

ADUs: Frequently Asked Questions

Building an ADU

- **Must an ADU be used as a dwelling?**

It must be used for a residential purpose.

- **Can an ADU include a loft or mezzanine?**

Yes, if it conforms to height requirements and meets applicable building code requirements.

- **Do neighbors have a say? Are they notified?**

No. The permit process is ministerial, which does not require public notice. All permits are public records.

- **If an existing structure is converted to an ADU, does it have to be up to code if it's an older, pre-1960s building?**

Yes, the converted ADU (such as a garage conversion) is required to meet the current building, fire and energy code requirements.

This may include light and ventilation requirements, vapor barrier over the concrete slab, insulation of walls and ceiling for the conditioned space, installing raised curbs under exterior walls for 8" wood to grade separation, heating facilities required for habitable space, review of protected and unprotected openings in exterior walls based on distance to property line, roof must comply with attic ventilation.

The area of new work is required to comply with the current code requirements, the existing building that is not being altered can remain the same, unless it is impacted by the alteration, e.g. new openings for windows. Please contact the Building Department for specifics.

- **If an accessory structure is on a property line and is converted to an ADU, are 6-foot setbacks required?**

Not if the accessory structure is a garage or the accessory structure being converted is located in the R-1 and R-E zoning districts, except as required for fire safety.

However, a new detached ADU requires 6-foot side and rear setbacks. Also, daylight plane rules apply.

- **Can an ADU have a basement?**

Yes, if not in a flood zone. The basement area counts towards maximum ADU size, but may not count towards overall FAR.

- **Can a basement be an ADU?**

Yes, an existing basement can be converted to an ADU as well as a new ADU can be in a basement, provided it complies with the building code.

- **Can an ADU be a prefabricated unit?**

Yes, but it must be on a permanent foundation, or on a chassis (for manufactured homes).

Variances

- **Can an ADU be issued a Conditional Use Permit?**

No.

- **Can a variance for increased FAR, increased height or decreased setbacks be requested?**

Variations from development standards may be granted subject to meeting specific findings.

Increased FAR

- **What does the increased ADU FAR allow?**

Increased ADU FAR permits an additional 175 square feet of building area beyond the maximum floor area (FAR) allowed on lots with a one-story ADU. (50 additional square feet for a JADU.)

The additional square footage cannot be used to increase the size of the ADU itself beyond the square foot floor area limitation, but gives property owners the ability to add such units when they are close to the applicable FAR limit.

Privacy

- **What privacy rules are in effect?**

- The daylight plane, in conjunction with the setbacks and height limits, is intended to contain development on the lot in a way that preserves privacy and exposure to natural light.

- The daylight plane for a detached ADU is measured at 8 feet with a 45 degree angle.

- The daylight plane for an attached ADU is the same as the primary house.

- The front setback remains at 20 feet, unless there is a special or contextual front setback. No structures are permitted within the front setback.

- Are maximum height requirements different in a flood zone?

No. Even if the base grade is raised, the maximum building height for ADUs is still 17 feet. A deviation from this standard could be requested and acted upon by filing a variance application with the planning department.

Rental Issues

- **The ADU cannot be rented for less than 30 days, but can the main dwelling?**

No, the primary unit is also prohibited from short term rentals.

- **Can I rent out my ADU on Airbnb or a similar service?**

Yes, if the rental is greater than 30 days. Short term rentals are not permitted regardless of the business used to advertise the rentals.

- **Is there a limit on how much rent can be charged?**

No.

- **Is a business license required to rent out an ADU?**

No.

- **Are homeowners who rent ADUs subject to rules governing landlords / apartments, including eviction law?**

Yes. The landlord-tenant relationship is governed by local, state and federal laws.

- **Are ADUs covered by non-smoking rules?**

The City does not regulate smoking in single family homes.

- **What happens to homeowner insurance rates? What are the landlord's liabilities? Protections?**

Contact an insurance agent for your specific needs.

Utilities

- **Can an attached or detached ADU connect to the existing dwelling's utilities?**

Yes, assuming adequate capacity.

- **Who pays for new utilities (sewer, water, electricity, gas) to be connected to new ADUs?**

The homeowner.

- **Can an ADU have solar panels?**

Yes.

- **Can the city charge utility connection fees?**

If new connections are requested, yes.

- **Who pays for the ADU's utilities?**

The homeowner would decide that as part of the rental agreement.

Taxes

- **Will property taxes increase for a new ADU?**

Reassessment of a property is required any time new construction occurs.

However, in determining the value of new construction, only the improvement being added—in this case, the ADU—is considered.

Assessment can also be based on income from a rental.

Note that the Assessor's Office is required by law to value new construction whether or not a building permit has been issued.

- **Will property taxes increase for a JADU?**

Yes, based on the cost of construction on the building permit application.

- **Will property taxes increase for conversion of an existing structure?**

Probably, depending on the amount of construction involved.

- **At what rate would rental income be taxed?**

Ordinary income. Talk to your accountant about deducting expenses, such as depreciating the costs of construction and about how this affects tax treatment upon sale.

- **Would one be taxed for renting to relatives or friends?**

Yes, it's still rental income.

For all tax-related issues, see the Santa Clara County Assessor's page at

<https://www.sccassessor.org/index.php/property-information/homeowners/homeowner-new-construction>

CC&Rs

- **Do ADU regulations take precedence over CC&Rs?**

City regulations are separate from CC&Rs. The City does not regulate or impose CC&Rs.

Compatibility – Historic and Eichler Neighborhoods

- **Two of Palo Alto's Eichler neighborhoods, Green Gables and Greenmeadow, are historic districts listed in the National Register of Historic Places. Do ADUs in these communities require special review?**

Council directed staff to consider incorporate potential Eichler design guidelines for ADUs, including lower height limits.

Property owners in the two designated historic districts may require additional considerations when developing the guidelines above whatever the city might produce for other Eichler neighborhoods without the historic designation.

- **How are ADUs on properties on the City's historic resources inventory handled? The Historic Resources Board has traditionally dealt with any issues.**

For properties listed in the Palo Alto Historic Inventory, the California Register of Historical Resources, the National Register of Historic Places, or considered a historic resource after completion of a historic resource evaluation, compliance with the appropriate Secretary of Interior's Standards will be required, as determined by the Planning Director.

Other

- **Do ADUs contribute to our RHNA numbers?**

Yes. They do count toward the City's Housing Element--the chief policy document describing the City's housing needs, policies and programs, a State required document that must be certified by the State Department of Housing and Community Development (HCD).

This list of questions and answers was compiled by Palo Alto Neighborhoods (PAN) and is not to be considered as an official City of Palo Alto document.