

ORDINANCE NO. 692

AN ORDINANCE OF THE CITY OF FOSTER CITY MAKING VARIOUS TEXT AMENDMENTS TO TITLE 17, "ZONING" OF THE FOSTER CITY MUNICIPAL CODE – CHAPTER 17.78 - ACCESSORY DWELLING UNITS TO ENSURE COMPLIANCE WITH STATE LAWS RELATED TO ACCESSORY DWELLING UNITS AND FINDING THE PROPOSED AMENDMENTS EXEMPT UNDER CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINE SECTION 15061(B)(3), COMMON SENSE EXEMPTION AND PUBLIC RESOURCES CODE SECTION 21080.17 – RZ2025-0004

CITY OF FOSTER CITY

WHEREAS, the Planning and Zoning Law authorizes local jurisdictions to act by ordinance to provide for the creation and regulation of accessory dwelling units ("ADUs") and junior accessory dwelling units ("JADUs"); and

WHEREAS, in 2024, the legislature adopted three (3) key ADU bills: Senate Bill 477 that reorganized ADU laws to Government Code Sections 66310-66342 and Senate Bill 1211 that amended Government Code Section 66323, and Assembly Bill 2533. There would be no proposed text amendments pertaining to Assembly Bill 2533; and

WHEREAS, these bills make further revisions to state law, and local jurisdictions need to readopt any local ordinances related to ADUs to include new provisions/clarifications; and

WHEREAS, these bills make further revisions to state law, and local jurisdictions need to readopt any local ordinances related to ADUs to include new provisions/clarifications; and

WHEREAS, on June 9, 2025, a Joint City Council/Planning Commission Special Meeting Study Session was held to update the City Council, the Planning Commission, and the public on the most recent State Laws affecting land use and ADUs; and

WHEREAS, the Housing Element is an integral part of the Foster City General Plan that identifies the community's housing needs, states the community's goals and objectives regarding housing production, rehabilitation, preservation, and conservation to meet those needs, and defines the policies and programs; and

WHEREAS, the Housing Element Programs include the City's commitment to timeframes for implementation and the Annual Progress Report (APR) to the California Department of Housing and Community Development (HCD), due by April 1 of each year, reports on progress in implementation of these Programs; and

WHEREAS, amendments to Foster City Municipal Code, Title 17, Zoning are required for the implementation of the Housing Element program, H-D-4-a; and

WHEREAS, on July 17, 2025, the Planning Commission conducted a duly and properly noticed public hearing to take public testimony and consider the proposed amendments to various sections of Chapter 17.78, "Accessory Dwelling Units", of Title 17, "Zoning" of the Foster City Municipal Code, to ensure compliance with State law related to ADUs and the associated CEQA finding, and after conducting the public hearing, adopted Resolution No. P-09-25 with the Planning Commission recommending City Council approval of the amendments to Chapter 17.78 and CEQA findings; and

WHEREAS, on August 6, 2025, a public hearing notice was published and posted for the City Council public hearing for consideration of amendments to Chapter 17.78 and the related CEQA findings, for the City Council public hearing on August 18, 2025; and

WHEREAS, on August 18, 2025, the City Council held a duly noticed public hearing where it carefully reviewed and considered the staff report and all attachments thereto, including the Planning Commission's recommendation regarding the proposed amendments to various sections of Chapter 17.78, "Accessory Dwelling Units", of Title 17, "Zoning" of the Foster City Municipal Code, to ensure compliance with State law related to ADUs and the associated CEQA finding, including any and all timely submitted correspondence, all information submitted at or prior to the public hearing, and all public comment and testimony presented at the public hearing (collectively, the "Record").

THE CITY COUNCIL OF THE CITY OF FOSTER CITY DOES FIND AND ORDAIN as follows:

Section 1. The City Council does hereby find and determine based upon the aforementioned Record as follows:

1. The foregoing recitals are true and correct and are incorporated by reference into this action; and
2. The proposed amendments are internally consistent with all other provisions of the General Plan and do not conflict with any of the previously adopted goals, policies, or programs of the General Plan; and
3. The proposed amendments are necessary to implement the goals and policies of the General Plan through the implementation of the Housing Element; and
4. The proposed Zoning amendments comply with and are required by applicable State laws; and
5. The proposed amendments will not be detrimental to the public interest, convenience, and general welfare of the City; and
6. The proposed amendments are exempt from CEQA Guideline Section 15061(b)(3) and consistent with Public Resources Code Section 21080.17.

Section 2. The proposed actions would update the City's existing Municipal Code to align with the requirements of the most recent updates to the State's laws. The actions would not result in physical changes to the environment. Pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3) – Common Sense Exemption. Additionally, Public Resources Code Section 21080.17 states that CEQA

does not apply to the adoption of an ordinance to implement the provisions of Article 2 (commencing with Section 66314) or Article 3 (commencing with Section 66333) of Chapter 13 of Division 1 of Title 7 of the Government Code. which means that adoption of this ordinance to update the Municipal Code to implement State ADU and JADU law is statutorily exempt from CEQA.

