



CITY OF SAN CLEMENTE

ADU Permit Submittal Checklist

For Compliance with State ADU Regulations

Updated January 1st, 2020

TO BE COMPLETED BY THE PROPERTY OWNER	
Address:	
Owner Name:	
Phone No:	
Email Address:	
<p>I understand that prior to the issuance of a building permit, a deed restriction must be recorded against the title of the property in the County Recorder's office. I understand that the City cannot issue building permits until a copy of the recorded deed restriction is provided to Planning staff.</p>	
	<i>Owner's Initials</i>
<p>I reviewed, understand, and agree to comply with all State of California ADU regulations in respects to AB-68, 'Junior ADUs', and AB-881, 'ADUs'. This includes, but is not limited to: ADUs cannot be rented on a short-term basis (29 days or less) and ADUs cannot be sold separately.</p>	
	<i>Owner's Initials</i>
<p>I understand that the deed restriction shall be enforced by the City. I understand that failure to comply with the deed restriction may result in legal action against the property owner, and the City is authorized to obtain any remedy available to it at law or equity, including, but not limited to, obtaining an injunction enjoining use of the ADU in violation of the recorded restrictions or abatement of the illegal unit.</p>	
	<i>Owner's Initials</i>
<p>I understand that the proposed ADU will be reviewed for compliance with building architecture and design, and general development standards. I further understand that I am responsible for modifying the construction drawings to adequately demonstrate compliance with all standards.</p>	
	<i>Owner's Initials</i>

FOR PLANNING STAFF USE ONLY		
The following must be submitted <u>in addition to</u> all Building Permit submittal requirements:	Submitted	N/A
Parking notes and/or tabulation demonstrating existing, required, and proposed number of parking spaces. If additional parking is not required, detail this on plans.	<input type="checkbox"/>	<input type="checkbox"/>
Photographs of the site from the street, primary residence, and the area of the site where an ADU is proposed. (Not required for repurposed ADUs or JADUs.)	<input type="checkbox"/>	<input type="checkbox"/>
Homeowner Association (HOA) approval letter (If applicable)	<input type="checkbox"/>	<input type="checkbox"/>
"Address Exhibit" that includes a simple site plan showing the residence limits, ADU limits, and garage limits, residential dwelling entrances for both the ADU and primary building, and addresses for the residence and ADU. See example on page 7.	<input type="checkbox"/>	<input type="checkbox"/>
Copy of Coastal Commission approval. If not applicable, the ADU does not require an In-Concept review because the property is located:	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Outside of Coastal Zone Overlay <input type="checkbox"/> Within Exclusionary Coastal Zone Area		
<input type="checkbox"/> Ready to Submit into Building Plan Check		
Reviewed by:	Date:	



Accessory Residential Dwelling Units Development Standards

City of San Clemente—Community Development Department
910 Calle Negocio, San Clemente CA 92573

January, 2020

This handout provides an overview of Accessory Dwelling Unit (ADU) requirements compliant with State laws AB-68, Junior ADUs, and AB-881, ADUs, effective January 1, 2020. **These are not official / adopted City standards.** This handout provides guidance to applicants interested in creating new ADUs on their properties with a summarized checklist of development standards compliant with **new State laws.**

Please note: This summary may not cover all circumstances. Please refer to State Law for more comprehensive development standards and regulations concerning ADU proposals. Visit hcd.ca.gov for additional details.

DEFINITIONS

Accessory Dwelling Units (ADUs) provide complete independent living facilities for sleeping, eating, and sanitation. ADUs are either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas, or similar uses or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary single-family or multi-family dwelling. There are three types of ADUs.

1. **Attached ADU.** The ADU is attached to the primary dwelling as an addition to the building. The ADU may be new construction or a conversion of existing space.
2. **Detached ADU.** The ADU is within an accessory building detached from the primary dwelling. The accessory building may be new construction or a conversion of an existing accessory structure.
3. **Junior ADU.** A unit that is no more than 500 square feet in size and contained entirely within a single-family residence.

