



TOWN OF MORAGA

PLANNING DEPARTMENT SENATE BILL 9 URBAN LOT SPLIT ELIGIBILITY CHECKLIST AND SUBMITTAL REQUIREMENTS SUPPLEMENTAL APPLICATION

Senate Bill 9 (SB 9) Urban Lot Split Guidelines

Senate Bill 9 ([SB 9](#)), effective January 1, 2022, creates a streamlined and ministerial approval process for the subdivision of a single-family zoned lot to create two parcels, and allows construction of either a single-family dwelling or duplex on each lot resulting from the subdivision, pursuant to [Government Code §66411.7](#). Up to two units on each lot are allowed, subject to meeting the eligibility criteria listed below, such as:

- A duplex; or
- A single-family dwelling plus an ADU or JADU; or
- A duplex on one lot and on the other lot, a single-family dwelling and an ADU.

The following checklist is intended as a guide to help applicants and the Town's Planning Department determine if an Urban Lot Split project is eligible for processing under SB 9. To be eligible for ministerial processing under SB 9, a project must meet ALL of the following criteria, from 1 through 13. In addition to this checklist, applicants must provide all the submittal requirements in the SB 9 Urban Lot Split Application to demonstrate eligibility and submit an SB 9 Urban Housing Development Application for the construction of a new unit(s), if desired.

Eligibility Requirements

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 .	☐	☐	☐
2. NUMBER OF PARCELS. The parcel map subdivides an existing parcel to create no more than two new parcels.	☐	☐	☐
3. SIZE OF PARCELS. The proposed parcels are of approximately equal lot area, provided that one of the parcels is not less than 40 percent of the lot area of the original parcel proposed for subdivision. Both newly created parcels are no smaller than 1,200 square feet each.	☐	☐	☐
4. PRIOR USE OF URBAN LOT SPLIT. The parcel has not been established through prior exercise of an urban lot split as provided in SB 9.	☐	☐	☐
5. SUBDIVISION OF ADJACENT PARCELS. Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel using an urban lot split as provided for in SB 9 .	☐	☐	☐

6. OWNER OCCUPANCY. The applicant has prepared a signed affidavit stating that they intend to occupy one of the housing units as their principal residence for at least three years from the date of approval of the Urban Lot Split.	☐ ☐ ☐
7. ALTERATION/DEMOLITION OF EXISTING HOUSING. The project would not require alteration or demolition of any of the following types of housing: • 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; • Housing subject to any form of rent or price control; or • Housing that has been occupied by a tenant in the last three years.	☐ ☐ ☐
8. 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.	☐ ☐ ☐
9. CONSISTENT WITH OBJECTIVE STANDARDS. The project: 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 b. The Subdivision Map Act (Division 2 (commencing with Section 66410)).	☐ ☐ ☐
10. PARKING. The project provides at least one-off street parking space per residential unit. No off-street parking is required when either: 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. (<i>Bus route information is available at: https://countyconnection.com/map/, or</i> 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>	☐ ☐ ☐
11. LOCATION. The parcel is located outside of each of the following areas (Government Code Section 65913.4(a)(6)((B),(C),(I),(J),(K)): • 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. <u>If located within 100' of wetland/nonchanneled creek or ½ mile of critical habitat, provide a Biologist's Statement of habitat</u> • Lands under conservation easement. • A site containing a historic landmark or within a historic district.	☐ ☐ ☐

12. HAZARD AREAS. If all or a portion of the lot contains any of the following, the project conforms with the applicable measures required to reduce hazards ([Government Code Section 65913.4\(a\)\(6\)\(D\)-\(H\)](#)):

☐ ☐ ☐

- [Very High Fire Severity Zone](#) as determined by 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.

13. SHORT TERM RENTALS. The rental of any unit created pursuant to this process shall be for a term longer than 30 days.

☐ ☐ ☐

SB 9 – Application Fees

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 by 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.

☐ **Urban Lot Split (ULS)**

Please refer to [Master Fee Schedule](#)

☐ **Impact Fees**

Impact fees are on a case-by-case basis, please refer to [Master Fee Schedule](#)

- All credit card transactions will incur a 4% processing fee.
- No application will be deemed to be submitted, nor shall the application be reviewed or acted on by the Town, until such fee is received.
- Deposit based projects: The Advanced Planning Surcharge is collected from the deposit.
- Projects within the Moraga Center and Rheem Park Specific Plan Areas may be subject to review under the Objective Design Standards adopted for those areas, check with Planning staff to determine the appropriate review level.

