

# STAFF REPORT

## *City Council Business Item*

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**DATE:** August 7, 2023

**TO:** Honorable Mayor and Council Members

**FROM:** Mat Nyberg, Public Works Project Manager

**THROUGH:** Merritt Perry, City Manager

**SUBJECT: Public Hearing: Introduction and First Reading of *Ordinance 2023-762*  
Amending Title 15—Buildings and Construction of the Fortuna Municipal  
Code by Adding Chapter 15.48—Construction and Demolition Debris  
Diversion (CD3)**

### **STAFF RECOMMENDATION:**

Adopt the proposed amendments of Title 15—Buildings and Construction of the Fortuna Municipal Code by Adding Chapter 15.48, which incorporates the Construction and Demolition Debris Diversion Ordinance by adopting *Ordinance 2023-762*.

### **DISCUSSION:**

The Construction and Demolition Debris Diversion Ordinance (CD3) is a California state regulation, which has become part of the Building Code, and is designed to divert nonhazardous recyclable and/or salvageable construction waste material. Construction and demolition waste can have a significant impact on a jurisdiction's waste stream, and diverting it from landfills can help achieve and maintain diversion goals established by AB 939, California's Integrated Waste Management Act (1989) where jurisdictions throughout the state were mandated to realize a 50% reduction in their solid waste flow by 2000. Subsequently in 2011, the California Green Building Standards Code (CALGreen) was enacted with the goal of ensuring that new construction projects would be built in compliance with sustainable construction practices. CALGreen mandates locally permitted new residential and non-residential building construction, grading, demolition and certain addition and alteration projects to recycle and/or salvage for reuse a minimum 65% of the nonhazardous construction and demolition debris generated during the project (CALGreen sections 4.408, 5.408, 301.1.1 and 301.3). Jurisdictions have the latitude to adopt their own ordinances that meet or exceed the requirements of CALGreen standards.

### **Proposed Ordinance:**

The attached ordinance amends section 15.48, Buildings and Construction, of the Fortuna Municipal Code by adopting standards that meet CALGreen sections 4.408, 5.408, 301.1.1 and 301.3. The implementation of the CD3 Ordinance will facilitate the city's compliance with state mandates to track, divert and report construction waste that can be recycled or salvaged. The Ordinance ensures ongoing compliance with State standards and will automatically incorporate

any future changes to applicable sections of the CALGreen code. The Ordinance also complies with California's Short-Lived Climate Pollutant Reduction Strategy (SB 1383) regulations that require jurisdictions to adopt a construction and demolition diversion ordinance or other enforceable mechanism requiring compliance with CALGreen Building Standards Code.

### **Ordinance Implementation:**

The following provides further information on how projects will comply with CD3 requirements and required documentation to be provided during the building permit process. All construction and demolition projects that require a permit shall submit a Waste Management Plan (WMP), and a Final Report. Staff will provide these forms and informational material on the City website and at City Hall to assist residents, property owners and developers with complying with these regulations. The forms and informational items have been included in Attachments 2-5. Qualifying projects will require a security deposit based on size, and an administrative fee to cover the added staff time to process and review the paperwork required on a larger project. Qualifying projects are those over 1,000 square feet or with an implementation cost of \$200,000 or more. The deposit for these projects is 1% of the cost or \$500, whichever is greater as written in the ordinance, which is modeled after other agencies currently implementing these measures. Staff have concerns that 1% may be too large and are seeking Council input on reducing that value to 0.5% or perhaps even 0.25%.

In order to successfully navigate the permitting process, applicants will be required to complete CD3 documentation. In addition to existing permit application submittals, applicants will need to complete the City's WMP form with estimates of quantities of debris types and destination identification. Qualifying project applicants will also need to pay a deposit as noted above. When the project is complete, a Final Report Form with actual quantities and documentation from receiving facilities will be required to get a final inspection and recupereate deposits as applicable.

There are some exemptions. Immediate or emergency demolition required to protect the public health, safety or welfare, as determined by a public safety official or code compliance officer shall be considered a non-covered/exempt project. Further, if an applicant for a covered project believes that circumstances exist which make it infeasible to comply with the diversion requirement; the applicant may apply for an exemption at the time of the WMP submittal. The City's Compliance Official shall review the information supplied by the applicant and may grant an exemption or potentially a reduction diversion percentage for the project. Denials will be eligible for an appeal process. The first step in an appeal would be at the staff level (appeal to the City Manager), and the second step would be to the Council. The proposed appeal fees are consistent with others in the budget, and are presented in the fiscal impact section below.

### **FISCAL IMPACT:**

There is no immediate fiscal impact to the City budget as a result of adopting the CD3 ordinance. As noted above, three additional fees would be added to the fee schedule as a result of this ordinance. The first is an Administrative Fee that is meant to capture the staff time required to process the paperwork and enforce the ordinance for covered projects large enough to also require a deposit. As stated in the ordinance, the proposed fee for a covered project would be equal to three fully-burdened staff time hours of the 'compliance official', who in the City's case would be the building official.

The next two fees are the appeal fees, which as noted above are generally consistent with appeal fees the City has for other processes throughout the budget. All proposed fees are shown in the table below.

CONSTRUCTION & DEMOLITION DEBRIS DIVERSION	FEEES
Administrative	\$ 175.00
Appeals-Staff Level	\$ 250.00
Appeals-City Council Level	\$ 500.00

Staff are seeking Council input on the proposed fees as outlined in the table above and as required in the ordinance. At the second reading, staff intend to bring forth the final recommendation for fees and an amendment to the adopted Fiscal Year 2023-24 fee schedule to bring them into the budget.

**RECOMMENDED COUNCIL ACTION:**

1. Receive staff presentation and review questions with staff
2. Open public comment
3. Close public comment
4. Motion to hold the first reading of *Ordinance 2023-762*, read by title only and continue the Public Hearing to Monday, August 21, 2023 for the second reading and adoption. Roll Call vote.

**ATTACHMENTS:**

1. *Ordinance 2023-762, An Ordinance of the City Council of the City of Fortuna Adding Chapter 15.48 to Title 15 of the Fortuna Municipal Code—Construction and Demolition Debris Diversion Ordinance (CD3)*
  - a. *Exhibit 1 to Ordinance*
2. Construction & Demolition Waste Management Plan
3. Construction & Demolition Waste Final Report
4. Construction & Demolition Recycling Guide
5. Volume to Weight Conversion Table