

**COUNTY OF SAN MATEO
PLANNING AND BUILDING DEPARTMENT**

DATE: December 8, 2021

To: Planning Commission

From: Steve Monowitz, Community Development Director

Subject: Information Item: A briefing on Senate Bill 9 (SB 9), a new state law effective January 1, 2022, which imposes new requirements and limitations on the County's consideration and approval of subdivisions and residential development on parcels zoned for single-family residential use.

BACKGROUND:

In the 2021 legislative session, the California legislature adopted SB 9, which amends the Government Code to establish new requirements for, and limitations on, local jurisdictions' processing, review, and approval of development and/or subdivision of parcels zoned for single-family residential use. In general, the law requires jurisdictions to ministerially approve development of no more than two units on an eligible parcel, and to ministerially approve a subdivision of an eligible parcel, subject to the standards established in the law. The provisions of the law are as follows:

Residential Development on Single-Family Parcels. Proposed development of up to two units must be reviewed and approved ministerially, relying on objective development standards only, without public hearings. All objective local zoning and other standards may be applied, but standards may not preclude the development of at least two 800 square foot units, with no greater than four foot-setbacks. Only one parking space per unit may be required, and there are additional parking exceptions for projects near transit or meeting certain other conditions.

Subdivision of Residential Parcels. Proposed subdivision of a single-family zoned lot must also be considered ministerially, based on objective standards, without public hearings. Because such subdivisions are considered ministerial, they are also exempt from environmental review. The subdivided parcel must result in no more than two parcels of at least 1,200 sq. ft. each, and neither parcel may be smaller than 40percent of the original parcel size. Parcels created by subdivision per SB 9 may not be subsequently subdivided again pursuant to SB 9. The law also extends the expiration period of tentative subdivision maps from 12 to 24 months. Parcels created through SB 9 may only be developed with residential uses.

Development of Lots Subdivided Per SB 9. Lots created through SB 9 may each be subsequently developed with two units, potentially resulting in four new units from an initial single parcel.

Affected Districts. The law applies to all single-family zoned parcels within a designated urbanized area or urban cluster; the entire unincorporated County is within an urbanized area. The relevant districts in the unincorporated County are R-1, RH, RE, and R-1/CCP, regardless of applicable overlay (S) districts.

Applicability in the Coastal Zone. SB 9's application within the coastal zone is very limited. All coastal zone land use regulations continue to apply, except that the law specifies that a local agency shall not be required to hold public hearings for coastal development permits for SB 9 projects.

Other Provisions.

- SB 9 lot splits and two-unit housing development projects must not result in the demolition or alteration of affordable housing, rent-controlled housing, housing that was withdrawn from the rental market in the last 15 years, or housing occupied by a tenant in the past 3 years.
- The subject property cannot be a designated local or state historic landmark, or located within a local or state historic district.
- Units created through SB 9 may not be used for short-term rentals of less than 30 days.
- Parcels may not contain prime agricultural land, wetlands, protected species habitat, or land subject to a conservation easement. Parcels may be located in a very high fire hazard severity zone, earthquake fault zone, floodplain, floodway, or contain hazardous materials if they meet certain conditions.
- An SB 9 lot split applicant must sign an affidavit stating that they intend to live in one of the units for three years, unless the applicant is a community land trust or qualified nonprofit corporation.
- In all cases, a local agency can deny an otherwise qualified urban lot split or two-unit housing development project if the building official determines that the project would have a specific, adverse impact on public health and safety or the physical environment that cannot be mitigated.

ATTACHMENTS

A. Text of Senate Bill 9

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COUNTY OF SAN MATEO - PLANNING AND BUILDING DEPARTMENT

ATTACHMENT A

Senate Bill No. 9

CHAPTER 162

An act to amend Section 66452.6 of, and to add Sections 65852.21 and 66411.7 to, the Government Code, relating to land use.

[Approved by Governor September 16, 2021. Filed with
Secretary of State September 16, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 9, Atkins. Housing development: approvals.

The Planning and Zoning Law provides for the creation of accessory dwelling units by local ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, in accordance with specified standards and conditions.

This bill, among other things, would require a proposed housing development containing no more than 2 residential units within a single-family residential zone to be considered ministerially, without discretionary review or hearing, if the proposed housing development meets certain requirements, including, but not limited to, that the proposed housing development would not require demolition or alteration of 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, that the proposed housing development does not allow for the demolition of more than 25% of the existing exterior structural walls, except as provided, and that the development 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.

The bill would set forth what a local agency can and cannot require in approving the construction of 2 residential units, including, but not limited to, authorizing a local agency to impose objective zoning standards, objective subdivision standards, and objective design standards, as defined, unless those standards would have the effect of physically precluding the construction of up to 2 units or physically precluding either of the 2 units from being at least 800 square feet in floor area, prohibiting the imposition of setback requirements under certain circumstances, and setting maximum setback requirements under all other circumstances.

