

ADU AMNESTY PROGRAM

Self-Assessment Checklist

Did you construct an accessory dwelling unit (ADU) or convert a garage, basement, or room into a separate living unit — also called an ADU — without obtaining a building permit? If yes, this checklist will help you explore the City’s ADU Amnesty Program, which is designed to help you legalize your unit.

Why should I legalize my unit?

- **Reduce risks to occupants.** Units that are unpermitted may unknowingly present health and safety risks to occupants.
- **Reduce liability.** An illegal unit poses significant liability to the owner. For example, insurance will not cover damages from a fire that starts in an illegal unit.
- **Increase property value.** Improve the potential for both rental income and resale value by legalizing the unit.
- **Peace of mind.** Legalizing your unit may eliminate worries about liabilities or a code enforcement action against you.
- **Now through January 2022, save \$10,000 or more.** Fee waivers that may total over \$10,000 will expire when the ADU Amnesty Program ends in January 2022. See page 3.

What is this checklist and who sees it? This checklist is for you. It will help you explore the program and give you a rough idea of the work needed to obtain a permitted unit. If you decide to proceed with the program, a City representative will obtain information from you similar to what is on this checklist.

SECTION A. ABOUT THE UNIT TO BE LEGALIZED

1. Complete the table below. The year that the unit was built or converted determines which building codes apply to your unit. For example, for an ADU built in 1980, the building codes in effect in 1980 would apply. You may enter an estimated year. For total square footage: Add the square footage of all living areas connected by a door or other opening, including bathrooms and closets.

<i>Check your type of unit/s below. State law allows a single-family home to have one detached ADU and one junior ADU (JADU). A combination of an attached ADU and a JADU is not allowed.</i>	<i>Total square feet (sf) of ADU</i>	<i>Year home was built</i>	<i>Year ADU was built or converted</i>
<input type="checkbox"/> Attached Garage Conversion - An attached garage was converted to a living unit.			
<input type="checkbox"/> Basement Conversion - A basement was converted to a living unit.			
<input type="checkbox"/> Detached Unit Construction or Conversion - A living unit was constructed separate from the main home, or a detached garage or other structure was converted to a living unit.			
<input type="checkbox"/> Interior Room Conversion (JADU) - A room within the main home was converted to a living unit. This is called a “junior accessory dwelling unit” or JADU.			

2. Is the property in a geohazard zone, landslide zone, or in flood zones A, AE, AH, or AO? YES___ NO___

Find out at www.sjpermits.org: Tap “Permits & Property Information”; enter your address; on the next screen, click on your property and select “Property Information.” A list of designations will appear. The Amnesty Coordinator can also provide this information; call 408-535-7770.

Outcome: Properties in geohazard or landslide zones may need a Geohazard Clearance with a non-waivable fee that is determined by scope of work. Please note that a converted basement may not be permitted in flood zones A, AE, AH, or AO.

For questions: Geohazard Clearance - pwgeneralinfo@sanjoseca.gov Flood Zones - floodzoneinfo@sanjoseca.gov

continued >

SECTION B. BASIC HEALTH & SAFETY REQUIREMENTS

You will be required to comply with Health & Safety Code 17920.3 and San José Municipal Code 17.20.900. If the City’s third-party inspector visits your property and observes basic health and safety hazards as listed in Section B, you must fix such items as soon as reasonably possible. For life-threatening hazards, you may be obligated to vacate the unit and move the occupants into other premises until repairs are made.

INSTRUCTIONS: For each item, a “No” answer indicates that a repair or a degree of reconstruction is needed. You can obtain estimated costs for this work by speaking with professional contractors.

QUESTION	YES	NO	Not Sure	Notes
3. Is the unit free of significant structural damage or defects due to deterioration, such as tilting walls or sagging roofs that present hazards?				
4. Is the unit free of sewer gas smells?				
5. Is the unit free of exposed electrical wiring?				
6. Are rooms used for sleeping free of a gas furnace, water heater, stove or other gas appliance?				
7. Is there a smoke detector in the unit and in each bedroom?				
8. Is there a carbon monoxide detector in the unit?				
9. Is there a direct exit from the unit to the outside?				

SECTION C. REQUIREMENTS TO GET A BUILDING PERMIT

IMPORTANT: 5-year delay of enforcement. While you must correct any violations in Section B as soon as reasonably possible, for items in Section C, you can either proceed to getting your building permit OR state law allows you to apply to the City for a five-year delay. See also page 3.

To get a building permit, you will be required to comply with the building codes for the year the unit was built or converted. The questions below do not represent all the codes and issues that may apply to your unit. These are only examples of common issues. The initial inspection will result in a detailed report of the work needed to get a building permit. If you decide you are not ready to proceed, you may apply for the five-year delay of enforcement of these codes.

QUESTION	YES	NO	Not Sure	Notes
10. Does the unit have a foundation?				
11. Is the ceiling at least 7’6” or at least 6’8” in bathrooms and closets?				
12. Are the roof, walls, and floors free of holes and any leaks?				
13. Is there a toilet? Or for a JADU*, is there access to a toilet?				
14. Is there a shower or tub and a sink with running hot and cold water? Or is there access to the main home bathroom if unit is a JADU?*				
15. Is there an exhaust fan or operable window to vent the bathroom?				
16. Does the unit have its own heating system with a thermostat?				
17. Does the unit have facilities for cooking and a kitchen sink?				
18. Does the unit have an exterior door that is at least 3’ wide and 6’8” high?				
19. Are there working electrical outlets and light switches in all rooms?				
20. Does the electrical panel box serving the unit have adequate capacity with appropriate fuses and circuit breakers?				

