



# Council Agenda Report

To: Mayor Grisanti and the Honorable Members of the City Council

Prepared by: Mary Linden, Executive Assistant

Approved by: Steve McClary, Interim City Manager

Date prepared: June 11, 2021 Meeting date: June 28, 2021

Subject: Senate Bill (SB) 9 – OPPOSITION (Mayor Grisanti)

---

**RECOMMENDED ACTION:** At the request of Mayor Grisanti, authorize the Mayor to submit a letter of opposition to SB 9, legislation that would increase density in single-family zones and disregard local government decision-making and community involvement in the housing planning and approval process.

**FISCAL IMPACT:** There is no fiscal impact associated with the recommended action.

**WORK PLAN:** This item was not included in the Adopted Work Plan for Fiscal Year 2021-2022 or the proposed Work Plan for Fiscal Year 2021-2022. This project is part of normal staff operations.

**DISCUSSION:** Housing supply and affordability are among the most critical issues facing California cities. The COVID-19 pandemic intensified and highlighted this urgent issue. Cities are required to provide for more housing in a manner that acknowledges state housing goals, but also respects community input and involvement.

The State's Housing Element law requires that each City and County identify and analyze existing and projected housing needs within their jurisdictions, and prepare goals, policies, programs and quantified objectives to further the development, improvement, and preservation of housing. Nearly all cities, including Malibu, are currently in the process of updating their housing plans to identify sites, statewide, for more than two million additional homes.

SB 9 is proposed legislation that would disregard this process and mandate more housing in existing single-family zones. SB 9 would require a local government to ministerially approve a housing development containing two residential units in single-

family residential zones. It would further require the local government to ministerially approve an urban lot split, thus creating two independent lots that may contain up to two residential units on each lot, even though it is in a single-family zone.

SB 9 fails to recognize or incorporate local flexibility, decision-making, and community input. The bill would impose new, unproven policies that undermine local planning, change the rules mid-stream, or conflict with the myriad of new housing laws recently passed that cities are now implementing.

For these reasons, Mayor Grisanti is requesting the Council join the League of California Cities in opposing SB 9 and authorize the Mayor to submit a letter of opposition to uphold local government decision-making and community involvement in the housing planning and approval process.

ATTACHMENTS:

1. SB 9 text
2. Draft letter of opposition to SB 9

AMENDED IN SENATE APRIL 27, 2021

AMENDED IN SENATE APRIL 5, 2021

**SENATE BILL**

**No. 9**

---

**Introduced by Senators Atkins, Caballero, Rubio, and Wiener**  
**(Coauthors: Senators ~~Gonzalez Cortese, Gonzalez, and McGuire~~)**  
**(Coauthor: Assembly Member Robert Rivas)**  
*(Coauthors: Assembly Members Robert Rivas and Wicks)*

December 7, 2020

---

An act to amend Section 66452.6 of, and to add Sections 65852.21 and 66411.7 to, the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 9, as amended, Atkins. Housing development: approvals.

The Planning and Zoning Law provides for the creation of accessory dwelling units by local ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, in accordance with specified standards and conditions.

This bill, among other things, would require a proposed housing development containing no more than 2 residential units within a single-family residential zone to be considered ministerially, without discretionary review or hearing, if the proposed housing development meets certain requirements, including, but not limited to, that the proposed housing development would not require demolition or alteration of housing that is 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, that the proposed housing development does not allow for the demolition of more than 25% of the existing exterior structural walls, except as provided, and that the development is not located within a historic district, is not included on

the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district.

The bill would set forth what a local agency can and cannot require in approving the construction of 2 residential units, including, but not limited to, authorizing a ~~city or county~~ *local agency* to impose objective zoning standards, objective subdivision standards, and objective design standards, as defined, unless those standards would have the effect of physically precluding the construction of up to 2 units or physically precluding either of the 2 units from being at least 800 square feet in floor area, prohibiting the imposition of setback requirements under certain circumstances, and setting maximum setback requirements under all other circumstances.

