

FACT SHEET

Frequently Asked Questions (FAQ) Related to Implementation of SB 9

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 as well as lot split Parcel Maps (called Urban Lot Splits) meeting certain criteria on lots zoned for single-family residential. 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. This FAQ provides additional information regarding key issues related to implementation of SB 9.

Frequently Asked Questions

Q1. What does ministerial approval mean?

- A. A ministerial approval process is non-discretionary and administrative in nature and shall be based on objective standards only (see below). For purposes of SB 9, a ministerial project is not subject to a public hearing or CEQA. (Gov. Code, § 65852.2, subd. (a)(3)).

Q2. What are objective standards?

- A. “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 numeric and fixed standards such as heights or setbacks, or design standards such as specific dimensions or materials. Subjective standards require judgement and can be reasonably interpreted in multiple ways.

Q3. What objective standards cannot be imposed?

- A. Objective zoning, subdivision or design review standards may not be imposed when they would have the effect of physically precluding the following types of projects: an Urban Lot Split, the construction of up to 2 units, or either of the 2 units from being at least 800 square feet in Floor Area. The following are examples of objective standards that may be determined to physically preclude such projects:
- a. Floor Area (or Residential Floor Area) zoning standard that would limit the size of a dwelling unit to less than the minimum required by state law.
 - b. A setback (yard) or height limitation that would otherwise preclude such projects. In such cases, a general policy preference is that units be designed to be closer together, aligned with other setbacks in the vicinity and away from neighboring residential or equinekeeping uses.
 - c. A zoning requirement (e.g., a lot access strip, lot width, passageway, driveway access or other standard) that cannot be met due to a physical condition such as an existing structure, provided Fire and Building/Residential Code requirements are met. Standards will be enforced to the extent physically allowable but are not required to exceed these maximum dimensions. For example, if the distance between an existing structure and side lot line is nine feet, this nine-foot flag dimension may be used to satisfy the lot access strip, passageway, and driveway access (and may result in an insufficient lot width).

Q4. Are there circumstances when the City may require a discretionary approval process related to a SB 9 project?

- A. Yes, if applicable objective development standards cannot be met but the LAMC provides for an allowance through a discretionary approval process, applicants may seek relief or waiver through the specified LAMC process. This includes Adjustments, Variances and Specific Plan Exceptions as well as exceptions tied to certain code requirements including tree removal or earth hauling. However, these discretionary processes must also be reconciled with the state law's other applicable provisions, including that Urban Lot Splits may not be required to provide off-site improvements or and that cities cannot enforce standards that would prevent the reasonable development of two 800 square-foot units.

Q5. How are demolitions and alterations defined?

- A. 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 the unit are considered an alteration. For Two-Unit Developments, a demolition is defined as removing more than 25% of the exterior structural wall.

Q6. Is a second unit that is Part of a Two-Unit Development considered an Accessory Building (and subject to LAMC 12.22 C.5)?

- A. No, a dwelling unit created pursuant to SB 9 is considered a main use and not an accessory building (like an ADU).

Q7. How does SB 9 work in the Coastal Zone?

- A. Nothing in SB 9 supersedes or in any way alters or lessens the effect or application of the California Coastal Act (Section 30000 of the Public Resources Code) or the current Coastal Development Permit procedures. Public Hearings will continue to be required per the LAMC. Applicants will be required to file for a Coastal Development Permit for any demolition, conversion, new construction, and Urban Lot Split.

Q8. May SB9 be used for properties with units covered by the City’s Rent Stabilization Ordinance (RSO)?

- A. 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. Demolishing or withdrawing a unit covered by the RSO requires an Ellis Act filing. SB 9 cannot be used 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 SB 9 for a 15-year period from the date of 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 lot split including an Urban Lot Split. Properties with only one unit on a parcel are not subject to the RSO.

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

	Scenario	SB 9 Eligibility
1	RSO units are demolished or altered.	Project does not qualify for SB 9.
2	RSO units are not demolished or altered, but a lot split results in the loss of a(n) existing RSO unit(s) by creating only one dwelling unit on a lot.	Project does not qualify for SB 9.
3	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.

