

# FACT SHEET

## Frequently Asked Questions Related to Implementation of SB 9

Revised on May 19, 2023

### Background

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). Los Angeles City Planning released an Interdepartmental Implementation Memo on January 10, 2022, and revised on March 16, 2023. This Fact Sheet provides additional information regarding key issues related to implementation of SB 9.

### Frequently Asked Questions

#### Q1. What does ministerial approval mean?

A ministerial approval process is non-discretionary and administrative in nature and shall be based on objective standards only (see below). A ministerial SB 9 Two Unit Development (TUD) or Urban Lot Split (ULS) is not subject to a public hearing or CEQA. (Government Code Section 65852.2, subdivision (a)(3)).

#### Q2. What are objective standards?

“Objective zoning standards”, “objective subdivision standards”, and “objective design review standards” are 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. Examples include quantifiable and fixed standards such as height or setbacks, or design standards such as specific



dimensions or materials. Subjective standards require judgment and can be reasonably interpreted in multiple ways.

**Q3. What setback requirements apply to SB 9 project?**

Under SB 9, a local jurisdiction may not require a rear and side yard that is greater than four feet. The front yard setback required by the site's underlying zone shall still apply. Please note that the four-foot side and rear yard setbacks allowed by SB 9 may be applied to new and existing units. No setbacks are 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.

**Q4. Do I need to provide parking for units constructed as part of an SB 9 project?**

SB 9 requires one covered parking space per unit. However, if located within a half mile of a High-Quality Transit Corridor (as defined in subdivision (b) of Public Resources Code Section 21155); Major Transit Stop (as defined in Public Resources Section 21064.3); or car share vehicle drop off or pick up location, no parking shall be required.

**Q5. What types of objective standards qualify for a waiver under SB 9?**

An applicant may request a waiver from any 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 either of the two units from containing 800 square feet in floor area. For SB 9 Two Unit Developments, waivers may be requested following the issuance of plan check corrections for the associated LADBS building permit application. For SB 9 Urban Lot Splits, waivers may be requested as part of an Urban Lot Split application with City Planning.

The following are examples of objective standards that may be waived based on a determination that if, not granted, would physically preclude an SB 9 project, as described above:

- a. Objective zoning standards may include, but are not limited to, height limitations, front yard setback, driveway width, and/or passageway requirements regulated by the LAMC, or more restrictive zoning standards that may be superseded by Specific Plans or Overlays regulations.
- b. Objective subdivision standards may include, but are not limited to, street frontage, minimum lot width, and access strip requirements associated with a site's underlying zone.
- c. Objective design standards may include, but are not limited to, plane break requirements regulated by the LAMC, or material and/or transparency requirements regulated by Specific Plans or Overlays.

**Q6. I am applying for an SB 9 Two Unit Development. May my project exceed my site's floor area limitation without requiring a waiver?**

Yes, under certain circumstances, an SB 9 Two Unit Development may exceed a subject site's underlying floor area limitation. SB 9 guarantees that you may construct two, 800 square-foot units if a local jurisdiction's objective zoning standards physically preclude you from doing so. With this in mind, an SB 9 Two Unit Development may be permitted to exceed a subject site's floor area limitation by the difference between 800 square feet and any leftover floor area available to construct a second unit at the site. All other objective standards that would physically preclude a 800 square foot SB 9 project would still need to be referred to City Planning for review. Please note that for the purposes of assessing a project's guaranteed square footage under SB 9, an applicant should utilize the LAMC 12.03 definition for "Floor Area". As such, any exemption included in the LAMC 12.03 "Floor Area" definition may be used when calculating a project's guaranteed floor area under SB 9.

**Q7. I am applying for an SB 9 Two Unit Development and one of the units in my SB 9 Two Unit Development is my existing single-family dwelling. May I still apply for a waiver even if my existing single-family dwelling is over 800 square feet?**

Yes, waivers may be requested for permits for SB 9 Two Unit Developments that include an existing single-family dwelling that is greater than 800 square feet in size and a second unit that is a maximum 800 square feet in size.

**Q8. Are there circumstances when the City may require a discretionary approval process related to an SB 9 project?**

If applicable objective development standards do not physically preclude the development of an Urban Lot Split and/or up to two, 800 square-foot units, but the LAMC provides for a discretionary approval process for relief, applicants may request to deviate from the specific development standard through the specified LAMC process (e.g., Zone Variance, Zoning Administrator Determination or Adjustment, Specific Plan Exception or Adjustments, etc.).

