

**ORDINANCE NO. 543**

**AN ORDINANCE OF THE CITY OF BRISBANE ADDING  
CHAPTER 15.72 TO THE MUNICIPAL CODE TO  
ESTABLISH INDOOR WATER CONSERVATION  
REGULATIONS**

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

**SECTION 1:** This Ordinance is adopted in light of the following facts and circumstances, which are hereby found and declared by the City Council:

A. A reliable minimum supply of potable water is essential to the public health, safety and welfare of the people and economy of the City of Brisbane, California.

B. The City of Brisbane is located in a Semi-Arid region and is largely dependent upon imported water supplies. Factors, such as drought, a growing population, climate change, and environmental and regulatory concerns affect our region's water reliability and make the region highly susceptible to water supply challenges.

C. Careful water management requires active water conservation measures, not only in times of drought but at all times, in order to ensure a reliable minimum supply of water to meet current and future water supply needs.

D. Article X, Section 2 of the California Constitution and Section 100 of the California Water Code declare that the general welfare requires water resources be put to beneficial use, waste or unreasonable use or unreasonable method of use of water be prevented, and conservation of water be fully exercised with a view to the reasonable and beneficial use thereof.

E. The San Francisco Public Utilities Commission has imposed an interim water supply limitation on its wholesale customers, including local water suppliers, until at least 2018.

F. Current supply and demand projections for the Bay Area Water Supply and Conservation Agency ("BAWSCA") member agencies indicate that, in the absence of increased water conservation, water demands will exceed available water supplies in 2015 and implementation of water conserving ordinances is one mechanism by which agencies can reduce future water demands and remain within existing supplies.

G. The City Council finds and determines that this Ordinance is consistent with the provisions requiring high efficiency water conserving fixtures and reductions in indoor water use

in the 2007 California Plumbing Code and the California Green Building Standards Code, respectively, as such provisions will be implemented in the coming years. Implementation of this Ordinance is necessary to expedite the use of high efficiency water conserving fixtures and assist BAWSCA member agencies in achieving water savings.

H. The State Legislature has identified the provision of a more reliable water supply and the protection, restoration and enhancement of the Delta ecosystem as a high priority for the State. Pursuant to this, in November 2009, the State Legislature passed Senate Bill 7 (7<sup>th</sup> Extraordinary Session) requiring certain urban water suppliers to reduce per capita urban water use by 20% by the year 2020. Accordingly, the City Council finds that the implementation of this Ordinance is consistent with the policies and goals established by the State Legislature in enacting Senate Bill 7 (7<sup>th</sup> Extraordinary Session).

I. The State Legislature has identified urban water conservation as a cost-effective approach to addressing water supply needs and determined that there are many water conservation practices that produce significant energy and water resource savings that should be encouraged as a matter of state policy. Pursuant to this finding, the State Legislature passed Senate Bill 407 (Chapter 587, Stats. 2009), requiring all residential and commercial property owners to replace existing plumbing fixtures with water-conserving fixtures by 2017 and 2019, respectively, and to upgrade existing plumbing fixtures upon any remodel initiated after January, 1 2014. Senate Bill 407 further authorizes a city, county, or retail water supplier to enact local ordinances that promote compliant use of water efficient plumbing fixtures or which will result in a greater amount of water savings than those provided for in Senate Bill 407. Accordingly, the City Council finds and determines that this Ordinance is consistent with the mandates of Senate Bill 407 and will result in water savings as provided for in Senate Bill 407.

J. Article XI, Section 7 of the California Constitution declares that a city or county may make and enforce within its limits all local policy, sanitary, and other ordinances and regulations not in conflict with general laws.

K. The City Council finds and determines that the more restrictive building standards for water conserving fixtures provided for in this Ordinance are reasonably necessary because of local climatic, geological or topographical conditions.

L. The City Council finds and determines that this Ordinance is not subject to the California Environmental Quality Act (Public Resources Code Section 2100 et seq.) ("CEQA") pursuant to Section 15307 (the activity assures the maintenance, restoration, enhancement, or protection of a natural resource) and Section 15378(b)(2) (the activity is not a project as it involves general policy and procedure making) of the State CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, since it makes and implements policies and procedures for ensuring that water resources are conserved by reducing water consumption through the use of water efficient indoor plumbing fixtures.

