



Nonconforming ADU Report

Paramount ADU Project

November 2023



Prepared for the City of Paramount, CA

With funding from SCAG



Prepared by Woodsong Associates



Paramount ADU Project: Nonconforming ADU Report

Overview

The Woodsong Associates team presents the following Nonconforming ADU Report as part of Task 2.12 of the Paramount ADU Project.

This report is funded through The Southern California Association for Governments (SCAG) by the Regional Early Action Planning (REAP) grant from the State of California Department of Housing and Community Development (HCD). This report was prepared for the City of Paramount, California.

This Nonconforming ADU Report includes the following:

- An overview of the reasoning for unpermitted ADUs
- An assessment of unpermitted ADUs in Paramount
- A discussion of the benefits of legalizing existing unpermitted units
- An assessment of State and local regulations surrounding unpermitted ADUs
- Case studies of ADU amnesty programs and legalization procedures of other jurisdictions
- Recommendations for the City of Paramount to encourage owners of unpermitted ADUs to complete the permitting process

The contents of this report reflect the views of the author, who is responsible for the facts and accuracy of the data presented herein. The contents do not necessarily reflect the official views or policies of SCAG or State of California - Business Consumer Services and Housing Agency. This report does not constitute a standard, specification or regulation.

Note: The cover image is of a legally permitted garage conversion project in Long Beach, CA. It was chosen because many unpermitted ADUs are also conversions of garages.



Paramount ADU Project

Paramount ADU Project: Nonconforming ADU Report

Acronyms and Abbreviations

ADU	Accessory Dwelling Unit
ADULP	Accessory Dwelling Unit Loan Program
GCHFT	Gateway Cities Housing Finance Trust
HCD	California Department of Housing and Community Development
HSD	Housing and Sustainable Development
LHFT	Local Housing Trust Fund
RHNA	Regional Housing Needs Assessment/Allocation
RTP	Regional Transportation Plan
SB	Senate Bill
SCAG	Southern California Association of Governments
SCP	Sustainable Communities Program
SCS	Sustainable Communities Strategy

Paramount ADU Project: Nonconforming ADU Report

Table of Contents

Overview	2
Acronyms and Abbreviations	3
Executive Summary	5
Introduction	7
The Paramount ADU Project	8
Understanding Unpermitted ADUs	9
Legalizing Unpermitted Units	10
Benefits of Legalization	10
Common Misconceptions with Legalization	11
Requirements and Opportunities for Unpermitted ADUs	13
State Regulations	14
Opportunities for the City	15
Local Context: Unpermitted ADUs in Paramount	16
City's ADU ordinance	16
Case Studies	17
1. City of San Jose Amnesty Program	17
2. San Mateo County Amnesty Program	18
3. City of San Francisco Legalization Process	19
4. City of Oakland: ADU Loan Program (ADULP)	19
5. Santa Cruz County Safety Certification Program	20
Best Practices	20
Recommendations	21
Update the ADU ordinance	21
Expand staff capacity to assist homeowners with legalization	22
Develop staff resources for process streamlining	22
Develop homeowner informational resources	23
Continuously refine the process to offer greater streamlining as an incentive	24
Conduct periodic workshops dedicated to legalizing ADUs	25
Nonconforming ADU amnesty program	25
Conclusion	28
Appendix A: Summary of Recommendations	30
Appendix B: Online Resources	31
Appendix C: HCD Letter of Non-Compliance	32

Paramount ADU Project: Nonconforming ADU Report

Executive Summary

Prior to definitive statewide legalization of additional dwelling units in 2016, some Californians may have built unauthorized secondary units on their property such as “granny flats”, in-law units, backyard cottages, basement apartments, and more. Previous regulations that restricted the development of accessory dwelling units (ADUs) led to an unknown number of unpermitted, potentially unsafe units. Because unpermitted units forgo the permitting process, they are typically under the radar of most jurisdictions, and thus, it is difficult to accurately determine how many unpermitted ADUs exist in a city. However, research across California has indicated that the number of unpermitted ADUs across the state may be exceptionally high, particularly in places with little affordable housing.

As part of a new suite of legislation pertaining to ADUs (AB 68 and SB 13), the State set forth additional rules around enforcement of a qualifying substandard ADU. The rules include the delayed enforcement of building issues for up to five years, besides health and safety issues, and the approval of unpermitted units built prior to adoption of a local ADU ordinance (Gov. Code, § 65852.2, subd. (n); Health and Safety Code § 17980.12). While this creates a path forward toward legalizing previously unpermitted ADUs, these regulations will expire on January 1, 2030.

Before the delayed enforcement period expires, the City has the opportunity to implement a legalization process which will encourage homeowners to take the step to permit their existing units. We suggest the City of Paramount standardize and streamline their legalization process, and train staff members on how to handle these unique cases. The City might also consider developing a formal amnesty program to further incentivize unpermitted ADU legalization.

Purpose

The aim of the Paramount ADU project is to provide planning assistance to the City to help the jurisdiction develop effective ADU implementation policies and programs, while meeting statewide standards. Specific goals of the project are to support and promote ADU production to meet community and regional housing demand. The City can meet these goals through efficient permitting and approval of ADU applications, by providing useful information to owners about how to build an ADU, and through other means to facilitate ADU construction.

Objectives

The intent of this Nonconforming ADU Report is to evaluate existing practices for legalizing unpermitted ADUs in other jurisdictions, and identify areas of opportunity for the City to further promote owners of unpermitted ADUs to come forward to properly permit their units and add to the city's housing stock.

Paramount ADU Project: Nonconforming ADU Report

Key Findings

- Recent studies in Los Angeles and the San Francisco Bay Area found the prevalence of unpermitted units are especially high in places with little affordable housing. (Page 9.)
- Although costs of legalizing an unpermitted ADU may be a deterrent, legal fees and fines for units without permits can be significantly higher for the homeowner. (Page 12.)
- Recent State regulations allow cities greater flexibility in dealing with unpermitted units. (Page 13.)
- Between January 2021 and June 2022, **5 of the 62 permitted ADUs** in the City were identified as **legalizations of existing units**. However, additional cases may have been identified using other processes. (Page 16.)
- Several jurisdictions, such as cities of San Jose and Oakland, have developed ADU legalization processes, ranging from technical or financial support, to robust amnesty programs. These case studies can be used as models to guide the implementation of a comprehensive unpermitted ADU legalization program. (Pages 17-21.)

Summary of Recommendations

- The City of Paramount should **update the ADU ordinance** to include recent updates to State legislation. (Page 21.)
- **City staff members should be trained on updated procedures** from the new ordinance, and on how to most effectively assist homeowners, who may be fearful of the permitting process and have unique, complicated cases. (Page 22.)
- **Build the capacity staff members** to efficiently work through complex cases. Creating internal materials such as a legalization process diagram, staff checklists, standardized communication tools, and reference material for previous building codes. (Page 22.)
- **Develop educational materials for homeowners** to increase familiarity and trust of the legalization process. Resources for residents may include step-by-step guides, FAQs, and information on fees and financing. (Page 23.)
- **Continually refine and document the legalization process** to improve it over time, and as new legislation requires updates. For example, the City could document how to best address **common nonconformities** and adapt the legalization process over the course of the program period. (Page 24.)
- **Conduct workshops centered around legalization** that interested homeowners can attend anonymously. (Page 25.)
- Consider implementing a **formal amnesty program** that offers incentives to homeowners for legalizing an existing unpermitted ADU. Potential benefits could include offering consultations without fear of retribution, low-cost or free initial inspections for an unpermitted ADU, or waiving of penalties or fees for homeowner-initiated cases. (Page 25.)

Paramount ADU Project: Nonconforming ADU Report

Introduction

In 2016, the California State Legislature legalized “accessory dwelling units”, commonly called ADUs, in order to address the critical housing crisis in the state. However, the State of California's (hereon called the “State”) initial efforts to allow the addition of secondary dwelling units to single-family parcels dates back to at least to 1982.¹ At that time, the Legislature stated that “there are many benefits associated with the creation of second-family residential units on single-family lots,” including providing “relatively affordable housing for low- and moderate-income households without public subsidy.” The suite of regulations allowed any city (including a chartered city, county, or city and county) to “by ordinance provide for the creation of second units in single-family and multifamily residential zones,” though it’s unclear if any cities beyond Berkeley actually did so during the 1980s.²

Over the last seven years, State legislation has limited the restrictions cities can place on the development of ADUs in order to produce more housing and meet the growing needs of Californians during the ongoing housing crisis. The intent of this legislation is to not only allow, but encourage, the construction of ADUs in residential and mixed-use zones statewide, though the real impact of ADUs

varies widely from one community to the next.

