



County of San Diego, Planning & Development Services
SEPARATE SALE OF ADUs AS CONDOMINIUMS
QUALIFICATIONS GUIDANCE

Qualifications and Requirements for the Separate Sale of ADUs under AB 1033 In Unincorporated San Diego County

Property owners who wish to sell or otherwise transfer ownership of an Accessory Dwelling Unit (ADU) separately from the primary residence must first create condominiums (condos) for applicable primary dwellings and ADUs. This applies to the condo conversion of existing permitted structures, new construction applications with a Tentative Parcel Map or Tentative Map that are already in progress, or new construction proposals for units intended to be developed as condos. This guidance applies to either single family or multifamily residential lots.

The following guidance and checklist will help determine whether your project meets the eligibility requirements to sell an ADU separately from a primary dwelling through the creation of condominiums. This guidance is supplemental to an application for a Tentative Parcel Map or Tentative Map and does not bypass those application processes.

For the County of San Diego, the separate sale of ADUs is authorized under the following State and local regulations:

- Assembly Bill 1033 (AB 1033), effective January 1, 2024, allows local jurisdictions to permit the separate sale or conveyance of ADUs through a condominium structure. California Government Code Section 66342, which authorizes cities and counties to adopt local ordinances allowing an ADU to be conveyed as a separate condominium unit.
- On March 4, 2026, the County Board of Supervisors voted unanimously to adopt an amendment to update the San Diego County Zoning Ordinance Section 6156.x and implement AB 1033, allowing for the separate sale of ADUs as condominiums in the unincorporated area (Ordinance No. 10986).

AB 1033 does not increase the number of dwelling units allowed per lot and per primary dwelling. Instead, it allows a primary dwelling and ADU to be established as separate ownership interests through a condominium structure. Junior ADUs (JADUs) are not eligible for separate sale and must remain part of the primary residence.

Please email PDS.ADUQuestions@sdcounty.ca.gov or PDSZoningPermitCounter@sdcounty.ca.gov if you have additional questions about ADUs or JADUs. For more information about the County's ADU program, resources, and permit application requirements, please visit our [ADU Information webpage](#).

Key Documents Required to Create ADU Condominiums, as Allowed by San Diego County Zoning Ordinance Section 6156.x.D.

The following materials must be prepared in order to apply for a Tentative Map or Tentative Parcel Map which will establish condominiums under the County's zoning and regulatory ordinances. For purposes of this guidance document, a condominium conversion refers to a major or minor subdivision, as processed through a Tentative Map or Tentative Parcel Map, and must comply with the subdivision process as defined in Section 81.105 of the San Diego County Code of Regulatory Ordinances.

- Property owner written authorization, (if the applicant is not the property owner)
- Written consent from any lienholder or Deed of Trust holder, (if the property has an existing lien, loan, or mortgage), to be attached to the Condominium Plan
- Written authorization from the Homeowner's Association (HOA), (if applicable)
- Proof of notification to all utility providers serving the property
- Plot Plan, to be attached to the Condominium Plan
- Condominium Plan prepared by a licensed Surveyor or Civil Engineer, to be submitted to the Department of Real Estate with the application for a Tentative Parcel Map or Tentative Map
- Site Plan Permit, (required only if applying for a Tentative Map – for more than 4 units)



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- Note: The Condominium Plan will not be recorded until a Final Inspection of the ADU is completed and a Certificate of Occupancy is issued.
- Homeowner's Association (HOA) Bylaws and Covenants, Conditions, and Restrictions (CC&Rs), created for the condominium project

If you have all of these materials prepared and meet all of the qualifications in the following checklist, you may proceed with the submittal of an application for a Tentative Parcel Map or Tentative Map. Please refer to the Application User Guides: [TPM Applicant's Guide](#) or [TM Applicant's Guide](#)

After an applicant has an approved Tentative Map or an approved Tentative Parcel Map, the applicant may process and record a Final Map or Parcel Map to complete the condominium subdivision. Please refer to the Application User Guide: [Final & Parcel Map Application User Guide](#). A Final Map is required for all major subdivisions creating 5 or more lots or condominium units and a Parcel Map is required for all minor subdivisions creating 4 or fewer parcels or condominium units.

