

Revision of San Diego's ADU Ordinance

Impact of SB 9 and SB 10

Community Planners Committee
September 28, 2021



NEIGHBORSFORABETTERSANDIEGO.ORG

CORRECTING THE RECORD

San Diego is NOT “Just Executing State Laws”

San Diego ADU laws are FAR MORE IMPACTFUL to neighborhoods, infrastructure, and taxpayers than California state laws.

CALIFORNIA

1 JADU

1 ADU

16' Height

4' Side/Rear Setbacks

Waives Developer Fees for 1 ADU <750 sf

No Bonus ADUs

Allows Exclusion for Public Safety

SAN DIEGO

1 JADU

3 ADUs*/Unlimited ADUs**

Allows Heights of 30'

Zero Side/Rear Setbacks

Waives All ADU Developer Fees

Gives Away Bonus ADUs

No Restrictions in Very High Fire Hazard Severity Zones

Outside the TPA/Inside the TPA*

The Reality of San Diego's ADU Program

SAN DIEGO

1 JADU

3 ADUs*/Unlimited ADUs**

Allows Heights of 30'

Zero Side/Rear Setbacks

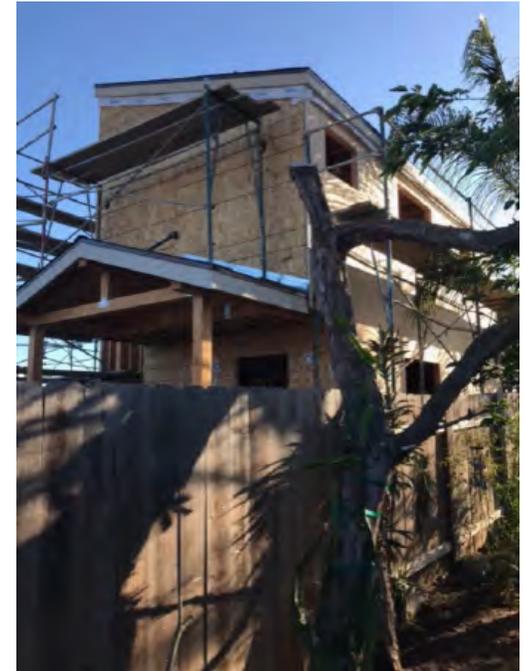
Waives All ADU Developer Fees

Gives Away Bonus ADUs

No Restrictions in Very High Fire

Hazard Severity Zones

University City



El Cerrito



Outside the TPA/Inside the TPA*

College Area

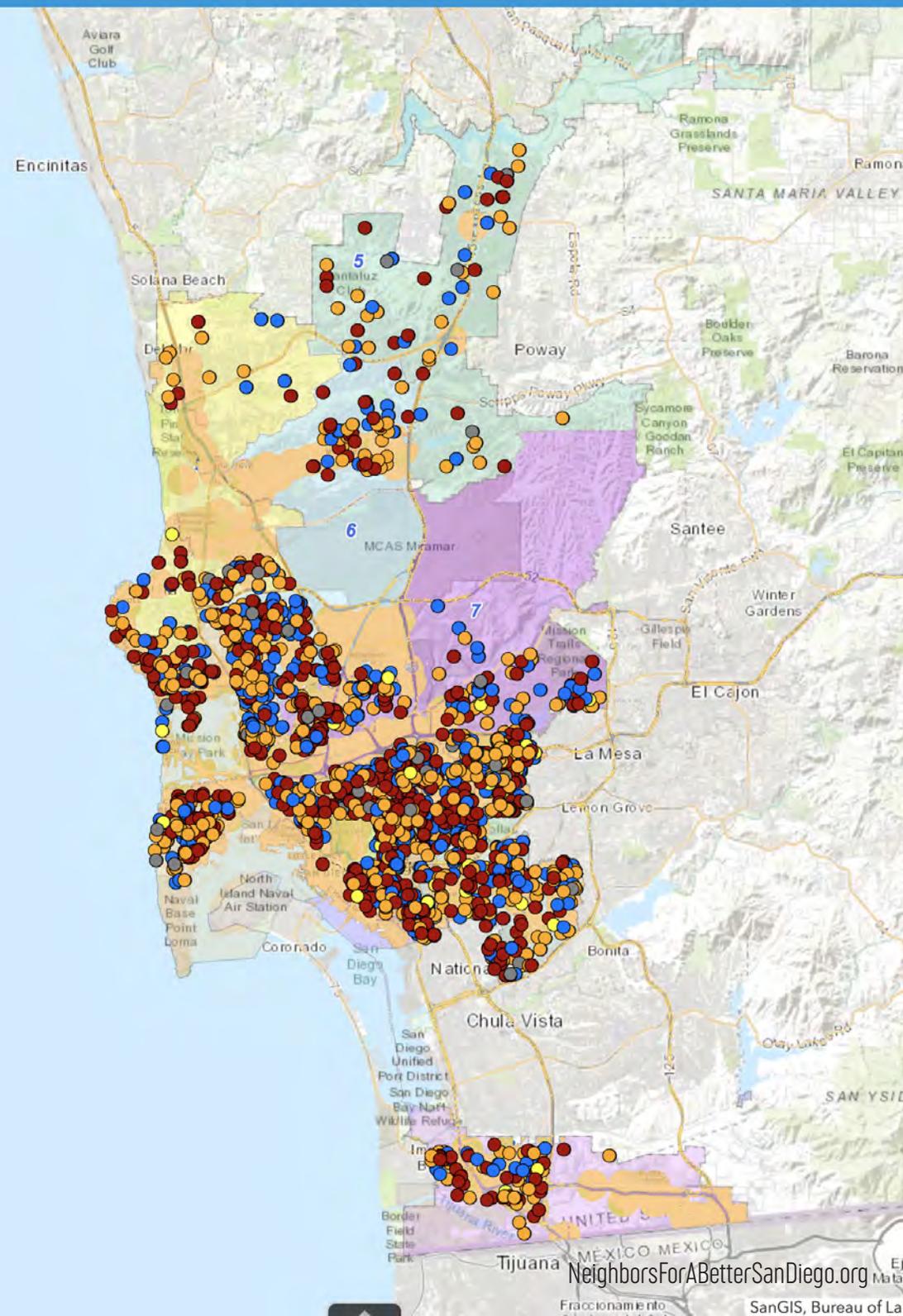
All Districts

Legend

Accessory Dwelling Units

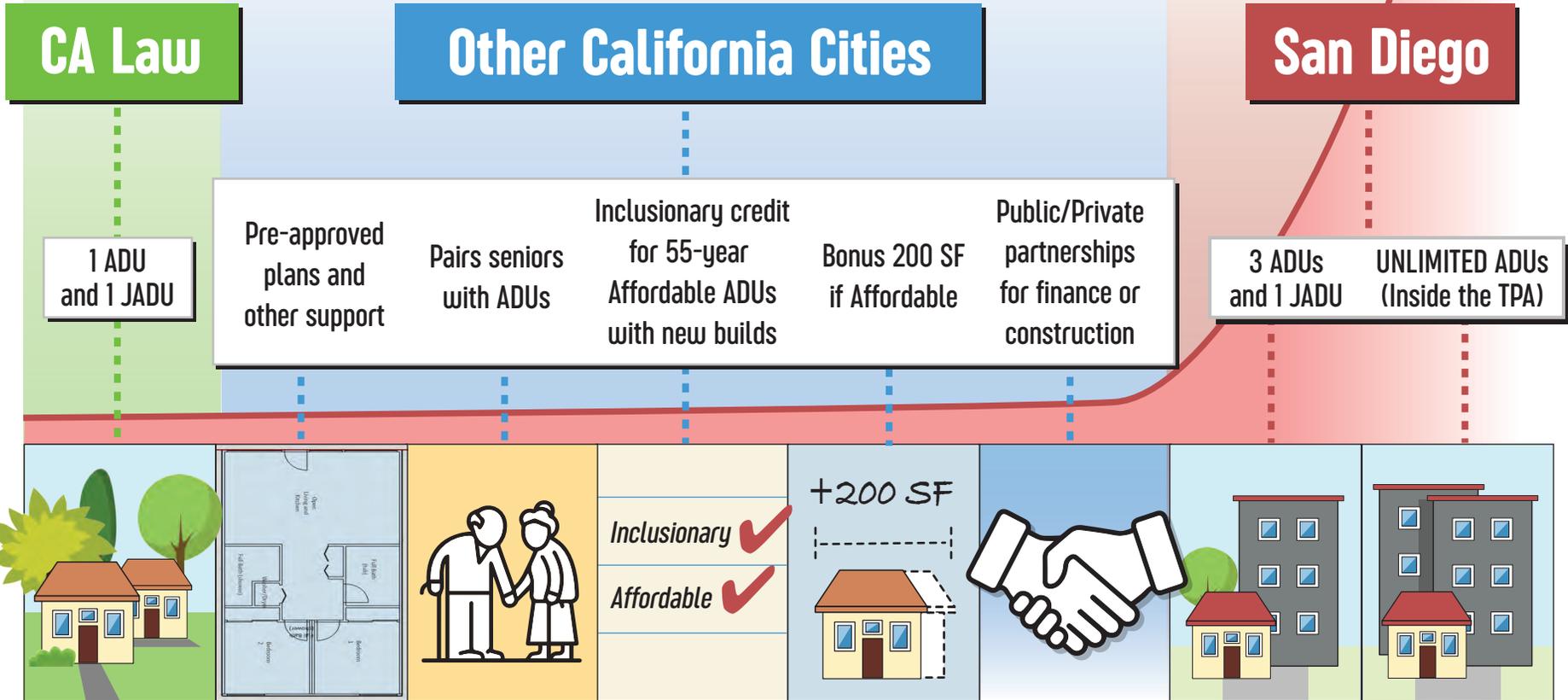
- Cancelled
- Completed
- Created
- Issued
- Pending Invoice Payment

