

Attachment 3b

SB 10 (Weiner, 2021) Eligibility Criteria and Requirements

[SB 10](#) was signed into law in September 2021 and will become effective on January 1, 2022. Pursuant to SB 10, a local government may adopt an ordinance to zone a *parcel* for up to 10 units of residential density per parcel, at a height specified by the local government in the ordinance, subject to the requirements below. An ordinance adopted in accordance with SB 10, and any resolution to amend the jurisdiction's General Plan, ordinance, or other local regulation adopted to be consistent with that zoning ordinance, shall not constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. For parcels located in the Coastal Zone, up-zoning using SB 10 will require Coastal Commission certificate of a Local Coastal Program amendment.

Eligibility Criteria.

SB 10 has two eligibility pathways: parcels in transit-rich areas and parcels that are urban-infill sites. The qualifying criteria for each pathway are statutorily defined and there is no local discretion.

1. A transit-rich area. "Transit-rich area" is statutorily defined, and "means a parcel within one-half mile of a major transit stop, as defined in [Section 21064.3 of the Public Resources Code](#), or a parcel on a high-quality bus corridor."

A "High-quality bus corridor" means a corridor with fixed route bus service that meets **all** of the following criteria:

- A. It has average service intervals of no more than 15 minutes during the three peak hours between 6 a.m. to 10 a.m., inclusive, and the three peak hours between 3 p.m. and 7 p.m., inclusive, on Monday through Friday.
- B. It has average service intervals of no more than 20 minutes during the hours of 6 a.m. to 10 p.m., inclusive, on Monday through Friday.
- C. It has average intervals of no more than 30 minutes during the hours of 8 a.m. to 10 p.m., inclusive, on Saturday and Sunday.

Staff comment: There are no transit-rich areas in the unincorporated area at this time; therefore, this provision cannot be used to qualify parcels.

2. An urban infill site. "Urban infill site" means a site that satisfies **all** of the following:
 - A. A site that is a legal parcel or parcels located in a city if, and only if, the city boundaries include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel or parcels wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.
 - B. A site in which at least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses. For the purposes of this section, parcels that are only separated by a street or highway shall be considered to be adjoined.
 - C. A site that is zoned for residential use or residential mixed-use development, or has a general plan designation that allows residential use or a mix of residential and nonresidential uses, with

at least two-thirds of the square footage of the development designated for residential use.

Staff comment: 2020 Census designated Urban Clusters in the unincorporated areas of Humboldt county are in greater Eureka and Fortuna, McKinleyville, and Scotia areas only. For more information, please see the “Urban Clusters” data layer added to the [Humboldt County Web GIS](#). At the end of this document, you’ll find information to help you locate this data.

Other eligibility criteria:

1. Fire Hazards: For a parcel to be eligible for rezoning pursuant to SB 10, the parcel cannot be
 - A. Located within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code.
 - i. This paragraph does not apply to sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.
 - B. For a parcel to be eligible for rezoning pursuant to SB 10, the parcel cannot be subject to any local restriction enacted or approved by a local initiative that designates publicly owned land as open-space land, as defined in [subdivision \(h\) of Gov't Code Section 65560](#), or for park or recreational purposes.
2. Density [Reference GC Section 65913.5(d)(1)]
 - A. Rezoning a parcel pursuant to SB 10 shall not result in a reduction in density. The parcel’s resulting SB 10 density shall not less or lower than the parcel’s existing density pursuant to the parcel’s existing land use designation or zoning.
 - B. “Prohibits a local government from subsequently reducing the density of any parcels subject to an ordinance adopted pursuant to this bill.” ([Senate Floor Analysis, Aug. 25, 2021, p. 4](#)).

Legislative Requirements for Adoption

The Board of Supervisors shall comply with all of the following when adopting a zoning ordinance pursuant to SB 10:

1. The zoning ordinance shall include a declaration that the zoning ordinance is adopted pursuant to this section.
2. The zoning ordinance shall clearly demarcate the areas that are zoned pursuant to SB 10, and must establish a maximum building height.
3. The legislative body shall make a finding that the increased density authorized by the ordinance is consistent with the County’s obligation to affirmatively further fair housing pursuant to [Gov't Code Section 8899.50](#).
4. If the ordinance supersedes any zoning restriction established by a local initiative passed by the voters, the ordinance shall only take effect if adopted by a two-thirds vote of the members of the

legislative body. This section does not apply to Humboldt County because there are no zoning initiatives passed by the voters.

Other SB 10 Provisions

ADU and JADUs: Up to two ADUs and two JADUs are exempt from the 10-unit maximum SB 10 parcels.

By-right and ministerial housing development on SB 10 parcels are capped at 10 Units (not counting ADUs and JADUs). Other law that allows ministerial or by right approval of a development project or that grants an exemption from Division 13 (commencing with Section 21000) of the Public Resources Code, a residential or mixed-use residential project consisting of more than 10 new residential units on one or more parcels that are zoned pursuant to an ordinance adopted under this section shall not be approved ministerially or by right and shall not be exempt from Division 13 (commencing with Section 21000) of the Public Resources Code. What this provision of SB 10 means other statutes (e.g., Gov't Code Section 65915 "Density Bonus") that provide for by-right density increases and CEQA exemptions are preempted by SB 10. A housing development of more than 10 units on a SB 10 parcels will be conditionally permitted and not exempt from CEQA.

Prohibition on project piecemealing to avoid 10 unit cap. A project may not be divided into smaller projects in order to exclude the project from the prohibition in this subdivision.

