



## AMNESTY PROGRAM FOR UNPERMITTED ACCESSORY DWELLING UNITS (ADUs)

### GENERAL INFORMATION

#### WHO IS THIS PROGRAM FOR?

If you have an ADU built without prior Planning and Building permits, you may qualify for the following:

- Amnesty from violations of Planning Code standards and
- Delay in enforcement of certain Building Code requirements to fix violations without penalties<sup>1</sup>

#### WHAT IS PLANNING CODE AMNESTY?

It is a waiver of any existing violation of the Planning Code, such as setbacks, height, size, lot coverage, location or any other planning or zoning requirements, that would preclude the preservation of an existing unpermitted ADU or Junior Accessory Dwelling Unit (JADU) that was established and occupied prior to January 1, 2021.

#### WHAT IS BUILDING CODE ENFORCEMENT DELAY?

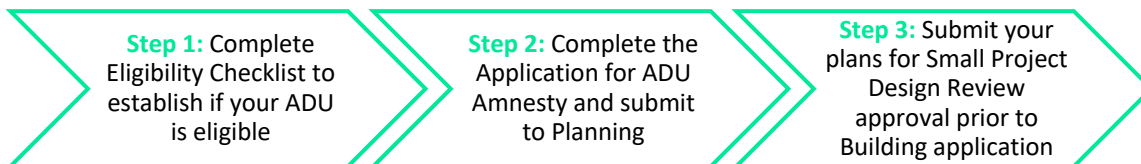
It is a delay in Building Code enforcement and temporary suspension of any associated penalties until the violation is fixed. You have up to five (5) years or until January 1, 2035, whichever date is sooner, to complete all required improvements. However, this delay does not apply to dangerous public health and safety violations.

#### WHY SHOULD I LEGALIZE MY EXISTING UN-PERMITTED ADU?

- Reduce health and safety risks to the occupants of the ADU and/or the primary dwelling
- Reduce your liability: home insurance may not cover damages related to an un-permitted ADU
- Increase your property value: make your property more desirable for potential buyers and renters
- Peace of mind: no risk of penalties or future code enforcement against your un-permitted ADU from the City
- Take advantage of the limited time opportunity to legalize and update your un-permitted ADU
- Ample time to complete the building code corrections if they do not have immediate health and safety risks
- No risk of penalties or code enforcement to explore the program prior to the formal application

### PROGRAM REQUIREMENTS AND STEPS

#### PLANNING (AMNESTY FROM ZONING REQUIREMENTS SUCH AS SETBACKS, LOT COVERAGE, HEIGHT, AND ETC.)



#### BUILDING (ENFORCEMENT DELAY OF BUILDING CODE, EXEMPT FOR HEALTH AND SAFETY VIOLATIONS)



<sup>1</sup> Please refer to Planning Code Chapter 17.103.080 (A)(15) for the underlying regulation of this Amnesty Program

PLANNING STEP 1: ELIGIBILITY CRITERIA CHECKLIST

Existing unpermitted ADUs and Junior Accessory Dwelling Units (JADUs) may only be eligible for Planning Code Amnesty and Building Code Enforcement Delay if the applicant can check “YES” (as provided) to EACH of the following:

- YES  NO  The existing unpermitted ADU/JADU was established and occupied prior to January 1, 2021.
- YES  NO  The owner can provide sufficient proof that the ADU/JADU was established and occupied prior to January 1, 2021.
- YES  NO  The existing unpermitted ADU/JADU has not been modified in any way except for the sole purposes of satisfying requirements of the Building Code after January 1, 2021. *(No expansions or additions are allowed.)*
- YES  NO  The number of ADUs to be legalized does not exceed maximum allowable number of ADUs per lot. *(See ADU Applications for Single-Family and Multifamily lots to verify the number of allowable ADUs.)*
- YES  NO  This application is submitted prior to January 1, 2030.  
**Note: If you have an open Code violation case, you have up to 5 years to correct the issue from the date Violation was verified by the Building Bureau)**
- YES  NO  N/A  The existing unpermitted ADU/JADU is located outside of S-9 Fire Safety Protection Zone (S-9 Zone) to be eligible for Planning Code Amnesty.