The Subdivision Map Act vests the authority to regulate and control the design and improvement of subdivisions in the legislative body of a local agency and sets forth procedures governing the local agency's processing, approval, conditional approval or disapproval, and filing of tentative, final, and parcel maps, and the modification of those maps. Under the Subdivision Map Act, an approved or conditionally approved tentative map expires 24 months after its approval or conditional approval or after any additional period of time as prescribed by local ordinance, not to exceed an additional 12 months, except as provided.

This bill, among other things, would require a ~~city or county~~ *local agency* to ministerially approve a parcel map ~~or tentative and final map~~ for an urban lot split that meets certain requirements, including, but not limited to, that the urban lot split would not require the demolition or alteration of housing that is 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, that the parcel is located within a *single-family* residential zone, and that the parcel is not located within a historic district, is not included on the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district.

The bill would set forth what a local agency can and cannot require in approving an urban lot split, including, but not limited to, authorizing a ~~city or county~~ *local agency* to impose objective zoning standards, objective subdivision standards, and objective design standards, as defined, unless those standards would have the effect of physically precluding the construction of 2 units, as defined, on either of the resulting parcels or physically precluding either of the 2 units from

being at least 800 square feet in floor area, prohibiting the imposition of setback requirements under certain circumstances, and setting maximum setback requirements under all other circumstances. The bill, until January 1, 2027, would prohibit a local agency from imposing an owner occupancy requirement on applicants unless specified conditions are met.

The bill would also extend the limit on the additional period that may be provided by ordinance, as described above, from 12 months to 24 months and would make other conforming or nonsubstantive changes.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment. CEQA does not apply to the approval of ministerial projects.

This bill, by establishing the ministerial review processes described above, would thereby exempt the approval of projects subject to those processes from CEQA.

The California Coastal Act of 1976 provides for the planning and regulation of development, under a coastal development permit process, within the coastal zone, as defined, that shall be based on various coastal resources planning and management policies set forth in the act.

This bill would exempt a local ~~government~~ agency from being required to hold public hearings for coastal development permit applications for housing developments and urban lot splits pursuant to the above provisions.

By increasing the duties of local agencies with respect to land use regulations, the bill would impose a state-mandated local program.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 65852.21 is added to the Government  
2 Code, to read:

3 65852.21. (a) A proposed housing development containing  
4 no more than two residential units within a single-family residential  
5 zone shall be considered ministerially, without discretionary review  
6 or a hearing, if the proposed housing development meets all of the  
7 following requirements:

8 (1) The parcel subject to the proposed housing development is  
9 located within a ~~city~~ *city*, the boundaries of which include some  
10 portion of either an urbanized area or urban cluster, as designated  
11 by the United States Census Bureau, or, for unincorporated areas,  
12 a legal parcel wholly within the boundaries of an urbanized area  
13 or urban cluster, as designated by the United States Census Bureau.

14 (2) The parcel satisfies the requirements specified in  
15 subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision  
16 (a) of Section 65913.4.

17 (3) Notwithstanding any provision of this section or any local  
18 law, the proposed housing development would not require  
19 demolition or alteration of any of the following types of housing:

20 (A) Housing that is subject to a recorded covenant, ordinance,  
21 or law that restricts rents to levels affordable to persons and  
22 families of moderate, low, or very low income.

23 (B) Housing that is subject to any form of rent or price control  
24 through a public entity's valid exercise of its police power.

25 (C) Housing that has been occupied by a tenant in the last three  
26 years.

27 (4) The parcel subject to the proposed housing development is  
28 not a parcel on which an owner of residential real property has  
29 exercised the owner's rights under Chapter 12.75 (commencing  
30 with Section 7060) of Division 7 of Title 1 to withdraw  
31 accommodations from rent or lease within 15 years before the date  
32 that the development proponent submits an application.

33 (5) The proposed housing development does not allow the  
34 demolition of more than 25 percent of the existing exterior  
35 structural walls, unless the housing development meets at least  
36 one of the following conditions:

37 (A) If a local ordinance so allows.

1 (B) The site has not been occupied by a tenant in the last three  
2 years.

3 (6) The development is not located within a historic district or  
4 property included on the State Historic Resources Inventory, as  
5 defined in Section 5020.1 of the Public Resources Code, or within  
6 a site that is designated or listed as a city or county landmark or  
7 historic property or district pursuant to a city or county ordinance.

