

RESOLUTION NO. 2023-48

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, ADOPTING A CITY COUNCIL POLICY ESTABLISHING AN ACCESSORY DWELLING UNIT (ADU) AMNESTY PROGRAM TO IMPLEMENT THE 6TH CYCLE HOUSING ELEMENT PROGRAM 2B

WHEREAS, the City maintains a City Council Policy Book with adopted Council policies stating the City Council's expectations for policies and procedures relating to General Administration, Boards, Commissions and Committees, and City Council Meeting Procedures; and

WHEREAS, the City Council adopted the 6th Cycle Housing Element on April 3, 2023, which included Program 2B within the Housing Plan indicating the City's intent to establish an ADU Amnesty Program; and

WHEREAS, in accordance with State law the Housing Element is intended to facilitate opportunities for a variety of housing types at a variety of income levels to accommodate the Regional Housing Needs Assessment (RHNA); and

WHEREAS, the purpose of the ADU Amnesty Program is to identify undocumented dwelling units that can be brought up to code and later be counted as moderate-income or low-income units to meet the City's RHNA and adopted housing goals as stated in the Housing Element; and

WHEREAS, the City's goal is to utilize a range of incentives offered through Housing Element Programs 2A and 2B to facilitate production of at least fifteen (15) low-income units and create additional opportunities consistent with Housing Element Program 6B, which commits the City to implement a suite of actions to create at least 100 new opportunities to improve housing choice and affordability options for moderate income, lower income, and special needs households; and

WHEREAS, establishing the ADU Amnesty Program by this City Council Policy would fulfill Program 2B within the Housing Plan of the certified Housing Element; and

WHEREAS, the proposed action has been analyzed and determined to be Statutorily Exempt from CEQA per Public Resources Code Section 21080.17 and CEQA Guidelines Sections 15282(h) and Categorically Exempt per CEQA Guidelines Class 1 15301 (Existing Facilities), Class 2 Section 15302 (Replacement or Construction), Class 3 (New Construction or Conversion of Small Structures), and Class 32 (Infill Development Projects); and

WHEREAS, the proposed action is consistent with prior environmental analysis prepared for the 6th Cycle Housing Element Final Program Environmental Impact Report ("PEIR") (SCH No. 2020029064) that was certified by the City Council on October 5, 2020

(Resolution 2020-52), and that PEIR analyzed the Housing Element Programs, including the Amnesty Program, and disclosed all anticipated environmental impacts of future housing development programs and reduce those impacts to levels of insignificance.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Del Mar, California, hereby ratifies and approves City Council Policy 119 as set forth in Exhibit A to this Resolution; and

NOW, BE IT FURTHER RESOLVED that City Council Policy 119 be incorporated into the City Council Policy Book.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Del Mar, California, at the Regular Meeting held this 4th day of December 2023.



Tracy Martinez, Mayor
City of Del Mar

APPROVED AS TO FORM:



Leslie E. Devaney, City Attorney
City of Del Mar

ATTEST AND CERTIFICATION:

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
CITY OF DEL MAR

I, SARAH KRIETOR, Administrative Services Manager/City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY, that the foregoing is a true and correct copy of Resolution No. 2023-48, adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the 4th day of December 2023, by the following vote:

AYES: Mayor Martinez, Deputy Mayor Quirk, Councilmembers Druker, Gaasterland, and Worden
NOES: None
ABSENT: None
ABSTAIN: None



Sarah Krietor, Administrative Services
Manager/City Clerk
City of Del Mar



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

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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 6th 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

	Above Moderate (Market Rate)	Moderate-Income ADU	Low-Income ADU
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"> • Bonus JrADU • 500 SF FAR bonus towards non-ADU development on-site
Additional Concessions	No additional concessions	<ul style="list-style-type: none"> • Accommodate existing ADU size that exceeds allowed maximum ADU size (attached or detached ADU) • Accommodate ADU with existing height greater than 16 feet • Accommodate existing ADU size that exceeds allowable FAR/lot coverage for the lot 	