

RESOLUTION NO. PC -2023

RESOLUTION OF THE FORT BRAGG PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL AMEND DIVISION 18 OF THE FORT BRAGG MUNICIPAL CODE (ZON 4-23) TO BE CONSISTENT WITH STATE LAWS RELATING TO ACCESSORY DWELLING UNITS.

WHEREAS, California Constitution Article XI, Section 7, enables the City of Fort Bragg (the “City”) to enact local planning and land use regulations; and

WHEREAS, the authority to adopt and enforce zoning regulations is an exercise of the City’s police power to protect the public health, safety, and welfare; and

WHEREAS, the availability of housing is a substantial concern for individuals of all demographics, ages, and economic backgrounds in communities throughout the State of California; and

WHEREAS, Accessory Dwelling Units ("ADUs") offer lower cost housing to meet the needs of the existing and future residents while ensuring that they remain compatible with the existing neighborhood; and

WHEREAS, the 2009, 2014 and 2019 Housing Element updates include policies and programs that support and create affordable housing, a diverse range of housing types and provisions for Accessory Dwelling Units; and

WHEREAS, the City desires to ensure that residential development occurs in an orderly manner, in accordance with the goals and objectives of the General Plan and reasonable land use planning principles; and

WHEREAS, Assembly Bills 68, 587, 671, 345 and 881 and Senate Bill 13 pertain to Accessory Dwelling Units (“ADUs”) and Junior Accessory Dwelling Units (“JADUs”). These bills were approved by the California Legislature and signed by the Governor in 2019, and became effective on January 1, 2020. Codified primarily in California Government Code sections 65952.2 and 65952.22, this legislation requires local ADU ordinances to include specified requirements; and

WHEREAS, the City of Fort Bragg General Plan establishes zoning for a variety of housing types including Accessory Dwelling Units and General Plan Table 6.2 lists Accessory Dwelling Units as permitted land uses in in all residential districts; and

WHEREAS, the City of Fort Bragg General Plan Policy H-1.3 facilitates the construction of secondary dwelling units on residential properties and this adopted policy includes six program goals (see Programs H-1.3.1 through H-1.3.6); and

WHEREAS, The project is exempt from CEQA, under Public Resources Code Section 21080.17 and State CEQA Guidelines Section 15282(h), adoption of an ordinance regarding second units in areas zoned to allow single-family or multifamily

dwelling residential use by a city or county; and

WHEREAS, the Community Development Committee held a duly noticed public hearing on May 17, 2023, to receive a report regarding proposed changes to ADU and Tiny Home regulations in Fort Bragg; and public comments were given at that time; and

WHEREAS, the Planning Commission held a duly noticed public hearing on September 13, 2023, to consider the Zoning Amendment, accept public testimony; and

WHEREAS, Section 18.94.040 states that the Planning Commission shall forward a written recommendation, and reasons for the recommendations, to the Council based on the findings identified in Section 18.94.060; and

NOW, THEREFORE, BE IT RESOLVED pursuant to Fort Bragg Municipal Code Section 18.94.060, the Planning Commission recommends that the City Council amend the Fort Bragg Inland Land Use and Development Code as described in Appendix A; and

BE IT FURTHER RESOLVED that the City of Fort Bragg Planning Commission, based on the entirety of the record before it, which includes without limitation, CEQA Public Resources Code §21000, et seq. and State CEQA Guidelines, 14 California Code of Regulations §15000, et seq.; the Fort Bragg Inland General Plan; the Fort Bragg Inland Land Use and Development Code; State law; all reports and public testimony submitted as part of the Planning Commission meeting of September 13, 2023 and Planning Commission deliberations; and any other evidence (within the meaning of Public Resources Code §21080(e) and §21082.2), the Planning Commission of the City of Fort Bragg does hereby find:

- a. The proposed amendment is consistent with the General Plan Policies and Programs, including Policy H-1.3 Secondary Dwelling Units; and any applicable specific plan; and
- b. The proposed ZON 4-23 amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City as it intends amendments to be consistent with recently adopted State laws; and
- c. The proposed amendment ZON 4-23 is internally consistent with other applicable provisions of the Inland Land Use Development Code, including its Chapters 18.42, 18.71, 18.100, and others; and
- d. The foregoing recitals are true and correct and made a part of this Resolution; and
- e. The documents and other material constituting the record for these proceedings are located at the Community Development Department.

