



CITY OF

NEWPORT BEACH

City Council Staff Report

November 15, 2022
Agenda Item No. 21

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: Seimone Jurjis, Community Development Director - 949-644-3232, sjurjis@newportbeachca.gov

PREPARED BY: Tonee Thai, Deputy Community Development Director / Chief Building Official, tthai@newportbeachca.gov
Kevin Bass, Fire Marshal, kbass@nbfd.net

PHONE: 949-644-3277
949-644-3108

TITLE: Ordinance Nos. 2022-26 and 2022-27: Adoption of the 2022 California Building Standards Codes with Local Amendments and the 2022 California Fire Code with Local Amendments

ABSTRACT:

The City of Newport Beach (City) enforces State of California (State) model building standards and fire codes for the purpose of regulating design and construction of all structures to protect life and property. Every three years, the State adopts new codes. Local agencies must adopt the same codes and make amendments with specific findings 30 days prior to the January 1, 2023, effective date of the new codes. Attached for the City Council's consideration is the resolution making specific findings to the proposed City amendments along with draft ordinances introducing the revised codes. If passed, this item will return for final adoption of the ordinances on November 29, 2022.

RECOMMENDATION:

- a) Conduct a public hearing;
- b) Find the proposed actions are not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) and 15378 of the CEQA Guidelines, because the code adoption and amendment will not result in a physical change to the environment, directly or indirectly;
- c) Adopt Resolution No. 2022-83, *A Resolution of the City Council of the City of Newport Beach, California, Setting Forth Findings Based on Local Conditions within the City of Newport Beach Which Make Certain Modifications and Changes to the International Property Maintenance Code, the California Building Code, the California Residential Code, the California Electrical Code, the California Mechanical Code, the California Plumbing Code and the International Swimming Pool and Spa Code as Reasonably Necessary Because of Local Climatic, Geographic, or Topographic Conditions;*

- d) Waive full reading, direct the City Clerk to read by title only, introduce Ordinance No. 2022-26, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Title 15 (Building and Construction) of the Newport Beach Municipal Code to Adopt Amendments to Chapter 1 Division II of the 2022 California Building Code Designated as the Newport Beach Administrative Code; to Adopt the 2022 California Historical Code; the 2022 California Existing Building Code; the 2022 California Green Building Standards Code; and the 2022 California Energy Code; to Adopt with Local Amendments the 2021 International Property Maintenance Code; the 2022 Edition of the 2022 California Building Code; the 2022 Edition of the California Residential Code; the 2022 California Electrical Code; the 2022 California Mechanical Code; and the 2022 California Plumbing Code; to Adopt with Local Amendments the 2021 International Swimming Pool and Spa Code; and to Amend Chapters 15.19 Electrical Vehicle Charging and 15.50 Floodplain Management, and pass to second reading on November 29, 2022;*
- e) Adopt Resolution No. 2022-84, *A Resolution of the City Council of the City of Newport Beach, California, Setting Forth Findings Based on Local Conditions within the City of Newport Beach Which Make Certain Modifications and Changes to the 2022 Edition of the California Fire Code as Reasonably Necessary Because of Local Climactic Geographic, or Topographic Conditions;* and
- f) Waive full reading, direct the City Clerk to read by title only, introduce Ordinance No. 2022-27, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Title 9 (Fire Code) of the Newport Beach Municipal Code to Adopt the 2022 Edition of the California Fire Code, as set forth in Title 24, Part 9 of the California Code of Regulations, with Local Amendments, and pass to second reading on November 29, 2022.*

DISCUSSION:

The California Building Standards Code is published every three years and amends the California Code of Regulations Title 24. These codes are commonly referred to as Building, Residential, Fire, Plumbing, Mechanical, Electrical, Green and Energy Codes.

The City may only make more restrictive modifications and amendments if the City Council adopts findings relating to local climatic, topographic and geographic conditions, and said findings are filed with the California Building Standards Commission. The California Building Standards Commission has established January 1, 2023, as the statewide effective date for all the 2022 California Building Standards Codes. All local municipalities are required to enforce such codes as the minimum design standards and construction codes.

The proposed amendment to Title 15 will modify Chapter 15.09 and will incorporate the requirements of the International Swimming Pool and Spa Code, which is not adopted by the State as a model code.

This code adoption cycle, staff recommends less amendments to the California Building Standards Code compared to the previous cycle to reduce regulations and streamline the building permitting process.

