



SB 9 URBAN LOT SPLIT AND TWO-UNIT BUILDING ELIGIBILITY CHECKLIST

Planning@berkeleyca.gov • 510-981-7410, TDD 510-981-7450

Planning and Development
1947 Center St, 2nd Floor
Berkeley, CA 94704

General Information

Government Code Section 65852.21 and 66411.

[California Senate Bill 9 \(SB 9\)](#) created a “ministerial approval process” for “two-unit housing development” and “urban lot split” projects in single-family residential zones. This handout offers general guidelines and is not intended to be comprehensive. Please refer to the California Government Code linked above for more details.

If you are pursuing a two-unit housing development and urban lot split, please complete the entire form.

Instructions

Before starting or investing in plans, property owners and design professionals should review this checklist. This eligibility checklist will help you determine if your project complies with criteria for a two-unit housing development and/or an urban lot split under SB9 and the City’s Zoning Ordinance. Only projects that comply may obtain a building permit and/or submit a parcel map. Respond to the questions on the following pages by placing a check mark in the yes or no column as appropriate, and read the outcomes to understand if your project may proceed. This checklist should accompany your [Pre-Application Review Application](#) submittal to the Land Use Planning Division.

How to find Property Designations - Find property designations by using our [Community GIS Portal](#) (<https://berkeleyca.gov/city-services/community-gis-portal>) by entering your address. Jurisdiction, Zoning and Historic information is located under Property & Planning. Geotechnical and environmental hazards are located under Environment.

Among the key requirements to be aware of is Owner Occupancy. The applicant for a subdivision must live on one of the parcels resulting from the subdivision as their primary dwelling for three years from the date of approval of the subdivision.

QUESTIONS

	YES	NO
Part 1. Property Designations/Characteristics		
<p>1. Is the subject property in an R-1/R-1H Single-Family Residential Zone?</p> <p>> If yes, you can proceed. If no, SB9 two unit building is not allowed.</p>		
<p>2. Is the subject property located outside of <u>all</u> of these areas?</p> <p>a. Prime farmland or farmland of statewide importance.</p> <p>b. Wetlands as defined in the United States Fish and Wildlife Service Manual, Part 660 FW2.</p> <p>c. A DTSC hazardous waste site</p> <p>d. Lands identified for conservation or lands under a conservation easement</p> <p>e. Habitat for protected species</p> <p>f. Property listed in a historic district, identified in the State Historic Resources Inventory, or designated by the City as a historic resource.</p> <p>> If yes, - your property is outside all of these areas - you can proceed. If no to any of the above, meaning your property is located inside of one or more areas, an SB 9 project is not allowed.</p>		



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QUESTIONS

	YES	NO
Part 1. Property Designations/Characteristics continued		
3. Is your property located within a 100-year floodplain or a floodway ? > If yes, you can proceed but may have special building requirements, for applicable building requirements, email buildingandsafey@berkeleyca.gov		
4. Is the property located within a GeoHazard Zone ? > If yes, you can proceed but may have special building requirements, for applicable building requirements, email buildingandsafey@berkeleyca.gov		
5. Is the property located within a Very High Severity Fire Zone ? > If yes, you can proceed but may have special building requirements, for applicable building requirements, email buildingandsafey@berkeleyca.gov		
6. Does the property have a dedicated easement? > If yes, you must comply with the requirements of the easement, which may include no construction allowed within the easement area.		

Part 2. Unit Rental Status		
7. Does the property contain an existing residential unit where any of the following apply: 7a. Is the unit subject to the City's Rent Ordinance ? 7b. Has the Ellis Act Ordinance been used to remove the unit from the rental market within the last 15 year? 7c. Has the unit been occupied by a tenant in the last three years? > If yes, you can proceed but the unit cannot be altered or demolished. For more information visit City of Berkeley Rent Board		



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QUESTIONS

	YES	NO
Part 3. Setback, Height and Lot Coverage Requirements - Only applicable for Two-Unit Development		

Setback: A required setback is measured as the distance between the surface of a building’s outer wall and the applicable lot line. If the City’s development standards, as outlined in this checklist, would not allow construction of up to two 800-square-foot units, please send us an email at Planning@berkeleyca.gov. In your email, please explain which standards preclude the units and attach a site plan.

8. Does your project comply with table [23.202-2: R-1 Development Standards](#) for front, side, and rear setback requirements, as shown below.

R-1-Development Standards	Front	Side	Rear
Minimum Setback	20 Feet	4 Feet	4 Feet

> If yes, the project may proceed. If no, demonstrate how the requirement would preclude the development of up to two 800-square foot units, or the project will be denied.

9. Average Building Height and Maximum Height? Is the [proposed building height average](#) under 28 feet and is the proposed maximum building height under 35 feet?

> If yes, you can proceed. If no, demonstrate how the requirement would preclude the development of up to two 800-square foot units, or the project will be denied. An AUP may be required to increase the average building height to a maximum of 35 feet.

10. Is the lot coverage below 40%?

> If yes, the project may proceed. If no, demonstrate how the requirement would preclude the development of up to two 800-square foot units, or the project may not be approved under SB9.

Part 4. Parking Requirements		
<p>If located on a roadway less than 26 feet in width in the Hillside Overlay, you must provide one parking space per unit, unless your project qualifies for an exemption. A property may qualify for an exemption if:</p> <p>The property is located within a half mile walking distance of:</p> <ul style="list-style-type: none"> • A Bus line with bus service occurring at least every 15 minutes during peak commute hours • An existing bus rapid transit stop or rail stop • The intersection of two or more major bus routes with bus service occurring at least every 15 minutes <p>The property is located within one block of a car share vehicle.</p> <p>11. Based on the requirements described above, does your project propose one parking space per unit or qualify for an exemption?</p> <p>> If yes, you can proceed. If no, the City will not approve your project.</p>		



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QUESTIONS

	YES	NO
Part 5. Subdivision Requirements - Only applicable for Urban Lot Splits		
<p>Subdividing Adjoining Properties is Prohibited. SB 9 prohibits an applicant, or applicants working in concert, from subdividing adjoining lots.</p> <p>12. Have you either alone or working with others proposed a SB9 subdivision on an adjoining lot?</p> <p>> If yes, the City cannot approve your project.</p>		
<p>New property line proximity to existing structures.</p> <p>13. Will the subdivision result in a new property line that is less than 5 feet from an existing structure (including any overhangs or bump-outs such as eaves or bay windows)?</p> <p>> If yes, before the subdivision is approved, the existing structure may need to be remodeled to meet Building and Fire Code requirements for buildings near property lines. Consult with your design professional for more information.</p>		
<p>Lot Size</p> <p>14. Will the lots resulting from the subdivision be at least 40 percent of the original lot size (before subdivision) and at least 1,200 square feet in size?</p> <p>> If yes, you can proceed. If no, the City will not approve your project.</p>		
<p>15. If located in the Hillside Overlay area, does the subdivision include an access strip with a width of 14 feet for the entire length?</p> <p>See illustration below.</p> <p>> If yes, you can proceed. If no, the City will not approve your project.</p> <div style="text-align: center;"> <p>The diagram shows a large rectangle representing a lot. A smaller rectangle is drawn inside, extending from the left and right sides to the bottom edge, representing an access strip. A dimension line at the bottom of this strip is labeled '14 feet'.</p> </div>		

Figure 1.

