

**BEFORE THE CITY COUNCIL OF THE CITY OF FORT
BRAGG**

AN ORDINANCE AMENDING DIVISION 18 OF THE FORT BRAGG MUNICIPAL CODE (ILUDC 2-23) 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

ORDINANCE NO. 986-2023

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 City of Fort Bragg (“City”) adopted a General Plan in 2002 which established policies for all lands within Fort Bragg city limits and its sphere of influence; and

WHEREAS, the City of Fort Bragg (“City”) adopted an Inland General Plan and certified an Environmental Impact Report Addendum (“EIR Addendum”) for the General Plan on December 2, 2012; and

WHEREAS, the City of Fort Bragg (“City”) adopted an Inland Land Use and Development Code and Negative Declaration on February 10, 2014; and

WHEREAS, the adoption of an Inland Land Use and Development Code is necessary to: 1) provide a regulatory framework for implementation of the Inland General Plan; 2) to implement new state planning and land use requirements; and 3) update zoning regulations in accordance with City Council policy direction; 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, on September 16, 2021, California Governor Gavin Newsom signed Senate Bill 9 (SB-9) into law as part of an effort to address the State’s housing crisis by streamlining housing production; and

WHEREAS, the new legislation became effective on January 1, 2022, and requires local agencies to ministerially approve urban lot splits and development of two to four residential units per single family residential lot provided the projects meet certain criteria; and

WHEREAS the City wishes to balance compliance with State law with the rights still preserved under the new legislation authorizing the City to establish objective zoning, subdivision and design review standards consistent with SB-9 requirements to approve urban lot splits and urban unit residential development; and

WHEREAS, the project is exempt from CEQA, as a zoning amendment to implement the provisions of Sections 65852.1 and Section 66411.7 of the Government Code is exempt from CEQA by those code sections; and

WHEREAS, the Community Development Committee held a duly noticed public meeting on May 17, 2023, to discuss a memo about SB-9 implementation in Fort Bragg; and public comments were given at that time; and

WHEREAS, the Planning Commission held a duly noticed public hearing on October 11, 2023, to consider the Zoning Amendment, accept public testimony; and adopted a resolution recommending a zoning amendment to add Chapter 18.42.200 “Urban Unit Development”, and Chapter 18.84.045 “Urban Lot Split” to the ILUDC as well as make relevant changes and additions to the definitions and land use chapters of the zoning ordinances.

NOW, THEREFORE, BE IT RESOLVED that the Fort Bragg City Council, based on the entirety of the record before it, which includes without limitation, CEQA, Public Resources Code §21000, et seq. and the CEQA Guidelines, 14 California Code of Regulations §15000, et seq.; the Inland General Plan; the Inland Land Use and Development Code; the Project application; all reports and public testimony submitted as part of the City Council meeting of December 11, 2023 and City Council deliberations; and any other evidence (within the meaning of Public Resources Code §21080(e) and §21082.2), the Fort Bragg City Council does hereby make the following findings and determinations:

SECTION 1: LEGISLATIVE FINDINGS

1. The foregoing recitals are true and correct and made a part of this Ordinance.
2. On October 11, 2023, the Planning Commission held a properly noticed public hearing to consider recommending the proposed minor amendment to the Inland Land Use and Development Code to the Fort Bragg City Council for adoption and adopted a resolution in support of the City Council’s adoption of the amendment to the ILUDC pursuant to Gov. Code Section 65355.
3. On December 11, 2023 the City Council held a properly noticed public hearing to consider adoption of the minor amendment to the Inland Land Use and Development Code.

4. The proposed ILUDC 2-23 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
5. The proposed amendment is consistent with the General Plan and any applicable specific plan.
 - i. The proposed project is consistent with the land use designations of the Land Use Element of the General Plan because state law does not allow local jurisdictions to include the four units allowed through an Urban Lot Split and subsequent development in their density calculations. Thus, while the amendments will allow “higher” residential densities, State law does not allow local jurisdictions to count these increases in density towards density limitations. Thus, density limitations do not need to be modified in the Land Use Element.
 - ii. The proposed amendment is consistent with and implements the following applicable General Plan policies: Policy LU-6.1, Policy PF-1.2, Policy PF-2.1, Policy CD-1.2, Policy H-1.6, Policy H-2.9, Policy H-3.2, and Program H-4.1.2.

6. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

The proposed amendment is mandated by State Law as such it is in the public interest to permit additional opportunities for residential housing development, which will provide for better convenience and welfare for the residents of the City of Fort Bragg. The proposed amendment requires conformance with all applicable building codes which will ensure healthy and safe housing.

