

# CITY OF HAYWARD PLANNING DIVISION

## Frequently Asked Questions on SB 9 (Duplex Development and Urban Lot Splits)

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### BACKGROUND

On September 16, 2021, the State of California adopted Senate Bill 9 which aims to streamline housing permitting and increase density to create more inclusive and vibrant neighborhoods across the State. On January 1, 2022, all local agencies must ministerially approve two residential units on a parcel within a single-unit residential zone if the development meets specific objective criteria. The bill also requires ministerial review for subdividing one lot into two lots within a single-unit residential zone and permitting up to two units on each parcel (four total dwelling units on what was formerly a single-unit lot) if the development complies with specific objective criteria.

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## GENERAL QUESTIONS

### **What is the purpose of the SB 9 legislation?**

Many cities in California have limited housing options. Neighborhoods are commonly zoned for single unit homes, the most expensive housing type to own or rent. This legislation was passed to provide more housing supply by requiring jurisdictions to ministerially process additional units on lots within those lower-density areas.

### **Does State law require the City of Hayward to comply with SB 9?**

Yes, the bill imposes a State-mandated set of regulations which apply to all cities, including charter cities. Given the housing crisis in the State of California, this law overrides the local city codes related to land use and density.

### **Where can I find the SB 9 legislation?**

The Senate Bill 9 legislation can be found here:

[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202120220SB9](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB9)

### **What is a Duplex Development and what are the regulations for a Duplex Development under SB 9?**

Under the provisions of SB 9, a Duplex Development is a development with a maximum of two (2) dwelling units (attached or detached) on a single-unit zoned parcel. Any existing dwellings, including accessory dwelling units (ADU) and junior accessory dwelling units (JADU), count towards the two (2) units. The Duplex Development shall comply with the following regulations:

- Setbacks: Minimum four (4)-foot interior side and rear yard. Front yard and street-side yard setbacks shall comply with the underlying zoning district regulations unless it precludes the development of two (2) 800 square-foot units on the subject property.
- Parking: Minimum of one off-street parking space per unit unless the parcel is:
  - Within 1/2-mile walking distance of a high-quality transit corridor or major transit stop; or
  - Within one block of a car share vehicle.
- Design: The project shall comply with the objective standards within the underlying zoning district and the City's Design Guidelines expect as stated above.

### **What is an Urban Lot Split and what are the regulations for an Urban Lot Split under SB 9?**

Under the provisions of SB 9, an Urban Lot Split is the subdivision of any single-unit zoned parcel to create two (2) new parcels. Parcels previously subdivided using SB 9

cannot reapply for the Urban Lot Split application under SB 9. Urban Lot Splits shall comply with the following regulations:

- Each new lot shall be at least 1,200 square feet
- The Urban Lot Split shall result in new lots of approximately equal size (60/40 minimum proportionality)
- The property owner shall intend to occupy one of the units as their principal residence for a minimum of three years.
- The property owner shall not act in concert with the owner of an adjacent parcel.
- The City may require easements for public services and utilities and a requirement for access to the public right-of-way, but not dedications or offsite improvement conditions.
- A maximum of two (2) dwelling units are allowed on each lot, for a total of four (4) dwelling units. The same development standards (e.g., setbacks, floor area, parking, design, etc.) apply as noted above under the Duplex Development.

### **Can I demolish housing in correlation with a SB 9 project?**

A SB 9 project shall not include the demolition or alteration of housing if the property contains:

- Affordable housing; or
- Rent controlled housing; or
- Housing withdrawn from the rental market in the past fifteen (15) years via an Ellis Act eviction; or
- Housing occupied by a tenant within the last three (3) years; if unit was occupied by a tenant within the last three (3) years, no more than 25% of demolition is allowed for the exterior walls.

### **Can a SB 9 project include the development of an ADU or JADU?**

If an applicant utilizes both provisions of SB 9, the City is not required to allow additional ADUs or JADUs.

### **Where are SB 9 Duplex Developments and/or Urban Lot Splits allowed?**

The new law applies to the single-family residential zones only. In the City of Hayward, this is the Single Family Residential (RS) zoning district. Also, there is additional criteria to be eligible to use this ministerial process, including:

- The project cannot be located on farmland, wetlands, habitat for protected species or conservation lands or easements. Furthermore, the project cannot be located in

high fire zones, hazardous waste sites, earthquake faults zones and flood areas unless certain additional requirements are met.

- The project cannot include demolition of existing housing units that are: rent restricted for moderate, low, or very low income; rent-controlled by a public entity, occupied by a tenant in the last three years, or that have been withdrawn from the rental market in the past 15 years via an Ellis Act eviction
- The project cannot be located in a historic district or on a site included on the State Historic Resources Inventory, on a site designated as a city landmark or on a site with historic resources. Please see the question below for more information.

To find out if your property is eligible for the provisions of SB 9, please visit our zoning map at <https://webmap.hayward-ca.gov/> or contact a City Planner at (510) 583- 4216 or [planning.division@hayward-ca.gov](mailto:planning.division@hayward-ca.gov).

### **How can I determine if my property has historic resources?**

The following residential properties shall be required to complete an evaluation to determine if the site has historic resources:

- Properties developed before 1946
- Properties that were developed after 1946 that were not part of a subdivision and that have structures that are at least 50 years old
- Properties identified to have potential historic resources by the City of Hayward's 2009 Reconnaissance Survey (Visit the City's online zoning map at <https://webmap.hayward-ca.gov/> and select "Historic Resources" from the Layers dropdown menu.)

Residential properties developed as part of a subdivision after 1946 do not have historic resources in accordance with the City's Historical Preservation Ordinance.