**Q9. How are demolitions and alterations defined?**

A demolition is the tearing down, razing or removal of a building or structure. A physical alteration is "any construction or renovation to an existing structure other than a repair or addition." Additions that involve a physical alteration to a habitable portion of a unit are considered an alteration. For Two Unit Developments, a demolition is defined as removing more than 25% of the exterior structural wall. For sites subject to the Rent Stabilization Ordinance (RSO), please see below Questions 12-14 of this Fact Sheet for additional information.

**Q10. Is a second main dwelling unit that is proposed as part of a Two Unit Development considered an “Accessory Building” (and subject to LAMC 12.21 C.5)?**

No, a main dwelling unit created pursuant to SB 9 is considered a main use and not an accessory building (such as an Accessory Dwelling Unit [ADU] or Junior ADU).

**Q11. Is an SB 9 project allowed in the Coastal Zone?**

Yes, a property being located within a Coastal Zone would not preclude it from being eligible for SB 9; however, SB 9 does not supersede the application of the California Coastal Act (Public Resources Code Section 30000), or the current Coastal Development Permit (CDP) procedures required by the LAMC Section 12.20.2 and certified in 1978 by the California Coastal Commission, pursuant to Public Resources Code Section 30600(b). The CDP procedures require a discretionary filing and public hearing for a CDP for any demolition, conversion, new construction, and/or subdivision, and a public hearing.

**Q12. May SB 9 be used for properties with units covered by the City’s Rent Stabilization Ordinance (RSO)?**

The City’s RSO covers properties with two units or more where at least one of the units was built prior to October 1, 1978. This includes properties with a single-family residence built prior to this date and a second dwelling unit (e.g., main dwelling, ADU, or JADU). Please consult LAHD’s [webpage](#) and associated [FAQ](#) on this topic. Demolishing or withdrawing a unit covered by the RSO requires an Ellis Act withdrawal. RSO units are considered withdrawn from the housing market if they are demolished or if the two units are split into two one-unit parcels due to a subdivision. Properties with only one unit on a parcel are not subject to the RSO.

A property owner may not seek a permit for a SB 9 Two Unit Development during the 15-year period after RSO units have been demolished or withdrawn from the rental housing market (Ellis Act). Therefore, an Ellis Act withdrawal will disqualify a site from being eligible for a SB 9 Two Unit Development for a 15-year period from the date of withdrawal.

A property owner who has completed an Ellis Act withdrawal at their site may pursue an SB 9 Urban Lot Split only if the units withdrawn from the RSO (via an Ellis Act withdrawal) are not demolished or altered.

The scenarios below describe the conditions under which RSO properties may or may not qualify under SB 9:

	<b>Scenario</b>	<b>SB 9 Eligibility</b>
<b>1</b>	RSO units are demolished or altered.	Project does not qualify for SB 9.
<b>2</b>	RSO units are not demolished or altered, but an Urban Lot Split results in the loss of a(n) existing RSO unit(s) by creating only one dwelling unit on a lot.	Project qualifies for SB 9, but the owner must file a Notice of Intent to Withdraw under the Ellis Act and comply with all applicable provisions.
<b>3</b>	RSO units are not demolished or altered, and the project maintains the existing units' RSO status, by retaining the RSO units on one lot and creating a new lot that had no previous units on it.	Project qualifies for SB 9.

**Q13. How will the provisions regarding tenant occupancy, the City’s Rent Stabilization Ordinance (RSO), the Ellis Act or affordable housing covenants be enforced?**

The City will confirm if a Two Unit Development or an Urban Lot Split would result in the demolition or alteration of any existing housing. If demolition or alteration is proposed or anticipated, the project will be required to obtain a Replacement Unit Determination (RUD) from LAHD.

LAHD will investigate if the potential demolition or alteration would impact housing that is subject to the Rent Stabilization Ordinance, housing with an affordability covenant, housing that has been Ellised in the past 15 years, and housing that has been occupied by tenants in the past three years. If the department finds that any of the aforementioned housing would be impacted, the project would not be allowed to move forward.

Additionally, all applicants proposing Two Unit Developments or Urban Lot Splits will be required to sign and submit a [declaration](#) to LADBS stating that the project will not result in the demolition or alteration of any of the previously stated types of housing.