8 (b) (1) Notwithstanding any local law and except as provided  
9 in paragraph (2), a ~~city or county~~ *local agency* may impose  
10 objective zoning standards, objective subdivision standards, and  
11 objective design review standards that do not conflict with this  
12 section.

13 (2) (A) The ~~city or county~~ *local agency* shall not impose  
14 objective zoning standards, objective subdivision standards, and  
15 objective design standards that would have the effect of physically  
16 precluding the construction of up to two units or that would  
17 physically preclude either of the two units from being at least 800  
18 square feet in floor area.

19 (B) (i) Notwithstanding subparagraph (A), no setback shall be  
20 required for an existing structure or a structure constructed in the  
21 same location and to the same dimensions as an existing structure.

22 (ii) Notwithstanding subparagraph (A), in all other circumstances  
23 not described in clause (i), a ~~local government~~ *agency* may require  
24 a setback of up to four feet from the side and rear lot lines.

25 (c) In addition to any conditions established in accordance with  
26 subdivision (b), a local agency may require any of the following  
27 conditions when considering an application for two residential  
28 units as provided for in this section:

29 (1) Off-street parking of up to one space per unit, except that a  
30 local agency shall not impose parking requirements in either of  
31 the following instances:

32 (A) The parcel is located within one-half mile walking distance  
33 of either a high-quality transit corridor, as defined in subdivision  
34 (b) of Section 21155 of the Public Resources Code, or a major  
35 transit stop, as defined in Section 21064.3 of the Public Resources  
36 Code.

37 (B) There is a car share vehicle located within one block of the  
38 parcel.

39 (2) For residential units connected to an onsite wastewater  
40 treatment system, a percolation test completed within the last five

1 5 years, or, if the percolation test has been recertified, within the  
2 last 10 years.

3 (d) A local agency shall require that a rental of any unit created  
4 pursuant to this section be for a term longer than 30 days.

5 (e) Notwithstanding Section ~~65852.2~~, 65852.2 or 65852.22, a  
6 local agency shall not be required to permit an accessory dwelling  
7 unit *or a junior accessory dwelling unit* on parcels that use both  
8 the authority contained within this section and the authority  
9 contained in Section 66411.7.

10 (f) Notwithstanding subparagraph (B) of paragraph (2) of  
11 subdivision (b), an application shall not be rejected solely because  
12 it proposes adjacent or connected structures provided that the  
13 structures meet building code safety standards and are sufficient  
14 to allow separate conveyance.

15 (g) Local agencies shall include units constructed pursuant to  
16 this section in the annual housing element report as required by  
17 subparagraph (I) of paragraph (2) of subdivision (a) of Section  
18 65400.

19 (h) For purposes of this section, all of the following apply:

20 (1) A housing development contains two residential units if the  
21 development proposes no more than two new units or if it proposes  
22 to add one new unit to one existing unit.

23 (2) The terms “objective zoning standards,” “objective  
24 subdivision standards,” and “objective design review standards”  
25 mean standards that involve no personal or subjective judgment  
26 by a public official and are uniformly verifiable by reference to  
27 an external and uniform benchmark or criterion available and  
28 knowable by both the development applicant or proponent and the  
29 public official prior to submittal. These standards may be embodied  
30 in alternative objective land use specifications adopted by a ~~city~~  
31 ~~or county~~, local agency, and may include, but are not limited to,  
32 housing overlay zones, specific plans, inclusionary zoning  
33 ordinances, and density bonus ordinances.

34 (3) “Local agency” means a city, county, or city and county,  
35 whether general law or chartered.

36 (i) A local agency may adopt an ordinance to implement the  
37 provisions of this section. An ordinance adopted to implement this  
38 section shall not be considered a project under Division 13  
39 (commencing with Section 21000) of the Public Resources Code.

1 (j) Nothing in this section shall be construed to supersede or in  
2 any way alter or lessen the effect or application of the California  
3 Coastal Act of 1976 (Division 20 (commencing with Section  
4 30000) of the Public Resources Code), except that the local  
5 ~~government~~ agency shall not be required to hold public hearings  
6 for coastal development permit applications for a housing  
7 development pursuant to this section.

