

# **STAFF REPORT**

## *Business Agenda Item*

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**DATE:** March 2, 2026  
**TO:** Honorable Mayor and Council Members  
**FROM:** Michelle Nielsen, Contract City Planner  
**THROUGH:** Amy Nilsen, City Manager  
**SUBJECT: Public Hearing for Second reading and Adoption of Amendments to Title 17, the Zoning Regulations**

### **STAFF RECOMMENDATION**

Hold a public hearing to conduct a second reading and adopt Ordinance 2026-782, amending Chapters 17.06 and 17.08 of Title 17 (Zoning Regulations), and the section titled Statutory References for California Cities of the Fortuna Municipal Code to ensure compliance with current State law for accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs).

### **PROJECT INFORMATION:**

**Project:** Adoption of amendments to the Zoning Regulations (Title 17 of the Fortuna Municipal Code) to ensure compliance with current State law for accessory dwelling units (ADUs) and junior accessory dwelling units

**Applicant:** City of Fortuna

**Project Sites:** Applies citywide in the City of Fortuna

**Zoning District:** N/A – Applies citywide in the City of Fortuna

**General Plan Land Use:** N/A – Applies citywide in the City of Fortuna

### **EXECUTIVE SUMMARY**

The California Department of Housing and Community Development (HCD) has recognized ADUs and JADUs as affordable housing solutions because they do not require the purchase of additional land or the construction of significant new infrastructure. ADUs and JADUs also allow homeowners to provide independent living spaces for family members or renters, supporting aging in place and enabling extended families to live nearby while preserving privacy. Recent changes to state law have simplified the development of ADUs and JADUs and require local jurisdictions to align with these state standards.

The City adopted its ADU regulations, Ordinance No. 2021-749, in November 2021 to comply with then-current state requirements for ADUs and JADUs. Since that adoption, new state ADU laws that further modify ADU and JADU requirements have been enacted on a near-annual basis, including the following:

### **Partial List of Changes to ADU Law in 2025:<sup>1</sup>**

- AB 1154 (Chapter 507, Statutes of 2025) made various changes to State ADU Law (Gov. Code, § 66333) regarding JADUs and goes into effect on January 1, 2026. This bill:
  - Specifies that if a JADU has shared sanitation facilities with the primary structure, owner-occupancy will be required. If the JADU does not have shared sanitation facilities, owner-occupancy will not be required (Gov. Code, § 66333, subd. (b)).
  - Requires that JADUs can no longer be used as short-term rentals and, if rented, must now be rented for longer than 30 days (Gov. Code, § 66333, subd. (g)).

### **Changes to ADU Law in 2024:**

- SB 477 (Chapter 7, Statutes of 2024) made changes to the numbering of the sections of the Government Code for State ADU and JADU Laws.
- Prohibits a local agency from denying a permit for an unpermitted ADU or JADU that was constructed before January 1, 2020, for building code violations, unless the local agency makes a finding that correcting the violation is necessary to comply with conditions that would otherwise deem a building substandard (Gov. Code, § 66332, subds. (a)-(c)).
- Defines “livable space” as a space in a dwelling intended for human habitation, as the term appears in Government Code sections 66313, subdivision (e), and 66323, subdivision (a)(3)(A).
- Provides that uncovered, off-street parking spaces demolished in conjunction with the construction of an ADU do not need to be replaced (Gov. Code, § 66314, subd. (d)(11)).
- Changes the allowable number of detached ADUs on a lot with an existing multifamily dwelling to eight detached ADUs, provided that the number of ADUs does not exceed the number of existing units on the lot (Gov. Code, § 66323, subd. (a)(4)(A)(ii)).
- Prohibits a local agency from imposing any objective development standards on 66323 Units that are not authorized by the provisions of Government Code section 66323, subdivision (a) (Gov. Code, § 66323, subd. (b)).

### **Changes to ADU Law in 2023:**

- Sunsets a former prohibition on a local agency imposing an owner occupancy requirement on any ADU and instead prohibits a local agency from requiring owner occupancy for an ADU (Gov. Code, § 66315).
- Allows a local agency to adopt a local ordinance to allow the separate conveyance of the primary dwelling unit and ADU(s) as condominiums, subject to certain conditions (Gov. Code, §§ 66340-66342).

