



# CITY of BRISBANE

## City Council Meeting Agenda

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Thursday, October 1, 2020 at 7:30 PM • Virtual Meeting

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This meeting is compliant with the Governors Executive Order N-29-20 issued on March 17, 2020 allowing for deviation of teleconference rules required by the Brown Act. The purpose of this is to provide the safest environment for staff, Councilmembers and the public while allowing for public participation. The public may address the council using exclusively remote public comment options.

### **PUBLIC MEETING VIDEOS**

Members of the public may view the City Council Meeting by logging into the Zoom Meeting listed below. City Council Meetings can also be viewed live and/or on-demand via the City's YouTube Channel, [www.youtube.com/brisbaneca](http://www.youtube.com/brisbaneca), or on Comcast Channel 27. Archived videos can be replayed on the City's website, <http://brisbaneca.org/meetings>.

### **TO ADDRESS THE COUNCIL**

The City Council Meeting will be an exclusively virtual meeting. The City Council agenda materials may be viewed online at [www.brisbaneca.org](http://www.brisbaneca.org) at least 24 hours prior to a Special Meeting, and at least 72 hours prior to a Regular Meeting.

### **Remote Public Comments:**

Meeting participants are encouraged to submit public comments in writing in advance of the meeting. Aside from commenting while in the Zoom meeting, the following email and text line will be also monitored during the meeting and public comments received will be read into the record during Oral Communications 1 and 2 or during an Item.

**Email:** [ipadilla@brisbaneca.org](mailto:ipadilla@brisbaneca.org)

**Text:** 628-219-2922

### **Join Zoom Meeting:**

<https://zoom.us/j/93436984726?pwd=SWpBZW9PL1NINVoZVXJMRzhBWkdqQT09>

Meeting ID: 934 3698 4726

Passcode: 123456

Call In Number: 1 (669) 900 9128

### **SPECIAL ASSISTANCE**

*If you need special assistance to participate in this meeting, please contact the City Clerk at (415) 508-2113. Notification in advance of the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.*

**1. 7:30 P.M. CALL TO ORDER – PLEDGE OF ALLEGIANCE**

**2. ROLL CALL**

**3. ADOPTION OF AGENDA**

**4. PRESENTATION AND AWARDS**

A. County Elections Division Presentation on the November 3, 2020 Elections

B. October is Fire Prevention Month

**5. ORAL COMMUNICATIONS NO. 1**

**6. CONSENT CALENDAR**

C. Approve Minutes of City Council Meeting of June 18, 2020

D. Approve Minutes of City Council Meeting of September 17, 2020

E. Approve Minutes of City Council Closed Session Meeting of September 17, 2020

F. Accept Investment Report as of August 2020

G. Adopt Resolution No. 2020-59 approving and re-certifying the City's 2020 Sewer System Management Plan (SSMP)

H. Acknowledge the School District Study Report and Receive a School District Study Update

**7. PUBLIC HEARING**

I. Consider Introduction of Ordinance No. 653 amending Title 17 of the Brisbane Municipal Code to Regulate Accessory Dwelling Units and Junior Accessory Dwelling Units and Amending Title 15 of the Brisbane Municipal Code to Regulate Alterations and Additions to Existing Structures

(Due to technological issues, the public hearing on this item was not opened at the City Council's meeting of September 17, 2020 and was continued to the City Council meeting of October 1, 2020)

J. Consider Introduction of Ordinance No. 657 Brisbane amending sections 17.06.040, 17.08.040, and 17.10.040 of the Brisbane municipal code concerning the floor area ratio exemption for garages on small lots.

(Due to technological issues, the public hearing on this item was not opened at the City Council's meeting of September 17, 2020 and was continued to the City Council meeting of October 1, 2020)

- K. Consider Adoption of Resolution No. 2020-56 Imposing Assessments on Certain Specially Benefitted Property Owners in Sierra Point for Developing, Implementing and Maintaining a Utility Structure Monitoring Program

(Due to technological issues, the public hearing on this item was not opened at the City Council's meeting of September 17, 2020 and was continued to the City Council meeting of October 1, 2020)

## **8. NEW BUSINESS**

- L. Consider Potential Sale of City Parcel APN 005-300-999 (formerly, S.P.R.R. SBE 872-41-23R)

(This item is for the purpose of providing full transparency on the context of a potential future sale of this City parcel. The terms and conditions of an actual sale of this City parcel, should it take place, would be on a future City Council agenda. Adoption of Resolution No. 2020-50 will declare that the City parcel is surplus land as defined in the Surplus Lands Act of the State of California.)

- M. Dog Park Resurfacing

(Council will consider approving funding in the amount of \$60,000 for resurfacing of the dog park as recommended by the Parks & Recreation Commission)

- N. Temporary shelter improvement for Lunch Truck at Park n Ride Site

## **9. STAFF REPORTS**

- O. City Manager's Report on upcoming activities
  - i. Update on Plan Bay Area 2050
  - ii. Update on Regional Housing Needs Assessment

## **10. MAYOR/COUNCIL MATTERS**

- P. Countywide Assignments and/Subcommittee Reports
- Q. City Council Meeting Schedule
- R. Written Communications

## **11. ORAL COMMUNICATIONS NO. 2**

## **12. ADJOURNMENT**

S. Close the meeting in memory of Supreme Court Justice Ruth Bader Ginsburg



C.

**File Attachments for Item:**

C. Approve Minutes of City Council Meeting of June 18, 2020



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**BRISBANE CITY COUNCIL****ACTION MINUTES**

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**CITY OF BRISBANE CITY COUNCIL  
MEETING AGENDA****THURSDAY, JUNE 18, 2020*****VIRTUAL MEETING*****CALL TO ORDER & PLEDGE OF ALLEGIANCE**

Mayor O'Connell called the meeting to order at 7:41 p.m. and led the Pledge of Allegiance.

**ROLL CALL**

Councilmembers present: Councilmembers Conway, Cunningham, Davis, Lentz, and Mayor O'Connell

Councilmembers absent: None

Staff Present: City Manager Holstine, City Clerk Padilla, Interim City Attorney McMorrow, Director of Administrative Services Schillinger, Community Development Director Swiecki, City Engineer Breault, Deputy Director of Public Works Kinser, Senior Planner Ayres, Police Chief Macias, Police Commander Garcia and Deputy City Clerk Ibarra

**REPORT OUT OF CLOSED SESSION**

Interim City Attorney McMorrow reported that direction was provided to staff. No formal action was taken.

**ADOPTION OF AGENDA**

Mayor O'Connell noted that Public Hearing Item J 2 had a typographical error. It should say Fiscal Year 20/21. She also noted that Public Hearing Item M will not be heard at tonight's meeting.

CM Conway made a motion, seconded by CM Lentz , to adopt the agenda as amended.  
The motion was carried unanimously by all present.

Ayes: Councilmembers Conway, Cunningham, Davis, Lentz, and Mayor O'Connell

Noes: None

Absent: None

Abstain: None

**PRESENTATION AND AWARDS**

**A. Consider Adoption of Resolution 2020-47 Affirming the City's Commitment to Stand in Solidarity with the Black Community and Condemn Racism**

Mayor O'Connell read Resolution 2020-47 to affirm the City's commitment to stand in solidarity with the black community and take a stand against racism.

CM Davis made a motion, seconded by CM Lentz, to approve Resolution 2020-47 affirming the city's commitment to stand in solidarity with the black community and condemn racism. **The motion was carried unanimously by all present.**

**Ayes: Councilmembers Conway, Cunningham, Davis, Lentz, and Mayor O'Connell**

**Noes: None**

**Absent: None**

**Abstain: None**

**ORAL COMMUNICATIONS NO. 1**

Deborah advocated for police funding.

Mary Rogers shared her concerns regarding the current brightness of lighting on the Sierra Point Lumber property.

**CONSENT CALENDAR**

**B. Accept Investment Report as of May 2020**

**C. Adopt Ordinance No. 652, Waiving Second Reading, Adding chapter 5.70 to the Brisbane Municipal Code Concerning the Determination of Public Convenience or Necessity for an Alcoholic Beverage Control License**

**D. Adopt Resolution No. 2020-48 calling a General Municipal Election to be held on Tuesday, November 3, 2020 and adopting procedures pertaining to the conduct and administration of such election including requesting the San Mateo County Clerk-Recorder to provide specified election services.**

**E. Adopt Resolution No. 2020-49 Affirming the Continuation of the Proclamation of the Existence of a Local Emergency in Response to the Covid-19 Pandemic**

**F. Adopt Resolution No. 2020-50, Revising the 2020 Business License Tax for Liquid Storage Facilities as to Kinder Morgan/SFPP and Rescinding Resolution 2020-42**

**G. Receive Solid Waste Franchise Rate Update**

**1. Acknowledge South San Francisco Scavenger's 2020 rate increase of 2.04%, and their request to delay said increase until at least October 1, 2020.**

**2. Acknowledge Recology Brisbane's 2020 rate increase of 2.22%, with an effective date of July 1, 2020.**

**H. Approve the Encroachment Agreement for Installation of Fiber Optic Network Facilities Within the Public Right-of-Way with Intermountain Infrastructure Group, LLC.**

**I. Authorize the Mayor to sign Memorandum of Understanding to join the San Mateo County Weed Management Area**

CM Conway made a motion, seconded by CM Cunningham, to approve Consent Calendar Items B, C, D, E, F, G, H and I. The motion was carried unanimously by all present.

Ayes: Councilmembers Conway, Cunningham, Davis, Lentz, and Mayor O'Connell

Noes: None

Absent: None

Abstain: None

**PUBLIC HEARING**

**J. Sierra Point Landscaping and Lighting District**

**1. Hear Statement of Engineer of Record, Read Mayor's Statement, Hear City Clerk Statement, Open Public Hearing to hear any testimony, Close Public Hearing**

**2. Consider adoption of Resolution No. 2020-46 address protests and ordering the improvements and confirming the diagram and assessments for Fiscal Year 20/21**

To complete the process via a public hearing for the imposition of annual tax roll charges that fund Sierra Point's Landscape and Lighting Assessment District, which provides for maintenance of the landscaping, irrigation and lighting installed in 1989.

The Statement of Engineer of Record was read by Deputy Public Works Director Kinser. Mayor O'Connell read the Mayor's Statement and City Clerk Padilla read her statement into the record.

Mayor O'Connell opened the public hearing. No member of the public wished to speak.

CM Conway made a motion, seconded by CM Lentz , to close the public hearing. The motion was carried unanimously by all present.

Ayes: Councilmembers Conway, Cunningham, Davis, Lentz, and Mayor O'Connell

Noes: None

Absent: None

Abstain: None

CM Conway made a motion, seconded by CM Cunningham, to adopt Resolution No. 2020-46 to address protests and ordering the improvements and confirming the diagram and assessments for Fiscal Year 20/21.

Ayes: Councilmembers Conway, Cunningham, Davis, Lentz, and Mayor O'Connell

Noes: None

Absent: None

Abstain: None

#### **K. City of Brisbane Local Stormwater Program Fees**

**1. Open the Public Hearing and take public comment. Close the Public Hearing, and if appropriate, address any objections to the imposition of fees related to the NPDES Program**

**2. Consider adoption Resolution No. 2020-45, "A Resolution of the City Council of the City of Brisbane Imposing Charges for Funding the Local Brisbane Stormwater Program, Authorizing Placement of Said Charges on the 2020-2021 County Tax Roll, and Authorizing the County Tax Collector to Collect Such Charges."**

*(The purpose of this item is to provide a public hearing and consider imposition of annual tax roll charges that fund Brisbane's Local Stormwater Program, which minimizes discharge of pollutants to San Francisco Bay in accordance with federally mandated permit requirements.)*

Mayor O'Connell opened the public hearing and took public comment.

Prem Lall commented that he is concerned about stormwater management and large-scale soil-removal construction projects in Brisbane at the Planning Commission stage.

CM Lentz made a motion, seconded by CM Cunningham, to close the public hearing. The motion was carried unanimously by all present.

Ayes: Councilmembers Conway, Cunningham, Davis, Lentz, and Mayor O'Connell  
Noes: None  
Absent: None  
Abstain: None

After some council questions of staff, Mayor O'Connell asked staff to provide an update on Proposition 218 prospective funds for consideration and for discussion at a City Council subcommittee level.

After further discussion, CM Cunningham made a motion, seconded by CM Conway, to adopt Resolution No. 2020-45, "A Resolution of the City Council of the City of Brisbane Imposing Charges for Funding the Local Brisbane Stormwater Program, Authorizing Placement of Said Charges on the 2020-2021 County Tax Roll, and Authorizing the County Tax Collector to Collect Such Charges."

Ayes: Councilmembers Conway, Cunningham, Davis, Lentz, and Mayor O'Connell  
Noes: None  
Absent: None  
Abstain: None

#### **L. Short Term Rental Regulations- Draft Ordinance 655 and Urgency Ordinance 656**

1. Consider introduction of Ordinance No. 655, and adoption of Urgency Ordinance No. 656
2. Direct the City Manager to develop a program and/or regulations to administer and enforce the adopted ordinance, including the establishment of appropriate application fees to cover administrative costs.

*(The City Council will consider zoning amendments to allow for and regulate rentals of residential property for periods of less than 30 days (short term rentals). The zoning amendments would allow for hosted rentals (i.e., rentals where the permanent resident is on-site) subject to a permit process and performance standards related to occupancy limits, parking, good neighbor practices, and payment of transit occupancy tax. Unhosted rentals (i.e., rentals where the permanent resident is not on-site) would be prohibited. Ordinance 655 is being recommended to be introduced on a first reading and also adopted as Urgency Ordinance 656 to take effect immediately upon adoption by a four-fifths vote. )*

Senior Planner Ayres outlined the short term rental regulations as established in draft Ordinance 655 and Urgency Ordinance 656. She added that according to Urgency Ordinance No. 656, after ninety calendar days from the effective date no host shall conduct short term rental activity in the City of Brisbane without an approved short term rental permit issued by the City, pursuant to this Chapter.

After Council questions, Mayor O'Connell opened the public hearing and took public comment.

The following correspondences were into the record regarding Public Hearing Item L:

- Dolores Gomez supported Ordinance 655.
- Danny Ames commented he firmly supports and wants Ordinance 655 passed.
- Linda Seekins commented she wants housing resources to go to people who live here.
- C. John Skeer spoke against non-owner occupied short term rental units.
- June Heavner supported banning no-host short term rental.
- Deane and Rita Gough is concerned about noise level and wants owners at short term rental properties.
- Shane Maddox commented that residents should share the town with travelers from around the world.
- Clara Johnson opposed no host short term rentals.
- Nancy & Lory Lacsamana supports Ordinance #655 as written.
- Philipp Reichardt commented that it is crucial to maintain a reasonable allowance for un-hosted stays.
- Yanan Sun questioned why the short term rental information was inconsistent from the City.
- Mihaela Palin commented that banning non-hosted stays will cause severe hardship to the family.
- Jeri & Joe Sulley supported owner occupied rentals and a check in time of 9am.
- Sharon Boggs & Leanne Borghesi supported spaces that are hosted by a resident owner.
- Emmett C commented that he does not support no-host AirBNB.
- David S. McWaters urged the council to vote no on no-hosted short-term rentals. Adding that he supported Ordinance No. 655 as written.
- Jodi-Lyn Borghesi urged the Council to stop unhosted Air BnB's as they are not contributing to the betterment of the community.

X7445 wanted the City to explain why it stated that un-hosted stays would be permitted on its informative websites when that was not the intention.

x 8513 commented that these regulations will really hurt her family and asked for the Council to consider allowing unhosted short term rentals for a limited number of days.

x 2022 commented that occasionally hosting while out of town is really helping us financially, especially in this economic situation.

X9559 commented that the cost of living is expensive in the Bay Area and depend on the extra income to this for a few weeks per year.

X0686 commented that unhosted rentals should not be prohibited as long as all rules are followed and neighbors are not disturbed.

X8358 commented that she can only afford to take care of a family member who lives out of town if she rents out her home while she's away during that period

X7476 commented that there are so many tools to control parties

Prem Lall- commented that text messages which are not signed should be ignored.

X8552 commented that many members of the public has not voiced their concern because they were not aware that unhosted rentals will be prohibited. Unhosted rentals will not diminish the quality of life for residents.

After some council comments and staff questions, CM Conway made a motion, seconded by CM Cunningham, to close the public hearing. The motion was carried unanimously by all present.

Ayes: Councilmembers Conway, Cunningham, Davis, Lentz, and Mayor O'Connell

Noes: None

Absent: None

Abstain: None

After some Council discussion and questions, staff was directed to change the following in Urgency Ordinance No. 656:

- "Host" shall mean a natural person who is the owner of record, including an authorized trustee if the property is held in trust, who resides at the dwelling unit for at least 275 days out of a given consecutive 12 month period and who offers the dwelling unit for short term rental of less than thirty (30) days ("short term rental").
- At least three (3) documents providing evidence of the host's permanent residence at the subject property;
- Single-Family Dwelling Units. Short term rentals may only occur within legal single-family dwelling units. Notwithstanding the foregoing, short term rentals shall be prohibited on properties occupied by single-family dwellings with legal accessory dwelling units established on or after April 1, 2017.
- Accessory Dwelling Units. Short term rentals shall not operate in accessory dwelling units.

CM Cunningham made a motion, seconded by CM Conway, to introduce of Ordinance No. 655, and adopt Urgency Ordinance No. 656 as amended and with direction.

Ayes: Councilmembers Conway, Cunningham, Davis, Lentz, and Mayor O'Connell

Noes: None

Absent: None

Abstain: None

**M. Consider Introduction of Ordinance No. 653 Amending title 17 of the Brisbane Municipal Code to Regulate Accessory Dwelling Units and Junior Accessory Dwelling Units and Floor Area Ratio Exemption for Garages on Small Lots and Amending Title 15 of the Brisbane Municipal Code to Regulate Alterations and Additions to Existing Structures**

*(This item will be continued at a future City Council Meeting and will not be heard on June 18, 2020).*

**NEW BUSINESS**



**N. Consider adoption of Resolution No. 2020-25 establishing the Appropriation Limit for Fiscal Year 2020-2021**

Administrative Services Director reported that the City's appropriation limit for FY 2020/21 is \$22,908,736. The City will receive \$15,494,640 in taxes, including the Guadalupe Valley Municipal Improvement District. Therefore, the City will receive about \$7,414,096 less in taxes than is allowed under the appropriation limit.

CM Conway made a motion, seconded by CM Davis, to Resolution No. 2020-25 establishing the Appropriation Limit for Fiscal Year 2020-2021.

Ayes: Councilmembers Conway, Cunningham, Davis, Lentz, and Mayor O'Connell

Noes: None

Absent: None

Abstain: None

**STAFF REPORTS**

**O. City Manager's Report on upcoming activities**

- 1. Update on November 3, 2020 General Elections**
- 2. State Budget Update**
- 3. Equity and Equal Opportunity Status & Update**

Due to the late hour, City Manager Holstine will provide a report on upcoming activities in the City and equity updates via social media. City Clerk Padilla provided a brief update on the November 3, 2020 General elections and candidate filing information. Interim City Attorney McMorro provided a brief state budget update.

**MAYOR/COUNCIL MATTERS**

**P. Countywide Assignments and/Subcommittee Reports**

Councilmembers reported on their activities in the following assignments:

- City/County Association of Governments
- Baylands Subcommittee
- Peninsula Traffic Congestion Relief Alliance
- San Mateo County Emergency Services Council
- Association of Bay Area Governments

**Q. City Council Meeting Schedule**

The City Council has cancelled their City Council Meetings in July and August. The next regularly scheduled City Council Meeting will be on September 3, 2020.

## R. Written Communications

Written correspondence was received by the City Council from June 4, 2020 to June 18, 2020.

- Peninsula Corridor Joint Powers Board (6/5/20) A proposal for Slow Streets for Bicycling and Walking Along the Caltrain Corridor
- 27 emails from the Ahmadiyya Muslim Community Re: Black Lives Matter
- Dr. Terry Deloria JUHSD Update: George Floyd (6/8/20), Pandemic Framework (6/17/20), and Sewing Masks (6/18/20)
- SZS Engineering Access, Inc. (6/17/20) ADA Guidance- COVID-19 Phase 3 Reopening in the Public Right of Way (Concept Plan Attached)
- Deborah (6/17/20) Police Funding
- Mary Rogers (6/18/20) Public Comment for 6.18.20 meeting

### Short Term Rentals

- Emmett C (6/18/20) Air BnB
- Sharon Boggs & Leanne Borghesi (6/18/20) Brisbane Air B&B Guidelines
- Jeri & Joe Sulley (6/18/20) Note from Jeri & Joe Sulley
- Mihaela Palin (6/18/20) Non hosted stays
- Yanan Sun (6/18/20) Short term rental question
- Philipp Reichardt (6/18/20) Draft Ordinance No. 655
- Nancy & Lory Lacsamana (6/17/20) Ordinance #655 Short term rentals
- Clara Johnson (6/17/20) STR Ordinance 655
- Shane Maddox (6/17/20) Short Term Rentals in Brisbane
- Deane and Rita Gough (6/17/20) Short term rental #655 Ordinance
- June Heavner (6/16/20) public comment for vote on Ord #655 and 656
- C. John Skeer (6/16/20) Short term rental #655
- Linda Seekins (6/16/20) Ordinance 655
- Danny Ames (6/16/20) I firmly support and want Ordinance 655 passed
- Dolores Gomez (6/16/20) Thursday Council Meeting

## ORAL COMMUNICATIONS NO. 2

Mea Christie asked if one sees a person who is publicly intoxicated or seems to be on drugs in town, is there a social worker or organization we can call instead of calling the police?

X7445 wanted to comment that hosted short term rentals will not work for them because they have children.

## ADJOURNMENT

CM Conway made a motion, seconded by CM Cunningham, to adjourn the City Council Meeting.

Ayes: Councilmembers Conway, Cunningham, Davis, Lentz, and Mayor O'Connell

Noes: None

Absent: None

Abstain: None

Mayor O'Connell adjourned the meeting at 11:15 p.m.

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Ingrid Padilla, City Clerk

DRAFT

D.

**File Attachments for Item:**

D. Approve Minutes of City Council Meeting of September 17, 2020



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**BRISBANE CITY COUNCIL****ACTION MINUTES**

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**JOINT CITY OF BRISBANE CITY COUNCIL AND  
GUADALUPE VALLEY MUNICIPAL IMPROVEMENT DISTRICT  
SPECIAL MEETING AGENDA****THURSDAY, SEPTEMBER 17, 2020*****VIRTUAL MEETING*****CALL TO ORDER & PLEDGE OF ALLEGIANCE**

Mayor O'Connell called the meeting to order at 8:06 p.m. and led the Pledge of Allegiance.

**ROLL CALL**

Councilmembers present: Councilmembers Cunningham, Davis, Lentz, and Mayor O'Connell

Councilmembers absent: Councilmember Conway

Staff Present: City Manager Holstine, City Clerk Padilla, Interim City Attorney McMorrow, Director of Administrative Services Schillinger, Community Development Director Swiecki, City Engineer Breault, Recreation Manager Leek, Associate Planner Robbins, Police Commander Garcia, and Deputy City Clerk Ibarra.

**REPORT OUT OF CLOSED SESSION**

Interim City Attorney McMorrow reported that liability claim Item D was denied by the City Council.

**ADOPTION OF AGENDA**

Mayor O'Connell announced that the City is experiencing technical difficulties with its Channel 27 broadcast and is currently working on fixing these issues.

CM Lentz made a motion, seconded by CM Cunningham, to adopt the agenda as it stands. The motion passes unanimously by all present.

Ayes: Councilmembers Cunningham, Davis, Lentz and Mayor O'Connell

Noes: None

Absent: Councilmember Conway

Abstain: None

## **PRESENTATIONS AND AWARDS**

### **A. Proclamation Recognizing Constitution Week from September 17-23, 2020**

Mayor O'Connell read the proclamation recognizing Constitution Week from September 17-23, 2020.

## **ORAL COMMUNICATIONS NO. 1**

No member of the public wished to speak.

Ania Miller reported that she emailed a letter to the Clerk earlier in the week to be read for Oral Communications.

City Clerk Padilla was directed to read the correspondence during Oral Communication No. 2.

## **CONSENT CALENDAR**

### **B. Approve Minutes of City Council Closed Session Meeting of September 3, 2020**

### **C. Approve Minutes of City Council Meeting of September 3, 2020**

### **D. Adopt Resolution No. 2020-58 Approving Application(s) for Per Capita Grant Funds from State Proposition 68**

### **F. Adopt Resolution No. 2020-57 approving the Memorandum of Understanding between the City and the Brisbane Police Officers Association for the term of July 1, 2019 to June 30, 2022**

CM Cunningham made a motion, seconded by CM Davis to adopt approved Consent Calendar Items B, C, D, and F. The motion is passed unanimously by all present.

Ayes: Councilmembers Cunningham, Davis, Lentz and Mayor O'Connell

Noes: None

Absent: Councilmember Conway

Abstain: None

### **E. Adopt Resolution No. 2020-55 Declaring Property Owned by the City of Brisbane as Surplus Land Adopt**

(Resolution No. 2020-55 is regarding declaring a certain property owned by the City, a landlocked, vacant site of approximately 28,000 square feet located in Crocker Park, encumbered by a drainage canal, as surplus land)

City Manager Holstine reported that the resolution is approving the findings that the property is surplus land. Because the City does not need this property for its use, in order for the City to sell the property, it must declare the property surplus land as none of the exemptions apply to this property. If the City does not receive any interest within a time period, then discussion for disposition of the property will continue.

Michele Salmon, Thomas Lambert, and Dana Dillworth's correspondence opposing Consent Calendar Item E was read into the record by Deputy City Clerk Ibarra.

Michelle Salmon commented that the item should have been discussed with the Open Space and Ecology Committee. The property should not be sold and should be given to the County instead.

Mary Rogers commented she wants Item E removed by Council to protect open space.

After council questions with staff, Mayor O'Connell requested for a short recess to determine the status of the technological issues with the broadcasting of the meeting.

After the short recess, Mayor O'Connell reported that the City is continuing to experience technological issues and that public participation may be impacted. City Manager Holstine added that the technological issues with the broadcasting of Channel 27 was likely due to a power outage earlier in the week.

After some clarifying questions with Interim City Attorney McMorrow, CM Davis made a motion, seconded by CM Cunningham to adjourn the meeting and continue the items to the next regularly scheduled meeting of October 1st. The motion is passed unanimously by all present.

Ayes: Councilmembers Cunningham, Davis, Lentz and Mayor O'Connell

Noes: None

Absent: Councilmember Conway

## **ADJOURNMENT**

Mayor O'Connell adjourned the meeting at 9:03 pm.

## **PUBLIC HEARING**

**G. Consider Introduction of Ordinance No. 653 amending Title 17 of the Brisbane Municipal Code to Regulate Accessory Dwelling Units and Junior Accessory Dwelling Units and Amending Title 15 of the Brisbane Municipal Code to Regulate Alterations and Additions to Existing Structures**

**H. Consider Introduction of Ordinance No. 657 Brisbane amending sections 17.06.040, 17.08.040, and 17.10.040 of the Brisbane municipal code concerning the floor area ratio exemption for garages on small lots.**

- I. Consider Adoption of Resolution No. 2020-56 Imposing Assessments on Certain Specially Benefitted Property Owners in Sierra Point for Developing, Implementing and Maintaining a Utility Structure Monitoring Program**
- J. Consider Introduction of Ordinance 579- Proposed Amendment of Titles 15 and 17 of the Brisbane Municipal Code Pertaining to the Regulation of Grading**

*(This item will be continued at a future City Council Meeting and will not be heard on September 17, 2020).*

Due to technological issues, the public hearing items G, H, and I were not opened at the City Council Meeting of September 17, 2020 and was continued to the City Council meeting of October 1, 2020.

As indicated in the agenda, Public Hearing Item J was not heard at the City Council Meeting of September 17, 2020 and will be continued at a future City Council Meeting.

#### **OLD BUSINESS**

##### **K. Dog Park Resurfacing**

*(Council will consider approving funding in the amount of \$60,000 for resurfacing of the dog park as recommended by the Parks & Recreation Commission)*

Due to technological issues, the meeting was adjourned and public Old Business Item L was continued to the City Council meeting of October 1, 2020.

#### **NEW BUSINESS**

##### **L. Temporary shelter improvement for Lunch Truck at Park n Ride Site**

Due to technological issues, the meeting was adjourned and New Business Item L was continued to the City Council meeting of October 1, 2020.

#### **STAFF REPORTS**

##### **M. City Manager's Report on upcoming activities**

Due to technological issues, the meeting was adjourned and Staff Reports Item M was continued to the City Council meeting of October 1, 2020.

#### **MAYOR/COUNCIL MATTERS**



## **N. Countywide Assignments and/Subcommittee Reports**

Due to technological issues, the meeting was adjourned and Mayor/Council Matters Item N was continued to the City Council meeting of October 1, 2020.

## **O. City Council Meeting Schedule**

Due to technological issues, the meeting was adjourned and New Business Item O was continued to the City Council meeting of October 1, 2020.

## **P. Written Communications**

The following written communications were received by the Council between September 3-September 17 by 5pm:

- Beverly Sambolin (received by the Clerk's Office on 8/31/20) Monterey pine tree on said property 161 Santa Clara St. Brisbane, CA 94005 owned by Al Ortega
- Miss Kibbe (9/9/20) Halloween
- Jean Nordstrom (9/10/20) Notification of Pool Closure 9.10.20
- Rachel Ennis (9/10/20) Thoughts on Halloween in Brisbane
- California Department of Water Resources (received 9/14/20) Delta Water Conveyance Facilities
- Ricardo Lara, California Insurance Commissioner (9/15/20) Letter from Commissioner Ricardo Lara
- Michele Salmon (9/16/20) Opposition to Resolution No. 2020-55
- Thomas Lambert (9/16/20) Opposition to Resolution No. 2020-55
- Dana Dillworth (9/17/20) Resolution 2020-55
- Dana Dillworth (9/17/20) Proposed Patio Shelter
- Sue Cochran (9/17/20) Dog Park

## **ORAL COMMUNICATIONS NO. 2**

Due to technological issues, the meeting was adjourned and the correspondence received would be read at the next regularly scheduled meeting of October 1, 2020.

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Ingrid Padilla, City Clerk

E.

**File Attachments for Item:**

E. Approve Minutes of City Council Closed Session Meeting of September 17, 2020



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**BRISBANE CITY COUNCIL****ACTION MINUTES**

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**CITY OF BRISBANE CITY COUNCIL CLOSED SESSION MEETING AGENDA****THURSDAY, SEPTEMBER 17, 2020*****VIRTUAL MEETING*****7:30 P.M. CLOSED SESSION**

- A. Approval of the Closed Session Agenda**
- B. Public Comment. Members of the public may address the Councilmembers on any item on the closed session agenda**
- C. Adjournment into Closed Session**
- D. Liability Claim: Claimant Taape, pursuant to Government Code, section 54956.95**

**ADJOURNMENT**

Mayor O'Connell called the Closed Session Meeting to order at 7:30 p.m. Councilmember Conway was not in attendance.

No member of the public wished to speak during public comment. Mayor O'Connell adjourned the meeting into Closed Session.

**REPORT OUT OF CLOSED SESSION**

Interim City Attorney McMorrow reported that staff was directed to deny liability claim Item D by the City Council.

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Ingrid Padilla  
City Clerk

F.

**File Attachments for Item:**

F. Accept Investment Report as of August 2020

CITY OF BRISBANE  
CASH BALANCES & INVESTMENTS  
SOURCE OF FUNDING  
August 31, 2020

NAME OF DEPOSITORY	INVESTMENT TYPE	DATE OF INVESTMENT	FACE VALUE OF INVESTMENT	CARRY VALUE OF INVESTMENT	MARKET VALUE OF INVESTMENT	COUPON INTEREST RATE %	MATURITY DATE	RATING/ COLLATERAL
WELLS FARGO	Checking A/C		\$ 3,487,094	\$ 3,487,094	\$ 3,487,094	0.000		
STATE FUND (LAIF)	Deposit on call	continuous	\$ 14,970,803	\$ 14,970,803	\$ 14,970,803	0.860	on call	no rating
<b>Other Investments</b>								
	Capital One Bank CD	10/15/2015	\$ 250,000	\$ 250,000	\$ 250,776	2.200	10/21/2020	
	Discover Bank CD	10/15/2015	\$ 250,000	\$ 250,000	\$ 250,776	2.200	10/21/2020	
	Capital One National Association	11/23/2016	\$ 250,000	\$ 250,000	\$ 254,975	2.000	11/23/2021	
	Wells Fargo	11/30/2016	\$ 250,000	\$ 250,000	\$ 255,176	2.000	11/30/2021	
	Sallie Mae Bank	5/9/2019	\$ 245,000	\$ 245,000	\$ 254,451	2.550	5/9/2022	
	Morgan Stanley	6/6/2019	\$ 245,000	\$ 245,000	\$ 254,962	2.560	6/6/2022	
	Comenity Capital Bank	4/28/2019	\$ 248,000	\$ 248,000	\$ 264,135	2.650	4/28/2023	
	Morgan Stanley	5/2/2019	\$ 245,000	\$ 245,000	\$ 260,996	2.650	5/2/2023	
	Goldman Sachs	5/1/2019	\$ 246,000	\$ 246,000	\$ 268,641	2.650	5/1/2024	
	FFCB	11/27/2019	\$ 1,000,000	\$ 1,000,000	\$ 1,003,680	1.890	11/27/2024	
BNY Mellon	Treasury Obligations	continuous	\$ 6,348,763	\$ 6,348,763	\$ 6,348,763	0.010	on call	110% collateral
Sub-total			\$ 9,577,763	\$ 9,577,763	\$ 9,667,331			
U.S. Bank	2014 BGPGA Bond (330)	Improvements	Fed Treas Obl		10031			
		Reserve Fund	Fed Treas Obl	\$ 1	10032			
		Revenue Fund	Fed Treas Obl	\$ -	10034			
		Expense Fund	Fed Treas Obl		10035			
		Principal	Fed Treas Obl	\$ 3	10036			
		Interest Fund	Fed Treas Obl	\$ 1	10037			
BNY Mellon	2006 Pension Bonds (340)	Expense Fund	Fed Treas Obl	\$ -	10035			
U.S. Bank	2015 Utility Capital (545)	Improvements	Fed Treas Obl	\$ 1,103,902	10031			
		Reserve	Fed Treas Obl	\$ 495,325	10032			
		Expense Fund	Fed Treas Obl	\$ 0	10035			
BNY Mellon	2013 NER Refinance (796)		Fed Treas Obl		10030			
		Improvements	Fed Treas Obl		10031			
		Reserve	Fed Treas Obl	\$ 260,416	10032			
		Redemption	Fed Treas Obl		10035			
		Debt Service	Fed Treas Obl	\$ -	10036			
PARS	OPEB Trust	Trust Cash	Investments	\$ 3,058,846	13050			
PARS	Retirement Trust	Trust Cash	Investments	\$ 1,234,355	13050			
Sub-total	Cash with Fiscal Agents			\$ 6,152,848				
Total other investments			\$ 9,577,763	\$ 15,730,612	\$ 9,667,331			
TOTAL INVESTMENTS & CASH BALANCES			\$ 28,035,660	\$ 34,188,509	\$ 28,125,228			

Outstanding Loans to Department Heads

	Date of loan	Amount	Amount Remaining	Interest Rate
Stuart Schillinger	4/1/2002	318,750	\$ 318,750	Based on Sales Price
Clay Holstine (1)	7/8/2008	300,000	\$ -	Paid off 12/28/2016
Clay Holstine (2)	9/10/2008	200,000	\$ 200,000	Secured by other funds
Randy Breault	10/22/2001	320,000	\$ 51,720	3.34%

FFCB - Federal Farm Credit Bank  
FHLB - Federal Home Loan Bank  
FHLM - Federal Home Loan Mortgage Corporation  
FNMA -Federal National Mortgage Association

Two year Treasury	0.13%	
Weighted Interest	0.72%	
Weighted maturity	0.38	Years

TREASURER'S CERTIFICATE

These are all the securities in which the city funds including all trust funds and oversight agencies funds are invested and that (excluding approved deferred compensation plans) and that all these investments are in securities as permitted by adopted city policy.

It is also certified that enough liquid resources (including maturities and anticipated revenues) are available to meet the next six months' cash flow.

Stuart Schillinger  
CITY TREASURER

G.

**File Attachments for Item:**

G. Adopt Resolution No. 2020-59 approving and re-certifying the City's 2020 Sewer System Management Plan (SSMP)



## CITY COUNCIL AGENDA REPORT

**Meeting Date:** October 1<sup>st</sup>, 2020

**From:** Jerry Flanagan, Senior Civil Engineer

**Subject:** Resolution approving and the recertification of the 2020 Sewer System Management Plan

### Community Goal/Result

Safe Community

### Purpose

To comply with State regulations requiring the approval and recertification of the City's 2020 Sewer System Management Plan to minimize the potential for sewage overflows from the City's sanitary sewer collection system.

### Recommendation

Adopt Resolution No. 2020-59 approving and re-certifying the City's 2020 Sewer System Management Plan (SSMP).

### Background

The State Water Resources Control Board (SWRCB) adopted General Waste Discharge Requirements (GWDR) for Sanitary Sewer Systems (Order No. 2006-0003-DWQ) on May 2, 2006, and Order No. WQ-2008-0002-EXEC on February 20, 2008 requiring all owners and operators of sanitary sewer collection systems greater than one mile in length and conveying untreated wastewater to a publicly owned treatment facility to obtain coverage under the Order. The SWRCB issued Order No. WQ-2013-0058-EXEC, effective September 9, 2013, amending the Monitoring and Reporting Program (MRP) elements of the General Waste Discharge Requirements.

The GWDR requires that an enrolled sanitary sewer collection system prepare and implement a Sewer System Management Plan (SSMP) documenting the enrollee's program to properly operate and maintain its sanitary sewer system, and that the SSMP be updated every five (5) years, and must be re-certified by the governing body when significant updates to the SSMP are made.

The City of Brisbane, as the owner and operator of the City's sanitary sewer collection system filed for coverage under the Order in September 2006 and adopted and certified the SSMP on October 4, 2010. The City has completed various minor updates to the SSMP since 2010 and has recently completed significant updates to the City's 2020 SSMP in conformance with the GWDR and MRP requirements

**Fiscal Impact**

No additional fiscal impacts are expected.

**Measure of Success**

Ensure that the City's wastewater collection system is properly operated and maintained.

**Attachments**

1. Resolution No. 2020-59
2. City of Brisbane Sewer System Management Plan

*R.L. Breault*

\_\_\_\_\_  
Randy L. Breault, Director of Public Works/City Engineer

*Clay L. Holstine*

\_\_\_\_\_  
Clay Holstine, City Manager

*Gerald R. Flanagan*

\_\_\_\_\_  
Gerald R. Flanagan, Senior Civil Engineer



**RESOLUTION NO. 2020-59****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE  
APPROVING AND RE-CERTIFYING THE CITY'S SEWER SYSTEM  
MANAGEMENT PLAN (SSMP)**

**WHEREAS**, the State Water Resources Control Board (SWRCB) adopted Order No. 2006-0003-DWQ, Statewide General Waste Discharge Requirements (GWDR) for Sanitary Sewer Systems dated May 2, 2006, and Order No WQ-2008-0002-EXEC dated February 20, 2008, to regulate all sanitary sewer collection systems greater than one mile in length that discharge to a publicly owned sewage treatment facility, and

**WHEREAS**, the SWRCB issued Order No. WQ-2013-0058-EXEC, effective September 9, 2013, amending the Monitoring and Reporting Program (MRP) elements of the General Waste Discharge Requirements, and

**WHEREAS**, the GWDR requires that an enrolled sanitary sewer collection system prepare and implement a Sewer System Management Plan (SSMP) documenting the enrollee's program to properly operate and maintain its sanitary sewer system, and that the SSMP be updated every five (5) years, and must be re-certified by the governing body when significant updates to the SSMP are made, and

**WHEREAS**, the City of Brisbane as the owner and operator of the City's sanitary sewer collection system adopted and certified the SSMP on October 4, 2010 per City Council Resolution No. 2010-43 and has made minor updates since; and

**WHEREAS**, staff has updated the City's 2020 SSMP in conformance with the GWDR and MRP requirements.

**NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brisbane as follows:**

1. The City of Brisbane hereby approves and re-certifies the 2020 SSMP prepared in accordance with the Order and directs the Director of Public Works to implement and

periodically update the SSMP as necessary to comply with current regulatory requirements and best practices.

