

# SB 9 SUBDIVISION CHECKLIST

Under [Senate Bill 9](#) (SB 9) and City [Section 20.30 Part 8 of the San Jose Municipal Code](#) you may subdivide a single-family property that is zoned R-1-1, R-1-2, R-1-5, R-1-8, R-1-RR or begins with "PD". This checklist helps you verify if your lot complies with the provisions of state and local laws. Only projects that comply will be approved for a subdivision. Application details are on page 3.

**Owner-Occupancy Requirement:** One of the homes resulting from the subdivision must be the applicant's primary dwelling for at least three years from the date of approval of the subdivision. See Question #10 on page 3.

**SB 9 Duplex Building Projects.** If you are also pursuing a building permit to construct a duplex under SB 9, please refer to the [SB 9 Duplex Project - Building Permit Checklist](#).

**Understand any CC&Rs before proceeding** - If your lot is subject to a private agreement known as Conditions, Covenants, and Restrictions (CC&Rs), you are advised to check your property title and consult with your homeowners association or other entity as applicable to identify such CC&Rs before applying for a subdivision. CC&Rs may restrict the number of units that can be built on a property. Note that the City cannot enforce a private agreement between property owners.

**Planner Feedback.** Use the [Preliminary Review Request](#) form to obtain a City planner's written feedback on your project concept. Follow submittal instructions on the form and include this SB 9 Subdivision Checklist, completed, along with a rough site plan that shows the proposed subdivision and property line measurements.

**Subdivision Process Information.** See the SB 9 Parcel Map section of Public Works' [Permit Applications & Resources](#) webpage. For questions, call Public Works at **408-535-7802** or email [pwgeneralinfo@sanjoseca.gov](mailto:pwgeneralinfo@sanjoseca.gov).

Para información en español, comuníquese con un Planificador de la ciudad al **408-793-4100**

Để được hỗ trợ, nói chuyện với Người lập kế hoạch thành phố tại **408-793-4305**.

## INSTRUCTIONS

Respond to the checklist questions, placing a checkmark in the Yes or No column. Read the outcome to understand if your project may proceed. To complete this checklist, you will need to know the various designations of your property. Find these designations at [www.SJPermits.org](http://www.SJPermits.org) by tapping "Permits & Property Information." Then enter your address. On the next screen, click on your property and select "Property Information." A list of designations will appear.

## QUESTIONS

	YES	NO
<b>PART 1. PROPERTIES THAT QUALIFY</b>		
<p><b>1. Do you have a San Jose address?</b> This worksheet is only for properties in the City of San José. If you are uncertain, you can confirm that a property is in San José at <a href="http://SJPermits.org">SJPermits.org</a> (see instructions, page 1).</p> <p>&gt; <b>Outcome:</b> If yes, you may proceed with submitting a project to the City of San Jose. If no, contact the jurisdiction where your property is located.</p>		
<p><b>2. Zoning.</b> Is the property zoned R-1-1, R-1-2, R-1-5, R-1-8, R-1-RR or begins with "PD"? Find out at <a href="http://SJPermits.org">SJPermits.org</a>. If you have questions about a PD zone, speak with a Planner at 408-535-3555 during these <a href="#">service hours</a>.</p> <p>&gt; <b>Outcome:</b> If yes, you may proceed. If no, an SB 9 subdivision is not allowed.</p>		

