

**Draft
ORDINANCE NO. 613**

**AN ORDINANCE OF THE CITY OF BRISBANE
TO AMEND BRISBANE MUNICIPAL CODE TITLE 15, BUILDINGS AND CONSTRUCTION,
CHAPTER 15.04, ADOPTION OF CONSTRUCTION CODES AND CHAPTER 15.44, FIRE
PREVENTION CODE - ADOPTING THE 2016 CALIFORNIA BUILDING STANDARDS
CODES (CBC) AND THE 2015 INTERNATIONAL PROPERTY MAINTENANCE CODE, WITH
CERTAIN LOCAL MODIFICATIONS TO THE FIRE CODE; AMEND SECTION 15.08.140 -
ADDITIONS OR ALTERATIONS IN EXCESS OF FIFTY PERCENT OF VALUE OR FLOOR
AREA; REPEAL SECTION 15.08.145 – ADDITIONS, ALTERATIONS OR REPAIRS - SEISMIC
SAFETY WHICH HAS BEEN SUPERSEDED BY THE CBC; REPEAL CHAPTER 15.72
INDOOR WATER CONSERVATION REGULATIONS WHICH HAS BEEN SUPERSEDED BY
THE CBC; AMEND CHAPTER 15.75 – RECYCLING AND DIVERSION OF DEBRIS FROM
CONSTRUCTION AND DEMOLITION FOR CONSISTENCY WITH THE CBC; AND ADD
CHAPTER 15.81, ENERGY CONSERVATION AND GENERATION AMENDING THE
CALIFORNIA BUILDING ENERGY EFFICIENCY STANDARDS TO INCLUDE LOCAL
MODIFICATIONS REQUIRING SOLAR AND COOL ROOF PROVISIONS FOR NEW
BUILDINGS.**

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 2016 Edition of the California Building Code (CBC) becomes effective state-wide on January 1, 2017 and City's adoption of the CBC is necessary in that it allows for enforcement of the CBC under existing and subsequently adopted enforcement provisions of the Brisbane Municipal Code.
- C. The previously adopted seismic safety provisions have been superseded by the California Building Code.
- D. By reason of the following 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:
 1. Certain hillside areas of the City are characterized by heavy vegetation and close proximity of structures to the vegetation and each other. These areas 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.

2. There are several natural conditions that affect the risk of fire damage within the City, including the following:
 - a. Brisbane is located near the San Andreas Fault and is subject to seismic activity that could potentially ignite fires throughout the City.
 - b. 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.
 - c. 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.

- E. The previously adopted indoor water conservation provisions have been superseded by the California Building Code.

- F. Certain provisions of the previously adopted Recycling and Diversion of Debris from Construction and Demolition ordinance have been superseded by the California Building Code .

- G. The California Energy Code 2016 Edition, Title 24, Part 6 of the California Code of Regulations includes provisions which reduce building energy consumption. However addition measures are warranted based on the following:
 1. The amendment to include a local energy code is justified based on climatic conditions.
 2. Energy efficient buildings promote public health and welfare by reducing carbon emissions and providing for lower cost and more sustainable buildings.
 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 and installing solar for energy generation and cool roofs for energy conservation will help curb greenhouse gas emissions, which contribute to global warming.
 4. The City adopted a Climate Action Plan on September 17, 2015, which includes the goal of reducing carbon emissions from fossil fuels to help curb global warming. Methods include increasing building efficiency, conservation and substituting renewable energy for fossil fuel energy sources. Solar was identified as a primary alternative energy source.
 5. The City of San Mateo has adopted an ordinance and provided the California Energy Commission (CEC) with the requisite Cost Effectiveness Study that Brisbane is hereby using as a model ordinance. The Cost Effectiveness Study is included by reference with the staff report that accompanies this ordinance. This model includes cool roofs on low pitched roofs and solar on new residential and non-residential construction. The following is noted:
 - i. The City of San Mateo's energy code Cost Effectiveness Study is applicable to Brisbane for the following reasons.

- ii. The City of Brisbane is within the same CEC climate zone.
- iii. The building type assumptions for the City of San Mateo are transferrable to Brisbane. Brisbane's average new home size for the last two years has been approximately 3,273 sq. ft., versus the San Mateo model prototype of 2,700 sq ft. While recent examples of non-residential new buildings are limited in Brisbane, the solar sizes on non-residential buildings are considered nominal and the San Mateo model accounts for non-residential buildings of different sizes. Similarly, the solar requirements for multifamily units are nominal and graduated based on numbers of units in a given development.
- iv. The provisions of the ordinance can be readily implemented, given the prescriptive nature of the provisions and the modest solar size requirements.
- v. For projects where special circumstances warrant an exemption, based on shade, insufficient roof area or other factors, an administrative exemption may be granted by the building official.

