

# STAFF REPORT

## *City Council Business Item*

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**DATE:** January 17, 2023

**TO:** Honorable Mayor and Council Members

**FROM:** Gary Goade, Building Official

**THROUGH:** Merritt Perry, City Manager

**SUBJECT:** **A Public Hearing to Consider Repealing and Replacing Title 15—Building and Construction; of the Fortuna Municipal Code with the 2022 California Building Codes, *Ordinance 2023-758***

### **STAFF RECOMMENDATION:**

Introduce and hold a first reading of *Ordinance 2023-758*, amending the Fortuna Municipal Code by repealing and replacing Title 15—Building and Construction; Division I. Generally; Chapter 15.10, Building Codes with the 2022 California Building Codes.

### **EXECUTIVE SUMMARY:**

At the January 3, 2023 Council meeting, staff presented the California Building Codes that are mandated to be adopted by each jurisdiction in the State, and the Building Codes to be adopted by the City including local amendments to the administrative code sections. Local amendments may be adopted for administrative (nonstructural) purposes to facilitate implementation of the codes by staff, including establishing terms and procedures for permit expiration, engineering of commercial buildings to allow waiver by the Building Official, property survey waiver by the Building Official, and violation penalties. The Council requested that the administrative section be amended to be consistent with the California Administrative Code Section R105.5, specifically calling out the Building Official's authority to extend permit deadlines and expirations in certain circumstances (for example, when an applicant demonstrates that they are continuously making progress on a building project or have another justifiable delay). Staff proposes the following amendment to the Fortuna BCode (addition shown in bold italics):

Every permit issued shall expire two years from the date of issuance. Every permit shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within 180 days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of more than 180 days. ***The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.*** Once a building permit has expired, work can be recommenced only after that permit is renewed or a new permit is issued. The fee, therefore, shall be one-half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and provided further that such suspension or abandonment has not exceeded one year. In order to renew action on a permit expired, suspended or abandoned by over one

year, the permittee shall pay a new full permit fee. The new permit will be issued and also inspected utilizing the codes that are adopted and in force at that moment.

Attachment 1 presents the proposed ordinance adopting the codes into the Fortuna Municipal Code. The proposed addition is included in Attachment 1, Section 15.10.015.A—Permit Expiration.

A copy of the 2022 Building Codes will be on file in the office of the Building Official and available for use and examination by the public.

**RECOMMENDED COUNCIL ACTION:**

1. Receive staff report and review questions with staff;
2. Open the Public Hearing;
3. Close the Public Hearing;
4. Motion to introduce and hold a first reading of *Ordinance 2023-758*, continue the Public Hearing to Tuesday, February 6, 2023 for a second reading; and read by title only. Roll call vote.

**ATTACHMENTS**

1. Attachment 1 - *Ordinance 2023-758, An Ordinance of the City Council of the City of Fortuna Repealing and Replacing Title 15 – Buildings And Construction; Division I. Generally; Chapter 15.10, Building Code of the Fortuna Municipal Code with the 2022 California Building Codes*

**ATTACHMENT 1**

**ORDINANCE 2023-758**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FORTUNA  
REPEALING AND REPLACING TITLE 15 – BUILDINGS AND CONSTRUCTION;  
DIVISION I. GENERALLY; CHAPTER 15.10--BUILDING CODE OF THE FORTUNA  
MUNICIPAL CODE WITH THE 2022 CALIFORNIA BUILDING CODES**

**WHEREAS**, the California Building Standards Commission is responsible for administering California's building codes, including adopting, approving, publishing, and implementing codes and standards; and

**WHEREAS**, the California Building Standards Code is published every three years and amends the California Code of Regulations, Title 24; and

**WHEREAS**, these codes, based substantially on the model uniform codes published by the International Code Council, are commonly referred to as the California Building Code (“Code”), and include, but are not limited to, building, plumbing, mechanical, electrical, fire, housing, and energy codes; and

**WHEREAS**, on January 1, 2022, the State of California Building Standards Commission adopted the following California codes specific to California: California Energy Code, California Administrative Code, California Residential Code, California Electrical Code, California Mechanical Code, California Plumbing Code, California Existing Building Code, California Historical Building Code, Fire Code, and the California Green Building Standards Code; and

**WHEREAS**, the new California Code of Regulations, Title 24, was published in July 2022.; and

**WHEREAS**, the codes adopted by the Building Standards Commission go into effect 180 days after publication by the State and must be enforced by each City and County as of January 1, 2023.

