



OFFICE OF THE MAYOR

April 1, 2022

SUBJECT: Mayor's Message to Pasadena Residents in Response to California Attorney General's Letter Regarding SB 9

Dear Pasadena Residents:

In recent weeks, the City of Pasadena has been the subject of several news reports, opinion pieces, a widely publicized letter, and even political Twitter postings from the State Attorney General regarding the City's compliance with California Senate Bill 9 ("SB 9"), which became effective on January 1. Unfortunately, much of what is being reported about Pasadena does not conform to the facts.

Pasadena is entitled to be proud of its many accomplishments, including its record of creating much needed housing, and as your Mayor, I cannot allow this unfounded criticism to go unanswered.

It has long been obvious that additional affordable housing is needed in California, and Pasadena's leadership supports that view. But the approach of SB 9 is wrongheaded in taking a cookie cutter approach to this need and treating all cities the same regardless of their particular facts.

For those unfamiliar with SB 9, it allows any California land owner to divide an existing single-family parcel into two parcels and then allowing the placement of two residential structures on each parcel. That's right, under SB 9, with limited exceptions, four units are allowed on every single family residential parcel in our city. Can you say, overdevelopment? Furthermore, it does not require any of the new structures to be within the definition of "affordable housing." So, for no affordable housing, we now will get increased traffic, more demands on our infrastructure, higher property costs, and the destruction of our neighborhoods as we've known them. Although the City Council strongly disagreed with this approach, it nonetheless decided in 2021 not to file litigation to block enforcement of SB 9, but instead determined to comply with it. That is exactly what Pasadena has done, and the City is in full compliance with SB 9.

Pasadena's record regarding affordable housing is one of which all of us on the City Council are proud. We have recently built and retained 3,000 units of affordable housing, 1,000

more are in the works, and 500 are under construction today. We will continue to add appropriate new affordable housing stock as time passes and budgets permit. We also respect our historic structures and districts, based on the specific exemptions under SB 9 of historic and landmark districts from the new law.

In 1983, the City of Pasadena adopted an “historic preservation ordinance” and, apparently, unbeknown to those in Sacramento, in partnership with the National Park Service and the State of California, acquired designation as a Certified Local Government (CLG). This certification allows the City to designate neighborhoods with historic value as local landmark districts and to be registered on the National Register of Historic Places when the designated districts are determined to be of national significance.

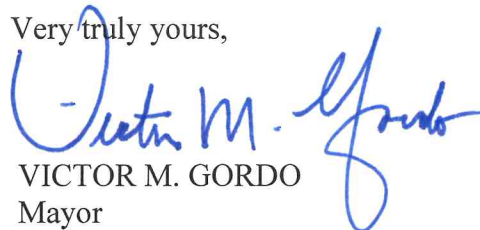
The idea is to protect Pasadena’s unique architecture, the character of its neighborhoods, and the educational and cultural resources that our unique community holds. The City made a determination that we could not allow the destruction of these important elements of our City. These valued or irreplaceable resources in our City have been—and must continue to be—protected from over-development and, importantly, remain available for study by planners, historians, architects, students, and others around the world.

Now, despite leading the way in developing affordable housing and determining to comply with SB 9 while protecting certain unique architecture as SB 9 specifically provides, the City is accused of egregious violations and bad intent. It has even been suggested that we are considering declaring the entirety of Pasadena an historic or landmark district. This is simply untrue.

This is not about the City of Pasadena preventing affordable housing, nor is it about a failure to comply with the law. Rather, these criticisms are politically motivated and not supported by the facts. I am attaching for your information the City’s formal response to the Attorney General. You will find our response to the Attorney General’s letter is fact based, legally supported, and yes, forceful, because we will not allow Sacramento officials or media opinion makers to attack and mis-define us, as they do not know our City—the Pasadena that we all cherish.

Going forward, I respectfully encourage our Attorney General to get to know us before taking to Twitter to wrongfully and unfairly tarnish Pasadena’s good name—by now, we should all understand that governance by Twitter is ineffective.

Very truly yours,



VICTOR M. GORDO
Mayor



OFFICE OF THE MAYOR

April 1, 2022

Rob Bonta, Attorney General
Department of Justice
State of California
1300 I Street, Suite 125
PO Box 944255
Sacramento, CA 94244-2550

Re: **Attorney General Letter of March 15, 2022**

Dear Mr. Bonta:

This letter is in response to the purported “Notice of Violation” sent on behalf of your office to the City of Pasadena on March 15, 2022, regarding alleged violations of state law (the Letter).

We believe that the allegations that Pasadena violated SB 9 by excluding its landmark districts from SB 9 are wrong, as supported by the statute and legislative history. At the time it voted on SB 9, the Legislature stated, “A site located within a historic or landmark district, or a site that has a historic property or landmark under state or local law” is to be exempt from SB 9.¹ Recognizing such exemptions, this dispute should end quickly and we ask that you rescind the notice of violation.

Should you need further explanation, however, as set forth in the attached detailed and formal response from our City legal counsel, local historic districts are exempt from the provisions of SB 9 as set forth in Government Code Sections 65852.21(a)(6) and 66411.7(a)(3)(E). Pasadena’s “landmark districts” are clearly “historic” districts, as they are evaluated using the same criteria as used for an application for the National Historic Register, their boundaries are determined using the same criteria as used for an application for the National Historic Register, and every landmark district must show a relationship to a historical context. Indeed, this was understood – and intended – by the lawmakers themselves. Pasadena

¹ See attached memo, Exhibit E, Office of Senate Floor Analysis, page 3, section 2.i.

did not err when it identified landmark districts as historic districts, which are exempt from the provisions of SB 9.

Pasadena is acutely aware that there is a serious housing shortage in the State of California and agrees that each community must do its fair share to accommodate new, and especially affordable, housing. Assuming your office was unaware, please take note that, in the last housing element cycle, Pasadena permitted and entitled over 4,950 new residential units, many times more than its total Regional Housing Needs Allocation of 1,332 units. The City currently has 1,021 affordable units in the development pipeline, all but 150 intended for lower income households, and an additional 2,200 units are under review.

As the Letter recognized, Pasadena in good faith adopted an ordinance in December 2021 to implement the California HOMES Act (SB 9). Nonetheless, we were sent the Letter alleging violations of state law without any prior substantive conversation with your office, and despite the City's history as a supporter of new housing. To add insult to injury, the Letter was released concurrent with a press statement, and shortly thereafter self-serving tweets by elected officials, misrepresenting Pasadena's efforts on SB 9, and housing policies in general.

While the City respectfully disagrees with the interpretation of SB 9 presented in the Letter, as described in detail in the attached response, be aware that Pasadena must defend its reputation of successfully balancing the need for new housing while protecting its historic resources. We are prepared to engage in substantive discussions regarding any outstanding issues and are in the process of setting up a meeting with your office, elected state and local officials, and legal counsel to address this situation.

We look forward to resolving this matter before it needlessly escalates further.

Sincerely,

A handwritten signature in blue ink that reads "Victor M. Gordo". The signature is fluid and cursive, with the first name "Victor" being the most prominent.

VICTOR M. GORDO
Mayor

cc: Matthew T. Struhar, Deputy Attorney General (matthew.struhar@doj.ca.gov)
Michele Beal Bagneris, Pasadena City Attorney
Cynthia Kurtz, Pasadena Interim City Manager



OFFICE OF THE CITY ATTORNEY/CITY PROSECUTOR

April 1, 2022

Rob Bonta, Attorney General
c/o Matthew T. Struhar, Deputy Attorney General
Department of Justice
State of California
1300 I Street, Suite 125
PO Box 944255
Sacramento, CA 94244-2550
Matthew.Struhar@doj.ca.gov

Re: Response to "Notice of Violations of Government Code Sections 65858, 65852.21, AND 66411.7" dated March 15, 2022

Dear Mr. Struhar:

This office is in receipt of the correspondence noted above, and provides this formal response thereto.

SUMMARY

Pursuant to Government Code Sections 65852.21(a)(6) and 66411.7(a)(3)(E), local landmark and historic districts are exempt from the provisions of SB 9. Since 1989, Pasadena has identified and created local historic districts called "landmark districts." In identifying exemptions consistent with the statute, Pasadena entirely complied with SB 9 in adopting its SB 9 ordinance.

The State Senate and the Assembly were informed – and agreed - that "landmark districts" were excluded from SB 9. The State Senate's own website states:

Myth: This bill will destroy historic neighborhoods.

Fact: SB 9 excludes historic *and landmark districts*. (Emphasis added.)

The Attorney General further alleges that Pasadena's "landmark districts" are not "historic" districts -- yet they clearly are:

- They are evaluated using the same criteria as used for an application for the *National Historic Register*.

- Their boundaries are determined using the same criteria as used for an application for the National Historic Register.
- Every landmark district must show a relationship to a *historical* context.
- Since 1987 the City has been a “Certified Local Government” (CLG), and has been federally certified by the National Park Service to carry out the purposes of the National Historic Preservation Act of 1966 and its implementing regulations, under an agreement between the City and the California Office of Historic Preservation.

For these reasons, we believe Pasadena complied with SB 9 when it identified landmark districts as exempt.

Further, the City’s urgency ordinance sets forth the required findings and otherwise complies with the requirements for adopting such an ordinance. Nonetheless, in the upcoming weeks, the City will consider adopting a regular ordinance to replace the urgency ordinance. The City has complied with the Housing Crisis Act, and there is no intention to establish a citywide historic district, or take other steps to evade compliance with state law.

INTRODUCTION

The City of Pasadena (the City) recognizes that California is experiencing a serious housing shortage. For that reason, the City attempted in good faith – as recognized by the Attorney General – to implement the California HOMES Act, effective January 1, 2022 (SB 9). However, our view of SB 9’s provisions differs significantly from the positions expressed in the letter from the Attorney General (a purported “Notice of Violation”) addressed to Mayor Victor Gordo and dated March 15, 2022 (the Letter).

Pasadena has a rich historic heritage that is critically important to the culture and identity of the City. One of the General Plan’s Guiding Principles is to preserve Pasadena’s historic resources, and one of its key goals is to preserve the City’s historic districts, as a key source of community identity, if they are eligible for designation under City, state, or national criteria. These goals and policies reflect core City values and long pre-date the Legislature’s 2021 passage of SB 9. The City created its first Landmark District Zone 39 years ago, in 1983, and since then the City has adopted at least 25 ordinances related to historic preservation. (See Exhibit A.)

The allegations made in the Letter appear to derive primarily from the belief that that SB 9 did not exclude landmark districts from its provisions, and the City’s “landmark districts” are not historic districts. These contentions are not supported. The legislative history of SB 9 shows that it was intended to include landmark districts and that the Legislature recognized that the historic exemption was broad, not narrow. Additionally, the City’s designated landmark districts are clearly “historic” districts as defined by state and federal law.

Before addressing the specific allegations in the Letter, we wish to detail how the Legislature intended to exclude landmark districts from the provisions of SB 9, and then why the City’s landmark districts are, in fact, historic districts.

Legislative History: SB 9 Excludes Landmark Districts

The Letter interprets SB 9 to mean that, to be exempt from the statute, a project must be located on either a site individually designated as a landmark or historic property, or on a site that is part of a historic district, but that this exclusion does not include a site within a “landmark district.”

SB 9 states that a proposed two-unit development or urban lot split is not permitted on a site that is designated or listed as a city “landmark or historic property or district pursuant to a city...ordinance.”¹ This language was contained in the bill introduced by Speaker Toni Atkins on December 7, 2020 and was never amended.

As discussed at length above, a “landmark” district *is* a “historic” district. But the Legislature also specifically understood SB 9 to exclude landmark districts from its terms:

- The bill analysis prepared for the first policy committee hearing on April 15, 2020, at the Senate Committee on Housing, stated that SB 9 excludes from its provisions, “A site located within a historic *or landmark district*.” (See Exhibit B, page 3; emphasis added.)
- The Senate Third Reading analysis prepared by the Senate Rules Committee for the Senate vote on May 26, 2021 similarly stated that SB 9 excludes, “A site located within a historic *or landmark district*.” (See Exhibit C, page 3; emphasis added.)
- Speaker Atkins stated, in a Background Information Request completed for the Assembly Committee on Housing and Community Development, which heard SB 9 on June 22, 2021:

“Preserves historic neighborhoods. SB 9 excludes historic *and landmark districts*.”
(See Exhibit D, page 4; emphasis added.)

- The Unfinished Business Analysis, also prepared by the Senate Rules Committee for the final Senate floor vote on August 30, 2021, reiterated that SB 9 excludes from its provisions, “A site located within a historic *or landmark district*.” (See Exhibit E, page 3; emphasis added.)
- A description of SB 9 now available on the State Senate’s web site² states:

Myth: This bill will destroy historic neighborhoods.

Fact: SB 9 excludes historic *and landmark districts*. (See Exhibit F, page 3; emphasis added.)

Perhaps most significant, the bill analysis presented to the Senate Committee on Housing, and as part of the Senate Third Reading and Unfinished Business analyses, noted that “[s]ites within a historic district are categorically exempt from the provisions of this bill,” and the bill “contains a very *broad* definition of what kinds of historic districts are *automatically* exempt from this bill”

¹ Gov’t Code §§ 65852.21(a)(6) and 66411.7(a)(3)(E).

² Available at: <https://focus.senate.ca.gov/sb9>. Last accessed March 29, 2022.

(emphasis added).³ Committee staff noted that SB 9 does not require a historic district to be on a federal or state historic registry. There was suggestion that the Legislature adopt a “more focused and rigorous exemption,” but the language automatically exempting a *broad* definition of historic districts was not accepted and remained unchanged.

SB 9 was specifically intended to exclude landmark districts, and both houses of the Legislature were informed that they were excluded. Landmark districts are historic districts. There is no statutory language indicating that the Legislature intended the historic exemption to be narrow and ample evidence that it was understood to be a broad exemption that would “automatically” exclude local historic districts such as the City’s landmark districts.

