



Land Use Committee

City of Arts & Innovation

TO: LAND USE COMMITTEE MEMBERS DATE: NOVEMBER 12, 2024

FROM: COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT WARDS: ALL

SUBJECT: UNDOCUMENTED RESIDENTIAL LEGACY STRUCTURES

ISSUE:

Receive a report and provide input on potential options to legalize undocumented residential legacy structures.

RECOMMENDATIONS:

That the Land Use, Sustainability, and Resilience Committee receive a report and provide input on potential options to legalize undocumented residential legacy structures.

LEGISLATIVE HISTORY:

Senate Bill 1226 (Attachment 1) was signed into law on September 30, 2018, which added Section 17958.12 to the California Health & Safety Code. This law grants the Building Official discretion to apply the building standards that were in effect when a residential dwelling unit was constructed or when a structure was converted to a dwelling unit. When a building permit for a dwelling unit does not exist, the Building Official may determine when such structure was built and whether its construction complied with the building standards and other regulations and ordinances in effect at that time. Based on that determination, a retroactive building permit may be issued.

Senate Bill 13 (Attachment 2) was signed into law on October 9, 2019, and amended Government Code Section 65852.2 (later renumbered as §§66314 et seq.). This law authorizes the owner of an Accessory Dwelling Unit (ADU) built without the benefit of a building permit before January 1, 2020, that receives a notice to correct violations or abate nuisances to request that the enforcement of the violation be delayed for 5 years if correcting the violation is not necessary to protect life, health and safety, as determined by the enforcing Agency, subject to specified requirements.

BACKGROUND:

Undocumented residential legacy structures, also known as “unpermitted structures,” generally exist in every municipality, including Riverside. These structures were constructed throughout the years without the benefit of building permits which have been required in the City of Riverside since its first Building Code Ordinance was adopted on July 28, 1915. Typically, these structures are room additions, accessory structures like a patio covers or garages, and, more predominantly,

the conversion of existing non-habitable space into living quarters, to name a few. Many of these unpermitted structures are old and not code compliant, potentially posing health and safety risks to both occupants and the surrounding community.

Building Departments have varying policies on how to handle these unpermitted structures but, in almost all instances, require the permit applicant to go through the building permit process that requires these structures to be brought into full code compliance with today's building and zoning codes, which can require costly retrofits or reconstruction. In many instances, a current owner of property is unaware that a previous owner had completed undocumented work without the benefit of building permits, only to find out when applying for another permit or when Code Enforcement is notified by a concerned neighbor. These projects are typically very challenging for both staff and customer and can lead to stressful situations addressing these undocumented structures on a case-by-case basis.

Recent data over the past few years indicates that approximately 10% of building permits reviewed and issued by the City include unpermitted structures, alterations or conversions on residential properties.

With the need to construct more housing across the State and the volume of undocumented work identified through the permit process, the City recognizes the need to offer homeowners viable options and pathways to address these unpermitted/non-complying structures, either by acknowledging their status or legalizing them through the permitting process.

This situation presents challenges for both the City and property owners. While ensuring health and safety and legal construction practices remain the City's priority, many unpermitted structures were built for legitimate purposes and have been part of the community for many years. If minimum health safety standards can be confirmed, allowing the continued use of these structures may serve the public interest, particularly considering the housing shortage and escalating housing costs.

To that end, staff have researched the policies and practices of other agencies and pertinent state laws that may assist with providing additional tools and resources to help address unpermitted structures without the need to ensure full code compliance with today's adopted building and zoning codes on properties zoned for single-family residential use.

DISCUSSION:

Undocumented residential legacy structures and illegal conversions of existing space can potentially pose a health & safety risk to occupants and the surrounding community. These structures need careful consideration on a case-by-case basis to ensure appropriate use designations, so the structure(s) or conversions align with zoning, building and fire codes that are compatible with the property and surrounding neighborhood, while also ensuring minimum health and safety standards are met.

