

ORDINANCE NO. 09-2020

AN ORDINANCE OF THE CITY OF FREMONT AMENDING FREMONT MUNICIPAL CODE TITLE 18 (PLANNING AND ZONING) TO CONFORM WITH STATE LAW PERTAINING TO ACCESSORY DWELLING UNITS (PLN2020-00176)

THE CITY COUNCIL OF THE CITY OF FREMONT DOES ORDAIN AS FOLLOWS:

SECTION 1. FMC § 18.25.040 AMENDED

Fremont Municipal Code Section 18.25.040 is amended as follows:

Sec. 18.25.983 Accessory dwelling unit (ADU).

“Accessory dwelling unit (ADU)” shall mean an attached or detached residential dwelling unit which 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 the principal residence. As provided in Cal. Gov’t Code § 65852.2, efficiency apartments and manufactured homes may be developed and occupied as accessory dwelling units consistent with this title. Only manufactured or mobile homes constructed after July 1, 1976, and placed pursuant to Section 18.190.350(g) are permitted. ADUs are subject to development standards that are specified in Section 18.190.005. See also “junior accessory dwelling unit.”-

SECTION 2. FMC § 18.25.1525 AMENDED

Fremont Municipal Code Section 18.25.1525 is amended as follows:

Sec. 18.25.1525 Junior accessory dwelling unit (JADU).

“Junior accessory dwelling unit (JADU)” shall mean an ADU that is no more than 500 square feet in size and is contained entirely within a single-family dwelling. A JADU may include separate sanitation facilities, or may share sanitation facilities with the existing structure. JADUs are subject to development standards that are specified in Section 18.190.005(b) and (d) and shall comply with the requirements of Government Code 65852.22(a).

SECTION 3. FMC § 18.25.2675 RESCINDED

Fremont Municipal Code Section 18.25.2675 is rescinded as follows:

SECTION 4. FMC § 18.055.110, AMENDED

Fremont Municipal Code Section 18.055.110, Table 18.055.110 is amended to read as follows:

**Table 18.055.110
Allowed Land Uses and Permit Requirements within Open Space Zoning District**

Land Use	PERMIT REQUIRED BY GENERAL PLAN LAND USE DESIGNATION							Specific Use Regulations
	City Park	General	Hill (beyond Ridgeline)	Hill Face	Hillside (Measure A)	Private ²	Resource Conservation / Public	
Residential, accessory dwelling unit	--	A ⁵	A ⁵	A ⁵	A ⁵	--	--	18.190.005

⁵A ministerial design review permit may be required.

[All other portions of this table remain unchanged]

SECTION 5. FMC § 18.90.040, AMENDED

Fremont Municipal Code Section 18.90.040, Table 18.90.040 is amended to read as follows:

Sec. 18.90.040 Additional development standards applicable to R-1 and R-2 districts.

**Table 18.90.040
R-1 and R-2 District¹ Development Standards**

Zoning District ^{1,10} Development Standard (measurement)	R-1-6	R-1-6 Glenmoor Gardens ²	R-1-8	R-1-8 Mission Palms	R-1-8 Mission Ranch ³	R-1-10	R-1-20	R-1-40	R-2 ⁴	Exceptions, Adjustments and References
Accessory dwelling units	See Section 18.190.005									

[All other portions of this table remain unchanged]

SECTION 6. FMC § 18.90.050, AMENDED

Fremont Municipal Code Section 18.90.050 is amended to read as follows:

Sec. 18.90.050 Additional development standards and design guidelines applicable to R-3 districts.

(a) Standards and Design Guidelines, in General. The development standards summarized in Table 18.90.050 (elaborated upon in subsections (b) through (i) of this section) and the multifamily design guidelines (MFDG) work together to create desirable residential areas by promoting aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities consistent with the general plan community character element.

The city applies the MFDG as part of each development’s design review permit. The MFDG provides the fine level of detail to ensure that the integration of site planning and architectural details will create high quality and compatible developments.

There are two types of design review permits, ministerial and discretionary. Projects subject to a ministerial design review permit must meet all of the development standards and design rules. Projects subject to a discretionary design review permit must meet all development standards, but the approval authority may allow flexibility when an applicant can demonstrate that the purpose and intent of a development standard or design rule is met through alternate means.

The development standards are generally written for development on flat, regularly shaped lots. Other lots may necessitate the use of flexibility provided through discretionary design review in order to develop a project that meets the purpose and intent of the development standards and design rules. The flexibility allowed, however, shall not be construed as applying the lowest common denominator that dilutes quality and character.

