



Planning, Building and  
Code Enforcement

# SB 9 DUPLEX PROJECT - BUILDING PERMIT CHECKLIST

**IMPORTANT! Before starting or investing in plans, property owners and design professionals should all review this checklist.** This checklist will help you verify if your project concept complies with the criteria for a duplex under SB 9 and the City's Zoning Ordinance. Only projects that comply may obtain a building permit.

Under [Senate Bill 9](#) (SB 9) passed in 2021, you may construct up to two units on a property zoned for single-family residential, and under the City's [Ordinance 30706](#) passed in December 2021 and as allowed by SB 9, the zoning district must be R-1 or PD and the two units must be a duplex. More specifically:

- You may create a duplex by remodeling the existing house or adding on to it;
- You may demolish an existing house and build a new duplex; or
- You may build a new duplex on a vacant lot that is zoned single-family residential (R-1 or PD zones).
- Existing structures on a lot are not a constraint if those structures could be converted or demolished to make room for the new units.

**NOTE:** SB 9 allows for creating a duplex of two 800-square-foot (minimum) units on a lot. If the City's development standards, as outlined in this checklist, would not allow construction of two 800-square-foot units, please send us an email at [ZoningQuestions@sanjoseca.gov](mailto:ZoningQuestions@sanjoseca.gov). In your email, please explain which standards preclude the units and attach a rough site plan, if possible.

**SB 9 Projects and Accessory Dwelling Units (ADUs)** - After the duplex is constructed you may apply for a permit to add up to two ADUs per local and state laws, as long as they conform to setbacks and height limits (for a total of four units on the property). Learn more at [www.sanjoseca.gov/ADUs](http://www.sanjoseca.gov/ADUs).

**SB 9 Subdivisions** - If you are pursuing an SB 9 Subdivision, please refer to the [SB 9 Subdivision Checklist](#) found at [www.sanjoseca.gov/PlanningApplications](http://www.sanjoseca.gov/PlanningApplications).

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 questions on the following pages, placing a checkmark in the Yes or No column as appropriate. 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.

**How to Find Property Designations** - Find property 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.

**Record a Deed Restriction** - Prior to approval of the building permit, the applicant must record a deed restriction identifying that the units on the property may not be rented for a term of 30 days or less. Staff will provide you with further instruction after you submit your building permit application.

*continued>*

**QUESTIONS**

YES NO

PART 1. PROPERTIES THAT QUALIFY		YES	NO
<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).                      &gt; <b>Outcome:</b> If yes, you can proceed. If no, contact the jurisdiction where your property is located.</p>			
<p><b>2. Zoning.</b> Is the property in a residential zone that begins with R-1 or 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>.                      &gt; <b>Outcome:</b> If yes, you can proceed with submitting a project. If no, an SB 9 project is not allowed.</p>			
PART 2. PROPERTY DESIGNATIONS / CHARACTERISTICS			
<p><b>3. Properties that are excluded.</b> Is your property outside of all of these areas? Note: 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 — your property is outside of all of these areas — you can proceed. If no to any of the above (meaning the property is inside of one or more areas), an SB 9 project is not allowed.</p>			
<p><b>4. Is your property located within a 100-year floodplain or a floodway?</b> Check the <a href="#">Flood Hazards Zone Map</a>. If you have questions after checking the map, call Public Works at 408-535-7803 or email <a href="mailto:floodzoneinfo@sanjoseca.gov">floodzoneinfo@sanjoseca.gov</a>.                      &gt; <b>Outcome:</b> If yes, your project may proceed but will have special building requirements; for the applicable building requirements, email <a href="mailto:infoinspector@sanjoseca.gov">infoinspector@sanjoseca.gov</a> or leave a voicemail at <b>408-535-7641</b>.</p>			
<p><b>5. Is your property located within a Geohazard Zone?</b> Check the <a href="#">Geologic Hazard Zones Map</a> or look for the designation “geohazard” or “landslide” at <a href="http://SJPermits.org">SJPermits.org</a>.                      &gt; <b>Outcome:</b> If yes, you will need to obtain a Geologic Hazard Clearance. Call Public Works at 408-535-7802 or email <a href="mailto:pwgeneralinfo@sanjoseca.gov">pwgeneralinfo@sanjoseca.gov</a>.</p>			
<p><b>6. Is your property located within a Very High Severity Fire Zone?</b> Check the <a href="#">Fire Hazard Severity Zones Map</a>.                      &gt; <b>Outcome:</b> If yes, your project will have special building requirements. For the applicable building requirements, email <a href="mailto:infoinspector@sanjoseca.gov">infoinspector@sanjoseca.gov</a> or leave a voicemail at <b>408-535-7641</b>.</p>			
<p><b>7. Easements.</b> Does the property have a dedicated easement? Easements are described in the title report that came with the purchase of your home, or contact a title company for a report copy. Tract and parcel maps at the County Surveyor Record Index tool at <a href="http://bit.ly/2ZhGjXc">http://bit.ly/2ZhGjXc</a> may show easements, but may be less accurate than a title report.                      &gt; <b>Outcome:</b> If yes, you must comply with the requirements of the easement, which may include no construction allowed within the easement area.</p>			

