

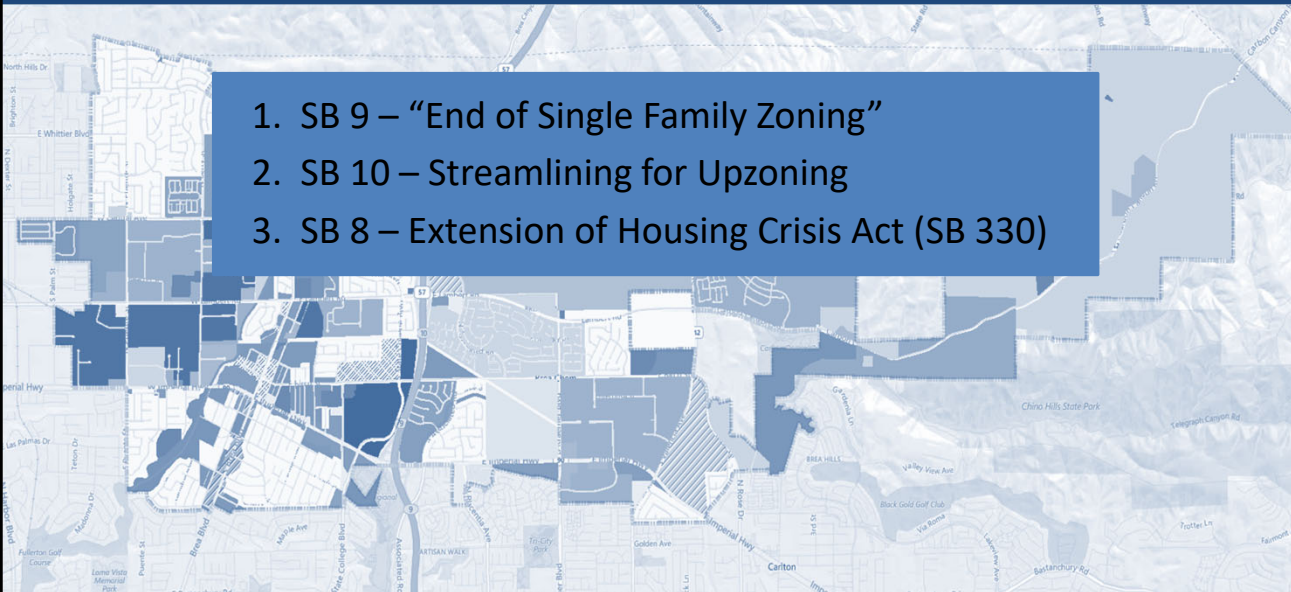
**SB 9 and the “End of Single Family Zoning”  
in California: What You Need To Know**

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# Agenda



1. SB 9 – “End of Single Family Zoning”
2. SB 10 – Streamlining for Upzoning
3. SB 8 – Extension of Housing Crisis Act (SB 330)

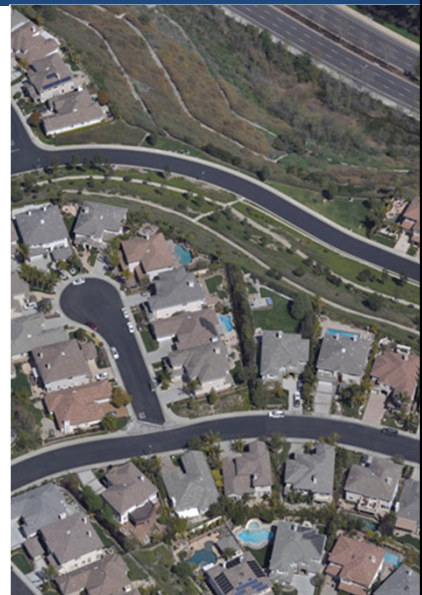
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# SB 9

## The Basics

SB 9 requires **ministerial approval** of:

- 2-lot subdivision  
and/or
- Development projects for 2 units per lot
- For projects that meet certain criteria