BE IT FURTHER RESOLVED that the Fort Bragg Planning Commission does

hereby recommend that the City Council adopt Zoning Amendment 4-2023 to amend Division 18 to the Fort Bragg Municipal Code (as described in Appendix A) and modify Section 18.42.170 and Section 18.71.050 and Chapter 18.100 "Definitions" to establish regulations and standards for Accessory Dwelling Units consistent with State Law.

BE IT FURTHER RESOLVED that this Resolution shall become effective immediately upon its passage and adoption.

The above and foregoing Resolution was introduced by _____ seconded by _____, and passed and adopted at a regular meeting of the Planning Commission of the City of Fort Bragg held on the 13th day of September 2023, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSE:

Jeremy Logan, Chair

ATTEST:

Maria Flynn, Administrative Assistant

PLANNING COMMISSION RESOLUTION PC__-2023

APPENDIX A – ZON 4-2023

18.21.030 & 18.21.050 LAND USE TABLE AMENDMENTS

Revise 18.21.030(B) Table 2-1 Allowable Land Uses and Permit Requirements for Residential Zoning Districts:

TABLE 2-1 Allowed Land Uses and Permit Requirements for Residential Zoning Districts	PERMIT REQUIRED BY DISTRICT						Specific Use Regulations
	RR	RS	RL	RM	RH	RVH	
	P Permitted Use, Zoning Clearance required MUP Minor Use Permit required (see Section 18.71.060) UP Use Permit required (see Section 18.71.060) S Permit requirement set by Specific Use Regulations — Use not allowed						
LAND USE (1)	RR	RS	RL	RM	RH	RVH	Specific Use Regulations
RESIDENTIAL USES							
Duplex	P	P	P	P	P	P	18.42.170
Single-family Primary dwelling Unit	P	P	P	P	P	P	

Revise Table 2-4 to clarify that a duplex would be allowed in lieu of a single-family residential unit (and not in addition to), the following update is proposed to 18.21.050 Residential District Site Planning and Building Standards:

TABLE 2-4 - RR, RS, AND RL DISTRICT DEVELOPMENT STANDARDS

Development Feature	Requirement by Zoning District		
	RR Rural Residential	RS Suburban Residential	RL Low Density Residential
Density	Maximum number of dwelling units allowed on a single parcel.		
	1 dwelling unit or one duplex per parcel; or 1 dwelling Unit and one second unit and one JADU where allowed by 18.42.170 .		

18.22.030(C) LAND USE TABLE 2-6 AMENDMENTS

Revise the following portions of 18.22.030(C) Table 2-6 Allowed Land Uses and Permit Requirements for Commercial Zoning Districts:

TABLE 2-6 Allowed Land Uses and Permit Requirements for Commercial Zoning Districts	P	Permitted Use, Zoning Clearance required				
	MUP	Minor Use Permit required (see Section 18.71.060)				
	UP	Use Permit required (see Section 18.71.060)				
	—	Permit requirement set by Specific Use S Regulations				
		Use not allowed				
	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
LAND USE (1)	CN	CO	CBD	CG	CH	

RESIDENTIAL USES

Residential component mixed use project	P	UP	P(2)	UP	UP	18.42.100
Second unit – ADU/JADU	P(5)	P(5)	P(5)	P(5)	P(5)	18.42.170

(5) Use permitted only on parcels with existing single residential unit or existing/proposed multifamily development, and only in compliance with § 18.42.170.

18.42.170 SECOND UNITS - ACCESSORY DWELLING UNIT (ADU) AND JUNIOR ACCESSORY DWELLING UNIT (JADU) AMENDMENTS

Purpose. This Section establishes standards for two types of residential second units: Accessory Dwelling Units (ADU); and Junior Accessory Dwelling Units (JADU), where allowed by Article 2 (Zoning Districts and Allowable Land Uses) and in compliance with California Government Code 65852-65853.13.

- “Accessory Dwelling Unit” means an attached, detached or converted residential dwelling unit that provides complete independent living facilities for one or more persons. ADUs shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single residential unit or multifamily dwelling structure. An “Accessory Dwelling Unit” also includes the following: an efficiency unit or a manufactured home, as defined in Section 18007 of the Health and Safety Code.
- “Junior Accessory Dwelling Unit” means a living space not more than 500 square feet in size and contained entirely within the walls of a single residential unit. A JADU shall include permanent provisions for living, sleeping, eating, cooking, and sanitation (sanitation facilities may be separate, or may be shared with the primary unit).