### **HCD ADU Handbook**

- Since the adoption of Ordinance No. 2021-749 in November 2021, the HCD ADU Handbook received two substantive updates in 2022 and 2024/2025 to incorporate new laws. The Handbook assists local governments, homeowners, architects, and the public in understanding and applying the requirements of state law. Because the Handbook is authored by HCD, it is

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<sup>1</sup> HCD ADU Handbook – Updated January 2025 with 2026 Addendum – see pages 56-58 for a comprehensive list of ADU/JADU laws passed in 2025 : <https://www.hcd.ca.gov/sites/default/files/docs/policy-and-research/adu-handbook-update.pdf>

essentially an interpretative manual on the application of ADU law.

Since 2016, HCD has had statutory authority to review local agencies' ADU ordinances, and as of January 1, 2024, HCD also has the authority to enforce all State ADU Laws. As part of their enforcement of ADU law, HCD is issuing letters of technical assistance to cities and counties with older ADU ordinances. In their letters, HCD is advising that if a city's or county's ADU ordinance fails to meet State law requirements, the entirety of the ordinance is considered "null and void," and the City must instead apply default State ADU standards until a compliant ordinance is adopted. Additionally, HCD is recommending that cities:

1. Repeal their current ADU ordinance; or
2. Amend and adopt a replacement ordinance that fully complies with State ADU statutes (Gov. Code §§ 66310–66344).

At the time this report was prepared, the City had not received an HCD letter of technical assistance. However, because the ADU ordinance has not been updated since 2021, it does not comply with current state ADU law. The continued application of non-compliant local standards may expose the City to risk and violate State requirements for the timely and objective processing of ADU and JADU applications. Moreover, retaining the existing provisions for ADUs and JADUs may create substantial confusion for property owners and applicants relying on outdated standards. Adoption of the proposed amendments in Exhibit A of Ordinance 2026-782 will avoid these potential risks by repealing the City's existing ADU and JADU regulations in their entirety and replacing them with a state-compliant ADU ordinance by directly referencing Government Code Sections 66310-66342, the sections where state ADU and JADU law are chaptered. The proposed amendments are the statutory minimum requirements for ADUs and JADUs. These amendments will address the immediate need to bring the City's regulations into full compliance with state law, while not foreclosing the City's ability to adopt local ADU regulations in the future. Although cities are mandated to permit ADUs and JADUs, they are not required to adopt local ADU and JADU ordinances. A local ordinance is an opportunity for a city to establish local regulations that encourage the creation of ADUs and JADUs; a city's local ADU regulations cannot be more restrictive than state law. All local ADU ordinances are subject to an HCD-compliance review, and any inconsistencies must be addressed to HCD's satisfaction.

### **PLANNING COMMISSION PUBLIC HEARING**

On January 13, 2026, the Planning Commission held a duly noticed public hearing to consider and receive public input on the proposed amendments. No members of the public provided written or oral testimony on the proposed amendments at the hearing. One Planning Commissioner requested clarification about which version of the building code would apply when a property owner seeks to legalize an unpermitted ADU. City Building Official Gary Goade advised that the building code in effect at the time that a property owner seeks to legalize the unit would apply, except as modified by State ADU law (e.g., fire sprinklers are required only when required for the existing primary residence). The Planning Commission did not recommend modifications to the proposed amendments. The Planning Commission unanimously approved Resolution P-2026-3142 recommending that the City Council adopt the proposed amendments.

**PROPOSED TEXT AMENDMENTS TO THE ZONING REGULATIONS**

**Chapter 17.06 Regulations that Apply to Specific Uses**

Two sections of Chapter 17.06 are proposed to be amended: 17.06.001.5 (Accessory Dwelling Units) and section 17.06.184.5 (Short-term rentals).

The amendments propose to repeal section 17.06.001.5 of Chapter 17.06 in its entirety and replace it with the following language to ensure compliance with state ADU law:

17.06.001.5 Accessory Dwelling Units and Junior Accessory Dwelling Units: Sections of 66310 – 66342 of the California Government Code are hereby adopted and made part of this ordinance as though fully set forth herein.