The Subdivision Map Act vests the authority to regulate and control the design and improvement of subdivisions in the legislative body of a local agency and sets forth procedures governing the local agency's processing, approval, conditional approval or disapproval, and filing of tentative, final, and parcel maps, and the modification of those maps. Under the Subdivision Map Act, an approved or conditionally approved tentative map expires 24

months after its approval or conditional approval or after any additional period of time as prescribed by local ordinance, not to exceed an additional 12 months, except as provided.

This bill, among other things, would require a local agency to ministerially approve a parcel map for an urban lot split that meets certain requirements, including, but not limited to, that the urban lot split would not require the demolition or alteration of 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, that the parcel is located within a single-family residential zone, and that the parcel 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.

The bill would set forth what a local agency can and cannot require in approving an urban lot split, including, but not limited to, authorizing a local agency to impose objective zoning standards, objective subdivision standards, and objective design standards, as defined, unless those standards would have the effect of physically precluding the construction of 2 units, as defined, on either of the resulting parcels or physically precluding either of the 2 units from being at least 800 square feet in floor area, prohibiting the imposition of setback requirements under certain circumstances, and setting maximum setback requirements under all other circumstances. The bill would require an applicant to sign an affidavit stating that they intend to occupy one of the housing units as their principal residence for a minimum of 3 years from the date of the approval of the urban lot split, unless the applicant is a community land trust or a qualified nonprofit corporation, as specified. The bill would prohibit a local agency from imposing any additional owner occupancy standards on applicants. By requiring applicants to sign affidavits, thereby expanding the crime of perjury, the bill would impose a state-mandated local program.

The bill would also extend the limit on the additional period that may be provided by ordinance, as described above, from 12 months to 24 months and would make other conforming or nonsubstantive changes.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment. CEQA does not apply to the approval of ministerial projects.

This bill, by establishing the ministerial review processes described above, would thereby exempt the approval of projects subject to those processes from CEQA.

The California Coastal Act of 1976 provides for the planning and regulation of development, under a coastal development permit process, within the coastal zone, as defined, that shall be based on various coastal resources planning and management policies set forth in the act.

This bill would exempt a local agency from being required to hold public hearings for coastal development permit applications for housing developments and urban lot splits pursuant to the above provisions.

By increasing the duties of local agencies with respect to land use regulations, the bill would impose a state-mandated local program.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

The people of the State of California do enact as follows:

SECTION 1. Section 65852.21 is added to the Government Code, to read:

65852.21. (a) A proposed housing development containing no more than two residential units within a single-family residential zone shall be considered ministerially, without discretionary review or a hearing, if the proposed housing development meets all of the following requirements:

(1) The parcel subject to the proposed housing development is located within a city, the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(2) The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.

(3) Notwithstanding any provision of this section or any local law, the proposed housing development would not require demolition or alteration of any of the following types of housing:

(A) 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.

(B) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(C) Housing that has been occupied by a tenant in the last three years.

(4) The parcel subject to the proposed housing development is not a parcel on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

(5) The proposed housing development does not allow the demolition of more than 25 percent of the existing exterior structural walls, unless the housing development meets at least one of the following conditions:

(A) If a local ordinance so allows.

(B) The site has not been occupied by a tenant in the last three years.

(6) The development is not located within a 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 city or county landmark or historic property or district pursuant to a city or county ordinance.

(b) (1) Notwithstanding any local law and except as provided in paragraph (2), a local agency may impose objective zoning standards, objective subdivision standards, and objective design review standards that do not conflict with this section.

(2) (A) The local agency shall not impose objective zoning standards, objective subdivision standards, and objective design standards that would have the effect of physically precluding the construction of up to two units or that would physically preclude either of the two units from being at least 800 square feet in floor area.

(B) (i) Notwithstanding subparagraph (A), no setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.

(ii) Notwithstanding subparagraph (A), in all other circumstances not described in clause (i), a local agency may require a setback of up to four feet from the side and rear lot lines.

(c) In addition to any conditions established in accordance with subdivision (b), a local agency may require any of the following conditions when considering an application for two residential units as provided for in this section:

(1) Off-street parking of up to one space per unit, except that a local agency shall not impose parking requirements in either of the following instances:

(A) The parcel is located within one-half 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.

(B) There is a car share vehicle located within one block of the parcel.

(2) For residential units connected to an onsite wastewater treatment system, a percolation test completed within the last 5 years, or, if the percolation test has been recertified, within the last 10 years.

(d) Notwithstanding subdivision (a), a local agency may deny a proposed housing development project if the building official makes 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, 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.

(e) A local agency shall require that a rental of any unit created pursuant to this section be for a term longer than 30 days.

(f) Notwithstanding Section 65852.2 or 65852.22, a local agency shall not be required to permit an accessory dwelling unit or a junior accessory dwelling unit on parcels that use both the authority contained within this section and the authority contained in Section 66411.7.

(g) Notwithstanding subparagraph (B) of paragraph (2) of subdivision (b), 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.

(h) Local agencies shall include units constructed pursuant to this section in the annual housing element report as required by subparagraph (I) of paragraph (2) of subdivision (a) of Section 65400.

