



# SB 9 DEVELOPMENT AND URBAN LOT SPLIT 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

[California Senate Bill 9 \(SB 9\)](#) created a ministerial approval process for eligible 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 Section 65852.21 and 66411 for more details.

If you are proposing only to develop housing, please complete Sections 1 through 4.

If you are pursuing an urban lot split, please complete Sections 1 through 5.

All Land Use forms are available online @ <https://berkeleyca.gov/construction-development/permits-design-parameters/permit-types/permit-forms>

## Instructions

This eligibility checklist will help you determine if your project complies with criteria for a housing development and/or an urban lot split under California Senate Bill 9 (SB 9) and the City’s Zoning Ordinance. 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 must accompany your [Pre-Application Request](#) and SB 9 Pre-Application Submittal Requirements documents.

[How to find Property Designations](#) - Find property designations by using our [Community GIS Portal](#) by entering your address. Zoning and Historic information is located under the Planning and Building layer. Geotechnical and environmental hazards are located under the Environment layer. SB 9 only applies within single-family zoning districts -- R-1 or R1-H.

## QUESTIONS

	YES	NO
<b>Section 1. Property Designations/Characteristics</b>		
<p>1. Is the subject property in an R-1/R-1H Single-Family Residential Zone?</p> <p>&gt; If yes, you can proceed. &gt; If no, SB 9 does not apply.</p>		
<p>2. Is the subject property located <b>outside</b> of <u>all</u> of these areas?</p> <p>a. <a href="#">Prime farmland or farmland</a> of statewide importance. b. <a href="#">Wetlands</a> as defined in the United States Fish and Wildlife Service Manual, Part 660 FW2. c. A DTSC <a href="#">hazardous waste site</a> d. Lands identified for conservation or lands under a conservation easement e. <a href="#">Habitat</a> for protected species f. Property listed in a <a href="#">historic district</a>, identified in the <a href="#">State Historic Resources Inventory</a>, or designated by the <a href="#">City as a historic resource</a>.</p> <p>&gt; If yes, your property is outside all of these areas, you can proceed. &gt;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>		
<p>3. Is your property located within a <a href="#">100-year floodplain or a floodway</a>?</p> <p>&gt; If yes, you can proceed but may have special building requirements. For information about building requirements, email <a href="mailto:buildingandsafety@berkeleyca.gov">buildingandsafety@berkeleyca.gov</a>.</p>		



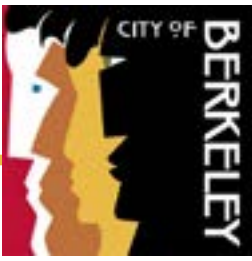
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## QUESTIONS

	YES	NO
<b>Section 1. Property Designations/Characteristics continued</b>		
<p>4. Is the property located within a <a href="#">GeoHazard Zone</a>?</p> <p>&gt; If yes, you can proceed but may have special building requirements. For information about building requirements, email <a href="mailto:buildingandsafety@berkeleyca.gov">buildingandsafety@berkeleyca.gov</a></p>		
<p>5. Is the property located within a <a href="#">Very High Severity Fire Zone</a>?</p> <p>&gt; If yes, you can proceed but may have special building requirements. For information about building requirements, email <a href="mailto:buildingandsafety@berkeleyca.gov">buildingandsafety@berkeleyca.gov</a>.</p>		
<p>6. Does the property have a dedicated easement?</p> <p>&gt; If yes, you must comply with the requirements of the easement, which may include no construction allowed within the easement area.</p>		
<b>Section 2. Unit Rental Status</b>		
<p>7. Has the Ellis Act Ordinance been used to remove the unit from the rental market within the last 15 years?</p> <p>&gt; If yes, you cannot proceed with a housing development under SB 9 but can proceed with an urban lot split provided the unit is not demolished.</p> <p>&gt;If no, you can proceed with a housing development and/or urban split utilizing SB 9.</p>		
<p>8. Does the property contain an existing residential unit where any of the following apply?</p> <p>8a. Is the unit 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?</p> <p>8b. Is the unit subject to the City’s Rent Ordinance?</p> <p>8c. Has the unit been occupied by a tenant in the last three years?</p> <p>&gt;If yes to any, you can proceed, but the unit may not be demolished or altered.</p>		
<p>9. Does the project include demolition or removal of more than 25 percent of the existing exterior structural walls?</p> <p>&gt;If yes, you can proceed with an SB 9 housing development only if the unit does not meet any criteria under 8a-c above.</p> <p>A signed SB 9 Prior Tenancy Attestation Form is required for submittal of an urban lot split and/or building permit application.</p>		



