

**CITY OF LOS ANGELES**  
**INTER-DEPARTMENTAL CORRESPONDENCE**

DATE: March 16, 2023

TO: Department of City Planning Staff;  
Department of Building and Safety Staff;  
Los Angeles Housing Department Staff;  
Interested Parties

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SUBJECT: **Updated Implementation of Senate Bill 9 (2021) - Two Unit Development and Urban Lot Splits**

Senate Bill (SB) 9 took effect on January 1, 2022. The state legislation provides for a ministerial process, without discretionary review or a public hearing, to approve Two Unit Developments and Urban Lot Split Parcel Maps meeting certain eligibility criteria on lots zoned for single-family residential uses. The bill adds two sections to the Government Code, Sections 65852.21 and 66411.7, and amends provisions of the State Subdivision Map Act relating to the expiration of subdivision maps (Section 66452.6).

This memorandum describes the state law and its implementation by Los Angeles City Planning, Los Angeles Department of Building and Safety (LADBS) and the Los Angeles Housing Department (LAHD) in the City of Los Angeles. Section I summarizes common eligibility criteria. Section II provides information on additional limitations applicants should consider before proposing an SB 9 project. Section III describes the individual standards that apply to the Two Unit Development and Urban Lot Split provisions. Section IV describes the application process for submitting an SB 9 project. This updated memorandum supersedes the memorandum dated February 10, 2022.

Please note that this memorandum summarizes the provisions of SB 9 for reference and discussion only and does not include all applicable planning and building regulations that may also apply to SB 9 projects. In addition, other departments or agencies may have other requirements or procedures not described herein. This memorandum is not intended to conflict with state or local laws and is not intended to create additional rights or waive applicable regulations. Furthermore, this memorandum does not cover all circumstances and may be subject to additional information, interpretation, and consideration.

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### **Addition of Government Code Sections 65852.21 and 66411.7**

#### **I. SB 9 Property Eligibility Criteria that Apply to Both Two Unit Developments and Urban Lot Splits**

While there are many provisions of SB 9 that are unique to either the Two Unit Development or Urban Lot Split portions of the bill (see Section III below), some eligibility criteria and state provisions apply to both.

**Eligible Zones.** The law applies to parcels zoned for single-family (one-family) residential uses, which includes the following Zones: RA, RE, RS, R1, RU, RZ, and RW Zones.

**Eligibility Criteria.** Certain sensitive sites are prohibited from using SB 9, including wetlands, hazardous waste sites, floodplains, floodways, conservation areas, habitat areas for certain species, or sites with certain historic designations. Projects located in Very High Fire Hazard Severity Zones (VHFHSZ) and earthquake fault zones are not prohibited from using SB 9; however, those properties will be subject to other restrictions outlined in Section 65913.4 of the Government Code, and as enforced by the City of Los Angeles.

**Habitat for Certain Species.** The law prohibits SB 9 developments on sites that contain habitat for candidate species, sensitive species, or species of special status identified by state or federal agencies, or species protected by laws such as the California Endangered Species Act. The City has two ways of identifying SB 9 habitat areas.

The first method is based on certain areas geographically delineated as habitat areas for protected species through substantial evidence, such as official agency designations including the County's Significant Ecological Areas (SEAs) or the US Fish and Wildlife Service Critical Habitat areas, as well as areas identified in the City's Protected Areas for Wildlife (PAWs) report<sup>1</sup> as containing habitat for species listed under the federal Endangered Species Act or the California Endangered Species Act. These areas are all excluded from SB 9 consideration.

The second method is through a screening process for areas that have been identified by City Planning as potentially containing habitat for protected or sensitive species and must be evaluated by a qualified biologist to determine if habitat exists onsite. The guidelines for determining habitat are outlined in the Biologist's Statement of Habitat (CP-3610). Habitat may include commonly found sensitive vegetative communities such as California walnut

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<sup>1</sup> The PAWs report was prepared for the City in February 2021 by Environmental Science Associates.

groves and Coast live oak woodlands and may require a Habitat Integrity Analysis to determine if these vegetative communities qualify as habitat. If the biologist determines that such habitat occurs on the project site, it becomes ineligible for SB 9 consideration.

**Historic Structures.** The parcel may not be located within a designated historic district or property included on the State Historic Resources Inventory as defined in Section 5020.1 of the Public Resources Code (PRC). The parcel may also not be within a site that is designated or listed as a Historic Cultural Monument (HCM), within a Historic Preservation Overlay Zone (HPOZ), or a historic property or district pursuant to any other City ordinance.

