



California Housing Opportunity and More Efficiency (“HOME”) Act (SB 9)

160December
2021City of Murrieta – Development Services Department
1 Town Square, Murrieta CA 92562

The California Housing Opportunity and More Efficiency (“HOME”) Act (a.k.a. Senate Bill 9 (SB 9)) was signed by Governor Newsom on September 16, 2021 and will become effective on **January 1, 2022**.

This Information Bulletin is intended to outline the allowances provided under this new law and the related processing protocols.

I. BACKGROUND

SB 9 was drafted to boost housing production throughout the State in response to the on-going State’s housing crisis through with implementation of a new review ministerial process for the creation of duplexes and/or lot splits at single-family parcels. The State’s goal is to increase infill density by encouraging more residences at existing properties that are utilized as single-family parcels.

The bill allows for housing development projects of no more than two dwelling units on a single-family zoned parcel to be permitted on a ministerial basis if the project satisfies certain requirements. SB 9 allows for lot splits to be approved ministerially upon meeting the certain requirements as well. SB 9 does allow for an overall cap of a **density at four units overall** with respect to a lot split proposal from single parcel. This **includes** Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) with respect to the **overall unit count**.

Projects that meet the qualifying criteria under SB 9 are not subject to the California Environmental Quality Act (“CEQA”).

Under SB 9 provisions, a project cannot be conditioned for a right-of-way dedication, conditioned for off-site improvements, or be required to correct existing non-conforming zoning conditions. However, the City can require easements for public services, facilities, and access to the public right-of-way.

A proposed housing development project processed under SB 9 provisions may be only denied if the **Building Official** makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of

Documents Referenced in this Information Bulletin

- The California Housing Opportunity and More Efficiency (“HOME”) Act, [§SB9](#)
- Senate Bill 9 Application, DS-158
- Affidavit - Senate Bill 9, DS-159
- Affidavit - Senate Bill 9, DS-160
- Affidavit - Senate Bill 9, DS-161

Optional Senate Bill 330 / Senate Bill 8 Process:

- Pre-Application Process, [IB-225](#)
- Supplemental Preliminary Informational Checklist for Senate Bill 330 / Senate Bill 8 Residential Projects, DS-241

Section §65589.5 of the Gov. Code, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

II. NEW REVIEW CRITERIA & PROCESSES

For a project to qualify under SB 9 it must meet the following criteria:

- Verify if SB 9 provisions would **not be in conflict with your property’s Conditions, Covenants, and Restrictions (CC&R’s)**. If you have a Homeowner’s Association (HOA), they can assist you further with this. In addition, some properties may have recorded CC&R’s without establishment of an HOA. You will want to consult with your purchase records to verify if there are any limitations with respect to SB 9 provisions.
- Located within the Single-Family (SF-1), (SF-2), Rural-Residential (RR), Estate Residential (ER-1), (ER-2), (ER-3) Zone, or within a Specific Plan Area with an underlying single-family land use designation.
- Located within the designated urbanized portion of U.S. Census Area for the City – Refer to Urbanized Area 60799 Murrieta--

- Temecula--Menifee, CA (This covers the majority of the city limits).
- Not located within historic district or property included on the State Historic Resources Inventory.
 - Not located within a mapped “very-high” or “high” fire severity zone, unless project design features / existing mitigation measures can be implemented consistent with the California Building and Fire Code(s).
 - Cannot impact or be located within sensitive areas like wetlands, earthquake fault zones, conservation land, FEMA flood plains / zones, farmland, and hazardous waste sites.
 - The proposal would not result in the demolition of designated “affordable” or “rent-controlled” housing, or result in the demolition of more than 25 percent of the existing exterior structural walls “market-rate” housing, which has been occupied by a tenant in the past three years. Affidavit Required for the second portion (DS-159).
 - The subject parcel is where the owner has withdrawn the living accommodations from rent or lease within 15 years prior to the date of the SB 9 application (Refer to [Ellis Act provisions](#) if applicable). Affidavit Required (DS-160).
 - The subject site which contains an onsite wastewater treatment system (e.g. septic system), can demonstrate that a percolation test has been completed **within the last 5 years**, or, if the percolation test has been recertified, **within the last 10 years**.
 - **Each new unit contains a minimum of 800 square feet** of habitable area.
 - **Minimum of four feet from the side and rear lot line (Unless established under existing building footprint)**. Please be aware that the current California Building and Fire Code(s) may have separation requirements that affect this criteria **outside of zoning criteria**. A five-foot setback from a property line is typical for ingress/egress under these Code(s) with windows and doorways.
 - Distance between structures would need to comply with California Building and Fire Code(s) and front and street setback would need to be consistent with **base zone**.
 - **One parking space per unit** is provided on-site (Exempt only if parcel is located within ½ mile walking distance of high-quality transit corridor, or major transit stop, or parcel is located within one block of a car share vehicle lot) – **Currently, none of this exemption criteria applies within Murrieta.**
 - Limitations with respect to Accessory Dwelling Units (ADU) or Junior Accessory Dwelling (JADU) units. Contact staff for additional details.
 - Per State provisions, no short-term vacation rental units are permitted at sites that have processed a SB 9 application.

III. ADDITIONAL LOT SPLIT CRITERIA

- Creates no more than **two total parcels** of approximately equal lot area, provided that **one parcel shall not be smaller than 40 percent of the original parcel area**. A minimum of 1,200 square feet is required.
- The owner of the parcel proposed to be subdivided, or any person acting in concert with the owner, previously subdivided an adjacent parcel using an urban lot split under SB 9 **cannot utilize SB 9 provisions again on an adjacent property**.
- Satisfies all applicable objective requirements of the Subdivision Map Act (Division) 2 (Commencing with Section §66410)).
- Owner will be required sign an affidavit (DS-161) stating that the owner intends to **occupy one of the housing units as the owner’s principal residence for at least 3 years following the lot split**. Community land trusts and qualified nonprofit corporations are exempt.
- Owner will also attest that they understand that the subject property would not be eligible for participation in the City’s short-term vacation rental program.

- Concurrent processing is not available for this process due the large number of variables associated with the initial SB 9 review and associated criteria.



IV. CITY’S UPDATED APPLICATION PROCESSES

For implementation of SB 9 proposal, the Development Services Department has created a new application for reviewing and determining eligibility for SB 9 proposals.

Additionally, while encourage, but not mandatory, an applicant has the option to process a SB 9 Application with the submittal preliminary application under Senate Bill 330 / Senate Bill 8 ministerial review.

V. OVERVIEW OF SB 9 APPLICATION REVIEW STEPS