# Qualifying Criteria

## Where are SB 9 projects allowed?

- Lot must be within a single-family **residential** zone
- Lot must be within “**urbanized** area or urban cluster”
  - applies whether the project is proposed to locate in a city or an unincorporated area



# Where are SB 9 projects prohibited?

- Location of a historic landmark or within a designated historic district
- Certain identified “sensitive areas” including:
  - Wetlands
  - Earthquake fault zone
  - Lands under conservation easement
  - FEMA Flood Plain
  - High fire hazard severity zone

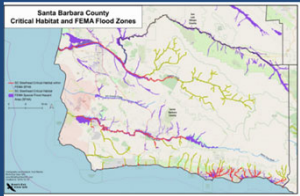


Permitted in  
“coastal zones”  
≈

# Prohibited Locations

## FEMA-Designated Flood Plains

- Prohibition does not apply if development site:
  - 100-year flood plain:
    - Has been subject to a Letter of Map Revision (LOMR) by FEMA; or
    - Meets FEMA requirements to meet minimum flood plain management criteria
  - Regulatory floodway:
    - Satisfies all applicable federal qualifying criteria



## Prohibited Locations

### High Fire Hazard Severity Zone

- Prohibition does not apply to:
  - Sites excluded from the hazard zone by a local agency
  - Sites that have adopted fire hazard mitigation measures



## Prohibited Locations

### Land subject to Conservation Easement:

- Restrictive covenant
- Binding upon successive landowners
- Protects against future development
- “Retain land predominantly in its natural, scenic, historical, agricultural, forested, or open-space condition.”  
(Civil Code Section 815.1)



## Prohibited Locations

### Other prohibited locations:

- Certain farmland
- Land designated for agricultural protection by a local ballot measure
- Hazardous waste sites
- Lands identified for conservation under the Natural Community Conservation Planning Act or Endangered Species Act
- Species habitat protected by the federal and CA Endangered Species Acts and the Native Plant Protection Act

## Anti-Displacement Requirements

A project cannot involve the **demolition or alteration** of:

- Deed restricted affordable housing
- Rent-controlled housing
- Housing withdrawn from rental market in last 15 years
- Housing that was occupied by a tenant in the past 3 years

# Ministerial Approval

Local agency must ministerially approve:

## **The development of up to 2 residential units**

- Two new units
- Adding one new unit to one existing unit



## Local agency must ministerially approve:

### The creation of a 2-lot subdivision:

- Each lot must be at least 1,200 sq. ft.
- Each lot must be at least 40% of the original lot
- Can't subdivide lot that was previously subdivided via SB 9
- Adjacent parcels can only be subdivided via SB 9 if owners are independent

## Limited Ability to Reject

The local agency can deny the housing development project or the subdivision if:

- building official makes written finding
- based on preponderance of evidence
- that project would have a specific, adverse impact on public health and safety that can't be mitigated

**\*This is a very high standard to meet\***



## Requirements Imposed by Local Agency

### Subdivision Requirements

A local agency can require:

- Easements for provision of public services
- Easements to ensure both lots have access to public ROW

A local agency cannot require:

- Dedication of ROW
- Construction of offsite improvements
- Correction of nonconforming zoning conditions

## Objective Standards

- Agency may impose **objective** zoning standards, subdivision standards, and design standards (i.e. through local ordinance) subject to certain limitations:
  - No setback can be required if unit is built within the footprint of an existing structure
  - Otherwise maximum 4' setback from side and rear yards
- Standards cannot physically prevent 800 square foot unit

*More on objective standards later...*

## Rental Restrictions

- Agency must prohibit short term rental of any units created through SB 9
- For lot splits, an applicant must submit an affidavit that it intends to occupy one of units as principal residence for at least 3 years
  - No other owner occupancy standards allowed

## Parking Restrictions

Maximum of 1 parking spot per unit, except no parking spot if:

