

How to Obtain a Permit to Legalize Unpermitted Accessory Dwelling Units

INFORMATION BULLETIN

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The purpose of this bulletin is to explain the intent of California Senate Bill 1226 and California Assembly Bill 2533, and conditions by which it allows to legalize existing accessory dwelling units (ADUs) constructed without a Building Permit.

Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs)

ADUs are attached or detached residential dwelling units that are secondary to a primary single-family dwelling on a parcel of property. Also known as "mother-in-law suites" or "granny flats", ADUs provide complete independent living facilities for one or more people. ADUs include permanent provisions for sleeping, eating, cooking, and sanitation. They are permitted in association with a single-family residence, on properties that are zoned for single-family or multi-family use. A JADU is a residential dwelling unit that is no more than 500 square feet in area, contained entirely within an existing single-family residence, includes one existing bedroom and can have separate sanitation facilities from or shared sanitation facilities with the existing residence. See Information Bulletin 400 for additional information regarding ADUs and JADUs.

Retroactive Permitting Authorized Through State Legislation

In 2018 and 2024, legislation was passed to provide a compliance path for previously unpermitted dwelling units to be approved through retroactive permits. Senate Bill 1226 was codified into the Health and Safety Code (H&S) to address unpermitted residential dwellings and their accessory structures. Assembly Bill 2533 was codified into the Government Code and is specifically applicable to ADU and JADU; this Bill did not repeat regulations in the H&S Code and requires that the dwelling unit in question be determined not be substandard pursuant to the criteria in the H&S Code. Both bills include different applicability dates.

A. Senate Bill 1226

On Sept. 30, 2018, Senate Bill 1226, which added Health and Safety Code Section 17958.12, was signed into law. This law grants the Building Official discretion to apply the building standards that were in effect at the time a residential dwelling unit was constructed or when a structure was converted to a dwelling unit. When a building permit for a dwelling unit does not exist, the Building Official may determine when such a structure was built and whether its construction complied with the building standards and other regulations and ordinances in effect at that time. Based upon that determination, a retroactive building permit may be issued. [Review full text of Senate Bill 1226.](#)

B. Assembly Bill 2533

On Sept. 28, 2024, Assembly Bill 2533 was signed into law. Unlike the previous law, this bill prohibits a local agency from denying a permit for an unpermitted ADU or JADU that was constructed before January 1, 2020, unless the local agency makes a finding that correcting a violation is necessary to address a substandard condition. The bill allows the homeowner to obtain a confidential third-party inspection by a licensed design professional or general contractor to determine the unit's existing condition or the scope of building improvements. [Review the full text of Assembly Bill 2533.](#)

What is the Applicability of SB1226 and AB 2533?

- SB 1226 is applicable only to existing single-family homes, duplexes, and accessory dwelling units within the City of San Diego constructed without a building permit prior to Sept. 30, 2018.
- AB 2533 is applicable only to existing single-family homes, duplexes, and accessory dwelling units within the City of San Diego constructed without a building permit prior to Jan. 1, 2020.
- The applicant is advised that new alteration, remodeling and/ or addition to the existing unpermitted work are required to comply with the current governing California building codes and other regulations. This bulletin is not allowed to be utilized for unpermitted work located in areas subject to the Coastal Act regulations. For such development, approval from the Coastal Commission will be required.

Criteria for Building Permit Approval

A. Minimum Requirements

To be considered habitable and qualifying for a retroactive building permit, the dwelling unit will need to meet various minimum standards. These standards include compliance with the following:

1. Provide a fully enclosed shelter from the elements,
2. Basic sanitation improvements,
3. Running hot and cold water,
4. Heating, and
5. Cooking preparation area.

If the Building Official determines that the building was appropriately constructed under prior building standards, and that the building is not a substandard structure, an applicant will be required to complete a building permit application, pay the applicable fee (s) based on the current fee schedule and have any necessary inspections conducted in order to obtain the retroactive building permit. Although the permit legitimizes the dwelling unit, certain improvements may be required to comply with basic life-safety requirements. These improvements include, but are not limited to, the installation of smoke alarms, carbon monoxide alarms, emergency escape and rescue openings and light and ventilation openings. See [Attachment A](#) for a checklist containing the list of requirements for determining if a building is considered substandard. Any item that does not comply with this list shall be corrected as a part of the building permit application.

