

ORDINANCE 2026-782

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FORTUNA CERTIFYING COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND AMENDING TITLE 17 (THE ZONING REGULATIONS) OF THE FORTUNA MUNICIPAL CODE TO COMPLY WITH STATE LAW FOR ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS

WHEREAS, the City of Fortuna, California (City) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, California Government Code Section 65850, et seq. authorizes cities to regulate land use, and to adopt and amend general plans and zoning and building ordinances for such purposes, and sets forth procedures governing the adoption and amendment of such ordinances; and

WHEREAS, on October 9, 2019, Governor Gavin Newsom signed Senate Bill 13 Assembly 881, and other legislation (collectively, the “Bills”) into law, amending Government Code Sections 65852.2 and 65852.22, and adding Health and Safety Code Section 17980.12, thereby establishing statewide requirements for ADUs and JADUs; and

WHEREAS, on November 21, 2021, the City Council adopted Ordinance No. 2021-749 that amended Title 17 of the Fortuna Municipal Code (Zoning Regulations), section 17.06.001.5 of Chapter 17.07 (Regulations that Apply to Specific Uses), to comply with changes in state law related to Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs), and Ordinance 2021-749 was the last update of the section 17.06.001.5 and the City’s regulations for ADUs; and

WHEREAS, since the adoption of Ordinance No. 2021-749, state ADU law has been amended in 2023, 2024, and 2025, including enactment of Senate Bill 477 in 2024, which reorganized and recodified the State’s ADU and JADU provisions into Government Code Sections 66310 through 66342 without substantive change; and

WHEREAS, since 2016, the California Department of Housing and Community Development (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, and

WHEREAS, pursuant to Government Code Section 66316, if a city has an existing accessory dwelling unit ordinance that fails to meet the requirements of Article 2 of Chapter 13, of Title 7 of the California Government Code, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this article for the approval of accessory dwelling units, unless and until the city adopts an ordinance that complies with this article; and

WHEREAS, because the City’s ADU and JADU Zoning Regulations were updated most recently in 2021, section 17.06.001.5 of Chapter 17.07 may not be in compliance with multiple provisions of State ADU Law and may therefore be “null and void” under Government Code section 66316, requiring the City to apply default State standards; and

WHEREAS, in order to further comply with state law and avoid substantial confusion for property owners and applicants relying on outdated standards, it is necessary for the City to amend its Zoning Regulation to ensure that its provisions conform to and align exactly with the requirements set forth under Sections

66310 – 66342 of the California Government Code; and

WHEREAS, the amendments to the Zoning Regulations, as identified in Exhibit A, attached hereto and hereby incorporated by reference in its entirety, propose the following changes:

- (a) In Chapter 17.07 (Regulations that Apply to Specific Uses), repeal section 17.06.001.5 Accessory Dwelling Units in its entirety, and replace it with ADUs and JADUs regulations directly reference sections of 66310 – 66342 of the California Government Code to comply with state law; and
- (b) In Chapter 17.07 (Regulations that Apply to Specific Uses), amendments to section 17.06.184.5 Short-term rentals to replace references to ADUs and JADUs with second residential dwelling as defined in section 17.08.222; and
- (c) In Chapter 17.08 (Definitions and Illustrations), amendments to section 17.08.222 Dwelling, second residential to update the definition to distinguish these units from accessory dwelling units; and
- (d) Amendments to the section titled Statutory References for California Cities section to correct the Government Code citation for state ADU law from section 65852.150 et seq. to sections 66310 – 66342; and

WHEREAS, this Ordinance is intended to promote consistency between the City’s Zoning Regulations for ADUs, JADUs, and state law, eliminate any conflicts or discrepancies, and ensure enforceability in accordance with state legal standards.

WHEREAS, on December 17, 2025, the City posted a Planning Commission (PC) public hearing notice in conspicuous locations including City Hall and the City website, specifying the availability of the proposal, and the date, time, and location of the PC public hearing for these amendments to the Zoning Regulations; and on December 29, 2025, the City caused to be published the same public hearing notice in the January 1, 2026, edition of the North Coast Journal; and

WHEREAS, the PC held a duly noticed public hearing on January 13, 2026, and after considering the recommended amendments, the CEQA finding, and written or oral testimony submitted by the public on the proposed amendments, the PC unanimously adopted Resolution No. P-2026-3142, recommending that the Fortuna City Council find the amendments in Exhibit A to be statutorily exempt and categorically exempt from CEQA pursuant to Public Resources Code § 21080.17 and § 15303 of California Code of Regulations Title 14, Division 6, Chapter 3 (the CEQA Guidelines), respectively; make the required findings; and adopt the amendments to Title 17, the Zoning Regulations, of the Fortuna Municipal Code; and

WHEREAS, the review and adoption of the amendments is in conformance with the requirements of California Government Code Sections 65853 through 65857, which require a duly noticed public hearing of the Planning Commission whereby the Planning Commission shall provide its written recommendation to the City Council for its consideration; and