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Terry O'Connell, Mayor

I hereby certify that the foregoing Resolution No. 2020-59 was duly and regularly adopted at the regular meeting of the Brisbane City Council on October 1, 2020 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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Ingrid Padilla, City Clerk



# **City of Brisbane Sewer System Management Plan**

**September 2020**

**Public Works Department  
50 Park Place  
Brisbane, CA 94005  
Ph: 415-508-2130  
Fax: 415-467-5547**

## Revision Log

**August 31, 2006 (Initial Date)**

**August 31, 2007 (Added Sections 5, 6, and 7) August 31, 2008 (Added Sections 8, 9, and 10)**

**September 9, 2009 (Updated Section 5 and Appendix B to reflect State WDR requirements)**

**March 12, 2010 (Minor modifications as a result of annual review)**

**September 27, 2010 (Minor Contact Information Change)**

**February 22, 2012 (Minor modifications as a result of annual review)**

**September 19, 2013 (Minor updates as a result of Order WQ2013-0058)**

**December 15, 2015 (Minor Updates)**

**December 8, 2016 (Minor Updates)**

**January 25, 2018 (Minor Updates)**

**March 4, 2020 (Minor Updates)**

**September 18, 2020 (Minor Updates)**

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## Section 1 – Goals

1. To maintain a safe, cost-effective, and reliable collection system for the residents and businesses in Brisbane.
2. To properly manage, operate, and maintain all parts of the wastewater collection system.
3. To provide adequate capacity to convey peak flows.
4. To eliminate sanitary sewer overflows.
5. To minimize and mitigate impacts of sanitary sewer overflows.
6. To educate the public regarding proper disposal practices for materials which are detrimental to a collection system.

## Section 2 – Organization

Figure 1 details the organizational structure within the City of Brisbane with regard to managing the sanitary sewer collection system and responding to sanitary sewer overflows. The roles for the various agency staff are further defined, as follows:

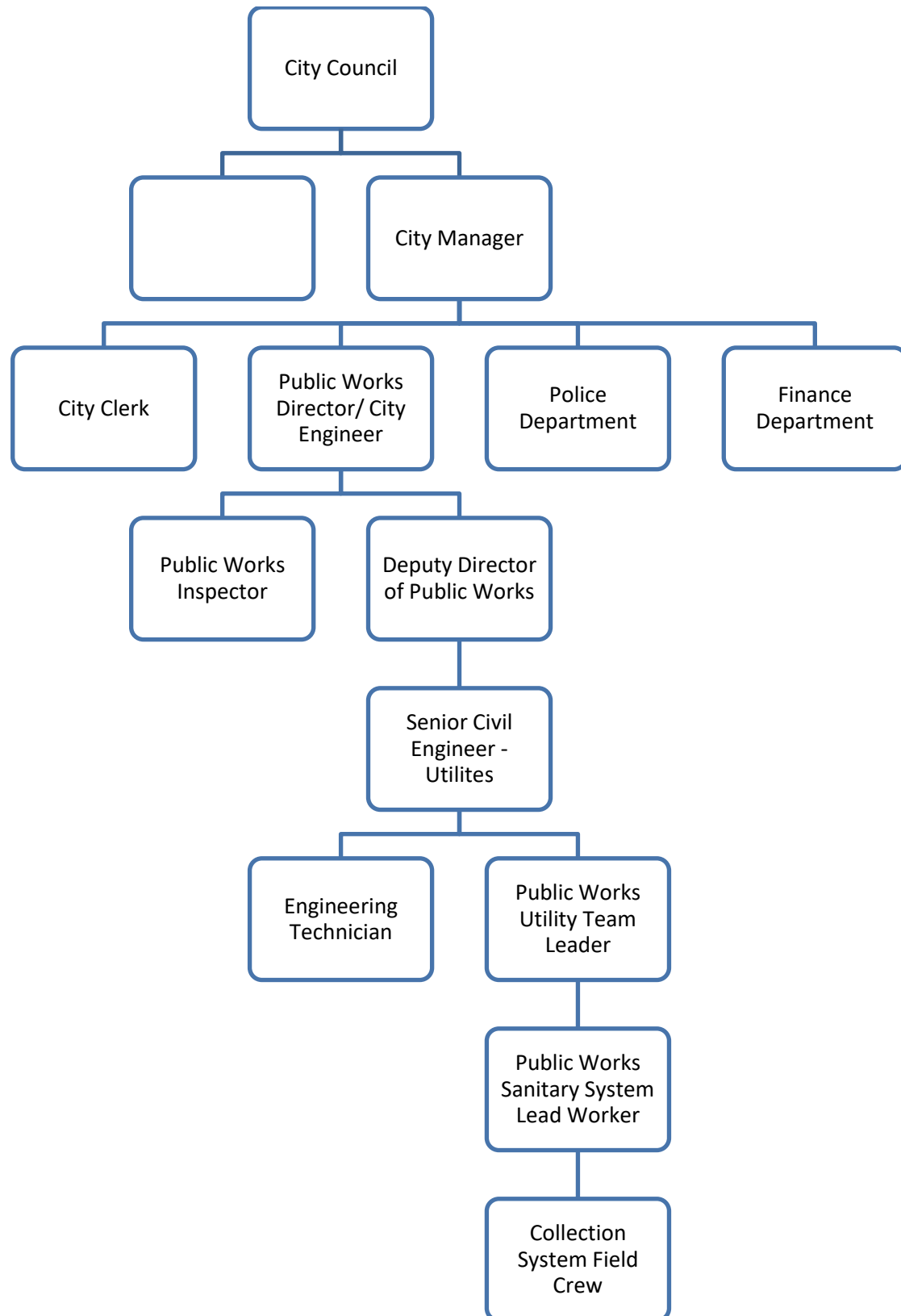
- City Council: Establishes policy, approves sewer rate structure
- City Manager: Establishes policy, leads staff, allocates resources, delegates responsibility, provides reports to City Council
- Communications Manager: Serves as Public Information Officer
- Finance Department: Sets funding levels needed for maintaining collection system, allocates fiscal resources for collection system staff
- Dispatch, Police and Fire Departments: Receive off-hours or emergency calls reporting sanitary sewer overflows, respond to reports of illegal dumping or sanitary sewer overflows in off-hours, notify Public Works Supervisor/Utility Team Leader or Public Works Director of reports of sanitary sewer overflows
- Public Works Director/City Engineer: Leads staff, allocates resources, delegates responsibility, authorizes outside contractors to perform services, establishes department policy, approves sanitary sewer design criteria, provides verbal reports to City Manager and City Council
- Senior Civil Engineer - Utilities: Supervises Utility Team Leader and provides technical support and training to field crews for managing collection system, investigates and reports sanitary sewer overflows, provides relevant information to agency management, prepares and implements contingency plans, involved in emergency response and serves as Capital Improvement Program manager for the collection system.
- Public Works Inspector: Inspects new sanitary sewer installation/improvements to ensure compliance with City standards, works with field crews to handle emergencies when contractors are involved, provides verbal reports to Public Works Director and Collection System Manager
- Public Works Administrative Assistant: Receives work-hour phone and radio reports from the public and city crews of sanitary sewer overflows, provides verbal and written documentation for overflows to Utility Team Leader and Senior Civil Engineer – Utilities.

- Utility Team Leader: Manages field operations and maintenance activities, supervises the lead worker and sanitary maintenance team, delegates responsibility, responds to reports of sanitary sewer overflows, trains field crews, leads emergency response activities, provides verbal reports to Senior Civil Engineer and Public Works Director.
- Sanitary System Lead Worker: This lead position works as a member of the crew and performs the more difficult and complex maintenance and repair tasks, as well as assisting with supervising, training, and directing less experienced staff.
- Sanitary System Field Crew: Perform preventive maintenance activities, mobilize and respond to notification of blockages and sanitary sewer overflows, including mobilizing sewer cleaning equipment, by-pass pumping equipment, portable generators, and vacuum truck, provide verbal and written reports to Utility Team Leader.
- City Clerk: Provides written information updates to City Council, arranges for emergency meetings, as necessary

### City of Brisbane Public Works Emergency Contact List

Employee	Title	Office	Cell
Randy Breault	Director of Public Works	(415) 508-2131	(628) 219-2918
Karen Kinser	Deputy Director of Public Works	(415) 508-2133	(415) 740-0816
Jerry Flanagan	Senior Civil Engineer - Utilities	(415) 508-2137	(415) 321-0047
Diane Cannon	Administrative Assistant	(415) 508-2130	(415) 740-4721
Dustin Cohn	Public Works Utility Team Leader	N/A	(415) 629-1435
Kessel Crockett	Public Works Sanitary Lead Worker	N/A	(628) 219-2917
Gerald Wilkin	Maintenance Utility Worker	N/A	(415) 407-3398
Todd Curtis	Maintenance Utility Worker	N/A	(415) 269-4746
Devin Gutierrez	Maintenance Utility Worker	N/A	(650) 773-2292
Chris Redfield	Maintenance Utility Worker	N/A	(650) 291-8845
Dolan Shoblo	Maintenance Utility Worker	N/A	(415) 533-1681
Doug Messing	Maintenance Utility Worker		(415) 341-3981
Varies	Public Works 24 hr On-Call Staff	N/A	(415) 286-0164
Bob Sage	Engineering Technician	(415) 508-2121	(415) 203-8897
Greg Morris	Public Works Inspector	N/A	(415) 760-3053
Jessica Lee	Assistant Engineer	(415) 508-2128	(415) 279-8937
Joe Friars	Buildings and Grounds Supervisor	N/A	(650) 766-4353
Keegan Black	Maintenance Program Manager	(415) 508-2106	(415) 728-7986
Andrew Rehberg	Harbor Master	(650) 583-6975	(650) 269-1225
Dispatch	Brisbane Police	(415) 467-1212	911
Engine 81	Brisbane Fire		(415) 716-0414
	Brisbane Fire	(415) 657-4300	911
Dispatch	North County Fire	(650) 368-1421	911
	Company Nurse	1-877-215-7284	



**Figure 1 - Chain of Command Flow Chart**

## Section 3 – Overflow Emergency Response Plan

### A. Staff Notification

Sanitary sewer overflows are typically reported in one of two ways in the City of Brisbane:

1. Observed and reported directly to City staff by a member of the public, another agency, or City crews during working hours
2. Observed and reported by a member of the public or another agency to the police department during non-working hours

If a sewer overflow is reported to City Hall during working hours, the Public Works Administrative Assistant will make note of the time reported, the name and contact information of the reporting party, and location and details of the overflow. The Administrative Assistant will immediately notify the Public Works Utility Team Leader and provide the recorded information, and the Public Works Utility Team Leader will then dispatch appropriate field crews to the site. Once City crews have responded to the site and assessed the situation, they will report back to the Public Works Utility Team Leader, who will then notify the Senior Civil Engineer - Utilities with the details of the overflow.

For overflows reported during non-working hours to the police or fire departments, dispatch will record the time reported, the name and contact information of the reporting party, and location and details of the overflow. This information will be relayed to the Public Works Utility Team Leader or directly to on-call personnel if the Public Works Utility Team Leader cannot be reached. The Public Works Utility Team Leader will relay the details of the overflow and dispatch the on-call personnel to the scene. The Senior Civil Engineer - Utilities will be notified on the next working day unless the overflow requires reporting within 2 hours, in which case, notification will occur as soon as feasible after the overflow is corrected.

To minimize SSO impacts, the main priorities shall be protection of public health and the environment. For all SSOs, if there is potential for public contact with sanitary waste, the affected area shall be cordoned off to prevent public access, using traffic barricades, warning tape, cones, signs, etc. All overflow volume that is recoverable shall be contained and pumped back into the sanitary sewer system, either with trash pumps or a vactor truck. If the overflow reaches the storm drain system, a downstream catch basin or storm system manhole shall be plugged with sandbags or inflatable drain plugs, and the contained volume pumped out or vacuumed with the vactor truck. Impacted areas on the surface shall be washed down, with all washwater contained and returned to the sanitary sewer system. Impacted areas shall be cleaned and disinfected, as appropriate, to eliminate any public health threats. Should any overflow volume visibly impact surface waters, City staff will pursue follow-up sampling and mitigation efforts in coordination with appropriate regulatory agencies.

In 2015 City Staff developed and implemented a set of Lift Station Emergency Response Plans, to be stationed at all of the City Maintained Lift Stations. These plans include maps, retention times, emergency contacts, and site specific response plans. The purpose of these Emergency

Response Plans is to mitigate any impact to the local waterways from a failure at any of the City's Lift Stations.

## B. Crew Response

The following steps outline the typical overflow response procedures:

1. Perform Initial Assessment
  - a. Conduct quick visual volume assessment (gallons) with photo documentation
  - b. Call for additional backup support, as required
  - c. Identify overflow destination (catch basin, infiltrate into ground, gutter, etc.)
  - d. Determine equipment needs for restricting public access, traffic control, overflow containment and recovery, clearing blockage, and cleanup
  - e. If overflow appears to meet the following criteria, **contact Dustin Cohn - Public Utilities Team Leader (cell: 415-629-1435); or contact Jerry Flanagan – Senior Civil Engineer – Utilities (office: 415-508-2137 or cell: 415-321-0047) immediately:**
    - i. All discharges of sewage of any volume resulting from a failure in the City-owned and operated sanitary sewer system that:
      - Result in a discharge to a surface water body and/or reach a drainage channel tributary.
      - Discharge to a storm drainpipe that was not fully captured and returned to the sanitary sewer system or not otherwise captured and disposed of properly.
2. Preliminary Response
  - a. If there is potential for public contact with overflow material, isolate the area using barricades, cones, warning tape, etc.
  - b. Set up appropriate traffic control for City staff and public protection
3. Containment/Recovery
  - a. Take photo documentation of containment/recovery efforts
  - b. If overflow is ongoing, or if some or all of flow can be captured, contain flow by plugging catch basin outlets, covering catch basins, using sandbags, plugging downstream stormdrain manhole outlets, excavating for containment, etc.
  - c. Set up Vactor equipment or trash pumps to recover overflow volume, as appropriate
3. Correct Overflow
  - a. Set up equipment at dry cleanout or manhole location, follow standard procedures for cleaning
  - b. Capture and remove material flowing from blockage, assess material captured to determine cause of overflow
4. Cleanup
  - a. Take photo documentation of cleanup activities

- b. Collect solid and liquid materials
  - c. Wash and disinfect area only if all washwater and disinfectant can be captured and removed with pumps or Vactor
  - d. Clean impacted storm drain lines and catch basins
- 5. Document Incident
  - a. Make final estimate of overflow volume
  - b. Take pictures (digital or polaroid)
  - c. Fill out overflow field report, tracking chronology of event, including: date, location, time call received, time crew arrived, time overflow ceased, time cleanup completed, estimate of total volume, estimate of volume contained and recovered for discharge to sanitary sewer, estimate of volume reaching water bodies, if known, identify probable cause of overflow, notifications made
- 6. Provide documentation and incident results to Public Works Utility Team Leader.

### C. SSO Categories, Notification and Reporting

The following reporting requirements are based on Amending Monitoring and Reporting Program 2006-0003 in the Statewide General Waste Discharge Requirements for Sanitary Sewer Systems and amended in Order WQ2013-0058-EXEC:

#### 1. Sanitary Sewer Overflow (SSO) Categories

- a. **Category 1** - All discharges of sewage of any volume resulting from a failure in the City-owned and operated sanitary sewer system that:
  - i. Result in a discharge to a surface water and/or reach a drainage channel tributary to a surface water; or
  - ii. Discharge to a storm drainpipe that was not fully captured and returned to the sanitary sewer system or not otherwise captured and disposed of properly.
- b. **Category 2** – All discharges of sewage resulting from a failure in the City’s sanitary sewer system of 1,000 gallons or greater that does not reach surface water, a drainage channel or storm pipeline unless the entire SSO discharged to the storm drain system is fully recovered and disposed of properly.
- c. **Category 3** – All other discharges of sewage resulting from a failure in the City’s sanitary sewer system.
- d. **Private Lateral Sewage Discharges** – Sewage discharges that are caused by blockages or other problems within a privately owned sewer lateral may be voluntarily reported to the California Integrated Water Quality System (CIWQS) Online SSO Database.

## 2. SSO Notification

Effective immediately, the following is notification requirement for sanitary sewer overflows that discharge to a drainage channel or surface water.

- a. **Category 1 SSO – 1,000 gallons and greater discharged to drainage channel or surface water**
  - i. Notify Cal OES (800-852-7550) within 2 hours after
    - knowledge of the discharge;
    - notification is possible;
    - notification can be provided without substantially impeding cleanup or other emergency measures.
  - ii. Note the list of what Cal OES might ask when you call;
  - iii. Obtain a notification control number;
  - iv. Following the initial notification to Cal OES and until such time that the Discharger certifies the SSO report in the CIWQS Online SSO Database, the Discharger shall provide updates to Cal OES regarding substantial changes to the estimated volume of sewage discharged and any substantial changes to known impacts.

In order to comply with these new notification requirements, it may be necessary for City staff on the maintenance crew to perform the necessary notifications, especially in cases where overflows occur after hours. The contact information for the required notification is as follows:

**California State Office of Emergency Services**  
**(800) 852-7550**

When calling this number be prepared to report the following:

- i. Identity of caller and direct return phone number.
- ii. Estimated SSO volume discharged (gallons).
- iii. If ongoing, estimated SSO discharge rate (gallons per minute).
- iv. SSO Incident Description:
  - a. Brief narrative.
  - b. On-scene point of contact for additional information (name and cell phone number).
  - c. Date and time Discharger became aware of the SSO.
  - d. Name of sanitary sewer system agency causing the SSO.
  - e. SSO cause (if known).
- v. Indication of whether the SSO has been contained.
- vi. Indication of whether surface water is impacted.
- vii. Name of surface water impacted by the SSO, if applicable.
- viii. Indication of whether a drinking water supply is or may be impacted by the SSO.
- ix. Any other known SSO impacts.
- x. SSO incident location (address, city, state, and zip code).

### 3.0 SSO Reporting Requirements

- a. **Category 1 SSO** – Submit draft report within three (3) business days of becoming aware of the SSO and certify within 15 calendar days of SSO end date. Enter data into the CIWQS Online SSO Database (<http://ciwqs.waterboards.ca.gov/>), certified by enrollee’s Legally Responsible Official.
- b. **Category 2 SSO** – Submit draft report within three (3) ) business days of becoming aware of the SSO and certify within 15 calendar days of SSO end date. Enter data into the CIWQS Online SSO Database (<http://ciwqs.waterboards.ca.gov/>), certified by enrollee’s Legally Responsible Official.
- c. **Category 3 SSO** – Submit certified report within thirty (30) calendar days of the end of the month in which SSO occurred. Enter data into the CIWQS Online SSO Database (<http://ciwqs.waterboards.ca.gov/>), certified by enrollee’s Legally Responsible Official.
- d. **SSO Technical Report** – Submit within 45 calendar days after the end date of any Category 1 SSO in which 50,000 gallons or greater are spilled to surface waters. Enter report into the CIWQS Online SSO Database (<http://ciwqs.waterboards.ca.gov/>), certified by enrollee’s Legally Responsible Official.
- e. **Water Quality Monitoring** – Conduct water quality sampling within 48 hours after initial SSO notification for Category 1 SSOs in which 50,000 gallons or greater are spilled to surface waters. Water quality results are required to be uploaded into the CIWQS Online SSO Database (<http://ciwqs.waterboards.ca.gov/>), certified by enrollee’s Legally Responsible Official.
- f. **“No Spill” Certification** – Certify that no SSOs occurred within 30 calendar days of the end of the month.
- g. **Collection System Questionnaire** - All SSOs that meet the criteria for Category 1 or Category 2 SSOs shall be reported to the CIWQS Online SSO Database.
- h. **CIWQS Online SSO Database Unavailability** - In the event that the SSO Online Database is not available, the City must fax or e-mail all required information to the San Francisco Bay Regional Water Quality Control Board office (510-622-2460) in accordance with the time schedules identified herein. In such event, the City must also enter all required information into the CIWQS Online SSO Database when the database becomes available.
- i. **Amended SSO Reports** – The City may update or add additional information to a certified SSO report within 120 calendar days after the SSO end date by amending the report or by adding an attachment to the SSO report in the CIWQS Online SSO Database.

## **D. SSO Technical Report**

The City shall submit an SSO Technical Report in the CIWQS Online SSO Database within 45 calendar days of the SSO end date for any SSO in which 50,000 gallons or greater are spilled to surface waters. This report, which does not preclude the Water Boards from requiring more detailed analyses if requested, shall include at a minimum, the following:

### **1. Causes and Circumstances of the SSO:**

- a. Complete and detailed explanation of how and when the SSO was discovered.
- b. Diagram showing the SSO failure point, appearance point(s), and final destination(s).
- c. Detailed description of the methodology employed and available data used to calculate the volume of the SSO and, if applicable, the SSO volume recovered.
- d. Detailed description of the cause(s) of the SSO.
- e. Copies of original field crew records used to document the SSO.
- f. Historical maintenance records for the failure location.

### **2. Enrollee's Response to SSO:**

- a. Chronological narrative description of all actions taken by enrollee to terminate the spill.
- b. Explanation of how the SSMP Overflow Emergency Response plan was implemented to respond to and mitigate the SSO.
- c. Final corrective action(s) completed and/or planned to be completed, including a schedule for actions not yet completed.

### **3. Water Quality Monitoring:**

- a. Description of all water quality sampling activities conducted including analytical results and evaluation of the results.
- b. Detailed location map illustrating all water quality sampling points.

## **E. Water Quality Monitoring Requirements:**

Appendix D includes the sampling and analytical methodology for the implementation of the SSO Water Quality Monitoring Program to assess the impacts from SSOs to surface waters in which 50,000 gallons or greater are spilled to surface waters. The SSO Water Quality Monitoring Program includes:

1. Sampling and Analytical Methodology
2. Account for spill travel time in the surface water and scenarios where monitoring may not be possible.
3. Require water quality analyses for ammonia and bacterial indicators to be performed by an accredited or certified laboratory.
4. Require monitoring instruments and devices used to implement the SSO Water Quality Monitoring Program to be properly maintained and calibrated.
5. Within 48 hours of becoming aware of the SSO, required water quality sampling at a minimum shall require:
  - a. Ammonia

- b. Bacterial Indicator(s)

## **F. SSO Online Reporting**

The City at a minimum, will report the following mandatory information prior to finalizing and certifying an SSO report for each category of SSO:

### **1. Draft Category 1 SSOs:**

- a. SSO Contact Information: Name and telephone number of enrollee contact person who can answer specific questions about the SSO being reported.
- b. SSO Location Name.
- c. Location of the overflow event (SSO) by entering GPS coordinates. If a single overflow event results in multiple appearance points, provide GPS coordinates for the appearance point closest to the failure point and describe each additional appearance point in the SSO appearance point explanation field.
- d. Whether or not the SSO reached surface water, a drainage channel, or entered and was discharged from a drainage structure.
- e. Whether or not the SSO reached a municipal separate storm drain system.
- f. Whether or not the total SSO volume that reached a municipal separate storm drain system was fully recovered.
- g. Estimate of the SSO volume, inclusive of all discharge point(s).
- h. Estimate of the SSO volume that reached surface water, a drainage channel, or was not recovered from a storm drain.
- i. Estimate of the SSO volume recovered (if applicable).
- j. Number of SSO appearance point(s).
- k. Description and location of SSO appearance point(s). If a single sanitary sewer system failure results in multiple SSO appearance points, each appearance point must be described.
- l. SSO start date and time.
- m. Date and time the enrollee was notified of, or self-discovered, the SSO.
- n. Estimated operator arrival time.
- o. For spills greater than or equal to 1,000 gallons, the date and time Cal OES was called.
- p. For spills greater than or equal to 1,000 gallons, the Cal OES control number.

### **2. Certified Category 1 SSOs:**

- a. All information previously provided in Draft Category 1 SSO;
- b. Description of SSO destination(s);
- c. SSO end date and time;
- d. SSO causes (mainline blockage, roots, etc.);
- e. SSO failure point (main, lateral, etc.);
- f. Whether or not the spill was associated with a storm event;
- g. Description of spill corrective action, including steps planned or taken to reduce, eliminate, and prevent reoccurrence of the overflow; and a schedule of major milestones for those steps;
- h. Description of spill response activities;
- i. Spill response completion date;



- j. Whether or not there is an ongoing investigation, the reasons for the investigation and the expected date of completion;
  - k. Whether or not a beach closure occurred or may have occurred as a result of the SSO.
  - l. Whether or not health warnings were posted as a result of the SSO;
  - m. Name of beach(es) closed and/or impacted. If no beach was impacted, NA shall be selected;
  - n. Name of surface water(s) impacted;
  - o. If water quality samples were collected, identify parameters the water quality samples were analyzed for. If no samples were taken, NA shall be selected;
  - p. If water quality samples were taken, identify which regulatory agencies received sample results (if applicable). If no samples were taken, NA shall be selected.
  - q. Description of methodology(ies) and type of data relied upon for estimations of the SSO volume discharge and recovered;
  - r. Upon SSO Certification, the CIWQS Online SSO Database will issue a final SSO identification (ID) number.
3. Draft Category 2 SSOs:
    - a. At a minimum, report on Items a-n of Draft Category 1 SSO reporting.
  4. Certified Category 2 SSOs:
    - a. At a minimum, report on Items a-n of Draft Category 1 SSO reporting and Items a-j and Item r of Certified Category 1 SSO reporting.
  5. Certified Category 3 SSOs:
    - a. At a minimum, report on Items a-n of Draft Category 1 SSO reporting and Items a-f and Item r of Certified Category 1 SSO reporting.

### **G. Reporting to Other Regulatory Agencies**

The City shall also report SSOs to other regulatory agencies pursuant to California state law.

1. The City shall report any discharge of untreated wastewater or other waste in or on any waters of the State, or discharged in or deposited where it is, or probably will be, discharged in or on any surface waters of the State to San Mateo County Health officials in accordance with California Health and Safety Code Section 5410 et seq. (650) 372-6200

### **H. Record Keeping Requirements:**

The following records shall be maintained by the enrollee for a minimum of five (5) years and shall be made available for review by the Water Boards during an onsite inspection or through an information request:

1. General Records: The enrollee shall maintain records to document compliance with all provisions of the SSS WDRs and the MRP for each sanitary sewer system owned including any required records generated by an enrollee's sanitary sewer system contractor(s).

2. SSO Records: The enrollee shall maintain records for each SSO event, including but not limited to:
  - a. Complaint records documenting how the enrollee responded to all notifications of possible or actual SSOs, both during and after business hours, including complaints that do not result in SSOs. Each complaint record shall, at a minimum, include the following information;
    - i. Date, time, and method of notification.
    - ii. Date and time the complainant or informant first noticed the SSO.
    - iii. Narrative description of the complaint, including any information the caller can provide regarding whether or not the complainant or informant reporting the potential SSO knows if the SSO has reached surface waters, drainage channels or storm drains.
    - iv. Follow-up return contact information for complainant or informant for each complaint received, if not reported anonymously.
    - v. Final resolution of the complaint.
  - b. Records documenting steps and/or remedial actions undertaken by enrollee, using all available information, to comply with section D.7 of the SSS WDRs.
  - c. Records documenting how all estimate(s) of volume(s) discharged and, if applicable, volume(s) recovered were calculated.
3. Records documenting all changes made to the SSMP since its last certification indicating when a subsection(s) of the SSMP was changed and/or updated and who authorized the change or update. These records shall be attached to the SSMP.
4. Electronic monitoring records relied upon for documenting SSO events and/or estimating the SSO volume discharged, including, but not limited to records from:
  - a. Supervisory Control and Data Acquisition (SCADA) systems
  - b. Alarm system(s)
  - c. Flow monitoring devices(s) or other instruments(s) used to estimate wastewater levels, flow rates and/or volumes.

## **I. Certification**

1. All information required to be reported into the CIWQS Online SSO Database shall be certified by a person designated as a Legally Responsible Official (LRO).
2. Any designated person shall be registered with the State Water Board to certify reports in accordance with the CIWQS protocols for reporting.
3. Any enrollee employee may enter draft data into the CIWQS Online SSO Database on behalf of the enrollee if authorized by the LRO and registered with the State Water Board.
4. A registered designated person (i.e., and LRO) shall certify all required reports.

## Section 4 – Fats, Oils, and Grease (FOG) Control Program

Grease has not been found to be a significant contributor to SSOs in the City of Brisbane, however, the City will implement a FOG Control Program as follows:

### **A. Source Identification:**

The likely sources of highest-concentration FOG discharge to the sewer system are from the City's food service facilities. There are typically between 30 and 40 food service facilities in Brisbane at any one time. These facilities are primarily located in "the Village" area of Brisbane along Old County Road and in the commercial district on Visitacion Avenue. Additional facilities are scattered in Crocker Industrial Park and at Sierra Point in association with the hotels and office buildings.

FOG may be discharged to the sanitary sewer from residences in central Brisbane or the Northeast Ridge.

### **B. Source Control:**

Source control measures for food service facilities are primarily accomplished through San Mateo County's Environmental Health Department inspection program. County health inspectors enforce operation and maintenance of grease interceptors and ensure proper management of food service waste. In addition, if an SSO occurs in a residential or commercial area due to FOG buildup, City staff will distribute door hangers alerting residents that grease was found in sewer lines in their area and directing them to properly manage their FOG.

The installation of grease removal units are required in all new restaurants and in tenant improvements of existing restaurants. Installation of a grease removal unit is also required in all new commercial and industrial food-handling facilities and in tenant improvements of existing commercial and industrial food-handling facilities.

### **C. Facility Inspection:**

The City relies on the County Health inspectors for food service facility inspection. The County inspectors are required to inspect all food service facilities on a regular basis (at least annually) and are able to enforce for issues related to FOG management and disposal. County inspectors will notify City staff if there is a problem at a particular facility requiring additional action.

### **D. Legal Authority:**

The City has adequate legal authority to prohibit discharges of FOG to the collection system as detailed in the Brisbane Municipal Code. Relevant sections of the Code are included in Appendix A.

In addition, the City's municipal code adopts San Mateo County's environmental health code as the applicable regulations for food service facilities.

## Section 5 – Legal Authority

Although not required for collection systems serving a population of 10,000 or less under the SF Regional Water Quality Control Board requirements, adequate legal authority is required under the Statewide General Waste Discharge Requirements. Relevant sections from the Brisbane Municipal Code are included in Appendix B documenting the City's ability to:

- Control infiltration/inflow from satellite wastewater collection systems and laterals (SF RWQCB)
- Require proper design and construction of new and rehabilitated sewers and connections (SF RWQCB)
- Require proper installation, testing, and inspection of new and rehabilitated sewers (SF RWQCB)
- Prevent illicit discharges into the sanitary sewer system (State WDR)
- Require that sewers and connections be properly designed and constructed (State WDR)
- Ensure access for maintenance, inspection, or repairs for portions of the lateral owned or maintained by the Public Agency (State WDR)
- Limit the discharge of fats, oils, and grease and other debris that may cause blockages (State WDR)
- Enforce any violation of its sewer ordinances (State WDR)

## Section 6 – Measure and Activities

### A. Collection System Map

The City currently has electronic maps of the entire sewer system in AutoCAD format. The maps were also imported into SewerCAD, an off-the-shelf sewer modeling software package. The City hired a consultant, Brown and Caldwell, in 2002 to generate a Sewer Master Plan. As part of that effort, Brown and Caldwell staff surveyed and inspected all of the City's sewer manholes, documenting size, rim and invert elevations, location coordinates, condition, and size and type of pipes entering and exiting. This information was transferred into SewerCAD to assist with modeling efforts. The hydraulic model was updated in 2017 by EKI, Inc. as part of the 2017 Sewer System Master Plan Update. As such, the City now has electronic maps that show accurate manhole locations with rim and invert elevations and pipe sizes, lengths, and materials. Maps include manhole and pipe IDs and can be cross-referenced with electronic street and parcel maps to give additional location information. Direction of flow can be determined from manhole invert elevations. SewerCAD includes capability to provide construction information to document dates of installation or rehabilitation.

In 2015 the City updated the City's Sanitary Sewer Maps after extensive field verification of the entire sanitary sewer system. This field information was then georeferenced in AutoCAD and mapped with a satellite imagery background into a 35 page map book, and a 6' x 4' wall map of the entire system. The City is in the process of merging these CAD maps with the City's GIS program to create searchable maps based off of the CCTV database.

In addition to the maps, the City has construction drawings for the Valley Drive Lift Station that was upgraded in late 2003, Lift Station # 4, and Lift Station #5 at the Firehouse. The City also has various historical sewer maps and construction plan sets, for both public and private sewers, all maintained in a database-organized filing system.

### B. Resources and Budget

The City has a reliable, consistent funding source for collection system operations, maintenance, and repair through a dedicated Utility Fund. Revenues for this fund are generated by sewer service charges and connection fees, as well as some revenues that are part of the Guadalupe Valley Municipal Improvement District (a special district that the City Council also oversees). For fiscal year 2020/21, the City projected \$2.9M in revenue from sewer service charges and connection fees. The adopted operation and maintenance budget for sewer in 2019/20 is approximately \$2.9M.

The sewer operating budget includes funding for maintenance personnel salaries and benefits, insurance, services and supplies, and depreciation. Services and supplies include safety clothing, communications equipment, equipment maintenance, maintenance of structures, improvements, and/or grounds, association memberships, general office expenses, professional services, equipment rental, special department expenses, small tools and supplies, travel and training, and utility and wastewater treatment costs. The adopted budgets also include department objectives and associated performance measures.

The City has annual capital improvement budgets in addition to operations/maintenance budgets. Capital projects vary from year to year. The 2003 Sewer Master Plan included a prioritized (three priority categories) Capital Improvement Plan totaling \$3,930,000. As of June 2020, the City completed all first and second priority projects and a portion of third priority projects, representing \$2,174,000 of the total. Prior to completing the Master Plan, the City also replaced its main sewer lift station (approximately \$2,000,000) and constructed important force main improvements and lift station upgrades. The Public Works Director requests funding from the City Council for capital improvement projects on a regular basis; however, the amount the Council allocates in any given year for sewer projects depends upon the City's overall capital improvement priorities for water, sewer, storm drain, streets, buildings, and grounds.

In 2015, the City hired EKI, Inc. to update the 2003 Sewer Master Plan and an updated list of priority-based Capital Improvement Projects were developed totaling approximately \$2.9M. A couple major developer-funded upgrades to the City's Sanitary System are in design that will increase the capacity of flow at the Sierra Point Lift Station and increase flow in the existing gravity lines at Sierra Point. These projects will mitigate the future hydraulic deficiencies identified in the 2017 Sanitary Sewer Master Plan.

### **C. Prioritized Preventive Maintenance**

The City's Prioritized Preventive Maintenance program consists of five main components: 1) annual chemical foaming for root control, 2) annual cleaning for known sewer main segments with blockage issues, 3) investigation and resolution of customer complaints, 4) lift station maintenance, and 5) keeping maintenance activity records. Prioritization is primarily based on sewer crew experience/historical knowledge and verbal communications. Each of these components is described in more detail, as follows, along with plans for improvements:

Root Control: City staff chemically treats approximately 40 locations annually for root control, which includes 14 mains and 26 laterals. As new areas of root intrusion are identified, City crews add them to the list for annual chemical root control. The City currently uses "Root-X" in its chemical root control program. As of the start of 2010, maintenance staff initiated videoing lines scheduled for chemical root control in advance to determine if the root control is effective or if adjusting the frequency, additional volume of chemical used or mechanical cleaning is needed to control root growth.

Sewer Main Video Program: Beginning in 2011 City Staff initiated a video program with the intention of shifting our sanitary sewer system maintenance from reactive to proactive. In the first year we were able to video 1/3 of our gravity system. Identifying areas needing grit and root removal, additions to our high frequency videoing and cleaning schedule and sections of main to repair or replace. The sewer department purchased a new video inspection camera in FY 2014-15. The crew has utilized this new camera to inspect over 28,000 lf of sewer main in 2019.

Sewer Cleaning: With the creation of a Video Program we were able to add to our list of main cleaning locations that need attention once a year or more. With the 2010

reorganization to utility teams in the maintenance department, the City has been able to initiate a more proactive sewer cleaning program.

As the city crews perform CCTV inspection of the City's gravity sewer mains and manholes throughout the year, each video inspection is saved as a PDF video report with condition assessment, photos and distances of issues within the pipe, and notes regarding any issues at the manhole. The pipe sections are rated at the time of inspection and their inspection frequency is based upon this rating. These reports are then added to the maintenance program spreadsheets. A table of this CCTV Inspection Rating System is included below.

<b>Sanitary Sewer CCTV Inspection Rating System</b>			
<b>POSM Rating</b>	<b>Inspection Frequency</b>	<b>Determining Factors</b>	<b>Cleaning</b>
1	Biennial	No observed problems Zero to minimal roots, cracks, offsets, or bellies	None
2	Annual	Minimal roots, cracks, offsets, or bellies	As needed
3	Biannual	Moderate to heavy roots, cracks, offsets or bellies	Cleaning required
4	Biannual	Moderate to heavy roots, cracks, offsets or bellies Pipe Section added to CIP list	Cleaning required
5	Continual	Significantly damaged pipe Immediate Supervisor notification Continual observation until repair completed	Cleaning required

**Investigation and Resolution of Complaints:** When customers contact the City with complaints about sewer issues, appropriate staff personnel are promptly dispatched to the location to investigate. If the blockage is between the building and the mainline, City crews inform the property owners of their responsibility to contact a plumber to assess and fix the problem. (The property owner owns and is responsible for maintaining the sewer lateral from the property structure into the City's sewer main.)

**Lift Station Maintenance:** The City currently owns and operates three sewer lift stations. City crews perform regular maintenance at all stations on a prioritized schedule, as well as a fourth lift station servicing the City's Fire Station. The City's main lift station, the Valley Drive Lift Station, was upgraded in 2003 and has a detailed operations and maintenance manual that City crews use to schedule maintenance activities. That manual is incorporated into this Management Plan by reference. The City also contracts for annual standby generator maintenance at each of the three lift stations.

**Keeping Maintenance Records:** City crews track locations and details of sewer maintenance activities using Mobile MMS, a computerized maintenance management system (CMMS). Pertinent information is stored in the Public Works Database for future review and retrieval.

**Plans for Improvement:** City staff plan to make the following improvements to the Prioritized Preventive Maintenance program:

1. Schedule additional sewer main videoing and cleaning on an annual basis, to increase the overall percentage of the City's system that is regularly cleaned; and
2. Continue to develop improved electronic and paper systems for tracking sewer maintenance activities to provide enhanced analysis and reporting capabilities.

#### **D. Scheduled Inspections and Condition Assessment**

As part of the 2017 Sanitary Sewer Master Plan, the City identified and prioritized structural deficiencies for about half of its collection system, and implemented a Capital Improvement Program of prioritized short-term and long-term actions. The assessment of structural deficiencies was based on video surveys of approximately 42,000 linear feet of sewer line and inspections of all manholes, and flow modeling to evaluate hydraulic deficiencies. Uniform condition assessment criteria were applied during review of the video inspections to determine deficiency ratings. The 2017 Sanitary Sewer Master Plan identified a total of 5,100 feet of sanitary sewer main as structurally deficient and 18 manholes needed rehabilitation. To date, the City has corrected all of the previously identified hydraulic deficiencies through three sewer rehabilitation projects (Project 9407 – Sewer and Manhole Rehabilitation Project, Project 9505 – Glen Parkway Sewer Rehabilitation Project, and Project 9F07 – Bayshore Boulevard South Sewer Force Main Project) incorporated herein by reference).