ATTACHMENTS

1. Development standards
2. FAQs
3. Impact fee summary
4. Example address exhibit
5. Deed restriction template
6. Notary acknowledgement form

Accessory Dwelling Unit Requirements

For State Law Effective January 1, 2020

	Detached or Attached ADU	ADU created from existing space
Permitted Locations	Lots with a single-family or multifamily residence	
Maximum Size	<p>Detached ADU – 1,200 sf</p> <ul style="list-style-type: none"> ▪ On a lot with a JADU, a detached ADU is limited to 850 sf (or 1,000 sf if detached ADU provides more than one bedroom) <p>Attached ADU – whichever is less restrictive of:</p> <ul style="list-style-type: none"> ▪ 50% of living area, or ▪ 850 sf (or 1,000 sf if attached ADU provides more than one bedroom) 	<p>Detached ADU – 1,200 sf</p> <ul style="list-style-type: none"> ▪ On a lot with a JADU, a detached ADU is limited to 850 sf (or 1,000 sf if detached ADU provides more than one bedroom) <p>Attached ADU – whichever is less restrictive of:</p> <ul style="list-style-type: none"> ▪ 50% of living area, or ▪ 850 sf (or 1,000 sf if attached ADU provides more than one bedroom) <p>Junior ADU – 500 sf¹</p>
Setbacks	Front – By zone Side – 4 feet ² Street side-yard – By zone Rear – 4 feet ²	No additional setbacks required. Must meet fire safety requirements.
Height	16 feet for Detached ADUs (unless created from existing space), otherwise permitted by zone.	
Parking	None required if: <ol style="list-style-type: none"> (1) ADU is within ½ mile walking distance of public transit (i.e. bus, rail, and Lyft SC Ride stops). (2) ADU is within an architecturally and historically significant historic district. (3) On-street parking permits are required but not offered to the occupant of the accessory dwelling unit. (4) There is a car share vehicle located within 1 block of ADU. 	None required if ADU is part of the proposed or existing primary residence or an accessory structure.
Kitchen	Required	Required
Bathroom	Separate facilities required.	Separate facilities required. A Junior ADU may have separate facilities or share facilities with the primary residence.
Separate Entrance	Required	Required
Quantity	<p><u>Residential or Mixed Use zoned lot with a single-family dwelling unit:</u> Up to 1 Junior ADU plus 1 Detached ADU, OR 1 single Attached ADU.</p> <p><u>Multi-family lot:</u> Minimum 1 within existing multifamily residence, up to 25% of existing units, when existing space is converted to ADU. Up to 2 ADUs may be detached.</p>	

¹ Junior ADU permitted on lots within an existing single-family residence; not permitted on lots with a multifamily residence.

² Construction of new units must meet fire safety requirements for setbacks less than 5 feet.

Regulations that apply to all ADUs

- **Permits Required:** Building Permit. See the Building Permit Application for submittal requirements.
- **Fire Sprinklers:** Required if required for the primary residence. Consistent with the Building Code, fire sprinklers may be required if new or reconstructed setbacks are less than 5 feet.
- **Ownership:** Any ADU/JADU(s) may not be sold or otherwise conveyed separately from the primary residence. This is conveyed in the deed restriction required upon submittal of an ADU application.
- **Owner Occupancy:** Not required for ADUs created between January 1, 2020, and December 31, 2024, unless a Junior ADU is on the property. Then the owner must live in the primary residence or the Junior ADU.
- **Deed Restriction:** A deed restriction must be recorded against the title of the property in the County Recorder's office. The deed restriction ensures ADUs are rented no less than 30 days and cannot be sold separately from the primary residence.
- **Rental Terms:** Any ADU/JADU(s) shall be rented for terms of 30 days or longer.
- **Minimum Unit Size:** That square footage that would qualify the space as an efficiency unit pursuant to current codes. Unless modified by local ordinance pursuant to Health and Safety Code Section 17958.1, efficiency dwelling units shall comply with the following:
 - Shall have a living area of not less than 220 sf of floor area, which the area shall be measured from the inside perimeter of the exterior walls of the unit and shall include closets, bathrooms, kitchen, living, and sleeping areas. An additional 100 sf of floor area shall be provided for each occupant of such unit in excess of two.
 - Shall be provided with a separate closet.
 - Shall be provided with a kitchen sink, cooking appliance, and refrigeration facilities, each having a clear working space of not less than 30 inches in front. Light and ventilation conforming to building code shall be provided.
 - The unit shall be provided with a separate bathroom containing a water closet, lavatory, and bathtub or shower, unless JADU is proposed and, therefore, only access to shared bathroom and sanitary facility is required.
- **Correction of nonconforming zoning conditions:** Not required.
- **Impact Fees:** Not required for ADU/JADU(s) less than 750 sf. This includes School, TCA, and Park Fees.
- **Connection/Utility Fees:** Not required unless ADU is detached or ADU/JADU is proposed with a new residence wherein separate utility connection and applicable fees are required.
- **Review Time Limits:** 60 days.
 - If the ADU/JADU(s) is proposed with an application for a new single-family or multifamily residence, the City may wait to act on the ADU/JADU(s) request until the City has acted on the application for a new single-family or multifamily residence.
 - If the applicant requests a delay, the 60-day timeframe shall be tolled for the period of the requested delay.

Frequently Asked Questions

Can I construct an ADU above my garage?	Yes. The proposal must meet setbacks, height, design, and all other requirements. Note that detached accessory buildings are limited to 15 feet in height.
Can I convert my garage and add space above, too?	Yes. The proposal must meet setbacks, height, design, and all other requirements. Common limiting requirements are the front setback and the height limitation. Any new construction must meet setback requirements, including front setbacks. ADUs are not permitted over detached garages due to the 15-foot height limit for accessory buildings required by the Zoning Ordinance.
Can I construct/convert space above my in-bank garage that is 5 feet from the property line?	Yes. The proposal must meet setbacks, height, design, and all other requirements. Common limiting requirements are the front setback and the height limitation. Any new construction must meet setback requirements, including front setbacks. Detached accessory dwelling units are limited to 16 feet in height.
Do I have to live on property?	No. Owners are no longer required to reside on the property. All living units may be rented out at the same time.
Can I Airbnb my ADU?	Short-term rentals such as Airbnb are not allowed with the creation of ADUs.
Can I construct a new house and an ADU at the same time?	Yes. However, a detached ADU requires a separate building permit.
Will my property taxes increase if I build an ADU?	Yes. Under Proposition 13 the County Assessor will appraise the new construction at fair market value.
How long does it take to get a permit?	The typical review period before a permit may be issued is 4-8 weeks.
Can I legalize an unpermitted ADU?	Yes, if it can be made to satisfy all current requirements.
If I convert my garage to an ADU do I need to replace the parking?	No. Replacement parking is not required.
What if my legal-nonconforming accessory building does not meet local development standards? Can I convert my legal non-conforming accessory building to an ADU?	Yes, State law allows an existing, legal non-conforming accessory building to be converted into an ADU. State law also allows an expansion of up to 150 square feet for ingress and egress, beyond the existing footprint of that converted accessory building.



Accessory Dwelling Unit Permit Impact Fee Form

January 2020

Please consult with the Building Division for details and guidance on impact fees that must be paid during Building Permit plan review for Accessory Dwelling Unit (ADU) proposals. **This form must be completed by the applicant and included with the submittal of the Building Permit Application.**

