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SB 9 Guide – Duplexes and Land Divisions
Updated April 2025

SB 9 is part of the Senate's "Building Opportunities for All" housing package that was created to address the severe housing shortage in California. SB 9 was signed by Governor Newsom and chaptered by the Secretary of State. This bill went into effect on January 1, 2022. PLEASE NOTE that this is a new process that is subject to further interpretation by the State Department of Housing and Community Development (HCD) and code amendments are expected in early 2022. When code amendments and/or additional guidance are published, the City will update criteria and procedures accordingly, therefore, the information in this guide is subject to change under State law.

SB 9 makes two changes to State law:

- It allows homeowners in most areas around the state (those zoned for single-family) to divide their property into two lots, thereby increasing opportunities for homeownership in their neighborhood; and
- It allows two homes to be built on each of those lots, with the effect of allowing four homes in areas that previously only allowed one home.

What does SB 9 allow?
SB9 allows for two different actions: 1) the construction of a Housing Development on a single parcel, OR 2) a land division to divide one lot into two and containing no more than two residential units on a single lot (four total). The property owner may choose to do either one of the above actions, both of which must be considered in a ministerial action if the project and property meet the below criteria and comply with objective standards. The term "ministerial" means that no discretionary review is required, i.e. no use permits, design permits, or tentative map approval. (See below for more details on the term "discretionary.") Therefore, SB 9 eligible projects that conform to all applicable objective standards in SB9 and the zoning ordinance are only required to obtain non-discretionary permits such as those that are required through the Building, Fire, Water, and Public Works Departments. Examples of such objective requirements include but are not limited to site development standards, slope setbacks, and creek setbacks (see Site and Design Standards section below).

What is a Housing Development?
A housing development is a project that results in no more than two units on a single parcel. This can include the construction of up to two new units, the legalization of up to two existing units, or the construction of one new unit to one existing unit. Once a duplex is established, there are opportunities for the construction of additional Accessory Dwelling Units, as permitted with multi-family properties. See below ADU section for more information.

Can I split my parcel and propose a housing development on each new parcel under SB 9?
Yes, under SB 9, you can split your parcel (assuming it is in an R-1 or R-S Zoning District) into two parcels and create a housing development (one duplex) on each lot with a ministerial, non-discretionary permitting process as long as the project and site are eligible for such development and the project meets all objective standards.

How do I submit an application for a SB 9 Lot Split and/or Housing Development?
First, you'll want to review the qualifying criteria below to confirm that the project meets all of the requirements. If you have questions, feel free to speak with a Planner during public counter hours, Monday through Thursday, 7:30 am -11:30 am, or via phone (831-420-5416), or email planningcounter@cityofsantacruz.com.
If you've determined that your project is eligible, you'll need to contact the Building Department for information on the Building Permit Process. If your project includes a lot split, please also contact the Public Works Department for information on submitting a parcel map for review and recordation.

- ❖ Building Department (831) 420-5110 or bcounter@cityofsantacruz.com
- ❖ Public Works (831) 420-5160 or citypw@cityofsantacruz.com

Qualifying Criteria for a Housing Development or Lot Split:
An application for any SB9 development or land division must include evidence of compliance with the following criteria. Evidence must fully support the conclusion of eligibility and may include such items as a title report, recorded documents/agreements, direct references to sources, and images of maps showing the mapping of subject parcel(s).

- ☐ The development must occur on a legal lot.
- ☐ The development or lot split is not located on a site that is any of the following:
  - ☐ Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.
  - ☐ Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).
  - ☐ Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This subparagraph does not apply to sites excluded from the specified

hazard zones by a local agency, pursuant to subdivision (b) of Section 51179, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.

- ☐ A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the State Department of Public Health, State Water Resources Control Board, or Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.
- ☐ Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.
- ☐ Within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site. A development may be located on a site described in this subparagraph if either of the following are met:
- ☐ The site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction.
- ☐ The site meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.
- ☐ Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement,

standard, or action adopted by that local government that is applicable to that site.

- ☐ Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.
- ☐ 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 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).
    - While it is the applicant's responsibility to determine if the project site contains habitat for protected species, the city's online GIS mapping will provide insight into the potential for protected habitat. If the project site or areas adjacent to the project site are mapped as "Sensitive Habitat", or if a project site is directly adjacent to open spaces areas then additional biotic review may be required to confirm the presence of protected habitat. An existing biotic report associated with a prior development project on the property may also be used to determine the presence of sensitive habitat. There are additional mapping resources in the General Plan for properties located in the Coastal Zone. Please speak with a project planner for more information.
- ☐ Lands under conservation easement.