Zoning District Development Standard (measurement)	R-3-10 ³	R-3-11	R-3-14	R-3-15 ³	R-3-18	R-3-23	R-3-27 ³	R-3-30	R-3-35	R-3-50	R-3-70
Accessory dwelling units	See Section 18.190.005										

[All other portions of this table remain unchanged]

[Subsections (b) through (h) remain unchanged]

- (i) Requirements for Single-Family and Two-Family Dwellings within R-3 Districts.
 - (1) Single-family structures may utilize R-1-6 side yard standards and duplex structures may utilize R-2 side yard standards but in all other respects development shall conform to R-3 district standards. For accessory dwelling unit standards, see 18.190.005.

[Subsection (b)(2) remains unchanged]

SECTION 7. FMC § 18.90.070, AMENDED

Fremont Municipal Code Section 18.90.070 is amended to read as follows:

Sec. 18.90.070 Additional development standards applicable to R-G districts.

- (a) Standards, in General. The standards summarized in Table 18.90.070 promote garden apartment living environments by promoting aesthetically pleasing environments, safety, privacy, and recreational opportunities.

(b) Single-family structures may utilize R-1-6 side yard standards and duplex structures may utilize R-2 side yard standards but in all other respects development shall conform to R-G district standards . For accessory dwelling unit standards, see 18.190.005.

(c) Additions to existing single-family and two-family dwellings on R-G lots 7,500 square feet or greater may be allowed, subject to a zoning administrator permit, when the zoning administrator can find that the city’s interest in promoting an increase in the number of dwelling units in the district is outweighed by the city’s interest in promoting the improvement or preservation of the existing dwelling(s).

Table 18.90.070 R-G District Development Standards

Zoning District Development Standard (measurement)	R-G-40	R-G-29	R-G-24	R-G-19	R-G-16	R-G-15
Accessory dwelling units	See Section 18.190.005					

[All other portions of this table remain unchanged]

SECTION 8. FMC § 18.90.080, AMENDED

Fremont Municipal Code Section 18.90.080 is amended to read as follows:

Sec. 18.90.080 Uses within residential districts.

[Subsections (a) through (b) remain unchanged]

**Table 18.90.080 Allowed Land Uses and Permit Requirements
for Residential Zoning Districts**

[Table remains unchanged]

¹ Term is defined in Chapter 18.25.

² Term is elaborated on in North American Industry Classification System (NAICS) Manual¹.

³ Single-Family and Accessory Dwelling Units. See Section 18.90.050(i) or 18.90.070(c) for single- and two-family home requirements. See Section 18.190.005 for accessory dwelling units.

SECTION 9. FMC § 18.183.030, AMENDED

Fremont Municipal Code Section 18.183.030, Table 18.183.030 is amended to read as follows:

**Table 18.183.030
Required Parking Spaces**

Residential Uses			
Use	Required Resident Covered Spaces	Required Resident Uncovered or Covered Spaces	Required Guest Spaces
Accessory dwelling unit ^{1,6}	0	None for studio units, otherwise one per unit, except as noted in Footnote (6) below	0

⁶ Parking requirements for accessory dwelling unit(s)¹ may be reduced as prescribed by Section 18.190.005(c)(7).

[All other portions of this table remain unchanged]

SECTION 10. FMC § 18.190.005, AMENDED

Fremont Municipal Code Section 18.190.005 is amended to read as follows:

Sec. 18.190.005 Accessory dwelling units.

(a) All accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) shall be subject to the provisions of this section, except for ADUs and JADUs subject to limited standards pursuant to Government Code Section 65852.2(e)(1), which shall be subject only to the provisions of Section 18.190.005(e). In the event of a conflict between the provisions of this section and another section of the Fremont Municipal Code, the provisions of this section shall prevail.

(b) Regulations Applicable to All Accessory Dwelling Units (ADUs). The following provisions apply to all ADUs, including JADUs.

