

BEFORE THE CITY COUNCIL OF THE CITY OF FORT BRAGG

AN ORDINANCE AMENDING CHAPTER 17.31 – “DENSITY BONUSES AND AFFORDABLE HOUSING INCENTIVES” and CHAPTER 17.32 “INCLUSIONARY HOUSING REQUIREMENTS” OF THE FORT BRAGG COASTAL LAND USE AND DEVELOPMENT CODE TO COMPLY WITH CURRENT STATE LAW.

ORDINANCE NO. XXX-2026

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 adopted a Coastal General Plan (“Coastal GP”) as the Land Use Plan portion of the Local Coastal Program on May 12, 2008 which established policies for all land within the Fort Bragg Coastal Zone; and

WHEREAS, in August 2008 the California Coastal Commission certified the City’s Local Coastal Program (LCP) which includes the Coastal GP as the Land Use Plan; and

WHEREAS, The City Council adopted Resolution 3162-2008 on May 12, 2008 adopting the Coastal General Plan; and

WHEREAS, the City adopted a Coastal Land Use and Development Code in 2008 as the implementing portion of the Local Coastal Program on May 12, 2008, which established all land use regulations for the Coastal Zone; and

WHEREAS, the Coastal General Plan includes policies to: (1) advance the orderly growth and development of the City’s Coastal Zone; (2) protect coastal resources; (3) incorporate sustainability into the development process so that Fort Bragg’s coastal resources and amenities are preserved for future generations; (4) respond to current environmental and infrastructure constraints; (5) protect the public health, safety and welfare; and (6) promote fiscally responsible development; and

WHEREAS, the City Council adopted Ordinance (Ord. 930, § 2, passed 06-12-2017), amending 17.31 – “Density Bonuses and Affordable Housing Incentives” And Chapter 17.32 and 17.32 “INCLUSIONARY HOUSING REQUIREMENTS” to Chapter 17.30 “Standards for all Development and Land Uses” of the Fort Bragg Inland Land Use And Development Code to comply with new state law requiring that Inclusionary Housing ordinances not be a disincentive to housing development, and

WHEREAS, The City Council seeks to extend these revisions into the City’s Coastal Zone and will submit the attached ordinance as an LCP amendment; and

WHEREAS, Section 17.94.040 states that the Planning Commission shall forward a written recommendation, and reasons for the recommendation, to the City Council based on the findings identified in Section 17.94.060; and a resolution was transmitted to the City Council on **DATE**, 2025 that represents the Planning Commission’s recommendations; and

WHEREAS, the City Council has considered all public comments and a staff report dated **DATE**, 2026 regarding the proposed ordinance; the staff report is incorporated herein by reference and available for review at City Hall during normal business hours; and

WHEREAS, the proposed minor modification to the Coastal Land Use and Development Code is set forth in its entirety in Section 2-3 below; and

WHEREAS, the “activities and approvals by a local government necessary for the preparation and adoption of a local coastal program or long-range development plan” pursuant to the California Coastal Act are statutorily exempt from compliance with CEQA, and this statutory exemption “shifts the burden of CEQA compliance from the local agency to the California Coastal Commission (CEQA Guidelines § 15265 (c)).

NOW, THEREFORE, 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 State CEQA Guidelines, 14 California Code of Regulations §15000, et seq.; the Fort Bragg Coastal General Plan; the Fort Bragg Coastal Land Use and Development Code; State law; all reports and public testimony submitted as part of the City Council meeting of **DATE, 2026** and City Council deliberations; and any other evidence (within the meaning of Public Resources Code §21080(e) and §21082.2), and **NOW, THEREFORE, the City Council finds as follows:**

Section 1. Legislative Findings. The City Council hereby finds as follows:

1. The foregoing recitals are true and correct and are made a part of this Ordinance.
2. On **DATE, 2026**, the Planning Commission held a properly noticed public

hearing to consider recommending the proposed amendments to the Coastal 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 CLUDC.

3. On **DATE, 2026** the City Council held a properly noticed public hearing to consider adoption of the minor amendment to the Coastal Land Use and Development Code.
4. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City and seeks to be consistent with recently adopted State Laws regarding density bonus law (65915) and inclusionary housing (65583-65913) as codified in California Government Code; and
5. The proposed amendment is internally consistent with other applicable provisions of the Coastal Land Use Development Code, including its Chapters 17.42, 17.71, 17.100, and others; and the LCP Amendment is consistent with the California Coastal Act; The proposed amendment is consistent with CLUDC standards; and
6. Pursuant to Coastal Act Section 30510(a), the City of Fort Bragg will carry out the Local Coastal Program as amended in a manner fully in conformity with the California Coastal Act; and
7. The documents and other material constituting the record for these proceedings are located at the Community Development Department; and
8. 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.

Section 2. Based on the foregoing, the City Council hereby replaces in its entirety Chapter 17.31 "Density Bonuses and Affordable Housing Incentives" of the Coastal Land Use and Development Code of the Fort Bragg Municipal Code. As follows:

Chapter 17.31 - Density Bonuses and Affordable Housing Incentives

Sections:

[17.31.010 Purpose](#)

[17.31.020 Definitions](#)

[17.31.030 Density Bonus and Incentives Eligibility](#)

[17.31.040 Types of Density Bonuses](#)

[17.31.045 Incentives and Waivers/Modifications of Development Standards](#)

[17.31.050 Density Bonus and Incentive Procedures](#)

[17.31.060 Affordable Housing Regulatory Agreement](#)

17.31.010 - Purpose

A. This Chapter is intended to implement the requirements of State law (Government Code Section [65915](#) et seq.) and the Housing Element of the General Plan, by offering a density bonus and other incentives for the development of housing that is affordable to the types of households and qualifying residents identified in § [17.31.030](#) (Density Bonus and Incentives Eligibility), and for development of senior housing, all as further provided for in Government Code Section [65915](#).

