

City of Brisbane

Agenda Report

TO: Mayor Davis and Members of the Brisbane City Council

FROM: Michael Roush, City Attorney

SUBJECT: Amendments to the Municipal Code Concerning Fines for Violations of Building and Safety Regulations

MEETING DATE: February 7, 2019

Recommendation

Introduce the attached Ordinance to amend the Municipal Code to increase the amount of the fines for violations of Building and Safety Regulations

Background

The Brisbane Municipal Code provides generally that violations of the Code may be charged as misdemeanors or infractions. If the violation is charged as an infraction, the fines for most convictions is \$100 for the first violation, \$200 for the second and \$500 for each additional violation. Section 1.14.030 B, Brisbane Municipal Code. The fines for convictions for violating building and safety regulations, such as grading, uniform codes, fire code, etc., are \$100 for the first violation, \$500 for the second and \$1000 for each additional violation. Section 1.14.030 C, Brisbane Municipal Code. These fines are set by State law (Government Code, section 36900).

Effective January 1, 2019, State law for the fines for violating building and safety regulations have changed: \$130 for the first violation, \$700 for a second violation and \$1300 for each additional violation. Accordingly, the Municipal Code needs to be amended to reflect these changes as set forth in the attached Ordinance.

Discussion

In addition to revising the amount of the fines for violating most building and safety regulations, State law has now added increased fines for violating these regulations after the second conviction if the property is a commercial property that has an existing building at the time of the violation and the violation is due to the owner's failure to remove visible refuse or failure to prohibit the unauthorized use of the property. In these situations, the fine may be increased to \$2500. The attached Ordinance includes this provision (paragraph 4, subsection C, Section 1.14.030). As an aside, it is infrequent there are violations of these regulations for which a citation is issued. Typically, the violations are corrected without the need for a citation.

Furthermore, State law now provides there must be a process for granting a hardship waiver or reduction of the amount of the fine for fines after the first conviction where the responsible party has made a bona fide effort to comply after the first violation and the payment of the full amount would impose an undue financial burden on the responsible party. Such process—granting that authority to the City Manager—is set forth in subsection D, Section 1.14.030.

Fiscal Impact

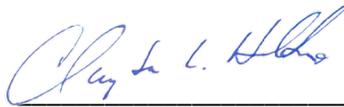
There is no fiscal impact to the General Fund if this Ordinance is adopted. If there are violations for which fines would be collected, those funds would be placed into the General Fund.

Attachment

Ordinance No. 636



Michael H. Roush
City Attorney



Clayton Holstine
City Manager

ORDINANCE NO. 636

AN ORDINANCE OF THE CITY OF BRISBANE AMENDING SECTION 1.14.030 CONCERNING PENALTIES FOR VIOLATIONS OF BUILDING AND SAFETY REGULATIONS

THE CITY COUNCIL OF THE CITY OF BRISBANE DOES ORDAIN AS FOLLOWS:

Section 1: Section 1.14.030 of the Brisbane Municipal Code is hereby amended to read as follows:

“1.14.030. Penalties for Violations.

(Subsections A and B, no change.)

C. Infraction Offenses—Building and Safety Regulations. Any person convicted of an infraction offense for violation of any provision contained in Chapter 15.01 (grading), Chapter 15.04 (uniform codes), Chapter 15.08 (unsafe buildings), Chapter 15.44 (fire code), Chapter 15.48 (moving of buildings), Chapter 15.52 (well construction) or Chapter 15.75 (recycling of materials) shall be punished by:

1. A fine not exceeding \$130 for a first conviction;
2. A fine not exceeding \$700 for a second conviction for violating the same provision or ordinance within one year of the first conviction;
3. A fine not exceeding \$1300 for each additional conviction for violating the same provision or ordinance within one year of the first conviction; and
4. A fine not exceeding \$2500 for each additional conviction for violating the same provision or ordinance within two years of the first conviction if the property is a commercial property that has an existing building at the time of the violation and the violation is due to the failure by the owner to remove visible refuse or failure to prohibit the unauthorized use of the property.

D. If a fine has been levied pursuant to paragraphs 2, 3 or 4, the City Manager shall have the authority to grant a hardship waiver to reduce the amount of the fine upon a showing by the responsible party that the responsible party has made a bona fide effort to comply after the first conviction and that payment of the full amount of the fine would impose a undue financial burden on the responsible party.

(Reletter current subsection D to subsection E, otherwise, no change).”

Section 2. This Ordinance shall be in full force and effect 30 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 February 7, 2019 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Madison Davis, Mayor

Attest:

Ingrid Padilla, City Clerk

Approved as to form:



Michael H. Roush, City Attorney