ADUs are a particular form of homeowner-initiated infill development that allows a gradual increase in density and housing opportunities without a more drastic up-zoning of single-family neighborhoods, which make up most land in cities throughout California and the U.S. Because of their smaller size and shared land, ADUs are generally considered **more affordable** to build than other types of new housing, and are typically better able to **fit into existing neighborhood character**. ADUs are also considered more sustainable than greenfield development, since they can use existing infrastructure and be built on already developed land.

An emerging issue is the legalization of unpermitted and/or nonconforming ADUs that were built prior to state and local adoption of ADU rules. Estimates of these “shadow units” vary precisely because they are unregulated and excluded from many city databases, but they likely exist in all cities across the state.

Transitioning these units to formal status is a timely opportunity—and challenge—as cities like Paramount move forward with expanding ADU options to ensure that existing units, their owners, and their tenants are not left behind. However, as each unpermitted ADU is unique and was built with varying degrees of professional

¹ CA Legislation included the addition of Chapter 1440, and amendments passed to Section 65852.1 and 65852.2 of the Government Code, and to Section 21080 of the Public Resources Code, declaring a “tremendous unmet need for new housing to shelter California’s population,” that “improved utilization of this state’s existing housing resources offers an innovative and cost-effective solution to California’s housing crisis.”

² See: <https://clerk.assembly.ca.gov/sites/clerk.assembly.ca.gov/files/archive/Statutes/1982/82Vol4.PDF>, pp. 5500-5505

Paramount ADU Project: Nonconforming ADU Report

involvement, legalization options and approval processes can vary significantly. The particularities of each legalization case can prompt uncertainty in homeowners increasing the time, and inevitably the cost, required for homeowners and city permitting staff to navigate the process.

The State has adopted several rules specific to legalization of unpermitted ADUs that cities must implement, including delayed enforcement of building issues, besides health and safety issues, and approval of unpermitted units built prior to adoption of a local ADU ordinance. Cities may go further to **develop amnesty programs to affirmatively support ADU legalization**, which may include any combination of the following: reducing permit fees, allowing anonymity during initial research phases, providing informational resources and staff dedicated to legalization, connection to financial resources, and other supports.

This report provides background information on unpermitted ADUs, addresses the status of existing nonconforming or unpermitted ADUs based on available City and SCAG data for the City of Paramount (City), and details options to legalize those unpermitted ADUs. Both State requirements to support legalization, and optional City-led initiatives for legalization, are detailed, including case studies, to inform recommendations for ADU legalization efforts in Paramount.

The Paramount ADU Project

The Southern California Association of Government's (SCAG) Regional Council



Figure 1: City of Paramount ADU Program logo developed as part of this project.

approved the 2020 Sustainable Communities Program (SCP) Housing and Sustainable Development (HSD) Call for Applications in November 2020. The goal of the SCP is to implement the policies and programs of Connect SoCal, the 2020 Regional Transportation Plan (RTP), and the Sustainable Communities Strategy (SCS). With the 2019-2020 Budget Act, \$250 million was budgeted to prioritize planning initiatives that would increase housing production to meet the needs of every community throughout the state.

The California Department of Housing and Community Development (HCD) received \$125 million of this funding to establish the Regional Early Action Planning (REAP) Grant Program. REAP provides one-time grants to regional entities for planning activities that facilitate compliance in implementing the 6th cycle of the Regional Housing Needs Assessment (RHNA). This includes efforts to accelerate housing production – such as the development of ADUs.

This report was prepared as a part of a SCAG REAP ADU bundle project for the

Paramount ADU Project: Nonconforming ADU Report

cities of Paramount, Garden Grove, Santa Fe Springs and Buena Park. A report was prepared for each City, with its unique conditions; some common needs and recommendations have also emerged. Recommendations include those specific to Paramount, and those that can be considered more broadly as general best practices for dealing with unpermitted ADUs.

Understanding Unpermitted ADUs

Determining the numbers and distribution of unpermitted and nonconforming ADUs is challenging because they are not documented in official records. However, a high number are estimated to exist across California cities, because of the intersection between historically high housing prices and the lack of options to legally build ADUs up until very recently.

Most studies seem to agree on the **prevalence of unpermitted ADUs** in neighborhoods that **lack affordable housing**.

For example, a 2009 field survey of three neighborhoods in Los Angeles with high

numbers of foreclosures revealed that 34% to 80% of single-family housing units in these areas were likely to have illegal ADUs.³ In 2011, researchers surveyed homeowners in the San Francisco Bay Area and found that more than 90% of secondary units lacked required building permits.⁴ A recent report by a statewide ADU advocacy group estimated that hundreds of thousands of unpermitted ADUs likely exist statewide.⁵

ADUs may be unpermitted or nonconforming for a variety of reasons. Likely the single largest factor is that most California cities, including Paramount prior to 2017, did not have an ADU ordinance, making it very onerous to impossible to build a permitted ADU. Homeowners facing a need to house family members, create more housing options, or a desire to earn income from rental income at a time where housing options were limited, would have had few choices other than building an unpermitted ADU.

Some homeowners may have believed it to be cheaper and easier to build without permits, possibly due to fear or distrust or lack of information about city permitting and bureaucratic processes. Some structures may have been known to be

³ Cuff, Dana, Tim Higgins, and Per-Johan Dahl, editors. 2010. *Backyard Homes LA*. Los Angeles, CA: City LAB, UCLA Department of Design + Urban Architecture. Cited in <https://www.freddiemac.com/research/insight/20200716-identifying-accessory-dwelling-units-from-real-estate>

⁴ Chapple, Karen, Jake Wegmann, Alison Nemirow, and Colin Dentel-Post. 2012. *Yes in My Backyard: Mobilizing the Market for Secondary Units*. Berkeley, CA: Center for Community Innovation, University of California, June. Cited in <https://www.freddiemac.com/research/insight/20200716-identifying-accessory-dwelling-units-from-real-estate>

⁵ Casita Coalition. *Legalizing an Unpermitted ADU: Guidelines for Homeowners and ADU Professionals*. <https://static1.squarespace.com/static/5f2c2d67c58236227115e0de/t/6407e74b694a8449febc4a59/1678239571573/Unpermitted-ADU-Guidelines-Casita-Coalition-First-Edition-03072023v2-final-accessible.pdf>

Paramount ADU Project: Nonconforming ADU Report

nonconforming, such as a garage built partially within a setback, and homeowners may not have believed it possible to convert this structure to a legal ADU.

It would not be unusual for an unpermitted ADU to persist even with a transfer of ownership, when the new owners did not construct the unit but were informed of the unpermitted ADU when they bought the property. Other owners may not know if their secondary unit was built with permits. Still others may believe their space was built with permits, but may not have a record of such permits. In all of these cases, the local government may consider these as “unpermitted,” meaning they were not legally established.

Unpermitted ADUs can also be characterized based on conformance with applicable standards, such as:

- **Conformance with adopted zoning standards:** Existing ADUs or JADUs may or may not meet current ADU zoning or building standards. Whereas conforming ADUs have been confirmed by staff review to meet all applicable zoning standards, nonconforming ADUs might not meet current standards such as overall size, height, or setbacks. Given that most unpermitted ADUs were built before the ADU zoning standards were subsequently written, and thus may not have been possible to legally construct when originally built, it is not surprising to find many nonconforming ADUs.
- **Conformance with building code:**



Figure 1: Long Beach, CA homeowners building a garage conversion ADU.

Unpermitted ADUs may not meet the current building code, or may have been built to an earlier building code.

- **Conformance with health and safety code:** Unpermitted ADUs may or may not contain health and safety code violations.

Unpermitted ADUs that meet many or all applicable standards will likely face an easier path to legalization, whereas noncompliance with existing regulatory and safety standards can create more obstacles and necessitate more updates to meet the goal of safe, habitable dwellings.⁶

Legalizing Unpermitted Units

Benefits of Legalization

Homeowners and Renters

Legalizing an existing unit can increase the value of the property and/or rents that

⁶ As addressed later in the report, state code allows some flexibility regarding compliance with zoning and building code standards, but health and safety violations must be addressed to legalize an unpermitted ADU.

Paramount ADU Project: Nonconforming ADU Report

can be charged, while reducing lingering concerns about the potential for enforcement. In turn, a homeowner could pursue permits to make further improvements to their home, without the fear that previous unpermitted work will be uncovered during inspections.

