

City of Fort Bragg Draft Coastal ADU Resolution Flyover

Reviewed by: David Barboza

Date of Review: November 13, 2024

The following comments reflect conflicts between current State ADU Laws and the current ADU regulations found in the City of Fort Bragg Draft Coastal ADU Resolution (“Draft Resolution”) received by HCD on October 16, 2024. Where local ADU regulations conflict with State ADU Law without basis in any superseding laws, the City must amend the ADU Ordinance to bring the local regulations into compliance with State ADU Law. This flyover review represents a non-exhaustive list of conflicts to identify major inconsistencies particularly due to recent State ADU Law updates.

The numbering of the findings listed below is the same as the numbering in HCD’s Fort Bragg Flyover review dated September 26, 2024.

Please Note: As of March 25, 2024, with the Chaptering of Senate Bill (SB) 477 (Chapter 7, Statutes of 2024), the sections of Government Code relevant to State ADU and JADU Law have been re-numbered.

Findings

1. The preamble to the Draft Resolution refers to Government Code sections 65952.2 and 65952.22. However, section 65952.2 is a part of the Permit Streamlining Act and section 65952.22 does not exist.
2. Section 1.9 states¹: “The amendments to the Local Coastal Program shall take effect automatically upon Coastal Commission approval and certification pursuant to Public Resources Code Section 30512, 30513, and 30519.” However, ADU regulations must be established by ordinance.² A local coastal program (LCP) consists of “a local government’s (a) land use plans, (b) **zoning ordinances**, (c) zoning district maps, and (d) within sensitive coastal resources areas, other implementing actions, which, when taken together, meet the requirements of, and implement the provisions and policies of, [the Coastal Act] at the local level” (emphasis added).³ The LCP is to be submitted to the Coastal Commission “pursuant to a resolution,” but in the context of ADU regulations it is an ordinance submitted by a resolution.⁴
7. Section 17.42.170.K.3.g states: “Owner-occupancy of either the remaining portion of the single-family home of the JADU is required unless the JADU is

¹ The section numbers listed first in each finding are from the Fort Bragg Draft Resolution received by HCD on October 16, 2024 unless otherwise noted.

² Gov. Code, § 66314.

³ Pub. Res. Code, § 30108.6

⁴ Pub. Res. Code, § 30510.

- created by** a governmental agency, land trust or housing organization” (emphasis added). However, Government Code section 66333, subdivision (b) states: “Owner-occupancy shall not be required if **the owner** is another governmental agency, land trust, or housing organization” (emphasis added).
11. Section 17.42.170.B.2.a regarding multifamily conversion ADUs states: “Units constructed pursuant to this Subsection shall not exceed 50% of the floor area of the median unit size in the multifamily project.” However, ADUs approved pursuant to Government Code section 66323, subdivision (a)(3) have no floor area limit.
 12. Section 17.42.170.B.2.b.iii states, in reference to detached ADUs: “Units constructed pursuant to this Subsection shall not exceed 1,200 square feet in floor area.” However, ADUs approved under Government Code section 66323, subdivision (a)(4) do not have a floor area limit.
 17. Section 17.42.170.I states: “Accessory dwelling units and JADUs shall not be rented for periods of less than 31 days.” However, there is no basis in State JADU Law to set a minimum rental term for a JADU.⁵ State JADU Law requires owner occupancy either in the single-family residence or the JADU, with some exceptions, but does not otherwise restrict the ability to rent a JADU.⁶
 21. Section 17.42.170.K.2.b lists ADU height limits. However, it does not list the height limit in State ADU Law for an ADU located within ½ mile walking distance of a major transit stop or high quality transit corridor.⁷ A portion of the City meets these criteria.⁸
 27. Section 17.42.170.M.2 states, “No replacement parking space(s) are required for the primary unit, when a garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of an ADU or JADU.” While this reflects current law, SB 1211 will add an “uncovered parking space” to the list of parking space types that are not required to be replaced, effective January 1, 2025.⁹
 29. Section 17.42.170.O states: “ADUs of 750 SF or less shall be exempt from paying capacity and impact fees, and units of more than 750 SF shall pay a prorated share of the capacity and impact fees.” However, Single-family conversion ADUs are exempt from connection fees or capacity charges, regardless of their floor area.¹⁰

⁵ Gov. Code, §§ 66333 – 66339.

⁶ Gov. Code, § 66333, subd. (b).

⁷ Gov. Code, § 66321, subd. (b)(4)(B).

⁸ See “Site Check” website screening tools. Retrieved from sitecheck.opr.ca.gov on 11/12/2024.

⁹ SB 1211 (Chapter 296, Statutes of 2024) amends Government Code section 66314, subdivision (d)(11) to state: “When a garage, carport, covered parking structure, **or uncovered parking space** is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced” (emphasis added).

¹⁰ Gov. Code, § 66324, subd. (d).

31. Section 17.42.170.R.1 states: “The City shall not deny a permit for an unpermitted ADU or JADU that was constructed before January 1, 2020, if the ADU/JADU is: 1) in violation of building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code; or 2) **article or Article 3 (commencing with Section 66333)**, as applicable, or any local ordinance regulating accessory dwelling units or junior accessory dwelling units” (emphasis added). The boldface portion of the quote should refer to Articles 2 and 3 of Chapter 13 of Division 1 of Title 7 of the Government Code (i.e., to Government Code sections 66314 – 66339).¹¹

Next Steps

Please contact me using the information below if you have any questions or comments about this review.

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¹¹ See AB 2533 (Chapter 834, Statutes of 2024) as it amends Government Code section 66332, subdivision (a)(2), effective January 1, 2025.