

	Land Use Services Building and Safety Division Information Bulletin	Number: IB-0019
		Code References:
Building Official Signature:	 Maged Soliman	Original Effective Date: 12/12/2023
Subject: ADU 5-Year Request for Delay in Enforcement		

1.0 PURPOSE

The purpose of this Information Bulletin is to provide the process for a property owner to request a 5-year delay in enforcement related to an Accessory Dwelling Unit (ADU) when a notice to correct violations or abate a nuisance has been issued.

2.0 HISTORY

Original Effective Date: January 1, 2023; Updated: September 12, 2023, Repealed as of January 1, 2030.

3.0 BACKGROUND

On January 1, 2023, the California Legislature enacted a statute¹ to establish a process by which an owner of property with an accessory dwelling unit (permitted or unpermitted) who receives a notice to correct violations or abate nuisances may, in the form and manner prescribed by the enforcement agency, submit an application to the enforcement agency requesting that enforcement of the violation be delayed for five years on the basis that correcting the violation is not necessary to protect health and safety.

On September 12, 2023, San Bernardino County finalized procedural guidelines as authorized by the statute.

4.0 APPLICABILITY

The right to request a delay in enforcement applies only to an ADU built before March 20, 2020 (Health & Safety Code Section 17980.12) and only when a notice to correct violations or abate a nuisance has been issued by the enforcement agency.

5.0 APPLICANT PROCESS

An owner who wishes to request a delay in enforcement must submit a Field Investigation Application online with the Building and Safety Division within 20 calendar days from the date of service of a notice to correct a violation or abate a nuisance using the EZOP system to request such delay. All fees associated with the application must be paid for the application to be processed².

When a timely application is submitted, the following steps must be taken by the property owner:

- Within 45 days of submitting the application, the property owner must obtain and submit a Fire Letter to the Building and Safety Division from the Fire Department that is local to the subject property. ***(It is recommended to immediately seek the Fire Letter from the Fire Department to prevent any potential delay).***
 - If denied by the Fire Department, or if the property owner fails to submit a Fire Letter within 45 days, the application for an extension will be automatically denied. In such a case, no fees shall be refunded.



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If approved by the Fire Department, and timely submitted, Building and Safety will:

- Conduct an inspection of the property within 30 days of receiving the Fire Letter, or as soon thereafter as practical.

6.0 DETERMINATION

If a determination is made by the Building Inspector that violations do not pose a risk to health and safety, the Code Enforcement Division will grant a 5-year delay in enforcement of violations related to the ADU that is subject of the application.

If a determination is made by the Building Inspector that violations pose a risk to health and safety, the request for a delay in enforcement will not be granted and the Code Enforcement Division will resume enforcement.

7.0 LIMITATIONS

Where there is more than one qualifying ADU on a property and the violation is the failure to obtain the required building permit to authorize the construction of the ADU, only one request for delay in enforcement will be considered. The decision on which unpermitted ADU to request a delay in enforcement lies with the property owner. Remaining unpermitted ADUs will be subject to continued enforcement action.

8.0 EXPIRATION

Any extension granted pursuant to the above shall automatically expire 5 years after the date of approval. No additional notification will be given to the property owner regarding said expiration. The violations or nuisance condition will be subject to regular enforcement thereafter.