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

**Section 1**

Title 15 – Buildings and Construction; Division I., Generally; Chapter 15.10, Building Code, of the Fortuna Municipal Code is hereby repealed and replaced in its entirety with Exhibit A attached to the ordinance codified in this title, division, and chapter and on file in the city clerk’s office.

**Section 2**

The effective date of this ordinance is thirty (30) days after its adoption by the City Council.

**INTRODUCED AND FIRST READING PERFORMED** on the 17th day of January 2023 by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST:

\_\_\_\_\_  
Tami Trent, Mayor

\_\_\_\_\_  
Siana Emmons, City Clerk

**SECOND READING PERFORMED AND ADOPTED** on the 6<sup>th</sup> day of February 2023 by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST:

\_\_\_\_\_  
Tami Trent, Mayor

\_\_\_\_\_  
Siana Emmons, City Clerk

### CERTIFICATE

I, Siana Emmons, City Clerk of the City of Fortuna, do hereby certify that Ordinance 2023-758 was **INTRODUCED** at a regular meeting of the Fortuna City Council held the 17<sup>th</sup> day of January 2023, and was thereafter **PASSED, ADOPTED AND ORDERED TO PRINT** at a regular meeting of the Fortuna City Council held the 6<sup>th</sup> day of February 2023. I further certify that Ordinance 2023-758 was duly posted and published pursuant to law and the Charter of the City of Fortuna and is a true and correct copy.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Fortuna, California, and this 6th day of February 2023.

\_\_\_\_\_  
Siana Emmons  
City Clerk, City of Fortuna

**Ordinance 2023-758 –Exhibit A**

**FORTUNA MUNICIPAL CODE**

**Title 15—BUILDING AND CONSTRUCTION**

**Division I. Generally**

**Chapter 15.10—BUILDING CODE**

Sections:

- 15.10.010 2022 California Building Standards Code
- 15.10.015 Changes to City of Fortuna’s adopted Chapter 1 Division II: Administration.
- 15.10.020 Severability
- 15.10.030 Fees

**15.10.010 2022 California Building Standards Codes**

In January 2022, the State of California Building Standards Commission adopted many of these codes with amendments and published them as California codes. The new California Code of Regulations, Title 24, was published in July 2022. The codes adopted by the Building Standards Commission go into effect 180 days after publication by the State and must be enforced by each City as of January 1, 2023. The 2022 California Building Standards Code will be enforced.

The following codes are designed to increase the health & safety of the public and to reduce the potential of property damage from fire, earthquakes and other natural or manmade disasters. The City of Fortuna adopts the California Code of Regulations, Title 24 for the purpose of plan checking, technical inspections, code enforcement, mobile home inspection, prescribing regulations for erecting, construction, enlargement, alteration, repair, improving, removal, conversion, demolition, occupancy, equipment use, height and area of buildings & structures and to enforce state-mandated codes related to construction.

- A. CALIFORNIA ADMINISTRATIVE CODE. 2022 California Administrative Code (Part 1 of Title 24), *based on the 2021 International Building Code (IBC)*.
- B. CALIFORNIA BUILDING CODE. 2022 California Building Code (Part 2 of Title 24), including Chapter 1 Division II (Administration), and Appendices A (Qualifications), C (Agriculture), F (Rodent Proofing), G (Flood Resistant), H, (Signs), I (Patio Covers), J (Grading), N (Replicable Buildings) and O (Emergency Housing), *based on the 2021 International Building Code (IBC)*.
- C. CALIFORNIA RESIDENTIAL CODE. 2022 California Residential Code (Part 2.5 of Title 24), including Chapter 1 Division II (Administration), and Appendices H (Patio Covers), J (Existing Building and Structures), K (Sound Transmission), Q (Tiny Houses), R (Light-Straw-Clay Construction), S (Strawbale Construction), T (Solar-Ready provisions), V (Swimming Pool Safety Act), X (Emergency Housing), *based on the 2021 International Residential Code (IRC)*.
- D. CALIFORNIA ELECTRICAL CODE. 2022 California Electrical Code (Part 3 of Title 24), *based on the 2020 National Electrical Code (NEC)*.

