

City of Fort Bragg - SB 9 Regulatory Outline

Chapter 162, Statutes of 2021

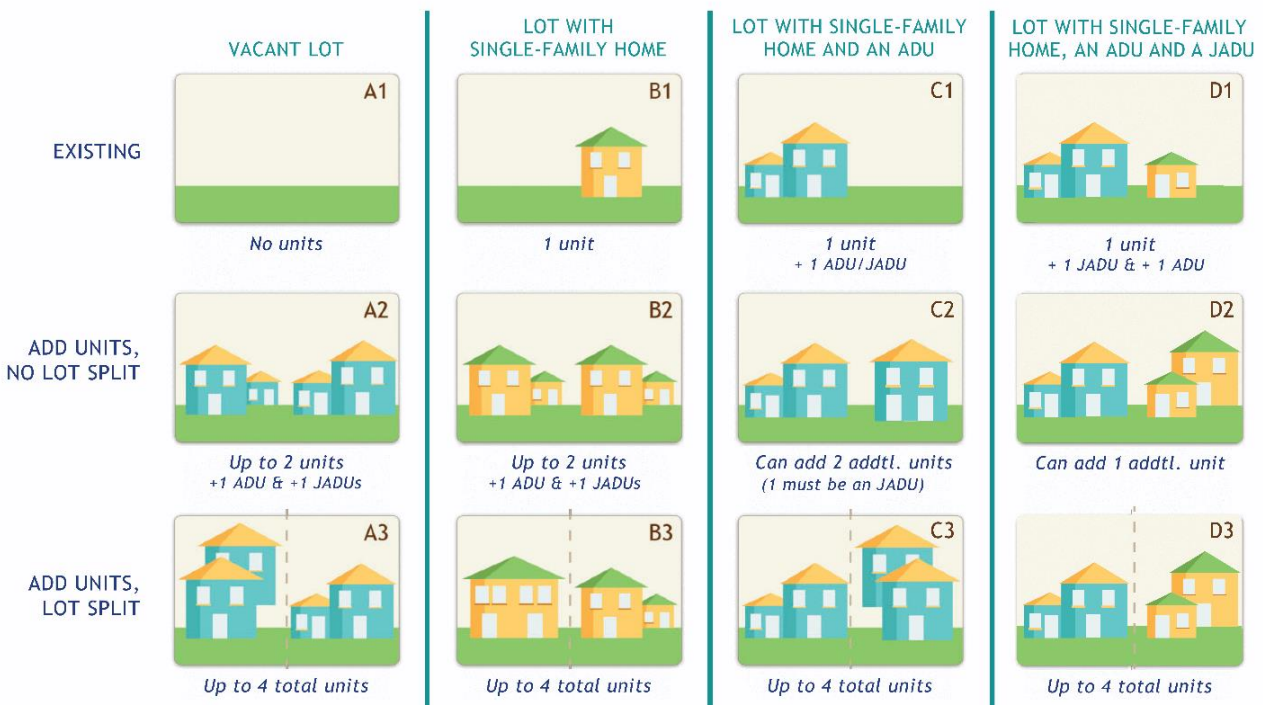
SB 9 requires ministerial approval of:

- A housing development with no more than two primary units and 2 ADUs in a single-family zone,
- The subdivision of a parcel in a single-family zone into two parcels,
- and/or both.

SB 9 allows the creation of up to four housing units in the lot area typically used for one single-family home. Potential configurations include the following:

WHAT IT CAN MEAN FOR DEVELOPMENT OF NEW DWELLING UNITS

Illustrations are based on a preliminary analysis of the law. Details are subject to change and are for informational purposes only.



For parcels with non-conforming buildings please check with Department of Planning & Development on the requirements for SB 9 to be utilized for building new units.

USING SB 9 WITHOUT A LOT SPLIT:

- Without a lot split, two primary units and up to 2 new ADUs/JADUs can be built.

USING SB 9 WITH A LOT SPLIT:

- SB 9 does not require jurisdictions to approve more than 4 units total, including any ADUs/JADUs.
- Future subdivision prohibited.



SINGLE-UNIT DEVELOPMENTS

SB 9 can be used to develop single units - but projects must comply with all SB 9 requirements.

The law requires a local agency to modify or eliminate objective development standards on a project-by-project basis if they would prevent **an otherwise eligible lot from being split** or prevent the construction of up to two units at least 800 square feet in size on each lot.

