



SB-9 EXCEPTIONS

County of San Diego, Planning & Development Services | January 1, 2022

State Law (Senate Bill SB-9 and Government Code Section 65913.4 contains several detailed conditions, filters, exceptions and allowances that apply to the permitting of two residential units, a two-lot split, or both.

To qualify for SB-9, the subject parcel must be at least completely located within:

1. An urbanized area or urban cluster, as designated by the US Census.
2. A single-family residential zone with a “B”, “C” or “D” Building type.

Additionally, your property would not qualify for SB-9, if any portion of the parcel is located within, or contains any of the following:

3. High or very high fire severity zone. *
4. Wetlands.
5. 100-year flood zone. *
6. Floodway. *
7. Prime farmland, or farmland of statewide importance.
8. Historic district, or California historical resources inventory, historic property, or landmark.
9. Hazardous waste, or hazardous list site. *
10. Delineated earthquake fault zone. *
11. Lands identified for conservation in an adopted natural community conservation plan.
12. Habitat for protected species.
13. Lands under a conservation easement.

(*) Please refer to descriptions below for possible exemptions.

If your property is located within the Blue “No” area on the Interactive SB-9 Website, depending on the criteria/requirements applicable, certain exceptions may be possible so that your property may still qualify for SB-9. Please see possible exceptions below:

Regarding #1 Parcel must be wholly within boundaries of an urbanized area or urban cluster.

No exception possible.

See website/link below for additional information:

[Urban and Rural \(census.gov\)](https://census.gov)

Regarding #2 Parcel must be located within a single-family residential zone with a “B”, “C” or “D” Building type.

No exception possible.

See website/link below for additional information:

https://gis-public.sandiegocounty.gov/Html5Viewer/Index.html?viewer=PPM_Public5



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Regarding #3

This subparagraph does not apply to sites excluded from the specified hazard zones by a local agency, pursuant to subdivision (b) of Section 51179, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.

Exception is possible if the applicant mitigates for fire risk with home hardening, fire safety, and defensible space practices in all the following sections:

- i.) Section 4291 of the Public Resources Code or Section 51182, as applicable.
- ii.) Section 4290 of the Public Resources Code. (Fire Safety Standards)
- iii.) Chapter 7A of the California Building Code (Title 24 of the California Code of Regulations).

See website/link below for additional information:

[Welcome to Fire Hazard Severity Zones Maps \(ca.gov\)](#)

Regarding #4

Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

No exception possible.

See website/link below for additional information:

[National Wetlands Inventory \(fws.gov\)](#)

Regarding #5

Within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by FEMA. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site. A development may be located on a site described in this subparagraph if either of the following are met:

- (i) The site has been subject to a Letter of Map Revision prepared by the FEMA and issued to the local jurisdiction.
- (ii) The site meets FEMA requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.

Exception possible if applicant is able to satisfy (i) and (ii) above.

See website/link below for additional information:

[FEMA Maps and \(National Flood Hazard Layer \(NFHL\), 2020\)](#)

https://gis-public.sandiegocounty.gov/Html5Viewer/index.html?viewer=PPM_Public5FEMA_Flood_Map_Service_Center



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Regarding #6

Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the FEMA, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site.

Exception possible if applicant is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies above paragraph.

See website/link below for additional information:

[FEMA Maps](#)

[FEMA \(National Flood Hazard Layer \(NFHL\), 2020\)](#)

https://gis-public.sandiegocounty.gov/Html5Viewer/Index.html?viewer=PPM_Public5FEMA
[Flood Map Service Center](#)

Regarding #7

Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.

No exception possible.

See websites/links below for additional information:

[SDE.SANGIS.AG_FMMP](#)

<https://www.nrcs.usda.gov/wps/portal/nrcs/site/national/home/>

Regarding #8

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

No exception possible.

See websites/links below for additional information:

https://gis-public.sandiegocounty.gov/Html5Viewer/Index.html?viewer=PPM_Public5
[National Register of Historic Places \(ca.gov\)](#)
[Zoning Ordinance \(sandiegocounty.gov\)](#)



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Regarding #9

A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the State Department of Public Health, State Water Resources Control Board, or Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.

Exception possible if applicant is able to provide a letter from the State Department of Public Health, State Water Resources Control Board, or Department of Toxic Substances Control stating that they have cleared the site for residential use or residential mixed uses.

See website/link below for additional information:

<https://www.envirostor.dtsc.ca.gov/public/>

Regarding #10

Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.

Exception possible if applicant is able to provide a geotechnical report, stamped and signed by a California-licensed civil engineer demonstrating that the proposed dwelling doesn't cross the active fault line.

See websites/links below for additional information:

[State Data-1997 Uniform Building Code](#)

[SDEP.SANGIS.GEOLOGY_ACTIVE_FAULTS_CN](#)

[Earthquake Zones of Required Investigation \(ca.gov\)](#)

Regarding #11

Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.

No exception possible.

See websites/links below for additional information:

[NCCP Plan Summary – San Diego Multiple Species Conservation Program \(MSCP\) \(ca.gov\)](#)

[County Subarea Plan \(sandiegocounty.gov\)](#)

[SanGIS GIS Data Warehouse \(sandag.org\): Conserved Lands](#)

[SanGIS GIS Data Warehouse \(sandag.org\): MSCP](#)

[Preserves \(sdmmp.com\)](#)

[ArcGIS map viewer \(sdmmp.com\)](#)

[Conservation Planning Data and Tools \(ca.gov\)](#)



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Regarding #12 Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).

No exception possible.

See websites/links below for additional information:

[SanGIS GIS Data Warehouse \(sandag.org\)](https://sandag.org): [Vegetation](#)

[SanGIS GIS Data Warehouse \(sandag.org\)](https://sandag.org): [Wetlands](#)

[Vegetation communities \(sdmmp.com\)](https://sdmmp.com)

[ArcGIS map viewer \(sdmmp.com\)](https://sdmmp.com)

[Conservation Planning Data and Tools \(ca.gov\)](https://ca.gov)

Regarding #13 Lands under conservation easement.

No exception possible.

See websites/links below for additional information:

[SanGIS GIS Data Warehouse \(sandag.org\)](https://sandag.org): [Open Space Easements](#)

[Preserves \(sdmmp.com\)](https://sdmmp.com)

[ArcGIS map viewer \(sdmmp.com\)](https://sdmmp.com)

[California Protected Areas Database \(calands.org\)](https://calands.org)