To find out if a lot is outside the S-9 Zone please see the map:

<https://oakgis.maps.arcgis.com/apps/webappviewer/index.html?id=adfa58efbcc849f89819f7b4bec96534>

*(You are still eligible for Building Code Enforcement Delay and may check N/A in this case.)*

**If you checked “YES” or “N/A” to all of the above, you may continue with the program requirements**

**PLANNING STEP 2: APPLICATION FOR AMNESTY PROGRAM**

*Please fill out this section of the application and follow the submittal requirements below to begin legalizing your ADU.*

By checking this box I acknowledge that in order to proceed with the application I agree for a required Health and Safety Inspection by the Building Official or their designee.

If you check yes you are agreeing for the Building official to inspect your un-permitted property and create findings. After the inspection, the Building Official will review the inspector’s findings. If the Building Official finds that the violation(s) does not present danger to health and safety, the Building Official will permit a five (5) year enforcement delay of Building Code violation(s). Dangerous Health and Safety issues must be corrected pursuant to the City’s Code Enforcement procedures.

**SELECT TYPE(S) OF EXISTING ADUS AND COMPLETE THE TABLE:**

ADU TYPE	ADU – floor area (sq. ft.)	Year ADU was built or converted*
<input type="checkbox"/> <b>ATTACHED GARAGE CONVERSION:</b> ATTACHED GARAGE WAS CONVERTED TO AN ADU		
<input type="checkbox"/> <b>DETACHED STRUCTURE:</b> A DETACHED ADU OR A CONVERSION OF A DETACHED STRUCTURE SUCH AS A GARAGE TO AN ADU		
<input type="checkbox"/> <b>INTERIOR CONVERSION:</b> ADU WAS CREATED IN A ROOM WITHIN THE MAIN RESIDENTIAL FACILITY OR NON-HABITABLE SPACE WITHIN THE EXISTING ENVELOPE OF A RESIDENTIAL FACILITY. NON-HABITABLE SPACE MAY INCLUDE STORAGE ROOMS, BOILER ROOMS, PASSAGEWAYS, ATTICS, BASEMENTS		

\* You must provide a proof that the existing ADU **was built and occupied before January 1, 2021.**

**IMMINENT LIFE SAFETY REQUIREMENTS:**

ANY VIOLATIONS LISTED BELOW MUST BE FIXED AS SOON AS POSSIBLE AND ARE DEEMED <u>NOT</u> ELIGIBLE TO BE CONSIDERED FOR THE DELAY IN ENFORCEMENT:	Yes	No	DESCRIBE
IS THE UNIT FREE OF SIGNIFICANT STRUCTURAL DAMAGE OR DEFECTS DUE TO DETERIORATION, SUCH AS TILTING WALLS OR SAGGING ROOFS?			
IS THERE A DIRECT EXIT FROM THE UNIT TO THE OUTSIDE AND AN EMERGENCY ESCAPE WINDOW IN ROOMS USED FOR SLEEPING PURPOSES?			
ARE ROOMS USED FOR SLEEPING PURPOSES FREE OF GAS FURNACE, WATER HEATER, STOVE OR OTHER GAS-FIRED APPLIANCES?			
NO PERSON SHALL OCCUPY OR ALLOW ANOTHER PERSON TO USE OR OCCUPY ANY RESIDENTIAL OR NON-RESIDENTIAL BUILDING OR PORTION THEREOF FOR LIVING, SLEEPING, COOKING, OR EATING PURPOSES UNLESS SUCH SPACE OR ROOM OR ROOMS CONFORM WITH REQUIREMENTS FOR HABITABLE SPACE OF THE OAKLAND CODE. O.M.C. 15.08.340			

**Unit No. or Address:** \_\_\_\_\_  
**Owner Name:** \_\_\_\_\_  
**Owner Mailing Address:** \_\_\_\_\_  
**City/State:** \_\_\_\_\_ **Zip:** \_\_\_\_\_  
**Phone No.:** \_\_\_\_\_ **Alt. Phone No.:** \_\_\_\_\_ **E-mail:** \_\_\_\_\_

**To be completed only if Applicant is not the Property Owner:**

*I authorize the applicant indicated below to submit the application on my behalf.* \_\_\_\_\_  
**Signature of Property Owner**

**Applicant (Authorized Agent), if different from Owner(s):** \_\_\_\_\_  
**Applicant Mailing Address:** \_\_\_\_\_  
**City/State:** \_\_\_\_\_ **Zip:** \_\_\_\_\_  
**Phone No.:** \_\_\_\_\_ **Alt. Phone No.:** \_\_\_\_\_ **E-mail:** \_\_\_\_\_

I understand that approval of this application does not constitute approval for any administrative review, Conditional Use Permit, Variance, or exception from any other City regulations that are not specifically the subject of this application. I understand further that I remain responsible for satisfying requirements of any private restrictions appurtenant to the property.