A second unit that does not comply with this section is subject to the standards of 18.42.185 - Two Unit Development or the Zoning District or Article 3 Site Planning and Project Design Standards.

A. Review & Approval Process.

1. **Deemed Approved.** An application for the creation of an ADU or JADU shall be deemed approved (not just subject to Ministerial Approval) if the City has not acted on the completed application within 60 days. (65852.2a3).
2. **Ministerial Approval.** Ministerial approval is required for an ADU and/or JADU on parcels located in all residential and commercial zoning districts.

B. Location, Number & Size of Units.

Two ADUs in compliance with this section or California Government Code 65852-65853.13 shall be allowed as follows:

1. On a lot with an existing or proposed single family residential unit:
 - a. One JADU constructed within an existing or proposed single residential unit, which complies with the requirements of 18.42.170 (K)(3); and/or
 - b. One ADU, that complies with the requirements of 18.42.170 (K) (1 or 2);
2. On a lot with an existing multifamily dwelling:
 - a. **Interior ADUs.** ADUs may be constructed in areas that are not used as livable space within an existing multifamily attached or detached structure (i.e., storage rooms, boiler rooms, passageways, attics, basements, or garages), provided the spaces meet state building standards for dwellings. The number of interior ADUs permitted on the lot shall not exceed 25% of the current number of units of the multifamily complex on the lot and at least 1 such unit shall be allowed. Units constructed pursuant to this Subsection shall not exceed **1,000 - 1,200** square feet in floor area; and

- b. **Detached ADUs.** Up to 2 additional detached ADUs may be constructed, provided they are no taller than 16 feet, and they have at least 4 feet of side and rear yard setbacks. Units constructed pursuant to this Subsection shall not exceed **1,000 - 1,200** square feet in floor area.
 - c. **Condominiums.** ADU and JADUs are permitted within condominiums as rentals or homeowner occupied units, however no less than 25% of all ADUs in condominiums must be rented.
- C. **Conversion of Accessory Structures to ADUs.** The conversion of an existing accessory structure (garage, barn, shed, etc.) or portion of an existing accessory structure to an ADU is not subject to size limits, setback or height limitations of this ordinance. ADUs proposed for accessory structures that are expanded in size by more than 150 SF are subject to the size limitations of this ordinance.
- D. **Density.** Both ADUs and JADUs shall be exempted from the calculation of the maximum allowable density for the lot on which it is located and shall be deemed to be a residential use that is consistent with the existing General Plan and zoning designation for the lot.
- E. **Lot Size.** There is no minimum lot size for ADUs and JADUs.
- F. **Lot Coverage.** Projects are required to conform with Lot Coverage requirements for their zoning district, unless lot coverage requirements do not allow at least one 800 square foot second unit, in which case the lot coverage requirement shall be waived.
- G. **Timing.** An ADU may be constructed before, with or after the primary dwelling unit(s). In addition, an existing dwelling that complies with the standards for second units in Subsection (K) of this Section may be considered a second unit, and a new primary unit may be constructed.
- H. **Sale of ADUs JADUs.** The separate sale or conveyance of an ADU as a tenancy in common (TIC) is only permitted if: 1) both the primary unit and the ADU were built or developed by a qualified non-profit whose mission is to provide housing units to low-income households; 2) an enforceable restriction is placed on the property between the low income buyer and the non-profit that satisfies the requirements of Section 402,1 of the Revenue and tax code; and 3) the entire property is subject to affordability restrictions to assure that the ADU and the primary dwelling unit are preserved for low-income housing for 45 years.
- I. **Short-term Rentals Prohibited.** Accessory dwelling units and JADUs shall not be rented for periods of less than 31 days.
- J. **Deed Restriction.** Prior to the issuance of a building permit for a ADU, the owner shall record a deed restriction in a form approved by the City that includes: 1) a prohibition on the sale of the ADU separate from the sale of the primary residential unit (except in the case of H above or Urban Lot Split (18.84.045); 2) a prohibition on short- term rentals, and: 3) in the case of a JADU restricts the size and attributes of the JADU to conformance with this section.
- K. **Second Unit Standards.**
 - 1. **Exceptions to Accommodate at least one 800 SF ADU and one JADU.** The Community Development Director shall modify or eliminate objective development standards if they prevent the construction of a JADU and/or an ADU of at least 800 square feet in size, and 16 feet in height with 4-foot setbacks on any lot. Objective development standards shall be modified in the following priority order: lot coverage, parking requirement, rear setback, side setback, front setback, height limit.