Submittal Requirements

- ☐ Standard Planning Application and Indemnification /Reimbursement Agreement, completed and signed.
- ☐ Application Fee
- ☐ SB 9 Urban Lot Eligibility Checklist
- ☐ SB 9 Urban Lot Split Application Form and Indemnification / Reimbursement Agreement
- ☐ Project Information
- ☐ Zoning District: _____
- ☐ Existing Parcel Size: _____
 - Size of Resulting Parcel #1: _____
 - Size of Resulting Parcel #2: _____
- ☐ 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 of units proposed on resulting parcel #1.
 - _____
- ☐ Number and size of units proposed on resulting parcel #2.
 - _____
- ☐ If adjacent or connected structures are proposed, the structures meet building code standards and are sufficient to allow separate conveyance.
 - _____
- ☐ Indicate how both resulting parcels propose to either have access to, provide access to, or adjoin the public right-of-way.
 - _____
 - _____
 - _____
- ☐ **Deed Restriction:** https://www.moraga.ca.us/DocumentCenter/View/6876/SB-9_Urban-Housing-Development-and-Urban-Lot-Split_Deed-Restriction-PDF
- ☐ **Owner Occupancy Affidavit:** https://www.moraga.ca.us/DocumentCenter/View/6877/SB-9_Urban-Lot-Split_Owner-Occupancy-Affidavit-PDF
- ☐ **Prior Tenancies Affidavit:** https://www.moraga.ca.us/DocumentCenter/View/6878/SB-9_Urban-Lot-Split_Prior-Tenancies-Affidavit-PDF
- ☐ **Moraga-Orinda Fire District Approval:** All Lot Splits within the [MOFD service area](#) must be reviewed for compliance with applicable regulations under the Fire Code, available online [here](#). Submit a copy of the approved lot split application from MOFD, available online [here](#). An application for a lot split on a parcel designated as being located within a very high hazard fire severity zone or in a State Regulated Area must demonstrate in the application to MOFD that the existing public/private roads comply with the California Code of Regulations Title 14, Fire Safe Regulation such as road width and dead-end length.
- ☐ **Vicinity Map.** Indicate the extent of the existing, subject project site, as well as adjacent roadways, developments, natural areas, etc. Minimum scale of 1/10" = 1'
- ☐ Preliminary Title Report. A title report no older than six months from the date of the application.
- ☐ **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.

- ☐ **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](#).
- ☐ **Biologists Statement of Habitat.** If located within 100' of wetland/non-channeled creek, or located within ½ mile of critical habitat, provide a Biologist's Statement of Habitat that includes:
 - a. Type and location of threatened and endangered plant and animal species.
 - b. Riparian vegetation on and within 100' of subject property.
 - c. Oak woodland and other plant communities providing habitat.
 - d. Location of watercourses, springs, drainage swales, wetlands, wildlife corridors, other natural features that may provide habitat or be subject to DFW or ACE jurisdiction.
 - e. Area and location of undeveloped land on the subject property required to protect and enhance the continued viability of significant biotic resources, where applicable.
- ☐ **Proposed Tentative Parcel Map. Grading and Drainage Plans, and Geotechnical Report.** See the SB 9 Urban Lot Split Application – Map Checklist below for required details.
- ☐ **Utility Will-Serve Letters.** A "will serve" letter from all applicable utility agencies indicating utility services are available to new subdivided lots.

SB 9 Urban Lot Split Application – Map Checklist. The map checklist outlines information that shall be submitted as part of your SB 9 Urban Lot Split 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. Tentative Map.