- E. CALIFORNIA MECHANICAL CODE. 2022 California Mechanical Code (Part 4 of Title 24), including Chapter 1 Division II (Administration), based on the 2021 Uniform Mechanical Code (UMC).
- F. CALIFORNIA PLUMBING CODE. 2022 California Plumbing Code (Part 5 of Title 24), including Chapter 1 Division II (Administration), and Appendices A (Recommended Rules for Dizing), B (Eplanatory notes), C (Alternate Plumbing Systems), D (Sizing Sormwater Drains Systems), G (Sizing of Venting Systems), I (Installation Standard for PEX Tubing Systems) and K (Portable Rainwater Catchment Systems), L (Sustainable Practices), based on the 2021 Uniform Plumbing Code (UPC).
- G. CALIFORNIA ENERGY CODE. 2022 California Energy Code (Part 6 of Title 24). Including Chapter 1 Division II (Administration).
- H. CALIFORNIA HISTORICAL BUILDING CODE. 2022 California Historical Building Code (Part 8 of Title 24) including Chapter 1 Division II (Administration).
- I. CALIFORNIA FIRE CODE. 2022 California Fire Code (Part 9 of Title 24), including Chapter 1 Division II (administration), based on the 2021 International Fire Code (IFC).
- J. CALIFORNIA EXISTING BUILDING CODE. 2022 California Existing Building Code (Part 10 of Title 24), including Chapter 1 Division II (Administration) and Appendices Chapter A1, A3 and A4, based on the 2021 International Existing Building Code (IEBC).
- K. CALIFORNIA GREEN BUILDING STANDARDS CODE – “CAL Green.” 2022 California Green Building Standards Code (Part 11 of Title 24). including Chapter 1 Division II (Administration).
- L. CALIFORNIA REFERENCED STANDARDS CODE. 2022 California Referenced Standards Code (Part 12 of Title 24)
- M. 1997 UNIFORM HOUSING CODE. 1997 Uniform Housing Code, published by the International Conference of Building Officials as referenced by the California Department of Housing and Community Development and pursuant to the provisions of Section 17958, 17958.5, 17958.7, 17958.9 and 17959 of the California Health and Safety Code.

Where the California Building Standards Code Regulations listed above differ from any provisions of the International or Uniform Codes, California Building Standards Codes shall prevail.

#### **15.10.015 Changes To City of Fortuna’s Adopted Chapter 1 Division II: Administration.**

- A. Permit Expiration: The first paragraph of CBC Chapter 1 Division II, Section 105.5 and CRC Chapter 1 Division, Section R105.5 is changed to read:

Every permit issued shall expire two years from the date of issuance. Every permit shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within 180 days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of more than 180 days. The building official is

authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. Once a building permit has expired, work can be recommenced only after that permit is renewed or a new permit is issued. The fee, therefore, shall be one-half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and provided further that such suspension or abandonment has not exceeded one year. In order to renew action on a permit expired, suspended or abandoned by over one year, the permittee shall pay a new full permit fee. The new permit will be issued and also inspected utilizing the codes that are adopted and in force at that moment.

- B. Engineering Requirement: The following shall be added to CBC Chapter 1 Division II, Section 107.1: and CRC Chapter 1 Division II, Section R106.1:

All structures or buildings classified in Occupancy Groups A, B, E, F, H, I, M, R, S, and U shall be designed by an architect or civil/structural engineer, licensed/registered in the State of California. All plans will be deemed to have complied with the requirements of this Section, provided that they are prepared in accordance with sections 6731, 6737, 6737.1 of the Business and Professions Code.