(i) For purposes of this section, all of the following apply:

(1) 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 one existing unit.

(2) 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.

(3) “Local agency” means a city, county, or city and county, whether general law or chartered.

(j) A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

(k) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local agency shall not be required to hold public hearings for coastal development permit applications for a housing development pursuant to this section.

SEC. 2. Section 66411.7 is added to the Government Code, to read:

66411.7. (a) Notwithstanding any other provision of this division and any local law, a local agency shall ministerially approve, as set forth in this section, a parcel map for an urban lot split only if the local agency determines that the parcel map for the urban lot split meets all the following requirements:

(1) The parcel map subdivides an existing parcel to create no more than two new parcels of approximately equal lot area provided that one parcel shall not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision.

(2) (A) Except as provided in subparagraph (B), both newly created parcels are no smaller than 1,200 square feet.

(B) A local agency may by ordinance adopt a smaller minimum lot size subject to ministerial approval under this subdivision.

(3) The parcel being subdivided meets all the following requirements:

(A) The parcel is located within a single-family residential zone.

(B) The parcel subject to the proposed urban lot split is located within a city, the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(C) The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.

(D) The proposed urban lot split would not require demolition or alteration of any of the following types of housing:

(i) 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.

(ii) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(iii) A parcel or parcels on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

(iv) Housing that has been occupied by a tenant in the last three years.

(E) The parcel is not located within a 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 city or county landmark or historic property or district pursuant to a city or county ordinance.

(F) The parcel has not been established through prior exercise of an urban lot split as provided for in this section.

(G) Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel using an urban lot split as provided for in this section.

(b) An application for a parcel map for an urban lot split shall be approved in accordance with the following requirements:

(1) A local agency shall approve or deny an application for a parcel map for an urban lot split ministerially without discretionary review.

(2) A local agency shall approve an urban lot split only if it conforms to all applicable objective requirements of the Subdivision Map Act (Division

2 (commencing with Section 66410)), except as otherwise expressly provided in this section.

(3) Notwithstanding Section 66411.1, a local agency shall not impose regulations that require dedications of rights-of-way or the construction of offsite improvements for the parcels being created as a condition of issuing a parcel map for an urban lot split pursuant to this section.

(c) (1) Except as provided in paragraph (2), notwithstanding any local law, a local agency may impose objective zoning standards, objective subdivision standards, and objective design review standards applicable to a parcel created by an urban lot split that do not conflict with this section.

(2) A local agency shall not impose objective zoning standards, objective subdivision standards, and objective design review standards that would have the effect of physically precluding the construction of two units on either of the resulting parcels or that would result in a unit size of less than 800 square feet.

(3) (A) Notwithstanding paragraph (2), no setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.

(B) Notwithstanding paragraph (2), in all other circumstances not described in subparagraph (A), a local agency may require a setback of up to four feet from the side and rear lot lines.

(d) Notwithstanding subdivision (a), a local agency may deny an urban lot split if the building official makes 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, 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.

(e) In addition to any conditions established in accordance with this section, a local agency may require any of the following conditions when considering an application for a parcel map for an urban lot split:

(1) Easements required for the provision of public services and facilities.

(2) A requirement that the parcels have access to, provide access to, or adjoin the public right-of-way.

(3) Off-street parking of up to one space per unit, except that a local agency shall not impose parking requirements in either of the following instances:

(A) The parcel is located within one-half 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.

(B) There is a car share vehicle located within one block of the parcel.

(f) A local agency shall require that the uses allowed on a lot created by this section be limited to residential uses.

(g) (1) A local agency shall require an applicant for an urban lot split to sign an affidavit stating that the applicant 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.

(2) This subdivision shall not apply to an applicant that is a “community land trust,” as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code, or is a “qualified nonprofit corporation” as described in Section 214.15 of the Revenue and Taxation Code.

(3) A local agency shall not impose additional owner occupancy standards, other than provided for in this subdivision, on an urban lot split pursuant to this section.

(h) A local agency shall require that a rental of any unit created pursuant to this section be for a term longer than 30 days.

(i) A local agency shall not require, as a condition for ministerial approval of a parcel map application for the creation of an urban lot split, the correction of nonconforming zoning conditions.

(j) (1) Notwithstanding any provision of Section 65852.2, 65852.21, 65852.22, 65915, or this section, a local agency shall not be required to permit more than two units on a parcel created through the exercise of the authority contained within this section.

(2) For the purposes of this section, “unit” means any dwelling unit, including, but not limited to, a unit or units created pursuant to Section 65852.21, a primary dwelling, an accessory dwelling unit as defined in Section 65852.2, or a junior accessory dwelling unit as defined in Section 65852.22.

(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.

(l) Local agencies shall include the number of applications for parcel maps for urban lot splits pursuant to this section in the annual housing element report as required by subparagraph (I) of paragraph (2) of subdivision (a) of Section 65400.

(m) For purposes of this section, both of the following shall apply:

(1) “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.