**QUESTIONS**

YES NO

**PART 3. SETBACK AND HEIGHT REQUIREMENTS**

**Note:** You may propose one structure that is built across a shared property line created by an SB 9 subdivision, as long as Building and Fire Codes are met.

**8. Front Setback.** The front setback is the distance from the front property line to front of the unit. Does your project concept comply with Table 20-60 of [Zoning Ordinance 20.30.200](#) for front setback requirements for your particular zoning district, as shown below, or as allowed by the "block average exception" found in [Chapter 20.30.240](#) for the front setback?

Zoning District	R-1-8	R-1-5	R-1-2	R-1-1	R-1-RR	R-2	R-M	R-MH
Minimum Front Setback	20'	20'	30'	30'	50'	15'	10'	15'

> **Outcome:** If yes, the project may proceed. If no, the City will not approve your project.

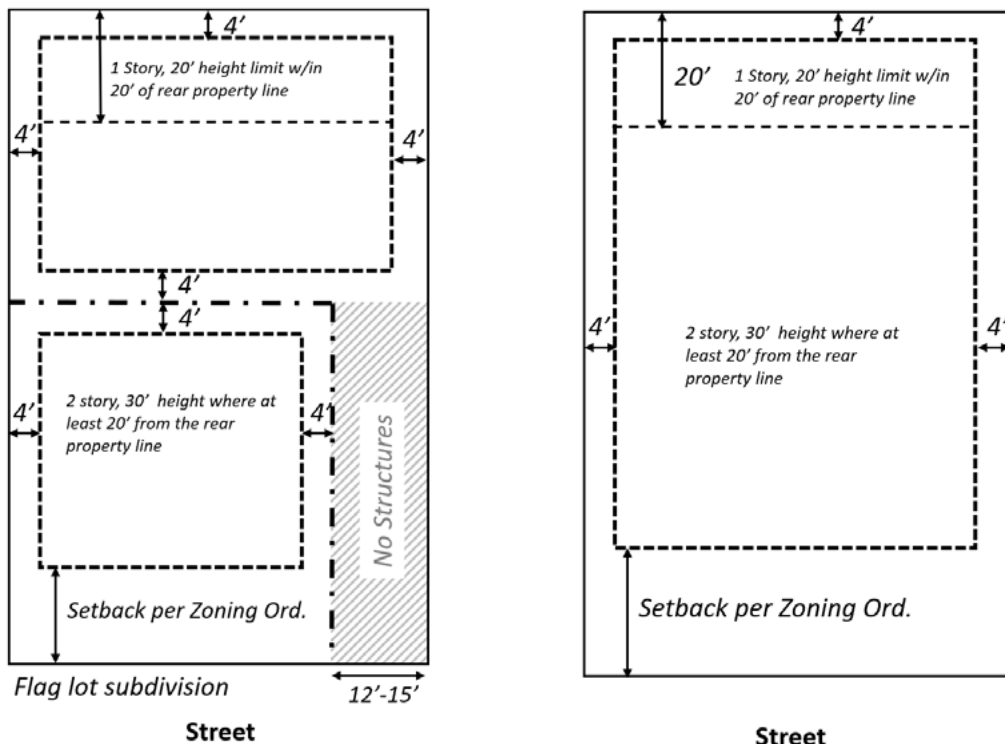
**9. 4' Minimum Side and Rear Setbacks.** The required distance from the side property lines to the unit and from the rear property line to the unit is 4 feet minimum, or for side setbacks only, there are exceptions as found in [Chapter 20.30.250-260](#). Encroachments to less than 3 feet from the property line are not allowed. Does your project meet the side and rear setback requirements?

