

ACCESSORY DWELLING UNIT (ADU) – FREQUENTLY ASKED QUESTIONS (FAQ)

As of January 2020, newly adopted State of California legislation pertaining to Accessory Dwelling Units (ADUs) went into effect. The legislation changes specifically amended Government Code Sections 65852.2 and 65852.22. In response to these legislative changes, the City of San Marcos updated its zoning ordinance to be consistent with State law. This FAQ handout has been created in an effort to effectively answer commonly asked questions regarding ADUs.

WHAT IS AN ACCESSORY DWELLING UNIT (ADU)?

An Accessory Dwelling Unit (ADU) means an attached or detached residential dwelling unit that provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as a single-family or multifamily dwelling.

WHAT IS A JUNIOR ACCESSORY DWELLING UNIT (JADU)?

A Junior Accessory Dwelling Unit (JADU) is 500 square feet or less and is contained entirely within an existing or proposed single-family residence. A JADU must include a separate entrance from the single-family residence and may include separate sanitation facilities or may share sanitation facilities with the existing or proposed structure.

WHERE CAN I BUILD AN ADU OR JADU, WHAT ZONES ARE THEY ALLOWED IN?

ADUs are allowed on any lot that is zoned for single-family or multifamily dwelling residential use, including lots that are zoned for such use within a Specific Plan Area (SPA). ADUs can be attached to the primary dwelling or detached in a freestanding building. ADUs are allowed in the side and rear yards but are not allowed in the front yard. In the side and rear yards, ADUs must meet a minimum four (4) foot setback from property lines and must be located at least ten (10) feet from other structures (eave to eave). JADUs are only allowed on lots that are zoned for single-family residential use, as they must be contained entirely within an existing or proposed single-family residence. One detached ADU and one JADU is permitted on a single-family lot. Up to two (2) detached ADUs can be located on a multifamily site and portions of the ADU not used as livable space may be converted into attached ADUs.



IS A PERMIT REQUIRED TO BUILD AN ADU/JADU AND WHAT ARE RELATED CITY FEES?

A building permit is required for an ADU or JADU. Plans will need to be prepared by a licensed design professional, such as an architect or engineer, and submitted for review to the City's Building Division. All ADU projects are subject to Plan Check, Permit Issuance, and possible outside agency fees such as utilities or school districts. ADU projects are also subject to Public Facilities Fees (PFF), unless the ADU is smaller than 750 square feet in size, and may be subject to Community Facilities District (CFD) Fees. Fees are specific to the scope of your project, so reach out to a City staff member at the time of application for details.

WHAT IS THE MAXIMUM ALLOWABLE SIZE OF AN ADU?

- Attached ADU: The maximum size permitted for an attached ADU is 850 square feet or 1,000 square feet if the ADU includes more than one (1) bedroom. An attached ADU cannot exceed 50 percent of the living area of the primary dwelling, provided, however, that the maximum square footage allowed must be at least 800 square feet of gross floor area.
- Detached ADU: Detached ADUs on a lot less than 1 acre can be a maximum of 850 square feet, except for when an ADU provides more than one (1) bedroom, which can be a maximum of 1,000 square feet. If a lot is one (1) acre or greater, a detached ADU can be up to 1,000 square feet in size.
- JADU: A JADU can be no more than 500 square feet.

HOW TALL CAN AN ADU BE?

The height of a detached ADU shall be one (1) story maximum, up to a maximum of sixteen (16) feet at the peak of roof, and overall height shall remain consistent with the requirements of the applicable Zone in which the ADU is located. The one (1) story maximum height does not apply to ADUs that are proposed to be above a garage.

WILL AN ADU OR JADU REQUIRE ADDITIONAL PARKING?

A minimum of one (1) on-site paved parking space is required for a new ADU except if the ADU is located, among other instances, within one-half mile walking distance of public transit. Additionally, when a garage, carport, or covered parking structure is demoed or modified to accommodate construction of or conversion to an ADU, the city does not require that any of the demolished off-street parking spaces be replaced. However, any pre-existing driveway parking spaces must be maintained. No additional parking is required for a JADU.



ARE ADUS OR JADUS SUBJECT TO OWNER OCCUPANCY REQUIREMENTS?

There are no owner occupancy requirement on ADU projects from January 1, 2020 until January 1, 2025. This restriction is not retroactive and does not affect existing ADUs that have an owner occupancy requirement.

JADUs are subject to owner-occupant requirements.

ARE ADUS OR JADUS SUBJECT TO HOMEOWNER'S ASSOCIATION (HOA) REQUIREMENTS?

Please check with your local Homeowner's Association (HOA) to ensure that your project complies with any applicable HOA design and/ or procedural requirements. Design and other requirements generally apply to the extent that they do not conflict with local regulations or State law.

California Civil Code section 4751.