B. Site Plan

The applicant will need to provide a site plan identifying the property boundaries, adjacent road(s) and fire access, the location of the dwelling unit(s), setbacks to structures, lot coverage by structures, and measurements thereof. For additional information on preparing a site plan and a vicinity map, refer to [Information Bulletin 122](#).

C. Fire Access

The fire apparatus access/road shall comply with the requirements of California Fire Code (CFC) Section 503, with local amendments. Access shall extend to within 150 feet of all portions of the facility and all portions of the exterior walls of the first story of the buildings as measured by an approved route around the exterior of the building.

Submittal Requirements

For information concerning plans, documents, and calculations required to be submitted for review, refer to [Information Bulletin 140](#) – Residential Addition and Remodel, Section I, Submittal Requirements. If the submittal of plans is in response to a citation issued by the Code Enforcement for building code violations, then the Case Number associated with the proposed project must be indicated in the scope of work.

Additional Regulations

A. Coastal Height Limitation Overlay Zone

Also referred to as "Proposition D", buildings in this zone must comply with the supplemental height limit regulation as enacted by the voters of the City of San Diego. For detailed information on how building height is determined for buildings and structures located in the Coastal Height Limitation Overlay Zone, refer to [Technical Bulletin BLDG-5-4](#).

B. Title 24 Energy Requirements

All single dwelling units and duplex additions or alterations must comply with the California Energy Efficiency Standard for Low-Rise Residential Buildings contained in the California Energy Code (CEC), Title 24, Part 6. A number of compliance methods are described in the Residential Manual and are available on the [California Energy Commission website](#) or by calling 1-800-772-3300. For detailed information, refer to [Information Bulletin 140](#) – Residential Addition and Remodel, Section II - Additional Regulations.

C. Depending on the date of original construction, the existing unpermitted building shall comply with additional regulations.

If it is determined that the existing unpermitted construction, whether completed at one time or incrementally, is non-compliant, a Building Permit shall be required where the work is not exempt.

For these additional requirements, refer to [Information Bulletin 140](#) – Residential Addition and Remodel, Section II - Additional Regulations.

Project Fees

The applicant will be required to pay the applicable fee(s) based on the current fee schedule. Refer to [Information Bulletin 501](#), Fee Schedule, Construction Permits - Structures and [Information Bulletin 103](#), Fee Schedule for Mechanical, Electrical, Plumbing/ Gas Permits for all applicable fees. Please be advised that the existing unpermitted work may be subject to the current Water/Sewer Impact Fees.

Permit Application Process

All new applications for permits and approvals must be submitted online. For the permitting of a previously unpermitted ADU, select the [Building Permit](#) application. For additional information on submitting permit applications, plans, documents, and calculations online, refer to DSD's home page at [www.sandiego.gov/DSD](#).

Inspections

For information on the inspection process, refer to [Information Bulletin 120](#).

References

- [San Diego Municipal Code \(SDMC\)](#)
- Information Bulletin 122 "How to Prepare a Site Plan and Vicinity Map"
- Information Bulletin 140 "Residential Addition/Remodel"
- Information Bulletin 400 "Accessory Dwelling Unit/Junior Accessory Dwelling Unit"
- Technical Bulletin BLDG-5-4 - "Determination of Building Height in the Coastal Height Limitation Overlay"

Previous Versions of this Information Bulletin

This section contains previous versions of this Information Bulletin by the last day they were effective.

- 2025-1-10|IB-242 "How to Obtain a Permit to Legalize Unpermitted Accessory Dwelling Units"

Attachment A

According to the State of California Health and Safety Code 17920.3, any building or portion thereof, including any dwelling unit, guestroom or suite of rooms, or the premises on which the same is located, in which there exists any of the following listed conditions to an extent that endangers the life, limb, health, property, safety, or welfare of the public or the occupants thereof shall be deemed and hereby is declared to be a substandard building.

Please identify on the following checklist whether the condition complies ✓ or does not comply ✗ and submit a Building Permit Application to correct the substandard conditions.

Note: (1) This checklist was adapted from the H&S Code to address items necessary for compliance with the California Building Standards Code. (2) "Code" in the checklist refers to the Uniform Building Code, California Residential Code and/or the California Building Code.

