



TOWN OF MORAGA

PLANNING DEPARTMENT

SB 9 (Urban Housing Development and Urban Lot Split) FAQ

What is SB9?

Senate Bill 9 ([SB 9](#)), effective January 1, 2022, is intended to support increased supply of moderately priced homes by encouraging building of smaller houses on small lots. This legislation is one way the State is addressing California's housing shortage and affordability crisis, often referred to as "missing middle housing". Effective January 1, 2022, SB 9 can be used to add new homes to an existing parcel, divide an existing house into multiple units, and/or divide a parcel and add homes.

Which types of projects are allowed?

- **Urban Lot Split** - Allows ministerial approval to subdivide 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.
- **Urban Housing Development** – Allows ministerial approval for the creation of a duplex on a single-family zoned lot. On a vacant lot, it allows construction of a single-family dwelling or a duplex. On a lot containing a single-family home, it allows construction of one additional unit.

Where is an SB 9 Urban Housing Development and/or Urban Lot Split allowed?

SB 9 applies to single-family residential zoning district only. In Moraga, these zoning districts are the One, Two, and Three Dwelling Units per Acre Residential Districts (1-DUA, 2-DUA, and 3-DUA). The property must also meet the following eligibility criteria:

- The parcel is not located on prime farmland or farmland of statewide importance, wetlands, habitat for protected species, or conservation lands or easements.
- The parcel is not located in a high or very high fire zone, hazardous waste site, earthquake fault zone or flood area, unless certain additional requirements are met to reduce hazards.
- The project does not include demolition of existing housing units that are: rent restricted for moderate, low, or very low income; rent-controlled by a public entity, occupied by a tenant in the last three years, or have been withdrawn from the rental market in the past 15 years via an Ellis Act eviction.
- The project is not located in a historic district or on a site included on the State Historic Resources Inventory, on a site designated as a town landmark or on a site with historic resources.

What are the development standards for an Urban Housing Development?

An Urban Housing Development is a development with a maximum of two principal dwelling units (attached or detached) on a single-family residential zoned parcel. Any existing dwellings, including ADUs and JADUs, count toward the two unit maximum. The development must comply with the following development standards:

- **Setbacks:** Minimum four-foot interior side and rear yard. Front yard and exterior side yard setbacks must comply with the underlying zoning district standard unless it precludes the development of two 800 square-foot units on the property. Setbacks are found in [Chapter 8.24](#) of the Municipal Code.
- **Off-Street Parking:** Minimum of one off-street parking space per unit.
- **Design:** The development must comply with the objective standards of both the zoning district and the [Town of Moraga Design Guidelines](#), unless it precludes the development of two 800 square-foot units on the property.

What are the regulations for an Urban Lot Split?

An Urban Lot Split is the subdivision of an existing single-family residential zoned parcel into two parcels. The law allows a one-time lot split, meaning that any parcel previously subdivided under the provisions of SB 9 is not eligible for a second subdivision under SB 9. The lot split must comply with the following regulations:

- Each new lot must be at least 1,200 square feet in size.
- The Urban Lot Split must result in two new lots of approximately equal size (minimum 60/40).
- The property owner must state their intention to occupy one of the units as their principal residence for a minimum of three years.
- The property owner cannot act in concert with the owner of an adjacent parcel.
- The Town's [Public Works Department](#) may require easements for public services and utilities as well as access to the public right-of-way, but cannot require dedications or offsite improvement conditions.
- Up to two (2) dwelling units are allowed on each lot, for a total of four (4) dwelling units. The dwelling units must comply with the development standards for an Urban Housing Development listed above.

Can an SB 9 project include the development of an ADU or JADU?

The construction of ADUs and JADUs are subject to the Town's ADU ordinance, codified in [Chapter 8.124](#) of the Moraga Municipal Code. More information about the ADU development regulations is available on the Town's website at: <https://www.moraga.ca.us/433/Accessory-Dwelling-Unit-ADU-Ordinance-Up>

What is ministerial approval?

While a discretionary review process requires a local jurisdiction to exercise judgement and deliberation, including through public hearings and notification, in deciding whether and how to carry out or approve a project, a ministerial approval is a streamlined decision that involves little or no personal judgement by a public official. This means that the review process consists only of staff's assessment of the project's compliance with objective zoning and design standards, and staff must issue a decision (or approval) within certain timelines. The process does not include public hearings or neighborhood notification.

How do I apply for an Urban Housing Development and/or an Urban Lot Split?