City crews perform station checks at each of the City's three sewer lift stations, as well as the Fire Department's lift station, on a daily basis to ensure proper operation and identify any unusual operating characteristics. Sewer flow rates from central Brisbane (primarily residential with some commercial) are tracked via a Parshall flume with an ultrasonic transducer, and pumped flows from the Valley Drive Lift Station are tracked via magnetic flowmeters on the two discharge lines. City crews monitor these flows on a daily basis, noting and investigating any anomalous readings.

#### **E. Contingency Equipment and Replacement Inventories**

Although this section is not required for collection systems serving a population of 10,000 or less, the following describes critical contingency equipment for the City's sewer lift stations:

Valley Drive Lift Station: This station utilizes four submersible non-clog sewage pumps, two of which are 50 horsepower and two 150 horsepower. Both sets of pumps discharge through two separate force mains, which allows for ongoing operation if one force main becomes non-operational. The two force mains also have a valved interconnection, which allows discharge by either set of pumps to either force main to allow maximum maintenance flexibility. The submersible pumps include thermal and moisture intrusion alarms to protect the pumps from mechanical failure, and various pressure and flow rate alarms will automatically shut down pumps in the event of a problem. This station has a 450-kilowatt propane-fired standby generator with an automatic transfer switch that powers the entire station in the event of a power failure. Two 500-gallon propane tanks fuel the standby generator, and City crews keep the tanks at least half-full at all times. The standby generator



exercises on a weekly basis. A primary ultrasonic transducer, with a secondary backup, controls pump operation at this station. There are also backup mechanical floats to activate alarms in the event both transducers fail. The channel grinder was replaced in November 2013 with a Franklin Miller Dimminutor channel grinder, which is capable of processing 13.8 million gallons a day of waste water.

Sierra Point Lift Station: This station has a standby diesel-powered generator to keep the station operational in the event of a power failure, which exercises on a weekly basis. A pressure transducer controls pump operation and there are backup mechanical floats if the transducer fails. In June 2014 a new isolation valve and bypass pumping capabilities were purchased and installed, including bypass hoses. Agreements were made with neighboring Public Works Departments, Kevin McCarthy of Daly City (650)991-8097, and Aaron Grote of South San Francisco (650) 877-8550 to borrow trailer mounted bypass pumps in case of an emergency at this station. Hertz Rental of San Francisco has bypass pumps available for rent.

Marina Lift Station: This station has a new (2003) standby diesel-powered generator that will operate the entire station in the event of a power failure. The station exercises on a monthly basis. The pumps, wet well piping, and isolation valves for this station were replaced in 2005, and the submerged flex hoses were replaced in 2018. The station has a pressure transducer for pump operation and backup mechanical floats for alarms and pump control.

Fire House Lift Station: The City of Brisbane's Fire Station No. 81, located at 3445 Bayshore Boulevard is managed by North County Fire Authority (NCFA). This fire station contains a wet well with two pumps operated by pressure transducers with backup mechanical floats for alarms and pump control. The City of Brisbane Public Works Department performs routine inspections and cleaning of this station and equipment, but repairs and equipment upgrades are the responsibility of NCFA.

Contingency Equipment: City crews maintain multiple portable sump pumps and generators for use during a sewer emergency. In 2018, the City also has replaced their 2,500 gallon vacor truck that is utilized for capturing and containing any sewer overflow volume, as well as during cleanup and line clearing activities. This new truck has a smaller wheel base and tighter turning radius to help navigate the City's narrow and twisty streets. A trailer mounted vacuum system with 400 gallons of storage capacity can be used for containment of smaller overflows and spills. City crews maintain an inventory of extra pipe of varying diameters and materials as well as necessary couplings and fittings to allow prompt repair of most gravity sewer failures.

## **F. Training**

City staff participate in regular ongoing training activities, both in-house and through outside vendors. In-house safety training occurs on a bi-weekly basis, with some of the training seminars specific to collection systems management. The Public Works Utility Team Leader possesses a collection II certificate as issued by CWEA. Other Public Works employees

have collection I and II certificates as well. CWEA certification requires biannual submittal of 12 contact hours of training related to Collection Systems Management. Crewmembers attend seminars by CWEA and other outside entities to accumulate contact hours. City staff also participate in on-the-job training, where crewmembers are cross-trained on different aspects of municipal maintenance. This helps ensure all crew members are able to respond to a variety of emergency situations. Certain crew members are also required to maintain Class B driver's licenses with air and tanker endorsements in order to operate the vacuum truck.

#### **G. Outreach to Plumbers and Building Contractors**

This section is not required for collection systems serving a population of 10,000 or less; however, the City, as a member of the Bay Area Clean Water Agencies (BACWA), has access to model plumber outreach materials and will evaluate sending materials to local plumbers.

### **Section 7 – Design and Construction Standards**

#### **a. Standards for Installation, Rehabilitation, and Repair**

The City has identified minimum design and construction standards and specifications for installation of new sewer systems. The City's design standards are included as Appendix C to this document. The City also has construction specifications for installation of new sewers via pipe bursting or reaming from two recently completed sewer rehabilitation capital improvement projects.

#### **b. Standards for Inspection and Testing of New and Rehabilitated Facilities**

The City has identified minimum design and construction standards and specifications for rehabilitation and repair of existing systems. The City's standards are included as Appendix C to this document. Inspection of new and rehabilitated facilities is performed by the Public Works Inspector in the field during and at the completion of construction. Depending on the situation, inspections vary from visual inspections to air/water pressure testing, mandrel testing, or video inspection. For City capital improvement projects, testing requirements are called out in the construction specifications, and typically include air testing, mandrel testing, and video inspection for sewer mains and water leakage testing for manholes.

## Section 8 – Capacity Management

### a. Capacity Assessment

Section 5 of the City's 2003 Sewer Master Plan and the 2017 Sewer Master Plan provide a capacity evaluation of the sewer system. These evaluations were based on hydraulic modeling of the sewer system using SewerCAD software. Modeling was done based on escalating peaking factors applied to base flow estimates for future (build-out) flow conditions. Flow estimates were prepared using peaking factors of 3, 5, 7, and 9. City staff decided to use a peaking factor of 5 to simulate design wet weather events, and used the following flow depth criteria for determining which gravity sewers were hydraulically deficient:

- When the peak flow depth exceeds one-half full for pipelines 10-inches in diameter or less
- When the peak flow depth exceeds two-thirds full for pipelines 12-inches in diameter or greater

### b. System Evaluation and Capacity Assurance Plan

The City's 2003 and 2017 Sanitary Sewer Master Plans presented recommended capital improvement programs for mitigating both hydraulic and structural deficiencies in the City's sewer collection system. The City has corrected the hydraulic deficiencies identified in the both the 2003 and 2017 Master Plans by upsizing the existing six-inch diameter vitrified clay pipes to eight-inch diameter high density polyethylene pipe through trenchless rehabilitation processes (pipe bursting). The hydraulic deficiency for the Sierra Point Lift Station, identified in the 2003 and 2017 Master Plans, is currently in the design phase and will have the capacity to handle all future flows for Sierra Point.

## Section 9 – Monitoring, Measurement, and Program Modifications

The City will monitor implementation of SSMP elements and measure effectiveness of SSMP elements in reducing SSOs through annual review meetings with collection system staff. During these review meetings, the following performance indicators will be evaluated:

- Number of dry weather SSOs
- Number of wet weather SSOs
- Total number of SSOs
- Number of SSOs per 100 LF of sewer per year
- Number of SSOs < 100 gallons
- Number of SSOs 100 to 999 gallons
- Number of SSOs 1,000 to 9,999 gallons
- Number of SSOs >10,000 gallons
- Total volume of SSOs
- Total volume recovered
- Net volume of SSOs (total minus recovered)
- Total annual volume conveyed to wastewater treatment plant
- Net volume of SSOs compared to total annual volume conveyed (% conveyed)
- Number of SSOs caused by:
  - Roots
  - Grease
  - Debris
  - Pipe failure
  - Pump station failure
  - Capacity-limited pipe segment (no debris)
  - Other
- Number of locations with more than one SSO in the past year
- Average response time during business hours
- Average response time outside of business hours
- Planned cleaning/chemical root control (LF)
- Unplanned cleaning/chemical root control (LF)
- Ratio of planned to unplanned cleaning/chemical root control (LF)
- Number of blockages in the past year
- Number of blockages due to:
  - Roots
  - Grease
  - Debris
  - Other
- Number of customer complaints in the last year
- Number of positive customer responses

At the annual review meetings, collection system staff will also go through the SSMP to ensure the information is current, including any updates to infrastructure, wastewater flow characteristics, new or modified operations and maintenance

protocols, revised emergency response procedures, or changed organizational structure.

The main staff person responsible for monitoring the effectiveness of the SSMP is the Senior Civil Engineer. This person will organize and oversee the annual review meetings with collection systems maintenance staff. After the annual review meeting, the Public Works Utility Team Leader will draft an annual review summary for the Senior Civil Engineer. Any SSMP modifications determined necessary during the annual review meeting will be detailed in the summary document. Minor SSMP modifications will be implemented by the Public Works Utility Team Leader. Significant SSMP modifications will be reviewed and approved by the Public Works Director.

## Section 10 – SSMP Audits

Although not required by the Regional Board for collection systems serving less than 10,000 persons, the City's annual review summary described in Section 9, above, will serve as an abbreviated audit under the Statewide Order. City staff believes this level of auditing is appropriate at this time given relatively few SSOs each year and the small size of the collection system. As the City continues to grow and expand its collection system infrastructure, staff will evaluate during the annual reviews whether expanded auditing is appropriate. City staff will use the sample SSMP audit forms prepared by CWEA as a guide should formal audits be deemed appropriate.

## Section 11 – Communication Program

### City of Brisbane Website

The City has a link to the current SSMP right on the main Sewer page of the City's website. There is also a link to the Public Works Department with a note encouraging people to contact the City with any questions or concerns. Following is the link to that webpage.

<https://www.brisbaneca.org/publicworks/page/sewer-information>

### Public Outreach Events

- **Day in the Park** – This is an annual Event held in the City of Brisbane's Community Park. The City of Brisbane's Public Works Department has a booth every year where the Sanitary Sewer Field set up a demonstration trailer that includes a mock up sewer lateral and information points. The booth is staffed by the Maintenance Utility Workers from 8:00am – 3:00pm. This provides the public a full day to question, provide feedback, and learn about the City's Sanitary Sewer System.
- **City Hall Office Hours** – In addition to being open Monday, Tuesday, and Thursday until 5, the City of Brisbane's City Hall remains open until 8 pm every Wednesday. This is to provide an option for citizens to voice their questions and concerns outside of their regular working hours. City Hall Office Hours are subject to change based on orders from the County Health Officer.

### Crew Interactions with the Public

The City's Utility Maintenance workers regularly interact with the public during their daily activities. The crew is trained to handle all of these interactions with dignity and professionalism. If any of the public has questions or concerns that the crew members can't answer, they are instructed to give out the business card for the City's Public Works Department.

## APPENDIX A

### Municipal Code Sections Fats, Oils, and Grease

#### **13.04.480 Discharge of substances causing obstructions to public sewers prohibited.**

No person shall discharge, deposit, throw, or cause, allow, or permit to be discharged, deposited, or thrown, into any public sewer or into any plumbing fixture, manhole, or private sewer or drain connected to a public sewer, any substance of any kind whatever tending to obstruct or injure the sewage works, or to cause a nuisance or hazard, or which will in any manner interfere with the proper operation or maintenance of the sewage works in the opinion of the city engineer. (Ord. 53 §4.3, 1963).

#### **13.04.490 Prohibited discharges to public sewers.**

A. Except as hereinafter provided, no person shall discharge or cause to be discharged any of the following waters or wastes into any public sewer:

1. Any liquid or vapor having a temperature detrimental to the sewer system;
2. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas;
3. Any water or waste which contains excessive amounts of grease, oil, or fats;
4. Any garbage, except properly ground garbage from individual dwelling units, as specified in Section 13.04.530;
5. Any sand, cement, cinders, ashes, metal, glass or other heavy solids; any straw, shavings, animal hair, feathers, paunch manure, or other fibrous matter; and tar, asphalt, resins, plastics, or other viscous substance; or any other matter of such a nature as to obstruct the flow in sewers or as to cause other interference with the proper operation of the sewage works;
6. Any water or waste containing excessive amounts of acid, alkali, or dissolved sulfide, or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of sewage works;
7. Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, to constitute a hazard to humans or animals, or to create a hazard in the waters receiving effluent from the sewage treatment plant;
8. Any waters or wastes containing suspended solids or dissolved matter of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant;
9. Any noxious or malodorous gas or substance capable of creating a public nuisance;
10. Any radioactive wastes, as provided in Sections 13.04.540 and 13.04.550.

B. Whenever deemed necessary by the superintendent, the owner shall, at his own expense, provide such treatment or take such other measures as shall be required in order to reduce the objectionable characteristics, contents, or rate of discharge of waters or wastes being deposited in

the sewer, so that the same may be received therein without any damage to the sewage works or any undue interference with its operation and without any hazard of any kind to humans or animals. (Ord. 53 §4.4, 1963).

#### **13.04.500 Restrictions on quantity and character of wastes.**

A. The admission into the public sewers of any wastes or waters having an average daily flow greater than two percent (2%) of the average daily flow at the sewage treatment plant, or having any of the following characteristics, shall be subject to the review of the superintendent:

1. Temperature in excess of one hundred fifty degrees (150°) Fahrenheit, approximately sixty-five and six-tenths degrees (65.6°) Centigrade;
2. Suspended solids, or matter which upon dilution with water or sewage results in the formation of suspended solids, in excess of five hundred (500) parts per million;
3. Biochemical oxygen demand in excess of four hundred (400) parts per million;
4. Floatable grease of animal or vegetable origin in excess of fifty (50) parts per million, and of mineral origin in excess of fifteen (15) parts per million, or dispersed grease in excess of six hundred (600) parts per million;
5. A pH of less than five and five-tenths (5.5) or more than ten and five-tenths (10.5);
6. Dissolves sulfides in excess of one (1) part per million.

B. The provisions of subsection A of this section and the values therein set forth shall not be regarded or construed as regulating or limiting the quantity or character of any specific industrial waste which may be received into the sewer system, but shall serve as a guide in the administration of this chapter for the purpose of determining, in general, the acceptability of waste for admission into the sewer system. (Ord. 53 §4.5, 1963).



## APPENDIX B

### Relevant Municipal Code Sections Overall Legal Authority

#### **13.04.460 Discharge of stormwater, surface water and groundwater into sanitary sewer prohibited.**

No person shall discharge, or cause to be discharged, any stormwater, surface water, groundwater, roof runoff, or subsurface drainage into any sanitary sewer. (Ord. 53 §4.1, 1963).

#### **13.04.410 Connections to public sewers.**

The connection to the public sewer, including the piping within any public street or right-of-way, shall be installed at the sole expense of the owner of the property served, by a contractor with an appropriate license issued by the state for this work. The contractor shall be prequalified before issuance of any permit. Such connection shall not be made without an approved permit issued by the superintendent. (Ord. 163 §2, 1971: Ord. 53 §3.5, 1963).

#### **13.04.420 Sewer installation specifications and requirements.**

Sewers to be installed in the city shall satisfy the following requirements:

A. All sewers constructed in the public right-of-way shall be constructed in accordance with plans and specifications approved by the city council upon recommendation of the city engineer. Sewer laterals shall be constructed in accordance with standard plans prepared by the city engineer and approved by the city council.

B. Minimum size of all individual laterals shall be four (4) inches and shall require cleanout at the property line.

C. The minimum size of sewer mains shall be six (6) inches and standard manholes shall be placed at frequencies no greater than three hundred (300) feet or in places of change of direction or grade, except sewers twelve (12) inches in diameter or greater, under which circumstances the specific design shall be recommended by the city engineer and approved by the city council.

D. When sewers cannot be placed in the public right-of-way or in existing rights-of-way of ten (10) feet in width or greater, special easements shall be acquired a minimum of ten (10) feet in width and wherever possible shall straddle existing property lines.

E. Wherever easements ten (10) feet in width or greater can be acquired, public sewers shall be extended in accordance with approved plans and specifications and in accordance with proper master planning for the area being served.

F. Wherever a public sewer can be extended along public rights-of-way or standard easements, each service shall be extended to the public sewer by a lateral serving only one unit of ownership unless the city council, by resolution, approves the service of more than one unit of ownership by a lateral.

G. A cleanout shall be placed on each sewer lateral tying into a public utility easement at the line of the easement. The city shall maintain a portion of the lateral between the cleanout and

the main so long as the cleanout is readily kept available and open for access by the city. Otherwise, it shall become the responsibility of the individual property owner who shall be liable for any damage to the main or lateral within the right of way.

H. Wherever a substandard extension of the sewer exists, i.e., a four (4) inch line or across private easements, no further extension of the sewer line can be made until such a time as an agreement for maintenance and rights of easement for all individuals using the line is recorded with the office of the county recorder.

I. The city council may, by resolution, upon finding good cause therefor, grant approval for a private sewer line (one which traverses another's private property in order to connect to the public sewer main); provided, that each applicant therefor shall submit plans in advance to the city engineer for approval. Any approval granted by the city council for a private sewer line is contingent upon an acceptable easement being recorded with the county recorder for access and maintenance of the sewer line. (Ord. 163 §3, 1971: Ord. 53 §3.6, 1963).

#### **15.24.010 Adoption.**

The code of rules, regulations and standards printed in two (2) volumes and published by the International Conference of Building Officials, under the title "Uniform Building Code, 1988 Edition," including the appendix thereto, and "Uniform Building Code Standards, 1988 Edition," including the appendix thereto, and "Uniform Building Code Standards, 1988 Edition," hereinafter collectively called "Uniform Building Code," regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures in the city, printed in book form and filed herewith in the office of the city clerk, is adopted and by reference incorporated in this chapter as if fully set forth, except as otherwise provided in this chapter, as the building code of the city. The mandatory requirements of the appendix to the building code shall be enforceable to the same extent as if contained in the body of the building code. (Ord. 355 §2, 1990: Ord. 312 §1(part), 1985; Ord. 291 §1(part), 1983: Ord. 243 §1041, 1978).

#### **15.32.010 Adoption.**

The code of rules and regulations known and designated as the "Uniform Plumbing Code, 1988 Edition," and the appendices printed therein, prepared and published by the International Association of Plumbing and Mechanical Officials, regulating the erection, installation, alteration, addition, repair, relocation, replacement, maintenance or use of any plumbing system in the city, printed in book form and filed herewith in the office of the city clerk, is adopted and by reference incorporated in this chapter as if fully set forth except as otherwise provided in this chapter, as the plumbing code of the city. The mandatory requirements of the appendix to the plumbing code shall be enforceable to the same extent as if contained in the body of the plumbing code. (Ord. 355 §5, 1990: Ord. 312 §1(part), 1985; Ord. 291 §1(part), 1983: Ord. 243 §1066, 1978).

#### **13.04.480 Discharge of substances causing obstructions to public sewers prohibited.**

No person shall discharge, deposit, throw, or cause, allow, or permit to be discharged, deposited, or thrown, into any public sewer or into any plumbing fixture, manhole, or private sewer or drain connected to a public sewer, any substance of any kind whatever tending to obstruct or injure the sewage works, or to cause a nuisance or hazard, or which will in any manner interfere with the proper operation or maintenance of the sewage works in the opinion of the city engineer. (Ord. 53 §4.3, 1963).

#### **13.04.490 Prohibited discharges to public sewers.**

A. Except as hereinafter provided, no person shall discharge or cause to be discharged any of the following waters or wastes into any public sewer:

1. Any liquid or vapor having a temperature detrimental to the sewer system;
2. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas;
3. Any water or waste which contains excessive amounts of grease, oil, or fats;
4. Any garbage, except properly ground garbage from individual dwelling units, as specified in Section 13.04.530;
5. Any sand, cement, cinders, ashes, metal, glass or other heavy solids; any straw, shavings, animal hair, feathers, paunch manure, or other fibrous matter; and tar, asphalt, resins, plastics, or other viscous substance; or any other matter of such a nature as to obstruct the flow in sewers or as to cause other interference with the proper operation of the sewage works;
6. Any water or waste containing excessive amounts of acid, alkali, or dissolved sulfide, or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of sewage works;
7. Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, to constitute a hazard to humans or animals, or to create a hazard in the waters receiving effluent from the sewage treatment plant;
8. Any waters or wastes containing suspended solids or dissolved matter of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant;
9. Any noxious or malodorous gas or substance capable of creating a public nuisance;
10. Any radioactive wastes, as provided in Sections 13.04.540 and 13.04.550.

B. Whenever deemed necessary by the superintendent, the owner shall, at his own expense, provide such treatment or take such other measures as shall be required in order to reduce the objectionable characteristics, contents, or rate of discharge of waters or wastes being deposited in the sewer, so that the same may be received therein without any damage to the sewage works or any undue interference with its operation and without any hazard of any kind to humans or animals. (Ord. 53 §4.4, 1963).

#### **13.04.500 Restrictions on quantity and character of wastes.**

A. The admission into the public sewers of any wastes or waters having an average daily flow greater than two percent (2%) of the average daily flow at the sewage treatment plant, or having any of the following characteristics, shall be subject to the review of the superintendent:

1. Temperature in excess of one hundred fifty degrees (150°) Fahrenheit, approximately sixty-five and six-tenths degrees (65.6°) Centigrade;
2. Suspended solids, or matter which upon dilution with water or sewage results in the formation of suspended solids, in excess of five hundred (500) parts per million;
3. Biochemical oxygen demand in excess of four hundred (400) parts per million;
4. Floatable grease of animal or vegetable origin in excess of fifty (50) parts per million, and of mineral origin in excess of fifteen (15) parts per million, or dispersed grease in excess of six hundred (600) parts per million;
5. A pH of less than five and five-tenths (5.5) or more than ten and five-tenths (10.5);
6. Dissolves sulfides in excess of one (1) part per million.

B. The provisions of subsection A of this section and the values therein set forth shall not be regarded or construed as regulating or limiting the quantity or character of any specific industrial waste which may be received into the sewer system, but shall serve as a guide in the administration of this chapter for the purpose of determining, in general, the acceptability of waste for admission into the sewer system. (Ord. 53 §4.5, 1963).

#### **13.04.560 Suspension of service for unlawful use of sewers.**

When deemed necessary by the superintendent for the preservation of public health or safety, or for protection of public or private property, he may suspend sewer service to any person or persons using the sewer system in a manner or way as to endanger the public health or safety or public or private property, and in this regard may sever from the public sewer all pertinent connections thereto. If such endangerment shall be imminent, then the superintendent may act immediately to suspend sewer service without giving any advance notice or warning whatsoever to the person or persons. (Ord. 53 §4.11, 1963).

#### **13.04.600 Power and authority of inspectors.**

The superintendent, and other duly authorized employees and agents of the city bearing credentials and identification shall, in all cases affected by this chapter, be permitted to enter upon all properties for the purpose of:

- A. Determining the size, depth, location, and condition of any sewer or storm drain connection;
- B. Determining the location of discharge connections of roof and surface drains and plumbing fixtures; and
- C. Inspecting, observing, measuring, sampling, and testing the quantity, consistency, and characteristics of sewage being discharged into any public sewer or natural outlet. (Ord. 53 §6.1, 1963).

#### **13.04.610 Violation--Notice.**

Any person found to be violating any provision of this chapter, except Section 13.04.580, shall be served by the city with written notice which shall state the nature of the violation and shall provide a reasonable time limit for the satisfactory correction thereof, the actual duration of the time limit to depend, in any particular case, upon all the facts and surrounding circumstances. The offender shall, within the period of time specified in such notice, permanently cease the continuance of the violation. (Ord. 53 §8.1, 1963).

#### **13.04.620 Violation--Penalty.**

Any person who continues any violation beyond the time limits provided for in Section 13.04.610 shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not more than three hundred dollars (\$300.00), or by imprisonment in the county jail for a period of not more than three (3) months, or by both such fine and imprisonment for each violation. Each day in which any such violation shall continue shall be deemed a separate offense. (Ord. 53 §8.2, 1963).

#### **13.04.630 Violation--Liability for expense, loss or damage.**

Any person violating any of the provisions of this chapter shall become liable to the city for any and all expense, loss, or damage occasioned the city by reason of such violation. (Ord. 53 §8.3, 1963).

## APPENDIX C

### City Standards for Sewer Installation, Rehabilitation, and Repair and Inspection and Testing of New and Rehabilitated Sewer Facilities

#### DEFINITIONS

Sewage or Wastewater: This is the “used” water that contains human wastes from toilets and water from other sources such as sinks, showers, washing machines, dishwashers, etc. Industrial and commercial wastes are also considered sewage or wastewater.

Sanitary Sewer System, or Wastewater Collection System, or Sewers: These are pipes through which sewage is carried from homes and businesses to a treatment plant. The sanitary sewer system includes the main sewer lines in the streets and the branch lines to individual sewer customers called “sewer laterals.”

Sewer systems are generally designed to flow by gravity through sloped pipes until it reaches either the treatment plant or a sewage pumping station (which pumps the sewage up to another higher sewer or a treatment plant).

The term “sanitary sewer” is used because sewer pipes are separate from the pipes used for storm water drainage. This helps protect public health and the environment. In some older cities, such as San Francisco, sewage and rainwater flow through the same pipes. This can cause major environmental and public health problems because untreated or partially treated-sewage may be discharged into streams, rivers, and other water bodies during heavy rain.

Sewer Lateral: This is the sewer pipe that connects a building's plumbing system to the main sewer line in the street. Maintenance and ownership of sewer lateral pipes is the responsibility of the property owner.

Sewer Main: This is the sewer pipe that collects flow from laterals. Mains are typically larger pipes than laterals, and get larger and larger further downstream as more and more flow enters the main. Sewer mains are typically located under public streets and maintained by the City.

Sewer Cleanout: This is a pipe rising from the sewer lateral to the ground surface with a removable cap or plug. It is used to access the sewer lateral to free blockages. A sewer cleanout is usually located just inside the property line. There may be additional sewer cleanouts at various other locations on a property.

Backflow Prevention Device: This is a device that prevents sewage from backing up from a main line into a lateral beyond where it is installed. This forces an overflow outside of a home, through a manhole or cleanout, rather than inside where significant property damage may occur.

**Infiltration:** This refers to groundwater (water found below the ground surface) that enters sewer pipes through cracks, pipe joints, and other system leaks. Because sewers in coastal areas are typically buried deep, they are often located below the water table. Since most sewer lines do not flow full (under pressure), groundwater “infiltrating” into the sewer line is actually more of a problem than sewage leaking out of the line. Storm events can raise groundwater levels and increase infiltration of groundwater into sewer pipes. The highest infiltration flows are observed during or right after heavy rain. Too much infiltration may overload the sewers and cause spills.

**Inflow:** This is rainwater that enters the sewer system from sources such as yard and patio drains, roof gutter downspouts, uncapped cleanouts, pond or pool overflow drains, footing drains, cross-connections with storm drains, and even holes in manhole covers. Inflow is greatest during heavy rainfall and like infiltration, can cause excessive flows and sewage spills.

**Manholes:** Sewer manholes are underground structures used to provide access to underground sewer lines and are usually found in a street, parking area or sidewalk. Access is required to periodically inspect and clean the lines. Sewer manholes typically have heavy round covers with the words “Sanitary Sewer” on the cover.

**Sanitary Sewer Overflow:** Sewage spills are technically called “sanitary sewer overflows” since it involves the overflow of sewage from the sanitary sewer system. Sewage overflows often occur from sewer manholes in the streets. Sewage can also backup into homes through toilets, showers, and floor drains. Sewage spills are caused by sewage filling the sewer pipes behind the clog to the point where it spills out of an opening in the system (generally the lowest manhole, shower drain or other plumbing fixture).

**Average Flows:** Average flows are typically dry weather sewer flows over a specific time period and often expressed in gallons per day. Average flows do not account for inflow and infiltration and are therefore not usually the basis for designing a sewer piping system.

**Peak Flows:** Peak flows are typically average flows multiplied by a peaking factor to account for inflow and infiltration and diurnal fluctuations. Sewer designs are usually based on peak flows, and a typical peaking factor is between three and five.

**Design Flows:** Design flows are the flows used to design a sewer system. Typically, they are peak flows. For the City of Brisbane’s sewer design criteria, design flows are peak flows at build-out conditions, which are average flows multiplied by a peaking factor of three.

## **SEWER MAINS**

### **Materials**

1. New gravity mains shall be polyvinyl chloride (PVC) or high density polyethylene (HDPE) with a maximum standard dimensional ratio (SDR) of 35 for conditions with at least three feet of cover. In cases where the City authorizes less than three feet of cover, alternate SDRs may be required. The City may require alternate pipe materials in cases with less than minimum cover or when other utilities are in close proximity to the sewer main.

2. For sewer main replacements that are five feet or less in length, pipe materials may match existing materials (e.g., when replacing a five-foot section of vitrified clay pipe (VCP), the replacement section can also be VCP). All sewer main replacements of more than five feet shall be PVC pipe.

### Sizing

#### 1. Flow Sizing

- A. Gravity mains shall be a minimum of eight inches (8") in diameter.
- B. Mains shall be designed to carry peak flows at build-out conditions ("design flows"). Average daily flow values shall be computed based on the following table, and multiplied by a peaking factor of five (5) to determine design flows. Calculations for design flow rates shall be submitted to the City Engineer for review.

Land Use	Unit Flow Rate (gallons/day/ acre)	Unit Flow Rate (gallons/day/ dwelling unit)
Brisbane Village Neighborhood Commercial District	500	-
Downtown Brisbane Neighborhood Commercial District	500	-
Manufacturing District	500	-
Medium Density Apartment District	-	90
Multiple Use Residential District	-	90
Office District	1500	-
Open Space District	0	-
Planned Development District	-	90
Single Family (20,000 sq. ft. building site)	-	105
Single Family (5,000 sq. ft. building site)	-	105
Southwest Bayshore Commercial District	500	-
Trade Commercial – Crocker Park District	250	-

- C. Maximum depth of flow for pipes between eight and ten inches in diameter shall be one-half (1/2) the pipe diameter at design flows. For pipes twelve inches and larger in diameter, the maximum flow depth shall be two-thirds (2/3) the pipe diameter at design flows.
- D. Mains shall be sized using Manning's equation based on design flows, a roughness coefficient ("n") of 0.0135 or the pipe manufacturer's recommendation, whichever is greater, maximum flow depths, and maintaining minimum design slopes.
- E. Miscellaneous head losses at manholes, curves, and junctions shall be estimated and allowed for as follows:
- At manholes on straight runs allow head loss = 0.05 feet.
  - 90° turns made inside of manholes, where the radius of turn is less than two pipe diameters, allow  $0.50 V^2/2g$ . If the radius of turn is greater than two pipe diameters,



allow  $0.25 V^2/2g$ . In no case shall the total allowance be less than 0.05 feet.

- iii) At transitions and intersections of sewers larger than 24 inches in diameter, allow  $0.50 V^2/2g$ .

## 2. Velocity Sizing

- A. Mains shall be designed to transport suspended solids without deposition in the pipe.
- B. Mains shall be designed to maintain minimum cleansing velocities of three (3) feet per second for ten inch and smaller diameter pipes and two (2) feet per second for twelve inch and larger diameter pipes at design flow conditions.
- C. The maximum velocity for all pipe diameters is 10 feet per second.

## Alignment

### 1. Depth

- A. Gravity mains shall be installed at a depth sufficient to provide a minimum of three feet of cover above the crown of the pipe. Installations with lesser amounts of cover are at the City's discretion, and may require alternative pipe material.
- B. Sewers shall be installed at sufficient depth to provide gravity service to properties contiguous to the sewer line. Additional depth may be required to provide service. Generally, house services shall be a minimum of four feet below the top of curb at the property line as measured from the top of curb to the invert of the services.

### 2. Slope

- A. Ten-inch and smaller diameter mains shall have a minimum slope of 0.0036. Twelve-inch and larger diameter mains shall have a minimum slope of 0.0024.
- B. Slopes shall be adjusted based on ground level gradient and maintaining minimum cleansing velocities. Minimum slopes shall only be used when topography and existing sewer depth make greater slopes impossible or when anticipated flows are such that scouring velocity is achieved on a regular basis. Increasing pipe size to allow lesser slopes will be at the City's discretion.

### 3. Curvature

- A. Horizontal and vertical curves are not recommended, but in cases where justification can be shown, limited use of such designs will be considered. A design report shall be submitted from the design engineer justifying a curved alignment. In no case shall horizontal or vertical curves exceed 1/32 bend (11.25 degrees). Complete and accurate details shall be furnished, including: exact location of such curved sewers, length of

curve, degree of curve (or radius), and stationing of curve points.

B. Where curved alignments are utilized, the City may require the following:

- i) Slope greater than minimum slope for the size of pipe.
- ii) Manhole spacing of less than 300 feet.
- iii) Provide a licensed professional land surveyor or engineer to continuously monitor installation of the curved pipe during construction.
- iv) Video inspection prior to final acceptance.

4. Placement in street/easement

A. Under normal conditions, sewers shall be constructed in straight lines from manhole to manhole in public rights-of-way or private roads. When practical, sewers shall be installed on the opposite side of the right-of-way from water and storm drain lines.

B. Sewer trenches shall not extend under the edge of gutters.

C. When necessary to locate sewers in public easements, such easement shall have a width equal to twice the depth of the sewer main, or 15 feet, whichever is greater. Sewers 24 inches in diameter or larger, or over 12 feet in depth, may require wider easements. All easements shall allow for year-round vehicular access to all manholes and cleanouts.

#### Clearances to other utilities/structures

1. Sewer mains shall be installed a minimum of 10 feet horizontally from all structures and existing or proposed water mains. In situations where it is not feasible to maintain a 10-foot separation, the distance may be reduced at the City's discretion.
2. Sewer mains shall have a minimum one foot clearance to all other utilities. Installations with lesser clearances are at the City's discretion and may require alternate pipe materials.
3. Sewer mains shall be installed beneath water lines and storm drain lines by at least 18 inches (crown of sewer line to invert of water or storm drain line). Crossings shall be arranged so sewer line joints will be equidistant and as far as possible from the water main (~10 feet).
4. Sewer mains shall be installed at least five feet horizontally from all trees, where practical.

#### Cover/trench requirements

1. Minimum cover over gravity sewer mains shall be three feet.

2. Plastic detection tape shall be installed one foot above the crown of all gravity sewer mains.
3. Sewer main trenches shall be backfilled with four inches of compacted fill sand prior to laying pipe. Once pipe is installed, it shall be backfilled to twelve inches above the crown with compacted fill sand, followed by native material (with rocks over two inches removed) compacted to 90% relative compaction. Native material shall extend to finished grade in unimproved areas. In existing or new streets, backfill and street section above the pipe shall be in accordance with the City's Street Standards.

#### Maximum run between and connections to manholes

1. The maximum run between manholes shall be no more than 300 feet.
2. Connection to existing manholes shall be made with a concrete core saw and neoprene adapter boot. Exceptions to this requirement are at the City's discretion. New connections to existing manholes shall be fitted with a temporary plug until the entire project has been accepted. Connections to structures other than manholes shall be specifically detailed on the plans for approval by the City.

#### Cleanouts

Terminal cleanout structures are acceptable at the end of sewer lines if located no more than 100 feet to the downstream manhole.

### **LATERALS**

#### Materials

Sewer laterals shall be SDR 35 PVC or HDPE pipe with a minimum of three feet of cover. In situations where cover is between 18 inches and three feet, SDR 26 is required. The City may require alternative pipe materials if minimum cover cannot be achieved.

#### Sizing

Laterals shall be a minimum of four inches (4") in diameter for single family residences and six inches (6") for multiple units, apartments, local retail, and commercial, and eight inches (8") or larger as required for manufacturing and industrial, and should be sized to accommodate anticipated flow.

#### Connections per building/unit

For new construction, service laterals shall be provided to every parcel being served as part of the project. Each individual building or dwelling unit requires a separate service lateral, with separate connection to the sewer main. Connections for multi-unit buildings will be at the City's direction. For existing construction, if the City determines individual buildings or dwelling units are served by a joint lateral, the City may require property owners to install separate laterals for

each building or dwelling unit and establish appropriate private easement agreements as necessary, or may require upgrades to existing joint laterals if installation of separate laterals is infeasible.

### Alignment

#### 1. Depth

Laterals shall be placed a minimum of three feet (3') below finished grade. This shall extend all the way to the building connection. Therefore, in general, the minimum depth for sewer to serve a given residential property shall be three feet plus 2% times the length of the house lateral (the distance from the sewer to the center of the house). Less than minimum cover is at the City's discretion and may require alternative pipe material.

#### 2. Slope

Laterals shall have a minimum two percent (2%) slope. Lesser slopes are at the City's discretion.

#### 3. Cover/trench requirements

Sewer lateral trenches shall be backfilled with four inches of compacted fill sand prior to laying pipe. Once pipe is installed, it shall be backfilled to twelve inches above the crown with compacted fill sand, followed by native material (with rocks over two inches removed) compacted to 90% relative compaction. Native material shall extend to finished grade in unimproved areas. In existing or new streets, native material shall be followed by asphalt concrete/aggregate base lifts in accordance with the City's Street Standards.

### Clearances to other utilities/structures

Laterals shall be installed with a ten-foot minimum horizontal separation to water service lines.

### Cleanouts

Each lateral shall have an approved cleanout. Cleanouts shall be located approximately six inches (6") from the property line on private property (at the right-of-way or easement line).

### Backflow prevention devices

Backflow prevention devices shall be incorporated as part of the cleanout on all new lateral installations. Backflow prevention devices shall be installed on existing laterals during remodeling or if new plumbing fixtures are added to a home.

### Connection to mains

1. No sewer laterals smaller than eight inches shall be connected to manholes.

2. Lateral connections to existing mains may be made by tapping the existing main only when the lateral diameter is less than or equal to three-fourths (0.75) the main line size. If this ratio is exceeded, the connection shall be made by removing a section of the main line and installing a properly sized wye fitting. Laterals eight inches in diameter and larger shall connect to the mainline at a manhole.
3. Laterals shall be constructed perpendicular to the main line and shall intersect the property line a minimum of five feet from the property corners. Exceptions will be made in the case of cul-de-sacs where perpendicular service lines are not practical.

## **PRESSURE SYSTEMS**

### Materials

All pressure systems shall utilize heat-fused high density polyethylene (HDPE) pipe meeting Specification Section 15066, or PVC pipe meeting American Water Works Association (AWWA)'s C900 specifications with appropriate couplings.

### Sizing

Pressure mains shall be sized to accommodate anticipated peak flow rates based on hydraulic calculations for downstream pump sizing. Hydraulic calculations showing pump and pipeline sizing shall be submitted to the City Engineer for approval.

### Alignment

#### 1. Depth

Pressure mains shall be installed with a minimum of three feet of cover. Installation at shallower depths shall be at the discretion of the City Engineer and may require alternate pipe material.

#### 2. Slope

Pressure mains shall be installed to avoid bellies.

#### 3. Cover/trench requirements

Minimum cover over pressure mains shall be three feet.

### Clearances to other utilities/structures

1. Pressure mains shall be installed a minimum of 10 feet horizontally from all structures.
2. Pressure mains shall have a minimum one foot clearance to all other utilities. Installations with lesser clearances are at the City's discretion and may require alternate pipe materials.

3. Pressure mains shall be installed beneath water lines and storm drain lines by a minimum of 18 inches (crown of sewer line to invert of water or storm drain line).

#### Air release/vacuum valves

Air release/vacuum valves shall be installed at all high points along the pressure main alignment.

### **MANHOLES**

#### Frequency/Location

1. Manholes shall be located at all sewer main intersections, at all changes in vertical or horizontal alignment, pipe size, or grade, where laterals larger than eight inches are connecting to a main, and at the beginning and end of curved sewer sections.
2. Manhole spacing shall be 300 feet, at a maximum. Manholes shall be installed at all terminating sewer mains longer than 100 feet.
3. All manholes shall be located in such a way that maintenance vehicles will have year-round access.
4. Monitoring manholes may be required at commercial/industrial service connections at the direction of the City. A monitoring manhole shall be required on all new construction or renovations or modifications to existing facilities, where the discharge originating in the new, renovated, or modified facility is, or will have the potential to be, non-domestic in nature. All waste from the facility shall flow through the monitoring manhole.

