



Building & Safety Division
Planning & Development

Amnesty Program for Unpermitted Dwelling Units

OWNER'S PRE-SUBMITTAL QUESTIONNAIRE AND CHECKLIST

This pre-submittal checklist is provided to you, the owner of an unpermitted dwelling unit, for self-assessment of your property. It will assist you in exploring the possibility of legalization of your unit under the Amnesty Program for Unpermitted Dwelling Units. Please complete this checklist to identify possible code issues and to assess the possibility of pursuing legalization of your unit. Once completed, you may choose to schedule a free and confidential consultation with program staff to discuss possible pathways to legalization of your unit.

Note: The City of Berkeley cannot ignore any conditions that present an immediate danger to life safety. Applicants must be aware of this risk before submitting an Amnesty Program Application and having your unpermitted unit inspected by a City Inspector. Any fire and/or life safety violations observed during the initial Housing Inspection must be corrected within 30 calendar days. Violations determined to be an immediate danger that are not corrected may be subject to code enforcement proceedings including assessment of fees.

Your Unit's Information

Estimated Date of Construction/Conversion:

Unit Square Feet:

Zoning District:

Fire Zone: 1 2 3

Types of Unpermitted Dwelling Units

Attached ADU: An attached secondary unit with independent access, permanent spaces for living and sleeping, and a complete kitchen and bathroom. This includes converted ADUs from existing garages, basements, attics or other existing habitable or non-habitable spaces.

Detached ADU: A detached secondary unit with independent access, permanent spaces for living and sleeping, and a complete kitchen and bathroom. This includes converted ADUs from existing garages or other detached accessory structures serving the primary dwelling.

Converted JADU: A JADU that is contained entirely within the floor area of a Single Family Dwelling with a separate exterior entrance. JADUs may be converted garage or attic spaces with separate sanitation facilities or may share sanitary facilities with the Single Family Dwelling. JADUs may also have efficiency kitchens as their permanent cooking facility.

Other:

1947 Center St. 3rd Floor, Berkeley, CA 94704

(510) 981-5444 TTY 6903

buildingandsafety@berkeleyca.gov

Eligibility Criteria Checklist

Y N

Was the existing unpermitted dwelling unit constructed/converted prior to January 1, 2020? Property owners will be required to provide documentation for construction/conversion date. *See Program Rules for acceptable documentation types.*

Does the owner occupy the primary dwelling or the secondary unit if the unpermitted unit is a Junior ADU (JADU)?

Is the unpermitted dwelling unit located in an area zoned for residential use? *Unpermitted dwelling units located in an area other than what is zoned for residential use are not eligible for the amnesty program.*

Does the number of dwelling units to be legalized exceed the allowances for the Single-Family Dwelling maximum per lot, which is 1 ADU and 1 JADU?

Pathways to Legalization:

The City of Berkeley's Amnesty Program for Unpermitted Dwelling Units provides 2 pathways to legalization:

Path 1: Legalization through the standard building permit process and issuance of a Certificate of Occupancy

Path 2: Legalization through issuance of a Housing Certificate of Compliance.

See the Amnesty Program for Unpermitted Dwelling Units Program Rules for more information on pathways to legalization and compliance.

Construction/Conversion Date:

Only unpermitted dwelling units constructed or converted prior to January 1, 2020 are eligible for participation under the Amnesty Program for Unpermitted Dwelling Units.

Applicants seeking legalization under the Amnesty Program for Unpermitted Dwelling Units may request their construction documents and plans be reviewed under the building codes that were in effect at the time when the unit was first constructed or converted by providing documentation to verify the construction or conversion date of the unpermitted dwelling unit. All documentation is subject to review and approval by program staff. California Building Standards applied to the unit are subject to review and approval at the discretion of the Building Official.

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

A signed/stamped letter from a licensed professional

The County Assessor's initial date recognizing the unpermitted dwelling unit

Escrow documents identifying the unit and the year of construction

Prior Official Building, Planning, or Code Enforcement records of the unpermitted dwelling unit

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:

Insurance documents

Notarized letters from previous owners or tenants

Photos (if available) Dated, showing approximate time of construction

Other documents will be considered on a case-by-case basis

Construction of the Unpermitted Dwelling Unit:

Fill in as much information as available.

