



# MEMORANDUM

DATE: July 10, 2025  
TO: Planning Commission  
FROM: Jeremiah Robbins, Associate Planner via John Swiecki, Community Development Director  
SUBJECT: **Brisbane Municipal Code Violations and Code Enforcement**

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## **Introduction**

Chapter 1.14 of the Brisbane Municipal Code (BMC) establishes the City's authority to enforce the provisions of the BMC, including any ordinance of the City and any condition of an approval, permit, or license granted pursuant to the BMC. It also establishes penalties for infractions, though the maximum fine for infractions is governed by California Government Code Section 36900(b). Generally, a \$100 fine can be levied for a first violation; a \$200 fine for a second violation of the same provision or ordinance within 12 consecutive months; and a \$500 fine for each additional violation of the same provision or ordinance within twelve 12 consecutive months.

In addition to the authority to issue citations under the BMC, the California Building Code (CBC), adopted by reference under Chapter 15.04 of the BMC, establishes that a penalty fee may be applied to any person that commences work before obtaining the necessary building permit(s), as established by the Building Official. The City has gone further by adopting a local amendment to the CBC which establishes the penalty fee for any work commencing before obtaining the necessary building permit(s) can be up to 10 times the original fee. Similarly, the City's Master Fee Schedule, adopted pursuant to Chapter 3.32 of the BMC, includes a penalty fee for enforcement of violations of the Zoning Ordinance (Title 17). It too can be up to 10 times of the original (permit) fee. This means, as an example, if the building permit fee or planning application fee would have been \$500, a penalty fee up to 10 times or \$5,000 may be applied in addition to the permit fee for an infraction under the CBC and/or BMC.

## **Background**

The City investigates potential code violations and infractions on a complaint-based model; a code enforcement officer (CEO) responds to complaints submitted by residents. It's the goal of the City to correct code violations through voluntary cooperation and it's City policy to first issue a Notice of Violation (NOV) with a correct-by date, if a complaint is substantiated by the CEO, before issuing an administrative citation. However, under the BMC, the City may issue an administrative citation without first issuing an NOV, which is akin to an official warning. Issuing a citation first is more common for serial or repeat violators or infractions that may be a significant health and safety violation.

The City hired a full-time CEO in March 2022 and the CEO works very closely with the Community Development Department (CDD) on all complaints related to either the CBC or the City's Zoning Ordinance. Prior to 2022, the City went more than two years without a dedicated CEO to investigate complaints, but since the hire of a dedicated CEO the City has closed over 500 cases.

Several (substantiated) violations were related to permitted and prohibited uses, infractions under the City's Zoning Ordinance. As a result, in early 2025 the City sent notices to property owners that have repeatedly allowed businesses to occupy sites without first obtaining the proper approvals through the City or have been identified as serial violators of approved use permit conditions. The notices informed such offenders that:

- The City's adopted fee schedule allows for a zoning enforcement penalty of 10 times the original application fee; and
- Use Permits (and Interim Use Permits) may be revoked if conditions of the permit are violated.

Additionally, the notices stipulated that:

- The CDD will assess a penalty fee (starting at 2 times the original fee and escalating for repeat occurrences) on planning applications, including use permit and interim use permit applications, where the business has occupied a site without first obtaining the required City approval; and
- A single, substantiated infraction for the remainder of 2025 or more than one citation issued cumulatively in any subsequent calendar year will trigger revocation proceedings under the BMC for a particular use permit.

Since sending out the above notices to serial offenders, the City has not received any substantiated complaints and therefore has not issued a subsequent citation, nor has it had to assess a penalty fee on an active planning application on a related property.

Finally, while the City has investigated more infractions related to the CBC since 2022 overall, very few violators have been assessed a penalty fee. As mentioned previously, it's the goal of the City to correct code violations through voluntary cooperation and penalties are generally reserved for serial offenders or infractions that are a significant health and safety violation. The Building Official retains discretion to impose the adopted penalty fee on building permits.

  
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