



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 principal residence on the same lot. ADUs provide complete 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: Standard Accessory Dwelling Units (SADUs) and Junior Accessory Dwelling Units (JADUs). SADUs may be detached structures, or can be attached to the primary residence. The creation of a SADU usually results in an increase in habitable floor space on the property. JADUs are created entirely from existing habitable space and are smaller than 500 square feet.

New statewide standards regarding the construction of accessory dwelling units became effective on January 1, 2020. These state requirements supersede the current local ordinance in Fremont Municipal Code Section 18.190.005.

The City of Fremont is currently in the process of updating the local ADU ordinance to reflect the recent changes to state law and to codify additional objective design standards. Staff are tentatively scheduled to present an updated ordinance for adoption to Planning Commission on February 13th, 2020 and then to City Council on March 17th, 2020. If adopted according to this tentative timeline, the new ADU ordinance would become effective in May 2020. Please refer to upcoming meeting agendas at www.fremont.gov/agendacenter or contact the Planning Division at planinfo@fremont.gov or (510) 494-4455 for more information on the ADU local ordinance update.

Until the adoption of a local ordinance, the following regulations apply to accessory dwelling units:

Criteria for Accessory Dwelling Units on Single-Family Lots

Location

- On lots with one single family residence, one junior accessory dwelling unit (JADU) and one standard accessory dwelling unit (SADU) are permitted.
- JADUs must be located entirely within the existing residence. SADUs may be located entirely within the existing residence, attached to the existing residence, or detached in a separate structure.
- Attached and detached SADUs can be located as close as four feet from the rear and interior side property lines. SADUs must follow the front yard and exterior side yard setbacks as provided in the applicable zoning ordinance.
- The separation between a detached SADU and another structure on the same lot is only that as required by Building and Fire code.
- Attached SADUs may not exceed the building height limits applicable to the principal residence. Detached SADUs are limited to 16 feet in height.

Occupancy

- A property owner may rent out both a SADU and the primary residence if the SADU was permitted between January 1, 2020 and December 31, 2024. SADUs permitted prior to this period are still

required to have the owner live in either the SADU or the primary residence. Owner occupancy is also still required for all JADUs regardless of permitting date.

- An ADU 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 as a separate residence, and verifying that the unit complies with the City's requirements.

Building Safety

- 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.

Additional Criteria for Standard Accessory Dwelling Units (SADUs):

Size

- The total floor area of a SADU shall be no less than 150 square feet.
- Attached SADUs are limited in size to 50% of the floor area of the primary residence or 800 square feet, whichever is greater.
- Detached SADUs are limited to 1,200 square feet in size.
- For SADUs 800 square feet or less, any underlying first floor lot coverage, floor area ratio, or open space requirement may be modified to the extent necessary to allow for the construction of the SADU. Any second story area limitations are still applicable.

Parking

- One parking space is required for an SADU, except that no parking is required where the ADU meets any of the following criteria:
 - The SADU is a studio (no bedrooms)
 - The SADU 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 SADU 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 SADU is located entirely within the existing principal residence and adds no habitable floor space to the property.
 - The SADU is located in an area where on-street parking permits are required, but are not offered to the occupants of the SADU.
 - The SADU 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.

Garage Conversions

- A garage or accessory structure can be converted into an ADU without regard to setbacks, provided that the setbacks are sufficient for fire and life safety.
- Replacement parking is not required if the ADU involves the demolition, conversion, or partial conversion of a garage or carport.
- A SADU may be converted out of a legally constructed existing structure regardless of setback requirements. A SADU may be constructed in the same place and with the same footprint as a legally built existing structure regardless of setback requirements.

Building Safety

- SADUs 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 a SADU.

Criteria for Junior Accessory Dwelling Units (JADUs):

Junior accessory dwelling units (JADUs) are located entirely within the existing walls of an existing single family home and are less than 500 square feet in size. A private bathroom is not required, provided that the JADU has full access to a bathroom in the principal residence. 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 residence. An outside stairway to a JADU shall not be located in the front of the principal residence.
- An interior connection (e.g., an interior door) to the principal residence.
- 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 residence. 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 residence. SADUs 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 SADUs permitted through the conversion of existing floor area is limited to 25% of the number of existing dwelling units. Additionally, up to two detached SADUs can be constructed on a lot with a multi-family residence. The maximum size of a detached SADU on a multifamily property is 850 square feet for a studio or one bedroom unit, and 1000 square feet for a two or more bedroom unit. A detached SADU on a multifamily property can be located as close to four feet from the side and rear property lines and must be less than 16 feet in height.

Permitting Procedures:

Both SADUs and JADUs require a building permit. To obtain the permit, you will need:

- A site plan showing the location of the principal residence, the location and type of the proposed ADU, and parking (if parking is required). The site plan is required even if the ADU is entirely within the envelope of your existing home.
- Floor plans of the principal residence and the proposed ADU.
- Elevations of all sides of the principal residence and the proposed ADU that involve exterior appearance changes. If the ADU will be in a new detached structure, submit photos of the primary residence for architectural context.
- In some instances, a topographic survey and grading plan also may be required.

An application for an ADU that meets the applicable standards can be approved by staff and no public hearing is required. Where design review requirements are applicable (for example, for an addition or a new detached structure), a Ministerial Design Review Permit is required. The City of Fremont will act on an application for an ADU 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 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.