



WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS

SENATE BILL 9 (SB 9) TOOLKIT

Draft
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ACKNOWLEDGMENTS

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PLACEWORKS



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INTRODUCTION

This Toolkit provides an overview of Senate Bill 9 (SB 9), presents five development scenarios for single-family residential lots, and contains the SB 9 Model Ordinance for jurisdictions within the Western Riverside Council of Governments (WRCOG).

Under SB 9, local agencies are expected to ministerially approve SB 9 applications without discretionary review or public hearings in single-family residential zoning districts and are subject to State-specified qualifications and limits. Jurisdictions can enforce objective zoning and design standards for new residential dwelling units applying SB 9 regulations. This Toolkit explains and clarifies the objective standards and requirements for SB 9 applications consistent with State law.

The development scenarios in this Toolkit will make the implementation of SB 9 projects more predictable and easier to interpret for all stakeholders, including decision makers, staff, applicants, and members of the public.

The Model Ordinance contains SB 9 requirements and a variety of “model” Objective Design Standards gathered from jurisdictions across Riverside County and elsewhere. Standards related to SB 9 projects can be edited and modified by respective jurisdictions within WRCOG before implementing and adopting the regulations for their jurisdiction.

The Toolkit organizes these topics into the following broad categories:

- Introduction to SB 9
- Development Scenarios
- SB 9 Model Ordinance





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1

SB 9 FACTSHEET



“SB 9 is about opening the door for more families to pursue their version of the California Dream—whether that's building a home for an elderly parent, creating a new source of income, or buying that first house. It's about opportunity.”

— Senator Toni Atkins, Author of SB 9





1.1. INTRODUCTION TO SB 9

Senate Bill 9 (SB 9) was adopted in January 2022 with a purpose to expand housing production in California by presenting two new alternatives for property owners to create additional units. The first alternative is referred to as “Urban Lot Splits” and second alternative is called “Two-Unit Development.” The Urban Lot Split alternative allows property owners to subdivide a lot in single-family residential zone into two lots. Each of the two lots can have up to two residential units. The Two-Unit Development alternative allows development of additional residential units on lots that are not subdivided or split. Both alternatives may provide up to four residential units on the original lot. In both cases, the applications are subject to criteria, limitations, and design standards, which are described in Chapter 3, Model Ordinance.

The following section states the general eligibility criteria and some additional limitations for the two SB 9 development alternatives, including the “Urban Lot Splits” and “Two-Unit Developments.”



1.2. ELIGIBILITY CRITERIA AND CHECKLIST FOR URBAN LOT SPLIT

Reference any qualification materials from your jurisdiction.

- ☑ Complete development and urban lot split application. Applicant must be the property owner.
- ☑ Applicant must submit an affidavit agreeing to live on property for three years from the date of approval of the urban lot split application.
- ☑ Property must be within an eligible single-family zoning district.
- ☑ Property must have at least one residence on it.
- ☑ Located in an Urbanized Area or Urban Cluster, as defined by the U.S. Census Bureau (essentially, an area with at least 2,500 people).
- ☑ Lot split cannot result in any parcel with more than two units on it.
- ☑ Each resulting parcel must be at least 1,200 sf and must be at least 40% of the size of the original parcel.
- ☑ Each resulting lot must have access to the right of way
- ☑ Property must not be within a designated historic district or a designated historic landmark.
- ☑ Public utility service should be available at time of application along with any required utility easements.
- ☑ Must show all existing and proposed easements on development plans.
- ☑ Property must not have been part of a previous SB 9 urban lot split.
- ☑ There must be access provided from all lots to the nearest public right-of-way.
- ☑ Shall not be adjacent to a parcel that was previously subdivided through an urban lot split by the property owner of the parcel on which the urban lot split is proposed or any person acting in concert with the owner.
- ☑ Need to submit proof that the existing lot is a legal lot under the Subdivision Map Act – if not, will have to go through the Certificate of Compliance process.
- ☑ A surveyed legal description of the new proposed lots with all required easements shown.
- ☑ The project cannot alter or demolish:
 - Deed-restricted affordable housing
 - Rent-controlled housing
 - Housing on parcels with an Ellis Act eviction in the last 15 yrs.
 - Housing occupied by a tenant currently or in the last 3 yrs.
- ☑ Lots in these areas may not be eligible or may need to meet additional qualifications:
 - Prime farmland or farmland of statewide importance
 - Wetlands
 - Identified for conservation or under conservation easement
 - Habitat for protected species



- Within CalFire high or very high fire hazard severity zone unless mitigated.
- A hazardous waste site
- Within a delineated earthquake fault zone
- Within a 100-year floodplain or floodway

1.3 ELIGIBILITY CRITERIA AND CHECKLIST FOR TWO-UNIT DEVELOPMENTS

- ☑ Applicant submits building permit application to Building Division
- ☑ Property must be located within an eligible single-family zoning district.
- ☑ Property must not be within a designated historic district or a designated historic landmark.
- ☑ If demolition of an existing structured is proposed, it must not have housed a tenant in the last three years, and must not be 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.
- ☑ Site plan drawn to scale showing all proposed units, floor plan, and architectural elevations.
- ☑ Project does not remove more than 25% of exterior walls on a site that has a tenant or has had a tenant in the last 3 yrs. (even if the rental unit itself isn't altered)
- ☑ Located in an Urbanized Area or Urban Cluster, as defined by the U.S. Census Bureau (essentially, an area with at least 2,500 people).
- ☑ The project cannot alter or demolish:
 - Deed-restricted affordable housing
 - Rent-controlled housing
 - Housing on parcels with an Ellis Act eviction in the last 15 yrs.
 - Housing occupied by a tenant currently or in the last 3 yrs.
- ☑ Lots in these areas may not be eligible or may need to meet additional qualifications:
 - Prime farmland or farmland of statewide importance
 - Wetlands
 - Identified for conservation or under conservation easement
 - Habitat for protected species
 - Within CalFire high or very high fire hazard severity zone unless mitigated.
 - A hazardous waste site
 - Within a delineated earthquake fault zone
 - Within a 100-year floodplain or floodway
 - Limitations for Urban Lot Splits and Two-unit Developments
- ☑ Parking: As defined in the law, the respective jurisdiction cannot require more than one off-street parking space per unit and cannot require any parking spaces if the parcel is close to transit.



- ☑ No short-term rental: Units created by SB 9 cannot be used for short-term rentals (less than 30 days)
- ☑ Homeowner's Association (HOAs): SB 9 does not require HOAs to approve or permit SB 9 units and/or urban lot splits.
- ☑ Local Standards: Jurisdictions may set zoning, subdivision, and design standards for SB 9 projects, but they must be objective, and they cannot preclude two units of at least 800 sf on each lot.
- ☑ Public health and safety: Your project can be denied if it creates a "specific, adverse impact on public health and safety."

1.4 ADDITIONAL LIMITATIONS FOR URBAN LOT SPLITS

- ☑ The project is limited to residential uses only
- ☑ Owner-occupancy: The applicant must sign an affidavit saying they intend to live in one of the units for 3+ years after approval
- ☑ Your jurisdiction cannot require correction of nonconforming zoning conditions
- ☑ Your jurisdiction may require easements for public services and facilities and/or to have access to the public right-of-way

1.5 ADDITIONAL LIMITATIONS FOR TWO-UNIT DEVELOPMENTS

- ☑ You may be required to do a percolation test if you have on-site wastewater treatment.