- (1) Permitting Procedure. Any application for an ADU that meets the applicable location and development standards contained in this section shall be subject to ministerial review and approval without discretionary review or public hearing. Where design review requirements are applicable, a ministerial design review permit shall be required. Consistent with State law, all permits shall be issued within 60 days of submission of a complete application for ADUs conforming to the provisions of this section if there is an existing primary single-family dwelling, two-family dwelling, or multiple dwelling on the same lot. If the permit application to create an ADU is submitted with a permit application to create a new primary single-family dwelling, two-family dwelling, or multiple dwelling on the lot, the City may delay acting on the permit application for the ADU until the City acts on the permit application to create the new primary dwelling, but the application to create the ADU shall be considered without discretionary review or public hearing. If the

applicant requests a delay, the 60-day time period shall be tolled for the period of the delay.

(2) Building Permit Required. No ADU shall be established or maintained until there has been a building permit approved by the city. The application for the permit shall include:

(A) Site plan indicating the location of the primary residence, the location and type of the proposed ADU, and parking (for those ADUs where parking is required);

(B) Floor plans of the primary residence and proposed ADU;

(C) Elevations of all sides of the primary residence and ADU;

(D) A topographic survey and grading plan may be required for units that expand the habitable floor area on the property.

(3) Applicability of Fees.

(A) The city may charge a fee covering the costs associated with the issuance of the design review permit, building permits, and related inspections to determine whether the ADU is in compliance with applicable building standards and the provisions of this section.

(B) This section shall not be construed to prohibit the city from adopting an ordinance or regulation relating to services or utility connection fees that applies to a single-family dwelling, two-family dwelling, or multiple dwelling that contains an ADU so long as that ordinance or regulation applies uniformly to all single-family dwellings, two-family dwellings, or multiple dwellings regardless of whether they include an ADU.

(4) Locational Criteria.

(A) Except as otherwise prohibited by this section, ADUs shall be allowed in any zoning district where a single-family dwelling, two-family dwelling, or multiple dwelling is a permitted use wherein a single-family dwelling, two-family dwelling, or multiple dwelling has been authorized.

(B) ADUs are not required to meet the density requirements of the general plan or zoning ordinance and do not count toward the permissible number of units per acre (or required lot area per dwelling). However, ADUs shall otherwise be consistent with the general plan text and diagrams as provided in Cal. Gov't Code Section 65852.2.

(C) An ADU shall not be counted in any ordinance, policy, or program to limit growth (the number of residential units permitted in a year, etc.).

(5) Occupancy Criteria.

(A) An ADU on a lot with a primary single-family dwelling may be occupied as a separate single-family dwelling only if the legal owner of the lot occupies one of the dwellings located on the lot; otherwise, the ADU and the primary residence shall be occupied as if they were one single-family dwelling. Owner occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization. Neither this, nor any other owner occupancy requirement shall apply to ADUs (except for JADUs) authorized through a building permit issued between January 1, 2020 and January 1, 2025 or such other time period for the prohibition of such requirement as may be prescribed by State law.

(B) Owner occupancy shall not be required for an ADU on a lot with a primary two-family dwelling or multiple dwelling.

(C) The rental of ADUs for terms shorter than 30 days shall be prohibited.

(D) Nothing in this section prohibits the ADU or primary residence(s) on the lot from remaining vacant.

(6) Design.

(A) ADUs shall comply with objective design rules in the Citywide Design Guidelines, or other adopted underlying design guidelines, and the Fremont Municipal Code pertaining to building design, architectural elements, materials and colors, and privacy.

(B) Outside stairways to the ADU shall not be in the front of the primary residence.

(C) A permanent foundation shall be required for all detached ADUs.

(D) On lots located in a Hillside Combining (H-I) district, ADUs shall be subject to the development standards in Section 18.130.050.

(E) On lots located in an Open Space (OS) district, ADUs shall be subject to the performance standards in Section 18.55.040.

(7) Special Provisions for Historic Properties. The following requirements and restrictions apply to the creation of ADUs on properties deemed eligible for or formally listed in the National Register of Historic Places, the California Register of Historical Resources, or the Fremont Register of Historic Resources, and shall supersede any provision to the contrary in this section.

(A) Historic Preservation. ADUs that are not subject to the limited standards provided in 18.190.005(e) that involve exterior modifications to structures deemed eligible for or formally listed in the National Register of Historic Places, the California Register of Historical Resources, or the Fremont Register of Historic Resources shall be designed and constructed in conformance with the objective standards for preservation provided in the Secretary of the Department of the Interior's Standards for the Treatment of Historic Properties.

(B) Placement. ADUs that are not subject to the limited standards provided in 18.190.005(e) shall be placed in the rear half of the lot, behind the primary dwelling unit.