B. This chapter also sets forth density bonus and housing incentives in addition to State law which encourage the development of housing that is affordable to a range of households with varying income levels.

17.31.020 - Definitions

The specialized and technical terms and phrases used in this Chapter are defined in Article [10](#) (Definitions), under “Affordable and Inclusionary Housing Requirements.”

"Effective date of this Chapter" means the date of Local Coastal Program effective certification by the Coastal Commission pursuant to Section 13544 of Title 14 of the California Code of Regulations.

17.31.030 - Density Bonus and Incentives Eligibility

In order to be eligible for a density bonus and/or other incentives as provided by this Chapter, a proposed housing development shall comply with the following requirements, and satisfy all other applicable provisions of this Development Code and State law, except as provided by § [17.31.040](#) (Types of Density Bonuses):

A. Housing development. In order to qualify for a density bonus and incentives, the housing development shall meet Government Code Section [65915](#)(b) requirements with regard to affordability, household income levels, and senior housing.

B. Redevelopment of nonvacant sites. Per Government Code Section [65915](#)(c)(3)(A), to qualify for a density bonus and/or incentives a project proposed for a nonvacant site shall be ineligible for a density bonus, incentives or concessions if the housing development is proposed on property that includes parcel(s) with affordable rental dwelling units (subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income or are occupied by lower or very low income households) or which had affordable rental dwelling units that have been vacated or demolished in the 5-year period preceding the application; unless the proposed housing development replaces those units, and either of the following applies:

1. The proposed housing development, inclusive of the units replaced pursuant to this Subsection, contains affordable units at the percentages set forth in Government Code Section [65915](#)(b); or
2. Each unit in the development, exclusive of a manager’s unit or units, is affordable to, and occupied by, either a lower or very low income household.

C. Minimum project size to qualify for density bonus. The density bonus shall be available only to a housing development that provides affordable housing in compliance with Chapter [17.32](#) (Inclusionary Housing Requirements), or in compliance with State law.

D. Condominium conversion projects. A condominium conversion project is eligible for a density bonus or incentives if it complies with the eligibility and other requirements in State law (Government Code Section [65915.5](#)).

E. “Sweat equity” developments. A “sweat equity” housing development is eligible for incentives in compliance with § [17.31.045\(B\)\(5\)](#) (Incentives for affordable housing projects – Incentives for “sweat equity” developments).

F. Donations of land. The donation of land makes a project eligible for a density bonus if it satisfies all of the requirements of Government Code Section [65915\(g\)](#).

17.31.040 - Types of Density Bonuses

The amount of a density bonus and the extent of other incentives allowed for a proposed housing development shall be determined by the review authority in compliance with State law and this Section.

A. Amount of density bonus.

- 1.** The amount of density bonus provided by the City of Fort Bragg shall comply with State law, Government Code Section [65915\(f\)](#). In reviewing a proposed density increase, the City shall identify all feasible means of accommodating the density increase and consider the effects of such means on coastal resources. The City shall only grant a density increase if the City determines that the means of accommodating the density increase proposed by the applicant does not have an adverse effect on coastal resources. If, however, the City determines that the means for accommodating the density increase proposed by the applicant will have an adverse effect on coastal resources, the City shall not grant the density increase.
- 2.** If a density bonus and/or other incentives cannot be accommodated on a site due to strict compliance with the provisions of this Development Code, the Council may modify or waive other development standards as necessary to accommodate all bonus units and other incentives to which the development is entitled only if it is determined that the means of accommodating the proposed development standard modifications would not have an adverse effect on coastal resources. If, however, the City determines that the means for accommodating the proposed development standard modifications would have an adverse effect on coastal resources, the City shall not grant the development standard modifications.
- 3.** A development shall be entitled to additional incentives or concessions as provided by State law, if the additional requirements of the State law (Government Code Section [65915\(d\)\(2\)](#)) are met and only if it is determined that the means of accommodating the additional incentives or concessions would not have an adverse effect on coastal resources. If, however, the City determines that the means for accommodating the additional incentives or concessions would have an adverse effect on coastal resources, the City shall not grant the development standard modifications.

4. Any housing development approved pursuant to Government Code Section 65915 shall be consistent with all applicable certified Local Coastal Program policies and development standards.

B. Additional density bonus. Housing developments that qualify for a density bonus under State law may be eligible for an additional density bonus by the review authority, as outlined below:

1. **Bonus for preferred design and/or green design.** An additional 5% density bonus may be granted to developments with preferred design features and/or green/environmentally sustainable design features as determined by the Planning Commission and defined in the General Plan and the Citywide Design Guidelines.

2. **Relation to maximum statutory bonus density.** Bonus densities under State law are limited to an aggregate amount of 35%. The above local density bonus shall be in addition to and does not count towards calculating the aggregate statutory density bonus.

3. **Bonus or incentives allowed for housing development with child care facility.** A housing development that complies with the resident requirements of State law and also includes a child care facility on the premises shall be eligible for an additional bonus or incentives, subject to compliance with the requirements as stipulated by Government Code Section [65915\(h\)](#).

4. **Consider Impact on Coastal Resources.** In reviewing a proposed additional density bonus, the City shall identify all feasible means of accommodating the additional density bonus and consider the effects of such means on coastal resources. The City shall only grant an additional density bonus if the City determines that the means of accommodating the additional density bonus proposed by the applicant does not have an adverse effect on coastal resources. If, however, the City determines that the means for accommodating the additional density bonus proposed by the applicant will have an adverse effect on coastal resources, the City shall not grant the additional density bonus.