Construction Performed by:	Contractor	Structural: Check all that apply	Concrete Slab
	Owner		Raised: 2x floor joists at " o.c.
	Other:		Unknown Other:

Wall Type:	2 x 4 studs at 16" o.c.	Roof Type:	2 x at " o.c. roof rafters
	2 x 4 studs at 24" o.c.		2 x at " o.c. ceiling joisters
	Other:		Other:

Attic:	Vented	Roofing:	Asphalt Shingle
	Not Vented		Tile Metal Flat
			Other:

Electrical Wiring: Check all that apply	Y N	Is all of the existing electrical wiring serving the unpermitted dwelling unit from the original primary building? If not, please describe the unpermitted alterations:
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Plumbing and Mechanical Amenities: Check all that apply	Y N	Are all of the fixtures and plumbing systems serving the unpermitted dwelling from the original primary building? If not, please describe the unpermitted alterations:
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For the following plumbing fixtures and/or mechanical elements, please indicate which were added, altered or replaced without an approved building permit:

Plumbing - *Hot and cold water piping, sanitary piping*

Toilet

Lavatory - *including faucets*

Tub - *including controls, spout, and drain*

Shower - *including shower faucets, head, and drain*

Dishwasher

Clothes Washer Infrastructure

Clothes Dryer Infrastructure

Kitchen Sink

Water Heater

Heating System

Fire and Life Safety Criteria Questionnaire

Amnesty Program for Unpermitted Dwelling Units applicants will be required to address, at a minimum, all of the fire and life safety requirements listed below in order to be considered for legalization. If your unit does not meet one or more of these requirements, they will be considered violations. Applicants who do not address minimum life safety violations will be subject to code enforcement. Under no circumstances can a 5-year delay of code enforcement proceedings be requested for abatement of fire, life, and health safety violations. For each question, a "No" answer may indicate that a remediation, repair, or a degree of reconstruction is needed.

On the following questions, please select **Yes**, **No** or **N/A** (not applicable) for each question. If **N/A** is not listed after a question, then you must select **Yes** or **No**.

If there is an * before the question and your answer to the question is **No**, then the item must be corrected before you can request a reprieve from code enforcement proceedings and continue to Certificate of Occupancy or Certificate of Compliance. A building permit may be required.

Answering "No" to questions with an ** will require the unit to be legalized through the standard building permit process (Path 1) and not through the issuance of a Housing Certificate of Compliance (Path 2).

Structure related

Overall condition

Y	N
<input type="checkbox"/>	<input type="checkbox"/>

- ** Is the unit free of significant structural damage or defects due to deterioration, such as tilting walls or sagging roofs that present hazards?
- Is the unit free of any tripping hazards such as loose carpets, buckling and loose floor boards, delaminated floor finishing, or nails popping up?
- ** Is the ceiling height inside the unit at least 7 feet clear?

Interior walls

Y	N	N/A
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

- * Are all interior walls straight and sound?
- Are all interior walls finished with paint or with materials having protective qualities?
- Are all interior walls free from loose plaster?
- Do bathroom walls, including shower enclosures, have the required seal to prevent moisture intrusion into the building elements?

Interior walls (continued)

Y N N/A

- e. Are all interior walls free from holes allowing air or rodent intrusion?
- f. Are all interior walls free from visible mold?
- g. Are all interior walls free of peeling paint? (See lead based paint notation)
- h. Does the ADU have common walls, ceilings and/or floors with the primary unit?
- i. * To your knowledge, is there an existing 1-hour firewall separation at all common walls and ceilings?
- j. If existing, are the fire separation walls and ceiling between dwelling units free of damage, holes and leaks?

Exterior walls (walls not common with the primary dwelling)

Y N N/A

- a. * Are all exterior walls straight and sound?
- b. Are all walls finished with paint or with materials having weather-resistant protective qualities on the exterior?
- c. Are all wooden trims and sidings protected or have natural protective qualities?
- d. Are all walls free from loose stucco?
- e. Are all walls free from holes or other damage allowing air or rodent intrusion?
- f. Are all walls free from peeling paint hazards?
- g. ** If the ADU is detached from the primary dwelling or if the ADU was added to the primary dwelling increasing the ground footprint, are the ADU exterior walls within 3 feet of property lines?
- h. ** Are there existing windows along the exterior walls that are located less than 36" from the property line?
- i. * Does the exterior wall facing the property line have the required 1-hour fire wall separation?
- j. If the ADU is detached from the primary dwelling, is the ADU less than 10 feet apart from the primary dwelling building?
- k. * If less than 10 feet apart from the primary dwelling, does the ADU exterior wall facing the primary dwelling have the required 1-hour fire wall separation?

Stairways, Landings and Balconies

Y N N/A

- a. * Are stairs accessing the unit, decks serving the unit and balconies serving the unit in good working condition? *Please note ship's ladders, alternating tread stairs or other types of elevation change components are not considered stairs. If answer is N/A skip questions b through h below and continue with Exterior Elevated Elements.*
 - 1. What is the current width of the stairs?
 - 2. Does the measurement from the stair nosing (leading edge of the stair tread) to the ceiling directly above provide at least 6'8" headroom?
 - 3. What is the current height of the stair risers?
 - 4. What is the current width of the stair treads?

