

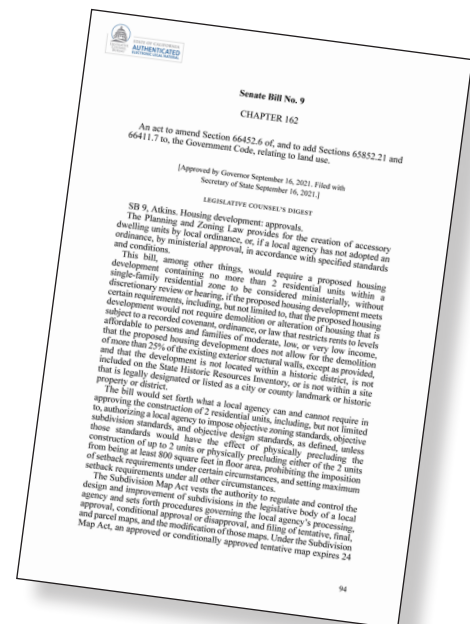
## SENATE BILL 9: “TWO FOR ONE”

### New California Law Allows the Ministerial Approval of Two Residential Units and Lot Splits in Single Family Residential Zones Statewide

By Tanner Shelton, AICP

#### INTRODUCTION

Senate Bill 9 was introduced in the California State Senate in late 2020 by Senator Toni Atkins (D- San Diego). After a nearly ten-month journey through both houses of the State legislature, on September 16, 2021 Senate Bill 9 (SB-9) was signed into law by Governor Newsom, taking effect on January 1, 2022. The controversial bill generated a large amount of debate and discussion in communities statewide, representing another chapter in the ongoing “local vs. state control” battles that have been simmering in California land use policy due to the State’s ongoing and persistent housing crisis. In fact, when passed, many publications deemed SB-9 as the “End of Single-Family Zoning” in California. But what exactly does this mean? And how does it impact local jurisdictions and property owners statewide, particularly in Ventura and Santa Barbara Counties? This paper will briefly summarize the critical components of SB-9, discuss the implementation of this legislation, and unravel how the legislation can be utilized by interested property owners.



## **SENATE BILL 9: “TWO FOR ONE”**

New California Law Allows the Ministerial Approval of Two Residential Units and Lot Splits in Single Family Residential Zones Statewide

---

### **SUMMARY OF SB-9 PROVISIONS**

Senate Bill 9 can best be summarized as a “two pronged” bill, with changes to both existing State Planning and Zoning Government Code (Section 65852.21) and the Subdivision Map Act (Section 66411.7). In simple terms, the bill requires either a) the approval of two residential units on an existing single-family zoned lot, or b) a parcel map dividing a single-family zoned lot into two approximately equal portions; to be approved ministerially (or “by right”) by the local land use authority. These two basic scenarios are outlined below:

### **TWO RESIDENCES ON A SINGLE LOT**

While California Government Code Section 65852.150 allows for the construction of Accessory Dwelling Units (ADUs) of up to 1,200 square feet on a single family zoned lot (or more when allowed by a local jurisdiction), Senate Bill 9 allows for the construction of two (2) “primary” residences on a single family zoned lot for projects that meet certain qualifying criteria. These criteria are as follows:

1. Located within a single-family residential zone
2. Lot must be within “urbanized area or urban cluster” as defined by the United States Census Bureau. As such, sites can be located within either an incorporated city or unincorporated county, as long as it is also located in an “urbanized area or urban cluster” as defined above.
3. Does not involve the demolition of or alteration of any affordable housing or housing that has been occupied by a tenant in the past three (3) years.
4. The proposed development would not require the demolition of more than 25% of existing exterior structural walls.
5. Is not located within a historic district, on a historic property, or on land that is within certain identified sensitive areas, including wetlands, earthquake faults zones, conservation easements, FEMA floodplains, farmland, and high fire hazard severity zones. There are certain exceptions to these requirements that can be pursued. Please contact our office for further information.

