



CITY COUNCIL AGENDA REPORT

Meeting Date: March 19, 2020

From: John Swiecki, Community Development Director

Subject: Draft Urgency Ordinance 651

COMMUNITY GOAL/RESULT

Safe Community - Residents and visitors will experience a sense of safety.

PURPOSE

To allow for immediate implementation of previously adopted 2019 California Building Code and 2019 Residential Code appendices.

RECOMMENDATION

Adopt Urgency Ordinance 651.

BACKGROUND

Every three years a new set of construction codes is published by the State. Local adoption of these codes allows the City to enforce them under the authority of the Municipal Code, and to adopt local modifications, or reach codes.

On December 12, 2019, City Council adopted Ordinance No. 643 to implement state construction codes and reach code provisions unique to Brisbane. Ordinance No. 643 included the adoption of appendices to the 2019 California Building Code and 2019 Residential Code (Appendices), which are voluntary for local jurisdictions.

Following adoption by Council, staff filed the ordinance with the California Building Standards Commission (CBSC), the Department of Housing and Community Development (HCD) and the California Energy Commission (CEC), as required by state law. While HCD and the CEC both approved the City's filing, the CBSC indicated that specific findings are required to support adoption of the Appendices. The adopted findings for Ordinance 643 encompassed both the Building Code and Appendices but did not include specific findings unique to the Appendices.

The proposed ordinance incorporates the required findings and reaffirms the Council's previous action in adopting the Appendices.

DISCUSSION

The Appendices in question include:

2019 California Residential Code Appendices:

- H. Patio Covers
- J. Existing Buildings and Structures
- K. Sound Transmission
- V. Swimming Pool Safety Act

2019 California Building Code Appendices:

- G. Flood Resistant Construction
- I. Patio Covers
- J. Grading

State Health and Safety Code Sections 17958.7 and 18941.5 require that specific findings related to local climatic, geological or topographical conditions be made by a jurisdiction for adoption of the Appendices. The specific findings of Brisbane's unique climatic, geological and topographical conditions are set forth in the attached Draft Ordinance No. 651. They largely pertain to Brisbane's unique setting between the San Francisco Bay and San Bruno Mountain, proximity to the noise sources of U.S. 101 and San Francisco International Airport, frequent high wind conditions, small lots and large number of aging structures.

In order to allow for immediate implementation of the Appendices for purposes of protecting life, health and safety, Ordinance No. 651 is recommended for adoption as an urgency ordinance. It would take effect immediately following adoption by City Council and staff's filing of the ordinance with the CBSC.

FISCAL IMPACT

None.

MEASURE OF SUCCESS

Compliance with State law in the adoption of the Building Code and Residential Code appendices.

ATTACHMENTS

1. Draft City Urgency Ordinance No. 651

John Swiecki

John Swiecki, Community Development Director

Clay L. Holstine

Clay Holstine, City Manager

ATTACHMENT 1

---Draft ---

ORDINANCE NO. 651

**AN URGENCY ORDINANCE OF THE CITY OF BRISBANE
TO TAKE EFFECT IMMEDIATELY TO AFFIRM ORDINANCE NO. 643 AND MAKING
CERTAIN FINDINGS IN CONNECTION WITH THE ADOPTION OF
THE 2019 CALIFORNIA RESIDENTIAL CODE APPENDIX H PATIO COVERS, APPENDIX J
EXISTING BUILDING AND STRUCTURES, APPENDIX K SOUND TRANSMISSION, AND
APPENDIX V SWIMMING POOL SAFETY ACT AND
2019 CALIFORNIA BUILDING CODE APPENDIX G FLOOD RESISTANT CONSTRUCTION,
APPENDIX I PATIO COVERS, AND APPENDIX J GRADING INTO
BRISBANE MUNICIPAL CODE SECTION 15.04.040**

THE CITY COUNCIL OF THE CITY OF BRISBANE HEREBY ORDAINS AS FOLLOWS:

SECTION 1: The City Council finds and determines that:

- A. The actions contained in this ordinance comply with the California Environmental Quality Act (CEQA), being categorically exempt per CEQA Section 15308, Actions by Regulatory Agencies for Protection of the Environment.
- B. The 2019 Edition of the California Building Code (CBC) became effective state-wide on January 1, 2020 and City adopted the CBC on December 12, 2019 as an urgency ordinance, via Ordinance No. 643, as necessary for enforcement of the CBC under existing and subsequently adopted enforcement provisions of the Brisbane Municipal Code.
- C. On December 12, 2019, as part of Ordinance No. 643, the City also adopted the Construction Codes into Brisbane Municipal Code Section 15.04.040, but the express written findings for adoption of the following appendices were inadvertently not included in Ordinance No. 643:
 1. The 2019 California Residential Code: Appendix H Patio Covers, Appendix J Existing Building and Structures, Appendix K Sound Transmission, and Appendix V Swimming Pool Safety Act.
 2. The 2019 California Building Code: Appendix G Flood Resistant Construction, Appendix I Patio Covers, and Appendix J Grading.
- D. In reference to the aforementioned appendices of the 2019 California Residential Code and the 2019 Building Code, set forth in Section C.1 and C.2, the following local climatic, geological, or topographical findings are hereby made under California Health and Safety Code, Sections 17958.7 and 18941.5:
 1. The City of Brisbane is located at the western edge of the San Francisco Bay and along the eastern flanks of San Bruno Mountain and the City has both existing development and vacant development sites in flood prone areas as well as areas that may be subject to slope