## II. Additional Limitations

**Demolition and Alterations.** A Two Unit Development or Urban Lot Split project using the provisions of SB 9 may not demolish or alter 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 the Rent Stabilization Ordinance (RSO); and
- 3) Housing that has been occupied by a tenant in the last three years from the date of building permit application for a Two Unit Development or an Urban Lot Split Parcel Map.

Please note that demolition or any alteration permits issued since January 2021 may be reviewed to ensure an SB 9 project is not the result of a prohibited demolition or alteration of the types of housing listed above.

**Ellis Act Withdrawals.** A Two Unit Development or Urban Lot Split under SB 9 is prohibited when demolition or alteration of housing is necessary on a parcel where an owner has withdrawn or removed rental units pursuant to the Ellis Act (commencing with Section 7060 of the Government Code) within 15 years before the application date of the SB 9 project. Implementation of these provisions is further explained in Section III below. An SB 9 Urban Lot Split proposed on a property that has removed rental units pursuant to the Ellis Act is eligible to do an SB 9 Urban Lot Split as long as the units withdrawn are not demolished or altered.

## III. Summary of SB 9 Development Standards for Both Two Unit Developments and Urban Lot Splits pursuant to Government Code Sections 65852.21 and 66411.7

All SB 9 projects must meet the eligibility criteria above as well as comply with local applicable objective development standards and the Building and Fire Codes. However, the state law creates the following exceptions to local development standards that apply to both Two Unit Developments and Urban Lot Splits:

**Standards that Physically Preclude SB 9 Housing.** Objective zoning, subdivision or design review standards that would have the effect of physically precluding an Urban Lot Split, the construction of up to two units, or physically precluding either of the two units from being 800 square feet in Floor Area, may not be imposed. The Deputy Advisory Agency will note waivers to allow deviations from lot or development standards in the Urban Lot Split decision letter. Requested waivers to allow deviations associated with building permit applications with LADBS for Two Unit Developments shall be reviewed by City Planning, Case Management as part of the plan check review process.

**Unit Floor Area.** Each unit shall be permitted a minimum of 800 square feet and may be larger if below the maximum allowable Residential Floor Area (RFA)<sup>2</sup> or Floor Area for the zone. Objective zoning, subdivision or design review standards (not otherwise limited by SB 9) that would have the effect of physically precluding the construction of two units on the lot, or on either of the resulting parcels of an Urban Lot Split, or that would result in a unit size of less than 800 square feet may not be applied.

**Setbacks.** No setback is required for an existing structure, or a replacement structure constructed in the same location and to the same physical dimensions as a legally existing structure. In all other cases, SB 9 dwelling units may be required to have a setback of not more than four feet from the side and rear lot lines, but required front yard setbacks, plane break, and encroachment plane requirements still apply.

**Automobile Parking.** No more than one covered, off-street parking space per new or existing unit of a Two Unit Development may be required, except that no parking requirements may be imposed for new or existing units if the parcel is located either: 1) within ½ mile *walking distance* of either a high-quality transit corridor (as defined in subdivision (b) of Section 21155 of the PRC) or a major transit stop (as defined in Section 21064.3 of the PRC); or 2) A car share vehicle drop off or pickup location is located within one block of the parcel. Transit information is included in the SB 9 Eligibility Criteria Checklist in ZIMAS<sup>3</sup>. Other applicable off-street parking and driveway requirements apply when parking is required, such as the requirement for a private garage (Los Angeles Municipal Code [LAMC] Section 12.21 A.4(a)) in most single-family zones, as well as an access requirement (LAMC Section 12.21 A.5(e)).

**Connected or Adjacent Structures.** Zoning regulations pertaining to space between buildings (e.g., LAMC Sections 12.21 C.2(a) and 12.21 C.5(d)) shall not be used to deny an SB 9 project solely because it proposes adjacent structures, provided that the structures meet Building Code safety standards and are sufficient to allow separate conveyance as part of an

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<sup>2</sup> RFA applies in the RA, RE, RS, and R1 Zones. Floor Area limits apply to other zones.

