



## CITY COUNCIL AGENDA REPORT

**Meeting Date:** June 1, 2023

**From:** John Swiecki, Community Development Director

**Subject:** Introduction of a draft ordinance to amend Section 15.84.070 of the City of Brisbane Electric Vehicle Infrastructure Ordinance and finding that this Ordinance categorically exempt from environmental review under CEQA Guidelines Section 15308, Actions by Regulatory Agencies for Protection of the Environment.

### COMMUNITY GOAL/RESULT

Ecological Sustainability - Brisbane will be a leader in setting policies and practicing service delivery innovations that promote ecological sustainability.

### PURPOSE

To amend the electric vehicle (EV) charging infrastructure requirements for new multifamily residential development within the City of Brisbane to align with the State's new minimum requirements for EV charging infrastructure adopted under the 2022 version of the California Building Standards Codes (Code of Regulations, Title 24 or CBC).

### RECOMMENDATION

Introduce the attached draft ordinance.

### BACKGROUND

In 2019, the City adopted Ordinance No. 643 (Electric Vehicle Infrastructure Ordinance (EVIO)) which, among other actions, established EV infrastructure requirements for new residential and non-residential development. The EVIO exceeded the minimum requirements set by the State at the time. In 2022, the City readopted the 2019 EVIO without any substantive changes, as required by State law, when the City adopted the latest CBC. At the time, staff determined the EVIO remained more stringent than the new EV infrastructure requirements contained within the 2022 CBC as well as the new EV reach codes proposed by the Bay Area Reach Codes Coalition.

Subsequent review found that the 2022 CBC established specific criteria to equip a minimum of five percent of the total number of parking spaces with EV supply equipment (EVSE), or EV chargers, rather simply providing EV ready or capable circuitry in new residential buildings of 20 or more units. As currently adopted, the EVIO only requires EVSE for a portion of just the guest parking spaces in new multifamily residential development.

### DISCUSSION

The proposed amendment is intended to provide additional charging infrastructure, specifically EVSE, in new residential development to better accommodate projected future demand and meet minimum State requirements. The proposed ordinance would amend Brisbane Municipal Code (BMC) §15.84.070 – Residential Requirements of the EVIO (Section 1 of the draft ordinance) to require a minimum of five percent of the required parking spaces for all dwelling units to be equipped with Level 2 EVSE, in addition to the current requirements for Level 2 EV Ready Circuit Parking Spaces and EV charging station (EVCS) guest parking spaces. The amendment would also

clarify that the calculation for the required minimum number of EVSE spaces shall be rounded up to the nearest whole number, as already stipulated for nonresidential development. A summary table of the differences between current State law and the proposed amendment, specific to residential development, is provided below. There are no changes to any other section of the EVIO.

# of Multifamily Dwellings:	Less than 20 units	More than 20 units
<b>State Law:</b>	10% of total parking spaces must be Level 2 EV capable	10% of total parking spaces must be Level 2 EV capable
	25% of total parking spaces must be Level 2 EV ready <sup>2</sup>	25% of total parking spaces must be Level 2 EV ready <sup>2</sup>
		5% of total parking spaces must have Level 2 EV charger
<b>Same provisions regardless the number of dwelling units<sup>1</sup></b>		
<b>BMC §15.84.070 Amendment:</b>	1 Level 2 EV ready <sup>2</sup> parking space per unit	
	5% of require parking spaces for all dwelling units must have Level 2 EV charger	
	50% of required guest parking spaces must have Level 2 EV charger	

<sup>1</sup> Duplexes and townhouses excluded from multifamily dwelling

<sup>2</sup> EV capable means the parking space would support Level 2 EV charger installation in the future

<sup>3</sup> EV ready means the parking space is equipped with a low power Level 2 EV charging receptacle

## FISCAL IMPACT

None.

## MEASURE OF SUCCESS

Application of updated standards to meet minimum requirements of State law and implementation of measures to help meet the goals of the City’s Climate Action Plan.

