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SB 9 Eligibility and Application Submittal Checklist

California Senate Bill 9 (SB 9) became effective January 1, 2022. SB 9 has two components: (1) requires a proposed housing development containing no more than 2 residential units within a single-family residential zone to be considered ministerially, without discretionary review or hearing, if the proposed housing development meets certain requirements; and (2) requires ministerial approval of urban lot splits that meet certain requirements.

SB 9 only applies to single-family residential zoned parcels within U.S. Census Bureau designated urbanized areas or urban clusters; excludes parcels designated as a historic landmark or located within a historic district; protects existing affordable housing and tenant occupied housing; requires any rental unit created to be rented for a term longer than 30 days; and requires an applicant for an urban lot split to occupy one of the housing units for 3 years, among other requirements.

SB 9 in the Coastal Zone is extremely limited. For properties located in the Coastal Zone, the County's Local Coastal Program, Subdivision Ordinance, and Zoning Regulations are applicable as adopted in their entirety. Please contact the Planning Department at PlanningProjects@smcgov.org or at (650) 363-1825 for SB 9 projects in the Coastal Zone.

Full legislative text:

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB9

SB 9 EARLY ASSISTANCE MEETING

Projects that elect to take advantage of SB 9 are encouraged to complete an Early Assistance Meeting with Planning Department staff prior to a building permit application for the housing development or application for subdivision (lot split).

Early Assistance Meetings can be scheduled through the online appointment system by visiting <https://planning.smcgov.org> or by requesting a meeting through email at PlanningProjects@smcgov.org or by phone at (650) 363-1825.

Early Assistance Meeting

1. At or before the meeting, the applicant should provide staff with a preliminary plan that conveys a general understanding of the proposal and a completed SB 9 Eligibility Checklist.
2. At the meeting, staff will review the proposal and SB 9 eligibility and inform the applicant of any proposal or eligibility discrepancies, processing next steps, and fees.
3. Within 10 business days of the early assistance meeting, staff will provide the applicant with a brief written summary of the main points discussed at the meeting.

SB 9 ELIGIBILITY CHECKLIST

SB 9 projects are considered ministerially, without discretionary review or hearing, provided certain requirements are met. Applications for Design Review are not required and environmental review under the California Environmental Quality Act does not apply.

SB 9 housing development projects must meet all the following criteria. SB 9 subdivision (lot split) projects must meet additional criteria.

SB 9 Eligibility Requirements	
<input type="checkbox"/>	Parcel is legal and wholly located in a U.S. Census Bureau designated “urbanized areas or urban clusters.”
<input type="checkbox"/>	Parcel is located in a single-family residential zone: <ul style="list-style-type: none"> <input type="checkbox"/> One-Family Residential District (R-1) <input type="checkbox"/> One-Family Residential/Country Club Park District (R-1/CCP) <input type="checkbox"/> Residential Estates District (R-E) <input type="checkbox"/> Residential Hillside (RH)
<input type="checkbox"/>	Project includes residential uses only.
<input type="checkbox"/>	Parcel does not contain prime agricultural lands, wetlands, protected species habitat, or land subject to a conservation easement.
<input type="checkbox"/>	Proposed development is not located within a historic district or property included on the State Historic Resources Inventory or within a site designated or listed as a County landmark or historic property or district.
<input type="checkbox"/>	Proposed development would not require demolition or alteration of affordable housing, rent or price controlled housing, housing occupied by a tenant in the last 3 years, or housing that was withdrawn from the rental market in the last 15 years.
<input type="checkbox"/>	Proposed development does not demolish more than 25% of the exterior structural walls of an existing structure, unless at least of one of the following is met: <ul style="list-style-type: none"> <input type="checkbox"/> If local ordinance so allows; or <input type="checkbox"/> The site has not been occupied by a tenant in the last 3 years.
<input type="checkbox"/>	Proposed rental units may not be used for short-term rentals of less than 30 days. ¹
<input type="checkbox"/>	Parking. Off-street parking of up to one space per unit, except that no parking requirements shall be imposed in either of the following: <ul style="list-style-type: none"> <input type="checkbox"/> The parcel is located within one-half mile walking distance of either a high-quality transit corridor (PRC Section 21155) or a major transit stop (PRC Section 21064.3); or <input type="checkbox"/> There is a car share located within one block of the parcel.
<input type="checkbox"/>	Parcel is served by a wastewater provider; or
<input type="checkbox"/>	Parcel has a septic system (On-site Wastewater Treatment System) and a percolation test completed within the last 5 years, or, if the percolation test has been recertified, within the last 10 years.
<input type="checkbox"/>	Parcel is not located in very high fire hazard severity zones (or is located in very high fire hazard severity zone and criteria of Gov. Code Section 65913.4(a)(6) is met), earthquake fault zone, floodplain, floodway, or contain hazardous materials may be allowed if certain criteria are met.
<input type="checkbox"/>	Objective zoning, design, and subdivision requirements are met.