7. The proposed amendment is internally consistent with other applicable provisions of this Development Code.

The Proposed Amendment is consistent with ILUDC standards with the following State mandated exceptions.

- i. Lot Coverage: As mandated by state law, housing units developed as a consequence of this ordinance must be exempt from lot coverage calculations if two 800 SF units cannot otherwise be constructed on a lot created through an Urban Lot Split.
- ii. Set Backs: As mandated by state law, housing units developed as a consequence of this ordinance have an exception from the code requiring only 4 feet setbacks on the rear and side property lines. Additionally, front yard setbacks must be reduced if two 800 SF units cannot otherwise be constructed on a lot created through an Urban Lot Split.
- iii. Parking and Traffic: Again, in compliance with State law, City Council may require that housing units developed as a consequence of this ordinance

provide off-street parking so long as that requirement does not preclude an applicant from building at least two units of 800 SF each.

8. The project is exempt from CEQA, as a zoning amendment to implement the provisions of Sections 65852.1 and Section 66411.7 of the Government Code is exempt from CEQA by those code sections; and
9. The documents and other material constituting the record for these proceedings are located at the Community Development Department, and

SECTION 2. Based on the foregoing, the City Council does hereby:
Amend 18.21.030(B) Table 2-1 Allowable Land Uses and Permit Requirements for Residential Zoning Districts as follows:

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	
RESIDENTIAL USES							
Duplex	P	P	P	P	P	P	18.42.170 18.42.200
Low Density dwelling Primary Residential Unit	P	P	P	P	P	P	
Urban Unit Development (4 units)	p	p	p	-	-	-	18.42.200
Urban Unit Development (2 units) on a parcel created through an Urban Lot Split.	P	P	P	-	-	-	18.42.200 & 18.84.045

Amend Table 2-4 to clarify that Urban Unit development is allowed consistent with 18.42.200.

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 ; or Two to four units, where allowed, by 18.42.200.		

SECTION 3. 18.84.045 Urban Lot Splits

Chapter 18.84.045 Urban Lot Splits is hereby adopted in its entirety.

Purpose. This Section establishes standards to implement California Government Code Section 66411.7 which requires ministerial approval of the subdivision of a residential lot in in RR, RS, and RL Zoning Districts into two parcels with up to two units of housing on each subsequent parcel per 18.42.200.

Ministerial Approval. An application for an Urban Lot Split and/or the associated residential development that complies with the standards of this Section shall be approved ministerially.

Definitions. These definitions are intended for the narrow purpose of implementing 18.84.045.

- **Unit.** Unit means a primary dwelling unit or one unit of a duplex an ADU or a JADU.
- **Urban Lot Split.** A lot split authorized through 66411.7 and regulated by this Section 18.84.045.
- **Front Parcel.** A parcel created by an Urban Lot Split that includes at least 50% of the original parcel's street-facing frontage.
- **Back Parcel.** A parcel, created by an Urban Lot Split, which includes more than 50% of the original parcel's alley-facing frontage or back parcel line.
- **Front of the Parcel.** The "front of the parcel" is defined as 1) the street side of the Front Parcel or 2) the alley side of an alley fronting Back Parcel, or 3) the newly created parcel line for a Back Parcel that does not abut an alley.
- **Residential Use.** Residential Use includes primary units, ADUs, a duplex, and associated accessory residential structures (per Land Use Table 2-1 Residential Uses).

A. Limitation on Location.

1. The parcel must be in a Low-Density Residential zone (RR, RS, RL zones). Parcels in multifamily residential zoning districts and commercial zoning districts are not eligible for Urban Lot Splits.
2. The applicant shall undertake proper mitigation if the parcel is in a Fire, Flood, or Earthquake Hazard Zone per the appropriate section of this code.
3. Both resulting parcels shall have access to, provide access to, or adjoin the public right-of-way.
4. Urban Lot Splits are not permitted under any of the following conditions.
 - a. On a parcel adjacent to another parcel that was split via the Urban Lot Split under ownership by the same person or a person working in concert with the property owner of the adjacent parcel.
 - b. On a parcel that was created through a previous Urban Lot Split.
 - c. On a parcel located in a historic site or district, listed on the State Historic Resources Inventory or designated as a Historic Landmark.
 - d. On a parcel located on prime farmland, a hazardous waste site listed pursuant to Section 65962.5, or within a 100-year flood zone.
 - e. On a parcel that includes a wetland, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993) or habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973, the California

Endangered Species Act, or the Native Plant Protection Act.