Impact Fee Calculations

	Result
Step 1: What is the square footage of the proposed ADU?	_____
Step 2: What is the square footage of the resulting dwelling?	_____
Step 3: Divide Step 1 by Step 2 =	_____
Step 4: What TCA Area of Benefit is the property located in? Foothill / Eastern (east of the freeway) or San Joaquin (west of the freeway)?	_____
Step 5: Multiply Step 3 by the fees below:	
Foothill/Eastern TCA Multi-Family Fee \$3,460 =	_____
San Joaquin TCA Multi-Family Fee \$2,595 =	_____
PSCF Fee \$1,659.10 =	_____
CCCF Fee \$571.13 =	_____

Impact fees will not be imposed upon the development of an ADU 749 square feet or less, unless the ADU is part of a proposal for a new single family residence. (Exception: Junior Accessory Dwelling Units will not be considered a new dwelling unit when calculating impact fees.) Any impact fees charged for an ADU of 750 square feet or more shall be charged proportionately in relation to the resulting square footage of the primary dwelling unit.

School Fees

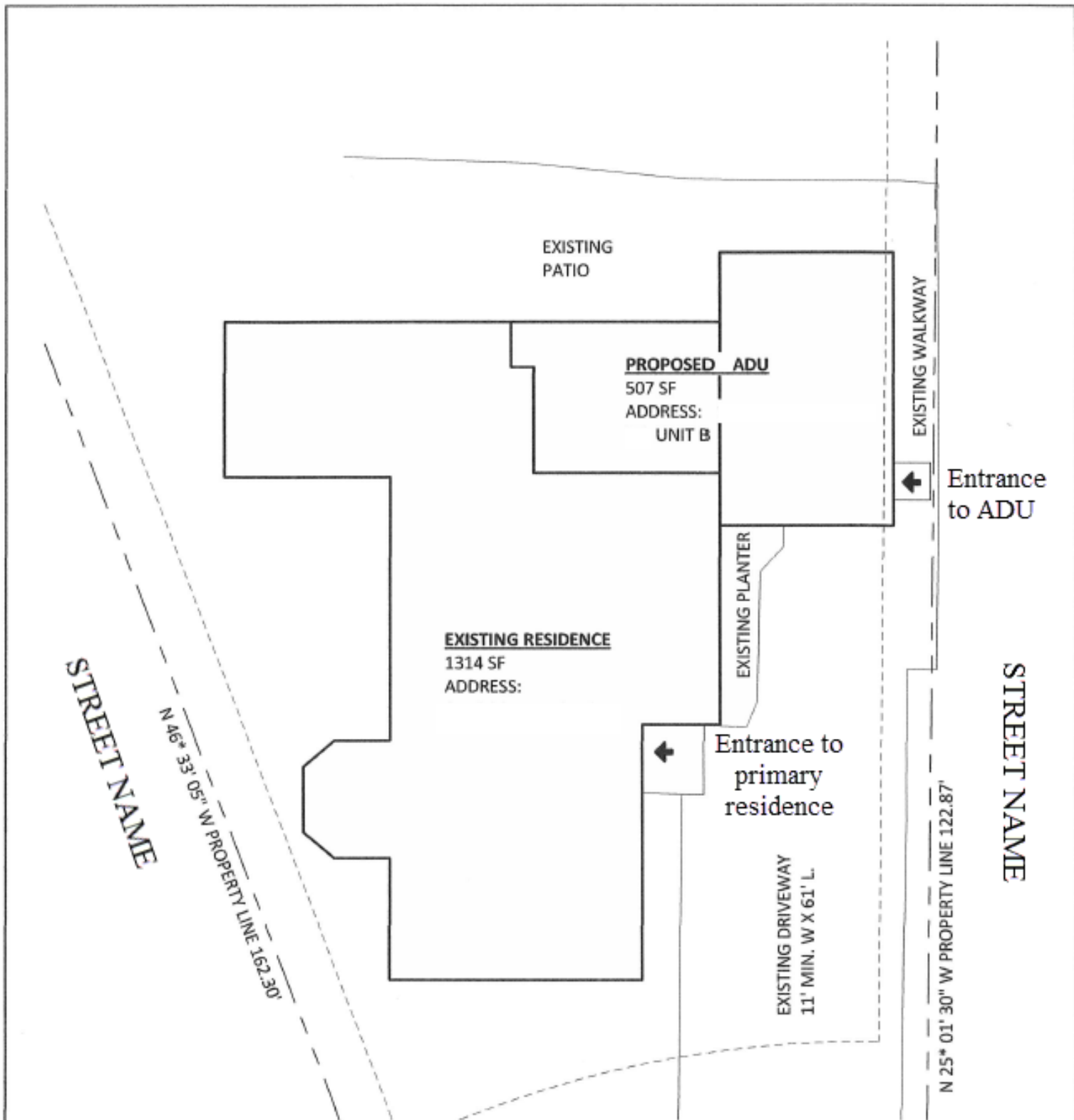
School fees are determined by Capistrano Unified School District. All ADUs will be referred to the school district for their review and fee payments.