Homeowners can also increase transparency for future real estate transactions by seeking legalization prior to listing their home, and thus eliminate the need to disclose an unpermitted unit to future buyers. Further, if the seller knowingly does not disclose the presence of an unpermitted ADU, the homeowner can be issued violations from the city, and still ultimately be required to remediate and legalize the unpermitted unit before closing.

By seeking proper authorization for an unpermitted unit, homeowners can reduce uncertainty around landlord-tenant disputes and, if needed, may offer protection for either party under the law. Proper permitting can increase the quality and safety of an ADU for renters as well as support more formal, reliable rental agreements. Legalization may also allow landlords to better advertise ADU vacancies, reaching more potential renters rather than a “word of mouth” strategy.

Overall, the benefits to homeowners and renters to legalize an unpermitted ADU go beyond having peace of mind and can result in increased revenue for homeowners, reduced violations/fines, and enhanced safety for all.

Cities

The legalization of existing unpermitted ADUs can increase the documented housing supply by uncovering “hidden”

units, increasing the number of potentially-affordable units that can be counted towards their RHNA obligations. Because these homes already exist, they are less likely to provoke community resistance than larger-scale multifamily developments.

Legalization can also help cities **advance equity** by supporting homeowners who are more likely to be low-income or minorities, ensure safe living spaces, reduce hazards, and grow the tax base by bringing ADUs onto the assessor’s rolls.

Ultimately, identifying and legalizing unpermitted ADUs can help the City meet local housing and equity goals, while promoting safe and affordable housing to address California’s severe housing crisis.

Common Misconceptions with Legalization

All groups share the goal of creating a safe place to live that meets all health and safety standards, and provides housing alternatives that are often smaller and less expensive than single-family detached homes. So why would City staff, elected officials, or homeowners be opposed to developing a legalization pathway for unpermitted ADUs?

1. Fear of retaliation

Some homeowners may fear reprisal from the City, or that they will be forced to demolish an ADU if they begin discussing an unpermitted ADU with City staff. Exploring legalization can feel like opening a can of worms, particularly for homeowners with historically fraught relationships with government, such as low-income, historically marginalized groups or undocumented homeowners.

Paramount ADU Project: Nonconforming ADU Report



Figure 2: ADU under construction in San Jose, CA.

Nevertheless, if a homeowner does not mention the address of the unit to a City employee, they have no legal duty to open a code enforcement case. Further, the City of Paramount could consider instituting a guarantee of anonymity to allow a risk-free option for interested residents to get their unpermitted ADU questions answered.

2. Time-consuming and costly

Another belief held by some homeowners is that it is not worth the time, money, or hassle to legalize an unpermitted ADU, or believe that permitting may lead to increases in property taxes, or being subject to rent control and tenant laws. On the other hand, maintaining an unpermitted ADU could lead to much greater costs than if the unit is legalized. For instance, the homeowner could face substantial municipal fees or mandated rent refunds for renting out an unpermitted ADU, and even greater legal fees if a tenant was injured due to a safety hazard.

A dilemma for nearly all homeowners is that they must publicly commit to legalization before knowing the full costs.

A similar dilemma may arise for City staff when they cannot provide specific information on what steps are needed to legalize a unit until homeowners share property details. This could be frustrating for all parties. Addressing these concerns can help keep cities focused on shared goals of increasing access to safe, diverse housing options.

3. Inefficient use of City resources

Similar to homeowners, City staff may also feel like legalization cases are too time-consuming, and consequently are a drain on department resources. Nevertheless, unpermitted ADUs may pose serious health and safety risks to tenants, and permitting them ensures that any hazards are addressed and abated. To streamline the legalization process, the City can implement a standard process to increase staff efficiency and reduce uncertainty when presented with a particularly unique case. Detailed staff trainings and resources can also help with this concern.

Another concern is that legalizing unpermitted ADUs may be seen as an ineffective housing development strategy, since it does not result in any net increase in housing units, but merely addresses the status of existing units. However, legalizing unpermitted units increases the safe housing stock in the City and ensures that more residents have access to secure, legal housing without having to undertake a large-scale development project with City funds. Also, as previously mentioned, legalizing unpermitted ADUs is beneficial to the City by allowing already developed units to contribute toward their RHNA allocation.

Paramount ADU Project: Nonconforming ADU Report

4. Approval without requiring code improvement

City staff may feel that they have little latitude to modify permit and code requirements, limiting flexibility to work with homeowners. Yet recent State laws that allow for retroactively-issued building permits and the waiving of certain zoning requirements that don't threaten health or safety, may allow City staff more leeway in working with residents. Another way to look at this is that City staff still has the power to enforce essential building and safety or health codes to reduce the risk of harm and protect residents. Even though an unpermitted ADU from a few years back may only need to be brought up to the code standards in effect in that year, those code standards were still considered sufficient to protect life safety in the years during which they were in effect, and governed the construction and delivery to market of thousands of other homes. Certifying that a previously-unpermitted ADU meets even a previous standard still involves reviewing it, and if necessary requiring certain work to bring it up to a set of agreed-upon standards that protect life safety and health.

4. Incentivizes negligence

Finally, legalization can be seen as an unfair "reward" for homeowners that broke the rules, although there are several reasons why this is not the case.

First, legalizing unpermitted units can still create significant costs, possibly even greater than if they were to build the ADU legally in the first place.

Also, in many cases, the failure to procure the proper permits undoubtedly resulted in substandard work which is not up to

past or current building and safety codes. While there is currently an enforcement delay in place, that mandate will inevitably expire, resulting in the need for homeowners to remediate these mistakes. Depending on the type and quantity of abatement needed, this could also be more costly and difficult than if the original work was done to code.

Moreover, not allowing previously unpermitted units to become legally-permitted homes, and instead requiring demolition, would only worsen the housing and environmental crises we face. At this juncture, there are emerging opportunities and motivations to pursue legalization of existing ADUs that can benefit homeowners, tenants, and cities.

The opportunity to legalize the backlog of unpermitted ADUs is most timely at this moment of transition as California cities move to broadly permit and support ADUs. Historically restrictive zoning codes also left a legacy of a large number of unpermitted units. A much greater share of future ADUs will be built to meet zoning and building codes through proper permitting channels, now that ADUs are permitted in Paramount and beyond. Addressing this legacy of unpermitted ADUs from the previous era will help cities bring ADUs into the light, while improving safety and health for all residents.

Requirements and Opportunities for Unpermitted ADUs

Cities have a range of options to address unpermitted ADUs in their jurisdictions. At a minimum, cities, including Paramount,

Paramount ADU Project: Nonconforming ADU Report



Figure 3: Nonconforming ADU with a lower ceiling height than is legally allowed.

must implement recent State legislation passed to support legalization of unpermitted ADUs. Beyond that, cities have considerable latitude in terms of whether to offer additional information, outreach, financial resources, fee reductions, staff time or other resources for homeowners exploring legalization. Some cities, such as Santa Cruz and San Jose, have developed what they term ‘amnesty programs’ that package a variety of these resources to facilitate the legalization of more units, more quickly.⁷

State Regulations

State laws regarding unpermitted structures, including ADUs, were recently updated with legislation that passed on September 28, 2022 and went into effect on January 1, 2023. Minimum state

requirements that Paramount must meet include the following.⁸

1. Automatic approval of older units

Local agencies are required to ministerially approve an ADU constructed prior to January 1, 2018, even if the ADU does not meet the current Building Code, State ADU laws in Section 65852.2, or the local ADU ordinance. The local agency is not required to approve older ADUs if they have identified building or life safety code violations, correcting the violations is necessary to protect health and safety, and the violations are not remedied. *Senate Bill 897 (passed in 2022) (Gov. Code Section 65852.23)*

⁷ Please see *Case Studies* section on page 17.

⁸ The summaries included here are adapted from the Casita Coalition’s nonconforming ADU publication that was reviewed by Greg Nickless, Housing and Community Development, for consistency with state ADU law. <https://static1.squarespace.com/static/5f2c2d67c58236227115e0de/t/6407e74b694a8449febc4a59/1678239571573/Unpermitted-ADU-Guidelines-Casita-Coalition-First-Edition-03072023v2-final-accessible.pdf>

Paramount ADU Project: Nonconforming ADU Report

2. Deferred enforcement

Upon receiving a notice that their ADU does not meet Building Code provisions, a homeowner can request a five-year delay, and the jurisdiction will not take action. This provision is only applicable to ADUs built before January 1, 2020 (or ADUs built after January 1, 2020 if the jurisdiction did not have a compliant ADU Ordinance at the time of construction).

