

Frequently Asked Questions

Can an ADU or JrADU be located on a lot with multiple dwelling units or commercial development?

- An ADU is permitted on a lot with a primary dwelling unit (existing or proposed) in any zone that permits residential uses. This includes lots with existing multiple dwelling units in commercial or mixed use zones.
- A JrADU is permitted only on lots in a single dwelling unit zone where the primary dwelling unit is existing or proposed.

Can a lot have more than one ADU or JrADU?

- A single dwelling unit is permitted to have one detached ADU and one ADU (or JrADU) located within or attached to the primary dwelling unit. The primary dwelling unit can be existing or proposed.
- A duplex (two units on one lot) is permitted to have a maximum of two ADUs per lot. The primary dwelling units must be existing. Each primary dwelling unit can have one ADU that is located either within or attached to the primary dwelling unit or that is detached per the development standards that are applicable to ADUs on lots with a single dwelling unit.
- A lot with existing multiple dwelling unit development (i.e. RM-South) is permitted to incorporate ADUs into spaces that are not located within the dwelling units themselves. Instead, ADUs must be located as detached structures (maximum of two per lot) and/or within multiple dwelling unit building spaces that are not associated with an individual dwelling unit (i.e. common area storage rooms, boiler rooms, attics, basements, or parking garages). The maximum number of ADUs in converted space of multi-dwelling unit buildings is 25 percent of the total number of existing dwelling units on the lot.
- JrADUs are allowed only in single dwelling unit zones, which within the City of Del Mar include the CVPP, R1-10, R1-10B, R1-14, R1-40, R1-5, and R1-5B zones. Only one JrADU is permitted per lot.

What is the size limit for an ADU or JrADU?

- The City must comply with the size parameters set by State law. The size of an ADU is measured in terms of habitable floor space.
- ADUs on single dwelling unit lots are allowed up to 850 square feet; or 1,000 square feet if the ADU contains more than one bedroom.
- On multiple dwelling unit lots, detached ADUs are allowed up to 1,200 square feet.
- The City must allow for a detached ADU up to 16 feet in height with 4-foot minimum side and rear yard setbacks. Some exceptions apply within Overlay Zone Areas such as the

Bluff, Slope and Canyon Overlay Zone (existing 14 foot height limit); and Coastal Bluff Overlay Zone and Beach Overlay Zone (required setbacks for safety and public scenic views) in accordance with the certified Local Coastal Program.

- A JrADU is limited to 500 square feet maximum and must be entirely contained within a single dwelling unit (existing or proposed).

Is an ADU or JrADU permitted on a lot that does not meet the minimum lot size of the zone?

- Yes, State law precludes the City from applying a minimum lot size requirement?

Does the square footage of an ADU or JrADU count towards the maximum floor area ratio (FAR) or lot coverage of the zone?

- No, State law precludes the City from counting the ADU or JrADU towards the maximum floor area ratio or lot coverage of the zone.
- If space within an existing structure that is already counted towards the maximum FAR for a lot is converted to an ADU, the FAR calculation for development on the site as whole may be adjusted accordingly consistent with applicable State law.

Can a minimum setback be applied to a proposed ADU or JrADU?

- Per State law, the City must allow for a detached ADU with setbacks no more than 4 feet from the side and rear yard property lines.
- The City also is precluded from applying a minimum setback for an ADU or JrADU that would be located within an existing structure. This means that an existing structure (i.e. garage or accessory building) that does not comply with the setback required by the zone may be converted to an ADU and still maintain the nonconforming setback.

Is parking required for an ADU or JrADU?

- Parking is not required for a JrADU; and is not required for most ADUs.
- Most properties in Del Mar are located within a 1/2 mile of public transit and will not be required to dedicate parking for an ADU. Please view [the map \(PDF\)](#). If your property is highlighted, it is located more than 1/2 mile from a public transit stop and will require one parking space for an ADU.
- In addition, the City is precluded from requiring replacement parking spaces if a garage, carport, or covered parking structure is demolished for the construction of an ADU or conversion to an ADU.

What if an ADU or JrADU that meets all of the applicable objective review criteria is concurrently proposed as part of a greater development project (e.g. proposed primary dwelling unit or accessory improvements such as a deck or swimming pool)?

- The permit application for the ADU or JrADU shall be submitted and processed as a ministerial permit approval separate from the additional improvements. State law requirements for ministerial processing of ADU applications apply to all improvements within the footprint of the ADU. Any additional improvements will require separate permit applications.
- In no case shall the proposed ADU or JrADU be subject to discretionary permit approval.
- The City may delay acting on the ADU or JrADU application until the City acts on the permit application for the primary dwelling unit. However, action on the ADU or JrADU permit application shall not be delayed for any prospective discretionary action that would not otherwise effect the ability for the ADU or JrADU to comply with the specified standards.

Can an ADU or JrADU be rented as a short term rental less than 30 days?

- In residential zones, ADUs and JrADUs are required to be rented for 30 consecutive days or greater.
- In commercial zones, including the RC zone, an ADU may be rented for a term less than 30 days.

Can an ADU or JrADU be sold separately from the primary dwelling unit?

- An ADU or JrADU shall not be sold or otherwise conveyed separate from the primary dwelling unit, except that the City or City-approved affordable housing organization may sell a deed restricted ADU to an eligible low-income owner.

Are ADUs and JrADUs required to comply with applicable California Building Code requirements?