(2) “Local agency” means a city, county, or city and county, whether general law or chartered.

(n) A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be

considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

(o) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local agency shall not be required to hold public hearings for coastal development permit applications for urban lot splits pursuant to this section.

SEC. 3. Section 66452.6 of the Government Code is amended to read:

66452.6. (a) (1) An approved or conditionally approved tentative map shall expire 24 months after its approval or conditional approval, or after any additional period of time as may be prescribed by local ordinance, not to exceed an additional 24 months. However, if the subdivider is required to expend two hundred thirty-six thousand seven hundred ninety dollars (\$236,790) or more to construct, improve, or finance the construction or improvement of public improvements outside the property boundaries of the tentative map, excluding improvements of public rights-of-way that abut the boundary of the property to be subdivided and that are reasonably related to the development of that property, each filing of a final map authorized by Section 66456.1 shall extend the expiration of the approved or conditionally approved tentative map by 48 months from the date of its expiration, as provided in this section, or the date of the previously filed final map, whichever is later. The extensions shall not extend the tentative map more than 10 years from its approval or conditional approval. However, a tentative map on property subject to a development agreement authorized by Article 2.5 (commencing with Section 65864) of Chapter 4 of Division 1 may be extended for the period of time provided for in the agreement, but not beyond the duration of the agreement. The number of phased final maps that may be filed shall be determined by the advisory agency at the time of the approval or conditional approval of the tentative map.

(2) Commencing January 1, 2012, and each calendar year thereafter, the amount of two hundred thirty-six thousand seven hundred ninety dollars (\$236,790) shall be annually increased by operation of law according to the adjustment for inflation set forth in the statewide cost index for class B construction, as determined by the State Allocation Board at its January meeting. The effective date of each annual adjustment shall be March 1. The adjusted amount shall apply to tentative and vesting tentative maps whose applications were received after the effective date of the adjustment.

(3) "Public improvements," as used in this subdivision, include traffic controls, streets, roads, highways, freeways, bridges, overcrossings, street interchanges, flood control or storm drain facilities, sewer facilities, water facilities, and lighting facilities.

(b) (1) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include any period of time during which a development moratorium, imposed after approval of the tentative map, is in existence. However, the length of the moratorium shall not exceed five years.

(2) The length of time specified in paragraph (1) shall be extended for up to three years, but in no event beyond January 1, 1992, during the pendency of any lawsuit in which the subdivider asserts, and the local agency that approved or conditionally approved the tentative map denies, the existence or application of a development moratorium to the tentative map.

(3) Once a development moratorium is terminated, the map shall be valid for the same period of time as was left to run on the map at the time that the moratorium was imposed. However, if the remaining time is less than 120 days, the map shall be valid for 120 days following the termination of the moratorium.

(c) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include the period of time during which a lawsuit involving the approval or conditional approval of the tentative map is or was pending in a court of competent jurisdiction, if the stay of the time period is approved by the local agency pursuant to this section. After service of the initial petition or complaint in the lawsuit upon the local agency, the subdivider may apply to the local agency for a stay pursuant to the local agency's adopted procedures. Within 40 days after receiving the application, the local agency shall either stay the time period for up to five years or deny the requested stay. The local agency may, by ordinance, establish procedures for reviewing the requests, including, but not limited to, notice and hearing requirements, appeal procedures, and other administrative requirements.

(d) The expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no final map or parcel map of all or any portion of the real property included within the tentative map shall be filed with the legislative body without first processing a new tentative map. Once a timely filing is made, subsequent actions of the local agency, including, but not limited to, processing, approving, and recording, may lawfully occur after the date of expiration of the tentative map. Delivery to the county surveyor or city engineer shall be deemed a timely filing for purposes of this section.

(e) Upon application of the subdivider filed before the expiration of the approved or conditionally approved tentative map, the time at which the map expires pursuant to subdivision (a) may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or periods not exceeding a total of six years. The period of extension specified in this subdivision shall be in addition to the period of time provided by subdivision (a). Before the expiration of an approved or conditionally approved tentative map, upon an application by the subdivider to extend that map, the map shall automatically be extended for 60 days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first. If the advisory agency denies a subdivider's application for an extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension.

(f) For purposes of this section, a development moratorium includes a water or sewer moratorium, or a water and sewer moratorium, as well as other actions of public agencies that regulate land use, development, or the provision of services to the land, including the public agency with the authority to approve or conditionally approve the tentative map, which thereafter prevents, prohibits, or delays the approval of a final or parcel map. A development moratorium shall also be deemed to exist for purposes of this section for any period of time during which a condition imposed by the city or county could not be satisfied because of either of the following:

(1) The condition was one that, by its nature, necessitated action by the city or county, and the city or county either did not take the necessary action or by its own action or inaction was prevented or delayed in taking the necessary action before expiration of the tentative map.

