

The Encino Neighborhood Council (ENC) supports Los Angeles City council File 21-1414, subject to several recommendations of the ENC which will facilitate enforcement and expand local protections.

#### **FULL TEXT OF COUNCIL FILE 21-1414**

Senate Bill 9 (SB 9)-was signed into law on September 16, 2021, and will take effect on January 1, 2022. This bill requires local ministerial approval of a housing development of no more than two units in a single-family zone, the subdivision of a parcel zoned for residential use into two parcels (lot split), or both. In accordance with the spirit, intent, and statutory requirements of SB 9, it is important that the City of Los Angeles' memorandum and forthcoming ordinance establish basic precepts applicable to all SB 9 projects, including, but not limited to:

- **Objective Zoning/Subdivision/Design Standards.** SB9 authorizes the City to impose objective zoning standards, objective subdivision standards, and objective design review standards applicable to structures and parcels created by an urban lot split that do not conflict with this section or preclude the construction of two 800 square foot minimum housing units. Accordingly, all such existing objective City standards shall apply to SB 9 projects, in addition to any additional objective standards that the City may adopt.
- **Maximum of Four Units and Two Lots.** SB 9 obligates the City to allow two units per lot, and one lot split, for a total of four units and a total of two lots (parcels). The City is not required and shall not allow any additional units or structures (such as ADUs), nor any further lot splits, on any parcel that has been split once and on which four units have been approved.
- **Parking.** SB9 allows the City to choose to require parking consistent with the terms of SB9. Accordingly, the City shall require off-street parking of one space per unit, unless the parcel is located within one-half mile walking distance of either a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code or there is a car share vehicle located within one block of the parcel.
- **Setbacks.** SB 9 allows the City to choose to require setbacks consistent with the terms of SB9. Accordingly, the City shall require setbacks of up to four feet from the side and rear lot lines in all SB 9 projects and circumstances that are not expressly exempted from such a requirement by SB9. .
- **Applicant Residency.** SB9 requires every applicant to provide an affidavit confirming that the applicant intends to reside in one of the SB 9 units for three years, unless the applicant is a 'Community land trust or a qualified non-profit developer. To fulfill this

obligation, the City shall require the applicant to sign and record an affidavit placing a covenant that will run with the land to confirm that the applicant intends to reside in one of the SB 9 units for three years from the City's grant of the application where a unit already exists, or, if no unit then exists, for three years from the City's issuance of the unit's Certificate of Occupancy.

- **Exemptions.** SB 9 exempts sites designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance and retains the protections of the California Coastal Act. Additionally, there should be a consideration for sensitive areas such as hillside areas with substandard streets, wildlife corridors, habitat blocks, natural resource protection plans, and very high fire severity zones.

- **Unavoidable Adverse Impacts.** SB9 authorizes the City to deny a project upon written findings, based on a preponderance of the evidence, that the project will have a specific, adverse impact upon public health and safety or the physical environment for which there is no feasible method to mitigate or avoid, and may deny a project if an unavoidable adverse impact is identified.

I THEREFORE MOVE that the City Council instruct the Planning Department and Department of Building and Safety, with assistance from the City Attorney and members of the subdivision committee, to prepare a memorandum prior to December 31, 2021, that shall be used by all Departments and agencies until such time as a local implementation ordinance is adopted inclusive of the above-mentioned precepts;

I FURTHER MOVE that the City Council instruct the Planning Department, with the assistance of the subdivision committee, to recommend objective standards for specified geography to maintain unique needs for lot design and midpoint width, parking, limits on total dwelling units on substandard streets, and when the development fails to comply with LAMC 12.21 -C1 (g).

I FURTHER MOVE that the City Council instruct the Planning Department, as part of SB9 implementation, to develop recommendations on changes in grade, adjustments to building pads, hauling, private streets providing frontage and access for parcels other than those created by lot splits, and the removal of protected and desirable trees without replacement;

I FURTHER MOVE that the City Council instruct the Planning Department to prepare a report to clarify exemptions for high-fire hazard severity zones, protected species' habitats, horse keeping, substandard roadways, and/or other geographic areas as determined for which the implementation of SB 9 would result in a specific, adverse impact; and

I FURTHER MOVE that the City Council instruct the Planning Department, with the assistance of the City Attorney and the Department of Building and Safety, to begin developing a work program for the preparation of the implementation ordinance for SB 9.

## ENCINO NEIGHBORHOOD COUNCIL RECOMMENDED AMENDMENTS

**The following desired additions or revisions to the basic precepts in CF 21-1414 include:**

Regarding **Objective Zoning/Subdivision/Design Standards**, add “RFAR shall be strictly enforced using prevailing zoning.”

Regarding **Maximum of Four Units and Two Lots**, add “The City shall add a Zoning Code Modifier such as a “T” or “Q” condition to the parcel.”

Regarding **Parking**, add “The City shall adopt an approved Major Transit Stop Map & open changes to the map every 5 years through a standard planning case public hearing format.”

Regarding **Setbacks revise to** Set Backs for Front, Rear, & Side yard setbacks shall be prevailing setbacks of the tract map

Regarding **Applicant Residency**, add A Permit shall be applied for by the applicant from the Department of building and Safety. The permit shall be guaranteed by a bond of recorded lien on the subject property. LLCs or Corporations shall not be permitted.

Regarding **Exemptions**, should include “other special districts that shall be exempted from SB 9 including Survey LA documented historic areas and properties, HPOZs, equestrian-zoned areas, and River Implementation Overlay Zones (RIOs). High fire or greater zones should replace “Very High Fire Severity Zones”, and high wind zones should be added. Any such areas shall be exempt and protected from SB 9 development

Regarding **Unavoidable Adverse Impacts**, add The City shall assess every SB 9 application for such unavoidable adverse impacts, shall provide its written assessment to the applicable City Council Office, and shall deny a project if an unavoidable adverse impact is identified.

**The ENC also recommends the following inclusions in the proposed ordinance(s):**

The City must also establish a minimum threshold by which certain SB 9 projects cannot be ministerial and must be subject to greater scrutiny in terms of a public hearing process and heightened environmental review.

**Affordable Covenant.** There is at present an urgent Statewide and City concern about the provision of affordable housing. Every SB 9 project in the City shall require that a fifty-five-year affordable covenant restricting rents to moderate income household (80-120% of AMI), or owner-occupation with price ceiling equivalent to current FHA mortgage limits. These limits shall be applied to all new units and listed on the HCID registry of affordable units.)

**Impact/Development Fees.** The City shall require the payment of impact or development fees related to the specific impact that will be imposed on a community by the creation of a SB 9 second lot and additional units. Impact fees can be related to a variety of impacts including but not limited to infrastructure, construction impacts, recreation, libraries, etc. Such collected funds shall be deposited into a Special Fund to be used solely within the Community Plan Boundaries to which the project is located