* A junior ADU (JADU) is a room within the main home or attached garage that is converted to a separate living unit.

continued >

QUESTION	YES	NO	Not Sure	Notes
21. Does the occupant have access to the circuit breakers for the ADU without entering the main house?				
22. If stairs are needed to access the ADU, is there a handrail and guards?				

SECTION D. UNDERSTANDING THE PROGRAM

To understand how the ADU Amnesty Program works, please read the following carefully.

Eligibility conversation. After completing this checklist, call the Amnesty Coordinator so you can ask questions and get a better understanding of what your project might entail. **Call 408-535-7770.** There are no obligations with this call. You will not be asked for your name or address unless you’re ready to schedule an initial inspection.

What are my obligations? Once the City’s third-party inspector arrives at your property for the initial inspection, you are obligated to take the actions necessary to legalize your unit. For Section B items, you must correct violations as soon as reasonably possible. For Section C items, you may proceed with getting your permit OR you may apply for a five-year delay of enforcement.

5-year delay of enforcement. Once your illegal unit is identified by the City, you are required to legalize the unit in a timely manner. However, State law allows you to apply to the City for a five-year delay of enforcement on items described in Section C; this would allow you to have five years to complete the legalization process. You cannot delay the items listed in Section B.

Cost estimates. We highly recommend that you obtain quotes from an experienced, licensed contractor to understand the costs of making necessary improvements to legalize your ADU.

\$10,000-plus savings in fee waivers for qualified participants. Through January 2022, this program provides penalty-free assistance on legalizing your unit. If you rent your unit and qualify for the Business Tax Financial Hardship Exemption, you may also save on additional fees — see the table below. Apply for the exemption by first registering your rental property at www.sanjoseca.gov/businessstax.

Business tax financial hardship criteria. All residential landlords are required to register for the City’s Business Tax, which is approximately \$200 annually. Owners of ADUs qualify for a business tax exemption if:

- Annual gross receipts (rental income) are \$24,980 or less, OR
- ADU owner’s adjusted gross income is \$49,960 or less

Save Money with the following ADU Amnesty Waivers	ADU Size	
	Under 750 sf	750 sf & Over
* Proof of Business Tax Financial Hardship Exemption is required to qualify		
a) Amnesty for all applicants - illegal construction penalty is waived	\$ 1,435	\$ 2,088
b) *Annual Business Tax approximately:	200	200
c) *Permit Fee	5,900	5,900
Savings Subtotal	\$ 7,535	\$ 8,188
d) *Park Impact Fee - \$1,700 to \$8,900 depending on location of the property (no fee for units under 750 sf).	\$1,700 to \$8,900 (units 750 sf and greater)	
e) School Fee - State law waives this fee for all units under 750 sf. The amount depends on the school district in which the property is located.	amount depends on school district	not available
For units 750 sf and greater, find Park and School fee information at www.sanjoseca.gov/BuildingFees .		

NEXT STEPS

See page 4 and review the steps in the diagram, “Your Pathway to a Legalized ADU.”

QUESTIONS?

For more information, visit the Amnesty webpage at www.sanjoseca.gov/ADUs.

For questions: Email: ADUAmnesty@sanjoseca.gov Phone: 408-535-7770

ADU AMNESTY PROGRAM

Your Pathway to a Legalized ADU



1. Complete the Self-Assessment Checklist

Use the checklist to determine if the Amnesty Program is right for you.



2. Eligibility Conversation

Call the Amnesty Coordinator at 408-535-7770 for a conversation about your project. We won't ask for your name or address. Review your obligations and the 5-year delay of enforcement option with the coordinator.

If you are ready:

- Schedule your initial inspection.
- Complete the Business Tax Financial Hardship Exemption form so that you may qualify for fee waivers. Learn more on the Amnesty webpage at www.sanjoseca.gov/ADUs.



3. Initial inspection is conducted

The City's third-party inspector will examine the space, take photos, and generate a report that outlines any required work. You will receive a copy of the report.

Upon inspection, you are obligated to fix violations to any basic health and safety codes as soon as reasonably possible. You are also obligated to legalize the unit, and may do so within five years.



4. Hire a professional designer to draft plans and a contractor to construct your project

The construction plans should be prepared following instructions in Bulletin 211 ADU Plan Requirements.

TIP: Submitting complete, accurate plans is the key to getting your building permit as quickly as possible.



5. Schedule submittal of plans

Call 408-535-7770 to schedule an appointment. Bring:

- Construction plans
- Form 310 Building Permit Application
- Form 312 ADU Property Owner Declaration
- Proof of (1) Business Tax registration and (2) payment of Business Tax or approval of financial hardship exemption.

If you are subject to any fees, be ready to pay. Payment options:

- Make check payable to "City of San Jose"
- Pay with credit card at the City Hall Cashier window
- Pay online at www.sjpermits.org.



6. Permit Issued

A Permit Pass will be sent to your email address. You can then pick up your building permit at the Code Enforcement counter, 4th floor at City Hall.



7. Proceed with construction and inspections

Your contractor should read Bulletin 213 Inspection Checklist for ADUs for tips on how to avoid costly common construction mistakes.

Your contractor should also schedule the inspections by calling 408-535-7770.



Done!

Your ADU is legalized! Congratulations!