1.6 APPLICATION PROCESS

- ☑ Verify Eligibility: Before submitting a SB 9 application, complete the SB 9 Checklist & Planning Clearance Form (if applicable in your jurisdiction). This form must be signed off prior to submitting an application to Building and Safety or Planning.
- ☑ Submit Application to local jurisdiction. For urban lot splits, submit lot-split application with submittal requirements. For two-unit developments, submit application for building permit with Building Safety Department or other identified department for your jurisdiction.
- ☑ Jurisdiction Staff Review: Local jurisdiction determines whether application is complete within 30 days of submittal. Staff will review documents and plans and may potentially request revisions to be made.
- ☑ Permit Issuance or Approval of Parcel Map: Once application is complete, local staff reviews the application and determines whether to approve and attach any conditions of approval.



2

SB 9 SCENARIOS





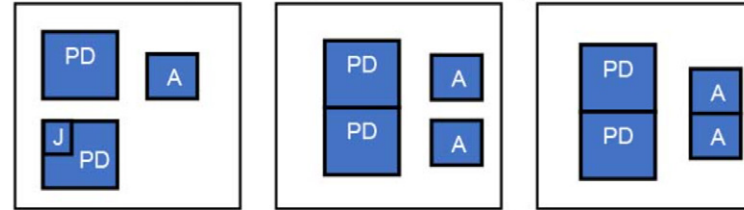
2.1 WHAT CAN I BUILD?

Qualifying urban properties in single-family zones can now add a second unit with SB 9. This provision is a great option for homeowners looking to build additional housing for their extended family. It's also beneficial for rental-property owners who want to add a second long-term rental unit.

Single-family property owners can also utilize SB 9 to subdivide their property into two lots of roughly equal size.

However, homeowners who split their property must commit to occupying one of the lots as their primary residence for a minimum of three years. Once the lot is split, homeowners have a wide variety of options for developing housing on their newly created lots. These possibilities include single-family dwellings, duplexes, and/or ADUs (depending on local guidelines).

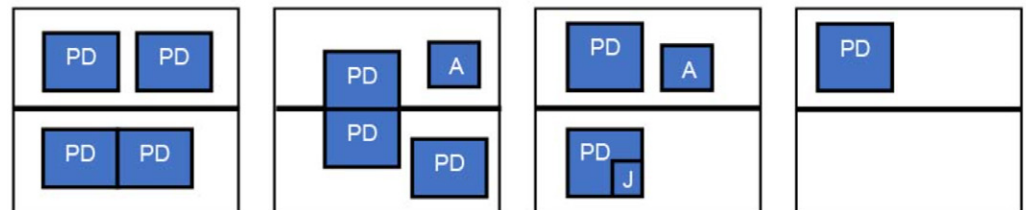
SB 9 Development Options: no lot split



PD = primary dwelling
A = accessory dwelling unit (ADU)
J = junior accessory dwelling unit (JADU)

SB 9 Development Options: lot split

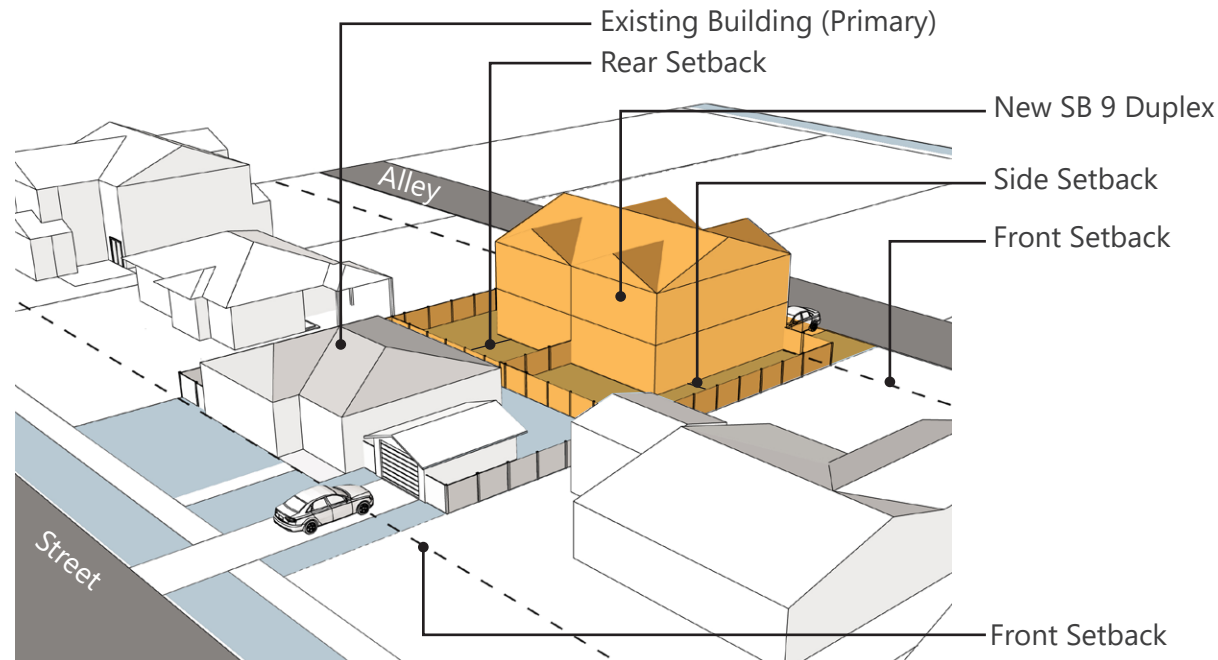
Lot splits can include development of one or two PDs per lot, one PD + one ADU or JADU per lot, or no development on one lot.



PD = primary dwelling
A = accessory dwelling unit (ADU)
J = junior accessory dwelling unit (JADU)



