

City of Brisbane

Agenda Report

TO: Mayor and City Council

FROM: Hal Toppel, City Attorney

SUBJECT: Adoption of 2010 Editions of Fire Code and Construction Codes

DATE: For Council Meeting on November 15, 2010

City Council Goals:

To provide for effective and efficient delivery of City services. [1]

To provide public service that assures the safety of property and citizens residing, working, or visiting in Brisbane. [9]

Purpose:

The purpose of the ordinances is to adopt the most recent versions of the California Fire Code and the California Construction Codes.

Recommendation:

1. Introduce Ordinance No. 551, adopting the 2010 Edition of the California Fire Code, with local modifications.
2. Introduce Ordinance No. 552, adopting the 2010 Edition of the California Building Standards Code

Background:

Every three years a new set of construction codes is published by the State. If no action is taken by a local jurisdiction to modify the standard codes, they will automatically become effective. In 2007, the City amended Chapter 15.04 of the Municipal Code to adopt the 2007 uniform building codes, and amended Chapter 15.44 to adopt the 2007 uniform Fire Code.

The 2010 Codes are no longer referred to as the "Uniform" codes due to a merger between the two organizations that establish the national standards. These national standards are then adopted and modified by the State of California and become the "California construction codes." In addition to the national standards, the State has also adopted its own separate regulations, such as the California Green Building Standards Code.

In order to modify the standard codes, a local jurisdiction must make a finding that the modification is required due to climatic, geographical, topographical or other conditions.

Discussion:

A. Ordinance No. 551 – Fire Code Adoption:

Ordinance No. 551 will adopt the 2010 Edition of the California Fire Code, which is based upon the 2009 Edition of the International Fire Code. When the 2007 code was adopted, numerous local modification were made, as set forth in Chapter 15.44 of the Municipal Code. All of these modifications will be continued for the 2010 Fire Code. Section 1 of the Ordinance contains the same findings to support the modifications as recited in the 2007 ordinance. However, only 3 sections actually need to be amended, and these amendments are being made only for the purpose of changing the references to the section number of the 2010 California Fire Code that is being modified. All other modifications in Chapter 15.44 will remain the same and shall constitute amendments to the 2010 Edition of the Fire Code, as provided in Section 7 of the proposed ordinance.

B. Ordinance No. 552 – Construction Codes Adoption:

Ordinance No. 552 will adopt the 2010 Editions of the various construction codes listed in Section 15.04.040 (except for the Uniform Code for Abatement of Dangerous Buildings, which was not changed and is still the 1997 Edition). There is no longer any need to adopt local modifications since the modifications adopted in 2007 have now been incorporated into the 2010 versions. Consequently, all of these modifications have been eliminated and Ordinance No. 552 will replace the entire Chapter 15.04. Section 15.04.030 recognizes that the construction codes are no longer the "exclusive" source of building regulations. For example, in separate chapters of BMC Title 15 the City has also adopted its green building ordinance, water conservation ordinances and construction debris ordinance. In the event of any conflict between these chapters, Section 15.04.030 provides that the regulation which establishes the highest standard of safety or environmental protection or conservation shall be controlling.

C. Amendments to Penalty Provisions:

Both ordinances also contain amendments to their respective penalty provisions for violations. These sections were taken from the larger ordinance that will amend all of the penalty provisions throughout the Municipal Code. This draft ordinance is currently before the Planning Commission to consider those sections dealing with violations of the Zoning

Ordinance. There was no reason to wait for the larger ordinance when the changes can easily and more quickly be adopted in Ordinances 551 (see Section 6) and Ordinance 552 (see Section 2).

D. Impact of State Green Building Code:

A new State law that will become effective January 1 is CALGreen, the nation's first mandatory green building code. CALGreen applies to new residential and nonresidential construction, and includes mandatory provisions pertaining to site design and stormwater management, indoor/outdoor water use, waste reduction, indoor air quality, noise control and other environmental considerations. Some of the issues addressed under CALGreen are addressed elsewhere in the City Municipal Code. In the event an issue is addressed both in CALGreen and another provision of the Municipal Code, the more stringent requirement shall apply, as noted above. Staff is in the process of identifying areas of overlap and/or potential conflict between CALGreen and the Municipal Code, and anticipates amending the Municipal Code to eliminate inconsistencies and otherwise clarify requirements.

