



**Staff Report**

**Date:** December 9, 2021  
**To:** Mayor Robbins and Council Members  
**From:** Patrick Streeter, Planning and Building Director  
**Subject:** Senate Bill 9

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**Recommendation**

Town Council adoption of Resolution No. 2229 directing staff to prepare an implementing ordinance and interim guidance documents in anticipation of Senate Bill 9 going into effect.

**Background and Discussion**

On September 16, 2021, Governor Newsom signed Senate Bill 9 (SB 9) into law, substantially affecting low-density, single-family zoning throughout the state. The component of this bill most relevant to the Town of Ross is that it requires ministerial approval of a one-time, two-lot subdivision and/or development projects for up to two units per lot. The proposed subdivision or development project is required to meet certain qualifying location and development criteria. Although the new law supersedes any Town regulations that are in conflict regarding subdivision and development standards, SB 9 preserves some authority for local agencies to enact regulations through the adoption, by ordinance, of new objective subdivision and zoning regulations. The law is scheduled to become effective on January 1, 2022.

Due to SB 9's effective date, there is insufficient time for a publicly-considered implementation ordinance to be developed, publicly reviewed, and adopted by January 1, 2022; however, in the short-term, the Town may develop interim regulations and standards to guide Town departments to implement SB 9 until such time as an implementation ordinance may be considered by the Town Council for adoption.

The proposed resolution directs staff to prepare an implementing ordinance and to develop an interim guidance document for Town staff to reference and apply in connection with any applications submitted pursuant to SB 9 until such time as an SB 9 implementation ordinance has been adopted by the Town Council.

**Alternative actions**

The Council may modify the draft resolution or continue the item for further discussion.

**Fiscal, resource and timeline impacts**

Staff time to prepare this report.

**Environmental review**

Adoption of this Resolution and an interim SB 9 guidance document are not projects under the California Environmental Quality Act pursuant to Government Code sections 65852.21(j) and 66411.7(n).

**Attachments**

- Draft Resolution No. 2229

# **TOWN OF ROSS**

## **RESOLUTION NO. 2229**

### **A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF ROSS DIRECTING THE PREPARATION OF INTERIM GUIDANCE RULES AND REGULATIONS TO IMPLEMENT SB 9—THE CALIFORNIA HOME ACT; AND DIRECTING THE PREPARATION OF AN SB 9 IMPLEMENTING ORDINANCE**

WHEREAS, Senate Bill 9 (Atkins) (“SB 9”), entitled the California Home Act, was signed into law by the Governor on September 16, 2021, and becomes effective on January 1, 2022; and

WHEREAS, SB 9 amends Government Code Section 66452.6, and adds two new Government Code Sections 65852.1 and 66411.7; and

WHEREAS, SB 9 requires cities and counties, including charter cities, to provide for the ministerial approval of a housing development containing two residential units of at least 800 square feet in floor area (“duplex”) and a parcel map dividing one existing lot into two approximately equal parts (“lot split”) within a single-family residential zone for residential use; and

WHEREAS, SB 9 eliminates discretionary review and public oversight of proposed subdivisions of one lot into two parcels by removing public notice and hearings by the Planning Commission, by requiring administrative review of the project, and by providing ministerial approval of a lot split; and

WHEREAS, SB 9 exempts projects authorized thereunder from environmental review pursuant to the California Environmental Quality Act (CEQA), by establishing a ministerial review process without discretionary review or a public hearing; and

WHEREAS, SB 9 further stipulates that a city or county cannot require a duplex project to comply with any standard that would prevent two units of at least 800 square feet each from being built on each resultant lot, and prohibits a local agency from imposing regulations that require dedications of rights-of way or the construction of offsite and onsite improvements for parcels created through a lot split; and

WHEREAS, in addition to various constraints on SB 9 developments as set forth therein, SB 9 also authorizes cities and counties to enact local SB 9 implementation ordinances and guidelines that are objective and that are not inconsistent with its mandatory provisions; and

WHEREAS, due to SB 9’s effective date of January 1, 2022, there is insufficient time for a publicly-considered implementation ordinance to be developed, publicly reviewed, and adopted by January 1, 2022; however, in the short-term, the Town may develop interim regulations and

standards to guide Town Departments to implement SB 9 until such time as an implementation ordinance may be considered by the Town Council for adoption;

WHEREAS, adoption of this Resolution and an interim SB 9 guidance document are not projects under the California Environmental Quality Act pursuant to Government Code sections 65852.21(j) and 66411.7(n).