SECTION 2: Section 15.04.010 of Chapter 15.04 Adoption of Construction Codes of the Municipal Code is amended to read as follows:

15.04.010 - Purpose and authority.

The purpose of this chapter is to adopt by reference the 2016 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 Section 38660 and Subsection 50022.2 and Health and Safety Code Section 18941.5.

SECTION 3: Section 15.04.040 of the Brisbane Municipal Code is amended to read as follows:

15.04.040 - Adoption of Construction Codes.

- A. Title 24 of the California Code of Regulations, 2016 Edition of the California Building Standards Code, is hereby adopted by reference and incorporated in this code, including the following parts:
 - 1. 2016 California Administrative Code, Title 24, Part 1.
 - 2. 2016 California Building Code, Volumes 1 and 2, based on the 2015 International Building Code (ICC), Title 24, Part 2, including Appendix Chapters G (Flood Construction) and H (Signs) and I (Patio Covers).
 - 3. 2016 California Residential Code, based on the 2015 Edition International Residential Code (ICC), Title 24, Part 2.5, including Appendix Chapters H (Patio Covers), and J (Existing Buildings and Structures) and V (Swimming Pool Safety Act).

4. 2016 California Electrical Code, based on the 2014 Edition National Electric Code as published by the National Fire Protection Association (NFPA), Title 24, Part 3.
 5. 2016 California Mechanical Code, based on the 2015 Uniform Mechanical Code as published by the International Association of Plumbing and Mechanical Officials (IAPMO), including all appendix chapters, Title 24, Part 4.
 6. 2016 California Plumbing Code, based upon the 2015 Uniform Plumbing Code as published by the International Association of Plumbing and Mechanical Officials (IAPMO), including all appendix chapters, Title 24, Part 5.
 7. 2016 California Energy Code, Title 24, Part 6. 3. (See also, local Energy Code provisions in Chapter 15.82.)
 8. 2016 California Historical Building Code, Title 24, Part 8.
 9. For adoption of the 2016 California Fire Code, Title 24, Part 9, and modifications thereof, see Chapter 15.44 of this title.
 10. 2016 California Green Building Standards Code, Title 24, Part 11.
 11. 2016 California Referenced Standards Code, Title 24, Part 12.
- B. The 2015 International Property Maintenance Code is hereby adopted by reference and incorporated in this code.

SECTION 4: Section 15.08.140 of the Brisbane Municipal Code is amended to read as follows:

15.08.140 - Additions or alterations in excess of fifty percent of floor area.

- A. When additions or alterations to a lawfully constructed building or structure which are made within any five (5) year period exceed fifty percent (50%) of the floor area of the pre-existing building or structure, as determined by the building official, then except as otherwise provided in subsection C of this section, the pre-existing building or structure shall be brought into conformity with such of the standards for new construction as the building official may determine to be necessary or appropriate to eliminate existing health or safety hazards, including, but not limited to, defects in structural integrity, defective or inadequate electrical installations, defective or inadequate fire sprinkler, sanitary sewer or storm drainage facilities, and substandard street access to the property.
- B. For the purposes of making the determinations required by subsection A of this section 15.08.140, the following definitions, rules of interpretation, and procedures shall be applied:
1. For the purposes of this section 15.08.140, the "floor area" of a building or structure shall mean the sum of the gross horizontal areas of all floors of a building or structure measured from the interior face of the exterior walls, but excluding each of the following:
 - a. Any area where the floor to ceiling height is less than six (6) feet; or
 - b. Any detached garage or other detached accessory structure which does not constitute habitable space; or

- c. Any attached carport or covered deck.
2. The "standards for new construction" shall mean: (a) the requirements of the California Buildings Code adopted by this Title 15; and (b) the storm water management and discharge requirements established by Chapter 13.06 of the Brisbane Municipal Code; and (c) the standard specifications and street standards adopted by Section 12.24.010 of the Brisbane Municipal Code.
3. Calculation of the changes to the structure are to be determined by the building official, who may require documentation of applicants regarding effected areas and/or impose conditions of approval upon issuance of a building permit. The building official shall have the authority to determine whether combinations of additions or alterations, or combinations thereof are subject to subsection A of this section 15.08.140 or if they qualify under the exceptions.

