



# ACCESSORY DWELLING UNITS

Accessory dwelling units (ADUs), also known as “secondary dwelling units” or “in-law apartments,” are attached or detached residential dwelling units that are subordinate to a primary dwelling on the same lot. ADUs provide independent living facilities for one or more persons and include permanent provisions for living, sleeping, eating, cooking, and sanitation.

There are two types of ADUs:

- **Accessory Dwelling Units (ADUs)** may be detached structures or can be attached to the primary dwelling. The creation of an ADU usually results in an increase in habitable floor space on the property.
- **Junior Accessory Dwelling Units (JADUs)** are constructed within the walls or attached garage of a proposed or existing single-family residence and are 500 square feet or less in size.

## General Criteria for ADUs and JADUs on Single-Family Lots

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### Quantity

- On lots with one single family residence, one junior accessory dwelling unit (JADU) and one accessory dwelling unit (ADU) are permitted.

### Occupancy and Rental

- A property owner may rent out both an ADU and the primary residence if the ADU was permitted between January 1, 2020 and December 31, 2024. ADUs permitted prior to this period are still required to have the owner live in either the ADU or the primary residence.
- Owner occupancy is required for properties with a JADU, regardless of the permitting date. On properties with primary dwelling (e.g., a house) and both an ADU and a JADU, the owner is required to live in either the JADU or the primary dwelling.
- An ADU or JADU may not be rented for a term of less than 30 days.
- Prior to building permit issuance, a deed restriction must be recorded with the Alameda County Recorder’s Office prohibiting the sale of the ADU or JADU as a separate residence and verifying that the unit complies with the City’s requirements regarding minimum rental period and owner occupancy, as applicable. Please contact [planinfo@fremont.gov](mailto:planinfo@fremont.gov) for a template asap.

### Building Safety

- All ADUs and JADUs must comply with fire safety requirements and any easements on the property.
- A smoke alarm and carbon monoxide detector are required.
- Approval by the county health officer is required if a private sewage disposal system is used.
- A permanent foundation is required.
- ADUs and JADUs shall not be held to a higher standard than the principal residence for fire sprinklers. Fire sprinklers shall only be required if they would be required for an equivalent addition or modification of space on a residential property that was not associated with an ADU or JADU.

### Accessory Structure and Garage Conversions

- An attached garage can be converted into an ADU or JADU, subject to fire and life safety requirements.
- Replacement parking is not required for existing parking lost through the conversion or partial conversion of parking area within a garage or carport.
- A lawfully existing accessory structure (such as a detached garage, a barn, a shed, or a carport) may be converted into an ADU without regard to setbacks, provided the finished structure can be made to comply with fire and life safety requirements.
- An ADU created through the conversion of a lawfully existing accessory structure, with no expansion of floor area beyond an up to 150 square-foot addition to provide ingress or egress, is not subject to the maximum size limits that would be applicable to a new, detached ADU.
- A detached ADU can be created within the same footprint of a lawfully existing accessory structure. However, other than an expansion of up to 150 square feet to provide ingress or egress, further expansion beyond the footprint of what was lawfully existing shall be subject to the height and setback restrictions applicable to a new detached ADU (i.e., 16' height, 4' rear and side setbacks).

### ADUs Subject to Limited Standards

Consistent with State law, FMC 18.190.005(e) includes provisions for a special class of ADUs (e.g., detached, up to 800 square feet in size, up to 16 feet in height, and with minimum four-foot side and rear yard setbacks) that are subject to limited standards. Such ADUs are not subject to limits on lot coverage, floor area ratio, open space, or the Citywide Design Guidelines.

## **Additional Criteria for Accessory Dwelling Units (ADUs):**

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An ADU shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is situated.

### Location

- ADUs may be attached to, or located within, a proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure.
- ADUs may be detached from the proposed or existing primary dwelling.
- A minimum setback of four feet from side and rear lot lines shall be required for an ADU which involves the construction of new floor area.
- The minimum front yard setback requirements of the underlying zoning district shall apply to an ADU which involves the construction of new floor area, unless the ADU is subject to the limited standards provided in FMC 18.190.005(e).

### Development Standards

- Attached ADUs may not exceed the one- and two-story building height limits applicable to the principal residence or 16 feet in height, whichever is greater.
- Attached ADUs are subject to the same rear and side yard exceptions and adjustments applicable to the principal residence per FMC 18.90 (see also FMC 18.170.040 and 18.170.050), unless the ADU is subject to the limited standards provided in FMC 18.190.005(e).
- New detached ADUs are limited to 16 feet in height.

