



TOWN OF MORAGA

PLANNING DEPARTMENT

ELIGIBILITY CHECKLIST, SUBMITTAL REQUIREMENTS, APPLICATION SENATE BILL 9: URBAN HOUSING DEVELOPMENT

Senate Bill 9 ([SB 9](#)), effective January 1, 2022, creates a streamlined and ministerial approval process for the creation of a duplex on a single-family zoned lot pursuant to [Government Code §65852.21](#). If the project complies with the eligibility criteria below, SB 9 allows the creation of the following:

- On a vacant lot, construction of a single-family dwelling or duplex; or
- On a lot containing a single-family home, creation of one additional unit

The following checklist is intended as a guide to help applicants and the Town's Planning Department determine if an SB 9 duplex (Urban Housing Development) project is eligible for processing. To be eligible for ministerial processing under SB 9, a project must meet **ALL** of the following criteria, from 1 through 9. In addition to this checklist, applicants must provide all the submittal requirements in the SB 9 Urban Housing Development Application to demonstrate eligibility.

- **SB 9 Urban Lot Split** – SB 9 also allows for the subdivision of an existing single-family zoned lot into two lots, enabling the construction of either a single-family dwelling or duplex on each lot resulting from the subdivision, pursuant to [Government Code §66411.7](#). If an urban lot split is also proposed, then applicants must also submit an SB 9 Urban Lot Split Application.
- **SB 9 Urban Housing Development and Accessory Dwelling Units (ADU's)** - An SB 9 unit is considered a primary dwelling unit. After the SB 9 unit(s) is constructed, up to two ADUs may be constructed in accordance with state and local laws (up to four total units are allowed on the property). Please refer to the Town's [ADU](#) application for more information.

To be eligible for SB 9 processing, an Urban Housing Development project must meet ALL the following criteria, from 1 through 9:

	ELIGIBILITY REQUIREMENT	YES	NO	N/A
1	SINGLE-FAMILY RESIDENTIAL ZONING. The project site is located within a single-family zoning district: 1-DUA, 2-DUA, 3-DUA, and Single Family Planned Developments. Zoning district information is available on the Town's GIS portal .	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2	NUMBER AND SIZE OF UNITS. The project proposes at least one new SB 9 unit that is at least 800 sq.ft. in size, and results in no more than two primary residential units on the parcel. ADU's and JADU's may be allowed in addition to the two primary residential units, in accordance with MMC Chapter 8.124 . <i>Note: Construction of ADU's and/or JADU's is subject to a separate approval process</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3	ALTERATION/DEMOLITION OF EXISTING HOUSING. The project would not require alteration or demolition of any of the following types of housing: a. Housing 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; b. Housing subject to any form of rent or price control; or c. Housing that has been occupied by a tenant in the last three years.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4	HOUSING WITHDRAWN FROM RENT. The project is not a parcel on which an owner has exercised rights under the Ellis Act (California Government Code Chapter 12.75) within 15 years before the date that an application is submitted.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ELIGIBILITY REQUIREMENT		YES	NO	N/A
5	<p>CONSISTENT WITH OBJECTIVE STANDARDS. The project:</p> <p>a. Complies with all applicable objective zoning and development standards, unless the standard(s) would preclude development of two primary units of at least 800 square feet each, and</p> <p>b. Does not contain development within a “hillside area” or “hillside land,” a “scenic corridor,” removal of a native tree, orchard tree, or tree of historic significance, or grading permit that would require discretionary review. <i>Note: Any discretionary permit application must be reviewed and approved separately prior to submittal of an SB 9 ministerial application.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6	<p>PARKING. The project provides at least one-off street parking space per residential unit. However, no off-street parking is required when either:</p> <p>a. The parcel is located within one-half mile walking distance of a high-quality transit corridor, defined as a bus route with 15-minute headways, or</p> <p>b. There is a car share vehicle located within one block of the parcel. <i>(A rental model where cars are rented from a car-sharing network, or an exclusive car is provided by the project, located in a designated area within the project, for roundtrip or one-way, where cars are returned to a dedicated or reserved parking location (e.g., Zipcar or car(s) provided by the project.)</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7	<p>LOCATION. The parcel is located outside of each of the following areas (Government Code Section 65913.4(a)(6)(B),(C),(I),(J),(K)):</p> <ul style="list-style-type: none"> • Prime farmland or farmland of statewide importance. • Wetlands, as defined in federal law. • Habitat for species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or plant or animal species protected by State or federal law. • Lands under conservation easement. • A site containing a historic landmark or within a historic district. 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8	<p>HAZARD AREAS. If all or a portion of the lot contains any of the following, the project conforms with the required measures to reduce hazards (Government Code Section 65913.4(a)(6)(D)-(H)):</p> <ul style="list-style-type: none"> • High or Very High Fire Severity Zone as determined the Department of Forestry and Fire Protection. • Hazardous Waste Site listed pursuant to Section 65962.5 or a hazardous waste site pursuant to Section 25356 of the Health and Safety Code. • Delineated earthquake fault zone determined by the State Geologist. • Special flood hazard area subject to inundation by the 1 percent annual chance flood or regulatory floodway as determined by FEMA. • Regulatory floodway as determined by FEMA. 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9	<p>SHORT TERM RENTALS. The rental of any unit created pursuant to this process shall be for a term longer than 30 days.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