Criteria for a Housing Development:

- ☒ The lot is located within an urbanized area or urban cluster, or within a city that has an urbanized area or urban cluster. <u>All parcels within the City of Santa Cruz comply with this requirement.</u>
- ☐ The project does not involve the demolition or alteration of housing occupied by a tenant in the past three years or any affordable housing, rent-controlled housing, or housing that was withdrawn from rent within the last 15 years through the Ellis Act.
    - ❖ During review of your application, City staff will confirm that the unit is not registered with the Rental Inspection Program and will confirm that an Affordable Housing Agreement is not recorded on the property.
    - ❖ Additionally, the property owner will be required to sign an affidavit confirming that the housing to be demolished is not rent restricted under any local, State or Federal agreements and that the housing has not been rented within the last three years.
    - ❖ If it is found that an existing housing unit meets any of the above criteria or the property owner is unwilling to sign the above described statement, the unit will not be permitted to be demolished or altered.

☐ The site is not located within a historic district, is not included on the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark, or historic property or district.

- ❖ Please complete the following steps to determine if your property is a within a local historic district or a local historic resource:
    1. Visit vw8.cityofsantacruz.com/public/
    2. Type the parcel address in the Search by Address field on the right side menu
    3. Scroll down the results list to "Zoning Overlay – Historic". If it says "yes" next to this category then the parcel is located within a historic district.
    4. Scroll down the results list to "Historic Building Volume/Page". If there are numbers listed after this category then the parcel is listed in the city's historic building survey.

Land Division Criteria

☐ A project utilizing an SB 9 lot split may include a maximum of four units between the two lots.

- o One lot cannot be constructed with all four units which would render the other vacant lot unbuildable.
- o The maximum number of units per SB 9 parcel is two units and one ADU. See below section on Accessory Dwelling Units.

☐ Newly constructed SB 9 units may be mapped and sold as condominiums. See Condo Mapping section below. (Note that there are some exceptions to this requirement under State law for non-profit developers.)

☐ The lot to be divided must be zoned R-S (Residential Suburban) or R-1 (Single-Family Residence)

☐ The lot to be divided was not created through a prior SB 9 land division.

☐ The property owner must occupy one of the housing units as their principal residence for a minimum of 3 years from the date of the approval of the SB 9 land division unless the applicant is a community land trust or a qualified nonprofit corporation. The applicant will be required to sign an affidavit to this effect.

- o If the lot is vacant, the property owner of an SB9 lot split may submit an application for a building permit to construct a home on the property concurrently with the application for an SB9 parcel map. The applications will be reviewed simultaneously and approval of the parcel map will be held until the building permit is issued. The affidavit will still be required to be signed prior to parcel map recordation however, the affidavit will specify that the property owner intends to live in the house, once constructed, for three years starting from the date that the house is finaled.

☐ Neither the owner nor anyone acting in concert with the owner may have previously subdivided an adjacent parcel through an SB 9 land division. As part of the parcel map review process, city staff will require that the property owner sign an affidavit to assure compliance with this requirement.

☐ Each new lot must be a minimum of 1,200 gross square feet.

- ☐ The land division must result in two new lots of approximately equal size with a maximum 60/40 split.
- ☐ Note: For a flag lot configuration, the zoning ordinance indicates that the flagpole, "shall not be used to help satisfy the minimum lot area requirement of the zoning district." Because the code specifies "zoning district" and this is pursuant to SB9, the flag pole may be counted in the minimum lot area for SB9 land divisions.
- ☐ The land division must not involve the demolition or alteration of housing occupied by a tenant in the past three years or any affordable housing, rent-controlled housing, housing that was withdrawn from rent within the last 15 years through the Ellis Act.
    - ❖ During review of your application, City staff will confirm that the unit is not registered with the Rental Inspection Program and will confirm that an Affordable Housing Agreement is not recorded on the property.
    - ❖ Additionally, the property owner will be required to sign an affidavit confirming that the housing to be demolished is not rent restricted under any local, State or Federal agreements and that the housing has not been rented within the last three years.
    - ❖ If it is found that an existing housing unit meets any of the above criteria or the property owner is unwilling to sign the above described statement, the unit will not be permitted to be demolished or altered.
- ☐ The site is not located within a historic district, is not included on the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark, or historic property or district.
    - ❖ Please complete the following steps to determine if your property is a within a local historic district or a local historic resource:
        1. Visit vw8.cityofsantacruz.com/public/
        2. Type the parcel address in the Search by Address field on the right side menu
        3. Scroll down the results list to "Zoning Overlay – Historic". If it says "yes" next to this category then the parcel is located within a historic district.
        4. Scroll down the results list to "Historic Building Volume/Page". If there are numbers listed after this category then the parcel is listed in the city's historic building survey.