**Q14. Are there any other considerations for SB 9 projects proposed on tenant occupied, RSO sites?**

If a proposed SB 9 project located on an RSO lot would result in a reduction in a tenant’s access to parking, open space, living space, storage space, laundry facilities, or other

amenities, the tenants may be entitled to a reduction of rent. The RSO requires a reduction in rent based on the replacement cost of the service provided and written notice to the tenant when a housing service provided at the inception of tenancy is removed. For additional information, please see the Rent Adjustment Commission Regulations Section 410 at <https://tinyurl.com/yw2xxr7s> or call the LAHD general hotline at (866) 557-7368.

**Q15. Are SB 9 projects permitted in Delineated Earthquake Fault Zones?**

SB 9 projects are permitted in delineated earthquake fault zones as determined by the State Geologist in any official maps published by the State Geologist provided that the developments comply 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.

**Q16. How will the City determine whether habitat for protected species exists on a parcel in order to determine compliance with Section 65913.4(a)(6)(J)?**

Properties have been assessed based on the potential presence of biological resources to pre-screen parcels that have a high likelihood of containing habitat or need further analysis to determine if habitat exists, as defined by geographical datasets from federal, State, and local agencies such as the Protected Areas for Wildlife (PAWs) study, County-identified Sensitive Ecological Areas (SEAs), and US Fish and Wildlife Service (USFWS)-identified Critical Habitat Areas or determined through a biologist's assessment.

If Section B.6 of the Eligibility Criteria Checklist states "No", submit the Owner's Declaration of No Habitat (CP-3608). If it states "Bio Review Needed", submit the Biologist's Statement of Habitat (CP-3610). If it states "Yes," then the parcel has been identified as a habitat area and is not eligible for SB 9 consideration based on the discussion provided in **Section I. SB 9 Property Eligibility Criteria that Apply to Both Two Unit Developments and Urban Lot Splits** in the Updated Implementation of Senate Bill 9 (2021) - Two Unit Development and Urban Lot Splits SB 9 Memo. For assistance regarding which forms are applicable to your request, please consult with DSC staff.

**Q17. My property is zoned for two or more units. Can I use SB 9?**

No, SB 9 is only applicable to single-family zones. However, you may be able to build multiple ADUs if the site has an existing multifamily dwelling. For multi-family zoned properties, you may also be able to utilize the City's Small Lot Subdivision Ordinance (with some exceptions) or [AB 803](#) (2021).

## **Q18. What are some other important rules regarding Urban Lot Splits?**

The definition of a Lot in LAMC Section 12.03 requires a minimum 20-foot-wide street frontage and access strip to connect to the street. Private streets and lot mergers can be approved as part of the Urban Lot Split process (without public hearing). Different zones require different minimum lot sizes and lot widths when creating new lots. When proposing a “flag lot”, there is a 20-foot-wide access-strip required in order to provide legal street access.

Keep in mind that SB 9 allows all objective standards applicable to subdivisions to be enforced except when a standard would have the effect of physically precluding the Urban Lot Split or construction of up to two units, or physically precluding either of the two units from being at least 800 square feet in floor area. In these cases, a standard will be enforced to the extent it does not physically preclude the minimum development specified by SB 9. For example, if an Urban Lot Split proposal necessitates a “flag lot” configuration and the distance between an existing structure and side lot line is less than the otherwise required lot access strip, passageway, or driveway access requirements, this flag dimension may be used to satisfy the lot access strip, passageway, and driveway access (even if it may result in an insufficient lot width). Additional objective subdivision and zoning standards, not listed here, also would apply. Note that waivers from objective zoning or subdivision standards that would physically preclude an Urban Lot Split may be requested as part of an Urban Lot Split application.

## **Q19. Can condominiums be proposed as part of my Urban Lot Split application?**

No, condominiums may not be proposed in conjunction with a ministerial Urban Lot Split Parcel Map application. If you are interested in developing condominiums as part of your project, you must first record the approved Urban Lot Split Parcel Map, build the proposed dwelling units, and obtain the Certificates of Occupancy. After receiving a Certificate of Occupancy for these dwelling units, a separate Parcel Map filing for a condominium conversion will be required. However, please be advised that the Parcel Map for a condominium conversion will not be subject to the streamlined procedures associated with SB 9 Urban Lot Splits. As such, the Parcel Map for condominium conversions will be subject to standard filing fees, environmental review, public hearing, and appeal period. Additionally, off-site public improvements will be required.

## **Q20. How is car share defined for the purposes of the parking exemption?**

Please see Question 10 in the [ADU Implementation Memo](#).

