

SB-9 California HOME Act

CA Senate Bill 9 ([SB-9](#)), added Govt. Code §65852.21 and §66411.7, commonly referred to as the Housing Opportunity & More Efficiency (HOME) Act, which became effective on Jan. 1, 2022. SB-9 also incorporates several requirements from Gov. Code §65913.4(a)(6)(B) through (K). This info-bulletin provides an overview of how the law affects the city's review and approval of eligible housing developments.

The bulletin is only intended to summarize many provisions of state law rather than cite them in total. For more information about SB-9, please refer to the referenced government code sections as well as updates to this info-bulletin.



BACKGROUND

SB-9 introduced two approaches toward alleviating the state's housing crisis that apply to existing single-family residential zones. First, the bill allows a property owner to have two residential units (attached or detached) on a parcel zoned for single-family housing, thereby creating a duplex. This is referred to as a "Single Lot Duplex."

SB-9 goes further by allowing property owners to split a single-family lot into two lots and place up to two units on each newly created lot, resulting in the potential for up to four units (attached or detached) on properties currently limited to single-family houses. This is referred to as an "Urban Lot Split."

The bill also requires cities to ministerially approve applications that do not conflict with minimum development standards, meaning that jurisdictions must approve either a Single Lot Duplex or Urban Lot Split without discretionary review, CEQA environmental analysis, or public hearings.

Documents Referenced

HOME Act; [SB-9](#)
Gov. Code [§65852.21](#)
Gov. Code [§66411.7\(a\)](#)
CMC Title 21 [§20.28](#),
Single-Family Zoned Properties; [Map](#)
2010 Census – Urbanized Area Reference [Map](#)
SB-9 Eligibility Checklist; [B-74](#)
Residential Building Permit Application; [B-1](#)
Development Permit Application; [P-2](#)
Concurrent Permit Processing; [IB-113](#)
CA Coastal Zone; [Map](#)
General Plan & Housing Element Annual Progress
Report; [Website](#)

PROJECT ELIGIBILITY

Single Lot Duplex

Properties meeting the following minimum standards are eligible for a Single Lot Duplex. Applicants are advised to review Gov. Code [§65852.21](#) for additional statutory guidance.

- The property is located within the R-A, R-E or, R-1 Zones as reflected in the city's [Zoning Map](#).
- The property is located within an urbanized area or urban cluster pursuant to the US Census Bureau. According to the [census map](#), the entire City of Carlsbad is considered an urbanized area/urban cluster.
- The property is not located within any of the following (See Gov. Code §65913.4(a)(6)(B) through (H) for additional guidance):
 - Agricultural Farmland - prime/statewide significance/zoned for agriculture by ballot measure.
 - High or very high fire hazard severity zone - unless the new development complies with the city adopted fire hazard mitigation measures).
 - Hazardous waste site - unless cleared by DTSC/applicable agency.
 - Delineated earthquake fault zone - unless the development is in compliance with applicable seismic protection building code standards.

- Within a 100-year floodplain/regulatory floodway (unless compliant with qualifying exceptions).
- The property is not within a natural community conservation plan, habitat conservation plan, conservation easement for protected habitat/species, or wetlands (See Gov. Code §65913.4(a)(6)(C), (I), (J), and (K) for additional guidance).
- The housing development does not require demolition or alteration of any of the following housing types (See Gov. Code [§65852.21\(a\)\(3\)](#) for additional guidance):
 - Housing that is rent restricted for moderate, low, or very low income; or,
 - Housing that has been occupied by a tenant in the last three years.
- Cannot be on a parcel that exercised owners' rights under Government Code §7060 to withdraw accommodations from rent or lease within 15 years.
- The housing development does not involve the demolition of more than 25% of the existing exterior structural walls or has not been occupied by a tenant in the last three years.
- The existing residence is not located within an established historic district or listed in an adopted historic resources inventory (See Gov. Code § 65852.21(a)(6) for additional guidance).
- If property is located within the Coastal Zone, the project must comply with the zoning standard and density limitations of the zone. Refer to the Coastal Zone Standards section below for additional detail.



Urban Lot Split

In addition to the eligibility requirements listed above under Single Lot Duplex, properties meeting the following minimum standards are eligible for an Urban Lot Split. Applicants are advised to review Gov. Code [§66411.7\(a\)](#) for additional statutory guidance.

- The property was not created through a previous Urban Lot Split
- Adjacent parcel can only be subdivided via SB-9 if owners are independent.
- If property is located within the Coastal Zone, the project must comply with the zoning standard and density limitations of the zone. Refer to the Coastal Zone Standards section below for additional detail.