Checklist for ADU Condominium Eligibility - Unincorporated San Diego County

- 1. Is the property located in Unincorporated San Diego County?** Yes___ No___
 - Confirm the property is within County jurisdiction (not within an incorporated city). If the property is within a city, contact that city's planning department.
- 2. Is there a final building permit for the existing ADU(s)?** Yes___ No___ N/A___
 - A condominium conversion process is available only to ADUs with a signed-off building permit issued and finalized by the County Building Department.
You may record your Building Permit Record ID here for your reference: _____
- 3. Does the ADU exist without a permit?** Yes___ No___ N/A___
 - If you have an unpermitted ADU built before 2020, you may qualify for streamlining under AB 2533. Applicants may be eligible to receive a permit, provided they meet certain health, safety, and building standards. Please see the Substandard Structure Checklist for more information: [PDS738.pdf](#)
 - If your ADU is eligible, you will need to include plans to update your ADU to meet these standards.
 - Before submitting an application, you may obtain a confidential third-party code inspection from a licensed contractor.
- 4. Is a building permit in progress for an ADU that is under construction?** Yes___ No___ N/A___
 - The project may be processed as a condominium conversion.
 - The number of ADUs per lot may not exceed the number allowed by the County's Zoning Ordinance; no additional ADUs per single-family dwelling are allowed through a condominium subdivision. A condominium subdivision does not change the unit allowance for the underlying lot. An ADU condominium will still be permitted and recorded as an ADU; An ADU condominium does not become a single-family dwelling.
 - The Condominium Plan may be submitted but will not be recorded until a Final Inspection of the ADU is completed and a Certificate of Occupancy is issued.
- 5. Does the proposal comply with the maximum allowed number of units per lot?** Yes___ No___ N/A___
 - For single-family properties: the number of units is limited to one primary residence and up to two ADUs.
 - For a two-lot subdivision under SB 9: the number of units is limited to up to two primary residences and up to two ADUs.
 - For multifamily properties: the number of detached ADUs is limited to up to eight ADUs for a pre-existing multifamily building, or up to two ADUs for a proposed multifamily building. The



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number of converted interior ADUs is limited to not more than 25 percent of the existing number of multifamily units within an existing multifamily dwelling.

- Refer to the County Zoning Ordinance or consult Planning staff, if your project does not align with the above-mentioned number of units.

While processing the Tentative Map or Tentative Parcel Map, you are required to include a Condominium Statement which identifies the maximum number of dwelling units intended per lot, pursuant to the Subdivision Map Act. This statement will also be recorded on the Final Map or Parcel Map.

6. **Are you the property owner or do you have written authorization from the owner to proceed with a Parcel Map application? If yes, you may continue to number 5.** Yes___ No___ N/A___
7. **Do you have written permission or a subordination agreement from any lienholder, mortgage holder, or Deed of Trust holder?** Yes___ No___ N/A___
- For any existing lien, loan, or mortgage secured by the property, written consent from the lienholder is required for the condominium creation.
 - Written evidence of the lienholder's or Deed of Trust's consent shall be provided to the County Recorder, which shall be included with the condominium plan.
8. **Is the property located within an existing Homeowner's Association (HOA)?** Yes___ No___ N/A___
- If yes, do you have written authorization from the existing HOA to proceed with the condominium creation? – This means approval by the association's Board at a duly noted Board meeting, and if needed, pursuant to the existing association's governing documents, membership approval of the existing association.
9. **Have utility providers been notified of the proposed condominium creation?** Yes___ No___
- Property owners must notify all utility providers (water, sewer, gas, electricity) for each unit to be conveyed separately and coordinate any required meters or service connections.
 - Proof of notification to all utility providers used by the property must be provided.
 - For properties on septic and or well water systems the Department of Environmental Health and Quality must review current systems for capacity.
10. **Do you have a Condominium Plan prepared by a licensed Surveyor or Civil Engineer?** Yes___ No___
- The plan must establish legal boundaries for each unit and common areas and address any shared or private outdoor spaces; this may include shared ingress and egress access, shared or common easements, utilities, and any other encumbrances shared or in common across the entire property.
 - The Condominium Plan will be attached to a Plot Plan, (to be submitted to the Department of Real Estate with a Plot Plan the application for a Tentative Parcel Map or Tentative Map
11. **Does the condominium proposal conform to State law?** Yes___ No___
- Specifically, does it comply with the Davis-Stirling Common Interest Development Act and applicable provisions of the Subdivision Map Act?
12. **Do you have a Plot Plan for the proposed condominiums?** Yes___ No___ N/A___
- The Plot Plan should show existing structures, document building footprints, spacing between structures, distances to property lines, and the layout of on-site utility connections serving the units.
13. **Do you have CC&Rs prepared and an HOA formally established?** Yes___ No___
- This is a requirement before approval of Tentative Parcel Map or Tentative Map.