Until Paramount updates the City's ADU Ordinance in response to the HCD Letter of Non-Compliance received on February 11, 2022 (see [Appendix C](#)), any nonconforming ADUs built before the Ordinance is approved by HCD would qualify for this mandate.

The trigger for this law is the property owner's request, so **homeowners must request the delay**. A delay can be requested in response to a violation notice from the City, or initiated by the homeowner as part of a nonconforming ADU legalization process.

After receiving the request, local agencies are required to delay code enforcement against qualifying substandard ADUs for up to five years to give the homeowner time to correct violations, as long as the jurisdiction concludes that the unit has no health and safety problems. When issuing a notice to correct a violation, the issuing agency must include a statement that the owner has a right to request a delay in enforcement.

The option to request a deferral is only in effect until January 1, 2030. However, the five-year delay starts on the date it is approved and thus can run past 2030.

Senate Bill 897 (passed in 2022) (Gov. Code Sections 65852.2(n) and 17980.12)

3. Retroactive building permits

This law allows, but does not require, jurisdiction building officials to apply the building codes in place at the time a residential dwelling unit was built, or a structure was converted to a dwelling unit. When a dwelling unit does not have a building permit, the building official can ascertain when it was built and if it complies with the building standards in effect at the time. A retroactive building permit may be issued based on such determination. *Senate Bill 1226 (passed in 2018) (Gov. Code Section 17958.12).*

Opportunities for the City

Cities have additional opportunities alongside implementing recent State laws to more proactively help homeowners considering legalization. These efforts are sometimes termed an amnesty program. Depending on the scope of efforts and the scope of the problem, additional city efforts to support legalization could include:

- **Informational materials** explaining the State-mandated options for delay of enforcement, and considerations and opportunities to legalize ADUs.
- **Additional staff support** for homeowners, such as a designated staff point-of-contact with expertise on the issue.
- **Assessments or resources** to guide private evaluations of existing ADUs, sometimes with options for anonymity until the homeowner decides whether to commit to legalization and permitting.
- **Financing and technical assistance** for households completing legalization,

Paramount ADU Project: Nonconforming ADU Report

sometimes targeted for low-income homeowners or for homeowners who commit to renting the legalized ADU as affordable housing.

- **Building code flexibility**; applying the building code in place at the time of construction or considering reasonable alternatives that meet the intent of code requirements so long as health & safety standards are met.
- **Waiving fines or penalties** to encourage voluntary homeowner actions and support lower-income households.

The exact approach can be tailored to address the common unpermitted ADU issues in the city, and iteratively refined through experience. Some of the above efforts can be initiated at the Planning or Building and Safety Division level, such as developing informational materials and developing staff expertise to assist homeowners. A more robust amnesty program that exceeds the state requirements could be a program initiative approved by the local City Council, similarly to the San Jose program.⁹

Local Context: Unpermitted ADUs in Paramount

By definition, most nonconforming units are largely off cities' radars because they are unpermitted. Therefore it is difficult to accurately determine how many unpermitted ADUs exist in Paramount, or at any scale.

Jurisdictions remain unaware of unpermitted units unless they are brought to the city's attention through a code enforcement complaint or when the homeowner voluntarily initiates a permitting process to convert it to a legal structure.

From January 2021 to June 2022, five of the 62 ADUs permitted in Paramount were legalizations of previously existing, unpermitted ADUs. Yet the total number of unpermitted ADUs in Paramount that have not applied for legalization is unknown.

City staff report that code enforcement staff keeps track of open cases when complaints are filed about unpermitted ADUs. Staff noted that many of these complaints come from a former tenant who got evicted, or a neighbor during construction, but that complaints of this kind are rare. If brought to the City's attention, staff typically talk with the property owner to give them several options, including talking through planning and building requirements to legalize the structure, or getting a demolition permit.

City's ADU ordinance

Paramount's 2021 ADU ordinance states that existing unapproved ADUs are required to obtain approval to be considered a lawful use. It identifies that existing ADUs and JADUs that conform to the code standards are not required to correct a nonconforming zoning condition, such as nonconforming setbacks, or the height of existing

⁹ For an example of a Council-approved amnesty program in San Jose, see <https://sanjosespotlight.com/granny-flat-program-aims-to-help-ease-housing-shortage/>

Paramount ADU Project: Nonconforming ADU Report

structures proposed for conversion to ADUs. The City may enforce compliance with applicable building standards in the California Health and Safety Code Section 17980.12. (*Section 17.104.020(D)*).

As a part of this project, and to come into compliance with the new 2023 ADU laws, the Woodsong Associates team has proposed an updated ADU ordinance for the City of Paramount.

Regarding nonconforming ADUs, the proposed ordinance states that ADUs will not be denied a permit based on the presence of building code violations or unpermitted structures, as long as they do not threaten public health or safety and are not affected by the construction of the ADU (*Section 17.104.020(D)*).¹⁰

In congruence with SB 897, Section 17.104.290(A)¹¹ has been updated to state that unpermitted ADUs will be approved based on the version of the building code that was in effect when the unit was constructed, which may be determined by the building official.

Subdivision (B) of this section adds that that the City shall delay enforcement of building standards that do not threaten public health until January 1, 2030. This applies to ADUs built prior to January 1, 2020, or after that date at any time that the City had a noncompliant ADU ordinance.

These amendments are currently under review by the City of Paramount, but will need to be adopted in order to comply with California State law.

Case Studies

Cities around California have developed a wide variety of legalization programs to best support their communities. While all cities must now implement State requirements to approve older units and delay enforcement, several jurisdictions provide programs or pathways that incentivize and support legalization and are described below as case studies.

1. City of San Jose Amnesty Program

San Jose had an ADU Amnesty program which ran until January 2022. To be eligible, units had to meet several requirements: be built or converted before 2020, be currently occupied by a resident, and not have an outstanding permit application to legalize the unit.

The City encouraged legalization to reduce risks to occupants, reduce property owners' liability, increase property values, and gain peace of mind. It also noted that through the program, applicants could save \$10,000 or more on waived fees and that these savings would expire when the program ends.

Interested property owners could investigate their options without the threat of code enforcement until an initial inspection takes place, at which time the owner would be obligated to legalize the unit by fixing any basic health and safety code violations and filing for a certificate of occupancy. The City offered a 5-year delay of enforcement, providing the owner

¹⁰ In the proposed ordinance, the original subdivision (C) of Section 17.104.020 has been removed.

¹¹ Original Section 17.104.250.

