



CITY COUNCIL AGENDA REPORT

Meeting Date: March 18, 2021

From: John Swiecki, Community Development Director

Subject: Introduction of Draft Ordinance 659-Permit Streamlining for Electric Vehicle Charging Stations

COMMUNITY GOAL/RESULT

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

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

PURPOSE

To adopt a local permit streamlining ordinance for electric vehicle charging stations (EVCS) consistent with the requirements of state law.

RECOMMENDATION

That the City Council introduce Ordinance 659.

BACKGROUND

In order to promote the use of electric vehicles over fossil fuel consuming vehicles for GHG reduction, in 2015 the state adopted Assembly Bill No. 1236 which required cities and counties to administratively approve applications for EVCS, unless the proposed installation would have a specific adverse impact upon public health or safety. The bill further required cities and counties to adopt this permit streamlining into local ordinance and to create a checklist for EVCS applicants.

Consistent with the intent of AB 1236, Brisbane has been processing EVCS through the building permit process and has made a checklist of technical requirements available to applicants through the Building Department's webpage and through an over-the-counter handout. However, the City has not yet adopted a local permit streamlining ordinance formalizing these procedures.

DISCUSSION

As indicated above, state law places requirements on cities and counties to allow for permitting of EVCS through an administrative process, with a finding of no adverse impact on public health and safety on specific applications.

While Brisbane currently implements administrative review of EVSC via the building permit process, the draft ordinance would codify Brisbane’s existing process for reviewing EVCS thereby complying with the provisions of state law. The proposed ordinance would add chapter 15.86 – “Electric Vehicle Charging Station Permit Streamlining” to the City’s Building Code, Title 15. Additionally, sub-section 15.12.160.C would be added to the “Building Permit-Issuance Procedure” section, to provide a cross reference to the new chapter 15.86.

Substantive provisions of the ordinance include:

- The City would continue to process EVCS through building permit review, providing a checklist and electronic application portal to EVCS applicants.
- When an applicant applies for a building permit for EVCS, whether residential or non-residential, they would be need to provide documentation demonstrating that the EVCS would not have an adverse impact on public health or safety
- Permit applications would be subject to a 15-business day turnaround time for review. Typically, review would either result in notice of approval being provided to the applicant or correction items to achieve compliance with the building code.
- An EVCS application can only be denied on health and safety grounds. If an EVCS building permit application were denied or conditions were imposed by the Building Official to address an adverse health or safety impact, the applicant may appeal the Building Official’s decision to the City Manager.

FISCAL IMPACT

None. Cost recovery for review and inspection is through building permit fees.

MEASURE OF SUCCESS

Compliance with state law for permit streamlining of EVCS and furthering the use of electric vehicles consistent with the City’s Climate Action Plan goals for the reduction of GHG emissions.

ATTACHMENTS

1. Draft City Ordinance No. 659
2. Redlined Draft Ordinance No. 659



John Swiecki, Community Development Director



Clay Holstine, City Manager

---Draft ---
ORDINANCE NO. 659__

**AN ORDINANCE OF THE CITY OF BRISBANE
TO AMEND SECTION 15.12.160 OF THE BRISBANE MUNICIPAL CODE AND
ADDING CHAPTER 15.86, ELECTRIC VEHICLE CHARGING STATION PERMIT
STREAMLINING, TO THE BRISBANE MUNICIPAL CODE**

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

SECTION 1: The City Council finds and determines that:

- A. Use of fossil fuel vehicles is a primary contributor to transportation emissions and availability of EV charging infrastructure, which is furthered by permit streamlining, is a critical component to EV adoption over the continued use of fossil fuel reliant vehicles.
- B. Section 65850.7 of the California Government Code provides that every city shall adopt an ordinance that creates an expedited, streamlined permitting process for Electric Vehicle Charging Stations.
- C. Adoption of this ordinance will meet the requirements of Section 65850.7 of the California Government Code.
- D. The actions contained in this ordinance comply with the California Environmental Quality Act (CEQA), being exempt pursuant to the General Rule (14 C.C.R. Section 15061 (b)(3)) because this ordinance involves updates and revisions to existing administrative building permit regulations consistent with California law, specifically Government Code section 65850.7. Additionally, the adoption of this ordinance is categorically exempt per CEQA Sections 15307 and 15308, actions by regulatory agencies in support of state and local climate action goals and for protection of the environment.

SECTION 2: Section 15.12.160 of the Brisbane Municipal Code is amended to read as follows:

15.12.160 - Building permit—Issuance procedure

- A. The building official shall issue building permits in accordance with the procedure set forth in Sections 15.12.170 through 15.12.200.
- B. Issuance of building permits for installation of small residential rooftop solar energy systems, as defined in Chapter 15.82 of this title, shall conform to the requirements of the solar streamlining policy on file with the community development department.
- C. Issuance of building permits for installation of electric vehicle charging stations shall conform with Chapter 15.86 of this title.

SECTION 3: Chapter 15.86, “Electric Vehicle Charging Station Permit Streamlining” is added to read as follows:

Chapter 15.86- Electric Vehicle Charging Station Permit Streamlining

15.86.010 Title.

This chapter shall be known as the City of Brisbane Electric Vehicle Charging Station Permit Streamlining Ordinance.