Pertinent State and Local Law

California Building Standards law (California Building Code 105.1) and State Housing law (Health & Safety Code 19825) both require new construction (with minor exceptions) to obtain a building permit and ensure all construction meets the most currently adopted building codes enforced throughout the State. It's important to note that this applies to the time of the permit application and not when the unpermitted structure was built. In this case, the 2022 California Building Standards Code, which includes the 2022 California Residential Code and 2022 California

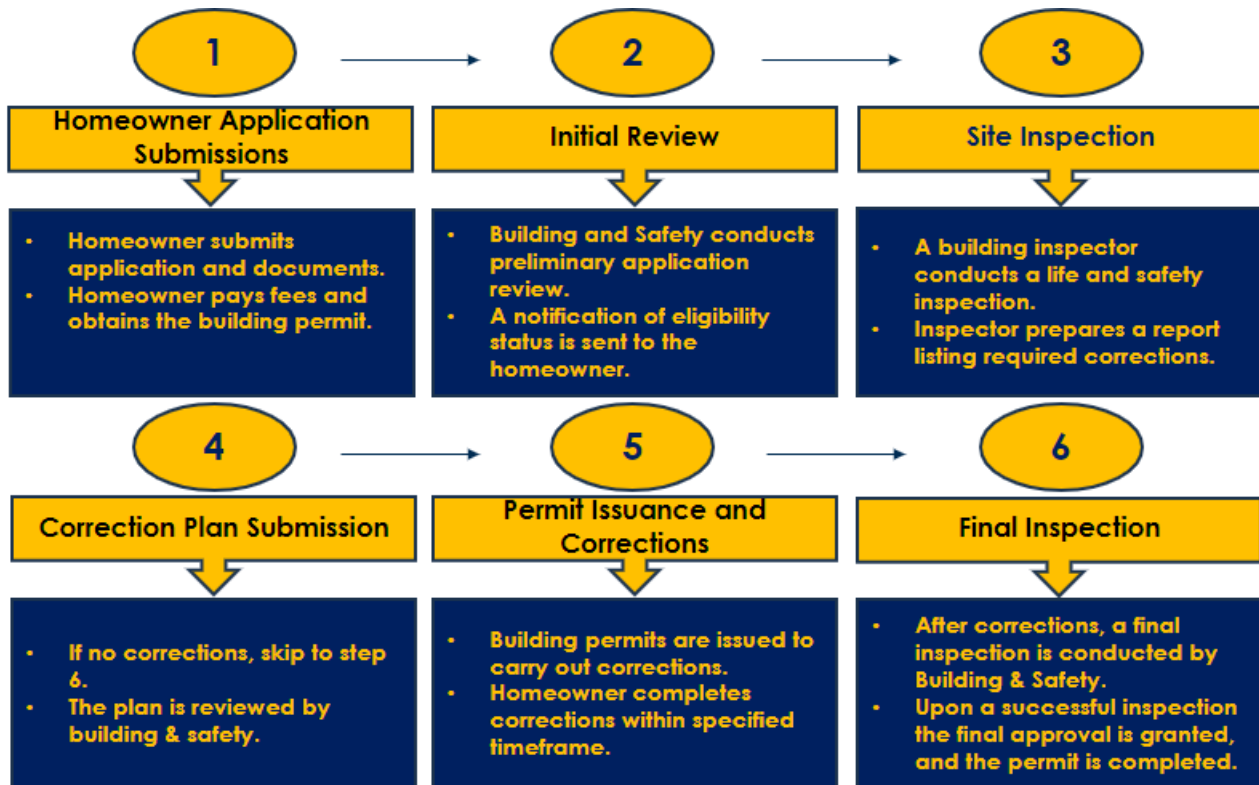
Existing Buildings Code, are both in effect today as adopted by the City of Riverside with local amendments thereto.

