

CITY OF LOS ANGELES
INTER-DEPARTMENTAL CORRESPONDENCE

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

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SUBJECT: **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 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).

This memorandum describes the state law and its implementation by the Department of City Planning (DCP), Department of Building and Safety (DBS) and the Los Angeles Housing Department (LAHD) in the City of Los Angeles. The first section summarizes common eligibility criteria, while the second describes the individual standards that apply to the Two-Unit and Urban Lot Split provisions. The final section describes the application process for submitting an SB 9 project.

Please note that the memo summarizes the provisions of SB 9 for reference and discussion only and does not include many applicable planning and building regulations that will also apply to SB 9 projects. In addition, other departments or agencies may have other requirements or procedures not described herein.

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 or Urban Lot Split Development portions of the bill (see below), some eligibility criteria and state provisions apply to both.

The law applies to parcels zoned for single-family (one-family) residential uses, which includes the following Zones: A1, A2, RA, RE, RS, R1, RU, RZ, and RW Zones.

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 (see the Site Requirements Checklist below for more detailed descriptions). Projects located in Very High Fire Hazard Severity Zones and earthquake fault zones may be permitted if they meet criteria established in state law section 65913.4.

Demolition, Alteration, Ellis Act Removals and Short-Term Rentals

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.

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. In addition, for Two-Unit Developments, demolition of more than 25% of the perimeter length of existing exterior structural 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. There is also a prohibition on utilizing SB 9 to build a Two-Unit Development, or to create an Urban Lot Split when a demolition or alteration of housing is necessary, on a parcel where an owner had 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. Implementation of these provisions is further explained in Section III below.

Finally, the rental of any unit created pursuant to this section shall be for a term longer than 30 days. However, registered Home-Sharing as part of an accessory use to a primary residence is permitted.

II. Summary of SB 9 Provisions 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 building code. 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 at least 800 square feet in Floor Area, may not be imposed. The Deputy Advisory Agency will note deviations from lot or development standards in the Urban Lot Split decision letter.

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 still apply.

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, or within a site that is designated or listed as a Historic Cultural Monument (HCM) or Historic Preservation Overlay Zone (HPOZ), or historic property or district pursuant to any other City ordinance.

Automobile Parking. No more than one off-street parking space per unit may be required, except that no parking requirements may be imposed 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 Public Resources Code) or a major transit stop (as defined in Section 21064.3 of the Public Resources Code); 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 ZIMAS Checklist. Other applicable off-street parking and driveway requirements apply when parking is required, such as the requirement for a private garage in most single-family zones, as well as an access requirement.

Connected or Adjacent Structures. Zoning regulations pertaining to space between buildings (e.g., LAMC Section 12.21 C.2(a) and 12.21 C.5(d)) shall not be used to deny a 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 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. A 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. This does not pertain to Building/Residential Code requirements, as those must always be complied with.

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 California Government Code (a Two Unit Development). For this purpose, SB 9 says 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:

Unit Size. Each unit shall be permitted a minimum of 800 square feet and may be larger if below the maximum allowable Residential Floor Area (RFA)¹ for the zone. Objective zoning, subdivision or design review standards (not otherwise limited by SB 9) may not be applied 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.

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 and JADUs are not permitted on parcels that use both the Urban Lot Split and Two-Unit Development, either together or at different times. On any lot that was created using the SB 9 Urban Lot Split provision, without a Two-Unit Development, no more than two units including ADUs and JADUs may be permitted. ADUs or JADUs may be permitted on lots that use only the Two-Unit Development allowance, to allow more than two units pursuant the City's ADU Ordinance and Gov. Code Section 65852.2.

On-site Wastewater Treatment System. For units connected to an Onsite 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.

Short Term Rentals. Any unit created pursuant to this section shall only be rented for a term longer than 30 days. Short-term rental of less than 30 days is therefore only permitted for residents living in these units will be able to 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. A Parcel Map for an Urban Lot Split would subdivide an existing parcel to create no more than two new parcels of approximately equal lot area. No resulting parcels may be smaller than 40 percent of the lot area of the original parcel proposed for subdivision or smaller than 1,200 square feet.

Unit Size. Each unit shall be permitted a minimum of 800 square feet. Objective zoning, subdivision or design review standards that would have the effect of physically precluding the

¹ RFA applies in the RA, RE, RS, and R1 zones. Floor Area limits apply to other zones.

construction of two units on either of the resulting parcels or that would result in a unit size of less than 800 square feet may not be applied.

Two Unit Maximum, Including ADUs and JADUs. More than two units are not permitted on a 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 created pursuant to Section 65852.21, a primary dwelling, an ADU as defined in Section 65852.2, or a JADU as defined in Section 65852.22.

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 Parcel Map for an Urban Lot Split. However, any such requirements would still apply for the construction of residential units, including the street access requirements for new residential units in Hillside Areas.

Residential Use. Only residential 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 approval of the Urban Lot Split. 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 66411.7(g)(2)). Reviews may be performed to identify fraud and abuse of this provision and additional local enforcement tools may be developed to impose financial penalties.

Nonconforming Zoning. A City may not require the correction of existing or created nonconforming zoning conditions as a condition for SB9 ministerial approval an Urban Lot Split. For example, a main home may become nonconforming due to an Urban Lot Split that reduces some of the side yard or splits off a parking garage. No correction would be required as a condition of the Parcel Map approval. This provision does not apply to an unpermitted (illegal) use or construction, SB 9 requirements or to building codes requirements.

III. Application Process for Submitting an SB 9 Project

Effective January 1, 2022, a development proponent may submit an application for a 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, will be required for projects that comply with these Government Code Sections; and the California Environmental Quality Act (CEQA) will also not apply.

Regulations for Parcel Maps are located in Article 7 of the Zoning Code, including general provisions, filing instructions, and procedures for preliminary and final map approvals and

modifications (see LAMC 17.50-17.58). 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 project, please refer to the SB 9 Urban Lot Split Specialized Requirements (CP-3605), SB 9 Urban Lot Split Application (CP-3604), and Procedure for Completing and Filing a Final Parcel Map (CP-1823) on the forms page (see [here](#)). Please note that a Geologic and Soils Engineering Report is required in Hillside, Seismic or Liquefaction Areas (see [here](#)).

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 area, applicants are encouraged to meet with City Planning staff before filing a City Planning application to verify which standards apply to the project (check for overlays on [ZIMAS](#)). An appointment can be scheduled to submit an application at the 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.

Fees

The City Planning application fee for a Parcel Map Urban Lot Split (PMUL) is currently \$3,978 (Administrative Review - Major)², plus surcharges. SB 9 dwelling units will also be assessed any applicable development impact fees such as the 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.

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). 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 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.

² 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.

Conclusion

This memo 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 subsequent Frequently Asked Questions (FAQ) Related to Implementation of SB 9 document for additional details on commonly asked questions.