2.2 SITE STUDY - LOT WITH EXISTING HOUSE AND ALLEY ACCESS



3

TOTAL
UNITS



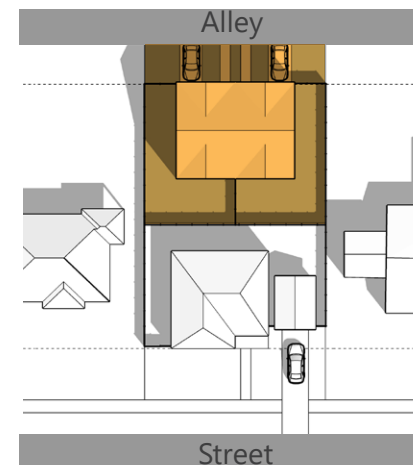
LOT
SPLIT



DRIVE-
WAY

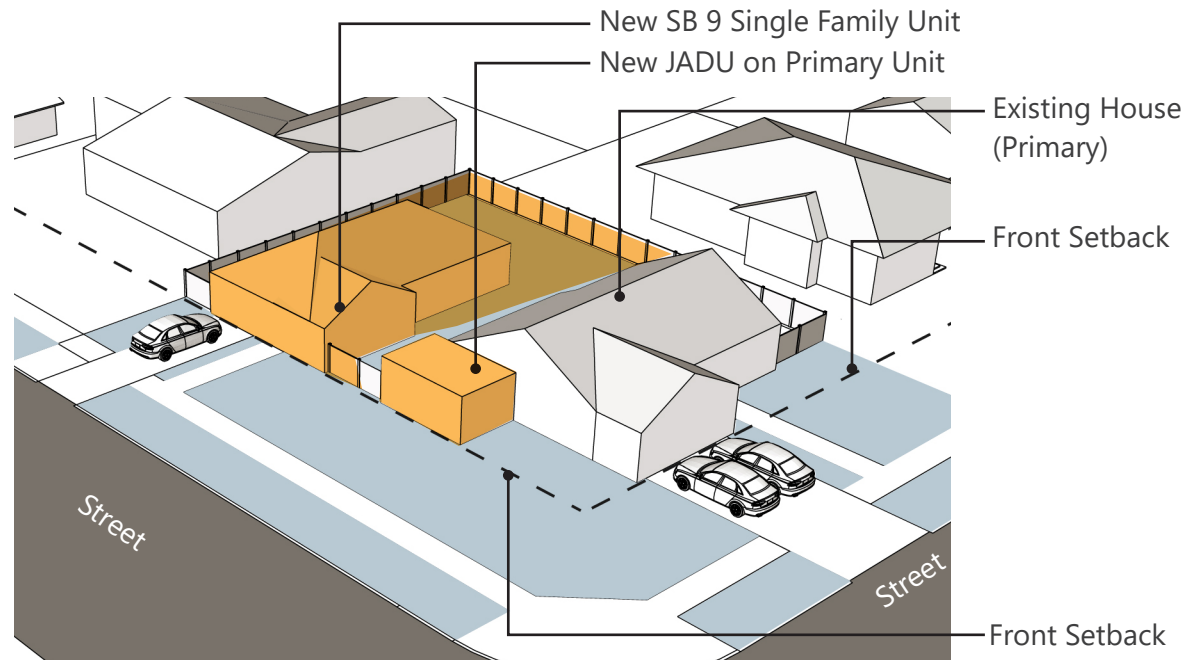
Site Configuration:

1. Have an alley on the back
2. Lot width is greater than 50'
3. Existing Unit takes less than half of the depth of the lot.





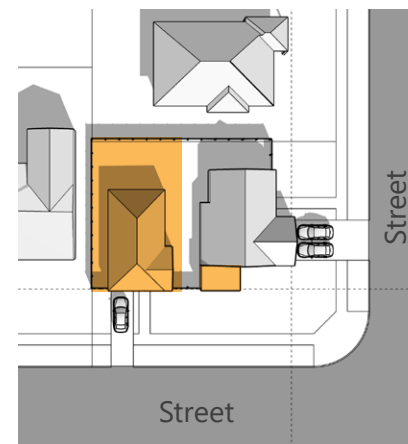
2.3 SITE STUDY - CORNER LOT WITH EXISTING HOUSE



2		A	
TOTAL UNITS	LOT SPLIT	ADU / JADU	DRIVE- WAY

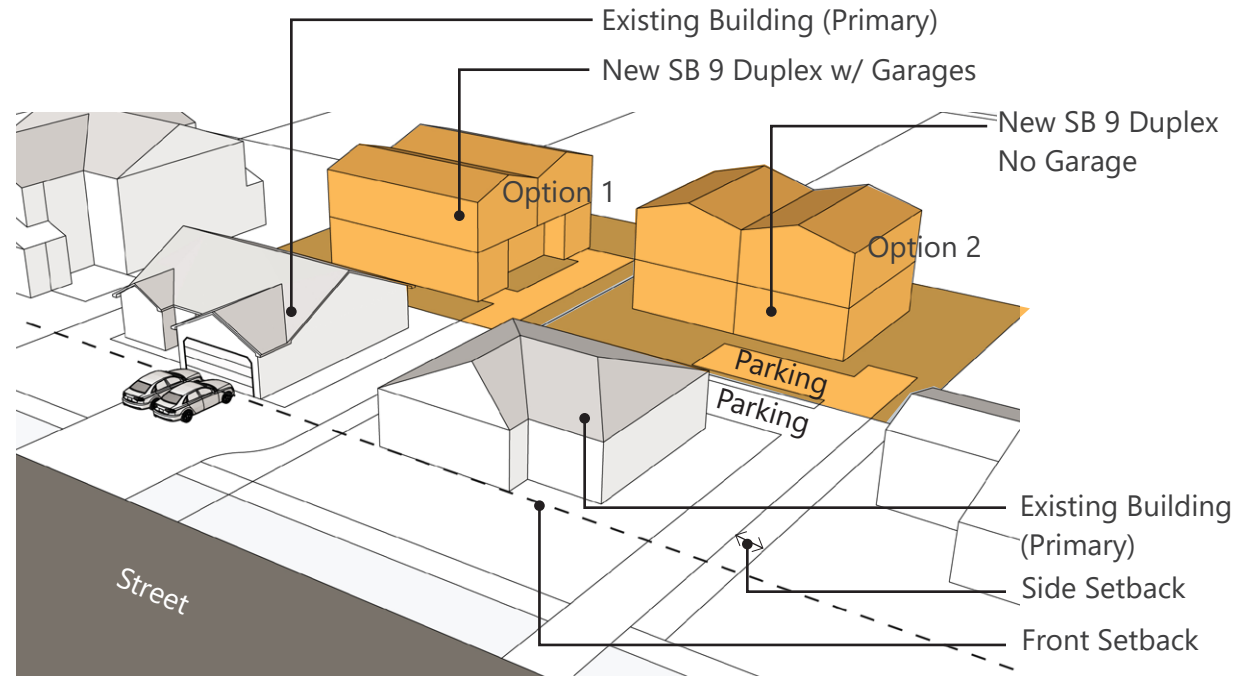
Site Configuration:

1. Corner Lot
2. New building need to meet the front setback requirement
3. Lot split is optional





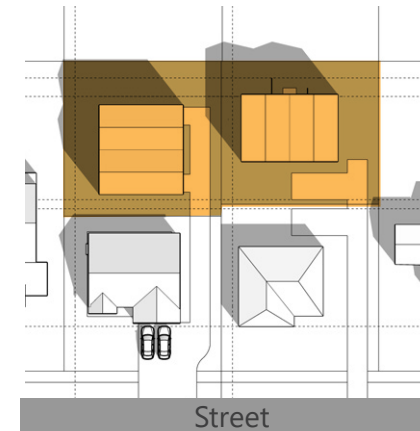
2.4 SITE STUDY - LOT WITH EXISTING HOUSE NO ALLEY ACCESS



3		
TOTAL UNITS	LOT SPLIT	DRIVE- WAY

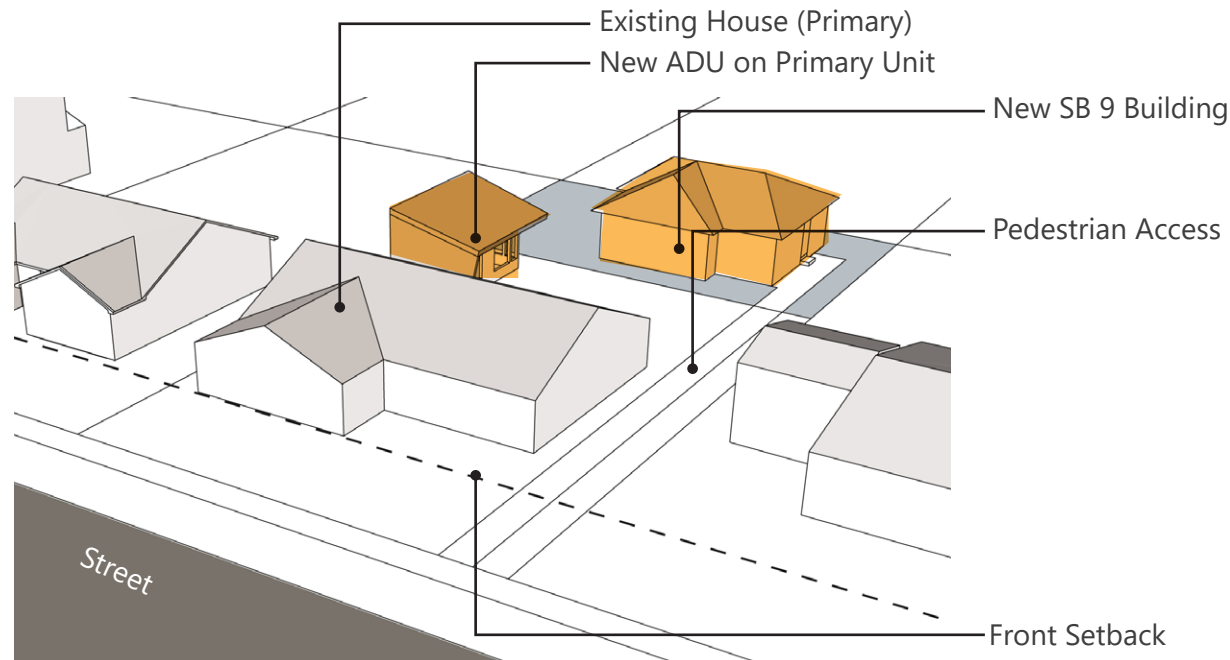
Site Configuration:

1. The edge of building to side setback should be no less than 15'.
2. The parking of new SB 9 units need to follow the design code





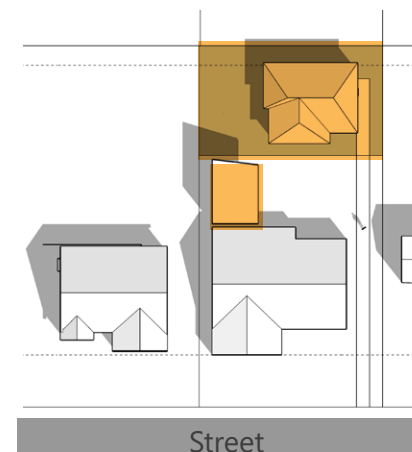
2.5 SITE STUDY - NO ALLEY ACCESS NO DRIVEWAY



2	A	
TOTAL UNITS	ADU / JADU	LOT SPLIT

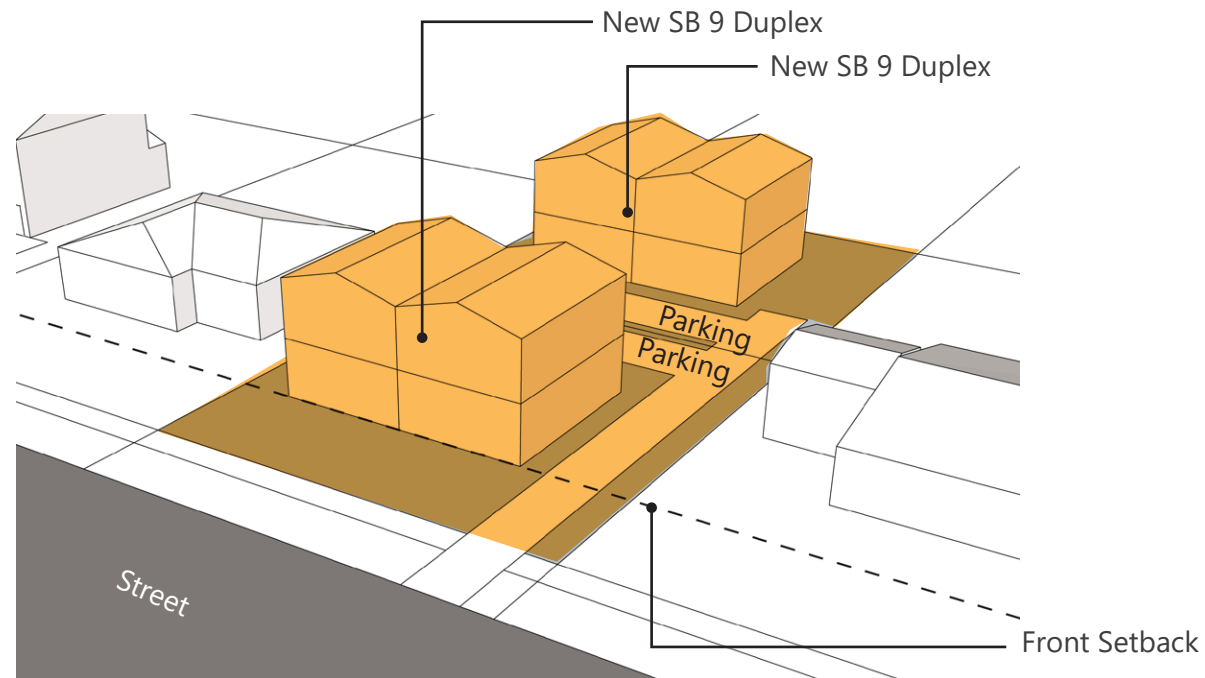
Site Configuration:

1. The edge of building to side setback should be no less than 8'.





2.6 SITE STUDY - VACANT LOT



4

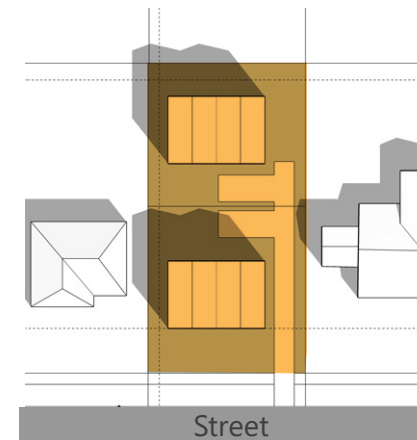
TOTAL
UNITS



LOT
SPLIT



DRIVE-
WAY







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3

MODEL ORDINANCE





This Senate Bill 9 (SB 9) Model Ordinance establishes the purpose, applicability, qualifying criteria, and objective standards for Urban Lot Split and Two-Unit Developments. The intent of this model format is to provide local jurisdictions within Western Riverside County a template for customizing SB 9 Model Ordinance to their local needs.

This Model Ordinance envisions that regulations for Urban Lot Splits and Two-Unit Developments will be incorporated as new chapters or subsections under the single-family residential zoning code for each WRCOG jurisdiction.

Unless otherwise noted, provisions in this document reflect the provisions in SB 9. “Recommended” Provisions are recommended to clarify ambiguities in the statute or assist in enforcement. “Policy” Provisions are optional provisions for local agencies to consider.

Notes and recommended provisions for WRCOG jurisdictions are inserted as **green-colored text**. All **red-colored text** is the information that needs to be completed by local jurisdictions implementing SB 9.

3.1 NEW SUBSECTION XXX. XX.XX – URBAN LOT SPLITS

- A. **Purpose.** The purpose of this section is to implement the provisions of Government Code section 66411.7 for urban lot splits in single-family residentially zoned properties (**Insert Applicable Residential Zones**).
- B. **Applicability.** The City of (**insert jurisdiction name**) is required to ministerially approve urban lot split projects under Government Code Section 66411.7. If Government Code section 66411.7 is repealed, determined to be unlawful or otherwise unenforceable, then this section shall only govern lots previously created through an urban lot split and no applicant for an urban lot split may claim any rights hereunder. The intent of this section is to only implement the requirements of Government Code Section 66411.7, and this section shall not be construed to allow any greater rights to an urban lot split than the City is required to grant under state law.
- C. **Definitions** (**Jurisdiction can add or modify the definitions included in this section**).
 - 1. “Accessory Dwelling Unit” or “ADU” is an attached or detached dwelling unit that provides independent living facilities for one or more persons and is located on the same lot, with an existing or proposed primary single-family residential dwelling.
 - 2. “Affordable SB 9 dwelling unit” means a dwelling unit that must be rented to a low-income household.
 - 3. “City” means the City of (Jurisdiction), California.