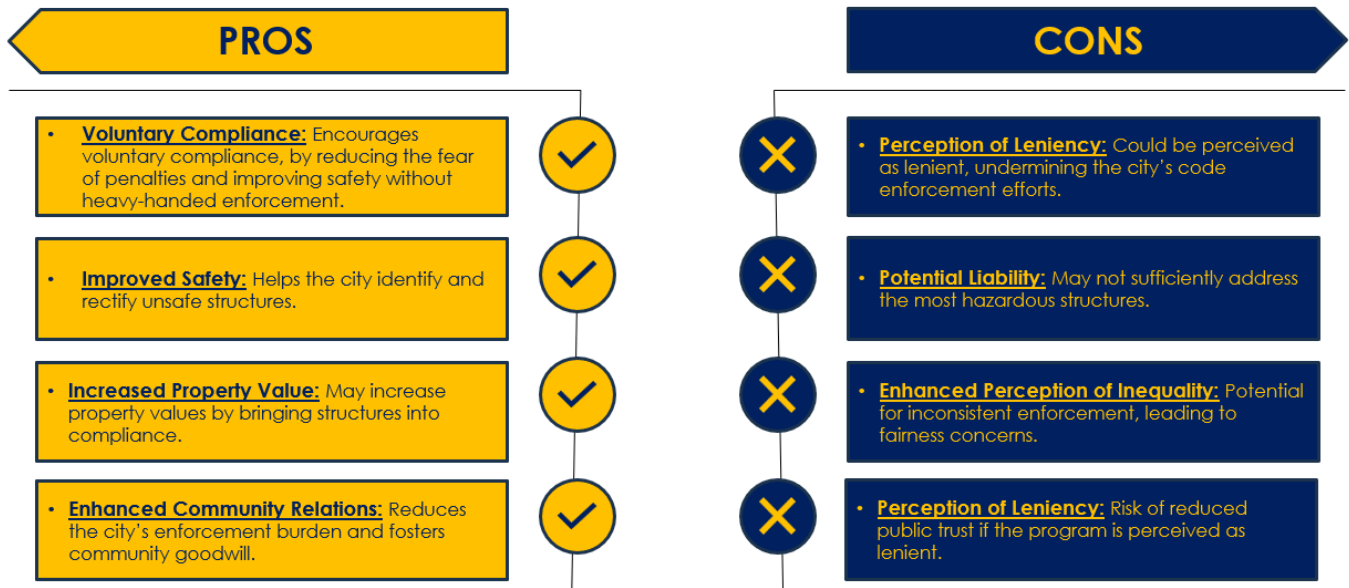
As noted, Senate Bills 1226 and 13 were signed into law to help address this situation by allowing undocumented structures to comply with the code in effect at the time of construction through the issuance of a building permit as determined by the Building Official, and by providing leniency on code enforcement action for (5) years when imminent life safety concerns do not exist with undocumented ADUs.

The Riverside Municipal Code includes Title 16 - Building and Construction. The adopted state building codes reside in Title 16 with local amendments which are adopted on a triennial basis. After reviewing the Riverside Municipal Code, along with what other agency policies include and what State law addresses, staff wishes to present three proposed options for Committee consideration, discussion and feedback:

Option #1 – Safety First Amnesty Program

The proposed “Safety First Amnesty Program” is a model other local agencies have used (Attachment 4) in conformance with SB 1226. An amnesty program allows homeowner to voluntarily disclose unpermitted structures without facing penalties, provided they undergo a life investigation and life safety inspection that meet specific requirements. This program would allow owners of unpermitted residential structures to legalize undocumented structures through a streamlined process, including penalty waivers which reduce fees. The goal of this program is to issue a retroactive residential building permit and bring the structure into compliance with the City’s building codes and zoning regulations in effect with the time of construction as determined by the Building Official.





Note that this Program may be implemented through Policy and Procedures set forth by the Building Official. Attachment 3

Option #2 – Certificate of Unpermitted/Non-Complying Conditions

A Certificate of Unpermitted/Non-Conformance Conditions (CUNC) is another option that allows the Building Official the authority to permit the continued use and occupancy of undocumented residential legacy structures. This model also exists (Attachment 5) and would require an Ordinance of the City Council (Attachment 6) to Title 16 of the Municipal Code. This model can apply to any unpermitted structure, addition, alteration or conversion on a single-family lot with some limitations.