17.31.045 - Incentives and Waivers/Modifications of Development Standards

A. Waivers/modifications of development standards. If a density bonus and/or other incentives cannot be accommodated on a site due to strict compliance with the development standards of this Development Code, the applicant may request and the Council shall modify or waive such development standards as necessary to accommodate all bonus units and other incentives to which the development is entitled, unless the waiver or modification would have an adverse impact as further defined in Government Code Section [65915\(e\)\(1\)](#).

B. Incentives for affordable housing projects.

1. **Available concessions or incentives.** A housing development qualifying for a density bonus under Government Code Section [65915\(b\)](#) shall be entitled to concessions

or incentives identified by Government Code Section [65915\(k\)](#), with the number of incentives as established in Government Code Section [65915\(d\)](#).

2. Preferred or pre-approved Council incentives. The City has established a set of preferred incentives by resolution from which developers may select an incentive with certainty of approval by the Council.

3. Applicant specified concessions or incentives. An applicant may submit to the City a request for specific concessions or incentives in compliance with this Section and State law.

5. Incentives for “sweat equity” developments. A “sweat equity” development in compliance with § [17.31.030\(D\)](#) (Density Bonus Eligibility and Incentives, “Sweat equity” developments) may be granted incentives only as follows:

- a. One incentive will be granted to a development where 100% of the units are provided to low income households; or
- b. Two incentives may be granted to a development where 100% of the units are provided to very low income households.

6. Limitations on concessions or incentives if adverse effects on coastal resources. In reviewing a proposal for one or more of the above incentives, the City shall consider all feasible alternative incentives and their effects on coastal resources. The City shall only grant one or more of the above incentives if the City determines that the incentive(s) proposed pursuant to this section will not have any adverse effects on coastal resources. The City may grant one or more of those incentives that do not have an adverse effect on coastal resources. If all feasible incentives would have an adverse effect on coastal resources, the City shall not grant any of the incentives.

C. Procedures for approval.

1. Required Findings. In addition to the findings required by Section 17.71.060 for the approval of a Use Permit and the findings required by Section 17.71.045 of this Development Code for the approval of a Coastal Development Permit, the approval of a density bonus and other incentives shall require that the review authority first make all of the following additional findings:

- a. The residential development project will be consistent with the General Plan and the certified LCP;
- b. The approved number of dwelling units can be accommodated by existing and planned infrastructure capacities;
- c. Adequate evidence exists to indicate that the proposed residential project will provide affordable housing in a manner consistent with all standards set forth in Government Code Section 65915;
- d. In the event that the City does not grant at least one financial concession or incentive as defined by State law (Government Code Section 65915) in addition to the

density bonus, additional concessions or incentives are not necessary to ensure affordable housing costs as defined in Health and Safety Code Section 50052.5, or for rents for the targeted units to be set as specified in Government Code Section 65915(c); and

e. There are sufficient provisions to guarantee that the affordable dwelling units will remain affordable for the required time period.

f. The approved density bonus and other incentives do not have an adverse effect on coastal resources.

2. Calculation of Bonus. In accordance with Government Code Section 65915 (g), the density bonus shall be calculated based on the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the LCP. The "otherwise maximum allowable residential density" shall mean the maximum density determined by applying all site-specific environmental development constraints applicable under the coastal zoning ordinance and land use plan certified by the Coastal Commission.

3. Bonus shall be consistent with LCP. Any housing development approved pursuant to Government Code Section 65915 shall be consistent with all applicable certified local coastal program policies and development standards. In reviewing a proposed density increase, the City shall identify all feasible means of accommodating the density increase and consider the effects of such means on coastal resources. The City shall only grant a density increase if the City determines that the means of accommodating the density increase proposed by the applicant does not have an adverse effect on coastal resources. If, however, the City determines that the means for accommodating the density increase proposed by the applicant will have an adverse effect on coastal resources, the City shall not grant the density increase.

4. Granting of Incentives. In addition to a density bonus, the City shall grant to a housing development that complies with the provisions of Section A. above, one of the incentives or concessions identified in Government Code Section 65915(h), unless the City finds that an incentive or concession is not required in order to provide for affordable housing costs or rents. In reviewing a proposed incentive or concession, the City shall consider all feasible alternative incentives and concessions and their effects on coastal resources. The City shall only grant an incentive or concession if the City determines that the development incentive or concession requested by an applicant pursuant to this section will not have any adverse effects on coastal resources. The City may grant one or more of those incentives or concessions that do not have an adverse effect on coastal resources. If all feasible incentives or concessions would have an adverse effect on coastal resources, the City shall not grant any incentive or concession.

5. Required findings to reject concession or incentive. The City shall grant the concession or incentive requested by the applicant unless the Council makes a written finding, based upon substantial evidence, of any of the following:

a. The concession or incentive is not required in order to provide for affordable housing costs, as defined in Health and Safety Code Section [50052.5](#), or for rents for the targeted units to be set as affordable to very low, low, or median or moderate income households as required; or

b. The concession or incentive would have a specific adverse impact, as defined by Government Code Section [65589.5\(d\)\(2\)](#), upon public health and safety, or the physical environment, or on any real property listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low and moderate income households; or

c. The concession or incentive would be contrary to State or Federal law.

6. Finding when concession or incentive not required. The City shall approve one or more of the above incentives, notwithstanding the other provisions of this Chapter, unless it makes a written finding, based on substantial evidence, that the additional concession or incentive is not required in order to provide for affordable housing costs as defined in Health and Safety Code Section 50052.5, or for rents for the targeted units to be set in compliance with Government Code Section [65915\(c\)](#), or all feasible incentives would have an adverse effect on coastal resources.

