

Planning an ADU Amnesty Program

- ☐ **Prioritize early collaboration** with Building and Planning departments and the City Attorney or County Counsel, as well as relevant agencies like the Fire Department. Discuss the housing needs of your jurisdiction, the goals of your program, and your internal capacity. Keeping everyone on the same page will reduce confusion and streamline internal communication.
- ☐ **Research the needs, impacts and costs of an amnesty program.** Estimate the potential number of unpermitted units. Talk to inspectors, planners, community service providers and housing advocates.
- ☐ **Consider affordability incentives and support for homeowners and tenants,** especially those in low-income households. Seek feedback from community groups on local needs.
- ☐ **Consider partnering with community-based organizations** to answer questions from potential applicants and support homeowners through the legalization process.
- ☐ **Consider partnering with contractors and tradespeople** to spread the word about legalization programs to homeowners.
- ☐ **Budget for outreach and administration.** Consider staff capacity, potential partnerships, and ongoing outreach. Designate staff for program training and set up ongoing partnerships with staff from ADU and housing affordability programs.
- ☐ **Establish how amnesty requests will be handled.** Consider who will be involved in receiving an amnesty request and which departments will need to review the application.
- ☐ **Establish how a legalized unit is recorded.** For unpermitted ADUs that have no construction code violations and comply with existing ADU ordinances, consider issuing a Certificate of Occupancy and record similarly to an ADU that used the traditional permitting process.
- ☐ For units that do not comply with construction codes or the ADU ordinance, jurisdictions may still use a Certificate of Occupancy (COO) or may consider creating an alternative recordation status that indicates the unit has been inspected for health and safety standards and is now a legal unit. The new status should allow the unit to be rented legally and be subject to property taxes. **Create a process for establishing the construction date** for the ADU. See the section on Establishing Date of Construction for options.
- ☐ **Create a checklist of health and safety criteria** by which an ADU or JADU would be deemed substandard. See the Resources, Templates and Tools section for a template checklist.
- ☐ **Create an application form** for homeowners applying to legalize an ADU. Consider requiring the homeowner to fill out the [ADU Affordability Survey Tool](#) as part of the application process for tracking unit affordability.
- ☐ **Teach staff and departments about the new process** so they are ready to accept and review applications and start inspections.

Establishing an ADU Amnesty Program

Minimum Program: Required by State Law

The framework for an ADU Amnesty Program must include the following to meet state law:

- Options for establishing date of construction.
- Checklist of requirements for achieving requisite health and safety standards, which must be posted to the jurisdiction's website.
- Publicly accessible information regarding the option to obtain a third-party inspection prior to applying for a permit.

NOTE: Jurisdictions may be able to leverage an ADU amnesty program to more accurately track unit affordability for RHNA credit by requiring applicants to report how much the unit is rented for. The [ADU Affordability Survey Tool](#) may also be useful for tracking affordability of ADUs. See the [Using ADUs to Satisfy RNHA](#) to learn more about tracking ADUs for RHNA.

Gold Star Program

Jurisdictions can create more robust and accessible programs to encourage participation, improve internal processes, and strive for more equitable outcomes that further local housing goals.

- **Lower barriers to entry**, especially for low-income homeowners. Focus on accessibility, simple requirements and an easy application process to improve program uptake.
- **Give homeowners privacy** to submit anonymous inquiries through a confidential web form or help line.
- **Train inspectors** or create a dedicated inspection team for permit applications. This improves building staff knowledge and helps establish trust with homeowners. Create an ongoing training plan and develop reference sheets for inspectors to use during inspections.
- **Equip inspectors with outreach materials** so that in the event a homeowner receives a citation, inspectors can share program information on first contact.
- **Consider third party inspectors** to reduce the burden on building staff and improve program trust.
- **Plan for outreach** to homeowners, raising awareness and reassuring homeowners that they will not face unnecessary barriers. Work with public information officers to plan an outreach budget and deliver accessible web resources and effective outreach to vulnerable communities.
- **Partner with nonprofits and community groups** to offer interpretation services, improve program trust, deliver incentives, increase outreach and strategize best practices for specific communities.
- **Create robust education tools** such as a checklist of materials required for amnesty applications, an overview or flowchart explaining program participation, and information on any financing and technical assistance resources.

