



Accessory Dwelling Units

Neighbors For A Better San Diego Fact Checks San Diego's Accessory Dwelling Units Fact Sheet

Background Summary

In response to growing public outcry against San Diego's neighborhood-killing 2020 ADU ordinance, San Diego's Planning Department released an [Accessory Dwelling Units Fact Sheet](#) to downplay the problems Neighbors For A Better San Diego (NFABSD) has exposed in the changes made in October 2020 to the [ADU code §141.0302](#).

The City of San Diego has consistently held that the ADU code was amended in 2020 to implement the revised [California ADU code 65852.2](#). However, as NFABSD has [demonstrated](#), San Diego went well beyond implementing state ADU code, particularly with its Bonus ADUs incentive.

It took weeks of interviews with DSD for NFABSD, and more importantly, for DSD to confirm how many ADUs would be allowed on a single-family zoned property. Our interviews resulted in the example shown on our website, in which adding 16 ADUs was deemed "feasible" by DSD on a fairly typical 7500 sf city lot with an existing single-family home. A 16-unit apartment complex is clearly more than "complying with state code," which allows only one ADU and one JADU, yet this statement is repeatedly used by City Hall and the Planning Commission to defend San Diego's 2020 ADU Code changes.

The Planning Department states in their Accessory Dwelling Units Fact Sheet that the 2020 ADU regulations received a full and transparent hearing process with public engagement, detailed staff presentations, public testimony, and discussion. In reality, there was no meaningful public notice, very limited public engagement (except for a handful of building industry supporters), zero questions from the City Council, and hence zero explanation to the public of the scope and justification for the code changes.

Having reviewed the Planning Department presentations of the ADU code changes, we see the same three minimally informative slides used again and again, which do little to explain 1) the potential impact or scope of the changes, 2) any rationale or data supporting these particular and significant changes (such as unlimited ADUs tied to the bonus density program) or 3) how far the city's code exceeds state law and in what ways.

There were literally no questions after these slide presentations on the proposed 2020 ADU code. Was it because the staff repeated the "conforming with state law" canard so many times that the Planning Commission and Council did not understand that San Diego had discretionary power over what was being enacted?

Was it because the City Council assumed that somewhere in the "full and transparent hearing process" the details of the code changes were being fully explained and vetted by planning committees, the Planning Commission, or other bodies? Was it because they were buried in a huge package of housing legislation changes and not given the full attention that a significant zoning change deserves.



In fact, well into the spring of 2021, the city's [Planning Commission](#) and many Council Members were **still** under the impression that San Diego had simply implemented state ADU law.

In reality, the City of San Diego essentially upzoned residential neighborhoods without proper public notification. **Changes this big should have triggered direct and broad-based outreach to the public.** The city was well aware it was essentially eliminating single-family zoning with its 2020 ADU code as Mike Hansen, Planning Department Director, [noted](#): *“So to us, when other cities like Minneapolis and Seattle were doing press events around ending single-family zoning, we felt like we had functionally already done so through ADU reform, to the extent that ADU reform allows multiple units on a property that had been zoned for one.”* – Keatts, A. | August 9, 2021 | Faulconer’s Now Saying No to His Previous YIMBYism | Voice of San Diego

Due to the expedited and remote process under COVID-19 and the skeletal city presentations on the ADU code changes, the public was unaware and therefore not in a position to comment on the ADU code revisions. As a result, the City stealthily enacted these changes under the repeated mantra of a need to implement the revised California ADU code.

Given this context, let’s answer the questions on the City’s Fact Sheet:

How Does State Law Affect the City of San Diego’s ADU Regulations?

State ADU law allows 1 ADU and 1 JADU and gives cities the flexibility to modify their ADU requirements, as long as that code meets the minimum state standards.

Were the City’s ADU Regulations Adopted in a Full Public Process?

No. While there were numerous presentations of the 2020 housing update, the Planning Department’s presentation of the ADU changes downplayed the differences between the proposed ordinance changes and the state requirements, depriving the Council and the residents of San Diego of a full understanding of the scope of these changes and the deliberations that went into drafting them. As noted above, as of late spring, 2021, the Planning Commission and many City Council Members were still under the false impression that San Diego had simply “followed State ADU law”.

Are the City’s ADU Regulations Allowing More ADUs than Required by State Law?

The clear answer is YES, but the Planning Department’s Accessory Dwelling Units Fact Sheet won't come out and say it. This is the crux of San Diego’s neighborhood-killing code change: State law only requires that 1 ADU and 1 JADU be allowed on a single-family zoned lot, and San Diego vastly exceeds these requirements.

Under AB 671, local jurisdictions are required to incentivize the construction of “affordable” ADUs, but the state left it open-ended as to how cities achieved this. Other California cities came up with reasonable incentives (offering pre-approved ADU plans, waiving developer fees, etc.) that benefited both homeowners and renters. San Diego, however, came up with a plan that went well beyond what was required. The city incentivized developers and outside investors to strip-mine our neighborhoods and transform single-family parcels into high-density apartment complexes by offering them unlimited* bonus ADUs (in TPAs) in exchange for building some “affordable” ADUs.

