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# Substandard Building Checklist (Unpermitted ADUs/JADUs)

## **Background:**

To be in compliance with [Government Code Section 66311.7](#) the following process has been established for a homeowner to apply for a permit to legalize an unpermitted accessory dwelling unit (ADU) or junior accessory dwelling unit (JADU) constructed before January 1, 2020.

The ADU or JADU shall be determined to be in compliance with the minimum conditions specified in the Substandard Building Checklist complying with [Section 17920.3 of the Health and Safety Code](#) which deems a building substandard. This code section requires buildings to meet sanitary, structural, electrical, plumbing, mechanical, weather protection, approved material, maintenance, exit, and fire health and safety requirements. **Coastal regulations shall apply**, meaning that if a property is in the City's Coastal Zone a Coastal Development Permit shall be required; and if a property is located on a coastal bluff then a geotechnical report shall be required. **Under this bill, local ADU ordinances, California Energy Code and CALGreen Code requirements are exempted. All conditions that deem a building substandard must be corrected as part of the permit process.**

Prior to submitting for a permit to legalize an existing unpermitted ADU/JADU the homeowner may obtain a confidential third-party code inspection from a licensed professional (contractor, architect, engineer) to determine the unit's existing conditions or potential scope of building improvements. Upon a submitted application without a third-party code inspection, the City Building Inspector shall perform a pre-inspection utilizing the Checklist to determine the compliance with the requirements in the checklist.

Where non-compliance is found by the City Building Inspector, the City shall issue what items from the Checklist need to be corrected to approve the permit. The property owner shall obtain the permits to correct the items identified from the Checklist inspection prior to granting final permit for said ADU/ JADU.

## **Permit Application Process:**

Consult with the Encinitas Planning and Building Department for any questions regarding the following processes.

1. Determine if the building or portion of the structure was converted or constructed prior to January 1, 2020.
2. The homeowner may obtain a confidential third-party code inspection to complete the Checklist to determine the unit's existing conditions or potential scope of building improvements and permits required.
3. Submit for a [ADU permit application](#). (*No required impact fees*) The applicant shall submit the following:
  - a. Provide a site plan that identifies property boundaries, adjacent road(s) and fire access, location of the dwelling unit(s), setbacks to structures, lot coverage, floor area, etc.
  - b. Provide a floor plan with dimensions and labels of each room.
4. A City building inspector will complete a pre-inspection utilizing the Checklist to determine the existing building's compliance with health and safety standards.
  - a. An ADU or JADU that is compliant with all Checklist items will move forward with finalizing the permit or;
  - b. Comments and corrections issued shall be related to any non-compliance items of the Checklist, the City shall issue provide the comments to the homeowner and Encinitas Building Department.
5. The applicant shall submit plans and supplemental documents to demonstrate this building being brought into compliance with the Checklist.
6. Upon final inspection where the City Building Inspector has determined that violations noted during the Pre-Inspection have been performed and found compliant, the inspector may move forward with finalizing the permit for the ADU/ JADU.

**Unit Information:**

Unit Square Footage: \_\_\_\_\_ Is the ADU an existing rental unit? \_\_\_\_\_

The conversion or construction of the unit occurred in what year: \_\_\_\_\_

Please indicate which type/types of documentation will be used to confirm the construction/conversion date of the unit:

- 1. A signed/stamped letter from a licensed professional
- 2. The County Assessor’s initial date recognizing the unpermitted dwelling unit
- 3. Escrow documents identifying the unit and the year of construction
- 4. Prior Official Building, Planning, or Code Enforcement records of the unpermitted dwelling unit
- 5. Real estate transfer disclosure forms for unpermitted dwelling unit

If the above information is not available then a combination of the following can be utilized to establish the construction/conversion date:

- 1. Insurance documents
- 2. Notarized letters from previous owners or tenants
- 3. Photos (if available) Dated, showing approximate time of construction
- 4. Other documents will be considered on a case-by-case basis

**PROPERTY OWNER CERTIFICATION**

By signing below, I declare under penalty of perjury that I am the property owner, and the foregoing is true and correct.

**Owner**

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Email: \_\_\_\_\_

Telephone: \_\_\_\_\_

Compliant	Violation	<b>Health and Safety Code 17920.3 - Substandard Building Checklist</b>
		A. Inadequate sanitation shall include, but not be limited to, the following:
		1. Lack of, or improper water closet, lavatory, or bathtub or shower in a dwelling unit.
		2. Lack of, or improper water closets, lavatories, and bathtubs or showers per number of guests in a hotel.
		3. Lack of, or improper kitchen sink.
		4. Lack of hot and cold running water to plumbing fixtures in a hotel.
		5. Lack of hot and cold running water to plumbing fixtures in a dwelling unit.
		6. Lack of adequate heating.
		7. Lack of, or improper operation of required ventilating equipment.
		8. Lack of minimum amounts of natural light and ventilation required by this code.
		9. Room and space dimensions less than required by this code.
		10. Lack of required electrical lighting.
		11. Dampness of habitable rooms.
		12. 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.
		13. 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.
		14. General dilapidation or improper maintenance.
		15. Lack of connection to required sewage disposal system.
		16. 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.
		B. Structural hazards shall include, but not be limited to, the following:
		1. Deteriorated or inadequate foundations.
		2. Defective or deteriorated flooring or floor supports.
		3. Flooring or floor supports of insufficient size to carry imposed loads with safety.
		4. Members of walls, partitions, or other vertical supports that split, lean, list, or buckle due to defective material or deterioration.
		5. Members of walls, partitions, or other vertical supports that are of insufficient size to carry imposed loads with safety.
		6. Members of ceilings, roofs, ceiling and roof supports, or other horizontal members which sag, split, or buckle due to defective material or deterioration.

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		7. Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads with safety.
		8. Fireplaces or chimneys which list, bulge, or settle due to defective material or deterioration.
		9. Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.
		C. Any nuisance.
		D. 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.
		E. 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.
		F. 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.
		G. Faulty weather protection, which shall include, but not be limited to, the following:
		1. Deteriorated, crumbling, or loose plaster.
		2. Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations, or floors, including broken windows or doors.
		3. 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.
		4. Broken, rotted, split, or buckled exterior wall coverings or roof coverings.
		H. Any building or portion thereof, device, apparatus, equipment, combustible waste, or vegetation that, in the opinion of the chief of the fire department or his deputy, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.
		I. 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.
		J. Those premises on which an accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rodent harborages, stagnant water, combustible materials, and similar materials or conditions constitute fire, health, or safety hazards.
		K. 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 Uniform Building Code.
		L. 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.

Compliant	Violation	<b><u>Health and Safety Code 17920.3 - Substandard Building Checklist</u></b>
		M. 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.
		N. 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.
		O. Inadequate structural resistance to horizontal forces.