8 SEC. 2. Section 66411.7 is added to the Government Code, to  
9 read:

10 66411.7. (a) Notwithstanding any other provision of this  
11 division and any local law, a ~~city or county~~ local agency shall  
12 ministerially approve, as set forth in this section, a parcel map ~~or~~  
13 ~~tentative and final map~~ for an urban lot split ~~that~~ *only if the local*  
14 *agency determines that the parcel map for the urban lot split* meets  
15 all the following requirements:

16 (1) The parcel map ~~or tentative and final map~~ subdivides an  
17 existing parcel to create *no more than* two new parcels of  
18 approximately equal lot area provided that one parcel shall not be  
19 smaller than 40 percent of the lot area of the original parcel  
20 proposed for subdivision.

21 (2) (A) Except as provided in subparagraph (B), both newly  
22 created parcels are no smaller than 1,200 square feet.

23 (B) A local agency may by ordinance adopt a smaller minimum  
24 lot size subject to ministerial approval under this subdivision.

25 (3) The parcel being subdivided meets all the following  
26 requirements:

27 (A) The parcel is located within a *single-family* residential zone.

28 (B) The parcel subject to the proposed urban lot split is located  
29 within a ~~city~~ city, the boundaries of which include some portion  
30 of either an urbanized area or urban cluster, as designated by the  
31 United States Census Bureau, or, for unincorporated areas, a legal  
32 parcel wholly within the boundaries of an urbanized area or urban  
33 cluster, as designated by the United States Census Bureau.

34 (C) The parcel satisfies the requirements specified in  
35 subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision  
36 (a) of Section 65913.4.

37 (D) The proposed urban lot split would not require demolition  
38 or alteration of any of the following types of housing:

1 (i) Housing that is subject to a recorded covenant, ordinance,  
2 or law that restricts rents to levels affordable to persons and  
3 families of moderate, low, or very low income.

4 (ii) Housing that is subject to any form of rent or price control  
5 through a public entity’s valid exercise of its police power.

6 (iii) A parcel or parcels on which an owner of residential real  
7 property has exercised the owner’s rights under Chapter 12.75  
8 (commencing with Section 7060) of Division 7 of Title 1 to  
9 withdraw accommodations from rent or lease within 15 years  
10 before the date that the development proponent submits an  
11 application.

12 (iv) Housing that has been occupied by a tenant in the last three  
13 years.

14 (E) The parcel is not located within a historic district or property  
15 included on the State Historic Resources Inventory, as defined in  
16 Section 5020.1 of the Public Resources Code, or within a site that  
17 is designated or listed as a city or county landmark or historic  
18 property or district pursuant to a city or county ordinance.

19 (F) The parcel has not been established through prior exercise  
20 of an urban lot split as provided for in this section.

21 (G) Neither the owner of the parcel being subdivided nor any  
22 person acting in concert with the owner has previously subdivided  
23 an adjacent parcel using an urban lot split as provided for in this  
24 section.

25 (b) An application for *a parcel map* for an urban lot split shall  
26 be approved in accordance with the following requirements:

27 (1) A local agency shall approve or deny an application for *a*  
28 *parcel map* for an urban lot split ministerially without discretionary  
29 review.

30 (2) A local agency shall approve an urban lot split only if it  
31 conforms to all applicable objective requirements of the  
32 Subdivision Map Act (Division 2 (commencing with Section  
33 66410)), except as otherwise expressly provided in this section.

34 (3) Notwithstanding Section 66411.1, a local agency shall not  
35 impose regulations that require dedications of rights-of-way or the  
36 construction of offsite improvements for the parcels being created  
37 as a condition of issuing a parcel map ~~or tentative and final map~~  
38 for an urban lot ~~split~~. *split pursuant to this section.*

39 (c) (1) Except as provided in paragraph (2), notwithstanding  
40 any local law, a ~~city or county~~ *local agency* may impose objective

1 zoning standards, objective subdivision standards, and objective  
2 design review standards applicable to a parcel created by an urban  
3 lot split that do not conflict with this section.

4 (2) A local agency shall not impose objective zoning standards,  
5 objective subdivision standards, and objective design review  
6 standards that would have the effect of physically precluding the  
7 construction of two units on either of the resulting parcels or that  
8 would result in a unit size of less than 800 square feet.