* limited only by floor area ratio (FAR)



Did the State of California Review the City's 2020 ADU Legislation?

Yes, this is required by State code. However, let's take a closer look at the second paragraph which has nothing to do with the question: "The information regarding the City's Affordable ADU Bonus program and its [sic] impetus was presented clearly and transparently to the City Council..." Again, this statement is in direct conflict to the feedback we've received from many City Council Members and staff who expressed surprise to NFABSD at how far San Diego's ADU code had exceeded State ADU requirements. We believe that had this code been explained and presented with the detail it deserved, it would not have passed City Council.

Regarding the Fact Sheet's statements about the Regional Housing Needs Assessment (RHNA) goal of 108,036 new housing units over the next 8 years, it should be noted that with the update of the Kearny Mesa plan and the city's Adequate Sites Inventory, San Diego has identified the capacity to build [175,000 units](#), WITHOUT BUILDING A SINGLE ADU. Given this, it is hard to understand the state and city's obsession with ADUs. Both our state and local officials need to stop blaming single-family neighborhoods for California and San Diego's failure to build more housing and instead address the misguided policies that leave our transit corridors underdeveloped.

Did the City's 2020 Legislation Increase the Allowable Building Heights for ADUs?

The City's ADU code is mute on the subject of allowed building heights, which are inferred from the underlying building code to be 30 feet.

Even though the 2020 code update didn't change the ADU height limit, there are several reasons why this is now an issue: Prior to 2020, most ADUs (or companion units before that) were built by homeowners who had a vested interest in the conformity of the added structure to their existing home. As ADU projects have pivoted to non-resident developers, the scale and design of these projects have become more and more impactful on neighborhood character.

The assumption of ministerial (over-the-counter) approvals for ADUs is that they would be unobtrusive structures tucked into backyards. If these were limited to 16 feet in height, as the state allows, then that would be true. San Diego has the authority to exercise more control over ADU projects over 16 feet, or limit ADU heights to 16 feet as we are requesting, but it has not taken the initiative to do so. Our point of reference is not San Diego's previous ADU Code, but rather what the state of California allows (a 16-foot ADU height limit) versus what San Diego has chosen to allow (a 30-foot ADU height limit in the front or back yard of a single-family home).

The overly generous density bonuses introduced in 2020 allow the 30-foot height limit to be exploited by developers in ways homeowner-builders were less likely to do with one ADU. San Diego can and should align with state allowances of 16-foot height limits on ADUs.

Did the City's 2020 Legislation Eliminate Building Setbacks for ADUs?

Yes, the 2020 SD ADU code did eliminate ALL side and rear yard setbacks for ADUs. The fact that a small part of these setbacks (30 feet) had been eliminated previously does not make this a good idea, it just means the city made a bad idea worse by expanding it to the entire depth and back width of the property and then incentivized developers to make use of this allowance.

The state allows up to 4-foot side and rear yard setbacks. The elimination of setbacks presents an added fire danger risk. San Diego could have excluded very high fire hazard severity zones from ADU development but chose not to.



Do the City's ADU Regulations Allow Front Yards to Convert to Parking Lots?

Yes. Subject to landscaping and paving regulations and depending on how you define "parking lot", the front lawns of many San Diego homes are already parking lots. You can park cars two deep (tandem) on your property, and you can put in a mechanical lift to stack them two high if you would like. If your driveway is wide enough, you can park them two at a time, side-by-side, and if you have the turning radius, you can park them within your front setback (provided you leave enough permeable surface).

It's important to note that San Diego does not actively enforce front-yard parking violations. Instead, complainants and violators are referred to a national arbitrator for resolution.

Did the City's 2020 Legislation Eliminate the Development Impact Fees (DIFs) for ADUs?

This question is absurd, because prior to 2020, the Bonus ADU program did not exist. When San Diego added the Bonus ADU program in 2020, it could have imposed fees on the additional ADUs and it chose not to. It also chose to waive two other fees on ADUs: Regional Transportation Congestion Improvement Program Fees (RTCIP) and General Plan Maintenance Fees (GPMF). Approximately \$12,000 or more in fees are being waived on each ADU built in San Diego. This has two negative effects: the city has less revenue to update infrastructure (libraries, parks, sewer, water, etc.) and no additional funds to add parks to replace the green spaces lost by filling in single-family lots.

Can the City's ADU Regulations be Amended?

Yes, and Neighbors For A Better San Diego is working to do just that. We recommend that San Diego more closely align its ADU ordinance to California's and update our ADU code to:

- 1 ADU and 1 JADU per lot
- 4-foot rear- and side-yard setbacks
- Height limits of 16 feet
- Fee waivers only as required by CA, or to encourage deeded affordable units
- Exempt areas from ADUs based on public safety (fire hazard)

Where can I Find More Information about the City's ADU Regulations?

[Neighbors For A Better San Diego](#) has thoroughly analyzed the City of San Diego's ADU regulations and produced several white papers. You can find these documents and much more on our website.