C. Exceptions to subsection A of Section 15.08.140:

1. Additions or alterations performed at different periods of time shall be considered to have been made within a five (5) years period if any building permits are issued or any work is commenced within five (5) years following the date of completion of any earlier work on the same building or structure. The date of completion shall normally be established as the date on which final inspection approval of the earlier work is granted by the City.
2. The area of any additions and/or alterations not exceeding a cumulative total of four hundred (400) square feet, permitted to be made under the provisions of [Section 17.34.110](#) of the Brisbane Municipal Code, shall not be subject to the provisions of subsection A of this section 15.08.140.
3. Work involving exterior surfaces, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck shall not be considered alterations subject to the provisions of this ordinance.
4. Alterations, renovations or repairs which do not essentially change the original size, configuration, and habitable floor area of the building or structure or basic uses of the rooms within the building or structure, shall not be considered as additions or alterations subject to the provisions of this section 15.08.140; provided, however:
 - a. This exception includes conversion of existing room(s) in an existing single-family dwelling to an accessory dwelling unit, as provided by Chapter 17.43 of the Brisbane Municipal Code, as long as the use of those rooms remains the same ((e.g., : bedroom for bedroom etc.).
 - b. Conversion or recognition of previously undocumented rooms to be permitted as habitable may be included in the calculation of alteration of space, at the discretion of the building official.
 - c. This exception may not be applied where the building official has determined that the alteration or repair constitutes a "major rebuild", where 75% or more of the combined

surface area of the interior walls and ceilings of the habitable rooms are to be removed to expose support members.

D. Where an existing building or structure is required by this section 15.08.140 to be brought into conformity with the standards for new construction, the building official shall have authority in individual cases to grant modifications of any such requirements, if the building official is able to find and determine that:

1. Compliance with the requirement will cause practical difficulties or unreasonable hardship; and
2. The modification does not reduce any requirements for fire protection or any requirements relating to structural support and integrity; and
3. The modification does not create any new or increased hazard to the health or safety of the occupants of the existing building or structure.

E. This section 15.08.140 is intended to establish requirements which are in addition to, and not in replacement of, any other ordinance, rule, regulation, or policy of the City which may be applicable to the proposed development project, including any of the Codes adopted by this title and include also any policy adopted in the Brisbane General Plan.

F. Where the requirements of subsection A of this Section 15.08.140 are not applicable because the additions or alterations do not exceed fifty percent (50%) of the floor area of the pre-existing building or structure, the proposed development shall nevertheless comply with the requirements of Section 17.01.060 of the Brisbane Municipal Code unless: (1) the pre-existing building or structure is located upon a lot of record, as such term is defined in Chapter 17.02 of the Brisbane Municipal Code, and (2) a public street abutting such lot of record provides the principal means of access to that lot.

SECTION 5: Section 15.08.145, “Additions, alterations or repairs – Seismic safety” is repealed in its entirety.

SECTION 6: Section 15.44.010 of the Brisbane 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 2015 Edition of the International Fire Code and the 2016 Edition of the California Fire Code, including Appendices B, C, D, F, and L (collectively, 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 fire administration office.

SECTION 7: Section 15.44.040 of the Brisbane Municipal Code is amended to read as follows.

15.44.040 - Section 105.7.17 added—Permit fees.

Section 105.7.17 is added to the Fire Code, to read as follows:

105.7.17 Permit fees. The Fire Department shall be authorized to charge such fees and costs for services performed pursuant to the Fire Code as may be established from time to time by ordinance or resolution of the City Council.

SECTION 8: Section 15.44.080 of the Brisbane Municipal Code is amended to read as follows.

15.44.080- Section 903 amended—Automatic sprinkler systems.

Section 903 of the Fire Code is amended in its entirety to read as follows:

903 Automatic fire extinguishing systems.

(a) Notwithstanding any other provisions of this Code or any other code or ordinance of the City of Brisbane, automatic fire sprinkler systems, approved by the Fire Marshall, shall be installed in the following buildings and structures that are classified as new construction:

1. For all occupancies except R-3 occupancies: Any new building or structure, regardless of size, except stand alone, uninhabitable buildings, garages and sheds having a floor area of less than 400 square feet.
2. For all R-3 occupancies: Any new single-family or duplex structure, excluding any detached accessory structure that does not constitute habitable space having a floor area of less than 400 square feet.

(b) When additions or alterations made to an existing building fall within the requirements under Brisbane Municipal Code Section 15.08.140, an automatic fire sprinkler system shall be provided for the entire building.

(c) Other Areas. An automatic fire sprinkler system shall be installed in all garbage compartments, rubbish and linen chutes, linen rooms, incinerator compartments, dumb waiter shafts, and storage rooms when located in all occupancies except Group R, Division 3. An accessible indicating shut off valve shall also be installed.

(d) Condominium Conversions. An automatic fire sprinkler system shall be installed for all condominium conversions.

