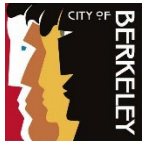


UDU Amnesty Program



City of Berkeley

Planning & Development Department

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Development of an amnesty program for existing unpermitted dwelling units



2019 COUNCIL REFERRAL - UDU AMNESTY PROGRAM

- Address extreme housing shortage in Berkeley
- Support City's goal to create affordable housing and provide housing support services for our most vulnerable community members
- Ensure tenants are not living in substandard housing
- Maintain minimum health and safety standards while preserving the current housing stock



WHAT IS AN UNPERMITTED DWELLING UNIT?

Dwelling units that may have been built without the proper buildings permits and inspections

Examples:

- Undocumented secondary units within one- or two-family dwellings,
- Detached dwelling units,
- Accessory dwelling units (ADUs),
- Junior accessory dwelling units (JADUs), and
- Unpermitted dwelling units in multi-family and mixed-occupancy buildings.



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AMNESTY PROGRAM RESEARCH

Recent Legislative Changes to State ADU Laws:
Assembly Bills 68, 881, 587, 670, 671
Senate Bills 13, 1226, 897

Staff researched 18 Jurisdictions within
California to Compare Amnesty and
Legalization Programs with Current City of
Berkeley Practices



JURISDICTIONS RESEARCHED

1. Alameda
2. Daly City
3. Los Angeles
4. Marin County
5. Milpitas
6. Oakland
7. Ojai
8. Pasadena
9. Rialto
10. San Carlos
11. San Diego
12. San Francisco
13. San Jose
14. San Mateo County
15. Santa Cruz County
16. Santa Cruz (City)
17. Sausalito
18. Ventura

RESEARCH COMPARISONS
Program Incentives
Eligibility Requirements
Fee Structures
Building Code Requirements
Program Materials



SUMMARY OF RESEARCH FINDINGS

PROGRAM INCENTIVES

Anonymity / Confidentiality

Free and confidential consultations with program staff

Financial Incentives

Fee waivers, reduced fees, business tax exemptions, and loan programs

Code Enforcement Delays

Suspension of code enforcement penalties for program applicants

Flexible Compliance Standards

Acceptance of reasonable alternatives to prior or current code requirements

Program Assistance

Extensive guidance throughout the legalization process by program staff

? ANONYMITY / CONFIDENTIALITY

- Free and confidential consultations for community members to ask questions about the program
- No personal information collected, even if they choose not to move forward with submitting an application
- Reduce perceived threat of code enforcement

Berkeley Current Practice

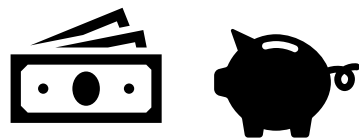


YES



NO





FINANCIAL INCENTIVES

- Free or low-cost inspections
- Suspension or removal of code enforcement penalties
- Reduced fees
- Fee waivers
- Business tax exemptions
- Loan programs

Berkeley Current Practice

YES

NO





CODE ENFORCEMENT DELAY

- Suspension of code enforcement penalties for program applicants (excluding fire/life safety violations)
- Notice of Violation (NOV) Monitoring Fees Suspended
- Per California State law, property owners can request up to a 5-year delay of code enforcement to bring the unpermitted unit into compliance with a specified building standard

Berkeley Current Practice



YES



NO





FLEXIBLE COMPLIANCE STANDARDS

- Acceptance of reasonable alternatives to prior or current code requirements
- Application of building standards in effect when the residential unit was determined to be constructed or the current building standards, whichever is the least restrictive (provided the building or portions thereof does not become or continue to be substandard or unsafe)

Berkeley Current Practice

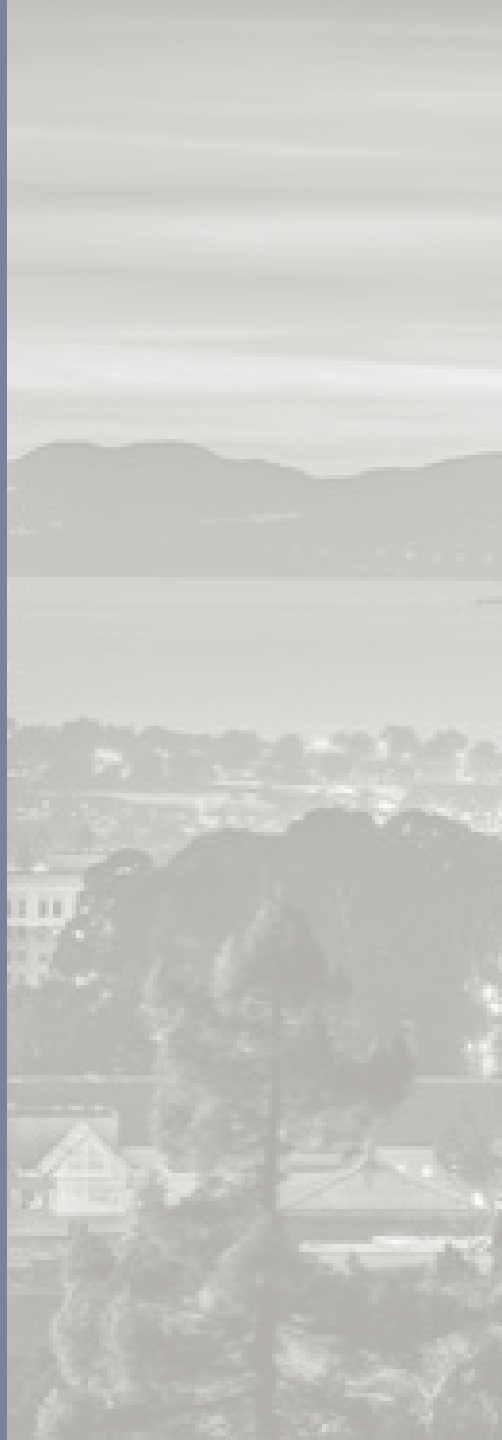


YES



NO





PROGRAM ASSISTANCE

- Extensive guidance throughout the legalization process
- Dedicated staff available to assist
- Simplified application process