✓	✗	
		(1) Inadequate sanitation shall include, but not be limited to, the following:
		(a) Lack of, or improper water closet, lavatory, or bathtub or shower in a dwelling unit.
		(b) Lack of, or improper water closets, lavatories, and bathtubs or showers per number of guests in a hotel.
		(c) Lack of, or improper kitchen sink.
		(d) Lack of hot and cold running water to plumbing fixtures in a hotel.
		(e) Lack of hot and cold running water to plumbing fixtures in a dwelling unit.
		(f) Lack of adequate heating.
		(g) Lack of, or improper operation of required ventilating equipment.
		(h) Lack of minimum amounts of natural light and ventilation required by this code.
		(i) Room and space dimensions less than required by this code.
		(j) Lack of required electrical lighting.
		(k) Dampness of habitable rooms.
		(l) Infestation of insects, vermin, or rodents as determined by a health officer or, if an agreement does not exist with an agency that has a health officer, the infestation can be determined by a code enforcement officer, as defined in Section 829.5 of the Penal Code, upon successful completion of a course of study in the appropriate subject matter as determined by the local jurisdiction.
		(m) Visible mold growth, as determined by a health officer or a code enforcement officer, as defined in Section 829.5 of the Penal Code, excluding the presence of mold that is minor and found on surfaces that can accumulate moisture as part of their properly functioning and intended use.
		(n) General dilapidation or improper maintenance.
		(o) Lack of connection to required sewage disposal system.
		(p) Lack of adequate garbage and rubbish storage and removal facilities, as determined by a health officer or, if an agreement does not exist with an agency that has a health officer, the lack of adequate garbage and rubbish removal facilities can be determined by a code enforcement officer as defined in Section 829.5 of the Penal Code.
		(2) Structural hazards shall include, but not be limited to, the following:
		(a) Deteriorated or inadequate foundations.
		(b) Defective or deteriorated flooring or floor supports.
		(c) Flooring or floor supports of insufficient size to carry imposed loads with safety.
		(d) Members of walls, partitions, or other vertical supports that split, lean, list, or buckle due to defective material or deterioration.
		(e) Members of walls, partitions, or other vertical supports that are of insufficient size to carry imposed loads with safety.
		(f) Members of ceilings, roofs, ceiling, and roof supports, or other horizontal members which sag, split, or buckle due to defective material or deterioration.
		(g) Members of ceilings, roofs, ceiling, and roof supports, or other horizontal members that are of insufficient size to carry imposed loads with safety.
		(h) Fireplaces or chimneys which list, bulge, or settle due to defective material or deterioration.
		(i) Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.
		(3) All wiring, except that which conformed with all applicable laws in effect at the time of installation if it is currently in good and safe condition and working properly.
		(4) All plumbing, except plumbing that conformed with all applicable laws in effect at the time of installation and has been maintained in good condition, or that may not have conformed with all applicable laws in effect at the time of installation but is currently in good and safe condition and working properly, and that is free of cross connections and siphonage between fixtures.
		(5) All mechanical equipment, including vents, except equipment that conformed with all applicable laws in effect at the time of installation and that has been maintained in good and safe condition, or that may not have conformed with all applicable laws in effect at the time of installation but is currently in good and safe condition and working properly.
		(6) Faulty weather protection, which shall include, but not be limited to, the following:
		(a) Deteriorated, crumbling, or loose plaster.
		(b) Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations, or floors, including broken windows or doors.
		(c) Defective or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other approved protective covering.
		(d) Broken, rotted, split, or buckled exterior wall coverings or roof coverings.
		(7) All materials of construction, except those that are specifically allowed or approved by this code, and that have been adequately maintained in good and safe condition.
		(8) Any building or portion thereof that is determined to be an unsafe building due to inadequate maintenance, in accordance with the latest edition of the building code.
		(9) All buildings or portions thereof not provided with adequate exit facilities as required by this code, except those buildings or portions thereof whose exit facilities conformed with all applicable laws at the time of their construction and that have been adequately maintained and increased in relation to any increase in occupant load, alteration or addition, or any change in occupancy. When an unsafe condition exists through lack of, or improper location of, exits, additional exits may be required to be installed.
		(10) All buildings or portions thereof that are not provided with the fire-resistive construction or fire-extinguishing systems or equipment required by this code, except those buildings or portions thereof that conformed with all applicable laws at the time of their construction and whose fire-resistive integrity and fire-extinguishing systems or equipment have been adequately maintained and improved in relation to any increase in occupant load, alteration or addition, or any change in occupancy.
		(11) All buildings or portions thereof occupied for living, sleeping, cooking, or dining purposes that were not designed or intended to be used for those occupancies.
		(12) Inadequate structural resistance to horizontal forces.