



SB 9 ELIGIBILITY DETERMINATION (PRE-APPLICATION)

planning@berkeleyca.gov • Phone (510) 981-7410, TDD (510) 981-7450

Planning and Development
1947 Center St, 2nd Floor
Berkeley, CA 94704

SB 9 Eligibility Determination (Pre-Application)

(must be related to a proposed project)

California Senate Bill 9 (SB 9) created a ministerial approval process for eligible housing development and urban lot split projects in single-family residential zones. This handout offers general guidelines and is not intended to be comprehensive. Please refer to the California Government Code Section 65852.21 and 66411 for more details.

REQUEST AN SB 9 PRE-APPLICATION FOR:

- Determination of eligibility under SB 9 for housing developments and urban lot splits for lots located in the R-1 or R-1H Zoning Districts.

Staff typically provides a response within 30 days.

Cost: \$1,000 deposit. [\$1,000 base plus \$55 records management = \$1,055] If additional time is needed to complete the request, staff will first ask for the applicant's approval, then invoice on an hourly basis for the additional time required before continuing the review.

[How to Submit a Zoning Project Application](#)

PROJECT INFORMATION

Project Address(es):

Unit(s)/Suite(s) #:

Assessor Parcel Number(s):

Description of Pre-Application Request:

SUBMITTAL REQUIREMENTS

Please provide the following information as attachments to this application:

See the [SB 9 Preliminary Application Submittal Requirements](#) and [the SB 9 Development and Urban Lot Split Eligibility Checklist](#) for items that need to accompany this application.

PROPERTY OWNER'S NAME:

Owner's Mailing Address:

Phone Number:

Email:

APPLICANT'S NAME (or enter "same."):

Applicant's Mailing Address:

Phone Number::

Email:



SB 9 ELIGIBILITY DETERMINATION (PRE-APPLICATION)

Under penalty of perjury, I certify that:

- (1) the application materials are true and complete to the best of my knowledge; and**
- (2) if provided, the attached paper and electronic copies of this application are the same; and**
- (3) I agree to pay all expenses associated with this application**

(*Owner's signature, or signed letter authorizing applicant to apply on owner's behalf, is required for all applications)

OWNER'S SIGNATURE:

Printed Name:

Date:

APPLICANT'S SIGNATURE:

Printed Name:

Date:



SB 9 PROJECT PRELIMINARY APPLICATION SUBMITTAL REQUIREMENTS

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Instructions

This packet describes all of the materials required to submit a complete SB 9 Project Preliminary Application Request to the Planning and Development Department, Land Use Division.

Section 1 is a checklist of materials required for all projects. Sections 2 and 3 comprise a list of materials that may be required based on the project type or location. Other information not included on this checklist may be requested to address unique situations.

Each submittal requirement on the checklist is described further in this packer, starting on Page 2. Each description identified whether an item is required, and indicates how to prepare each document, drawing material, and/or report. Hyperlinked forms and instructions are also online under Land Use at <https://berkeleyca.gov/constructiondevelopment/permits-design-parameters/permit-types/permit-forms>.

Pages 1 of this packet must be completed and submitted with the Application. Staff will verify that the minimum submittal requirements have been included with your package during the application submittal. Applications that are missing the materials in this checklist will not be accepted for review.

All documents, reports, and plans must be provided in digital format (Adobe PDF).

Note: Please Review the [Guide to Submitting a Zoning Project Application](#) for more information about the submittal process.

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General Information

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

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

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

SECTION 1 - REQUIRED FOR ALL PROJECTS

- A. Pre-Application Packet
 1. SB 9 Pre-Application Form
 2. Completed copy of this SB 9 Project Submittal Requirements Checklist (Page 1)
 3. SB 9 Housing Development and/or Urban Lot Split Eligibility Checklist
- B. Applicant Statement
- C. Payment of Application Fees
(Please refer to current Land Use Fees)
- D. Tabulation Form

SECTION 2 - REQUIRED FOR ALL DEVELOPMENT PROJECTS INVOLVING NEW STRUCTURES, ADDITIONS, DEMOLITIONS, OR EXTERIOR ALTERATIONS

- A. Site Plan
- B. Landscape and Usable Open Space Plan
- C. Lot Coverage Diagram
- D. Floor Plans
- E. Building Elevations
- F. Section Drawings (Hillside Overlay Only)
- G. Boundary and/or Topographic Survey
- H. Grading Plan

SECTION 3 - SUPPORTING DOCUMENTS

- A. Site Photographs
- B. Arborist Report
- C. Structural Evaluation
- D. Project Specific Requirements for Full Applications
 1. SB 9 Owner Attestation Form (Lot Split)
 2. SB 9 Prior Tenancy Attestation Form
(Only if altering existing structure)



SB 9 PROJECT PRE-APPLICATION SUBMITTAL REQUIREMENTS

SECTION 1 - REQUIRED FOR ALL PROJECTS

- A. Zoning Project Application Packet**
 1. SB 9 Preliminary Application Form
 2. SB 9 Project Submittal Requirements Checklist (Page 1)
 3. SB 9 Development and Urban Lot Split Eligibility Checklist

- B. Applicant Statement**

Submit a written statement (in a separate document) that briefly describes the proposed project and any request to waive a submittal requirement if applicable.