Paramount ADU Project: Nonconforming ADU Report

ADU AMNESTY PROGRAM Your Pathway to a Legalized ADU

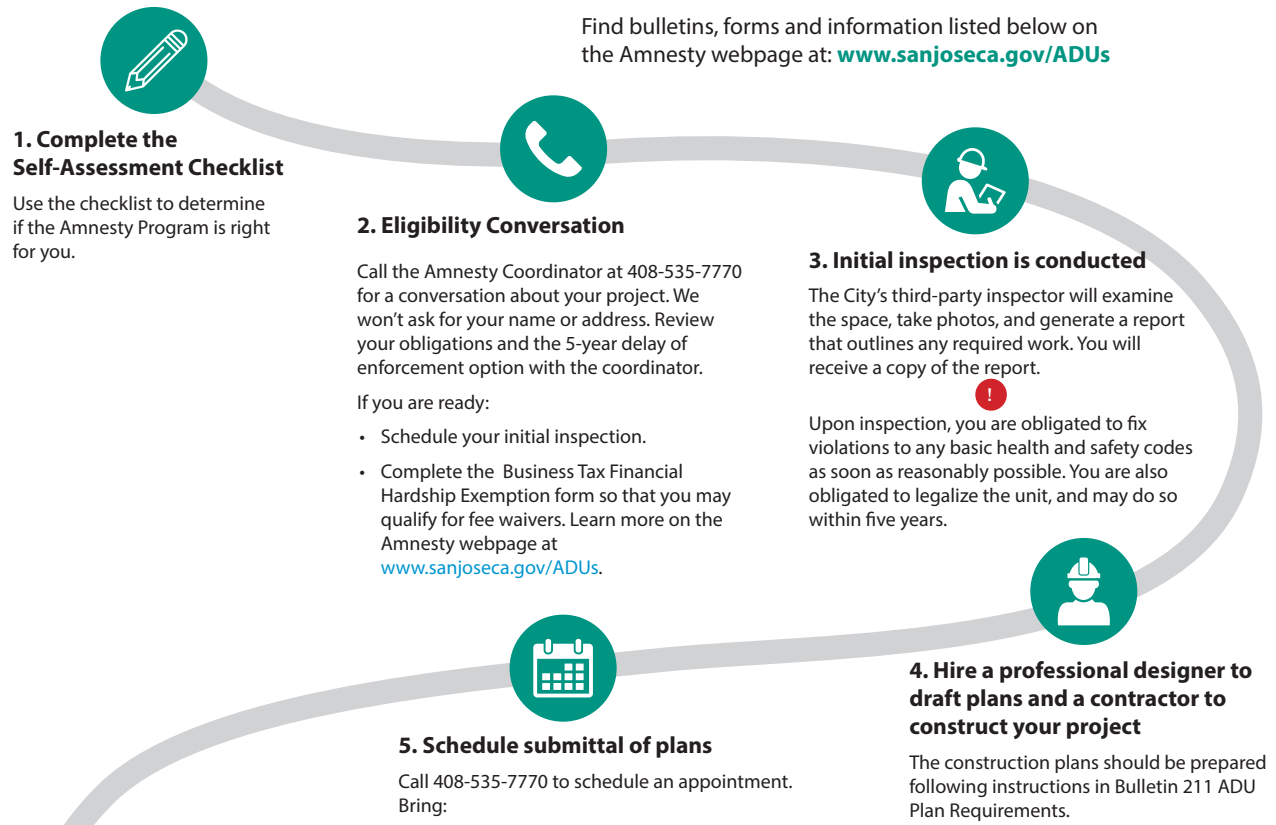


Figure 4: The first several steps of the process for the City of San Jose's ADU Amnesty Program. Source: <https://www.sanjoseca.gov/home/showpublisheddocument/50497/637153712563900000>.

a significant amount of time to complete the program.

The City also provided a thorough Self-Assessment Checklist, explained the process step-by-step on the site, and included a graphic showing the pathway to legalization that potential applicants could use during the planning process (see [figure 4](#)). Materials were provided in Spanish and Vietnamese, and an Amnesty Coordinator was designated.

For more information on this program, visit <https://www.sanjoseca.gov/business/development-services-permit-center/>

[accessory-dwelling-units-adus/adu-amnesty-program](#).

2. San Mateo County Amnesty Program

San Mateo County had a limited-term ADU Amnesty program (beginning in October/November 2018, currently on hold), which allowed property owners to bring an unpermitted unit into compliance. It featured a low-cost initial inspection as well as detailed guidance on any required improvements necessary to meet the current Building Code. All fines for unpermitted construction were waived, and Planning and Building permit

Paramount ADU Project: Nonconforming ADU Report

fees were either waived or significantly reduced during the initial pilot phase. Code enforcement actions were also suspended, allowing potential applicants the opportunity to explore the program without risk of penalty.

Eligible properties had to have been constructed prior to 2017 and located on a residentially zoned parcel. The property owner was also required to show proof that the unit was currently or previously occupied by a resident. The County also offered a limited number of low-interest loans applicants could use for any rehabilitation. A helpful brochure on the program website was created to describe the details, benefits, eligibility, and process. A specific staff contact was provided on the website.

For more information, visit <https://planning.smcgov.org/second-unit-amnesty-process>.

3. City of San Francisco Legalization Process

San Francisco's legalization process was established in 2014, with additional plan review fee waivers implemented between 2015 and 2019. The program allows for the legalization of one illegal unit per lot built before 2013 in zones that permit residential use. These units must formally register and meet the City's current life safety and building code standards. Adjustments to density, rear setback, open space, light/air, and parking requirements may be made by the Zoning Administrator, but the project may not create or intensify any nonconformities of the existing legal unit. For example, while specific square footage for open space may be reduced, the ADU may not

remove the existing unit's access to the required open space. Standards that may not be waived include bicycle parking, permeability, and landscaping in the front setback.

Eligibility for the program is determined by the Department of Building Inspection, and it may not be used on units with recent evictions. The City provides information and a screening form on its website that goes over what owners need regarding the process.

For information on this program, visit <https://sf.gov/step-by-step/legalize-unit-your-home>.

4. City of Oakland: ADU Loan Program (ADULP)

Oakland's Accessory Dwelling Unit Loan Program (ADULP) provides financing and technical assistance to owner-occupied low-income households to convert an existing unpermitted secondary unit within or adjacent to the primary single-family residence into a legal ADU or JADU. The financing is in the form of a deferred loan for design and construction costs, up to \$100,000, with no payments due for 30 years or until ownership or owner-occupancy changes.

Detailed information including an Eligibility Checklist, Process Summary, Program Overview and more are on the ADULP website and all program materials are available in English, Spanish, and Mandarin.

More information can be found at <https://www.oaklandca.gov/resources/accessory-dwelling-unit-loan-program#program-resources-for-homeowners>.

Paramount ADU Project: Nonconforming ADU Report

5. Santa Cruz County Safety Certification Program

Santa Cruz County adopted an amnesty program in 2014, but by 2018, had approved just 29 permits. In 2018 they adopted a new program, called the Safe Structures Program.

Eligible units include those built before 2014 which can't qualify for complete legalization under normal rules. The County inspects the units and if they meet the health and safety code, certifies them as safe for habitation. The County will no longer pursue code violations against these units, but will continue to inspect them to ensure that they continue to meet the health and safety code.

The owner pays \$500 for the inspection and a \$300 permit fee. Unless the inspection reveals an "imminent hazard to health and safety", the owner may back out of the program without consequences. The County provides specialists to help property owners through the Safe Structures Program, as well as those who would like to fully legalize a unit.

For more information, see [https://www.sccoplanning.com/PlanningHome/BuildingSafety/SafeStructuresProgram\(formerlyLIAP\).aspx](https://www.sccoplanning.com/PlanningHome/BuildingSafety/SafeStructuresProgram(formerlyLIAP).aspx).

Best Practices

A greater variety of program descriptions can be found in Appendix B of the *Casita Coalition's Unpermitted ADU Guidebook*.¹²

Of brief note, San Diego specifies that ADUs are evaluated using the building code in place at the time of construction (optional under Govt. Code Section 17958.12) and Sonoma County's ADU Rescue program implements the delay of enforcement required per Govt. Code Section 65852.2(n).

Each of these programs employ some of what might be called best practices for ADU amnesty programs. A selection of practices can be integrated into any city's ADU program depending on the needs of the community members and the characteristics of the housing stock.

Several notable features of these programs that Paramount might consider implementing in its own unpermitted ADU legalization process include:

- A focus on **implementing the new state requirements** for delayed enforcement and application of older building codes.
- A focus on affordability, either by **targeting legalization assistance to lower-income** households, or requiring an affordability covenant for units legalized through the agency's program.
- Time limitations for the duration of the amnesty program. It may be that agencies seek to incentivize rapid legalization, or that funds are limited; regardless of the motivation, there are multiple precedents for setting up an amnesty program that runs for a certain number of years prior to sunseting.

¹² Casita Coalition. *Legalizing an Unpermitted ADU: Guidelines for Homeowners and ADU Professionals*. <https://static1.squarespace.com/static/5f2c2d67c58236227115e0de/t/6407e74b694a8449febc4a59/1678239571573/Unpermitted-ADU-Guidelines-Casita-Coalition-First-Edition-03072023v2-final-accessible.pdf>

Paramount ADU Project: Nonconforming ADU Report

- Significant efforts to **create materials accessible to homeowners** with detailed program information, available in multiple languages, and identifying a local agency contact.
- Providing options for homeowners to explore legalization options with some degree of **anonymity early in the process**, to limit fear of exposure.

Specific implementation recommendations for the City of Paramount will be made in the following section.

Recommendations

Core recommendations are based on emerging State requirements, best practices, and individual cities' experiences in legalizing unpermitted ADUs. The following recommendations are strategies that Paramount could apply to improve upon the City's current approach to a legalization pathway. Paramount's implementation should reflect local priorities and available resources, and should be refined over time to reflect specific issues emerging as more ADUs are legalized.

Update the ADU ordinance

First and most clearly, the City should implement recent changes to State ADU rules around legalizing unpermitted units. The City of Paramount should continue its efforts to update the ADU ordinance to implement the most recent changes to State ADU codes relating to approval of older units and delayed enforcement, as previously described in this report. The ordinance should also allow permitting agencies to apply building code in effect at the time of construction rather than



Figure 5: A process diagram for legalizing existing units could be developed based on the City's existing ADU Application Process template.

current code, as permitted but not required by recent State statute SB 897, to allow issuance of retroactive building permits. These updates are already underway by the City.

Because the State rules on ADUs, generally including unpermitted ADUs, continue to be revised in seemingly every legislative session, the City should also keep updated on annual changes, and amend local code and/or practices accordingly.