<sup>3</sup> This web site is presented as a public service that provides Internet accessibility to information provided by the City of Los Angeles, City Planning and to other City, State, and Federal information. Due to the dynamic nature of the information contained within this web site and the reliance on information from outside sources, the City of Los Angeles, City Planning does not guarantee the accuracy or reliability of the information transmitted from this web site. This website and all materials contained on it are distributed and transmitted on an "as is" and "as available" basis without any warranties of any kind, whether expressed or implied.

Urban Lot Split. A connected or attached Two Unit Development is also permitted on one lot.

**Denials.** SB 9 projects will be provided information regarding any needed corrections or ineligibility criteria pertaining to local codes and relationship to state law. An SB 9 project may only be issued a denial based upon 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 Section 65589.5 of the Government 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. All development will be required to comply with Building / Residential Code requirements.

**A. Additional SB 9 Provisions for Two Unit Developments (Government Code Section 65852.21)**

SB 9 creates a ministerial review process for proposed housing development projects with no more than two residential units that meet the criteria in Section 65852.21 of the Government Code (a Two Unit Development). For this purpose, SB 9 states a housing development contains two residential units if the development proposes no more than two *new* units or if it proposes to add one new unit to a lot with one existing unit (not including an ADU or JADU). Projects must 1) meet the SB 9 eligibility criteria; 2) comply with local objective development standards, except for those preempted by the state provisions; and 3) comply with additional provisions in the state law, described below:

**Demolition and Alteration Limitations.** Demolition of more than 25% of the perimeter length of existing exterior walls of a dwelling unit as part of the development is prohibited for any site that has been occupied by a tenant in the last three years from the date of building permit application for a Two Unit Development.

**Accessory Dwelling Units (ADUs), Junior Accessory Dwelling Units (JADUs) and More than Two Units.** Adding an ADU to a lot with an existing or proposed home does not create a Two Unit Development. ADUs or JADUs may be permitted to allow more than two units pursuant to the City's ADU Ordinance and Section 65852.2 of the Government Code on lots that use only the Two Unit Development allowance.

**On-Site Wastewater Treatment System.** For units connected to an On-Site Wastewater Treatment System (i.e., a septic system), a percolation test must be completed within the last 5 years, or, if the percolation test has been recertified, within the last 10 years. LADBS Grading Section review will be required when a sewer system is not available as per the Department of Public Works.

**Short-Term Rentals.** Any unit created pursuant to this section shall only be rented for a term longer than 30 days. Short-term rentals of less than 30 days are only permitted for

residents living in these units who participate in the City of Los Angeles Home-Sharing Program.

**B. Additional SB 9 Provisions for Urban Lot Splits (Government Code Section 66411.7)**

SB 9 creates a ministerial review process for a Parcel Map application for the creation of an Urban Lot Split if a project meets the state law provisions in Section 66411.7 of the Government Code. Urban Lot Split projects must 1) meet the SB 9 eligibility criteria; 2) comply with local objective development standards, except those preempted by the SB 9 provisions; and 3) comply with additional provisions in the state law, described below.

**Lot Size and Area.** An Urban Lot Split Parcel Map would subdivide an existing parcel to create no more than two new parcels of approximately equal lot area. Resulting parcels may not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision and must each be at least 1,200 square feet.

**Two Unit Maximum, Including ADUs and JADUs.** Pursuant to Sections 65852.21.(f) and 66411.7.(j)(2) of the Government Code, no more than two units are permitted on any parcel created through an Urban Lot Split. In the context of an Urban Lot Split, “unit” means any dwelling unit, including, but not limited to, a unit or units, a primary dwelling, an ADU as defined in Section 65852.2, or a JADU as defined in Section 65852.22. Therefore, ADUs and JADUs are not permitted on parcels that use both the Urban Lot Split and Two Unit Development, either together or at different times.

**Dedications of Rights-of-Way and Off-Site Improvements.** A local agency may not impose regulations that require dedications of rights-of-way or the construction of off-site improvements for the parcels being created as a condition of issuing a Urban Lot Split Parcel Map. However, any such requirements would still apply for the construction of residential units.

**Residential Use.** Only residential and accessory uses may be allowed on a lot created by an Urban Lot Split.

**Owner Occupancy.** An applicant for an Urban Lot Split must sign an affidavit stating that the applicant (and/or owner) intends to occupy one of the housing units as their principal residence for a minimum of three years from the date of the recordation of an Urban Lot Split Parcel Map. This requirement does not apply to an applicant that is a “community land trust” or is a “qualified nonprofit corporation” as described in the law (see Section 66411.7(g)(2) of the Government Code). Reviews may be performed to identify fraud and abuse of this provision and additional local enforcement tools may be developed to impose financial penalties.

