

# SB 9 Implementation

## What is Senate Bill (SB) 9?

- SB 9 requires that Cities ministerially approve (no public hearing) the following:
  - The development of up to two residences on an existing single-family residential zoned property, if the proposed housing development meets certain requirements.
  - The split of an existing single-family lot into two parcels with up to two residences per parcel.
- SB 9 allows Cities to voluntarily adopt a local ordinance with objective development standards to implement SB 9.

## What does this mean for the City?

Under SB 9, qualifying properties in the City have the potential for being split and/or being developed with up to 4 residential units. On December 15, 2021 City Council adopted an Urgency Ordinance and initiated a Municipal Code Amendment to clarify the state law and its implementation within the City. City staff is currently undertaking an update to the City's Municipal Code to implement SB9.

## What is the process for getting SB 9 projects approved?

- SB 9 projects will be reviewed and approved or denied through a ministerial process (i.e., no public hearing). An Administrative Coastal Development Permit will be required within the Coastal Zone. Only properties in the "Coastal Commission Appeal Zone" will be appealable to Coastal Commission.
- SB 9 projects will need to submit a [Planning Application](#) with the [SB 9 Supplement](#) and any other application supplements required for their project. Please contact [planning@encinitasca.gov](mailto:planning@encinitasca.gov) with any questions and to schedule an in-take appointment once you are ready to submit.

## Things to consider for SB 9 projects

- Location - Only properties that are zoned for single-family residential development (RR, RR-1, RR-2, R-3, R-5, R-8, and RS-11) and meet the location requirements of Government Code Section 65913.4(a)(6)(b)-(k) are qualified for a SB 9 urban lot split and/or development of up to 4 residential units. Use the [City's e-zoning map \(GIS\)](#) to identify a property's zoning information.
- Covenant - SB 9 projects require the execution and recordation of a covenant that contains the following provisions:
  - Non-residential uses on the site are prohibited.
  - Short-term rentals (less than 30 days stay) on the site shall be prohibited
  - Any parcel created from an urban lot split may not be split again.
  - Ongoing compliance with all SB 9 requirements and restrictions are required.
  - Access to public right-of-way must be maintained.
  - All required parking must be maintained.

- [Development Regulations](#) - SB 9 projects will be regulated by state law (SB 9), existing City zoning regulations, and the City's interim SB 9 ordinance.
- [A limited summary](#) of SB 9 development regulations are provided in the table below. To fully understand how SB 9 projects will be regulated, it is necessary to review the State law (SB 9), the City's existing applicable zoning regulations, and the City's interim SB 9 Ordinance.

## Links

[Planning Application](#)

[Planning Application SB 9 Supplement \(Required\)](#)

[SB 9 Urgency Ordinance Extension No. 2022-04](#)

[SB 9 Urgency Ordinance No. 2021-25](#)

[SB 9 Resolution No. 2021-120](#)

[December 15, 2021 City Council Hearing](#)

[November 17, 2021 Informational City Council Presentation](#)

[Frequently Asked Questions](#)

[Senate Bill 9](#)

## Timeline

**09/16/2021** – Governor signed Senate Bills (SB) 9 into law.

**11/17/2021** - City Council received informational presentation and directed staff to return

**12/15/2021** - City Council adopts Urgency Ordinance No. 2021-25 and Resolution No. 2021-120 to initiate amendments to the City's General Plan, Specific Plans, Municipal Code, and Local Coastal Program.

**01/01/2022** – SB 9 and local interim ordinance go into effect and SB 9 projects may be submitted for review.

**01/26/2022** - City Council adopts SB 9 Urgency Ordinance No. 2022-04 to extend Urgency Ordinance No. 2021-25.

**Ongoing** - Staff is working on a long-term SB 9 ordinance that will be presented to City Council at a future hearing date.

Please note that the *italicized* text below represent regulations from the City's urgency ordinance.

SB 9 DEVELOPMENT PROJECT REGULATIONS SUMMARY	
Urban Lot Splits	Two-Unit Residential Development (Applies to lot splits & non-lot split projects)
<ul style="list-style-type: none"> <li>• <b>Area</b> - Each parcel formed by a lot split must be at least 1,200 square feet.</li> <li>• <b>60:40</b> - New parcels must be approximately equal in size with one parcel being no smaller than 40% of the original lot's size.</li> <li>• <b>Existing Residences</b> - If a lot split is proposed for a property with existing residence(s), the split must result in the existing residence(s) being located fully on a split parcel.</li> <li>• <b>Quantity</b> - No more than two parcels may be created by the urban lot split.</li> <li>• <b>Limits</b> - A lot that is via urban lot split may not be split again.</li> <li>• <b>Owner Occupancy</b> - Applicant shall provide a signed affidavit stating that the applicant intends to occupy one of the housing units as their principal residence for a minimum of three years.</li> <li>• <b>Access</b> – <i>Each unit located on a parcel created pursuant to this chapter shall have vehicular ingress and egress to the public right-of-way, which shall be either through access over land that is part of the parcel or evidenced by a recorded easement in favor of the parcel requiring right-of-way access.</i></li> <li>• <b>Access</b> - Right-of-way dedication may not be required.</li> <li>• <b>Common Ownership</b> - 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.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Number of Units</b> - <i>Up to two accessory dwelling units may be proposed in addition to the two units constructed on a lot. On parcels that propose both a Two-Unit Residential Development and an Urban Lot Split, ADUs will be permitted if all objective zoning standards are met (no reduction in zoning standards).</i></li> <li>• <b>Demolition</b> - An existing residential unit that has been occupied by a tenant within the past 3 years may not have more than 25% the existing exterior structural walls demolished.</li> <li>• <b>Size</b> - Each new residential unit may be at least 800 square feet.</li> <li>• <b>Development Standards</b>- New residential units may be built as close as four feet from a side or rear property line, and must comply with the underlying zone's objective development and design standards.</li> <li>• <b>Existing Setbacks</b> - Existing residential units or residential units that are reconstructed in the same location and with the same dimensions may maintain their current setbacks.</li> <li>• <b>Short-Term Rentals</b> - Prohibited for the existing and new residential units.</li> <li>• <b>Parking</b> - One off-street parking space per new residential unit is required except no parking requirements when the parcel is located within 1/2-mile walking distance of either a high-quality transit corridor or a major transit stop.</li> </ul>