- movement in steep areas of the City, thus both flooding and slope stability are potential hazards.
2. Brisbane is located near the San Andreas Fault and is subject to seismic activity that could potentially result in ground shaking and damage to structures, via shaking, slope failure and liquefaction.
 3. Sea level rise as a result of global warming poses a threat to certain low lying lands since Brisbane is situated adjacent to the San Francisco Bay.
 4. The topography combined with its proximity to U.S. Interstate 101, which runs through its eastern edge, and its proximity to San Francisco International Airport (SFO), located approximately 2 to 3 miles to the south, results in sound transmission from these sources throughout the City.
 5. Brisbane has a predominance of small lots, with many being in range of 2,500 to 5,000 square feet, and sound transmission from one lot can readily impact neighboring lots. The close proximity of the lots on steep topography can also exacerbate the impacts in the event of a structural or grading failure.
 6. Brisbane's small residential lots on steep hillsides pose hazards of accidents associated with swimming pools due to the close proximity between the swimming pools and residences.
 7. 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, which can impact structures, especially such structures as patio covers.
 8. Brisbane has a large number of existing older buildings and structures, many of which were built without the benefit of building codes being in effect at the time, and the above outlined climatic, geological and topographic conditions can combine to create hazardous conditions to these structures.
- E. This Ordinance No. 651 does not invalidate any section of Ordinance No. 643, but rather affirms and perfects those clauses indicated below in Section 2 of this ordinance, based on the findings provided herein.

SECTION 2: Section 15.04.040 of the Brisbane Municipal Code is affirmed, including paragraphs 13 and 14 of subsection A, to read as follows:

15.04.040 - Adoption of Construction Codes.

- A. Title 24 of the California Code of Regulations, 2019 Edition of the California Building Standards Code, is hereby adopted by reference and incorporated in this code, including the following parts:
 1. 2019 California Administrative Code, Title 24, Part 1.
 2. 2019 California Building Code, Volumes 1 and 2, based on the 2018 International Building Code (ICC), Title 24, Part 2.
 3. 2019 California Residential Code, based on the 2018 Edition International Residential Code (ICC), Title 24, together with those omission, amendments, exceptions and additions thereto as amended in Part 3 of the California Building Standards Code, California Code of Regulations Title 24.

4. 2019 California Electrical Code, based on the 2017 Edition National Electric Code as published by the National Fire Protection Association (NFPA), Title 24, Part 3.
5. 2019 California Mechanical Code, based on the 2018 Uniform Mechanical Code as published by the International Association of Plumbing and Mechanical Officials (IAPMO), including all appendix chapters, Title 24, Part 4.
6. 2019 California Plumbing Code, based upon the 2018 Uniform Plumbing Code as published by the International Association of Plumbing and Mechanical Officials (IAPMO), including all appendix chapters, Title 24, Part 5.
7. 2019 California Energy Code, Title 24, Part 6. 3. (See also, local Energy Code provisions in Chapter 15.81 and 15.83.)
8. 2019 California Historical Building Code, Title 24, Part 8.
9. For adoption of the 2019 California Fire Code, Title 24, Part 9, and modifications thereof, see Chapter 15.44 of this title.
10. 2019 California Existing Building Code based on the 2018 International Existing Building Code Edition, published by the International Code Council, together with those omissions, amendments, exceptions and additions thereto as amended in Part 10 of the California Building Standards Code, California Code of Regulations Title 24.
11. 2019 California Green Building Standards Code, Title 24, Part 11.
12. 2019 California Referenced Standards Code, Title 24, Part 12.
13. 2019 California Residential Code Appendix H Patio Covers, Appendix J Existing Building and Structures, Appendix K Sound Transmission, and Appendix V Swimming Pool Safety Act.
14. 2019 California Building Code Appendix G Flood Resistant Construction, Appendix I Patio Covers, and Appendix J Grading.

B. The 2018 International Property Maintenance Code is hereby adopted by reference and incorporated in this code.

SECTION 3: This Ordinance No. 651 does not invalidate any section of Ordinance No. 643, but rather affirms and perfects Ordinance No. 643 based on the findings provided herein.

SECTION 4: Effective Date. This Ordinance is adopted as an urgency ordinance to take effect immediately upon its adoption by the City Council and filing with the California Building Standards Commission, since any delay in the effective date of the Ordinance has the potential of missing implementation of life – safety measures for construction projects.

* * *

The above and foregoing Ordinance was adopted at a regular meeting of the Brisbane City Council held March 19, 2020, by the following vote:

AYES:
 NOES:
 ABSENT:
 ABSTAIN:

 Terry O’Connell, Mayor

ATTEST:

 Ingrid Padilla, City Clerk

APPROVED AS TO FORM:

City Attorney