



Unpermitted Accessory Dwelling Unit (ADU) Code Enforcement Information Sheet

The City of Newark Community Preservation Division has the responsibility to enforce the Newark Municipal Code. The purpose of this information sheet is to explain the moving parts of the enforcement process for ADU's. The subject becomes an issue when an ADU is in the process of being constructed or currently exists and there is no building permit on file in the Building Inspection Division (building.inspection@newark.org / 510.578.4261). This circumstance is referred to as unpermitted construction and is a code violation. The required building permit is the City's way of providing for public safety through compliance with building, zoning, public nuisance, and other applicable laws for all construction.

The ADU may exist on private property under several circumstances. Someone may be involved in a property acquisition through a traditional real estate purchase, a real estate auction, inheritance, probate, various other types of legal transfer of real estate. The ADU may be attached to or detached from the principal dwelling structure. The ADU may be in the form of a garage conversion.

The time when the property improvement ADU was constructed (existing or in progress) or the identity of the person(s) that constructed is NOT AN ISSUE to somehow deflect responsibility from the current property owner. The person or legal entity that currently owns the subject property is responsible for the legalization of the ADU. A building permit is required to legalize (keep or remove) it. To obtain a building permit, full sets of professionally prepared drawn plans and the associated fees are required to be submitted to the Building Inspection Division. Please contact the Building Inspection Division for building permit requirements, including the fees that are associated, or other questions at the contact information listed above. After the permit is issued, the responsible party must complete the work, pass the required inspections, and achieve Final Approval. Some people may believe the legalization process may be overwhelming, but it is still required. It is recommended that ANYONE SEEKING TO PURCHASE OR OTHERWISE ACQUIRE PRIVATE PROPERTY CHECK THE CITY RECORDS prior to spending the money or signing the documents associated with the acquisition. FAILURE TO DO SO MAY BECOME A SIGNIFICANT LEGAL LIABILITY OF THE NEW PROPERTY OWNER. An unpermitted ADU and any other unpermitted construction can turn out to be very costly for the property owner, whether or not they were aware of the code violations.

Any property owner may request that the enforcement of the ADU be delayed for up to five (5) years pursuant to Section 17980.3 HS. This is accomplished when the property owner applies for such a delay by completing a Building Permit Application to the Permit Center. At the time of application, there may be a small fee, but no plans required. However, an inspection of the interior and exterior is required to check for safety concerns.

Failure of any responsible parties) fail to comply may result in consequences including, but not limited to administrative fines, criminal prosecution, civil abatement, civil injunction, lien, special assessment, receivership, the clouding of title, or other legal actions. Any city costs for abatement of code violations are recoverable through legal processes.

If anyone has any questions, please contact Community Preservation at compres@newark.org or 510.578.4330.