(8) Correction of Nonconforming Zoning Conditions. The correction of nonconforming zoning conditions shall not be required as a condition for ministerial approval of a permit application for the creation of an ADU.

(9) Deed Restriction. A deed restriction, which shall run with the land, shall be filed and recorded with the county of Alameda for each ADU prior to the issuance of a building permit and shall include the following:

(A) A prohibition on the sale of the ADU separate from the sale of the primary residence, including a statement that the deed restriction may be enforced against future purchasers.

(B) Occupancy restrictions and requirements, as specified in subsection (b)(5) of this section.

(C) A restriction on the size and attributes of the ADU that conforms with this section.

(c) Regulations Applicable to ADUs not classified as a JADU. The following provisions apply to ADUs that are not classified as a JADU.

(1) Number Per Lot.

(A) Single-Family Dwellings. A maximum of one ADU shall be permitted on a lot developed with a single-family dwelling. One ADU is permitted even if a JADU already exists on the property.

(B) Two-Family Dwellings and Multiple Dwellings.

(i) ADUs Converted from Existing Floor Area. An ADU may be authorized through the conversion of existing floor area within a two-family dwelling or a multiple dwelling that is not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings. The maximum number of ADUs permitted through the conversion of existing floor area shall

be at least one, and shall be up to a maximum of 25 percent of the number of dwelling units within the multiple dwelling, not including any ADUs.

- (ii) Detached ADUs. A maximum of two detached ADUs shall be permitted on a lot developed with a two-family dwelling or a multiple dwelling.
- (iii) As an alternative to (B)(i) and (B)(ii), an applicant may instead choose to develop one ADU, attached or detached, up to 1,000 square feet in floor area, and in compliance with Government Code 65852.2(a).

(2) Floor Area.

(A) Minimum Floor Area. The total floor area of an ADU shall be no less than 150 square feet, or as specified in Health and Safety Code Section 17958.1, as may be amended.

(B) Maximum Floor Area.

- (i) Single-Family Dwellings. An ADU that is on a lot with a primary single-family dwelling shall comply with all of the following:

(a) Maximum Percentage. A new ADU attached to a single-family house shall not exceed 50 percent of the living area of the primary single-family dwelling. Notwithstanding the preceding requirement, the maximum floor area of an ADU shall be restricted to no less than 800 square feet or such greater maximum square footage, but not to exceed same, as may be required to comply with Government Code Section 65852.2, as may be amended, and the following.

(b) Maximum Floor Area. On a lot less than 10,000 square feet, an ADU shall not exceed 1,000 square feet in floor area. On a lot 10,000 square feet or greater, an ADU shall not exceed 1,200 square feet

- (ii) Two-family dwellings and multiple dwellings. An ADU that is on a lot with a primary two-family dwelling or multiple dwelling shall not exceed 1,000 square feet.

(3) Building Height.

(A) Detached. An ADU that is detached from the primary dwelling on the lot shall not exceed 16 feet in height, except when a lawfully existing structure is converted to an ADU, or where an ADU is constructed to replace a lawfully existing structure in the same location and to the same dimensions. With the exception of an expansion of up to 150 square feet if necessary to provide ingress or egress for the ADU, further expansion beyond what was lawfully existing shall be subject to the height and setback restrictions applicable to a new detached ADU.

- (B) Attached. An ADU that is attached to the primary dwelling on the lot shall not exceed the building height limitation applicable to the primary dwelling.

- (4) Connection to Street. No passageway shall be required in conjunction with the construction of an ADU, unless such a connection is mandated by the Americans with Disabilities Act, or other state or federal safety code or standard. A passageway is a pathway that is unobstructed and clear to the sky, that extends from the street to the door of the ADU.

- (5) Setbacks.
 - (A) New Floor Area. A minimum setback of four feet from side and rear lot lines shall be required for an ADU which involves the construction of new floor area. The minimum front yard setback requirements of the underlying zoning district shall apply to an ADU which involves the construction of new floor area, unless the ADU is subject to the limited standards provided in 18.190.005(e).

 - (B) Conversion of Existing Structures. No setbacks shall be required when a lawfully existing structure (e.g., garage, shed, guest house) is converted to an ADU, or where an ADU is constructed in the same location and to the same dimensions as a lawfully existing structure. With the exception of an expansion of up to 150 square feet if necessary to provide ingress or egress for the ADU, further expansion beyond what was lawfully existing shall be subject to the height and setback restrictions applicable to a new detached ADU.