M. The adoption and enforcement of this Ordinance is necessary to manage the City's potable water supply in the short and long-term and to avoid or minimize the effects of

drought and shortage within the City. This Ordinance is essential to ensure a reliable and sustainable minimum supply of water for the public health, safety and welfare.

**SECTION 2:** A new Chapter 15.72 is added to Title 15 of the Municipal Code, to read as follows:

**Chapter 15.72  
INDOOR WATER CONSERVATION REGULATIONS**

**Sections:**

15.72.010	Title
15.72.020	Coordination with the State Plumbing Code
15.72.030	Applicability
15.72.040	Definitions
15.72.050	Minimum Indoor Fixture Requirements
15.72.060	Compliance With Chapter
15.72.070	Indoor Water Use Efficiency Checklist
15.72.080	Enforcement of Chapter
15.72.090	Public Education

**§15.72.010 Title**

This Chapter shall be known as the City of Brisbane Indoor Water Use Efficiency Ordinance.

**§15.72.020 Coordination with the State Plumbing Code**

This code does not replace the currently adopted California Plumbing Code, 2007 Edition, appendices printed therein, and all supplements subsequently issued thereto, or other applicable California codes, herein collectively called the "Plumbing Code". To the extent the provisions of this Chapter conflict with any current or subsequently adopted provisions in the Plumbing Code, then the most stringent provisions shall supersede and control with regard to the indoor fixture requirements.

**§15.72.030 Applicability**

- A. The provisions of this Chapter shall apply to the following projects:
  - (1) All new construction, regardless of building classification, requiring a building permit, plan check or design review, or requiring new or expanded water service.

- (2) All kitchen and bathroom remodels requiring a building permit, plan check, design review, new or expanded water service, except that the provisions of this Chapter will only apply to the fixtures normally included in the kitchen or bathroom, as the case may be, to be remodeled; and
  - (3) Any remodel deemed by the building official to have a value in excess of fifty percent of the value of the pre-existing structure, or involving an area in excess of fifty percent of the area of the pre-existing building, per Section 15.08.140 of this Title.
- B. The provisions of this Chapter shall not apply to any of the following:
- (1) Existing buildings not seeking a building permit, plan check or design review.
  - (2) Registered local, state or federal historical sites;
  - (3) Remodels where, in the discretion of the building official, the unique configuration of the building, its drainage system or portions of the public sewer, or both, are incompatible with efficiency standards listed in the Indoor Water Use Efficiency Table and require a greater quantity of water to flush the system in a manner that is consistent with public health.

#### §15.72.040 **Definitions**

- A. As used in this Chapter, certain words and phrases shall be defined as follows:
- (1) **Certified professional** means a licensed contractor, licensed architect or licensed professional engineer.
  - (2) **City** means the City of Brisbane.
  - (3) **Energy Star Qualified** means that a given fixture meets the United States Environmental Protection Agency standard for an energy efficient product.
  - (4) **Expanded water service** means the installation of a larger meter or addition of a new meter.
  - (5) **gal/cycle** means gallons per cycle.
  - (6) **gal/100 lbs ice** means gallons per hundred pounds of ice.
  - (7) **gpf** means gallons per flush.
  - (8) **gpm** means gallons per minute.

- (9) **LSI** means Langlier Saturation Index providing an indication of the degree of saturation of water with respect to calcium carbonate related to cooling tower efficiency.
- (10) **Local water purveyor** means any entity other than the City of Brisbane, including a public agency, city, county, or private water company that provides retail water service.
- (11) **Permit** means the document issued by local agencies in connection with new construction, remodels or renovations and which authorizes the lawful initiation of construction, improvements or repairs to a building or structure.
- (12) **Project applicant** means the individual or entity submitting an Indoor Water Use Efficiency Checklist as required under Section 15.72.070 of this Chapter, and requesting a permit, plan check, design review, or new or expanded water service application from the City. A Project applicant may be the property owner or his, her or its designee.
- (13) **RMF** means residential multi-family.
- (14) **sq. ft.** means square feet.