BUILDING CONSTRUCTION STANDARDS

Applicants are advised to review Gov. Code [§65852.21\(b\) and \(e\)](#) and [66411.7\(c\)](#) and (h) for additional statutory guidance.

Single Lot Duplex & Urban Lot Split

Development created under a Single Lot Duplex or Urban Lot Split application must adhere to all objective zoning, subdivision, and design review standards such as building height, setback, and lot coverage, with the following exceptions.

- The minimum setback from the side and rear setback shall not be less than four feet.
- A new structure may be constructed in the same location and to the same dimensions as an existing structure, despite city setback requirements, provided the new structures meet building code safety standards and are sufficient to allow separate conveyance.
- At least one off-street parking space may be required for each unit, unless the parcel is located within one-half mile walking distance of a high-quality transit corridor/major transit stop, or there is a car share vehicle located within one block of the parcel. (See Gov. Code §§ 65852.21(c)(1) and 66411.7(e)(3) for additional guidance.)
- For residential units connected to an onsite wastewater treatment system, a percolation test completed within the last 5 years, or, if the percolation test has been recertified, within the last 10 years.

- The city shall waive the objective design standards if the applicant can show that the standards physically preclude the construction of either of the two units from being at least 800 sf in floor area.
- A restriction shall be recorded prohibiting the use of the units from being used as short-term vacation rentals; the units must be rented for a term longer than 30 days.

PARCEL MAP STANDARDS

Urban Lot Split

When designing an Urban Lot Split, the proposed subdivision shall conform to all applicable objective requirements of the Subdivision Map Act and CMC Title 21 [§20.28](#), including the following:

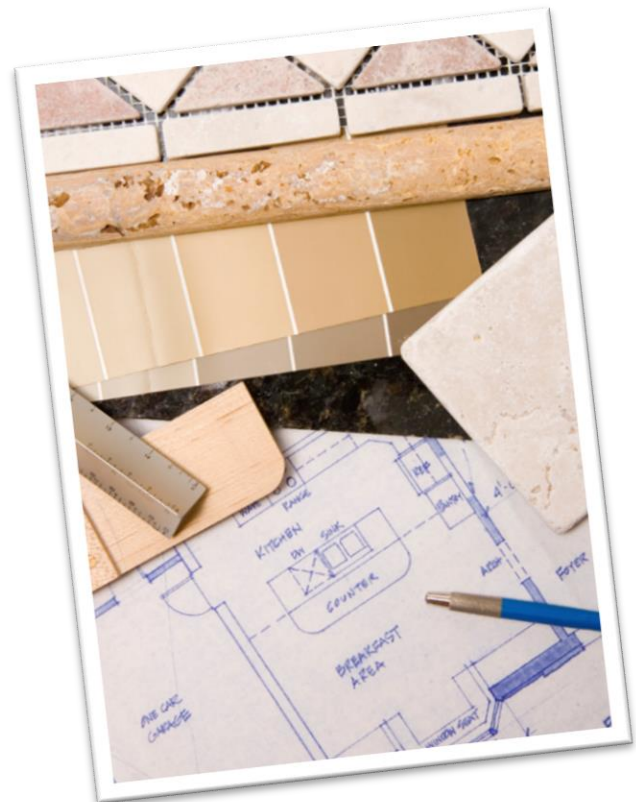
- No more than two new parcels of approximately equal lot size can be created.
- Standards requiring dedications of public rights-of-way shall not be imposed.
- Standards requiring the construction of offsite improvements shall not be imposed.
- No one parcel can be smaller than 40% of the original parcel size.
- The minimum lot size of each lot shall be at least 1,200 square feet.
- Each lot shall conform to minimum lot width standards applicable to the zone (CMC Title 21).
- Each lot shall front on a street or alley per city standards. Panhandle lots shall front a street or alley with the panhandle portion of the lot being a minimum width of 20 feet.
- Property owners must sign an affidavit stating they will occupy one of the housing units as a primary residence for at least three years after splitting the property or the addition of units (exceptions provided for community land trusts and qualified nonprofit corporations. See Gov. Code § 66411.7(g) for additional guidance.)
- A restriction shall be recorded against the property prohibiting future Urban Lot Splits.
- A restriction shall be recorded that uses allowed on a lot created by SB-9 shall be limited to residential uses.

COASTAL ZONE STANDARDS

Pursuant to Govt. Code §65852.1(k) and §66411.7(o) of the HOME Act, nothing in SB-9 shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local agency shall not be required to hold public hearings for coastal development permit applications for a housing development.