9 (3) (A) Notwithstanding paragraph (2), no setback shall be  
10 required for an existing structure or a structure constructed in the  
11 same location and to the same dimensions as an existing structure.

12 (B) Notwithstanding paragraph (2), in all other circumstances  
13 not described in subparagraph (A), a local ~~government~~ agency  
14 may require a setback of up to four feet from the side and rear lot  
15 lines.

16 (d) In addition to any conditions established in accordance with  
17 ~~subdivision (e)~~, *this section*, a local agency may require any of the  
18 following conditions when considering an application for *a parcel*  
19 *map for an urban lot split*:

20 (1) Easements required for the provision of public services and  
21 facilities.

22 (2) A requirement that the parcels have access to, provide access  
23 to, or adjoin the public right-of-way.

24 (3) Off-street parking of up to one space per unit, except that a  
25 local agency shall not impose parking requirements in either of  
26 the following instances:

27 (A) The parcel is located within one-half mile walking distance  
28 of either a high-quality transit corridor as defined in subdivision  
29 (b) of Section 21155 of the Public Resources Code, or a major  
30 transit stop as defined in Section 21064.3 of the Public Resources  
31 Code.

32 (B) There is a car share vehicle located within one block of the  
33 parcel.

34 (e) A local agency shall require that the uses allowed on a lot  
35 created by this section be limited to residential uses.

36 (f) (1) A local agency may impose an owner occupancy  
37 requirement on an applicant for an urban lot split that meets one  
38 of the following conditions:

1 (A) The applicant intends to occupy one of the housing units  
2 as their principal residence for a minimum of one year from the  
3 date of the approval of the urban lot split.

4 (B) The applicant is a “qualified nonprofit corporation.” A  
5 “qualified nonprofit corporation” means a nonprofit corporation  
6 organized pursuant to Section 501(c)(3) of the Internal Revenue  
7 Code that has received a welfare exemption under either of the  
8 following:

9 (i) Section 214.15 of the Revenue and Taxation Code for  
10 properties intended to be sold to low-income families who  
11 participate in a special no-interest loan program.

12 (ii) Section 214.18 of the Revenue and Taxation Code for  
13 properties owned by a community land trust.

14 (2) A local agency shall not impose additional owner occupancy  
15 standards, other than provided for in this subdivision, on an urban  
16 lot split pursuant to this section.

17 (3) This subdivision shall become inoperative on January 1,  
18 2027.

19 (g) A local agency shall require that a rental of any unit created  
20 pursuant to this section be for a term longer than 30 days.

21 (h) A local agency shall not require, as a condition for ministerial  
22 approval of a ~~permit~~ *parcel map* application for the creation of an  
23 urban lot split, the correction of nonconforming zoning conditions.

24 (i) (1) Notwithstanding any provision of Section 65852.2,  
25 Section 65852.21, Section 65852.22, Section 65915, or this section,  
26 a local agency shall not be required to permit more than two units  
27 on a parcel created through the exercise of the authority contained  
28 within this section.

29 (2) For the purposes of this section, “unit” means any dwelling  
30 unit, including, but not limited to, a unit or units created pursuant  
31 to Section 65852.21, a primary dwelling, an accessory dwelling  
32 unit as defined in Section 65852.2, or a junior accessory dwelling  
33 unit as defined in Section 65852.22.

34 (j) Notwithstanding paragraph (3) of subdivision (c), an  
35 application shall not be rejected solely because it proposes adjacent  
36 or connected structures provided that the structures meet building  
37 code safety standards and are sufficient to allow separate  
38 conveyance.

39 (k) Local agencies shall include the number of applications for  
40 *parcel maps for* urban lot splits pursuant to this section in the

1 annual housing element report as required by subparagraph (I) of  
2 paragraph (2) of subdivision (a) of Section 65400.