Transportation Corridor Agency Fees

Transportation Corridor Agency (TCA) fees are assessed proportionally the various TCA fee areas. The fee is paid to TCA through the City at permit issuance. Complete the Impact Fee Calculations above.

Public Safety Construction Fund (PSCF) and Civic Center Construction Fee (CCCF)

PSCF and CCCF are City fees for new units to offset costs of public safety services and civic center construction. Complete the Impact Fee Calculations above.



① ADDRESS EXHIBIT
 3/32" = 1'-0"

ADDRESS

Project #: PLN XX-XXX
 Type of ADU

Name
 Address
 Phone: (xxx) xxx-xxxx
 Email:

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

City of San Clemente
910 Calle Negocio
San Clemente, CA 92673
Attn: City Clerk

EXEMPT FROM RECORDING FEES PER GOVT. CODE 27383

ACCESSORY DWELLING UNIT DEED RESTRICTION

This Deed Restriction is executed as of this ____ day, ____ month, 20__ year, of by _____[Name or Names of Declarant(s)] (collectively, “Declarant”) and will be effective as of the date of its recording in the Records of Orange County, California. This Deed Restriction is made with reference to the following facts:

RECITALS

A. Declarant is the owner of that certain real property located at _____[Address], San Clemente, California in Orange County also described as Assessor Parcel Number [APN Number]_____ (“Property”), which includes a residential use on a residential or mixed-use zoned lot that meets qualifying criteria under the California Government Code Section 65852.2 and 65852.22 (“State laws”) for granting of rights to construct an Accessory Dwelling Unit (“ADU”), such as a single-family residence, multi-family residence, or residential unit in a mixed-use zone.

B. Declarant applied for approval by the City of San Clemente (“City”) of construction of an ADU on the Property as provided by California State laws.

C. The City has approved the application for the ADU, subject to recordation of a deed restriction against the Property setting forth certain restrictions described in State laws AB-68 and AB-881.

D. Declarant desires by this Deed Restriction to comply with the City’s conditions of approval and to bind the Property as set forth in this Deed Restriction, which will run with the Property and be binding upon it and upon all future owners thereof.

OPERATIVE PROVISIONS

1. Separate Ownership. The ADU may not be sold, mortgaged, or transferred separately from Primary Residence.

2. Rental. The ADU may be rented, but may not be rented on a short-term basis (29 consecutive day period or less).

3. Access. The ADU shall have independent exterior access separate from the Primary Dwelling.

4. Other Requirements. The ADU shall comply all other applicable requirements set forth in California State law. or the San Clemente Municipal Code as amended to comply with State laws.

5. Modification. This Deed Restriction may not be modified or terminated without the prior written consent of the City's Community Development Director.

6. Runs with the Land. This Deed Restriction is intended to run with the Property and be binding upon all future owners thereof.

Executed by the Declarant as of the date set forth above.

Declarant:

[Name of Declarant]

[Name of Declarant]

NOTARY ACKNOWLEDGMENT
(California All-Purpose Acknowledgment)

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, 20__ before me, _____, notary public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature of Notary Public

ATTACHED TO: DEED RESTRICTION