- Within ½ mile of high quality transit corridor or major transit stop
  - An existing rail or bus rapid transit station
  - A ferry terminal served by either a bus or rail transit service
  - Fixed route bus service with service intervals no longer than 15 minutes during peak commute hours
- Within one block of a car share vehicle

## Accessory Dwelling Units (ADU)

The local agency may prohibit ADUs and JADUs when:

- The lot is subdivided pursuant to SB 9, when there are two units existing/constructed on each lot
- Both lot subdivision and housing unit construction are done via SB 9

***Two-unit project without SB 9 lot subdivision?***



## Relationship to Other Laws



### CEQA

- Under SB 9, projects are approved ministerially and are exempt from CEQA
- Adoption of local ordinance is not a “project” for CEQA purposes

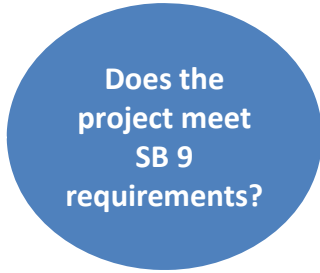


### Coastal Act

- Requirements of the law still apply
- Local agencies do not have to hold public hearings for coastal developments permit applications for SB 9 lot splits

## Illustration

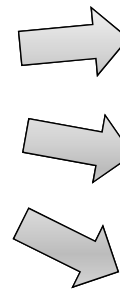
# Does the project qualify?



- Single-family zone
- Urban cluster
- Meets anti-displacement requirements



- Prohibited:
- Historic sites
  - Fault zone
  - FEMA Flood Plain
  - Fire Hazard zone
  - Other "sensitive areas"



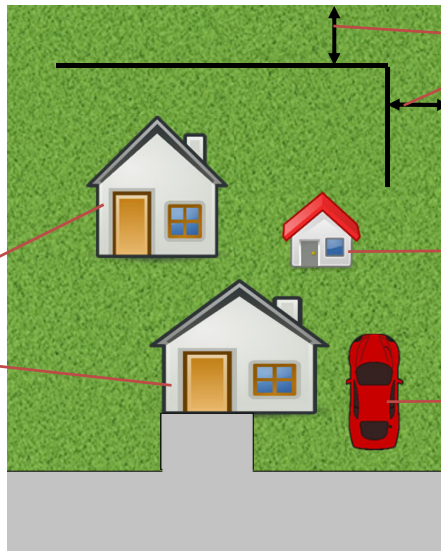
# What does it look like?



Existing lot  
Existing Home  
No subdivisions

2 new units  
or  
1 new + 1 existing

At least 800 square feet with objective standards



4' side and rear yard setback; none if within building footprint

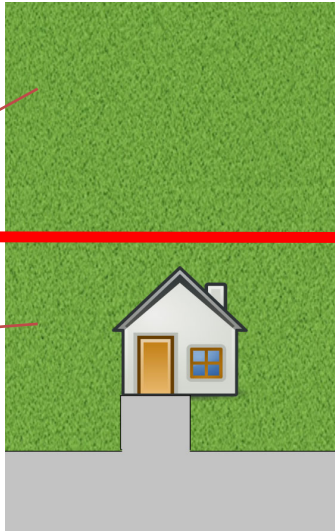
Maybe ADUs

One parking spot per unit unless 1/2 mile from major transit stop, or one block from car share vehicle