4. "Flag lot" is a lot created to provide access from primary street to a dwelling unit (ADU or second single-family dwelling) that is located on the rear side of a lot. The driveway is provided along the long narrow "flag pole" and the lot shape is similar to a flag.
5. "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 corporation or corporate person of any kind (partnership, LP, LLC, C corp, S corp, etc.) except for a community land trust (as defined by Revenue and Taxation Code Section 402.1(a)(11)(C)(ii)) or a qualified nonprofit corporation (as defined by Revenue and Taxation Code Section 214.15).
6. "Junior Accessory Dwelling Unit" or "JADU" is a unit that is contained entirely within a single-family dwelling or attached garage and does not exceed five hundred square feet in size
7. "Official" means the Development Services Official for the City or designee.
8. "Primary dwelling unit" means the existing or proposed single-family dwelling located on the lot, which meets all development standards for the underlying residential zoning district. If there are two single-family dwellings on a lot, the primary dwelling unit is the larger of the two dwelling units.
9. "Specific adverse impact" has the same meaning as in Government Code Section 65589.5(d)(2), which is a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date

the application was deemed complete and does not include (1) inconsistency with the zoning ordinance or general plan land use designation or (2) the eligibility to claim a welfare exemption under Revenue and Taxation Code Section 214(g).

10. "Urban lot split" means the subdivision of an existing, legally subdivided lot into two lots in accordance with the requirements of Government Code Section 66411.7 and this section pursuant to a ministerial approval process.

D. Qualifying Criteria¹ (SB 9 Provisions, unless noted)

Within the time required by the Subdivision Map Act, the [Official] shall determine if the parcel map for the Urban Lot Split meets all the following requirements:

1. The parcel is located within one of the following single-family residential zones: xxx.
2. The parcel being subdivided is not located on a site that is any of the following:
 - a. Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.
 - b. Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

1. Association of Bay Area Governments (ABAG) SB 9 Model Ordinance, <https://abag.ca.gov/tools-resources/digital-library/sb-9-model-ordinancedocx>, Accessed October 20, 2022.



- c. Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178 of the Government Code, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This subparagraph does not apply to sites excluded from the specified hazard zones by the [city/county], pursuant to subdivision (b) of Section 51179 of the Government Code, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development. (The local agency may wish to specify the relevant standards for very high fire hazard areas, hazardous waste sites, earthquake fault zones, flood hazard areas and floodways.)
- d. A hazardous waste site that is listed pursuant to Section 65962.5 of the Government Code or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the State Department of Public Health, State Water Resources Control Board, or Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.
- e. Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by the building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2 of the Government Code.
- f. Within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph, the [city/county] shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by the [city/county] that is applicable to that site. A development may be located on a site described in this subparagraph if either of the following are met (1) the site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the [city/county]; or (2) the site meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.
- g. Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the development has received a no-



- rise certification in accordance with Section 60.3(d) (3) of Title 44 of the Code of Federal Regulations. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, the [city/county] shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by the [city/county] that is applicable to that site.
- h. Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.
 - i. Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).
 - j. Lands under conservation easement.
3. Both resulting parcels are no smaller than 1,200 square feet. (Local agencies may allow smaller lots if desired.)
- 4. Neither resulting parcel shall be smaller than 40 percent of the lot area of the parcel proposed for the subdivision.
 - 5. The proposed lot split would not require demolition or alteration of any of the following types of housing:
 - a. 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.
 - b. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.
 - c. A parcel or parcels on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 of the Government Code to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.
 - d. Housing that has been occupied by a tenant in the last three years.
 - 6. The parcel is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Public Resources Code Section 5020.1, or within a site that is designated or listed as a [city/county] landmark or historic property or historic district pursuant to a [city/county] ordinance. (Local agencies may wish to specify which ordinance or code section designates historic properties.)
 - 7. The parcel being subdivided was not created by an Urban Lot Split as provided in this section.



8. Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel using an Urban Lot Split as provided in this section.
9. The development proposed on the parcels complies with all objective zoning standards, objective subdivision standards, and objective design review standards applicable to the parcel as provided in the zoning district in which the parcel is located (Local agencies may wish to specify which ordinance(s) or code section(s) designate these objective standards.); provided, however, that:
 - a. The [Official], or their designee, shall waive or modify any standard if the standard would have the effect of physically precluding the construction of two units on either of the resulting parcels created pursuant to this chapter or would result in a unit size of less than 800 square feet. Any modifications of development standards shall be the minimum modification necessary to avoid physically precluding two units of 800 square feet each on each parcel.
 - b. Notwithstanding subsection (9)(i) above, required rear and side yard setbacks shall equal four feet (Localities may allow a smaller setback if desired.), except that no setback shall be required for an existing legally created structure, or a structure constructed in the same location and to the same dimensions as an existing legally created structure.
10. Each resulting parcel shall have access to, provide access to, or adjoin the public right-of-way. (Local agencies may wish to impose frontage requirements or requirements for access to the public right of way, such as the required width of a driveway.)
11. Proposed adjacent or connected dwelling units shall be permitted if they meet building code safety standards and are designed sufficient to allow separate conveyance. [Recommended provision from ABAG Model Ordinance]
The proposed dwelling units shall provide a separate gas, electric and water utility connection directly between each dwelling unit and the utility.
12. Parking. (Agencies may reduce parking standards if desired.)
One parking space shall be required per unit constructed on a parcel created pursuant to the procedures in this section, except that no parking may be required where:
 - a. The parcel is located within one-half mile walking distance of either a stop located in a high-quality transit corridor, as defined in Public Resources Code Section 21155(b), or a major transit stop, as defined in Public Resources Code Section 21064.3; or
 - b. There is a designated parking area for one or more car-share vehicles within one block of the parcel.
13. Compliance with Subdivision Map Act. The Urban Lot Split shall conform to all applicable objective requirements of the Subdivision Map Act (commencing with Government Code Section 66410)), except as otherwise expressly provided in Government Code Section 66411.7. Notwithstanding Government Code Section 66411.1, no dedications of rights-of-way or the construction of offsite improvements



may be required as a condition of approval for an Urban Lot Split, although easements may be required for the provision of public services and facilities.

- a. The correction of nonconforming zoning conditions may not be required as a condition of approval.
- b. Parcels created by an Urban Lot Split may be used for residential uses only and may not be used for rentals of less than 30 days.
- c. **[Recommended provision]** If any existing dwelling unit is proposed to be demolished, the applicant will comply with the replacement housing provisions of Government Code Section 66300(d).

E. Owner-Occupancy Affidavit. The applicant for an Urban Lot Split shall sign an affidavit, in the form approved by the **[city attorney/county counsel]**, stating that the applicant intends to occupy one of the housing units on the newly created lots as its principal residence for a minimum of three years from the date of the approval of the Urban Lot Split. This subsection shall not apply to an applicant that is a “community land trust,” as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code or is a “qualified nonprofit corporation” as described in Section 214.15 of the Revenue and Taxation Code.

F. [Recommended provision] Additional Affidavit . If any existing housing is proposed to be altered or demolished, the owner of the property proposed for an Urban Lot Split shall sign an affidavit, in the form approved by the **[city attorney/county counsel]**, stating that none of the conditions listed in **New Subsection (XXX.XX.XX-Urban Lot Splits)(A)(5)** above exist and shall provide a comprehensive history of the occupancy of the units to be altered or demolished for the past three

years (five years if an existing unit is to be demolished) on a form prescribed by **[Official]**. The owner and applicant shall also sign an affidavit stating that neither the owner nor applicant, nor any person acting in concert with the owner or applicant, has previously subdivided an adjacent parcel using an Urban Lot Split. **(Local agencies may want to include a provision that indicates enforcement/legal remedies where there is evidence of fraudulent intent, misrepresentation, etc.)**

G. [Recommended provision] Recorded Covenant. Prior to the approval and recordation of the parcel map, the applicant shall record a covenant and agreement in the form prescribed by the **[city attorney/county counsel]**, which includes the following:

1. Gives notice that the parcel was created through an urban lot split;
2. Gives notice of any site limitations resulting from the urban lot split;
3. A prohibition against further subdivision of the parcel using the Urban Lot Split procedures as provided for in this section;
4. A requirement that any dwelling units on the property may be rented or leased only for a period longer than thirty (30) days;
5. Provides a statement of intent to occupy a unit for a period of three years;
6. Expressly prohibits any non-residential use of the lots created by the urban lot split;
7. Expressly prohibits any development or construction on the parcel that would be inconsistent with this Chapter.



