SENATE BILL 9 (SB 9): AN OVERVIEW

WHAT IT IS AND HOW IT IMPACTS RESIDENTIAL LAND USE

Technical Assistance for Local Planning HOUSING

ASSOCIATION OF BAY AREA GOVERNMENTS

Senate Bill 9 (SB 9) is a new California State Law taking effect January 1, 2022.

SB 9 changes existing limits on how many homes can be built on a lot zoned as single-family. Similar to previous state legislation on Accessory Dwelling Units (ADUs), SB 9 is intended to support the availability of more modestly priced homes by encouraging building of smaller houses on small lots.

WHAT DOES SB 9 DO?

SB 9 MAKES IT EASIER TO:

BUILD UP TO 4 HOMES
ON A PARCEL IN A SINGLE-FAMILY ZONE

&

SUBDIVIDE A LOT INTO TWO
THAT CAN BE SMALLER THAN REQ MIN. SIZE

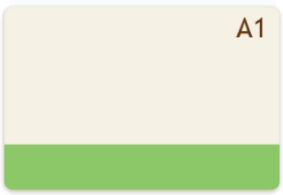
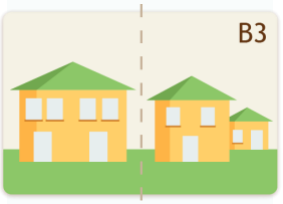
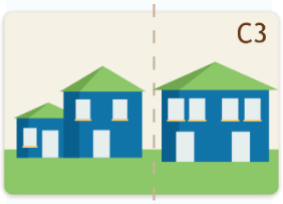
Used together, this allows **4 HOMES** where 1 was primary home was allowed before.

SB 9 makes this easier by waiving public hearings for the two actions.

WHAT CAN I DO ON MY LOT?

Add new homes to existing parcel • Divide existing house into multiple units • Divide parcel and add homes

Illustrations are based on a preliminary analysis of the law. Details are subject to change and are for informational purposes only. See the following page for qualification details and limitations.

	VACANT LOT	LOT WITH SINGLE-FAMILY HOME	LOT WITH NONCONFORMING DUPLEX[1]	LOT WITH SINGLE-FAMILY HOME AND AN ADU
BEFORE	 A1	B1	C1	D1
	No units	1 PRIMARY UNIT	2 PRIMARY UNITS	1 PRIMARY UNIT + 1 ADU/JADU[2]
ADD UNITS, NO LOT SPLIT	A2	B2	C2	D2
	Up to 2 PRIMARY UNITS + Up to 2 ADUs/JADUs[3]	Up to 2 PRIMARY UNITS[4] + Up to 2 ADUs/JADUs[3]	*(No additional units)*[5]	Up to 2 PRIMARY UNITS[4] + 1 ADU/JADU[3]
ADD UNITS AND LOT SPLIT	A3	 B3	 C3	D3
	Up to 4 TOTAL UNITS	Up to 4 TOTAL UNITS	Up to 4 TOTAL UNITS	Up to 4 TOTAL UNITS

If you're NOT splitting a lot:

- SB 9 does not limit the number of ADUs/JADUs (B2, D2) – but other laws might.

If you ARE splitting a lot:

- Jurisdictions ***can*** limit the 2 lots to 4 units total, including any ADUs/JADUs, and may choose not to permit ADUs/JADUs.

SINGLE-UNIT DEVELOPMENTS

SB 9 can be used to develop single units – but projects must comply with all SB 9 requirements.

1 Legally constructed but not currently permitted. Check your local ordinance for nonconforming use policies.
2 Junior Accessory Dwelling Units (JADUs) are small (max. 500ft2) rentable units within a single-family structure. See your jurisdiction's specifications for more details.
3 The exact number and type of ADUs/JADUs allowed should be confirmed based on project specifics.
4 Added primary unit can be new construction or a split of the existing house.
5 Check local nonconforming use rules for more information about ADUs/JADUs.

THIS DOCUMENT DOES NOT CONSTITUTE LEGAL ADVICE OR OPINIONS REGARDING SPECIFIC FACTS. FOR MORE INFORMATION ABOUT SB 9, PLEASE CONTACT YOUR OWN LEGAL COUNSEL.

DOES MY LOT QUALIFY?

REFERENCE ANY QUALIFICATION MATERIALS FROM YOUR JURISDICTION FOR MORE SPECIFICS.