Ministerial Review

- An application made under SB 9 must be considered ministerially, without discretionary review or a hearing. A ministerial review is always a “staff-level review.”
- Staff should use a checklist, and compare the application materials (e.g., site plan, project description, etc.) with the objective standards in the ILUDC, CLUDC and below as applicable.

Objective Standards

(Reference: Gov. Code, §§ 65852.21, subd. (b); 66411.7, subd. (c))

- **Single Family Zoning Only.** The parcel must be located in a single-family residential zone (RR, RS, RL zones). Parcels in multi-family residential and commercial are not subject to SB 9 mandates even if they allow single-family residential uses as a permitted use and are on a small parcel.
- **Maximum of 4 Units.** SB 9 allows a lot-split with just one existing unit on one of the parcels. It also allows for the other configurations shown in the chart above.
 - **No more than 4 units total are permissible under SB 9, or 2 units max per parcel.**
 - **Up to 2 units/lot.** 2 primary units, 1 primary and 1 ADU, or 1 duplex.
 - 2 units of 800 square feet each must be allowed on each lot regardless of other Zoning Ordinance requirements (including floor area ratio (FAR), lot coverage, setbacks).
- **Lot Sizes Must be near Equal.** For an SB 9 urban lot-split, the two lots must be **roughly of equal size**, each lot must be at least 40 percent of the existing lot size, but no smaller than 1,200 sf. The new lot line should comply with setback requirements (front 20 ft and 4 foot side and back setbacks) for existing buildings.
- **Owner Occupancy Deed Restriction.** Applicants for an urban lot-split under SB 9 must sign and record a deed restriction that they will use one of the units as their primary residence for a minimum of three years.
- **Short-term rentals not allowed.** Units may be rented, but for terms of at least 30 days (no Short-Term Rentals).
- **Reduced Setbacks.** Four-foot maximum side and rear setbacks as required by SB 9 establishes an across-the-board maximum four-foot side and rear setbacks. The City can apply existing front-yard setbacks.
- **Off-street parking** spot for each unit is required unless the unit is located ½ mile from a transit stop (bus stop).
- **Existing Structure Conversions**
 - Cannot require a setback for an existing structure or for a structure constructed in the same location and to the same dimensions as an existing structure (i.e., a building reconstructed on the same footprint).
 - Must approve conversions of existing structures to ADU regardless of compliance with height-limits, parking requirements or setbacks.

OPTIONAL STANDARDS: Design criteria from ILUDC multi-family regulations which could be included in SB 9 regulations:

- **Private open space and storage space.** Each SB 9 unit must include 100 sf of private outdoor open-space and 100 cubic feet of outdoor accessible storage space. Private open space shall be at the same elevation as and immediately accessible from within the unit. Each private open space area shall have a minimum dimension of 8 feet; except that the review authority may authorize different minimum dimensions for upper-floor balconies where the private open space is provided as a balcony or upper floor court.
- **Window orientation.** Where 1 or more windows are proposed 10 feet or less from a side lot line, or 10 feet from another residential structure on the same site, Design Review shall ensure, to the extent feasible, that the windows are located and/or screened to provide privacy for residents of both structures.
- **Accessory structures.** Only one accessory structure (garage, craft room, shed, etc.) is permitted per lot and shall be designed and constructed with an architectural style, exterior colors and materials similar to the dwelling units.
- **Building facades adjacent to streets.** Dwelling units shall be designed so that at least 75% of the facade of each building adjacent to a public street is occupied by habitable space with windows. Each facade adjacent to a street shall have at least 1 pedestrian entry into the structure.
- **Sidewalk Improvements.** If the lot does not include full sidewalks, the applicant shall install sidewalks at the time that new development is approved.

SB 9 Lot Splits are not allowed on parcels with the following characteristics:

- **Adjacent to another parcel that was split under SB 9 under ownership by the same person.** A parcel may only be subdivided once. This provision prevents an applicant from pursuing multiple lot splits over time for the purpose of creating more than two lots. SB 9 also does not require a local agency to approve a lot split if an adjacent lot has been subject to a lot split in the past by the same property owner or a person working in concert with that same property owner.
- **Parcel was created through a previous SB-9 parcel split.** See above.
- **Historic sites or districts and sites** listed on the State Historic Resources Inventory or carry a local historic designation.
- **Wetlands**, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).
- **Habitat for protected species** identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973, the California Endangered Species Act, or the Native Plant Protection Act.
- **Lands under conservation easement.**
- **Project requires demolition of Affordable or Rental Housing.** A site is not eligible for a proposed housing development or a lot split if the project would require **demolition or alteration** of any of the following types of housing: (1) housing that is 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; (2) housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power; or (3) housing that has been occupied by a tenant in the last three years.