If a property meets one of the bulleted criteria above, an architectural historian shall prepare a Historic Evaluation Report with supporting photos and evidence to assess and document whether the site has historic resources. If the architectural historian concludes that the site does not have historic resources, submit the completed evaluation with your SB 9 application submittal. If the architectural historian concludes that the site has historic resources, then the property is not eligible for the provision of SB 9.

### **Are SB 9 projects allowed in my Homeowner Association (HOA)?**

Maybe. The owner must verify that the property's Codes, Covenants, and Restrictions (CC&Rs) or Homeowner Association (HOA) rules are not violated by the proposed SB 9 project.

**Will SB 9 projects require a public hearing for approval?**

No. This legislation requires a ministerial review process which is an administrative process not involving public hearings.

**Is neighborhood notification required for SB 9 Duplex Development and/or Urban Lot Split?**

No, there is no public notification required as part of an application for a SB 9 Duplex Development and/or Urban Lot Split, and under State law, the permit process shall be limited to non-discretionary review unless there are unique circumstances on the property that present an adverse health and life safety issues.

**Can units created by the provisions of SB 9 be used for short-term rentals?**

No. Any rental unit in the City, including those created pursuant to SB 9, must be rented for a term longer than 30 days.

**Can parcels created by the provisions of SB 9 be used for non-residential uses?**

No. Parcels created through an Urban Lot Split under SB 9 cannot be used for purposes other than residential uses.

**What are the parking requirements for SB 9 projects?**

The City may require up to one off-street parking space per unit, except no parking can be required if the parcel is located within 1/2 mile walking distance of a high-quality transit corridor or major transit stop, or is within one block of a car share vehicle. A high-quality transit corridor is defined as a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours. A major transit stop is an existing rail or bus rapid transit station, a ferry terminal served by either a bus or rail transit service or the intersection of two or more major bus routes with a frequency of service intervals of 15 minutes or less during the morning and afternoon peak commute periods.

**Can I split my RS-zoned lot without using SB 9? What are the benefits of using SB 9 and not using SB 9 to complete a lot split?**

Possibly. There are now two options to subdivide properties that are zoned Single Family Residential (RS). One is subdividing the lot using the provisions of SB 9. The benefits of doing an Urban Lot Split using SB 9 is having the project reviewed ministerially with no public notice requirement and more relaxed lot requirements and development standards.

Alternatively, if both newly created lots meet all of the [lot requirements](#) of the RS zoning district, the lot split can be completed via the standard Tentative Parcel Map process. The advantage of doing a lot split through the standard process is that the demolition and alteration rules and three-year minimum owner occupancy requirements of SB 9 Urban Lot Splits do not apply. Additionally, it may be easier to add ADUs and JADUs to the single family residences after the lot split.

## **PERMITTING PROCESS**

### **Where should I start?**

Property owners interested in SB 9 Duplex Development, Urban Lot Splits, or both should contact the Planning Division at (510) 583-4216 or [planning.division@hayward-ca.gov](mailto:planning.division@hayward-ca.gov) to determine whether their property is eligible for this development. After that, the property owner should consult with a qualified professional to develop plans based on the property's specific conditions and the owner's individual needs and goals. The City cannot recommend design professionals to the public, but property owners are encouraged to use websites such as Angie's List, Yelp, Houzz.com, and the Yellow Pages.

### **Are permits required for a SB 9 Duplex Development and/or Urban Lot Split?**

Yes, there is a permitting process Duplex Development and/or Urban Lot Splits. Contact the Planning Division at (510) 583-4216 or [planning.division@hayward-ca.gov](mailto:planning.division@hayward-ca.gov) to get started.

## **ASK US MORE QUESTIONS!**

### **Have more questions on Planning and Zoning?**

No problem! Visit our website first then feel free to contact the Planning Division at (510) 583- 4216 or [planning.division@hayward-ca.gov](mailto:planning.division@hayward-ca.gov) during normal City Hall hours.

### **Additional Resources:**

- Building Division: Questions on the building permit process, including plan check fees, site inspections, timeframes, submittal requirements and address assignments? Please contact the Building Division at (510) 583-4005 or visit <https://www.hayward-ca.gov/services/permit-center>. In addition, please review the link below for all permit fees within the City's Master Fee Schedule including, but not limited to, applicable plan check, inspection, administration, impact fees, and building construction taxes:
  - **Permit Fees:** [www.hayward-ca.gov/content/permit-fees](http://www.hayward-ca.gov/content/permit-fees)
- Fire Department: Questions on fire sprinkler or fire code requirements? Contact the City's Fire Prevention Office at (510) 583-4900.

- Utilities (Water and Sewer): Questions on water meter connections and new sewer connection fees? For more information, visit the City's website at [www.hayward-ca.gov/water-service](http://www.hayward-ca.gov/water-service) or contact the City's Development Review Specialist Michelle Tran at (510) 583-4722 or [michelle.tran@hayward-ca.gov](mailto:michelle.tran@hayward-ca.gov).
  - **Important Note**: Most of Hayward is served by the City's water and sewer services, but some portions of Hayward are served by the East Bay Municipal Utilities District (EBMUD) for water and Oro Loma Sanitary District. If you are in EBMUD's or Oro Loma's service area, please contact them for questions on water and sewer services. The City of Hayward does not have jurisdiction over gas and electricity, please contact your local PG&E office for questions on development and utility connections.
- Encroachment Permits: Will your project involve work within the public right-of-way such as the sidewalk, curb/gutter, driveway apron? Contact Assistant Civil Engineer Claudia Moran-Garcia at (510) 583-4212 or [claudia.moran-garcia@hayward-ca.gov](mailto:claudia.moran-garcia@hayward-ca.gov).