> **Outcome:** If yes, the project may proceed. If no, the City will not approve your project.

**10. Maximum Height.** Units must not exceed 30 feet in height and be no more than two stories. Within 20 feet of the rear property line, a unit must not exceed 20 feet in height and be no more than one story; for an SB 9 subdivision project, this limit does not apply where one unit's rear property line is a shared with the other parcel that resulted from the subdivision. Does your project meet these maximum height requirements?

> **Outcome:** If yes, the project may proceed. If no, the City will not approve your project.

**ILLUSTRATION OF SETBACK REQUIREMENTS WITH HEIGHT LIMITS**



**QUESTIONS**

	YES	NO
<b>PART 4. UNIT RENTAL STATUS AND SIZE</b>		
<p><b>11. Protected Units.</b> Does the property contain an existing residential unit where any of the following apply:</p> <p><b>11.a.</b> Is the unit subject to the City’s <a href="#">Rent Control Ordinance</a>?</p> <p><b>11.b.</b> Has the <a href="#">Ellis Act Ordinance</a> has been exercised to remove the unit from the rental market within the last 15 years?</p> <p><b>11.c.</b> Has the unit been occupied by a tenant in the last three years?</p> <p>&gt; <b>Outcome:</b> If yes to any of the above, the project may proceed but the unit cannot be altered or demolished.</p>		
<p><b>12. Unit Size.</b> Please answer the following:</p> <p><b>12.a.</b> Is the combined <a href="#">Floor Area Ratio</a> (FAR) of both proposed units less than 0.45? &gt; <b>Outcome:</b> If yes, the project may proceed. If no, go to Question 9.b.</p> <p><b>12.b.</b> If FAR exceeds 0.45, is each unit no greater than 800 square feet in size (measured in the same way as FAR)? &gt; <b>Outcome:</b> If yes, the project may proceed. If no, the City will not issue you a building permit.</p>		
<p><b>13. Unit Size on SB 9 Subdivision Project</b> (leave blank if not applicable). On a property to be created by a SB 9 subdivision, is the <a href="#">Floor Area Ratio</a> of a single unit less than 0.45? &gt; <b>Outcome:</b> If yes, the project may proceed. If no, the City will not issue you a building permit.</p>		
<b>PART 5. PARKING</b>		
<p><b>14. Parking Requirements.</b> For an SB 9 duplex project, you must provide parking for each unit in the locations as described below, unless your project qualifies for an exemption:</p> <p><b>Permissible Parking Space Locations</b></p> <ul style="list-style-type: none"> <li>• <b>For duplex:</b> Garage, carport, or outside of front and side setbacks on a surface free of mud or dust.</li> <li>• <b>For single-family home:</b> Garage or carport that meets all setback requirements.</li> <li>• <b>For all units:</b> Garage may not exceed 50 percent of the dwelling unit/s façade facing the street.</li> </ul> <p><b>Exemptions Based on Proximity to Car-Sharing or Bus Service</b></p> <ul style="list-style-type: none"> <li>• There is a car-share vehicle located within one block of the property.</li> <li>• The property is within a half-mile walking distance of:                         <ul style="list-style-type: none"> <li>– A bus line with bus service occurring at least every 15 minutes during peak commute hours;</li> <li>– An existing bus rapid transit stop or rail stop; or</li> <li>– The intersection of two or more major bus routes with bus service occurring at least every 15 minutes during peak commute hours.</li> </ul> </li> </ul> <p>Based on the requirements described above, does your project propose one parking space per unit or qualify for an exemption?</p> <p>&gt; <b>Outcome:</b> If yes, the project may proceed. If no, the City will not approve your project.</p>		

*For questions about this checklist, please see the contact information in the grey box on page 1.*