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## QUESTIONS

	YES	NO								
<b>Section 3. Setback, Height, and Lot Coverage Requirements</b>										
<p>10. Does your project comply with <a href="#">Table 23.202-2:R-1 Development Standards</a> for front and side setbacks, and SB 9 standards for rear setbacks, as shown below.</p> <table border="1" data-bbox="203 625 1247 793"> <thead> <tr> <th>R-1 and SB 9 Setback Standards</th> <th>Front</th> <th>Side</th> <th>Rear</th> </tr> </thead> <tbody> <tr> <td>Minimum Setback*</td> <td>20 Feet</td> <td>4 Feet</td> <td>4 Feet</td> </tr> </tbody> </table> <p>* <b>Setbacks are measured as the distance between the surface of a building’s outer wall and the applicable lot line.</b></p> <p>&gt; If yes, the project may proceed.</p> <p>&gt;If no, see #13 for more information.</p>	R-1 and SB 9 Setback Standards	Front	Side	Rear	Minimum Setback*	20 Feet	4 Feet	4 Feet		
R-1 and SB 9 Setback Standards	Front	Side	Rear							
Minimum Setback*	20 Feet	4 Feet	4 Feet							
<p>11. Average Building Height and Maximum Height<sup>1</sup>? Is the proposed building height average 35 feet or less? If located in the Hillside Overlay District, is the proposed maximum building height also 35 feet or less?</p> <p>&gt; If yes, you can proceed.</p> <p>&gt;If no, see #13 for more information.</p> <p><sup>1</sup> <a href="https://berkeley.municipal.codes/BMC/23.106.090">https://berkeley.municipal.codes/BMC/23.106.090</a></p>										
<p>12. Is the lot coverage 40 percent or less?</p> <p>&gt; If yes, the project may proceed.</p> <p>&gt;If no, see #13 for more information.</p>										
<p>13. If you can demonstrate that the City’s zoning development standards and SB 9 modifications for setbacks, height, and/or lot coverage would not allow for construction of up to two 800 square-foot dwelling units, you may submit additional information for review to determine if you can proceed. Submit an explanation with the SB 9 Preliminary Application materials.</p>										



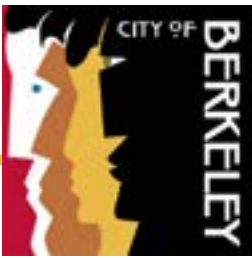
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## QUESTIONS

	YES	NO
<b>Section 4. Parking Requirements</b>		
<p>If located on a roadway less than 26 feet in pavement width in the Hillside Overlay District, you must provide one parking space per unit, unless your project qualifies for an exemption. A property may qualify for an exemption if:</p> <ul style="list-style-type: none"> <li>The property is located within a half mile walking distance of:                             <ul style="list-style-type: none"> <li>A Bus line with bus service occurring at least as frequently as every 15 minutes during peak commute hours,</li> <li>An existing bus rapid transit stop or rail stop, or</li> <li>The intersection of two or more major bus routes with bus service occurring at least every 15 minutes</li> <li>The property is located within one block of a car share vehicle.</li> </ul> </li> </ul> <p>14. Based on the requirements described above, is your project located outside of the Hillside Overlay District? Or, if within the Hillside Overlay District, is one parking space per unit proposed or does your project propose one parking space per unit or qualify for an exemption?</p> <p>&gt; If yes, the project may proceed.</p> <p>&gt;If no, see #13 in Section 3, above, for more information</p>		
<b>Section 5. Subdivision Requirements - Only applicable for Urban Lot Splits</b>		
<p><b>Owner Occupancy</b></p> <p>15. Will the applicant for the subdivision live on one of the resulting parcels as their primary dwelling for three years from the date the subdivision is approved?</p> <p>&gt; If yes, you can proceed.</p> <p>&gt;If no, the City cannot approve your project.</p> <p>A signed SB 9 Owner Attestation is required with the submittal of an urban lot split.</p>		
<p><b>Subdividing Adjoining Properties is Prohibited</b></p> <p>SB 9 prohibits an applicant, or applicants working in concert, from subdividing adjoining lots.</p> <p>16. Have you, either alone or working with others, proposed an SB 9 subdivision on an adjoining lot?</p> <p>&gt; If yes, the City cannot approve your project.</p>		
<p><b>New property line proximity to existing structures</b></p> <p>17. 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>&gt; 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>		



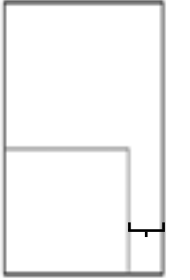
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## QUESTIONS

### Section 5. Subdivision Requirements - Only applicable for Urban Lot Splits

	YES	NO
<p><b>Lot Size</b></p> <p>18. 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>&gt; If yes, you can proceed.</p> <p>&gt;If no, the City cannot approve your project.</p>		
<p>19. If located in the Hillside Overlay area, do the resulting lots have access to the right-of-way that is at least 14-feet wide? See example below.</p> <p>&gt; If yes, you can proceed.</p> <p>&gt;If no, the City cannot approve your project.</p> <div style="text-align: center;">  <p>14 feet</p> </div> <p><b>Figure 1.</b></p>		