## ATTACHMENTS

1. “Redline” copy of the update to BMC §15.84.070
2. Draft Ordinance

  
 \_\_\_\_\_  
 John Swiecki, Community Development Director

  
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 Clayton Holstine, City Manager

## 15.84.070 – Residential Requirements

New residential construction shall comply with the following ~~provisions~~:

- A. New single-family residences, duplexes and townhouses.
  - 1. ~~EV~~Electric Vehicle (EV) Standards:
    - a. For each dwelling unit, where two (2) or more parking spaces are required, at least one Level 2 EV Ready Circuit and one Level 1 EV Ready Circuit is to be installed.
    - b. Where only one parking space is required per dwelling unit; as provided in~~per~~ Chapter 17.34, only one Level 2 EV Ready Circuit shall be required to be installed.
  - 2. Exceptions: The following exceptions apply, subject to building official approval:
    - a. A reduction in the EV standards may be allowed, if requested in writing by the applicant based on demonstration that the provisions of this section would render the development project infeasible due to associated utility costs. Documentation is to take into account short term and long term cost analysis to the satisfaction of the building official.
- B. New multifamily dwellings. The following ~~shall provisions~~ apply to multifamily developments whether parking spaces are assigned or unassigned to individual units:
  - 1. EV Standards:
    - a. A minimum of one (1) Level 2 EV Ready Circuit Parking Space per unit shall be provided; and
    - b. A minimum of five percent (5%) of the required parking spaces for all dwelling units shall be equipped with Level 2 EVSE; and
    - ~~b.c.~~ A minimum of fifty percent (50%) of required guest parking spaces shall be ~~electric vehicle charging station (EVCS)~~ parking spaces.
  - 2. Rounding. Calculations for the required minimum number of spaces equipped with Level 2 EVSE and EVCS parking spaces shall all be rounded up to the nearest whole number.
  - ~~2.3.~~ Exceptions: The following exceptions apply, subject to building official approval:
    - a. Where less than one parking space per unit is required as provided in ~~per~~ Chapter 17.34, the ~~provision of~~ Level 2 EV Ready Circuit parking space requirements shall apply only to the parking required as provided in~~per~~ Chapter 17.34. This ~~section-subparagraph~~ does not alter the required minimum number of parking spaces as provided in Chapter 17.34.
    - b. When more than twenty (20) multifamily dwelling units are constructed ~~on a building site~~, load balancing systems may be installed. In such cases, the panel capacity must average a minimum of sixteen (16) amperes per EV space. Load balancing systems may be installed to increase the number of EV chargers or the amperage or voltage beyond the minimum required.
    - c. A reduction in the EV standards may be allowed, if requested in writing by the applicant based on demonstration that the provisions of ~~this section~~subsection B would render the development project infeasible due to associated utility costs. However, the maximum feasible amount of EV infrastructure shall be provided. Documentation is to take into account short term and long term cost analysis to the satisfaction of the building official.

**Draft**  
**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF BRISBANE  
TO AMEND SECTION 15.84.070, BRISBANE MUNICIPAL CODE CONCERNING  
ELECTRIC VEHICLE INFRASTRUCTURE**

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

WHEREAS, The Brisbane 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 2022 Edition of the California Building Code (CBC) became effective state-wide on January 1, 2023 and Section 4.106.4.2.2 of the California Green Building Standards Code requires five (5) percent of the total number of parking spaces in certain multifamily development projects, hotels, and motels be equipped with Level 2 Electric Vehicle Supply Equipment (EVSE) chargers.
- C. 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 substituting renewable energy for fossil fuel energy sources to reduce fossil fuel emissions from transportation.
- D. In 2022, Brisbane readopted its energy and greenhouse gas (GHG) emissions reach code, which included electric vehicle (EV) charger and EV parking regulations for new development projects, known as the City of Brisbane Electric Vehicle Infrastructure Ordinance, and the following is noted:
  1. Use of fossil fuel vehicles is a primary contributor to transportation emissions and availability of EV charging infrastructure is a critical component to EV adoption over the continued use of fossil fuel reliant vehicles. Additionally, provision of EV charging infrastructure is most cost effective as part of new development projects versus existing building/site retrofit projects.
  2. The provisions within Brisbane's EV Infrastructure Ordinance, as amended below, exceed the EV infrastructure provisions required by the 2022 California Building Standards Code as well as the latest EV infrastructure reach codes proposed by the Bay Area Reach Codes Coalition.
  3. By reason of express findings F.1, F.2, and F.3 noted below, it is necessary to amend Brisbane's 2022 Electric Vehicle Infrastructure Ordinance.
- E. California Health and Safety Code Sections 17922, 17958, 17958.5, 17958.7, and 18941.5 authorize the City to make local amendments to the provisions in the CBC upon express findings that the local amendments are reasonably necessary due to local climatic, geological, topographical, and/or environmental conditions.
- F. By reason of the following climatic and environmental conditions, it is necessary to adopt certain local amendments to the CBC in order to provide a high level of health 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. The local amendments are justified on the basis of local climatic conditions in Brisbane. Failure to address and significantly reduce GHG emissions could result in rises in sea level, including in San Francisco Bay, that could put at risk City homes and businesses, public facilities, and Highway 101 (Bayshore Freeway), particularly the mapped Flood Hazard areas of the City. EV charging infrastructure is a key component in reducing GHG emissions.
2. EV charging installations can help the City of Brisbane reduce its share of the GHG emissions that contribute to climate change and contribute to the reduction of GHG emissions by supporting the demand for EVs and the associated charging infrastructure. Furthermore, electricity will become cleaner over time as utilities achieve more stringent Renewable Portfolio Standard requirements and translate the clean energy benefits to electric vehicles.
3. The local amendments improve the public health and welfare by promoting the environmental and economic health of the City by incorporating green practices into all development. The local amendments are consistent with the goals of the Green Building Code and help achieve the following goals:
  - Promote the health and productivity of residents, workers, and visitors to the city; and
  - Increase electric vehicle charging infrastructure to encourage electric vehicle adoption which in turn reduces greenhouse gas emissions and improves air quality.