### Size

- The total floor area of an ADU shall be no less than 150 square feet.
- Attached ADUs are limited in size to 50% of the floor area of the primary residence except that the maximum size allowable shall be no less than 850 square feet for a studio or one-bedroom ADU or 1,000 square feet for an ADU with two-bedrooms or more.
- ADUs are limited in size to 1,000 square feet on lots smaller than 10,000 square feet and 1,200 square feet on lots that are 10,000 square feet or larger.

### Parking

One parking space is required for an ADU, except that no parking is required if the ADU is:

- A studio (no bedrooms)
- Located within ½ mile (measured by actual walking distance) of public transit, including BART stations, the ACE Station in Centerville, and bus stops.
- Located within the Mission San Jose or Bryant Street Conservation Areas, or on a property that includes a historic register resource or potential historic register resource.
- Located entirely within the existing principal residence and adds no habitable floor space to the property.
- Created through the conversion of a garage, carport, or covered parking structure.
- Located in an area where on-street parking permits are required but are not offered to the occupants of the ADU.
- Located within one block of a designated parking area for one or more car share vehicles available to the general public by subscription.

Where a parking space is required, it may be provided through any of the following methods:

- Conventional garages or carports
- Uncovered paved areas such as extended driveways
- Tandem parking in a garage or driveway
- Parking on other locations on the property (including within the setbacks), unless specific findings are made that parking in these areas is not feasible based on life safety conditions.

### **Additional Criteria for Junior Accessory Dwelling Units (JADUs):**

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Junior Accessory Dwelling Units (JADUs) are constructed within the walls of a proposed or existing single-family residence, including an attached garage, subject to fire life safety requirements. JADUs must be 500 square feet or less in size. A private bathroom is not required, provided that the JADU has full access to a bathroom in the primary dwelling. No off-street parking is required.

In addition, the JADU must include:

- An exterior entrance on the side or rear of the house separate from the entrance to the primary dwelling. An outside stairway to a JADU shall not be located in the front of the primary dwelling.
- An efficiency kitchen, including a cooking facility with appliances and a food preparation counter that is a reasonable size in relation to the size of the JADU.

JADUs are not considered separate dwelling units for fire protection purposes. A fire wall is not required between the unit and the primary dwelling. No noise attenuation measures are required.

## **Criteria for Accessory Dwelling Units on Multi-Family Lots**

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Standard accessory dwelling units are now permitted in conjunction with a multi-family dwelling. ADUs can be created through the conversion of existing space not used as living area (e.g. closets, attics, utility rooms, storage rooms, etc.) provided that the space can meet building code requirements for a dwelling unit. The number of ADUs permitted through the conversion of existing floor area is limited to 25% of the number of existing dwelling units. Additionally, up to two detached ADUs can be constructed on a lot with a multi-family dwelling. These ADUs can be located as close to four feet from the side and rear property lines and must be less than 16 feet in height. An ADU that is on a lot with a primary two-family dwelling or multiple dwelling shall not exceed 1,000 square feet.

## **Permitting Procedures:**

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Both ADUs and JADUs require a Limited Ministerial Design Review Permit, a Building Permit, and an Address. Applications must include the items listed below and may be submitted concurrently.

Limited Ministerial Design Review Permit Submittal Requirements:

- A completed Universal Planning Application: <https://www.fremont.gov/580/Planning-Permits>
- A site plan showing the location of the principal residence, the location and type of the proposed ADU or JADU, and parking (if parking is required). The site plan is required even if the ADU or JADU is entirely within the envelope of the existing home.
- Floor plans of the principal residence and the proposed ADU or JADU.
- Elevation drawings for the exteriors of new structures and for existing structures that are proposed to be modified. In some instances, a topographic survey and grading plan also may be required.

Building Permit Submittal Requirements:

- A completed Building Permit Application: <https://www.fremont.gov/557/Building-Permits>
- Complete architectural, structural, mechanical, electrical, plumbing plans.
- Calculations and Reports: Structural calculations, Title 24 energy calculations, geotechnical reports (if applicable), CalGreen mandatory checklist.

Addressing Submittal Requirements (for all ADUs and JADUs):

- A completed New Address Application: <https://www.fremont.gov/641/Addressing-Street-Names>

A fee is required for the Limited Ministerial Design Review permit and building permit and may be required for other permits. An application for an ADU or JADU that meets the applicable standards can be approved by staff without a public hearing. The City will act on an application for an ADU or JADU on a lot with an existing residence within 60 days of receiving a complete application. Permits from the Alameda County Water District (ACWD) and Union Sanitary District (USD) may also be required.

For more information on accessory dwelling units, please contact the Fremont Planning Division at 510-494-4455 or via email at [planinfo@fremont.gov](mailto:planinfo@fremont.gov).