The city interprets these sections as allowing the application of the majority of Carlsbad’s certified Local Coastal Plan (LCP) development standards and regulations. Pursuant to the California Coastal Act Section 30108.6, a local coastal program consists of land use plans, zoning ordinances and maps, and other implementing actions, that taken together “meet the requirements of, and implement the provisions and policies of, [the Coastal Act] at the local level.”

To implement the Coastal Act in Carlsbad, the California Coastal Commission (CCC) certified the Carlsbad LCP, including the implementing procedures identified in CMC § 21.201.010 et seq. As such, all certified development and zoning standards, density limitations, and permit processing requirements would likely be applicable to SB-9 developments in the Coastal Zone, except for the requirements for a public hearing, including but not



limited to CMC §§ 21.201.080(B), 21.201.150, and 21.54.060.

The city will continue to monitor guidance issued by Coastal Commission on this topic.

PERMIT PROCESSING STEPS

The sections below provide the required permit applications and general processing steps to secure necessary approvals under SB-9. **All** permit application submittals, whether for building, lot split, or coastal development, must include a completed SB-9 Eligibility Checklist (B-74) in order for the application packet to be accepted for intake and processing.

Building Permit Application

- All residential units created or remodeled as part of a Single Lot Duplex or Urban Lot Split are required to submit a Residential Building Permit Application (B-1). Please include “SB-9 SINGLE LOT DUPLEX” in the description of work section of the application.
- If a housing development involves an Urban Lot Split, under certain circumstances the city will allow the concurrent processing of both applications. Refer to Info-Bulletin IB-113 to understand when concurrent processing can be authorized **BEFORE** submitting a building permit application.
- Applications for Single Lot Duplex projects will follow the same permit processing steps as any other residential building permit application.

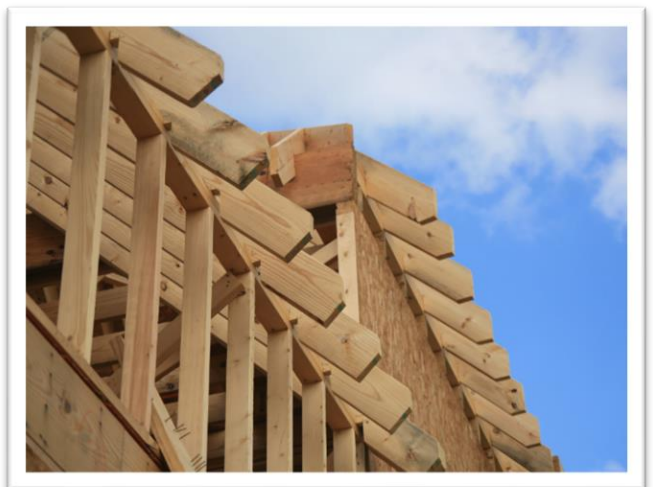
Administrative Minor Subdivision Application

- For a two-lot subdivision, a completed Development Permit Application (P-2) is required. Please include “SB-9 URBAN LOT SPLIT” in the description of work section of the application.
- Applications for Urban Lot Splits shall follow the same permit processing steps set forth in CMC §20.24, with the following exceptions.
 - A public hearing shall not be required to approve an Urban Lot Split.
 - An approved tentative map shall expire 24 months after approval unless extended or certain conditions are met under Government Code 66452.6.
 - Pursuant to §65852.21(a), an Urban Lot Split is considered a ministerial action. Pursuant to CEQA Guidelines Section 15268(a), ministerial projects are exempt from CEQA.

Coastal Development Permit Application

The following permitting steps shall apply to processing a CDP for projects involving an Urban Lot Split and/or Single Lot Duplex within the Coastal Zone.

- Properties located within the Coastal Zone are required to submit a completed Development Permit Application (P-2). Please include “AN SB-9 PROJECT” in the brief description of work section of the application form.
- SB-9 projects will follow the same permit processing steps set forth in CMC §21.201, with the exception that a public hearing shall not be required to approve an Urban Lot Split and/or Single Lot Duplex. Neighboring property owners will still be notified of the permit application pursuant to city code but permit approval will be done administratively by the City Planner, whose decision can be appealed.



ANNUAL REPORTING

Pursuant to SB-9, the city is required to report all urban lot splits on its 2021-2029 Housing Element Annual Housing Progress Report, which is due in April for the preceding year. The annual report is submitted to the California Department of Housing and Community Development (HCD) in accordance with State housing law requirements. The reports are available on the department’s housing website, which is linked [here](#).

YOUR OPTIONS FOR SERVICE

To schedule an appointment or to learn more about this process, please contact the Planning Division at 442-339-2600 or via email at Planning@carlsbadca.gov.