17.31.050 - Density Bonus and Incentive Procedures

A. Processing requirements. A request for a density bonus and/or incentives shall be evaluated and decided concurrently with the related housing development project and in compliance with Government Code Section [65915](#). A request for a density bonus and other incentives may also require a Coastal Development Permit.

B. Application Procedures. The project applicant shall submit the following to the review authority so that the review authority can determine if the project is eligible for a density bonus and/or incentives:

1. A written request specifying how the proposed housing development or senior housing qualifies for a density bonus under Government Code Section [65915\(b\)](#);
2. A written proposal for specific incentives or concessions under Government Code Section [65915\(d\)](#);
3. A written request for waiver or modification of incentives under Government Code Section [65915\(e\)](#);
4. A draft affordable housing agreement consistent with Subsection (C) of this Section and Government Code Section [65915\(c\)](#); and
5. A project pro forma.

C. Affordable housing regulatory agreement. An affordable housing regulatory agreement shall be recorded against the relevant property consistent with the requirements of Government Code Section [65915\(c\)](#). An applicant requesting a density bonus and/or incentives under this Chapter or under State law shall draft, and agree to enter into, an affordable housing regulatory agreement with the City ("agreement"). The agreement shall include the contents and provisions

as described in § [17.32.085](#) as applicable. The terms of the draft agreement shall be reviewed as appropriate by the City Manager and/or the City Attorney.

D. Control of affordable unit resale. In order to maintain the availability of the for-sale affordable units constructed in compliance with this Chapter, the resale conditions established in § [17.32.060](#)(D) shall apply. Any abuse in the resale provisions shall be referred to the City Attorney for appropriate action.

17.31.060 - Affordable Housing Regulatory Agreement

A. Affordable housing regulatory agreement. The applicant shall execute and cause to be recorded a density bonus regulatory agreement (“agreement”) between the City and the developer. The agreement shall be executed by the City Manager, and shall be recorded against the property receiving the density bonus.

1. Agreement contents. The agreement shall include at least the following information:

- a. Number of dwelling units.** The total number of dwelling units approved for the housing development project, including the number of density bonus units;
- b. Description and location of units.** The location, unit sizes (in square feet), and number of bedrooms of the dwelling units;
- c. Use of property.** A description of the use of the property stating that the units shall be used to provide housing to qualifying households under the provisions of this Chapter and Government Code Section [65915](#)(f);
- d. Description of targeted income group.** A description of the household income group to be accommodated by the housing development project, and the standards and methodology for determining the corresponding affordability consistent with this Chapter and State law;
- e. Nondiscrimination clause.** The clause shall state that there shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, creed, religion, sex, marital status, sexual orientation, national origin or ancestry in the sale, transfer, use, occupancy, or enjoyment of an affordable unit, or any part thereof. Nor shall any developer establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, use, or occupancy of purchasers or occupants of the affordable units, or parts thereof;
- f. Length of affordability.** Description of the affordability restrictions for the affordable dwelling units in compliance with Government Code Section [65915](#)(c), requiring 15 years of continuing affordability;
- g. Description of concessions and/or incentives.** A description of the additional concessions and/or incentives sought of the City;

h. Remedies for breach of the agreement. A description of the remedies for breach of the affordable housing regulatory agreement by the owners, developers, and/or successors-in-interest of the development project;

i. Other provisions. Other provisions to ensure successful implementation and compliance with this Chapter.

2. Agreement provisions. The agreement shall include at least the following provisions:

a. Continuing right-of-first-refusal. The developer shall give the City the continuing right-of-first-refusal to purchase any or all of the affordable dwelling units at a sales price for the affordable dwelling unit consistent with the limits established for low, very low, or moderate income households, as published by HUD;

b. Written approval of City required prior to transfer of unit. The deeds to the affordable dwelling units shall contain a covenant stating that the developer or successors-in-interest shall not assign, sell or otherwise transfer any interests for the affordable dwelling units without the prior written approval of the City;

c. Confirmation of price by City. When providing the written approval, the City shall confirm that the sales price of the affordable dwelling unit is consistent with the limits established in § [17.32.060\(D\)\(1\)](#);

d. Occupied by eligible households. The City shall have the authority to enter into other agreements with the developer, or purchasers of the affordable dwelling units, to ensure that the required dwelling units are occupied by eligible households for the minimum time of continued affordability as described in Subsection (A)(1)(f) of this Section;

e. Enforcement of compliance. Applicable deed restrictions, in a form satisfactory to the City Attorney, shall contain provisions for the enforcement of owner or developer compliance;

f. Failure to comply. Any default or failure to comply may result in daily penalties, liens, foreclosure, specific performance, or withdrawal of the certificates of occupancy;

g. Recovery of all City-related costs. In any action taken to enforce compliance with deed restrictions, the City Attorney shall, if compliance is ordered by a court of competent jurisdiction, take all action that may be allowed by law to recover all of the City's costs of action including legal services;

h. Eligible and qualified residents. The affordable dwelling units shall be owner-occupied by eligible moderate or median income households, or by qualified residents in the case of senior housing;

i. Mandatory contents of instrument or agreement. The initial purchaser of each affordable dwelling unit shall execute an instrument or agreement approved by the City which:

i) Restricts the sale of the unit in compliance with this Chapter during the affordability restriction period. If the unit is sold, the City shall be entitled to receive the amount of the sales price which exceeds the maximum sales price (as defined in § [17.32.060\(D\)\(1\)](#)) less reasonable costs of the sale plus the value of substantial structural or permanent fixed improvements;

ii) Contains provisions as the City may require to ensure continued compliance with this Chapter and State law; and

iii) Shall be recorded against the parcel(s) containing the affordable dwelling unit(s); and

j. Affordability restriction period. The applicable affordability restriction period shall be in compliance with Government Code Section [65915\(c\)](#), requiring 15 years of continuing affordability for for-sale units and 25 years of continuing affordability for rental units.

