



# Memorandum

**TO:** CITY COUNCIL

**FROM:** Mayor Sam Liccardo  
Councilmember Magdalena Carrasco  
Councilmember Sylvia Arenas  
Councilmember Pam Foley

**SUBJECT:** SEE BELOW

**DATE:** September 20, 2019

Approved

Date

*[Handwritten signatures: Sam Liccardo, Pam Foley, Sylvia Arenas]*

*[Handwritten date: 9-20-19]*

**SUBJECT: COUNCIL PRIORITY #7: ACCESSORY DWELLING UNIT AMNESTY PROGRAM**

**RECOMMENDATION**

1. Accept staff's analysis
2. Direct staff to conduct additional analysis and return to the Ad-Hoc Committee for Housing Construction and Development Services and Council with a report that:
  - a. Assesses cost to the City of reducing the financial barriers to bringing ADU's up to code, including:
    - i. Waiving business license taxes for all owner-occupied properties with a permitted accessory dwelling unit (ADU);
    - ii. Reducing or waiving permit and impact fees.
  - b. Explores the legal and practical feasibility of an approach:
    - i. Similar to San Mateo County's, to hire third-party inspectors for an amnesty program that are not obligated to report to the City any code violations, but can properly advise property owners about how to comply with code and safety requirements.
    - ii. To require City inspectors to limit the inspection scope to ADU's only, to avoid "opening the door" to a costly list of violation notices.
  - c. Identifies the most hazardous building health and safety code violations for inhabitants of unpermitted ADU's, based on data from the Fire Department and other sources;
  - d. Identifies any readily apparent state, federal and non-profit resources that could offer low-cost or low-interest renovation loans or grants for bringing detached accessory dwelling units and converted garages up to code;

- e. Identifies any zoning requirements—such as setbacks, heights, rear yard coverage, and the like— that can be waived as part of an amnesty program, where there are no recorded complaints from the neighborhood about the condition or appearance of the ADU.
3. Direct staff to develop and provide a self-assessment checklist for homeowners to assess the characteristics and conditions of their unpermitted ADU.
4. Direct staff to amend the Secondary Unit Ordinance to allow Junior ADUs (JADUs) under 500 square feet and allow uncovered replacement parking when a garage is converted to a JADU.

## **BACKGROUND**

We recognize that an unknown number of unpermitted accessory units serve as homes in backyards and garages across San José, and offer affordable alternatives to our region's skyrocketing rents. Anecdotally, we have heard that for some families, these unconventional living situations offer the only alternative to homelessness.

The goal of an ADU amnesty program is to provide an opportunity for willing homeowners to permit their unit without fear of penalty or fines, and provide them a clear path toward aligning their unit with local and state health and safety standards. We must be sensitive to the possibility that program participants may unknowingly draw the City's attention towards code violations that cannot be overlooked, but prove too costly for homeowners to repair.

Amid a housing shortage that has squeezed so many of our most vulnerable residents, it's critical we proceed with caution so as to not exacerbate this crisis. However, we must also consider the health and safety of these very same residents we seek to serve. To strike a balance between these equally critical priorities, we should aim to develop an amnesty program that is informed by the success of other local programs, provides a clear definition for health and safety hazards, and identifies funding sources for repairs.