

April 4, 2024

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**SENATE BILL 9: MINISTERIAL APPROVALS OF UP TO TWO PRINCIPAL DWELLING UNITS AND URBAN LOT SPLITS ON SINGLE-FAMILY RESIDENTIAL-ZONED PARCELS**

**BACKGROUND**

On September 16, 2021, the Governor signed [Senate Bill \(SB\) 9 \(Atkins\)](#), which adds [Section 65852.21](#) to the Government Code to require a ministerial review process for eligible development of up to two principal dwelling units on a parcel in a single-family residential zone. The bill also adds [Section 66411.7](#) to require a ministerial review process for eligible “urban lot splits,” to create two new parcels for residential uses in a single-family residential zone.<sup>1</sup> A copy of the State law (Attachment A) is attached for your reference.

This memo, which addresses changes as of January 1, 2024, and clarifies existing policies, supersedes any contrary provisions in [Titles 21](#) and [22](#) of the County Code and shall apply until such time when the County Code is amended. Major changes are *italicized and underlined*.

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<sup>1</sup> SB 9 also amends Government Code [Section 66452.6](#) which is covered by [a separate memo titled “Senate Bill 9: Extended Lifespan of Certain Approved or Conditionally Approved Tentative Maps” dated January 3, 2022.](#)

## ***I. Eligibility for Ministerial Review***

### **A. Project Components.** The project is one of the following:

1. Non-Lot Split Project. The project consists of up to two principal dwelling units, which may be attached or detached, with no other principal uses or primary structures, subject to the approval of a Ministerial Site Plan Review ([Chapter 22.186](#)) application:
  - a. One new principal dwelling unit with no other principal uses or structures;
  - b. One new principal dwelling unit attached to or detached from an existing principal dwelling unit on a parcel with no other principal uses or structures; or
  - c. Two new principal dwelling units attached or detached on a parcel with no other principal uses or structures; or
2. Urban Lot Split. The project is an urban lot split creating two new parcels for residential uses<sup>2</sup> subject to the approval and recordation of a parcel map ([Title 21](#)).

### **B. Project Location.** The project satisfies all of the following:

1. The project site is located within Zone R-1 or R-A;<sup>3</sup> or within one of the following specific plan zones:
  - a. West Carson TOD Specific Plan: West Carson Residential 1
  - b. Willowbrook TOD Specific Plan: Willowbrook Residential 1
  - c. Connect Southwest LA TOD Specific Plan: CSLA Residential 1
2. The project site is a legal parcel<sup>4</sup> located wholly within an urbanized area or urban cluster, as designated by the U.S. Census Bureau.
3. No portion of the project site is located in any of the following:

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<sup>2</sup> Parcels created pursuant to SB 9 are restricted to residential uses only, with the exception of home-based occupations as permitted by Title 22 of the County Code and home-based cottage food operations per state law.

<sup>3</sup> For split-zoned parcels, refer to [Section 22.06.070.D](#) of the County Code.

<sup>4</sup> Pursuant to the Subdivision Map Act.

SB 9: Ministerial Approvals of Up to Two Principal Dwelling Units and Urban Lot Splits on Single-Family Residential-Zoned Parcels

April 4, 2024

Page 3

- a. A coastal zone, as defined in [Division 20 \(commencing with Section 30000\)](#) of the Public Resources Code;<sup>5</sup>
- b. 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 County landmark or historic property or district;<sup>6</sup>
- c. Prime Farmland or Farmland of Statewide Importance, as identified by the State Department of Conservation;<sup>7</sup>
- d. Wetlands, as defined in the U.S. Fish and Wildlife Service Manual;
- e. A Very High Fire Hazard Severity Zone as identified by the State Department of Forestry and Fire Protection, or the state responsibility area as defined in [Section 4102](#) of the Public Resources Code, unless all new and existing structures on the project site will be in compliance with fire hazard mitigation measures pursuant to current building standards and fire safety regulations, including, but not limited to, those established under all of the following or their successor provisions:
  - i. [Section 4291](#) of the Public Resources Code or [Section 51182](#) of the Government Code, as applicable;
  - ii. [Section 4290](#) of the Public Resources Code; and
  - iii. Chapter 7A of the California Building Code (Title 24 of the California Code of Regulations);
- f. A hazardous waste site listed in [Section 65962.5](#) of the Government Code (the Cortese List, which is available at <https://calepa.ca.gov/SiteCleanup/CorteseList>), or a hazardous waste site designated by the State Department of Toxic Substances Control (which is available at <https://www.envirostor.dtsc.ca.gov/public/map/>), unless the site has been cleared

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<sup>5</sup> Until such time as the Santa Monica Mountains Local Coastal Program (LCP) is amended to harmonize the SB 9 requirements with the LCP and Coastal Act policies.