8. Expressly prohibits any separate conveyance of a primary dwelling on the property, any separate fee interest, and any common interest development within the lot;
9. Identifies the City as an intended third-party beneficiary with the right, but not the obligation, to enforce its terms and provisions; and
10. The **City Manager/County Administrator** or designee is authorized to enter into the covenant and agreement on behalf of the City/County and to deliver any approvals or consents required by the covenant.

The **[Official]** shall not issue a building permit for development on any lot created through an urban lot split unless the applicant provides a recorded copy of a deed restriction that satisfies the provisions above.

H. Specific Adverse Impacts. In addition to the criteria listed in this section, a proposed Urban Lot Split may be denied if the building official makes a written finding, based on a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact upon public health and safety or the physical environment, for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. A “specific adverse impact” is a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation and eligibility to claim a welfare exemption are not specific health or safety impacts.

I. Enforcement. The City Attorney/County Counsel shall be authorized to abate violations of this chapter and to enforce the provisions of this chapter and all implementing agreements and affidavits by civil action, injunctive relief, and any other proceeding or method permitted by law. Remedies provided for in this chapter shall not preclude the City/County from any other remedy or relief to which it otherwise would be entitled under law or equity.

J. Separate Conveyance

1. Within a resulting lot:
 - a. Dwelling units on a single lot that is created by an urban lot split may not be owned or conveyed separately from each other.
 - b. Condominium airspace divisions and common interest developments are not permitted on a lot that is created by an urban lot split.
 - c. All fee interest in a lot must be held equally and undivided by all individual property owners.
2. Between resulting lots. Separate conveyance of the resulting lots is permitted. If dwellings or other structures (such as garages) on different lots are adjacent or attached to each other, the urban lot split boundary may separate them for conveyance purposes if the structures meet building code safety standards and are sufficient to allow separate conveyance. If any attached structures span or will span the new lot line, the owner must record appropriate conditions, covenants, restrictions, easements or other documentation that is necessary to allocate risk and responsibility between the owners of the two lots.



K. Restriction of Uses.

1. Residential-only. No non-residential use is permitted on any lot created by urban lot split.
2. No Short-Term Rentals. No dwelling unit on a lot that is created by an urban lot split may be rented for a period of less than 30 days.
3. Owner Occupancy Affidavit. The applicant for an urban lot split must sign an affidavit stating that the applicant intends to occupy one of the dwelling units on one of the resulting lots as the applicant's principal residence for a minimum of three years after the urban lot split is approved.

L. Fire-Hazard Mitigation Measures. A site in a very high fire hazard severity zone must comply with each of the following fire-hazard mitigation measures:

1. Emergency access and water supply requirements shall comply with the California Code of Regulations Title 14 and Title 24, Part 9
2. All new structures on the site must comply with current building code standards for dwellings in a very high fire hazard severity zone.

M. Affordable units. There is nothing in SB 9 that expressly prohibits the imposition of affordability requirements. One consideration prior to the imposition of such requirements would be whether the Urban Lot Splits would still be economically feasible if affordability were required. Ultimately, local agencies should consult with their legal counsel prior to imposing such requirements.

N. Standards Specific to Urban Lot Splits

The following development standards shall apply to urban lot splits approved under this section. In the event of a conflict between this subsection and any other development standard contained outside of the Development Code, this subsection shall govern. (These standards are optional provisions for local agencies to consider and modify)

3. Lot Access. (Local Discretion)
4. Unit Quantity (Local Discretion)
 - a. If a parcel uses the Urban Lot Split provision, a local agency does not need to allow more than two units on each lot, including ADUs, JADUs, density bonus units, and two-unit developments. If an agency desires to take advantage of this provision, it should adopt the following:
 - b. No more than two dwelling units may be located on any lot created through an Urban Lot Split, including primary dwelling units, accessory dwelling units, junior accessory dwelling units, density bonus units, and units created as a two-unit development.
 - c. Jurisdictions do have the option of allowing additional units, likely ADUs or JADUs, on these lots. Agencies may wish to consider this for large lots, or in exchange for the applicant's agreement to record a covenant restricting sale or rental of the ADU to moderate- or lower-income households.
 - d. Another alternative is to consider allowing an ADU and JADU with a primary dwelling unit on one lot, rather than two primary dwelling units.
5. Unit Size (Local Discretion)



- a. Parcel created by the Urban Lot Split shall not be smaller than 1,200 square feet in area.
- 6. Objective Design standards. Standards considered by some agencies include limits on dwelling unit size and height, distance between structures, and design requirements such as roof slope and materials matching existing structures. These standards cannot be imposed, however, if they would prevent the construction of units totaling 800 sf each. In addition, the Housing Crisis Act of 2019 (Government Code Section 66300) does not permit reductions in height, floor area ratio, lot coverage, or any other change that would reduce a site's residential development capacity below that existing on January 1, 2018. Consequently, height, size, and similar restrictions on units created through Urban Lot Splits should be limited to units that do not meet existing zoning standards.
 - a. The Urban Lot Split shall create no more than two new parcels of approximately equal area. One parcel shall not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision.
 - b. No more than two primary dwelling units may be located on any lot that is created by an Urban Lot Split.
 - c. Each resulting parcel shall be provided access to the public right-of-way.
 - d. Easements for access and utilities shall be provided for any newly created parcels that do not front on a public street, private street, or alley. An easement shall have a minimum width of 12 feet.
 - e. A lot created through an Urban Lot Split shall provide at least a 25-foot lot frontage along a public street or private street. Flag lots shall be exempt from this requirement.
 - f. A flag lot, or a lot with a narrow projecting strip of land (less than 25 feet along a public or private street), is permitted.
 - g. ADUs and JADUs shall be permitted on lots that have been created by an Urban Lot Split and shall be counted as SB 9 units.
 - h. The Urban Lot Split shall conform to all applicable objective requirements of the Subdivision Map Act, except as otherwise provided in Government Code Section 66411.7.
 - i. Newly constructed SB 9 units shall match the architectural style of primary dwelling, including but not limited to roof pitch, window size, proportion of window to wall, direction window opening, and exterior building materials.
 - j. All SB 9 units shall be permitted to be two stories with a maximum height of 20 feet.
 - k. All lots applying Urban Lot Splits shall have a minimum front setback of 15 feet. Front setback shall be measured from the adjacent public or private street that provides access to the lot.
 - l. Modifications to objective standards: The application of objective standards shall be modified by the [Official] if the standards would preclude construction of units of minimum 800 square feet on each parcel.