(a) Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a planned development, and any provision of a governing document, that either effectively prohibits or unreasonably restricts the construction or use of an accessory dwelling unit or junior accessory dwelling unit on a lot zoned for single-family residential use that meets the requirements of Section 65852.2 or 65852.22 of the Government Code, is void and unenforceable.

(b) This section does not apply to provisions that impose reasonable restrictions on accessory dwelling units or junior accessory dwelling units. For purposes of this subdivision, "reasonable restrictions" means restrictions that do not unreasonably increase the cost to construct, effectively prohibit the construction of, or extinguish the ability to otherwise construct, an accessory dwelling unit or junior accessory dwelling unit consistent with the provisions of Section 65852.2 or 65852.22 of the Government Code.

A FULL VERSION OF THE CITY'S ORDINANCE (CHAPTER 20.410) AND DEVELOPMENT STANDARDS THAT APPLY TO ACCESSORY DWELLING UNITS (ADUS) CAN BE FOUND ON THE CITY'S WEBSITE AT THE FOLLOWING LINK: : https://library.municode.com/ca/san_marcos/codes/code_of_ordinances?nodeId=TIT20ZO_CH20.410ACDWUNACST_S20.410.060ACDWUNRE

BUILDING DIVISION PERMITTING REQUIREMENTS ARE AVAILABLE AT: WWW.SAN-MARCOS.NET

CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT – ADU INFORMATION: [HTTPS://WWW.HCD.CA.GOV/POLICY-RESEARCH/ACCESSORYDWELLINGUNITS.SHTML](https://WWW.HCD.CA.GOV/POLICY-RESEARCH/ACCESSORYDWELLINGUNITS.SHTML)

HELPFUL CONTACTS AT CITY HALL:

- Building Division BuildingDivision@san-marcos.net
- Planning Division PlanningDivision@san-marcos.net



ACCESSORY DWELLING UNIT (ADU) – ZONING POLICY STANDARDS

EFFECTIVE JANUARY 1, 2020

DEFINITIONS	
Accessory Dwelling Unit (ADU) (Commonly known as granny flat, second unit, casita, etc.)	“Accessory Dwelling Unit” means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated.
Junior Accessory Dwelling Unit (JADU)	“Junior Accessory Dwelling Unit” means a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A <i>Junior Accessory Dwelling Unit</i> may include separate sanitation facilities, or may share sanitation facilities with the existing structure.
Single-Family Dwelling (SFD)	One dwelling unit in one building, not including an ADU or <i>Junior ADU</i> .
Multi-Family Dwelling (MFD)	Two or more dwelling units in one building, not including an ADU or <i>Junior ADU</i> .
LOCATIONS ALLOWED	
Zoning Districts Allowed	ADUs/ <i>Junior ADUs</i> allowed in residential zoning districts allowing single-family and multi-family residential uses, and mixed-use zoning districts, including planned residential districts and specific plan areas allowing residential uses.
REVIEW PROCESS	
General Process	Building permits will be processed within sixty (60) days of submittal of complete application. The sixty (60) day period is tolled (stopped) when the City sends corrections to applicant, and restarted when the applicant resubmits revised plans.



ADU/JUNIOR ADU Development Standards			
Type	Height Limit	Side Yard Setback	Rear Yard Setback
Detached ADU	16 feet / 1 story, or consistent with underlying zoning if constructed above garage	4 feet	4 feet
Attached ADU or <i>Junior</i> ADU	Same as underlying zone district	Same as underlying zone district	Same as underlying zone district
ADU created by converting an existing single-family or multi-family residence or accessory building, and <i>Junior</i> ADU created from single-family dwelling	Within existing building	Sufficient for fire safety (per building code and as determined by building official)	
Notes	Front yard setback shall be the same as required for underlying zoning district, except for conversion of existing building area. Detached ADUs shall be located in the rear 50 percent of the lot/parcel. Direct exterior access shall be provided. All exterior changes shall be architecturally compatible with existing structures. Structures may be expanded in certain instances up to 150 square feet to accommodate access.		
PARKING			
Parking required	ADU/ <i>Junior</i> ADU	One (1) parking space for ADU, no parking required for <i>Junior</i> ADU	
	Primary dwelling(s)	Existing garage parking for existing primary dwelling unit(s) must be maintained, unless the garage is converted to an ADU	
MINIMUM UNIT, LOT SIZE, AND OTHER REQUIREMENTS			
Minimum ADU/ <i>Junior</i> ADU Size		150 square feet	
Minimum Lot Size		No minimum lot size for an existing legal lot. Any newly created lot must comply with zoning regulations.	
Maximum Lot Coverage, Minimum Usable Open Space, and Floor Area Ratio (FAR)		Not applicable unless specified by underlying zoning district, such as a Specific Plan Area (SPA)	

AUTHORITY: CALIFORNIA GOVERNMENT CODE SECTION 65852.2 AND 65852.22; ALL OTHER CODE CITATIONS FROM TITLE 20 (ZONING ORDINANCE), CITY OF SAN MARCOS MUNICIPAL CODE (SMMC).