

# STAFF REPORT

## *City Council Business Item*

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**DATE:** December 16, 2024

**TO:** Honorable Mayor and City Councilmembers

**FROM:** Shari Meads, Community Development Director

**THRU:** Amy Nilsen, City Manager

**SUBJECT:** Introduction and First Reading of *Ordinance 2024-769*, Amending the Fortuna Municipal Code Title 17 (Zoning Regulations) to Add Chapter 17.10, Reasonable Accommodations Policy and Procedures and Find the Amendments to be Exempt from CEQA.

### **STAFF RECOMMENDATION**

The Community Development Department recommends that the City Council hold a public hearing to introduce and conduct the first reading of *Ordinance 2024-769* to amend Fortuna Municipal Code Title 17, Zoning Regulations, to add Chapter 17-10, Reasonable Accommodations Policy and Procedures (Amendment), and find the Amendment exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15162 and 15061(b)3.

### **DISCUSSION**

The City's General Plan [Housing Element](#) (6th Cycle, 2019-2027) (Housing Element) was adopted by the City Council on August 7, 2019. The Housing Element fulfills State of California requirements to provide for a variety of housing types, including multifamily rental housing, factory-built housing, mobile homes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing (Government Code Sections 65583 and 65583.2).

The California Department of Housing and Community Development (HCD) enforces Housing Element Implementation. While the City has made some progress toward implementing the General Plan and Housing Element, it is delinquent on many measures. HCD has contacted City staff in what could be considered an audit process to verify implementation statuses. If a City is deemed noncompliant, its Housing Element can be decertified. If a City's Housing Element is decertified, significant monthly monetary penalties may be assessed, and Grant funds and opportunities can be lost.

In addition, developers can exploit the "builder's remedy law," essentially bypassing all City zoning requirements and development standards if a project includes 20% or more residential units set aside for lower-income residents. This could result in the construction of large, dense developments in areas with limited infrastructure among other issues.

For this report, staff focused on implementing Housing Element Program H-18, the Reasonable Accommodation Procedure, which directs the City to develop and formalize a process for

providing individuals with disabilities reasonable accommodation in rules, policies, practices, and procedures. This ensures equal access to housing and facilitates the development of housing for individuals with disabilities.

### **Federal and State Fair Housing Laws**

The federal Fair Housing Amendments Act of 1988 and California's Fair Employment and Housing Act prohibit discrimination against individuals with disabilities in housing and require that jurisdictions take affirmative action to eliminate regulations and practices that deny housing opportunities to individuals with disabilities. More specifically, fair housing laws require that jurisdictions provide individuals with disabilities or developers of housing for people with disabilities, flexibility in the application of land use and zoning and building regulations, practices and procedures.

Local jurisdictions must even waive certain requirements when it is necessary to eliminate barriers to housing opportunities. For example, people with mobility disabilities may need to install exterior ramps, which might normally violate zoning setbacks, placement, or site coverage requirements. People with intellectual or mental health disabilities may need a higher fence than usually allowed to offer more privacy and reduce anxiety.

Staff recommends adopting the proposed Amendment to allow flexibility in the application of zoning and land use regulations and procedures to ensure people with disabilities have equal access to housing. The specific text of the proposed Amendment is provided in Exhibit A which is attached to the draft ordinance provided for consideration.

### **REGULATORY CONTEXT**

Fortuna Municipal Code Section [17.07.200](#) outlines the Zoning Regulations amendment process. Pursuant to Section 17.07.200(B), the Planning Commission must hold a public hearing and consider public comment on any such ordinance or amendment. Section 17.07.200(D) further mandates that following the public hearing, the Planning Commission provide a written recommendation to the City Council. Planning Commission Resolution (P-2024-3120), included as Attachment 2 to this report, implements this requirement.

### **PUBLIC NOTICE**

This item was noticed in compliance with FMC Section 17.07.200(C), which outlines the procedure for noticing City Zoning Amendments. Notice of the Planning Commission hearing was published in the North Coast Journal on December 5, 2024, including a general explanation of the hearing and the time, date, and location. The agenda was also posted 72 hours before the meeting on the community bulletin board in front of City Hall (621 11th Street).

### **FISCAL IMPACT**

The Community Development Department's annual budget allocation and the City's annual legal assistance budget cover the cost of preparing the draft ordinance.

## **ENVIRONMENTAL REVIEW**

Pursuant to CEQA Guidelines Section 15162, the Housing Element (including Program H-18) was analyzed in the City's certified General Plan Program Environmental Impact Report. (PEIR), and no substantial changes or new information merit subsequent analysis of the Amendments. Before Housing Element adoption, the applicable housing element policies and programs were analyzed for potential environmental impacts and were found not to have a significant impact on the environment.

To the extent the Amendment is a separate project for the purposes of CEQA, it is exempt under CEQA Guidelines Section 15061(b)(3), which exempts projects where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The Amendment aligns the FMC with General Plan Housing Element policies, programs, and State regulations.

Staff will file a Notice of Exemption upon adoption per CEQA guidelines.

## **RECOMMENDED COUNCIL ACTION**

1. Open the Public Hearing
2. Receive staff presentation and review draft ordinance with staff.
3. Open public comment.
4. Close public comment.
5. Motion to hold the first reading, by title only, of *Ordinance 2024-769* and continue the public hearing to January 6, 2024. Roll call vote.

## **ATTACHMENTS**

- *Ordinance 2024-769, An Ordinance of the City Council of the City of Fortuna to amend Fortuna Municipal Code Title 17 (zoning regulations) to add Chapter 17.10, Reasonable Accommodations Policy And Procedures, and find the Amendment to be exempt from additional California Environmental Quality Act (CEQA) review under CEQA Guidelines Sections 15162 and 15061(b)3*
- Exhibit A: Title 17. Zoning regulations, Chapter 17-10 Reasonable Accommodations Policy and Procedures
- Planning Commission *Resolution P-2024-3120*