Transit Priority Area



San Diego's ADU Incentives Compared to Other CA Cities

IMPACT ON NEIGHBORHOODS



Source: ADUs in California: A Revolution in Progress, Oct 2020, Center for Community Innovation (CCI) at UC Berkeley

<https://www.hcd.ca.gov/policy-research/accessorydwellingunits.shtml>

https://turnercenter.berkeley.edu/wp-content/uploads/pdfs/Jumpstarting_the_Market_-_ULI.pdf

NFABSD Proposed Code Changes

Affordability

- Reduce square footage of market-rate ADUs to no more than 1,000 sf
- Replace ADU density bonus with 200 sf size bonus irrespective of TPA
- Restrict affordability incentives to Very Low (50% AMI) and Low (60%) Income households
- Increase affordability deed restriction from 15 years to 30 years
- Waive DIF on ADU greater than 750 sf if deeded affordable

Ministerial Envelope

- Increase interior side yard and rear yard setbacks on new ADU and JADU structures to 4 feet
- Limit ADU/JADU heights to no more than 16 feet
- Pre-approved architectural plans

NFABSD Proposed Code Changes (cont.)

Other Revisions

- Restrict fee waiver to (single) ADU less than 750 sf
- Clarify requirement for record (property) owner to live on premises of ADUs permitted after January 1, 2025
- Exclude ADUs in Very High Fire Hazard Severity Zones
- Fire Safety Setbacks for JADUs
- Define Transit Priority Area (TPA) by walking distance rather than projected Euclidean distance (also eliminated as criterion for ADU permitting)
- No more than 4 units (2x2) on a lot split under the authority of Section 65852.21 or 66411.7 of the Government Code (Senate Bill 9)

Councilmember Elo-Rivera's Proposal

Increased Affordability

- Lowers income level to 80% AMI (from 120%) for 15-year deed, 90% AMI for 20-year

Urban Tree Canopy Preservation

- Tree replacement in parkway or elsewhere in community planning area

Privacy

- Taller fences on side and rear yards (above 9 feet)

Councilmember Elo-Rivera's Proposal

Future Considerations

Additional Affordability Programs

- Senior housing
- Forgivable loan (up to \$75,000 for new construction) for housing formerly homeless

Enforcement

- Resident-led Code Compliance Volunteer Program

Maintenance Assessment District Fees

- Assess on ADUs greater than 750 sf

Speculation Mitigation

- Waive DIFs for owner-occupants, but not corporate entities

Infrastructure

- Future federal programs

Councilmember Elo-Rivera's Proposal

Future Considerations (cont.)