Should a prospective site meet the requirements outlined above, the site would qualify for ministerial, or by right approvals of two “primary” residential units. In their review of a proposed SB-9 project, a local jurisdiction can only evaluate the project based upon objective, written zoning and design standards that have been previously established through a local ordinance and do not require any subjective review by an official. However, application of objective standards may not physically preclude or limit the construction of a unit(s) that is at least 800 square feet. The proposed units may be attached or detached. Furthermore, objective standards may not require a setback of greater than 4’ from side and rear property lines or require more than one (1) parking stall per unit. If a proposed development is within one half mile walking distance of a transit corridor and or major transit stop, as defined by California Public Resources Code Section 21064.3, no parking is required.

## **SENATE BILL 9: “TWO FOR ONE”**

New California Law Allows the Ministerial Approval of Two Residential Units and Lot Splits in Single Family Residential Zones Statewide

---

### **TWO NEW PARCELS FROM AN EXISTING SINGLE-FAMILY LOT (URBAN LOT SPLIT)**

In addition to allowing two primary residences on a single-family lot, Senate Bill 9 also allows for the subdivision of an existing single-family zoned lot into two parcels, known as an “urban lot split”. In order to qualify for an urban lot split, the proposed project site must meet the qualifying criteria (Items 1-5) summarized in the subsection above. Should the prospective site meet the requirements outlined above, the site would qualify for ministerial, or by right approvals of an urban lot split. All subdivisions utilizing SB-9 must comply with the following provisions established in California Government Code Section 66411.7:

- The proposed parcel map subdivides an existing parcel to create no more than two (2) new parcels of approximately equal lot area provided that one parcel shall not be smaller than 40% of the original parcel proposed for subdivision.
- Newly created parcels may not be smaller than 1,200 S.F., although local jurisdictions may choose to create minimum parcel sizes that are smaller than this amount.
- A lot cannot be subdivided if it has previously been subdivided under SB-9.
- Adjacent parcels can only be subdivided via SB 9 if their owners are independent of each other.
- Applicant for an urban lot split must be willing to sign affidavit stating that the applicant intends to occupy one of the housing units on the site as their principal residence for a minimum of three years from the date of the urban lot split.

In addition to these requirements, during a local jurisdiction’s review of a proposed SB-9 urban lot split, a local jurisdiction can only evaluate the project based upon objective, written zoning and design standards that have been previously established through a local ordinance and do not require any subjective review by an official, as described in the subsection above. In addition, during the review of a subdivision, a local agency cannot require the dedication of right of way, construction of offsite improvements, or correction of non-conforming zoning conditions. However, local jurisdictions may require easements for the provisions of public services and easements to ensure both proposed lots have access to a public right of way. Additionally, improvements to the public right of way may be required when immediately adjacent to the subject property boundary and when “reasonably related” to the development of that property.

It is worth noting that the provisions of the Subdivision Map Act still apply to projects that obtain approvals via Senate Bill 9. As such, all SB-9 urban lot splits are required to prepare a Tentative and Final Parcel Map for agency review and approval. A tentative parcel map is a more conceptual iteration of a parcel map, which is used to obtain ministerial planning entitlements. A final parcel map is a survey quality map used to legally subdivide and record the two new lot configurations, and any associated easements.