3 (l) For purposes of this section, *both of the terms “objective*  
4 *following shall apply:*

5 (1) “Objective zoning standards,” “objective subdivision  
6 standards,” and “objective design review standards” mean standards  
7 that involve no personal or subjective judgment by a public official  
8 and are uniformly verifiable by reference to an external and  
9 uniform benchmark or criterion available and knowable by both  
10 the development applicant or proponent and the public official  
11 prior to submittal. These standards may be embodied in alternative  
12 objective land use specifications adopted by a ~~city or county~~, *local*  
13 *agency*, and may include, but are not limited to, housing overlay  
14 zones, specific plans, inclusionary zoning ordinances, and density  
15 bonus ordinances.

16 (2) “Local agency” means a city, county, or city and county,  
17 whether general law or chartered.

18 (m) A local agency may adopt an ordinance to implement the  
19 provisions of this section. An ordinance adopted to implement this  
20 section shall not be considered a project under Division 13  
21 (commencing with Section 21000) of the Public Resources Code.

22 (n) Nothing in this section shall be construed to supersede or in  
23 any way alter or lessen the effect or application of the California  
24 Coastal Act of 1976 (Division 20 (commencing with Section  
25 30000) of the Public Resources Code), except that the local  
26 ~~government~~ *agency* shall not be required to hold public hearings  
27 for coastal development permit applications for urban lot splits  
28 pursuant to this section.

29 SEC. 3. Section 66452.6 of the Government Code is amended  
30 to read:

31 66452.6. (a) (1) An approved or conditionally approved  
32 tentative map shall expire 24 months after its approval or  
33 conditional approval, or after any additional period of time as may  
34 be prescribed by local ordinance, not to exceed an additional 24  
35 months. However, if the subdivider is required to expend two  
36 hundred thirty-six thousand seven hundred ninety dollars  
37 (\$236,790) or more to construct, improve, or finance the  
38 construction or improvement of public improvements outside the  
39 property boundaries of the tentative map, excluding improvements  
40 of public rights-of-way that abut the boundary of the property to

1 be subdivided and that are reasonably related to the development  
 2 of that property, each filing of a final map authorized by Section  
 3 66456.1 shall extend the expiration of the approved or conditionally  
 4 approved tentative map by 48 months from the date of its  
 5 expiration, as provided in this section, or the date of the previously  
 6 filed final map, whichever is later. The extensions shall not extend  
 7 the tentative map more than 10 years from its approval or  
 8 conditional approval. However, a tentative map on property subject  
 9 to a development agreement authorized by Article 2.5  
 10 (commencing with Section 65864) of Chapter 4 of Division 1 may  
 11 be extended for the period of time provided for in the agreement,  
 12 but not beyond the duration of the agreement. The number of  
 13 phased final maps that may be filed shall be determined by the  
 14 advisory agency at the time of the approval or conditional approval  
 15 of the tentative map.

16 (2) Commencing January 1, 2012, and each calendar year  
 17 thereafter, the amount of two hundred thirty-six thousand seven  
 18 hundred ninety dollars (\$236,790) shall be annually increased by  
 19 operation of law according to the adjustment for inflation set forth  
 20 in the statewide cost index for class B construction, as determined  
 21 by the State Allocation Board at its January meeting. The effective  
 22 date of each annual adjustment shall be March 1. The adjusted  
 23 amount shall apply to tentative and vesting tentative maps whose  
 24 applications were received after the effective date of the  
 25 adjustment.

26 (3) “Public improvements,” as used in this subdivision, include  
 27 traffic controls, streets, roads, highways, freeways, bridges,  
 28 overcrossings, street interchanges, flood control or storm drain  
 29 facilities, sewer facilities, water facilities, and lighting facilities.

30 (b) (1) The period of time specified in subdivision (a), including  
 31 any extension thereof granted pursuant to subdivision (e), shall  
 32 not include any period of time during which a development  
 33 moratorium, imposed after approval of the tentative map, is in  
 34 existence. However, the length of the moratorium shall not exceed  
 35 five years.

36 (2) The length of time specified in paragraph (1) shall be  
 37 extended for up to three years, but in no event beyond January 1,  
 38 1992, during the pendency of any lawsuit in which the subdivider  
 39 asserts, and the local agency that approved or conditionally

1 approved the tentative map denies, the existence or application of  
2 a development moratorium to the tentative map.

3 (3) Once a development moratorium is terminated, the map  
4 shall be valid for the same period of time as was left to run on the  
5 map at the time that the moratorium was imposed. However, if the  
6 remaining time is less than 120 days, the map shall be valid for  
7 120 days following the termination of the moratorium.

