urgency Ordinance allows for no more than four-units to be built on an individual lot (existing lot or lots created through an urban lot split) that consists of any combination of two primary dwelling units and two accessory dwelling units (ADU) [EMC 30.48.040]. Each unit shall have independent exterior access. Junior accessory dwelling units (JADU) are not allowed.

WHAT ARE THE DEVELOPMENT STANDARDS?

The units are subject to the underlying objective development regulations of the zone for which the property is located. This includes, but is not limited to: height, setbacks, lot coverage, open space, landscape, floor area ratio (FAR), as well as fire, health, safety, and building provisions.

Parking

One off-street parking space (covered or uncovered) is required for each unit. If an existing garage, carport, or other covered parking is converted or demolished to construct a new two-unit development, then at least one replacement parking space is required.

Access

Each dwelling unit shall have frontage or permanent means to access a public street. A shared driveway is limited to a maximum of two lots.

Design Review

All developments are subject to the City's adopted objective design standards that are in effect at the time a complete application is submitted.

The following exceptions to the development standards may apply:

Setbacks

- Do not apply to an existing permitted structure, or a structure constructed in the same location and dimensions of an existing structure; and
- May be reduced to four feet from the side and rear property lines if a two-unit development cannot achieve a minimum unit size of 800 square feet per unit.

Height

A 16-foot maximum height applies if setbacks are reduced.

Size

If a two-unit development cannot achieve a minimum unit-size of 800 square feet due to lot coverage, floor area ratio, or open space, then these requirements may be waived until the 800 square feet can be achieved.



FAQ SHEET

Two-Unit Development and/or Urban Lot Split (SB 9)

Parking

If the unit is located within ½ mile walking distance of a high-quality transit corridor or major transit stop, or a designated parking space for a car share vehicle within one block of the parcel, then parking is not required.

ARE THERE ANY DEVELOPMENT PROHIBITIONS WITH SB 9?

Yes. A two-unit development and an urban lot split are prohibited in any of the following instances (*unless noted otherwise*):

Historic Resources

A structure on a lot that is included on the State Historic Resources Inventory or the National Register;

Rental Units

Demolition, substantial redevelopment, or alteration of the following housing types:

- Housing 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;
- Housing subject to any form of rent or price control through a public entity's valid exercise of its police power;
- Housing that has been occupied by a tenant in the last three years; and
- A parcel or parcels of which an owner of a residential property has exercised the owner's rights under the Ellis Act (Government Code Ch. 12.75 commencing with Section 7060, Div. 7, Title 1) to withdraw accommodations from rent or lease within 15 years before the date of the application submittal.

Replacement Housing

If an existing dwelling unit is proposed to be demolished, then the applicant must comply with the replacement housing provisions of Government Code Section 66300(d).

Substantial Redevelopment

Demolition of 25 percent of the existing exterior walls shall not be allowed unless the replacement building conforms to current development standards of the zoning district, or the replacement of a nonconforming structure is reconstructed in the same location and with the same dimensions including building height and floor area as the existing building. This provision does not apply to an urban-lot split project.

Location

The development cannot be located on properties within any of the following areas:

- Farmland (prime/statewide significance/or preserved by local voter approved ballot measure);
- Wetlands;
- High or very high fire hazard severity zone (HFHSZ or VHFHSZ) (*Development may occur if the parcels have adopted fire hazard mitigation measures, or state fire mitigation measures applicable*

to the development of the site, or the development includes the high fire construction standards adopted by the City.);

- Hazardous waste site;
- Delineated earthquake fault zone (*Development may occur if it complies with applicable seismic protections under the California Building Code.);*
- Floodplain/floodway (*Development may occur if the proposal meets FEMA specified minimum floodplain management criteria of the National Flood Insurance Program; or the site has been subject to a FEMA issued Letter of Map Revision (LOMR).*)
- Land conservation area or habitat for protected species; and
- Land under a conservation easement.

ARE THERE RENTAL RESTRICTIONS?

Yes. All units, including ADUs, are limited to rental terms of 30 days or greater and are prohibited for use as a short-term rental.

ARE THERE ANY OTHER REQUIREMENTS?

Yes. Additional standards apply, which include and are not limited to:

- Address locations visible from the public street;
- A recorded covenant to inform future owners of items such as: the number of units, the size of units, attributes, rental restrictions, and if an urban lot split occurred; and
- Signed affidavit for an urban lot split project where the applicant intends to occupy one of the units for a minimum of three years.

IS A COASTAL DEVELOPMENT PERMIT (CDP) REQUIRED?

A CDP is required pursuant to EMC Chapter 30.80 requirements, which shall involve a ministerial action with no public hearing. A CDP may be appealed directly to the California Coastal Commission if the project is located within an appealable area of the Coastal Zone.

CAN AN SB 9 APPLICATION BE DENIED?

Yes. An application can be denied if:

- The two-unit residential development/urban lot split is not in compliance with the provisions of Urgency Ordinance No. 2021-25.
- The Building Official finds a specific adverse impact upon public health and safety standards or the physical environment; and
- The development does not comply with applicable objective requirements.

WHERE CAN I LEARN MORE?

Information on submittal requirements can be found on the City's [Applications & Information](#) webpage, or by contacting Planning Services at 760-633-2710 or planning@encinitasca.gov.