**§ 15.72.050 Minimum Indoor Fixture Requirements**

All new construction and applicable remodels will have, at a minimum, fixtures that comply with the efficiency standards listed below (the “Indoor Water Use Efficiency Table”):

**INDOOR WATER USE EFFICIENCY TABLE**

<b>Fixture</b>	<b>Residential</b>	<b>Non-Residential</b>
Toilets	≤ 1.28 gpf, and ≥ 350 grams	≤ 1.28 gpf, and ≥ 350 grams
Urinals	≤ 0.5 gpf	≤ 0.5 gpf
Showers	≤ 2.0 gpm	≤ 2.0 gpm
Bathroom faucets	≤ 1.5 gpm	≤ 0.5 gpm
Kitchen faucets	≤ 2.2 gpm	≤ 2.2 gpm
Clothes washers	≤ 6.0 Water Factor	≤ 6.0 Water Factor
Dishwashers	Energy Star Qualified	Energy Star Qualified
Cooling towers	≥ 5 - 10 cycles, or ≥ 2.5 LSI	≥ 5 - 10 cycles, or ≥ 2.5 LSI
Food steamers	--	Boiler less, or

<b>Fixture</b>	<b>Residential</b>	<b>Non-Residential</b>
		Self-contained
Ice machines	-- --	≤ 25 gal/100 lbs ice, or Air-cooled
Pre-rinse spray valves	--	≤ 1.15 gpm
Automatic vehicle wash facilities	--	≥ 50% of water that is recycled on site
Commercial refrigeration	--	Closed loop, or Air-cooled
Meters	Submeters for RMF, and Separate meter for outdoor if landscape >5000 sq. ft.	Submeters, and Separate meter for outdoor if landscape >5000 sq. ft.

**§ 15.72.060 Compliance With Chapter**

- A. As the approving authority, the City will:
- (1) Provide the Project applicant with a copy of this Chapter and the Indoor Water Use Efficiency Checklist requirements when it provides the applicant with the procedures for permits, plan checks, design reviews or new or expanded water service applications.
  - (2) Review the Indoor Water Use Efficiency Checklist submitted by the Project applicant.
  - (3) Approve or deny the Project applicant's Indoor Water Use Efficiency Checklist submittal.
  - (4) Only upon approval of the Indoor Water Use Efficiency Checklist, issue a permit or approve the plan check, design review or new or expanded water service application for the Project applicant, provided that all other requirements applicable to the issuance or approval of such permit, plan check, or design review or approval of new or expanded water service have been satisfied.
  - (5) In its discretion, inspect the installation of the water efficient fixtures and appliances to verify that they have been installed and are performing at the required use levels.
- B. The Project applicant shall:

- (1) Meet the minimum water use efficiency standards for indoor fixtures and appliances provided for in the Indoor Water Use Efficiency Table and Checklist.
- (2) Prior to construction, submit all portions of the Indoor Water Use Efficiency Checklist to the City for verification.

**§ 15.72.070 Indoor Water Use Efficiency Checklist**

- A. The Indoor Water Use Efficiency Checklist shall require, at a minimum:
- (1) Project Information;
  - (2) Quantity and unit water use factors of all indoor fixtures and appliances relative to the standards listed in the Indoor Water Use Efficiency Table and Checklist;
  - (3) Contain the following statement to be completed by the Project applicant: “I certify that the subject project meets the specified requirements of the Indoor Water Use Efficiency Ordinance”; and
  - (4) Bear the signature of the Project applicant, or that of a certified professional.

**§ 15.72.080 Enforcement of Chapter**

A. It is unlawful for any person, firm, partnership, association, or corporation subject to the requirements of this Chapter to fail to comply with the provisions of this Chapter or any permit or approval granted pursuant to this Chapter. A violation of this Chapter, or any permit or approval issued pursuant to this Chapter, shall constitute an infraction and a public nuisance. Every day any violation of this Chapter, or any permit or approval issued pursuant to this Chapter, shall continue shall constitute a separate offense.

