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

This FAQ provides a summary of the major provisions 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 450 went into effect January 1, 2025 which made amendments to the existing regulations, and applicants should review the specific provisions of Government Code Sections [65852.21](#) and [66411.7](#), 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 primary 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 14, 2022, 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.

[California Senate Bill 450 \(SB 450\)](#) was signed by Governor Gavin Newsom on September 19, 2024 and went into effect on January 1, 2025 making many changes to the regulations regarding two unit developments and urban lot splits. The FAQ has been updated to incorporate the new provisions.

WHAT IS A TWO-UNIT RESIDENTIAL DEVELOPMENT?

A two-unit residential development is defined in Government Code Section 65852.21 to consist of no more than two primary residential dwelling units located on a single lot that is zoned for single-family residential development. The residential unit(s) may be located in a single building that contains no more than two residential units or in separate detached buildings.

WHAT IS AN URBAN LOT SPLIT?

Government Code Section 66411.7 allows the City to ministerially approve (no public hearing) a parcel map that subdivides a single-family residentially zoned parcel into not more than two new parcels that are no smaller than 1,200 square feet of net lot area and have a minimum parcel split of 60/40 from the original parcel size. The net lot area includes deductions for public right-of-way, public and/or private access/road easements and steep slopes with gradients of 25 percent or greater. 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?

Not more than two primary residential units to be built on an individual lot (existing lots or lots created through an urban lot split). Each primary unit may construct either one accessory dwelling units (ADU) or junior accessory dwelling unit (JADU) pursuant to the Encinitas Municipal Code (EMC) Section 30.48.040. Each unit shall have independent exterior access.

WHAT ARE THE OBJECTIVE 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: lot size, height, setbacks, lot coverage, 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. The location of the required parking space(s) shall not obstruct the required parking of another dwelling unit.

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.

Storm Water Management

Two-residential unit development must comply with the City's Storm Water Runoff Requirements pursuant to Title 20 Stormwater Management.

Access

New parcels, created through urban lot splits shall have frontage or permanent means to access a public street. Vehicular ingress and egress to the public right-of-way shall be either through access over land that is part of the parcel or evidence by a recorded easement in favor of the parcel requiring access. Access, including any required turn-around area, and provisions for fire protection consistent with the California Fire Code shall be provided for all structures served by an access easement.

Setbacks

A minimum setback of four feet, or the applicable setback for the zoning district, whichever is less, is allowed from the rear and side property lines, except:

- Setbacks may be less than four feet if it prohibits the construction of up to two 800 square foot units.
- No setback shall be required for an existing structure, or a structure constructed in the same location and to the same dimensions as an existing structure.
- On parcels with a lot width of 40 feet or less that proposes both a two-unit residential development and an urban lot split, a zero-side yard setback shall be allowed along the proposed lot line only.
- On parcels with a lot depth of 100 feet or less with alley access that proposes both a two-unit residential development and an urban lot split, parcels are allowed up to zero rear yard setback provided that, if parking is proposed it meets the standards for parking off an alley as outlined in the Off-street Parking Design Manual.

Height

The height of the primary dwelling units shall not exceed the height of the underlying zone, including potentially additional height limitations if the average lot slope exceeds 10 percent (R-3, R-5, R-8, and RS-11 Zones).

Size

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

Architectural Projections

- Architectural projections of proposed units, which do not create additional livable area, are required to be a minimum of four feet from a streetside, interior side yard or rear yard property line or street (public or private access easement).
- Architectural projections may project four feet into the front yard setback.
- Roof eaves may project a maximum of two feet into the minimum required four-foot street side, interior side and rear yard setbacks.

Replacement Housing

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

Inclusionary Housing

- Proposed primary dwelling units shall meet the requirements found in EMC Section 30.41, Affordable Housing.

Public Improvements

- Proposed primary dwelling units or unit shall be required to provide public improvements satisfactory to the Land Development Engineering Division.

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 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 rent or price control; Housing that has been occupied by a tenant in the last three years from the date of the application submittal; 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.

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 (U.S Fish and Wildlife) and Hazardous waste site.
- High or very high fire hazard severity zone (HFHSZ or VHFHSZ);
- Delineated earthquake fault zone;
- Floodplain/floodway;
- Land conservation area or habitat for protected species; and
- Land under a conservation or open space easement.

Urban Lot Split Applications

- Shall not be permitted if the parcel has previously exercised an urban lot split.
- Shall not be permitted if either the owner of the parcel being subdivided or any person acting in concert with the owner has previously or is currently subdividing an adjacent parcel through an urban lot split.

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 but are not limited to:

- 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
- A signed affidavit for an urban lot split shall be required prior to recordation of final map stating the applicant intends to occupy one of the existing units for a minimum of three years.
 - If the project proposes new residences on a vacant lot with an urban lot split application, then the minimum 3 years applicant occupancy shall begin once the home they intent to occupy receives certificate of occupancy.

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.

IS A DESIGN REVIEW PERMIT REQUIRED?

Any project proposed under this Ordinance, that is not exempt from design review in accordance with EMC Section 23.08.050 shall be subject to the City's applicable objective design standards and process an administrative design review permit. The objective design standards that shall be applicable shall be the standards in effect at the time a complete application is submitted.

WHAT IS THE APPLICATION REVIEW TIMELINE?

Within 60 calendar days after a complete application for a proposed project under this Ordinance, the application shall be ministerially approved or disapproved.

CAN A TWO UNIT DEVELOPMENT BE CONDOMINIZED?

Yes, the two primary units can be created into condos, but not concurrently with the two-unit development application. After construction of the units and the certificate of occupancy is issued, then a Parcel Map Waiver can be submitted for review to the City. If the condo map is submitted prior to the certificate of occupancy of the units, then a Tentative Parcel Map is required.

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 the Ordinance and/or Government Code Sections 65852.21, 66411.7, and 66452.6.

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.