It is *strongly recommended* that property owners interested in an SB 9 project contact a planner before submitting an application to review the eligibility criteria and other applicable regulations. Planning Department staff are available by email planning@moraga.ca.us, phone 925-888-7040, and in person at 329 Rheem Boulevard. It is also recommended to consult a qualified professional to develop a plan that reflects the specific and sometimes unique conditions of the property, as well as the needs and goals for the project.

Complete the appropriate application and forms located on the [Application Forms](#) webpage. Materials may be submitted either electronically by emailing planning@moraga.ca.us or in-person during The Planning Department's normal [business hours](#). Application fees can be found on the Town's [Master Fee Schedule](#).

Where can I learn more about SB 9?

- The legislation can be found online at: https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB9
- The California Department of Housing and Community Development Fact Sheet can be found online at: <https://www.hcd.ca.gov/docs/planning-and-community-development/SB9FactSheet.pdf>

What is the difference between an ADU and an SB 9 unit?

ADU's are regulated by the Town's ADU ordinance, codified in [Chapter 8.124](#) of the Moraga Municipal Code.

Can I rent my SB 9 unit as a short-term rental?

State law prohibits any units created under SB 9 from being rented on a short-term basis. A short-term rental is a period of time that is less than 30 days.

Are SB 9 projects allowed in my Homeowner's Association (HOA)?

Possibly. The property owner must verify that the SB 9 development is in accordance with any applicable HOA rules or Codes, Covenants and Restrictions (CC&Rs).

A component of my SB 9 application requires a discretionary permit. How does that impact the SB 9 application?

If your project requires approval of a discretionary permit(s), such as a Grading Permit or Hillside Development Permit, you must obtain approval before applying for a development under SB 9. See the [Application Forms](#) page for more information.

A component of my SB 9 application does not meet an objective standard(s). How does that impact the SB 9 application?

One of the eligibility requirements for developments under SB 9 is consistency with objective standards. If the project does not meet an objective standard (e.g., building height, FAR (floor area ratio), or setbacks, the project is not eligible. However, the law does allow for an applicant to submit a request for a waiver of an objective standard if it can be demonstrated that the standard would physically preclude construction of two units or that would result in a unit size of less than 800 square feet.

Can I demolish existing housing as part of an SB 9 project?

The law prohibits demolition or alteration of housing that is either affordable (deed restricted), has been withdrawn from the rental market in the past fifteen years under an Ellis Act eviction, or occupied by a tenant within the last three years. If a unit was occupied by a tenant within the last three years, then no more than 25% of the exterior walls may be demolished.

I want to submit an application for a lot split and a two unit development. How should I apply?

You must apply for and obtain approval of an SB 9 Lot Split before submitting an application for a two unit development. The urban lot split must be approved by the Moraga-Orinda Fire District prior to submitting to the Town, and the parcel map must be recorded with the County Recorder's Office before you may submit an application for an SB 9 Urban Housing development.

How long is the application review and approval process?

The application process starts by submitting a complete application. *Consider speaking with a planner before submitting an application to review the required forms and documents.* Once an SB 9 application is submitted, staff will review the and issue a determination within 30 days stating whether the application is 'complete,' meaning all required forms and documents have been submitted meeting the requirements in the application packet, or more information is required. If

your application is deemed incomplete, each resubmittal will restart the 30-day completeness review period. After the application is complete, staff will issue a decision on the application within 60 days.

Can the decision be appealed?

No, projects under SB 9 are subject to a ministerial approval process (without discretionary review or public hearing or neighborhood notification) and is exempt from the provisions of CEQA. Approval is final.

What are the next steps after my SB 9 project has been approved by the Planning Department?

Once an SB 9 application is approved, the next steps vary by application type:

- **SB 9 Urban Housing Development –**
 - Apply for building permits with the County. Step by step instructions are available online here: <https://www.contracosta.ca.gov/7863/Applying-for-a-Building-or-Grading-Permi>. Questions about the building permit process, including plan check fees, site inspections, submittal requirements, address assignments and review timelines can be directed to the Contra Costa County Department of Conservation and Development: [ePermits Center Help and How To Guides | Contra Costa County, CA Official Website](#)
 - Obtain any approvals required from the Moraga-Orinda Fire District: <https://www.mofd.org/business/submitting-plans>
 - Obtain any approvals required from the water and sewer agencies: can East Bay MUD: <https://www.ebmud.com/> and Central Contra Costa Sanitary District: <https://www.centrcsan.org/>
 - If the project would include work within the public right-of-way (e.g., sidewalk, curb/gutter, driveway apron) please consult with the Town of Moraga Public Works Engineering Division: <https://www.moraga.ca.us/416/Engineering>
- **SB 9 Lot Split –** Record the parcel map with the [Contra Costa County Clerk-Recorder](#).