

New Law Requires Ministerial Approval of Duplexes and Urban Lot Splits

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Governor Newsom has signed **SB 9**, which will require cities and counties in urbanized areas to ministerially approve duplexes and so-called “urban lot splits” in single-family residential zones. SB 9 is another legislative effort to increase housing production and affordability by eliminating local discretion over residential development. Local agencies may not hold hearings or consider subjective factors, such as aesthetics and neighborhood character, for qualifying applications that meet basic criteria.

The following provides a brief summary of key provisions for each type of ministerial approval required by SB 9.

Duplex Development

Number of Units: Up to two new units or the addition of one new unit to an existing unit. When not combined with an urban lot split, an accessory dwelling unit or junior accessory dwelling unit may be added to each unit. When combined with an urban lot split, no accessory dwelling unit or junior accessory dwelling unit may be developed on the site.

Objective Development Standards: Objective zoning and development standards may be applied, provided the standards do not physically preclude the construction of up to two units of at least 800 square feet each.

Setbacks: Setbacks of up to four feet may be enforced, provided that no setback may be applied to existing structures or structures constructed in the same location and to the same dimensions as an existing structure.

Parking: One off-street parking space may be required, unless the parcel is located within one-half mile of a high-quality transit corridor or major transit stop or there is a car share vehicle located within one block of the parcel.

Short-Term Rentals Prohibited: Local agencies must require that tenancies be longer than 30 days.

Urban Lot Splits

Number of Units: Up to two units, inclusive of accessory dwelling units and junior accessory dwelling units, may be developed on each new parcel created by an urban lot split.

Parcel Size: The two parcels must be approximately equal in size, with one parcel being no smaller than 40 percent of the original parcel's size. Both parcels must be at least 1,200 square feet in size, unless the local agency authorizes smaller parcels.

Public Improvements: A local agency cannot require dedications of right-of-way or offsite public improvements as conditions of approval, although it may require public utility easements and street access.

Use Restrictions: A local agency must restrict the newly created parcels to residential uses and require the owner to sign an affidavit stating their intent to occupy one of the units as their principal residence for at least three years.

Further Subdivisions: A local agency may deny an urban lot split if a parcel was created by a prior urban lot split or the owner has subdivided an adjacent parcel using an urban lot split.

Other Provisions: The above provisions relating to objective development standards, setbacks, parking, and short-term rentals also apply to units developed in conjunction with urban lot splits.

Key Provisions of Both Duplexes and Urban Lot Splits

Local agencies may deny applications for duplexes or urban lot splits under the following circumstances:

- ▶ The development is located in (1) the coastal zone; (2) wetlands; (3) very high fire severity zones; (4) earthquake fault zones; (5) special flood hazard areas (100-year flood zones); (6) conservation or sensitive habitat areas; and (7) certain other areas designated in state housing law.
- ▶ The development would require the demolition of (1) an affordable housing unit; (2) a rent controlled unit; (3) a unit that has been rented within the past three years; (4) housing units removed from rental market within the past 15 years under the Ellis Act; (5) more than 25 percent of the existing structure's walls unless permitted by the local agency or the site has not been occupied by a tenant in the last three years; or (5) a designated historic site.
- ▶ The building official finds that the development would have a specific, adverse impact on public health and safety or the physical environment that cannot be mitigated.

For more information about SB 9, please contact **Nick Ghirelli, Dave Snow**, or any other attorney in **RWG's Municipal and Public Agency Law Department**.