(e) Where automatic fire sprinkler systems are required to be installed, the following additional requirements shall also be satisfied, as applicable:

1. A minimum of three (3) copies of plans and specifications for automatic sprinkler installations, plus water supply calculations, shall be provided to the Fire Department for review and approval prior to commencement of the installation work.
2. All required automatic sprinkler systems shall be approved by the Fire Department.
3. All acceptance tests and such periodic tests as required by the Fire Marshall or pursuant to NFPA Pamphlets No. 13, 13D, 13R and/or Subchapter 5, Title 19, California Code of

Regulations, shall be conducted and, where applicable, witnessed by a representative of the Fire Department.

4. An approved exterior visual fire alarm device may be required for buildings that have numerous fire department connections (FDC's). Type and locations will be determined by the Fire Department. Such visual alarm devices are not to replace the exterior audible device, but to assist fire suppression personnel as to location(s) of systems which require pumping operations.

SECTION 9: Section 15.44.090 of the Brisbane Municipal Code is amended to read as follows.

15.44.090 - Section 5608.1 amended—Fireworks prohibited.

Section 5608.1 of the Fire Code is amended by adding the following paragraph to the end of the first paragraph:

The possession, storage, sale, use or discharge of fireworks including California State Fire Marshal approved "safe and sane" fireworks are prohibited within the City of Brisbane.

SECTION 10: Section 15.44.175 of the Brisbane Municipal Code is amended to read as follows.

15.44.175 - Section 914.3.8 added—Firefighter breathing air replenishment system.

Section 914 of the Fire Code is amended by adding the following paragraph:

Section 914.3.8 Firefighter breathing air replenishment system. All Group B and Group R occupancies, each having floors used for human occupancy located more than seventy-five feet (75') above the lowest level of fire department vehicular access, shall be equipped with an approved rescue air replenishment system as per Appendix L. Such a system shall provide an adequate pressurized fresh air supply through a permanent piping system for the replenishment of portable life sustaining air equipment carried by fire department, rescue, and other personnel in the performance of their duties. Location and specifications or access stations to, and the installation of, such air replenishment systems shall be in accordance with the requirements of the fire chief.

SECTION 11: Section 15.44.185 is added to the Brisbane Municipal Code to read as follows.

15.44.185 - Section 903.1.1 added—Sprinkler protection of car stackers

Section 903.1.1 of the Fire Code is added to read:

Sections 903.1.1 Purpose: To establish requirements for sprinkler protection of car stackers not specifically addressed in NFPA 13.

Parking garage areas containing car stackers shall be protected by an automatic wet-pipe sprinkler system designed to Extra Hazard Group 1. In addition, non-extended coverage standard sidewall sprinklers listed

for Ordinary Hazard shall be provided under each parking level, including the bottom level if the stacker is provided with a pit. Each sidewall sprinkler shall cover an area of 80 sq. ft. or less.

The area of application may be reduced from the required 2500 sq. ft. to as low as 1500 sq. ft. if:

1. 1-hour fire rated walls are provided to separate the car stacker areas from the standard parking stalls,
2. The car stacker areas are divided up into 1500 sq. ft. areas via 1-hour fire rated walls, and
3. One-hour fire rated walls are provided to separate the car stacker areas from any other areas in the garage.

One-hour fire rated walls are not required in the driveway areas. For the hydraulic calculation, flow from all sprinklers, upright or pendent sprinklers at ceiling and all sidewall sprinklers at all levels, located in the area of application shall be included in the calculation.

SECTION 12: Section 15.44.190 is added to the Municipal Code to read as follows.

15.44.190 - Section D 102.2 added--Access to Exterior Door

Section D102.2 of the Fire Code is added to read as follows:

Section D102.2 - Fire department access shall extend to within 50 feet (15 m) of at least one exterior door that can be opened from the outside and that provides access to the interior of the building.

SECTION 13: Section 15.44.195 is added to the Brisbane Municipal Code to read as follows.

15.44.195 --Section D102.3 added Large Building Access

Sec – Amendment Appendix D Section D102

Section D102.3 of the Fire Code is added to read as follows:

Large Buildings - Fire department access roads shall be provided such that any portion of the facility or any portion of an exterior wall of the first story of the building is located not more than 150 ft. (46 m) from fire department access roads as measured by an approved route around the exterior of the building or facility.

SECTION 14: Section 15.44.200 is added to the Brisbane Municipal Code to read as follows.

15.44.200 --Section D102.4 added Access Road Clearance

Sec. 4-3.124 – Amendment Appendix D Section D102

15.44.205 - Section D102.4 is added to read as follows:

Fire department access roads shall have an unobstructed vertical clearance of not less than 13 ft. 6 in. (4.1 m.).