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- Covenants, Conditions, and Restrictions (CC&Rs) must be prepared to formally establish the HOA. The CC&Rs govern responsibility for common areas, set dues and insurance requirements, and outline rules for the operation and enforcement of the HOA.
- The CC&Rs and HOA must conform with any applicable requirements of the Subdivision Map Act, and the Davis Stirling Common Interest Development Act.
- The newly created HOA will manage shared facilities and expenses related to common areas. HOA dues will be used to cover these costs.
- The HOA bylaws and declaration of CC&Rs must be recorded following the recordation of the Parcel Map or Final Map. The HOA bylaws and declaration of CC&Rs apply to each owner of a condominium unit within the project at the time of Parcel Map or Final Map approval.
- It is highly recommended that these documents are prepared in consultation with an attorney.

At minimum, this documentation should include:

- The creation of an entity, e.g., a homeowner's association, which shall be financially responsible for and provide for the effective establishment, operation, management, use, repair and maintenance of all common areas and facilities.
- Designation board members and a process for resolution of potential conflicts and issues and enforcement of standards within the project. For a small association with three or fewer members, you may opt for an unincorporated association pursuant to Civil Code Section 4800, in which case you would not have a board of directors.
- Insurance for any common areas and/or facilities.
- Establishment of dues to be collected for maintenance of utilities, common space, and shared facilities such as shared roofs, pool, driveways, fencing, landscaping, exteriors, etc., and payment of public utilities that are not billed separately to each unit.
- A provision addressing the payment of utilities including water, sewer, gas and electricity by the homeowner or through the association.
- A provision containing information regarding the conveyance of units and any assignment of parking; an estimate of any initial assessment fees anticipated for maintenance of common areas and facilities; and an indication of appropriate responsibilities for maintenance of all utility lines and services for each unit.
- A provision delineating a reciprocal easement for driveways and/or pathways necessary to access parking, roads and/or structures.
- A provision requiring that any owner who rents their condominium unit shall conform to the homeowner's association which is responsible for management of the common areas and enforcement of the CC&Rs.

14. Have you prepared an application for a Tentative Map or Tentative Parcel Map for the condominium creation? Yes___ No___ N/A___

- This application process will commence after all preceding criteria in this checklist is met.
- After an applicant has an approved Tentative Map (TM) or an approved Tentative Parcel Map (TPM), the applicant must process and record a Final Map or Parcel Map to complete the subdivision. A tentative approval expires after 3 years if a Final Map or Parcel Map is not recorded. A Final Map is required for all major subdivisions creating 5 or more lots or condominium units and a Parcel Map is required for all minor subdivisions creating 4 or fewer parcels or condominium units.

15. Have you prepared an [Address Change Form](#) to create a new address for your ADU? Yes___ No___ N/A___

- A new address for the ADU will be required after a condominium subdivision.
- This will be the final step in condominium creation.



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Additional Requirements for Sale Transactions related to ADU Condominiums, as Allowed by San Diego County Zoning Ordinance Section 6156.x.D.

Effective September 18, 2026, the ADU Ordinance was amended per Board direction to include the following sale transaction requirements for properties that include ADU Condominiums. These new requirements must all be followed when engaging in sales transactions related ADU condominiums. These requirements are intended to work together to encourage owner occupancy of ADU condominiums.

