



# Urban Lot Splits & Urban Unit Development

Proposed Amendments to the  
ILUDC and the CLUDC

Marie Jones Consulting October, 2023

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## PROJECT INFORMATION

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<b>APPLICATION #:</b>	ILUDC and CLUDC Amendments ZON 1-23
<b>APPLICANT:</b>	City of Fort Bragg
<b>PROJECT:</b>	<b>Receive Report, Hold a Public Hearing, and Adopt a Resolution Providing a Recommendation to City Council Regarding Proposed Zoning Amendments to the Inland Land Use and Development Codes to Comply with Changes in State of California Housing Law Related to Urban Lot Splits and Urban Unit Development. Adopt a Resolution Recommending to City Council to File a Local Coastal Program Amendment Application to Affirm Similar Coastal Land Use and Development Code Amendments are Consistent with the Coastal Act of 1976.</b>
<b>LOCATION:</b>	Low Density Residential Zoning Districts in the Coastal Zone and the Inland Area
<b>APN:</b>	Various
<b>LOT SIZE:</b>	2,400 SF+
<b>ZONING:</b>	Low Density Residential Zoning Districts (RR, RS, RL zones)
<b>ENVIRONMENTAL DETERMINATION:</b>	<p>Government Code Section 66411.7(n) states “A local agency may adopt an ordinance to implement the provisions of Section 66411; an ordinance to implement Section 66411 shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resource Code.</p> <p>The ILUDC amendment is statutorily exempt, as the adoption of an ordinance regarding urban lot splits in low-density residential zones implementing the provisions of Sections 65852.1 and Section 66411.7 of the Government Code is statutorily exempt from CEQA.</p> <p>The amendments to the CLUDC are part of the City’s Local Coastal Program and will be submitted to the California Coastal Commission for certification. The project is statutorily exempt from environmental review under CEQA Guidelines 15265 Adoption of Coastal Plans and Programs.</p>

## BACKGROUND

Senate Bill 9 (SB-9) was the product of a multi-year effort to develop solutions to address the State’s housing crisis. The goals of SB-9 are to:

- Provide options for homeowners to: 1) build intergenerational wealth to improve equity and create social mobility; and 2) increase the supply of affordable rental opportunities and home ownership.
- Benefit homeowners NOT institutional investors. By requiring owner occupancy, the program is not available to speculators and developers generally. The program requires a homeowner to record a deed restriction for owner occupancy for three years after completing the ministerial lot split.
- Requires a roughly equal lot split – no more than a 40/60 percent lot split. Minimum lot size is 1,200 SF.
- Only permissible in single-family zoning districts.
- Establishes a maximum number of four (4) units, including two primary homes or a duplex, with two ADUs and JADUs for any lot that has not been split through an urban lot split. Allows up to two units maximum per parcel created through an urban lot split (2 primary units, one duplex, or one primary and one ADU).
- Requires ordinance exceptions to guarantee that at least two units of 800 sf are allowed on each subsequent lot.
- Prohibits urban lot splits in environmentally sensitive habitat areas and in historic neighborhoods.

## DESCRIPTION

The attached draft Ordinances include proposed language for both the ILUDC and the CLUDC amendments. For compliance with the Coastal Act and the Certified LCP, the CLUDC amendment will include additional text, which is noted in **brown text**. Otherwise, the proposed zoning ordinances are identical.

The Urban Lot Split & Urban Unit Development regulations result in two potential outcomes:

1. State Law requires that each urban community allow two primary units on an existing parcel that has not undergone an Urban Lot Split and one ADU per primary unit for a totaling four residential units on the same parcel.
2. After a parcel is subdivided through an Urban Lot Split, each parcel can have up to two residential units total.

While reviewing the attached draft ordinance language, please note that highlighted sections are open to local discretion, in that they can be modified or in some cases not included. The remainder of the text is required by State Law. More specifically the Planning Commission and City Council have discretion regarding the following policy considerations in the ordinance:

Code section	Discussion
17.84.045 Urban Lot Splits	
Definition of a Unit	Permit one half of a duplex as a permissible unit in an Urban Lot Split. So that someone can build a duplex or two primary units. As these parcels will be roughly half the size of existing single-family parcels a duplex would allow more efficient use of the parcel than two primary units.