Additionally, all SB 9 parcel splits:

- **Must connect to City sewer, while connection to City water is optional.**
- **Undertake proper mitigation**, if the parcel is in a Fire, Flood, or Earthquake Hazard Zone.
- Must be cleared for residential uses, if the parcel is a Hazardous Waste Site.

Application Requirements

Lot Split

1. Site Plan – existing conditions
2. Boundary survey
3. Parcel Map with legal descriptions for both parcels
4. Owner occupancy deed restriction

Unit Development

1. Site Plan – existing conditions
2. Site Plan – proposed project
3. Floor Plan
4. Elevations

Permit Processing

- **Timeframe.** SB 9 projects are subject to the Permit Streamlining Act's requirements for completeness determinations (within 30 days of submittal) and approval deadlines (within 60 days of complete submittal).
- **CEQA.** As a ministerial project, SB 9 projects (housing development and/or lot split) are exempt from CEQA.
- **Subdivision Map Act.** The language in SB 9 overrides any conflicting provisions of the Subdivision Map Act. Specifically, Government Code § 66411.7(b)(2) provides that "[a] local agency shall approve an urban lot-split only if it conforms to all applicable objective requirements of the Subdivision Map Act..., except as otherwise expressly provided in this section." General Plan conformance is not required if it would preclude urban lot-splits mandated by SB 9.

Findings of Denial. SB 9 establishes a high threshold for the denial of a proposed housing development or lot split. Specifically, a local agency's building official must make a written finding, based upon a preponderance of the evidence, that the proposed housing development would have a specific, adverse impact, as defined in Government Code section 65589.5, subdivision (d)(2), 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. "Specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. (Gov. Code, § 65589.5, subd. (d)(2).)

Other

- Delete section 17.82.030D which allows for a unilateral agreement instead of a parcel map for minor subdivisions.

Definitions

“Units” Defined. These definitions provided are intended to be read within the context of this document and for the narrow purpose of implementing SB 9.

Primary Unit. Examples of primary units include a single-family residence (i.e., one primary unit), a duplex (i.e., two primary units), a four-plex (i.e., four primary units), etc. A primary unit is distinct from an ADU or a Junior ADU

Accessory Dwelling Unit. An ADU is an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It includes permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel on which the single-family or multifamily dwelling is or will be situated.

Junior Accessory Dwelling Unit. A Junior ADU is a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A Junior ADU may include separate sanitation facilities or may share sanitation facilities with the existing structure.

The terms “unit,” “housing unit,” “residential unit,” and “housing development” mean primary unit(s) unless specifically identified as an ADU or Junior ADU or otherwise defined. This distinction is critical to successfully implementing SB 9 because state law applies different requirements (and provides certain benefits) to ADUs and Junior ADUs that do not apply to primary units.

Number of ADUs Allowed. ADUs can be combined with primary units in a variety of ways to achieve the maximum unit counts provided for under SB 9. SB 9 allows for up to 4 units to be built in the same lot area typically used for a single-family home. The calculation varies slightly depending on whether a lot split is involved, but the outcomes regarding total maximum unit counts are identical.

- *Lot Split.* When a lot split occurs, the local agency must allow up to two units on each lot resulting from the lot split. In this situation, all three unit types (i.e., primary unit, ADU, and Junior ADU) count toward this two-unit limit. For example, the limit could be reached on each lot by creating two primary units, or a primary unit and an ADU, or a primary unit and a Junior ADU. By building two units on each lot, the overall maximum of four units required under SB 9 is achieved. (Gov. Code, § 66411.7, subd. (j).) Note that the local agency may choose to allow more than two units per lot if desired.
- *No Lot Split.* When a lot split has not occurred, the lot is eligible to receive ADUs and/or Junior ADUs as it ordinarily would under ADU law. Unlike when a project is proposed following a lot split, the local agency must allow, in addition to one or two primary units under SB 9, ADUs and/or JADUs under ADU Law. It is beyond the scope of this document to identify every combination of primary units, ADUs, and Junior ADUs possible under SB 9 and ADU Law. However, in no case does SB 9 require a local agency to allow more than four units on a single lot, in any combination of primary units, ADUs, and Junior ADUs.