CALGreen includes both mandatory provisions and more stringent optional levels (Tier 1 and Tier 2) which can be adopted at the discretion of the local agency. Ordinance 552 will adopt the mandatory provisions of CALGreen [see Section 15.04.040(j)]. Given the Open Space and Ecology Committee's participation in the City's Green Building Ordinance, staff recommends that the City Council refer further monitoring of CALGreen and its implications on the City's Green Building Ordinance to the Open Space and Ecology Committee.

Fiscal Impact:


None

Measure of Success:


Application of updated standards to comply with State law.

Attachments:

1. Proposed Ordinance No. 551 to adopt the 2010 California Fire Code.
2. Proposed Ordinance No. 552 to adopt the 2010 California Construction Codes



City Attorney



City Manager



Director of Community Development

ORDINANCE NO. 551

AN ORDINANCE OF THE CITY OF BRISBANE ADOPTING THE 2009 EDITION OF THE INTERNATIONAL FIRE CODE AND THE 2010 EDITION OF THE CALIFORNIA FIRE CODE WITH CERTAIN LOCAL MODIFICATIONS

The City Council of the City of Brisbane hereby ordains as follows:

SECTION 1: The City Council finds and determines as follows:

A. Certain hillside areas of the City are characterized by heavy vegetation and close proximity of structures to the vegetation and to each other. These areas also contain narrow, winding streets, with steep grades and congested parking and traffic, making access difficult for fire apparatus and equipment in the event of emergency. Numerous dwellings located within the upper hillsides can only be reached by means of private access ways which may not be adequately constructed or maintained for access by Fire Department vehicles.

B. There are several natural conditions that affect the risk of fire damage within the City, including the following:

1. Brisbane is located near the San Andreas Fault and is subject to seismic activity that could potentially ignite fires throughout the City.
2. Brisbane regularly experiences strong winds, with average velocities ranging from approximately 15 to 25 miles per hour and reaching high velocities of 50 miles per hour. These winds may significantly contribute to the spread of fire and will increase the difficulty of fire suppression work.
3. The hillside areas of the City are constructed on the East slope of San Bruno Mountain, immediately adjacent to a protected habitat conservation area which is subject to wildland fires. During recent years, several wildland fires have threatened the safety of persons and property located near these areas.

C. By reason of the foregoing climatic, geographical, topographical, and community conditions, it is necessary to adopt certain local amendments to the California Fire Code in order to provide a high level of fire and life safety for all persons who live and work within the City of Brisbane and to adequately protect both public and private property within the City.

SECTION 2: Section 15.44.010 in Chapter 15.44 of the Municipal Code is amended to read as follows:

§15.44.010 Adoption of fire prevention code.

The fire prevention code for the City of Brisbane shall be the 2009 Edition of the International Fire Code and the 2010 Edition of the California Fire Code, including

Appendices B, C, D, F and J (hereinafter referred to as the "Fire Code"), as promulgated by the International Code Council, and the same is hereby adopted and incorporated herein by reference, subject to the modifications as contained in this Chapter 15.44. Two (2) copies of the Fire Code have been filed for use and examination by the public, one copy being located at Brisbane City Hall and the other copy being located at the Brisbane Fire Station.

SECTION 3: Section 15.44.070 in Chapter 15.44 of the Municipal Code is amended to read as follows:

§15.44.070 Section 507.5.7 added – Fire Hydrants and water supply.

Section 507.5.7 is added to the Fire Code, to read as follows:

507.5.7 Hydrants. All new fire hydrants shall be UL listed, or equivalent, wet barrel type having a minimum of two 2 ½" and one 4 ½" outlets, all equipped with national standard threads (Clow 860, or approved equivalent). The minimum fire service main size permitted is six inch (6").

SECTION 4: Section 15.44.110 in Chapter 15.44 of the Municipal Code is amended to read as follows:

§15.44.110 Section 907.9.5 amended – Maintenance, Inspection and Testing.