1. **Right of First Refusal:** Each condominium owner must establish a Right of First Refusal (ROFR) contract with an active rent paying tenant or a condominium owner on the same lot, to be effective only while the affiliated occupancy or ownership on the lot is active, and to be reestablished with another occupant or owner if the original ROFR holder is no longer applicable. Before a condominium owner accepts a purchase offer, written notice of the offer must be provided to the ROFR holder, who shall have 30 days in which to execute a sales agreement which matches the original offer.
 - ✓ **Note:** The Right of First Refusal (ROFR) is a legally binding contract which may be drafted by a real estate attorney and must be notarized and filed with the County Recorder. Recording this document places an encumbrance on the title and provides notice to current and future property owners to help ensure the process is followed whenever an AB 1033 unit is offered for sale.
 - ✓ If the owner lists the unit for sale, they must then wait until the end of the 30-day Required Public Posting Period before they can provide written notice of any resulting offer to the ROFR holder. The owner must then wait another 30 days to allow the ROFR holder their opportunity to match the offer.
 - ✓ The opportunity to hold a ROFR contract may be provided to any tenant or other condo owner of any of the units on the property created through the AB 1033 condominium process.
 - ✓ In situations where an existing ROFR contract holder waives their rights, they may sign a one-time waiver, or full termination of agreement.
 - ✓ If no one affiliated with the property wants to hold the ROFR contract, an exception to this requirement may be made at the PDS Director's discretion.
2. **Owner Occupancy Statement:** Each new buyer of an ADU condominium must sign an affidavit stating that either they themselves or a family member will occupy the unit as their primary residence for at least 1 year from the purchase date.
 - ✓ **Note:** The affidavit is a legally binding contract which may be drafted by a real estate attorney and must be notarized and filed with the County Recorder when a sales transaction closes. A sample affidavit is provided at the end of this guidance document.
3. **Required Public Posting Period:** Each new time an ADU condominium is listed for sale, the owner shall offer the ADU through at least two publicly accessible real estate websites or databases that source listings directly from the MLS (Multiple Listing Service), for a minimum period of 30 days, with a disclosure stating that the ADU is being offered for at least 30 days to buyers intending to use the ADU as a primary residence for themselves or a family member. At the PDS Director's discretion, this requirement may be waived based on a written statement from the seller explaining why the posting period represents an undue burden to the seller's marketing practices which adequately prioritize owner occupant buyers.
 - ✓ **Note:** After the public posting period has concluded and the seller has selected their preferred offer from a potential buyer, the seller must provide written notice of the offer to the Right of First Refusal (ROFR) holder. The ROFR holder will then have 30 days in which to execute a sales agreement which matches the original offer. If the ROFR holder does not choose to match the offer, then the seller may move forward with a purchase agreement with the original offer.



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Checklist for ADU Condo Sale Transactions - Unincorporated San Diego County

Buyer Requirement	• Has a new Right of First Refusal contract been created and signed by a tenant or other condominium owner on the property? ○ Was the contract signed soon after taking possession of the unit? ○ Was the contract submitted to the County Recorder's Office? ○ Was a copy submitted to the Homeowners Association (HOA)?	Yes____ Yes____ Yes____	No____ No____ No____
Buyer Requirement	• Has an Owner User Affidavit been submitted to the County Recorder's Office? ○ Was a copy submitted to the Homeowners Association (HOA)?	Yes____ Yes____	No____ No____
Seller Requirement	• Has the sale listing been placed on at least two publicly accessible real estate websites or databases that source listings directly from the MLS (Multiple Listing Service)? ○ Does the listing clearly state that the ADU is being offered for at least 30 days to buyers intending to use the ADU as a primary residence for themselves or a family member?	Yes____ Yes____	No____ No____
Seller Requirement	• Once the 30-day public posting period has concluded and a preferred offer from a potential buyer has been selected, has the Right of First Refusal contract holder been notified of the offer? ○ Has the Right of First Refusal contract holder been provided with 30 days to review the offer and execute a matching sales agreement? ○ Has the Right of First Refusal contract holder declined to make an offer on unit and signed a one-time waiver of their rights.	Yes____ Yes____	No____ No____

OWNER-OCCUPANCY AFFIDAVIT

1. On this date _____, I purchased or plan to purchase an Accessory Dwelling Unit Condominium located at this address _____, California, which is also identified as County of San Diego Assessor's Parcel Number _____, pursuant to the procedures outlined in County Zoning Ordinance Section 6156.x.D.11.
2. I intend to occupy said Accessory Dwelling Unit Condominium, as my principal residence and for a period of no less than one (1) year from the date of sale.
3. I understand, consent and agree that the Planning & Development Services Department of the County of San Diego may take such action as it deems necessary to verify both the accuracy and veracity of this declaration. I further understand, consent and agree that any person or entity contacted by the Planning & Development Services Department of the County of San Diego, or its contractors, employees, agents, grantees, or designees, in the course of such verification, may release such pertinent information to the Planning & Development Services Department of the County of San Diego, or its contractors, employees, agents, grantees, or designees.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct and that this affidavit was executed on the ____ of _____, 20____, at _____, California.

Signature

Printed Name

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the veracity, accuracy, or validity of that document.

State of California

County of San Diego

On this date _____, before me, (Notary Name) _____ - _____,
Notary Public, personally appeared (Applicant Name) _____,
who provide to me on the basis of satisfactory evidence to be the person(s) whose name(s)
is/are subjected 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) executed the instrument.

I certify, under penalty of perjury under the laws of the State of California, that the foregoing
paragraph is true and correct.

Witness my hand and official seal.

Signature _____