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Ross:

**Section 1.** The Town of Ross finds and declares that urban housing developments authorized under SB 9 are a valuable form of housing that allows for the expansion of affordable and flexible housing options.

**Section 2.** The purpose of this resolution is to direct the preparation of interim guidance to comply with Government Code Sections 65852.21 and 66411.7 until an SB 9 implementation ordinance may be prepared and considered for adoption by the Town Council. The Town Manager and the Town Attorney are therefore directed to consult with the appropriate Town Departments and staff to develop an interim guidance document for Town staff to reference and apply in connection with any applications submitted pursuant to SB 9 until such time as an SB 9 implementation ordinance has been adopted by the Town Council.

**Section 3.** The Town Manager and the Town Attorney are further directed to consult with the appropriate Town departments and staff to develop an SB 9 implementation ordinance for presentation to, and consideration by, the Town Council.

**Section 4.** The Town Manager and Town Attorney are directed to establish application procedures for SB 9 housing development and urban lot split applications, and to include, at a minimum, the following provisions in an SB 9 interim guidance document:

1. All SB 9 housing developments shall meet the requirements mandated by SB 9 (Government Code sections 65852.21(a), (b)(2), (e), (g), and (h).)
2. All SB 9 housing developments shall be subject to the following conditions (which conditions are reserved to Town discretion pursuant to SB 9):
  - a. Setbacks of up to four feet from side and rear yard lot lines, except No setback shall be required for an existing structure constructed in the same location and to the same dimensions as an existing structure (Gov. Code § 65852.21 (b)(2)(B)(ii).)
  - b. One off-street parking space per unit, except no parking shall be required in either of the following instances:
    - i. The parcel is located within one-half mile walking distance of either a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop,

as defined in Section 21064.3 of the Public Resources Code. (Gov. Code § 65852.21(c)(1).)

- ii. There is a car share vehicle located within one block of the parcel.
- c. The Town shall deny an SB 9 housing development application if the Building Official makes a specific written finding that the development project would have an adverse impact as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment and for which there is no method to mitigate or avoid the specific, adverse impacts. (Gov. Code § 65852.21(d).)
- d. The Town shall not permit any ADUs or JADUs on parcels that use both the authority of Government Code section 65852.21 (SB 9 housing developments) and section 66411.7 (SB 9 urban lot splits.)

3. All SB 9 urban lot splits shall meet the requirements mandated by SB 9 (Government Code sections 66411.7(a), (b), (c)(2), (f), (g), (h), (k) and (l).)

4. All SB 9 housing developments shall be subject to the following conditions (which conditions are reserved to Town discretion pursuant to SB 9):

- a. Setbacks of up to four feet from side and rear yard lot lines, except no setback shall be required for an existing structure constructed in the same location and to the same dimensions as an existing structure (Gov. Code § 66411.7(c)(3).)
- b. The Town shall deny an SB 9 housing development application if the Building Official makes a specific written finding that the development project would have an adverse impact as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment and for which there is no method to mitigate or avoid the specific, adverse impacts. (Gov. Code § 66411.7 (d).)
- c. Each lot created by an SB 9 urban lot split must adjoin the public right-of-way, or provide access to the public right-of-way, by way of a recorded access easement in favor of the parcel requiring ROW access. (Gov. Code § 66411.7(e)(2).)
- d. One off-street parking space per unit, except no parking shall be required in either of the following instances:
  - i. The parcel is located within one-half mile walking distance of either a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code.
  - ii. There is a car share vehicle located within one block of the parcel. (Gov. Code § 66411.7(e)(3).)
- e. The Town shall not permit more than two units of housing, including primary dwelling units, SB 9 housing development units, ADUs, and/or

JADUs, on lots created pursuant to the authority of Government Code section 66411.7 (SB 9 urban lot splits.) (Gov. Code § 66411.7(j).)

**SEVERABILITY**

If any term, provision, or portion of these findings or the application of these findings to a particular situation is held by a court to be invalid, void or unenforceable, the remaining provisions of these findings, or their application to other actions related to the Project Revisions, shall continue in full force and effect unless amended or modified by the Town.

The foregoing resolution was duly and regularly adopted by the Ross Town Council at its regular meeting held on the 9<sup>th</sup> day of December 2021, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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Elizabeth Robbins, Mayor

**ATTEST:**

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Linda Lopez, Town Clerk