Code section	Discussion
C. Parcel Access	The City Council must allow either a flag lot or an easement over a front parcel, without alley access, in order to provide access to the back parcel. MJC recommends that the City allow both to increase flexibility in site design.
17.84.045 Urban Lot Splits	
F & L. Exceptions to Development Standards	The City Council can provide a preferred priority order for modifying development standards in order to accommodate the minimum requirement of two 800 SF units on each parcel, or leave it to the discretion of the Community Development Director.
17.42.200 Urban Unit Development	
A. Density, Size & Number of Units Allowed.	<p>The state requires that at least two units of 800 SF be allowed on each lot. Some communities have limited urban lot splits by limiting all urban development units to 800 SF, this is very common in exclusive communities. This is probably the one location where the local jurisdiction has the most control over housing availability and urban form. MJC recommends:</p> <ol style="list-style-type: none"> <li>1. Unit sizes as proposed in A. Other unit sizes may be selected, but the Planning Commission should balance the need for units of usable size with potential impacts on neighborhoods.</li> <li>2. Clearly stating that parcels subject to urban lot splits are not eligible for a 3rd unit (ADU or JADU) under 18.42.170 (Second Units). Without an urban lot split, applicants may add two second units in addition to the two primary units for a total of four units.</li> </ol>
B. Setbacks	The “Front Parcel” is required to have a mandatory 4’ setback from the new back parcel property line for new construction. However, the front of the “Back Parcel” must be defined, and a setback defined in the code.
C. Off-Street Parking	<p>The City can eliminate the parking requirement for lot splits or otherwise modify parking requirements.</p> <p>As a primary dwelling unit shall be allowed one driveway from the adjacent alley with specified exceptions, MJC recommends limiting the number of curb cuts to one cut per the original parcel and establishing an easement (or other devise) to reduce the quantity of street curb cuts.</p>
E. Exceptions to Objective Development Standards	The ordinance includes the same priorities as the Planning Commission’s recommended amendments to the ADU ordinance.
M. Objective Design Review Standards	The City is permitted to establish objective design review criteria but does not have to do so. These criteria are adapted from the City’s second unit and multifamily housing regulations. Additional design criteria may be added to reduce the impact of these developments on neighborhood design. You may again strike the Window and Balcony placement criteria if you feel it is too restrictive or modify any of the other standards.

Code section	Discussion
N. Utilities	The ordinance recommends exempting units of 750 SF or less from capacity fees, and requiring pro-rated capacity fees for larger units as required by State law, as previously recommended by the Planning Commission.

## RECOMMENDED ACTION

1. Adopt a Resolution of the Fort Bragg Planning Commission Recommending that the City Council Submit an LCP Amendment Application to the Coastal Commission to Amend Title 17 of the Fort Bragg Municipal Code to Amend Chapter 17.21.030(B) & 17.21.050 “Residential Zoning Districts,” add Chapter 17.42.200 “Urban Unit Development”, add Chapter 17.84.045 “Urban Lot Split”, and Amend Chapter 17.100 “Definitions” to Establish Regulations and Standards for Urban Lot Splits and Urban Unit Residential Development Projects in Low-Density Residential Zoning Districts Pursuant to Senate Bill 9.
2. Adopt a Resolution of the Fort Bragg Planning Commission Recommending that the City Council Amend Title 18 of the Fort Bragg Municipal Code to Amend Chapter 18.21.030(B) & 18.21.050 “Residential Zoning Districts,” add Chapter 18.42.200 “Urban Unit Development”, add Chapter 18.84.045 “Urban Lot Split”, and Amend Chapter 18.100 “Definitions” to Establish Regulations and Standards for Urban Lot Splits and Urban Unit Residential Development Projects in Low-Density Residential Zoning Districts Pursuant to Senate Bill 9.

## ALTERNATIVE ACTION(S)

Provide alternative direction to staff and the consultant to pursue one of the alternative approaches described below.

Some people are concerned that SB-9 will bring significant change to the urban form and neighborhood cohesion in Fort Bragg. However, strategies to avoid implementation of SB 9 also come with drawbacks and challenges. MJC has identified two potential approaches to limit the scope of SB-9 within the City of Fort Bragg. Each is described below:

### 1. **The City could rezone all properties that are currently zoned Low Density Residential as Medium Density Residential zoning districts.**

This approach can be used because SB-9 only applies to low-density residential zoning districts. With SB-9, low-density residential zoning districts can accommodate up to 4 units on a typical Fort Bragg parcel of 7,500 SF, or 23 units/acre, while Fort Bragg’s Medium Density Residential Zoning District allows a maximum of 12 units/acre. Theoretically under SB-9, many more residential units would be permissible in low-density residential zoning districts than in Fort Bragg’s Medium Density Residential zoning districts. By rezoning low-density residential areas to RM District designations, the City could effectively side step implementing SB-9 and all of the regulatory requirements of SB-9. However, it would also mean that rezoned neighborhoods would have all other regulations associated with Medium Density Residential zoning districts including: a 35 ft height limit, multi-

family parking requirements, multifamily development regulations, and many additional permitted uses including: multi-family housing, co-housing, residential care facilities, art studios, medical clinics, doctors' office, hospital, personal services, etc.. SB-9 requires dispersed residential development, (two primary units and two secondary units) per lot, while Medium Density Residential allows multifamily developments of up to three stories, which combined with multifamily parking requirements results in a different urban form.