#### Type

1. Drop manholes are not recommended, but in cases where justification can be shown, limited use of such designs will be considered. Elevation drop through manholes shall be a minimum of 0.2 ft. Inside drops shall have a maximum drop of 2 ft. Drops greater than 2 ft shall be constructed with outside drop structures. Where unequal pipe diameters enter a manhole, crown of pipes shall be at the same elevation.
2. Flat top manholes shall be used where the distance from the invert to the rim is less than six feet. Manholes greater than six feet deep shall be constructed with standard cone sections.

#### Materials

1. Manholes shall be constructed using Class A concrete.
2. Manhole joints shall be made watertight using neoprene gaskets, subject to City Engineer approval.
3. New connections to existing manholes shall be made with neoprene adapter boots.

### Sizing

1. Manholes 48 inches in diameter may be used for sewer mains up to 18 inches in diameter and up to 15 feet deep. Manholes 60 inches in diameter may be used for sewer mains up to 42 inches in diameter and up to 22 feet deep, or where the alignment of the main lines is such that the distance between openings would be less than 1.5 feet with a smaller manhole.
2. Manhole necks shall be adjusted to finished grade by the use of concrete grade rings with approved sealant between each ring. The maximum height of grade rings shall be 12 inches for new construction and 18 inches for modifications to existing manholes. Adjustments beyond these limits shall be made with full barrel sections.

### Lining

Downstream transition manholes originating from a pump station or manholes where turbulence is a factor may be required to be coated with hydrogen sulfide-resistant material.

## **TESTING AND ACCEPTANCE REQUIREMENTS**

### General

1. All gravity and pressure sewer pipes and service laterals shall be tested for exfiltration and/or infiltration and deflection.
2. Sanitary sewer systems shall be subjected to an air or water pressure test, as approved by the City Engineer.
3. Sewer lines shall be television-inspected at the City's discretion.
4. Manholes shall be hydrostatically tested for leakage after installation, but prior to being backfilled. Prior to hydrostatic testing, all manholes shall be visually inspected for leaks. All leaks or cracks shall be repaired prior to hydrostatic testing, to the satisfaction of the Public Works Inspector.

## **MAINTENANCE REQUIREMENTS**

The City maintains all public sewer mains, manholes and lift stations.

Property owners own and are required to maintain the lateral from the connection at the structure to the main line. Tree root intrusion, grease buildup, cracks, breaks, etc., are all the responsibility of the property owner.

## APPENDIX D

### WATER QUALITY MONITORING PLAN

#### **Introduction**

This Water Quality Monitoring Plan describes the sampling and analytical methodology along with data management protocol that will be used by Cel Analytical Inc. ELAP # 2647 to gather water quality data for the receiving water body in the event of sanitary sewer overflow of greater than 50,000 gallons, and the time frame for the events. The water quality sampling results will enable authorities to prioritize areas of concern with regard to water quality impacts.

Contact Cel Analytical at 415-882-1690(office) and 415-810-2177(cell)

#### **Surface Water Sampling Procedures**

Surface water samples will be collected using the direct grab sampling technique. New, sterile, nitrile powder-free surgical gloves will be worn by sampling personnel at all times during sampling. Sampling gloves will be changed between sampling locations.

Samples will be collected in the following order using the procedures recommended by US EPA for surface water sampling.

#### **Order of sampling:**

1. Ammonia
2. Fecal coliform
3. E. coli
4. Field measurements (temperature, pH, conductivity, dissolved oxygen)

#### **Equipment and supplies**

1. Cooler with blue ice
2. Sterile bacterial sampling bottles with or without preservative 3 per location (one may serve as duplicate for QC purpose)
3. Gloves
4. Marking pen (water resistant or permanent sharpies)
5. Clean bucket/bailer in case need
6. Paper towels
7. Decontamination solution and a disposal bucket for storing liquid waste
8. Field log forms,



9. Chain of custody and labels
10. Contact information for the Field supervisor

**Procedure:**

1. Determine the point that the SSO entered waterway.
2. If the SSO is occurring , the “source” location is the point where the SSO is entering the waterway.
3. If sampling is performed after the SSO has stopped, calculate the approximate downstream distance from the original SSO location by dividing the time since the SSO occurred by the estimated velocity. The velocity may be estimated by observing or dropping floatable debris in the surface water and timing how long it takes to travel over a measured distance.
4. Put on safety gloves and safety glasses.
5. Upstream Sample Collection: Collect the upstream samples first. Move approximately one hundred feet (100ft) upstream of the source location. Label the sample bottle “Upstream A” with the date and time.
  - a. Take a photo of the sample location, including a reference point in the photo.
  - b. Fill the three labeled bottles against the direction of the water flow. Collect samples well away from the bank, preferably at a point where water is visibly flowing. Avoid sampling debris or scum layer from the surface.
  - c. Use the thermometer to measure the temperature of the “Upstream A” sample three times and record the results.
6. Source Sample Collection: Collect the “source” samples next. Move approximately ten feet (10ft) downstream of the Source location. Label the sample bottle “Source A” with the date and time.
  - a. Take a photo of the sample location.
  - b. Fill the labeled bottles against the direction of the water flow. Collect samples well away from the bank, preferably at a point where water is visibly flowing. Avoid sampling debris or scum layer from the surface.
  - c. Use the thermometer to measure the temperature of the “Source A” sample three times and record the results.
7. Downstream Sample Collection: Lastly, collect the downstream sample. Move one hundred feet (100ft) downstream of the source location. Label the sample bottle “Downstream A” with the date and time.
  - a. Take a photo of the sample location.

- b. Fill the labeled bottles against the direction of the water flow. Collect samples well away from the bank, preferably at a point where water is visibly flowing. Avoid sampling debris or scum layer from the surface.
  - c. Use the thermometer to measure the temperature of the “Downstream A” sample three times and record the results.
8. Submerge collection container into the water to the depth of 6 to 10 inches carefully to avoid: a) contamination from land and surface debris; and b) losing the preservative tablet (sodium thiosulfate) in the bottle.
9. For safety reasons, it may not be possible to collect a bacteria sample directly into the sterile container. A clean bucket may be used to collect the sample then the sample transferred to the sterile container.
10. Alternatively, a clean sanitized bailer may be lowered into the receiving water to collect and transfer water into sterile containers sterile to minimize any possibility of contamination of the sample.
11. Fill bacterial container to the 125 ml mark, make sure there are enough containers/location to accommodate the testing needs.
12. Screw the caps on each bottle securely to avoid leakage. Avoid touching the inside of the sample bottle(s) or the cap(s).
13. Repeat the sampling process with the remaining containers.
14. Log all samples onto a Chain of Custody Document and place all samples in cooler with Blue ice. If exterior of the bottles get contaminated with highly turbid water, rinse the exterior of the bottles with deionized water before placing into the cooler.
15. When laboratory sample collection is complete, Hanna multi-parameter probes will be used to measure temperature, pH, conductivity, dissolved oxygen
16. Allow meter readings to stabilize, then record field parameter measurements on the Field Sampling Log.

Fecal coliform and E. coli samples must be delivered to the laboratory within approximately five hours of sample collection to meet the six hour holding time for these analyses.

### **Laboratory Quality Control Policy**

- Maintain an updated ELAP certification
- Participate in third party proficiency testing
- Ensure sample is analyzed within its hold time of 6 hrs
- Analyze Ten percent of the samples collected in duplicate to establish levels of precision.
- Determine the acceptance and rejection of data based on established Control limits

### **Field sampling Quality Control Policy**

- Ten percent of the samples collected will be used for quality control purposes.
- Duplicate samples will be used to determine laboratory method precision.
- Replicate samples will be used to determine representativeness of sampling.
- Field samples may be split for inter-laboratory comparisons.
- All field instruments used in the measurement of physical, chemical, or biological parameters shall be properly calibrated and maintained. Records will be kept of these operations for each instrument.
- Decontamination of clean buckets and or bailer if used prior to sampling at a different location
- All liquid waste generated from decontamination must be collected and disposed of by the Laboratory

**APPENDIX E**  
**SSO FIELD RESPONSE DOCUMENTATION PACKET**



# **CITY OF BRISBANE**

## **SSO RESPONSE PLAN**

**CHAIN OF COMMAND • EMERGENCY CONTACT LIST • INITIAL  
ASSESSMENT  
CONTAINMENT • CLEANUP • CATEGORIES • REPORTING  
INSTRUCTIONS**

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**SSO – PUBLIC WORKS CHAIN OF COMMAND****1st**

- Public Works Sanitary Lead Worker:
- Kessel Crockett  
628-219-2917

**2nd**

- Public Works Utility Team Leader:
- Dustin Cohn  
415-629-1435

**3rd**

- Senior Civil Engineer / Collections System Manager:
- Jerry Flanagan
- Office: 415-508-2137
- Cell: 415-321-0047

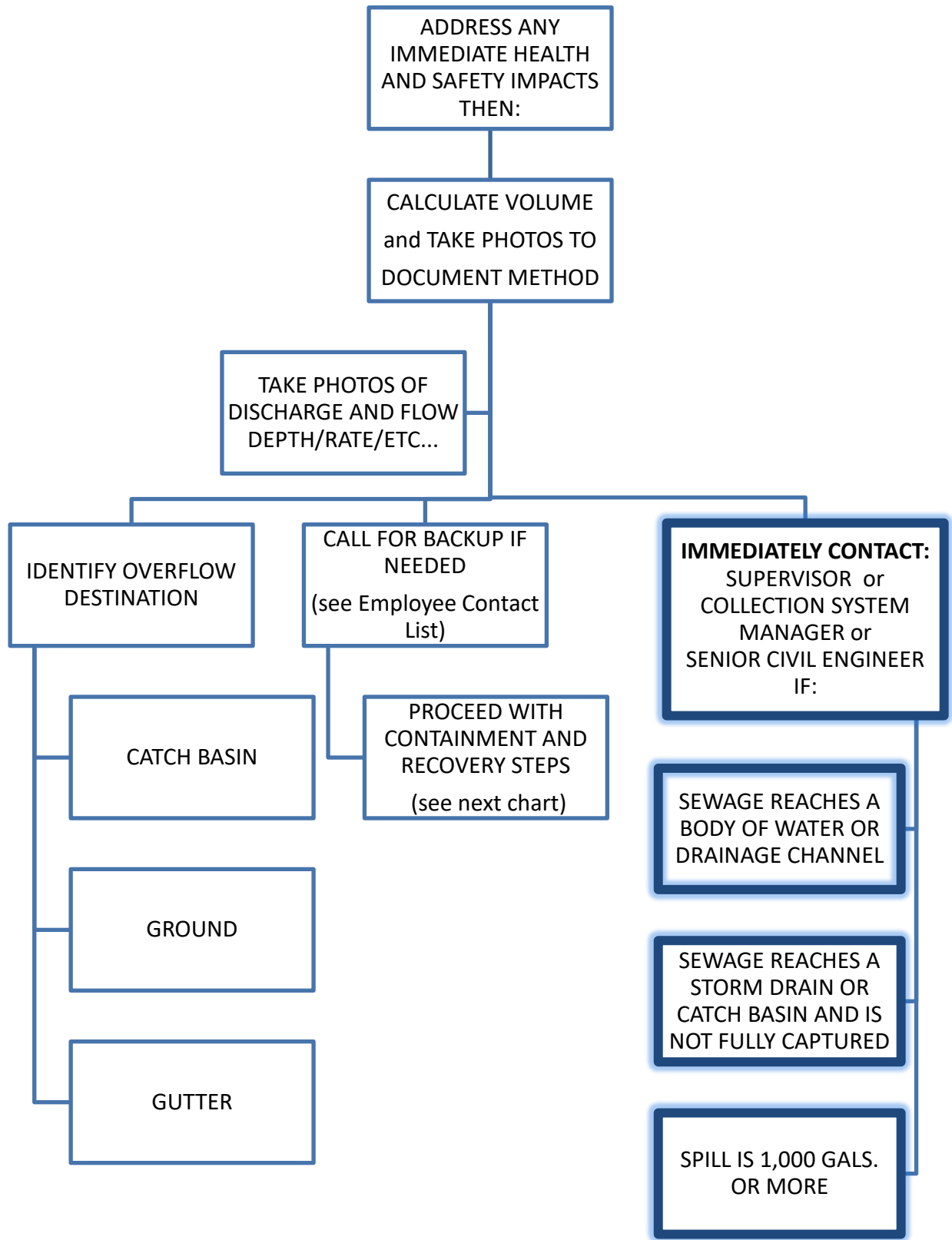
**4th**

- Director of Public Works / City Engineer:
- Randy Breault
- Office: 415-508-2130
- Cell: 628-219-2918

## BRISBANE PUBLIC WORKS EMPLOYEE CONTACT LIST -2016

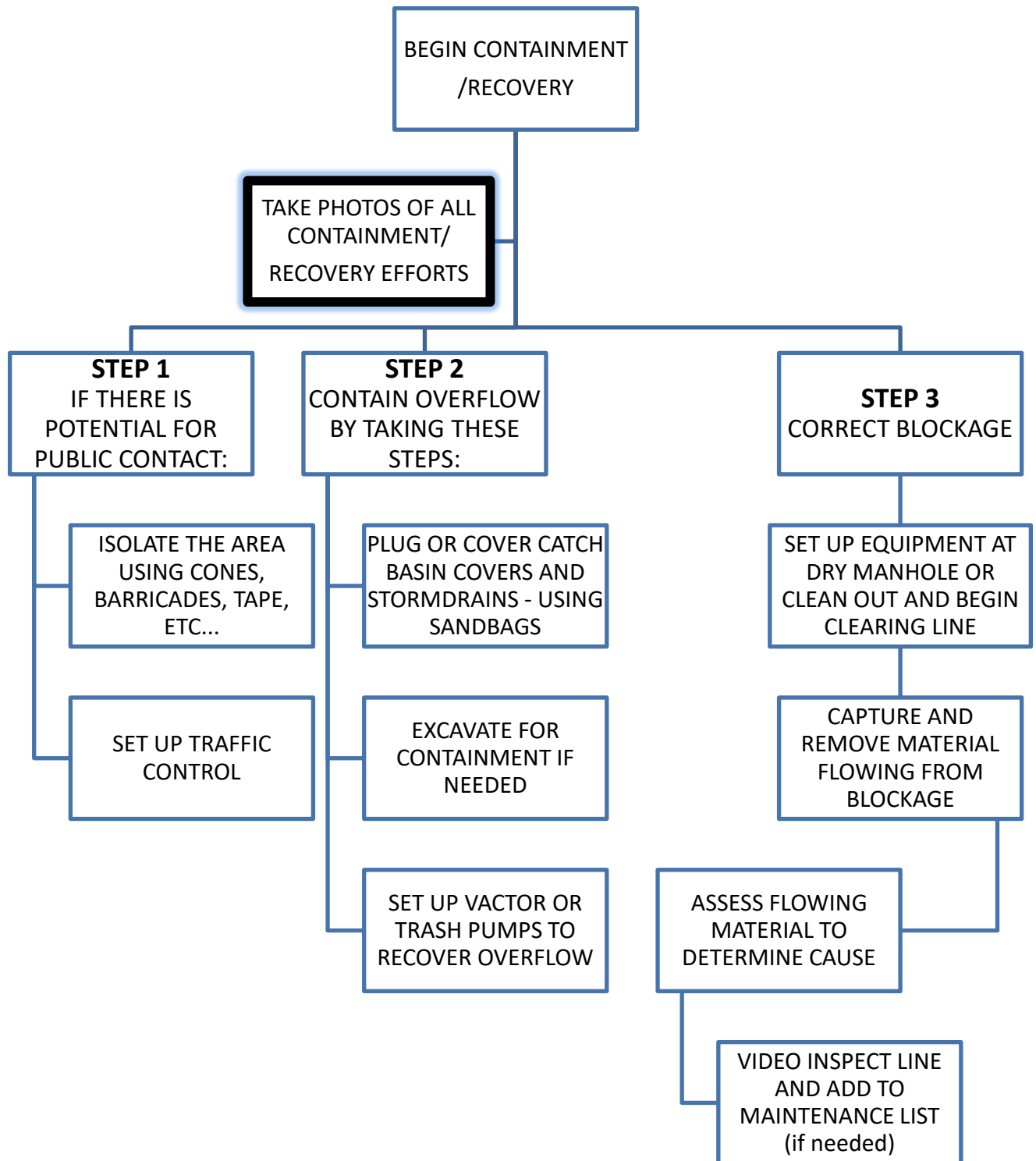
Employee	Title	Office	Cell
Randy Breault	Director of Public Works	(415) 508-2131	(628) 219-2918
Karen Kinser	Deputy Director of Public Works	(415) 508-2133	(415) 740-0816
Jerry Flanagan	Senior Civil Engineer - Utilities	(415) 508-2137	(415) 321-0047
Diane Cannon	Administrative Assistant	(415) 508-2130	(415) 740-4721
Dustin Cohn	Public Works Utility Team Leader	N/A	(415) 629-1435
Kessel Crockett	Public Works Sanitary Lead Worker	N/A	(628) 219-2917
Gerald Wilkin	Maintenance Utility Worker	N/A	(415) 407-3398
Todd Curtis	Maintenance Utility Worker	N/A	(415) 269-4746
Devin Gutierrez	Maintenance Utility Worker	N/A	(650) 773-2292
Chris Redfield	Maintenance Utility Worker	N/A	(650) 291-8845
Dolan Shoblo	Maintenance Utility Worker	N/A	(415) 533-1681
Doug Messing	Maintenance Utility Worker		(415) 341-3981
Varies	Public Works 24 hr On-Call Staff	N/A	(415) 286-0164
Bob Sage	Engineering Technician	(415) 508-2121	(415) 203-8897
Greg Morris	Public Works Inspector	N/A	(415) 760-3053
Jessica Lee	Assistant Engineer	(415) 508-2128	(415) 279-8937
Joe Friars	Buildings and Grounds Supervisor	N/A	(650) 766-4353
Keegan Black	Maintenance Program Manager	(415) 508-2106	(415) 728-7986
Andrew Rehberg	Harbor Master	(650) 583-6975	(650) 269-1225
Dispatch	Brisbane Police	(415) 467-1212	911
Engine 81	Brisbane Fire		(415) 716-0414
	Brisbane Fire	(415) 657-4300	911
Dispatch	North County Fire	(650) 368-1421	911
	Company Nurse	1-877-215-7284	

## SSO INITIAL ASSESSMENT FLOW CHART

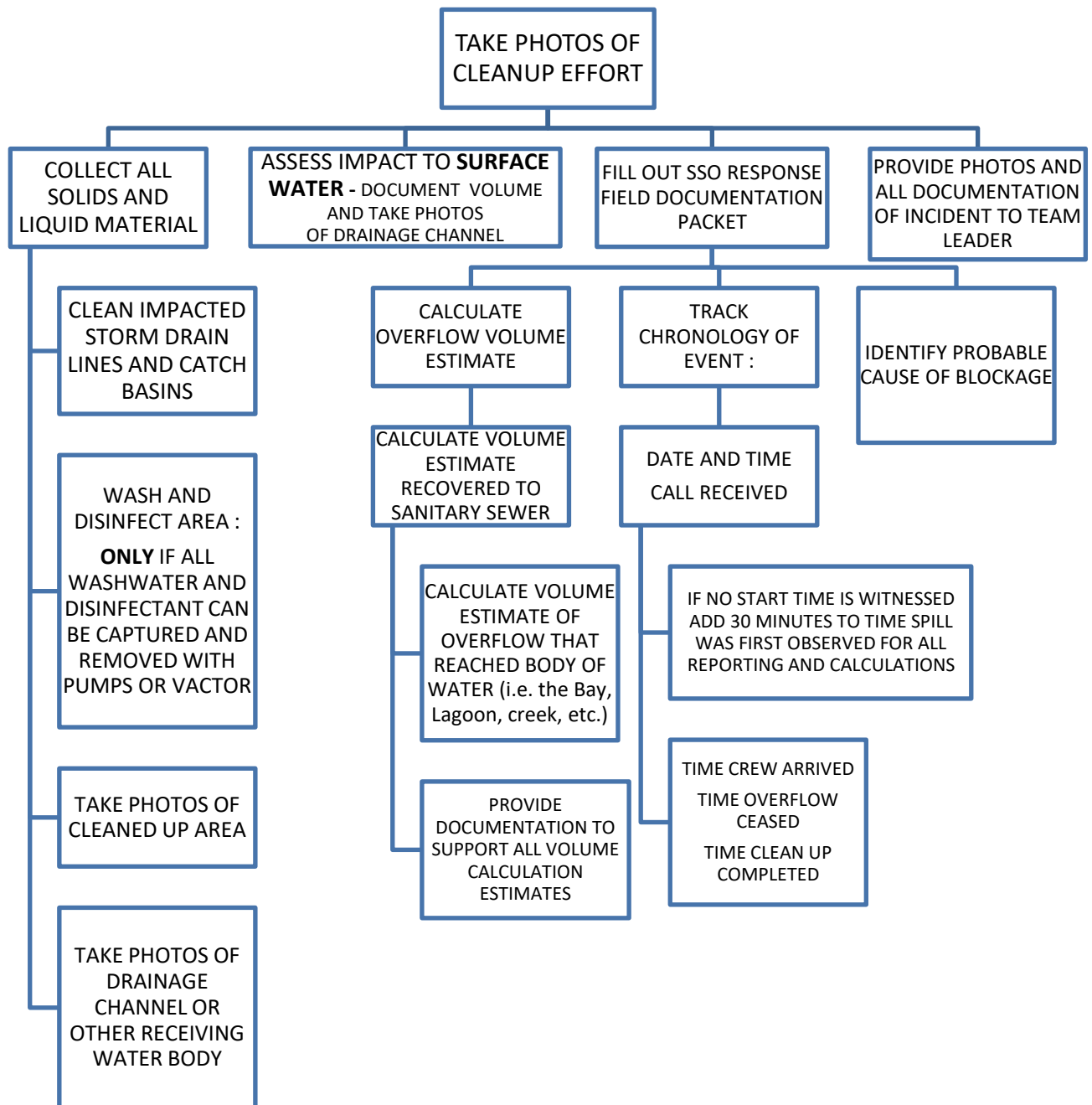




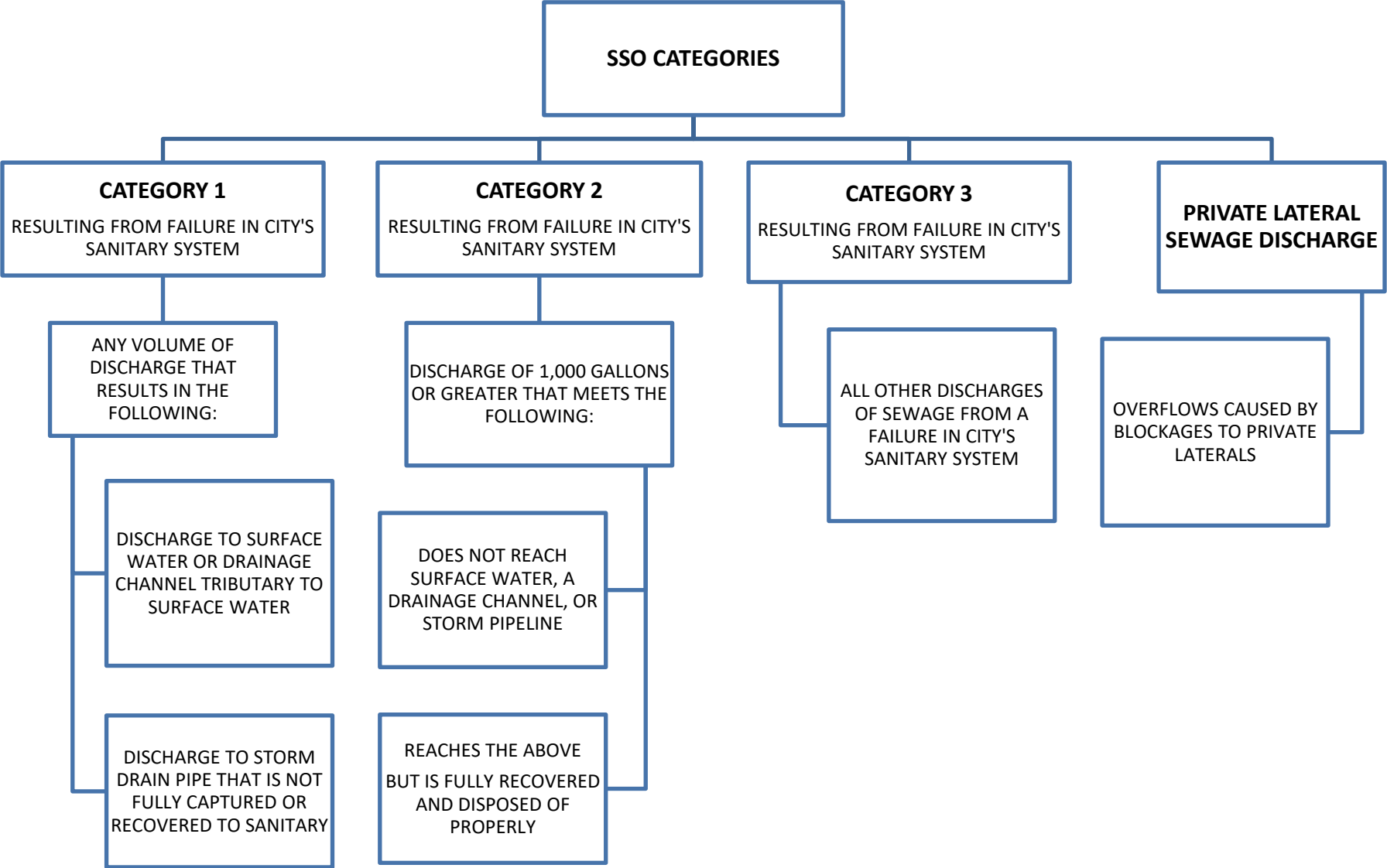
## SSO CONTAINMENT/RECOVERY FLOW CHART



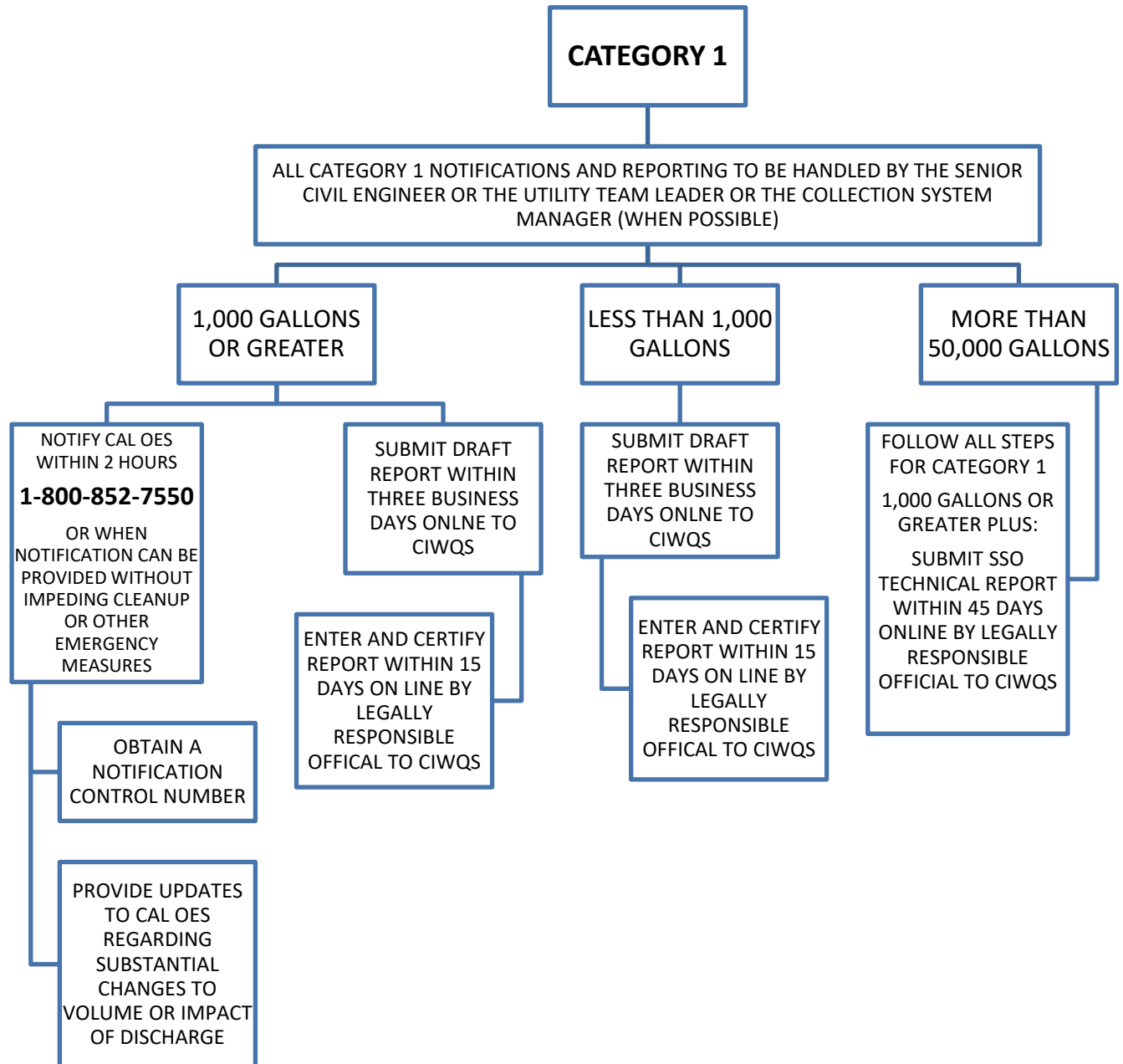
## SSO CLEANUP/DOCUMENTATION FLOWCHART



SSO CATEGORIES



## SSO CATEGORY 1 NOTIFICATION / REPORTING REQUIREMENTS



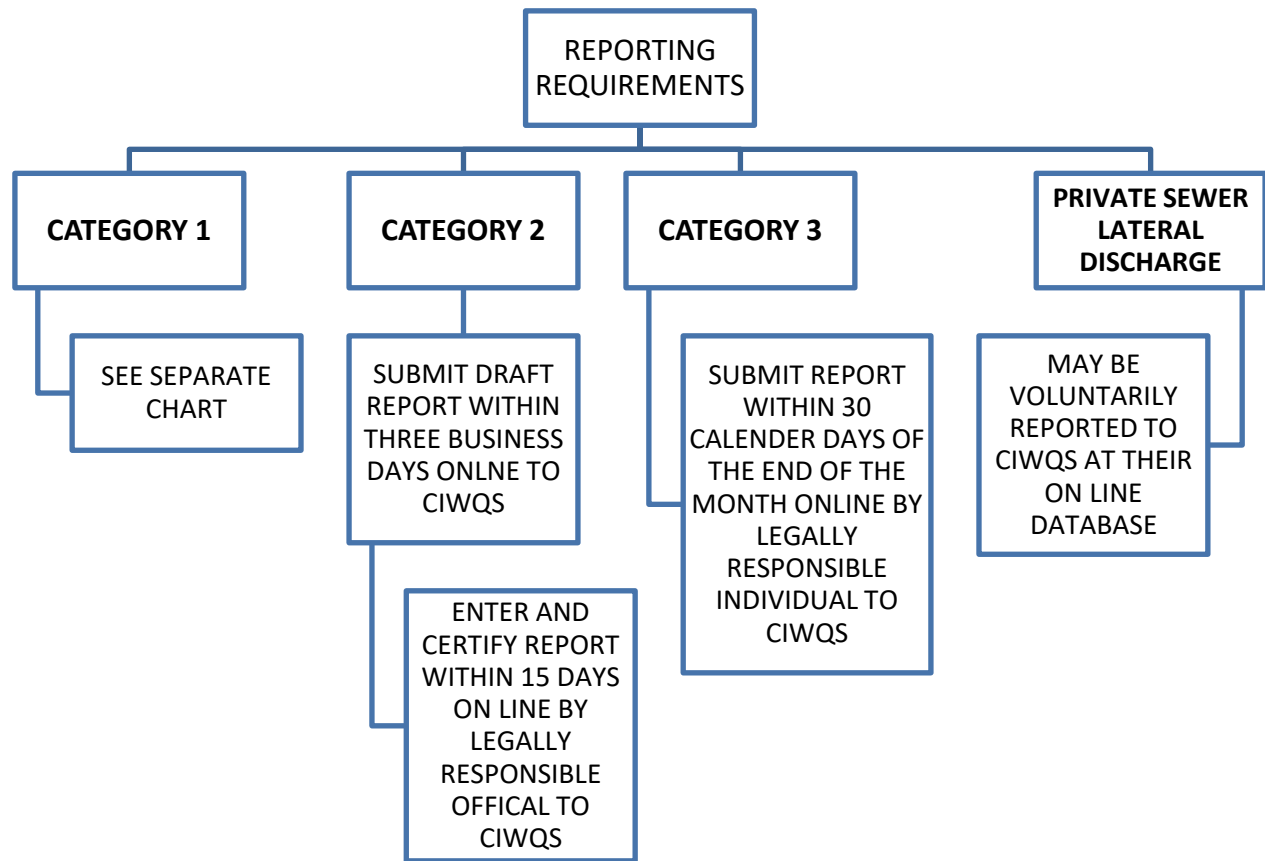
**California Integrated Water Quality System:** [www.waterboards.ca.gov/ciwqs/](http://www.waterboards.ca.gov/ciwqs/)

San Mateo County Environmental Health: (650) 372-6200

Regional Water Quality Control Board: (510) 622-2300

**California State Office of Emergency Services: 1-800-852-7550**

## SSO CATEGORIES 2,3,PRIVATE LATERAL REPORTING REQUIREMENTS



**California Integrated Water Quality System:** [www.waterboards.ca.gov/ciwqs/](http://www.waterboards.ca.gov/ciwqs/)

## SSO REPORTING INSTRUCTIONS

### **California State Office of Emergency Services: 1-800-852-7550**

#### **When calling this number be prepared to report the following:**

- i. Identity of caller and direct return phone number.
- ii. Estimated SSO volume discharged (gallons).
- iii. If ongoing, estimated SSO discharge rate (gallons per minute).
- iv. SSO Incident Description:
  - a. Brief narrative.
  - b. On-scene point of contact for additional information (name and cell phone number).
  - c. Date and time Discharger became aware of the SSO.
  - d. Name of sanitary sewer system agency causing the SSO.
  - e. SSO cause (if known).
- v. Indication of whether the SSO has been contained.
- vi. Indication of whether surface water is impacted.
- vii. Name of surface water impacted by the SSO, if applicable.
- viii. Indication of whether a drinking water supply is or may be impacted by the SSO.
- ix. Any other known SSO impacts.
- x. SSO incident location (address, city, state, and zip code).

### **California Integrated Water Quality System: [www.waterboards.ca.gov/ciwqs/](http://www.waterboards.ca.gov/ciwqs/)**

**San Mateo County Environmental Health: (650) 372-6200**

**Regional Water Quality Control Board: (510) 622-2300**



## CITY OF BRISBANE

### SSO RESPONSE – FIELD DOCUMENTATION PACKET

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REPORTED BY: \_\_\_\_\_

REPORT DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

## CALLER (OBSERVER) INFORMATION

CALLER (OBSERVER) INFORMATION	
Caller (Observer) Name:	Caller phone #:
Time of initial call: <input type="checkbox"/> AM <input type="checkbox"/> PM	Caller email:
Date of initial call:	Call received by:
Service Request #	Call assigned to:
Address on Ser. Request:	
Location where caller saw spill:	
Did caller observe the start of the spill? <input type="checkbox"/> YES <input type="checkbox"/> NO	
If 'YES' – What time did spill start? <input type="checkbox"/> AM <input type="checkbox"/> PM	
CALLER COMMENTS	
Use separate paper if more room needed	

## SSO TIMELINE

SSO TIMELINE			
Was start of spill witnessed or documented?*		Documented start time:	<input type="checkbox"/> AM <input type="checkbox"/> PM
<input type="checkbox"/> Yes	<input type="checkbox"/> No	Official spill start time:*	<input type="checkbox"/> AM <input type="checkbox"/> PM
Dispatch received call:	<input type="checkbox"/> AM <input type="checkbox"/> PM	Name of dispatcher:	
Dispatch calls Public Works Employee:	<input type="checkbox"/> AM <input type="checkbox"/> PM	Name of employee who received call:	
Employee contacts Supervisor:	<input type="checkbox"/> AM <input type="checkbox"/> PM	Name of supervisor contacted:	
Staff Arrives at spill:	<input type="checkbox"/> AM <input type="checkbox"/> PM	Date:	
Staff requests additional employees and equipment	<input type="checkbox"/> AM <input type="checkbox"/> PM	List additional employees and equipment requested:	
Staff requests additional employees and equipment	<input type="checkbox"/> AM <input type="checkbox"/> PM	List additional employees and equipment requested:	
Containment started:	<input type="checkbox"/> AM <input type="checkbox"/> PM	Date:	
Overflow stopped:	<input type="checkbox"/> AM <input type="checkbox"/> PM	Date:	



Blockage cleared:	<input type="checkbox"/> AM <input type="checkbox"/> PM	Date:
Spill cleaned up:	<input type="checkbox"/> AM <input type="checkbox"/> PM	Date:
Departure Time:	<input type="checkbox"/> AM <input type="checkbox"/> PM	Date:
<b>TIMELINE COMMENTS</b>		
Use separate paper if more room needed		

**\* If start of spill is not witnessed or otherwise documented (with photos showing spill hasn't reached storm drain system or natural waterway) then add estimated 30 minutes to time spill was reported for Official spill start time. Adjust volume calculation estimate to reflect this additional 30 minutes (per RWQCB directive from March 4, 2016)**



## SSO CAUSE AND FAILURE LOCATION



SSO CAUSE			
CHECK ALL THAT APPLY FROM LIST BELOW			
<input type="checkbox"/> ARV/BOV Failure	<input type="checkbox"/> City maintenance caused spill/blockage	<input type="checkbox"/> Construction debris	
<input type="checkbox"/> Damage by others not related to City Sewer	<input type="checkbox"/> Debris from lateral	<input type="checkbox"/> General debris	
<input type="checkbox"/> Rags	<input type="checkbox"/> Excess Flow	<input type="checkbox"/> Roots	<input type="checkbox"/> Grease (FOG)
<input type="checkbox"/> Inappropriate discharge to City Sewer	<input type="checkbox"/> Natural disaster	<input type="checkbox"/> Non-dispersibles	
<input type="checkbox"/> Operator Error	<input type="checkbox"/> Pipe Structural Problem / Failure	<input type="checkbox"/> Pipe Structural Problem - Install	
<input type="checkbox"/> Pump Station Fail - Controls	<input type="checkbox"/> Pump Station Fail - Mechanical	<input type="checkbox"/> Pump Station Fail - Power	
<input type="checkbox"/> Rainfall Exceeded Design	<input type="checkbox"/> Siphon Failure	<input type="checkbox"/> Root Intrusion	<input type="checkbox"/> Surcharged pipe
<input type="checkbox"/> Other – Describe:			<input type="checkbox"/> Vandalism
Was this spill related to a storm event? <input type="checkbox"/> YES <input type="checkbox"/> NO			
SSO CAUSE COMMENTS			

Use separate paper if more room needed			
<b>SSO FAILURE LOCATION</b>			
<b>CHECK ALL THAT APPLY FROM LIST BELOW</b>			
<input type="checkbox"/> ARV/BOV	<input type="checkbox"/> Force main	<input type="checkbox"/> Gravity main line	<input type="checkbox"/> Lower lateral (public)
<input type="checkbox"/> Manhole	<input type="checkbox"/> Siphon		<input type="checkbox"/> Upper lateral (public)
<input type="checkbox"/> Pump Station Fail - Controls	<input type="checkbox"/> Pump Station Fail - Mechanical	<input type="checkbox"/> Pump Station Fail - Power	
<input type="checkbox"/> Other – Describe:			
<b>SSO FAILURE QUESTIONS</b>			
Diameter of sewer pipe at the point of blockage or failure (inches):			
Material of sewer pipe at the point of blockage or failure:			
Estimated age of sewer asset at the point of blockage or failure (years):			
<b>SSO FAILURE COMMENTS</b>			
Use separate paper if more room needed			



## SSO LOCATION AND FINAL DESTINATION \*

<b>SSO APPEARANCE LOCATION</b>			
Address or Location of spill:			
Latitude of spill:		Longitude of spill:	
Number of appearance points:		<b>CHECK ALL THAT APPLY FROM LIST BELOW</b>	
<input type="checkbox"/> SS Backflow Device	<input type="checkbox"/> Combined Sewer D.I.	<input type="checkbox"/> Force Main	<input type="checkbox"/> Gravity Mainline
<input type="checkbox"/> Inside Building/Struct	<input type="checkbox"/> Private lateral C.O.	<input type="checkbox"/> Public lateral C.O.	<input type="checkbox"/> Private lower lateral
<input type="checkbox"/> Lift Station	<input type="checkbox"/> Manhole (public)	<input type="checkbox"/> Manhole (private)	<input type="checkbox"/> Public lower lateral
<input type="checkbox"/> Other - Describe Below:		<input type="checkbox"/> Public upper lateral	<input type="checkbox"/> Private upper lateral

LOCATION COMMENTS			
		Use separate paper if more room needed	
FINAL SPILL DESTINATION*			
CHECK ALL THAT APPLY FROM LIST BELOW			
<input type="checkbox"/> Beach	<input type="checkbox"/> Building/Structure	<input type="checkbox"/> Storm drain	<input type="checkbox"/> Drainage Channel
<input type="checkbox"/> Paved Surface	<input type="checkbox"/> Unpaved Surface	<input type="checkbox"/> Street/Curb/Gutter	<input type="checkbox"/> Surface Water
<input type="checkbox"/> Other - Describe Below:		<input type="checkbox"/> Public upper lateral	<input type="checkbox"/> Private upper lateral
DESTINATION QUESTIONS*			
Did the spill discharge to a drainage channel and/or surface water?*			<input type="checkbox"/> YES <input type="checkbox"/> NO
Did the spill reach a storm drainpipe that is not part of a combined sewer system?			<input type="checkbox"/> YES <input type="checkbox"/> NO
If spill reached a separate drainpipe, was all of the wastewater fully captured from the separate storm drain and returned to the sanitary sewer system?			<input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A
DESTINATION COMMENTS			
		Use separate paper if more room needed	

**\* Photo Documentation of the Drainage Channel (or final receiving body) required in all SSO instances.**

## SPILL CATEGORY / NOTIFICATION

SSO CATEGORIES*	
1. Was the spill $\geq$ 1,000 gallons?	<input type="checkbox"/> YES <input type="checkbox"/> NO
1.a. If 'YES', was CAL OES notified within two hours?	<input type="checkbox"/> YES <input type="checkbox"/> NO
2. Was there a discharge to a drainage channel and/or surface water?	<input type="checkbox"/> YES <input type="checkbox"/> NO
3. Was there a discharge to a storm drain pipe that was "NOT" fully captured & returned to the SS system?	<input type="checkbox"/> YES <input type="checkbox"/> NO
<b>If answer is YES to any of the questions above, the SSO is a Category 1*</b>	

\*See SSO Response Plan for all categories and reporting requirements Standard Operating Procedures.