2. **Accessory Dwelling Unit.** An ADU shall comply with the following standards:

- a. **Location.** An ADU may be located on the front, the back or the side of a parcel and it may be larger or smaller than the primary single family residential unit so long as it complies with the size limitations of this code. An ADU can be: (i) a remodeled portion of a primary dwelling unit; (ii) attached to a primary dwelling unit; (iii) one of the units of a duplex (iv) a detached unit or located in a converted Accessory Structure such as a shop or garage.
- b. **Height limit.** A detached ADU shall be limited to a maximum height of 16-28 feet.
- c. **Setbacks.** An ADU shall have a minimum rear and side setback of 4 feet, unless the second unit is located in a nonconforming structure as defined by § 18.90.020. Notwithstanding the foregoing, no setbacks are required for ADUs that are conversions of existing living areas or existing accessory structures, or for any new structures in the same location and to the same dimensions as an existing structure, or for expansions of existing structures that have less than a four-foot rear or side yard setback. Front yard setbacks are defined in 18.22, however a reduced front setback is required if the applicant is precluded by the strict application of the setback requirements from building at least one 800 SF ADU on the property.
- d. **Maximum floor area.** The maximum floor area of a detached ADU shall not exceed 1,000- 1,200 square feet and the maximum floor area for an attached ADU shall be 50% of the existing primary dwelling unit or 850- 1,200 SF whichever is more. The conversion of an existing structure to an ADU shall not be limited in size so long as it is enclosed within the existing structure.
- e. **Separate entrance required.** An attached ADU shall have an entrance separate from the entrance to the primary dwelling.
- f. **Window & Balcony Placement.** An ADU that is placed 20 feet or less from a residential unit on the same parcel or an adjacent parcel shall not have windows that directly face windows in the other unit. Transom windows and skylights are allowed even when ADU windows directly face windows in the other unit. An ADU that is located over a residential accessory structure shall not have windows or balconies that directly face a neighboring yard. This limitation applies only to side yards, not to windows facing alleys.
- g. **Building code compliance.** All new ADUs must satisfy the requirements contained in the building code and fire code as currently adopted by the City, including applicable energy efficiency standards associated with Title 24 of the California Code of Regulations. However, fire sprinklers shall not be required if they are not required for the primary residence.

3. **Junior Accessory Dwelling Unit.** A JADU shall comply with the following standards:

- a. **Location.** JADUs may be located in an attached garage or within the walls of the primary dwelling. JADUs are allowed to share bathroom facilities with the primary dwelling. JADUs are not permitted in detached accessory structures or ADUs.
- b. **Maximum floor area.** The living space shall not exceed 500 square feet in size and shall be contained entirely within the walls of an existing or proposed single residential unit.
- c. **Separate entrance required.** A JADU shall have a separate entrance from the main entrance to the primary residence.

- d. **Efficiency kitchen.** A JADU shall include an efficiency kitchen with cooking appliances, a food preparation counter, and storage cabinets reasonably sized in relation to unit.
- e. **Fire protection.** No separate connection between the Junior Accessory Dwelling Unit and the utility shall be required for units created within a single residential unit, unless the Junior Accessory Dwelling Unit is being constructed in connection with a new single residential unit.
- f. **Utility service.** For the purpose of providing service for water, sewer, or power, a JADU unit shall not be considered a separate or new unit, unless the JADU was constructed in conjunction with a new single residential unit.

L. **Parking Requirements**

- 1. **ADU/JADU Parking Exemptions & Requirements:** No parking is required.
 - 2. **Replacement Parking Exemption.** 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.
- M. **Solar Requirements.** New, non-manufactured, detached ADUs shall install solar in compliance with the California Building Code. No other ADUs are subject to the Building Code's solar requirements.
- N. **No Capacity Fees.** ADUs and JADUs **of 750 SF** are exempt from paying Capacity Fees and Impact Fees.
- O. **No off-site Improvements.** No physical improvements, such as installation of sidewalks or off-site drainage improvements, shall be required for the creation or conversion of an ADU or JADU.
- P. **No Correction of Nonconforming Zoning Conditions.** No applicant shall be required to correct existing non-conforming zoning conditions as part of the creation or conversion of an ADU or JAUD.
- Q. **Non-Conforming ADUs.** An existing substandard ADU or JADU shall have five years to correct a violation so long as the violation is not a health and safety issue as determined by the Building Department.
- R. **Restrictive Covenants Void.** ADUs and JADUs shall be allowed on all parcels regardless of any covenants, conditions or restrictions that have been placed on a lot; such restrictions are void and unenforceable. (Civ Code 4751).