(Date stamp)

Town of Moraga

PLANNING DEPARTMENT

SB 9 URBAN HOUSING DEVELOPMENT MINISTERIAL APPLICATION

TOWN STAFF	File Number: _____	Project Name: _____
	Fee/Deposit: <u> </u> Cash/Check/Credit	Deposit Account Number: _____

PROPERTY ADDRESS: _____ ZONING: _____

ASSESSORS PARCEL NUMBER: _____

APPLICANT INFORMATION	OWNER INFORMATION
NAME: _____	NAME: _____
ADDRESS: _____	ADDRESS: _____
CITY/STATE/ZIP: _____	CITY/STATE/ZIP: _____
PHONE: _____	PHONE: _____
EMAIL: _____	EMAIL: _____

APPLICANT / OWNER AUTHORIZATION
<p>CHOOSE ONE:</p> <p><input type="checkbox"/> I am the property owner and hereby authorize the filing of this application.</p> <p><input type="checkbox"/> I am the applicant and am authorized by the owner to file this application.</p> <p>When the application is submitted, applicants must pay an initial deposit of \$1,800 to cover the costs of processing the application. An applicant is responsible for all charges associated with processing the application. Clear, complete and consistent applications require less staff time and thus are less expensive to process.</p> <p>By signing below the applicant agrees to pay any additional charges that may be incurred beyond the initial application deposit in order to complete the processing of the application.</p> <p>Signature of Applicant/Owner: _____ Date: _____</p>

Indemnification/Reimbursement Agreement

Project Address and description of project (“Project”)

As part of the application for the Project, the applicant and/or property owner (collectively “Applicant”) agree to defend, indemnify, and hold harmless the Town of Moraga, its agents, officers, council members, employees, boards and commissions from any and all claims, actions or proceedings (collectively “Claims”) brought against any of the foregoing individuals or entities, seeking to attack, set aside, void or annul any approval of the application or related decision, or the processing or adoption of any environmental documents or negative declarations which relate to the approval. This indemnification shall include, but is not limited to, all damages, costs, expenses, attorney fees or expert witness fees that may be awarded to the prevailing party arising out of or in connection with the approval of the application or related decision, whether or not there is concurrent, passive, or active negligence on the part of the Town of Moraga, its agents, officers, council members, employees, boards, commissions. If for any reason any portion of this indemnification agreement is held to be void or unenforceable by a court of competent jurisdiction, the remainder of the agreement shall remain in full force and effect.