- C. Payment of [Land Use Pre-Application \(Staff level\) Fee](#)**
 - Permit Service Center Cashier: 8:30 am – 2:30* pm, Mon-Thurs (*closed from 12:30 – 1:30 pm)
 - Online Payment: [Permit Portal](#) (note – there is a third-party service fee for online credit card payments)
 - PSC check drop-off outside of Cashier hours: Ask the PSC Welcome Desk to assist you. Dropped off check payments will be processed the following business day; we will contact you if any additional information is needed for the payment. PSC is open Monday-Thursday 8:30 am – 2:30 pm – please do not drop off payments outside of those hours.

If supplemental technical studies are required, a Peer Review deposit will be required (e.g., Arborist Report).

- D. [Tabulation Form](#)**

Submit the form as a separate document, completely filling out each column, using the applicable development standards of the [Zoning Ordinance](#) and SB 9 as a guide.



SB 9 PROJECT PRE-APPLICATION SUBMITTAL REQUIREMENTS

SECTION 2 - REQUIRED FOR ALL DEVELOPMENT PROJECTS INVOLVING NEW STRUCTURES, ADDITIONS, DEMOLITIONS, OR EXTERIOR ALTERATIONS



Plans – General Requirements

1. All plans must be fully dimensioned, and include:

- Name of person preparing plans (licensed architect required for certain projects, see Item 3 below)
- Dates of preparation and revision
- Project address
- Graphic scale (see Item 2 below for minimum scales)
- North arrow
- Legend describing all symbols and notations
- Building Code construction and occupancy types.

2. Electronic Plans Requirements:

See the [Guide to Submitting a Zoning Project Application](#) for digital plans and document standards.



SB 9 PROJECT PRE-APPLICATION SUBMITTAL REQUIREMENTS

SECTION 2 - REQUIRED FOR ALL DEVELOPMENT PROJECTS INVOLVING NEW STRUCTURES, ADDITIONS, DEMOLITIONS, OR EXTERIOR ALTERATIONS

<input type="checkbox"/>	<p>A. Site Plan</p> <p>Required for all projects</p> <p>The Site Plan must show the following:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Existing and proposed property lines and lot dimensions <input type="checkbox"/> Existing and proposed building footprint(s) (dimensioned), setbacks (required, existing and proposed), and projections such as eaves, balconies, and bays. Show all accessory structures, such as garages, sheds, etc. <input type="checkbox"/> Delineation of proposed additions, if any, with shading, hatching or another appropriate method <input type="checkbox"/> Any portions of neighboring buildings within 20 feet of property lines, including the building-to-building separation (measured in feet) <input type="checkbox"/> Pathway(s) from the residential structure to the public right of way <input type="checkbox"/> Driveways and parking spaces with dimensions, location of ADA spaces, and security gates <input type="checkbox"/> Trash/solid waste storage area <input type="checkbox"/> Decks, patios, hot tubs, and all unenclosed accessory structures <p>Note: The City of Berkeley Community GIS Portal is an online resource indicating site features and characteristics listed above, which are required to be shown on the Site Plan</p>
<input type="checkbox"/>	<p>B. Landscape and Usable Open Space Plan</p> <p>Required for all projects</p> <p>The Landscape Plan must show the following:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Fully dimension all areas that qualify as existing and proposed Usable Open Space, in compliance with the applicable zoning district development standard and BMC Section 23.304.090 <input type="checkbox"/> Any existing landscaping to remain and to be removed <input type="checkbox"/> All proposed landscaping, including all existing and proposed trees, including street trees (indicate species, trunk diameter, drip line), hedge rows, and ground cover <input type="checkbox"/> All paved areas and surface treatments <input type="checkbox"/> Fences and retaining walls (materials and height) <input type="checkbox"/> Significant natural features such as creeks (indicate banks or culvert outline), and prominent landforms.
<input type="checkbox"/>	<p>C. Lot Coverage Diagram and Calculations</p> <p>Required for all projects with existing or proposed structures</p> <ul style="list-style-type: none"> <input type="checkbox"/> Submit the Lot Coverage Diagram and calculations, using the Site Plan as a base map, which must show the fully dimensioned diagrams to depict existing and proposed lot coverage in compliance with the applicable zoning district development standard and BMC Section 23.106.020.
<input type="checkbox"/>	<p>D. Floor Plans</p> <p>Required for all projects.</p> <p>The Floor Plan (s) must show the following:</p> <ul style="list-style-type: none"> <input type="checkbox"/> All floors, including mezzanines, basements, and attics <input type="checkbox"/> Use of all rooms (existing and proposed), per the California Building Code <input type="checkbox"/> For changes to existing buildings, provide separate plans for existing and proposed conditions, or if changes are limited, use dashed lines for demolished features and solid lines for new features.