Stairways, Landings and Balconies (continued)

Y N N/A

- b. Are all handrails and guardrails in good condition?
- c. * Are all handrails and guardrails secure in their attachments?
- d. Do all balusters and guard openings serving stairways, decks and balconies meet the minimum approved max openings which would not allow a sphere of 4" diameter?
- e. * Are all treads or steps in good condition free of tripping hazards?
- f. Are all structural supports of the stairways, decks and balconies in good condition?
- g. Are all materials protected from weathering and damage or have natural protective features?
- h. Is any point of the standing surface of the deck, balcony, and/or stair landing more than 30" above the adjacent ground level?

Exterior Elevated Elements [E3]

Y N N/A

- a. * Is the dwelling served by any Exterior Elevated Elements such as exterior stairs, balconies or decks more than 6 feet above the adjacent ground surface as described in BMC Section 19.40.040?

Doors and Windows

Entry Doors

Y N N/A

- a. Do all entry doors meet the following minimum required safety requirements:
 - 1. Is the entry door in good working condition?
 - 2. Does the entry door(s) have a locking latch keyed from the outside with the ability to unlock from the inside without the use of a key or special knowledge?
 - 3. Does the entry door(s) have a dead bolt keyed from the outside with ability to unlock from the inside without the use of a key or special knowledge?
 - 4. Are the hardware/hinges in good working condition and operate without difficulty?
 - 5. Is the door frame and body in good condition without delamination, damaged or peeling paint?
 - 6. On a door leading to and from a garage into the unit, does it have a self-closing/latching device?

Interior Doors

Y N N/A

- a. Do all interior doors meet the following minimum required safety requirements:
 - 1. Are all the interior doors in good working condition?
 - 2. Privacy Locks – if the interior door is equipped with a privacy lock, is the locking mechanism working properly?

Interior Doors (continued)

Y N N/A

3. Are the hardware/hinges in good working condition and operate without difficulty?

4. Is the door frame and body in good condition without delamination, damaged or peeling paint?

Sliding Doors

Y N N/A

a. Do all sliding doors meet the following ?

1. Are all the slider doors in good working condition?

2. Locks – are the locks in good operating condition?

3. Are the rollers and slides of the sliding door in good working condition and able to operate without difficulty?

4. Is the door frame and body in good condition without delamination, damaged or peeling paint?

Windows

Y N N/A

a. ** Do all sleeping rooms have an emergency egress window or an exterior door that opens to a yard or other exterior space that is accessible to the public right of way?

b. * Do the emergency egress windows serving sleeping room(s) meet the minimum clear opening requirements of 24 inches in height, 20 inches in width, and a minimum clear opening area of 5.7 square feet (5.0 square feet for ground level windows)?

Safety/Tempered Glass Requirement Other Than Windows

Y N N/A

a. Is the glass in any swinging, sliding or bifold doors tempered glass?

b. Is the glass in any walls along stairways and ramps tempered glass?

c. Is any glass within 24 inches of a doors edge and less than 60 inches above the walking surface tempered glass?

d. Is the exposed area of any pane of glass larger than 9 square feet, bottom edge of the glass less than 18 inches above the floor, the top edge of the glass higher than 36 inches above the floor and located less than 36" measured horizontally from a walking surface tempered glass?

e. If your property is in Fire Zone 2 or 3, do all of the windows have at least one pane of tempered glass?

f. In bathrooms, is there glass located in or within 60 inches of a tub and/or shower and within 60 inches of the walking or standing surface?

g. Is any glass in wall enclosures containing bathtubs, showers saunas, steam rooms or spas tempered glass?

Alarm and Fire Protection Systems

Fire Safety and Access:

Y N N/A

- a. ** Is the ADU located within 150 ft of the Public Right of Way curb?

Smoke Detectors

Y N N/A

- a. * Are smoke detectors installed in the following required locations:
1. In hallways or spaces outside each sleeping area, in the immediate vicinity of the bedrooms?
 2. In each bedroom?
 3. On every level/floor including basement?
 4. Is a detector located within 3 feet of a bathroom door, forced air registers, or the tip of a ceiling fan blade? (if yes, then that detector must be moved)

Carbon Monoxide

(carbon monoxide alarms are required when the dwelling has natural gas service, has a wood burning or natural gas fireplace or is directly connected to a garage or carport)

Y N N/A

- a. * Does the dwelling have natural gas appliances, a wood or natural gas fireplace or is it connected to a garage or carport?
- b. If the answer above is Yes, are carbon monoxide alarms installed in the following required locations:
1. On every level/floor in the immediate vicinity of each sleeping area?
 2. In every sleeping room where a fuel-burning appliance is located within a bedroom or in an attached bathroom.
 3. In basements?