3. Execution of agreement.

a. Timing of approval and recordation. The approval and recordation of the agreement shall take place at the same time as the final or parcel map or, where a map is not being processed, before issuance of certificates of occupancy for the inclusionary dwelling units.

b. Binding on all parties. The agreement shall be binding on all future owners, developers, and/or successors-in-interest.

B. Effect of plan and agreement. After the approval of the density bonus and the recording of an affordable housing regulatory agreement, each affordable housing unit shall be constructed as required, and shall be sold and maintained as an affordable unit, in compliance with the plan and agreement.

Section 3. Based on the foregoing, the City Council hereby replaces in its entirety Chapter 17.32 “Inclusionary Housing Requirements” of the Coastal Land Use and Development Code of the Fort Bragg Municipal Code. As follows:

17.32 Inclusionary Housing Requirements

Sections:

17.32.010 Purpose

17.32.020 Definitions

17.32.030 Inclusionary Housing Applicability and Exempt Projects

- 17.32.040 Inclusionary Housing Requirements
- 17.32.050 Alternative Equivalent Action
- 17.32.060 Inclusionary Housing Phasing, Agreements and Affordability
- 17.32.070 Inclusionary Housing Incentives
- 17.32.080 Inclusionary Housing Plan
- 17.32.085 Inclusionary Housing Regulatory Agreement
- 17.32.090 Inclusionary Housing Trust Fund
- 17.32.100 Enforcement of Affordable Housing Requirements

17.32.010 - Purpose

This Chapter requires the development of affordable housing in new development projects providing 5 or more housing units that are intended for sale or rent.

- A. This Chapter establishes standards and procedures to implement the inclusionary housing requirements identified in § [17.32.040](#) (Inclusionary Housing Requirements).
- B. This Chapter is intended to implement the requirements of Government Code Sections [65583](#) and [65913](#), and the Housing Element of the General Plan, by increasing the production of residential units affordable to low, moderate and median income households. This Chapter complements the density bonus provisions of Chapter [17.31](#) and assures that new housing development contributes to attaining the City's housing goals.

17.32.020 - Definitions

The specialized and technical terms and phrases used in this Chapter are defined in Article [10](#) (Definitions), under "Affordable and Inclusionary Housing Requirements."

"Effective date of this Chapter" means the date of Local Coastal Program certification by the Coastal Commission pursuant to Section 13544 of Title 14 of the California Code of Regulations.

17.32.030 - Inclusionary Housing Applicability and Exempt Projects

A. Applicability. The requirements of this Chapter apply to all housing developments proposed with four or more dwelling units, except as noted in Subsection B. The requirements of Chapter 17.32 do not replace, supersede or modify the independent requirement for a CDP approved pursuant to the otherwise applicable policies and standards of the certified LCP. However, Sections 17.32.070, 17.32.090, 17.32.100, and 17.32.110 shall not apply to the review and approval of Coastal Development Permits.

- 1. Compliance with the requirements of this Chapter shall be verified by the review authority prior to submittal of an application as part of the Voluntary Conceptual Preliminary Approval of Incentives 17.32.070 (1) process, or as part of the required application process, as applicable.

2. Each inclusionary dwelling unit required by this Chapter shall be sold or rented in compliance with this Chapter.

B. Conversion of rental project to for-sale project. Residential projects approved as rental developments after the effective date of this Chapter shall be subject to its inclusionary requirements if the project or any of the rental units therein are proposed to convert to for-sale units.

C. Exempt projects. The following residential projects are exempt from the inclusionary housing requirements of this Chapter:

1. **Project with prior approval.** A residential project that has obtained:
 - a. Discretionary approval (e.g., a Coastal Development Permit, Use Permit, Design Review, Planned Development Permit, or Variance approval) before the effective date of this Chapter; or
 - b. A Building Permit before the effective date of this Chapter; or
 - c. A Certificate of Occupancy before the effective date of this Chapter.
2. **Exempt by State law.** A residential project that is exempt from this Chapter by State law.
3. **Project with vested rights.** A residential project for which the City has entered into a development agreement before the effective date of this Chapter, or which otherwise demonstrates a vested right to proceed without complying with this Chapter.
4. **Involuntarily damaged or destroyed dwelling unit.** Any dwelling unit(s) in existence prior to the effective date of this Chapter that is (are) damaged or destroyed by fire or natural catastrophe so long as the square footage and use of the replacement or repaired structure remain(s) the same.
5. **Affordable housing units.** All affordable units shall be exempt from the inclusionary housing requirement, including those in mixed-income developments, mixed-use developments, sweat equity projects, senior housing projects, housing projects for people with special needs, and other affordable housing units as determined by the Director. In order to be exempt from the inclusionary housing requirements the affordable housing units shall be affordable for a minimum of 15 years.
6. **Small project.** A residential development project with 4 or fewer dwelling units or a minor subdivision.
7. **One-bedroom residential units.** One-bedroom residential units that are less than 600 square feet shall be exempt from the inclusionary requirement in order to encourage the production of small units.