- (6) Other Development Standards. ADUs greater than 800 square feet in size shall comply with the applicable lot coverage, floor area ratio, and open space requirements of the underlying zoning district, except as modified by this section. ADUs 800 square feet or less in size are not required to conform to the lot coverage, floor area ratio, or open space requirements of the underlying zoning district, except that the maximum second story percentage in Section 18.90.040 shall apply regardless of the size of the ADU.

- (7) Parking. Studio units shall not be required to provide parking. A maximum of one parking space (regardless of number of bedrooms) shall be required for an ADU, except as noted under subsections (B) and (C) of this section.
 - (A) Required parking may be provided through any of the following methods:
 - (i) Conventional garages or carports;

 - (ii) Uncovered paved areas such as an extended driveway as provided in Section 18.183.180(a)(2)(C);

 - (iii) Tandem parking in a driveway; or

(iv) Parking on other locations on the property, unless specific findings are made that parking in setback areas is not feasible based upon life safety conditions. Mechanical lifts may be permitted where consistent with design review criteria.

(B) No off-street parking shall be required for an ADU in any of the following instances:

(i) The ADU is located within one-half mile of public transit. This shall include properties within one-half mile of a BART or other commuter rail station or a bus stop. In such cases, the one-half-mile standard shall be based on the actual walking route between the ADU and the transit stop rather than on a straight line between the two points;

(ii) The ADU is located within an architecturally and historically significant historic district, including the locally designated Mission San Jose and Bryant Street conservation districts, or on a property that includes a register resource or potential register resource;

(iii) The ADU is located entirely within the primary residence or an accessory structure;

(iv) The ADU is located in an area where on-street parking permits are required, but are not offered to the occupants of the ADU;

(v) The ADU is located within one block of a designated parking area for one or more car-share vehicles available to the general public by subscription.

(C) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU, no replacement parking is required.

(d) Additional Standards Applicable to JADUs.

(1) Purpose. The purpose of the junior accessory dwelling unit (JADU) regulations is to implement specific policies of the housing element of the Fremont general plan, and specific provisions of state law authorizing the creation of JADUs. The intent of the JADU regulations is to expand the affordable rental housing stock through the repurposing of underutilized floor area in existing single-family homes.

(2) Applicability. Performance standards for JADUs shall apply in all districts where a single-family dwelling is a permitted use and wherein a single-family dwelling has been authorized.

(3) Development Standards.

(A) Number Per Lot. Only one JADU is permitted on a single-family residential lot. A JADU is permitted even if a non-JADU ADU already exists on the property.

(B) Location. The JADU shall be constructed entirely within the walls of a proposed or existing single-family dwelling.

(C) Size. The JADU shall not exceed 500 square feet in size.

(D) Unit Access. The JADU shall include an exterior entrance that is separate from the main entrance to the single-family home. The exterior entry shall not be located on the front of the primary residence. If the exterior entry is on the second floor, the stairway shall not be located in the front of the primary residence. Interior access between the JADU and the primary residence is not required unless necessary for access to shared sanitation facilities, and can be a door equipped with a double lock. A second interior doorway may be provided for sound attenuation.

(E) Sanitation. A JADU may include a bathroom, or may share bathroom facilities within the primary residence.

(F) Kitchen. The JADU shall include an efficiency kitchen, which shall include all of the following:

(i) A cooking facility with appliances.

(ii) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU. The food preparation area may not be located in a closet.

(4) Parking. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of a JADU or converted to a JADU, no replacement parking is required.

(5) Building and Fire Code Requirements. For the purposes of any fire or life protection ordinance or regulation, a JADU shall not be considered a separate dwelling unit. No firewall separation or noise attenuation measures are required between the primary residence and the JADU.

(e) Accessory Dwelling Units Subject to Limited Standards.