Condo Mapping

The city will support SB9 condo mapping of the maximum four units allowed under an SB9 land division, if proposed in lieu of creating two separate lots. Government Code Section 66411.7 (k) which encompasses the requirements of SB9 land divisions states:

(k) Notwithstanding paragraph (3) of subdivision (c), an application shall not be rejected solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.

While condominium mapping is not directly addressed in SB9 or 66411.7 (the implementing legislation), the above subsection implies that connected structures shall also be approved if they are sufficient to allow separate conveyance, which per the city's ordinance, would allow

for condo mapping. It is also reasoned that an existing lot would result in four units total whether those are located on two new adjacent parcels or one existing parcel so the impact is similar in either case. Note that a condo conversion is not permitted with SB9, meaning that more than one existing unit cannot by mapped as condos with SB9.

If an owner would like to utilize SB9 to divide a lot into two separate properties or parcels and subsequently condo map the two units on each parcel, that would constitute two separate mapping actions that would need to be applied for separately, in that SB9 only allows for one SB9 land division and does not allow for the parcels to be further divided using SB9. In other words, such a project would allow for the first land division to occur ministerially under SB9, however, the second condo mapping action would only be allowed to occur through a standard subdivision process. It should be noted that this second action of condo mapping units could not occur after the units are built as this would constitute a condo conversion. The exception would be if an ADU exists on the site.

Site and Design Standards

- The City may only impose objective zoning standards, objective subdivision standards, and objective design standards on an eligible development project.
- Despite any objective standards in place, the maximum required interior side and rear yard setbacks shall be four feet for both SB9 land divisions and Housing Development Projects, which includes not more than two residential units.
- No setbacks are required for existing structures or new structures that are constructed in the same location and to the same dimensions as an existing structure. However, existing structures cannot be converted to dwelling units unless they meet the setback requirements for the zone district or as required under SB9. See ADU section below regarding conversion of ADU's to main dwelling units.
- For flag lot configurations, setbacks are not measured at the flag pole portion of the lot where the site access is provided. Setbacks shall be measured on the "flag" portion of the lot and the locations may be adjusted by the zoning administrator to provide the maximum sized building envelope.
- The terms "objective zoning standards," "objective subdivision standards," and "objective design review standards" mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. These standards may be embodied in alternative objective land use specifications adopted by a local agency, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.
- SB 9 projects shall comply with the objective standards in the Subdivision and Zoning Ordinance, General Plan, and/or Area Plans, so long as such standards do not preclude a land division that meets the lot requirements above and allows for an SB9 housing development or SB9 land division consisting of two lots with two units on each lot of at least 800 square feet per unit.
    - A property owner's preference for a specific location on the lot does not constitute a reason to waive objective standards. If there is a question about the