The Town of Moraga may, but is not obligated to, defend such Claims as the Town of Moraga, in its sole discretion, determines appropriate, all at Applicant’s sole cost and expense. This indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the Town of Moraga, if any, and costs of suit, attorney’s fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the Applicant, Town of Moraga, and/or parties initiating or bringing such proceeding. If the Applicant is required to defend the Town of Moraga as set forth above, the Town of Moraga shall retain the right to select the counsel who shall defend the Town of Moraga. Per Government Code Section 66474.9, the Town of Moraga shall promptly notify Applicant of any proceeding and shall cooperate fully in the defense. The Financially Responsible Party acknowledges and agrees that additional deposits may be required while the application is processed, in such amounts and at such times as the Town deems necessary to cover the Town’s incurred and projected processing costs including but not limited to environmental studies. Deposit accounts are required to maintain a minimum balance of 20% of the original deposit amount at all times. If your account drops below that threshold, you will be asked to remit the balance due plus the 20% maintenance balance. Failure to maintain your account in this standing will result in a hold placed on the account and work will stop on all project processing until the necessary payment has been remitted. The payment and acceptance of requested deposits does not constitute an approval of permits, entitlements, or authorizations to begin work.

The Financially Responsible Party agrees to be jointly and severally liable with the Property Owner for payment of all fees referenced above. The sale or other disposition of the property does not relieve the Financially Responsible Party of their obligation to maintain a positive balance in the deposit account unless the Town grants prior approval. The Financially Responsible Party agrees to notify the Town in writing prior to any change in ownership or status of any option agreements. The Financially Responsible Party is required to submit a written request for withdrawal of the application or written assumption of the obligations under this agreement signed by the new owner or his/her authorized agent.

Withdrawal or denial of an application does not relieve the Financially Responsible Party of its obligation to pay for costs incurred in connection with this application. The Financially Responsible Party shall be liable for and will pay all costs incurred for the project, up through the date of the written request for application withdrawal or date of approval or denial, whether or not such work is complete and whether or not the costs have previously been billed. Any funds remaining in the account after all associated processing activities have been completed shall be returned to the Financially Responsible Party.

I have read and agree with all of the above.

Applicant (please print name)

Applicant signature

Date

Property owner name (if different from the applicant)

Property owner signature (if different from the applicant)

Date

SUBMITTAL REQUIREMENTS SENATE BILL 9: URBAN HOUSING DEVELOPMENT

If the project meets the eligibility requirements on pages 1 and 2 above, then applicants must provide all the submittal requirements in the SB 9 Urban Housing Development Application listed below to demonstrate eligibility.

Required Fees

The cost for this application shall be the actual cost incurred by the Town based upon the time spent by staff, including the Planning and Public Works Departments, work performed by consultants and legal counsel for the Town, materials and other related incidental expenses such as printing, mailing. The initial deposit specified for the application is based upon the average cost of previous applications; therefore, it may not be sufficient to cover the actual cost incurred in processing a particular project.

Table 1: Required Fees

Application Fee (Deposit)	\$4,200.00
Impact Fees (see Master Fee Schedule)	\$ Case-by-case basis

Submittal Requirements

The following information represents the application requirements for this project. All submittal documents shall be submitted in both paper and electronic form. This Checklist shall be signed and submitted with all the required application materials as described above. An application is considered to be incomplete if any of the required items on this Checklist have not been included. Processing of the application will be delayed until the submittal is determined to be complete.

- 1. Application Fee**
- 2. SB 9 Urban Housing Development Eligibility Checklist (pages 1-2 of this packet)**
- 3. SB 9 Urban Housing Development Application Form and Indemnification/Reimbursement Agreement (pages 3-4 of this packet)**

4. Project Information.

- Zoning District: _____
- Parcel Size: _____
- Number of units existing on the parcel: _____
 - Primary dwelling unit(s): _____
 - ADU's: _____
 - JADU's: _____
- Number of existing units proposed for demolition: _____

- Number and size (square feet) of units proposed:

- If adjacent or connected structures are proposed, the structures meet building code standards and are sufficient to allow separate conveyance:

- 5. Deed Restriction.** Available online at:
[https://www.moraga.ca.us/DocumentCenter/View/6876/SB-9 Urban-Housing-Development-and-Urban-Lot-Split Deed-Restriction-PDF](https://www.moraga.ca.us/DocumentCenter/View/6876/SB-9_Urban-Housing-Development-and-Urban-Lot-Split_Deed-Restriction-PDF)
- 6. Plan Set.** See the SB 9 Urban Housing Development Application – Plan Set Checklist below for required plan set details.
- 7. Preliminary Title Report.** A title report not more than six months old.
- 8. Boundary Survey.** The survey shall be signed by a licensed CA surveyor or appropriately licensed civil engineer. Minimum scale of 1/10" = 1'. The survey shall include all property lines, curb and sidewalk, spot elevations, existing structures, easements, and building dimensions.
- 9. Geotechnical Report (if applicable).** A preliminary geotechnical report may be required by the project planner.
- 10. Arborist Report (if applicable).** The report should include; 1) Tree location(s), genus, species, diameter, dripline, and elevation at trunk base; 2) Health and condition of the tree(s), including existing hazards to the tree; 3) Potential impact of development on the tree(s) or existing tree(s) condition; 4) Evaluation of preservation potential based on the tree's existing condition and in relation to any potential development; Recommendations for protection, preservation, and requirements to maintain and improve tree health and assure survival; 5) Tree inventory table listing the tree number (as numerically tagged in the field), species, trunk diameter, health of tree, potential impact of proposal, and indicate whether tree is to be saved or removed 6) Site plan showing: numbered trees, accurate driplines, and proposed location of tree protection fencing; 7) Photos as applicable; and 8) Post construction recommendations as applicable. For more information, see [Chapter 12.12 \(Tree Preservation\) of the Moraga Municipal Code.](#)
- 11. Car Share Map (if applicable).** Provide a car share map if the application is taking advantage of the SB 9 provision which requires no parking space because of proximity to car share (within one block of the project site).
- 12. Objective Standards Documentation (if applicable).** Provide supporting documentation demonstrating that a certain objective standard(s) would "have the effect of physically precluding the construction of two units on either of the resulting parcels or

that would result in a unit size of less than 800 square feet, per [Government Code Section 66411.7\(c\)\(2\)](#),” and therefore shall be waived.

SB 9 Urban Housing Development Application – Plan Set Checklist. The plan set checklist outlines information that shall be submitted as part of your SB 9 Urban Housing Development application. Depending on the application being submitted, some of the listed details may not apply to your project. Please keep in mind that the project planner may require additional information or materials.

Document Requirements

Please submit three (3) copies of any written documentation, one (1) set of plans at a minimum 24' x 36" size folded to 11 x 17 and an electronic version (PDF) on a USB flash drive. All plans must be drawn to an architectural or engineer's scaled drawing such as 1/8th = 1 inch or 1/4th = 1 inch. 24 x 36 typical drawings, unless staff agrees to a smaller size.

A. SITE PLAN

- North arrow
- Dimensioned property lines
- Existing and proposed structures/buildings (proposed should have cross-hatching/shading to differentiate from existing)
- Existing and proposed setbacks
- Building footprints
- Building envelopes (when different from footprint)
- Roof overhangs
- Location of existing and proposed improvements (i.e. Paved patios, accessory buildings, pools etc.)
- Location of exterior air conditioning units or other mechanical equipment that generate noise
- Location of walks and access driveways for circulation of pedestrians and vehicles
- Adjacent streets and location of curb and sidewalk improvements
- Indicate whether buildings or units are one or two stories
- Structures on adjacent lots
- Existing and proposed parking and dimensions
- Existing and proposed landscaping (identify native trees and trees to be removed or relocated)
- Exterior lighting
- Existing and proposed public and private easements
- Location and width of creeks, water courses, drainage easements, and facilities
- Location of natural features
- Location and height of existing and proposed retaining walls and fences
- Total existing and proposed impervious surface area on the project site (including area of all