SECTION 15: Section 15.44.210 is added to the Brisbane Municipal Code to read as follows.

15.44.210 – Amendment to Appendix D of Section D102 (Access Road Exceptions)

An Exception is added to Appendix D of Section D102 of the Fire Code to read as follows:

Exception: When a fire department access road cannot be installed due to location on the property, topography, waterways, nonnegotiable grades, or other similar conditions the AHJ shall be authorized to require fire protection features in addition to those already required.

SECTION 16: Section 15.44.220 is added to the Municipal Code to read as follows.

15.44.220 – Amendment to Appendix D of Section D101 (Definition -Fire Apparatus Access Road)

Appendix D of the Fire Code is amended by adding Section D101.2 to read as follows:

D101.2 – Definition - Fire Apparatus Access Road. A road that provides fire apparatus access from a fire station to at facility, building or portion thereof. This is a general term inclusive of all other terms such as but not limited to fire lane, public street, private street, parking lot lane, access road way and drive way.

SECTION 17: Section 15.44.225 is added to the Brisbane Municipal Code to read as follows.

15.44.225 – Amendment of Appendix D, section D103.7 added—Marking.

Appendix D of the Fire Code is amended by adding Section D103.7 to read:

D103.7 – Marking. Where fire lanes on private property have been designated by the Fire Marshall, curbs shall be painted red on the side or sides of the street or access route where parking is prohibited and no parking signs or other appropriate notice prohibiting obstructions, as approved by the Fire Marshall, shall be provided and maintained by the owner.

SECTION 18: Chapter 15.72, “Indoor Water Conservation Regulations” contained within Title 15 Buildings and Construction of the Brisbane Municipal Code is repealed in its entirety.

SECTION 19: Chapter 15.75, “Recycling and Diversion of Debris from Construction and Demolition”, contained within Title 15 Buildings and Construction of the Brisbane Municipal Code is replaced in its entirety to read as follows:

Chapter 15.75 - RECYCLING AND DIVERSION OF DEBRIS FROM CONSTRUCTION AND DEMOLITION

15.75.010 - Authority.

The building official or his/her designee shall have the authority to enforce the provisions of this chapter.

15.75.020 - Purpose.

The purpose of this chapter is to provide for diversion of demolition and construction materials from landfills to reuse and recycle those materials for conservation and the efficient use of resources.

15.75.030 - Applicability.

This chapter applies to construction and demolition projects that meet the definition of a covered project in Section 17.75.050. The provisions of this chapter are in addition to those prescribed in CalGreen Sections 4.408 and 5.408.

15.75.040 - Conflicts with other laws, rules or regulations.

In the event of any conflict between this chapter 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 conservation shall govern. Failure to comply with such higher standard shall be a violation of this code.

15.75.050 - Definitions.

For purposes of this chapter, the following words and phrases shall be defined as set forth in this section.

"Applicant" means any person (whether as contractor, subcontractor, owner, occupant, or otherwise) who performs any construction, demolition, remodeling, renovation, land clearing, or landscaping work for a covered project.

"Building official" means the city manager or his or her authorized representative.

"Construction and demolition debris" means and includes:

1. Demolition debris are previously used materials from the destruction or renovation of a structure or landscaping that meet the definition of inert solids or inert waste. These may include but are not limited to steel, copper, aluminum, glass, brick, concrete, asphalt material, non-lead pipe, gypsum, wallboard, lumber, rocks, soils, tree remains, trees, and other vegetative matter; and
2. Construction debris are remnants of new materials from any construction and/or landscape project that meet the definition of inert solids or inert waste. These may include but are not limited to: cardboard, paper, plastic, carpet, sheetrock, wood, rock, concrete, metal scraps, and empty containers.

"Covered project" means and includes any project which consists of one or more of the following:

1. Demolition work only, involving an area greater than two hundred (200) square feet, as determined by the building official;
2. The renovation, remodel or addition to an existing structure where the addition is 1,000 square feet or more and/or the cost of the work exceeds seventy-five thousand dollars (\$75,000.00), as determined by the building official;
3. Re-roofing of an existing structure involving an area in excess of five hundred (500) square feet.

"Hazardous Waste" is a waste defined as a "hazardous waste" in accordance with Section 25117 of the Health and Safety Code, or a combination of wastes, which because of its quantity, concentration or physical, chemical or infectious characteristics may do either of the following:

Cause or significantly contribute to, an increase in the mortality or an increase in serious irreversible, or incapacitating reversible, illness.

Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise managed.

Unless expressly provided otherwise in the Health and Safety Code, "hazardous waste" includes extremely hazardous waste and acutely hazardous waste.

