

SB 9 was signed into law in 2021, becoming effective on January 1, 2022. The purpose of SB 9 is to expand housing opportunities and create ministerial processes that cities and counties must follow in approving certain housing developments in single-family zones. The intent of this policy is to implement the provisions of SB 9 while the City processes necessary Municipal Code provisions. The law essentially provides for two ministerial<sup>1</sup> development options in single family residential zones (“collectively, SB 9 Development”):

- Development of existing lots with up to four units:
  1. Primary Dwelling Unit (PDU)
  2. Secondary Unit (SDU)
  3. Accessory Dwelling Unit (ADU)
  4. Junior Accessory Dwelling Unit (JADU)
- Subdivision of an existing lot into two lots (Urban Lot Split), and each developed with:
  1. Primary Dwelling Unit (PDU)
  2. Secondary Dwelling Unit (SDU)

**Development Using pre-SB 9 Objective Development Standards.** The development of a single-family dwelling and/or ADU and/or JADU without an urban lot split shall be subject to the objective development standards and ministerial processes applicable to the zoning district. Development under SB 9 is exempt from CEQA review.

**Applicable Zoning Districts.** The provisions of SB 9 are applicable to the following zoning districts:

- RF (Residential Foothill)
- RE (Residential Estate)
- RL (Residential Low Density)
- Any PD Zone that allows only single family dwellings

**Exceptions.** The provisions of SB 9 are not applicable to the following:

1. **Historic Properties.** A property designated as a local historic landmark, on the California Historic Register or the National Register of Historic Places or within a City-designated historic district.
2. **Very High Fire Hazard Severity Zone.** Properties in a designated Very High Fire Hazard Severity Zones *unless* the proposed development incorporates fire hazard mitigation measures pursuant to existing building standards and state fire mitigation measures.
3. **Earthquake Fault Zone.** Properties within a delineated earthquake fault zone designated by the State Geologist, *unless* the development complies with applicable seismic protection building code standards.
4. **Demolition Restrictions.** The proposed development or lot split shall not require the demolition or alteration of any of the following types of housing:
  - Dwelling units restricted to affordable rent by covenant, ordinance, conditions of approval, entitlement, or any other law.
  - Housing subject to any form of rent or price control.

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<sup>1</sup> “Ministerial” means that the City cannot require public hearings or discretionary review processes for these applications.

- Housing that has been occupied by a tenant in the last three years. If tenant-occupied at any time in the last three years, no more than 25% of the existing exterior wall area of the dwelling may be demolished.
  - Provides habitat for species identified as protected, candidate, sensitive, or species of special status by state or federal agencies.
5. Other Exceptions as specified by SB 9.

### **Urban Lot Split Provisions**

Tentative and Final Parcel Maps shall be submitted to the City pursuant to the Monrovia Municipal Code and the Subdivision Map Act; however, the maps shall be approved ministerially. All maps must meet the following objective standards:

1. **Lot size.** An eligible residential lot may be split into no more than two lots, approximately equal in size. The minimum lot size for the split lots is 1,200 square feet and no resulting lot can be smaller than 40% of the original parcel's size.
2. **Application.** An application for an Urban Lot Split must conform to all applicable objective requirements of the Subdivision Map Act, except as otherwise expressly provided for in SB 9.
3. **Multiple and Adjacent SB 9 lot splits prohibited.** Parcels created through a prior urban lot split under SB 9 shall not be further subdivided. Neither the owner of the parcel being divided or any other person acting in concert with the owner shall have previously subdivided any adjacent parcel under this law. The final parcel map must state that it is an urban lot split created pursuant to Government Code Section 66411.7.
4. **Development Restrictions.** Each parcel created through the SB 9 urban lot split provisions shall be limited to the development of one Primary Dwelling Unit and one Secondary Dwelling Unit.
5. **Utilities.** Each dwelling unit on a resulting lot must have separate utility connections for water, sewer and gas.
6. **Utility Easements.** The City may require easements for the provision of public services and facilities. The owner must enter into an easement agreement with each public service provider to establish easements that are sufficient for the provision of public services and facilities to each of the resulting lots.
7. **Access Easements.** New parcels must have vehicular and pedestrian access to, provide access to, or adjoin the public right of way either through fee or easement. Dedications of right-of-way or offsite improvements shall not be required.