**SENATE BILL 9: "TWO FOR ONE"**

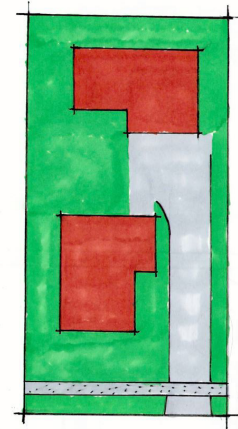
New California Law Allows the Ministerial Approval of Two Residential Units and Lot Splits in Single Family Residential Zones Statewide

**GENERAL DEVELOPMENT OPTIONS FOR SB-9 PROJECTS**

The two basic pathways of SB-9 generally result in one of the following development configurations:

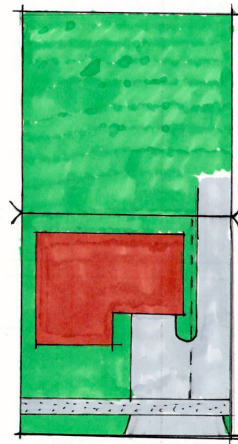
**TWO UNIT PROJECT ON AN EXISTING LOT**

Two units are constructed on an existing single-family residential lot. No subdivision is proposed. In addition to the two "primary" units allowed, accessory dwelling units *may* be allowed as well, although State law is unclear at this time on the matter.



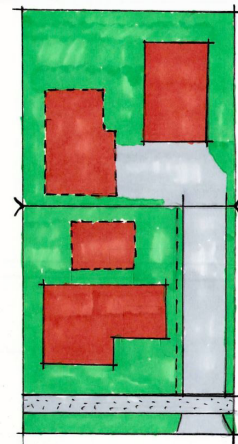
**"SPECULATIVE" LOT SPLIT**

An existing single-family lot is split into two, with one unit on one of the lots. The new, "second" lot remains undeveloped at time of subdivision, and a residential unit is constructed at a later date or one of the lots is sold off after the three year affidavit period has expired for someone else to build a new unit on. Up to two "primary" units are allowed on each lot. No accessory dwelling units are allowed in addition to the allowable "primary" units when an urban lot split is proposed.



**LOT SPLIT WITH A TWO TO FOUR UNIT PROJECT**

An existing single-family lot is split into two, with one unit on each of the lots, resulting in a two unit project. Alternatively, each lot is developed with two units on each of the lots, resulting in a four unit project, the maximum allowed under SB-9. No accessory dwelling units are allowed in addition to the allowable two "primary" units on each lot when an urban lot split is proposed.



## **SENATE BILL 9: “TWO FOR ONE”**

New California Law Allows the Ministerial Approval of Two Residential Units and Lot Splits in Single Family Residential Zones Statewide

---

### **BENEFITS OF PURSUING AN SB-9 PROJECT**

There may be numerous benefits to pursuing an SB-9 project on your property. Some of the potential benefits include, but are not limited to:

- Provides options for homeowners to build intergeneration wealth.
- Provides potential flexibility in living arrangements for the elderly/retirees.
- Provides potential flexibility in living arrangements for adult children, which are living longer at home due to housing costs, student loan debt, and other factors.
- Provides options for estate planning and inheritance.
- Creates the opportunity for potential rental income or sale of an additional parcel and or unit.
- Helps address our State’s housing crisis by empowering homeowners (not institutional investors or professional developers) to produce small scale residential development on their property.
- Creates a new opportunity for sustainable, infill growth.

### **CONCLUSION & NEXT STEPS**

As with any new State Housing Law, the implementation of SB-9 has varied from jurisdiction to jurisdiction statewide. The same has applied to jurisdictions across the Central Coast. Some local jurisdictions have interpreted the law’s “gray areas” liberally, while others have taken a more conservative, narrow reading of the law. Additionally, some jurisdictions have established clear and detailed application processes and procedures, while others have taken a more “ad-hoc” approach thus far.

Our staff at Jensen Design & Survey, Inc. would be happy to discuss your property’s eligibility for SB-9, your local jurisdiction’s SB-9 processes/procedures, and general site design concepts with you. Tanner Shelton, AICP serves as our in-house expert on SB-9 implementation and utilization. In the short few months SB-9 has been law, Tanner has helped three applicants prepare and submit SB-9 applications to their local jurisdiction. He can be reached at (805) 633-2215 or via email at [tshelton@jdscivil.com](mailto:tshelton@jdscivil.com).