



CITY COUNCIL  
**Staff Report**

**Meeting Date:** Oct. 18, 2022

**To:** Mayor and City Council

**From:** Scott Chadwick, City Manager

**Staff Contact:** Mike Strong, Assistant Director of Community Development  
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**Subject:** Introduce an Ordinance adopting the California Building Code and Related California Codes for Construction, along with Local Amendments, and Set a Public Hearing for Nov. 8, 2022 (MCA 2022-0005)

**District:** All

**Recommended Actions**

1. Introduce an ordinance repealing and replacing Carlsbad Municipal Code Chapters 18.04 - Building Code, 18.06 - Uniform Housing Code, 18.08 - Mechanical Code (to be retitled Historical Building Code), 18.12 - Electrical Code, 18.16 - Plumbing Code, 18.18 - Solar Energy Code, 18.19 - Dangerous Building Code, 18.20 - Residential Code, 18.21 - Green Building Standards Code, and 18.30 - Energy Conservation Regulations); and adding Chapters 18.03 - General Provisions, 18.09 - Existing Building Code, and 18.10 - Mechanical Code based on the 2022 California Building Standards Code, as amended (Exhibit 1).
2. Set a public hearing for Nov. 8, 2022, to consider adoption of the ordinance.

**Executive Summary**

Every three years, the California Building Standards Commission updates the state's model building codes, which local jurisdictions adopt and enforce as the minimum standards for new construction. The state allows local amendments to the state code standards when findings can be made that such code changes are necessary to address locally unique topographical, geological, climatic and environmental conditions.

The City Council is being asked to introduce an ordinance that adopts the 2022 California Building Standards Codes as published by the California Building Standards Commission, with certain amendments related to building standards and administrative processes that staff find are necessary to address local conditions.

Following introduction of the ordinance, staff recommend that a public hearing be set for Nov. 8, 2022, during which time the City Council would consider adoption of the ordinance.

**Discussion**

**Background**

The California Building Standards Commission is the state agency responsible for establishing and updating the building standards and codes for new construction in the

state. The model codes that make up the California Building Standards Code, Code of Regulations Title 24, include the following code sections:

- International Building Code
- National Electrical Code
- International Residential Code
- Uniform Mechanical Code
- Uniform Plumbing Code
- Green Building Code

The model codes are updated every three years with the requirement that local jurisdictions enforce the state-adopted codes as the minimum standard for construction. Under state law, the Building Standards Code applies throughout the state and to all building occupancies, whether or not the local government has adopted the new codes in its municipal code.

The current 2019 Building Standards Code was published July 1, 2019, with an effective date of Jan. 1, 2020, through Dec. 31, 2022. The 2022 Building Standards Code was published July 1, 2022, with an effective date of Jan. 1, 2023. Any building standards modifications to the model building codes, including building standards amendments that have previously been adopted by the city and will be readopted as amended, must be introduced and adopted by the City Council, effective as of Jan. 1, 2023.

#### **Proposed local code amendments**

As noted, the state allows local amendments to the model codes related to building standards when findings can be made that such code changes are necessary to address locally unique topographical, geological, climatic and environmental conditions. The decision-making authority – for Carlsbad, the City Council – and the Building Standards Commission must each approve the amendments and required findings before they can be enforced. In no circumstance can a local amendment be less restrictive than the state code.

Staff's proposed amendments can be categorized into two types:

1. Building standards amendments
2. Administrative process amendments

The proposed amendments to the building standards are few and minor in scope and intended to address unique conditions and situations. The administrative amendments are intended to streamline, clarify and improve the plan check review and permitting and inspection process. Only amendments to the building standards require approval of the findings contained in Attachment A to the ordinance in Exhibit 1. Special findings are not required for changes proposed to the administrative sections of the city's Building Code.

#### **Building standards amendments**

- Noise standards near the airport or freeway  
The state building code requires an interior noise level for multi-family projects located near an airport or freeway of no more than 45 decibels. To show compliance, applicants must prepare an acoustical survey that includes site-

specific construction standards which must be incorporated into the project design to reduce noise levels to acceptable levels. Staff are proposing that in lieu of an acoustical survey, which can be very expensive and time-consuming, applicants can incorporate preestablished attenuation standards into their project designs. Staff do not expect a significant impact to overall construction costs under this amendment since most of the preestablished attenuation standards are often required as part of an acoustical survey. Also, this amendment provides an alternative to the existing practice; applicants are still able to conduct an acoustical survey if they choose.