17.32.040 - Inclusionary Housing Requirements

A. Number of inclusionary housing units required for nonsubdivision projects with 5 or more residential units.

1. **All developments that include 5 to 10 residential units.** All rental and “for sale” developments of 5 to 10 units must construct 20% of residential units to be “affordable by design” as defined in Article [10](#) (Definitions).
2. Developments that include more than 10 residential units to be sold shall include inclusionary units as follows:
 - a. If 11 to 20 residential units, the applicant shall construct 10% of all new dwellings as inclusionary units, or complete an approved alternative equivalent action, subject to all requirements in compliance with this Chapter.
 - b. If 21 or more residential units, the applicant shall construct 15% of all new dwellings as inclusionary units, or complete an approved alternative equivalent action, subject to all requirements in compliance with this Chapter.
3. Development projects that include more than 10 residential rental units shall comply with requirements below, only if the developer enters into a contract with the City of Fort Bragg and requests and receives 1 or more incentives or a density bonus:
 - a. If the project includes 11 to 20 residential rental units, the applicant shall construct 10% of all new dwellings as inclusionary units, or an approved alternative equivalent action, subject to all requirements in compliance with this Chapter.
 - b. If 21 or more residential units for sale, the applicant shall construct 15% of all new dwellings as inclusionary units, or an approved alternative equivalent action, subject to all requirements in compliance with this Chapter.
 - c. As an alternative to constructing inclusionary units, the developer may pay an in-lieu fee that is calculated based on the requirements outlined in Subsections (A)(1) and (2) of this Section.
4. **Fractional units.** If the calculation of the required number of units results in a fraction of units, the developer must construct the additional inclusionary unit, pay a proportional fraction of the in-lieu fee, or perform an alternative equivalent action approved by the Council in compliance with § [17.32.050](#) (Alternative Equivalent Action) for the fraction.

B. Inclusionary requirement for subdivision projects with 5 or more residential lots.

1. If a proposal involves the major subdivision of a residentially zoned parcel the inclusionary requirement shall be met either through: (a) the construction of inclusionary housing; (b) the donation of net land for the construction of inclusionary housing; or (c) an alternative equivalent action (§ [17.32.050](#)).

a. All major subdivisions that result in the creation of 5 to 10 lots shall be deed restricted such that 20% of the lots must include residential units to be “affordable by design” as defined in Article [10](#) (Definitions).

b. All major subdivisions that result in the creation of 11 to 20 lots shall require: (i) that 10% of the net land be donated to the City or its designated agency for the construction of inclusionary units; (ii) the construction of 10% of the units as inclusionary units; or (iii) an approved alternative equivalent action. Land donations must have the appropriate General Plan designation, zoning, and development standards to permit the feasible development of inclusionary units and be served by adequate public facilities and infrastructure.

c. All major subdivisions that result in the creation of more than 20 lots shall require: (i) that 15% of the net land be donated to the City or its designated agency for the construction of inclusionary units; (ii) the construction of 15% of the units as inclusionary units; or (iii) an approved alternative equivalent action. Land donations must have the appropriate General Plan designation, zoning, and development standards to permit the feasible development of inclusionary units and be served by adequate public facilities and infrastructure.

2. The satisfaction of the inclusionary requirement for major subdivisions shall be included in and described on the tentative map at the time of application. The description shall include acreage and location of any proposed land donation.

17.32.050 - Alternative Equivalent Action

A developer of a project with residential units may comply with the requirements of [§ 17.32.040](#) (Inclusionary Housing Requirements) above by an alternative equivalent action approved by the City Council in compliance with this Section.

A. Scope of alternative proposals. A proposal for an alternative equivalent action may include:

1. Construction of secondary units. For single-family subdivision projects of between 11 and 30 lots, a developer may build small secondary units in lieu of inclusionary units. Two “small secondary units” are equal to 1 inclusionary unit. Single-family subdivision projects with 30 lots or more may only utilize secondary units as an alternative equivalent action for the first 30 lots of the project; or

2. Donation of vacant land. Land donations for the construction of inclusionary units as part of a subdivision without development or as an alternative equivalent action must meet the following requirements:

a. Have the appropriate General Plan designation, zoning, and development standards to permit the feasible development of affordable units in an amount equal to at least 15% of the units in the residential development;

b. Be served by adequate public facilities and infrastructure; and

- c. Be subject to an affordability covenant or deed restriction to ensure continued affordability; or
- 3. Construction of inclusionary units on another site subject to Council approval; or
- 4. Payment of an inclusionary housing in-lieu fee, in an amount as set forth in a resolution of the City Council, which may be amended from time to time to reflect inflation and changed conditions in the City and the region; or
- 5. Any on-site or off-site alternative equivalent action recommended by the Community Development Committee and approved by City Council; or
- 6. A combination of the above strategies, as approved by City Council.

B. Content of proposal. A proposal for an alternative equivalent action shall show how the alternative action proposed will further affordable housing opportunities in the City to an equal or greater extent than compliance with the requirements of § [17.32.040](#) (Inclusionary Housing Requirements). If required by the City, the applicant shall provide or pay for an independent third party review/analysis of the equivalence of the proposed alternative action.

C. Review and approval. A proposal for an alternative equivalent action shall be specified in the inclusionary housing plan submitted with the applications for the residential development. The proposal shall be processed concurrently with the residential development applications except that the review authority for an alternative equivalent action shall be the Council. **Except for donations of land, a proposed alternative equivalent action will also require a Coastal Development Permit.**

D. Criteria for approval. A proposal for an alternative equivalent action to satisfy the requirements of this Chapter may be approved at the Council's discretion, if the Council first determines that the alternative action will further affordable housing opportunities in the City to an equal or greater extent than compliance with the otherwise applicable requirements of § [17.32.040](#) (Inclusionary Housing Requirements). **In reviewing a proposed alternative equivalent action, the City shall consider all feasible alternative equivalent actions and their effects on coastal resources. The City shall only grant an alternative equivalent action if the City determines that the alternative equivalent action requested by an applicant pursuant to this section will not have any adverse effects on coastal resources. The City may grant approval of an alternative equivalent action that does not have an adverse effect on coastal resources. If all feasible alternative equivalent actions would have an adverse effect on coastal resources, the City shall not grant any alternative equivalent actions.**

17.32.060 - Inclusionary Housing Phasing, Agreements and Affordability

A. Timing and phasing of unit construction. All inclusionary units within a residential project shall be constructed concurrent with, or before, the construction of the market rate dwelling units. If the City approves a phased project, the required inclusionary units shall be provided within each phase of the residential project with their number in proportion to the total number of units in the phase in relation to the total number of units in the project, or phased in another sequence acceptable to the City as approved by the review authority. Certificates of

occupancy will be issued for increments of no more than 7 market rate units before certificates of occupancy are issued for the corresponding inclusionary unit(s).