I certify that I am the Applicant and that the information submitted with this application is true and accurate to the best of my knowledge and belief. I understand that the City is not responsible for inaccuracies in information presented, and that inaccuracies may result in the revocation of planning permits as determined by the Planning Director. I further certify that I am the Owner or purchaser (or option holder) of the property involved in this application, or the lessee or agent fully authorized by the owner to make this submission, as indicated by the owner's signature above.

I understand that statements made to me about the time it takes to review and process this application are general. I am aware that the City has attempted to request everything necessary for an accurate and complete review of my proposal; however, it may be necessary for the City to request clarifying information and/or materials after my application has been submitted and reviewed by City staff. I understand that any failure to submit the clarifying information and/or materials in a timely manner may render the application inactive and that periods of inactivity on the applicant's part do not count towards statutory time limits applicable to the processing of this application.

I understand that the proposed project and/or property may be subject to other laws, codes, regulations, guidelines, restrictions, agreements, or other requirements of other public agencies within or outside of the City of Oakland, and that the project and/or property may also be subject to requirements enforced by private parties. I am aware that the City recommends that I become fully aware of any other potential requirements before I submit this application and that I comply with all other requirements prior to commencing the proposed project.

**I HEREBY CERTIFY, UNDER PENALTY OF PERJURY, THAT I HAVE READ THE ABOVE AND THAT ALL THE INFORMATION PROVIDED IN THIS APPLICATION IS TRUE AND CORRECT.**

\_\_\_\_\_  
**Signature of Owner or Authorized Agent**

\_\_\_\_\_  
**Date**

### PLANNING STEP 3: GENERAL SUBMITTAL REQUIREMENTS CHECKLIST

*Please note that submittal materials below are not required to apply for Building Enforcement Delay. However, these materials must be submitted to receive Planning and Building Permits to begin any construction and to legalize your ADU. You may submit these materials separately and after submitting your application to Planning in Step 2 above.*

Please complete the Basic Application for **Small Project Design Review** (see <https://www.oaklandca.gov/documents/basic-application-form>) and submit the application and plans electronically through the Online Permit Center at: <https://aca-prod.accela.com/OAKLAND/Default.aspx>

#### PLANNING REQUIREMENTS

- COLOR PHOTOGRAPHS OF PROPERTY & ADJACENT PROPERTIES
- PLANS  
SEE PAGES 4-5 FOR MORE DETAILED PLAN, SURVEY, AND RELATED REQUIREMENTS
  - SITE PLAN
  - FLOOR PLANS
- EVIDENCE OF ADU CREATION DATE AND OCCUPANCY PRIOR TO JANUARY 1, 2021.

#### BUILDING REQUIREMENTS

- PLANS  
SEE PAGES 11-12 FOR MORE DETAILED BUILDING PLANS AND DRAWING REQUIREMENTS
  - TITLE BLOCK
  - SCOPE OF WORK
  - TITLE 24 ENERGY DOCUMENTATION
  - SITE PLAN, SHOWING LOCATION OF PROPOSED NEW UTILITY METERS AS PER JOINT INFORMATIONAL BULLETIN
  - DEMOLITION PLAN
  - FLOOR PLANS
  - CONSTRUCTION SECTIONS
  - ELEVATIONS
  - FOUNDATION PLAN (FLOORS AND ROOF)
  - FRAMING PLANS
  - DETAILS AND SECTIONS (REFERENCED FROM PLANS)
  - STRUCTURAL CALCULATIONS
  - WHILE NOT REQUIRED AT APPLICATION, BOUNDARY SURVEY OR FOUNDATION FORMWORK CERTIFICATE IS REQUIRED IF STRUCTURE APPEARS TO BE WITHIN 10' FROM INTERIOR PROPERTY LINES.
  - ZONING APPROVAL STAMP
- CHECKLIST FOR ACCESSORY DWELLING UNITS  
SEE PAGES 16-17 FOR PROJECT BUILDING REQUIREMENTS (ALL CATEGORIES)
- EBMUD FIRE HYDRANT FLOW DATA REPORT IF THE PROPOSAL INVOLVES SUBSTANTIAL REHABILITATION OF THE PRIMARY RESIDENTIAL FACILITY  
(VISIT [ebmud.com/fire](http://ebmud.com/fire) OR CALL (510) 287-1842)
- DEED RESTRICTION (RESTRICTING SALE OF ADU FROM THE PRIMARY LIVING UNITS)