**Previous Urban Lot Splits.** The subject parcel cannot have been established through a prior Urban Lot Split.

**Adjacent Parcels.** Neither the owner of the subject parcel being subdivided nor an individual acting in concert with the owner of the subject parcel can have previously subdivided an adjacent parcel via an Urban Lot Split.

**Nonconforming Zoning.** A City may not require the correction of existing or created nonconforming zoning conditions as a condition for SB 9 ministerial approval of an Urban Lot Split. For example, an Urban Lot Split could result in a reduced side yard setback for an existing structure, or a stand-alone detached parking garage or accessory structure without a primary structure. No correction would be required as a condition of the Urban Lot Split Parcel Map approval. This provision does not apply to an unpermitted (illegal) use or construction, SB 9 requirements, or Building Code requirements.

**Short-Term Rentals.** Any unit created pursuant to this section shall only be rented for a term longer than 30 days. Short-term rentals of less than 30 days are only permitted for residents living in these units who participate in the City of Los Angeles Home-Sharing Program.

#### IV. Application Process for Submitting an SB 9 Project

Effective January 1, 2022, a development proponent may submit an application for an SB 9 project that is subject to a ministerial approval process. The process will largely depend on whether the project is part of a Two Unit Development or an Urban Lot Split, and whether it is located in a planning overlay area including, but not limited to, a Specific Plan, Coastal Zone, Community Plan Implementation Overlay or Community Design Overlay. Projects will be administratively reviewed for compliance with applicable objective criteria. No public hearings, except for Coastal Development Permits<sup>4</sup>, will be required for projects that comply with these Government Code Sections. The California Environmental Quality Act (CEQA) will also not apply to projects that meet SB 9 criteria and applicable objective development standards.

Regulations for Parcel Maps are located in Article 7 of the LAMC, including general provisions, filing instructions, and procedures for preliminary and final map approvals and modifications (see LAMC Sections 17.50 through 17.58). Those provisions remain in effect unless they are precluded by state law. For detailed instructions regarding how to file an SB 9 Urban Lot Split Parcel Map, please refer to the SB 9 Urban Lot Split Specialized Requirements ([CP-3605](#)), and SB 9 Urban Lot Split Application ([CP-3604](#)) on the Forms webpage (see [here](#)). Please note that a Geology and Soils Engineering Report is required in Hillside, Seismic, or

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<sup>4</sup> SB 9 does not supersede the application of the California Coastal Act (Section 30000 of the PRC) or the current Coastal Development Permit (CDP) procedures required by LAMC Section 12.20.2 and certified in 1978 by the California Coastal Commission, pursuant to PRC Section 30600(b). CDP procedures require a discretionary filing and public hearing for any demolition, conversion, new construction, and/or subdivision.

Liquefaction Areas when construction is proposed (see [here](#)). An appointment can be scheduled to file an Urban Lot Split application at the City Planning Development Services Center Public Counter (see [here](#)). Once an application is filed, the project is assigned a case number and routed to the appropriate staff members to review and process.

To apply for a Two Unit Development, most projects can proceed to the LADBS Plan Check. If a Two Unit Development is located in a specific geographic planning overlay, applicants are encouraged to meet with City Planning staff before filing for a building permit to verify which objective standards apply to the project (check for overlays on [ZIMAS](#)).

### **Fees**

Please refer to the Fact Sheet Related to Implementation of SB 9 for information regarding applicable fees.

### **Concurrent Applications for a Two Unit Development and an Urban Lot Split**

Urban Lot Splits and Two Unit Developments are reviewed and approved separately by two different agencies (City Planning and LADBS, respectively). LADBS may accept building plans through Plan Check concurrently with an Urban Lot Split application to City Planning, but no building permit may be issued until the final map is effectuated by the recordation of a final Parcel Map. During the Urban Lot Split Parcel Map process led by City Planning, LADBS provides comments regarding zoning issues for proposed lots in response to Urban Lot Split Parcel Map applications as part of their role in the Subdivision Committee. However, only a formal LADBS Plan Check process can establish building rights and lead to building permits for new developments.

### **Conclusion**

This memorandum reflects the information on SB 9 as it is understood at this time and may be subject to future changes. Please also refer to the Fact Sheet Related to Implementation of SB 9 document for additional details on commonly asked questions.