CAL OES: 1-800-852-7550      RWQCB: (510) 622-2300      SMCO Environmental Health: (650)363-4305



## SPILL VOLUME\*

SPILL VOLUME*	
a) Estimated spill volume that reached a separate storm drain that flows to a surface water body?	gallons
b) Estimated spill volume recovered from the separate storm drain that flows to a surface water body? (Do not use water used for clean-up)	gallons
c) Estimated spill volume that directly reached a drainage channel that flows to a surface water body?	gallons
d) Estimated spill volume recovered from a drainage channel that flows to a surface water body?	gallons
e) Estimated spill volume discharged directly to a surface water body?	gallons
f) Estimated spill volume recovered from surface water body?	gallons
g) Estimated spill volume discharged to land? (Includes discharges directly to land, and discharges to a storm drain system or drainage channel that flows to a storm water infiltration/retention structure, field, building, or other non-surface water location.)	gallons
h) Estimated spill volume recovered from the discharge to land? (Do not include water used for cleanup)	gallons

\*See attached worksheets for spill volume calculations



## CLEANUP OPERATIONS

DESCRIBE CLEANUP OPERATIONS
Use separate paper if more room needed



## SPILL VOLUME ESTIMATION METHODS

The purpose of this worksheet is to capture the data and method(s) used in estimating the volume of an SSO. It is useful to use more than one method, if possible, to validate your estimate.

VOLUME ESTIMATE METHODS *		
CHECK ALL ESTIMATION METHODS USED*		
<input type="checkbox"/> Flow around MH cover	<input type="checkbox"/> Measured Volume Method	<input type="checkbox"/> Duration and Flow Method
<input type="checkbox"/> USD SSO Flow Rate Estimating Tool	<input type="checkbox"/> Daily Per Capita Use	<input type="checkbox"/> Pump Station Meter
<input type="checkbox"/> Flow from vent or pick holes	<input type="checkbox"/> Eyeball Estimate Method	
<input type="checkbox"/> Other – Describe:		

**\*SEE THE SEWER SPILL ESTIMATION GUIDE FOR DETAILED INSTRUCTIONS ON EACH METHOD**

### DURATION AND FLOW RATE METHOD

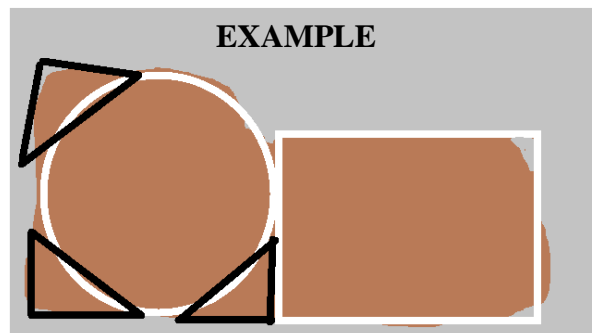
<b>1. Start Date and Time:</b>	
<b>2. End Date and Time:</b>	
<b>3. Total time of overflow (show time in minutes):</b>	
<b>a. Total time + 30 minutes*:</b>	
<b>4. Average flow rate GPM:</b>	
<b>5. Total Volume Estimated (multiply line 3(a) and 4):</b>	

**\* Add 30 minutes to the start time if start of spill is not witnessed or documented with photos**

**MEASURED VOLUME METHOD** (See page 6 of the Sewer Spill Estimation Guide)

If not raining, the shape, dimensions, and depth of the spill may be used to estimate the volume.

Sketch spill with dimensions and depth (in feet) Measure depth in several locations		
1. Multiply (area) x (depth) to get volume:	cu ft.	<b>Rectangle Area</b> (length) x (width)
2. Repeat as needed:	cu ft.	
2. Repeat as needed:	cu ft.	<b>Circle Area</b> (dia) x (dia) x 0.785
2. Repeat as needed:	cu ft.	
3. Add volume from all shapes drawn to get Total Volume:	cu ft.	<b>Triangle Area</b> (base) x (height) x 0.5
4. Multiply (Total volume) x (7.48) to convert to gallons:	gallons	

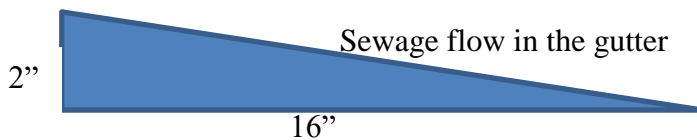


For spill of this shape draw 3 triangles, one circle, and one rectangle.  
Measure depth for each shape in multiple locations and figure average.

**GUTTER FLOW ESTIMATION METHOD** (See page 21 of the Sewer Spill Estimation Guide)

1. Drop a small floating object into the sewage flow and measure how far it floats in one second.	<b>VELOCITY</b>	(ft/sec)
2. Calculate the Area of flow in the gutter line in square inches. <i>Area of a triangle is <math>1/2 \times \text{Base} \times \text{Height}</math> (common flow shape in gutter)</i>	<b>AREA</b>	(in <sup>2</sup> )
3. Multiply: (in <sup>2</sup> ) x .007 to get square feet (ft <sup>2</sup> ) =	<b>AREA</b>	(ft <sup>2</sup> )
4. Multiply: (ft/sec) x (ft <sup>2</sup> ) x 7.48 (gal/min) x 60 (sec/min) =	<b>FLOW</b>	(gal/min)
5. Determine total spill time in minutes*	<b>TIME</b>	(min)
6. Multiply: (gal/min) x (min) =	<b>TOTAL SPILL VOLUME</b>	(gallons)

\* Add 30 minutes to the start time if start of spill is not witnessed or documented with photos

**Gutter Flow Estimation Example**

For this example, let's assume that a piece of bark floated 2ft in one second, when dropped into the sewage flow. Let's assume that the SSO lasted 16 minutes, but nobody witnessed the start, so we must add 30 minutes to bring our time to 46 minutes.

**1 sq inch = .007 sq ft    The area of a triangle is  $(1/2)\text{Base} \times \text{Height}$**

1. That would mean that **Velocity** = 3ft/sec. **Time** = 46 minutes
2. The area of this flow would be  $(1/2) \times 2'' \times 16'' = 16$  sq inches.
3. Convert 16 sq inches to sq ft.  $16 \times .007 = .112$     The **Area** = .112 ft<sup>2</sup>
4. **Flow** =  $2(\text{ft/sec}) \times .112(\text{ft}^2) \times 7.48(\text{gal/min}) \times 60 (\text{sec/min})$
5. **Flow** =  $101(\text{gal/min}) \times 46 \text{ minutes} = 4,646$  gallon **Total Spill Volume**

**EYEBALL ESTIMATION METHOD** (See page 5 of the Sewer Spill Estimation Guide)

Imagine amount of water that would spill from a bucket or barrel. This method useful up to 100 gallons.

**This method should be used as a last resort if the other estimation methods aren't available.**

Size of bucket(s) or barrel(s)	How many?	Mutliplier	Estimated Volume
1 gallon water jug		x1	gallons
5 gallon bucket		x5	gallons
32 gallon trash can		x32	gallons
55 gallon drum		x55	gallons
<b>Total Volume Estimated Using Eyeball Method</b>			gallons

G.



**File Attachments for Item:**

H. Acknowledge the School District Study Report and Receive a School District Study Update



## **CITY COUNCIL AGENDA REPORT**

**Meeting Date:** 10/1/2020

**From:** Stuart Schillinger, Deputy City Manager

**Subject:** School District Study Update

### **Community Goal/Result**

Community Building

#### **Purpose**

Develop an understanding of how development on the Baylands will affect primary and secondary education for future Brisbane residents.

#### **Recommendation**

Acknowledge the School District Study Report.

#### **Background**

The Baylands is part of two school districts (Jefferson Union High School and Bayshore Elementary). In 2018 City Council directed staff to provide information on the impact of Baylands on all existing School Districts within Brisbane (Bayshore and Brisbane Elementary School Districts and Jefferson Union High School District).

At the City Council meeting on February 21, 2019 the City Council received a presentation from Capitol PFG and Ochoa and Moore Law firm concerning the financial and legal implications of the impact of development on the Baylands on the existing school districts. The financial presentation informed City Council that additional study would need to be done once a Specific Plan was completed to determine projected revenues, student enrollment, and student loading. The legal analysis laid out the method for a number of different scenarios for school district reorganizations and potential different alignments.

On July 18, 2019 City Council approved a study to evaluate the potential of a K-12 Charter School. Capitol PFG and Terri Ryland conducted that study. Staff met with the Superintendents of Bayshore and Brisbane Elementary School Districts to review the report. The Superintendents reviewed and made comments, which were incorporated into the final report. The report was also sent to the Jefferson Union High School District; however, staff did not receive feedback from them.

#### **Discussion**

The report expands on what was presented at the February 21, 2019 meeting. It shows the costs of various school options plus some makes projections on the revenues the three districts will receive in the short and long-term from the development in the Baylands. The report also shows potential costs of running a charter high school and its impact on the various districts.

Taxes, which go to the school districts from the Baylands, go to Bayshore Elementary School and Jefferson Union High School Districts since the Baylands is wholly in both of those districts.

### **Fiscal Impact**

There is not financial impact to the City of Brisbane since school districts are outside of the services provided by the City. However, if a Development Agreement is negotiated with UPC an aspect of it could be concerning the placement and funding of schools on the Baylands if the City Council wishes.

Stuart Schillinger

Stuart Schillinger, Deputy City Manager

Clay L. Holstine

Clay Holstine, City Manager

**City of Brisbane**  
**Educational Opportunities in the Baylands Development Project**  
**September 21, 2020**

**Overview of Analysis**

The Baylands development project has presented the City of Brisbane with a unique opportunity to address the educational needs of students in the community through the potential construction of new school and community facilities in the project area. Since the development project is early in the planning phase, the educational vision can be incorporated into the plan from the beginning and the City can use its leverage in the development process to implement the educational vision. The City's strong interest in providing for school facilities in a new development project is somewhat unique and can be a true advantage to the school districts and, ultimately students, that benefit from this endeavor.

The team of Capitol PFG and Ryland School Business Consulting have analyzed:

- Estimated students that the schools can expect from the Baylands project
- School capacity need created by the development project
- School facilities that can be constructed in the project area
- Potential student demand for schools in the Baylands project from the existing Brisbane community as well as the potential for additional students from other nearby development projects
- Estimated cost and requirements for school facilities in the project area
- Operational funding projections for the school district

A summary of the analysis and findings is provided in this report.

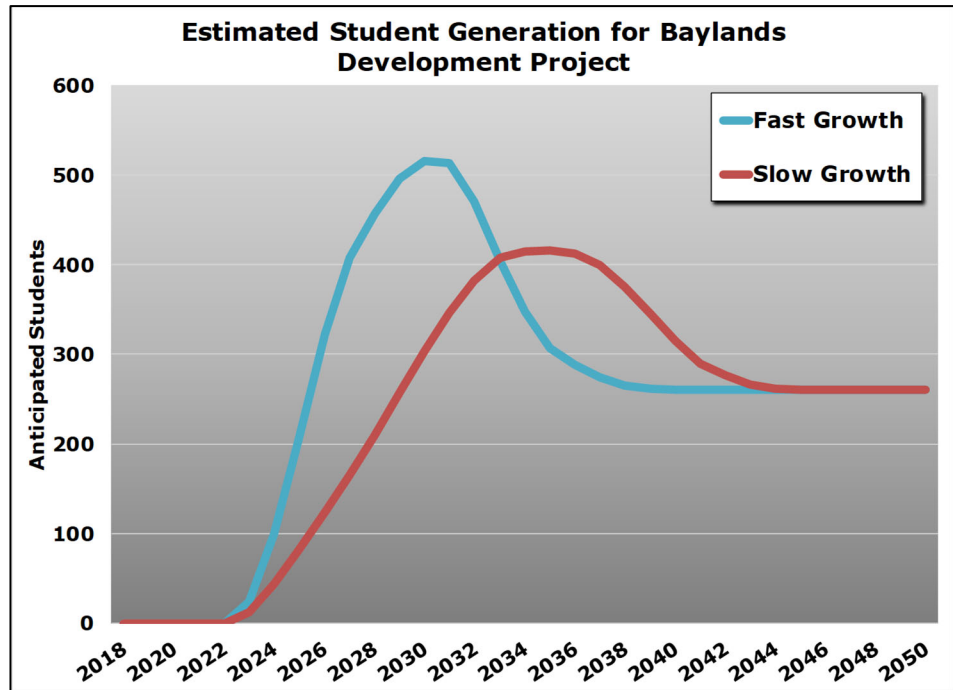
**Estimated Students from the Baylands Project**

Currently, the Baylands developers are estimating that a total of 2,200 housing units will be constructed in the project, with an estimated mix of 1,000 apartments and 1,200 townhomes. It is estimated that 40% of the apartments will have 2 or more bedrooms and the townhomes will be 2 to 3 bedrooms, mostly 3 bedrooms.

The school districts have been provided with this information and are working on a demographic analysis to estimate the impact of this development on their schools. Ultimately, the City can utilize the data contained in the analysis completed by the school districts, which will be customized to their specific situation and policies, but an estimate of the students can be completed based on existing research and data. Recently, San Francisco Unified School District completed a student generation rate analysis to estimate the number of students to expect from the Treasure/Yerba Buena Islands, Hunters Point Shipyard and Candlestick Point development projects. With similar demographics and anticipated type of development, these generation rates can be applied to the Baylands project.

The overall student generation rate is simply a snapshot figure. In reality, actual student attendance at from new development typically comes in “waves” over the course of development build-out. It is often the case that development does not reach its peak generation until several years into the absorption of the development project. Then, there is a peak in the number of students, which then averages out over time, as demonstrated in the chart provided.

At peak, between 400 and 525 students are expected from the Baylands project area, based on attendance patterns in similar school districts.



Approximately, 300 to 400 of these students are anticipated in Kindergarten through 8<sup>th</sup> grades. However, an attractive school facility and program can potentially draw additional student demand as a large percentage of local students attend private schools.

The estimated 300 to 400 Kindergarten through 8<sup>th</sup> grade students will likely exceed the capacity at the Bayshore School, which currently operates with approximately 400 students. At the high school level, Jefferson Union High School District has available capacity to accommodate all anticipated students from new development at its existing school sites. However, it is apparent that there is a community interest for a high school in Brisbane.

### **New Schools in the Baylands Project**

#### *Elementary School*

The number of residential units planned in the Baylands project will pose a student housing challenge for the Bayshore School District. A new elementary school will likely be needed. The Bayshore School District recently reconstructed an elementary school of approximately 47,000 square feet, designed to accommodate 568 students. The design of the campus was based on 21<sup>st</sup> century learning concepts and includes shared “hub” areas for



interactive learning and socialization, a learning resource lab that functions as a lounge area and stage as well as a student library. Each of the classrooms are interactive with touch sensitive projection devices, movable furnishings, wireless technology and a combination of tackable and writable surfaces.

Based on information provided by the Bayshore SD, it is estimated that the school has a capacity for 568 students. It can be assumed that a similar size campus could adequately serve the anticipated students from the Baylands development area.

The Bayshore School had a construction cost of \$28 million, when soft costs such as planning, design, engineering, approvals and furniture are added in, as well as inflation, an estimated all-in cost of \$38 million can be expected for a similar campus in Baylands. This cost estimate would need to be augmented with any land acquisition and site development costs. With the cost of land in the Bay area, this additional amount could be significant.

The California Department of Education (CDE) sets standards, based on grade levels and school components, for the amount of usable acres needed for any site. That said, it is always possible for CDE to approve larger or smaller sites depending on the particular circumstances of a district and how that district is planning to deliver required curriculum in the various learning spaces. The existing Bayshore site is on a very small site. Typically, 8-10 acres would be needed for an elementary school of 47,000 square feet with play fields and hardcourt area.

In summary, a **new elementary school** in the Baylands project area could have the following specifications:

- 47,000 square feet of building space
  - Classrooms for 500+ students
  - Support facilities including gymnasium, learning center, labs, administrative offices and multi-purpose areas
- Play fields, hard courts, outdoor learning spaces
- Parking and drop-off areas
- Estimated construction cost, including soft costs: \$38,000,000 + land and site development costs
- 8-10 acres of land

### *High School*

A new high school in the Baylands area with a focus on biotechnology supplemented with facilities for visual and performing arts could be draw for regional students and the community. The high school can be constructed in phases, with the first phase designed to accommodate 500-600 students, with a potential for two additional expansions, with the first incremental expansion taking the student capacity to 800-900 students and the second incremental expansion taking the student capacity to 1,100-1,200 students. The expansions can occur over time based on student demand and interest in the school from students outside the area. It is expected that the combination of existing Brisbane and Bayshore residents and planned future residents from the Baylands project will fill the first phase of the project.



Student demand from other areas and nearby future development projects could drive the school expansions.



A school with a focus on biotechnology needs to contain the learning lab spaces and technology to support this curriculum. The school can contain a specific building constructed with this curriculum in mind. In any comprehensive high school, in addition to classroom space, support facilities must be provided, including administrative spaces, a gymnasium and locker rooms, multi-purpose room with kitchen and cafeteria, library and learning center and field space. To further attract students and provide a

community amenity, the high school can also be designed with a visual and performing arts center as well as a multi-use community room that can serve as a lab/learning center as well as an after-hours community event space.

Applying the phased concept, the initial phase of construction is estimated to include approximately 90,000 square feet of building space and can include classrooms designed to

accommodate up to 600 students, with necessary support facilities, a gymnasium, multi-purpose room, visual and performing arts center and sports fields. The site work can be completed in the initial phase to serve the entire potential build-out of the campus. The second phase of construction is estimated to include approximately 11,000



square feet of building space and could include an additional classroom building and a multi-use community room. The final phase of construction is estimated to include approximately 9,000 square feet of building space and could include an additional classroom building.

Cost estimates have been compiled based on similar construction of the components of the high school set forth above. Phase one has an estimated cost, including both construction and soft costs of \$85,000,000, phase two has an estimated cost of \$6,000,000 and phase three has an estimated cost of \$5,000,000. There would be additional costs for land acquisition and possibly site development depending on the status of the site selected.

Again, CDE sets standards, based on grade levels and school components, for the amount of usable acres needed for any site. Based on the anticipated full build-out of the high school

campus, approximately 35 usable acres of land would be needed to accommodate the high school.

If Jefferson Union High School District does not have an interest in constructing a high school in the Baylands project area, a charter school model could be used to deliver the high school facility with the Bayshore Elementary District or merged Bayshore/Brisbane Elementary School District issuing the charter. If that is the case, however, the charter school would need to contain the grade levels served by the Bayshore Elementary District. To meet this requirement, the high school could be constructed as a 6-12 grade campus. This would not likely alter the construction plan for the high school. It is recommended, however, that even if a charter model is used, the school is constructed based on State standards for public schools so that in the future, if there is a unification or other reorganization, the school could be utilized as a public, non-charter high school.

In summary, a **new high school** in the Baylands project area could have the following specifications:

- Phase 1 (90,000 square feet of building space)
  - Classrooms for up to 600 students
  - Biotechnology Lab Building
  - Visual and Performing Arts Center
  - Gymnasium and Locker Rooms
  - Multi-Purpose Room with Kitchen and Cafeteria
  - Library and Learning Center
  - Administrative Offices
  - Baseball, softball and soccer fields
  - Hardcourt areas
  - Parking and drop-off areas
  - Site work for full school build-out
- Phase 2 (11,000 square feet of building space)
  - Classrooms for up to 300 students
  - Multi-use community room
- Phase 3 (9,000 square feet of building space)
  - Classrooms for up to 300 students
- Estimated construction cost, including soft costs:
  - Phase 1: \$85,000,000 + land and site development costs
  - Phase 2: \$6,000,000
  - Phase 3: \$5,000,000
- 35 acres of land



### **Funding New School Facilities**

<b>Anticipated School Facilities Cost (in 2019 Dollars)</b>	
New Elementary School	\$38,000,000 + Land and Site Development
New High School – Phase 1	\$85,000,000 + Land and Site Development
New High School – Phase 2	\$6,000,000
New High School – Phase 3	\$5,000,000
<b>Total School Facilities Cost (in 2019 \$)</b>	<b>\$134,000,000 + Land and Site Development</b>

New school facilities that are required as a result of new development are typically funded from a combination of funding sources, primarily development mitigation funds and State School Facility Program (SFP) grants.

The SFP is in a state of limbo at the moment as the current program will be supplemented with new rules and regulations with a successful future state school bond measure, which is currently anticipated in March 2020. However, based on current funding assumptions, at the elementary level approximately \$8-\$10 million can be expected for base state grants, plus reimbursement of 50% of the appraised value of any land acquired. Therefore, of the estimated \$38 million in elementary school construction costs, approximately \$28-\$30 million would need to be funded through development.

At the high school level, with available school capacity at its existing school sites, Jefferson Union HSD would not likely have any eligibility for SFP grants from the State. However, if the school is constructed as a charter school, there may be some access to charter school facility funding estimated at \$10 million based on the parameters of the current State program, plus some reimbursement for land acquisition costs.

New development is required to pay impact fees to schools in an amount currently set at \$3.79 per square foot of residential construction and \$0.61 per square foot of commercial/industrial construction. These fees are increased by the State bi-annually in even numbered years, with the next increase expected in January 2020. Based on the anticipated development plan for the Baylands project, approximately \$16 million of developer fees would be generated from the project, in today's dollars.

When adding together the anticipated funding identified for school facilities to be generated from the development project area and the State, there is a funding shortfall of \$98-\$100 million plus land and site development costs that aren't funded by the State.

School districts throughout the State have faced challenges in securing funding from new development for school facilities beyond what is statutorily required. In the absence of such funding, many school districts have had to seek local bond funding measures or utilize their general operating funds to pay for the unfunded portion of new school construction costs. It is a significant benefit to the local schools for the City to use its leverage and influence over the developer of the Baylands project in order to receive enhanced funding for schools in the

project. The identified approximately \$100 million shortfall can be addressed with the assistance from the City as part of its development agreement.

#### *Alternative Mitigation Measures*

The City could consider forming a Community Facilities District (CFD) to fund school facilities needs. The formula for this CFD could be customized based on goals and policies set forth by the City and an allocation balanced between residential and non-residential development. To the extent there is an interest in this funding mechanism, an analysis can be conducted that evaluates the overall infrastructure and capital funding need of the City for the project as a whole in conjunction with the estimated funded needed for schools.

#### *Potential for Students from Other Local Development Projects*

In addition to the Baylands project, there are other local development projects that could have an impact on local school facilities. Within the Bayshore School District, there is the potential development of the Cow Palace site that could generate an additional 400+ students at the elementary level plus 150+ high school students. Although this development project would require its own mitigation measures at the elementary grade levels in order to accommodate the future student population in that area, at the high school level, many of these students may have an interest in attending a new high school constructed in the Baylands project. Furthermore, the portion of the Baylands project constructed within the San Francisco Unified School District could also result in high school students with an interest in attending a new high school in the Baylands. The benefit of the phased approach to a Baylands high school is that the school can grow based on demand from these potential areas of new development as well as existing residential areas.

### **Funding Analysis**

Scenario A, Fast Growth, No Charter School:

	2023-24	2024-25	2025-26	2026-27	2027-28	2028-29
<b>Jefferson</b>						
Enrollment	4,202	4,225	4,258	4,293	4,320	4,335
Change in Enrollment	7	23	33	36	26	15
Property Taxes, Net of In Lieu Transfer	\$50,760,361	\$53,325,433	\$56,297,894	\$59,194,248	\$61,588,642	\$64,253,080
Change in Property Taxes	\$2,144,183	\$2,565,071	\$2,972,461	\$2,896,354	\$2,394,394	\$2,664,438
Funding per Student	\$12,928	\$13,466	\$14,061	\$14,620	\$15,087	\$15,650
	4%	4%	4%	4%	3%	4%
<b>Bayshore</b>						
Enrollment	430	482	556	636	695	729
Change in Enrollment	17	52	74	80	59	34
Property Taxes, Net of In Lieu Transfer	\$4,157,076	\$5,476,795	\$7,179,813	\$8,778,028	\$9,841,563	\$11,149,598
Change in Property Taxes	\$939,076	\$1,319,718	\$1,703,019	\$1,598,214	\$1,063,536	\$1,308,035
Funding per Student	\$10,557	\$11,539	\$13,064	\$13,927	\$14,266	\$15,401
	3%	9%	13%	7%	2%	8%
<b>Brisbane</b>						
Enrollment	586	586	586	586	586	586
Change in Enrollment	28	0	0	0	0	0
Property Taxes	\$7,506,017	\$7,843,000	\$8,180,000	\$8,517,000	\$8,854,000	\$9,191,000
Change in Property Taxes	\$336,745	\$336,983	\$337,000	\$337,000	\$337,000	\$337,000
Funding per Student	\$13,311	\$13,886	\$14,461	\$15,036	\$15,611	\$16,186
	0%	4%	4%	4%	4%	4%

In the fast growth scenario, Bayshore grows by almost 300 students from 2023 to 2029. Property taxes increase more rapidly than students, however, so the district becomes basic aid and funding per student grows from \$10,557 to \$15,400 over the six years. Jefferson UHSD grows by just over 130 students and per-student funding continues to grow 3-4% annually.

Scenario B, Slow Growth, No Charter School:

	2023-24	2024-25	2025-26	2026-27	2027-28	2028-29
<b>Jefferson</b>						
Enrollment	4,198	4,208	4,219	4,232	4,245	4,259
Change in Enrollment	4	10	12	13	13	14
Property Taxes, Net of In Lieu Transfer	\$50,417,512	\$52,451,168	\$54,729,360	\$57,264,775	\$59,916,565	\$61,972,105
Change in Property Taxes	\$1,801,334	\$2,033,656	\$2,278,192	\$2,535,414	\$2,651,790	\$2,055,540
Funding per Student	\$12,858	\$13,312	\$13,816	\$14,373	\$14,955	\$15,390
	3%	4%	4%	4%	4%	3%
<b>Bayshore</b>						
Enrollment	421	443	469	498	527	558
Change in Enrollment	8	22	26	29	29	31
Property Taxes	\$3,811,038	\$4,594,397	\$5,596,689	\$6,830,606	\$8,153,933	\$8,847,405
Change in Property Taxes	\$593,038	\$783,359	\$1,002,291	\$1,233,917	\$1,323,326	\$693,473
Funding per Student	\$10,558	\$10,869	\$12,096	\$13,866	\$15,611	\$15,996
	3%	3%	11%	15%	13%	2%
<b>Brisbane</b>						
Enrollment	586	586	586	586	586	586
Change in Enrollment	28	0	0	0	0	0
Property Taxes	\$7,506,017	\$7,843,000	\$8,180,000	\$8,517,000	\$8,854,000	\$9,191,000
Change in Property Taxes	\$336,745	\$336,983	\$337,000	\$337,000	\$337,000	\$337,000
Funding per Student	\$13,311	\$13,886	\$14,461	\$15,036	\$15,611	\$16,186
	0%	4%	4%	4%	4%	4%

In the slow growth scenario, Bayshore only grows by 137 grade K-8 students over the same six-year period and Jefferson grows 66. Property taxes grow faster than traditional state funding which is enough to move Bayshore into community funded or basic aid status. For Jefferson HSD, the growth in property taxes exceeds the growth in students, and per-student funding increases from \$12,850 to \$15,400 by 2029.

The slow growth scenario only generates an additional 66 grades 6-12 students by 2026, not producing enough students to operate a charter school. The current district configurations could absorb the students easily, especially given the additional property tax dollars generated. However, as the governing land use agency, the City has some influence over the pace of development and can make policy decisions that promote the desired development absorption. It is anticipated that the City will target a growth scenario that results in the optimal level of property tax funding, which will likely see accelerated property tax growth from a combination of residential and commercial development projects. Therefore, the fast growth scenario may be more likely than the slow growth scenario.

### **Adding a Charter School to the Mix**

The fast growth Scenario A, reflecting a charter school opening in 2026, is projected below:

	2023-24	2024-25	2025-26	2026-27	2027-28	2028-29
<b>Jefferson</b>						
Enrollment	4,202	4,225	4,258	4,194	4,194	4,194
Change in Enrollment	7	23	33	(63)	0	0
Property Taxes, Net of In Lieu Transfer (A)	\$50,760,361	\$53,325,433	\$56,297,894	\$56,686,881	\$58,302,074	\$60,478,529
Change in Property Taxes	\$2,144,183	\$2,565,071	\$2,972,461	\$388,987	\$1,615,194	\$2,176,455
Funding per Student	\$12,928	\$13,466	\$14,061	\$14,364	\$14,749	\$15,268
	4%	4%	4%	2%	3%	4%
<b>Bayshore</b>						
Enrollment	430	482	556	562	601	624
Change in Enrollment	17	52	74	6	40	22
Property Taxes, Net of In Lieu Transfer (A)	\$4,157,076	\$5,476,795	\$7,179,813	\$7,001,155	\$7,406,926	\$8,345,043
Change in Property Taxes	\$939,076	\$1,319,718	\$1,703,019	(\$178,659)	\$405,771	\$938,117
Funding per Student	\$10,552	\$12,585	\$13,971	\$16,587	\$13,289	\$13,579
	3%	19%	11%	19%	-20%	2%
<b>Brisbane</b>						
Enrollment	586	586	586	586	586	586
Change in Enrollment	28	0	0	0	0	0
Property Taxes	\$7,506,017	\$7,843,000	\$8,180,000	\$8,517,000	\$8,854,000	\$9,191,000
Change in Property Taxes	\$336,745	\$336,983	\$337,000	\$337,000	\$337,000	\$337,000
Funding per Student	\$13,311	\$13,886	\$14,461	\$15,036	\$15,611	\$16,186
	0%	4%	4%	4%	4%	4%
<b>Combined Elementary District</b>						
Enrollment	1,016	1,068	1,142	1,148	1,187	1,210
Change in Enrollment		52	74	6	40	22
Property Taxes	\$11,663,093	\$13,319,795	\$15,359,813	\$15,518,155	\$16,260,926	\$17,536,043
Change in Property Taxes		\$1,656,701	\$2,040,019	\$158,341	\$742,771	\$1,275,117
Funding per Student	\$11,684	\$12,677	\$13,654	\$13,721	\$13,896	\$14,696
		9%	8%	0%	1%	6%
<b>New 6-12 Charter</b>						
Enrollment (B)				346	446	491
Change in Enrollment				346	100	45
LCFF Funding				\$4,262,924	\$5,652,431	\$6,417,171
Change in Funding				\$4,262,924	\$1,389,507	\$764,740
Funding per Student				\$12,321	\$12,674	\$13,070
					3%	3%
(A) Property Tax In Lieu Transfer due to charter school for all students in charter. Assuming number of students equals two times the students attributable to Baylands for charter enrollment and transfer of In Lieu Property Taxes						
(B) Assumed enrollment at charter school equals two times number of students generated by grade from Baylands. i.e. students from other districts and private schools will comprise half of charter enrollment. First years, charter only has 7-12 grade students.						

In this fast growth scenario, it is assumed that the property tax increases and student enrollment increases discussed above are reflected in the Jefferson UHSD and Bayshore ESD funding calculations only. Based on underlying Tax Rate Areas, property taxes are split about 50/50 between the high school district and Bayshore. Through 2025-26, the property taxes accrue to the districts at a faster clip than the student growth, increasing per-student funding in both districts. However, when the Charter School is presumed to open in 2026, not only do we assume the relatively new Baylands students (grades 6-12) move to the charter school, so do the underlying property taxes required to fund the charter school and offset State Aid. Due to the demographics of the region, and the anticipated demand for the charter school, we also assume that the charter school will attract double the number of new Baylands students to the charter school – the new students from Jefferson and Bayshore, plus an

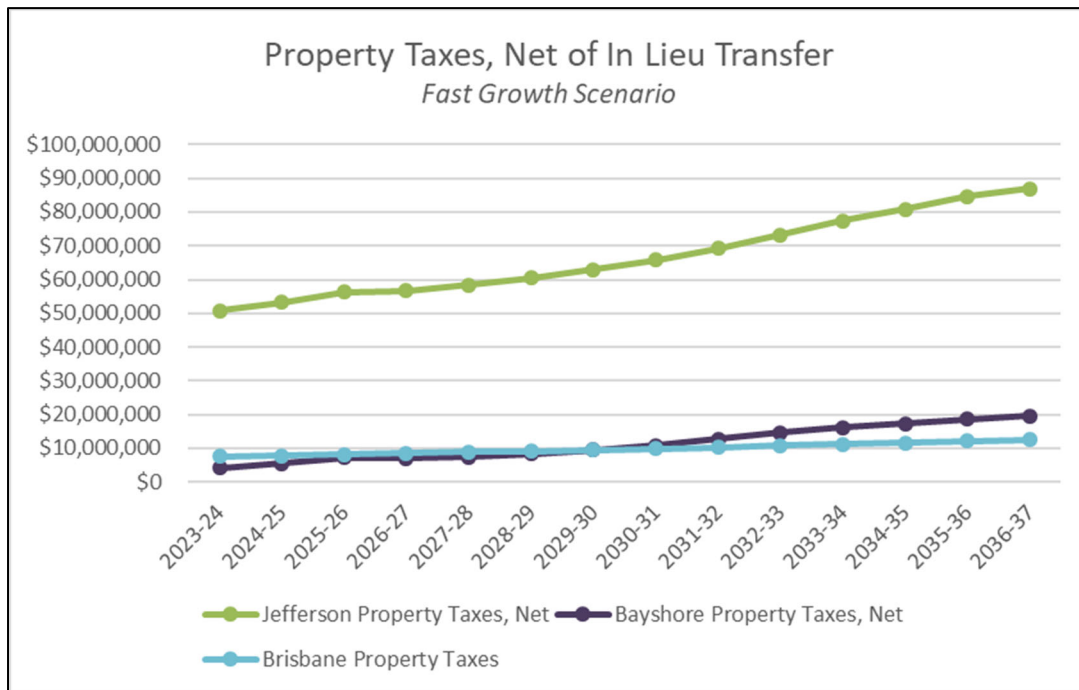
assumed equal amount from existing students in these districts, private schools and other districts.

Districts that authorize charter schools are required to make “in lieu property tax” transfers to a charter school for any students attending the charter school, up to the base LCFF funding amount for the charter students.

- In a state funded district, a per-student property tax amount is calculated for the district, and that amount per-student is transferred to the charter school with the state backfilling the remaining LCFF funding entitlement.
- In the case of a community funded or basic aid district, only the per-student amount up to the LCFF per-student funded amount is transferred. While Bayshore ESD is currently not a community funded district, the growth in property taxes from Baylands is anticipated to create a community funded, or basic aid, funding situation so the transfer of property taxes to the charter school will drop the net property tax increase for the district.

One funding stipulation for the authorizing district is that they can get reimbursed from other basic aid districts for the taxes transferred to the charter school for students from that basic aid district. In this case, if it is assumed that 99 JUHSD students plus another 99 non-Baylands, grade 9-12 high school students attend the charter school in 2026, JUHSD would need to cover the transfer of property taxes on behalf of those 198 grade 9-12 students, even though they did not authorize the charter school. Even after these relatively few students leave the district for the charter school, the remaining net property taxes result in increased per-student funding over current levels.