# What does it look like?

**Lot split**

Each new lot at least 1,200 square feet

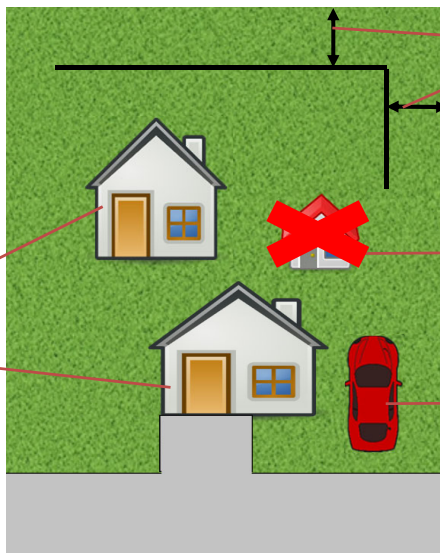


50/50  
or  
40/60  
split

# What does it look like?

**2-unit + lot split**

2 new units  
or  
1 new + 1 existing  
  
At least 800 square feet with objective standards



4' side and rear yard setback; none if within building footprint

No ADUs

One parking spot per unit unless 1/2 mile from major transit stop, or one block from car share vehicle

# Summary

Housing units on existing lot	Lot split	Housing units + lot split
<ul style="list-style-type: none"> <li>• 2 new units <i>or</i></li> <li>• 1 new unit + 1 existing unit</li> <li>• No short term rental</li> <li>• ADUs may be allowed-unclear</li> <li>• No owner occupancy requirement</li> <li>• Demolition restrictions</li> </ul>	<ul style="list-style-type: none"> <li>• Empty lots = 2 new units on each lot if empty, or 1 new unit + 1 existing</li> <li>• No ADUs</li> <li>• Owner occupancy affidavit required</li> <li>• Demolition restrictions</li> </ul>	<ul style="list-style-type: none"> <li>• Empty lots = 2 new units on each lot if empty, or 1 new unit + 1 existing</li> <li>• No ADUs</li> <li>• Owner occupancy affidavit required</li> <li>• No short term rental</li> <li>• Demolition restrictions</li> </ul>

# Next Steps

## Forms

Agencies should prepare:

- Deed restriction prohibiting short term rental of units created through SB 9
- Deed restriction prohibiting future SB 9 lot splits and non-residential uses
- Owner occupancy affidavit for applicants seeking SB 9 lot split



## Objective Standards

Agencies may enact objective zoning standards as long as standards do not physically prevent a unit that is at least **800** square feet

- An objective standard is a standard that is uniformly verifiable and involves no personal or subjective judgement



## Objective Standards

- The ability to limit units to no more than 800 square feet is a valuable tool for local agencies
  - What projects are economically feasible?
- Agencies should endeavor to adopt objective design standards by January 1
  - Many agencies have existing objective standards that only apply to multi-family housing projects

