

INFORMATION
BULLETIN

242

July 2022

How to Obtain a Permit to Legalize Unpermitted Accessory Dwelling Units

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

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

ADUs are attached or detached residential dwelling units, which are secondary in nature 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 which 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.

II. What is California Senate Bill 1226?

On September 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 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. The full text of Senate Bill 1226 may be viewed at the following link:

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB1226

III. What is the Applicability of Senate Bill 1226?

Senate Bill 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 September 30, 2018. Applicant is to be 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.

IV. Criteria for Building Permit Approval

A. **Minimum Requirements.** In order 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 structure was appropriately constructed under prior building standards, 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

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retroactive building permit. Although the permit legitimizes the dwelling unit, certain improvements are required in order to comply with basic life and 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.

- B. **Site Plan.** The applicant will need to provide a site plan identifying the property boundaries, adjacent road (s) and fire access, location of the dwelling unit (s), setbacks to structures, lot coverage by structures, and measurements thereof. For additional information on how to prepare a site plan and 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.

V. 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.

VI. 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 in the California Energy Commission website or call 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, existing unpermitted building shall comply with additional regulations. For these additional regulations refer to Information Bulletin 140 – Residential Addition and Remodel, Section II - Additional Regulations.

VII. 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 the existing unpermitted work may be subject to the current Water/Sewer Impact Fees.

VIII. Options for Service

All new applications for permits and approvals are required to be submitted online. For the permitting of a previously unpermitted ADU, select the [Building Permit](#) application. For additional information concerning how to submit permit applications, plans, documents, and calculations online, refer to department’s home page at <https://www.sandiego.gov/development-services>.

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IX. Inspections

For information on the inspection process, refer to Information Bulletin 120.

Reference Table

- California Energy Code (CBC)
- California Fire Code (CRC)
- [San Diego Municipal Code](#) (SDMC)
- [Information Bulletin 103](#) - Fee Schedule for Mechanical, Electrical, Plumbing/ Gas Permits
- [Information Bulletin 120](#) - How to Obtain Project Inspections
- [Information Bulletin 122](#) - How to Prepare a Site Plan and Vicinity Map
- [Information Bulletin 140](#) - How to Obtain a Permit to Build a Residential Addition / Remodel
- [Information Bulletin 146](#) - School Fees
- [Information Bulletin 501](#) - Fee Schedule, Construction Permits – Structures
- [Information Bulletin 580](#) - Potential Historical Resource Review
- [Information Bulletin 581](#) - Designated Historical Resource Review
- [Technical Bulletin BLDG-5-4](#) - Determination of Building Height in the Coastal Height Limitation Overlay

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