The Zoning Regulations regulate short-term rentals (STRs) in section 17.06.184.5. This section includes definitions with specific application to STRS. The amendments in Exhibit A propose to revise the definition of “Dwelling unit” in 17.06.184.5 as follows:

“Dwelling unit” means one or more rooms designed, occupied, or intended for occupancy as separate living quarters, with full cooking, sleeping, and bathroom facilities for the exclusive use of a single household. A dwelling unit includes a single-family residence, and each unit of an apartment, duplex, multiple dwelling structure designed as a separate habitation for one or more persons, or a permitted accessory-second residential dwelling that meets the definition of FMC 17.08.222 (Dwelling, second residential), but does not include units located within city-approved hotels, motels, ~~and~~ bed and breakfasts, and accessory dwelling units or junior accessory dwelling units.

The purpose of this change is to clarify that a permitted second residential dwelling may be used as a short-term rental (STR) and to delete references to ADUs and JADUs to avoid potential conflicts with ADU law. The City’s STR regulations already explicitly define “Short-term” to be fewer than 30 days. The allowable term to rent a STR does not conflict with the State law requirement that ADUs and JADUs be rented for terms longer than 30 days (Gov’t Code Sections 66323(e) and 66333(g)), and an adopted local ordinance may set a rental term of not less than 30 days. Table 1 below compares the rental term requirements for short-term rentals and ADUs/JADUs.

**Table 1: Comparison of Rental Term Requirements**

Category	Short-Term Rentals (STRs)	ADUs / JADUs
Definition	Rentals for fewer than 30 days	Rentals for 30 days or longer
Regulatory Source	City regulations (Section 17.06.184.5)	State law (Gov’t Code §§ 66323(e), 66333(g)), and an adopted local ADU/JADU ordinance.
Proposed Amendments	Clarify that a permitted second dwelling may be used as STR; remove references to ADUs/JADUs	No change; must comply with state minimum rental term

Category	Short-Term Rentals (STRs)	ADUs / JADUs
Minimum Rental Term	Less than 30 days	Not less than 30 days
Conflict?	No conflict due to distinct rental term requirements	No conflict

### Chapter 17.08 Definitions and Illustrations

The definition of a second dwelling unit in section 17.08.222 is proposed to be amended to distinguish secondary dwelling units from accessory dwelling units because they are non-conforming ADUs. Also, the proposed changes to the definition intend to reflect the state law requirement (Gov. Code 66332) that cities are to provide a pathway to legalize an accessory dwelling unit that was constructed before 2017 but did not receive city permits:

17.08.222 Dwelling, second residential.

“Second residential dwelling” means a second single-family dwelling constructed or installed prior to January 1, 2017 and that has not been permitted as an accessory dwelling unit, and is located or placed on a parcel of land in the Residential estates or Residential ~~a single-family or multifamily residential~~ zoning districts.

### Statutory References for California Cities

This section of the Fortuna Municipal Code refers readers to state statutes that apply to California cities. The proposed amendments to this section update the Government Code section that is referenced from the old section to the new section: The old ADU law section was Government Code § 65852.150 et seq. The new ADU law sections are Government Code §§ 66310 – 66342.

### ENVIRONMENTAL REVIEW

The proposed zoning ordinance text amendment is exempt from the California Environmental Quality Act (CEQA). Pursuant to Public Resources Code § 21080.17, the adoption of ordinances that implement Government Code §65852.1, § 66314 et seq., or § 66333 et seq., all of which govern Accessory Dwelling Units (ADUs) and Junior ADUs (JADUs), is statutorily exempt from CEQA. The ordinance is also categorically exempt under CEQA Guidelines §15303 (Class 3), which covers the construction or conversion of small accessory structures, such as ADUs and JADUs.

### PUBLIC HEARING NOTICE

The public notice of this hearing and first reading was given in accordance with Section 17.07.200(C) of the Zoning Regulations and state law. Staff arranged for a public hearing notice to be published in the January 22, 2026, edition of the North Coast Journal. On January 22, 2026, the same public hearing notice was also posted at City Hall and on the City’s website.

### **RECOMMENDED CITY COUNCIL ACTION**

1. Receive staff presentation and review Council questions with staff.
2. Open the public hearing and receive public comment.
3. Close the public hearing.
4. Motion to hold a second reading and adopt Ordinance 2026-782, and read by title only. Roll call vote.

### **ATTACHMENTS**

Attachment 1: Ordinance 2026-782 and Exhibit A – Amendments to the Fortuna Municipal Code, Title 17 (Zoning Regulations)

Attachment 2: Planning Commission Resolution P-2026-3142

Attachment 3: Public Hearing Notice for the City Council, February 2, 2026, hearing and first reading