buildability of an 800 square foot unit in a location that meets objective standards, the applicant shall be required to provide evidence of such determination including obtaining concurrence from any other department, division, agency, or professional, as necessary.
    - All newly created parcels shall comply with objective standards to the greatest extent possible before variations in objective standards shall be considered.
- A project that is not eligible to waive standards and that triggers a requirement for a discretionary permit for an exception to the objective standards (such as a slope modification, watercourse setback modification, or other such variance or modification) shall not be eligible to utilize the SB9 process, with the exception of a requirement for a Coastal Permit.
- Frontage, Pedestrian Access, and Utility Easement requirements affect how the newly created parcel connects to the public right-of-way. The newly created parcel must connect to utilities in the public right-of-way or through a public alley. The new parcel must also provide frontage on a public-right-of way or must at least provide a pedestrian easement to the property line.
    - Frontage: A new parcel must provide conforming frontage (50' standard lot; 20' flag lot; 35' cul-de-sac) on a public right-of-way.
        - If the lot is not wide enough to provide conforming frontage, the new lot shall be designed to provide as much frontage as possible, with a minimum of ten feet, designed as a flag lot.
    - Utility easement: A ten foot minimum width utility easement is typically required between the point of connection and the property line of the newly created parcel, however, reduced widths may be permitted with approval by the Public Works Department.
        - The utility easement may be located within the ten foot access ("flagpole") required for frontage.
    - If a public alley abuts the newly created parcel and utility connections can be made from the alley side, a utility easement is not likely required; however, frontage is still required from the main street. If conforming frontage or a minimum ten feet of frontage is not feasible due to site constraints, at minimum, a 5' pedestrian easement shall be provided from the main street.
    - Please contact Curtis Busenhart at cbusenhart@santacruzca.gov for questions about utility easements.
- The city shall not require corrections of non-conformities as a part of the SB 9 process. Non-conformities are features that were legally constructed prior to the current ordinance and that have become non-conforming due to subsequent ordinance amendments. Unpermitted features may be required to be resolved as a part of the building permit or parcel map process.

Parking

- One off-street parking space per unit is required unless the project site is located within ½-mile walking distance of a quality transit corridor or a major transit stop; or a car share vehicle is located within one block of the parcel. In these cases, no off-street

parking is required and existing off-street parking may be removed and not replaced. These criteria are defined below and are also mapped on the City's Santa Cruz GIS map.

- ❖ A quality transit corridor is defined as a fixed route bus service with service intervals no longer than 15 minutes during peak commute hours.
- ❖ A major transit stop is defined as an existing or planned rail or bus rapid transit station. These areas are mapped on the City's GIS in the "Existing Major Transit Stops/Buffers" and "Future Major Transit Stops/Buffers" layers.
- ❖ Car share definition: the City defines one block as 500 feet. These areas are mapped on the City's GIS in the "Car Share Locations/Buffers" layer.

- These regulations apply inside and outside of the Coastal Zone, with the exception of the Coastal Zone Appeals area, until such time that a code amendment is approved with differing requirements.

Accessory Dwelling Units (ADU's)

- For Housing Development Projects (no Land Division): ADU's are permitted as part of an eligible housing development and must comply with the regulations in the zoning ordinance and State law. Per ADU state law, a duplex is considered to be a multi-family development and is permitted to construct ADU's according to the ADU ordinance. JADU's are not permitted on multi-family properties.
- For SB9 Land Divisions: ADU's and JADU's are permitted to be constructed on lots that are newly created through an SB9 land division process, however, they must be constructed on a lot with at least one main dwelling unit and they are counted towards the maximum of four dwelling units over both sites.
- Note that if an ADU or JADU is created and utilizes the more relaxed standards of the ADU ordinance, it will not be able to be converted to a non-ADU housing unit in the future unless it is reconstructed to meet the objective zoning and SB9 standards for a non-ADU unit.
- An existing ADU or JADU can be converted to a dwelling unit as part of a SB 9 duplex development if it meets the qualifying criteria including restrictions on demolition, alteration, and tenancy, and if the structure can meet the objective site development standards for the zone district and as required under SB 9.

Short-Term Rentals

- Housing units created or retained as part of an SB 9 development, through duplexes or lot split, shall not be used as short-term rentals. Rental of any SB 9 unit must be for a term longer than 30 days.

Heritage Trees

- The City's Heritage Tree standards are objective standards that can be applied to an SB9 project. Therefore, any SB9 housing developments that require the removal of a heritage tree or SB9 land divisions that depict a building envelope or future development that interferes with the location of one or more heritage tree shall be subject to approval of a Heritage Tree Removal Permit, which would be processed as a discretionary application unless there is no feasible alternative to allow for the construction of two 800 square foot dwelling units.

Project Denial Findings

- If a project meets applicable objective standards (unless deviation is necessary in order to allow for two units per lot of 800 square feet each), an SB 9 housing development project may be denied if the building official makes a written finding, based on a preponderance of evidence in the record, that the project would have a specific, adverse impact upon health and safety or the environment for which there is no satisfactory mitigation.