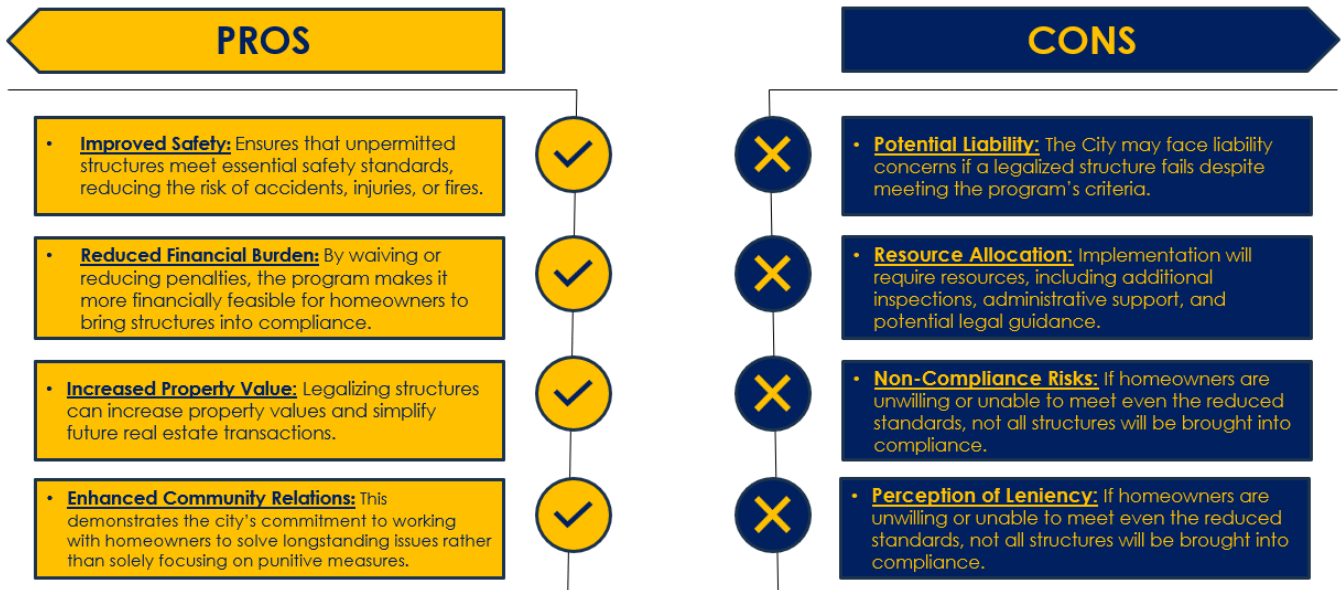
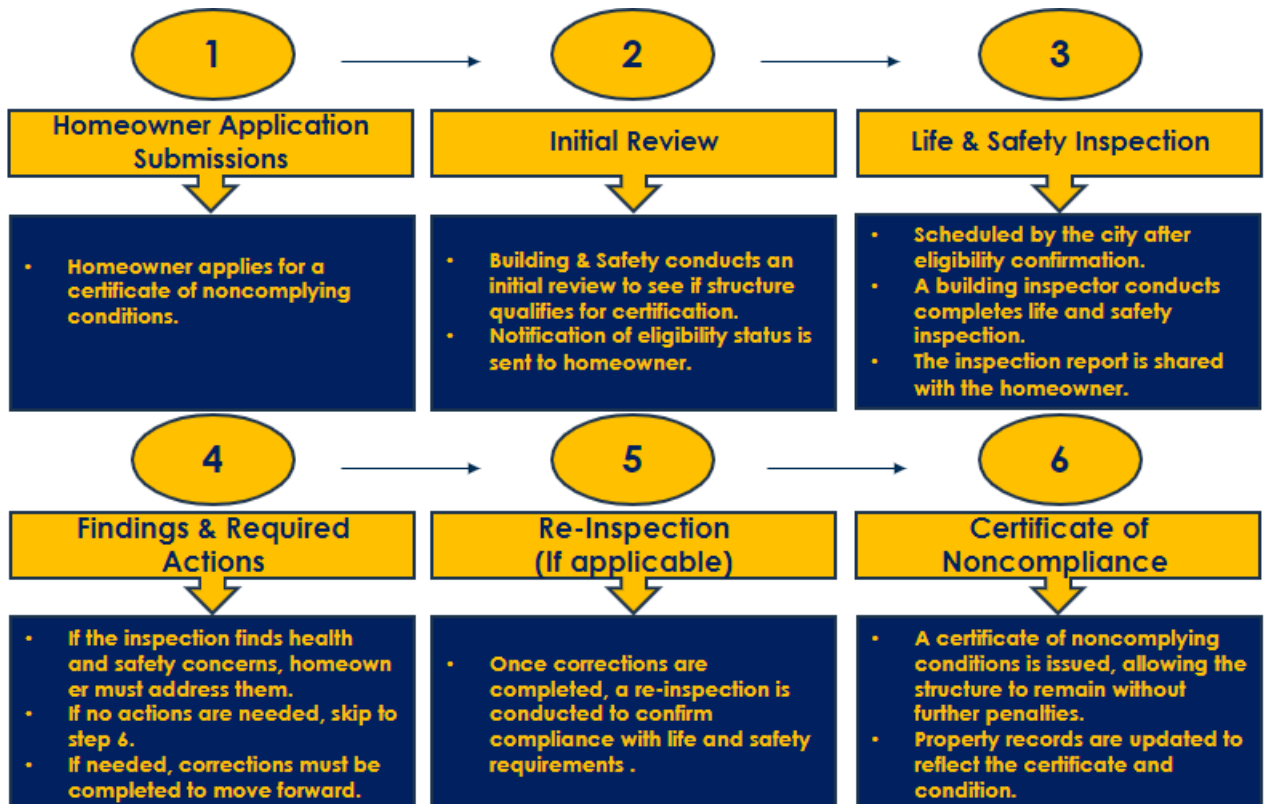
To be eligible for consideration, the property owner must provide satisfactory proof to the Building Official that they were not the responsible party in constructing the structure or conversion, i.e., the property owner was not aware the structure or alteration was unpermitted at the time the property was purchased. The property owner would request an investigative inspection (without risk of penalty fees), and the Building Official would determine what corrections may be required to ensure minimum life safety standards exist based on observations through inspection. In this case, a building permit is not issued, and the property owner would need to indemnify the City by submitting a signed form.