Section 907.9.5 of the Fire Code is amended by adding the following paragraph at the end of said Section:

Owners and operators of group R-1 occupancies shall provide documentation to the Fire Department, such as annual inspection forms, which confirm that all smoke detection devices and equipment within apartment units are installed and are in good operating condition.

SECTION 5: Section 15.44.150 in Chapter 15.44 of the Municipal Code is amended to read as follows:

§15.44.150 Section 3301.2 amended – Limits for storage of explosive materials.

Section 3301.2 of the Fire Code is amended by adding the following paragraph at the end of said Section:

The storage of explosives and blasting agents is prohibited in all areas of the City, except that the Fire Marshal may grant a permit to allow such storage if the Fire Marshal determines, in each case, that the storage is required for the conduct of a lawful use upon the property, will not constitute a safety hazard, and will otherwise comply with all applicable provisions of this Code and all other

ordinances, rules and regulations of the City. The Fire Marshal may impose such conditions and requirements upon the issuance of the permit as the Fire Marshal deems necessary or appropriate.

SECTION 6: Section 15.44.180 in Chapter 15.44 of the Municipal Code is amended to read as follows:

§15.44.180 Violations of Fire Code-Penalties.

The violation of any of the provisions of the Fire Code adopted by this Chapter, or any permit issued thereunder, shall constitute a misdemeanor, punishable by the fines, penalties and enforcement provisions set forth in Chapters 1.14, 1.16 and 1.18 of this Code.

SECTION 7: Except for the specific sections amended by this Ordinance, all other sections set forth in Chapter 15.44 of the Municipal Code shall remain in full force and effect and shall constitute amendments to the 2009 Edition of the International Fire Code and the 2010 Edition of the California Fire Code.

SECTION 8: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Brisbane hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

SECTION 9: This Ordinance shall be in full force and effect thirty days after its passage and adoption.

* * * *

The above and foregoing Ordinance was regularly introduced and after the waiting time required by law, was thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on the _____ day of _____, 2010, by the following vote:

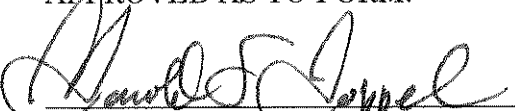
AYES:
NOES:
ABSENT:
ABSTAIN:

Cy Bologoff, Mayor

ATTEST:

Sheri Marie Spediacci, City Clerk

APPROVED AS TO FORM:



Harold S. Toppel, City Attorney

ORDINANCE NO. 552

**AN ORDINANCE OF THE CITY OF BRISBANE AMENDING
CHAPTER 15.04 IN TITLE 15 OF THE MUNICIPAL CODE TO
ADOPT THE 2010 EDITION OF THE CALIFORNIA BUILDING
STANDARDS CODE**

The City Council of the City of Brisbane hereby ordains as follows:

SECTION 1: Chapter 15.04 in Title 15 of the Municipal Code is repealed in its entirety and replaced by a new Chapter 15.04, to read as follows:

**CHAPTER 15.04
ADOPTION OF CONSTRUCTION CODES**

Sections:

- | | |
|-----------|---|
| 15.04.010 | Purpose and authority |
| 15.04.020 | Citation |
| 15.04.030 | Conflicts with other laws, rules or regulations |
| 15.04.040 | Adoption of Construction Codes |
| 15.04.050 | Disclaimer of liability |

§15.04.010 Purpose and authority

The purpose of this Chapter is to adopt by reference the 2010 edition of the California Building Standards Code, Title 24 of the California Code of Regulations. This Chapter is also adopted to provide minimum requirements and standards for the protection of the public safety, health, property and welfare of the City of Brisbane. This Chapter is adopted under the authority of Government Code Subsection 50022.2 and Health and Safety Code Section 18941.5.

§15.04.020 Citation

This Chapter shall be known as the Brisbane Construction Code, and may be cited as such, and will be referred to herein as "this Code."

§15.04.030 Conflicts with other laws, rules or regulations

In the event of any conflict between this Code and any law, rule or regulation of the State of California, or any other ordinance, rule or regulation of the City, that requirement which establishes the higher standard of safety or environmental protection or conservation, shall govern. Failure to comply with such higher standard shall be a violation of this Code.