<sup>6</sup> County designated historic resources are identified on the Department's Historic Resources layer in GIS-NET. For State and Nationally listed historic resources, staff must download and search the Built Environment Resource Directory (BERD) spreadsheet, which is available on the [California Office of Historic Preservation website](#) (select "Los Angeles" under "Resources by County").

<sup>7</sup> Or land zoned or designated for agricultural protection or preservation by any future approved local ballot measure.

for residential or residential mixed uses by the State Department of Public Health, State Water Resources Control Board, or State Department of Toxic Substances Control;

- g. A delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the project complies with applicable seismic protection building code standards adopted by the State Building Standards Commission under the State Building Standards Law ([Part 2.5 \(commencing with Section 18901\) of Division 13](#) of the Health and Safety Code), and by Public Works under [Chapter 12.2 \(commencing with Section 8875\) of Division 1 of Title 2](#) of the Government Code;<sup>8</sup>
- h. A special flood hazard area subject to inundation by the 1 percent annual flood (100-year flood) as determined by Federal Emergency Management Agency (FEMA) in any official maps, unless:
  - i. The project site has been subject to a Letter of Map Revision prepared by FEMA and issued to the County; or
  - ii. The project site meets FEMA requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to [Part 59 \(commencing with Section 59.1\)](#) and [Part 60 \(commencing with Section 60.1\)](#) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations;<sup>9</sup>
- i. A regulatory floodway as determined by FEMA in any official maps published by FEMA, unless the project has received a no-rise certification in accordance with [Section 60.3\(d\)\(3\) of Title 44](#) of the Code of Federal Regulations;
- j. A Significant Ecological Area or lands under conservation easement or identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act ([Chapter 10 \(commencing with Section 2800\) of Division 3](#) of the Fish and Game Code), or in a habitat conservation plan pursuant to the [Federal Endangered Species Act of 1973](#), or other adopted natural resource protection plan; or

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<sup>8</sup> Public Works verifies compliance with seismic protection standards in the Building Code during their review process.

<sup>9</sup> Documentation must be submitted to and reviewed by Public Works in order to determine the site's compliance with all applicable FEMA requirements for flood plain management criteria.

- k. A critical habitat designated by state or federal agencies.

**C. Pre-Existing Site Conditions.** The project satisfies all of the following:

1. The project does not require demolition or alteration of any of the following:
  - a. Rent-stabilized dwelling units pursuant to the County's [Rent Stabilization Ordinance \(Chapter 8.52 of Title 8 of the County Code\)](#) *or* [Section 1947.12 of the Civil Code.](#)
  - b. Dwelling units that are subject to a recorded covenant and agreement restricting rents to levels affordable to moderate, lower, or very low-income households; or
  - c. Dwelling units that have been tenant-occupied in the three years before the date of application.
  - d. For Urban Lot Split Only – *[Dwelling units that have been withdrawn from the rental housing market under the Ellis Act \(Chapter 12.75 \(commencing with Section 7060\) of Division 7 of Title 1 of the Government Code\) within 15 years before the date of application.](#)*
2. For Non-Lot Split Project Only – The project site does not contain dwelling units that have been withdrawn from the rental housing market under the Ellis Act ([Chapter 12.75 \(commencing with Section 7060\)](#) of Division 7 of Title 1 of the Government Code) within 15 years before the date of application.
3. The applicant shall submit the [Pre-Existing Site Conditions and Occupant Income Certification Form \(Attachment B\)](#).

**D. Standards.** Notwithstanding any contrary provisions in [Titles 21](#) and [22](#) of the County Code, the project shall comply with the following:

1. General. Except as provided in part D.2.b, below, objective planning, zoning, and subdivision requirements shall not be imposed if such requirements would physically preclude either of the following:

- a. The construction of up to two dwelling units<sup>10</sup> per parcel; or
  - b. Any of the dwelling units being at least 800 square feet in floor area.
2. Setbacks and Building Separation.
- a. Existing setbacks shall be deemed conforming, including in the event of demolition of an existing structure or building, and reconstruction to the same dimensions and in the same footprint.
  - b. In all other cases, the required side and rear yard depths for the proposed dwelling units shall be four feet, unless a narrower width is allowed pursuant to [Title 22](#) of the County Code.
  - c. No building separation between dwelling units or structures shall be required as long as all the structures meet minimum building code safety standards and allow for separate conveyance.<sup>11</sup>
3. Parking.
- a. All existing and proposed dwelling units shall be exempt from any parking requirements if one of the following applies:
    - i. The project site is located within ½ mile walking distance of a high-quality transit corridor or a major transit stop;<sup>12</sup> or
    - ii. There is a car share vehicle located within one block of the project site.<sup>13</sup> For example, this can be verified by checking the maps on Zipcar (<https://www.zipcar.com>).
  - b. If a principal dwelling unit does not qualify for the exemption provided in part I.D.3.a, above, one off-street covered parking space per unit shall be required.
4. Short-Term Rentals. No dwelling unit created pursuant to SB 9 shall be used as a short-term rental (30 consecutive days or less).