(2) The condition necessitates acquisition of real property or any interest in real property from a public agency, other than the city or county that approved or conditionally approved the tentative map, and that other public agency fails or refuses to convey the property interest necessary to satisfy the condition. However, nothing in this subdivision shall be construed to require any public agency to convey any interest in real property owned by it. A development moratorium specified in this paragraph shall be deemed to have been imposed either on the date of approval or conditional approval of the tentative map, if evidence was included in the public record that the public agency that owns or controls the real property or any interest therein may refuse to convey that property or interest, or on the date that the public agency that owns or controls the real property or any interest therein receives an offer by the subdivider to purchase that property or interest for fair market value, whichever is later. A development moratorium specified in this paragraph shall extend the tentative map up to the maximum period as set forth in subdivision (b), but not later than January 1, 1992, so long as the public agency that owns or controls the real property or any interest therein fails or refuses to convey the necessary property interest, regardless of the reason for the failure or refusal, except that the development moratorium shall be deemed to terminate 60 days after the public agency has officially made, and communicated to the subdivider, a written offer or commitment binding on the agency to convey the necessary property interest for a fair market value, paid in a reasonable time and manner.

SEC. 4. The Legislature finds and declares that ensuring access to affordable housing is a matter of statewide concern and not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Sections 1 and 2 of this act adding Sections 65852.21 and 66411.7 to the Government Code and Section 3 of this act amending Section 66452.6 of the Government Code apply to all cities, including charter cities.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act or

because costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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SB 9 Eligibility and Application Submittal Checklist

California Senate Bill 9 (SB 9) became effective January 1, 2022. SB 9 has two components: (1) requires a proposed housing development containing no more than 2 residential units within a single-family residential zone to be considered ministerially, without discretionary review or hearing, if the proposed housing development meets certain requirements; and (2) requires ministerial approval of urban lot splits that meet certain requirements.

SB 9 only applies to single-family residential zoned parcels within U.S. Census Bureau designated urbanized areas or urban clusters; excludes parcels designated as a historic landmark or located within a historic district; protects existing affordable housing and tenant occupied housing; requires any rental unit created to be rented for a term longer than 30 days; and requires an applicant for an urban lot split to occupy one of the housing units for 3 years, among other requirements.

SB 9 in the Coastal Zone is extremely limited. For properties located in the Coastal Zone, the County's Local Coastal Program, Subdivision Ordinance, and Zoning Regulations are applicable as adopted in their entirety. Please contact the Planning Department at PlanningProjects@smcgov.org or at (650) 363-1825 for SB 9 projects in the Coastal Zone.

Full legislative text:

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB9

SB 9 EARLY ASSISTANCE MEETING

Projects that elect to take advantage of SB 9 are encouraged to complete an Early Assistance Meeting with Planning Department staff prior to a building permit application for the housing development or application for subdivision (lot split).

Early Assistance Meetings can be scheduled through the online appointment system by visiting <https://planning.smcgov.org> or by requesting a meeting through email at PlanningProjects@smcgov.org or by phone at (650) 363-1825.

Early Assistance Meeting

1. At or before the meeting, the applicant should provide staff with a preliminary plan that conveys a general understanding of the proposal and a completed SB 9 Eligibility Checklist.
2. At the meeting, staff will review the proposal and SB 9 eligibility and inform the applicant of any proposal or eligibility discrepancies, processing next steps, and fees.
3. Within 10 business days of the early assistance meeting, staff will provide the applicant with a brief written summary of the main points discussed at the meeting.

SB 9 ELIGIBILITY CHECKLIST

SB 9 projects are considered ministerially, without discretionary review or hearing, provided certain requirements are met. Applications for Design Review are not required and environmental review under the California Environmental Quality Act does not apply.

SB 9 housing development projects must meet all the following criteria. SB 9 subdivision (lot split) projects must meet additional criteria.

SB 9 Eligibility Requirements	
<input type="checkbox"/>	Parcel is legal and wholly located in a U.S. Census Bureau designated "urbanized areas or urban clusters."
<input type="checkbox"/>	Parcel is located in a single-family residential zone: <ul style="list-style-type: none"> <input type="checkbox"/> One-Family Residential District (R-1) <input type="checkbox"/> One-Family Residential/Country Club Park District (R-1/CCP) <input type="checkbox"/> Residential Estates District (R-E) <input type="checkbox"/> Residential Hillside (RH)
<input type="checkbox"/>	Project includes residential uses only.
<input type="checkbox"/>	Parcel does not contain prime agricultural lands, wetlands, protected species habitat, or land subject to a conservation easement.
<input type="checkbox"/>	Proposed development is not located within a historic district or property included on the State Historic Resources Inventory or within a site designated or listed as a County landmark or historic property or district.
<input type="checkbox"/>	Proposed development would not require demolition or alteration of affordable housing, rent or price controlled housing, housing occupied by a tenant in the last 3 years, or housing that was withdrawn from the rental market in the last 15 years.
<input type="checkbox"/>	Proposed development does not demolish more than 25% of the exterior structural walls of an existing structure, unless at least of one of the following is met: <ul style="list-style-type: none"> <input type="checkbox"/> If local ordinance so allows; or <input type="checkbox"/> The site has not been occupied by a tenant in the last 3 years.
<input type="checkbox"/>	Proposed rental units may not be used for short-term rentals of less than 30 days. ¹
<input type="checkbox"/>	Parking. Off-street parking of up to one space per unit, except that no parking requirements shall be imposed in either of the following: <ul style="list-style-type: none"> <input type="checkbox"/> The parcel is located within one-half mile walking distance of either a high-quality transit corridor (PRC Section 21155) or a major transit stop (PRC Section 21064.3); or <input type="checkbox"/> There is a car share located within one block of the parcel.
<input type="checkbox"/>	Parcel is served by a wastewater provider; or
<input type="checkbox"/>	Parcel has a septic system (On-site Wastewater Treatment System) and a percolation test completed within the last 5 years, or, if the percolation test has been recertified, within the last 10 years.
<input type="checkbox"/>	Parcel is not located in very high fire hazard severity zones (or is located in very high fire hazard severity zone and criteria of Gov. Code Section 65913.4(a)(6) is met), earthquake fault zone, floodplain, floodway, or contain hazardous materials may be allowed if certain criteria are met.
<input type="checkbox"/>	Objective zoning, design, and subdivision requirements are met.

