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.

The City recently adopted a new ADU ordinance (Fremont Municipal Code Section 18.190.005). Applications deemed complete on or after November 5, 2020 will be reviewed for conformance with the new ordinance. Applications deemed complete prior to that date will be subject to the requirements of California Government Code Sections 65852.2 and 65852.22. The focus of this handout is on compliance with the City’s ordinance.

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

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

#### Occupancy
- 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 also still required for properties with JADUs regardless of permitting date. On properties with both an ADU and a JADU, the owner is required to live in either the JADU or the main home.
- An ADU of JADU may not be rented for a term of less than 30 days.
- A deed restriction must be filed with Alameda County prohibiting the sale of the ADU or JADU as a separate residence and verifying that the unit complies with the City’s requirements.

#### 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 is 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 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) can be converted into an ADU without regard to setbacks, provided that the building can be designed to comply with fire and life safety requirements. Similarly, a detached ADU can be created within the same footprint of a lawfully existing accessory structure. With the exception of an expansion of up to 150 square feet, if necessary to provide ingress or egress for the ADU, further expansion beyond what was lawfully existing shall be subject to the height and setback restrictions applicable to a new detached ADU.

Additional Criteria for Accessory Dwelling Units (ADUs):

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 building height limits applicable to the principal residence. Detached ADUs are limited to 16 feet in height.
- Attached or detached ADUs that are up to 800 square feet in size, up to 16 feet in height, and with minimum four-foot side and rear yard setbacks, are not subject to development standards such as limits on lot coverage, floor area ratio, and open space, nor do design guidelines apply.
- Attached and detached ADUs over 800 square feet in size are subject to the objective development standards of the relevant zoning district, including lot coverage and the objective rules in the Citywide Design Guidelines.

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.
- Detached ADUs are limited in size to 1,000 square feet on lots smaller than 10,000 square feet.
- Detached ADUs are limited in size to 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 where the ADU meets any of the following criteria:
  - The ADU is a studio (no bedrooms)
  - The ADU is located within ½ mile (measured by actual walking distance) of public transit, including BART stations, the ACE Station in Centerville, and bus stops.
  - The ADU is 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.
  - The ADU is located entirely within the existing principal residence and adds no habitable floor space to the property.
  - The ADU is located in an area where on-street parking permits are required but are not offered to the occupants of the ADU.
  - The ADU is located within one block of a designated parking area for one or more car share vehicles available to the general public by subscription.

Note: If requesting a waiver from parking requirements, the applicant must submit evidence that the property meets one of the criteria above.

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):**

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 interior connection (e.g., an interior door) to 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 proposes. 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

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:

Both ADUs and JADUs require a Limited Ministerial Design Review Permit, a Building Permit, and an Address. These permits may be applied for concurrently. To obtain the permits, you will need the following.

Limited Ministerial Design Review Permit Submittal Requirements:
- A completed Universal Planning Application: [https://www.fremont.gov/580/Planning-Permits](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.
- Elevations of all sides of the principal residence and the proposed ADU or JADU that involve exterior appearance changes.
- 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](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](https://www.fremont.gov/641/Addressing-Street-Names)

An application for an ADU or JADU that meets the applicable standards can be approved by staff and no public hearing is required. The City of Fremont 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. A fee is required for the Limited Ministerial Design Review permit and building permit and may be required for other permits.

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