The unpermitted structure or alteration may remain without the validation of full building or zoning code compliance with currently adopted codes. From a building perspective, the investigation is based on observation only without the need for non-destructive testing or exposure of construction materials to validate full compliance, requiring the indemnification of the City. When approved by the Building Official, conditions deemed not to pose a potential threat to life, limb or property may remain.

Lastly, the CUNC may remain valid until such time the structure is altered in any way beyond typical maintenance (reroof, water heater replacement, etc.) at which time a new building permit shall be obtained based on the proposed alteration, addition or conversion in accordance with today's codes.

Example: An illegal bedroom addition from 1970 receives a CUNC. Several years later, the property owner wishes to convert the bedroom and add to it by constructing a residential expansion of the structure. This would require plan submittal, building permit issuance and full

compliance with today's adopted zoning and building codes.



Option #3 – Combination Approach

Enabling multiple tools that can address these unpermitted structures or alterations in different ways provides more options for compliance to our customers, Those that wish to obtain a building permit and gain its benefits may choose the path of the Safety First Amnesty Program and submit plans, obtain permit and undergo inspections in accordance with the codes in effect at the time of construction.

Others may wish to just obtain approval to continue to use and occupy these structures or alterations through the Certificate of Unpermitted/Non-Complying Conditions and undergo a life safety inspection until such time other alterations may be proposed which would require code compliance with today's code when occurs.

Both options provide multiple pathways to compliance and help ensure a minimum level of safe occupancy in addition to the traditional building permit process in conformance with all of today's codes and standards,

Should the Committee support option 2 or 3, staff will receive any input received and advance the ordinance to City Council for consideration. Option 1 can be implemented through policy without the need for an ordinance.

STRATEGIC PLAN ALIGNMENT:

Strategic Priority 2: Community Well-being – Ensure safe and inclusive neighborhoods where everyone can thrive.

Goal 2.4 – Support programs and innovations that enhance community safety, encourage community engagement, and build public trust.

Goal 2.5 - Foster relationships between community members, partner organizations, and public safety professionals to define, prioritize, and address community health and safety and social service needs.

1. **Community Trust** – The proposed amnesty program and the certificate of noncomplying conditions promote community trust by fostering collaboration between the City, property owners, and the community to preserve the community's character and promote economic growth.
2. **Equity** – The proposed amnesty program and the certificate of noncomplying conditions promote equity by providing a solution that addresses the needs and concerns of all property owners, regardless of their socioeconomic status or location.
3. **Fiscal Responsibility** –Initiation of these programs can potentially generate additional permit fee revenue.
4. **Innovation** – The proposed amnesty program and the certificate of noncomplying conditions promote inclusivity by providing a solution that is accessible and beneficial to all members of the community, including low-income and minority populations.
5. **Sustainability & Resiliency** – The proposed amnesty program and the certificate of noncomplying conditions promote sustainability by allowing property owners to maintain and renovate their properties to minimize environmental impacts and promote sustainable development.

FISCAL IMPACT:

The fiscal impact is currently unknown. Staff will continue to waive penalty fees and collect plan review, inspection, and permit fees for these programs.

Prepared by:	Oscar Mancillas, Acting Building Official
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Approved by:	Mike Futrell, City Manager
Approved as to form:	Jack Liu, Interim City Attorney

Attachments:

1. SB 1226 Text
2. SB 13 Text
3. Draft Riverside Safety-First Amnesty Program
4. Amnesty Program Examples
5. Ordinance Example
6. Draft Ordinance – Certificate of Unpermitted/Non-Complying Conditions
7. Presentation