Fire Alarm System *(for properties located in Fire Zone 3 only)*

Y N N/A

- a. Is an audible exterior alarm installed as required and approved by the Fire Marshal?

Electrical, Mechanical and Plumbing systems serving the ADU/JADU

Electrical

Y N N/A

- a. Is the unit free of any exposed electrical wiring?
- b. Do all the outlets and switches have cover-plates?
- c. Are the existing coverplates in good condition that are not cracked or deteriorated?

Electrical (continued)

Y N N/A

- d. Are all electrical receptacles in the following locations GFCI (ground fault circuit interrupters) protected?
 - 1. In the kitchen?
 - 2. In the bathroom(s)?
 - 3. In the basement?
 - 4. At the exterior outlet locations?
 - 5. In the attic?
 - 6. In the garage?
- e. Are all three-prong receptacles grounded?
- f. Is the electrical service panel readily accessible and in safe operating condition?
- g. Does the panel have a required dead front cover allowing only the exposure of circuit breaker handles?
- h. Are any open slots in the dead front cover covered with a proper device?
- i. Are all circuit breakers in good and operating condition?
- j. Are all circuit breakers labeled with proper amperage?
- k. Are all circuit breakers identified and labeled to their corresponding location or equipment?
- l. Is there a dedicated and separate electrical shut off for the dwelling unit?
- m. Is all metal piping serving the unit properly bonded?
 - The following pipes shall be properly bonded if they are metal:*
 - i. Gas Pipe,*
 - ii. Hot and Cold water pipes*
 - iii. Piping adjacent to the water heater*
 - iv. Fire Sprinkler pipes*

Heating and Ventilating Mechanical Systems

Y N N/A

- a. * Does the unit have its own heating system with a thermostat or is the unit connected to a heating system that is capable of maintaining a minimum of 68 degrees Fahrenheit within any and all portions of the unit?
- b. Does the unit have a thermostat in good working condition?
 - (Exceptions: For units that do not have a thermostat or controlling devices, the temperature inside the habitable spaces shall be maintained at 68 degrees Fahrenheit)*
- c. Do all supply and return air vents have a vent cover?

Heating and Ventilating Mechanical Systems (continued)

Y N N/A

- d. Does the bathroom(s) have an exhaust fan in good working condition?
(Exceptions: In dwelling units built/converted prior to 2010, bathrooms with an operable window are not required to have an exhaust fan)
- e. Does the Kitchen have an exhaust fan in good working condition?
- f. Are the connections of the ducts free of screws? Yes No N/A *(In other words, no screws are used to connect sections of duct together)*
- g. Are the exhaust ducts equipped with an approved termination with a damper in good working order?
- h. Is the kitchen exhaust duct a smooth-wall type (not corrugated or flex-type)?

Built-In Appliances

Y N N/A

- a. Are the built-in appliances such as ranges, ovens, refrigerators, etc in good operating condition with no missing knobs and handles?

Plumbing System

Piping

Y N

- a. Is all existing water piping free from leaks?

Cold Water System

Y N N/A

- a. Are all plumbing fixtures able to deliver adequate amount of cold water?

Hot Water System

Y N N/A

- a. Are all plumbing fixtures required to deliver hot water able to deliver adequate amount of hot water with a minimum temperature of 110 degrees?

Sanitary System

Y N N/A

- a. * Overall, is the sanitary system in good working order?
- b. Is all sanitary drainage piping free from leaks and properly installed?
- c. Does the sanitary drainage piping have the correct minimum slope of ¼ inch per foot towards the public sewer main?
- d. Are there proper clean-outs installed at the following required locations:
 - 1. Within 24 inches from exterior of building?
 - 2. At every straight run of pipe exceeding 100 feet?
 - 3. Is there a cleanout at each aggregate horizontal change in direction exceeding 135 degrees?

Plumbing Fixtures

Y N N/A

- a. Are the toilets in good working order?
- b. Are the toilet anchor screws tight?
- c. Does the toilet's flush valve completely shut off the flow of water into the tank?
- d. Are the bathroom lavatory(s) in good working order, free of leaks and rust?
- e. Are the lavatory faucets free of leaks and the valves and handles in good working order?
- f. Is the lavatory properly set, caulked and sealed at the countertop to prevent water intrusion into walls and/or cabinets below?
- g. Are bathtub and/or shower faucets and handles in good working order free of leaks and rust?
- h. Is the kitchen sink in good working order, free of leaks and rust?
- i. Is the kitchen sink faucet free of leaks and the valves and handles in good working order?
- j. Is the kitchen sink properly set, caulked and sealed at the countertop to prevent water intrusion into walls and/or cabinets below?