NOTE: The Program Administration Checklist and the Resources section at the end of this guide provide further guidance on establishing a program. The RHTA ADUs Putting it All Together memo contains strategies for effective public information.

Incentives for Housing Affordability

Jurisdictions can create incentives to encourage homeowners to apply for permits, and in some cases ADU amnesty programs can leverage these incentives to improve and protect affordability for renters. While a pathway to legalization must be made available to all permit applicants, jurisdictions may want to consider providing additional benefits for homeowners who agree to limit rent increases or adopt affordability restrictions.

These incentives are often especially appealing to low-income homeowners who may not have access to the financial resources needed to effectively update a unit, so offering additional incentives can create more equitable outcomes for low-income households. Unpermitted units are also often rented at more affordable rates, providing a valuable source of affordable housing.

Consider exploring these questions with community organizations:

- What resources do people need to be able to afford the legalization process?
- How can an amnesty program help minimize displacement of low-income tenants?

Homeowners receive an automatic incentive for pursuing permits for their ADU and JADU because state and local ADU and JADU standards are waived. Some other incentives jurisdictions can offer include:

- Extended construction date threshold that includes ADUs and JADUs built after 2020, such as allowing ADUs and JADUs built more than a certain number of years prior to the current date.
- Low-interest loans or grants for bringing an ADU or JADU up to health and safety standards or correcting applicable construction code violations.
- Project management support, usually through partnership with a nonprofit organization.
- One-on-one, ongoing support for navigating the permitting process.
- Landlord training and support to find tenants.

NOTE: The RHTA ADU Affordability from Planning to Implementation Memo provides a detailed overview of building and implementing affordability programs. Affordability programs can be combined with amnesty programs to better serve low-income communities and create new housing opportunities for low-income renters.

Checklists for Developing an ADU Amnesty Program

These checklists outline the steps to develop a **gold star ADU Amnesty Program**, including program planning and internal permit review. See the Resources section at the end of this memo for additional templates and tools.

- ☐ **Post information to the jurisdiction website.** Public information that is easy to access and understand is key to getting homeowners comfortable with the idea of legalizing an unpermitted ADU.

The RHTA Unpermitted ADU Checklist Template may be used as a checklist of criteria or an application form, or both. The ABAG Transit Oriented Communities Policy includes implementation guidance for Preventing Displacement from Substandard Conditions and Associated Code Enforcement Activities. See Protection Policy 7 and Preservation Policy 8.

The Permitting Process for Legalizing ADUs

The administrative process for an amnesty program can be split into two tracks: ADUs that require rehabilitation for health and safety, and ADUs that meet health and safety standards and do not require rehabilitation. Generally, the steps of the permitting process include:

- ☐ **Applicant requests information** to legalize an unpermitted ADU or JADU.
- ☐ **Jurisdiction shares permitting information** with the applicant:
 - Application process information and materials including a health & safety checklist.
 - *[If applicable]* Affordability program incentives and requirements information.
- ☐ **Jurisdiction conducts inspection** and/or reviews third-party inspection of the ADU or JADU.
- ☐ **If improvements are required, the jurisdiction provides a list of required health & safety improvements** and applicant must make improvements. *[If applicable]* Jurisdiction provides assistance or incentives as part of the affordability program.
- ☐ **If no improvements are required**, or after required improvements are complete, the applicant submits all permit application materials. At this point the jurisdiction may conduct an inspection to ensure improvements have been made and no health and safety concerns exist.
- ☐ **If no remaining health and safety issues remain, jurisdiction issues a COO or other certification.**
- ☐ *[If applicable]* Jurisdiction conducts ongoing monitoring for affordability requirements.

