

City of Brisbane

Memo

To: Honorable Mayor and City Council

From: Michael Roush, City Attorney

RE: Ordinance No. 606, amending Chapter 17.02, Definitions; Chapter 17.32, General Use Regulations; and Chapter 17.52, Appeals of Title 17 of the Brisbane Municipal Code

The ordinance listed above was introduced at the City Council meeting of April 7, 2016.

No changes were made at that time to that portion of the Ordinance concerning Chapters 17.02 (Definitions) and 17.32 (General Use Regulations).

As to that portion of the Ordinance concerning Appeals (Chapter 17.52), no changes were made other than requiring the city clerk to notify the planning commission, in addition to the planning department, when an appeal from one of the commission's decision has been filed under Section 17.52.020 and indicating in Section 17.52.030 that the report that the planning department will prepare for the city council will be "in conjunction with the planning commission".

The Ordinance is on this agenda for adoption.

draft
ORDINANCE NO. 606

AN ORDINANCE OF THE CITY OF BRISBANE AMENDING CHAPTER 17.02, DEFINITIONS; CHAPTER 17.32, GENERAL USE REGULATIONS; AND CHAPTER 17.52, APPEALS OF TITLE 17 OF THE MUNICIPAL CODE.

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

SECTION 1: Section 17.02.235 in Chapter 17.02 - Definitions of the Municipal Code is amended to read as follows:

17.02.235- Dwelling

"Dwelling" means a place that is used as the personal residence of the occupants thereof, including transitional housing as defined in California Health and Safety Code Section 50675.2(h) and supportive housing as defined in California Health and Safety Code Sections 50675.14(b)(2) & (3). The term includes factory-built or manufactured housing, such as mobilehomes, but excludes trailers, campers, tents, recreational vehicles, hotels, motels, boarding houses and temporary structures.

A. "Dwelling group" means a group of two or more detached buildings located upon the same site, each of which contains one or more dwelling units.

B. "Dwelling unit" means a room or group of rooms including living, sleeping, eating, cooking and sanitation facilities, constituting a separate and independent housekeeping unit, designed, occupied, or intended for occupancy by one family on a permanent basis.

C. "Multiple-family dwelling" means a building or site containing three (3) or more dwelling units (also see "duplex"). The term includes single-room-occupancy dwelling units, typically comprised of one or two (2) rooms (which may include a kitchen and/or a bathroom, in addition to a bed), that are restricted to occupancy by no more than two (2) persons.

D. "Secondary dwelling unit" means a separate dwelling unit created upon a site within the R-1 or R-BA district that contains a single-family dwelling and for which a use permit has been granted pursuant to Chapter 17.43 of this title. Subject to the restrictions of this title, the secondary dwelling unit may be attached to or detached from the single-family dwelling.

E. "Single-family dwelling" means a dwelling unit constituting the only principal structure upon a single site (excluding any lawfully established secondary dwelling unit that may be located within the same structure on upon the same site). The term includes employee housing for six (6) or fewer persons, residential care facilities, licensed by the state to provide twenty-four (24) hour nonmedical care, serving six (6) or fewer persons (not including the operator, the operator's family or persons employed as staff) in need of supervision, personal services, or assistance essential for sustaining the activities of daily living or for the protection of the individual. Also see "Group care home" for seven (7) or more persons.

SECTION 2: Section 17.32.130 in Chapter 17.32 – General Use Regulations of the Municipal Code is amended to read as follows:

17.32.130 - Horses- Keeping Generally

Horses may be kept in any district except R-1, R-2, R-3, NCRO and SCRO-1, subject to the securing of a use permit as provided in Chapter 17.40.

SECTION 3: Section 17.32.190 in Chapter 17.32 – General Use Regulations of the Municipal Code is amended to read as follows:

17.32.190 - Solar Energy Systems

To encourage the use of solar energy systems, the systems shall be permitted to the extent that they conform to the regulations for structures contained in this chapter. Solar energy systems to be installed on the roof of an existing building may exceed the height limit through approval of an administrative permit by the zoning administrator in accordance with the process established in 17.32.060.C. Where the systems would not conform to the regulations for the district within which they would be located and no exceptions to those regulations are applicable, they shall be treated as conditional uses, subject to obtaining a use permit, which shall be approved, provided the establishment and use of the system would pose no threat to the public health and safety. Reasonable restrictions or conditions may be imposed, provided they do not significantly increase the cost of the system or significantly decrease its efficiency.