- ADUs and JrADUs are required to comply with all applicable Building Codes and Residential Codes.
- Until January 1, 2025, State law (Section 17980.12 of the Health and Safety Code) provides for an owner to request a delay in enforcement, up to 5 years, to address any notices of violations related to building standards if immediate compliance is deemed to be unnecessary to protect health and safety pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code.

The municipal code specifies that a junior ADU is max 500 SQ ft and an ADU is max 550, but some of the provided floor plans are larger ~900 SQ ft. Is the code as published correct or is the larger SQ ft allowed?

- On June 1, 2020, the City Council adopted Ordinance 966 that amended DMMC Chapter 30.91 to reflect current State law. A copy of the final ordinance is online at: <https://www.delmar.ca.us/DocumentCenter/View/6806/Item-9---ADU-Regulations-Ordinance>
- The City is currently waiting on the Coastal Commission to certify the LCPA for the ADU Ordinance. Because the LCPA is still pending, the City can't publish the Ordinance in the

Muni Code yet. However, in the interim the City is already applying the adopted Ordinance because that document is what most accurately reflects the two sets of State laws that the City must apply to ADU applications. This is because the City must implement the new ADU laws that took effect January 1, 2020 per the Government Code; and the California Coastal Act requires that the City continue to apply various provisions from the City's certified LCP to proposed ADUs. The City has a dedicated ADU web page for the public: <https://www.delmar.ca.us/642/Accessory-Dwelling-Units-ADUs>

- Residents seeking information regarding ADU's are encouraged to utilize the ADU webpage, which contains useful information, FAQ's, and the following link to the adopted Ordinance 966 (2020 ADU regulations): <https://www.delmar.ca.us/DocumentCenter/View/6806/Item-9---ADU-Regulations-Ordinance>.

In terms of maximum size, the City's adopted Ordinance 966 reflects the revised square-footage allowances per the 2020 State law change:

- JrADU – 500 sf max.
- ADU (up to one bedroom) – 850 sf max.
- ADU (two bedrooms or more) – 1,000 sf max.

The fees page linked from the City website does not have an explicit ADU (or jADU) fee. Which fees apply to construction of an ADU? Is there an FAQ on fees related to a new ADU?

- The Comprehensive User Fee Schedule adopted by the City Council on June 6, 2020 will become effective on September 6, 2020 and includes a specific fee for ADUs at \$1,035.45. While the City's current fee schedule linked from the website does list an ADU fee (under "Miscellaneous"), the new fee will be implemented at the end of next week in preparation of the new fee schedule. Staff will update the link and website to provide clear information on the current fees for ministerial Planning and Engineering review. Separately, ADUs also require an Engineering fee (\$650/one review cycle + inspection, and \$450/each additional review if needed). Building Permit fees vary due to the structure's or improvement's valuation and are calculated at the time of Building Permit Plan Check submittal.

ATTACHED vs DETACHED. An ADU must have an exterior door of its own. Can it share a wall with an existing house and have an interior door to access the house?

- Correct, an ADU must have an exterior door as the primary entry to the unit. An attached ADU is not prohibited from having an interior door to the main structure.

The code at the link below specifies separate bedroom, defines efficiency kitchen, and requires bathroom for jADU, but corresponding specifications are lacking for ADU. Can an ADU be designed as a studio unit?

- *Yes, an ADU can be designed as a studio unit limited to a maximum size of 850 sf. The JrADU regulations reflected in the City's Ordinance are specified by the Government Code in Section 65852.22; and the ADU regulations in the City's Ordinance reflect the requirements per Government Code Section 65852.2. The State specifies the required room components of a JrADU to help differentiate it from an ADU. Both are intended to provide dwelling units for independent living (with access to cooking facilities, a bathroom, and separate entrance). The main differences between a JrADU and ADU located within a single dwelling unit structure is the fact that the JrADU can share a bathroom with the single dwelling unit whereas an ADU must have its own bathroom within the ADU and the maximum size of the JrADU (500 sf max.) is smaller than the maximum size for an ADU.*
- *If the ADU contains more than one bedroom, as defined in H.2 below, it can be a maximum of 1,000 sf.*

H. The interior floor space within the surrounding exterior walls of the ADU(calculated from the inside face of wall studs) shall not exceed 850 square feet in size, or 1,000 square feet maximum if the ADU has more than one bedroom. The applicant may request City Council approval of a deviation from the stated maximum size limit subject to a finding that the deviation is necessary to create an ADU that will meet the City's Housing Element goals; and the applicant agrees to record a covenant memorializing that the ADU shall be limited to use as an ADU rental unit and agrees to provide the City with ADU rental information annually upon request for reporting to the State. For the purpose of this section:

- 1. All interior floor space of the ADU shall count towards the maximum ADU size regardless of whether or not it meets the City's definition of gross floor area.*
- 2. Bedroom shall be defined as an enclosed space within a dwelling unit that is designed or could be used for sleeping and has or is designed to have a door permitting complete closure and separation from all kitchen, living room, and hallway areas.*

DISTANCE TO 101 bus route. An ADU does not need a separate parking space if within a half mile of public transportation. Is distance calculated as the crow flies? Is it distance to the route (eg Hwy 101 for the 101 bus) or distance to an existing bus stop?

- State law provides for multiple exemptions from standard parking requirements for ADUs and JrADUs, but the law does not specify how the distance to transit exemption is to be applied. The City of Del Mar has calculated this distance as a straight-line from existing transit stops. Most properties within the City of Del Mar are within a half mile of transit. The posted FAQs includes a link to the map that shows the properties that are more than a half mile from transit: <http://www.delmar.ca.us/DocumentCenter/View/3469>