Water Heater

Y N N/A

- a. * Is there a dedicated water heater serving the dwelling unit?
- b. What type of water heater is it? I.e. gas, electric, tank, tankless, heat pump, etc.
- c. To your knowledge, when was current water heater installed?
- d. If the water heater is a tank type water heater, does the water heater have state approved seismic straps installed?
 1. If seismic straps are installed, is there a strap installed on the upper and lower 1/3 of the water heater and a minimum of 4" above the water heater controls?
- e. Is there a drain pan under the water heater with the drain piping daylighting to the outside of the unit or garage? *(A drain pan is required where damaged can occur in the event of a leak or malfunction. An Overflow Sensor may be installed in lieu of the drain piping.)*
- f. Is there a temperature/pressure relief valve (TPRV) for the water heater?
- g. Does the drainage piping from the TPRV terminate outside the unit or garage between 6 and 24 inches from grade? *(Please note: The termination cannot be threaded or capped.)*

Water Heater (continued)

Y N N/A

e. Regarding the Water Heater Venting:

1. Is the Water Heater properly vented?
2. Is the venting properly secured and fastened in place?
3. Is any horizontal vent pipe sloping upwards with a minimum of ¼ inch per foot?
4. Is there a minimum of three screws connecting the vent flue to the vent hood?
5. Does the vent terminate properly above the roof? (24 inches above any object within 10 feet horizontally.)

Any additional information regarding the unpermitted dwelling unit you may want to provide?

Once you have completed this checklist, assess whether you want to proceed. You may contact our offices for an additional confidential meeting to discuss what you have assessed and to answer any questions you may have. If you decide not to continue, please be aware of the fire and life safety issues you have discovered and it is our hope that you address these items in the near future for the safety of the occupants of the unpermitted dwelling unit. As the property owner, it is your responsibility to ensure your property meets habitability standards adopted by the City of Berkeley. By completing this form and contacting our offices in regards to your findings of unpermitted conditions you agree to defend, indemnify and hold harmless the City of Berkeley and it's officers and employees from any and all claims arising from discovery of safety violations.

Path 1: Certificate of Occupancy - Site Plan Requirements

For applicants seeking the full legalization of an unpermitted dwelling unit, a building permit and construction documents must be submitted. Site plans, floor plans and other drawings are required during the permit process, as if the project were new construction. After a permit is issued, an approved final inspection is required to obtain a Certificate of Occupancy and to fully legalize the unit.

It is recommended that you retain an experienced consultant to draft plans for your unpermitted unit. The consultant does not have to be a licensed professional as long as the structure is not structurally unusual. The plans must include the following drawings at a minimum:

1. Site Plan
2. Existing floor plan before the unpermitted unit was constructed if the unit is attached or converted.
3. New floor plan with the unpermitted unit addition, including electrical, plumbing, and mechanical systems in the same floor plan drawing or as a separate plan.
4. Reflected Ceiling Plan
5. Roof Plan
6. Building Section(s)
7. Building Elevations
8. Window and door schedules
9. Building details such as an eave details, wall details, floor details, etc.
10. Structural notes and specifications
11. Foundation Plan
12. Floor Framing Plan
13. Ceiling-Roof Framing Plan
14. Structural Details
15. Structural Calculations (by a licensed professional)
16. Setback dimensions to property lines and/or other structures on the same property.

Fire Separation Wall Construction Assemblies

For examples of fire separation wall construction assemblies, see the GA-600 Fire Resistance and Sound Control Design Manual.

- For 1-hour exterior walls see GA File No. WP 8105.
- For 1-hour interior walls see GA File No. WP 3242, GA File No. WP 3243, GA File No. WP 3244, GA File No. WP 3245, GA File No. WP 3430, GA File No. WP 3510, Ga File No. WP 3520, FA File No. WP 3605, or GA File No. WP 3614.
- For 1-hour ceiling assemblies see GA File No. FC 5241, GA File No. FC 5242, GA File No. FC 5250, GA File No. FC 5300, GA File No. FC 5410, GA File No. FC 5420, or GA File No. FC 5503.

A hard copy of the GA-600 Fire Resistance and Sound Control Design Manual is available for reference at the City of Berkeley Permit Service Center.