"Inert solids" or "Inert Waste" is a non-liquid solid waste including, but not limited to, soil and concrete, that does not contain hazardous waste or soluble pollutants at concentrations in excess of water-quality objectives established by the regional water board pursuant to Division 7 (Commencing with Section 13000) of the California Water Code and does not contain significant quantities of decomposable solid waste.

"Recycle" or "Recycling" is the process of collecting, sorting, cleansing, treating and reconstituting materials that would otherwise become solid waste, and returning them to the economic mainstream in the form of raw material for new, reused or reconstituted products which meet the quality standards necessary to be used in the marketplace. Recycling does not include transformation, as defined in Public Resources Code Section 40201.

"Recyclable and reusable materials" means but is not limited to any of the following:

1. Inert solids;
2. Wood materials, including any and all lumber, fencing or construction wood that is not chemically treated, creosoted, pressure treated, contaminated or painted;
3. Vegetative materials, including trees, tree parts, shrubs, stumps, logs, brush or any other type of plants that are cleared from a site for construction or other use;
4. Metals, including all metal scrap such as, but not limited to, pipes, siding, window frames, door frames and fences;
5. Roofing materials including wood shingles and shakes as well as asphalt, stone, concrete, tile and slate based roofing material;

6. Salvageable materials including, but not limited to, wallboard, doors, windows, fixtures, hardwood flooring, sinks, carpet, carpet padding, bathtubs and appliances;

7. Any other materials that the building official determines can be diverted to a recycling or reuse facility reasonably accessible from the city.

“Re-use” is the use, in the same form as it was produced, of a material which might otherwise be discarded.

"Salvage" means the controlled removal of materials from a covered project, for the purpose of reuse or storage for later reuse.

"Structure" means anything that is built or constructed and requires a location on the ground, including a building or edifice of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

“Universal Waste” The wastes listed below are subject to regulation pursuant to Chapter 23 of Title 22, California Code of Regulations, and are known as “universal wastes”, along with any other wastes which may later be added to the list of universal wastes in the California Code of Regulations:

1. Batteries
2. Electronic devices
3. Mercury containing equipment
4. Lamps
5. Cathode ray tubes
6. Aerosol cans

15.75.060 – Waste Management.

For both residential and non-residential covered projects, recycle and/or salvage for re-use shall include a minimum of sixty-five percent (65%) of the nonhazardous construction and/or demolition waste and one hundred percent (100%) of inert solid material associated with excavations and land clearing operations, including trees, stumps and rocks, in accordance with either a Waste Management Plan or by an approved Waste Management Company, as outlined below:

Waste Management Plan. Submit a waste management plan in conformance with items 1 through 5. The construction waste management plan shall be updated as necessary and shall be available during construction for examination by the City.

1. Identify the construction and demolition waste materials to be diverted from disposal by efficient usage, recycling, reuse on the project or salvage for future use or sale. Priority is to be given to salvage over recycling in the plan.
2. Specify if construction and demolition waste materials will be sorted on-site (source-separated) or bulk mixed (single stream).
3. Identify diversion facilities where construction and demolition waste materials collected will be taken.

4. Identify construction methods employed to reduce the amount of construction and demolition waste generated.
5. Specify the amount of construction and demolition waste materials diverted shall be calculated by weight or volume, but not by both.

Waste Management Company. Utilize a waste management company, approved by the City, which can provide verifiable documentation that the percentage of construction and demolition waste material diverted from the landfill complies with the minimum recycling and/or salvage for re-use percentages listed above in this section.

15.75.070 – Universal Wastes for Non-residential Additions and Alterations

For nonresidential additions and alterations to a building or tenant space that meet the scoping provisions in Section 301.3 of the California Building Code, verification shall be required that the Universal Waste items such as fluorescent lamps and ballast and mercury containing thermostats as well as other California prohibited Universal Waste materials are disposed of properly and diverted from landfills. A list of prohibited Universal Waste materials shall be included in the construction documents.

15.75.080 - Exceptions.

All of the following exceptions are subject to building official approval, following documentation by the applicant:

In the event that the required percentage of materials cannot be salvaged, a written explanation must be provided identifying the reasons why salvage and recovery cannot take place, whether in whole or in part.

Alternative waste reduction methods, if diversion or recycle facilities are not capable of accepting the materials and where salvage for re-use is not reasonable or feasible.

For phased projects, excavated materials may be temporarily stockpiled on site.

Reuse of vegetation or soil contaminated by disease or pest infestation.

15.75.090 - Cash deposit required.