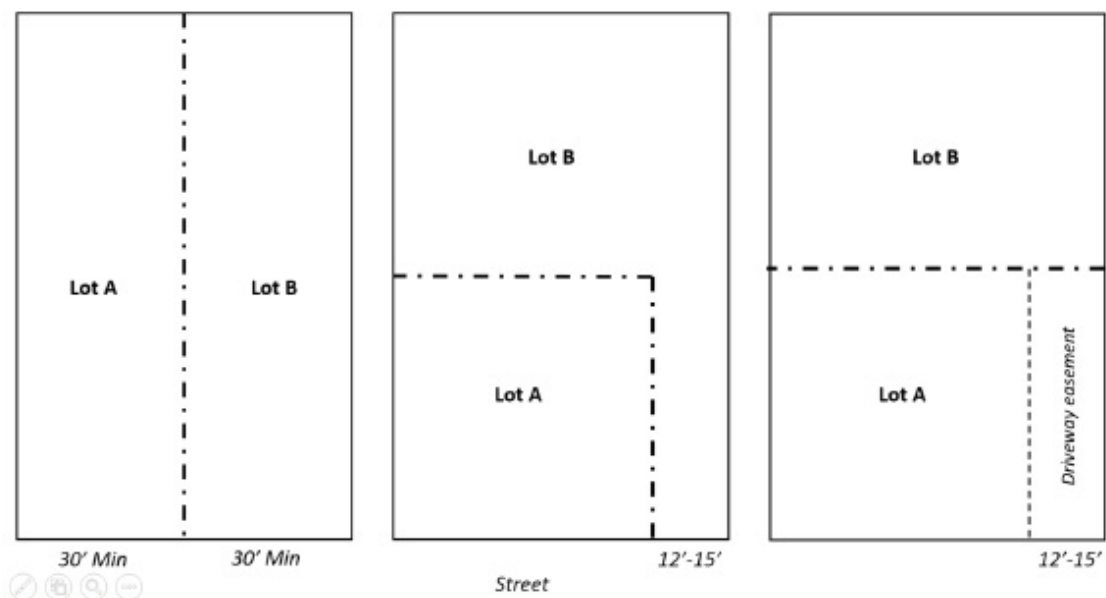
*continued>*

QUESTIONS	YES	NO
<b>PART 2. PROPERTY DESIGNATIONS AND CHARACTERISTICS</b>		
<p><b>3. Properties that are excluded.</b> Does your property have land classified as having any of the following? Note that items (a) through (e) are uncommon for residentially zoned properties.</p> <ul style="list-style-type: none"> <li>a. <a href="#">Prime farmland or farmland</a> of statewide importance.</li> <li>b. <a href="#">Wetlands</a> as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2.</li> <li>c. A DTSC <a href="#">hazardous waste site</a>.</li> <li>d. Lands identified for conservation or lands under a conservation easement.</li> <li>e. <a href="#">Habitat</a> for protected species.</li> <li>f. Property listed on the City’s <a href="#">Historic Resources Inventory</a>.</li> </ul> <p>&gt; <b>Outcome:</b> If yes to any of the above, an SB 9 subdivision is not allowed.</p>		
<p><b>4. Is your property located within any of the following?</b></p> <ul style="list-style-type: none"> <li>• Very High Severity Fire Zone - Check the <a href="#">Fire Hazard Severity Zones Map</a>.</li> <li>• 100-year floodplain or a floodway. Check the <a href="#">Flood Hazards Zone Map</a>.</li> <li>• Geohazard Zone. Check the <a href="#">Geologic Hazard Zones Map</a> or look for the designation “geohazard” or “landslide” at <a href="#">SJPermits.org</a>.</li> </ul> <p>&gt; <b>Outcome:</b> If yes to any of these, be prepared to meet special requirements for building on the new lots. See the <a href="#">SB 9 Duplex Project - Building Permit Checklist</a> for more information.</p>		
<p><b>5. Protected Units.</b> Does the property contain a residential unit or units where any of the following apply?</p> <ul style="list-style-type: none"> <li>• Unit/s are subject to the City’s <a href="#">Rent Control Ordinance</a>.</li> <li>• The <a href="#">Ellis Act Ordinance</a> has been exercised to remove the unit/s from the rental market within the last 15 years.</li> <li>• The unit/s have been occupied by a tenant in the last three years.</li> </ul> <p>&gt; <b>Outcome:</b> If yes to any of the above, the subdivision and future buildings cannot alter or demolish the unit/s.</p>		
<b>PART 3. SUBDIVISION REQUIREMENTS</b>		
<p><b>6. Subdividing Adjoining Properties is Prohibited.</b> SB 9 prohibits an applicant, or applicants working in concert, from subdividing adjoining lots using the provisions of SB 9. Have you — either alone or working with others — proposed an SB 9 subdivision on an adjoining lot?</p> <p>&gt; <b>Outcome:</b> If yes, the City will not approve the subdivision.</p>		
<p><b>7. New property line proximity to existing structures.</b> Will the subdivision result in a new property line that is less than 5 feet from an existing structure? Note: The measured distance is to any eave, overhang or bump-out such as a bay window on the existing structure.</p> <p>&gt; <b>Outcome:</b> 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>		
<p><b>8. Lot Size.</b> Will either of the lots resulting from the subdivision be less than 40 percent of the original lot size (before subdivision) and/or less than 1,200 square feet in size?</p> <p>&gt; <b>Outcome:</b> If yes, the City will not approve the subdivision.</p>		

**QUESTIONS**

	YES	NO
<p><b>9. Lot Frontage.</b> Does the subdivision propose two lots with at least 30 feet of frontage on a street OR two lots where one lot is accessed by an access corridor of at least 12 feet but no more than 15 feet wide? See illustrations below.</p> <p>&gt; <b>Outcome:</b> If yes, the project may proceed. If no, the City will not approve the subdivision.</p>		
<p><b>10. Owner Occupancy.</b> Under SB 9, the applicant for a subdivision must to commit to occupying one lot as their primary residence for a minimum of three years from the date of approval of the subdivision. To ensure compliance with this requirement, a dwelling unit must exist on the property at time of approval of the subdivision.</p> <p>Will there be a dwelling unit existing on one of the lots by the time this subdivision is ready to be approved?</p> <p>&gt; <b>Outcome:</b> If no, the City will not approve the subdivision.</p>		

**LOT CONFIGURATIONS ALLOWED UNDER SB 9**



**APPLICATION PACKAGE**

Please visit the Public Works Development Services [Applications & Resources webpage](#) for SB 9 subdivision submittal package requirements and forms. Please include in your package:

- [Owner Occupancy Attestation Form](#) - This is an affidavit of the owner's intent to live in one of the dwellings on the property for a minimum of three years.
- [Prior Tenancy Attestation Form](#) - Required only if the project includes demolition or alteration of an existing dwelling unit.
- Ownership Information: List all persons who own any interest in the property proposed for subdivision. If the owner of the property is a business organization, corporation, partnership, trust, or other entity, then please list any person who owns an interest in the entity.

Note also that concurrent to recordation of the Parcel Map, the applicant must record a Deed Restriction identifying that the units on the properties may not be rented for a term of 30 days or less.