Pasadena’s Landmark Districts are Historic Districts

Pasadena uses the term “landmark districts” to designate historic districts of Citywide significance, rather than those of state or national significance. The Letter does not challenge Pasadena’s ability to designate historic districts of Citywide significance, but rather asserts that “landmark districts” are not historic districts because they may be based on “historic, cultural, development and/or architectural contexts,” rather than requiring that they always be based on their “historic” values. This position is not supported under pertinent federal and state authorities.

Broad State and Federal Criteria for “Historic” Districts. Neither California’s nor the federal government’s definition of a “historic district” is so narrow. Public Resources Code Section 5020.1 (referenced in SB 9) defines a “historic district” as:

“a definable unified geographic entity that possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically *or aesthetically* by plan or physical development.” (Public Resources Code § 5020.1(h); emphasis added.)

Similarly, the federal government defines a “historic district” as:

“a geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events *or aesthetically* by plan or physical development.” (48 CFR § 552.270-2.)

A state “historical resource” includes a broad range of values beyond “historic” values:

“any object, building, structure, site, area, place, record, or manuscript which is historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California.” (Public Resources Code § 5020.1(j).)

The City’s criteria for designation of a landmark district as one having a “defined cultural, development and/or architectural contexts” is entirely consistent with the state and federal definitions of a “historic district” as including structures united “aesthetically by plan or physical

³ See Ex. B, pp. 8-9; Ex. C, pp. 6-7; Ex. E, pp. 7-8.

development”: an area defined by its “development and/or architectural context” is united “aesthetically by plan or physical development.” Also, a building significant in the “*cultural* annals of California” is a “historical resource.”

We believe that Pasadena’s landmark districts do not lose their “historic” status because they may include “cultural, development, and/or architectural contexts.” Simply put, the Letter ignores the expansive definitions of “historic districts” and “historical resources” contained in California law, which specifically recognize cultural, physical development, and architectural values.

The City’s Criteria for Landmark Districts. The City’s criteria for landmark districts are contained in Municipal Code Chapter 17.62, entitled *Historic* Preservation. Landmark districts in Pasadena are historic districts designated using essentially the same rigorous criteria as used for federally designated National Register districts. Every landmark district must relate to a specific *historical* context:

“a significant and distinguishable entity of Citywide importance and one or more of a defined historic, cultural, development and/or architectural context(s) (e.g., 1991 Citywide *historic* context, as amended, *historic* context prepared in an intensive-level survey or *historic* context prepared specifically for the nominated landmark district).” (Pasadena Municipal Code (PMC) § 17.62.040.G.1.c.; emphasis added)

Further, as set forth in the Municipal Code, National Register criteria are used to evaluate applications for a landmark district.

“[The City] shall apply the criteria below *according to applicable National Register of Historic Places Bulletins for evaluating historic properties*, including the seven aspects of integrity: location, design, setting, materials, workmanship, feeling and association (National Register of Historic Places Bulletin #15: ‘How to Apply the National Register Criteria for Evaluation’).” (PMC § 17.62.040.A; emphasis added.)⁴

Additionally, to determine the boundaries of the landmark district, the City:

“shall use the National Register of Historic Places Bulletin #21: “Defining Boundaries for National Register Properties.” (PMC § 17.62.040.G.2)

Also:

- Development of projects within landmark districts requires a Certificate of Appropriateness based on the Secretary of the Interior’s Standards for the Treatment of *Historic* Properties. (PMC 17.62.090.E.4.)

⁴ These criteria, like the state’s definition of “historical resources,” are broader than “historic” values, including “the quality of significance in American history, architecture, archaeology, engineering, and culture.” See *Bulletin #15*, page 2.

- The City maintains a “local register of historical resources” as defined by Public Resources Code Section 5020.1(k) as a component of the California Historical Resources Inventory Database (<http://pasadena.cfwebtools.com/>). The City’s landmark districts are included in the register. A project listed on a local register is defined as an “historical resource” by the California Environmental Quality Act. (Public Resources Code § 21084.1.)
- Since 1987 the City has been a “Certified Local Government” (CLG) as defined in Public Resources Code Section 5020.1(b): it has been federally certified by the National Park Service to carry out the purposes of the National Historic Preservation Act of 1966 and its implementing regulations, under an agreement between the City and the California Office of Historic Preservation. Pasadena and San Diego were the first designated CLG cities in the state.

A “landmark” district is simply a local “historic” district by another name and one that utilizes federal criteria to determine eligibility. To reiterate:

- A landmark district is a defined geographical area, with boundaries determined as specified in National Register Bulletin #21.
- The criteria used to evaluate an application for a landmark district are those specified in National Register Bulletin #15.
- Every landmark district must show a relationship to a *historical* context.
- The structures within a landmark district must be united historically (including by cultural history) *or aesthetically* by plan or physical development, such as by architectural style.

The Letter’s assertion that the City’s landmark districts are not “historic” districts is not supported by the facts or law.

DIRECT RESPONSE TO “NOTICE OF VIOLATION”

Pasadena’s landmark districts are excluded from the application of SB 9 by the statute itself. Further, Pasadena’s landmark districts are historic districts. The alleged violations of state law contained in the Letter are not supportable.

1. Adequacy of Findings to Justify the SB 9 Urgency Ordinance.

Pasadena intends to adopt a permanent ordinance to replace the SB 9 urgency ordinance and has advertised a Planning Commission hearing for April 13, 2022, the earliest date at which a hearing could be scheduled based on our meeting schedules and to comply with public notice requirements

The findings included in the urgency ordinance adopted on December 13, 2021 meet the requirements of state law, as we will explain, below.

An urgency ordinance must contain a finding that there is a “current and immediate threat to the public health, safety, or welfare.” (Gov’t Code § 65858(c).) The City’s ordinance recited the grounds for such urgency.⁵ The urgency ordinance notes that, in large part, SB 9 did not provide for consideration of cities like Pasadena, whose land use planning was “rooted in community participation and thoughtful planning principles.” The urgency ordinance cites the lack of environmental impact analysis, specifically with regard to “traffic, greenhouse gas emissions, air quality, and other environmental factors.” The ordinance further expresses concerns about the land use impacts of SB 9, including impacts on its “planning efforts to provide well thought-out high density residential housing in appropriate areas of the City,” and states that there is an immediate threat because, without the urgency ordinance, urban lot splits and duplex projects could take place without consideration of their environmental and land use impacts.

The Letter criticizes the urgency ordinance primarily because it did not contain the additional findings required by Government Code Section 65858(c) regarding an ordinance that has the effect of denying approvals necessary for multifamily housing.⁶ However, SB 9 *automatically* excludes historic districts from its provisions, without the need for City action. SB 9 itself excluded multifamily housing from the historic landmark districts, not Pasadena’s adoption of the urgency ordinance.

2. Prohibition of SB 9 Units in Landmark Districts.

The heart of the Letter appears to be the assertion that landmark districts are not exempt from SB 9, and that landmark districts are not “historic” districts. The legislative history shows that the exemption of historic districts was understood by the Legislature to be a *broad* exemption. Both the bill’s author and Committee staff repeatedly stated that the bill exempted “landmark districts” from its provisions.

Further, landmark districts are historic districts, evaluated for Citywide significance using the criteria established for the National Register of Historic Places and additionally *required* to demonstrate the connection to an historical context. No landmark district was created to evade SB 9; the most recent landmark district was created in 2019. No district recognizes structures less than 50 years old; half the districts recognize only those homes over 80 years old. Each district was recognized for both its historic and architectural character. Pasadena has many historic districts because it was one of the first communities to be developed in the San Gabriel Valley and contains many of the most significant historic neighborhoods in Los Angeles County.

The Letter expresses particular concern that only 60 percent of the properties need to contribute to the district. The average percentage of contributing properties is 84 percent; only two of the districts contain fewer than 70 percent contributing properties. Staff at the California Office of Historic Preservation have confirmed that there is no numerical threshold of contributing buildings required to designate a historic district. For instance, 76 percent of buildings are contributing properties in two Pasadena National Register historic districts (Bungalow Heaven and Lower

⁵ https://ww2.cityofpasadena.net/2021%20Agendas/Dec_13_21/AR%2016%20ORDINANCE.pdf

⁶ Although the Letter states that these findings must be made to adopt or extend an urgency ordinance regarding multifamily housing, the statute requires these findings only for an urgency ordinance extension. Gov’t Code § 65858(c).

Arroyo). Pasadena relies on National Historic Register criteria to designate eligible landmark districts and to determine their boundaries.

The City recognizes the consideration of whether landmark districts qualify as historic districts. However, the facts demonstrate that a landmark district is, in fact, an “historic” district exempt from SB 9.

3. Compliance with Housing Crisis Act.

The Legislature, not Pasadena, decided that the additional units allowed by SB 9 should not be permitted in historic districts designated by city ordinance and elected to *automatically* exempt these districts from the provisions of SB 9, without the need for action by Pasadena.

Pasadena’s urgency ordinance did not impose any moratorium or limitation on housing development that had not already been imposed by the Legislature. The Housing Crisis Act of 2019 applies only to actions by affected cities and counties, not to state actions. (Gov’t Code § 66300(b).)

4. Citywide Historic District or Specific Plan.

Pasadena has never sought to avoid SB 9 by purportedly declaring the entire city a historic district or exempting its specific plan areas from the law or creating landmark districts to evade the law. State law requires that the Planning Commission’s recommendations be presented to the City Council. (Gov’t Code § 65855.) The City Council never considered or supported such overly broad actions.

Pasadena recognizes California’s housing shortage, and I hope this correspondence has demonstrated how we have complied with State legislation intended to address that shortage. I also hope that the foregoing shows, more specifically, how the Legislature excluded Pasadena’s landmark districts from its provisions. We welcome a further dialogue with your office, and look forward to those discussions in the near future.

Sincerely,



Michele Beal Bagneris
City Attorney, City of Pasadena

cc: Mayor Victor Gordo
Pasadena City Council
Cynthia Kurtz, Interim City Manager

Exhibits:

- A. Timeline: Pasadena Ordinances Related to Historic Preservation.
- B. Analysis for Senate Committee on Housing (for hearing April 15, 2021).

- C. Senate Rules Committee, Office of Senate Floor Analyses, Third Reading Analysis for SB 9 (for floor vote May 26, 2021).
- D. Background Information Request, Assembly Committee on Housing and Community Development (for hearing June 22, 2021).
- E. Senate Rules Committee, Office of Senate Floor Analyses, Unfinished Business Analysis (for floor vote August 30, 2021).
- F. SB 9: The California HOME Act (available at: <https://focus.senate.ca.gov/sb9>; accessed March 29, 2022.)

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EXHIBIT A

TIMELINE

PASADENA ORDINANCES RELATED TO HISTORIC PRESERVATION*

<u>Date</u>	<u>Ordinance #</u>	<u>Description</u>
December 11, 1979	No. 5445	Created an Urban Conservation Zone in Old Pasadena to preserve significant buildings linked to Pasadena's past.
March 18, 1983	No. 5599	Amended Title 17 of the Pasadena Municipal Code, establishing a Landmark District Zone.
August 23, 1983	No. 6030	Established Cultural Heritage Commission
June 5, 1985	No. 6099	Imposed restrictions on the alteration, removal, or relocation of fixtures from structures over 50 years old. Emergency Ordinance.
September 30, 1985	No. 6116	Approved initiation of a study to determine the effects of the removal of fixtures from structures over 50 years old.
October 14, 1985	No. 6121	Amended sections of Title 17 relating to design review committee decisions in Old Pasadena.
January 27, 1986	No. 6133	Extended the time during which restrictions are imposed on the alteration, removal, or relocation of fixtures from structures over 50 years old.
March 3, 1986	No. 6137	Listed the structures for which the restrictions on removal of fixtures in structures over 50 years old apply.
June 2, 1986	No. 6157	Amended Chapter 2.46 of the Pasadena Municipal Code to add procedures for designation of Pasadena Historic Treasures and to preserve the integrity of structures designed by the architects Greene and Greene.
July 21, 1986	No. 6173	Design Review and Cultural Heritage Ordinance
November 11, 1986	No. 6184	Amended Chapter 2.48 of the Pasadena Municipal Code to reconstitute the Design Review Committee as the Design Commission and require consultation with the Cultural Heritage Commission regarding certain historic structures.

<u>Date</u>	<u>Ordinance #</u>	<u>Description</u>
December 16, 2019	No. 7356	Extension of the interim urgency ordinance of the City of Pasadena temporarily prohibiting demolition and 'Major Projects' affecting eligible, undesignated historic resources.
October 26, 2020	No. 7369	Extension of the interim ordinance of the City of Pasadena, temporarily prohibiting demotion and 'Major Projects' affecting eligible, undesignated Historic Resources.
March 8, 2021	No. 7372	Amended various provisions of Title 17 of the Pasadena Municipal Code related to Historic Preservation.

*Ordinances applying a landmark district overlay to individual landmark districts are not included in this list, with the exception of two districts created in the 1990s.

SENATE COMMITTEE ON HOUSING

Senator Scott Wiener, Chair

2021 - 2022 Regular

EXHIBIT B

Bill No: SB 9 **Hearing Date:** 4/15/2021
Author: Atkins
Version: 4/5/2021 Amended
Urgency: No **Fiscal:** Yes
Consultant: Alison Hughes

SUBJECT: Housing development: approvals

DIGEST: This bill requires ministerial approval of a housing development of no more than two units in a single-family zone (duplex), the subdivision of a parcel zoned for residential use into two parcels (lot split), or both.

ANALYSIS:

Existing law:

- 1) Governs, pursuant to the Subdivision Map Act, how local officials regulate the division of real property into smaller parcels for sale, lease, or financing.
- 2) Authorizes local governments to impose a wide variety of conditions on subdivision maps.
- 3) Requires a local jurisdiction to give public notice of a hearing whenever a person applies for a zoning variance, special use permit, conditional use permit, zoning ordinance amendment, or general or specific plan amendment.
- 4) Requires the board of zoning adjustment or zoning administrator to hear and decide applications for conditional uses or other permits when the zoning ordinance provides therefor and establishes criteria for determining those matters, and applications for variances from the terms of the zoning ordinance.
- 5) Establishes the California Environmental Quality Act (CEQA), which generally requires state and local government agencies to inform decision makers and the public about the potential environmental impacts of proposed projects, and to reduce those impacts to the extent feasible. CEQA applies when a development project requires discretionary approval from a local government. (See “Comments” below for more information.)



- 6) Requires ministerial approval by a local agency for a building permit to create an accessory dwelling unit (ADU) provided the ADU was contained within an existing single-family home and met other specified requirements. Requires a local agency to ministerially approve an ADU or junior accessory dwelling unit (JADU), or both, as specified, within a proposed or existing structure or within the same footprint of the existing structure, provided certain requirements are met.
- 7) Requires each city and county to submit an annual progress report (APR) to the Department of Housing and Community Development (HDC) and the Office of Planning and Research (OPR) that provides specified data related to housing development.

This bill:

- 1) Requires a city or county to ministerially approve either or both of the following, as specified:
 - a) A housing development of no more than two units (duplex) in a single-family zone.
 - b) The subdivision of a parcel zoned for residential use, into two approximately equal parcels (lot split), as specified.
- 2) Requires that a development or parcel to be subdivided must be located within an urbanized area or urban cluster and prohibits it from being located on any of the following:
 - a) Prime farmland or farmland of statewide importance;
 - b) Wetlands;
 - c) Land within the very high fire hazard severity zone, unless the development complies with state mitigation requirements;
 - d) A hazardous waste site;
 - e) An earthquake fault zone;
 - f) Land within the 100-year floodplain or a floodway;
 - g) Land identified for conservation under a natural community conservation plan, or lands under conservation easement;
 - h) Habitat for protected species; or
 - i) A site located within a historic or landmark district, or a site that has a historic property or landmark under state or local law, as specified.



- 3) Prohibits demolition or alteration of an existing unit of rent-restricted housing, housing that has been the subject of an Ellis Act eviction within the past 15 years, or that has been occupied by a tenant in the last three years.
- 4) Prohibits demolition of more than 25% of the exterior walls of an existing structure unless the local ordinance allows greater demolition or if the site has not been occupied by a tenant in the last three years.
- 5) Authorizes a city or county to impose objective zoning, subdivision, and design review standards that do not conflict with this bill, except:
 - a) A city or county shall not impose objective standards that would physically preclude 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. A city or county may, however, require a setback of up to four feet from the side and rear lot lines.
 - b) A city or county shall not require a setback for an existing structure or a structure constructed in the same location and to the same dimensions as the existing structure.
- 6) Prohibits a city or county from requiring more than one parking space per unit for either a proposed duplex or a proposed lot split. Prohibits a city or county from imposing any parking requirements if the parcel is located within one-half mile walking distance of either a high-quality transit corridor or a major transit stop, or if there is a car share vehicle located within one block of the parcel.
- 7) Authorizes a city or county to require a percolation test completed within the last five years or, if the test has been recertified, within the last 10 years, as part of the application for a permit to create a duplex connected to an onsite wastewater treatment system.
- 8) Requires a city or county to prohibit rentals of less than 30 days.
- 9) Prohibits a city or county from rejecting an application solely because it proposes adjacent or connected structures, provided the structures meet building code safety standards and are sufficient to allow separate conveyance.
- 10) Provides that a city or county shall not be required to permit an ADU in addition to units approved under this bill.
- 11) Requires a city or county to include the number of units constructed and the number of applications for lot splits under this bill, in its APR.



- 12) Requires a city or county to ministerially approve a parcel map for a lot split that meets the following requirements, in addition to the requirements for eligible parcels that apply to both duplexes and lot splits:
- a) The parcel map subdivides an existing parcel to create two new parcels of approximately equal size, provided that one parcel shall not be smaller than 40% of the lot area of the original parcel.
 - b) Both newly created parcels are at least 1,200 square feet, unless the city or county adopts a small minimum lot size by ordinance.
 - c) The parcel does not contain rent-restricted housing, housing where an owner has exercised their rights under the Ellis Act within the past 15 years, or has been occupied by tenants in the past three years.
 - d) The parcel has not been established through prior exercise of an urban lot split.
 - e) Neither the owner of the parcel, or any person acting in concert with the owner, has previously subdivided an adjacent parcel using an urban lot split.
- 13) Requires a city or county to approve a lot split if it conforms to all applicable objective requirements of the Subdivision Map Act not except as otherwise expressly provided in this bill. Prohibits a city or county from imposing regulations that require dedicated rights-of-way or the construction of offsite improvements for the parcels being created, as a condition of approval.
- 14) Authorizes a city or county to impose objective zoning standards, objective subdivision standards, and objective design review standards that do not conflict with this bill. A city or county may, however, require easements or that the parcel have access to, provide access to, or adjoin the public right-of-way.
- 15) Provides that a local government shall not be required to permit more than two units on a parcel.
- 16) Prohibits a city or county from requiring, as a condition for ministerial approval of a lot split, the correction of nonconforming zoning conditions.
- 17) Allows a local government to impose owner occupancy requirements on a lot split if it meets either of the following requirements:
- a) The applicant intends to live in the unit for a minimum of one year from the date of the approval of the lot split, or
 - b) The applicant is a “qualified non-profit”.

- 18) No additional owner occupancy standards may be imposed other than those contained within (17 above), and that requirement expires after five years.
- 19) Allows a city or county to adopt an ordinance to implement the urban lot split requirements and duplex provisions, and provides that those ordinances are not a project under CEQA.
- 20) Allows a city or county to extend the life of subdivision maps by one year, up to a total of four years.
- 21) Provides that nothing in this bill shall be construed to supersede the California Coastal Act of 1976, except that a local government shall not be required to hold public hearings for a coastal development permit applications under this bill.

COMMENTS

- 1) *Author's statement.* "Senate Bill 9 promotes small-scale neighborhood residential development by streamlining the process for a homeowner to create a duplex or subdivide an existing lot. SB 9 strikes an appropriate balance between respecting local control and creating an environment and opportunity for neighborhood scale development that benefits the broader community. To that end, the bill includes numerous safeguards to ensure that it responsibly creates duplexes and strategically increases housing opportunities for homeowners, renters, and families alike. At a time when many Californians are experiencing economic insecurity caused by the pandemic, this bill will provide more options for families to maintain and build intergenerational wealth – a currency we know is crucial to combatting inequity and creating social mobility. SB 9 provides flexibility for multigenerational housing by allowing homeowners to build a modest unit on their property so that their aging parent or adult child can have an affordable place to live. Building off the successes of ADU law, SB 9 offers solutions that work in partnership with a number bills included in the Senate's Housing Package, 'Building Opportunities For All' aimed at combating the State's housing crisis."
- 2) *Housing development approvals.* Cities and counties enact zoning ordinances to implement their general plans. Zoning determines the type of housing that can be built. In addition, before building new housing, housing developers must obtain one or more permits from local planning departments and must also obtain approval from local planning commissions, city councils, or county board of supervisors. Some housing projects can be permitted by city or county planning staff ministerially, or without further approval from elected officials.

Projects reviewed ministerially require only an administrative review designed to ensure they are consistent with existing general plan and zoning rules, as well as meeting standards for building quality, health, and safety. Most large housing projects are not allowed ministerial review; instead, these projects are vetted through both public hearings and administrative review. Most housing projects that require discretionary review and approval are subject to review under the California Environmental Quality Act (CEQA), while projects permitted ministerially generally are not.

- 3) *Subdivision Map Act.* Cities and counties adopt local subdivision ordinances to carry out the Subdivision Map Act and local requirements. City councils and county boards of supervisors use the Map Act to control a subdivision's design and improvements. Local subdivision approvals must be consistent with city and county general plans.

Under the Subdivision Map Act, cities and counties can attach scores of conditions. The Map Act allows local officials to require, as a condition of approving a proposed subdivision, the dedication of property within a subdivision for streets, alleys, drainage, utility easements, and other public easements and improvements. Once subdividers comply with those conditions, local officials must issue final maps. For smaller subdivisions that create four or fewer parcels, local officials usually use parcel maps, but they can require tentative parcel maps followed by final parcel maps. The Map Act also constrains the dedications and improvements that local cities and counties can require as a condition of a subdivision of four or fewer lots to only the dedication of rights-of-way, easements, and the construction of reasonable offsite and onsite improvements for the parcels being created.

- 4) *Denser Housing in Single-Family Zoning.* California's high — and rising — land costs necessitate dense housing construction for a project to be financially viable and for the housing to ultimately be affordable to lower-income households. Yet, recent trends in California show that new housing has not commensurately increased in density. In a 2016 analysis, the Legislative Analyst's Office (LAO) found that the housing density of a typical neighborhood in California's coastal metropolitan areas increased only by four percent during the 2000s. In addition, the pattern of development in California has changed in ways that limit new housing opportunities. A 2016 analysis by BuildZoom found that new development has shifted from moderate but widespread density to pockets of high-density housing near downtown cores surrounded by vast swaths of low-density single-family housing. Specifically, construction of moderately-dense housing (2 to 49 units) in California peaked in the 1960s and 1970s and has slowed in recent decades.

The UC Berkeley Turner Center conducted a residential land use survey in California from August 2017 to October 2018.¹ The survey found that most jurisdictions devote the majority of their land to single-family zoning and in two-thirds of jurisdictions, multifamily housing is allowed on less than 25% of land. Some jurisdictions in the US have taken steps to increase density in single-family zones. Minneapolis recently became the first major U.S. city to end single-family home zoning when its City Council passed a comprehensive plan to permit three-family homes in the city's residential neighborhoods, abolish parking minimums for all new construction, and allow high-density buildings along transit corridors. The City of Sacramento may be the first city in California to end single-family zoning; in January 2021, its City Council gave preliminary approval to a proposal to allow up to four homes per lot in single-family zones.

According to a 2016 McKinsey Report, California has the capacity to build between 341,000 and 793,000 new units by adding units to existing single-family homes.²

A 2019 Zillow report found that even modest densification, such as duplexes and fourplexes could result in millions more homes.³ Across 17 metro areas analyzed nationwide, allowing 10% of single-family lots to house two units instead of one could yield almost 3.3 million additional housing units to the existing housing stock. In the L.A. region, if one in five single-family lots were re-zoned to hold two homes, the local housing stock could be boosted by 775,000 homes.

- 5) *Modest density can result in large-scale housing production.* This bill could lead to up to four homes on lots where currently only one exists. It would do so by allowing existing single-family homes to be converted into duplexes; it would also allow single-family parcels to be subdivided into two lots, while allowing for a new two-unit building to be constructed on the newly formed lot. According to the University of California, Berkeley Turner Center for Housing Innovation, this bill has the potential to allow for the development of nearly 6 million new housing units. Assuming only five percent of the parcels impacted

¹ Sarah Mawhorter and Carolina Reid. *Local Housing Policies Across California: Presenting the Results of a New Statewide Survey.* (Turner Center for Housing Innovation, University of California, Berkeley, December 2018) https://californialanduse.org/download/Turner_California_Residential_Land_Use_Survey_Report.pdf

² Jonathan Woetzel, Jan Mischke, and Shannon Peloquiun. *Closing California's Housing Gap.* (McKinsey & Company, October 24, 2016) <https://www.mckinsey.com/featured-insights/urbanization/closing-californias-housing-gap>

³ Zillow. *A Modest Proposal: How Even Minimal Densification Could Yield Millions of New Homes.* (December 6, 2019) <https://www.zillow.com/research/modest-densification-new-homes-25881/>



by this bill created new two-unit structures; this bill would result in nearly 600,000 new homes.⁴

- 6) *Historic preservation versus housing production.* As part of their general police powers, local governments have the authority to designate historic districts, which set specific regulations and conditions to protect property and areas of historical and aesthetic significance. While well-intentioned, academics and others have pointed out that there are negative impacts of historic districts on housing supply and racial equity. For example, in 2017, the Sightline Institute noted that, in relation to Seattle’s historic preservation efforts, “rules for historic preservation can sabotage housing affordability just like any other cost, red tape, permitting delay, or capacity limits imposed on homebuilding.” It made recommendations such as educating historic preservation board members on how the historic review process and resulting preservation mandates can impede homebuilding and harm affordability; raising the bar for justifying landmark designations in order to counteract local anti-development sentiment; and even prohibiting historic preservation restrictions from limiting new construction to less than the height or capacity that zoning allows.

Sites within a historic district are categorically exempt from the provisions of this bill. While the committee understands the desire to protect the integrity of historic districts from an aesthetic perspective, it is unclear that allowing small multi-unit construction in historic districts — which would be subject to objective historic design standards — would undermine the integrity of the historic districts. In addition, exempting historic districts from bills designed to increase multi-unit housing supply could lead to fair housing challenges. This committee is aware of several California cities — including neighborhoods in Eastern San Francisco, Los Angeles, and San Jose — that have not excluded historic districts when performing rezonings.

The bill also contains a very broad definition of what kinds of historic districts are automatically exempt from the bill. The historic district exemption, similar to exemptions included in other pending bills in the Senate, does not require a historic district to be on a federal or state historic registry. Instead, a city can designate a zone as historic without the typical rigorous historic designation process required for a historic district to be placed on a federal or state registry. The committee is aware that certain NIMBY groups are already discussing use of this broad exemption as a tool to exempt communities from state housing laws. If a historic district exemption is needed, a more focused and rigorous

⁴ David Garcia, *Single-Family Zoning Reform: An Analysis of SB 1120*. (Temer Center for Housing Innovation, University of California, Berkeley, July 30, 2020) <https://temercenter.berkeley.edu/blog/sb-1120/>



exemption — for example, similar to what the Governance and Finance Committee placed in SB 50 (Wiener, 2019) — should be considered.