15.86.020 Purpose of Chapter

This chapter is adopted for the following purposes:

- A. To comply with California Government Code Section 65850.7.
- B. To provide an expedited, streamlined permitting process for Electric Vehicle Charging Stations.
- C. To continue to address life-safety issues for electric vehicle charging stations through the building permit process.
- D. To further the purposes of Chapter 15.84 of this Code (Electric Vehicle Infrastructure) concerning the requirements for electrical vehicle charging infrastructure as part of new development projects.

15.86.030 Applicability.

- A. This chapter shall apply to any level of an electric vehicle supply equipment station that is designed and built to deliver electricity from a source outside an electric vehicle to a plug-in electric vehicle as defined in Section 15.86.040.B.
- B. This chapter shall not apply to electric vehicle charging stations that were legally established prior to the effective date of this ordinance, unless physical modifications or alterations are undertaken that materially change the size, type, or components of an electric vehicle charging station such that a building permit would be required. Routine operation and maintenance or like-kind replacements with no structural alterations shall not require a permit.

15.86.040 Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings:

- A. "Electronic submittal" means using the City's online portal or the Internet.
- B. "Electric vehicle charging station" or "charging station" means any level of an electric vehicle supply equipment station that is designed and built in compliance with Article 625 of the California Electric Code, as it reads on January 1, 2019 or subsequently adopted amendments, and delivers electricity from a source outside an electric vehicle into a plug-in electric vehicle.
- C. "Specific adverse impact" means a significant, quantifiable, direct, or unavoidable impact, based on objective, identified, and written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.
- D. "Building official" is the community development director and the duties specified herein may be assigned to the director's designee.
- E. "Unusual circumstances" means the City's resources have been limited due to such things as response to a declaration of local emergency, natural disaster, pandemic or similar unforeseen events.

15.86.050 Application Requirements and Procedures

An electric vehicle charging station shall require a building permit subject to the requirements and procedures set forth in Sections 15.86.050.A-D. These sections apply to the permitting of all electric vehicle charging stations in the City.

A. Requirements (as set forth in Government Code, Section 65870.7).

1. Electric vehicle charging stations shall meet all applicable health and safety requirements imposed by the State and the City.
2. Electric vehicle charging stations shall meet all applicable safety and performance standards established by the California Electric Code, the Society of Automotive Engineers, the National Electrical Manufacturers Association, and the accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability.

B. Application Streamlining

1. The City's permitting procedures shall comply with Government Code Section 65870.7. The City shall:
 - a. Provide an administratively adopted building permit checklist of requirements and application form that will available through the City's website.
 - b. Accept an applicant's electronic signature on all forms, applications, and other documents.
 - c. Administratively approve building permit applications that comply with all requirements.
 - d. Limit its review and requirements to those standards and regulations necessary to ensure there is no specific adverse impact on public health or safety by the proposed installation.
 - e. Complete its review of each building permit application and, except in the event of unusual circumstances, provide the applicant with written notice of the status of the application within 15 business days. This shall include one of the following: notice of approval based on the finding provided in section 15.86.050.C.1, notice of an incomplete application with deficiencies indicated, or notice of denial based on the finding provided in section 15.86.050.C.2.
2. Application Requirements:
 - a. As required by the building official, the applicant shall complete and submit the charging station building permit checklist, application form, plans and supplemental documentation and shall submit payment of adopted application fees to the City.
 - b. Through the application for a building permit, the applicant shall provide documentation demonstrating that the installation of an electric vehicle charging station will not have a specific adverse impact to public health and safety or any building occupants, such verification shall include but not be limited to: electrical system capacity and loads; electrical system wiring, bonding and overcurrent protection; building infrastructure affected by charging station equipment and associated conduits; areas of charging station equipment and vehicle parking.

- c. Anchorage of either floor-mounted or wall-mounted electric vehicle charging stations shall meet the requirements of the California Building or Residential Code as applicable per occupancy, and the manufacturer's installation instructions. Mounting of charging stations shall not adversely affect building elements.

C. Findings

1. Approval: The building official shall approve a complete permit application that meets the required standards and approved checklist demonstrating that the electric vehicle charging station will not have a specific adverse impact on public health or safety.
2. Denial: The building official shall not approve a complete permit application where it is found that the proposed electric vehicle charging station would have a specific adverse impact upon the public health or safety and there is no known condition of approval that may be applied to mitigate the specific adverse impact given the circumstances of the application. The building official shall provide to the applicant in writing such finding when made. .

D. Conditions of Approval

1. If necessary to meet the finding provided in Section 15.86.050.C.1, the building official may impose condition(s) of approval, but such condition(s) shall be limited to those designed to mitigate the specific adverse impact upon the public health and safety at the lowest feasible cost.
2. The City shall not condition its approval on the approval of an association as that term is defined on Section 4080 of the State Civil Code.

15.86.60 Appeals

- A. The applicant may appeal the building official's action or conditions imposed and such shall be made to the city manager in writing, clearly stating the reason for appeal, and filed with the city clerk within ten (10) calendar days after the final action of the building official.
- B. The city manager shall consider the appeal within thirty (30) days and may affirm, reverse or modify the director's decision concerning the department decision. The decision of the city manager shall be final.

SECTION 4: 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 5: 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 the ____ day of _____ 2021, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

MAYOR

ATTEST:

APPROVED AS TO FORM:

CITY CLERK

LEGAL COUNSEL

**REDLINED
DRAFT ORDINANCE NO. 659__**

Note that the text shown below in red would be added to the Brisbane Municipal Code. Text shown in grey is already in the Brisbane Municipal Code.

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