Paramount ADU Project: Nonconforming ADU Report

Expand staff capacity to assist homeowners with legalization

Code enforcement and building code officials should go through a training about the updated requirements for delayed enforcement and retroactive building permit options so that they can provide comprehensive, current, and consistent information to homeowners dealing with unpermitted ADUs through code enforcement or other avenues. These training sessions could include resources and procedures for determining the approximate date of construction for unpermitted ADUs, FAQs about the legalization process, and troubleshooting common issues uncovered during unpermitted ADU code inspections.

Individual legalization cases can be time-consuming because each one can involve a unique set of circumstances; nevertheless, the ability to anticipate common issues and develop processes to quickly address each matter will streamline staff efficiency. These variances or **common nonconformities can be built into the legalization process** from the beginning, or adapted over the course of the program period.

Building officials should also be trained on the requirements of past building codes in order to determine if unpermitted ADUs meet the requirements at the time it was built. A code matrix could be developed by the City detailing every past version of the building code, and the specific requirements of each subdivision that would apply to residential structures.

This matrix could be developed into **checklists for current and past building code versions**. This would better

streamline the evaluation and permitting process, and allow building officials to provide owners of unpermitted units with specific items of noncompliance with the code, which may or may not need to be modified depending on whether or not they pose a threat to health and safety.

Training sessions should also involve Planning staff, to guide them in assisting homeowners interested in legalizing their unit. For many homeowners, this may be the first time they have interacted with the permitting process, which can increase uncertainty and anxiety. To address this potential issue, the City should create resources for Planning staff, such as a guide book, to assuage the concerns of reluctant homeowners, and relay the many benefits that can be gained by legalizing an unpermitted ADU.

Furthermore, the City could designate a **single point-of-contact for homeowners** with deep expertise on legalization and an ability to interface with various City departments during the process. This can develop trust and familiarity between staff and homeowners going through the process. It may also relieve some of the stress for homeowners navigating the process by appointing one staff member to coordinate necessary paperwork and approvals.

Develop staff resources for process streamlining

The City should develop **standardized communication tools** to be utilized during the legalization process. These resources should explain the deferred enforcement option, and inform homeowners what they can do to move forward in legalizing their unit.

Paramount ADU Project: Nonconforming ADU Report

Consideration should be given to communicating violations identified through a code enforcement action.

For example, the proposed ADU ordinance can be used as a template for a written statement to be provided to unpermitted ADU owners when a code violation is found. In collaboration with the Public Safety Department, the statement should be issued alongside a notice to correct the violation, and read as follows:

"You have been issued an order to correct violations or abate nuisances relating to your accessory dwelling unit. If you believe that this correction or abatement is not necessary to protect the public health and safety you may file an application with the City Planning Department. If the city determines that enforcement is not required to protect the health and safety, enforcement shall be delayed for a period of five years from the date of the original notice."

If the City does not already have a process in place for deferral of code enforcement action, it will need to develop resources like an application for deferral request, to track submission, approval, and effective dates. Other materials could include a process checklist for staff to reference.

Develop homeowner informational resources

In addition to developing necessary logistical resources, the City should create and publish informational resources as well, like a subpage of the ADU webpage that details the legalization process of unpermitted units, as well as materials to allow homeowners to familiarize themselves with City permitting

processes, building and zoning codes, and other topics as necessary.

This might include a **step-by-step process** guide for how to legalize an ADU, including a typical timeline, a checklist of required items, FAQs, and key points when fees are due. The ADU Process Diagram provided under this contract could be used as a template and modified to show the differences in permitting existing units.

This webpage could encourage wary homeowners to take the step to permit their units by sharing the benefits of legalizing units. For example, creating rental income, reducing risks like unexpected fines and future code enforcement, increasing property value, and ensuring healthy and safe living conditions.

Conversely, it should also **detail the risks of renting an unpermitted ADU**, such as those around insuring and insurance carriers' risk of denying coverage. With unpermitted units, there is a risk that tenants may have a legitimate legal cause of action for breach of the warranty of habitability which may result in an award of monetary damages. If a tenant stops paying rent, the owner may not be able to evict the tenant for non-payment if the underlying lease is held to be fraudulent. Awareness of these risks might encourage uncertain homeowners to pursue legalization.

The City should also provide a handout or page about **typical costs of permitting and funding opportunities**. For example, it could list the costs of permits, fees, penalties, or fines (and the waiving or reducing of fees/fines) and any grants,

Paramount ADU Project: Nonconforming ADU Report

loans, or other funding sources in a graphic or table. Of course, unpermitted units run the risk of incurring substantial additional costs if major structural changes are necessary in order to come into compliance with health and safety standards. A complete list of fees associated with building an ADU was provided as a part of this project, but more details specific to unpermitted units could be added.

This cost and funding list could be supported by additional information on how a permitted ADU can create or increase rental income and property values, and also fines or costs that may come from renting an unpermitted unit, to show the relative value of the costs of legalizing the unit.

Information on the basics of funding options unrelated to what the City or grants can provide can also be shared, such as home equity lines of credit, renovation loans, cash-out refinancing, etc. For example, Santa Cruz County has a comprehensive **ADU Financing Guide** (linked in [Appendix A](#)). It includes information on costs for different types of ADUs, all applicable fees, financing options, ongoing costs of ownership, and ADUs as rental properties. It is full of hypothetical situations to help readers to understand the issues with real-world examples. It also includes a section on how costs will diverge for legalizing an existing unpermitted ADU versus conversions and new construction.



Figure 6: ADU workshop conducted in Salinas, CA.

Continuously refine the process to offer greater streamlining as an incentive

The City should create reliability in what applicants can expect before even applying to legalize their unit. This could include standardizing and creating ever-improving communication between the various departments and reviewing authorities that need to sign off on permits at the different project phases. This will help owners confidently plan out the legalization process timeline, and work with contractors and suppliers to line up construction start times.

A part of the streamlining process could be to continue to share the ‘why’ behind changes with various City staff members. For example, increased timelines can lead to economic opportunity loss and recouping the cost to legalize units for owners, which can be a disincentive to starting the legalization process. As planning staff typically may lead update processes related to ADUs, other department staff may not understand the

Paramount ADU Project: Nonconforming ADU Report



Figure 7: A city official conducting a building code inspection.

reasoning or importance. Having that context can often help in ongoing collaboration.

Conduct periodic workshops dedicated to legalizing ADUs

Homeowners could attend a workshop anonymously to learn about the legalization process, and common issues building inspectors observe. As workshops could be held periodically, it would allow staff to convey the most current information.

The workshops could also be an opportunity to update design professionals, so they are set up to succeed and provide efficient project management and the most up-to-date information to their clients. In effect, it would empower professionals to provide the best level of technical assistance to owners. The workshops could be recorded and posted to the City's website so that people would have flexibility in when and

how they attend or receive the content. Attendees of a live workshop would have the opportunity to ask staff questions, which would help staff continuously refine the workshop information and other related materials provided to the public.

Nonconforming ADU amnesty program

The City could further consider developing a more robust program to encourage more owners to legalize their unpermitted ADUs. By doing so, the City would create an opportunity to explain the legalization pathway more comprehensively, along with the benefits, costs, and related information to 'normalize' the issue for the community and seek to remove any mystery or concerns. The intent would be to daylight a feasible legalization pathway to foster proactiveness, improve safety of dwelling units, and ultimately **add more affordable housing options** to the City's inventory. The following recommendations could all fit under the umbrella of a broader program, or could be considered independently, depending on the City's goals and capacity.

Depending on the scope of additional actions desired to support legalization, efforts could be implemented at the department level by Planning staff, such as staff trainings and preparation of informational materials, like those described above. More comprehensive efforts, particularly those with financial incentives or requiring policy changes, would likely require Council adoption.¹³

¹³ Examples of cities adopting ADU amnesty programs by ordinance include San Jose, <https://sanjosespotlight.com/granny-flat-program-aims-to-help-ease-housing-shortage/>.

Paramount ADU Project: Nonconforming ADU Report



Figure 8: An example of a detached backyard ADU.

The City could consider implementing some, or all, of the following program features.

- **Allow applicants to explore the program anonymously** before submitting a formal application, without risk of penalty or code enforcement until an application is submitted. Residents may have questions about application requirements, the permitting process, and expected costs, and allowing them to access answers to these questions without fear of penalization will make the program more attractive to skeptical applicants.
- **Consider a time-limited program** to encourage homeowners to come forward with legalization in a several-year period, rather than an indefinite program. This would nudge unpermitted ADU owners to act now instead of pushing the legalization process further down the road.