Parking Policies

- Permit parking by parcel

Analyze Effective City Communication & Community Education

- Communicate the truth about policies
- Combat disinformation
- *"...intentionally study how we can better keep our constituents informed of policy changes, embody transparency, and empower constituents to be active members of City government"*

Community Character

- Central Urbanized Planned District (CUPD)

College Area

- Advisory group

Elo-Rivera / NFABSD Proposals

Summary Comparison

NFABSD Proposal

- Addresses core issues by simplifying the code rather than trying to patch its defects
- Replaces Density Bonus with size bonus that doesn't depend on (flawed) TPAs
- Aligns height and setback requirements with the state's ministerial envelope (4-foot setback and 16-foot height)

Elo-Rivera Proposal

- Leaves density Bonus in place, proposes complex workarounds for investor speculation, parking burden, and loss of urban canopy
- Pushes real solutions to the future rather than addressing them now
- Offloads code enforcement to residents

SB 9 “Lot-Splitting” (Atkins)

Requires local agencies to ministerially approve a proposed housing development project containing duplexes on parcels zoned for single-family residential development.

- At most 60/40 split - each lot must be at least 1200 sf
- In addition to duplexes, additional ADUs can be put on each lot
- Requires offstreet parking unless within 1/2 mile of transit
- Exemption for a state or local historical district or property
- 3-year intent to occupy
- Faux constraint of developing adjacent lots
- Exception for historic districts and properties
- No explicit exception for HOAs
- *Effective January 1, 2022*

SB 10 “Huffman 2.0” (Wiener)

Authorizes a city or county to pass an ordinance that is not subject to the California Environmental Quality Act (CEQA) to upzone any parcel for up to ten units of residential density if the parcel is located in a transit-rich area or an urban infill site.

- Allows for additional 2 ADUs and 2 JADUs (to avoid CEQA)
- Opt-In (January 1, 2029 deadline)
- Overrides initiative process in local land use decisions
- No exception for historic districts and properties
- No explicit exception for HOAs
- *Effective January 1, 2022*

Senate Bill 9 and Senate Bill 10

What to do now:

Senate Bill 9 - "4 Means 4"

- We must hold Toni Atkins to her words: "ONLY four units per lot"

(f) Not with standing Section 65852.2 or 65852.22, a local agency shall not be required to permit an accessory dwelling unit or a junior accessory dwelling unit on parcels that use both the authority contained within this section and the authority contained in Section 66411.7.

Senate Bill 10 - "Just Say No"

- SB 10 is "Opt-In" only - Don't let it happen to San Diego
- Community Choice Initiative will render SB 10 moot

Exclusions

	SB 9	SB 10	State ADU	San Diego ADU
Exclusion for fire	<p>Probably No exclusion for fire safety</p> <p>Local jurisdiction may deny “if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.”</p>	<p>No applicable exclusion</p> <p>Excludes “very high fire hazard severity zones” unless mitigation in building code, which SD has.</p>	Allows exclusion	Allows ADUs regardless of fire hazard
Exclusion for Historic District	<p>Excludes historic</p> <p>“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.”</p>	Doesn't mention historic, but presumably SD would have discretion	No	No

Exclusions

	SB 9	SB 10	State ADU	San Diego ADU
Exclusion for HOA	Doesn't explicitly exclude HOAs	Doesn't explicitly exclude HOAs	Covenants, <u>conditions</u> and restrictions (CC&Rs) that either effectively prohibit or unreasonably restrict the construction or use of an ADU or JADU on such lots are void and unenforceable or may be liable for actual damages and payment of a civil penalty	HOA acts independently of the city
Dependency on TPAs	Forbids parking standards within one-half mile walking distance of transit (full reference below)	Restricted to "transit-rich area or an urban infill site"	Forbids parking standards within one-half mile walking distance	Extra bonus density inside TPA
Transit definition	"one-half mile walking distance of either a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code"	Section 21064.3 of the Public Resources Code	"Within one-half mile walking distance of public transit"	"Within a transit priority area" TPA definition not referenced in ADU code, but city TPA map references SB743. Gary Geiler pointed to California Public Resources Code Section 21099, which is "within one-half mile of a major transit stop"

TAKE ACTION:

PASS a resolution endorsing our proposal to limit ADUs

INVITE US to speak at your planning group

RAISE AWARENESS of this issue on Nextdoor and other social media platforms



SIGN THE CITY-WIDE PETITION:

NeighborsForABetterSanDiego.org

VISIT CommunitiesForChoice.org regarding the initiative to **UNDO** SB 9 and SB 10



NEIGHBORS
— for a **BETTER** —
SAN DIEGO

NEIGHBORSFORABETTERSANDIEGO.ORG

Email: Better4SD@gmail.com