The projected net property taxes per district and per-student funding at each district, assuming the charter school opens in 2026, are displayed below:

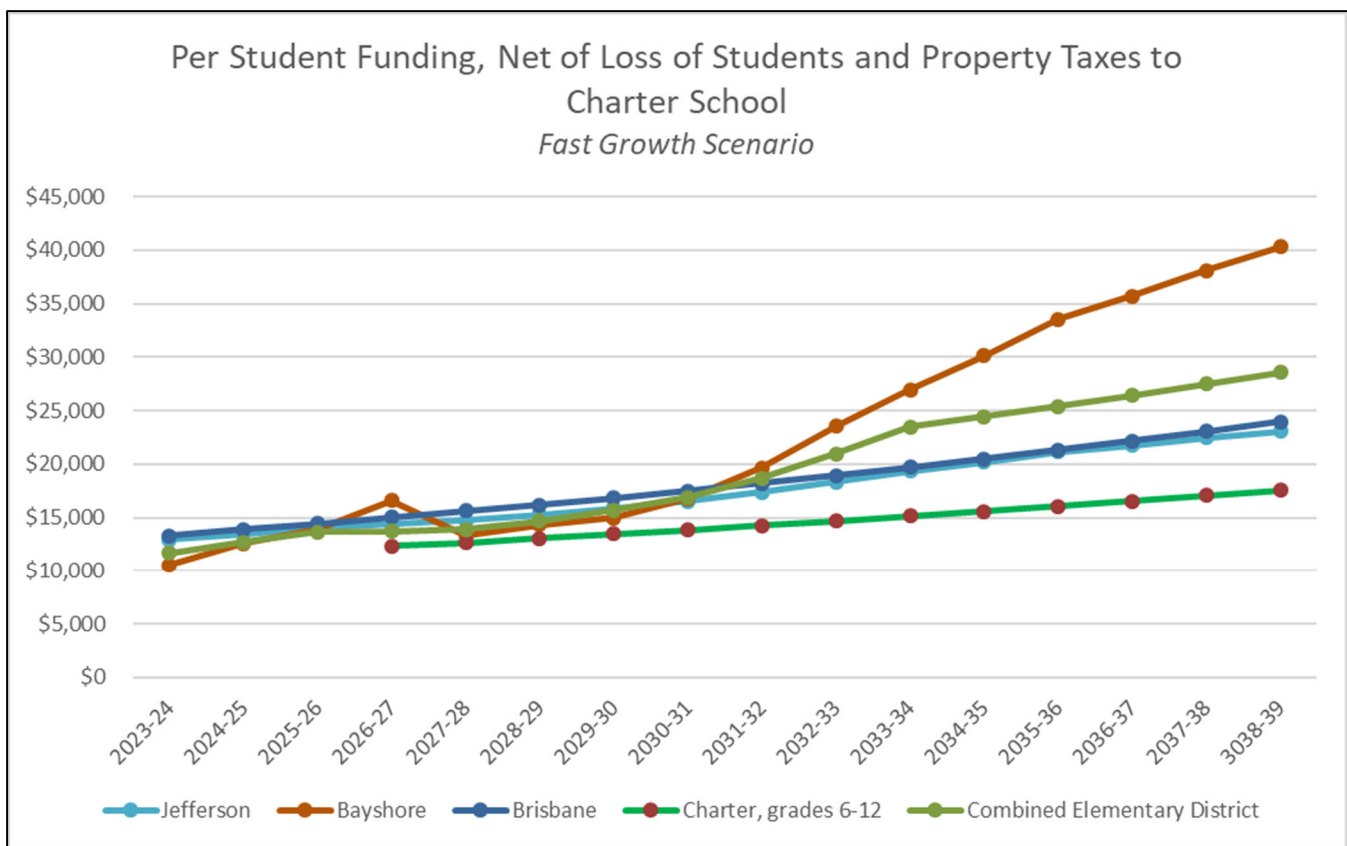


Brisbane property taxes are projected to increase due to normal and statutory property tax values – no new Baylands taxes are attributed to the Brisbane district. Brisbane ESD property taxes are estimated to increase 75%, or \$5.5 million, by 2037.

The elementary portion of Baylands' property tax increase will all accrue to the benefit of Bayshore ESD. Total projected taxes increase between 2023 and 2037 fourfold from \$5million to \$20 million.

Jefferson property taxes increase primarily due to the normal and statutory property tax values of existing land within the district. Property taxes are projected to increase 77%, or \$39 million; however, only \$19 million is due to Baylands development.

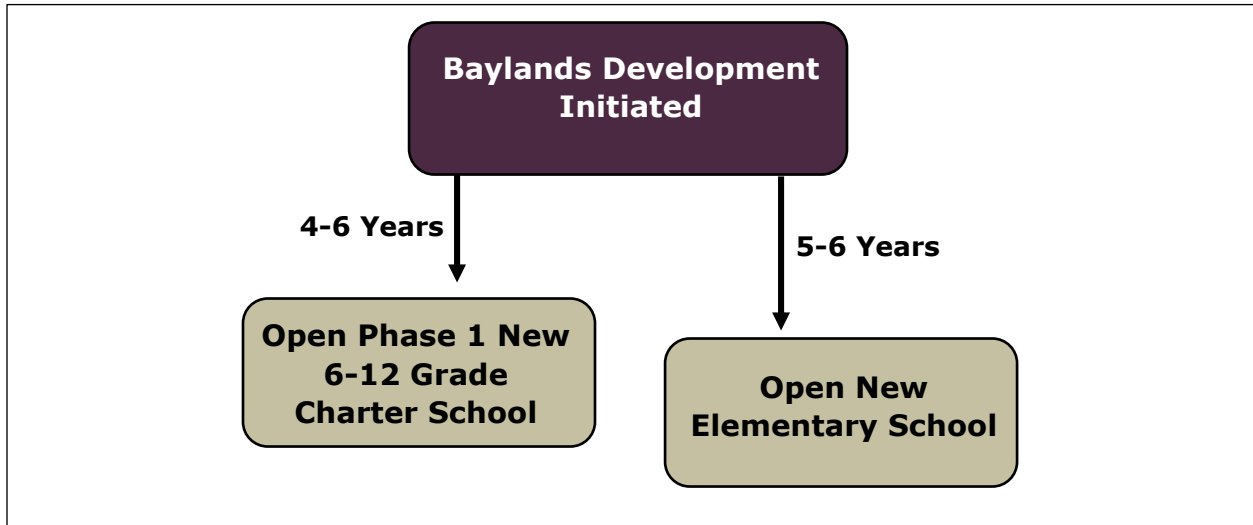
For illustrative purposes, we created a combined elementary district comprised of Bayshore and Brisbane districts, and assumed the same fast growth in property taxes and students, plus opening a charter in 2026.



Per the projections for fast growth of development and students, the eventual per-student funding for the Bayshore school district exceeds the two other districts and the charter school (which is not property tax dependent.) The percent of property taxes from Baylands going to Jefferson is not as material as it is for Bayshore. Once the new Baylands students are removed from the districts and counted at the charter school, the per-student funding at Bayshore grows much faster than any of the other schools. In approximately 10 to 12 years, under the fast growth and charter school scenario, the per-student funding for Bayshore will likely exceed the per-student funding for Brisbane ESD.

**Timing for Implementation**

Conceptually, the timing of new school construction needs to be balanced with the ability to financially support operations of the new facility. If development progresses fairly quickly, a new 6-12<sup>th</sup> grade school could be constructed to serve up to 600 students by 2026, with a similar timeframe for the construction of a new elementary school.



**File Attachments for Item:**

I. Consider Introduction of Ordinance No. 653 amending Title 17 of the Brisbane Municipal Code to Regulate Accessory Dwelling Units and Junior Accessory Dwelling Units and Amending Title 15 of the Brisbane Municipal Code to Regulate Alterations and Additions to Existing Structures

(Due to technological issues, the public hearing on this item was not opened at the City Council's meeting of September 17, 2020 and was continued to the City Council meeting of October 1, 2020)





## CITY COUNCIL AGENDA REPORT

**Meeting Date:** October 1, 2020

**From:** John Swiecki, Community Development Director

**Subject:** Proposed Ordinance No. 653 (Zoning Text Amendment RZ-1-20); Municipal Code amendments to update existing accessory dwelling unit regulations

### Community Goal/Result

Community Building

### Purpose

To amend the Brisbane Municipal Code (BMC) to update existing Accessory Dwelling Unit (ADU) regulations in Title 17 and Title 15 to comply with State law.

### Recommendation

That the City Council introduce Ordinance No. 653.

### Background

In the past five years, the State Legislature has adopted a number of bills to incentivize the construction of ADUs as a key component of legislative packages related to the statewide housing crisis. In 2019, the California State Legislature passed another round of ADU streamlining legislation that became effective January 1, 2020. The City's ADU regulations must be updated to comply with current State law. (See Attachment 3.C, 3.D, and 3.E for a detailed explanation of the new State law.)

On May 14, 2020, the Planning Commission adopted Resolution RZ-1-20 recommending approval of a suite of zoning amendments to achieve consistency with the new State regulations throughout Title 17. These amendments are reflected in the attached draft Ordinance 653 (Attachment 2). (Note: RZ-1-20 also contained zoning amendments pertaining to the FAR exemption for garages on small lots, which will be presented separately to the Council as Ordinance No. 657.) The Planning Commission's adopted resolution, agenda report, and draft meeting minutes are attached for reference and include a detailed description of the proposed zoning amendments, which are summarized below.

### Discussion

#### Zoning Amendments

The attached May 14, 2020 Planning Commission agenda report provides a detailed review of the proposed zoning text amendments (see Attachment 3), while a summary is provided below.

The draft Ordinance would amend the ADU development regulations in BMC Chapter 17.43 to permit ADUs to be constructed in more zones than previously allowed, allow ADUs in multiple-

family dwellings, and exempt unrestricted ADUs (ADUs less than 800 square feet in floor area) from some development regulations, including lot coverage and floor area ratio maximums.

Because Chapter 17.43 must be revised to comply with new State legislation, a number of other related BMC sections must be amended to maintain consistency within the zoning ordinance. Such updates include:

- Amending the development regulations of any zoning district that permits residential uses to allow ADUs and Junior Accessory Dwelling Units (JADUs) in any single-family dwelling;
- Amending the off-street parking requirements to require one off-street parking space in the R-BA and PD Zoning Districts when the ADU is more than ½ mile from transit;
- Amending existing setback exceptions to allow unrestricted ADUs to encroach within the side and rear setbacks as mandated by State law; and
- Amending BMC Chapter 17.38, Nonconforming Uses and Structures, to allow limited ADU development on sites with nonconforming uses or structures.

#### Title 15 Amendments

The draft Ordinance also contains recommended amendments to Title 15 to extract Section 15.08.140 and replace it with Chapter 15.10. (See Attachment 1.) Section 15.08.140 addresses required infrastructure and building modifications required for projects that involve alteration or additions that exceed 50% of the existing gross floor area on the property. The content and regulations of Section 15.08.140 would largely carry over unchanged into the new chapter 15.10, with the modification that unrestricted ADUs are excluded from the calculation of the area of additions or alterations for any given project.

#### **Fiscal Impact**

None.

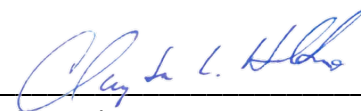
#### **Measure of Success**

Adoption of zoning regulations that bring the City's ordinance into compliance with current State law.

#### **Attachments**

1. Redline Copy of proposed Zoning Text Amendments
2. Draft Ordinance No. 653
3. May 14, 2020 Planning Commission Resolution RZ-1-20 (excerpt), Agenda Report, and Minutes

  
John Swiecki, Community Development Director

  
Clay Holstine, City Manager

ATTACHMENT 1

REDLINE COPY OF PROPOSED AMENDMENTS

## Proposed Zoning Text Amendments: RZ-1-20 ADU

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## Proposed Zoning Text Amendments: RZ-1-20 ADU

### 13.04.453 - Disclosure and sewer lateral certificate; when required.

- A. A person must possess or obtain a sewer lateral certificate issued under Section 13.04.452 before the city will issue a final building permit when the person has undertaken work that:
  1. Triggers the requirements of ~~Chapter 15.10 Section 15.08.140~~ of this code; or.
  2. Is associated with a change in water service (e.g., change in meter size or the addition of a meter).
- B. Beginning April 20, 2015, any person intending to sell or transfer a fee interest in real property must disclose the requirements of this section to each of the following, except as provided in subsection C:
  1. The person's real estate broker or agent, if any;
  2. The person to whom the real property is intended to be sold or transferred;
  3. The real estate broker or agent, if any, of the person to whom the real property is intended to be sold or transferred;
  4. The escrow company or holder involved in the real property sale or transfer, if any.
- C. Subsection B does not apply to:
  1. Sales or transfers of individual units within a condominium as defined in Section 17.02.150 of this code;
  2. Sales or transfers of less than a fee interest, e.g., a leasehold;
  3. Sales or transfers to a fiduciary in the course of the administration of a decedent's estate, a guardianship or a conservatorship;
  4. Transfers from one co-owner to one or more other co-owners;
  5. Transfers to a revocable trust if the trust is for the benefit of the grantor(s);
  6. Transfers made by a trustor to an intervivos trust;
  7. Transfers between spouses or between registered domestic partners;
  8. Transfers to a financial institution, trust deed holder, or trustee of a deed of trust, as part of foreclosure or similar process.
- D. The director shall prepare a handout or other written material, to be made available to the public, describing the requirements of this section. A person may satisfy the disclosure requirements of subsection B by providing a then current copy of the handout or other written material to those parties identified in subsection B.

**15.08.130 - Additions, alterations or repairs—Compliance with construction codes.**

Any addition, alteration, or repair to, or change of use of, or occupancy in a building or structure shall comply with the provisions for new buildings and structures set out in the construction codes, except as may otherwise be provided in Chapter 15.10, Sections ~~15.08.140~~15.08.180 through 15.08.210, and in Section 502 of the Uniform Building Code, latest adopted edition.

**15.44.080 - Section 903 amended—Automatic sprinkler systems.**

Section 903 of the fire code is amended in its entirety to read as follows:

**903 Automatic fire extinguishing systems.**

- (a) Notwithstanding any other provisions of this Code or any other code or ordinance of the City of Brisbane, automatic fire sprinkler systems, approved by the Fire Marshal, shall be installed in the following buildings and structures that are classified as new construction:
  - 1. For all occupancies except R-3 occupancies: Any new building or structure, regardless of size, except stand alone, uninhabitable buildings, garages and sheds having a floor area of less than 400 square feet.
  - 2. For all R-3 occupancies: Any new single-family or duplex structure, excluding any detached accessory structure that does not constitute habitable space having a floor area of less than 400 square feet.
- (b) When additions or alterations made to an existing building fall within the requirements under Brisbane Municipal Code Chapter 15.10, Section 15.08.140, an automatic fire sprinkler system shall be provided for the entire building.
- (c) Other Areas. An automatic fire sprinkler system shall be installed in all garbage compartments, rubbish and linen chutes, linen rooms, incinerator compartments, dumb waiter shafts, and storage rooms when located in all occupancies except Group R, Division 3. An accessible indicating shut off valve shall also be installed.
- (d) Condominium Conversions. An automatic fire sprinkler system shall be installed for all condominium conversions.
- (e) Where automatic fire sprinkler systems are required to be installed, the following additional requirements shall also be satisfied, as applicable:
  - 1. A minimum of three (3) copies of plans and specifications for automatic sprinkler installations, plus water supply calculations, shall be provided to the Fire Department for review and approval prior to commencement of the installation work.
  - 2. All required automatic sprinkler systems shall be approved by the Fire Department.
  - 3. All acceptance tests and such periodic tests as required by the Fire Marshall or pursuant to NFPA Pamphlets No. 13, 13D, 13R and/or Subchapter 5, Title 19, California Code of Regulations, shall be conducted and, where applicable, witnessed by a representative of the Fire Department.

An approved exterior visual fire alarm device may be required for buildings that have numerous fire department connections (FDC's). Type and locations will be determined by the Fire Department. Such visual alarm devices are not to replace the exterior audible device, but to assist fire suppression personnel as to location(s) of systems which require pumping operations.



**~~15.08.140—Additions or alterations in excess of fifty percent of floor area.~~**

~~A. When alterations or to a lawfully constructed building or structure made within any five (5) year period exceed fifty percent (50%) of the floor area of the pre-existing building or structure, as determined by the building official, then except as otherwise provided in subsection C of this section, the pre-existing building or structure to be brought into conformity with the such of standards for new construction as that the building official may determine to be necessary or appropriate to eliminate existing health or safety hazards including, but not limited to, defects in structural integrity, defective or inadequate electrical installations, defective or inadequate fire sprinkler, sanitary sewer or storm drainage facilities, and substandard street access to the property.~~

~~B. For the purposes of making the determinations required by subsection A of this Section 15.08.140, the following definitions, rules of interpretation, and procedures shall be applied:~~

- ~~1. For the purposes of this Section 15.08.140, the "floor area" of a building or structure shall mean the sum of the gross horizontal areas of a floors of all building or structure measured from the interior face of the exterior walls, but excluding each of the following:
 
  - ~~a. Any area where the floor to ceiling height is less than six (6) feet; or~~
  - ~~b. Any detached garage or other detached accessory structure which does not constitute habitable space; or~~
  - ~~c. Any attached carport or covered deck.~~~~
- ~~2. The "standards for new construction" shall mean: (a) the requirements of the California Buildings Code adopted by this Title 15; and (b) the storm water management and discharge requirements established by Chapter 13.06 of the Brisbane Municipal Code ; and (c) the standard specifications and street standards adopted by Section 12.24.010 of the Brisbane Municipal Code.~~
- ~~3. Calculation of the changes to the structure are to be determined by the building official, who may require documentation of applicants regarding effected areas and/or impose conditions of approval upon issuance of a building permit. The building official shall have the authority to determine whether combinations of additions or alterations, or combinations thereof are subject to subsection A of this Section 15.08.140 or if they qualify under the exceptions.~~

~~C. Exceptions to subsection A of Section 15.08.140:~~

- ~~1. Additions or alterations performed at different periods of time shall be considered to have been made within a five (5) years period if any building permits are issued or any work is commenced within five (5) years following the date of completion of any earlier work on the same building or structure. The date of completion shall normally be established as the date on which final inspection approval of the earlier work is granted by the city.~~
- ~~2. The area of any additions and/or alterations not exceeding a cumulative total of four hundred (400) square feet, permitted to be made under the provisions of~~

~~Section 17.34.110 of the Brisbane Municipal Code, shall not be subject to the provisions of subsection A of this Section 15.08.140.~~

- ~~3. Work involving exterior surfaces, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck shall not be considered alterations subject to the provisions of this chapter.~~
- ~~4. Alterations, renovations or repairs which do not essentially change the original size, configuration, and habitable floor area of the building or structure or basic uses of the rooms within the building or structure, shall not be considered as additions or alterations subject to the provisions of this; provided, however:~~
  - ~~a. This exception includes conversion of existing room(s) in an existing single-family dwelling to an accessory dwelling unit, as provided by Chapter 17.43 of the Brisbane Municipal Code, as long as the use of those rooms remains the same (e.g. bedroom for bedroom, etc.).~~
  - ~~b. Conversion or recognition of previously undocumented rooms to be permitted as habitable may be included in the calculation of alteration of space, at the discretion of the building official.~~
  - ~~c. This exception may not be applied where the building official has determined that the alteration or repair constitutes a "major rebuild", where seventy-five percent (75%) or more of the combined surface area of the interior walls and ceilings of the habitable rooms are to be removed to expose support members.~~
- ~~B. Where an existing building or structure is required by this Section 15.08.140 to be brought into conformity with the standards for new construction, the building official shall have authority in individual cases to grant modifications of any such requirements, if the building official is able to find and determine that:~~
  - ~~1. Compliance with the requirement will cause practical difficulties or unreasonable hardship; and~~
  - ~~2. The modification does not reduce any requirements for fire protection or any requirements relating to structural support and integrity; and~~
  - ~~3. The modification does not create any new or increased hazard to the health or safety of the occupants of the existing building or structure.~~
- ~~E. This Section 15.08.140 is intended to establish requirements which are in addition to, and not in replacement of, any other ordinance, rule, regulation, or policy of the city which may be applicable to the proposed development project, including any of the codes adopted by this and include also any policy adopted in the Brisbane General Plan.~~

~~Where the requirements of subsection A of this Section 15.08.140 are not applicable because the additions or alterations do not exceed fifty percent (50%) of the floor area of the pre-existing building or structure, the proposed development shall nevertheless comply with the requirements of Section 17.01.060 of the Brisbane Municipal Code unless: (1) the pre-existing building or structure is located upon a lot of record, as such term is defined in Chapter~~

~~17.02 of the Brisbane Municipal Code, and (2) a public street abutting such lot of record provides the principal means of access to that lot.~~

## **Chapter 15.10 - Additions, alterations, and major rebuilds to existing buildings.**

### **15.10.010 - Authority.**

The building official or the building official's designee shall have the authority to enforce the provisions of this Chapter.

### **15.10.020 - Coordination with other Chapters.**

This Chapter is intended to establish requirements which are in addition to, and not in replacement of, any other ordinance, rule, regulation, or policy of the city which may be applicable to the proposed development project, including any of the codes adopted by this Title 15 and the requirements of Section 17.01.060 of this title.

### **15.10.030 - Applicability.**

This Chapter shall apply to additions, alterations, or major rebuilds, as defined in Section 15.10.040 of this Chapter, to a lawfully constructed building completed within any five (5) year period. The date of completion shall normally be established as the date on which the City grants final inspection approval of the work.

### **15.10.040 - Definitions.**

For the purposes of this Chapter 15.10 the following definitions apply:

- A. "Addition and Alteration" shall mean new floor area added to an existing lawfully constructed building and/or changes to the existing floor area of a lawfully constructed building, which calculated together or apart constitute fifty (50) percent of the pre-existing floor area of the building. The conversion or recognition of non-habitable rooms to habitable space may be included in the calculation of alteration of space, at the discretion of the building official.
- B. "Major rebuild" shall mean removal of seventy-five percent (75%) or more of the combined surface area of the interior walls and ceilings of the habitable rooms of a building or structure to expose support members.
- C. "Floor Area" shall mean the sum of the gross horizontal areas of all floors of all buildings or structures measured from the interior face of the exterior walls, but excluding each of the following:
  - 1. Any area where the floor to ceiling height is less than six (6) feet.
  - 2. Any detached garage or other detached accessory structure which does not constitute habitable space.
  - 3. Any attached carport or covered deck.
  - 4. Any attached or detached accessory dwelling unit eight hundred (800) square feet or less in gross horizontal area that, if detached, does not exceed sixteen (16) feet in height, where authorized pursuant to Chapter 17.43 of Title 17 of this Code.
- D. "Standards for new construction" shall mean:

1. The requirements of the California Buildings Code adopted by this Title 15; and
2. The storm water management and discharge requirements established by Chapter 13.06 of Title 13; and
3. The standard specifications and street standards adopted by Section 12.24.010 of Title 12.

E. "Hardship" means some verifiable level of difficulty or adversity, beyond the control of the applicant, by which the applicant cannot reasonably comply with the requirements of this Chapter.

#### **15.10.050 - Compliance Standards.**

For applicable projects, the entire building shall be brought into conformity with the standards for new construction that the building official determines to be necessary or appropriate to eliminate existing health or safety hazards, including, but is not limited to, defects in structural integrity, defective or inadequate electrical installations, defective or inadequate fire sprinklers, sanitary sewer or storm drainage facilities, and substandard street access to the property.

#### **15.10.060 - Exceptions.**

A. Standard Exceptions. The following standard exceptions to Section 15.10.050 shall apply:

1. The area of any additions and/or alterations not exceeding a cumulative total of four hundred (400) square feet within any five (5) year period.
2. The conversion of existing floor area in an existing single-family or multiple-family dwelling to an accessory dwelling unit where authorized pursuant to Chapter 17.43 of Title 17.
3. The area of any addition and/or alteration for the creation or expansion of an attached or detached accessory dwelling unit eight hundred (800) square feet or less in floor area where authorized pursuant to Chapter 17.43 of Title 17. If detached, the accessory dwelling unit may not exceed sixteen (16) feet in height.
4. Work involving exterior surfaces, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck.
5. Alterations, renovations or repairs which do not essentially change the uses of the rooms within the building.

B. Other Exceptions. Where the above listed exceptions do not apply, the building official shall have authority on a case-by-case basis to grant modifications of any such requirements for the standards of new construction if the building official is able to find and determine that:

1. Compliance with the requirement will cause unreasonable hardship; or
2. The modification does not reduce any requirements for fire protection or any requirements relating to structural support and integrity; or

3. The modification does not create any new or increased hazard to the health or safety of the occupants of the existing building or structure.

**17.01.060 - Requirement for lot of record and infrastructure improvements.**

- A. Except as permitted under subsections B and C of this section or as may be permitted under other provisions of this title, no permit or approval shall be granted for the construction or expansion of any new or existing main or accessory structure of any size upon any land, nor shall any permit or approval be granted for the establishment or expansion of any use upon any land, unless both of the following requirements are satisfied:
1. The land constitutes a lot of record, as such term is defined in Chapter 17.02 of this title, or the granting of the permit or approval is conditioned upon such land being established as a lot of record through the recording of a parcel map approved by the city; and
  2. All infrastructure improvements necessary for providing service to the existing or proposed structure or use have been constructed or installed in accordance with applicable city standards as determined by the city engineer, or the granting of the permit or approval is conditioned upon such improvements being constructed or installed pursuant to the terms and within such period of time as set forth in an improvement agreement between the city and the applicant, which agreement shall be recorded in the office of the county recorder and shall constitute a covenant running with the land. The improvement agreement may require the applicant to provide security for performance of the work, in such form and amount as determined by the approving authority, and may provide for the applicant to either construct the improvements or to participate in an arrangement for such construction by others, or any combination thereof.
- B. In the case of a lot of record which does not abut a public street providing the principal means of access to that lot, the following improvements may be constructed without compliance with the infrastructure requirements set forth in subsection (A)(2) of this section; provided, however no such improvements shall be allowed unless the approving authority determines that adequate infrastructure to service the proposed improvement is available at the site or will be constructed as part of the project:
1. Unenclosed hot tubs, decks, stairways and landings located on the same lot as a lawfully constructed dwelling;
  2. Retaining walls;
  3. Parking garages and carports, no portion of which is used or usable for human occupancy;
  4. An addition, not exceeding a floor area of one hundred (100) square feet, to a lawfully constructed building or structure. Only one such addition shall be allowed under this exemption;
  5. Repairs or remodels which do not change the original size or significantly alter the configuration and/or habitable floor area of a lawfully constructed building or structure, as determined by the planning director.
  6. The conversion of existing floor area of the main dwelling or the conversion of existing floor area of an accessory structure to an accessory dwelling unit or a

junior accessory dwelling unit as permitted under Chapter 17.43 of this title. Such conversion may include the addition of floor area as provided in paragraph 4 of this subsection B. Only one such conversion shall be allowed under this exemption.

C. Additions or alterations may be made to a lawfully constructed building or structure which is located on a lot of record, without compliance with the infrastructure requirements set forth in subsection (A)(2) of this section, where both of the following conditions are satisfied:

1. The additions or alterations ~~do not exceed fifty percent (50%) of the market value or fifty percent (50%) of the floor area of the existing building or structure, determined in accordance with~~ are exempt from the provisions of ~~Section Chapter 15.10.060~~ 15.08.140; and

~~2.~~ A public street abutting the lot on which the building or structure is located provides the principal means of access to that lot.



**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) and (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 (2) 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. Permanent residency shall mean continuous occupancy of the dwelling unit for a period of thirty (30) days or more.
- 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. "Accessory dwelling unit" means a separate dwelling unit created upon a site that contains a single-family dwelling, duplex, or multiple-family dwelling and for which an accessory dwelling unit permit has been granted pursuant to Chapter 17.43 of this title. Subject to the restrictions of this title, the accessory dwelling unit may be within, attached to, or detached from the single-family dwelling, duplex, or multiple-family dwelling. An accessory dwelling unit shall include permanent provisions for living, sleeping, eating, cooking, and sanitation. The term "secondary dwelling unit" shall have the same meaning throughout this title.
- E. "Junior accessory dwelling unit" means a dwelling unit that is no more than five hundred (500) square feet in size and contained entirely within a single-family dwelling. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the single-family dwelling. Junior accessory dwelling units are distinguished from accessory dwelling units in that they: (1) must include the conversion of existing, legally permitted floor area within an existing single-family dwelling; (2) must be owner occupied, or the main dwelling be owner occupied; and (3) are subject to unique standards that are not applicable to accessory dwelling units, as specified in Chapter 17.43 of this Title.
- F. "Single-family dwelling" means a dwelling unit constituting the only principal structure upon a single site (excluding any lawfully established accessory 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.

**17.06.020 - Permitted uses. (R-1)**

The following permitted uses shall be allowed in the R-1 district:

- A. Single-family dwellings.
- B. Accessory structures and uses incidental to a permitted use, including personal cultivation of cannabis in compliance with Title 8, Chapter 8.12.
- C. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.
- D. Small family day care homes.
- E. ~~Secondary Accessory~~ dwelling units and junior accessory dwelling units, ~~when authorized by a permit granted pursuant to in accordance with~~ Chapter 17.43 of this title.

**17.06.040 - Development regulations.**

The following development regulations shall apply to any lot in the R-1 district:

- A. Lot Area.
  - 1. The minimum area of any lot shall be five thousand (5,000) square feet.
  - 2. A single-family dwelling may be constructed on a lot of record with an area of less than five thousand (5,000) square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.32.100.
- B. Density of Development. Not more than one single-family dwelling ~~unit~~ shall be located on each lot in the R-1 district, ~~except for a secondary dwelling unit authorized pursuant to Chapter 17.43 of this title.~~
- C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

Width	Depth
50 feet	100 feet

- D. Setbacks. The minimum required setbacks for any lot, except as provided in Section 17.32.070, shall be as follows:
  - 1. Front setback: Fifteen (15) feet, with the following exceptions:
    - a. Where the lot has a slope of fifteen percent (15%) or greater, the minimum front setback may be reduced to ten (10) feet.
    - b. Where fifty percent (50%) or more of the lots of record in a block have been improved with single-family dwellings, the minimum front setback may be the average distance of the front outside wall of the single-family structures from the front lot line, if less than fifteen (15) feet. Notwithstanding the foregoing, the minimum front setback for garages or carports shall be ten (10) feet, except

where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

2. Side setback: five (5) feet, with the exception that a lot having a width of less than fifty (50) feet may have a side setback reduced to ten percent (10%) of the lot width, but in no event less than three (3) feet or the minimum setback required by the Uniform Building Code, whichever is greater. Notwithstanding the foregoing, the minimum side setback for garages or carports accessed from a street or alley along that side of the lot shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.
  3. Rear setback: Ten (10) feet.
- E. Lot Coverage. The maximum coverage by all structures on any lot shall be forty percent (40%).
- F. Floor Area Ratio. The maximum floor area ratio for all buildings on a lot shall be 0.72. Where the size of the lot is three thousand seven hundred (3,700) square feet or less, one covered parking space designed to accommodate a full-size automobile shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of two hundred (200) square feet.
- G. Height of Structures.
1. Except as otherwise provided in paragraph 2 subsection (G)(2) of this subsection G and in Section 17.32.060, the maximum height of any structure shall be as follows:
    - a. Twenty-eight (28) feet, for lots having a slope of less than twenty percent (20%); or
    - b. Thirty (30) feet, for lots having a slope of twenty percent (20%) or more.
  2. For a distance of fifteen (15) feet from the front lot line, the height of any structure shall not exceed twenty (20) feet as measured from finish grade; provided, however, garages and carports may be constructed to a height of fifteen (15) feet above the elevation of the center of the adjacent street when permitted by Section 17.32.070 of this title. A garage or carport in compliance with this subsection may exceed a height of thirty (30) feet, but the height of any permitted living area underneath shall not exceed thirty (30) feet from finish grade.
- H. Articulation Requirements. Unless exempted, outside walls that are greater in size than twenty (20) feet in width and twenty (20) feet in height shall have a cumulative area of articulation as follows:
1. Front outside wall: Thirty percent (30%) articulation.
  2. Side outside walls:
    - a. Interior side outside wall: No articulation requirement.

- b. Exterior side outside wall: Where the structure is located on a lot having an average width of forty (40) feet or greater, the articulation requirement for the exterior side outside wall shall be twenty percent (20%). No articulation shall be required for the exterior side outside wall of structures located on lots having an average width of less than forty (40) feet.
- 3. Rear outside wall: Thirty percent (30%) articulation.
- 4. Exemptions: Single story two (2) car garages and accessory structures not exceeding a floor area of one hundred twenty (120) square feet shall be exempted from all articulation requirements.
- I. Landscaping Requirements.
  - 1. Front Setback. A minimum of fifteen percent (15%) of the front setback area shall be landscaped where the lot has a front lot line of thirty (30) feet or greater.
  - 2. Downslope Lots. The rear of any newly constructed main structure on a downslope lot shall be screened with trees and shrubs in accordance with a landscape plan approved by the planning director.
  - 3. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.
- J. Nonconforming Residential Structures and Uses. Nonconforming residential structures and nonconforming residential uses, as defined in Section 17.02.560, may be repaired, restored, reconstructed, enlarged or expanded in accordance with the provisions of Chapters 17.38 and 17.34 of this title.
- K. Recycling Area Requirements. For new subdivisions containing an area where solid waste is collected and loaded in a location which serves five (5) or more living units, adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided to serve the needs of the living units which utilize the area. This requirement shall also apply to all institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.

**17.08.020 - Permitted uses. (R-2)**

The following permitted uses shall be allowed in the R-2 district:

- A. Single-family dwellings ~~and accessory dwelling units associated with an existing or proposed single-family dwelling in compliance with Chapter 17.43.~~
- B. Duplexes.
- C. Multiple family dwellings containing not more than six (6) dwelling units.
- D. Dwelling groups.
- E. Accessory structures and uses incidental to a permitted use, including personal cultivation of cannabis in compliance with Title 8, Chapter 8.12.
- F. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.
- G. Small family day care homes.
- H. Accessory dwelling units and junior accessory dwelling units, in accordance with Chapter 17.43 of this title.

**17.08.040 - Development regulations.**

The following development regulations shall apply to any lot in the R-2 district:

- A. Lot Area.
  - 1. The minimum area of any lot shall be five thousand (5,000) square feet, except as otherwise provided in subsection B of this Section 17.08.040 ~~(B)~~.
  - 2. A single-family dwelling may be constructed on a lot of record with an area of less than five thousand (5,000) square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.32.100.
- B. Density of Development. The minimum lot area for each dwelling unit on the site shall be two thousand five hundred (2,500) square feet; provided, however, a lot having an area of four thousand nine hundred fifty (4,950) square feet or greater shall be considered conforming for a development density of two (2) units.
- C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

Width	Depth
50 feet	100 feet

- D. Setbacks. The minimum required setbacks for any lot, except as provided in Section 17.32.070, shall be as follows:
  - 1. Front setback: Fifteen (15) feet, with the following exceptions:
    - a. Where the lot has a slope of fifteen percent (15%) or greater, the minimum front setback may be reduced to ten (10) feet.

- b. Where fifty percent (50%) or more of the lots of record in a block have been improved with single-family dwellings, the minimum front setback may be the average distance of the front outside wall of the single-family structures from the front lot line, if less than fifteen (15) feet. Notwithstanding the foregoing, the minimum front setback for garages or carports shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.
    - 2. Side setback: five (5) feet, with the exception that a lot having a width of less than fifty (50) feet may have a side setback reduced to ten percent (10%) of the lot width, but in no event less than three (3) feet or the minimum setback required by the Uniform Building Code, whichever is greater. Notwithstanding the foregoing, the minimum side setback for garages, or carports accessed from a street or alley along that side of the lot shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.
  - 3. Rear setback: Ten (10) feet.
- E. Lot Coverage. The maximum coverage by all structures on any lot shall be fifty percent (50%).
- F. Floor Area Ratio. The maximum floor area ratio for all buildings on a lot shall be 0.72, subject to the following exclusions:
- 1. In the case of single-family dwellings, where the size of the lot is three thousand seven hundred (3,700) square feet or less, one covered parking space designed to accommodate a full-size automobile shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of two hundred (200) square feet.
  - 2. In the case of duplexes and multiple-family dwellings, the area of all covered parking spaces required to be provided for the site shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of four hundred (400) square feet per unit.
- G. Height of Structures.
- 1. Except as otherwise provided in paragraph 2-subsection (G)(2) of this subsection, G and in Section 17.32.060, the maximum height of any structure shall be as follows:
    - a. Twenty-eight (28) feet, for lots having a slope of less than twenty percent (20%); or
    - b. Thirty (30) feet, for lots having a slope of twenty percent (20%) or more.
  - 2. For a distance of fifteen (15) feet from the front lot line, the height of any structure shall not exceed twenty (20) feet as measured from finish grade; provided, however, garages and carports may be constructed to a height of fifteen (15) feet above the elevation of the center of the adjacent street when permitted by Section 17.32.070 of this title. A garage or carport in compliance

with this subsection may exceed a height of thirty (30) feet, but the height of any permitted living area underneath shall not exceed thirty (30) feet from finish grade.

H. Articulation Requirements. Unless exempted, outside walls that are greater in size than twenty (20) feet in width and twenty (20) feet in height shall have a cumulative area of articulation as follows:

1. Front outside wall: Thirty percent (30%) articulation.
2. Side outside walls:
  - a. Interior side outside wall: No articulation requirement.
  - b. Exterior side outside wall: Where the structure is located on a lot having an average width of forty (40) feet or greater, the articulation requirement for the exterior side outside wall shall be twenty percent (20%). No articulation shall be required for the exterior side outside wall of structures located on lots having an average width of less than forty (40) feet.
3. Rear outside wall: Thirty percent (30%) articulation.
4. Exemptions: Single story two (2) car garages and accessory structures not exceeding a floor area of one hundred twenty (120) square feet shall be exempted from all articulation requirements.

I. Landscaping Requirements.

1. Front Setback. A minimum of fifteen percent (15%) of the front setback area shall be landscaped where the lot has a front lot line of thirty (30) feet or greater.
2. Downslope Lots. The rear of any newly constructed main structure on a downslope lot shall be screened with trees and shrubs in accordance with a landscape plan approved by the planning director.
3. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

J. Nonconforming Residential Structures and Uses. Nonconforming residential structures and nonconforming residential uses, as defined in Section 17.02.560, may be repaired, restored, reconstructed, enlarged or expanded in accordance with the provisions of Chapters 17.38 and 17.34 of this title.

K. Recycling Area Requirements:

1. Adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff

from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.

2. This requirement shall apply to all new residential buildings having five (5) or more living units, institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. This requirement shall also apply to such existing developments for which building permit applications are submitted within a twelve-month period collectively adding thirty percent (30%) or more to the existing floor area of the development project.



**17.10.020 - Permitted uses. (R-3)**

The following permitted uses shall be allowed in the R-3 district:

- A. Multiple-family dwellings;
- B. Single-family dwellings ~~and accessory dwelling units associated with an existing or proposed single-family dwelling in compliance with Chapter 17.43.~~
- C. Duplexes.
- D. Dwelling groups.
- E. Accessory structures and uses incidental to a permitted use, including personal cultivation of cannabis in compliance with Title 8, Chapter 8.12.
- F. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.
- G. Small family day care homes.
- H. Accessory dwelling units and junior accessory dwelling units, in accordance with Chapter 17.43 of this title.

**17.10.040 - Development regulations.**

The following development regulations shall apply to any lot in the R-3 district:

- A. Lot Area.
  - 1. The minimum area of any lot shall be five thousand (5,000) square feet, except as otherwise provided in subsection B of this section.
  - 2. A single-family dwelling may be constructed on a lot of record with an area of less than five thousand (5,000) square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.32.100.
- B. Density of Development. The minimum lot area for each dwelling unit on the site shall be one thousand five hundred (1,500) square feet; provided, however, a lot having an area of four thousand nine hundred fifty (4,950) square feet or greater shall be considered conforming for a development density of three (3) units.
- C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

Width	Depth
50 feet	100 feet

- D. Setbacks. The minimum required setbacks for any lot, except as provided in Section 17.32.070, shall be as follows:
  - 1. Front setback: Fifteen (15) feet, with the following exceptions:
    - a. Where the lot has a slope of fifteen percent (15%) or greater, the minimum front setback may be reduced to ten (10) feet.

- b. Where fifty percent (50%) or more of the lots of record in a block have been improved with single-family dwellings, the minimum front setback may be the average distance of the front outside wall of the single-family structures from the front lot line, if less than fifteen (15) feet. Notwithstanding the foregoing, the minimum front setback for garages or carports shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.
2. Side setback: five (5) feet, with the exception that a lot having a width of less than fifty (50) feet may have a side setback reduced to ten percent (10%) of the lot width, but in no event less than three (3) feet or the minimum setback required by the Uniform Building Code, whichever is greater. Notwithstanding the foregoing, the minimum side setback for garages, or carports accessed from a street or alley along that side of the lot shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

3. Rear setback: Ten (10) feet.

- E. Lot Coverage. The maximum coverage by all structures on any lot shall be sixty percent (60%).
- F. Floor Area Ratio. The maximum floor area ratio for all buildings on a lot shall be 0.72, subject to the following exclusions:
  1. In the case of single-family dwellings, where the size of the lot is three thousand seven hundred (3,700) square feet or less, one covered parking space designed to accommodate a full-size automobile shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of two hundred (200) square feet.
  2. In the case of duplexes and multiple-family dwellings, the area of all covered parking spaces required to be provided for the site shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of four hundred (400) square feet per unit.