Q9. How will the provisions regarding tenant occupancy, the City’s Rent Stabilization Ordinance (RSO), the Ellis Act or affordable housing covenants be enforced?

A. The City will check for the following:

- a. The project does not propose to demolish or alter any RSO or covenanted affordable units;
- b. There have been no demolitions or alterations to any RSO or covenanted affordable units since January 2021;
- c. There have been no Ellis Act filings on the parcel; and

Property owners will also be required to file a declaration indicating if the site had any tenant occupied units in the past three years. If the owner declares that there are/were tenants on the site, the City will check to ensure that the project would not result in the demolition or alteration of any current or formerly rented units since January 2021.

For Two-Unit Developments, LADBS will collect the owner declaration and verify the other information using data provided by LAHD and located in ZIMAS. For Urban Lot Splits, City Planning will conduct the review using the same information. In addition, City Planning will not allow an Urban Lot Split that would separate two

RSO units on one lot, as this would result in an RSO unit losing its RSO status and require an Ellis filing (see Q8 above).

LAHD will conduct an additional review if there are questions, concerns or discrepancies regarding the applicability of the Rent Stabilization Ordinance or affordability covenants, or the history of tenant occupancy.

Q10. Are there any other considerations for SB 9 projects proposed on tenant occupied, RSO sites?

- A. 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.

Q11. Are SB 9 projects permitted in Delineated Earthquake Fault Zones?

- A. 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.

Q12. 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)?

- A. Properties located in Hillside Areas, Very High Fire Hazard Severity Zones or the Coastal Zone have been assessed an Interim Habitat Screening Score based on the potential presence of biological resources to pre-screen parcels that may need further analysis to determine if habitat exists. Parcels flagged for further review in the SB 9 Checklist on ZIMAS (under the Planning and Zoning tab) will require a City Planning Clearance. The Planner will inform the applicant whether a Biologist's Statement of No Habitat on site, or a notarized Owner's Declaration of No Habitat, is required. Applicants will be provided with forms and instructions for all required documentation. If it is determined that habitat is present on the project site, SB9 may not be used.

Q13. My property is zoned for 2 or more units. Can I use SB 9?

- A. 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 be able to utilize the City's Small Lot Subdivision Ordinance (except in R2 zones) or [AB 803](#) (2021).

Q14. What are some other important rules regarding Urban Lot Splits?

- A. The definition of a Lot in LAMC 12.03 requires a minimum 20-foot wide street frontage and access strip to connect to the street. Private streets 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 parking is required, there is a 20-foot wide driveway access requirement where a driveway has to pass through another lot. SB 9 allows all objective standards to be enforced except when a standard would have the effect of physically precluding the Urban Lot Split or construction of up to 2 units, or physically precluding either of the 2 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. Additional objective subdivision and zoning standards, not listed here, also would apply.

Q15. How is car share defined for the purposes of parking waivers?

- A. Please see question 10 in the [ADU Implementation Memo](#).

Q16. What are some water and power considerations for a Unit Created on an Urban Lot Split?

- A. Power and water 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 can visit [DWP'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 a lot split using SB 9. Any construction or change of use within a LADWP public utility easement, or within 10 feet of them, 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.

Q17. What Los Angeles Fire Department (LAFD) requirements will be required to be met?

- A. Single-family residential and Two-Unit 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' of any residential unit, ability to access the roof (maximum height to top plate 28'), adequate fire hydrants (within 300'), and any applicable compliance with 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.

Q18. Can I expedite the Urban Lot Split Parcel Map process by paying the Department of City Planning Expedite Fee?

- A. Yes, unless the project is within a special planning geographic overlay like a Specific Plan, Coastal Zone or Community Plan Implementation Overlay. Please see the Department's Expedited Processing Section webpage for more information [here](#).

Q19. Will easements be required by Urban Lot Splits?

- A. Easements for public utilities, water systems, sewers, street lights, 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.

Q20. Will these rules change?

A Council motion ([Council File 21-1414](#)) has been approved by the City Council directing City Planning to prepare an 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 City Council.