8 (c) The period of time specified in subdivision (a), including  
9 any extension thereof granted pursuant to subdivision (e), shall  
10 not include the period of time during which a lawsuit involving  
11 the approval or conditional approval of the tentative map is or was  
12 pending in a court of competent jurisdiction, if the stay of the time  
13 period is approved by the local agency pursuant to this section.  
14 After service of the initial petition or complaint in the lawsuit upon  
15 the local agency, the subdivider may apply to the local agency for  
16 a stay pursuant to the local agency's adopted procedures. Within  
17 40 days after receiving the application, the local agency shall either  
18 stay the time period for up to five years or deny the requested stay.  
19 The local agency may, by ordinance, establish procedures for  
20 reviewing the requests, including, but not limited to, notice and  
21 hearing requirements, appeal procedures, and other administrative  
22 requirements.

23 (d) The expiration of the approved or conditionally approved  
24 tentative map shall terminate all proceedings and no final map or  
25 parcel map of all or any portion of the real property included within  
26 the tentative map shall be filed with the legislative body without  
27 first processing a new tentative map. Once a timely filing is made,  
28 subsequent actions of the local agency, including, but not limited  
29 to, processing, approving, and recording, may lawfully occur after  
30 the date of expiration of the tentative map. Delivery to the county  
31 surveyor or city engineer shall be deemed a timely filing for  
32 purposes of this section.

33 (e) Upon application of the subdivider filed before the expiration  
34 of the approved or conditionally approved tentative map, the time  
35 at which the map expires pursuant to subdivision (a) may be  
36 extended by the legislative body or by an advisory agency  
37 authorized to approve or conditionally approve tentative maps for  
38 a period or periods not exceeding a total of six years. The period  
39 of extension specified in this subdivision shall be in addition to  
40 the period of time provided by subdivision (a). Before the

1 expiration of an approved or conditionally approved tentative map,  
2 upon an application by the subdivider to extend that map, the map  
3 shall automatically be extended for 60 days or until the application  
4 for the extension is approved, conditionally approved, or denied,  
5 whichever occurs first. If the advisory agency denies a subdivider's  
6 application for an extension, the subdivider may appeal to the  
7 legislative body within 15 days after the advisory agency has  
8 denied the extension.

9 (f) For purposes of this section, a development moratorium  
10 includes a water or sewer moratorium, or a water and sewer  
11 moratorium, as well as other actions of public agencies that regulate  
12 land use, development, or the provision of services to the land,  
13 including the public agency with the authority to approve or  
14 conditionally approve the tentative map, which thereafter prevents,  
15 prohibits, or delays the approval of a final or parcel map. A  
16 development moratorium shall also be deemed to exist for purposes  
17 of this section for any period of time during which a condition  
18 imposed by the city or county could not be satisfied because of  
19 either of the following:

20 (1) The condition was one that, by its nature, necessitated action  
21 by the city or county, and the city or county either did not take the  
22 necessary action or by its own action or inaction was prevented or  
23 delayed in taking the necessary action before expiration of the  
24 tentative map.

25 (2) The condition necessitates acquisition of real property or  
26 any interest in real property from a public agency, other than the  
27 city or county that approved or conditionally approved the tentative  
28 map, and that other public agency fails or refuses to convey the  
29 property interest necessary to satisfy the condition. However,  
30 nothing in this subdivision shall be construed to require any public  
31 agency to convey any interest in real property owned by it. A  
32 development moratorium specified in this paragraph shall be  
33 deemed to have been imposed either on the date of approval or  
34 conditional approval of the tentative map, if evidence was included  
35 in the public record that the public agency that owns or controls  
36 the real property or any interest therein may refuse to convey that  
37 property or interest, or on the date that the public agency that owns  
38 or controls the real property or any interest therein receives an  
39 offer by the subdivider to purchase that property or interest for fair  
40 market value, whichever is later. A development moratorium

1 specified in this paragraph shall extend the tentative map up to the  
2 maximum period as set forth in subdivision (b), but not later than  
3 January 1, 1992, so long as the public agency that owns or controls  
4 the real property or any interest therein fails or refuses to convey  
5 the necessary property interest, regardless of the reason for the  
6 failure or refusal, except that the development moratorium shall  
7 be deemed to terminate 60 days after the public agency has  
8 officially made, and communicated to the subdivider, a written  
9 offer or commitment binding on the agency to convey the necessary  
10 property interest for a fair market value, paid in a reasonable time  
11 and manner.