If the item moves forward to November 29, 2022, the City Council's approval of the ordinances would result in the amendment of Title 15 of the Newport Beach Municipal Code (NBMC) by repealing references to the prior editions of the building standards codes and enacting the most current California Building Standard codes and International Codes:

- 2022 California Building Code
- 2022 California Fire Code
- 2022 California Residential Code
- 2022 California Electrical Code
- 2022 California Mechanical Code
- 2022 California Plumbing Code
- 2022 California Green Building Standards Code (Cal Green)
- 2022 California Historical Building Code
- 2022 California Existing Building Code
- 2021 International Property Maintenance Code
- 2021 International Swimming Pool and Spa Code

Community Outreach

On October 4, 2022, staff held a community workshop to gain input on the proposed draft ordinance and amendments and more than 40 members of the public and design community attended. Copies of the building and fire draft code amendment ordinance were provided and the workshop was positively received by the attendees. Though no amendments were requested, several participants requested future City-sponsored seminars to address various subjects such as exiting and accessibility.

Building and Fire Board of Appeals

On October 19, 2022, the Building and Fire Board of Appeals (Board) convened with five members of the Board in attendance. Staff presented the proposed draft amendments. The Board did not recommend any changes and supported the code amendments as presented.

Key Municipal Code Amendments

The following is a summary of some of the key amendments proposed for incorporation into the NBMC:

- a. NBMC Section 15.02.085 would require the permittee to use a City-franchised solid waste enterprise for handling removal and disposal of all construction and demolition waste for a demolition permit, for complete demolition of a structure. This provision was inadvertently omitted with the adoption of Ordinance No. 2010-23.

- b. NBMC Section 15.04.090 would exempt the fire sprinklers requirement for accessory dwelling units when the existing primary residence is not equipped with fire sprinklers. The construction of an accessory dwelling unit shall not trigger the requirement for fire sprinklers to be installed in the existing building.
- c. NBMC Section 15.19.060 would incorporate the timeline requirements for acceptance and approval of permit applications for the installation of electric vehicle charging stations. These timeline requirements are compliant with AB 970 (Chapter 710, Statutes 2021) which becomes operative on January 1, 2023, for cities with a population of less than 200,000 residents.
- d. NBMC Section 15.50 would be revised to clarify the definition of Design Flood Elevation and to incorporate the requirement for 1-foot of freeboard above the Base Flood Elevation for minimum height of the lowest floor for new and substantially improved/damaged buildings in Special Flood Hazard Areas. The 1-foot freeboard requirement is intended to be consistent with the changes in minimum requirements for the Community Rating System (CRS) implemented by the "Addendum to the 2017 CRS Coordinator's Manual," which was issued by FEMA and went into effect on January 1, 2021.
- e. NBMC Section 9.04.380 would require the property owners of **existing** structures to be improved with the installation of 1/8" mesh screening to protect ventilation openings from ember intrusion in the event of a wildfire. This amendment is consistent with the Cal Fire Low Cost Retrofit document request for homeowners to improve their homes and other structures from flying hot embers during a wind driven wildfire.
- f. NBMC Section 9.04.385 would require property owners to trim **existing** trees from hanging over or touching structures to reduce burning vegetation from igniting structures. The Insurance Institute for Business & Home Safety, in cooperation with the National Fire Protection Association (NFPA) recommends no trees within five (5) feet of structures to reduce the spread of burning vegetation to the structures.
- g. NBMC 9.04.386 would require property owners to create and maintain a 1-foot wide noncombustible zone at the base of new and **existing** structures to prevent falling embers from igniting structures in the event of a wildfire. The California Department of Insurance's recently published Safer from Wildfire program recommends a 6-inch wide noncombustible zone at the base of structures to protect from embers during a wildfire. Newport Beach Fire Department recommends a 1-foot zone for additional separation from existing mature residential landscaping within the established Very High Fire Severity Zone.

FISCAL IMPACT:

There is no direct fiscal impact related to the City for this action.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find this action proposed herein is not a project subject to the California Environmental Quality Act ("CEQA) in accordance with Section 21065 of the California Public Resources Code and Sections 15060 (c)(2), 15060 (c)(3), and 15378 of the California Code of Regulations Title 14, Division 6, Chapter 3 ("State CEQA Guidelines") because the code amendment will not result in a reasonably foreseeable physical change to the environment. Additionally, the code amendment is exempt from the CEQA pursuant to State CEQA Guidelines Section 15061(b)(3), the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. This code amendment itself does not authorize development that would directly result in physical change to the environment.

NOTICING:

Notice of this hearing was published in the Daily Pilot at least 10 days in advance of this hearing. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

ATTACHMENTS:

Attachment A – Resolution No. 2022-83
Attachment B – Ordinance No. 2022-26
Attachment C – Redline of NBMC Chapter 15
Attachment D – Resolution No. 2022-84
Attachment E – Ordinance No. 2022-27
Attachment F – Redline of California Fire Code Amendments
Attachment G – Map of the Very High Fire Hazard Severity Zone