The committee understands and respects that the scope of historic district exemptions has been a subject of significant discussion within the Senate. The committee looks forward in the coming months and years to ongoing discussion about interaction between historic districts and state housing laws.

- 7) *Opposition concerns.* According to the League of California Cities, “SB 9 as currently drafted will not spur much needed housing construction in a manner that supports local flexibility, decision making, and community input. State-driven ministerial or by-right housing approval processes fail to recognize the extensive public engagement associated with developing and adopting zoning ordinances and housing elements that are certified by the [HCD].”
- 8) *Senate’s 2021 Housing Production Package.* This bill has been included in the Senate’s 2021 Housing Production Package. It is virtually identical to SB 1120 (Atkins, 2020), except for the following changes:
 - a) Clarifies that no more than two units are authorized when providing for ministerial approval of a duplex on a single-family parcel.
 - b) States that a local government shall not be required to permit more than two units on a parcel when a lot split is authorized.
 - c) Adds a new provision specifying that this bill shall not be construed to supersede the California Coastal Act of 1976, except that local governments shall not be required to hold public hearings for coastal development permit applications for a housing development pursuant to this bill.
 - d) Precludes locals from requiring either unit in a duplex or units on a lot split from being at least 800 square feet.
 - e) Authorize the lot splits to be up to 40/60 split, instead of two parcels of equal size.
 - f) Allows a local government to impose owner occupancy requirements on a lot split if it meets either of the following requirements: (i) the applicant intends to live in the unit for a minimum of one year from the date of the approval of the lot split, or (ii) the applicant is a “qualified non-profit”. No additional owner occupancy standards may be imposed, and this requirement expires after five years.
- 9) *Triple-referral.* Due to the COVID-19 Pandemic and the unprecedented nature of the 2021 Legislative Session, all Senate Policy Committees are working under a compressed timeline. This timeline does not allow this bill to be referred and heard by more than two committees as a typical timeline would

allow. In order to fully vet the contents of this measure for the benefit of Senators and the public, this analysis includes information from the other committees included in the original referral. This bill has also been referred to the Governance and Finance Committee.

According to the Senate Environmental Quality Committee:

“CEQA operates, not by dictating pro-environmental outcomes, but rather by mandating that ‘decision makers and the public’ study the likely environmental effects of contemplated government actions and thus make fully informed decisions regarding those actions. ... In other words, CEQA does not care what decision is made as long as it is an informed one.” (*Citizens Coalition Los Angeles v. City of Los Angeles* (2018) 26 Cal. App. 5th 561, 577.) The Senate Environmental Quality Committee has generally expressed concern with ministerial approvals and CEQA exemptions because they do not promote informed decision making by local governments. While the ministerial approval processes and CEQA exemptions provided by this bill would be prohibited from applying in specified environmentally-sensitive areas, not including the coastal zone, CEQA’s environmental review process lends to comprehensive overview of a project and informs governmental officials of associated significant direct and indirect environmental impacts. Without this review, how will officials be fully informed of the potential consequences of their decision, including approving an ordinance or the cumulative impacts of seemingly small individual projects?”

RELATED LEGISLATION:

SB 1120 (Atkins, 2020)— would have required ministerial approval of duplexes and specified subdivision maps. *This bill died on the Senate Floor (Unfinished Business).*

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Friday, April 9, 2021.)

SUPPORT:

Council Member Jon Wizard, City of Seaside
 Council Member Zach Hilton, City of Gilroy
 AARP
 Abundant Housing LA
 ADU Task Force East Bay



All Home
American Planning Association, California Chapter
Bay Area Council
Bridge Housing Corporation
Cal Chamber
CalChamber
California Apartment Association
California YIMBY
Casita Coalition
California Building Industry Association
Chan Zuckerberg Initiative
Circulate San Diego
City of Oakland
City of San Diego
East Bay for Everyone
Facebook
Fieldstead and Company
Generation Housing
Greenbelt Alliance
Habitat for Humanity California
Hello Housing
Housing Action Coalition
Local Government Commission
Los Angeles Business Council
Midpen Housing
Modular Building Institute
Mountain View YIMBY
National Association of Hispanic Real Estate Professionals
Non-profit Housing Association of Northern California
North Bay Leadership Council
Northern Neighbors
Peninsula for Everyone
People for Housing - Orange County
San Diego Regional Chamber of Commerce
San Francisco Bay Area Planning and Research Association (SPUR)
San Francisco YIMBY
Sand Hill Property Company
Share Sonoma County
Silicon Valley Leadership Group
South Bay Cities Council of Governments
South Bay YIMBY
South Pasadena Residents for Responsible Growth

Streets for People Bay Area
Silicon Valley @ Home
TechEquity Collaborative
Tent Makers
Turner Center for Housing Innovation At the University of California, Berkeley
The Two Hundred
TMG Partners
United Way of Greater Los Angeles
Urban Environmentalists
YIMBY Action
92 Individuals

OPPOSITION:

Adams Hill Neighborhood Association
Aids Healthcare Foundation
Alameda Citizens Task Force
Albany Neighbors United
Berkeley Associated Neighbors Against Non-affordable Housing
Burton Valley Neighborhoods Group
California Alliance of Local Electeds
California Cities for Local Control
California Contract Cities Association
Catalysts
Citizens Preserving Venice
Cities of Arcata, Azusa, Bellflower, Beverly Hills, Brentwood, Burbank, Camarillo, Carpinteria, Carson, Cerritos, Chino, Chino Hills, Clayton, Clearlake, Clovis, Cupertino, Cypress, Diamond Bar, Dorris, Downey, Dublin, Eastvale, El Segundo, Escalon, Fortuna, Fountain Valley, Garden Grove, Glendora, Grand Terrace, Half Moon Bay, Hesperia, Hidden Hills, Irvine, Irwindale, Kerman, King, La Palma, La Verne, Lafayette, Laguna Beach, Laguna Niguel, Lakeport, Lakewood, Lancaster, Lomita, Los Alamitos, Los Altos, Martinez, Maywood, Menifee, Merced, Mission Viejo, Monterey, Moorpark, Murrieta, Newman, Newport Beach, Norwalk, Novato, Oakdale, Ontario, Orinda, Palo Alto, Palos Verdes Estates, Paramount, Pismo Beach, Placentia, Pleasanton, Poway, Rancho Cucamonga, Rancho Palos Verdes, Rancho Santa Margarita, Redding, Redondo Beach, Rohnert Park, Rolling Hills, Rolling Hills Estates, San Gabriel, San Jacinto, San Marcos, San Marino, Santa Clara, Santa Clarita, Santa Monica, Saratoga, Signal Hill, South Pasadena, Stanton, Sunnyvale, Temecula, Thousand Oaks, Torrance, Tracy, Vacaville, Ventura, Vista, Westlake Village, Whittier, and Yorba Linda



Coalition for San Francisco Neighborhoods
Coalition to Save Ocean Beach
College Street Neighborhood Group
College Terrace Residents Association
Committee to Save the Hollywoodland Specific Plan
Community Associations Institute - California Legislative Action Committee
Comstock Hills Homeowners Association
D4ward
Durand Ridge United
Encinitas Neighbors Coalition
Friends of Sutro Park
Hidden Hill Community Association
Hills 2000 Friends of The Hills
Hollywood Knolls Community Club
Hollywoodland Homeowners Association
Howard Jarvis Taxpayers Association
LA Brea Hancock Homeowners Association
Lafayette Homeowners Council
Lakewood Village Neighborhood Association
Las Virgenes-Malibu Council of Governments
Latino Alliance for Community Engagement
League of California Cities
League of California Cities Central Valley Division
Linda Vista-Annandale Association
Livable California
Livable Pasadena
Los Altos Residents
Los Angeles County Division, League of California Cities
Los Feliz Improvement Association
Marin County Council of Mayors and Councilmembers
Miracle Mile Residential Association
Miraloma Park Improvement Club
Mission Street Neighbors
Montecito Association
Neighborhood Council Sustainability Alliance Trees Committee
North of Montana Association
Northeast Neighbors of Santa Monica
Pacific Palisades Community Council
Planning Association for The Richmond
Riviera Homeowners Association
San Gabriel Valley Council of Governments
Save Lafayette



Seaside Neighborhood Association
Shadow Hills Property Owners Association
Sherman Oaks Homeowners Association
South Shores Community Association
Southwood Homeowners Association
Sunnyvale United Neighbors
Sunset-Parkside Education and Action Committee
Sustainable Tamalmonite
Temecula Valley Neighborhood Coalition
Towns of Apple Valley, Colma, Fairfax, Mammoth Lakes, and Ross
Ventura Council of Governments
Verdugo Woodlands West Homeowners Association
West Pasadena Residents' Association
West Torrance Homeowners Association
West Wood Highlands Neighborhood Association
Westside Regional Alliance of Councils
Westwood Homeowners Association
Wilshire Montana Neighborhood Coalition
Windsor Square Association
235 Individuals

-- END --



THIRD READING

Bill No: SB 9
Author: Atkins (D), Caballero (D), Rubio (D) and Wiener (D), et al.
Amended: 4/27/21
Vote: 21

SENATE HOUSING COMMITTEE: 7-2, 4/15/21
AYES: Wiener, Caballero, Cortese, McGuire, Skinner, Umberg, Wieckowski
NOES: Bates, Ochoa Bogh

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 4/22/21
AYES: McGuire, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/20/21
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski
NOES: Bates, Jones

SUBJECT: Housing development: approvals

SOURCE: Author

DIGEST: This bill requires ministerial approval of a housing development of no more than two units in a single-family zone (duplex), the subdivision of a parcel zoned for residential use into two parcels (lot split), or both.

ANALYSIS:

Existing law:

- 1) Governs, pursuant to the Subdivision Map Act, how local officials regulate the division of real property into smaller parcels for sale, lease, or financing.
- 2) Authorizes local governments to impose a wide variety of conditions on subdivision maps.

- 3) Requires a local jurisdiction to give public notice of a hearing whenever a person applies for a zoning variance, special use permit, conditional use permit, zoning ordinance amendment, or general or specific plan amendment.
- 4) Requires the board of zoning adjustment or zoning administrator to hear and decide applications for conditional uses or other permits when the zoning ordinance provides therefor and establishes criteria for determining those matters, and applications for variances from the terms of the zoning ordinance.
- 5) Establishes the California Environmental Quality Act (CEQA), which generally requires state and local government agencies to inform decision makers and the public about the potential environmental impacts of proposed projects, and to reduce those impacts to the extent feasible. CEQA applies when a development project requires discretionary approval from a local government. (See “Comments” below for more information.)
- 6) Requires ministerial approval by a local agency for a building permit to create an accessory dwelling unit (ADU) provided the ADU was contained within an existing single-family home and met other specified requirements. Requires a local agency to ministerially approve an ADU or junior accessory dwelling unit (JADU), or both, as specified, within a proposed or existing structure or within the same footprint of the existing structure, provided certain requirements are met.
- 7) Requires each city and county to submit an annual progress report (APR) to the Department of Housing and Community Development (HDC) and the Office of Planning and Research (OPR) that provides specified data related to housing development.

This bill:

- 1) Requires a city or county to ministerially approve either or both of the following, as specified:
 - a) A housing development of no more than two units (duplex) in a single-family zone.
 - b) The subdivision of a parcel zoned for residential use, into two approximately equal parcels (lot split), as specified.
- 2) Requires that a development or parcel to be subdivided must be located within an urbanized area or urban cluster and prohibits it from being located on any of the following:
 - a) Prime farmland or farmland of statewide importance;



- b) Wetlands;
 - c) Land within the very high fire hazard severity zone, unless the development complies with state mitigation requirements;
 - d) A hazardous waste site;
 - e) An earthquake fault zone;
 - f) Land within the 100-year floodplain or a floodway;
 - g) Land identified for conservation under a natural community conservation plan, or lands under conservation easement;
 - h) Habitat for protected species; or
 - i) A site located within a historic or landmark district, or a site that has a historic property or landmark under state or local law, as specified.
- 3) Prohibits demolition or alteration of an existing unit of rent-restricted housing, housing that has been the subject of an Ellis Act eviction within the past 15 years, or that has been occupied by a tenant in the last three years.
- 4) Prohibits demolition of more than 25% of the exterior walls of an existing structure unless the local ordinance allows greater demolition or if the site has not been occupied by a tenant in the last three years.
- 5) Authorizes a city or county to impose objective zoning, subdivision, and design review standards that do not conflict with this bill, except:
- a) A city or county shall not impose objective standards that would physically preclude 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. A city or county may, however, require a setback of up to four feet from the side and rear lot lines.
 - b) A city or county shall not require a setback for an existing structure or a structure constructed in the same location and to the same dimensions as the existing structure.
- 6) Prohibits a city or county from requiring more than one parking space per unit for either a proposed duplex or a proposed lot split. Prohibits a city or county from imposing any parking requirements if the parcel is located within one-half mile walking distance of either a high-quality transit corridor or a major transit stop, or if there is a car share vehicle located within one block of the parcel.
- 7) Authorizes a city or county to require a percolation test completed within the last five years or, if the test has been recertified, within the last 10 years, as part of the application for a permit to create a duplex connected to an onsite wastewater treatment system.