**O. Requirements; Grounds for Denial** (Local Discretion)

1. Objective Development Standards for Urban Lot Split. An urban lot split, and any development of a parcel created from an urban lot split, shall comply with all requirements of this Chapter, all objective development standards set forth in this Code or otherwise established by the City, and all other City requirements that are not in conflict with Government Code Section 66411.7.
 - a. The new lot line must be at a straight line starting from the front property line to the rear property line, or side if it is a corner lot. There shall be no curve or angles when subdividing the lot.
2. Subdivision Standards.
 - a. Except as otherwise expressly provided in this section, an urban lot split must conform to all applicable objective requirements of the Subdivision Map Act (Government Code section 66410 et. seq.) and **Section X** of this Code.
 - b. No dedication of rights-of-way or construction of offsite improvements shall be required for an urban lot split, except for those necessary to complete standard sidewalk, parkway, and/or drainage improvements directly associated with the subject property. To the extent that dedication of rights-of-way or construction of offsite improvements are necessary to avoid a specific adverse impact, the application shall be subject to denial.
3. Denial: The **[Official]** shall deny an application for an urban lot split if any of the following are true:
 - a. Development and Subdivision Standards. The lot to be split does not satisfy the requirements of subsections (P)(1) or (P2) or (O).
 - b. Zone. The lot to be split is not zoned for single family residential uses.
 - c. Lot Location. The lot to be split does not satisfy the requirements of Government Code Section 65913.4(a)(6)(B)–(K). (See Government Code Section 66411.7(a)(3)(C).
 - d. Inspection
 - a. For lots within a high fire hazard severity zone, the application does not include proof of an inspection confirming full compliance with all fire-hazard mitigation measures required by state statutes. The inspection shall be conducted by the City's fire marshal or person authorized by the City to perform building inspections.
 - b. For lots within a delineated earthquake fault zone, the application does not include proof of full compliance with applicable seismic protection building code standards.
4. Historic
 - a. The lot to be split is a historic property or within a historic district that is included on the State Historic Resources Inventory.
 - b. The lot to be split is within a site that is designated by ordinance as a city landmark, is considered a local historic property or resource, or is located within a local historic district.



5. Prior Urban Lot Split.
 - a. The lot to be split was established through a prior urban lot split.
 - b. The lot to be split is adjacent to a lot that was established through a prior urban lot split by the owner of the lot to be split or by any person acting in concert with the owner.
6. Impact on Protected Housing. The urban lot split requires or includes the demolition or alteration of any of the following types of housing:
 - a. Housing that is income-restricted for households of moderate, low, or very low income.
 - b. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.
 - c. Housing, or a lot that used to have housing, that has been withdrawn from rental or lease under the Ellis Act (Government Code Sections 7060–7060.7) at any time in the 15 years prior to submission of the urban lot split application.
 - d. Housing that has been occupied by a tenant in the last three years.
7. Lot Size
 - a. The lot to be split is smaller than 2,400 square feet.
 - a. Either or both of the resulting lots are less than 1,200 square feet.
 - b. Either of the resulting lots is more than 60% or less than 40% of the original lot area.
8. Easements. The applicant does not convey all easements required for the provision of public services and facilities.
9. Specific Adverse Impacts. If the Director makes a written finding, based on a preponderance of the evidence, that the project would have a “specific, adverse impact” on either public health and safety or on the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.
10. No Legal Requirement. If for any reason, including but not limited to repeal of Government Code Section 66411.7, initiative or referendum, court decision or any circumstance in which Section 66411.7 does not obligate the ministerial approval of an urban lot split or if for any reason the Director is not required to ministerially approve an urban lot split. To the extent that approval of an urban lot split is considered a municipal affair of a charter city, the intent of this section is that the Director shall deny an urban lot split notwithstanding any state statute to the contrary.



3.2 NEW SUBSECTION XXX.XX.XX – TWO-UNIT DEVELOPMENTS

- A. **Purpose.** The purpose of this section is to establish regulations for two-unit projects in accordance with Government Code Section 65852.21.
- B. **Applicability.** This section shall only apply to the extent that the City is required to ministerially approve two-unit projects under Government Code Section 65852.21. If Government Code Section 65852.21 is repealed, determined to be unlawful or otherwise unenforceable, then this section shall only govern then existing two-unit projects and no applicant for a two-unit project may claim any rights hereunder. The intent of this section is to only implement the requirements of Government Code Section 65852.21 and this section shall not be construed to allow any greater rights to a two-unit project than the City is required to grant under state law.
- C. **Definitions²** (Jurisdiction can add or modify the definitions included in this section).
1. "Accessory Dwelling Unit" or "ADU" is an attached or detached dwelling unit that provides independent living facilities for one or more persons and is located on the same lot, with an existing or proposed primary single-family residential dwelling.
 2. "Affordable SB 9 dwelling unit" means a dwelling unit that must be rented to a low-income household.
 3. "City" means the City of (Jurisdiction), California.
 4. "Flag lot" is a lot created to provide access from primary street to a dwelling unit (ADU or second single-family dwelling) that is located on the rear side of a lot. The driveway is provided along the long narrow "flag pole" and the lot shape is similar to a flag.
 5. "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 corporation or corporate person of any kind (partnership, LP, LLC, C corp, S corp, etc.) except for a community land trust (as defined by Revenue and Taxation Code Section 402.1(a)(11)(C)(ii)) or a qualified nonprofit corporation (as defined by Revenue and Taxation Code Section 214.15).
 6. "Junior Accessory Dwelling Unit" or "JADU" is a unit that is contained entirely within a single-family dwelling or attached garage and does not exceed five hundred square feet in size.
 7. "Official" means the Development Services Official for the City or designee.
 8. "Primary dwelling unit" means the existing or proposed single-family dwelling located on the lot, which meets all development standards for the underlying residential zoning district. If there are two single-family dwellings on a lot, the primary dwelling unit is the larger of the two dwelling units.
 9. "Specific adverse impact" has the same meaning as in Government Code Section 65589.5(d)(2), which is a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date

2. Adapted from the City of Arcadia SB 9 Urgency Ordinance, <https://cms9files.revize.com/arcadia/Shape%20Arcadia/Development%20Services/planning/SB9/Conformed%20Copy%20-%20Ordinance%20No.%202385.pdf>, Accessed October 20, 2022.



the application was deemed complete and does not include (1) inconsistency with the zoning ordinance or general plan land use designation or (2) the eligibility to claim a welfare exemption under Revenue and Taxation Code Section 214(g).

10. 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 a legally subdivided lot in accordance with the requirements of this section.

C. Qualifying Criteria³

1. Only individual property owners may apply for a two-unit project.
2. The [Official] shall ministerially approve all applications for two-unit projects that are subject to approval. Such applications shall be approved or denied in accordance with subsection (B) below. The [Official]’s decisions on applications shall be final.
3. An application for a two-unit project must be submitted on the City’s approved form. Only a complete application will be considered. The City will inform the applicant in writing of any incompleteness within 30 days after the application is submitted. The City’s application form shall, at a minimum, require the applicant to submit the following:
 - a. Evidence that the applicant is an individual property owner.
 - b. Proof that none of the circumstances set forth in Subsection E.

- c. Proof of any inspections required under Subsection (E) (2)(v).
- d. Proof that the requirements of Subsection (E)(2)(vii) are satisfied.
- e. In accordance with Subsection (7)(ii), a signed acknowledgment stating the applicant understands that the City will not approve the application if all nonconforming zoning conditions are not corrected.
- f. The application fee for a two-unit project shall be the same as the City’s Preliminary Plan Review fee for Multi-Family Residential projects, as may be modified by the City Council from time to time, in accordance with applicable law.

D. Requirements and Grounds for Denial: The [Official] shall deny an application for a two-unit project if any of the following are true:

1. Development Standards. The two-unit project does not satisfy the requirements of Subsection (B)(1) above or (C) and (F) below.
2. Lawful Subdivision. The lot was not legally subdivided.
3. Zone. The lot is not zoned for single-family residential uses.
4. Lot Location. The lot does not satisfy the requirements of Government Code Section 65913.4(a)(6)(B)–(K). (See Government Code Section 66411.7(a)(3)(C).)