G. Height of Structures.

1. Except as otherwise provided in paragraph 2 subsection (G)(2) of this subsection G and in Section 17.32.060, the maximum height of any structure shall be as follows:
  - a. Twenty-eight (28) feet, for lots having a slope of less than twenty percent (20%); or
  - b. Thirty (30) feet, for lots having a slope of twenty percent (20%) or more.
2. For a distance of fifteen (15) feet from the front lot line, the height of any structure shall not exceed twenty (20) feet as measured from finish grade; provided, however, garages and carports may be constructed to a height of fifteen (15) feet above the elevation of the center of the adjacent street when permitted by Section 17.32.070 of this title. A garage or carport in compliance

with this subsection may exceed a height of thirty (30) feet, but the height of any permitted living area underneath shall not exceed thirty (30) feet from finish grade.

H. Articulation Requirements. Unless exempted, outside walls that are greater in size than twenty (20) feet in width and twenty (20) feet in height shall have a cumulative area of articulation as follows:

1. Front outside wall: Thirty percent (30%) articulation.
2. Side outside walls:
  - a. Interior side outside wall: No articulation requirement.
  - b. Exterior side outside wall: Where the structure is located on a lot having an average width of forty (40) feet or greater, the articulation requirement for the exterior side outside wall shall be twenty percent (20%). No articulation shall be required for the exterior side outside wall of structures located on lots having an average width of less than forty (40) feet.
3. Rear outside wall: Thirty percent (30%) articulation.
4. Exemptions: Single story two (2) car garages and accessory structures not exceeding a floor area of one hundred twenty (120) square feet shall be exempted from all articulation requirements.

I. Landscaping Requirements.

1. Front Setback. A minimum of fifteen percent (15%) of the front setback area shall be landscaped where the lot has a front lot line of thirty (30) feet or greater.
2. Downslope Lots. The rear of any newly constructed main structure on a downslope lot shall be screened with trees and shrubs in accordance with a landscape plan approved by the planning director.
3. Sites with Three (3) or More Units. Not less than ten percent (10%) of the lot area shall be improved with landscaping where three (3) or more dwelling units are located on the same site.
4. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

J. Nonconforming Residential Structures and Uses. Nonconforming residential structures and nonconforming residential uses, as defined in Section 17.02.560, may be repaired, restored, reconstructed, enlarged or expanded in accordance with the provisions of Chapters 17.38 and 17.34 of this title.

K. Recycling Area Requirements:

1. Adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided. The area shall be

located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.

2. This requirement shall apply to all new residential buildings having five (5) or more living units, institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. This requirement shall also apply to such existing developments for which building permit applications are submitted within a twelve-month period collectively adding thirty percent (30%) or more to the existing floor area of the development project.

**17.12.020 - Permitted uses. (R-BA)**

The following permitted uses shall be allowed in the R-BA district:

- A. Single-family dwellings.
- B. Accessory structures and uses incidental to a permitted use, including personal cultivation of cannabis in compliance with Title 8, Chapter 8.12.
- C. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.
- D. Small family day care homes.
- E. ~~Secondary Accessory~~ dwelling units and junior accessory dwelling units, when authorized by a permit ~~undergranted pursuant to~~ Chapter 17.43 of this title.

**17.12.040 - Development regulations.**

The following development regulations shall apply to any lot in the R-BA district:

- A. Lot Area.
  - 1. The minimum area of any lot shall be twenty thousand (20,000) square feet, except as otherwise provided in Section 17.12.050, Density transfer, and Section 17.12.055, Clustered development, of this chapter.
  - 2. A single-family dwelling may be constructed on a lot of record with an area of less than twenty thousand (20,000) square feet, subject to the provisions of this chapter and the limitations set forth in ~~Section 17.32.100~~ Section 17.01.060 of Chapter 17.01 of this Title.
- B. Density of Development. Not more than one ~~dwelling units~~ single-family dwelling shall be located on each lot in the R-BA District, ~~except for a secondary unit authorized by a permit granted pursuant to Chapter 17.43 of this title.~~
- C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

Width	Depth
110 feet	140 feet

- D. Setbacks. The minimum required setbacks for any lot, except as provided in Section 17.32.070, shall be as follows:
  - 1. Front setback: Ten (10) feet.
  - 2. Side setback: Ten percent (10%) of the lot width, but in no event more than fifteen (15) feet or less than five (5) feet. Notwithstanding the foregoing, the minimum side setback for garages or carports accessed from a street or alley along that side of the lot shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

3. Rear setback: Ten (10) feet.
- E. Lot Coverage. The maximum coverage by all structures on any lot shall be twenty-five percent (25%).
- F. Floor Area Ratio. The maximum floor area ratio of all buildings on a lot shall be 0.72; provided, however, that in no event shall the floor area of all buildings on a lot exceed five thousand five hundred (5,500) square feet.
- G. Height of Structures.
1. Except as otherwise provided in paragraph 2 subsection (G)(2) of this subsection G and in Section 17.32.060, the maximum height of any structure shall be thirty-five (35) feet.
  2. For a distance of twenty (20) feet from the front lot line, the height of any structure shall not exceed twenty (20) feet as measured from finish grade; provided, however:
    - a. Residential structures on sites sloping down from the adjacent street may be constructed to a height of twenty (20) feet above the elevation of the center of the street, so long; and
    - b. Garages and carports may be constructed to a height of fifteen (15) feet above the elevation of the center of the adjacent street and may exceed a height of thirty-five (35) feet, but the height of any permitted living area underneath shall not exceed thirty-five (35) feet from finish grade.
- H. Wildland Interface. The development shall incorporate such measures as the fire chief may deem necessary to protect against the spread of fire between the site and the adjacent wildland.
- I. HCP Compliance. All development within the R-BA District, except as provided in Section 17.01.060, shall comply with the requirements of the San Bruno Mountain Area Habitat Conservation Plan (HCP), including site activity review, environmental assessments, and operating programs for planned management units, consistent with the objectives and obligations set forth in the HCP.
- J. Articulation Requirements. Unless exempted, outside walls that are greater in size than twenty (20) feet in width and twenty (20) feet in height shall have a cumulative area of articulation as follows:
1. Front outside wall: Thirty percent (30%) articulation.
  2. Side outside walls:
    - a. Interior side outside wall: No articulation requirement.
    - b. Exterior side outside wall: Where the structure is located on a lot having an average width of forty (40) feet or greater, the articulation requirement for the exterior side outside wall shall be twenty percent (20%). No articulation shall be required for the

exterior side outside wall of structures located on lots having an average width of less than forty (40) feet.

3. Rear outside wall: Thirty percent (30%) articulation.
4. Exemptions: Single story two (2) car garages and accessory structures not exceeding a floor area of one hundred twenty (120) square feet shall be exempted from all articulation requirements.

#### K. Landscaping Requirements.

1. Landscape Plan. All development proposals and re-landscaping projects subject to the water conservation in landscaping ordinance (Chapter 15.70), except as permitted in Section 17.01.060 of Chapter 17.01 of this title, shall include a landscape plan to be approved by the planning director in consultation with the HCP plan operator. The plan shall show all proposed landscaping and the location of all protected trees and rare plants. The landscape plan shall be consistent with all of the following objectives:
  - a. Preservation of protected trees and rare plants to the greatest extent possible;
  - b. Use of plants that are compatible with the natural flora and fauna, and are not invasive to the HCP area;
  - c. Use of water conserving plants;
  - d. Use of plants that will effectively screen structures and blend with the natural landscape; and
  - e. Use of landscaping that is fire resistant.
2. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

#### L. Ridgeline. Development on any site through which a ridgeline runs as identified in Figure 17.02.695, Ridgelines, shall be subject to design permit approval, except for accessory dwelling units and junior accessory dwelling units and except as provided in Section 17.01.060.

1. In addition to the required contents of application for design permit set forth in Section 17.42.020(A), story poles certified by a licensed architect, surveyor, civil engineer or contractor to represent the height of the proposed building shall be erected at the locations of its outer corners and roof peaks according to a plan pre-approved by the community development director. The upper one-foot length of each pole shall be painted OSHA yellow so as to be clearly visible from a distance.
2. In addition to the findings required for issuance of design permits set forth in Section 17.42.040, the planning commission shall find that the building's placement, height, bulk and landscaping will preserve those public views of the San Bruno Mountain State and County Park as seen from the Community Park

and from the Bay Trail along the Brisbane Lagoon and Sierra Point shorelines that are found to be of community-wide value. Methods to accomplish this may include varying the building's roofline to reflect the ridgeline's topography, orienting the building to minimize the impact of its profile upon public views, locating the building on the lower elevations of the site, and reducing the building's height below the maximum permitted in the district.

3. An existing structure may be repaired or replaced in accordance with Section 17.38.090 without design permit approval, but any alteration or expansion which raises any portion of the roofline or increases the building's lot coverage shall be subject to design permit approval under this section.
- M. Canyon Watercourses and Wetlands. Development of the site, including any temporary disturbance, shall be set back thirty (30) feet in each direction from the center line of any watercourse, and twenty (20) feet from the boundary of any wetlands. The specific location of watercourse center lines and wetland boundaries shall be determined by qualified personnel under the city's direction.
- N. Trails. The development shall incorporate public access trails to the extent feasible given the environmental sensitivities of the site.
- O. Nonconforming Residential Structures and Uses. Nonconforming residential structures and nonconforming residential uses, as defined in Section 17.02.560, may be repaired, restored, reconstructed, enlarged or expanded in accordance with the provisions of paragraph 3 of subsection L of Section 17.12.040~~(L(3))~~ and Chapters 17.34 and 17.38~~and 17.34~~, of this title.
- P. Recycling Area Requirements. For new subdivisions containing an area where solid waste is collected and loaded in a location which serves five (5) or more living units, adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided to serve the needs of the living units which utilize the area. This requirement shall also apply to all institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.



**17.14.020 - Permitted uses. (NCRO-1 & NCRO-2)**

The following uses are permitted uses in the NCRO-1 and NCRO-2 districts, if conducted in accordance with the performance standards set forth in 17.14.070 of this chapter:

- A. Financial institutions.
- B. Medical facilities.
- C. Offices.
- D. Personal services.
- E. Restaurants.
- F. Retail sales and rental.

G. Home occupations, in the NCRO-2 District only.

G.H. Accessory dwelling units and junior accessory dwelling units associated with an existing or proposed single-family dwelling, duplex, or multiple-family dwelling in compliance with the provisions of Chapter 17.43 of this title, in the NCRO-2 District only.

**17.14.060 - Development regulations for the NCRO-2 district.**

Development regulations for the NCRO-2 district are as follows:

- A. Lot Area. The minimum area of any lot in the NCRO-2 district shall be two thousand five hundred (2,500) square feet.
- B. Lot Dimensions. The minimum dimensions of any lot in the NCRO-2 district shall be as follows:

Width	Depth
25 feet	No requirement

- C. Density of Residential Use. Dwelling unit density in a mixed use shall be established by the use permit.
- D. Setbacks. The minimum required setbacks for any lot in the NCRO-2 district, except as provided in Section 17.32.070, shall be as follows:
  - 1. Front setback: No requirement (0).
  - 2. Side Setback: No requirement (0), except a ten (10) foot setback shall be required on the side setback where ~~when the site is~~ abutting any residential district.
  - 3. Rear Setback: Ten (10) feet.
- E. Lot Coverage. The maximum coverage by all structures on any lot in the ~~NCRO-1~~ NCRO-2 district shall be ninety percent (90%).

- F. Height of Structures. The maximum height of any structure, except as provided in Section 17.32.060, shall be twenty-eight (28) feet, except that the height may extend to thirty-five (35) feet when authorized by a design permit granted pursuant to Chapter 17.42 of this title and provided the approving authority is able to make the findings set forth in Section 17.14.110 of this chapter.
- G. Fencing Requirements. If the site is next to a residential district, a wood fence of not less than eight (8) feet in height that adequately screens the site from the adjacent residential property shall be installed along the property line abutting the residential district. The planning director may approve deviations from the material and height requirements set forth in the preceding sentence, based upon a finding that the modified fence is more appropriate for the site and the adjacent residential property.
- H. Storefronts. All uses at street level facing Visitacion and/or San Bruno Avenues shall be storefronts, as defined in Section 17.02.746 of this titlechapter, except for entrances to uses above or behind the storefronts. Such uses shall comply with the following additional requirements:
1. The minimum floor area for a storefront use is six hundred (600) square feet. The approving authority may approve a lesser floor area if the approving authority finds that such lesser area is as large as possible for the intended storefront use, given the size, configuration, and physical constraints of the structure and the site.
  2. No off-street parking shall be located on any portion of the site between the curb line and the storefront.
  3. New construction shall incorporate the necessary vents and chases into the building design so as to allow future changes in occupancy of the storefront area.
  4. Single-family dwellings in which mixed uses are conducted shall have a storefront character as viewed from the street.
- I. Passive Open Space. Usable passive open space shall be provided for residential uses of at least sixty (60) square feet per unit. Such passive open space may be provided as individual patios or decks, or as common patio or garden area, or any combination thereof. Notwithstanding that an attached or detached accessory dwelling unit greater than eight hundred (800) square feet is added to an existing residential use, there shall be no reduction in the amount of required usable passive open space for the other residential use. If an existing residential use has passive open space that does not conform to the sixty (60) square feet per unit requirement, the addition of an attached or detached accessory dwelling unit greater than eight hundred (800) square feet to that use shall not further reduce the amount of passive open space. The addition of an attached or detached accessory dwelling unit that is eight hundred (800) feet or less may result in a loss of the required usable passive open space for the other residential uses, including the loss of non-forming passive open space.
- J. Recycling Area Requirements.
1. Adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided. The area shall be located and fully enclosed so as to adequately protect neighboring uses from

adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.

2. This requirement shall apply to all new commercial or institutional buildings, residential buildings having five or more living units, and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. This requirement shall also apply to any existing development for which building permit applications are submitted within a twelve-month period collectively adding thirty percent (30%) or more to the existing floor area of the development project. For existing developments occupied by multiple tenants, this requirement shall apply to building permit applications submitted by any tenant within a twelve-month period collectively adding thirty percent (30%) or more to the existing floor area of that portion of the development which said tenant leases. Such recycling areas shall, at a minimum, be sufficient in capacity, number, and distribution to serve that portion of the development project which said tenant leases.

**17.16.020 - Permitted uses. (SCRO-1)**

A. The following are permitted uses in the SCRO-1 district:

1. Emergency shelters in compliance with Section 17.16.040.
2. Accessory dwelling units and junior accessory dwelling units associated with an existing or proposed single-family dwelling, duplex, or multiple-family dwelling in compliance with the provisions of Chapter 17.43 of this ~~Title~~title.

**17.16.040 - Development regulations.**

Development regulations in the Southwest Bayshore district are as follows:

- A. Lot Area. The minimum area of any lot shall be seven thousand five hundred (7,500) feet.
- B. Density of Development. The minimum lot area for each dwelling unit on a site shall be as follows:
  1. Single-family dwellings: Seven thousand five hundred (7,500) square feet;
  2. Duplex dwellings: Three thousand seven hundred fifty (3,750) square feet;
  3. Multiple-family dwellings and dwelling groups: One thousand five hundred (1,500) square feet;
  4. Mixed use or live/work development: Dwelling unit density shall be determined by the use permit.
- C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

~~1. Width: Fifty (50) feet;~~

~~2.1. Depth: No requirement.~~

<u>Width</u>	<u>Depth</u>
<u>50 feet</u>	<u>No requirement</u>

- D. Setbacks. The minimum required setbacks for any lot, except as provided in Section 17.32.070, shall be as follows:

1. Front setback;
  - a. Residential/Mixed Use: Ten (10) feet;
  - b. Commercial Uses: Twenty-five (25) feet for commercial uses;
  - c. Exception: The setbacks may be reduced to zero (0) where development includes dedication to public right-of-way for a frontage access road and sidewalk, to the satisfaction of the city engineer and fire department.
2. Side setback:

- a. Residential/Mixed Use: Five (5) feet;
- b. Commercial Uses: Fifteen (15) feet;
- c. Exception: The planning commission may approve exceptions to the side setback regulations through the granting of a use permit.

3. Rear setback: Ten (10) feet.

E. Lot Coverage. The maximum coverage by all structures on any lot shall be seventy percent (70%).

F. Height of Structures. The maximum height of any structure, except as provided in Section 17.32.060, shall be thirty-five (35) feet.

G. Landscaping Requirements.

1. Not less than ten percent (10%) of the lot area shall be improved with landscaping. The addition of an attached or detached accessory dwelling unit greater than eight hundred (800) square feet shall not result in a loss of the required landscape area. The addition of an attached or detached accessory dwelling unit that is eight hundred (800) square feet or less may result in a loss of the required landscape area.
2. Plant materials shall be drought resistant and non-invasive as required by the planning director.
3. Landscaping required under this section, including replacement landscaping, shall be installed according to detailed plans approved by the planning director. The landscape plans shall be consistent with the following objectives:
  - a. Use of plants that are not invasive;
  - b. Use of water conserving plants; and
  - c. Use of plants and other landscape features that are appropriate to the context.
4. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to ~~the provisions of~~ the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

H. Screening Requirements.

1. Outside storage of pallets or containers used for transportation and delivery of items related to the uses conducted on the site shall not be located in any required setback from a street and shall be screened from off-site view to the extent it is reasonable to do so.
2. The off-site visibility of exterior equipment such as heating and ventilation units, above-ground storage tanks, compactors and compressors, shall be mitigated through such measures as may be reasonable under the circumstances, including, but not limited to, the installation of screening, fencing, painting, or landscaping, or any combination of the foregoing.

3. The screening requirements set forth in subsections (H)(1) and (H)(2) of this section are not intended to be exclusive and the approving authority may require, as a condition of the use permit, such other and additional screening measures as it deems necessary or appropriate to mitigate any potential adverse visual and audible impacts created by the intended use.

I. Recycling Area Requirements.

1. Adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.
2. This requirement shall apply to all new commercial or institutional buildings, residential buildings having five (5) or more living units, and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. This requirement shall also apply to any existing development for which building permit applications are submitted within a twelve-month period collectively adding thirty percent (30%) or more to the existing floor area of the development project. For existing developments occupied by multiple tenants, this requirement shall apply to building permit applications submitted by any tenant within a twelve-month period collectively adding thirty percent (30%) or more to the existing floor area of that portion of the development which said tenant leases. Such recycling areas shall, at a minimum, be sufficient in capacity, number, and distribution to serve that portion of the development project which said tenant leases.

J. Emergency Shelters. Development standards for emergency shelters shall be the same as for residential development in the district, except density of development regulations, and emergency shelters that meet the following requirements are exempt from the requirement of a design permit and use permit:

1. No emergency shelter shall be allowed to be located within three hundred (300) feet of another emergency shelter.
2. The required setbacks for new development shall be:
  - a. Front setback: Ten (10) feet; except that the front setback may be reduced to zero (0) where development includes dedication to public right-of-way for a frontage access road and sidewalk, to the satisfaction of the city engineer and fire department.
  - b. Side setback: Five (5) feet; except that the planning commission may approve exceptions to the side setback regulations through the granting of a use permit.
  - c. Rear setback: Ten (10) feet.

3. A maximum of twelve (12) persons (twelve (12) beds) to be served nightly.
4. Each resident shall be provided personal living space.
5. Bathrooms and bathing facilities shall be provided, adequate for the number of residents.
6. Laundry facilities or services shall be provided on site, adequate for the number of residents.
7. The length of stay for individual clients shall not exceed six (6) months, or as allowed by state law.
8. Staff and services shall be provided to assist residents to obtain permanent shelter and income.
9. For security, the facility shall provide outdoor lighting of common areas, entries, parking areas, pathways, in compliance with ~~BMC~~ Section 17.16.050(E).
10. For security, the shelter shall be adequately staffed twenty-four (24) hours a day, seven (7) days a week.
11. Parking shall be as specified in ~~BMC~~ Chapter 17.34.
12. Outdoor activities, such as recreation, eating, and staging for drop-off, intake, and pick-up, may be conducted at the facility, between the hours of five (5:00) a.m. and ten (10:00) p.m. A night operations use permit is required for outdoor activities between the hours of ten (10:00) p.m. and five (5:00) a.m., as provided for in ~~BMC~~ Section 17.16.070.
13. The facility may provide the following:
  - a. Kitchen facilities;
  - b. Dining area;
  - c. Recreation room;
  - d. Training and counseling support services;
  - e. Child care facilities;
  - f. Other facilities or services that are accessory to an emergency shelter.
14. Prior to commencing operation, the emergency shelter provider must have a written management plan, which shall be provided to the planning director. The management plan must include provisions for staff training, resident identification process, neighborhood outreach, policies regarding pets, the timing and placement of outdoor activities, provisions for residents' meals (including special dietary needs), medical care, mental health care, dental care, temporary storage of residents' personal belongings, safety and security, provisions in case of area-wide emergencies, screening of residents to ensure compatibility with services provided at the facility, plans to help secure other

provisions for those who may not be part of the shelter's target population, computer access for residents, and training, counseling and social service programs for residents, as applicable.

K. Mobile Home Parks.

1. Mobile home parks in the SCRO-1 district shall be subject to the development and parking standards established in Chapter 17.11 of this Title.
2. Conversion, closure, or cessation of a mobile home park in the SCRO-1 district shall be subject to the procedures established in Section 17.11.090 of this Title.



**17.27.020 - Permitted uses. (PAOZ-1 & PAOZ-2)**

The following are permitted uses in the PAOZ-1 and PAOZ-2 districts:

PAOZ-1	PAOZ-2	Permitted Uses
X	Not permitted	Single-family dwellings
X	X	Multiple-family dwellings
X	X	Dwelling groups
X	X	Accessory structures
X	X	Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 <del>of the BMC</del>
X	X	Small family day care homes
<u>X</u>	<u>X</u>	<u>Accessory dwelling units, in compliance with Chapter 17.43 of this title.</u>
<u>X</u>	<u>Not permitted</u>	<u>Junior accessory dwelling units, in compliance with Chapter 17.43 of this title.</u>

**17.27.040 - Development regulations for the PAOZ-1 district.**

Development regulations for the PAOZ-1 district are as follows:

- A. Lot Area. There is no minimum lot area.
- B. Density of Development. The minimum development density for any site shall be twenty (20) dwelling units per acre and the maximum development density shall be twenty-eight (28) dwelling units per acre.

- C. Lot Dimensions. There are no minimum lot dimensions.
- D. Setbacks. The minimum required setbacks for any building shall be as follows:
1. Front: Five (5) feet minimum, fifteen (15) feet maximum.
  2. Side: Five (5) feet minimum, ten (10) feet maximum.
  3. Street Side: Ten (10) feet minimum and maximum.
  4. Rear: Fifteen (15) feet minimum.
  5. Any architectural projection (including lobbies, porches, stoops, canopies, and other entry-related architectural features) may extend up to two (2) feet into the required front setback area.
- E. Lot Coverage. There is no maximum lot coverage.
- F. Floor Area Ratio. There is no maximum floor area ratio.
- G. Height.
1. Buildings and Architectural Features. The maximum building height shall be thirty-eight (38) feet and three (3) stories. Architectural features, including chimneys, elevators, towers, turrets, eaves, skylights or roof windows, utilities, utility penthouses, and solar panels, are allowed to project up to a maximum of ten (10) feet above the maximum building height.
  2. Fences and Walls. Fences and walls in front yards shall be no more than three (3) feet in height from the adjacent sidewalk. Fences and walls in side yards shall not exceed six (6) feet in height. Deviations from maximum fence and wall heights shall require approval by the planning commission as provided in Section 17.32.050(B)(5) of this title.
- H. Landscaping Requirements. Not less than thirty percent (30%) of the lot area shall be landscaped. New and rehabilitated, irrigated landscapes are subject to ~~the provisions of~~ the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest State provisions, whichever is more effective in conserving water. Landscaping shall conform to the development standards established in Section 3.5 of the Parkside Precise Plan. The addition of an attached or detached accessory dwelling unit greater than eight hundred (800) square feet shall not result in a loss of the required landscaping. The addition of an attached or detached accessory dwelling unit that is eight hundred (800) square feet or less may result in a loss of the required landscape area.
- I. Open Area Requirements. At least four hundred (400) square feet of open area shall be provided for the dedicated use of each ~~residential dwelling~~ unit. The open area requirement shall not be met by shared or communal open areas. The addition of an attached or detached accessory dwelling unit greater than eight hundred (800) square feet shall not result in a loss of the required open areas. The addition of an attached or detached accessory dwelling unit that is eight hundred (800) square feet or less may result in a loss of the required open area.

- J. Building Design. All buildings shall substantially comply with the building design standards established in Section 3.3 of the Parkside Precise Plan. Projects that do not comply with those building design standards shall be subject to design review as set forth in Section 17.27.060(B), in addition to any other discretionary review required by the specific deviations.
- K. Site Design. All projects shall substantially comply with the site design standards established in Section 3.4 of the Parkside Precise Plan. Projects that do not comply with those site design standards shall be subject to design review as set forth in Section 17.27.060(B), in addition to any other discretionary review required by the specific deviations.
- L. Parking. Required on-site parking for single-family dwellings shall be two (2) spaces per dwelling, both of which shall be in an enclosed garage. For multiple-family dwellings, accessory dwelling units, and junior accessory dwelling units, required on-site parking and additional guest parking shall be provided as set forth in Section 17.34.020 of this title.
  - 1. Design Requirements. Off-street parking facilities shall comply with the design standards as set forth in Table 1, which appears immediately following this section.
- M. Recycling Area Requirements.
  - 1. Adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.
  - 2. These requirements shall apply to all new residential buildings having five (5) or more dwelling units, institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the City) where solid waste is collected and loaded. These requirements shall also apply to an existing development project for which building permit applications are submitted within a twelve-month period that collectively add thirty percent (30%) or more to the existing floor area of the development project.

#### **17.27.050 - Development regulations for the PAOZ-2 district.**

Development regulations for the PAOZ-2 district are as follows:

- A. Lot Area. There is no minimum lot area.
- B. Density of Development. The minimum development density for any site shall be twenty-four (24) dwelling units per acre and the maximum development density shall be twenty-eight (28) dwelling units per acre.
- C. Lot Dimensions. There are no minimum lot dimensions.

D. Setbacks. The minimum required setbacks for any building shall be as follows:

1. Front: Five (5) feet minimum, twenty (20) feet maximum.

Any architectural projection (including lobbies, porches, stoops, canopies, and other entry-related architectural features) may extend up to two (2) feet into the required front setback area.

2. Side: Five (5) feet minimum.

Upper floor second and third-story balconies may extend up to two (2) feet into the required side setback area.

3. Street Side: Ten (10) feet minimum and maximum.

4. Rear: Fifteen (15) feet minimum.

E. Lot Coverage. The maximum coverage by all structures on any lot shall be sixty percent (60%).

F. Floor Area Ratio. There is no maximum floor area ratio.

G. Height.

1. Buildings and Architectural Features. The maximum building height shall be forty (40) feet and three (3) stories. Architectural features, including chimneys, elevators, towers, turrets, eaves, skylights or roof windows, utilities, utility penthouses, and solar panels, are allowed to project up to a maximum of ten (10) feet above the maximum building height.

2. Fences and Walls. Fences and walls in front yards shall be no more than three (3) feet in height from the adjacent sidewalk. Fences and walls in side yards shall not exceed six (6) feet in height. Deviations from the fence and wall heights shall require approval by the planning commission as set forth in Section 17.32.050(B)(5) of this title.

H. Landscaping Requirements. Not less than twenty percent (20%) of the lot area shall be landscaped. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest State provisions, whichever is more effective in conserving water. Landscaping shall conform to the development standards established in Section 3.5 of the Parkside Precise Plan. The addition of an attached or detached accessory dwelling unit greater than eight hundred (800) square feet shall not result in a loss of the required landscaping area. The addition of an attached or detached accessory dwelling unit that is eight hundred (800) square feet or less may result in a loss of the required landscape area.

- I. Open Area Requirements. At least one hundred (100) square feet of open area per dwelling unit shall be provided. The open area may be met through a combination of common or private open areas provided on-site. Open areas shall be usable and shall support residents' passive and/or active use. The computation of open areas may include amenities and structures designed to enhance usability, such as swimming pools, rooftop gardens or decks, fountains, planters, benches, and usable landscaping. The addition of an attached or detached accessory dwelling unit greater

than eight hundred (800) square feet shall not result in a loss of the required open areas. The addition of an attached or detached accessory dwelling unit that is eight hundred (800) square feet or less may result in a loss of the required open area.

- J. Building Design. All buildings shall substantially comply with the building design standards established in Section 3.3 of the Parkside Precise Plan. Projects that do not comply with those building design standards shall be subject to design review as set forth in Section 17.27.060(B), in addition to any other discretionary review required by the specific deviations.
- K. Site Design. All projects shall substantially comply with the site design standards established in Section 3.4 of the Parkside Precise Plan. Projects that do not comply with those site design standards shall be subject to design review as set forth in Section 17.27.060(B), in addition to any other discretionary review required by the specific deviations.
- L. Parking. Required on-site parking and additional guest parking shall be as established in Section 17.34.020 of this title for multiple-family developments and accessory dwelling units.

- 1. Design Requirements. Off-street parking facilities shall comply with the design standards as set forth in Table 1, which appears immediately following this section.
- 2. Short-term and long-term parking for bicycles in the PAOZ-2 district shall be provided as follows: Long-Term: 1/10 units; Short-Term: 1/20 units.

Bicycle parking design shall conform to the standards established in Section 3.4 of the Parkside Precise Plan.

M. Recycling Area Requirements.

- 1. Adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.
- 2. These requirements shall apply to all new residential buildings having five (5) or more living units, institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. These requirements shall also apply to existing development project for which building permit applications are submitted within a twelve-month period that collectively add thirty percent (30%) or more to the existing floor area of the development project.

**17.28.120 - Amendment or modification of PD permit.**

- A. Amendments or modifications to a PD permit shall require approval by the city council, except as follows:
1. The planning commission and the zoning administrator shall have authority to approve any items which, under the terms of the PD permit, have been specifically delegated to either of them for approval, either as a condition for issuance of the permit or at any time thereafter.
  2. Minor changes during the course of construction which do not materially affect the use, nature, appearance, quality or character of the project may be approved by the zoning administrator.
  3. The relocation of a use or activity authorized by the PD permit to another location regulated by the same permit where no significant adverse impacts are created as a result of such relocation may be approved by the zoning administrator.
  - 3.4. The construction of an accessory dwelling unit or junior accessory dwelling unit in compliance with Chapter 17.43 of this title shall be approved ministerially by the zoning administrator.
- B. The application requirements, public hearing procedures and findings required for amendments or modifications to a PD permit shall be as prescribed in Sections 17.28.040, 17.28.050 and 17.28.080 of this chapter.

**Chapter 17.32.070 - Exceptions – Setback requirements.**

A. Notwithstanding any other provision of this title, certain structures or portions thereof may extend into a front, rear or side setback area to the extent permitted by the following chart:

1. Projections from a Building.

- a. Overhanging Architectural Features (Such as Eaves, Cornices Canopies, Rain Gutters and Downspouts).

Front setback area:	May extend three (3) feet from the building into the front setback area, but no closer than five (5) feet from the front lot line.
Rear setback area:	May extend three (3) feet from the building into the rear setback area, but no closer than seven (7) feet from the rear lot line.
Side setback area:	May extend three (3) feet from the building into the side setback area, but no closer than two and one-half (2½) feet from the side lot line. Rain gutters and downspouts may extend no closer than two (2) feet from the side lot line. In the R-1 district, a noncombustible awning over the main entrance to a residence located at the side of the structure may extend four (4) feet from the building into any portion of the side setback area, but shall not extend over or drain onto the abutting property.

- b. Cantilevered Windows No Greater Than Ten (10) Feet in Length That Do Not Include Any Floor Area (Such ~~As~~ as Bay, Box, Bow, and Greenhouse Windows).

Front setback area:	May extend three (3) feet from the building into the front setback area, but no closer than five (5) feet from the front lot line.
Rear setback area:	May extend three (3) feet from the building into the rear setback area, but no closer than seven (7) feet from the rear lot line.
Side setback area:	May extend two (2) feet into the side setback area, but no closer than three (3) feet from the side lot line.

- c. Supported Decks, Cantilevered Decks and Balconies.

Front setback area:	May extend five (5) feet from the building into the front setback area, but no closer than five (5) feet from the front lot line. Decks may be located atop a garage or carport approved under Section 17.32.070(A)(3)(a) and may extend to the front of the garage, but the railings of such deck may not exceed fifteen (15) feet in height above the elevation of the center of the adjacent street
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	or four (4) feet from the surface of the deck, whichever is less, while at the same time maintaining the minimum railing height required by the building code.
Rear setback area:	May extend five (5) feet from the building into the rear setback area, but no closer than five (5) feet from the rear lot line. This exception shall not apply to the NCRO district.
Side setback area:	No exception permitted.

Modifications. The planning commission may approve a modification to the foregoing exceptions if there are not more than two (2) units on the site and the planning commission is able to make all of the following findings:

- i. The modification is necessary in order to gain access to the property or to the dwelling unit on the property.
- ii. The modification is necessary because of unusual or special circumstances relating to the configuration of the property.
- iii. The visual impacts of the modification have been minimized.

d. Deck Railings within Setback Areas.

Front setback area:	May not be higher than four (4) feet from the surface of the deck.
Rear setback area:	May not be higher than four (4) feet from the surface of the deck.
Side setback area:	No exception permitted.

e. Stairs, Ramps and Landings (That Are Open and Uncovered and Serve Buildings with No More Than Two Units).

Front setback area:	No more than one set of stairs per dwelling unit may extend from the building into the front setback area. Each set of stairs must lead to the front entrance of the unit. The height of the stairway within the front setback area shall not exceed twenty (20) feet. Stairs on grade, sidewalks, and other flatwork constructed of noncombustible materials may be located anywhere within the front setback area.
Rear setback area:	No more than one set of stairs per dwelling unit may extend from the building into the rear setback area, but no closer than five (5) feet from the rear lot line. Stairs on grade, sidewalks, and other flatwork constructed of noncombustible materials may be located anywhere within the rear setback area.



Side setback area:	No more than one set of stairs per dwelling unit may extend from the building into the side setback area, but no closer than three (3) feet from the side lot line. Stairs on grade, sidewalks, and other flatwork constructed of noncombustible materials may be located anywhere within the side setback area.
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Modifications. The planning commission may approve a modification to the foregoing exceptions for stairs, ramps and landings if there are not more than two units on the site and the planning commission is able to make all of the following findings:

- i. The modification is necessary in order to gain access to the property or to the dwelling unit on the property.
- ii. The modification is necessary because of unusual or special circumstances relating to the configuration of the property.
- iii. The visual impacts of the modification have been minimized.

The planning commission may also approve a modification to the foregoing exceptions as part of a design permit being granted for three (3) or more units on the site, if the commission is able to make all of the findings listed above.

f. Accessibility Improvements (Such as Ramps, Elevators, and Lifts).

All Setback Areas. Accessibility improvements, such as ramps, elevators and lifts, may be allowed within any front, rear or side area setback upon the granting of an accessibility improvement permit by the zoning administrator, following the conduct of a hearing with ten (10) days' notice thereof being given to the owners of all adjacent properties. The zoning administrator may issue the accessibility improvement permit if he or she finds and determines that:

- i. The exception is necessary to meet special needs for accessibility of a person having a physical handicap which impairs his or her ability to access the property and cannot be addressed through the standard exceptions to the setback area requirements under this Section 17.32.070.
- ii. Visual impacts of the accessibility improvements located within a setback area have been minimized.
- iii. The accessibility improvements will not create any significant adverse impacts upon adjacent properties in terms of loss of privacy, noise or glare.
- iv. The accessibility improvements will be constructed in a sound and workmanlike manner, in compliance with all applicable provisions of the building and fire codes.

## 2. Small Free-Standing Structures.

- a. Small Accessory Buildings and Roofed Structures (Such as Gazebos, Greenhouses, Garden and Utility Sheds).

Front setback area:	No exception permitted.
Rear setback area:	May be placed at any location within the rear setback area which is not less than five (5) feet from the rear lot line or three (3) feet from the interior side lot line, provided the building or structure, or portion thereof, within the rear setback area does not exceed eight (8) feet in height and does not have a floor area in excess of one hundred twenty (120) square feet.
Side setback area:	May be placed at any location within the interior side setback area which is not less than three (3) feet from the interior side lot line, provided the building or structure, or portion thereof, within the interior side setback area does not exceed eight (8) feet in height and does not have a floor area in excess of one hundred twenty (120) square feet. No exception is permitted for an exterior side setback area.

Modifications. The zoning administrator may approve a modification to the foregoing exceptions for small accessory buildings and roofed structures, following the conduct of a hearing with ten (10) days' notice thereof being given to the owners of all adjacent properties, if the zoning administrator is able to make all of the following findings:

- i. The modification will not result in overbuilding the site or result in the removal of significant greenscape.
- ii. The modification will not create any significant adverse impacts upon adjacent properties in terms of loss of privacy, noise, or glare.
- iii. The accessory structure is designed to be compatible with the primary dwelling(s) on the site.

A building permit shall be required to construct or install any accessory structure for which a modification has been granted under this subsection.

- b. Unroofed and Openwork Roofed Garden Structures (Such as Arbors, Porticos, Trellises and Lath Houses).

Front setback area:	May not exceed eight (8) feet in height or cover more than fifteen percent (15%) of the front setback area.
Rear setback area:	May be placed at any location within the rear setback area which is not less than five (5) feet from the rear lot line, provided the

	structure, or portion thereof, within the rear setback area does not exceed eight (8) feet in height and does not cover more than fifteen percent (15%) of the rear setback area.
Side setback area:	May be placed at any location within the side setback area which is not less than three (3) feet from the side lot line, provided the structure, or portion thereof, within the side setback area does not exceed eight (8) feet in height and does not cover more than fifteen percent (15%) of the side setback area.

Modifications. The zoning administrator may approve a modification to the foregoing exceptions for unroofed and openwork roofed garden structures, following the conduct of a hearing with ten (10) days' notice thereof being given to the owners of all adjacent properties, if the zoning administrator is able to make all of the following findings:

- i. The modification will not result in overbuilding the site or result in the removal of significant greenscape.
- ii. The modification will not create any significant adverse impacts upon adjacent properties in terms of loss of privacy, noise, or glare.
- iii. The accessory structure is designed to be compatible with the primary dwelling(s) on the site.

### 3. Miscellaneous Improvements.

- a. Garages and Carports and Parking Decks on Slopes of Fifteen Percent (15%) or Greater.
- b. Decorative Artwork, Ponds, Fountains and Similar Water Features, Not More Than Six (6) Feet in Height.
- c. Existing Permitted Garages or Accessory Buildings Converted into Accessory Dwelling Units.

Front setback area:	May be placed at any location within the front setback area.
Rear setback area:	May be placed at any location within the rear setback area.
Side setback area:	May be placed at any location within the side setback area.

### ~~d. Accessory Dwelling Units Built Above Existing Permitted Garages.~~

<del>Front setback area:</del>	<del>No exception permitted.</del>
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Rear setback area:	May extend into rear setback no closer than five (5) feet from the rear lot line.
Side setback area:	No exception permitted.

#### 4. Accessory Dwelling Units

##### a. Exceptions to the setback requirements for accessory dwelling units shall be as established in Chapter 17.43.

- B. The exceptions set forth in subsection A of this Section 17.32.070(A) of this section shall not be construed to include chimney boxes, swimming pools and spas, exposed plumbing, or mechanical equipment such as heating and air conditioning units or pool pumps, and no exceptions to the setback requirements shall be permitted for any of these structures.
- C. Any structure, architectural feature, wall, or other improvement lawfully constructed within a setback area and constituting a nonconforming structure as defined in Section 17.02.560, may be allowed to continue in accordance with ~~the provisions of~~ Chapter 17.38 of this title.

