



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Councilmember Dev Davis

SUBJECT: Oppose SB 9 and SB10 Preserving Local Control **DATE:** August 2, 2021

Approved

Date 08/2/2021

Recommendations:

1. Adopt the attached draft resolution from the City of San Jose asserting our city's right to local control over land use issues, so we can protect single-family neighborhoods and ensure affordable and equitable housing for all is built in appropriate areas with adequate infrastructure.
2. Oppose California Senate Bills 9 and 10, which would allow upzoning of single-family zoned neighborhoods without community input.
3. Place the item on the August 17, 2021 Council Agenda for action.

Discussion:

The demand for housing in California and our city is real. We have been aware of this need for quite some time, which is why San Jose developed the concept of Urban Villages a decade ago – where housing density could be met with services for those residents who lived there. Adding density in an area of the city where infrastructure improvements are not made is a recipe for disaster. SB 9 and SB 10 call for a strangling of local control to allow added housing without requiring added capacity for infrastructure such as gas, water, electricity, and sewer. In that way, they are similar to the “opportunity housing” proposal being floated by some in San Jose, which has not yet been vetted by the full Council. The proposed state legislation does not have affordability requirements or environmental review and includes minimal off-street parking requirements. These bills could dramatically affect our neighborhoods and our ability to deliver critical services to our residents.

In the densest scenario of SB9, a total of 8 units could be constructed through a lot split without public review and by right. This densification in neighborhoods also comes at a high price for our urban forest canopy. Lot splitting will inevitably lead to tree removals. This legislation comes at a most inopportune time, as we are trying to fight climate change, reduce heat island effects and expand our urban canopy.

The potential consequences of this legislation are murky at best. According to a report from the Turner Center for Housing Innovation at Berkeley, “Relatively few new single-family parcels are

expected to become financially feasible for added units as a direct consequence of this bill.”¹ The report points out that wealthier homeowners with access to credit will be most likely to change their properties, suggesting that these bills will exacerbate disparities that already exist.

Local governments should remain the ultimate decision makers for how their communities are built. We know our streets, our infrastructure, and our neighborhoods. We are more directly accountable to our residents than the state legislature. Every new state mandated land-use law directly impacts our General Plan, which was co-developed with the community in a years-long process.

I urge my colleagues to listen to our residents and neighborhoods and let them continue to help us craft our city’s future development, not to abdicate that responsibility to state legislation and land speculators.

¹ Metcalf, B., Garcia, D., Carlton, I., Macfarlane, K. “Will Allowing Duplexes and Lot Splits on Parcels Zoned for Single-Family Create New Homes?” July 2021 (page 2). Turner Center for Housing Innovation, UC Berkeley. <https://turnercenter.berkeley.edu/wp-content/uploads/2021/07/SB-9-Brief-July-2021-Final.pdf>

RESOLUTION 2021-08

RESOLUTION OF THE SAN JOSE CITY COUNCIL EXPRESSING SUPPORT FOR ACTIONS TO FURTHER STRENGTHEN LOCAL DEMOCRACY, AUTHORITY, AND CONTROL AS RELATED TO LOCAL ZONING AND HOUSING ISSUES

WHEREAS, the legislature of the State of California each year proposes, passes, and has signed into law a number of bills addressing a range of housing issues; and

WHEREAS, the legislature of the State of California does not allow sufficient time between each legislative cycle to determine if previous legislation is successful in bringing about the change for the State of California's housing issues; and

WHEREAS, the majority of these bills usurp the authority of local jurisdictions to determine for themselves the land use policies and practices that best suit each city and its residents and instead impose mandates that do not take into account the needs and differences of jurisdictions throughout the State of California; and

WHEREAS, the ability of local jurisdictions to determine for themselves which projects require review beyond a ministerial approval; what parking requirements are appropriate for various neighborhoods within their jurisdiction; what plans and programs are suitable and practical for each community rather than having these decisions imposed upon cities without regard to the circumstances of each individual city; and what zoning should be allowed for residential properties is a matter of great import to the City of San Jose, among other items related to local zoning and housing issues; and

WHEREAS, the City Council of the City of San José feels strongly that our local government is best able to assess the needs of our community and objects to the proliferation of State legislation that deprives us of that ability;

NOW, THEREFORE, the San José City Council resolves as follows:

Section 1. The City of San José is opposed to the current practice of the legislature of the State of California of continually proposing and passing multitudes of bills that directly impact and interfere with the ability of cities to control their own destiny through use of the zoning authority that has been granted to them.

Section 2. The City of San José will explore various ways to protect the ability of cities to retain local control over zoning as each individual city within the State of California is best suited to determine how the zoning in their city should be allocated in order to meet the housing needs of the community.

Section 3. The City Clerk shall certify to the adoption of this resolution and shall cause this resolution and his/her certification to be entered in the Book of Resolution of the Council of this City.