B. Every violation of this Chapter, or any permit or approval granted pursuant to this Chapter, determined to be an infraction is punishable by a fine not exceeding one hundred dollars (\$100.00) for a first violation; a fine not exceeding two hundred dollars (\$200.00) for a second violation of the same provision within one year; and a fine not exceeding five hundred dollars (\$500.00) for each additional violation of the same provision within one year. In addition, where more than three violations of the same provision occur within one year, the City Attorney may elect to treat the fourth and each subsequent violation as a misdemeanor offense, subject to a fine not exceeding one thousand dollars (\$1,000.00), or imprisonment for a period not exceeding six months, or both.

C. In addition to any criminal enforcement proceedings, every violation of this Chapter, or any permit or approval granted pursuant to this Chapter, determined to be a public nuisance may be abated by the City in accordance with the provisions of Chapter 8.36 of the Brisbane Municipal Code.



D. This Chapter may be enforced by the City Manager and his authorized representatives (the "Enforcement Official"). The Director of Community Development, the Director of Public Works/City Engineer, and the City Building Inspector are hereby designated as authorized representatives of the City Manager, with full power to enforce the provisions of this Chapter.

E. The Enforcement Official has the authority to conduct such inquiries, audits inspections, or surveys to ensure compliance with the requirements of this Chapter. Whenever the Enforcement Official determines that a violation of this Chapter has occurred, the Enforcement Official may serve a notice of violation on the owner(s) or other person(s) having possession and control of the property on which the violation is situated. The notice shall set forth the nature of the violation and the corrective that must be taken as a result thereof. The owner(s) or occupant(s) shall have ninety (90) days to take the corrective action specified in the notice. If the violation is not corrected to the satisfaction of the Enforcement Official within the ninety (90) day period, or such additional time as the Enforcement Official may allow, the Enforcement Official may commence civil or criminal proceedings, or both, and exercise any other rights and remedies that may be provided by law

**§ 15.72.090 Public Education**

A. The City will provide information to applicants regarding the installation of water efficient fixtures and appliances.

B. The City will provide information to the public, via the City's website and/or mailings, regarding water conservation, permit requirements for the installation of water efficient fixtures and appliances, and changes in state code regarding water efficient fixtures and appliances.

**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 7th day of June, 2010, by the following vote:

AYES: Councilmembers Bologoff, Lentz, Richardson, and Waldo

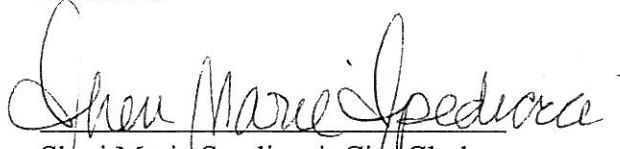
NOES: None

ABSENT: Mayor Conway

ABSTAIN: None

  
W. Clarke Conway, Mayor

ATTEST:

  
Sheri Marie Spediacci, City Clerk

**CITY OF BRISBANE**

**CERTIFICATE OF POSTING**

**STATE OF CALIFORNIA            )**  
**COUNTY OF SAN MATEO        )**

NOTICE IS HEREBY GIVEN that during the course of a regular meeting on Monday, June 7, 2010 the City Council of the City of Brisbane adopted Ordinance No. 543 entitled:

**ORDINANCE NO. 543**

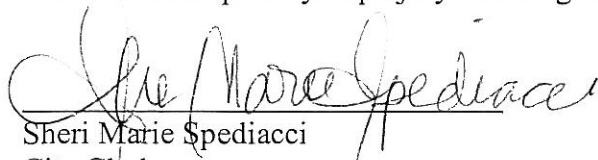
**AN ORDINANCE OF THE CITY OF BRISBANE  
ADDING CHAPTER 15.72 TO THE MUNICIPAL  
CODE TO ESTABLISH INDOOR WATER  
CONSERVATION REGULATIONS**

The undersigned, for and on behalf of the Brisbane City Clerk, caused a copy of this Ordinance to be posted in the following places in the City of Brisbane:

Brisbane City Hall Offices, 50 Park Place  
Brisbane Community Center/Library, 250 Visitacion Avenue  
Mission Blue Park Tennis Courts, 475 Mission Blue Drive

Dated 6/19/2010. Said posting was completed on 6/10/2010

I declare under penalty of perjury the foregoing is true and correct.

  
\_\_\_\_\_  
Sheri Marie Spediacci  
City Clerk