B. Recordation of inclusionary housing agreement. The recordation of the inclusionary housing regulatory agreement, as described in § [17.32.085](#), shall take place at the same time as the final or parcel map or, where a map is not being processed, before issuance of any certificates of occupancy.

C. Affordability requirements.

1. For-sale units. One-half of the required inclusionary units shall be available at sales prices affordable to households whose annual household income does not exceed 100% of area median income as defined in Article [10](#) (Definitions). The remaining 1/2 of the required inclusionary units shall be available at sales prices affordable to moderate income households whose annual household income does not exceed 120% of area median income with priority given to essential public service employees within the City as defined in Article [10](#) (Definitions).

2. Rental units. One-half of the required units shall be available at rents affordable to low income households whose annual household income does not exceed 80% of area median income; and the remaining half of the inclusionary units shall be available at affordable rents to moderate income households whose annual household income does not exceed 120% of area median income, with priority for rental given to essential public service employees within the City as defined in Article [10](#) (Definitions), who meet income eligibility requirements.

D. Continued affordability. The procedures to maintain the continued affordability of the inclusionary units shall be included in the inclusionary housing plan submitted with the development project application and shall be subject to approval by the City as described in § [17.32.080](#).

1. Term of affordability.

a. For-sale inclusionary units shall be affordable for 15 years. If a “for sale” inclusionary unit is resold during this term, the equity accrued shall be apportioned as follows:

i) Equity accrual to the property owner during the first 5 years shall be limited to equity accrued through the mortgage and down payments (less all outstanding mortgage, taxes and liens); it shall not include market related appreciation. At the resale of an inclusionary unit within the first 5 years of the term, all market rate equity shall be paid to the City's Housing Trust Fund.

ii) Equity accrual to the property owner who sells an inclusionary unit in years 6 through 15 shall include 10% of the market appreciation per year of ownership, after repayment of the mortgage, taxes and any outstanding liens. The remaining market rate equity shall be paid to the City's Housing Trust Fund.

iii) After 15 years the unit will not be an inclusionary housing unit, and resale may proceed without a payment to the City's Housing Trust Fund.

b. Inclusionary housing rental units shall be affordable for 25 years.

2. Resale restrictions. In order to maintain the availability of the for-sale inclusionary units constructed in compliance with this Chapter, resale of the units shall be restricted as follows:

a. Written notice of intent to sell, City option. Resale restrictions shall provide that, before offering an inclusionary unit for sale, the seller shall provide written notice to the Director, by certified mail, of their intent to sell. The City or its designee shall be granted an option to purchase the unit for sale, with a maximum of 60 days to exercise the option, and a maximum of 120 days to conclude the purchase, in addition to the time for exercising the option.

b. Payment of Inclusionary housing in-lieu fee. If the unit is sold prior to the 15-year term of affordability, the seller shall pay to the City's Housing Trust Fund an inclusionary housing fee in the amount calculated according to Subsection (D)(1)(a) of this Section. This fee shall be paid as part of the escrow process for the resale of the unit.

3. Rental restrictions. An inclusionary unit may be leased or subleased to an income qualified eligible renter (per Subsection (C)(2) of this Section, Affordability requirements for rental units) upon review of the renter's income qualifications by the Director.

E. Eligibility of households.

1. No household shall be allowed to purchase an inclusionary unit, unless the City or its designee has approved the household's eligibility, or has failed to make a determination of eligibility within the time or other limits provided by an inclusionary housing agreement or resale restrictions.

2. The eligibility of potential occupants of inclusionary units shall be determined on the basis of household income at the time of purchase as defined in this Chapter, the relationship between household size and the size of the available units, and any further criteria required by law and/or established by the City Council. The housing developer shall use an equitable selection method established in conformance with the terms of this Chapter and in compliance with State and Federal law. Selection from eligible households shall be based on the affordable housing priorities established below:

a. Priority 1. Essential public service employees as defined in Article [10](#) (Definitions), City of Fort Bragg employees, or child care workers employed in Fort Bragg. If essential public service employees do not purchase the inclusionary units, the units shall be made available to other eligible Priority 1 applicants, prior to being made available to Priority 2 applicants.

b. Priority 2. Other eligible households who live in Fort Bragg and who are also employed within Fort Bragg City limits. When the list of Priority 2 applicants is exhausted, units may be sold to Priority 3 households.

c. Priority 3. Other eligible households.

F. Annual monitoring.

1. Inclusionary units shall be monitored on an annual basis by the City (or its designee) to ensure that units have not been resold to an unqualified owner (on the basis of income).
2. Monitoring may be achieved by a third party, may include self-certification, may involve review of utility records, or may include any other reasonable method of monitoring as approved by the Director.
3. All owners that initially qualified for inclusionary housing retain their right to inhabit their inclusionary housing unit should their income increase above qualifying levels.

G. Discretionary permit and map requirements for projects subject to this Chapter.

1. **Discretionary permits.** Each discretionary permit for a residential project that is subject to this Chapter and approved after the effective date of this Chapter shall contain a condition detailing the method of compliance with this Chapter.
2. **Final or Parcel Maps.** Each Final or Parcel Map shall have a written notation indicating that compliance with the requirements of this Chapter shall be met for each parcel created by the map, unless the requirements of this Chapter have been satisfied by an alternative equivalent action approved by the City.