- roofs and paved surfaces)
- Gross Floor Area per [Appendix D of the Moraga Design Guidelines](#) (show existing and proposed). Gross Floor Area means the sum of:
 - The area measured on outside walls of the first story of the dwelling;
 - Garage area measures on outside walls;
 - That portion of any first story room with a ceiling height of 15 feet or more and not apart of a second story;
 - Area of the second story measured on outside walls
 - The area of that portion of any attic space that has a clear height of 7 feet above the floor
 - The area of accessory structures greater than 400 square feet in area with permanent foundations, measured on outside walls.
 - Floor area ratio (existing and proposed) - adjusted floor area divided by the net parcel area.
 - Project Data Table:
 - An itemized calculation of existing and proposed impervious surface.
 - Tabulation citing how the project meets all applicable objective standards, including minimum parking; minimum front, side and rear yard setbacks; maximum lot coverage; maximum number of stories; maximum building height; and maximum aggregate building height.
 - For properties with an average pre-development slope of 20% or greater, existing and proposed topographic contours (with minimum contour intervals of 2 feet), for land within 20 feet of any proposed site improvements or drainage facilities.
 - Indicate the zoning of the parcel and if applicable, the location of any Moraga Open Space Ordinance Ridgelines, Ridgeline Buffers, Scenic Corridors, and Scenic corridor Buffers.
 - Indicate whether the parcel is within a High or Very High Fire Severity Zone.
 - If one or more new units are proposed, the site plan shall label the type of unit (SB 9 Unit, ADU, or JADU).

B. FLOOR PLANS

- Show all existing and proposed rooms and label their use (including basements, attics, detached accessory structures, etc.).
- Show all doors, windows, bay windows, chimneys, stairways, etc.
- Show all existing and proposed decks, balconies, porches, garages/carports, etc., and label their use.
- Indicate all areas to be demolished with proposed walls and existing walls clearly indicated.
- Indicate all exterior dimensions.
- Indicate the limits of the floor above and the floor below on multi-level structures.
- Clearly indicate any existing walls that are to be removed.

C. ROOF PLAN

- Drawn to the same scale, and superimposed over, the grading plan (or the site plan if a grading plan is not required).
- Note elevation of each roof ridge above established data.
- Note the pitch of the roof(s).
- Indicate all changes or additions to existing structures with ballooning, hatching, or by otherwise highlighting.

D. ELEVATIONS

- Include full typical exterior dimensions and notes including building heights.
- Indicate both existing and finished grade.
- All proposed exterior elevations showing existing and proposed exterior walls, roof, architectural features, doors, windows, trim, down spouts, exterior wall, exterior lighting, and roofing materials.
- Indicate a material schedule with colors and materials for all exterior walls, glass, trim, and roofing.
- Include retaining wall and fence elevations/profiles, indicating heights, colors, and materials, if retaining wall and fence are part of the project.
- All changes or additions to existing structures shall be ballooned, hatched, or otherwise highlighted and noted on the drawing revision.
- Show existing and proposed conditions with two separate elevation view drawings, done at the same scale, for each building elevation to be modified by the addition.
- Indicate maximum allowable building height as measured from existing grade.

E. GRADING AND DRAINAGE PLANS

- Note on plans if there are no drainage improvements proposed.
- All items listed under Site Plan.
- Topographic contours of existing and proposed ground surface based on a topographic survey (survey preparation by a licensed surveyor may be required.)
- Existing and proposed surface and subsurface drainage facilities and watercourses including but not limited to creeks, swales, drainage ditches, discharge facilities, dissipaters, catch basins, and subsurface drainage pipes. Also indicate septic tanks, with, or as part of, or subsequent to the proposed work.
- Areas subject to inundation or ponding. (Note if there are none)
- Detail methods proposed to intercept and carry off surface and subsurface water.
- Include details of engineered treatment at discharge points and pipe specifications (size, material, etc.).
- Drainage across interior lot lines creating cross-lot drainage is not permitted nor changes in the drainage pattern which alter or increase the quantity which discharges to adjoining properties.
- Hydrologic calculations and plans stamped by a California licensed professional are required for new homes or additions of 1,500 square feet or more.