¹ Deed restriction indicating prohibition on short-term rentals will be required as part of subdivision map recordation; or building permit final inspection for housing development where no subdivision is proposed.

SB 9 Subdivision (Lot Split) Additional Eligibility Requirements

- Proposed urban lot split results in two parcels of approximately equal lot area (60/40 split at most), with each new parcel containing at least 1,200 square feet.
- Parcel proposed for urban lot split was not established through a prior SB 9 lot split.
- Adjacent parcels were not previously subdivided through an SB 9 lot split by the lot owner or anyone acting “in concert with” the owner.
- Parcels created by proposed urban lot split will only be used for residential uses.
- Proposed urban lot split and housing development does not include construction of Accessory Dwelling Units or Junior Accessory Dwelling Units.
- Affidavit stating that applicant will occupy one of the housing units as their principal residence for a minimum of 3 years from the date of approval of the urban lot split (unless applicant is a community land trust or qualified non-profit corporation).

SB 9 HOUSING DEVELOPMENT APPLICATION REQUIREMENTS AND OBJECTIVE ZONING AND DESIGN STANDARDS

Building permit applications for housing developments must include a completed SB 9 Eligibility Checklist at the time of application submittal. Eligibility review will occur during the plan check process once the building permit is accepted for processing (a complete application). A determination of eligibility will be made prior to building permit issuance.² Eligible projects must meet the following objective zoning and design standards identified below.

SB 9 Objective Zoning Standards³	
<input type="checkbox"/>	Residential Units must meet the following development standards of the respective zoning district: <ul style="list-style-type: none"> <input type="checkbox"/> Setbacks <ul style="list-style-type: none"> <input type="checkbox"/> Development of two 800 sq. ft. units: Front: Zoning District Minimum Sides and Rear: Zoning District Minimum (or 4 feet if required to accommodate two 800 sq. ft. units) <input type="checkbox"/> Development larger than two 800 sq. ft. units or one single-family residence: Zoning District minimum setbacks apply⁴ <input type="checkbox"/> Development of new unit in same location with same dimensions as an existing structure: No setbacks <input type="checkbox"/> Lot coverage <input type="checkbox"/> Floor Area Ratio <input type="checkbox"/> Height <input type="checkbox"/> Daylight Plane <input type="checkbox"/> Parking (one space per unit; no parking if project is within a ½ mile walking distance high quality transit corridor or major transit stop; or one block of car share location) https://planning.smcgov.org/zoning-regulations
<input type="checkbox"/>	Accessory Dwelling Units and Junior Accessory Dwelling Units. https://planning.smcgov.org/zoning-regulations

SB 9 Objective Design Standards – EMERALD LAKE HILLS	
<input type="checkbox"/>	Building Shapes and Bulk. Control the bulk of buildings on hillsides by requiring them to be terraced up or down the hill at a uniform height.
<input type="checkbox"/>	Materials and Colors. <ul style="list-style-type: none"> <input type="checkbox"/> Use colors such as warm grays, beiges, natural woods, and muted greens. Prohibit the use of cool grays, blues, pinks, yellows, and white. <input type="checkbox"/> Ensure that all roof materials have Class “C” or better fire resistive ratings.
<input type="checkbox"/>	Utilities. Install all new service lines underground.

² A local agency may deny a proposed housing development project if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of [Government Code] Section 65589.5, upon public health and safety or the physical environmental and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

³ A local agency shall not impose objective zoning standards, objective subdivision standards, and objective design standards that would have the effect of physically precluding the construction of up to two units or that would physically preclude either of the two units from being at least 800 square feet in floor area.

⁴ Larger developments not meeting Zoning District minimum standards may apply for a variance.

SB 9 Objective Design Standards – PALOMAR PARK

- Building Shapes and Bulk.
Control the bulk of buildings on hillsides by requiring them to be terraced up or down the hill at a uniform height.
- Materials and Colors.
 - Use colors such as warm grays, beiges, natural woods, and muted greens.
 - Ensure that all roof materials have Class “C” or better fire resistive ratings.
- Utilities.
Install all new service lines underground.

