



Office of the City Manager

December 20, 2024

To: Honorable Mayor and Members of the City Council  
From: Paul Buddenhagen, City Manager  
Re: Amnesty Program for Unpermitted Dwelling Units

In January 2025, the Planning & Development Department will launch a pilot program to help property owners bring undocumented dwelling units into safe, legal standing. The Amnesty Program for Unpermitted Dwelling Units, created in response to a Council referral<sup>1</sup>, will promote inspection and certification of dwelling units that were constructed without the proper permits and inspections, while ensuring safe, healthy and habitable living conditions for the community. This memo provides program information and requests Council's help to share it widely.

### **Eligibility, Phasing and Timeline**

The pilot Amnesty Program will be offered to property owners with unpermitted Accessory Dwelling Units (ADU) and/or Junior Accessory Dwelling Units (JADU) constructed or converted prior to January 1, 2020<sup>2</sup>, that are located on lots containing one single-family dwelling. Duplexes and multi-family buildings are not eligible for inclusion in the pilot program, but will be considered for future phases. The pilot Amnesty Program will be a four-year program starting January 1, 2025 and continuing through December 31, 2028.

### **Program Highlights**

The pilot Amnesty Program will include:

1. Free Confidential Consultations – Potential applicants may request free, confidential consultations with program staff prior to submitting a program application, letting them clarify the process and discuss pathways to legalization without having to identify the ownership, occupancy or location of the qualifying property. To schedule a free and confidential consultation, owners can email program staff at [UDUamnesty@berkeleyca.gov](mailto:UDUamnesty@berkeleyca.gov).

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1: <https://berkeleyca.gov/sites/default/files/documents/2019-11-19%20Item%2014%20Referral%20to%20City%20Manager%20to%20Return.pdf>

2: This date corresponds with the amnesty provisions established in CA Health and Safety Code Section 17980.12.

2. Pathways to Dwelling Legalization:

**Path 1:** This approach follows the standard building permit process, with submittal of detailed construction documents, obtaining a building permit, and passing building inspections. The unpermitted unit must comply with requirements from Fire, Public Works Engineering and Traffic, and Zoning. Once the unit passes inspections, a Certificate of Occupancy will be issued.

**Path 2:** Under this approach, a previously undocumented unit will be inspected by a City Housing or Building Inspector, and any documented fire/life safety and Housing Code violations will be corrected. Owners will also be required to submit forms completed by licensed professionals certifying that the dwelling unit’s structural, electrical, mechanical, and plumbing systems are in good working order. Owners may be required to obtain building permits to perform specific corrective work to address some of the violations, such as improper venting on a water heater or furnace, or bedroom windows that do not meet egress requirements. At the conclusion, the Building and Safety Division will issue a Housing Certificate of Compliance. This assures the property owner that code enforcement proceedings on the unit will not be triggered, as long as no additional unpermitted work is done and any future violations which may be revealed through a tenant Request for Service or Rental Housing Safety Program proactive inspection are addressed in a timely manner.

**KEY DIFFERENCES BETWEEN LEGALIZATION PATHWAYS**

Description	Certificate of Occupancy (Path 1)	Housing Certificate of Compliance (Path 2)
Legalized upon issuance	YES	YES
Permit required	YES	Only if needed for corrective work
Permit Fees	Based on % of permit valuation for total estimated construction/ conversion costs	Based on % of permit valuation for <u>specific corrective work only</u>
Code Standard Requirements	Unit meets current building code requirements or code from year of construction/conversion.	Unit meets Housing Code requirements and minimum fire and life safety standards.
Zoning Review Required	YES	NO

Could future violations revoke my legalization or compliance status?	NO	YES
Energy and Green Building Code Upgrades Required?	NO	NO

3. Program Process Assistance – Building and Safety staff will provide guidance to the property owner throughout the legalization and compliance process.

In an effort to alleviate property owner’s fears about coming forward and meeting with City staff to discuss what might be required to legalize their unit, applicants are encouraged to perform the following tasks prior to submitting an Amnesty Program Application:

- Visit the Amnesty Program web page to review application materials and Program Rules to confirm if the unit is eligible for participation in the Amnesty Program for Unpermitted Dwelling Units.
- Research the property to determine the construction or conversion date of the unpermitted unit. To be eligible for participation in the Amnesty Program, the unit must have been constructed or converted prior to January 1, 2020.
- For unpermitted JADUs, collect documents that prove the property owner resides at the property in either the primary unit or the attached JADU.
- Complete a Pre-Submittal Checklist, which will be available on the program web page.
- Schedule a free and confidential consultation to review the Pre-Submittal Checklist and discuss pathways to legalization.

NEXT STEPS

The new Amnesty Program web page will go live on December 20, 2024, and a Community Message will be communicated the week of December 30, 2024. Please direct your constituents to the new Amnesty Program for Unpermitted Dwelling Units web page for more information at <https://berkeleyca.gov/construction-development/permits-design-parameters/permit-process/amnesty-program-unpermitted>.

- cc: Anne Cardwell, Deputy City Manager  
 Jenny Wong, City Auditor  
 Farimah Brown, City Attorney  
 Mark Numainville, City Clerk  
 Matthai Chakko, Assistant to the City Manager  
 Jordan Klein, Director, Planning & Development Department  
 David Sprague, Fire Chief