Section 3. Amendment. Various Sections of Chapter 17.78 “Accessory Dwelling Units” within Title 17, “Zoning” of the Foster City Municipal Code are hereby amended by repealing the existing sections of Chapter 17.78 in their entirety and replacing those sections to read as set forth in the attached Exhibit A, attached hereto and incorporated herein by reference. Those Sections within Chapter 17.78 not specifically replaced in Exhibit A, shall remain unchanged in Chapter 17.78.

Section 4. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council does hereby declare that it should have adopted the Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

Section 5. Taking Effect. This Ordinance shall take effect and be in force thirty (30) days from and after its adoption.

Section 6. Posting. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall have it posted in three (3) public places designated by the City Council.

This Ordinance was introduced and read on the 18th day of August, 2025, and passed and adopted on the 2nd day of September 2025, by the following vote:

AYES: Councilmembers Kiesel, Niederhofer, Sullivan, Venkat, and Mayor Jimenez

NOES: None

ABSENT: None

ABSTAIN: None

Signed by:

Stacy Jimenez

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STACY JIMENEZ, MAYOR

ATTEST:

DocuSigned by:

Priscilla Schaus

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PRISCILLA SCHAUS, CITY CLERK

Exhibit A

Chapter 17.78

ACCESSORY DWELLING UNITS

(2025 Update - Redlines Version)

17.78.040 Definitions.

G. “High-quality transit corridor” means a corridor with fixed route bus service with service intervals no longer than fifteen minutes during peak commute hours.

M. “Objective standards” means standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal.

N. “Passageway” means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU.

O. “Public transit” means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public

P. “State exempt” Units. means an ADU or JADU that is constructed pursuant to Government Code section 66323 and is not subject to Government Code sections 66314-66322. State exempt units shall be subject exclusively to the provisions of Government Code section 66323, notwithstanding any contrary requirements set forth in Foster City Municipal Sections 17.78.060, 17.78.070, and 17.78.080.

Q. “Tandem parking” means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

17.78.060 Standards applicable to single-family residence zoning districts.

The following shall apply to single-family lots in R-1, R-2 and R-1/PD zoning districts:

A. Number of Units. A single-family lot with a primary dwelling unit may have:

1. Option 1. One JADU (up to five hundred square feet); or
2. Option 2. One ADU (conversion, attached, or detached); or
3. Option 3.
 - a. One JADU (up to five hundred square feet); and,

- b. One conversion ADU; and
 - c. One newly constructed ADU (up to eight hundred fifty square feet).
- 4. Option 4.
 - a. One JADU (up to five hundred square feet); and
 - b. One newly constructed ADU over eight hundred fifty square feet.
- 5. Option 5.
 - a. One JADU (up to five hundred square feet); and
 - b. One conversion ADU.
- 6. Option 6.
 - a. One JADU (up to five hundred square feet); and
 - b. One newly constructed ADU (up to eight hundred fifty square feet).
- 7. Option 7.
 - a. One conversion ADU; and
 - b. One newly constructed ADU (up to eight hundred fifty square feet).

B. Junior Accessory Dwelling Units.

- 1. The number of JADUs shall be limited to one unit per residential lot zoned for single-family residences that includes a proposed or existing single-family residence.
- 2. The property owner must reside in either the remaining portion of the primary dwelling unit or the JADU. Owner occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.
- 3. The owner must record a deed restriction as outlined in California Government Code Section [66333](#), which shall run with the land, and shall include the following:
 - a. A prohibition on the sale of the JADU separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.
 - b. A restriction on the size and attributes of the JADU that conforms with this chapter.

- c. If a JADU is rented, the unit shall not be rented for a period of less than thirty consecutive calendar days.
4. A JADU shall be constructed within the walls of the proposed or existing single-family residence, including attached garages.
5. JADUs shall include a separate entrance from the main entrance to the proposed or existing single-family residence. If a permitted JADU does not include a separate bathroom, the permitted JADU shall include both a separate entrance from the main entrance to the structure, with an interior entry to the main living area.
6. The JADU shall include an efficiency kitchen, which shall include all of the following:
 - a. A cooking facility with appliances.
 - b. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

C. Attached ADUs. One attached ADU per single-family lot is permitted, subject to the following requirements:

1. Size. The total floor area of an attached ADU shall be not more than one thousand two hundred square feet or fifty percent of the existing or proposed primary dwelling, whichever is less.
2. Location. Attached ADUs shall not be located in the front yard unless development of an eight hundred-fifty-square-foot ADU is otherwise infeasible.
3. Setbacks. The side and rear setbacks shall be no less than four feet.
4. Height.
 - a. An attached ADU shall not exceed twenty-five feet in height, or the height requirement for the primary dwelling, whichever is lower.
 - b. ADUs shall not exceed two stories in height.
5. Colors. An attached ADU or JADU shall use the same exterior wall and roof colors as the primary dwelling unit.
6. Roof Pitch and Eaves. An attached ADU or JADU shall have the same roof pitch as the primary dwelling with same eave details but may vary by up to two vertical inches more or less in every twelve horizontal inches.