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<sup>10</sup> In an urban lot split, the maximum of two dwelling units applies to each newly created parcel where “dwelling unit” means any principal dwelling unit, accessory dwelling unit (ADU), or junior accessory dwelling unit (JADU).

<sup>11</sup> The requirements of [Section 22.110.050](#) of the County code do not apply.

<sup>12</sup> These layers can be viewed on GIS Net, and walking distance should be verified on Google Maps.

<sup>13</sup> A block can be up to 1,000 linear feet of pedestrian travel along a public street from the subject parcel.



5. Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs).

- a. General. Except as specified otherwise in part I.D.5.b., below, ADUs and JADUs shall be permitted in all SB 9 projects, subject to all applicable regulations in [Section 22.140.640](#) of the County Code and the memo titled “Accessory Dwelling Units and Junior Accessory Dwelling Units” dated January 29, 2024.
- b. Urban Lot Split. Notwithstanding any contrary provisions in [Section 65852.2](#) or [65852.22](#) of the Government Code or [Title 22](#), only one ADU or one JADU is permitted on each parcel created through an urban lot split where a proposed or existing principal dwelling unit is the only principal dwelling unit on the newly created parcel.

**E. Additional Requirements**

- 1. All SB 9 Projects.
  - a. The applicant shall submit the [SB 9 Applicant Acknowledgement Form \(Attachment C\)](#), acknowledging that the review and approval of the proposed project by Regional Planning does not guarantee approval or clearance by other departments.
  - b. Private Sewer. For principal dwelling units connected to an onsite wastewater system, the applicant shall be required to obtain clearance from the County Department of Public Health.<sup>14</sup>
- 2. Urban Lot Splits.
  - a. Future and Adjacent Urban Lot Splits.
    - i. Future urban lot splits on parcels created through SB 9 shall be prohibited.
    - ii. Urban lot splits on adjacent parcels by the same owner(s) or someone acting in concert with the owner(s) shall be prohibited.
  - b. Lot Area.
    - i. One of the newly created parcels shall be a minimum of 40 percent of the lot area of the original parcel proposed for the lot split; and

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<sup>14</sup> Public Health reviews the onsite wastewater system during their approval process. Verification of a percolation test performed within the last five years, or the last 10 years if the percolation test has been recertified, will be required for clearance.

- ii. Each newly created parcel shall have a minimum of 1,200 square feet lot area.
- c. Owner Occupancy. Prior to the recordation of the urban lot split, an applicant who is neither a community land trust<sup>15</sup> nor a qualified nonprofit corporation<sup>16</sup> is required to sign the [Owner Occupancy Affidavit \(Attachment D\)](#) stating the applicant's intent to occupy one of the units as their principal residence for a minimum of three years from the date of the recordation of the urban lot split.
- d. All structures proposed on a parcel created through an urban lot split shall be subject to a Ministerial Site Plan Review ([Chapter 22.186](#)) application.

## **II. Decision**

**A. Findings and Denial.** A project pursuant to SB 9 may only be denied if the County makes a written finding,<sup>17</sup> based on a preponderance of evidence, that the 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.

## **B. Additional Considerations for Urban Lot Splits.**

1. No dedication of rights-of-way or construction of offsite improvements shall be imposed on parcels being created through an urban lot split as a condition of approving a tentative parcel map, unless required for easements for public services or facilities, or for access to the parcel.
2. No correction of nonconforming standards shall be required for urban lot splits approved pursuant to SB 9.

If you have any questions regarding this memo, please contact Tina Fung in the Housing Policy Section at (213) 974-6417 or [tfung@planning.lacounty.gov](mailto:tfung@planning.lacounty.gov).

DD/CC:TF:lm

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<sup>15</sup> As defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of [Section 402.1](#) of the Revenue and Taxation Code.

<sup>16</sup> As described in [Section 214.15](#) of the Revenue and Taxation Code.

<sup>17</sup> As specified in [Section 65852.21\(d\)](#) or [66411.7\(d\)](#) of the Government Code.



SB 9: Ministerial Approvals of Up to Two Principal Dwelling Units and Urban Lot Splits on Single-Family Residential-Zoned Parcels

April 4, 2024

Page 9

Attachments:

- A. [Government Code Section 65852.21 and 66411.7](#)
- B. [Pre-Existing Site Conditions and Occupant Income Certification Form](#)
- C. [SB 9 Applicant Acknowledgement Form](#)
- D. [Owner Occupancy Affidavit](#)

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