3. Adapted from the City of Arcadia SB 9 Urgency Ordinance, <https://cms9files.revize.com/arcadia/Shape%20Arcadia/Development%20Services/planning/SB9/Conformed%20Copy%20-%20Ordinance%20No.%202385.pdf>, Accessed October 20, 2022.



5. Inspection.
 - a. For lots within a high fire hazard severity zone, the application does not include proof of an inspection confirming full compliance with all fire-hazard mitigation measures required by state statutes. The inspection shall be conducted by the City's fire marshal or person authorized by the City to perform inspections.
 - b. For lots within a delineated earthquake fault zone, the application does not include proof of full compliance with applicable seismic protection building code standards.
 6. Historic.
 - a. The lot is a historic property or within a historic district that is included on the State Historic Resources Inventory.
 - b. The lot is within a site that is designated by ordinance as a city landmark, is considered a local historic property or resource, or is located within a local historic district.
 7. Impact on Protected Housing. The two-unit project requires or includes the demolition or alteration of any of the following types of housing:
 - a. Housing that is income-restricted for households of moderate, low, or very low income.
 - b. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.
 - c. Housing, or a lot that used to have housing, that has been withdrawn from rental or lease under the Ellis Act (Government Code Sections 7060–7060.7) at any time in the 15 years prior to submission of the urban lot split application.
 - d. Housing that has been occupied by a tenant in the last three years.
 8. Specific Adverse Impacts. If the [Official] makes a written finding, based on a preponderance of the evidence, that the project would have a "specific, adverse impact" on either public health and safety or on the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.
 9. No Legal Requirement. If for any reason, including but not limited to repeal of Government Code Section 65852.21, initiative or referendum, court decision or any circumstance in which Section 65852.21 does not obligate the ministerial approval of a two-unit project, or if for any reason the [Official] is not required to ministerially approve a two-unit project. To the extent that approval of an urban lot split is considered a municipal affair of a charter city, the intent of this section is that the [Official] shall deny an urban lot split notwithstanding any state statute to the contrary.
- E. Deed Restriction**
- The owner must record a deed restriction for the benefit of the City, in a form acceptable to the [Official] and the City Attorney, that does each of the following:
1. Gives notice that the two-unit project was created pursuant to this section.



2. Gives notice of any site limitations resulting from the two-unit project, including but not limited to restrictions on off-street parking, the size of units on the parcel and on the ability to obtain a standards modification for the parcel.
 3. Expressly prohibits any development or construction on the parcel that would be inconsistent with this Chapter.
 4. Expressly prohibits any rental of any dwelling on the property for a period of less than 30 days.
 5. Expressly prohibits any non-residential use of the lot.
 6. Expressly prohibits any separate conveyance of a primary dwelling on the property, any separate fee interest, and any common interest development within the lot
 7. Expressly requires the individual property owners to live in one of the dwelling units on the lot as the owners' primary residence and legal domicile.
 8. Identifies the City as an intended third-party beneficiary with the right, but not the obligation, to enforce its terms and provisions.
 9. The [Official] shall not issue a building permit for any two-unit project unless the applicant provides a recorded copy of a deed restriction that satisfies the provisions in this Subsection.
- F. Fire-Hazard Mitigation Measures.** A lot in a very high fire hazard severity zone must comply with each of the following fire-hazard mitigation measures:
1. Emergency access and water supply requirements shall comply with the California Code of Regulations, Title 14 and Title 24, Part 9.
 2. All new structures on the site must comply with current building code standards for dwellings in a very high fire hazard severity zone.
- G. Affordability requirements (local discretion):** Two-Unit developments shall comply with the affordability requirements in this section.
- H. Standards Specific to Two-Unit Projects.** These standards are optional provisions for local agencies to consider. Standards considered by some agencies/peer cities are listed below:
- The following development standards shall apply to two-unit projects approved under this section. In the event of a conflict between this subsection and any other development standard contained outside of this Code (Development Code), this subsection shall govern.
1. Unit Quantity
 - a. No more than two units of any kind may be built on a lot that results from an urban lot split. For purposes of this paragraph, "unit" means any dwelling unit, including, but not limited to, a primary dwelling unit, a unit created under this section of this code, an ADU, or a JADU.
 - b. A lot that is not created by an urban lot split may have a two-unit project under this section.
 2. Unit Size



- a. The total floor area of each residential unit developed must be less than or equal to 800 square feet and at least 500 square feet.
 - b. A primary dwelling that was legally established prior to the urban lot split and that is larger than 800 square feet in floor area may remain as its lawful floor area and structural footprint at the time of the urban lot split.
 - c. A primary dwelling that was legally established prior to the urban lot split and that is smaller than 800 square feet in floor area may be expanded to 800 square feet in floor area after the urban lot split.
3. Maximum Height
- a. The dwelling unit shall **not exceed 20 feet in height or two stories**, measured to the top of the roof ridge.
 - b. No roof deck shall be permitted on any new or remodeled dwelling unit on a lot resulting from two-unit or urban lot split project.
4. Setbacks
- a. All setbacks shall comply with the respective **jurisdiction's** standards for single-family residential zones.
 - b. No additional setbacks shall be required for an existing dwelling unit or new SB 9 unit that is constructed in the same location and with same dimensions as an existing legally developed dwelling unit.
 - c. All units shall have a side and rear setback of minimum four feet. The unit may encroach into the rear or side setback only if the application of setback standards precludes the construction of two-units on one lot that are less than 800 square feet in floor area. Such an encroachment into the setback shall be necessary to allow construction of units at a maximum of 800 square feet in floor area.
 - d. All SB 9 units shall comply with underlying zoning regulations or have a minimum **front setback of 15 feet, whichever is higher.**
5. Parking
- a. Subject to Government Code Section 65852.21(c)(1)(A)-(B), each new primary dwelling unit must provide at least one off-street parking space per unit. A driveway must lead to the parking space.
 - b. Enclosed garage spaces are permitted but shall be limited to two parking spaces.
 - c. Each garage parking space shall have interior dimension of **10 feet by 20 feet.**
 - d. Tandem parking is permitted.
 - e. Parking shall not be permitted in front setback.



6. Floor Area: The floor area ratio (FAR) and lot coverage of the underlying zoning designation is applicable to the extent that it does not prevent two primary dwelling units on the lot at 800 square feet each. The total floor area of each dwelling unit shall be less than or equal to 800 square feet and minimum 500 square feet. **A primary dwelling that has been developed prior to the Urban Lot Split and that is less than 800 square feet in area shall be expanded to 800 square feet after the Urban Lot Split.**
7. Demolition Cap: The project may not demolish more than 25 percent of the exterior walls of an existing unit unless either the local agency permits otherwise or the site has not been occupied by a tenant in the last 3 years.
8. Materials of the exterior walls: For a new SB 9 dwelling unit, the exterior materials and design shall compliment the design of any existing primary dwelling unit on the property through the use of aesthetically pleasing exterior wall materials, paint color, window types, and door and window trims.
9. Roof Design: All SB 9 units shall provide roof forms with a pitch that compliment the existing, surrounding dwelling units and shall have contrasting roof materials.
10. Color palette: All SB 9 units shall provide contrasting colors on the building facade.
11. Exterior lighting: All exterior lighting shall be fully shielded and oriented downwards and limited to one exterior light fixture per exterior doorway, or the minimum standard necessary to comply with California Building Standards Code.
12. Windows: All SB 9 units shall provide wood window trim around all windows.
13. Landscape: At least **60%** of the frontyard shall be landscaped.



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