- **Screening of roof-mounted equipment and rooftop hazards**  
The state building code is silent on the need to screen equipment mounted on the roof of new structures. This can result in unsightly visual impacts, especially given our varying topography and coastal views. Up to this point, the city enforces rooftop screening requirements through the discretionary review process. Staff are proposing to add language to the mechanical code to codify rooftop screening requirements and ensure that they are applied uniformly throughout the city. This provision will help reduce potential visual impacts on all projects. There would be no impact to construction costs, as this action would codify the city's long-standing policy. For similar reasons, staff are proposing language to ensure that rooftop access is located more than 10 feet from the edge of the roof, thereby reducing the need for a safety rail fence to be installed along the edge of the roof. Impacts to overall construction costs resulting from this amendment is anticipated to be minor.
- **Roof rainfall drainage systems**  
To appropriately size storm drain systems, the state building code requires the adoption of a precipitation rate that is specific to the local jurisdiction. The city has never adopted a formal rainfall rate. As part of this amendment, staff are proposing to use the rainfall rate published in the San Diego Hydrology Manual, which is the same rate the city's Land Development Engineering Division has historically used when sizing storm water detention facilities in grading plans. This will help ensure consistency in land development requests and in site and building designs.
- **Fire classification rating for solar photovoltaic systems**  
The state building code only requires that roof mounted solar photovoltaic mounting systems, devices and clamps meet lower-level fire standards (the B- and C-rating). Staff are proposing an amendment to the state code to require the highest fire standard (A-rating). This amendment is consistent with the roof construction standards found in the updated Fire Code so that new construction is more resistant to external fires. Impacts to overall construction costs resulting from this amendment are anticipated to be minor.
- **Green Building Code, Energy Code and Climate Action Plan**  
The Building Standards Commission also publishes development codes that exceed state model standards for those jurisdictions interested in accelerating the electrification of new buildings in support of their local climate action plan

goals. These codes are often referred to as “reach codes,” which jurisdictions can adopt voluntarily. The city adopted the 2019 Building Standards Commission reach codes as part of the 2019 building code update to implement the city’s adopted Climate Action Plan and help the city achieve its greenhouse gas emissions targets (Ordinance No. CS-364, 2019).

In reviewing the new model state code, staff found that some of the adopted 2019 climate action plan reach codes are now a part of the 2022 Green Building Standards Code and 2022 Energy Code. In other words, they are no longer voluntary for local governments to adopt. Three of the more significant reach codes that are now part of the state model code cover:

- Number, location and dimension of required electric vehicle parking spaces
- Number, location and dimension of electric vehicle capable parking spaces
- Multi-family home service water heating systems – solar or recovered energy of at least 20%

There are still several 2019 Building Standards Commission reach codes that the city previously adopted that are included as part of the 2022 Building Standards Commission reach codes. These codes are being carried forward as part of the proposed amendments and are summarized below. These amendments are necessary to maintain a valid climate action plan and to continue to achieve reductions in greenhouse emissions from the building energy sector. These amendments address:

- Single-family home service water heating systems – requires solar or recovered energy of at least 60%.
- Non-residential service water heating systems – requires solar or recovered energy of at least 40%.
- Service water heating in restaurants of a certain size or valuation (at least 1,000 square feet or \$200,000).
- Energy efficiency upgrades such as duct sealing, attic insulation, cool roofs, lighting packages, etc. in existing residential buildings of a certain valuation (\$60,000 or more).
- Non-residential on-site renewable energy – 1% of electricity in projects of a certain size or valuation (greater than 1,000 square feet or \$200,000).
- Non-residential solar photovoltaic required in projects of a certain size or valuation (greater than 2,000 square feet of roof area, or 75% of existing floor area, and \$1 million).

The 2022 Building Standards Commission reach codes contain additional reach codes that were not included in the 2019 code adoption. In its update of the city’s Climate Action Plan, the Environmental Sustainability Department will consider reach code policy options and study the benefits and costs associated with these additional building electrification and green building measures reach codes. This information will be brought to the City Council for consideration at a future date as part of the Climate Action Plan update.