## **Q21. What are some water and power considerations for a unit created as a result of an Urban Lot Split?**

Water and power service is not required for an Urban Lot Split but will be required when creating new homes on a lot created by an Urban Lot Split. Customers are encouraged

to reach out to LADWP as early as possible and can visit [LADWP's website](#) for information on new service requests. Depending on the amount of new load being proposed, and the existing DWP infrastructure in the area, customers may be responsible for all or part of the cost for equipment upgrades. Please note that separate water and power service is not permitted on a single-family lot with more than one dwelling unit but is required for dwelling units that may sit on a separate lot as a result of an Urban Lot Split using SB 9. Any construction or change of use within a LADWP public utility easement, or within 10 feet of an easement, or anywhere within 10 feet of poles or equipment, is required to seek a clearance from LADWP (more information [here](#)). Prior to purchasing a new water service, the applicant/customer may be required to execute and record with the LA County Recorder's office a one-party Covenant and Declaration Easement Agreement which is prepared by qualified counsel and reviewed by LADWP. General questions on electrical service can be directed to (213) 367-6937 and water service to (213) 367-2130.

**Q22. What Los Angeles Fire Department (LAFD) requirements will be required to be met?**

Single-family residential and Two Unit Development projects will require plans to be reviewed and approved by the LAFD Hydrants and Access Unit. The review will ensure standards including street/fire lane access to within 150 feet of any residential unit, ability to access the roof (maximum height to top plate 28 feet), adequate fire hydrants (within 300 feet), and any applicable compliance with Very High Fire Hazard Severity Zone (VHFHSZ) requirements. Potential requirements include but are not limited to fire lane(s) and turnaround, public/private fire hydrants, upgraded construction or sprinkler requirements, etc. For general questions please contact [lafdhydrants@lacity.org](mailto:lafdhydrants@lacity.org).

**Q23. Can I expedite the Urban Lot Split Parcel Map process by paying the Department of City Planning Expedite Fee?**

If you are interested in expedited processing, consultation with our Expedited Processing Section (EPS) is required. Generally, projects that are not located within a special planning geographic overlay such as a Specific Plan, Coastal Zone, or Community Plan Implementation Overlay, may be considered; however, EPS has the discretion to accept or not accept cases depending on a variety of factors. Please see the Department's Expedited Processing Section webpage for more information [here](#).

**Q24. Will easements be required by Urban Lot Splits?**

Easements for public utilities, water systems, sewers, streetlights, storm drains or flood control channels, and slope rights shall be provided wherever determined necessary by the Advisory Agency, upon recommendations of the City Engineer (or other agencies such as LADWP). Wherever it is determined that future easements are necessary, a certificate shall be placed on the Final Map indicating that the City may accept such easements at any time. Easements may also be volunteered by the applicant.

## **Q25. Will these rules change?**

City Council adopted a motion ([Council File 21-1414](#)) directing City Planning to prepare a report back with recommendations for a potential ordinance to implement SB 9 locally. Any local ordinance will go through the planning and land use code amendment process as required by the City Charter and Municipal Code, with public hearings and consideration by the City Planning Commission and adoption by the City Council.

## **Q26. What types of fees apply to SB 9 projects?**

The City Planning application fee for a Parcel Map Urban Lot Split (PMUL) is currently \$3,978 (Administrative Review - Major)<sup>1</sup>, not including surcharges. Parcel map fees required by other City agencies will also be required. SB 9 dwelling units will also be assessed any applicable development impact fees such as the Los Angeles Unified School District (LAUSD) Developer Fee, Park Fee, and the Affordable Housing Linkage Fee. Park Fees will be calculated by the Department of Recreation and Parks after an applicant submits the Park Fee Calculation Application and depends on the type of development (Subdivision or Non-Subdivision) and the number of new dwelling units approved (more information here). The Affordable Housing Linkage Fee is calculated based on the “market area” of the City the project is located in and whether it is a single- or two-unit development (see here). Projects requiring permit clearances or other procedures will be assessed additional fees, in addition to typical plan check and permit fees. Other fees may be required by other Departments. Check with responsible departments.

For questions, please email [planning.SB9@lacity.org](mailto:planning.SB9@lacity.org).

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<sup>1</sup> This fee provides for the type of processes and procedures anticipated as part of SB 9 case processing, including the amount of staff time and administrative review process. The SB 9 process is administrative in nature (no public hearing, no staff report, application of objective standards) but does require a major review of objective standards and issuance of a determination letter. This aligns with the processes associated with the ADM Major fee in Article 9 of the LAMC and is subject to annual adjustments starting in 2023.