

## SB 9: Two Unit Developments and Urban Lot Splits

Rev. February 9, 2022

SB 9 (which adds Government Code Sections 65852.21, 66411.7, and amends Government Code Section 66452.6) was passed by the California Legislature and becomes effective on January 1, 2022 allowing for ministerial approval of the development of up to two (2) units on single family zoned lots and “Urban Lot Splits.”

An Urban Lot Split is defined as the ministerial subdivision of a property in a single-family residential zone into two lots that can be built with up to two dwelling units on each lot.

An Urban Lot Split can be processed ministerially regardless of the minimum lot size standards set forth in the Orange County Zoning Code, so long as certain criteria are met. The specific additions to the Government Code that are part of SB 9 can be found at the following link:

[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202120220SB9](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB9)

The following pages will summarize the provisions of SB 9 and provide answers to some pertinent and frequently asked questions.

- Two (2) Unit Developments *without* an Urban Lot Split
- Two (2) Unit Developments *with* an Urban Lot Split
- Frequently Asked Questions on SB 9



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**Requirements for Two (2) Unit Developments *without* an Urban Lot Split**

1. The property must be in a single-family residential zone.
2. The property must be located in a **census defined Urban Area or Urban Cluster**.
  - a. Not all areas of the County are in a census defined Urban Area or Urban Cluster, **this must be verified**.
3. The building of a second unit cannot result in the demolition or alteration of:
  - a. Income restricted units (affordable housing or rent controlled);
  - b. Housing withdrawn from the rental market in the last 15 years;
  - c. Housing occupied by a tenant in the past 3 years; or
  - d. Historic structures.
4. All new units must maintain a minimum rear and side yard setback of four (4) feet.
5. The Development cannot result in the demolition of more than 25 percent of the existing exterior structural walls, unless the housing development meets the following condition:
  - a. The site has not been occupied by a tenant in the last three years.
6. Objective zoning standards, objective subdivision standards, and objective design standards still apply, unless application of those standards would have the effect of not allowing construction of:
  - a. Up to two (2) units or physically precluding either of the two (2) units from being at least 800 square feet in floor area.
    - i. Units include the following: Non-ADU Residence, ADU, or Junior ADU.  
**Note:** If two Non-ADU residences are built, ADU's and Junior ADU's are not permitted
7. No ownership occupancy requirements.
8. Units cannot be used for Short-Term Rentals.
9. Parking of up to one (1) space per unit, unless the project is :
  - a. Within ½ mile walking distance to a high-quality transit corridor as defined by Section 21155 of the Public Resources Code, or major transit stop; or
  - b. There is a car share vehicle located within one block of the parcel
10. No discretionary permit is required for qualifying projects.
11. Structures may be connected if the structures comply with building and safety codes.
12. For residential units connected to an onsite wastewater treatment system, a percolation test completed within the last 5 years, or, if the percolation test has been recertified, within the last 10 years.



**Requirements for Two (2) Unit Developments *with* an Urban Lot Split**

1. The property must be in a single-family residential zone.
2. The property must be located in a **census defined Urban Area or Urban Cluster**.
  - a. Not all areas of the County are in a census defined Urban Area or Urban Cluster, **this must be verified**.
3. The Urban Lot Split cannot result in the demolition or alteration of:
  - a. Income restricted units (affordable housing or rent controlled);
  - b. Housing withdrawn from the rental market in the last 15 years;
  - c. Housing occupied by a tenant in the past 3 years; or
  - d. Historic structures.
4. All new units must maintain a minimum rear and side yard setback of four (4) feet.
5. The Urban Lot Split cannot result in the demolition of more than 25 percent of the existing exterior structural walls, unless the housing development meets at the following condition:
  - a. The site has not been occupied by a tenant in the last three (3) years.
6. The owner of the property must intend to occupy one of the housing units as their principal residence for a period of at least three (3) years from the approval date of the Urban Lot Split.

**Note:** This will be recorded with a signed affidavit
7. Units cannot be used for Short-Term Rentals.
8. The Urban Lot Split must result in two lots of approximately equal size, at most at 60/40 split of the former single lot.
9. All lots shall have access to a public or private ROW (easements or direct access).
10. All lots shall have access to utilities (easements).
11. Each new lot must be at least 1,200 square feet or more in area.
12. Objective zoning standards, objective subdivision standards, and objective design standards still apply, unless application of those standards would have the effect of not allowing construction of:
  - a. Up to two (2) units or physically precluding either of the two (2) units from being at least 800 square feet in floor area
    - i. Units include the following: Non-ADU Residence, ADU, or Junior ADU.
    - ii. If two Non-ADU residences are built, ADU's and Junior ADU's are not permitted
13. No setback shall be required for a structure rebuilt in the same location to the same dimensions as an existing structure (but it cannot cross any property lines).
14. The Urban Lot Split process can only occur one time per lot and cannot be used to further subdivide properties which have already benefitted from an Urban Lot Split.
15. Parking of up to one (1) space per unit is required, unless the project its :
  - a. Within ½ mile walking distance to a high-quality transit corridor as defined by Section 21155 of the Public Resources Code, or major transit stop; or
  - b. There is a car share vehicle located within one block of the parcel
16. No discretionary permit is required for qualifying projects.
17. Structures may be connected if the structures comply with building and safety codes.
18. For residential units connected to an onsite wastewater treatment system, a percolation test completed within the last 5 years, or, if the percolation test has been recertified, within the last 10 years.



### Frequently Asked Questions:

1. Does SB 9 apply to Specific Plans, Plan Communities, and Local Coastal Programs (LCPs)?  
**Yes**, SB 9 applies to all areas designated for single-family residential uses. However, the location must be in a Census defined Urban Area or Urban Cluster. There are some parts of the County that are not in one of these areas.
2. Does SB9 apply non-residentially zoned property with an existing single-family residence?  
**No**, SB9 only applies to properties zoned for single-family residential use.
3. Is there a time frame for constructing the residential unit(s)?  
**No**, SB 9 does not establish a time frame to construct any of the units.
4. Can I do an Urban Lot Split on vacant land?  
**Yes**. A vacant lot can be subdivided through an Urban Lot Split, however, the owner must also intend to use the property as their principal residence for a minimum of three years from the date that the Urban Lot Split is approved.
5. Can I use any of the residential units (existing or new) as a Short-Term rental (STR) if I use SB9?  
**No**, none of the residential units on a property which use the provisions of SB9 can be used as a STR
6. If I already have an ADU can I build another unit per SB9 on my property without an Urban Lot Split?  
**No**, SB9 allows for a maximum of two (2) units per property and ADU's and Junior ADU's count against the two unit maximum
7. Can I have an ADU (or Junior ADU) in addition to having two units per SB9?  
**No**, SB9 allows for a maximum of two (2) units per property and ADU's and Junior ADU's count against the two unit maximum
8. Is there a maximum square footage for each unit under the provisions of SB9?  
**No**, SB9 does not set a maximum unit size; however a unit with a minimum floor area of 800 square feet must be accommodated.