¹ Deed restriction indicating prohibition on short-term rentals will be required as part of subdivision map recordation; or building permit final inspection for housing development where no subdivision is proposed.

SB 9 Subdivision (Lot Split) Additional Eligibility Requirements	
<input type="checkbox"/>	Proposed urban lot split results in two parcels of approximately equal lot area (60/40 split at most), with each new parcel containing at least 1,200 square feet.
<input type="checkbox"/>	Parcel proposed for urban lot split was not established through a prior SB 9 lot split.
<input type="checkbox"/>	Adjacent parcels were not previously subdivided through an SB 9 lot split by the lot owner or anyone acting "in concert with" the owner.
<input type="checkbox"/>	Parcels created by proposed urban lot split will only be used for residential uses.
<input type="checkbox"/>	Proposed urban lot split and housing development does not include construction of Accessory Dwelling Units or Junior Accessory Dwelling Units.
<input type="checkbox"/>	Affidavit stating that applicant will occupy one of the housing units as their principal residence for a minimum of 3 years from the date of approval of the urban lot split (unless applicant is a community land trust or qualified non-profit corporation). ²

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² Affidavit recordation prior to ____.

SB 9 HOUSING DEVELOPMENT APPLICATION REQUIREMENTS AND OBJECTIVE ZONING AND DESIGN STANDARDS

Building permit applications for housing developments must include a completed SB 9 Eligibility Checklist at the time of application submittal. Eligibility review will occur during the plan check process once the building permit is accepted for processing (a complete application). A determination of eligibility will be made prior to building permit issuance.³

Eligible projects must meet the following objective zoning and design standards identified below.

SB 9 Objective Zoning Standards⁴	
<input type="checkbox"/>	Residential Units must meet the following development standards of the respective zoning district: <ul style="list-style-type: none"> <input type="checkbox"/> Setbacks <ul style="list-style-type: none"> <input type="checkbox"/> Development of two 800 sq. ft. units: <ul style="list-style-type: none"> Front: Zoning District Minimum Sides and Rear: Zoning District Minimum (or 4 feet if required to accommodate two 800 sq. ft. units) <input type="checkbox"/> Development larger than two 800 sq. ft. units or one single-family residence: <ul style="list-style-type: none"> Zoning District minimum setbacks apply⁵ <input type="checkbox"/> Development of new unit in same location with same dimensions as an existing structure: <ul style="list-style-type: none"> No setbacks <input type="checkbox"/> Lot coverage <input type="checkbox"/> Floor Area Ratio <input type="checkbox"/> Height <input type="checkbox"/> Daylight Plane https://planning.smcgov.org/zoning-regulations
<input type="checkbox"/>	Accessory Dwelling Units and Junior Accessory Dwelling Units. https://planning.smcgov.org/zoning-regulations

SB 9 Objective Design Standards – EMERALD LAKE HILLS	
<input type="checkbox"/>	Building Shapes and Bulk. Control the bulk of buildings on hillsides by requiring them to be terraced up or down the hill at a uniform height.
<input type="checkbox"/>	Materials and Colors. <ul style="list-style-type: none"> <input type="checkbox"/> Use colors such as warm grays, beiges, natural woods, and muted greens. Prohibit the use of cool grays, blues, pinks, yellows, and white. <input type="checkbox"/> Ensure that all roof materials have Class “C” or better fire resistive ratings.
<input type="checkbox"/>	Utilities. Install all new service lines underground.

³ A local agency may deny a proposed housing development project if the building official makes 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 [Government Code] Section 65589.5 , upon public health and safety or the physical environmental and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

⁴ A local agency shall not impose objective zoning standards, objective subdivision standards, and objective design standards that would have the effect of physically precluding the construction of up to two units or that would physically preclude either of the two units from being at least 800 square feet in floor area.

