

Chapter 8.136 - HILLSIDE DEVELOPMENT¹⁰

Sections:

Editor's note— Ordinance No. [277](#), § 2, adopted April 25, 2018, repealed the former ch. 8.136, §§ 8.136.010—8.136.090, and enacted a new ch. 8.136 as set out herein. The former ch. 8.136 pertained to slope density and derived from the prior Code.

8.136.010. - Purpose.

This chapter describes the process for the Town to approve a development project in a Hillside Area through either: 1) a Hillside Development Permit; or 2) additional findings for the approval of other discretionary permits required by the Town. These approval requirements are intended to ensure that development in Hillside Areas preserves Moraga's scenic qualities, minimizes environmental impacts, and reduces exposure to geologic and other hazards.

([Ord. No. 277](#), § 2, 4-25-2018)

8.136.020. - Applicability.

The approval requirements established in this chapter apply to any of the following types of development where such development is subject to a building permit, and where the development is in a Hillside Area as defined in Section 8.04.020 (Definitions):

- A. Construction of a new primary structure.
- B. Construction of an accessory building or structure over 400 square feet in size.
- C. Expansion of the footprint of an existing building or structure, either as a single project or when construction spans over a five-year period and the addition or expansion would add more than 500 square feet, or 35 percent of the footprint of the habitable building area, whichever is smaller.
- D. A project involving grading or construction of retaining walls where the project would be subject to Design Review.
- E. Subdivisions of land.

([Ord. No. 277](#), § 2, 4-25-2018)

8.136.030. - Approval requirements.

- A. Hillside Development Permit. Where a proposed development project subject to the requirements of this chapter does not require a use permit, grading permit, subdivision map, or other discretionary permit, the project shall nonetheless require a Hillside Development Permit as described in Section 8.136.040 (Hillside Development Permits).
- B. Other Discretionary Permits. Where a proposed development project subject to the requirements of this chapter requires a use permit, variance, conceptual development plan, grading permit, or other discretionary permit, the reviewing authority may approve the permit only after making the findings in Section 8.136.050 in addition to the findings required for the other discretionary permit(s).
- C. Subdivisions.
 1. For subdivisions that are accompanied by a proposed conceptual development plan and/or whose application otherwise identifies the location, type, and intensity of new development within the subdivision, the reviewing authority may approve the subdivision only after making

the findings in Section 8.136.050 in addition to making all findings and determinations required by the Town of Moraga Subdivision Ordinance and the California Subdivision Map Act.

2. For subdivisions that do not identify the location, type, and intensity of new development, the reviewing authority may approve the subdivision only after finding that the subdivision complies with all applicable General Plan policies pertaining to hillside development in addition to making all of the findings and determinations required by the Town's Subdivision Ordinance and the California Subdivision Map Act. In such cases, the reviewing authority shall attach a condition to the subdivision approval requiring the Town to make the findings in Section 8.136.050 prior to approving proposed development in the subdivision.

D. Projects Requiring Subsequent Approvals.

1. For projects requiring subsequent approvals (e.g., a general development plan after conceptual development plan), the Town shall make the findings required by this chapter once, and at the earliest possible time, when sufficient project detail is available to consider the required findings.
2. If a proposed project requires subsequent approvals and sufficient project detail is not available with the initial approval, the reviewing authority shall attach a condition to the initial approval requiring the Town to make the findings in Section 8.136.050 at the next earliest subsequent approval when sufficient project detail is available to consider the required findings.

([Ord. No. 277](#), § 2, 4-25-2018)

8.136.040. - Hillside development permits.

This section applies to projects requiring Hillside Development Permits as identified in Section 8.136.030.A (Hillside Development Permits).

- A. Reviewing Authority. The reviewing authority for a Hillside Development Permit is the authority charged with the duty of passing upon any land use entitlement, permit, or design review approval, as applicable. In the case of an application which requires only building permit approval, the reviewing body is the Zoning Administrator.
- B. Application Submittal and Review. Hillside Development Permit applications shall be filed and reviewed in compliance with Article 1 (Applications) of Municipal Code Chapter 8.12 (Administrative Procedures). The application shall include the information and materials required in a form specified by the Planning Department, together with all required application fees.
- C. Planning Commission and Design Review Board Notification. For applications where the Zoning Administrator is the reviewing authority, the Planning Director shall notify the Planning Commission and Design Review Board of the application when the Hillside Development Permit application is filed with the Town.
- D. Public Notice and Hearing. The reviewing authority shall provide public notice, review and act on a Hillside Development Permit in compliance with Municipal Code Chapter 8.12 (Administrative Procedures). Where the Zoning Administrator is the reviewing authority, the procedure for review shall follow that required for Design Review approval set forth in Municipal Code Section 8.72.090, except that the findings for approval set forth in Section 8.136.060 shall apply.
- E. Conditions of Approval. The reviewing authority may attach conditions of approval to a Hillside Development Permit to achieve consistency with the General Plan, Municipal Code, and any applicable specific plan or area plan adopted by the Town Council.
- F. Appeals. Decisions of the reviewing authority on Hillside Development Permits may be appealed as described in Article 4 (Decision and Appeals) of Chapter 8.12 (Administrative Procedures).

([Ord. No. 277](#), § 2, 4-25-2018)

8.136.050. - Findings for approval.

To approve a project that requires only a Hillside Development Permit, the reviewing authority shall make all of the findings below. To approve a proposed project subject to the requirements of this chapter as specified in Section 8.136.020 (Applicability) and which requires a use permit, variance, conceptual development plan, grading permit, subdivision map, or other discretionary permit, the reviewing authority shall make all of the findings below in addition to the findings required for the other discretionary permit(s).

- A. The proposed development is consistent with the General Plan, Municipal Code, Design Guidelines, and any applicable specific plan or area plan adopted by the Town Council.
- B. The proposed development is designed to minimize visual impacts, protect scenic resources, and maintain Moraga's semi-rural feel to the greatest extent possible.
- C. The proposed development protects biological, hydrological, and other environmental resources to the greatest extent possible.
- D. The proposed development is designed and located to minimize exposure to landslides and other geologic hazards.
- E. The proposed development minimizes soil displacement and utilizes grading techniques that blend with natural slopes and achieve a natural appearance.
- F. The proposed development will not be detrimental to the public health, safety, and welfare.

([Ord. No. 277](#), § 2, 4-25-2018)