- ☐ The map should have printed conspicuously on its face the words "Vesting Tentative Map."
- ☐ The map must be clearly and legibly drawn on one sheet, unless the Planning Department gives written permission for more than one sheet.
- ☐ The map must be drawn to an engineer's scale no smaller than 1 inch equals 100 feet and large enough to clearly show all required information.
- ☐ The scale used must be indicated on the map.
- ☐ The measurements shown on the map shall include the length of all property lines, the width of streets and easements and the areas of lots.
- ☐ The title of the map must contain the subdivision number and the type of subdivision, and may include a subdivision name selected by the applicant.
- ☐ The map must include the names and addresses for the legal owner of the property, the subdivider, and the person or persons who prepared the map.
- ☐ There must be included on the tentative map a small vicinity map showing roads and other information sufficient to locate the proposed subdivision and show its relative position in the community
- ☐ The map must be oriented with the north arrow directed toward the top of the sheet.
- ☐ The map must show existing property lines around the subdivision, with the names of the owners on record of the properties abutting the subdivision.

- ☐ The map must show existing topographical contours. The contour interval should not be greater than 2 feet if the ground slope is less than 10%, and at such intervals that the contour lines do not spread more than 150 feet apart when measured horizontally.
- ☐ The contour interval used must be specified on the map.
- ☐ The map must show boundary lines and identify the existing land use zones within and adjacent to the proposed subdivision.
- ☐ The map must show all existing features and constraints on the property, including:
 - The location of existing structures; the edges of pavement for existing streets, private roads, driveways, and other paved areas; wells and springs; utility poles; and overhead and underground utility lines. Boundaries of existing easements. Identify the purpose of the easements and describe any exclusions or deed restrictions on the property.
 - The location and species of all trees or, if massed, the outlines of the tree mass. Trunk diameter must be noted for all trees 5 inches or more in diameter and for trees with multiple trunks where the measurement around the trunks is 40 inches in diameter when measured 3 feet above the natural grade.
 - Existing natural creeks and existing drainage facilities, such as drainage channels, storm drains, and culverts.
 - Any area on the property with a geologic or potentially hazardous soil condition and areas subject to flooding or ponding.
- ☐ The map must show the proposed lot layout and include the following information:
 - The dimensions of each lot. Lots must conform to the SB 9 provisions as to size. Lots not served by public sewers must not be smaller in area than the Health Department approves for septic tanks and drain field installation.
 - The area of each lot. The lot area should not include streets, access easements, or driveways used as access to lots that do not have direct frontage on a street.
 - Each lot must be identified with a "Parcel" letter, beginning with "Parcel A". Letters must be consecutive.
 - Side lot lines must be substantially at right angles or radial to street lines.
- ☐ The map must show all proposed subdivision improvements and easements as follows:
 - Show any proposed plans for frontage improvements along existing streets with any proposed street widening and/or right-of-way dedications.
 - Show the location and width of all proposed easements, such as access, drainage, sanitary sewer (CCCSD), water (EBMUD), or power (PG&E).
- ☐ Include on the map typical geometric sections for streets showing pavement width, curbs, sidewalks, grading on margin strips, slopes of cuts and fills, and all other construction proposed, if applicable.

B. 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.

C. 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 redesign of the subdivision to mitigate potentially hazardous conditions, if warranted.

APPLICATION REVIEW PROCESS

SENATE BILL 9: URBAN LOT SPLIT

More information is available through the California Department of Housing and Community Development (HCD): [SB 9 Fact Sheet \(hcd.ca.gov\)](https://www.hcd.ca.gov/sb9-fact-sheet)

- ☐ **Consult with a Planner and Engineer.** Development decisions such as a 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.
- ☐ **Review the eligibility checklist on pages 1 and 2 and confirm the project is eligible.** Projects for an Urban Lot Split 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.
- ☐ **Submit a complete SB 9 Application Packet to the Planning Department.** If the project is eligible, an applicant may submit the Urban Lot Split Application Packet 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.
- ☐ **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. Then, 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), and exempt from the provisions of CEQA ([Section 15268 of the CEQA Guidelines](#)), and approval is final and may not be appealed.
- ☐ **Parcel Map approval and recordation.** The Town's Engineering Department will work with the applicant to prepare the parcel map after a determination is made during the ministerial review process that the tentative map complies with all requirements. Once staff has determined that the parcel map complies with all requirements, it will be recorded by the Contra Costa County Clerk-Recorder's Office. It is the applicant's responsibility to have the parcel map recorded.

- ☐ **Outside Agency Review.** Please note that urban lot splits are subject to review and approval by public agencies such as East Bay Municipal Utility District (EBMUD), Central Contra Costa County Sanitary District (Central SAN), and the Moraga-Orinda Fire District (MOFD).