SB 9 SUBDIVISION APPLICATION REQUIREMENTS AND OBJECTIVE SUBDIVISION STANDARDS

Applications for review and approval of tentative parcel maps must be filed with the Planning Department. Within 30 days of application submittal, the Planning Department will notify the applicant if the application is complete or if additional information is required. Complete applications will then be transmitted to other agencies for review and comment. Approval or denial of the subdivision is based on compliance with SB 9 requirements and findings listed below.

County's adopted Subdivision Ordinance:
<https://planning.smcgov.org/subdivision-regulations>

All documents must be completed and submitted in Portable Document Format (PDF) via email to PlanningProjects@smcgov.org.

SB 9 Subdivision Application Requirements	
<input type="checkbox"/>	Tentative Map. Digital (PDF file format) tentative parcel map prepared in accordance with Subdivision Ordinance Section 7011.2 (see next checklist).
<input type="checkbox"/>	Application Form. A completed application form with an attached statement by the applicant setting forth grounds in support of the findings. https://planning.smcgov.org/documents/planning-permit-application-form https://planning.smcgov.org/documents/subdivision-application-companion-page
<input type="checkbox"/>	Environmental Disclosure Form. A completed Environmental Information Disclosure Form. https://planning.smcgov.org/documents/environmental-information-disclosure-form
<input type="checkbox"/>	C.3 and C.6 Development Review Checklist. A completed C.3. and C.6 Development Review Checklist. https://planning.smcgov.org/documents/c3-and-c6-development-review-checklist
<input type="checkbox"/>	Title Report. A preliminary title report, showing the legal owners at the time of application, and all easements, encumbrances, and other reservations of record affecting the property.
<input type="checkbox"/>	Owner's Concurrence. Proof of the owner's interest in the property and concurrence with the application for subdivision as required by the Community Development Director.
<input type="checkbox"/>	Fees as adopted by the Board of Supervisors. The fees for tentative map or tentative parcel map review in accordance with the most recent Service Fee Schedule adopted by the Board of Supervisors.

Tentative Parcel Map Form and Content

Tentative parcel maps must be submitted to the County Planning and Building Department for review and approval. Maps shall meet the following minimum requirements for form and content.

Form and Content Requirements for Tentative Parcel Maps	
<input type="checkbox"/>	<p>Name and Address of Preparer. The map must be prepared by a registered civil engineer or licensed land surveyor, whose name, address, email, registration or license number, and signature must be shown on the map, along with the date of preparation. The name and license or registration number of any geologist or soils engineer who may have helped prepare the map should also be indicated.</p>
<input type="checkbox"/>	<p>Owner and Subdivider's Name and Address. The names and addresses of both the legal owner, and the subdivider if not the same, must be shown on the map.</p>
<input type="checkbox"/>	<p>Subdivision Name. Tentative maps shall have the proposed subdivision name stated on the map.</p>
<input type="checkbox"/>	<p>Scale. The scale of the map shall be large enough to show all details clearly and enough sheets shall be used to accomplish this end.</p>
<input type="checkbox"/>	<p>North Orientation. The north arrow shall point up the sheet, unless a different orientation is more appropriate in a particular case, and each sheet must have a north arrow.</p>
<input type="checkbox"/>	<p>Letter Size. The lettering must be a minimum of 1/8" in size.</p>
<input type="checkbox"/>	<p>Vicinity Map. A vicinity map must be included, showing adjacent properties on all sides and indicating the current record owner of such property. The location, names and widths of adjacent rights-of-way shall be shown.</p>
<input type="checkbox"/>	<p>Assessor's Parcel Number. The current assessor's parcel number(s) of the parcel(s) to be subdivided shall be indicated.</p>
<input type="checkbox"/>	<p>Legal Description of the Property. A legal description that defines the boundaries of the proposed subdivision and establishes the legality of the parcel to be divided must be included. If the description is not printed on the map itself, then it must be in a separate, attached document.</p>
<input type="checkbox"/>	<p>Zoning and Land Use. The map shall indicate the existing zoning district and existing and proposed land use.</p>
<input type="checkbox"/>	<p>Development Schedule If the subdivider plans to develop the site in phases, the proposed sequence and timing of construction phases must be shown on the map.</p>
<input type="checkbox"/>	<p>Existing and Proposed Topography.</p> <ul style="list-style-type: none"> <input type="checkbox"/> Existing and proposed topography must be shown by contours at two (2) foot intervals if the existing ground slope is less than ten percent (10%), and at not less than five (5) foot intervals for existing ground slopes equal to or greater than ten percent (10%). <input type="checkbox"/> Contour lines must be labeled at least every one hundred fifty (150) linear feet along the contour line and should be continued, in general, at least fifty (50) feet beyond the boundaries of the site within urban areas. Also, note on plan the location of reference benchmark for vertical control. <input type="checkbox"/> Existing contours must be represented by dashed or screened lines and proposed contours by solid lines. <input type="checkbox"/> The source and date of contour information must be specified. <input type="checkbox"/> The preliminary design of all grading shall be shown, including the approximate finished grade of each lot, the elevation of proposed building pads, and the top and toe of cut and fill slopes.