Pursuant to Government Code 65852.2(e)(1) and notwithstanding the requirements of other sections in 18.190.005, accessory dwelling unit and junior accessory dwelling unit permits shall be issued based solely on the standards set forth in this section and all applicable Building Code standards, as follows:

(1) Internal ADUs. One accessory dwelling unit or junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

- (A) The ADU or JADU unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.
 - (B) The space has exterior access from the proposed or existing single-family dwelling.
 - (C) The side and rear setbacks are sufficient for fire and safety.
 - (D) The JADU complies with the requirements of Government Code Section 65852.22.
- (2) Detached ADUs. One detached, new construction, ADU that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The ADU may be combined with a JADU described in subsection (a)(1) of this section. The ADU shall meet the following conditions:
- (A) A total floor area limitation of not more than 800 square feet.
 - (B) A height limitation of 16 feet.
- (3) Multifamily Dwelling ADUs
- (A) Multiple ADUs within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.
 - (B) At least one ADU within an existing multifamily dwelling shall be allowed and up to 25 percent of the existing multifamily dwelling units shall be allowed.
- (4) Not more than two ADUs that are located on a lot that has an existing multifamily dwelling but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.
- (5) Rentals of ADU and JADU permitted pursuant to this section shall be for a term longer than 30 days.
- (6) Installation of fire sprinklers are not required in an ADU or JADU if sprinklers are not required for the primary residence.
- (7) ADUs and JADUs permitted under this section shall not be required to install a new or separate utility connection directly between the ADU and the utility nor shall a

related connection fee or capacity be charged unless the ADU or JADU is proposed to be constructed with a new single-family home.

SECTION 11. FMC § 18.193.690, AMENDED

Fremont Municipal Code Section 18.193.690 is amended to read as follows:

Sec. 18.193.690 Applicability.

This article applies to all legal residential land uses, regardless of land use designation. However, it does not apply to “hospitality” type uses, such as hotels, motels, and “bed and breakfast” establishments, which are regulated as commercial uses. Nor does it apply to unsold housing units in tract housing developments. The rules stated in this article do not override private party contracts, such as rental agreements or leases. Accessory dwelling facilities, such as detached guest houses, junior accessory dwelling units and accessory dwelling units, separate studios or workshops, and similar uses, do not have separate sign rights; rather, they share the sign rights of the principal unit, as determined by the private owner. Regulations for legal nonresidential land uses in residential land use designations are set forth in the commercial and mixed-use rules.

Subject to owner’s consent, state law, and the following rules, signs may be mounted and displayed on all legal dwelling units at all times and in all zones. These rules are adopted to balance the interests in free speech and expression by sign display against the interests in maintaining quiet, peaceful and visually uncluttered residential neighborhoods.

SECTION 12. FMC § 18.215.030, AMENDED

Fremont Municipal Code Section 18.215.030 is amended to read as follows:

Sec. 18.215.030 Definitions.

“Underdeveloped lot” means any lot that:

- (1) Is currently lawfully used for commercial agriculture or arboriculture;
- (2) If subject to floor area ratio regulations, is not built out to the maximum building floor area allowed by those regulations; or
- (3) Is zoned to allow residential use and can lawfully accommodate an additional dwelling, other than an accessory dwelling as this term is defined in Section 18.25.983 and used in Section 18.190.005.

[All other portions of this section remain unchanged]

SECTION 13. CEQA

The proposed changes to the City's zoning ordinance implement new State law requirements related to ADUs as established in Government Code Section 65852.2. The City Council finds that the proposed amendments to the Fremont Municipal Code are statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17, which states that CEQA does not apply to a city's adoption of an ordinance to implement the provisions of Government Code Section 65852.2.

SECTION 14. SEVERABILITY

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Fremont hereby declares that it would have passed this ordinance and each section or subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 15. EFFECTIVE DATE

This Ordinance shall take effect and will be enforced thirty (30) days after its adoption.

//

//

//

SECTION 16. PUBLICATION AND POSTING

The City Clerk has prepared and published at least five days before the date of adoption a summary of this ordinance once in a newspaper of general circulation printed and published in Alameda County and circulated in the City of Fremont. A certified copy of the full text of the ordinance was posted in the office of the City Clerk since at least five days before this date of adoption. Within 15 days after adoption of this ordinance, the City Clerk shall cause the summary to be published again with the names of those City Council members voting for and against the ordinance and shall post in the office of the City Clerk a certified copy of the full text of this adopted ordinance with the names of those City Council members voting for and against the ordinance.

* * *

The foregoing ordinance was introduced before the City Council of the City of Fremont at the regular meeting of the City Council, held on the 8th day of September, 2020, and finally adopted at a regular meeting of the City Council held on the 6th day of October, 2020, by the following vote:


AYES: Mayor Mei; Councilmembers Bacon, Salwan, Keng, Jones and Shao
NOES: None
ABSENT: Vice Mayor Kassan
ABSTAIN: None



Mayor

ATTEST:


City Clerk

APPROVED AS TO FORM:


Sr. Deputy City Attorney