- **Offer a low-cost or free initial inspection** and minimal fees.
- **Partner with an ADU nonprofit** to assist applicants throughout the process, especially early on. This assistance could include a step-by-step walkthrough of the process, and help understanding building code requirements and how to most efficiently remedy violations.
- Offer **no risk of penalties** or future code enforcement, within parameters the City is comfortable with.

Hire a third-party inspector

As a part of this program, the City could hire a third-party inspector, or have City building inspectors conduct an initial ‘off-the-record’ inspection to give owners a chance to understand the degree of work that would be required without risk of penalty. For example, the City of Santa Cruz offers an optional “special inspection” site visit conducted by a building inspector who examines the

Paramount ADU Project: Nonconforming ADU Report

nonconforming or unpermitted ADU to inform the owner/designer.

If an initial 'off-the-record' inspection is not feasible for the City, another option is a pre-application meeting with Building and Safety Division staff to discuss health and safety items. The meeting could also be 'off-the-record' if deemed acceptable by the City. If this is an option the City is interested in pursuing, the City Attorney should review to ensure that any necessary information around what will occur if life and safety issues are discovered during the inspection are clearly described upfront.

Solicit grant funds and financing as available

As a part of this program, the City could consider offering loans or financial support to owners and reduce cost concerns as a factor deterring owners from legalizing units. The following is a list of grants and financial incentives to consider.

A more in-depth analysis of ADU financing will be explored in the forthcoming ADU Financing Report.

REAP

While the current round of funding from HCD closed in December 2022, REAP 2.0 funding opportunities should start to become available in Fall 2023. The next round of funding is aimed at the implementation of new or improved city programs; for instance, a new amnesty program to legalize existing ADUs could be a competitive grant opportunity.

CalHome

This grant program is intended to help local agencies to assist individual first-

time homebuyers through deferred-payment loans for down payment assistance, home rehabilitation, etc.

For example, Pasadena has applied for this grant program for its current legalization efforts to seek funding for the legalization of 20 ADUs. These funds can only be used as gap financing for ADUs and JADUs. The application window for the current cycle is closed, but the City should monitor for future cycles getting posted.

More information can be found on HCD's website at <https://www.hcd.ca.gov/grants-and-funding/programs-active/calhome>.

LHFT

The City of Paramount could encourage the Gateway Cities Housing Finance Trust (GCHFT) to pursue funding through the Local Housing Trust Fund (LHFT) Program, which provides matching funds to local and regional housing trust funds dedicated to the creation, rehabilitation, or preservation of affordable housing, transitional housing, and emergency shelters on an ongoing basis. Eligible activities include predevelopment expenses, development of affordable rental housing projects, and rehabilitation of homes owned by income-eligible homeowners with deed restriction requirements.

More information can be found on HCD's website at <https://www.hcd.ca.gov/grants-and-funding/programs-active/local-housing-trust-fund>

City-sponsored program

The City could explore a capital contribution program or City-sponsored program to offer low-interest loans, design

Paramount ADU Project: Nonconforming ADU Report

or project management services, technical support, or different payment programs. This is another opportunity to partner with a nonprofit.

For example, San Mateo County partners with a nonprofit as part of its “One Stop Shop Program” to provide no-cost support to owners for design, permitting, and project management services. Potentially, such programs could have targeted packages based on level of income, ability to secure other financing sources like lines of credit, including options like a City-guaranteed loan if feasible.

One potential pathway toward establishing such a program is through an inclusionary requirement for new multifamily projects with an in-lieu fee option. A certain percentage of in-lieu fees paid could be set aside to offer micro-loans for financing the legalization of unpermitted units with an affordable deeded requirement. This option would depend on the City’s desire to establish an inclusionary requirement, and even then, funds would only be available as relevant development projects are processed in the future. Another option is to establish an affordable housing linkage fee, with a certain amount set aside to go toward the ADU legalization program.

Monitor and report on the legalization process or program

Whether or not the City chooses to launch a formal amnesty program, or just continue with a standard legalization process, it should monitor and document the process and any changes or notable findings. This can include sharing streamlining procedures, average processing times, the amount of funding

issued, the number of units legalized, and more.

This type of sharing out of a program’s results serves multiple purposes. It can inform how to improve programs, document the City’s process to share with the State, and tell the story of why the program is important and the difference it is making in the community. This can help gain community support, build confidence in the program, and help to **solicit future funding** to keep the program going.

Data in the reporting process can also be supplemented by stories of owners, applicants, and tenants impacted by the program to show the real-world impacts of how community members have benefited.

Conclusion

ADUs can lack proper permits or fail to conform to regulations for various reasons. A primary factor behind this is that ADUs did not become legal in Paramount until 2018, making it impossible to construct a legally permitted ADU before that time. Homeowners who needed to accommodate family members, expand housing options, or generate additional income through a rental property during a time of limited options had few alternatives other than building an unpermitted ADU.

Some homeowners might have perceived building without permits as a more cost-effective and straightforward approach, possibly due to concerns, distrust, or inadequate information about City permitting and bureaucratic procedures. Furthermore, homeowners with

Paramount ADU Project: Nonconforming ADU Report

nonconforming structures like garages within setbacks may have believed that these constraints would have prevented them from legally building an ADU, and instead decided to carry out the process without permits.

However, although forgoing the permitting process might have saved these homeowners time and money in fees, it could lead to headaches down the road. If found out by code enforcement, they could face heavy fines, and if their tenant became aware that the unit is unpermitted, they could take legal action that could become incredibly costly for the landlord. Moreover, unpermitted units may pose **serious health and safety hazards** that can put residents at risk.

Between January of 2021 and June of 2022, five of the 62 permitted ADUs in Paramount were legalizations of existing units. Although it is difficult to ascertain the true number of unpermitted ADUs in the City of Paramount, it is safe to assume that more are probably out there.

In order to protect both renters and owners of unpermitted units, the City of Paramount should develop a **standardized and streamlined legalization process** to encourage owners to properly permit their units. The City might choose to institute a formal amnesty program, as has been done in jurisdiction like San Jose or San Mateo County; or it could expand available resources for homeowners within a standard legalization process.

Recent State legislation has made it easier for building officials to have more flexibility in permitting existing units, and has granted the option to defer

enforcement until 2030, potentially granting more time for cities to develop programs or resources for legalization processes.

At the least, the City should develop a **training program** for both Planning Division and Building and Safety Division staff to guide them on how to lead homeowners through the process and encourage them if they are uncertain. Building staff will need to be trained on previous code versions so they are able to issue retroactive building permits and determine when structures were built. The City should also create informational resources for residents, like a step-by-step guide of the process, fee and cost estimating guides, FAQs, a list of benefits of legalizing their unit, and possibly funding resources.

Although some believe that legalizing existing unpermitted units is not an impactful way to increase the housing stock, this is far from true. The resources to build these units have already been expended and the parcel developed, so ensuring that these units are **safe, healthy, and habitable** structures is an extremely valuable strategy, and one that should not be overlooked.

Appendix A: Summary of Recommendations

The Woodsong Associates team makes these specific recommendations in order to promote owners of unpermitted ADUs to legally permit their units.

These recommendations were developed based on the ADU amnesty programs of other jurisdictions and ADU permitting best practices.

Update the ADU ordinance

- Add provisions about **delayed enforcement**, **approval of unpermitted ADUs** that do not threaten health or safety, and **retroactive building permits** issued using the version of the building code that was in effect at the time of construction.

Streamline the legalization process

- The City of Paramount should **update the ADU ordinance** to include recent updates to State legislation.
- **City staff members should be trained on updated procedures** from the new ordinance, and on how to most effectively assist homeowners, who may be fearful of the permitting process and have unique, complicated cases.
- **Build the capacity of staff members** to efficiently work through complex cases. Creating internal materials such as a legalization process diagram, staff checklists, standardized communication tools, and reference material for previous building codes.
- **Develop educational materials for homeowners** to increase familiarity and trust of the legalization process. Resources for residents may include step-by-step guides, FAQs, and information on fees and financing.
- **Continually refine and document the legalization process** to improve it over time, and as new legislation requires updates. For example, the City could document how to best address **common nonconformities** to adapted the legalization process over the course of the program period.
- **Conduct workshops centered around legalization** that interested homeowners can attend anonymously.
- Consider implementing a **formal amnesty program** that offers incentives to homeowners for legalizing an existing unpermitted ADU. Potential benefits could include offering consultations without fear of retribution, low-cost or free initial inspections for unpermitted ADU, or waiving of penalties or fees for homeowner-initiated cases.