A. As a condition precedent to the issuance of any building or demolition permit for a covered project, the applicant shall post a cash deposit in an amount equal to two and one-half cents (\$0.025) for each estimated pound of construction and demolition debris to be generated by the project, up to a maximum deposit of fifty thousand dollars (\$50,000.00). The deposit shall be returned, without interest, in total or in proportion, upon proof to the satisfaction of the building official, that no less than the required percentages of construction and demolition debris have been diverted from landfills and have been recycled or reused. If a lesser percentage than required is diverted, a proportionate share of the deposit will be returned. The deposit shall be forfeited entirely or to the extent that there has been a failure to comply with the requirements of this chapter.

B. If an applicant has previously forfeited a deposit for failure to comply with the requirements of this chapter, the amount of the deposit will be increased by one and one-half cents (\$0.015) per pound, up to a maximum deposit of seventy-five thousand dollars (\$75,000.00) for each subsequent project.

15.75.100 - Administrative fee.

As a condition precedent to the issuance of any building or demolition permit for a covered project, the applicant shall pay to the City an administrative fee, in such amount as established from time to time by resolution of the city council, to compensate the City for all expenses incurred in administering this chapter.

15.75.110 - On-site practices.

During the performance of the covered project, the applicant shall recycle or divert the required percentages of construction and demolition debris and keep records thereof in tonnage or in other measurements approved by the building official that can be converted to tonnage. The building official will evaluate and monitor each covered project to gauge the percentage of construction and demolition debris which is being recycled, salvaged and disposed of from the project. Where both demolition and construction work will be performed, the required percentages of diversion shall be measured and reported separately for the demolition and construction phases of the project. To the maximum extent feasible, on-site separation of scrap wood and clean green waste in a designated debris box or boxes shall be arranged.

15.75.120 - Reporting.

- A. No later than sixty (60) days following completion of a covered project, the applicant shall, as a condition of final approval and for issuance of any certificate of occupancy, submit documentation to the building official that demonstrates compliance with the requirements of this chapter.
- B. The documentation shall consist of photocopies of receipts and weight tags or other records of measurement or equivalent documentation from recycling companies, deconstruction contractors, and landfill and disposal companies. The applicant's approved Recycling and Waste Reduction Plan shall be completed by recording and confirming the type of debris diverted and the facilities to which it was taken. The applicant shall sign the completed Recycling and Waste Reduction Plan form to certify its accuracy as part of the documentation of compliance.
- C. Progress reports during construction may be required for projects that take more than six (6) months to complete or have a valuation of more than one million dollars (\$1,000,000.00).
- D. All documentation submitted pursuant to this section is subject to verification by the building official.
- E. It is unlawful for any person to submit documentation to the cCty under this section which that person knows to contain any false statements, including but not limited to false statements regarding tonnage of materials recycled or diverted, or to submit any false or fraudulent receipt or weight tag or other record of measurement.

15.75.130 - Violations, penalties and enforcement.

- A. Each violation of the provisions of this chapter shall constitute a public nuisance and be subject to abatement as such in the manner provided by law.
- B. The violation of any of the provisions of this chapter shall constitute a misdemeanor, punishable by the fines, penalties and enforcement provisions set forth in Chapters 1.14, 1.16 and 1.18 of the Brisbane Municipal Code. Where the violation is the failure to achieve the diversion requirement applicable to the

covered project and the construction and demolition debris from the covered project have already been delivered to the landfill, the violation shall be deemed to have ceased after a period of ten (10) days.

C. The building official shall have the authority to enforce this chapter, including but not limited to the authority to order that work be stopped where any work is being done contrary to the provisions of this chapter.

D. No certificate of occupancy or final inspection approval shall be issued for any covered project unless the building official has determined that the provisions of this chapter have been complied with.

SECTION 20. Chapter 15.81 is hereby added to the Brisbane Municipal Code to adopt local amendments to the California Energy Code, 2016 Edition as follows:

Chapter 15.81 – ENERGY CONSERVATION AND GENERATION

15.81.010 – Title.

This Chapter shall be known as the City of Brisbane Energy Conservation and Generation Ordinance.

15.81.020 – Coordination with State Energy Regulations

This Ordinance does not replace the most recent edition of the Building Energy Efficiency Standards for Residential and Non-residential Buildings, Title 24, Part 6 of the California Code of Regulation as adopted by the City in Chapter 15.04 of this Title, (“Energy Code”). This Chapter 15.81 amends the Energy Code to place additional provisions on new residential and nonpresidential development projects. To the extent the provisions of this chapter conflict with any current or subsequently adopted provisions of the Energy Code, then the most energy conserving provisions shall supersede and control.

