

ORDINANCE NO. 2024-13

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AMENDING SECTION 15.02.085 (ADDITION OF SECTION 105.3.1.1) OF THE NEWPORT BEACH MUNICIPAL CODE RELATED TO DEMOLITION WASTE DISPOSAL

WHEREAS, Section 200 of the City of Newport Beach ("City") Charter vests the City Council with the authority to make and enforce all laws, rules and regulations with respect to municipal affairs subject only to the restrictions and limitations contained in the Charter and the State Constitution, and the power to exercise, or act pursuant to any and all rights, powers, and privileges, or procedures granted or prescribed by any law of the State of California;

WHEREAS, Chapter 15.02 of the Newport Beach Municipal Code ("NBMC"), known as the Newport Beach Administrative Code, adopts and incorporates by reference Chapter 1, Division II of the California Building Code (2022 Edition);

WHEREAS, Section 15.02.085 of the NBMC added section 105.3.1.1 to the California Building Code to require the use of franchised waste haulers to dispose of waste resulting from the complete demolition of a structure and to require a deposit, which amount is scaled according to the size of the project, to encourage use of such haulers ("demolition waste hauler requirement");

WHEREAS, the demolition waste hauler requirement promotes the City's compliance with statutory waste diversion requirements;

WHEREAS, the demolition waste hauler requirement currently only applies to complete demolition projects and does not extend to waste produced from construction projects;

WHEREAS, requiring the payment of a similar disposal deposit for construction projects to encourage the use of franchised waste haulers will aid the City in achieving compliance with the waste diversion requirements of Assembly Bill (AB) 939 and CalGreen;

WHEREAS, on March 14, 2024, City staff presented to the City's Finance Committee as part of the fee study update review proposed revisions to the demolition waste hauler requirement that would extend its application to construction projects, including the payment of a deposit scaled according to the valuation of the construction project; and

WHEREAS, City staff recommends the City Council adopt those proposed revisions to the demolition waste hauler requirement.

NOW THEREFORE, the City Council of the City of Newport Beach ordains as follows:

Section 1: Section 15.02.085 (Addition of Section 105.3.1.1) of the NBMC is hereby amended to read as follows:

Section 105.3.1.1 is added as follows:

Section 105.3.1.1 Construction and demolition waste permits. Prior to issuance of a building permit for construction having a valuation over \$100,000 or a demolition permit for complete demolition of a structure, the permittee shall certify that a City franchised solid waste enterprise shall be used for the handling, removal and disposal of all construction and demolition waste. A permit deposit, set by Resolution of the City Council, shall be paid at the time of submitting the building or demolition permit application and the Construction and Demolition Waste Certification and Deposit Form. Said deposit shall be returned to the permittee, minus administrative fees set by Resolution of the City Council, at the conclusion of the construction or demolition project, upon the submittal of documentation that a franchised solid waste enterprise was used to handle, remove and dispose of all construction and demolition wastes. The permit deposit shall be forfeited in its entirety if a franchised solid waste enterprise is not used to handle, remove and dispose of all construction and demolition wastes.

If the Building Official finds that the work described in an application for a building or demolition permit and the plans, specifications and other data filed therewith conform to the requirements of this Code and the technical codes and other pertinent laws and ordinances, and that the fees specified in Section 109 have been paid and that a franchised solid waste enterprise is being used, the Building Official shall issue a permit therefor to the applicant. Prior to any construction or demolition activities authorized by the permit, the permittee shall notify the Public Works Department no less than twenty-four (24) hours or more than seventy-two (72) hours in advance of its intent to commence construction or demolition and provide the name of the franchised solid waste enterprise that will

haul and dispose of the construction and demolition wastes. Any hauling or disposal of demolition and construction wastes by other than the identified franchised solid waste enterprise shall subject the project to suspension of work as authorized in this Code and subject the deposit to forfeiture.

Section 2: The recitals provided in this ordinance are true and correct and are incorporated into the substantive portion of this ordinance.

Section 3: If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 4: The City Council finds the introduction and adoption of this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

Section 5: Except as expressly modified in this ordinance, all other sections, subsections, terms, clauses and phrases set forth in the Newport Beach Municipal Code shall remain unchanged and shall be in full force and effect.

Section 6: The Mayor shall sign and the City Clerk shall attest to the passage of this ordinance. The City Clerk shall cause the ordinance, or a summary thereof, to be published pursuant to City Charter Section 414. This ordinance shall be effective thirty (30) calendar days after its adoption.

This ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach held on the 23rd day of April, 2024, and adopted on the 14th day of May, 2024, by the following vote, to-wit:

AYES: _____

NAYS: _____

ABSENT: _____

WILL O'NEILL, MAYOR

ATTEST:

LEILANI I. BROWN, CITY CLERK

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



AARON C. HARP, CITY ATTORNEY