

Unpermitted Accessory Dwelling Units

In response to a growing shortage of available affordable and habitable housing, the state legislature in 2018 passed Senate Bill [SB 1226](#), which provides a means for obtaining a retroactive building permit for an unpermitted accessory dwelling unit.

This information bulletin provides an overview of the state law and the steps required to secure a permit for an unpermitted ADU.



BACKGROUND

Building codes and regulations are designed to make a structure safe. Regardless of the qualifications of a contractor, an unpermitted structure can pose health and safety risks to tenants and visitors, which may result in legal consequences to the property owner if anyone gets injured or hurt.

Unfortunately, many existing accessory dwelling units (ADU) throughout the state were constructed without the benefit of first securing a building permit from the local jurisdiction. Without a permit, neither the local jurisdiction nor the property owner can be sure that the structure was built to code and therefore safe for human habitation.

[SB 1224](#) directed the California Building Standards Commission ([BSC](#)) to develop and adopt a building standard that would clarify the authority of local governments to permit an existing ADU based on the year the ADU was constructed. For example, if

Documents Referenced

Senate Bill 1226; [SB1226](#)
Health & Safety Code; [§17958.12](#)
California Building Standards Commission; [BSC](#)
CA Coastal Zone; [Map](#)
ADU Informational Bulletin; [IB-111](#)
Application Submittal Requirements; [B-46](#)

the ADU was constructed in 1986, the building official could use the code in effect in 1986 to issue a permit. Shortly after bill passage, the BSC added [§17958.12](#) to the CA Health & Safety Code, which established the standards to bring unpermitted ADUs into compliance.

Ultimately, this change in state law will allow homeowners to bring unpermitted ADUs up to code, ensuring basic life-safety and protection of the occupants.

ELIGIBILITY

SB 1226 is applicable to existing single-family homes, duplexes, and dwelling units that were constructed without a building permit **prior to Sept. 30, 2018**. Refer to the city's Informational Bulletin ([IB-111](#)) to learn more about the different types of dwelling units. Any 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.

The provisions of SB 1224 are not allowed to be utilized for unpermitted work located in areas subject to the Coastal Act regulations ([Coastal Zone](#)). For such development, approval from the Coastal Commission will be required.

APPLICABLE STANDARDS

In order to be considered habitable and qualifying for a retroactive building permit, the ADU will need to meet not just the building standards applicable at the time the unpermitted structure was

constructed, but other minimum standards of habitability, including the following:

- Fully enclosed and weatherproof shelter
- Basic sanitation improvements
- Running hot and cold water
- Heating facilities
- Emergency means of egress from sleeping room(s) and a cooking preparation area
- A fire apparatus access road that complies with the requirements of CFC Section 503, with local amendments, which requires that the access be 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. Sprinklers will be required if this distance exceeds 150 feet. Sprinklers also required if the main residence has a sprinkler system installed.



- Sewer pipe sizes
- Electrical service size
- Structural details, if available
- Smoke and co² detection
- Ingress/egress

If the Building Official determines that the report and supporting information is sufficient, the property owner will be directed to apply for a building permit. If found insufficient, the Building Official will detail in writing the reason why the report cannot be accepted.

BUILDING PERMIT SUBMITAL CRITERIA

A building permit application and accompany documents listed in the city's submittal checklist form (B-46) will be required, in addition to the approved report and any other supporting documentation the Building Official determines necessary to determine and apply the appropriate and applicable building standards.

YOUR OPTIONS FOR SERVICE

To learn more, please contact one of our staff in the Building Division at 442-339-2719 or via email at building@carlsbadca.gov

PRELIMINARY REVIEW

Before a building permit application can be filed, the property owner will need to secure the services of a California state licensed architect or other licensed professional to assist in determining the type and date of the unpermitted construction. The results will function as a "self- certification" by the licensed professional and be submitted to the attention of the city's Building Official as a report.

The report also needs to include complete plans showing all existing conditions and all relevant details including:

- Structure setbacks