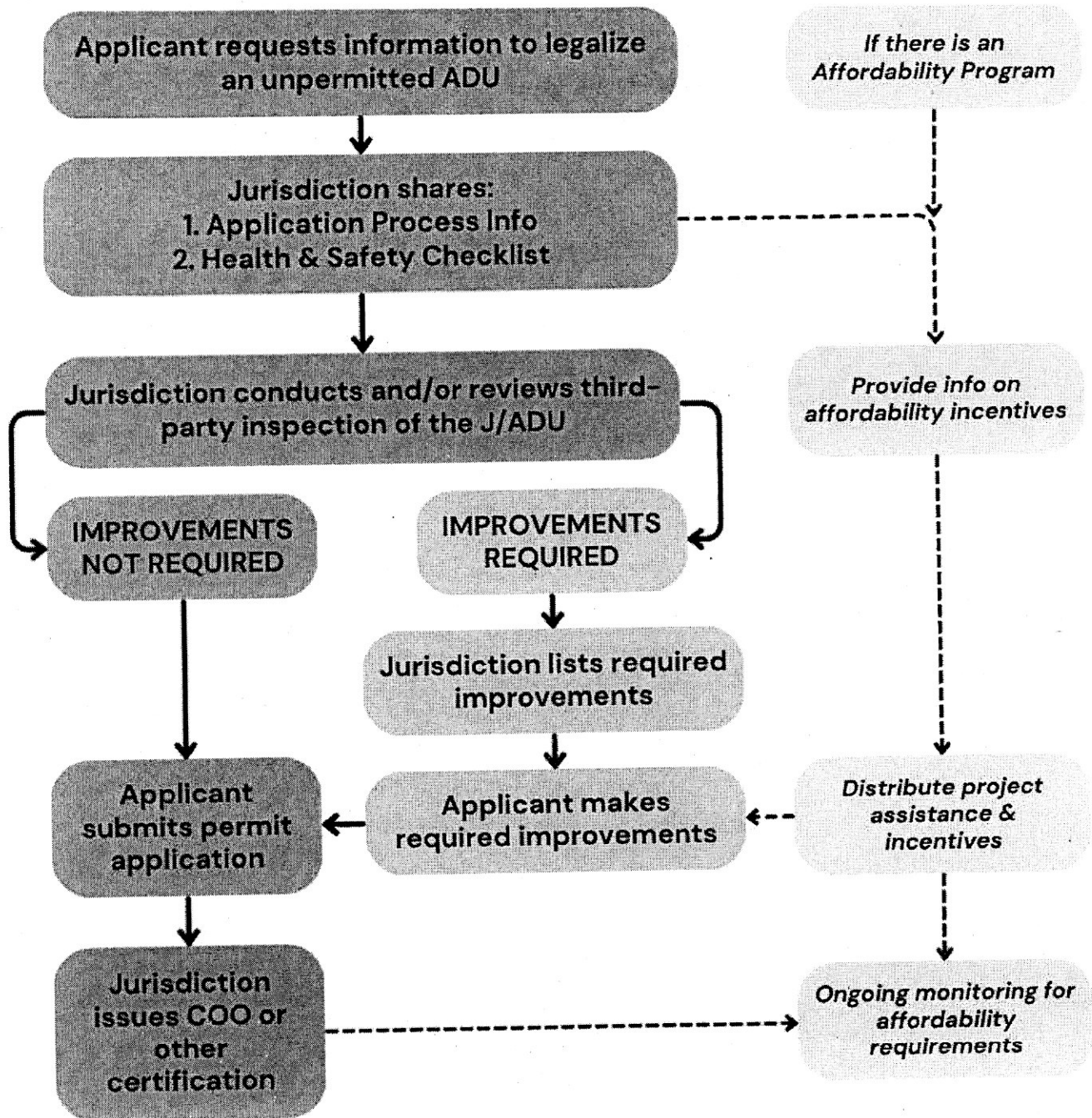


Figure 1: Flow Chart Showing the Permitting Process Steps (graphic representation of the steps in the section above "The Permitting Process for Legalizing ADUs.")