Legalizing Accessory Dwelling Units (ADUs)

This program would legalize and regulate accessory dwelling units, generally basements and attics in small homes. Many of these units are not up to code and are being rented illegally, leaving tenants without legal protections and at risk of safety hazards. Legalization would help bring accessory dwelling units up to code, and provide regulation and protections for a critical, informal source of affordable housing.

**Status In NYC**
- Pilot Program

**Status Elsewhere**
- Enacted

**For NYC:**

**POLICY OBJECTIVE:**

The purpose of this tool is to provide a pathway to legalization for basement and cellar spaces, which are a crucial source of affordable housing in many communities but are not currently legal and often unsafe. The policy would help small homeowners do necessary upgrades to bring these units up to code and provide a pathway for legalization, along with protections for the tenants living in them.

**HOW MIGHT IT WORK?**

Building owners with basements or cellars that could be made into safe, regulated living spaces would receive assistance to make necessary upgrades and go through a process to legalize the units. Legalized dwelling units would have some form of rent regulation or protection for tenants, to ensure continued affordability.

**WHO WOULD BENEFIT?**

This policy would benefit homeowners, who would receive subsidies or tax breaks to renovate their basement spaces, as well as tenants, who will benefit from living in safer apartments with standard legal protections. Primarily the policy would apply to small homes of 1-4 units. A report by Chhaya CDC estimates there are over 100,000 illegal basement apartments in NYC.
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For NYC:

HOW WOULD IT BE ENACTED?
City legislation. The subsidy program for homeowners to make the necessary upgrades would be administered by the Department of Housing Preservation and Development (HPD). The policy would also involve the creation of a new building code specifically for ADUs which would make it easier to legalize them.

HOW WOULD IT BE ENFORCED?
A new city administrative unit would be tasked with inspecting and certifying the safety of ADUs on a case-by-case basis.

WHAT IS THE FEASIBILITY FOR ACHIEVING THIS IN NYC?
Mayor Bill de Blasio included $5.7 million in the 2018 city budget to fund a pilot program for the legalization of basement apartments in East New York. The program will assist building owners in making their basement apartments legal living spaces. The city estimates the program could create up to 5,000 affordable units.

WHO’S INVOLVED?

- Chhaya Community Development Corporation
- Cypress Hills Local Development Corporation
- Coalition for Community Advancement: Progress for East New York/Cypress Hills
- Community Development Project of the Urban Justice Center
- Councilmember Raphael Espinal
- NYC Department of Buildings and several other City agencies
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Example Policy: Washington, DC

POLICY OBJECTIVE:
The purpose Washington, D.C.’s ADU policy is to increase density and expand affordable housing stock by making it easier for homeowners to build or renovate an accessory dwelling unit in their homes.

HOW DOES IT WORK?
Previously, ADUs were only allowed in D.C. with special exceptions. In 2016, the City made changes to the zoning code to allow the construction of ADUs on a property as-of-right. The ADUs are subject to building code conditions to ensure the units are safe and have enough space. To rent out the units, homeowners must first obtain a Residential Rental Business License.

WHO BENEFITS?
Homeowners can benefit from the changes to the zoning code by making more income through renting out an ADU. Renters also benefit from the increased availability of affordable housing units.

HOW WAS IT ENACTED?
The D.C. Zoning Commission adopted a new zoning code in 2016 to allow for the as-of-right development of ADUs in certain residential zones across the city.

HOW IS IT ENFORCED?
Homeowners must have the unit inspected and must obtain the appropriate license from the Department of Consumer and Regulatory Affairs in order to rent out an ADU.