§15.04.040 Adoption of Construction Codes

Title 24 of the California Code of Regulations, 2010 Edition of the California Building Standards Code, is hereby adopted by reference and incorporated in this Code, including the following parts:

- (a) Part 1: **California Administrative Code**.
- (b) Part 2: **California Building Code**, 2010 Edition, Volumes 1 and 2, based on the 2009 International Building Code (ICC), including Appendix Chapters G (Flood-Resistant Construction), H (Signs) and I (Patio Covers).
- (c) Part 2.5: **California Residential Code**, 2010 Edition, based on the 2009 Edition International Residential Code (ICC), including Appendix Chapter H (Patio Covers) and Appendix Chapter J (Existing Buildings).
- (d) Part 3: **California Electrical Code**, 2010 Edition, based on the 2008 Edition National Electric Code as published by the National Fire Protection Association (NFPA), including Appendix Chapters.
- (e) Part 4: **California Mechanical Code**, 2010 Edition, based on the 2009 Uniform Mechanical Code as published by the International Association of Plumbing and Mechanical Officials (IAPMO), including Appendix Chapters.
- (f) Part 5: **California Plumbing Code**, 2010 Edition, based upon the 2009 Uniform Plumbing Code as published by the International Association of Plumbing and Mechanical Officials (IAPMO), including Appendix Chapters.
- (g) Part 6: **California Energy Code**, 2010 Edition, including Appendix Chapters.
- (h) Part 8: **California Historical Code**, 2010 Edition, including Appendix Chapters.
- (i) Part 9: For adoption of the 2010 Edition of the California Fire Code, and modifications thereof, see Chapter 15.44 of this Title.
- (j) Part 11: **California Green Building Standards Code**, 2010 Edition.
- (k) Part 12: **California Referenced Standards Code**, including Appendix Chapters.
- (l) **Uniform Code for Abatement of Dangerous Buildings**, 1997 Edition.

§15.04.050 Disclaimer of Liability

The provisions of this Code shall not be construed as imposing upon the City of Brisbane any liability or responsibility for damage to persons or property resulting from defective work, nor shall the City of Brisbane or any official, employee or agent thereof, be held as assuming any such liability or responsibility by reason of the review or inspection authorized by the provisions of this Code of any permits or certificates issued under this Code.

SECTION 2: Section 15.08.280 in Chapter 15.08 of the Municipal Code, pertaining to building regulations, is amended to read as follows:

§15.08.280 Violation-Penalties.

A. It is unlawful for any person to erect, install, construct, enlarge, alter, repair, move, improve, remove, replace, convert, equip, use, occupy, maintain or demolish any building, structure or equipment therein regulated by this Chapter or the construction codes, or cause the same to be done, contrary to or in conflict with or in violation of any of the provisions of this Chapter or said codes.

B. The violation of any of the provisions of this Chapter or the construction codes shall constitute a misdemeanor, punishable by the fines, penalties and enforcement provisions set forth in Chapters 1.14, 1.16 and 1.18 of this Code. The penalties set forth herein are cumulative and shall not preclude the imposition of any other fine or penalty otherwise permitted by law, including a penalty fee for commencing work without a permit as prescribed by Section 15.12.150 of this Title.

SECTION 3: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Brisbane hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

SECTION 4: This Ordinance shall be in full force and effect thirty days after its passage and adoption.

* * *

The above and foregoing Ordinance was regularly introduced and after the waiting time required by law, was thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on the _____ day of _____, 2010, by the following vote:

AYES:

NOES:

ABSENT:

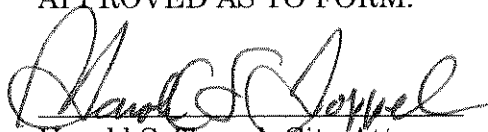
ABSTAIN:

Cy Bologoff, Mayor

ATTEST:

Sheri Marie Spediacci, City Clerk

APPROVED AS TO FORM:


Harold S. Toppel, City Attorney