Exception:

The Building Official may consider a waiver of this requirement when a California licensed General Contractor can demonstrate to the satisfaction of the building department that they are capable of providing the necessary information and constructing the project without having a project be designed by an architect or civil/structural engineer, licensed/registered in the State of California.

- C. Topographic Survey and Boundary Survey Requirements: The following shall be added to CBC Chapter 1 Division II, Section 107.1: and CRC Chapter 1 Division, Section R106.1:

For new construction, all lots will require a Topographic Survey prepared by a California licensed Land Surveyor, or Civil Engineer licensed to perform such services.

Exception:

The Building Official may waive the Topographic Survey requirements for minor additions and alterations. The Building Official may also consider a waiver of this requirement based on a written request and a determination that topographic information is not necessary for the proposed project.

For new construction, all lots will require a Boundary Survey prepared by a California licensed Land Surveyor or Civil engineer licensed to perform such services.

Exception:

The Building Official may consider a waiver of the Boundary Survey requirements when a California licensed General Contractor can show the building department all the corner markers identified on an existing survey. The Building Official may also waive the Boundary Survey requirements for minor additions or alterations

- D. Work Commencing Before a Permit is Issued: The following shall be added to CBC Chapter 1 Division II, section 109.4: and CRC Chapter 1 Division, Section R108.6:

Any person who commences any work for which a permit is required, such as, but not limited to: grading, demolition, or on a building, structure, electrical, gas, mechanical, fire protection or plumbing system before obtaining the necessary permits shall be subject to a fee established by fee resolution that shall be in addition to the required permit fees. Double Building Permit Fees will apply at a minimum of \$500.00 plus \$500.00 fine may be added for each violation (type of construction) where a building permit should have been issued. For where any person or company is found doing other projects and/or work commencing before a permit is issued, the project fine will be charged at compounding fees.

- E. Related fees: The following shall be added to CBC Chapter 1 Division II, section 109.5: and CRC Chapter 1 Division, Section R108.4

The payment of the fee for the construction, alteration, removal or demolition for work done in connection to or concurrently with the work authorized by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law.

Fees to be paid before further construction or de-construction can proceed.

- F. Violation Penalties: The following shall be added to CBC Chapter 1 Division II, section 114.4: and CRC Chapter 1 Division, Section R113.4

Any person who violates any of the provisions of this Title, or who violates or fails to comply with any order made hereunder, or who builds in violation of any detailed statement of specifications or plans submitted and approved hereunder is guilty of an infraction unless otherwise provided, and punishable by a fine of not more than five hundred dollars (\$500), and/or imprisonment for not more than six (6) months for each and every such violation and noncompliance. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue, and all such persons shall be required to correct or remedy such violations or defects within a reasonable time. When not otherwise specified, each five (5) days that prohibited conditions are maintained shall constitute a separate offense. The application of the above penalty shall not be the exclusive remedy nor shall the penalty be held to prevent the enforced removal of prohibited conditions. Any violation of this Title shall additionally constitute a public nuisance subject to abatement. Violation of this Title shall be punishable per offense by a fine set forth in the California Building Codes and the City of Fortuna. In addition, if a violation is found to have taken place, the hearing officer may also require payment of the City of Fortuna's reasonable costs of processing and collection.

- G. Stop Work Order Fee: The following shall be added to CBC Chapter 1 Division II, section 115: and CRC Chapter 1 Division, Section R114

Any person who commences any work for which a permit is required, such as, but not limited to: grading, demolition, or on a building, structure, electrical, gas, mechanical, fire protection or plumbing system, where a building permit is required by code, before obtaining the necessary permits shall be subject to a Stop Work Order Issuance fee of two hours at the overhead cost established by fee resolution. Investigation time (if needed) to investigate any unpermitted projects will be charged at the time used or needed.



**15.10.020 Severability:**

If any section or portion thereof of this Title is for any reason held to be invalid by a court of competent jurisdiction, such decision or determination shall not affect the validity of the remaining provisions of any part thereof.

**15.10.030 Fees**

The fees referenced in the Codes shall be those fees adopted by Resolution by the City Council of the City of Fortuna.