18.100 DEFINITIONS AMENDMENTS

In order to support the required code updates, the following modifications to the definitions in CLUDC Section 18.100.020 are recommended:

Add the following definitions:

Accessory Dwelling Unit. Can be an attached, detached or converted residential dwelling unit of less than 1,200 sf that provides complete independent living facilities for 1 or more persons. ADUs shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single residential unit or multifamily dwelling structure is or will be situated. An "Accessory Dwelling Unit" also includes the following: (A) an efficiency unit; and (B) a manufactured home, as defined in Section 18007 of the Health and Safety Code, and (C) a tiny home as defined in 18.42.175.

Junior Accessory Dwelling Unit. Is a living space of not more than 500 square feet in size and contained entirely within the walls of a primary residential unit. A JADU shall include permanent provisions for living, sleeping, eating, cooking, and sanitation; sanitation facilities may be separate, or may be shared with the primary unit.

Remove the following definitions:

~~**Carriage House.** See "**Second Unit** or Carriage House."~~

~~**Small secondary unit.** A small secondary residential dwelling unit is a separate, complete housekeeping unit with a separate entrance, kitchen, sleeping area, and full bathroom facility, which is an attached or detached extension to a single-family structure that has no more than one bedroom and that is no greater than 600 square feet in size. Any loft area, regardless of ceiling height, is counted when calculating maximum square feet. No more than one loft area is permitted in a small secondary unit.~~

Revise the following definitions:

~~**Duplex.** See "**Multi-Family Housing**."~~ A duplex consists of two attached dwelling units typically sharing a wall, but may also be attached vertically. A duplex may be considered a primary dwelling unit with an attached Accessory Dwelling Unit (ADU) if one of the units is less than 1,200 square feet.

~~**Multi-Family Housing.** A dwelling unit that is part of a structure containing ~~one~~ three or more other dwelling units, or a non-residential use. An example of the latter is a mixed-use project where, for example, one or more dwelling units are part of a structure that also contains one or more commercial uses (retail, office, etc.).~~ Multi-family dwellings include: ~~duplexes, triplexes, fourplexes~~ (buildings under one ownership with ~~two~~, three or more dwelling units in the same structure); apartments (five or more units under one ownership in a single building); and townhouse development (three or more attached dwellings where no unit is located over another unit), and other building types containing multiple dwelling units (for example, courtyard housing, rowhouses, stacked flats, etc.).

Residential Accessory Use or Structure. Any use and/or structure that is customarily a part of, and clearly incidental and secondary to a residence, and does not change the character of the residential use. This definition includes the following detached accessory structures, and other similar structures normally associated with a residential use of property. See also “Agricultural Accessory Structure.”

- garages
- gazebos
- greenhouses (noncommercial)
- spas and hot tubs
- storage sheds
- studios
- chicken coops
- sport courts
- workshops

Also includes the indoor storage of automobiles (including their incidental restoration and repair), personal recreational vehicles and other personal property, accessory to a residential use. Does not include: second units, or **Accessory Dwelling Units**, which are separately defined; guest houses, which are included under the definition of second units; or home satellite dish and other receiving antennas for earth-based TV and radio broadcasts (see “Telecommunications Facilities”).

Second Unit/Carriage House/Duplex. See Accessory Dwelling Unit.

Single-Family Primary Dwelling Unit. A building designed for and/or occupied exclusively by a single housekeeping unit in a permanent living arrangement. Also includes factory built, modular housing units, constructed in compliance with the Uniform Building Code (UBC), and mobile homes/manufactured housing units that comply with the National Manufactured Housing Construction and Safety Standards Act of 1974, placed on permanent foundation systems.

~~**Single-Family Dwelling.** See Primary Dwelling Unit. A building designed for and/or occupied exclusively by a single housekeeping unit in a permanent living arrangement. Also includes factory built, modular housing units, constructed in compliance with the Uniform Building Code (UBC), and mobile homes/manufactured housing units that comply with the National Manufactured Housing Construction and Safety Standards Act of 1974, placed on permanent foundation systems.~~