2-UNIT DEVELOPMENTS & LOT SPLITS

- Located in a SINGLE-FAMILY RESIDENTIAL ZONE
- Located in an URBANIZED AREA or URBAN CLUSTER, as defined by the U.S. Census Bureau *(essentially, an area with at least 2,500 people)*[6]
- Not in a state/local HISTORIC DISTRICT / not an HISTORIC LANDMARK

Lots in these areas may not be eligible or may need to meet additional qualifications:[7]

- PRIME FARMLAND or farmland of statewide importance
- WETLANDS
- Identified for CONSERVATION or UNDER CONSERVATION EASEMENT
- HABITAT for protected species
- Within a VERY HIGH FIRE HAZARD SAFETY ZONE
- A HAZARDOUS WASTE SITE
- Within a delineated EARTHQUAKE FAULT ZONE
- Within a 100-YEAR FLOODPLAIN OR FLOODWAY

The project cannot alter or demolish:

- Deed-restricted AFFORDABLE HOUSING
- RENT-CONTROLLED HOUSING
- Housing on parcels with an ELLIS ACT EVICTION in the last 15 yrs.
- Housing OCCUPIED BY A TENANT currently or in the last 3 yrs.

ADDTL. QUALIFICATIONS *2-UNIT DEVELOPMENTS*

- Project DOES NOT REMOVE MORE THAN 25% OF EXTERIOR WALLS on a site that has a tenant or has had a tenant in the last 3 yrs. *(even if the rental unit itself isn't altered)*

ADDTL. QUALIFICATIONS *LOT SPLITS*

- LOT IS SPLIT ROUGHLY IN HALF – smaller lot is at least 40% of the original lot[8]
- Each new lot is AT LEAST 1,200FT^2 [9] *(This means the original lot must be at least 2,400ft^2 for a 50/50 split; 3,000ft^2 if a 60/40 split.)*
- Lot is NOT ADJACENT TO ANOTHER LOT SUBDIVIDED by you (or done in concert with you) using SB 9
- Lot was NOT CREATED BY A PREVIOUS SB 9 SPLIT

ADDITIONAL LIMITATIONS ON SB 9 PROJECTS

CONTACT YOUR LOCAL JURISDICTION FOR ADDITIONAL DETAILS ON SB 9 PROJECT LIMITATIONS.

2-UNIT DEVELOPMENTS & LOT SPLITS

- PARKING: Your jurisdiction cannot require more than one off-street parking space per unit, and cannot require any parking spaces if the parcel is close to transit (as defined in the law)
- NO SHORT-TERM RENTAL: Units created by SB 9 cannot be used for short-term rentals (less than 30 days)
- HOAS: SB 9 does not change rules or restrictions put in place by homeowners' associations.
- LOCAL STANDARDS: Jurisdictions may set zoning, subdivision, and design standards for SB 9 projects, but they must be objective and they cannot preclude two units of at least 800ft^2 on each lot.
- PUBLIC HEALTH AND SAFETY: Your project can be denied if it creates a "specific, adverse impact on public health and safety."[10]

ADDTL. LIMITATIONS *2-UNIT DEVELOPMENTS*

- You may be required to do a PERCOLATION TEST if you have on-site wastewater treatment

ADDTL. LIMITATIONS *LOT SPLITS*

- The project is limited to RESIDENTIAL USES ONLY
- OWNER-OCCUPANCY: Applicant must sign an affidavit saying they intend to live in one of the units for 3+ years after approval
- Your jurisdiction cannot require CORRECTION OF NONCONFORMING ZONING CONDITIONS
- Your jurisdiction may require EASEMENTS FOR PUBLIC SERVICES AND FACILITIES and/or to have access to the public right-of-way

WHAT DOES THE PROCESS LOOK LIKE?

STEP 1 Applicant submits SB 9 application to local jurisdiction.

STEP 2 Local jurisdiction determines whether application is complete within 30 days of submittal.

STEP 3 Once application is complete, local staff reviews the application and determines whether to approve and conditions of approval.

6 Urbanized areas/urban cluster maps are on the U.S. Census Bureau website.
7 As defined in Government Code § 65913.4(a)(6)(B)-(K).
8 Each new lot can be smaller than required min. lot size per local zoning.
9 This number may be lowered by local ordinance.
10 Must be determined in writing by a building official, based on inconsistency with objective standards and without feasible mitigation measures.