



**CITY OF DEL MAR  
CITY COUNCIL POLICY BOOK**

<b>119</b>	<b>ACCESSORY DWELLING UNIT (ADU) AMNESTY PROGRAM</b>	<b>DATE ADOPTED:</b>	12/04/2023
		<b>BY RESOLUTION:</b>	2023-48
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**I. PURPOSE AND INTENT:**

This policy establishes the City of Del Mar Accessory Dwelling Unit (ADU) Amnesty Program and outlines the procedure by which a property owner would legalize an existing ADU that was previously constructed without the benefit of permits. The intent of the policy is to legalize unpermitted dwelling units and identify undocumented dwelling units that can be documented and reported to the State Department of Housing and Community Development Department in the Annual Housing Progress Report. Further, this Program will provide incentives to create deed-restricted moderate and low-income housing that can be assigned as moderate and low-income units in the City’s Regional Housing Needs Allocation (RHNA) and adopted housing goals as stated in the Housing Element. The establishment of this policy satisfies Program 2B and is a component of Program 6B of the City’s Certified 6<sup>th</sup> Cycle Housing Element.

**II. POLICY**

**A. PROCEDURE:**

The Amnesty Program shall commence on the date the policy is adopted by the City Council and be active for two years, unless extended by the City Council. Property owners will come forward, either voluntarily or through the City’s Code Enforcement process, to legalize the unpermitted dwelling unit(s) on their property. During the two-year Program, fee waivers may be granted in accordance with Table 1 below, depending on how the ADU is utilized.

Below is a step-by-step procedure to legalize an existing, unpermitted Accessory Dwelling Unit, and for creation of a low-income housing unit.

- 1) Property owner contacts the Planning Department for assistance with legalizing the existing ADU.
  - a. If the property owner comes forward due to a code enforcement complaint, a portion of the code enforcement fees may be waived in accordance with this Program.
- 2) City staff shall verify the unit existed as of April 15, 2021, and that the unit has not been previously counted toward the City’s RHNA.
- 3) The City shall provide confidential consultation and free initial inspection by Building Inspectors.
- 4) Applicant applies for Administrative Coastal Development Permit (Admin CDP), consistent with Chapter 30.91 and Chapter 30.75 of the Del Mar Municipal Code



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(DMMC). A portion of the permit fees may be waived for the Admin CDP as an incentive to create affordable housing for moderate-income or low-income households.

- 5) A building permit is required through the Building Division. The Applicant shall submit plans and a building permit application to begin the process. A portion of the building permit fees may be waived as an incentive to create affordable housing for moderate-income or low-income households.
- 6) Once the building permit is issued, the Applicant has five years to bring the ADU into compliance with Building Code Standards. The building permit standards related to timing for permit expiration identified in DMMC Section 23.50.030 shall be waived.
- 7) After the ADU has been brought into compliance with the California Building Code, and final building permit inspection has been completed on the building permit, if the Applicant agrees to rent the unit as a rent-restricted unit for moderate-income or low-income households for a 30-year period, a deed restriction shall be recorded with the County of San Diego documenting the income-restrictions of the unit.

See Table 1 on next page



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**Table 1: Fee Waivers/Concessions based on ADU Type**

	<b>Above Moderate (Market Rate)</b>	<b>Moderate-Income ADU</b>	<b>Low-Income ADU</b>
Code Enforcement Fees/Fines	Partial waiver up to \$500 maximum	100% waiver applied	100% waiver applied
Administrative Coastal Development Fees	No waiver applied	50% waiver applied	100% waiver applied
Building Permit Fees, including Building Inspection	No waiver applied	50% waiver applied	100% waiver applied
Deed Restriction Recordation Fee	No waiver applied	50% waiver applied	100% waiver applied
ADU Incentive Program	N/A	N/A	<ul style="list-style-type: none"> <li>• Bonus JrADU</li> <li>• 500 SF FAR bonus towards non-ADU development on-site</li> </ul>
Additional Concessions	No additional concessions	<ul style="list-style-type: none"> <li>• Accommodate existing ADU size that exceeds allowed maximum ADU size (attached or detached ADU)</li> <li>• Accommodate ADU with existing height greater than 16 feet</li> <li>• Accommodate existing ADU size that exceeds allowable FAR/lot coverage for the lot</li> </ul>	