Subsequent Rezones of SB 10 parcels. This subdivision (aka SB 10) shall not apply to a project located on a parcel or parcels that are zoned pursuant to an ordinance adopted under this section, but subsequently rezoned without regard to this section. A subsequent ordinance adopted to rezone the parcel or parcels shall not be exempt from Division 13 (commencing with Section 21000) of the Public Resources Code. Any environmental review conducted to adopt the subsequent ordinance shall consider the change in the zoning applicable to the parcel or parcels before they were zoned or rezoned pursuant to the ordinance adopted under this section.

Short Term Rentals. SB 10 units cannot be rented for periods of less than 30 days.

Sunset Date: SB 10 sunsets January 1, 2029. Localities cannot adopt ordinances pursuant to SB 10 after this date. The operative date of a locality's SB 10 ordinance may extend past the statutory sunset date, however.

How To Find the Urban Cluster Web GIS Data Layer

Use this link or type the URL into your browser's search bar: <https://humboldt.gov.org/1357/Web-GIS>.
Then,

1

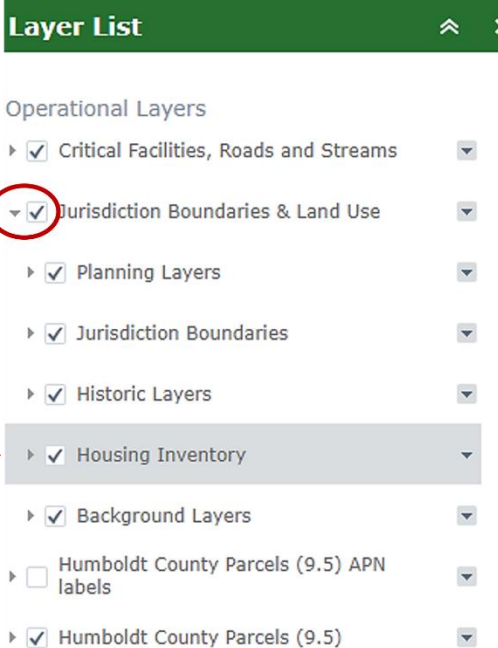




Layer List  

Operational Layers










- Critical Facilities, Roads and Streams 
- Jurisdiction Boundaries & Land Use** 
- Humboldt County Parcels (9.5) APN labels 
- Humboldt County Parcels (9.5) 
- Humboldt County Parcels (9.4) 

2

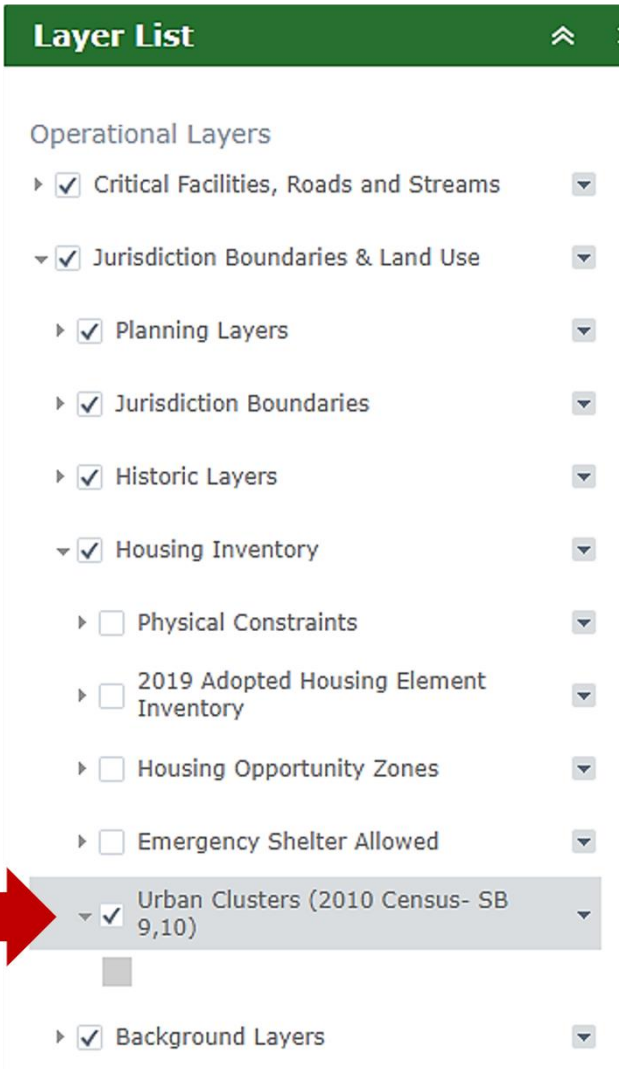



Layer List  

Operational Layers












- Critical Facilities, Roads and Streams 
- Jurisdiction Boundaries & Land Use** 
- Planning Layers 
- Jurisdiction Boundaries 
- Historic Layers 
- Housing Inventory** 
- Background Layers 
- Humboldt County Parcels (9.5) APN labels 
- Humboldt County Parcels (9.5) 

3



Layer List 

Operational Layers

- Critical Facilities, Roads and Streams 
- Jurisdiction Boundaries & Land Use** 
- Planning Layers 
- Jurisdiction Boundaries 
- Historic Layers 
- Housing Inventory** 
- Physical Constraints 
- 2019 Adopted Housing Element Inventory 
- Housing Opportunity Zones 
- Emergency Shelter Allowed 
- Urban Clusters (2010 Census- SB 9,10)** 
- Background Layers 