NOW, THEREFORE, THE BRISBANE CITY COUNCIL ORDAINS AS FOLLOWS:

**SECTION 1:** Section 15.84.070 of the Brisbane Municipal Code is amended to read as follows:

New residential construction shall comply with the following:

A. New single-family residences, duplexes and townhouses.

1. Electric Vehicle (EV) Standards:

- a. For each dwelling unit, where two (2) or more parking spaces are required, at least one Level 2 EV Ready Circuit and one Level 1 EV Ready Circuit is to be installed.
- b. Where only one parking space is required per dwelling unit as provided in Chapter 17.34, only one Level 2 EV Ready Circuit shall be required to be installed.

2. Exceptions: The following exceptions apply, subject to building official approval:

- a. A reduction in the EV standards may be allowed, if requested in writing by the applicant based on demonstration that the provisions of this section would render the development project infeasible due to associated utility costs. Documentation is to take into account short term and long term cost analysis to the satisfaction of the building official.

B. New multifamily dwellings. The following shall apply to multifamily developments whether parking spaces are assigned or unassigned to individual units:

1. EV Standards:

- a. A minimum of one (1) Level 2 EV Ready Circuit Parking Space per unit shall be provided; and
- b. A minimum of five percent (5%) of the required parking spaces for all dwelling units shall be equipped with Level 2 EVSE; and
- c. A minimum of fifty percent (50%) of required guest parking spaces shall be EVCS parking spaces.

- 2. Rounding. Calculations for the required minimum number of spaces equipped with Level 2 EVSE and EVCS parking spaces shall all be rounded up to the nearest whole number.
- 3. Exceptions: The following exceptions apply, subject to building official approval:
  - a. Where less than one parking space per unit is required as provided in Chapter 17.34, the Level 2 EV Ready Circuit parking space requirements shall apply only to the parking required as provided in Chapter 17.34. This subparagraph does not alter the required minimum number of parking spaces as provided in Chapter 17.34.
  - b. When more than twenty (20) multifamily dwelling units are constructed, load balancing systems may be installed. In such cases, the panel capacity must average a minimum of sixteen (16) amperes per EV space. Load balancing systems may be installed to increase the number of EV chargers or the amperage or voltage beyond the minimum required.
  - c. A reduction in the EV standards may be allowed, if requested in writing by the applicant based on demonstration that the provisions of subsection B would render the development project infeasible due to associated utility costs. However, the maximum feasible amount of EV infrastructure shall be provided. Documentation is to take into account short term and long term cost analysis to the satisfaction of the building official.

**SECTION 2:** 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 3:** The City Council finds and determines that the adoption of this Ordinance is exempt from review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Section 15308, Actions by Regulatory Agencies for Protection of the Environment.

**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 \_\_\_\_\_ 2023, by the following vote:

AYES:  
 NOES:  
 ABSENT:  
 ABSTAIN:

\_\_\_\_\_  
 Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
 City Clerk

\_\_\_\_\_  
 City Attorney