SB 9 PROJECT PRE-APPLICATION SUBMITTAL REQUIREMENTS

SECTION 2 - REQUIRED FOR ALL DEVELOPMENT PROJECTS INVOLVING NEW STRUCTURES, ADDITIONS, DEMOLITIONS, OR EXTERIOR ALTERATIONS

E. Building Elevations

Required for all projects.

The Elevations must show the following:

- All exterior features and openings, including finishes and materials
- Existing and proposed building height (as defined in BMC Sections 23.106.090), finished floor elevations, and existing and finished grades (within five feet of the building).
- Adjacent features such as fences, landscaping, and other buildings and property lines.
- For changes to existing buildings, provide separate elevations for existing and proposed conditions, or if changes are limited, used dashed lines for demolished features and solid lines for new features.

[Height Instructions –Average Building Height*](#)

(R-1 and R-1H Districts)

[Height Instructions –Maximum Building Height*](#)

(Hillside Overlay Only)

*In the Hillside Overlay (“H”), both average and maximum building height apply.

F. Section Drawings

Required for the following projects:

- New main buildings in the “H” District.**
- Additions exceeding 14 feet in average height in the “H” District.**

Submit drawings that show adjacent uphill or downhill buildings where views may be affected. Minimum scale is 1/8” = 1’. Show existing and proposed finished grades.

G. Boundary and/or Topography Survey

Required for the following projects:

- Any new main building.**
- Expansions of a building footprint or the creation of accessory building/structures less than two feet from, or within, a required setback.**
- Urban lot splits**

Submit a survey meeting the following requirements:

1. Wet-stamped, signed by a licensed CA surveyor or appropriately licensed civil engineer
2. Minimum scale of 1/10” = 1’
3. All property lines, curb and sidewalk, spot elevations, existing structures, building dimensions, and setbacks to all property lines
4. For projects in the “H” District, survey must be no more than five years old and must show contour lines with minimum 5-foot intervals.

H. Conceptual Grading Plan

Required for projects with more than 50 cubic yards of cut and/or fill.

Submit a grading plan meeting the following requirements:

1. Prepared by a licensed surveyor, architect or engineer
2. Estimated quantities and locations of cut and fill
3. Existing and final elevations



SB 9 PROJECT PRE-APPLICATION SUBMITTAL REQUIREMENTS

SECTION 3 - SUPPORTING DOCUMENTS

<input type="checkbox"/>	<p>A. Site Photographs Required for all projects</p> <p>Submit one set of exterior photos, that meet the following requirements:</p> <ol style="list-style-type: none"> 1. Use captions or a key indicating the location (perspective) of each photo. 2. Provide an adequate number of photos to show entire project site and all adjacent buildings for context. Where possible, take wide-angle shots showing project site and adjacent buildings together.
<input type="checkbox"/>	<p>B. Arborist Report Required for projects involving any construction activity (including excavation, trenching, demolition, paving, storage of materials, and parking of vehicles) within the drip line of a Coast Live Oak (quercus agrifolia) tree with a circumference of at least 18 inches at 4 feet above the ground (or at least 26 inches aggregate circumference for a multi-stemmed tree).</p> <p>Submit</p> <ol style="list-style-type: none"> 1. A report by a certified arborist assessing the project’s impacts on the affected tree(s) (tree may be located either on- or off-site) and recommending preservation measures both during and after construction, as applicable. 2. Deposit of \$460 for the first two hours of peer review of report (additional funds may be required for more complicated projects or site visits) <p>Tree Protection Instructions Coast Live Oak Tree Ordinance</p>
<input type="checkbox"/>	<p>C. Structural Evaluation Required for any project that is not a demolition, but is removing more than 25 percent of a main building’s exterior wall and 25 percent of a main building’s roof framing (including in-kind replacement of existing framing), in order to confirm the feasibility of retaining the remaining portions of any wall and roof.</p> <p><u>A Structural Evaluation is not required</u> for projects requesting demolition.</p> <p>Submit a demolition diagram that indicates the percentage of each wall and roof that is proposed to be replaced or removed, as well as a report by an independent, fully credentialed structural engineer that evaluates whether, in the operator’s opinion, retention of structural elements <u>not</u> proposed for removal is actually feasible.</p>
<input type="checkbox"/>	<p>D. Attestations Required with Urban Lot Split and/or Building Permit applications</p> <ol style="list-style-type: none"> 1. SB 9 Owner Attestation Form (Urban lot splits only) 2. SB 9 Prior Tenancy Attestation Form (Projects that include demolition or alterations or existing dwellings only)