12 SEC. 4. The Legislature finds and declares that ensuring access  
13 to affordable housing is a matter of statewide concern and not a  
14 municipal affair as that term is used in Section 5 of Article XI of  
15 the California Constitution. Therefore, Sections 1 and 2 of this act  
16 adding Sections 65852.21 and 66411.7 to the Government Code  
17 and Section 3 of this act amending Section 66452.6 of the  
18 Government Code apply to all cities, including charter cities.

19 SEC. 5. No reimbursement is required by this act pursuant to  
20 Section 6 of Article XIII B of the California Constitution because  
21 a local agency or school district has the authority to levy service  
22 charges, fees, or assessments sufficient to pay for the program or  
23 level of service mandated by this act, within the meaning of Section  
24 17556 of the Government Code.



# City of Malibu

Paul Grisanti, Mayor

23825 Stuart Ranch Road · Malibu, California · 90265-4861  
Phone (310) 456-2489 · Fax (310) 456-3356 · [www.malibucity.org](http://www.malibucity.org)

---

June 29, 2021

*Submitted via the California Legislature Position Letter Portal*

The Honorable Assembly Member David Chiu, Chair  
Assembly Committee on Housing & Community Development  
1020 N Street, Room 156  
Sacramento, CA 95814

RE: SB 9 (Atkins) Increased Density in Single-Family Zones – OPPOSED

Dear Chair Chiu and Honorable Members of the Committee on Housing & Community Development:

At its Regular meeting on June 28, 2021, the City Council of the City of Malibu voted unanimously to submit this letter of opposition to SB 9, which would require cities and counties to ministerially approve, without condition or discretion, a housing development containing two residential units on an individual parcel in single-family zones. Additionally, this measure would require local governments to ministerially approve an urban lot split, thus creating two independent lots that may be sold separately.

Housing affordability and homelessness are among the most critical issues facing California cities. Affordably priced homes are out of reach for many people and housing is not being built fast enough to meet the current or projected needs of people living in the state. Cities lay the groundwork for housing production by planning and zoning new projects in their communities based on extensive public input and engagement, state housing laws, and the needs of the building industry.

While the City of Malibu appreciates the desire to pursue a housing production proposal, unfortunately, SB 9 as currently drafted will not spur much needed housing construction in a manner that supports local flexibility, decision making, and community input. State-driven ministerial or by-right housing approval processes fail to recognize the extensive public engagement associated with developing and adopting zoning ordinances and housing elements that are certified by the California Department of Housing and Community Development (HCD).

The City of Malibu is currently in the process of updating the Housing Element, including: 1) how City policies, plans and regulations help to meet the region's housing needs for people at all income levels; and 2) how City land use regulations accommodate the special housing needs of persons with disabilities or other difficulties. SB 9 completely disregards local government decision-making and community involvement, critical pieces in the housing planning and approval process.

The bill would impose new, unproven policies that undermine local planning, change the rules mid-stream, or conflict with the myriad of new housing laws recently passed that cities are now implementing.

SB 9 – OPPOSED

June 29, 2021

Page 2 of 2

For the reasons outlined above, the City of Malibu opposes SB 9, but remains committed to be part of the solution to the housing shortfall across all income levels and will continue to work collaboratively with elected officials and stakeholders on legislative proposals that will actually spur much needed housing construction.

Sincerely,

Paul Grisanti  
Mayor

Cc: Honorable Members of the Malibu City Council  
Steve McClary, Interim City Manager  
Honorable Henry Stern, California State Senate, 27<sup>th</sup> District  
Honorable Richard Bloom, California State Assembly, 50<sup>th</sup> District  
Jeff Kiernan, Regional Public Affairs Manager, League of California Cities  
League of California Cities ([cityletters@cacities.org](mailto:cityletters@cacities.org))

DRAFT