<ul style="list-style-type: none"> <input type="checkbox"/> Existing and proposed profiles, sight distance, and point of access shall be shown for all driveways, and compliance with all applicable County standards shall be demonstrated. <input type="checkbox"/> A separate grading plan may be required to clearly show all details of the existing and proposed topography.
<ul style="list-style-type: none"> <input type="checkbox"/> Lot Dimensions and Area. The map must show existing and proposed parcel lines and their dimensions. Existing property lines must be shown with dotted lines, proposed property lines with solid lines. The area of each parcel must be indicated, in square feet if less than one acre, and in acres (to the nearest hundredth of an acre) if one acre or larger. Each parcel should be consecutively numbered, beginning with the number one (1).
<ul style="list-style-type: none"> <input type="checkbox"/> Trees. The map must indicate the type (species), circumference, diameter and drip line of existing significant or heritage trees, as defined by the County Significant Tree and Heritage Tree Ordinances. Any trees proposed for conservation or removal and the location of replacement trees to be planted shall be indicated.
<ul style="list-style-type: none"> <input type="checkbox"/> Existing Structures. The type, location and outline of existing structures must be shown and marked as to whether they will remain or be removed.
<ul style="list-style-type: none"> <input type="checkbox"/> Existing and Proposed Streets. The map must show the locations, names, widths, centerline radii, centerline slopes and angle of intersection of all existing and proposed streets within and abutting the subdivision. Existing and proposed street improvements such as pavement type, curbs, gutters or sidewalks should be indicated. Whether streets are publicly or privately maintained, or proposed to be publicly or privately maintained, should also be noted. The location of official plan lines or projected streets and highways as indicated in the State Transportation Improvement Plan, the County General Plan or any adopted area plan should be shown, if applicable.
<ul style="list-style-type: none"> <input type="checkbox"/> Easements. The map must show the location, width, and purpose of all existing and proposed easements, including avigation easements.
<ul style="list-style-type: none"> <input type="checkbox"/> Existing and Proposed Utilities. The map must show the location and size of all existing and proposed utilities service lines and facilities, including the following: <ul style="list-style-type: none"> <input type="checkbox"/> All provisions for water supply for domestic use and fire protection purposes including source (watermains, wells), quality and approximate quantity expressed as gallons per minute. <input type="checkbox"/> All provisions for sewage disposal, storm drainage and infiltration, flood control, and required National Pollution Discharge Elimination System (NPDES) facilities including the approximate grade and elevation of existing and proposed sewers and storm drains, location of septic systems and their expansion areas, location of the soil percolation test sites, and preliminary calculations used to select, size, and locate all proposed facilities. <input type="checkbox"/> All provisions for utility services, such as gas, electricity, telephone, and cable television.
<ul style="list-style-type: none"> <input type="checkbox"/> Flood, Coastal Erosion, or Sea level Rise Hazard Areas. The map must show the location of all areas of special flood hazard which are subject to inundation, storm water or tide water overflow, as illustrated on the Flood Insurance Rate Maps on file with the Planning Department. The location, width, and direction of flow of each watercourse and the base flood level (as shown on the National Flood Insurance Program Maps prepared by the Federal Emergency Management Agency) and flooding from Sea Level Rise (using the latest available science-based projections) must also be indicated. Projections of landward erosion over the life of the development must also be shown.
<ul style="list-style-type: none"> <input type="checkbox"/> Recreation Area. Existing and proposed recreation areas, trails, bike paths or parks for private or public use, including proposed shoreline access points, must be shown.

- Common Areas and Open Space.
Proposed common areas and areas to be dedicated to public open space must be shown.

Findings

If the project meets all criteria, the project shall be approved. In the case of denial, only one finding need be made.

Finding of Denial

A local agency may deny a proposed housing development project if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of [Government Code] Section 65589.5⁵, upon public health and safety or the physical environmental and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

⁵ As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. The following shall not constitute a specific, adverse impact upon the public health or safety:

(A) Inconsistency with the zoning ordinance or general plan land use designation.

(B) The eligibility to claim a welfare exemption under subdivision (g) of Section 214 of the Revenue and Taxation Code.