F. GEOTECHNICAL OR SOILS REPORTS

- The report must be prepared and signed by an engineering geologist or soil engineer.
- The required reports must be based on the latest grading plan for the subdivision and must reference the date of that grading plan
- The format for the required geotechnical reports should include the following information:
 - A detailed geologic map showing the location and extent of any geologic hazard or potentially hazardous soil condition warranting further evaluation within or immediately adjoining the subject property.
 - Recommendations outlining an exploration program to fully define and delineate any geologic hazard or potentially hazardous soil condition, and to accurately identify developable areas.
 - Conclusions regarding the effect of any geologic hazard or potentially hazardous soil condition within or immediately adjoining the project site.
 - Recommendations for construction procedures to mitigate potentially hazardous conditions, if warranted.

G. MODEL WATER EFFICIENT LANDSCAPING ORDINANCE (MWELO)

Pursuant to MMC§8.178.040: "New Construction (Single-Family, Multi-Family, ...) project with a landscape area greater than 500 square feet, or rehabilitating an existing landscape with a total landscape area greater than 2,500 square feet" are subject to the requirements and standards of MWELO. Projects with only minor alterations to existing landscaping may include the landscape plan as part of the site plan. Projects with no new landscaping planned may include a "no new landscaping proposed" notation on the site plan.

- Drawn at the same scale as the site plan.
- Include a north arrow, legend, and scale.
- Include vegetation key with the following information for both existing and proposed landscaping:
 - Species
 - Common Name
 - Number
 - Size
 - Method of Irrigation
- Indicate the total square footage of irrigated area.

H. COLORS AND MATERIALS

- Submit a colors and materials sample board which depicts the proposed actual colors and materials. This will allow staff to confirm that the project conforms to the approved plans during Final Inspection.

APPLICATION REVIEW PROCESS SENATE BILL 9: URBAN HOUSING DEVELOPMENT

More information about SB 9 is available through the California Department of Housing and Community Development (HCD): [SB 9 Fact Sheet \(hcd.ca.gov\)](#)

1. **Consult with a Planner and Engineer.** Development decisions such as a new housing unit or duplex and/or lot split includes consideration of numerous factors that may require submittal of technical information and reports. Planning and Engineering staff are available to help guide applicants through the process prior to submittal. Applicants are encouraged to call or email [Planning staff](#) as well as [Public Works Engineering staff](#) during normal business hours.
2. **Review the eligibility checklist on pages 1 and 2 of this packet and confirm the project is eligible.** Projects for an Urban Housing Development must meet all the criteria on the respective SB 9 Eligibility Checklist to qualify for ministerial review. A project that includes a proposal for an Urban Housing Development and an Urban Lot Split must complete both checklists.
3. **Submit a complete SB 9 Application Packet to the Planning Department.** If the project is eligible, an applicant may submit the SB 9 Urban Housing Development Application, and the Urban Lot Split Application Packet (if applicable) with each of the required forms, information and plans required. An application may be deemed complete only if all required items have been submitted for review.
4. **Timeline for ministerial application review.** Town staff (Planning and Public Works) will review the application and issue a determination of completeness and eligibility within 30 days of submittal. Once the application has been deemed complete, Town staff will issue a decision on the application within 60 days of the completeness determination. Please note that projects eligible under SB 9 are subject to a ministerial review process (without discretionary review or public hearing), is exempt from the provisions of CEQA ([Section 15268 of the CEQA Guidelines](#)), and approval is final and may not be appealed.
5. **Submit application(s) for Building and/or Engineering Permit(s).** After the project is approved, an applicant will then submit applications for engineering permits to the Town, as well as building permits to Contra Costa County and the Moraga-Orinda Fire District, as required for construction based on the type and location of the project.
 - a. **Town of Moraga Public Works Engineering Department.** If a permit is required by the Engineering Department, complete the application form available online [here](#) and submit to the Engineering Department for review and approval.
 - b. **Contra Costa County Building Department.** Submit a building permit application to the County. Step-by-step instructions for obtaining Building and Grading Permits are available online [here](#).
 - c. **Moraga-Orinda Fire District.** Some types of development projects allowed under SB 9 require plan check review from MOFD. Consult with MOFD staff and, if required, submit an application for plan check review, available online [here](#).