⁵ Larger developments not meeting Zoning District minimum standards may apply for a variance.

SB 9 Objective Design Standards – PALOMAR PARK

- Building Shapes and Bulk.
Control the bulk of buildings on hillsides by requiring them to be terraced up or down the hill at a uniform height.
- Materials and Colors.
 - Use colors such as warm grays, beiges, natural woods, and muted greens.
 - Ensure that all roof materials have Class "C" or better fire resistive ratings.
- Utilities.
Install all new service lines underground.

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SB 9 SUBDIVISION APPLICATION REQUIREMENTS AND OBJECTIVE SUBDIVISION STANDARDS

Applications for review and approval of tentative parcel maps must be filed with the Planning Department. Within 30 days of application submittal, the Planning Department will notify the applicant if the application is complete or if additional information is required. Complete applications will then be transmitted to other agencies for review and comment. Approval or denial of the subdivision is based on compliance with SB 9 requirements and findings listed below.

County's adopted Subdivision Ordinance:

<https://planning.smcgov.org/subdivision-regulations>

All documents must be completed and submitted in Portable Document Format (PDF) via email to PlanningProjects@smcgov.org.

SB 9 Subdivision Application Requirements	
<input type="checkbox"/>	Completion of Early Assistance Meeting (Pre-Application)
<input type="checkbox"/>	Tentative Map. Digital (PDF file format) tentative parcel map prepared in accordance with Subdivision Ordinance Section 7011.2 (see next checklist).
<input type="checkbox"/>	Application Form. A completed application form with an attached statement by the applicant setting forth grounds in support of the findings. https://planning.smcgov.org/documents/planning-permit-application-form https://planning.smcgov.org/documents/subdivision-application-companion-page
<input type="checkbox"/>	Environmental Disclosure Form. A completed Environmental Information Disclosure Form. https://planning.smcgov.org/documents/environmental-information-disclosure-form
<input type="checkbox"/>	C.3 and C.6 Development Review Checklist. A completed C.3. and C.6 Development Review Checklist. https://planning.smcgov.org/documents/c3-and-c6-development-review-checklist
<input type="checkbox"/>	Title Report. A preliminary title report, showing the legal owners at the time of application, and all easements, encumbrances, and other reservations of record affecting the property.
<input type="checkbox"/>	Owner's Concurrence. Proof of the owner's interest in the property and concurrence with the application for subdivision as required by the Community Development Director.
<input type="checkbox"/>	Fees as adopted by the Board of Supervisors. The fees for tentative map or tentative parcel map review in accordance with the most recent Service Fee Schedule adopted by the Board of Supervisors.

Tentative Parcel Map Form and Content

Tentative parcel maps must be submitted to the County Planning and Building Department for review and approval. Maps shall meet the following minimum requirements for form and content.

Form and Content Requirements for Tentative Parcel Maps	
<input type="checkbox"/>	<p>Name and Address of Preparer. The map must be prepared by a registered civil engineer or licensed land surveyor, whose name, address, email, registration or license number, and signature must be shown on the map, along with the date of preparation. The name and license or registration number of any geologist or soils engineer who may have helped prepare the map should also be indicated.</p>
<input type="checkbox"/>	<p>Owner and Subdivider's Name and Address. The names and addresses of both the legal owner, and the subdivider if not the same, must be shown on the map.</p>
<input type="checkbox"/>	<p>Subdivision Name. Tentative maps shall have the proposed subdivision name stated on the map.</p>
<input type="checkbox"/>	<p>Scale. The scale of the map shall be large enough to show all details clearly and enough sheets shall be used to accomplish this end.</p>
<input type="checkbox"/>	<p>North Orientation. The north arrow shall point up the sheet, unless a different orientation is more appropriate in a particular case, and each sheet must have a north arrow.</p>
<input type="checkbox"/>	<p>Letter Size. The lettering must be a minimum of 1/8" in size.</p>
<input type="checkbox"/>	<p>Vicinity Map. A vicinity map must be included, showing adjacent properties on all sides and indicating the current record owner of such property. The location, names and widths of adjacent rights-of-way shall be shown.</p>
<input type="checkbox"/>	<p>Assessor's Parcel Number. The current assessor's parcel number(s) of the parcel(s) to be subdivided shall be indicated.</p>
<input type="checkbox"/>	<p>Legal Description of the Property. A legal description that defines the boundaries of the proposed subdivision and establishes the legality of the parcel to be divided must be included. If the description is not printed on the map itself, then it must be in a separate, attached document.</p>
<input type="checkbox"/>	<p>Zoning and Land Use. The map shall indicate the existing zoning district and existing and proposed land use.</p>
<input type="checkbox"/>	<p>Development Schedule If the subdivider plans to develop the site in phases, the proposed sequence and timing of construction phases must be shown on the map.</p>
<input type="checkbox"/>	<p>Existing and Proposed Topography.</p> <ul style="list-style-type: none"> <input type="checkbox"/> Existing and proposed topography must be shown by contours at two (2) foot intervals if the existing ground slope is less than ten percent (10%), and at not less than five (5) foot intervals for existing ground slopes equal to or greater than ten percent (10%). <input type="checkbox"/> Contour lines must be labeled at least every one hundred fifty (150) linear feet along the contour line and should be continued, in general, at least fifty (50) feet beyond the boundaries of the site within urban areas. Also, note on plan the location of reference benchmark for vertical control. <input type="checkbox"/> Existing contours must be represented by dashed or screened lines and proposed contours by solid lines. <input type="checkbox"/> The source and date of contour information must be specified. <input type="checkbox"/> The preliminary design of all grading shall be shown, including the approximate finished grade of each lot, the elevation of proposed building pads, and the top and toe of cut and fill slopes.