- 8) Requires a city or county to prohibit rentals of less than 30 days.
- 9) Prohibits a city or county from rejecting an application solely because it proposes adjacent or connected structures, provided the structures meet building code safety standards and are sufficient to allow separate conveyance.
- 10) Provides that a city or county shall not be required to permit an ADU or JADU in addition to units approved under this bill.
- 11) Requires a city or county to include the number of units constructed and the number of applications for lot splits under this bill, in its APR.
- 12) Requires a city or county to ministerially approve a parcel map for a lot split only if the local agency determines that the parcel map for the urban lot split meets the following requirements, in addition to the requirements for eligible parcels that apply to both duplexes and lot splits:
 - a) The parcel map subdivides an existing parcel to create no more than two new parcels of approximately equal size, provided that one parcel shall not be smaller than 40% of the lot area of the original parcel.
 - b) Both newly created parcels are at least 1,200 square feet, unless the city or county adopts a small minimum lot size by ordinance.
 - c) The parcel does not contain rent-restricted housing, housing where an owner has exercised their rights under the Ellis Act within the past 15 years, or has been occupied by tenants in the past three years.
 - d) The parcel has not been established through prior exercise of an urban lot split.
 - e) Neither the owner of the parcel, or any person acting in concert with the owner, has previously subdivided an adjacent parcel using an urban lot split.
- 13) Requires a city or county to approve a lot split if it conforms to all applicable objective requirements of the Subdivision Map Act not except as otherwise expressly provided in this bill. Prohibits a city or county from imposing regulations that require dedicated rights-of-way or the construction of offsite improvements for the parcels being created, as a condition of approval.
- 14) Authorizes a city or county to impose objective zoning standards, objective subdivision standards, and objective design review standards that do not conflict with this bill. A city or county may, however, require easements or that the parcel have access to, provide access to, or adjoin the public right-of-way.

- 15) Provides that a local government shall not be required to permit more than two units on a parcel.
- 16) Prohibits a city or county from requiring, as a condition for ministerial approval of a lot split, the correction of nonconforming zoning conditions.
- 17) Allows a local government to impose owner occupancy requirements on a lot split if it meets either of the following requirements:
 - a) The applicant intends to live in the unit for a minimum of one year from the date of the approval of the lot split, or
 - b) The applicant is a “qualified non-profit”.
- 18) Provides that no additional owner occupancy standards may be imposed other than those contained within 17) above, and that requirement expires after five years.
- 19) Allows a city or county to adopt an ordinance to implement the urban lot split requirements and duplex provisions, and provides that those ordinances are not a project under CEQA.
- 20) Allows a city or county to extend the life of subdivision maps by one year, up to a total of four years.
- 21) Provides that nothing in this bill shall be construed to supersede the California Coastal Act of 1976, except that a local government shall not be required to hold public hearings for a coastal development permit applications under this bill.

Background

Cities and counties enact zoning ordinances to implement their general plans. Zoning determines the type of housing that can be built. In addition, before building new housing, housing developers must obtain one or more permits from local planning departments and must also obtain approval from local planning commissions, city councils, or county board of supervisors. Some housing projects can be permitted by city or county planning staff ministerially, or without further approval from elected officials. Projects reviewed ministerially require only an administrative review designed to ensure they are consistent with existing general plan and zoning rules, as well as meeting standards for building quality, health, and safety. Most large housing projects are not allowed ministerial review; instead, these projects are vetted through both public hearings and administrative review. Most housing projects that require discretionary review and approval are subject to

review under the California Environmental Quality Act (CEQA), while projects permitted ministerially generally are not.

Comments

- 1) *Modest density can result in large-scale housing production.* This bill could lead to up to four homes on lots where currently only one exists. It would do so by allowing existing single-family homes to be converted into duplexes; it would also allow single-family parcels to be subdivided into two lots, while allowing for a new two-unit building to be constructed on the newly formed lot. According to the University of California, Berkeley Turner Center for Housing Innovation, this bill has the potential to allow for the development of nearly 6 million new housing units. Assuming only five percent of the parcels impacted by this bill created new two-unit structures, this bill would result in nearly 600,000 new homes.
- 2) *Historic preservation versus housing production.* As part of their general police powers, local governments have the authority to designate historic districts, which set specific regulations and conditions to protect property and areas of historical and aesthetic significance. While well-intentioned, academics and others have pointed out that there are negative impacts of historic districts on housing supply and racial equity. For example, in 2017, the Sightline Institute noted that, in relation to Seattle’s historic preservation efforts, “rules for historic preservation can sabotage housing affordability just like any other cost, red tape, permitting delay, or capacity limits imposed on homebuilding.” It made recommendations such as educating historic preservation board members on how the historic review process and resulting preservation mandates can impede homebuilding and harm affordability; raising the bar for justifying landmark designations in order to counteract local anti-development sentiment; and even prohibiting historic preservation restrictions from limiting new construction to less than the height or capacity that zoning allows.

Sites within a historic district are categorically exempt from the provisions of this bill. While the committee understands the desire to protect the integrity of historic districts from an aesthetic perspective, it is unclear that allowing small multi-unit construction in historic districts — which would be subject to objective historic design standards — would undermine the integrity of the historic districts. In addition, exempting historic districts from bills designed to increase multi-unit housing supply could lead to fair housing challenges. This committee is aware of several California cities — including neighborhoods in

Eastern San Francisco, Los Angeles, and San Jose — that have not excluded historic districts when performing rezonings.

This bill also contains a very broad definition of what kinds of historic districts are automatically exempt from this bill. The historic district exemption, similar to exemptions included in other pending bills in the Senate, does not require a historic district to be on a federal or state historic registry. Instead, a city can designate a zone as historic without the typical rigorous historic designation process required for a historic district to be placed on a federal or state registry. Certain NIMBY groups are already discussing use of this broad exemption as a tool to exempt communities from state housing laws. If a historic district exemption is needed, a more focused and rigorous exemption — for example, similar to what the Governance and Finance Committee placed in SB 50 (Wiener, 2019) — should be considered.

- 3) *Senate's 2021 Housing Production Package*. This bill has been included in the Senate's 2021 Housing Production Package and is virtually identical to SB 1120 (Atkins, 2020). For key differences, see the Senate Housing Committee analysis.
- 4) *Triple Referral*. This bill was also referred to the Senate Governance and Finance Committee and the Environmental Quality Committee. Due to the COVID-19 Pandemic and the unprecedented nature of the 2021 Legislative Session, all Senate Policy Committees are working under a compressed timeline. This timeline does not allow this bill to be referred and heard by more than two committees as a typical timeline would allow. For comments from the Environmental Quality Committee, see the Senate Housing Committee analysis.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

- The Department of Housing and Community Development estimates it would incur costs of \$87,000 annually for 0.5 PY of staff time to update the Streamlined Ministerial Approval Guidelines, and provide technical assistance and outreach education to local agencies and affordable housing developers. (General Fund)
- Unknown local costs to establish streamlined project review processes for proposed duplex housing developments and tentative maps for urban lot splits, and to conduct expedited design reviews of these proposals. These costs are not state-reimbursable because local agencies have general authority to charge and

adjust planning and permitting fees to cover their administrative expenses associated with new planning mandates. (local funds).

SUPPORT: (Verified 5/20/21)

AARP
Abundant Housing LA
ADU Task Force East Bay
All Home
American Planning Association, California Chapter
Bay Area Council
Bridge Housing Corporation
California Apartment Association
California Asian Pacific Chamber of Commerce
California Building Industry Association
California Chamber of Commerce
California Hispanic Chamber of Commerce
California YIMBY
Casita Coalition
Chan Zuckerberg Initiative
Circulate San Diego
City of Oakland
City of San Diego
Council Member Jon Wizard, City of Seaside
Council Member Zach Hilton, City of Gilroy
Council of Infill Builders
County of Monterey
East Bay for Everyone
Eden Housing
Facebook, INC.
Fieldstead and Company, INC.
Generation Housing
Greenbelt Alliance
Habitat for Humanity California
Hello Housing
Hollywood Chamber of Commerce
Housing Action Coalition
Innercity Struggle
LISC (Local Initiatives Support Corporation) San Diego
Livable Sunnyvale
Local Government Commission



Long Beach YIMBY
Los Angeles Business Council
Mayor Darrell Steinberg, City of Sacramento
MidPen Housing Corporation
Modular Building Institute
Mountain View YIMBY
National Association of Hispanic Real Estate Professionals
Non-Profit Housing Association of Northern California
North Bay Leadership Council
Northern Neighbors
Peninsula for Everyone
People for Housing - Orange County
San Diego Regional Chamber of Commerce
San Fernando Valley YIMBY
San Francisco Bay Area Planning and Research Association
San Francisco YIMBY
Sand Hill Property Company
Santa Cruz YIMBY
Schneider Electric
Share Sonoma County
Silicon Valley @ Home
Silicon Valley Leadership Group
South Bay YIMBY
South Pasadena Residents for Responsible Growth
Streets for People Bay Area
TechEquity Collaborative
Tent Makers
Turner Center for Housing Innovation At the University of California, Berkeley
The Two Hundred
TMG Partners
United Way of Greater Los Angeles
Urban Environmentalists
YIMBY Action
YIMBY Democrats of San Diego County
Zillow Group
92 Individuals

OPPOSITION: (Verified 5/20/21)

Adams Hill Neighborhood Association
Aids Healthcare Foundation

Alameda Citizens Task Force
Albany Neighbors United
Berkeley Associated Neighbors Against Non-affordable Housing
Brentwood Homeowners Association
Burton Valley Neighborhoods Group
California Alliance of Local Electeds
California Cities for Local Control
California Contract Cities Association
Catalysts
Cities of Arcata, Azusa, Bellflower, Belmont, Beverly Hills, Brea, Brentwood, Burbank, Camarillo, Carpinteria, Carson, Cerritos, Chino, Chino Hills, Clayton, Clearlake, Clovis, Colton, Corona, Cupertino, Cypress, Diamond Bar, Dorris, Downey, Dublin, Eastvale, El Segundo, Escalon, Fortuna, Foster City, Fountain Valley, Garden Grove, Glendora, Grand Terrace, Half Moon Bay, Hesperia, Hidden Hills, Huntington Beach, Indian Wells, Inglewood, Irvine, Irwindale, Kerman, King, La Canada Flintridge, La Mirada, La Palma, La Quinta, La Verne, Lafayette, Laguna Beach, Laguna Niguel, Lakeport, Lakewood, Lancaster, Lomita, Los Alamitos, Los Altos, Martinez, Maywood, Menifee, Merced, Mission Viejo, Montclair, Monterey, Moorpark, Murrieta, Newman, Newport Beach, Norwalk, Novato, Oakdale, Ontario, Orinda, Palo Alto, Palos Verdes Estates, Paramount, Pasadena, Pinole, Pismo Beach, Placentia, Pleasanton, Poway, Rancho Cucamonga, Rancho Palos Verdes, Rancho Santa Margarita, Redding, Redondo Beach, Rohnert Park, Rolling Hills, Rolling Hills Estates, San Carlos, San Clemente, San Dimas, San Gabriel, San Jacinto, San Marcos, San Marino, Santa Clara, Santa Clarita, Santa Monica, Saratoga, Signal Hill, South Pasadena, Stanton, Sunnyvale, Temecula, Thousand Oaks, Torrance, Tracy, Vacaville, Ventura, Vista, Westlake Village, Whittier, and Yorba Linda
Citizens Preserving Venice
Coalition for San Francisco Neighborhoods
Coalition to Save Ocean Beach
College Street Neighborhood Group
College Terrace Residents Association
Committee to Save the Hollywoodland Specific Plan
Community Associations Institute - California Legislative Action Committee
Comstock Hills Homeowners Association
D4ward
Durand Ridge United
Encinitas Neighbors Coalition
Friends of Sutro Park
Hidden Hill Community Association



Hills 2000 Friends of The Hills
Hollywood Knolls Community Club
Hollywoodland Homeowners Association
Howard Jarvis Taxpayers Association
Kensington Property Owners Association
La Brea Hancock Homeowners Association
Lafayette Homeowners Council
Lakewood Village Neighborhood Association
Las Virgenes-Malibu Council of Governments
Latino Alliance for Community Engagement
League of California Cities
League of California Cities Central Valley Division
Linda Vista-Annandale Association
Livable California
Livable Pasadena
Los Altos Residents
Los Angeles County Division, League of California Cities
Los Feliz Improvement Association
Marin County Council of Mayors and Councilmembers
Miracle Mile Residential Association
Miraloma Park Improvement Club
Mission Street Neighbors
Montecito Association
Neighborhood Council Sustainability Alliance Trees Committee
North of Montana Association
Northeast Neighbors of Santa Monica
Pacific Palisades Community Council
Planning Association for The Richmond
Riviera Homeowners Association
San Gabriel Valley Council of Governments (UNREG)
Save Lafayette
Seaside Neighborhood Association
Shadow Hills Property Owners Association
Sherman Oaks Homeowners Association
South Bay Cities Council of Governments
South Bay Residents for Responsible Development
South Shores Community Association
Southwood Homeowners Association
Sunnyvale United Neighbors
Sunset-Parkside Education and Action Committee



Sustainable Tamalonte
Tahoe Donner Association
Temecula Valley Neighborhood Coalition
Towns of Apple Valley, Colma, Fairfax, Mammoth Lakes, Ross, and Truckee
Ventura Council of Governments
Verdugo Woodlands West Homeowners Association
West Pasadena Residents' Association
West Torrance Homeowners Association
West Wood Highlands Neighborhood Association
Westside Regional Alliance of Councils
Westwood Hills Property Owners Association
Westwood Homeowners Association
Wilshire Montana Neighborhood Coalition
Windsor Square Association
236 individuals

ARGUMENTS IN SUPPORT: According to the author, “Senate Bill 9 promotes small-scale neighborhood residential development by streamlining the process for a homeowner to create a duplex or subdivide an existing lot. SB 9 strikes an appropriate balance between respecting local control and creating an environment and opportunity for neighborhood scale development that benefits the broader community. To that end, the bill includes numerous safeguards to ensure that it responsibly creates duplexes and strategically increases housing opportunities for homeowners, renters, and families alike. At a time when many Californians are experiencing economic insecurity caused by the pandemic, this bill will provide more options for families to maintain and build intergenerational wealth – a currency we know is crucial to combatting inequity and creating social mobility. SB 9 provides flexibility for multigenerational housing by allowing homeowners to build a modest unit on their property so that their aging parent or adult child can have an affordable place to live. Building off the successes of ADU law, SB 9 offers solutions that work in partnership with a number of bills included in the Senate’s Housing Package, ‘Building Opportunities For All’ aimed at combating the State’s housing crisis.”

ARGUMENTS IN OPPOSITION: According to the League of California Cities, “SB 9 as currently drafted will not spur much needed housing construction in a manner that supports local flexibility, decision making, and community input. State-driven ministerial or by-right housing approval processes fail to recognize the extensive public engagement associated with developing and adopting zoning

ordinances and housing elements that are certified by the [HCD].”

Prepared by: Alison Hughes / HOUSING / (916) 651-4124
5/22/21 14:52:20

**** **END** ****



ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

1720 N street, Room 156 ▪ Sacramento, CA 95814

(916)319-2085▪FAX (916) 319-3182

DAVID CHIU, CHAIR

EXHIBIT D

BACKGROUND INFORMATION REQUEST

Please complete and return **this form and all supporting materials** (including support/opposition letters) **within 5 working days** of receipt of this request to:

Despina Demas at Despina.Demas@asm.ca.gov

Measure: SB-9

Author: Atkins

Subject: Housing development: approvals.

Staff Contact: Misa Lennox

Number: 530-220-5349

POLICY CONTEXT:

1. What is the problem or deficiency in the existing law? Please cite existing law and present significant facts, research studies, and pertinent background information.

California will need an estimated 1.8 million new homes by 2025 in order to meet demand, yet on average only 80,000 new homes are built per year. California’s continued housing shortage is a major source of stress on the state’s economic recovery and fiscal health, as well as its social welfare, medical, and public safety systems.

2. How would your bill address the problem or deficiency in existing law? Please be specific and present significant facts, research studies, and pertinent background information.

SB 9 strikes an appropriate balance between respecting local control and creating the environment and opportunity for small-scale neighborhood development that benefits the broader community.



3. How would this bill help reduce or eliminate inequities experienced by low- and moderate-income communities and communities of color?

Decades of inequitable housing and land-use policy have led to a California where a child's opportunity in life is determined by the zip code they grow up in. This obviously needs to change, and was a major driving factor behind the Regional Housing Needs Allocation (RHNA) reform laws of 2018 which, among other things, required the regional planning entities that assign each city their housing targets to do so in a way that eliminates segregation and achieves fair housing.

We have received some questions/concerns about the impact that SB 9, which allows a homeowner to split their lot and create a duplex, would have. The concerns of communities at risk of gentrification has always been at the forefront of our minds even before this package, going back to SB 50, and it is something that we explicitly wanted to protect from the very beginning of this process.

SB 9 includes a number of safeguards. The bill specifically limits individuals from receiving ministerial lot splits on adjacent parcels, as a way of preventing investor speculation-filled purchases of existing residential areas. It also prevents profiteers from evicting tenants in order to build a duplex and bring in more rental income by specifically banning properties where a tenant has resided in the past three years from moving forward with any demolition of the existing residence.

One of the most important impacts of this bill is that it would provide more options for families to maintain and build intergenerational wealth – a currency we know is crucial to combatting inequity and creating social mobility – especially in neighborhoods where outdated zoning laws have created barriers to homeownership and have led to overcrowding. The families who own these properties would be able to turn around and provide rental opportunities for other working families who may be struggling to find a stable home in their price range, or who may be looking for their own path to home ownership.

This bill is an expansion of opportunities for everyone – homeowners, renters, and families alike. We want to break the cycle of exclusion in neighborhoods statewide, not perpetuate it.

4. Has a similar bill been previously introduced? Please identify the session, bill number, author, and disposition of the bill.

SB 1120 (Atkins) of 2020.

5. Has there been an interim committee report or subject hearing on this bill? Please identify the report and source committee.

No

6. Please attach copies of all such evidence and other background material and/or state where such material is available for reference by Committee staff.



7. Please provide a one to two paragraph author's statement that may be included in the Committee's analysis.

Senate Bill 9 provides options for homeowners by streamlining the process for a homeowner to create a duplex or subdivide an existing lot. Building off the successes of ADU law, SB 9 strikes an appropriate balance between respecting local control and creating an environment and opportunity for neighborhood housing that benefits the broader community. To that end, the bill includes numerous safeguards to ensure that it responsibly creates duplexes and strategically increases housing opportunities for homeowners, renters, and families alike. This bill will provide more options for families to maintain and build intergenerational wealth – a currency we know is crucial to combatting inequity and creating social mobility. SB 9 provides flexibility for multigenerational housing by allowing homeowners to build a modest unit on their property so that their aging parent or adult child can have an affordable place to live. SB 9 is part of the Senate's Housing Package, 'Building Opportunities For All' that establishes opportunities to make real progressive and positive changes in our communities to strengthen the fabric of our neighborhoods with equity, inclusivity, and affordability.

HEARING PREPARATION/SUPPORT AND OPPOSITION

- 1. Source: What person organization or government entity requested introduction? Include name, address, and phone number of contact person. Please include a letter from the sponsor (if any) identifying themselves as the sponsor.**

This is an author-sponsored measure.



2. Please describe any concerns that you anticipate may be raised in opposition to your bill, and state your response to those concerns.

Below are a number of arguments in response to concerns raised about this bill:

Provides options for homeowners to build intergenerational wealth. This bill builds on the successful approach of Accessory Dwelling Units (ADUs) and expands options for homeowners. SB 9 provides more options for families to maintain and build intergenerational wealth a currency we know is crucial to combatting inequity and creating social mobility. The families who own these properties could provide affordable rental opportunities for other working families who may be struggling to find a rental home in their price range, or who may be looking for their own path to home ownership.

Benefits homeowners NOT institutional investors. SB 9 prohibits the development of small subdivisions and prohibits ministerial lot splits on adjacent parcels by the same individual to prevent investor speculation. In fact, allowing for more neighborhood scale housing in California's communities actually curbs the market power of institutional investors. SB 9 prevents profiteers from evicting or displacing tenants by excluding properties where a tenant has resided in the past three years.

Establishes a maximum number of units. Recent amendments clarify that this bill would allow no more than four units on what is currently a single-family parcel.

Preserves historic neighborhoods. SB 9 excludes historic and landmark districts.

Respects local control. Homeowners must comply with local zoning requirements when developing a duplex (height, setbacks, floor area ratios, etc.) as long as they do not physically preclude a duplex. This bill also allows locals to require a percolation test for any duplex proposed to be on septic tanks. Additionally, a local government can impose an owner occupancy requirement as a condition of a homeowner receiving a ministerial lot split.

Promotes strategic infill growth. Under this bill, the parcel must be located in a jurisdiction that is part of an urbanized area or urban cluster, as designated by the US Census. This means that it applies only to areas that meet certain population and density thresholds. It excludes the provisions of the bill being used in very high fire hazard severity zones, prime agriculture land, hazardous waste sites, earthquake zones, floodplains that do not have adequate mitigation, and others. At the end of the day, if local governments do not allow people to build homes in an area, then the bill does not apply.



3. List any witnesses you plan to have testify: Please include phone number, email address, and method of testimony for each of the witnesses listed:

I will follow up via email with witnesses.

4. What is the estimated amount of time necessary for presentation, testimony, and consideration of this bill in hearing?

Past committee hearings have taken from 45 minutes to 1 hour in total.

5. Please list all groups, agencies or persons that have contacted you in support of or in opposition to the bill and any other groups, agencies or persons that you anticipate will support or oppose the bill. Please attach copies of all letters of support and opposition.

The most updated list of support and opposition is reflected in the Assembly Local Government Committee analysis.

AMENDMENTS:

If you plan substantive amendments to this bill prior to hearing, please provide a brief explanation of the amendments and draft amendment language as soon as available. **NOTE: Amendments, IN LEGISLATIVE COUNSEL FORMAT, must be received by the committee no later than 12:00 noon on the MONDAY THE WEEK PRIOR to the hearing. If Monday is a holiday, amendments are due Thursday – nine days prior to the hearing date. Please email amendments, including the in-context amendments, to Despina.Demas@asm.ca.gov**



(To be filed with the Assembly committee to which the request is directed.)

To: Assembly Committee on Rules

Pursuant to Section 9080 of the Government Code, I hereby request to examine the following committee records concerning legislation:

Committee Name: AC Housing and Community Development

Records Requested:

Bill file re SB 9 of 2021

Name of person making request: Lauryn Steuckrath

Representing: Legislative Intent Service, Inc.
(organization)

Address: 712 Main Street, Suite 200

Telephone: 530-666-1917 | Email: lsteuckrath@legintent.com

I was permitted to examine the committee records described above on

(date)

Committees must transmit this form to the Assembly Rules Committee on the same day the committee receives it.

Return to: Assembly Rules Committee
Attention: Debra Gravert, Chief Administrative Officer
State Capitol, Room 3016
Sacramento, CA 95814

Email: Assembly.Rules@asm.ca.gov
Fax: (916) 319-2810

Authorized by: _____ Date: _____

Time In: _____ Time Out: _____

(800) 666-1917

LEGISLATIVE INTENT SERVICE



UNFINISHED BUSINESS

Bill No: SB 9
Author: Atkins (D), Caballero (D), Rubio (D) and Wiener (D), et al.
Amended: 8/16/21
Vote: 21

SENATE HOUSING COMMITTEE: 7-2, 4/15/21
AYES: Wiener, Caballero, Cortese, McGuire, Skinner, Umberg, Wieckowski
NOES: Bates, Ochoa Bogh

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 4/22/21
AYES: McGuire, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/20/21
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski
NOES: Bates, Jones

SENATE FLOOR: 28-6, 5/26/21
AYES: Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dahle, Dodd,
Durazo, Eggman, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Laird, Leyva,
McGuire, Min, Nielsen, Pan, Portantino, Roth, Rubio, Skinner, Umberg,
Wieckowski, Wiener
NOES: Bates, Borgeas, Jones, Melendez, Ochoa Bogh, Wilk
NO VOTE RECORDED: Allen, Glazer, Kamlager, Limón, Newman, Stern

ASSEMBLY FLOOR: 45-19, 8/26/21 - See last page for vote

SUBJECT: Housing development: approvals

SOURCE: Author

DIGEST: This bill requires ministerial approval of a housing development of no more than two units in a single-family zone (duplex), the subdivision of a parcel zoned for residential use into two parcels (lot split), or both.

Assembly Amendments provide that a local agency may deny a housing project otherwise authorized by this bill if the building official makes a written finding based upon the preponderance of the evidence that the housing development project would have a specific, adverse impact upon health and safety or the physical environment and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact; provides that a local agency shall require an applicant for an urban lot split to sign an affidavit stating that they intent to occupy one of the housing units as their principle residence for a minimum of three years, unless the applicant is a community land trust or a qualified nonprofit corporation; and removes the sunset.

ANALYSIS:

Existing law:

- 1) Governs, pursuant to the Subdivision Map Act, how local officials regulate the division of real property into smaller parcels for sale, lease, or financing.
- 2) Authorizes local governments to impose a wide variety of conditions on subdivision maps.
- 3) Requires a local jurisdiction to give public notice of a hearing whenever a person applies for a zoning variance, special use permit, conditional use permit, zoning ordinance amendment, or general or specific plan amendment.
- 4) Requires the board of zoning adjustment or zoning administrator to hear and decide applications for conditional uses or other permits when the zoning ordinance provides therefor and establishes criteria for determining those matters, and applications for variances from the terms of the zoning ordinance.
- 5) Establishes the California Environmental Quality Act (CEQA), which generally requires state and local government agencies to inform decision makers and the public about the potential environmental impacts of proposed projects, and to reduce those impacts to the extent feasible. CEQA applies when a development project requires discretionary approval from a local government. (See “Comments” below for more information.)
- 6) Requires ministerial approval by a local agency for a building permit to create an accessory dwelling unit (ADU) provided the ADU was contained within an existing single-family home and met other specified requirements. Requires a local agency to ministerially approve an ADU or junior accessory dwelling unit (JADU), or both, as specified, within a proposed or existing structure or



within the same footprint of the existing structure, provided certain requirements are met.

- 7) Requires each city and county to submit an annual progress report (APR) to the Department of Housing and Community Development (HCD) and the Office of Planning and Research that provides specified data related to housing development.

This bill:

- 1) Requires a city or county to ministerially approve either or both of the following, as specified:
 - a) A housing development of no more than two units (duplex) in a single-family zone.
 - b) The subdivision of a parcel zoned for residential use, into two approximately equal parcels (lot split), as specified.
- 2) Requires that a development or parcel to be subdivided must be located within an urbanized area or urban cluster and prohibits it from being located on any of the following:
 - a) Prime farmland or farmland of statewide importance;
 - b) Wetlands;
 - c) Land within the very high fire hazard severity zone, unless the development complies with state mitigation requirements;
 - d) A hazardous waste site;
 - e) An earthquake fault zone;
 - f) Land within the 100-year floodplain or a floodway;
 - g) Land identified for conservation under a natural community conservation plan, or lands under conservation easement;
 - h) Habitat for protected species; or
 - i) A site located within a historic or landmark district, or a site that has a historic property or landmark under state or local law, as specified.
- 3) Prohibits demolition or alteration of an existing unit of rent-restricted housing, housing that has been the subject of an Ellis Act eviction within the past 15 years, or that has been occupied by a tenant in the last three years.
- 4) Prohibits demolition of more than 25% of the exterior walls of an existing structure unless the local ordinance allows greater demolition or if the site has not been occupied by a tenant in the last three years.

- 5) Authorizes a city or county to impose objective zoning, subdivision, and design review standards that do not conflict with this bill, except:
 - a) A city or county shall not impose objective standards that would physically preclude 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. A city or county may, however, require a setback of up to four feet from the side and rear lot lines.
 - b) A city or county shall not require a setback for an existing structure or a structure constructed in the same location and to the same dimensions as the existing structure.
- 6) Prohibits a city or county from requiring more than one parking space per unit for either a proposed duplex or a proposed lot split. Prohibits a city or county from imposing any parking requirements if the parcel is located within one-half mile walking distance of either a high-quality transit corridor or a major transit stop, or if there is a car share vehicle located within one block of the parcel.
- 7) Authorizes a city or county to require a percolation test completed within the last five years or, if the test has been recertified, within the last 10 years, as part of the application for a permit to create a duplex connected to an onsite wastewater treatment system.
- 8) Authorizes a local agency to deny a housing project otherwise authorized by this bill if the building official makes a written finding based upon the preponderance of the evidence that the housing development project would have a specific, adverse impact upon health and safety or the physical environment and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact
- 9) Requires a city or county to prohibit rentals of less than 30 days.
- 10) Prohibits a city or county from rejecting an application solely because it proposes adjacent or connected structures, provided the structures meet building code safety standards and are sufficient to allow separate conveyance.
- 11) Provides that a city or county shall not be required to permit an ADU or JADU in addition to units approved under this bill.
- 12) Requires a city or county to include the number of units constructed and the number of applications for lot splits under this bill, in its APR.

- 13) Requires a city or county to ministerially approve a parcel map for a lot split only if the local agency determines that the parcel map for the urban lot split meets the following requirements, in addition to the requirements for eligible parcels that apply to both duplexes and lot splits:
 - a) The parcel map subdivides an existing parcel to create no more than two new parcels of approximately equal size, provided that one parcel shall not be smaller than 40% of the lot area of the original parcel.
 - b) Both newly created parcels are at least 1,200 square feet, unless the city or county adopts a small minimum lot size by ordinance.
 - c) The parcel does not contain rent-restricted housing, housing where an owner has exercised their rights under the Ellis Act within the past 15 years, or has been occupied by tenants in the past three years.
 - d) The parcel has not been established through prior exercise of an urban lot split.
 - e) Neither the owner of the parcel, or any person acting in concert with the owner, has previously subdivided an adjacent parcel using an urban lot split.
- 14) Requires a city or county to approve a lot split if it conforms to all applicable objective requirements of the Subdivision Map Act not except as otherwise expressly provided in this bill. Prohibits a city or county from imposing regulations that require dedicated rights-of-way or the construction of offsite improvements for the parcels being created, as a condition of approval.
- 15) Authorizes a city or county to impose objective zoning standards, objective subdivision standards, and objective design review standards that do not conflict with this bill. A city or county may, however, require easements or that the parcel have access to, provide access to, or adjoin the public right-of-way.
- 16) Provides that a local government shall not be required to permit more than two units on a parcel.
- 17) Prohibits a city or county from requiring, as a condition for ministerial approval of a lot split, the correction of nonconforming zoning conditions.
- 18) Requires a local government to require an applicant for an urban lot split to sign an affidavit stating that the applicant intends to occupy one of the housing units as their principle residence for a minimum of three years from the date of the approval of lot split, unless the applicant is a community land trust, as defined, or a qualified nonprofit corporation, as defined.



- 19) Provides that no additional owner occupancy standards may be imposed other than those contained within 18) above, and that requirement expires after five years.
- 20) Allows a city or county to adopt an ordinance to implement the urban lot split requirements and duplex provisions, and provides that those ordinances are not a project under CEQA.
- 21) Allows a city or county to extend the life of subdivision maps by one year, up to a total of four years.
- 22) Provides that nothing in this bill shall be construed to supersede the California Coastal Act of 1976, except that a local government shall not be required to hold public hearings for a coastal development permit applications under this bill.

Background

Cities and counties enact zoning ordinances to implement their general plans. Zoning determines the type of housing that can be built. In addition, before building new housing, housing developers must obtain one or more permits from local planning departments and must also obtain approval from local planning commissions, city councils, or county board of supervisors. Some housing projects can be permitted by city or county planning staff ministerially, or without further approval from elected officials. Projects reviewed ministerially require only an administrative review designed to ensure they are consistent with existing general plan and zoning rules, as well as meeting standards for building quality, health, and safety. Most large housing projects are not allowed ministerial review; instead, these projects are vetted through both public hearings and administrative review. Most housing projects that require discretionary review and approval are subject to review under CEQA, while projects permitted ministerially generally are not.

Comments

- 1) *Modest density can result in large-scale housing production.* This bill could lead to up to four homes on lots where currently only one exists. It would do so by allowing existing single-family homes to be converted into duplexes; it would also allow single-family parcels to be subdivided into two lots, while allowing for a new two-unit building to be constructed on the newly formed lot. According to the University of California, Berkeley Turner Center for Housing Innovation, this bill has the potential to allow for the development of nearly 6 million new housing units. Assuming only five percent of the parcels impacted



by this bill created new two-unit structures, this bill would result in nearly 600,000 new homes.

- 2) *Historic preservation versus housing production.* As part of their general police powers, local governments have the authority to designate historic districts, which set specific regulations and conditions to protect property and areas of historical and aesthetic significance. While well-intentioned, academics and others have pointed out that there are negative impacts of historic districts on housing supply and racial equity. For example, in 2017, the Sightline Institute noted that, in relation to Seattle’s historic preservation efforts, “rules for historic preservation can sabotage housing affordability just like any other cost, red tape, permitting delay, or capacity limits imposed on homebuilding.” It made recommendations such as educating historic preservation board members on how the historic review process and resulting preservation mandates can impede homebuilding and harm affordability; raising the bar for justifying landmark designations in order to counteract local anti-development sentiment; and even prohibiting historic preservation restrictions from limiting new construction to less than the height or capacity that zoning allows.

Sites within a historic district are categorically exempt from the provisions of this bill. While the committee understands the desire to protect the integrity of historic districts from an aesthetic perspective, it is unclear that allowing small multi-unit construction in historic districts — which would be subject to objective historic design standards — would undermine the integrity of the historic districts. In addition, exempting historic districts from bills designed to increase multi-unit housing supply could lead to fair housing challenges. This committee is aware of several California cities — including neighborhoods in Eastern San Francisco, Los Angeles, and San Jose — that have not excluded historic districts when performing rezonings.

This bill also contains a very broad definition of what kinds of historic districts are automatically exempt from this bill. The historic district exemption, similar to exemptions included in other pending bills in the Senate, does not require a historic district to be on a federal or state historic registry. Instead, a city can designate a zone as historic without the typical rigorous historic designation process required for a historic district to be placed on a federal or state registry. Certain NIMBY groups are already discussing use of this broad exemption as a tool to exempt communities from state housing laws. If a historic district exemption is needed, a more focused and rigorous exemption — for example,



similar to what the Governance and Finance Committee placed in SB 50 (Wiener, 2019) — should be considered.

- 3) *Senate's 2021 Housing Production Package*. This bill has been included in the Senate's 2021 Housing Production Package and is virtually identical to SB 1120 (Atkins, 2020). For key differences, see the Senate Housing Committee analysis.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Assembly Appropriations Committee:

- 1) HCD estimates costs of \$89,000 (General Fund) annually for 0.5 Personnel Years of staff time to provide technical assistance and outreach education to local agencies and affordable housing developers.
- 2) Unknown state-mandated local costs to establish streamlined project review processes for proposed duplex housing developments and tentative maps for urban lot splits, and to conduct expedited design reviews of these proposals. These costs are not state-reimbursable because local agencies have general authority to charge and adjust planning and permitting fees to cover their administrative expenses associated with new planning mandates.

SUPPORT: (Verified 8/27/21)

AARP

Abundant Housing LA

ADU Task Force East Bay

All Home

American Planning Association, California Chapter

Bay Area Council

Bridge Housing Corporation

Cal Asian Chamber of Commerce

California Apartment Association

California Asian Pacific Chamber of Commerce

California Association of Realtors

California Building Industry Association

California Chamber of Commerce

California Hispanic Chamber of Commerce

California YIMBY

Casita Coalition

Central Valley Urban Institute

Chan Zuckerberg Initiative
Circulate San Diego
Cities of Alameda, Oakland, San Diego
Council Member Jon Wizard, City of Seaside
Council Member Zach Hilton, City of Gilroy
Council of Infill Builders
County of Monterey
East Bay for Everyone
Eden Housing
Facebook, INC.
Fathers and Families of San Joaquin
Fieldstead and Company, INC.
Generation Housing
Greenbelt Alliance
Habitat for Humanity California
Hello Housing
Hollywood Chamber of Commerce
Housing Action Coalition
Inland Empire Regional Chamber of Commerce
Innercity Struggle
League of Women Voters of California
LISC San Diego
Livable Sunnyvale
Local Government Commission
Long Beach YIMBY
Los Angeles Business Council
Los Feliz Neighborhood Council
Mayor Darrell Steinberg, City of Sacramento
Midpen Housing
Midpen Housing Corporation
Modular Building Institute
Mountain View YIMBY
National Association of Hispanic Real Estate Professionals
Natural Resources Defense Council
Non-profit Housing Association of Northern California
North Bay Leadership Council
Northern Neighbors
Orange County Business Council
Palo Alto Forward
Peninsula for Everyone



People for Housing - Orange County
Pierre Charles General Construction
Plus Home Housing Solutions
San Diego Housing Commission
San Diego Regional Chamber of Commerce
San Fernando Valley YIMBY
San Francisco Bay Area Planning and Research Association
San Francisco YIMBY
Sand Hill Property Company
Santa Barbara Women's Political Committee
Santa Cruz YIMBY
Schneider Electric
Share Sonoma County
Silicon Valley @ Home
Silicon Valley Leadership Group
South Bay YIMBY
South Pasadena Residents for Responsible Growth
Streets for People Bay Area
TechEquity Collaborative
Tent Makers
Turner Center for Housing Innovation at the University of California, Berkeley
The Greater Oxnard Organization of Democrats
The Two Hundred
TMG Partners
United Way of Greater Los Angeles
Urban Environmentalists
YIMBY Action
YIMBY Democrats of San Diego County
Zillow Group
94 Individuals

OPPOSITION: (Verified 8/27/21)

Adams Hill Neighborhood Association
Aids Healthcare Foundation
Alameda Citizens Task Force
Albany Neighbors United
Berkeley Associated Neighbors Against Non-affordable Housing
Brentwood Homeowners Association
Burton Valley Neighborhoods Group
California Alliance of Local Electeds



California Cities for Local Control
California Contract Cities Association
Catalysts
Cities Association of Santa Clara County
Citizens Preserving Venice
Cities of Arcata, Azusa, Bellflower, Belmont, Beverly Hills, Brea, Brentwood, Burbank, Calabasas, Camarillo, Carpinteria, Carson, Cerritos, Chino, Chino Hills, Clayton, Clearlake, Clovis, Colton, Corona, Costa Mesa, Cupertino, Cypress, Del Mar, Diamond Bar, Dorris, Downey, Dublin, Eastvale, El Segundo, Escalon, Fillmore, Fortuna, Foster City, Fountain Valley, Garden Grove, Glendora, Grand Terrace, Half Moon Bay, Hesperia, Hidden Hills, Huntington Beach, Indian Wells, Inglewood, Irvine, Irwindale, Kerman, King, La Canada Flintridge, La Habra, La Habra Heights, La Mirada, La Palma, La Quinta, La Verne, Lafayette, Laguna Beach, Laguna Niguel, Lakeport, Lakewood, Lancaster, Lawndale, Lomita, Los Alamitos, Los Altos, Malibu, Martinez, Maywood, Menifee, Merced, Mission Viejo, Montclair, Monterey, Moorpark, Murrieta, Newman, Newport Beach, Norwalk, Novato, Oakdale, Ontario, Orinda, Pacifica, Palm Desert, Palo Alto, Palos Verdes Estates, Paramount, Pasadena, Pinole, Pismo Beach, Placentia, Pleasanton, Poway, Rancho Cucamonga, Rancho Palos Verdes, Rancho Santa Margarita, Redding, Redondo Beach, Ripon, Rocklin, Rohnert Park, Rolling Hills, Rolling Hills Estates, Rosemead, San Buenaventura, San Carlos, San Clemente, San Dimas, San Fernando, San Gabriel, San Jacinto, San Marcos, San Marino, Santa Clara, Santa Clarita, Santa Monica, Santa Paula, Saratoga, Signal Hill, Simi Valley, South Gate, South Pasadena, Stanton, Sunnyvale, Temecula, Thousand Oaks, Torrance, Tracy, Upland, Vacaville, Ventura, Visalia, Vista, West Covina, Westlake Village, Whittier, Yorba Linda, Yuba City
Coalition for San Francisco Neighborhoods
Coalition to Save Ocean Beach
College Street Neighborhood Group
College Terrace Residents Association
Committee to Save the Hollywoodland Specific Plan
Community Associations Institute - California Legislative Action Committee
Comstock Hills Homeowners Association
Culver City Neighbors United
D4ward
Durand Ridge United
Encinitas Neighbors Coalition
Friends of Sutro Park
Grayburn Avenue Block Club



Hidden Hill Community Association
Hills 2000 Friends of The Hills
Hollywood Knolls Community Club
Hollywoodland Homeowners Association
Howard Jarvis Taxpayers Association
Kensington Property Owners Association
LA Brea Hancock Homeowners Association
Lafayette Homeowners Council
Lakewood Village Neighborhood Association
Las Virgenes-Malibu Council of Governments
Latino Alliance for Community Engagement
League of California Cities
League of California Cities Central Valley Division
Linda Vista-Annandale Association
Livable California
Livable Pasadena
Los Altos Residents
Los Angeles County Division, League of California Cities
Los Feliz Improvement Association
Marin County Council of Mayors and Councilmembers
Menlo Park United Neighbors
Miracle Mile Residential Association
Miraloma Park Improvement Club
Mission Street Neighbors
Montecito Association
Mountain View United Neighbors
Neighborhood Council Sustainability Alliance Trees Committee
North of Montana Association
Northeast Neighbors of Santa Monica
Pacific Palisades Community Council
Planning Association for The Richmond
Riviera Homeowners Association
San Gabriel Valley Council of Governments
Save Lafayette
Seaside Neighborhood Association
Shadow Hills Property Owners Association
Sherman Oaks Homeowners Association
South Bay Cities Council of Governments
South Bay Residents for Responsible Development
South Shores Community Association



Southwood Homeowners Association
Sunnyvale United Neighbors
Sunset-Parkside Education and Action Committee
Sustainable Tamalmonite
Tahoe Donner Association
Temecula Valley Neighborhood Coalition
Towns of Apple Valley, Colma, Fairfax, Los Altos Hills, Mammoth Lakes, Ross,
Truckee, Woodside
Tri-Valley Cities of Dublin, Livermore, Pleasanton, San Ramon, and Town of
Danville
United Neighbors of Assembly District 24
United Neighbors of Senate District 13
Ventura Council of Governments
Verdugo Woodlands West Homeowners Association
West Pasadena Residents' Association
West Torrance Homeowners Association
West Wood Highlands Neighborhood Association
Westside Regional Alliance of Councils
Westwood Hills Property Owners Association
Westwood Homeowners Association
Wilshire Montana Neighborhood Coalition
Windsor Square Association
290 Individuals

ARGUMENTS IN SUPPORT: According to the author, “Senate Bill 9 promotes small-scale neighborhood residential development by streamlining the process for a homeowner to create a duplex or subdivide an existing lot. SB 9 strikes an appropriate balance between respecting local control and creating an environment and opportunity for neighborhood scale development that benefits the broader community. To that end, the bill includes numerous safeguards to ensure that it responsibly creates duplexes and strategically increases housing opportunities for homeowners, renters, and families alike. At a time when many Californians are experiencing economic insecurity caused by the pandemic, this bill will provide more options for families to maintain and build intergenerational wealth – a currency we know is crucial to combatting inequity and creating social mobility. SB 9 provides flexibility for multigenerational housing by allowing homeowners to build a modest unit on their property so that their aging parent or adult child can have an affordable place to live. Building off the successes of ADU law, SB 9 offers solutions that work in partnership with a number bills included in the Senate’s Housing Package, ‘Building Opportunities For All’ aimed at combating the State’s housing crisis.”



ARGUMENTS IN OPPOSITION: According to the League of California Cities, “SB 9 as currently drafted will not spur much needed housing construction in a manner that supports local flexibility, decision making, and community input. State-driven ministerial or by-right housing approval processes fail to recognize the extensive public engagement associated with developing and adopting zoning ordinances and housing elements that are certified by [HCD].”

ASSEMBLY FLOOR: 45-19, 8/26/21

AYES: Aguiar-Curry, Arambula, Berman, Calderon, Carrillo, Cervantes, Chiu, Cooley, Cooper, Megan Dahle, Flora, Fong, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Jones-Sawyer, Kalra, Lackey, Lee, Low, Mathis, Mayes, Medina, Mullin, Quirk, Quirk-Silva, Ramos, Reyes, Robert Rivas, Rodriguez, Salas, Stone, Ting, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon

NOES: Bauer-Kahan, Bigelow, Bloom, Boerner Horvath, Daly, Davies, Frazier, Friedman, Gabriel, Irwin, Levine, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Seyarto, Smith, Voepel, Waldron

NO VOTE RECORDED: Bennett, Bryan, Burke, Chau, Chen, Choi, Cunningham, Kiley, Maienschein, McCarty, Nguyen, Patterson, Luz Rivas, Blanca Rubio, Santiago

Prepared by: Alison Hughes / HOUSING / (916) 651-4124
8/28/21 11:32:51

**** END ****



SB 9: The California HOME Act

The California HOME Act

Senate Bill 9 is the product of a multi-year effort to develop solutions to address our state's housing crisis. The Senate Housing Package of bills, 'Building Opportunities for All,' establishes opportunities to make real progressive and positive changes in our communities to strengthen the fabric of our neighborhoods with equity, inclusivity, and affordability.

- **Provides options for homeowners to build intergenerational wealth.** SB 9 provides more options for families to maintain and build intergenerational wealth a currency we know is crucial to combatting inequity and creating social mobility. The families who own these properties could provide affordable rental opportunities for other working families who may be struggling to find a rental home in their price range, or who may be looking for their own path to home ownership.
- **Benefits homeowners NOT institutional investors.** Recent amendments require a local agency to impose an owner occupancy requirement as a condition of a homeowner receiving a ministerial lot split. This bill also prohibits the development of small subdivisions and prohibits ministerial lot splits on adjacent parcels by the same individual to prevent investor speculation. In fact, allowing for more neighborhood scale housing in California's communities actually curbs the market power of institutional investors. SB 9 prevents profiteers from evicting or displacing tenants by excluding properties where a tenant has resided in the past three years.
- **Establishes a maximum number of units.** Recent amendments clarify that this bill would allow no more than four units on what is currently a single-family parcel.
- **Preserves historic neighborhoods.** SB 9 excludes historic and landmark districts.
- **Respects local control.** Homeowners must comply with local zoning requirements when developing a duplex (height, floor area ratios, lot coverage etc.) as long as they do not physically preclude a lot split or duplex. This bill also allows locals to require a percolation test for any duplex proposed to be on septic tanks.
- **Promotes strategic infill growth.** Under this bill, the parcel must be located in a jurisdiction that is part of an urbanized area or urban cluster, as designated by the US Census. This means that it applies only to areas that meet certain population and density thresholds. It excludes the provisions of the bill being used in very high fire hazard severity zones, prime agriculture land, hazardous waste sites, earthquake zones, floodplains that do not have adequate mitigation, and others. At the end of the day, if local governments do not allow people to build homes in an area, then the bill does not apply.

What this bill does: Senate Bill 9 – the California Housing Opportunity and More Efficiency (HOME) Act streamlines the process for a homeowner to create a duplex or subdivide an existing lot. Any new housing created as a result of this bill must meet a specific list of qualifications that protects historic districts, preserves environmental quality and the look of communities, and prevents tenants from being displaced. This legislation will enable homeowners to create intergenerational wealth, and provide access to more rental and ownership options for working families who would otherwise be priced out of neighborhoods.

What's different from last year: We took what was a good bill – which had widespread support in both the Senate and Assembly at the end of last year and on track to pass before it fell victim to the clock – and improved upon it since reintroducing it as SB 9 this year. We listened to concerns from homeowners, municipalities, and other stakeholders, and have incorporated many amendments make the bill stronger, more clear, and address those concerns. Because of all the variables that make a neighborhood what it is – size of lots, local ordinances, desire of homeowners to even use this option – not everyone will choose to do a lot split or turn their home into a duplex, just like not everyone added an ADU when that good law was enacted.

Myths vs. Facts

What this bill does: Senate Bill 9 – the California Housing Opportunity and More Efficiency (HOME) Act streamlines the process for a homeowner to create a duplex or subdivide an existing lot. To be eligible for the streamlining provided by this bill, a parcel must meet a specific list of qualifications that protects historic districts, preserves the environmental quality and the look of communities, and prevents tenants from being displaced. This legislation will enable homeowners to create intergenerational wealth, and provide access to more rental and ownership options for working families who would otherwise be priced out of neighborhoods.

What's different from last year: We took what was a good bill – which had widespread support in both the Senate and Assembly at the end of last year and on track to pass before it fell victim to the clock – and improved upon it since reintroducing it as SB 9 this year. We listened to concerns from homeowners, municipalities, and other stakeholders, and have incorporated many amendments to make the bill stronger, more clear, and address those concerns.

Myth: My neighbors are going to be able to build 5 or 6-units next door to my single-family home.

Fact: SB 9 would allow no more than four units on what is currently a single-family parcel. This bill encourages neighborhood scale homes – meaning modifications to a property need to be in keeping with the look of the neighborhood.

Myth: This is going to ruin the look of our neighborhood.

Fact: In many communities across California – including in San Diego – there are beautiful duplexes and triplexes next door to traditional single-family homes. Look at Linda Vista, Hillcrest, North Park – these are communities central to the city and job centers that are coveted places to live. In fact, many are beautiful and well-kept, providing not only a bright spot on the street, but a comfortable place for not just one but two households to call home.

Myth: This bill won't help expand housing options that are more affordable and help real people.

Fact: The HOME Act builds intergenerational wealth. For homeowners, it provides more options to maintain and build intergenerational wealth – a currency we know is crucial to combatting inequity and creating social mobility. There is no silver bullet to solving the housing crisis that has been decades in the making. SB 9 is one modest tool in the toolbox. This bill allows for more types of housing to create more equitable and inclusive neighborhoods.

Myth: This is a land grab by institutional investors looking to ruin our neighborhoods.

Fact: This bill benefits homeowners, and homeowners alone. SB 9 contains an owner occupancy requirement, which requires a homeowner to live in one of the units for three years from the time they get approval for a lot split. Additionally, this bill prohibits the development of small subdivisions and prohibits ministerial lot splits on adjacent parcels by the same individual to prevent investor speculation. In fact, allowing for more neighborhood scale housing in California's communities actually curbs the market power of institutional investors. SB 9 also prevents profiteers from evicting or displacing tenants by excluding properties where a tenant has resided in the past three years.

Myth: This bill will destroy historic neighborhoods.

Fact: SB 9 excludes historic and landmark districts.

Myth: This will change local control of land use decisions.

Fact: Homeowners must comply with local zoning requirements when developing a duplex (height, floor area ratios, lot coverage, etc.) as long as they do not physically preclude a duplex. This bill also allows locals to require a percolation test for any duplex proposed to be on septic tanks.

Myth: Under SB 9, a lot split requires a single family home to be demolished.

Fact: This bill provides options for homeowners and does NOT require any demolition. SB 9 contains strong tenant protections to ensure rental housing is not demolished. A recent study shows that the additional housing options provided by SB 9 actually decreases the likelihood of a single family home being torn down and replaced by a larger single family home. Additionally, nearly 97% of all single-family homes would be retained under SB 9. This bill is one way to help solve the state's housing production crisis. SB 9 provides more pathways to homeownership and expands access to the California dream.

Myth: This bill does not take into consideration environmental and infrastructure concerns.

Fact: Under this bill, the parcel must be located in a jurisdiction that is part of an urbanized area or urban cluster, as designated by the US Census. This means that it applies only to areas that meet certain population and density thresholds. It excludes very high fire hazard severity zones, prime agriculture land, hazardous waste sites, earthquake zones, floodplains that do not have adequate mitigation, and others. At the end of the day, if local governments do not allow people to build

homes in an area, then the bill does not apply. Additionally, SB 9 does NOT make any changes to existing law, which specifies a local agency's ability to impose impact fees.

SB9 Supporters

AARP • Abundant Housing LA • ADU Task Force East Bay • All Home • American Planning Association, California Chapter • Bay Area Council • Bridge Housing Corporation • Cal Asian Chamber of Commerce • California Apartment Association • California Asian Pacific Chamber of Commerce (CAPCC) • California Association of Realtors • California Building Industry Association • California Chamber of Commerce • California Community Economic Development Association (CCEDA) • California Hispanic Chamber of Commerce • California YIMBY • Casita Coalition • Chan Zuckerberg Initiative • Circulate San Diego • City of Alameda • City of Oakland • City of San Diego • Clear Advocacy • Council Member Jon Wizard, City of Seaside • Council Member Zach Hilton, City of Gilroy • Council of Infill Builders • County of Monterey • East Bay for Everyone • Eden Housing • Facebook • Facebook, INC. • Fathers and Families of San Joaquin • Fieldstead and Company, INC. • Generation Housing • Greenbelt Alliance • Habitat for Humanity California • Hello Housing • Hollywood Chamber of Commerce • Housing Action Coalition • Inland Empire Regional Chamber of Commerce • InnerCity Struggle • League of Women Voters of California • LISC San Diego • Livable Sunnyvale • Local Government Commission • Long Beach Yimby • Los Angeles Business Council • Midpen Housing Corporation • Modular Building Institute • Monterey; County of • Mountain View Yimby • National Association of Hispanic Real Estate Professionals (NAHREP) • Non-profit Housing Association of Northern California • North Bay Leadership Council • Northern Neighbors • Office of Sacramento Mayor Darrell Steinberg • Orange County Business Council • Palo Alto Forward • Peninsula for Everyone • People for Housing - Orange County • Pierre Charles General Construction • Plus Home Housing Solutions • Regional Economic Association Leaders (REAL) Coalition • San Diego Housing Commission • San Diego Regional Chamber of Commerce • San Fernando Valley YIMBY • San Francisco Bay Area Planning and Research Association • San Francisco YIMBY • Sand Hill Property Company • Santa Barbara Women's Political Committee • Santa Barbara Women's Political Committee • Santa Cruz YIMBY • Schneider Electric • Share Sonoma County • Silicon Valley Leadership Group • South Bay Cities Council of Governments • South Bay YIMBY • South Pasadena Residents for Responsible Growth • Streets for People Bay Area • Sv@home • Techequity Collaborative • Tent Makers • Terner Center for Housing Innovation At the University of California, Berkeley • The Casita Coalition • The Central Valley Urban Institute • The Two Hundred • Tmg Partners • United Way of Greater Los Angeles • Urban Environmentalists • Yimby Action • YIMBY Democrats of San Diego County • Zillow Group

What others are saying

Written by the Los Angeles Times Editorial Board

Op-ed Written By Senate pro Tempore, Toni G. Atkins

Op-ed Written by San Diego Mayor Todd Gloria

Chronicle Editorial Board