15.81.030 – Definitions

Definitions of terms are as provided in the Energy Code.

15.82.040 – Cool Roofs-- Local Amendment to Energy Code

Section 110.8(i)l of the Energy Code, Mandatory Requirements for Insulation, Roofing Products and Radiant Barriers, is amended as follows:

The requirements of Section 110.8(i)l supersede the thermal emittance and aged solar reflectance requirements of Sections 140.1, 140.2, 140.3(a)1, 141.0(b)2B, 150.1(c)11, 150.2(b)1H or 150.2(b) of the Energy Code. A roofing products thermal emittance and aged solar reflectance shall be certified and labeled according to the requirements of Section 10-113 of the Energy Code, and meet the following requirements:

A. New Non-residential Buildings:

1. Low-sloped roofs shall have:

a. A minimum aged solar reflectance of 0.70 and a minimum thermal emittance of 0.85; or

- b. A minimum Solar Reflectance Index (SRI) of 85.
2. Exceptions:
- a. Roof constructions that have a thermal mass with a weight of at least 25 pounds per square foot over the roof membrane are exempt from the minimum requirements for solar reflectance and thermal emittance or SRI.
 - b. An aged solar reflectance less than 0.70 is allowed provided the maximum roof/ceiling U-factor in Table 140.3-B of the Energy Code is not exceeded.
 - c. Roof area covered by building integrated photovoltaic panels and building integrated solar thermal panels is exempt from the minimum requirements for solar reflectance and thermal emittance or SRI.

B. New High-rise residential buildings, hotels and motels:

1. Low-sloped roofs shall have:
- a. A minimum aged solar reflectance of 0.70 and a minimum thermal emittance of 0.85; or
 - b. A minimum Solar Reflectance Index (SRI) of 85.
2. Exceptions:
- a. Roof constructions that have a thermal mass with a weight of at least 25 pounds per square foot over the roof membrane are exempt from the minimum requirements for solar reflectance and thermal emittance or SRI.
 - b. Roof area covered by building integrated photovoltaic panels and building integrated solar thermal panels is exempt from the minimum requirements for solar reflectance and thermal emittance or SRI.

C. New Low-rise residential buildings

1. Low-sloped roofs shall have:
- a. A minimum aged solar reflectance of 0.70 and a minimum thermal emittance of 0.85 or a minimum SRI of 85:
2. Exceptions:
- a. Roof constructions that have a thermal mass over the roof membrane with a weight of at least 25 pounds per square foot over the roof membrane are exempt from the minimum requirements for solar reflectance and thermal emittance or SRI.

- b. Roof area covered by building integrated photovoltaic panels and building integrated solar thermal panels is exempt from the minimum requirements for solar reflectance and thermal emittance or SRI.

15.82.050 – Solar Installation-- Local Amendment to State Energy Code

Subchapter 2 of the Energy Code – all Occupancies – Mandatory Requirements for the Manufacture, Construction and Installation of Systems, Equipment, and Building Components is amended to include: solar photovoltaic systems shall be installed on both non-residential and residential building types as follows:

A. New Non-residential buildings:

1. Buildings with less than 10,000 square feet of gross floor area shall provide a minimum of a 3 kilowatt photovoltaic system.
2. Buildings with 10,000 square feet or more of gross floor area shall provide a minimum of a 5 kilowatt photovoltaic system.
3. Exception: As an alternative to a solar photovoltaic system, all of the building types listed above may provide a solar hot water system (solar thermal) with a minimum collector of 40 square feet.

B. New Residential Buildings:

1. Single-family buildings and duplexes shall provide a minimum of a 1 kilowatt photovoltaic system.
2. Multifamily buildings of 3 to 16 units shall provide a minimum of a 2 kilowatt photovoltaic system.
3. Multifamily buildings of 17 units or more shall provide a minimum of a 3 kilowatt photovoltaic system.
4. Exception: As an alternative to a solar photovoltaic system, all of the building types listed above may provide a solar hot water system (solar thermal) with a minimum collector of 40 square feet.

C. New Mixed-use Buildings:

1. Mixed-use buildings shall provide the minimum sized photovoltaic system for both the residential and non-residential components of the building (ie: residential and non-residential minimum requirements are considered additive).

15.82.060 – Infeasibility Exemption

If an applicant believes that circumstances exist that make it infeasible to meet the requirements of this chapter, the applicant may request an exemption via written request to the building official. In applying for the exemption, the burden is on the applicant to demonstrate infeasibility to the satisfaction of the

building official. Infeasibility exemption may be granted on the basis of site specific cost effectiveness study information or other site or project specific factors.

SECTION 21: 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 22: 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 eight day of December 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



City Attorney