WHEREAS, the City caused to be published in the January 22, 2026 edition of the North Coast Journal, a notice of City Council public hearing and first reading of the proposed amendments; additionally, the City posted the same notice of public hearing in conspicuous locations including City Hall and the City website, specifying the availability of the proposed amendments, the date, time, and location of the City

Council public hearing for these amendments to the Zoning Regulations, and recommended CEQA finding; and

WHEREAS, the City Council held a duly noticed public hearing on February 2, 2026, to consider the amendments and recommended CEQA determination; and

WHEREAS, the City Council has considered the staff report, supporting documents, public testimony, the Planning Commission’s recommendation that the City Council adopt the proposed amendments to the Zoning Regulations, and all appropriate information that has been submitted with these amendments; and

WHEREAS, all legal prerequisites to the adoption of the Ordinance have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FORTUNA DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The above and foregoing recitals are true and correct, and each is incorporated in full herein by reference.

SECTION 2. Public hearing notices and public participation. All necessary public hearings and opportunities for public testimony and comment have been conducted in compliance with state law.

SECTION 3. Findings. That all of the following findings are hereby made:

A. California Environmental Quality Act (CEQA). The proposed zoning ordinance text amendments are exempt from the California Environmental Quality Act (CEQA). Pursuant to Public Resources Code § 21080.17, CEQA does not apply to ordinances implementing Government Code §65852.1, or Article 2 (commencing with Section 66314) or Article 3 (commencing with Section 66333) of Chapter 13 of Division 1 of Title 7 of the Government Code, which governs ADUs and JADUs. Accordingly, the proposed ordinance is statutorily exempt from CEQA because it implements the State’s ADU and JADU laws.

In addition to the statutory exemption, the proposed ordinance is categorically exempt under the Class 3 exemption set forth in CEQA Guidelines § 15303. The Class 3 exemption applies to the construction and location of new, small structures and the conversion of existing small structures from one use to another. Section 15303 specifically lists appurtenant accessory structures and garages as examples of activities covered by this exemption. Here, the ordinance qualifies for the Class 3 exemption because it regulates the construction of, and conversion of existing structures into, ADUs and JADUs, which are accessory to a primary dwelling and limited in size.

B. Consistency with the Fortuna General Plan. The text amendments repeal the existing ADU regulations and adopt new provisions addressing both ADUs and JADUs, in accordance with California Government Code Sections 66310 through 66342. The proposed amendments implement the City’s goals and policies related to housing, land use, and residential development. They support the General Plan’s objectives to provide a range of housing types, promote efficient use of existing residential neighborhoods, and facilitate housing affordability, while maintaining the character and quality of the community.

C. Public Interest. Adopting ADU and JADU regulations that are consistent with state law is in the public interest because it avoids creating substantial confusion for property owners

and applicants who prepare applications relying on outdated standards. Adopting compliant ADU and JADU relations also wards off risks, including improper denial or delay of ADU applications; violation of the Housing Accountability Act and State ADU statutes; exposure to attorney's fees and enforcement action by HCD or private applicants.

D. Consistency with the Zoning Regulations and Other City Ordinances. The proposed text amendments to the Zoning Regulations are internally consistent with other applicable provisions of the Zoning Code. The amendments repeal the existing ADU regulations and adopt new provisions addressing both ADUs and JADUs, ensuring that the City's regulations fully conform to the requirements of California Government Code Sections 66310 through 66342. The new provisions maintain consistency with the City's residential development standards, use classifications, and permitting procedures, thereby preserving alignment with the overall framework of the Zoning Code.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the City Council of the City of Fortuna hereby amends the Fortuna Municipal Code Title 17, Chapters 17.06 and 17.08, Zoning Regulations, and the section titled Statutory References for California Cities in the form and substance as set forth in Exhibit A, attached hereto and incorporated in its entirety herein by reference. Following the adoption of this Ordinance, without modifying the substance, the City Clerk shall cause the Fortuna Municipal Code amendments to be consistent in form and style with Title 17 of the Fortuna Municipal Code.

SECTION 4. Effective Date. The effective date of this ordinance is thirty (30) days after adoption by the City Council of the City of Fortuna.

SECTION 5. Severability. If any provision of this ordinance is determined to be invalid, such invalidity does not affect the remaining provisions or applications of the ordinance that can be given effect without the invalid provision or application, and to this extent, the provisions of this ordinance are severable. The City Council of the City of Fortuna declares that it would have adopted this Ordinance irrespective of the invalidity of any portion thereof.

SECTION 6. Limited Repeal. Any provision of the City of Fortuna Municipal Code or appendices to it that are inconsistent with the requirements of this ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this ordinance.

SECTION 7. Publication. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be published and posted as required by law.

FIRST READING CONDUCTED at a regular meeting of the City Council on this 2nd day of February 2026, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

Mike Johnson, Mayor

ATTEST:

Siana L. Emmons, City Clerk

SECOND READING PERFORMED AND ADOPTED on the 2 day of March 2026, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

Mike Johnson, Mayor

ATTEST:

Siana L. Emmons, City Clerk