California Environmental Quality Act (CEQA)

- An eligible and conforming SB 9 project (housing development project or land division) requires ministerial review and is therefore not a project under CEQA. If the project does not comply with objective standards and includes variations that require a discretionary permit, then the project will be subject to CEQA review.

Coastal Act

- SB 9 projects that are located within the Coastal Zone are subject to the regulations in the Coastal Act.
- SB9 projects located within the Coastal Zone Overlay and outside of the appealable area will likely be eligible for an exemption or exclusion. If not eligible, such projects shall obtain approval of an Administrative Coastal Permit (no public hearing, no CEQA review, staff review only) prior to building permit issuance or parcel map recordation. This administrative Coastal Permit is required to be processed ministerially and, while notices will be sent to neighbors within 300 feet, it is not appealable.
- SB9 projects that are located within the appealable area of the Coastal Zone are not permitted until such time as an amendment to the Local Coastal Plan is approved by the Coastal Commission that recognizes SB9 projects.

Dedications and Off-Site Improvements

- No dedications or off-site improvements shall be required with an SB 9 land division, however, dedications and off-site improvements may be required as part of an SB9 Housing Development. For example, a proposal to divide a property and construct duplexes will not require dedications or off-site improvements prior to map recordation, however, the associated building permit required to construct the duplexes may include such dedications or improvements.

One Unit Development

- SB9 can be used to streamline the construction of one single-family dwelling on an R-1 or R-S zoned lot; however, SB9 law only allows for single-family dwellings of 800 square feet or less to exceed objective standards if necessary. In this way, SB9 can be used to construct a maximum 800 square foot single family dwelling on a vacant R-1 or R-S zoned parcel, however, the property owner will not be permitted to exceed 800 square feet with the construction of the home or a future addition. A deed restriction will be required to be recorded on the property to ensure that no future additions are approved that would exceed the 800 square foot maximum.

SB9 Parcel Map Expiration Date

- Applications for SB9 land divisions are required to be reviewed ministerially; therefore, the review that would otherwise be completed as part of a tentative map review will be completed with the parcel map. Section 66452.6 of the Government Code and Section 23.20.030 of the City Subdivision Ordinance indicate that a tentative map (and associate unrecorded parcel map) will expire 24 months from the date of approval. Therefore, SB9 parcel maps will expire 24 months from the approval date (i.e. the date that the parcel map is determined to be complete and ready to record). The above referenced code sections also allow for an applicant to file an extension request with the Planning Department that will be processed as a Minor Modification with input from the Public Works Department. Such applications must be submitted prior to expiration of the map. Applicants must keep track of expiration dates as the city does not provide notification.

Creating Substandard Lots via SB9

- The lots created via an SB9 land division may be considered to be "Substandard" pursuant to SCMC 24.22.520 which states "Lot, Substandard Residential. Any parcel of land in any residential district less than fifty feet wide or less than the minimum lot area for district in which located."
- If the development of a substandard lot is proposed as an SB9 housing development project, then the project will be subject to the objective criteria in the zoning ordinance and a separate Design Permit will not be required.
- If development is proposed on a substandard lot created by an SB9 land division and it does not require the SB9 housing development process (ie. the construction of one unit on each lot), the structure will be required to meet the Substandard lot criteria and would be required to obtain a Design Permit.

Permit Processing

- An SB9 project shall not be allowed that requires a discretionary permit for an exception to the objective standards, with the exception of the following scenario:
  - ❖ The project site is located within the Coastal Zone and the project is not eligible for an exemption or exclusion.
- If no Coastal Permit is required, Planning Staff will review SB 9 projects as part of the building permit application process or the Public Works Parcel Map process. Planning staff may ask for additional information as part of the review to ensure compliance with objective standards and State law requirements.
- A Declaration of Covenants and Restrictions shall be required to be signed by city staff and the property owner(s) and recorded on the title to reinforce limitations imposed by SB9 legislation. In the event of a land division, the declaration shall be recorded prior to parcel map recordation and will run with the future created parcels.
- Fees: The applicant should contact the Building Department to obtain a fee estimate. If the project includes a land division, the applicant should also contact the Public Works Department for a fee estimate of parcel map review and recordation.

- Building Department (831) 420-5110 or bcounter@cityofsantacruz.com
- Public Works (831) 420-5160 or citypw@cityofsantacruz.com