## Additional Factors to Consider



SB 9 regulates local agency authority, and does not preempt CC&Rs or HOA rules

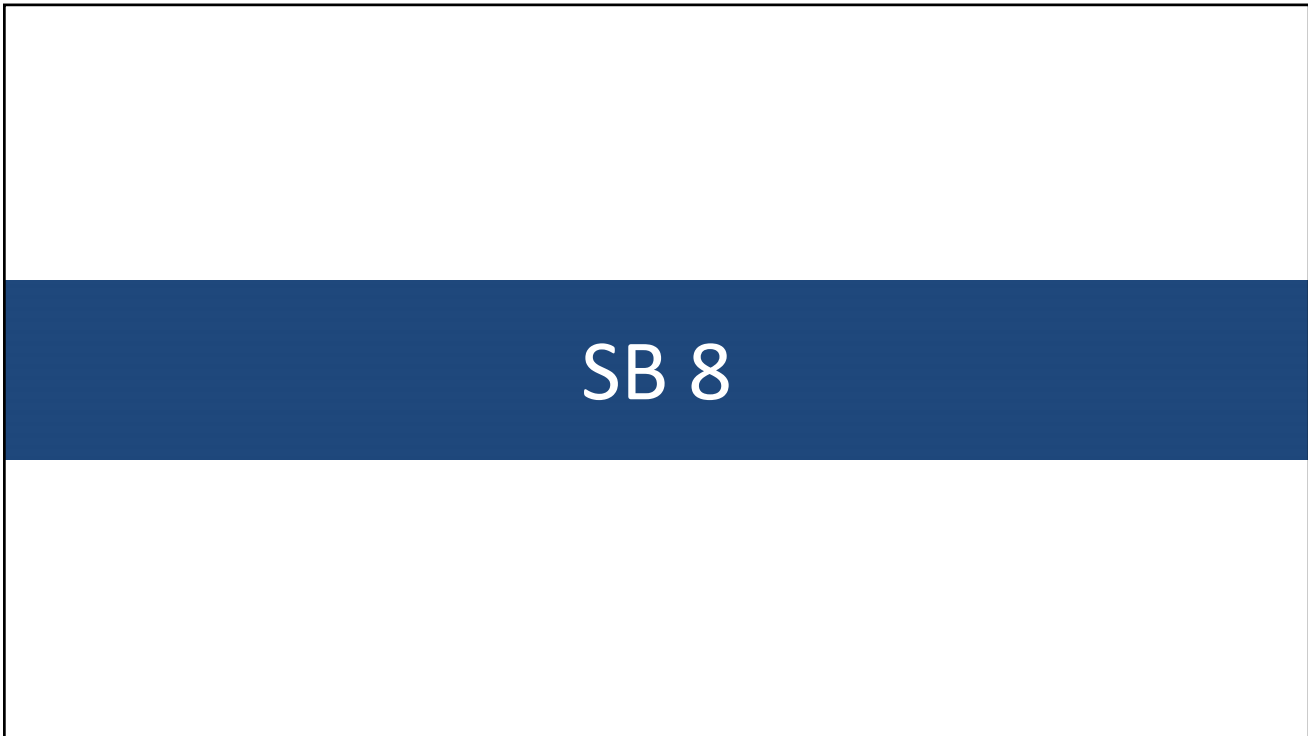


Are affordability requirements allowed?

# SB 10

## Summary of the Law

- Authorizes legislative bodies to zone any parcel for up to 10 units of residential density
  - Authorizes legislative body to override local initiative measures with 2/3 vote
  - The ordinance, conforming general plan amendments and other changes in regulations are not “projects” subject to CEQA
- Parcel must be in transit-rich area or an urban infill site, and meet certain other requirements
- Local agency **retains authority** to decide whether or not to make zoning change



# SB 8

## Extension of SB 330

- Housing Crisis Act of 2019 (SB 330) contains various requirements intended to increase the supply of housing
- Some of the law was originally scheduled to sunset in 2025, but SB 8 extends the law to housing projects submitted by 2030

Senate Bill No. 330  
CHAPTER 654

An act to amend Section 65589.5 of, to amend, repeal, and add Sections 65940, 65943, and 65950 of, to add and repeal Sections 65905.5, 65913.10, and 65941.1 of, and to add and repeal Chapter 12 (commencing with Section 66300) of Division 1 of Title 7 of, the Government Code, relating to housing.

[Approved by Governor October 9, 2019. Filed with Secretary of State October 9, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

SB 330, Skinner. Housing Crisis Act of 2019.  
(1) The Housing Accountability Act, which is part of the Planning and Zoning Law, prohibits a local agency from disapproving, or conditioning approval in a manner that renders infeasible, a housing development project for very low-, low-, or moderate-income households or an emergency shelter unless the local agency makes specified written findings based on a preponderance of the evidence in the record. The act specifies that one way to satisfy that requirement is to make findings that the housing development project or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete. The act requires a local agency that proposes to disapprove a housing development project that complies with applicable, objective general plan and zoning standards and criteria that were in effect at the time

## Provisions Extended to 2030

- Jurisdiction cannot disapprove housing project or approve it at a lower density if project complies with applicable, objective standards in place upon complete **preliminary application**
  - Must contain information required by jurisdiction’s checklist, which can only require certain limited information
- Changes to the project allowed, including increasing the number of units or square footage by up to 20%
- Complete application required within 180 days
  - Construction must start within 2.5 years (**new- 3.5 years for affordable housing project**)
- Five-hearing limit for certain projects with complete applications

## Presenters



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