



Draft SB 9 Ordinance

Overview

The proposed draft ordinance will enact the requirements of SB 9, which requires local jurisdictions to allow additional residential units and/or lot splits in single-family zoned areas through a ministerial process. These ministerial permits are granted at staff-level, require no public hearing or discretion, and are not subject to the California Environmental Quality Act (CEQA).

The draft also provides specific local requirements, where allowed by the State and, as directed by City Council. A summary of the State requirements is provided below, followed by a summary of local provisions which differ from the state requirements:

STATE LAW STANDARDS SUMMARY

Qualifying Criteria

1. Zoned single-family residential (i.e. R1-A, R1-B or R1-C);
2. Not located in a historic district or included on the State Historic Resources Inventory;
3. Not located in specified resource lands or hazard areas per Government Code Sections 65913.4(a)(6)(B-K) (generally including, but not limited to, prime farmland, high fire areas, wetlands, hazardous waste sites, lands under conservation easements, or fault zones etc.);
4. Has not been occupied by a tenant within the last three years;
5. Does not involve the demolition of any affordable or rent controlled housing; and
6. Does not involve the demolition of more than 25 percent¹ of any existing exterior walls of any existing housing unit.

Development Standards

1. Setbacks
 - Minimum 4 ft. for rear and sides.
 - No setbacks required for units constructed in same location and to the same dimensions of an existing legal structure.
2. Parking
 - One space maximum per unit.
 - No parking required when a unit(s) is located within a one half-mile walking distance of a high-quality transit corridor (e.g. El Camino Real), major transit stop, or within one block of a carshare facility.
3. Limits of Use
 - Prohibition of short-term rentals of all units created through SB 9.

Urban Lot Split Additional Standards

1. Parcel Size
 - 1,200 sq. ft. minimum lot size; and

¹ Per SB 9, demolition limits may be increased per local jurisdiction discretion.

- Maximum 60/40 percent lot split size differential.

2. Parcel Width and Depth
 - Existing objective standards apply so long as they do not preclude an otherwise compliant urban lot split.
3. Access
 - Jurisdictions may require parcels to have access to, provide access to, or adjoin a private or public right-of-way.
4. Easements and Right-Of-Way Dedications
 - Easements for the provision of public services and facilities may be required by a local jurisdiction
 - Right-of-way dedications or requirements for off-site improvements may not be required by local jurisdictions.
5. Limits of Use
 - Prohibition of short-term rentals.
 - Residential use restriction for units created through an SB 9 urban lot split.
6. Prohibited Actions
 - Prohibition of sequential lot splitting using SB 9.

Pursuant to State law, local jurisdictions are prohibited from applying any standard that would preclude the construction of two units that are up to 16 feet (ft.) tall, up to 800 square feet (sq. ft.) in size and at least 4 ft. from the rear and side property lines. Below is an overview of the major provisions of the proposed local standards

LOCAL STANDARDS

Review and Permitting Process

Ministerial Review

Qualified development will be processed with a ministerial planning application and subject to the City's planning application review procedures. Approval of the ministerial planning application would be required prior to submittal of building permits for the proposed structure(s). For urban lot splits, no building permit may be submitted until the final map is recorded.

Alternative Discretionary Review².

To allow additional flexibility, projects that do not meet objective standards may be permitted through a discretionary permit process. Examples include: unit sizes larger than 800 sq. ft., increases in height, and/or relief from an objective design standard. In no instance may an application for alternative review propose to: increase the FAR above that permitted by the underlying zoning district, further subdivide a parcel using SB 9, increase the number of maximum allowed dwelling units, propose a parcel size less than 1,200 sq. ft., or propose less than one parking space when parking is otherwise required.

Public Notice

If all standards are met, a courtesy informational public notice will be provided prior to ministerial project approval. Ministerial permits are not appealable and require no public hearings nor input. The purpose of notice is to inform surrounding property owners of the proposed project. This would align with the City's current ministerial building permit noticing practices for small second-story additions that do not require a planning application.

² A discretionary permit is a permit that requires decision-maker to exercise judgment and ultimately approve or deny the application, can require a public hearing, and is open to public comment. In contrast, a ministerial permit is approved once a project complies with a set of codified standards, (i.e. a Building Permit), requires no public hearing, is not appealable, and is not open to public comment.

Two Unit Development Standards

1. *Demolition Limits*. Ministerial process for less than 50% demolition; Discretionary process for 50% or greater demolition to align with current city practices.
2. *Setbacks*. District front setback applies. Minimum 4 ft. side and rear yard setback.
3. *Building Height*. Attached units: 24 ft. plate height, 32 ft. peak height; Detached Units: 16 ft. plate height, 24 ft. peak height to align with current accessory dwelling unit standards.
4. *Parking*. 0-1 spaces per state law. Parking may be covered or uncovered.
5. *Number of Dwelling Units*. Maximum 4 units on a parcel not created through an urban lot split.
6. *Unit Size*. Ministerial process for units 800 sq. ft. or less; Discretionary process for units larger than 800 sq. ft. Maximum potential unit size dictated by the maximum FAR of the underlying zoning district.
7. *Deed Restriction*. Prohibition of short-term rentals in all units created through SB 9

Urban Lot Split Development Standards

1. *Demolition Limits Setbacks, Height, Parking, Unit Size, and Parking*. Same as required for Two-Unit Development above.
2. *Minimum Lot Size*. To follow State law.
3. *Access*. All parcels shall provide access to the right-of-way. For flag lots (i.e. panhandle lots) a minimum 10 ft. wide driveway/access corridor shall be required.
4. *Number of Dwelling Units*. Maximum of 2 dwelling units on a parcel (inclusive of ADUs and JADUs)
5. *Deed Restriction*. Non-residential uses prohibited, short-term rentals prohibited, prohibition of further subdivision using SB 9.
6. *Occupancy Affidavit*. Owner signed affidavit stating intent to occupy one of the housing units as their principal residence for a minimum of three years from the date of project approval.

Interim Objective Design Standards

SB 9 projects are only subject to objective design standards per State law. As guidelines, the City's existing Single-Family Dwelling Design Guidelines and Duplex Design Guidelines contain few, if any, objective standards. Consequently, SB 9 projects are not subject to most of the City's design regulations. As such, there is an immediate need to include some objective design standards as a part of the proposed draft ordinance.

The proposed draft interim design standards include standards for neighbor privacy, exterior lighting, massing, window and door placement, and consistency of colors, materials and architectural styles for attached units, and are based on the City's current design guidelines and multi-family and duplex objective design standards project. These standards are intended to be interim in nature and will either be superseded by, or revised, to align with the final adopted version of the City's Duplex and Multi-family Objective Design Standards.