### Administrative amendments

Staff have reviewed previous administrative amendments made to the city's building code and compared them against current practice and the new building codes and are recommending the following changes:

- Make residential building permits valid for 12 months. Assembly Bill 2913, which was adopted in 2018, extended the duration of residential building permits from six months to one year. However, the expiration date in the 2022 Building Standards Code is inconsistent (the code makes references both to six months and one year). The proposed changes ensure that a permit to conduct work on a building site remains valid for 12 months after its issuance. The 12-month period resets once an inspection by the city building inspector is conducted.
- Provide a customized appeal process in which appeals are heard and decided by trained professionals. Currently, appeals of a building official determination are considered by the City Council. The proposed changes create an appeals board consisting of building officials from nearby cities.
- Provide an allowance for the building official to issue partial permits to allow applicants to initiate limited work (i.e., underground plumbing or electrical work, trenching for footings) while permit reviews are being completed. The code currently does not clearly authorize this allowance.
- Provide more specificity in the applicable fees that might apply when obtaining a building permit or related cost-recovery service, including but not limited to investigation fees, preliminary review fees and reinspection fees. The current code only states applicable fees must be paid. This change helps make the process more transparent for customers.
- Clarify when a remodel or addition qualifies as new construction, which would require the entire existing structure to meet current code standards. As proposed, the requirement is triggered when more than 75% of the existing building is affected. The current code is silent on this requirement, and can lead to inconsistent interpretations.
- Clarify the role and duties of the building official to carry out procedures relating to violations associated with unpermitted or illegal construction projects.

A code adoption matrix is provided in Attachment A to Exhibit 1 that provides more detail on the substantive changes being proposed and the justifications supporting the recommended changes. A version with highlights showing the proposed amendments to the Carlsbad Municipal Code is provided in Exhibit 2. A version highlighting the proposed amendments to the state model codes is provided in Exhibit 3.

### Options

Staff recommend the City Council introduce the proposed ordinance and set the matter for a public hearing on Nov. 8 to consider adopting it. There are no noted drawbacks to this action. However, the City Council could choose instead to reject the recommended local amendments and operate under the basic state model code.

### **Fiscal Analysis**

The existing fiscal year 2022-23 budget includes sufficient funding for the cost of developing and implementing the proposed ordinance.

### **Next Steps**

The City Clerk's Office will publish a summary of the ordinance twice in a newspaper of general circulation between the introduction date and the public hearing and adoption date, in accordance with the California Government Code requirements for adoption of a state code by reference. ("By reference" means a document is incorporated into the text of a primary document through a statement that the secondary document should be treated as if it was contained within the primary one.) The City Clerk's Office will then schedule the ordinance for a public hearing and adoption at the next regular City Council meeting. Once adopted, the Community Development Department will file a copy of the ordinance and related findings with the California Building Standards Commission and the City Clerk's Office will publish the ordinance or a summary of the ordinance in a newspaper of general circulation within 15 days. The ordinance will be effective 30 days following its adoption, subject to its filing with the California Building Standards Commission.

Prior to the effective date, Building Division staff will continue to undergo comprehensive training on the new codes. Only the projects submitted to the Building Division after Jan. 1, 2023, will be subject to the 2022 California Building Standards Code. All pipeline projects will remain subject to the currently existing building codes.

### **Environmental Evaluation**

The proposed action is exempt from the California Environmental Quality Act because it qualifies for the "common sense" exemption, covered by the general rule under CEQA Guidelines Section 15061(b)(3), which provides that a project is exempt from CEQA if it has no potential to cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

Most of the local amendments to the codes proposed as part of this project are necessary from an administrative standpoint and are general policy and procedure rulemaking. Other amendments are intended to address local climatic, geological or topographical conditions and safeguard public health and safety. There are no reasonably foreseeable adverse environmental impacts and there is no possibility that the activity in question may have a significant effect on the environment. Furthermore, the proposed project involves the adoption of state building codes and standards that are applied to ministerial, or non-discretionary, permits. CEQA Guidelines Section 15300.1 and California Public Resources Code Section 21080 exempt projects over which public agencies exercise only ministerial authority from the application of CEQA.

### **Public Notification**

This item was noticed in accordance with the Ralph M. Brown Act and was available for public viewing and review at least 72 hours prior to the scheduled meeting date.

### **Exhibits**

1. City Council ordinance amending Title 18 of the Carlsbad Municipal Code
2. Proposed changes to Title 18 of the Carlsbad Municipal Code with revisions highlighted

3. Proposed changes to select state model codes with revisions highlighted (California Building Code, the California Residential Code, the California Green Building Standards Code and California Energy Code)