H. Requirements for certificate of occupancy or final building inspection. A temporary or permanent certificate of occupancy shall not be issued, or a final building inspection approved, for any new residential project with more than 4 dwelling units of a major subdivision until:

1. The developer has satisfactorily completed the requirements of this Chapter (e.g., on-site construction of affordable units or alternative equivalent actions); or
2. The developer has demonstrated to the satisfaction of the Director that an exemption as described in § [17.32.030](#) (Inclusionary Housing Applicability and Exempt Projects) is applicable.

17.32.070 - Inclusionary Housing Incentives

A. Authority for incentives. A residential development that complies with the inclusionary housing requirements in § [17.32.040](#), through the actual construction of inclusionary units, shall be entitled to the following procedures and incentives:

1. **Voluntary pre-application review of requested incentives.**

a. Before the submittal of any formal application for a housing development, the developer may request a pre-application review by the Director or the City Council of requested incentives.

b. Voluntary pre-application review shall not bind the Director or City Council, but rather shall be subject to the discretion of the review authority to accept, reject, or modify any preliminary recommendations based upon a full review of the formal application, including all pertinent project information and any CEQA analysis, presented at the public hearing on the application.

2. Priority processing of applications. Project applications that include the construction of inclusionary units shall be expedited by each City department involved with the application.

3. Pre-approved incentives. The Council has adopted by resolution a set of pre-approved incentives, which may be amended from time to time. Project applicants with projects that include inclusionary housing may select an incentive from this resolution without the need of further approval for the selected incentive.

17.32.080 - Inclusionary Housing Plan

A. Inclusionary housing plan. The applicant for a residential project that is subject to this Chapter shall submit an inclusionary housing plan as part of the project application(s), detailing how the provisions of this Chapter will be implemented. The inclusionary housing plan shall include the number and income level of any required inclusionary units, any related occupancy restrictions, any resale or other controls to ensure continued affordability of the inclusionary units, a detailed pro forma if requested by the Director, any requested incentives or waivers, any proposed alternative equivalent action, and any other information necessary to review compliance with the requirements of this Chapter. The inclusionary housing plan shall be considered and acted upon by the review authority at the same time as the residential development that is the subject of the plan.

B. Conditions of approval. Any tentative map, use permit or other permit approving residential development projects subject to this Chapter shall contain conditions sufficient to ensure compliance with the provisions of this Chapter. Such conditions shall include but not be limited to the number of inclusionary units required, the schedule of construction for the inclusionary units, the applicant's manner of compliance with this Chapter, and shall require the execution and recordation of an agreement imposing appropriate resale and other controls to maintain continued affordability of the inclusionary units for the required time.

17.32.085 - Inclusionary Housing Regulatory Agreement

A. Inclusionary housing regulatory agreement. The applicant shall execute and cause to be recorded an affordable housing regulatory agreement ("agreement") between the City and the developer to implement the provisions of this Chapter and any approved inclusionary housing plan. The agreement once approved and executed by the City Manager shall be recorded against the property containing the inclusionary units.

17.32.090 - Inclusionary Housing Trust Fund

A. Inclusionary Housing Trust Fund established. There is hereby established the City of Fort Bragg Inclusionary Housing Trust Fund (the "Housing Fund"). Inclusionary housing in-lieu fees collected pursuant to this Chapter shall be deposited into the Housing Fund. Separate accounts within the Housing Fund may be created as necessary to avoid commingling as required by law, or as deemed appropriate to further the purposes of the Fund.

B. Use of funds. The City's use of the Housing Fund shall comply with the following requirements:

1. Monies deposited in the Housing Fund along with any interest earnings shall be used solely to increase and improve the supply of affordable housing in the City, including:
 - a. The acquisition of property and property rights;
 - b. The cost of construction including costs associated with planning, administration, and design, actual building or installation, and any other costs associated with the construction or financing of affordable housing beyond that which is required by this Chapter for a specific development;
 - c. Reimbursement to the City for costs if funds were advanced by the City from other sources; and
 - d. Reimbursement of developers or property owners who have constructed affordable housing units beyond that which is required by this Chapter for a specific development.
2. To the maximum extent possible, all monies should be used to provide for additional affordable housing and services.
3. No portion of the Housing Fund may be diverted to other purposes by way of loan or otherwise.

17.32.100 - Enforcement of Affordable Housing Requirements

A. Enforcement by City Manager. The City Manager shall enforce the provisions of this Chapter and may initiate revocation of any building permit or development approval in accordance with § [17.98.070](#). The City may institute any appropriate legal actions or proceedings necessary to ensure compliance with this Chapter, including civil action, injunctive relief, and any other proceeding or method allowed by Chapter [17.98](#) or other law.

B. Remedies cumulative not exclusive. The remedies available to the City shall be cumulative and not exclusive and shall not preclude the City from any other remedy or relief to which it otherwise would be entitled under law or equity.

C. Recovery of costs. In any action to enforce this Chapter, or an affordable housing regulatory agreement recorded in compliance with this Chapter, the prevailing party in such action shall be entitled to recover its reasonable attorney's fees and related costs.

Section 4. 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 5 Effective Date and Publication. This Ordinance shall become effective upon its certification by the Coastal Commission. Within fifteen (15) days after the passage of this Ordinance by the Coastal Commission, 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.

Section 6. Fort Bragg City Council does hereby recommend that the Coastal Commission approve this LCP Amendment to amend Division 17 to the Fort Bragg Municipal Code.

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

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSE:

Jason Godek,
Mayor

ATTEST:

City Clerk

PUBLISH: Date, 2026 and Date, 2026 (by summary).

EFFECTIVE DATE: 15 Day after Certification by the California Coastal Commission