<ul style="list-style-type: none"> <input type="checkbox"/> Existing and proposed profiles, sight distance, and point of access shall be shown for all driveways, and compliance with all applicable County standards shall be demonstrated. <input type="checkbox"/> A separate grading plan may be required to clearly show all details of the existing and proposed topography.
<ul style="list-style-type: none"> <input type="checkbox"/> Lot Dimensions and Area. The map must show existing and proposed parcel lines and their dimensions. Existing property lines must be shown with dotted lines, proposed property lines with solid lines. The area of each parcel must be indicated, in square feet if less than one acre, and in acres (to the nearest hundredth of an acre) if one acre or larger. Each parcel should be consecutively numbered, beginning with the number one (1).
<ul style="list-style-type: none"> <input type="checkbox"/> Trees. The map must indicate the type (species), circumference, diameter and drip line of existing significant or heritage trees, as defined by the County Significant Tree and Heritage Tree Ordinances. Any trees proposed for conservation or removal and the location of replacement trees to be planted shall be indicated.
<ul style="list-style-type: none"> <input type="checkbox"/> Existing Structures. The type, location and outline of existing structures must be shown and marked as to whether they will remain or be removed.
<ul style="list-style-type: none"> <input type="checkbox"/> Existing and Proposed Streets. The map must show the locations, names, widths, centerline radii, centerline slopes and angle of intersection of all existing and proposed streets within and abutting the subdivision. Existing and proposed street improvements such as pavement type, curbs, gutters or sidewalks should be indicated. Whether streets are publicly or privately maintained, or proposed to be publicly or privately maintained, should also be noted. The location of official plan lines or projected streets and highways as indicated in the State Transportation Improvement Plan, the County General Plan or any adopted area plan should be shown, if applicable.
<ul style="list-style-type: none"> <input type="checkbox"/> Easements. The map must show the location, width, and purpose of all existing and proposed easements, including avigation easements.
<ul style="list-style-type: none"> <input type="checkbox"/> Existing and Proposed Utilities. The map must show the location and size of all existing and proposed utilities service lines and facilities, including the following: <ul style="list-style-type: none"> <input type="checkbox"/> All provisions for water supply for domestic use and fire protection purposes including source (watermains, wells), quality and approximate quantity expressed as gallons per minute. <input type="checkbox"/> All provisions for sewage disposal, storm drainage and infiltration, flood control, and required National Pollution Discharge Elimination System (NPDES) facilities including the approximate grade and elevation of existing and proposed sewers and storm drains, location of septic systems and their expansion areas, location of the soil percolation test sites, and preliminary calculations used to select, size, and locate all proposed facilities. <input type="checkbox"/> All provisions for utility services, such as gas, electricity, telephone, and cable television.
<ul style="list-style-type: none"> <input type="checkbox"/> Flood, Coastal Erosion, or Sea level Rise Hazard Areas. The map must show the location of all areas of special flood hazard which are subject to inundation, storm water or tide water overflow, as illustrated on the Flood Insurance Rate Maps on file with the Planning Department. The location, width, and direction of flow of each watercourse and the base flood level (as shown on the National Flood Insurance Program Maps prepared by the Federal Emergency Management Agency) and flooding from Sea Level Rise (using the latest available science-based projections) must also be indicated. Projections of landward erosion over the life of the development must also be shown.
<ul style="list-style-type: none"> <input type="checkbox"/> Recreation Area. Existing and proposed recreation areas, trails, bike paths or parks for private or public use, including proposed shoreline access points, must be shown.

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|--|
| <input type="checkbox"/> Common Areas and Open Space.
Proposed common areas and areas to be dedicated to public open space must be shown. |
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Findings

If the project meets all criteria, the project shall be approved. In the case of denial, only one finding need be made.

Finding of Denial
A local agency may deny a proposed housing development project if the building official makes 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 [Government Code] Section 65589.5 ⁶ , upon public health and safety or the physical environmental and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

⁶ As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. The following shall not constitute a specific, adverse impact upon the public health or safety:

(A) Inconsistency with the zoning ordinance or general plan land use designation.

(B) The eligibility to claim a welfare exemption under subdivision (g) of Section 214 of the Revenue and Taxation Code.