Rezoning these neighborhoods would require notifying every property owner of the potential rezone prior to Planning Commission and City Council consideration and would likely generate significant public opposition and the need for a public education effort, as residents would not understand why their property is proposed for "up zoning" to Medium Density Residential. Additionally, this action would not be exempt from CEQA (unlike the SB-9 action) and thus would require at least an MND and possibly an EIR, which would be somewhat costly. For the above reasons up zoning is not recommended, as the urban design costs appear to outweigh the benefits.

**2. The City could establish a Historic District over most of the low-density neighborhoods in Fort Bragg.**

Per State Law, SB-9 cannot be implemented in historic districts. The City has the ability to establish historic districts in Fort Bragg through 18.74.030 - Historic Landmark Designation. Through this procedure the City could make the historic neighborhoods of Fort Bragg exempt from SB-9 by adopting a Historic District for these older neighborhoods in the community. This approach would not work for neighborhoods that are not historic. There are both advantages and disadvantages to being located within a historic district.

Some advantages include the following:

- a. Use of the State Historic Building Code (SHBC) and the Uniform Code for Building Conservation (UCBC), rather than the Uniform Building Code (UBC).
- b. Use of the Secretary of the Interior's Standards for Rehabilitation.
- c. Waiver of Development Code standards (e.g., reduced off-street parking), in compliance with § 18.74.080 (Adaptive Reuse and Other Rehabilitation Incentives).
- d. The approval of a change to a land use that is not otherwise allowed in the subject zoning district, but which is allowed in other zoning districts, in compliance with § 18.74.080 (Adaptive Reuse and Other Rehabilitation Incentives).
- e. The Department of Housing and Urban Development's Federal Housing Administration (FHA) has a flexible loan program that helps developers, investors, and families at all income levels to buy and restore properties in urban and rural historic districts. The program operates through FHA approved lending institutions, and the loans are insured by the FHA.

- f. Federal financial assistance for rural buildings. The U.S. Department of Agriculture's Rural Housing Service offers funds for the acquisition, construction, rehabilitation, or repair of homes and apartment-style housing for low and moderate-income people in rural areas.
- g. Federal tax incentives for historic preservation for the rehabilitation of income-producing (commercial, industrial, or rental residential) structures included on the National Register of Historic Places (or those within a National Register district) through the State Historic Preservation Officer (SHPO).
- h. The National Trust Forum offers financial assistance in the form of grants and loans.
- i. California property tax abatement incentives were first enacted in 1972 and are available for use by owner-occupied residential and commercial structures (also known as the Mills Act).

Some disadvantages of designating low-density residential zoning districts as a Historic District include additional permitting requirements and the need for an historic resource analysis. Specifically, per our current code, changes to any historic structure located within a Historic District would require the following:

- a. Completion of a review of the proposed scope of work by a preservation architect.
- b. Approval of a permit known as a Certificate of Appropriateness for exterior remodels, reconstruction or demolitions, for which specific findings must be made including the following:
  - 1. The proposed work will neither adversely affect the significant architectural features of the historic resource nor adversely affect the character or historic, architectural, aesthetic interest, or value of the historic resource and its site;
  - 2. The proposed work conforms to any prescriptive standards and design guidelines adopted by the City for the particular resource, and to the Secretary of the Interior's Standards for Rehabilitation, and does not adversely affect the character of the historic resource; and
  - 3. In the case of construction of a new improvement upon a historic resource property, the use and design of the improvement shall not adversely affect, and shall be compatible with, the use and design of existing historic resources within the same historic district.
- c. Additionally, this action would not be statutorily exempt from CEQA, unlike the SB-9, and thus would require an MND. Although, CEQA guidelines would potentially find projects consistent with Section 15331 *Historic Resource Restoration/Rehabilitation* CCR Title 14, Chapter 3 categorically exempt.

Finally, many people worry that changes to the Accessory Dwelling Unit regulations could substantially change the City, and that has not been the case. The City has added from 10 to 20 new ADUs/year, which is not sufficient to substantially change



the City's urban form or the look and feel of individual neighborhoods. Likewise, fears about how SB-9 could reshape the City may be misplaced. Despite local interest, the City has processed one SB-9 lot split. The potential impacts to neighborhoods and the community are limited. The regulations themselves limit their utility to developers as they require owner-occupancy and so cannot be used for speculative development. Additionally, smaller homes on small lots will not be as expensive as a larger home on a full-sized lot. The resultant small homes with tiny yards are primarily attractive to older people, single people and couples without families, which make up the majority of our population. Urban lot splits also provide an important mechanism for older people to remain in their home as they age while extracting some value from their primary economic asset, which would also be of value to many in our community.