D. Detached ADUs. One newly constructed detached ADU per single-family lot is permitted, subject to the following requirements:

1. Size. The total floor area of a detached ADU shall not exceed one thousand two hundred square feet or fifty percent of the existing or proposed primary dwelling, whichever is less.
2. Location. Detached ADUs shall not be located in the front yard unless development of an eight hundred-fifty-square-foot ADU is otherwise infeasible.
3. Setbacks.
 - a. The side and rear setbacks shall be no less than four feet.
 - b. The separation between the detached ADU and the primary dwelling shall be as per California Residential Code.
4. Height. A detached ADU shall not exceed sixteen feet in height, except in the following cases:
 - a. A height of eighteen feet is permitted when an ADU is located within one-half mile walking distance of a major transit stop or a high-quality transit corridor, as defined in this code section; and an additional two feet of height to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary dwelling unit.
5. Colors. Detached ADUs shall utilize the same exterior wall and roof colors as the primary dwelling unit.

E. Conversion ADUs. One conversion ADU per single-family lot is permitted, subject to the following requirements:

1. Setbacks. No setbacks shall be required for ADU conversions located within the existing living area or an existing accessory structure, or an ADU that replaces an existing structure and is located in the same location and to the same dimensions as the structure being replaced. A legal accessory building (including a detached garage) may be converted into an ADU, provided the side and rear setbacks are sufficient for fire and safety.
2. Height. A conversion ADU shall not alter the height of the existing structure (single-family dwelling, accessory building, or garage) that is being converted.
3. Other Standards.

a. Conversion ADUs in existing accessory structures may expand the existing dimensions of the structure no more than one hundred fifty square feet to accommodate ingress/egress. Any such expansion shall count towards the size of the ADU.

4. Colors. Conversion ADUs shall utilize same roof and exterior wall colors as the primary dwelling unit.

F. Additional Requirements. These requirements shall apply to all ADUs and JADUs on single-family lots except for those ADUs and JADUs that are State Exempt:

1. All JADUs and ADUs shall provide exterior access that is separate from the proposed or existing single-family dwelling.

2. Except as specified in this section, ADUs shall comply with lot coverage, open space, front setbacks, minimum lot size, and other zoning standards applicable to the primary dwelling, except in no event shall the application of any of these standards preclude at least an eight-hundred-square-foot ADU.

3. Windows. Second floor windows facing another residential property, less than ten feet from the property line, and larger than two square feet shall include at least one of the following:

- a. Have obscured glazing; or
- b. Be offset from neighbor's windows to maximize privacy; or
- c. Include splayed windows to avoid direct views, as shown in Figure 1 (applies only to new construction).

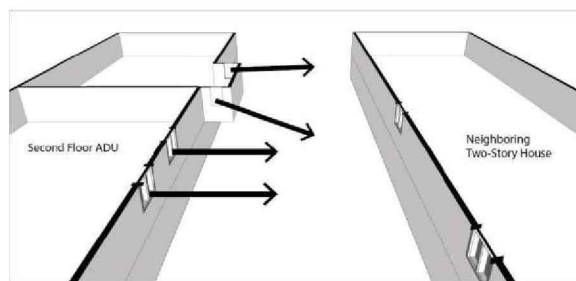


Figure 1: ADU/JADU Window Locations for Privacy

4. Second Floor Balconies or Decks. Second floor balconies, decks, or roof-top terraces facing another residential property are prohibited (applies only to new construction).

5. Exterior Lighting. All exterior lighting shall be mounted no higher than seven feet from grade and directed downwards.

17.78.070 Standards applicable to multifamily residence zoning districts.

The following standards shall apply to multifamily dwelling lots in R-3, R-4, R-T, C-2, and CM (with or without a planned combining district) zoning districts:

A. Conversion ADUs. ADUs are permitted within portions of existing legally permitted multifamily dwelling structures that are not used as livable space including storage rooms, boiler rooms, passageways, attics, basements, and garages, subject to the following requirements:

1. Number of ADUs. At least one ADU within an existing multifamily building and no more than twenty-five percent of the existing multifamily dwelling units shall be permitted.
2. Size. The total floor area of a conversion ADU shall not exceed eight hundred fifty square feet for a studio or one bedroom, or one thousand square feet for an ADU with two or more bedrooms.
3. Existing livable space may not be converted into an ADU.