Paramount ADU Project: Nonconforming ADU Report

Appendix B: Online Resources

A non-comprehensive list of existing ADU amenity program details and resources for legalizing unpermitted ADUs.

Casita Coalition's Guide to Legalizing and Unpermitted ADU

<https://static1.squarespace.com/static/5f2c2d67c58236227115e0de/t/6407e74b694a8449febc4a59/1678239571573/Unpermitted-ADU-Guidelines-Casita-Coalition-First-Edition-03072023v2-final-accessible.pdf>

City of San Jose Amnesty Program

<https://www.sanjoseca.gov/business/development-services-permit-center/accessory-dwelling-units-adus/adu-amnesty-program>

San Mateo County Amnesty Program

<https://www.smcgov.org/planning/second-unit-amnesty-process>

City of San Francisco Legalization Process

<https://sf.gov/step-by-step/legalize-unit-your-home>

City of Oakland: Standard Process with Technical Assistance and deferred loans for low-income owners

<https://www.oaklandca.gov/resources/accessory-dwelling-unit-loan-program#program-resources-for-homeowners>

Santa Cruz County Safety Certification Program

[https://www.sccoplanning.com/PlanningHome/BuildingSafety/SafeStructuresProgram\(formerlyLIAP\).aspx](https://www.sccoplanning.com/PlanningHome/BuildingSafety/SafeStructuresProgram(formerlyLIAP).aspx)

Paramount ADU Project: Nonconforming ADU Report

Appendix C: HCD Letter of Non-Compliance

STATE OF CALIFORNIA - BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY

GAVIN NEWSOM, Governor

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



February 11, 2022

John Carver, Planning Director
City of Paramount
16400 Colorado Avenue
Paramount, CA 90723

Dear Mr. Carver:

**RE: Review of Paramount's Accessory Dwelling Unit (ADU) Ordinance under
State ADU Law (Gov. Code, § 65852.2)**

Thank you for submitting the City of Paramount's (City) accessory dwelling unit (ADU) ordinance (Ordinance No. 1151, "the Ordinance") adopted June 8, 2021, to the California Department of Housing and Community Development (HCD). The Ordinance was received on July 7, 2021. HCD has reviewed the Ordinance and is submitting these written findings pursuant to Government Code section 65852.2, subdivision (h). HCD has determined that the Ordinance does not comply with section 65852.2 in the manner noted below. Under the statute, the City has up to 30 days to respond to these findings. Accordingly, the City must provide a written response to these findings no later than March 14, 2022.

The adopted ADU Ordinance addresses many statutory requirements; however, HCD finds that the Ordinance does not comply with State ADU Law in the following respects:

- Page 3. Section 17.104.030 Definitions – *Definition of "ADUs"* – The Ordinance defines ADUs as living spaces "on the same parcel as the single-family dwelling". Effective January 2020, the statute changed the definition of an ADU to add that it may be located on the same parcel as a single-family or multifamily dwelling, as noted in Government Code section 65852.2, subdivision (j)(1). Government Code section 65852.2, subdivisions (a)(1) and (a)(1)(D)(ii), allow ADUs in areas zoned single-family or multifamily dwelling residential use. The City should amend the Ordinance definition to include multifamily dwellings.
- Page 5. Section 17.104.060 *Garage Door Removal* – The Ordinance requires that "[i]f an attached or detached garage is converted to an ADU, the garage door shall be replaced with an exterior wall compatible with the existing dwelling." However, local development standards provided by the Ordinance pursuant to Government Code section 65852.2, subdivisions (a) through (d), do not apply to ADUs created under Government Code section 65852.2 subdivision (e)(1), such as an ADU that is created within the proposed space of a single-family dwelling

Paramount ADU Project: Nonconforming ADU Report

John Carver, Planning Director
Page 2

(e.g., a garage). Therefore, the garage door replacement requirement imposes a local development standard that is not allowed by statute. The City should remove this requirement.

- Page 6. Section 17.104.130 (B) – *Setbacks* – The Ordinance states: “Attached ADUs shall meet the setback requirement of the zone in which they are located.” However, Government Code section 65852.2, subdivision (a)(1)(D)(vii), states: “a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.” Therefore, underlying zoning requirements cannot take precedence over state statute requiring “no more than four feet”. The City should remove references to underlying zoning in this section.
- Page 6. Section 17.104.130 (C) – *Conversion Setbacks* – The Ordinance states that “when an existing detached or attached garage is proposed to be converted to an ADU, no additional setbacks shall be required subject to meeting the zoning requirements.” The Ordinance section omits other *detached accessory structures* that are not garages. Government Code section 65852.2, subdivision (a)(1)(D)(iii), provides for an “accessory dwelling unit... either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an *accessory structure*...” Therefore, the City should add “or other detached accessory structure” to this language.
- Page 6. Section 17.104.150.(A) *Parking* – The Ordinance states that parking is not required where an ADU or junior ADU (JADU) is within a half-mile walking distance of public transit. While this complies with state law, the Ordinance omits four other instances found in Government Code section 65852.2, subdivision (d), where parking may not be required:
 - The ADU is located within an architecturally and historically significant historic district. (Gov. Code, § 65852.2 (d)(2).)
 - The ADU is part of the proposed or existing primary residence or an accessory structure. (Gov. Code, § 65852.2 (d)(3).)
 - On-street parking permits are required but not offered to the occupant of the ADU. (Gov. Code, § 65852.2 (d)(4).)
 - A car share vehicle is located within one block of the ADU. (Gov. Code, § 65852.2 (d)(5).)

Furthermore, pursuant to Government Code section 65852.22, subdivision (b)(1), a parking space may not be required under any circumstance for any JADU. The City should add this language.

- Page 7. Section 17.104.240 – *Omission of Attached ADUs* – The Ordinance creates categories of permissible ADUs. The categories as they appear are compliant with state law, but the Ordinance does not provide for a *new ADU*

Paramount ADU Project: Nonconforming ADU Report

John Carver, Planning Director

Page 3

construction attached to a primary dwelling. Government Code section 65852.2, subdivision (a)(1)(D)(iii), states: “The accessory dwelling unit is either *attached to*, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure [and] located on the same lot as the proposed or existing primary dwelling.” (Emphasis added.) Therefore, one attached ADU is permitted on a lot with a primary residence, either a single-family or multifamily dwelling. The City should address the omission.

- Page 7. Section 17.104.220 (A) and 240 (A). *Detached ADUs* – The Ordinance states that “corner and exterior setbacks for the zoning designation apply” for corner lot ADUs. However, Government Code section 65852.2, subdivision (a)(1)(D)(vii), states: “a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.” HCD has made the determination that side lot line setback guidelines established in statute apply to the street side of a corner lot. Therefore, the City should remove the phrase “corner and exterior setbacks for the zoning designation apply” from sections 17.140.220 (A) and 240 (A).
- Page 8. Section 17.104.240 (B). *Detached Multifamily ADUs* – The Ordinance requires that “the total floor area is no more than 850 square feet for a one-bedroom ADU or no more than 1,000 square feet for an ADU that provides more than one bedroom.” Floor area requirements may only be applied to *new construction* units. Local development standards provided by the Ordinance pursuant to Government Code section 65852.2, subdivisions (a) through (d), do not apply to ADUs created under Government Code section 65852.2, subdivision (e)(1). Converted units created in detached accessory structures are exempt from size limitations. (Gov. Code § 65852.2 (e)(1)(C)(i)). The City should amend the Ordinance to comply with statute.

In these respects, revisions are necessary to comply with statute.

HCD will consider any written response to these findings, such as a revised ordinance or a detailed plan to bring the ordinance into compliance with law by a date certain, before taking further action authorized pursuant to Government Code section 65852.2, subdivision (e), paragraphs (4), (5) and (6). Please note that HCD may notify the Attorney General’s Office in the event that the City fails to take appropriate and timely action under section 65852.2, subdivision (h).

Paramount ADU Project: Nonconforming ADU Report

John Carver, Planning Director
Page 4

HCD appreciates the City's efforts in the preparation and adoption of the ordinance and welcomes the opportunity to assist the City in fully complying with State ADU Law. Please contact Mike Van Gorder, of our staff, at mike.vangorder@hcd.ca.gov or (916) 776-7541 if you have any questions or would like HCD's technical assistance in these matters.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Zisser', with a long horizontal stroke extending to the right.

David Zisser
Assistant Deputy Director
Local Government Relations and Accountability

ADU PROGRAM