SB 9 DEVELOPMENT AND URBAN LOT SPLIT ELIGIBILITY CHECKLIST

Planning@berkeleyca.gov • 510-981-7410, TDD 510-981-7450

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General Information

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

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

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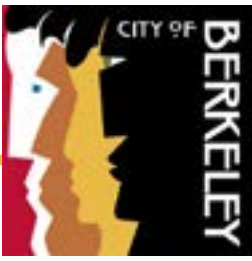
Instructions

This eligibility checklist will help you determine if your project complies with criteria for a housing development and/or an urban lot split under California Senate Bill 9 (SB 9) and the City’s Zoning Ordinance. Respond to the questions on the following pages by placing a check mark in the yes or no column as appropriate, and read the outcomes to understand if your project may proceed. This checklist must accompany your [Pre-Application Request](#) and SB 9 Pre-Application Submittal Requirements documents.

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

QUESTIONS

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



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QUESTIONS

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



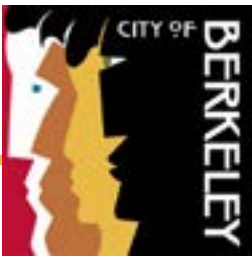
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QUESTIONS

	YES	NO								
Section 3. Setback, Height, and Lot Coverage Requirements										
<p>10. Does your project comply with Table 23.202-2:R-1 Development Standards for front and side setbacks, and SB 9 standards for rear setbacks, as shown below.</p> <table border="1" data-bbox="203 625 1247 793"> <thead> <tr> <th>R-1 and SB 9 Setback Standards</th> <th>Front</th> <th>Side</th> <th>Rear</th> </tr> </thead> <tbody> <tr> <td>Minimum Setback*</td> <td>20 Feet</td> <td>4 Feet</td> <td>4 Feet</td> </tr> </tbody> </table> <p>* Setbacks are measured as the distance between the surface of a building's outer wall and the applicable lot line.</p> <p>> If yes, the project may proceed.</p> <p>>If no, see #13 for more information.</p>	R-1 and SB 9 Setback Standards	Front	Side	Rear	Minimum Setback*	20 Feet	4 Feet	4 Feet		
R-1 and SB 9 Setback Standards	Front	Side	Rear							
Minimum Setback*	20 Feet	4 Feet	4 Feet							
<p>11. Average Building Height and Maximum Height¹? Is the proposed building height average 35 feet or less? If located in the Hillside Overlay District, is the proposed maximum building height also 35 feet or less?</p> <p>> If yes, you can proceed.</p> <p>>If no, see #13 for more information.</p> <p>¹ https://berkeley.municipal.codes/BMC/23.106.090</p>										
<p>12. Is the lot coverage 40 percent or less?</p> <p>> If yes, the project may proceed.</p> <p>>If no, see #13 for more information.</p>										
<p>13. If you can demonstrate that the City's zoning development standards and SB 9 modifications for setbacks, height, and/or lot coverage would not allow for construction of up to two 800 square-foot dwelling units, you may submit additional information for review to determine if you can proceed. Submit an explanation with the SB 9 Preliminary Application materials.</p>										



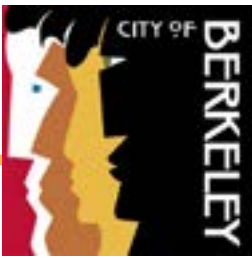
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QUESTIONS

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



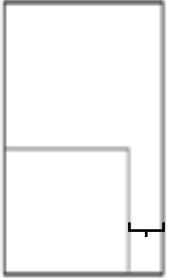
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QUESTIONS

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

	YES	NO
<p>Lot Size</p> <p>18. Will the lots resulting from the subdivision be at least 40 percent of the original lot size (before subdivision) and at least 1,200 square feet in size?</p> <p>> If yes, you can proceed.</p> <p>>If no, the City cannot approve your project.</p>		
<p>19. If located in the Hillside Overlay area, do the resulting lots have access to the right-of-way that is at least 14-feet wide? See example below.</p> <p>> If yes, you can proceed.</p> <p>>If no, the City cannot approve your project.</p> <div style="text-align: center;">  <p>14 feet</p> </div> <p>Figure 1.</p>		