- f. On a parcel located on lands under a conservation easement.
- g. On a parcel where the Urban Lot Split would require demolition of affordable or rental housing that: 1) is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income; (2) is subject to any form of rent or price control through a public entity's valid exercise of its police power; or (3) has been occupied by a tenant in the last three years.

B. Lot Size, Lot Split Size, Setbacks

1. No parcel of less than 2,400 SF may be subdivided through the Urban Lot Split process.
2. The resulting lots must be near equal in size; each lot must be at least 40 percent of the existing lot size, but no smaller than 1,200 SF.
3. The new lot line may be approved even if the line divides pre-existing adjacent or connected structures, so long as the structures meet building code safety standards and are sufficient to allow for separate conveyance.

C. Urban Lot Split Access & Public Improvements.

1. Created parcels shall have access to, provide access to, or adjoin the public right-of-way. Flag Lots or easements are permissible if there is no alley access to the back parcel. As feasible, no more than one curb cut is permitted per original parcel, shared street access is required where street access is necessary for both parcels.
2. Easements shall be required for the provision of public services and facilities.
3. The City shall not require the dedication of rights-of-way or the construction of offsite improvements.

D. Use Limitation and Deed Restriction.

1. **Deed Restriction.** As part of the recordation of the Lot Split, the owner shall record a deed restriction on both resultant lots in a form approved by the City that includes all items enumerated in D2 below.
2. **Use Limitations.** The following restrictions apply to all lots created through an Urban Lot Split.
 - a. **Sale.** The sale of an ADU unit separate from the sale of the primary unit on the same parcel is prohibited.
 - b. **Short-term Rentals.** Units shall not be rented for periods of less than 31 days.
 - c. **Future Lot Splits.** Future Urban Lot Splits of either resulting parcel is prohibited.
 - d. **Prohibition of non-residential uses.** Non-residential uses are not permitted. Only residential uses are permitted, (per Use Table 2-1 Residential Uses)
3. **Owner Occupancy Affidavit.** The property owner shall sign an affidavit stating that the applicant intends to occupy one of the housing units as their principal residence for a minimum of three years from the date of the approval of the urban lot split.
 - a. The owner-occupancy requirement does not apply to parcels under ownership of a community land trust, as defined in Section 402.1 of the Revenue and Taxation Code, or a qualified nonprofit corporation as described in 214.15 of the Revenue and Taxation Code.

E. Subdivision Map Act & General Plan Conformance. This section overrides any conflicting provisions of the Subdivision Map Act. General Plan conformance is not required if it would preclude urban lot-splits mandated by this section.

F. Exceptions to Development Standards for Lot Splits with Existing Development.

- a. **Side & Rear Yard Setbacks.** No setbacks are required for existing structures.
- b. **Non-Conforming Structures and Land Uses.** All existing nonconforming zoning conditions (use, development standards, parking standards, etc.) may continue with an Urban Lot Split.

G. Urban Lot Split Application Requirements. An application for an Urban Lot Split under this section 18.42.200 shall include the following materials.

- a. Tentative Map.
- b. Boundary survey.
- c. Parcel Map with legal descriptions for both parcels.
- d. Deed restriction.

H. Allowable Development. Development of parcels created through an Urban Lot Split shall be regulated by Section 18.42.200.

SECTION 4. 18.42.200 – Urban Unit Development

Chapter 18.42.200 Urban Unit Development is adopted in its entirety.

Purpose. This Section establishes standards to implement California Government Code Section 66411.7 which requires ministerial approval up to two units of housing (see A-2) on a parcel created through an Urban Lot Split and up to four Units (see A-1) on a single parcel that was not created through an urban lot split.

Ministerial Approval. An application for the residential development that complies with the standards of this Section shall be approved ministerially.

Definitions. These definitions are intended for the narrow purpose of implementing 18.42.200

- **Unit.** "Unit means a primary **dwelling** unit, one unit of a duplex, an ADU or a JADU.
- **Urban Lot Split.** A lot split authorized through 66411.7 and regulated by this Section 18.84.045.
- **Front Parcel.** A parcel, created by an Urban Lot Split, which includes at least 50% of the original parcel's street-facing frontage.
- **Back Parcel.** A parcel, created by an Urban Lot Split, which includes more than 50% of the original parcel's alley-facing frontage or back parcel line.
- **Front of the Parcel.** The front of the parcel shall be the street side of the Front Parcel, the alley side of an alley fronting Back Parcel, or the newly created parcel line for a Back Parcel that does not abut an alley.
- **Residential Use.** Residential Use includes primary units, ADUs, a duplex, and associated accessory residential structures (per Use Table 2-1 Residential Uses).