B. Detached ADUs.

1. Number of ADUs.
 - a. Up to eight detached ADUs are permitted on a multifamily lot with an existing multifamily building. However, the number of ADUs allowable pursuant to this clause shall not exceed the number of existing dwelling units on the lot; or
 - b. On a lot with a proposed multifamily dwelling, not more than two detached ADUs.
3. Setbacks.
 - a. The side and rear setbacks shall be no less than four feet.
 - b. The separation between the detached ADU and the primary dwelling shall be as per California Residential Code.
4. Height.
 - a. Where a detached ADU is on a lot with an existing or proposed multifamily, multi-story dwelling, it shall not exceed eighteen feet in height.

b. Where a detached ADU is on a lot with an existing or proposed multifamily dwelling unit that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor, it shall not exceed eighteen feet in height. However, an ADU may add up to two feet of height to accommodate a roof pitch on the ADU that is aligned with the roof pitch of the primary multifamily dwelling (for a maximum of twenty feet).

C. Attached ADUs.

1. Number of ADUs. The number of attached ADUs shall be limited to one unit per multifamily lot with an existing multifamily building.
2. Size. The total floor area of an attached ADU shall be not more than one thousand two hundred square feet or fifty percent of the existing or proposed primary dwelling, whichever is less.
3. Location. Attached ADUs shall not be located in the front yard unless development of an eight hundred-fifty-square-foot ADU is otherwise infeasible.
4. Setbacks. The side and rear setbacks shall be no less than four feet.
5. Height.
 - a. An attached ADU shall not exceed twenty-five feet in height, or the height requirement for the primary multifamily dwelling, whichever is lower.
 - b. ADUs shall not exceed two stories in height.
6. Colors. An attached ADU shall use the same exterior wall and roof colors as the primary multifamily dwelling unit.

17.78.080 Parking requirements for accessory dwelling units.

A. Parking requirements for newly constructed ADUs shall not exceed one parking space per unit or per bedroom, whichever is less. This space may be provided as tandem parking, including on an existing driveway or in setback areas, excluding the nondrivable front yard setback. Exception to the requirement for provision of one parking space may be made per subsection B of this section.

B. Parking is not required in the following instances:

1. The ADU is located within one-half mile walking distance of public transit.

2. When there is an approved car share vehicle for which a Foster City business license has been issued and remains active, located within one block of the accessory dwelling unit.
3. When a permit application for an ADU is submitted with a permit application to create a new single-family dwelling or a new multifamily dwelling on the same lot, provided that the ADU or the parcel satisfies any other any other criteria listed in Government Code section 66322, subdivision (a)(1)-(5), as may be amended from time to time.
4. As a condition of construction of a JADU.
5. Where the ADU only includes a studio with no bedroom.
6. The ADU is located within an architecturally and historically significant area.
7. Where the ADU is part of the proposed or existing primary residence or an accessory structure.
8. When a garage, carport, covered parking structure, or uncovered parking space is demolished in conjunction with the construction of, or is converted to, an ADU, then those off-street parking spaces are not required to be replaced.

17.78.090 Permit process.

A. Unless otherwise specified in subsection D of this section, pursuant to California Government Code Section [66317](#) mandating ministerial approval of JADUs and ADUs if all of the applicable standards are met, the chief building official or the official's designee shall approve the JADU and ADU permit within sixty days of the complete application being submitted. If a ADU and/or JADU is proposed as part of a new or remodeled primary residence, the sixty-day timeline shall not commence until the primary residence is permitted. The city may review and approve the ADU or JADU in conjunction with the new or remodeled primary residence, but the application to create the ADU or JADU shall be considered without discretionary review or hearing.

The chief building official or the official's designee shall approve the ADU permit within thirty days from the date the local agency receives a complete application if the application either:

1. Utilizes a plan for an accessory dwelling unit that has been preapproved by the local agency within the current triennial California Building Standards Code rulemaking cycle, or

2. Utilizes a plan that is identical to a plan used in an application for a detached accessory dwelling unit approved by the local agency within the current triennial California Building Standards Code rulemaking cycle.

B. If the city disapproves an application for an ADU or JADU, the building division shall return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.

C. A demolition permit for a detached garage that is to be replaced with an ADU must be reviewed with the application for the ADU and issued at the same time.

D. In conformance with Government Code Section [65852.27](#), the city shall, by resolution, adopt a program for the preapproval of designs for ADUs, which may be amended from time to time. Any application for an ADU utilizing a design plan for ADUs that has been preapproved pursuant to that program shall be approved or denied within thirty days.

1. The city shall also review accessory dwelling unit plan submissions for preapproval upon an application for such a request and payment of the applicable fee. The city shall approve or deny the preapproval applications, as specified.