SECTION 4: Section 17.32.200 in Chapter 17.32 – General Use Regulations of the Municipal Code is amended to read as follows:

17.32.200 - Television satellite receivers.

A. Equipment designed to receive satellite television signals for non-commercial use on residential structures may be permitted in all districts, subject to compliance with the provisions of subsections C and D of this section. Satellite television receivers intended for commercial use are permitted in all districts subject to obtaining a use permit.

B. Such equipment may be placed on the roofs of structures only if the roof is constructed to be capable of supporting such equipment.

C. Such equipment shall be set back at least ten (10) feet from any property line.

D. The equipment shall be designed and located so as to minimize visual impact of the equipment from off the site.

SECTION 5: Section 17.32.220 in Chapter 17.32 – General Use Regulations of the Municipal Code is amended to read as follows:

17.32.220 - Grading permit-When required.

Any grading, as defined in Section 15.01.040, shall require a permit from the planning commission when more than two hundred fifty (250) cubic yards of material are involved in any single operation, or if more than fifty (50) cubic yards of material is to be removed from any single parcel of land, or when grading is not otherwise approved in connection with issuance of a building permit. (Reference: Section 15.01.081.)

SECTION 6: Section 17.32.230 in Chapter 17.32 – General Use Regulations of the Municipal Code is amended to read as follows:

17.32.230 - Flood hazard areas.

All building permit applications shall be reviewed consistent with the procedures and standards for floodplain management established in Chapter 15.56, Floodplain Management.

SECTION 7: Section 17.52.020 in Chapter 17.52 – Appeals of the Municipal Code is amended to read as follows:

17.52.020- Appeals.

A. An appeal of a planning commission action shall be in writing and filed with the city clerk within fifteen (15) days after the final action of the planning commission. The appeal shall be accompanied by a fee, as set by the city council, and shall clearly state the reason for appeal. Upon receipt of such appeal, the city clerk shall notify the planning department and Planning Commission and the applicant and shall set a time as soon as practical but within 60 days after the receipt of such appeal (unless the applicant agrees otherwise) for a public hearing by the city council on such appeal. Notice of such hearing shall be given as set forth in Chapter 17.54.

B. In addition to the above, within 15 days after final action of the planning commission any two (2) members of the city council may appeal the decision of the planning commission by filing the appeal in writing with the city clerk. The clerk shall notify the planning department and Planning Commission and the applicant and shall place the matter for public hearing as soon as practical but within 60 days after receipt of the appeal unless the applicant agrees otherwise or the city council determines that additional time is needed in order for it reach an informed decision. The mere fact that two members of the city council have filed an appeal does not of itself require disqualification of either such councilmember from hearing and/or deciding the item.

SECTION 8: Section 17.52.030 in Chapter 17.52 – Appeals of the Municipal Code is amended to read as follows:

17.52.030 - Planning department action.

The planning department, upon receipt of the notice of appeal, shall, in conjunction with the Planning Commission prepare a report of the facts pertaining to the decision of the planning commission and shall submit such report to the city council along with the department's recommendation and the reasons for the commission's action.

SECTION 9: Section 17.52.040 in Chapter 17.52 – Appeals of the Municipal Code is amended to read as follows:

17.52.040 - Council action.

The city council shall conduct a de novo hearing on the appeal. At the close of the public hearing, the city council may affirm, reverse or modify the decision of the planning commission, either at the same meeting or at such later meeting as the council may determine, for any basis permitted by law. If the council does not take action on the appeal within sixty (60) days after the clerk's receipt of the appeal, unless the applicant otherwise agrees or the city council has determined that additional time was needed in order for it to make an informed decision, the planning commission action shall be deemed affirmed. To reverse or modify the planning commission decision shall require three affirmative votes.

SECTION 10: Where a use permit, design permit or variance approval has been issued through final action by the City prior to the effective date of this Ordinance, or where such planning permit approval is not required and a complete building permit application has been submitted prior to the effective date of this Ordinance, the holder of such use permit, design permit or variance approval or complete building permit application may proceed to construct the improvements or establish the use authorized by such permit or approval and the same shall be exempted from any conflicting regulations that may be contained in this Ordinance.

SECTION 11: 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 12: This Ordinance shall be in full force and effect thirty days after its passage and adoption.

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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 _____, 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor Clifford Lentz

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney