

ACCESORY DWELLING UNITS

Code Reference: Fremont Municipal Code Section 18.190.005

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 and that provide complete independent living facilities for one or more persons. ADUs include permanent provisions for living, sleeping, eating, cooking, and sanitation.

There are two types of ADU’s, Standard Accessory Dwelling Units (SADUs) and Junior Accessory Dwelling Units (JADUs). SADUs may be detached structures on the property, or can be attached to the primary residence. They usually result in an increase in habitable floor space on the property when they are created. JADUs are created from existing habitable space (such as a bedroom) and are smaller than 500 square feet.

Permitting Procedures:

All ADUs 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 in the Fremont Municipal Code (FMC) is subject only to ministerial review and approval. This means that the application may 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.

Depending on the scope of the project, other City permits may be required. On lots that have been deemed eligible or formally listed on the National Register of Historic Places, the California Register of Historical Resources, or any adopted local list of historic resources, architectural approval must be granted by the Historical Architectural Review Board (HARB). 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.

Criteria for all Accessory Dwelling Units (ADUs):

Location

- On lots where ADUs are allowed, only one ADU per lot is permitted.
- ADUs are not permitted on lots larger than 7,500 square feet in the R-G zoning district or on lots larger than 6,000 square feet in the R-3 zoning district.
- ADUs are not permitted in duplexes, triplexes, and other buildings with more than one principal residence.
- ADUs are not allowed on “constrained” land, where development capacity is limited because of conditions determined to be detrimental to public health, safety and welfare, such as soil instability or severe slopes.
- ADUs do not count toward the density requirements in the General Plan or zoning regulations.
- ADUs may be located only within the area of the lot allowed for the principal residence.
- ADUs may not exceed the building height limits applicable to the principal residence.
- ADUs may be located entirely within the existing residence, attached to the existing residence, or detached in a separate structure. If a detached structure, the ADU must be separated from other habitable structures on the lot by at least 10 feet. This may be reduced to eight feet if one structure is equipped with fire sprinklers or six feet if both structures are equipped with fire sprinklers. Other exceptions may apply.

Occupancy

- The legal owner of the property must reside on the property, either in the principal residence or in the ADU.
- 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.

Design

- ADUs shall incorporate architectural features, building materials and colors that are compatible with the principal residence.
- Outside stairways to the ADU shall not be in the front of the principal residence.
- A continuous paved pathway from the street to the front door of the ADU (called a “passageway”) may be added, but is not required.

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.

Criteria for Standard Accessory Dwelling Units (SADUs):

Size

- The total floor area of an SADU shall be no less than 150 square feet.
- The maximum floor area is limited to no more than 50% of the habitable floor area of the main unit or the following table, whichever is less:

Parcel Size (square feet)	Maximum Floor Area of ADU (square feet)
Less than 5,000	500
5,000-7,999	700
8,000-9,999	800
10,000-19,999	900
20,000-39,999	1,050
40,000 or more	1,200

Parking

One parking space per bedroom is required for an SADU, except that no parking is required where the ADU meets any of the following criteria:

- 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 on “major transit spines” as defined by Fremont General Plan Diagram 3-6.
- 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
- 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 and Additions

A garage may be converted to a SADU if the property meets all applicable parking standards after the SADU is completed.

- Setback requirements shall not apply to an existing garage that is converted to a SADU, provided that any walls within setback areas comply with applicable building and fire codes.
- In the event a SADU is constructed above a garage, a setback requirement of five feet from the side and rear properties shall be required.

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):

New provisions in the Fremont Municipal Code allow homeowners to develop a “Junior” Accessory Dwelling Unit (JADU) on their properties. JADUs are subject to many of the same requirements as Standard ADUs but are often easier to approve as they do not change the “footprint” of the principal residence. A JADU is located entirely within the existing walls of an existing single family home. It is less than 500 square feet and incorporates an existing bedroom. 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). Outside stairways 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 sink with a waste line no larger than 1.5 inches, a cooking facility with appliances that do not require electrical service greater than 120 volts and that do not use propane gas, and a food preparation counter no less than 6 feet in length.

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

For more information on Accessory Dwelling Units, please contact the Fremont Planning Division at 510-494-4455 or via email at planning@fremont.gov.