Berkeley Current Practice

YES



NO



SUMMARY OF RESEARCH FINDINGS
PROGRAM REQUIREMENTS

CONSTRUCTION DATE REQUIREMENT

UDU must have been built/converted prior to a specified date.

OCCUPANCY REQUIREMENT

Provide evidence of current or previous occupancy of unpermitted dwelling unit

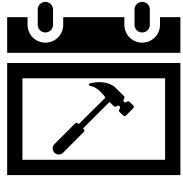
AFFORDABLE HOUSING

Requirement to provide affordable housing when participating in amnesty program

LEGALIZATION OF ONE UNIT

Program limit to one unit eligible for legalization through amnesty program





CONSTRUCTION DATE REQUIREMENT

Requirement that unpermitted dwelling unit must have been constructed/converted prior to a specified date.

- Most common program requirement amongst amnesty and legalization programs reviewed
- Cut-off dates typically ranged from 2013 to 2021
- Burden of proof largely placed on property owners to provide documentation of construction date

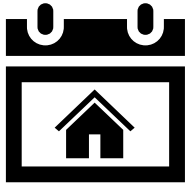
Berkeley Current Practice

YES



NO





OCCUPANCY / IN SERVICE DATE

- Requirement that the UDU is currently or was previously occupied by a tenant
- Owner occupancy requirement
- Requirement for property to be owner occupied as the primary residence
- Burden of proof placed on property owners to provide evidence of occupancy (Commonly accepted documentation includes income tax records, utility bills, etc.)

Berkeley Current Practice

YES



NO





AFFORDABLE HOUSING

Provide at least one deed restricted affordable unit for low- or moderate-income households for each legalized unit. (Los Angeles)



LEGALIZATION LIMITED TO ONE UNIT

Allows only one UDU per lot to be eligible for legalization under amnesty/legalization program

Berkeley Current Practice

YES



NO



SUMMARY OF RESEARCH FINDINGS

PROGRAM FEES

TYPES OF PROGRAM FEES

Application fees

Inspection Fees

Affordable Housing Fees

Plan Review Fees

Permit & Development
Fees

- All programs reviewed have fees associated with legalization of an UDU
- Separate program specific fee vs standard building permit fees
- Inspection fees common and vary by amount

Berkeley Current Practice

YES

NO



Deterrents to legalization

- Fear of code enforcement
- High rehabilitation costs
- Threat that unit may need to be vacated or demolished if not brought up to current code

Incentives for legalization

- Free/confidential consultations
- Improved living conditions
- Peace of mind
- Reduced risk of future code enforcement
- Increased number of legal dwelling units within the City of Berkeley

SUGGESTED PATHWAY TO UDU LEGALIZATION

PROGRAM
OUTREACH }



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1

PRE APPLICATION
PHASE*



2

PROGRAM
APPLICATION
SUBMITTAL*



3

REVIEW FOR
PROGRAM
ELIGIBILITY*



4

ZONING
CERTIFICATE



5

INITIAL
HOUSING SAFETY
INSPECTION*



6A

HOUSING
REINSPECTIONS



6B

BUILDING PERMIT
PROCESS AND
REINSPECTIONS

7

HOUSING
CERTIFICATE OF
COMPLIANCE*



*No associated fees in the current fee schedule

SUMMARY

- UDU Amnesty Program is in response to a 2019 Council Referral
- Only **EXISTING** unpermitted dwelling units (UDUs) are eligible for participation in program
- Amnesty Program incentivizes property owners to legalize UDUs by offering a simplified process with anonymous/confidential consultation
- Tenants provided means of getting potentially unsafe conditions abated in their homes
- Program ensures minimum health and safety standards are maintained while preserving the current housing stock

DISCUSSION POINTS

Construction date cut-off – Determine whether units constructed only within a certain period are eligible for participation in the program

Time limit on program – The 2019 Council Referral recommended a limited, 3-year window. Based on research and recent changes to State ADU laws, staff believe 5-7 years would be preferable for outreach and program implementation

Affordability Requirement – Examine whether Affordable housing fees and requirements should be placed on UDUs that are unable to qualify as ADUs (State law prohibits municipalities from assessing affordable housing fees and other impact fees on ADUs)

Fee system – Determine if separate fees specific to an UDU amnesty program are required

Funding – Determine if the City should allocate General Funds to offset program fees or establish a new loan program

NEXT STEPS

- Seek input regarding program implementation
- Finalize program timeline and estimated start date
- Assess staffing needs and costs for UDU Amnesty Program
- Assign Program Manager Position
- Draft program materials
- Seek input regarding outreach methodology
- Work with RHSP to outline inspection process
- Work with Permit Service Center to develop permitting process and materials
- Modify permitting software to track UDUs through the legalization process

FEEDBACK & QUESTIONS?



City of Berkeley

Planning & Development Department

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