## **ENVIRONMENTAL ANALYSIS**

Government Code Section 66411.7(n) states "A local agency may adopt an ordinance to implement the provisions of Section 66411.7 *Parcel Map for Urban Lots*; an ordinance to implement Section 66411.7 shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resource Code. (Guidelines for California Environmental Quality Act Section 15002(d) *General Concepts* states a project is an activity subject to CEQA.)

The proposed amendment to the Coastal Land Use and Development Code is part of the City's Local Coastal Program and will be submitted to the California Coastal Commission for certification. Therefore, the proposed project is statutorily exempt from further environmental review under CEQA Guidelines 15265 *Adoption of Coastal Plans and Programs*.

Additionally, the proposed CLUDC amendment is statutorily exempt under CEQA Guidelines 15282(h). The adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code.

## **FISCAL IMPACT**

Eliminating the Capacity Fee for units of 750 SF or less, as required by state law, will result in the City investing more funds from other sources on capital improvements related to sewer and water infrastructure.

## **GREENHOUSE GAS EMISSIONS IMPACT**

Greenhouse gas emissions are generally less when more housing is added to already developed urban areas like Fort Bragg because residents drive less to get to work, school, shopping etc.

## **CONSISTENCY**

The consistency of any proposed ordinance with the Coastal General Plan and Inland General Plan has been analyzed in Attachments 3 of this report.



## IMPLEMENTATION/TIMEFRAMES

This effort includes amendments to Title 17 (Coastal) and Title 18 (Inland) of the Fort Bragg Municipal Code. Recommendations by the Planning Commission will be forwarded to City Council for a decision and direction. Amendments to each Title proceed differently.

**Title 17 Coastal:** Upon receipt of the Planning Commission’s recommendation, the Council shall conduct a public hearing and either approve, approve in modified form, or disapprove the proposed amendment based on the findings identified in Section 17.94.060 (Findings and Decision). If the Council proposes to adopt a substantial modification to the amendment not previously considered by the Coastal Commission, the proposed modification shall be first referred to the Coastal Commission for its recommendation. Prior to Council’s adoption of the amendments, the Coastal Commission must find the amendments consistent with the Coastal Act.

**Title 18 Inland:** Upon receipt of the Planning Commission’s recommendation, the Council shall conduct a public hearing and either approve, approve in modified form, or disapprove the proposed amendment based on the findings identified in Section 18.94.060 (Findings and Decision). If the Council proposes to adopt a substantial modification to the amendment not previously considered by the Planning Commission, the proposed modification shall be first referred to the Planning Commission for its recommendation, in compliance with State law (Government Code Sections 65356 and 65857).

While the two amendments are similar, they are not identical. Urban Lot Splits in the Coastal Zone would be subject to the Coastal Development Permit process.

<b>Title 17 Coastal LUDC Zoning Code Amendment</b>	<b>Potential Timeline</b>
Planning Commission Public Hearing and Recommendation to City Council	Oct 2023
City Council – Public Hearing and Adoption of Resolution Transmitting Zoning Amendment to Coastal Commission	Dec 2023
Prepare LCP Amendment Application	Dec 2023 – Jan 2024
Coastal Commission Review and “Friendly Modifications” Due to City	June 2024
City Council acceptance of “Friendly Modifications” from the Coastal Commission	Oct 2024

<b>Title 18 Inland LUDC Zoning Code Amendment</b>	<b>Potential Timeline</b>
Planning Commission Public Hearing and Recommendation to City Council	Oct 2023
City Council – Public Hearing and 1st Reading of Ordinance	Dec 2023
City Council – 2 <sup>nd</sup> Reading of Ordinance	Jan 2023
Ordinance become effective	Feb 2023

## ATTACHMENTS

1. Resolution of the Fort Bragg Planning Commission Recommending that the City Council Submit an LCP Amendment Application to the Coastal Commission to Amend Title 17 of

the Fort Bragg Municipal Code to Amend Chapter 17.21.030(B) & 17.21.050 “Residential Zoning Districts,” add Chapter 17.42.200 “Urban Unit Development”, add Chapter 17.84.045 “Urban Lot Split”, and Amend Chapter 17.100 “Definitions” to Establish Regulations and Standards for Urban Lot Splits and Urban Unit Residential Development Projects in Low-Density Residential Zoning Districts Pursuant to Senate Bill 9.

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3. General Plan Consistency Analysis

## **NOTIFICATION**

1. “Notify Me” subscriber lists: Fort Bragg Downtown Businesses; and Economic Development Planning.