A. Density, Size & Number of Units Allowed.

1. A maximum of four units (two primary units and two J/ADUs) are permissible on lots which do not go through an Urban Lot Split. There is no size limit for primary units, second units must be 800 SF or less.
2. A maximum of two units is permissible on each lot created by an Urban Lot Split as follows:
 - a. Two Primary Units of 1,200 SF or less each, or
 - b. One Duplex of 2,200 SF or less, or
 - c. One Primary Unit of any size & One ADU of 800 SF or less, or
 - d. One Primary Unit of any size & One Junior ADU of 500 SF or less, or
3. Units permissible under this section are exempt from the calculation of the maximum allowable density for the lot on which they are located and shall be deemed a residential use that is consistent with the General Plan and zoning designation for the lot(s).

B. Setbacks For New Units.

1. Rear and side yard setbacks for new units shall be 4 feet.
2. The minimum front yard setback for the back parcel shall be 10 feet when facing the alley, and 5 feet when facing the new property line (see definitions). The minimum front yard setback for the front parcel shall comply with the development standards of Section 18.21.050.

C. **Off-street parking.** One off-street parking space is required for each unit unless the unit is located half a mile from a bus stop or there is a car share on the same block. Where feasible, parking access shall be provided from the alley for both parcels via an easement or parcel configuration. In no case will parking be accommodated within the alley setback. In no case will more than one curb cut be permitted per original parcel. Shared street access is required where street access is necessary for both parcels.

D. **Timing.** Units may be constructed simultaneously or at different times.

E. Exceptions to Development Standards

1. **Exceptions to Accommodate at least two 800 SF Units.** The Community Development Director shall modify or eliminate objective development standards if they prevent the construction of up to two units of at least 800 square feet in on each lot. The following objective development standards shall be modified last (and only if no other combination of modified standards permits at least two 800 SF Units): parking requirement, front setback, height limit.
2. **Non-conforming Setbacks.** The non-conforming setbacks of an existing structure may be retained for a new unit that is located in the same footprint.

F. Objective Design Review Standards

1. **Private open space and storage space.** Each unit must include 100 SF of private outdoor open space. Private open space shall be at the same elevation as and immediately accessible from within the unit. Each private open space area shall have a minimum dimension of 8 feet; except for upper-floor balconies where the private open space is provided as a balcony. Each unit must include 100 cubic feet of outdoor accessible storage space as part of the unit.

2. **Building facades adjacent to streets.** Dwelling units shall be sited and designed so that at least 75% of the facade of each building adjacent to a public street is occupied by habitable space with windows. Each facade adjacent to a street shall have at least one pedestrian entry into the structure.

G. Utilities

1. Separate Connections. The project shall include separate gas, electric and water utility connection directly between each dwelling unit and the utility.
2. Capacity fees. Units of less than 750 SF shall be exempt from paying capacity fees, and units of more than 750 SF shall pay a prorated share of the capacity fee.

H. Application Requirements. An application for development of allowable units under this section shall include the following materials.

- a. Site Plan – existing conditions,
- b. Site Plan – proposed project,
- c. Floor Plans, and
- d. Elevations and Finishes.

I. Required Findings for Denial. The denial of a proposed Urban Lot Split requires the Building Official to make the following finding:

1. Based upon a preponderance of the evidence, the proposed housing development would have a specific, adverse impact, as defined in Government Code section 65589.5, subdivision (d)(2), upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact; and
2. “Specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

SECTION 5. 18.100 Definitions Amendments

Chapter 18.100 is hereby amended to include the following definitions:

Urban Lot Split. A lot split authorized through 66411.7 and regulated by Section 18.84.045.

Urban Unit Development. Development authorized and regulated by Section 18.42.200.

Section 6. 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 or unconstitutional, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council of the City of Fort Bragg hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

Section 7. Effective Date and Publication. This ordinance shall be and the

same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage. Within fifteen (15) days after the passage of this Ordinance, the City Clerk shall cause a summary of said Ordinance to be published as provided in Government Code §36933, in a newspaper of general circulation published and circulated in the City of Fort Bragg, along with the names of the City Council voting for and against its passage.

The foregoing Ordinance was introduced by Councilmember _____ at a regular meeting of the City Council of the City of Fort Bragg held on December 11, 2023, and adopted at a regular meeting of the City of Fort Bragg held on March 25, 2024, by the following vote:

**AYES: NOES:
ABSENT: ABSTAIN:**

Mayor

ATTEST:

City Clerk

**PUBLISH: March 14, 2024 and April 4, 2024 (by summary).
EFFECTIVE DATE: April 25, 2024.**