### **Objective Development Standards Applicable to all SB 9 Development**

All development pursuant to SB 9 shall meet the following objective standards. However, one or more of these standards may be waived if it precludes the construction of up to two units of at least 800 square feet in floor area that each maintain setbacks of at least four feet from the side and rear lot lines.

1. **Primary Dwelling Units (PDU).** One SB 9 Development dwelling shall be designated as the PDU. A PDU shall comply with the following development standards applicable to the zone in which the property is located:
  - a. Designation of Primary Unit. The dwelling unit closest to the front property line shall be designated as the PDU.
  - b. Floor area. The total floor area of the PDU, SDU and ADU shall not exceed the total floor area permitted in the zoning district. The minimum size of a PDU is 1,250 square feet.
  - c. Front setback required by the zoning district.
  - d. Side yard setback shall be no less than 4' for an interior property line and 10' for a lot line with frontage on a public right of way (corner lot).
  - e. Rear yard setback shall be no less than 4'.

- f. If a lot has no street frontage, then all setbacks shall be no less than 4’.
  - g. No setback shall be required for an existing structure, or a structure constructed in the same location and to the same dimensions as an existing structure.
  - h. Building height shall be limited to single story and an overall maximum height of 20’.
2. **Secondary Dwelling Units.** A Secondary Dwelling Unit (SDU) is an attached or detached residential dwelling that provides a complete independent living facility for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking. It shall have a kitchen and at least one bathroom. It shall be located on the same parcel as a PDU. Junior Accessory Dwelling Units are not included within this category. The following objective standards for an SDU apply:
- a. Minimum Size – 220 square feet
  - b. Maximum Size – 1,000 square feet.
  - c. Setbacks:
    - i. Secondary front lot line (applies to corner lots) – 10’
    - ii. Side yard – 4’ (interior lot line)
    - iii. Rear yard – 4’
    - iv. If a lot has no street frontage, then all setbacks shall be no less than 4’
  - d. Height – one story, maximum 16’
3. **Attached or Detached.** PDUs and SDUs may be attached or detached. ADUs are subject to the provisions of Monrovia Municipal Code Section 17.44.005 and the following requirements:
- a. Attached PDUs, SDUs and ADUs shall not have interior connections.
  - b. All detached structures shall have a minimum of 6’ separation from other structures.
4. **Parking.** Each PDU and SDU must provide one off street parking space per dwelling unit. Required parking shall meet the following:
- a. Parking shall be outside the required setbacks (including front yard)
  - b. Be accessible from dedicated right of way (street or alley)
  - c. Have minimum dimensions of 9’ x 20’
  - d. Designated parking space shall not be located within the required access for other required parking
  - e. On a paved surface pursuant to MMC Section 17.24.050(F)
  - f. Parking may be in an enclosed garage, carport, or an open space meeting these requirements
  - g. Each parking space shall be directly accessible to the dwelling unit

However, no parking shall be required for a PDU or SDU if one of the following apply:

- a. The parcel is located within a half mile walking distance of a high quality transit corridor or a major transit stop as defined in Public Resources Code Sections 21155 and 21064.3.
  - b. There is a car share vehicle located within one block of the parcel.
5. **Driveways.** Driveways leading to or provide required parking shall have a minimum width of 10 feet and be no wider than the width of the required parking facility. Adequate easement from the public right of way is required for lots that do not have street frontage. (A wider driveway may be required by the Fire Department.)
6. **Recreational open space.** For a lot developed with a PDU and an SDU, each dwelling shall have open space equal to 20% of the unit size and shall be at ground level.
- a. The usable open space may be comprised of common open space shared by more than one residential unit or private open space for the exclusive use of the residents of one unit.
  - b. Private open space shall have a minimum dimension of 8’ and shall be enclosed.

- c. Common open space shall have a minimum dimension of 15' and shall be independently accessible to both units.
  - a. Parking facilities, driveways, and services areas are not useable open space.
  - b. The open space requirement may be waived to accommodate an 800 square foot SDU and/or ADU of 800 SF.
  - c. Any required setback abutting a public or private street shall not count toward meeting the usable open space requirement.
  - d. No additional recreational space shall be required for an ADU or JADU.
7. **Architectural Consistency and Design.** SDUs must match the PDU in:
- a. Architectural style
  - b. Exterior materials
  - c. Color
  - d. Dominant roof pitch
8. **Entrances.** Each SB 9 unit shall have its own, separate entrance. The entry of the PDU shall be oriented toward the street. Porches are strongly encouraged.
9. **Pedestrian Access.** All dwelling units shall have adequate pedestrian access to, provide access to, or adjoin the public right of way.
10. **Accessory Dwelling Units.** If an existing lot is not split under SB 9, then a PDU, SDU, ADU and one JADU may be allowed under the provisions of this policy and Chapter 17.44.005 of the MMC. ADUs and JADUs are not permitted on separate parcels created through the Urban Lot Split (SB 9) process.

#### **Other Provisions**

1. **Separate Conveyance.** Primary or secondary dwelling units on the same lot shall not be sold or conveyed separately.
2. **Short term rentals prohibited.** Any dwelling unit on a lot where an SB 9 application has been invoked, shall not be rented for a period of less than 30 days.
3. **Deed Restriction.** The owner must record deed restrictions, acceptable to the City, that include each of the following provisions:
  - a. Expressly prohibits any rental of any dwelling on the property for a period of less than 30 days.
  - b. Expressly prohibits any non-residential use of the lots created by the urban lot split.
  - c. Expressly prohibits any separate conveyance of a dwelling unit sharing a lot.
  - d. States that the property is formed by an urban lot split and is therefore subject to the City's urban lot split regulations, including all applicable limits on dwelling size and development and is ineligible for further lot splits.
4. **Building Code Compliance.** SB 9 units shall be permanent structures and meet all applicable standards in the adopted Building Code Title 15.
5. **Nonconforming Zoning Conditions.** As a condition for ministerial approval of a parcel map application for the creation of an urban lot split, the correction of nonconforming zoning conditions shall not be required.
6. **Variations Prohibited.** Unless superseded by state law, the granting of variances or minor exceptions for relief from any development standard or requirement for any permit under SB 9 is prohibited.
7. **Denial.** The City may deny an SB 9 Development application only if the Building Official makes a written finding, based upon a preponderance of the evidence, that the proposed housing

development would have a specific, adverse impact on public health and safety, or the physical environment, that cannot be mitigated or avoided<sup>2</sup>.

8. **Compliance with SB 9.** This policy is intended to fully comply with the requirements of SB 9 while the City prepares a compliant ordinance. Where this policy may be silent, and/or where a conflict may occur, the minimum standards and limits of SB 9 shall prevail or apply.

### **Application Requirements**

#### **For all SB 9 Development:**

1. If full or partial demolition is proposed, the property owner must sign an affidavit, under penalty of perjury, affirming that the limitations of Government Code Section 65852.21(a)(5) do not apply to any structure proposed to be altered or demolished.

#### **For Urban Lot Splits:**

1. Same as existing Tentative and Final Parcel Map application, fees, and process except all approvals shall be ministerial. Public hearings shall not be required.
2. Development plan review application must be submitted concurrently.
3. Applicant. The property owner must apply for an SB 9 urban lot split.
4. Ownership Affidavit. The applicant for an urban lot split must sign an affidavit under penalty of perjury, stating that they intend to occupy one of the housing units as their principal residence for a minimum of three years from the date of the approval of the urban lot split. Perjury is a felony in the State of California.
5. Offsite improvements shall not be required for urban lot splits, with the exception of a driveway approach if needed.

#### **For SB 9 development without an urban lot split:**

1. Same as existing development plan review application

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<sup>2</sup> See Government Code Section 65852.21 for definitions.