**Chapter 17.34.020 – Minimum requirements. (Parking)**

- A. ~~the~~ The following minimum parking requirements shall apply to all buildings erected, new uses commenced, and to the area of extended uses commenced after the effective date of this Chapter. For any use not specifically mentioned in this Chapter, the planning commission shall determine the amount of parking required. All required off-street parking facilities shall be on-site unless specified differently in this Chapter or as permitted under Title 12 of this Code. Required off-street parking facilities need not be provided as covered parking unless specified differently in this chapter:

Uses:	Parking Requirements:
Single-family dwellings and group care homes:	
Studio or 1-bedroom dwellings not more than 900 square feet in floor area:	1 off-street space (uncovered or covered).
All other dwellings not exceeding 1,800 square feet in floor area:	1 off-street space plus 1 space which shall be in a garage or carport.
Dwellings exceeding 1,800 square feet in floor area on lots having less than 37.5 feet in frontage:	2 off-street spaces plus 1 space which shall be in a garage or carport.
Dwellings exceeding 1,800 square feet in floor area on lots of 37.5 feet frontage or greater:	2 on-street or off-street spaces plus 2 spaces which shall be in a garage or carport.
	See Section 17.34.020(B)(1) regarding garage and carport exclusions from the floor area calculation.

Uses:	Parking Requirements:
	<p>Additional guest parking spaces shall be provided for all residential subdivisions of 5 or more single-family residences, at the rate of 1 parking space for every 5 units. Such spaces shall be located entirely within the public right-of-way and available for public use. Any accessible parking spaces required per Section 17.34.040(D) shall count as guest parking spaces.</p>
Accessory dwelling units	<p><del>No off-street parking required. In the R-1, R-2, R-3, NCRO-2, SCRO-1, PAOZ-1, or PAOZ-2 Districts: No off-street parking required.</del></p> <p><u>In the R-BA and PD Districts: 1 off-street parking space (uncovered or covered), unless the accessory dwelling unit is located within one-half mile walking distance of public transit, or the accessory dwelling unit is part of the proposed or existing dwelling, as defined in Section 17.02.235, or an accessory structure as defined in subsection B of Section 17.02.755.</u></p>
<u>Junior accessory dwelling units</u>	<u>No off-street parking required.</u>

## Chapter 17.38 - NONCONFORMING USES AND STRUCTURES

### Sections:

#### 17.38.010 - Continuation of nonconforming uses and structures.

Nonconforming uses and nonconforming structures may be continued only in compliance with, and so long as permitted by, the provisions of this chapter.

#### 17.38.020 - Change or replacement of nonconforming use.

- A. A nonconforming use shall not be changed to or replaced by another nonconforming use.
- B. A nonconforming use which is changed to or replaced by a conforming use shall not be re-established. Where any portion of a nonconforming facility is changed from a nonconforming use to a conforming use, such portion shall thereafter only be used for a conforming use.

#### 17.38.030 - Expansion of nonconforming uses.

- A. Except as otherwise provided in subsection B of this 17.38.030(B) of this section and Section 17.38.110 of this chapter, a nonconforming use may not be enlarged, expanded or intensified. This prohibition shall include any enlargement, expansion or intensification of a nonconforming use which:
  1. Increases the site area or floor area occupied by the nonconforming use; or
  2. Increases the amount, volume, or intensity of nonconforming business use, or the machinery, equipment, trade fixtures or other personal property utilized in the conduct of such use; or
  3. Displaces any conforming use occupying a structure or site.
- B. Nonconforming residential uses located in the R-1, R-2, R-3 or R-BA district may be enlarged or expanded upon the granting of a use permit by the planning commission pursuant to Chapter 17.40 of this title. In addition to the findings required by Chapter 17.40, the planning commission shall also find and determine that:
  1. Parking spaces in accordance with the requirements set forth in Chapter 17.34 of this title will be provided for the nonconforming use and all other uses on the site;
  2. Any expansion of the nonconforming facility will comply with all applicable development standards for the district in which the site is located, including, but not limited to, floor area ratio, setbacks, height, and coverage limitations.
  3. The nonconforming facility will comply with all applicable provisions of the building, health and fire codes.
  4. The nonconforming use will comply with such other conditions and requirements which, in the judgment of the planning commission, are necessary or appropriate to mitigate any potential adverse impacts of the expansion on the neighborhood.

Note. A single-family dwelling on a lot of record in an R-1, R-2, R-3, or R-BA district having less than the minimum lot area prescribed by the applicable district regulations, shall constitute a conforming use and may be enlarged or expanded subject to the development standards of the applicable district and the limitations set forth in Section 17.32.055 of Chapter 17.32 of this title.

#### **17.38.040 - Maintenance and repair of nonconforming facility.**

- A. Nonconforming facilities may be continued, maintained and repaired so as to protect the health and safety of the occupants and preserve the useful life of the structure.
- B. Nonconforming facilities may be remodeled and the interior reconfigured so long as there is no enlargement, expansion, or intensification of the nonconforming use, except as otherwise permitted by subsection B of Section 17.38.030(B).

#### **17.38.050 - Abandonment of nonconforming uses.**

- A. Whenever a nonconforming nonresidential use has been abandoned, such use shall not be resumed or re-established and all subsequent uses of the site shall conform with the requirements of this title. Discontinuance of a nonconforming nonresidential use for a period of one hundred twenty (120) consecutive days or more shall conclusively be presumed an abandonment of such use; provided, however, discontinuance under any of the following circumstances shall not be considered an abandonment of the use:
  - 1. Any discontinuance of use in connection with a pending sale or other transfer of ownership or management of the nonconforming use to a designated person or persons and the discontinuance of use is solely for the purpose of accomplishing the sale or transfer.
  - 2. Any discontinuance of use during a reasonable period of reconstruction or replacement of the damaged or destroyed nonconforming facility, where such reconstruction or replacement is permitted under the provisions of Section 17.38.060.
  - 3. Any other circumstance found by the planning commission to have been beyond the reasonable control of the person conducting the use, and such person commences the activity necessary for re-establishment of the use and prosecutes the same diligently to completion.
- B. A nonconforming residential use may not be reestablished if the nonconforming facility has been modified to remove the features of residential occupancy.

#### **17.38.060 - Reconstruction or replacement of nonconforming facility.**

A nonconforming facility which is damaged or destroyed may be reconstructed or replaced for continued occupancy by the nonconforming use or uses previously conducted therein, subject to the following limitations:

- A. The site area or floor area occupied by the nonconforming use, and the intensity of activity conducted by the nonconforming use, subsequent to reconstruction or replacement of the facility shall not exceed that existing prior to the damage or



destruction of the facility, except as otherwise permitted by subsection B of 17.38.030~~subsection 17.38.030 (B)~~.

- B. The reconstructed or replaced facility shall comply with all of the applicable regulations of this title, other than the use of the structure, and all applicable provisions of the building, health, and fire codes.

#### **17.38.070 - Maintenance and repair of nonconforming structures.**

Nonconforming structures may be maintained and repaired so as to protect the health and safety of the occupants and preserve the useful life of the structure.

#### **17.38.080 - Alteration or expansion of nonconforming structures.**

- A. A nonconforming structure shall not be altered, enlarged, or expanded so as to increase the degree of noncompliance or otherwise increase the discrepancy between existing conditions and the requirements of this title.
- B. Structural alterations may be permitted when necessary to comply with the requirements of law.
- C. The prohibitions of this section shall not apply to any alteration, enlargement or expansion for which a variance is granted pursuant to Chapter 17.46 or to which a use permit is granted pursuant to Chapter 17.34 and 17.40 of this title.

#### **17.38.090 - Repair and replacement of nonconforming residential structures.**

- A. Damage of Less Than Seventy-Five Percent (75%). A nonconforming structure used for residential purposes which is damaged or destroyed by fire, flood, wind, earthquake, or other natural disaster~~calamity~~ to the extent of less than seventy-five percent (75%) of its floor area may be repaired, restored or reconstructed to its original size and configuration. All new construction, restoration and replacement shall comply with all applicable provisions of the building, health and fire codes.
- B. Damage of More Than Seventy-Five Percent (75%). A nonconforming structure used for residential purposes which is damaged or destroyed by fire, flood, wind, earthquake, or other natural disaster~~calamity~~ to the extent of seventy-five percent (75%) or more of its floor area may be repaired, restored or reconstructed provided that all of the following conditions are satisfied:
  1. The total floor area of the restored structure shall not be greater than the total floor area of the original structure.
  2. The total number of dwelling units in the restored structure shall not be greater than the total number of dwelling units in the original structure.
  3. The front, side and rear setbacks of the restored structure shall not be less than the setbacks of the original structure.
  4. The number of off-street parking places shall not be reduced from the number available prior to the restoration.
  5. The new construction, restoration and replacement shall comply with all applicable provisions of the building, health and fire codes.

- C. Mixed Use Structure. A nonconforming structure containing both residential and nonresidential uses may be restored in accordance with the provisions of this section where the residential uses constitute more than fifty percent (50%) of the floor area of the entire structure.

#### **17.38.100 - Replacement of nonconforming nonresidential structures.**

- A. Nonconforming nonresidential structures which are damaged or destroyed may not be reconstructed or replaced, except as follows:
1. When the entire structure is reconstructed or replaced as a conforming structure.
  2. Where the damage or destruction affects only a portion of a nonconforming structure, which portion does not constitute or contribute to the noncompliance, such portion may be reconstructed or replaced to its previous configuration.
  3. Where the damage or destruction affects only a portion of a nonconforming structure, which portion constitutes or contributes to the noncompliance and does not exceed fifty percent (50%) of the floor area of the entire structure, such portion may be reconstructed or replaced to its previous configuration.
- B. Except as permitted by this section with regard to restoration of a structure to its previous configuration, all reconstruction and replacement shall comply with the provisions of this title and all applicable provisions of the building, health and fire codes.

#### **17.38.110 - Addition of Accessory Dwelling Units to Nonconforming Uses or Structures.**

- A. Nonconforming single-family, duplex, or multiple-family uses may be expanded to accommodate accessory dwelling units and junior accessory dwelling units pursuant to Chapter 17.43 of this title.
- B. A nonconforming structure may be rebuilt in the same location and to the same dimensions, including height, as the existing structure and converted to an accessory dwelling unit pursuant to Chapter 17.43 of this title.

### **Chapter 17.43 - Accessory Dwelling Units and Junior Accessory Dwelling Units**

#### **17.43.010 - Purposes of chapter.**

Accessory dwelling units and junior accessory dwelling units are permitted under ~~the provisions of~~ this chapter to achieve the following purposes:

- A. To provide opportunities to establish accessory dwelling units and junior accessory dwelling units on building sites developed with existing or proposed single-family dwellings, duplexes, or multiple-family dwellings.
- B. To provide affordable housing to meet the needs of Brisbane citizens.
- C. To ensure that the development of accessory dwelling units is compatible with existing development and reflects the diversity of the community.

- D. To implement and promote the goals and policies of the general plan so as to guide and manage residential development in the city in accordance with such plan.

#### 17.43.020 - Definitions.

In addition to the definitions set forth in Chapter 17.02, all of which are applicable to this chapter, the following words and phrases shall have the meanings respectively ascribed to them in this section, unless the context or the provision clearly requires otherwise:

"Impact fees" include the fees specified in Sections 66000 and 66477 of the Government Code, but do not include utility connection fees or capacity charges.

"Living area" means the interior habitable area of a main dwelling unit, including basements and attics but not including a garage or any accessory structure.

"Main dwelling" means that dwelling unit on the property that is not an accessory dwelling unit or a junior accessory dwelling unit.

~~"Public transit" means a transit stop served by at least one publicly provided form of transportation.~~

"Efficiency kitchen" means a kitchenette or a small kitchen or part of a room equipped as a kitchen in a junior accessory dwelling unit and shall include all of the following: (1) a cooking facility with appliances, and (2) a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

"Multiple-family dwellings" means a dwelling than contains two (2) or more dwelling units (including a "duplex"), provided, however, that a property containing a single-family dwelling and a lawful accessory dwelling unit (either both attached and detached) and/or a junior accessory dwelling unit shall not be deemed a multiple-family dwelling.

#### ~~17.43.030 – Applicability and requirements.~~

~~A. Newly Constructed Accessory Dwelling Units. A newly constructed accessory dwelling unit shall be established or occupied only by an accessory dwelling unit permit granted by the director of community development pursuant to the provisions of this subsection as a ministerial act, in accordance with Section 65852.2 of the California Government Code. An existing nonconforming dwelling unit may be designated as an accessory dwelling unit subject to compliance with the requirements of this subsection.~~

~~Newly constructed accessory dwelling units shall comply with all of the following development standards:~~

- ~~1. Zoning Districts. Accessory dwelling units may only be established or occupied in the R-1, R-2, R-3, or R-BA Brisbane Acres residential districts, or in the SCRO-1 district, associated with an existing or proposed single-family dwelling, per the applicable district regulations.~~
- ~~2. Lot Size. There is no minimum lot size requirement.~~
- ~~3. One Accessory Dwelling Unit per Site. Only one accessory dwelling unit shall be permitted on any one site; provided, however, where a site already contains~~

~~two (2) or more dwelling units that exist as legally established nonconforming uses, no additional accessory dwelling units shall be allowed on that site.~~

- ~~4. Attached or Detached. The accessory dwelling unit may be attached to or constructed within the main dwelling or may be detached from the main dwelling on the site.~~
- ~~5. Unit Size. The accessory dwelling unit shall not exceed one thousand (1,000) square feet in floor area.~~
- ~~6. Floor Area Ratio. The floor area of the accessory dwelling unit shall be included in calculating the floor area ratio for the site on which the accessory dwelling unit is located.~~
- ~~7. Parking. Parking spaces for the main dwelling and accessory dwelling units shall be provided in accordance with the requirements set forth in~~
- ~~8. Access. As required by of the Municipal Code, the site on which the accessory dwelling unit is located shall have a legal means of access that complies with the street standards set forth in.~~
- ~~9. Utilities. The site is served by adequate water, sewer, and storm drain facilities which comply with city standards. An accessory dwelling unit shall not be considered a new residential use for the purposes of calculating connection fees or capacity charges for water and sewer service provided by the city.~~
- ~~10. Compliance with Codes. The accessory dwelling unit and all new construction on the site that will be performed in connection therewith shall comply with all applicable provisions of this title and all applicable building, health and fire codes, with the following exception:~~
  - ~~a. Accessory dwelling units shall not be required to provide fire sprinklers if fire sprinklers are not required for the main dwelling, as determined by the building official consistent with BMC.~~
- ~~B. Conversion Accessory Dwelling Units: Notwithstanding subsection A of this, an accessory dwelling unit resulting from the conversion of existing building space shall be established by a city issued building permit and shall be exempt from the development standards of (A) if it meets the following requirements, as determined by the community development director:~~
  - ~~1. It is contained within the existing space of a single family dwelling or accessory structure, as defined in;~~
  - ~~2. It has an independent exterior access from the existing residence; and~~
  - ~~3. It has sufficient side and rear setbacks for fire safety.~~

#### **~~17.43.040 – Owner occupancy restrictions.~~**

~~Either the main dwelling or the accessory dwelling unit shall be occupied by the record owner of the property as the owner's principal place of residence. In the case of ownership by a corporation, limited liability company, partnership, trust or association, either the main dwelling or the accessory dwelling unit shall be the principal place of residence of an officer, director,~~

~~shareholder, or member of the company, a partner in the partnership, a trustee or beneficiary of the trust, a member of the association, or an employee of any such organization.~~

#### **~~17.43.050 – Recordation of accessory dwelling unit permit agreement.~~**

~~The original accessory dwelling unit permit agreement shall be recorded in the office of the county recorder. All of the conditions applicable to the permit shall be set forth therein, and such agreement shall run with the land and be binding upon successive owners and occupants of the property.~~

#### **~~17.43.060 – Modification or revocation of accessory dwelling unit permit.~~**

~~A. The city shall retain continuing jurisdiction over any accessory dwelling unit permit issued under this chapter and may, at any time, modify or revoke the permit, upon the occurrence of any of the following events:~~

- ~~1. The holder of the permit has failed to comply with any of the conditions set forth in the permit; or~~
- ~~2. The holder of the permit has violated the occupancy restriction set forth in Section 17.43.040 of this chapter; or~~
- ~~3. The accessory dwelling unit has been eliminated through alteration of the structure in which such unit was contained.~~

~~B.A. \_\_\_\_\_ Prior to any modification or revocation of the accessory dwelling unit permit, the director of community development shall conduct a hearing on the proposed action. Written notice of such hearing shall be given to the permittee not less than ten (10) days prior to the date of the hearing.~~

#### **17.43.030 – Permit Requirements.**

- A. Except as provided by subsection C of this Section 17.43.0430, building permit applications for junior accessory dwelling units or accessory dwelling units shall be ministerially processed within sixty (60) days of receipt of a complete building permit application and approved if they meet the requirements of this chapter. Incomplete applications will be returned to the applicant with a written explanation of the additional information required for approval.
- B. Notwithstanding subsection A, if the building permit application submitted will also create a new single-family dwelling or multiple-family dwelling on the lot, the application for the junior accessory dwelling unit or accessory dwelling unit(s) shall not be acted upon until the building permit application for the new single-family dwelling or multiple-family dwelling is approved, but thereafter shall be ministerially processed within sixty (60) days of receipt of a complete application and approved if it meets the requirements of this chapter. Occupancy of the junior accessory dwelling unit or accessory dwelling unit(s) shall not be allowed until the City approves occupancy of the main dwelling.
- C. The City shall grant a delay in processing an application for an accessory dwelling unit or junior accessory dwelling unit if requested by the applicant.
- D. All junior accessory dwelling unit and accessory dwelling unit applications shall be subject to building inspection and permit fees as established by resolution of the City

Council and water and sewer connection and capacity fees in compliance with Title 13, except that:

1. No impact fees may be imposed on a junior accessory dwelling unit or accessory dwelling unit that is less than seven hundred fifty (750) square feet.
2. For accessory dwelling units that have a floor area of seven hundred fifty (750) square feet or more, impact fees shall be charged proportionately in relation to the current impact fees for the square footage of the main dwelling.

E. Construction of an accessory dwelling unit and/or junior accessory dwelling unit in the R-BA Brisbane Acres Residential District shall require submittal of an application for an accessory dwelling unit permit in addition to an application for a building permit. Accessory dwelling unit permits shall be granted ministerially by the director of community development pursuant to this chapter within sixty (60) days of receipt of a complete permit application in accordance with Section 65852.2 of the California Government Code.

#### **17.43.040 – Development regulations for accessory dwelling units.**

Accessory dwelling units shall comply with all of the following development standards:

- A. Zoning Districts. Accessory dwelling units may only be established or occupied in the R-1, R-2, R-3, R-BA, NCRO-2, SCRO-1, PAOZ-1, PAOZ-2 and PD zoning districts with an existing or proposed single-family or multiple-family dwelling.
- B. Density. An accessory dwelling unit that conforms to this Chapter 17.43 shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located. The accessory dwelling unit shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot and shall not be considered in the application of any City ordinance, policy, or program to limit residential growth.
- C. Lot Size. There is no minimum lot size requirement.
- D. Number of Units.
  1. No more than one accessory dwelling unit may be constructed on any lot developed with a single-family dwelling.
  2. The number of accessory dwelling units permitted on any lot developed with a multiple-family dwelling shall comply with Section 17.43.050 of this chapter.
- E. Attached or Detached. Accessory dwelling units may be attached to or located within the existing or proposed main dwelling, including garages, storage areas, or accessory structures, or detached from the main dwelling on the same lot.
- F. Unit Size. Accessory dwelling units shall not exceed one thousand (1,000) square feet in floor area, as defined in Section 17.02.315 of Chapter 17.02 of this title.
- G. Setbacks. Accessory dwelling units shall be subject to the following setback requirements:



1. Front Setback. The minimum front setback shall be as established in the underlying zoning district regulations.
  2. Side Setback. Accessory dwelling units on a lot of forty (40) feet or more in width shall have a minimum side setback of four (4) feet. Accessory dwelling units on a lot with a width of less than forty (40) feet shall provide minimum side setbacks in compliance with the underlying zoning district regulations.
  3. Rear Setback. Accessory dwelling units on any lot shall have a rear setback of at least four (4) feet.
  4. No setback shall be required for an existing, legally permitted living area, garage, or accessory structure with nonconforming setbacks that is converted to an accessory dwelling unit or a portion of an accessory dwelling unit or an accessory dwelling unit constructed in the same location and to the same dimensions, including height, as an existing, legally permitted living area, garage, or accessory structure with nonconforming setbacks.
- H. Lot Coverage. Accessory dwelling units shall be included in calculating the lot coverage for the lot on which the accessory dwelling unit is located, except for accessory dwelling units eight hundred (800) square feet or less in floor area and no more than sixteen (16) feet in height.
- I. Floor Area Ratio. The floor area of the accessory dwelling unit shall be included in calculating the floor area ratio for the lot on which the accessory dwelling unit is located, except that:
1. Accessory dwelling units eight hundred (800) square feet or less in floor area and no more than sixteen (16) feet in height, if detached, are exempt from calculating the floor area ratio for the lot; and
  2. Accessory dwelling units proposed within the space of a single-family dwelling or existing accessory structure may include an expansion of not more than one hundred fifty (150) square feet beyond the physical dimensions of the existing accessory structure or single-family dwelling, provided however, that the expansion of the single-family dwelling or accessory structure shall be limited to accommodating ingress and egress for the accessory dwelling unit, the setbacks of the expansion shall comply with the setback standards set forth in subsection G of Section 17.43.040 or of the underlying zoning district if the accessory dwelling unit is attached to the single-family dwelling, and shall be compliant with building, health, and fire codes.
- J. Height. Accessory dwelling units shall not exceed two stories and shall be subject to the height maximum established in the underlying zoning district.
- K. Required Facilities. An accessory dwelling unit shall include all of the following facilities:
1. A kitchen, including a sink, food preparation counter, storage cabinets, and permanent cooking facilities such as a range or cooktop and oven, that meet Building Code standards; and
  2. A full bathroom, including sink, toilet, and shower and/or bath facilities.

L. Landscaping. Accessory dwelling units shall be subject to the landscaping requirements of the underlying zoning district.

M. Parking. Parking spaces for the main dwelling and accessory dwelling units shall be provided in accordance with the requirements set forth in Chapter 17.34, except that when a garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of an accessory dwelling unit, any parking spaces that were provided by such garage, carport, or covered parking structure are not required to be replaced.

N. Unit Access.

1. As required by Section 17.01.060, the lot on which the accessory dwelling unit is located shall have a legal means of access to the public right of way that complies with the street standards set forth in Section 12.24.010.
2. A separate exterior entry from the main entrance to the main dwelling shall be required to serve each attached accessory dwelling unit. Interior entry access between an accessory dwelling unit and the main dwelling is permitted, provided that the interior entry is located off a common living area of the main dwelling, such as a living room, family room, dining room, kitchen, or an interior hallway leading to common living areas.

O. Utilities. The lot is served by adequate water, sewer, and storm drain facilities which comply with city standards as established per Title 13 of this Code. An accessory dwelling unit shall not be considered a new residential use for the purposes of calculating connection fees or capacity charges for water and sewer service provided by the City, pursuant to Title 13 of this Code. As to the main dwelling, a separate water connection, a separate sewer service connection, or a separate power connection for water, sewer, and power service is not required for an accessory dwelling unit.

P. Compliance with Codes. The accessory dwelling unit and all new construction on the lot that will be performed in connection therewith shall comply with all applicable provisions of this title and all applicable building, health and fire codes.

1. Accessory dwelling units shall not be required to provide fire sprinklers except when fire sprinklers are required for the main dwelling, as determined by the building official consistent with Chapter 15.10.

#### **17.43.050 - Accessory dwelling units in multiple-family dwellings.**

In addition to compliance with the development regulations established in Section 17.43.040 of this chapter, accessory dwelling units on lots with existing multiple-family dwellings shall also comply with all of the following criteria:

A. At least one attached accessory dwelling unit shall be allowed per lot developed with a multiple-family dwelling.

1. The total number of attached accessory dwelling units permitted shall not exceed a maximum of twenty-five percent (25%) of the total number of existing dwelling units within the existing multiple-family dwelling.



2. Attached accessory dwelling units shall be allowed within existing portions of multiple-family dwellings that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, provided, that each accessory dwelling unit complies with state building standards for dwellings. An accessory dwelling unit shall not be created within any portion of the habitable area of an existing dwelling unit in a multiple-family dwelling.

B. In addition to attached accessory dwelling units permitted under subsection A, not more than two detached accessory dwelling units may be allowed on a lot developed with a multiple-family dwelling. Detached accessory dwelling units shall be subject to the following standards:

1. Setbacks. The setback requirements of Section 17.43.040 of this Chapter apply.

2. Floor Area. Detached accessory dwelling units may not exceed eight hundred (800) square feet in floor area per unit.

3. Height. Detached accessory dwelling units shall not exceed sixteen (16) feet in height.

#### **17.43.060 - Development regulations for junior accessory dwelling units.**

Junior accessory dwelling units shall comply with all of the following development standards:

A. Zoning Districts. Junior accessory dwelling units may only be established or occupied on lots in the R-1, R-2, R-3, R-BA, NCRO-2, SCRO-1, PAOZ-1, and PD zoning districts with an existing or proposed single-family dwelling.

B. Density. A junior accessory dwelling unit that conforms to this Chapter 17.43 shall be deemed to be an accessory use and shall not be considered to exceed the allowable density for the lot upon which it is located. The junior accessory dwelling unit shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot and shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

C. Lot Size. There is no minimum lot size requirement.

D. Number of Units.

1. No more than one junior accessory dwelling unit may be constructed on any lot developed with an existing or proposed single-family dwelling.

2. A junior accessory dwelling unit may be permitted on a lot with an accessory dwelling unit, provided the following criteria are met:

a. The accessory dwelling unit is fully detached and the junior accessory dwelling unit is within anthe existing or proposed single-family dwelling; and

b. The detached accessory dwelling unit does not exceed a total floor area of more than eight hundred (800) square feet and a height limitation of sixteen (16) feet.

E. Floor Area Requirements.

1. Junior accessory dwelling unit shall not exceed five hundred (500) square feet in floor area and shall be constructed within the existing walls of the main dwelling. The floor area of the junior accessory dwelling unit shall be included in calculating the floor area ratio for the lot on which the junior accessory dwelling unit is located and subject to the maximum floor area ratio established in the underlying zoning district.

a. Exemption: A junior accessory dwelling unit may expand the main dwelling by not more than one hundred fifty (150) square feet beyond the physical dimensions of the main dwelling, provided that the expansion of the main dwelling shall be limited to accommodating ingress and egress for the junior accessory dwelling unit. The setbacks of the expansion shall comply with the setback standards of the underlying zoning district and shall be compliant with building, health, and fire codes.

F. Unit Access.

1. As required by Section 17.01.060, the lot on which the junior accessory dwelling unit is located shall have a legal means of access to the public right of way that complies with the street standards set forth in Section 12.24.010.

2. A separate exterior entry from the main entrance to the main dwelling shall be provided to serve the junior accessory dwelling unit only. Interior entry access between the junior accessory dwelling unit and the main dwelling is permitted, provided that the interior entry is located off a common living area of the main dwelling, such as a living room, family room, dining room, kitchen, or an interior hallway leading to these common living areas.

G. Required Facilities. A junior accessory dwelling unit shall include all of the following facilities:

1. At a minimum, an efficiency kitchen.

2. Sanitation facilities, but such facilities may be separated from or shared with the main dwelling.

H. Owner Occupancy. Either the main dwelling or the junior accessory dwelling unit shall be occupied by the record owner of the property as the owner's principal place of residence. In the case of ownership by a corporation, limited liability company, partnership, trust or association, either the main dwelling or the junior accessory dwelling unit shall be the principal place of residence of an officer, director, shareholder, or member of the company, a partner in the partnership, a trustor or beneficiary of the trust, a member of the association, or an employee of any such organization. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

I. Recordation of Declaration of Restrictions.

1. A Declaration of Restrictions shall be recorded to run with the land that indicates the following:

- a. Only one unit may be occupied solely by persons other than the owner or owners of record;
- b. If a junior accessory dwelling unit is rented, the unit shall not be rented for a period of less than 30 consecutive calendar days;
- c. Sale of the junior accessory dwelling unit separately from the main dwelling is prohibited; and
- d. The approved size and attributes of the junior accessory dwelling unit.

- 2. A copy of this Declaration of Restrictions must be given to each prospective purchaser or occupant.

J. Parking. Parking spaces for the main dwelling and junior accessory dwelling unit shall be provided in accordance with the requirements set forth in Chapter 17.34 of this title.

K. Utilities. The lot shall be served by adequate water, sewer, and storm drain facilities which comply with city standards as established per Title 13 of this Code. A junior accessory dwelling unit shall not be considered a new residential use for the purposes of calculating connection fees or capacity charges for water and sewer service provided by the City.

L. Compliance with Codes. The junior accessory dwelling unit and all new construction on the lot that will be performed in connection therewith shall comply with all applicable provisions of this title and all applicable building, health, and fire codes.

- 1. Junior accessory dwelling units shall not be required to provide fire sprinklers except when fire sprinklers are required for the main dwelling, as determined by the building official consistent with Chapter 15.10.

#### **17.43.070 - Prohibition on sale and limitation on rental.**

- A. Accessory dwelling units and junior accessory dwelling units shall not be sold separately from the main dwelling(s).
- B. If an accessory dwelling unit or junior accessory dwelling unit is rented, the unit shall not be rented for a period of less than 30 consecutive calendar days.

#### **17.43.080 – Delay of enforcement of building standards.**

- A. Prior to January 1, 2030, the owner of an accessory dwelling unit that was built before January 1, 2020, may submit an application to the building official requesting that correction of any violation of building standards be delayed for five years. For the purposes of this section, “building standards” refer to those standards enforced by local agencies under the authority of Section 17960 and following of the California Health and Safety Code.
- B. The building official shall grant any application submitted under subsection A of this Section if the building official determines that enforcement of the building standard is not necessary to protect health and safety. In making this determination, the building official shall consult with the fire marshal.
- C. No applications submitted pursuant to this section shall be approved on or after January 1, 2030; provided, however, any delay to correct a violation that was approved by the

building official before January 1, 2030, shall be valid for the full term of the delay that the building official approved at the time the building official approved the application.

D. Until January 1, 2030, any notice to correct a violation of building standard that is issued to the owner of an accessory dwelling unit built before January 1, 2020 shall include a statement that the owner has a right to request a delay in enforcement of the building standard for an accessory dwelling unit pursuant to this section.

E. This section shall remain in effect until January 1, 2035, and as of that date is repealed.

**17.43.070-17.43.090 - Appeals.**

Any decision or determination by the director of community development or building official pursuant to this chapter may be appealed ~~to the city council~~ in accordance with the procedure set forth in Chapter 17.52 of this title.

ATTACHMENT 2

DRAFT ORDINANCE NO. 653

**draft**  
**ORDINANCE NO. 653**

**AN ORDINANCE OF THE CITY OF BRISBANE  
AMENDING TITLE 17 OF THE BRISBANE MUNICIPAL CODE  
TO REGULATE ACCESSORY DWELLING UNITS AND  
JUNIOR ACCESSORY DWELLING UNITS  
AND AMENDING TITLE 15 OF THE BRISBANE MUNICIPAL CODE  
TO REGULATE ALTERATIONS AND ADDITIONS TO EXISTING STRUCTURES**

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

**SECTION 1: Section 13.04.453 - Disclosure and sewer lateral certificate, when required of Chapter 13.04 of the Brisbane Municipal Code is amended to read as follows:**

**13.04.453 - Disclosure and sewer lateral certificate; when required.**

- A. A person must possess or obtain a sewer lateral certificate issued under Section 13.04.452 before the city will issue a final building permit when the person has undertaken work that:
  - 1. Triggers the requirements of Chapter 15.10 of this code; or.
  - 2. Is associated with a change in water service (e.g., change in meter size or the addition of a meter).
- B. Beginning April 20, 2015, any person intending to sell or transfer a fee interest in real property must disclose the requirements of this section to each of the following, except as provided in subsection C:
  - 1. The person's real estate broker or agent, if any;
  - 2. The person to whom the real property is intended to be sold or transferred;
  - 3. The real estate broker or agent, if any, of the person to whom the real property is intended to be sold or transferred;
  - 4. The escrow company or holder involved in the real property sale or transfer, if any.
- C. Subsection B does not apply to:
  - 1. Sales or transfers of individual units within a condominium as defined in Section 17.02.150 of this code;
  - 2. Sales or transfers of less than a fee interest, e.g., a leasehold;
  - 3. Sales or transfers to a fiduciary in the course of the administration of a decedent's estate, a guardianship or a conservatorship;
  - 4. Transfers from one co-owner to one or more other co-owners;
  - 5. Transfers to a revocable trust if the trust is for the benefit of the grantor(s);
  - 6. Transfers made by a trustor to an intervivos trust;
  - 7. Transfers between spouses or between registered domestic partners;

8. Transfers to a financial institution, trust deed holder, or trustee of a deed of trust, as part of foreclosure or similar process.
- D. The director shall prepare a handout or other written material, to be made available to the public, describing the requirements of this section. A person may satisfy the disclosure requirements of subsection B by providing a then current copy of the handout or other written material to those parties identified in subsection B.

**SECTION 2: Section 15.08.130 - Additions, alterations or repairs - Compliance with construction codes of Chapter 15.08 of the Brisbane Municipal Code is amended to read as follows:**

**15.08.130 - Additions, alterations or repairs—Compliance with construction codes.**

Any addition, alteration, or repair to, or change of use of, or occupancy in a building or structure shall comply with the provisions for new buildings and structures set out in the construction codes, except as may otherwise be provided in Chapter 15.10, Sections 15.08.180 through 15.08.210, and in Section 502 of the Uniform Building Code, latest adopted edition.

**SECTION 3: Section 15.44.080 - Section 903 amended—Automatic sprinkler systems of Chapter 15.44 of the Brisbane Municipal Code is amended to read as follows:**

**15.44.080 - Section 903 amended—Automatic sprinkler systems.**

Section 903 of the fire code is amended in its entirety to read as follows:

903 Automatic fire extinguishing systems.

- (a) Notwithstanding any other provisions of this Code or any other code or ordinance of the City of Brisbane, automatic fire sprinkler systems, approved by the Fire Marshal, shall be installed in the following buildings and structures that are classified as new construction:
  1. For all occupancies except R-3 occupancies: Any new building or structure, regardless of size, except stand alone, uninhabitable buildings, garages and sheds having a floor area of less than 400 square feet.
  2. For all R-3 occupancies: Any new single-family or duplex structure, excluding any detached accessory structure that does not constitute habitable space having a floor area of less than 400 square feet.
- (b) When additions or alterations made to an existing building fall within the requirements under Brisbane Municipal Code Chapter 15.10, an automatic fire sprinkler system shall be provided for the entire building.
- (c) Other Areas. An automatic fire sprinkler system shall be installed in all garbage compartments, rubbish and linen chutes, linen rooms, incinerator compartments, dumb waiter shafts, and storage rooms when located in all occupancies except Group R, Division 3. An accessible indicating shut off valve shall also be installed.
- (d) Condominium Conversions. An automatic fire sprinkler system shall be installed for all condominium conversions.
- (e) Where automatic fire sprinkler systems are required to be installed, the following additional requirements shall also be satisfied, as applicable:

1. A minimum of three (3) copies of plans and specifications for automatic sprinkler installations, plus water supply calculations, shall be provided to the Fire Department for review and approval prior to commencement of the installation work.
2. All required automatic sprinkler systems shall be approved by the Fire Department.
3. All acceptance tests and such periodic tests as required by the Fire Marshall or pursuant to NFPA Pamphlets No. 13, 13D, 13R and/or Subchapter 5, Title 19, California Code of Regulations, shall be conducted and, where applicable, witnessed by a representative of the Fire Department.
4. An approved exterior visual fire alarm device may be required for buildings that have numerous fire department connections (FDC's). Type and locations will be determined by the Fire Department. Such visual alarm devices are not to replace the exterior audible device, but to assist fire suppression personnel as to location(s) of systems which require pumping operations.

**SECTION 4: Section 15.08.140 - Additions or alteration in excess of fifty percent of floor area of Chapter 15.08 of the Brisbane Municipal Code is deleted in its entirety and reserved for future use.**

**SECTION 5: A new Chapter 15.10 is adopted to read as follows:**

**Chapter 15.10 - Additions, alterations, and major rebuilds to existing buildings.**

**15.10.010 - Authority.**

The building official or the building official's designee shall have the authority to enforce the provisions of this Chapter.

**15.10.020 - Coordination with other Chapters.**

This Chapter is intended to establish requirements which are in addition to, and not in replacement of, any other ordinance, rule, regulation, or policy of the city which may be applicable to the proposed development project, including any of the codes adopted by this Title 15 and the requirements of Section 17.01.060 of this title.

**15.10.030 - Applicability.**

This Chapter shall apply to additions, alterations, or major rebuilds, as defined in Section 15.10.040 of this Chapter, to a lawfully constructed building completed within any five (5) year period. The date of completion shall normally be established as the date on which the City grants final inspection approval of the work.

**15.10.040 - Definitions.**

For the purposes of this Chapter 15.10 the following definitions apply:

- A. "Addition and Alteration" shall mean new floor area added to an existing lawfully constructed building and/or changes to the existing floor area of a lawfully constructed building, which calculated together or apart constitute fifty (50) percent of the pre-existing floor area of the building. The conversion or recognition of - non-habitable rooms to habitable space may be included in the calculation of alteration of space, at the discretion of the building official.



- B. "Major rebuild" shall mean removal of seventy-five percent (75%) or more of the combined surface area of the interior walls and ceilings of the habitable rooms of a building or structure to expose support members.
- C. "Floor Area" shall mean the sum of the gross horizontal areas of all floors of all buildings or structures measured from the interior face of the exterior walls, but excluding each of the following:
  - 1. Any area where the floor to ceiling height is less than six (6) feet.
  - 2. Any detached garage or other detached accessory structure which does not constitute habitable space.
  - 3. Any attached carport or covered deck.
  - 4. Any attached or detached accessory dwelling unit eight hundred (800) square feet or less in gross horizontal area that, if detached, does not exceed sixteen (16) feet in height, where authorized pursuant to Chapter 17.43 of Title 17 of this Code.
- D. "Standards for new construction" shall mean:
  - 1. The requirements of the California Buildings Code adopted by this Title 15; and
  - 2. The storm water management and discharge requirements established by Chapter 13.06 of Title 13; and
  - 3. The standard specifications and street standards adopted by Section 12.24.010 of Title 12.
- E. "Hardship" means some verifiable level of difficulty or adversity, beyond the control of the applicant, by which the applicant cannot reasonably comply with the requirements of this Chapter.

#### **15.10.050 - Compliance Standards.**

For applicable projects, the entire building shall be brought into conformity with the standards for new construction that the building official determines to be necessary or appropriate to eliminate existing health or safety hazards, including, but is not limited to, defects in structural integrity, defective or inadequate electrical installations, defective or inadequate fire sprinklers, sanitary sewer or storm drainage facilities, and substandard street access to the property.

#### **15.10.060 - Exceptions.**

- A. Standard Exceptions. The following standard exceptions to Section 15.10.050 shall apply:
  - 1. The area of any additions and/or alterations not exceeding a cumulative total of four hundred (400) square feet within any five (5) year period.
  - 2. The conversion of existing floor area in an existing single-family or multiple-family dwelling to an accessory dwelling unit where authorized pursuant to Chapter 17.43 of Title 17.

3. The area of any addition and/or alteration for the creation or expansion of an attached or detached accessory dwelling unit eight hundred (800) square feet or less in floor area where authorized pursuant to Chapter 17.43 of Title 17. If detached, the accessory dwelling unit may not exceed sixteen (16) feet in height.
  4. Work involving exterior surfaces, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck.
  5. Alterations, renovations or repairs which do not essentially change the uses of the rooms within the building.
- B. Other Exceptions. Where the above listed exceptions do not apply, the building official shall have authority on a case-by-case basis to grant modifications of any such requirements for the standards of new construction if the building official is able to find and determine that:
1. Compliance with the requirement will cause unreasonable hardship; or
  2. The modification does not reduce any requirements for fire protection or any requirements relating to structural support and integrity; or
  3. The modification does not create any new or increased hazard to the health or safety of the occupants of the existing building or structure.

**SECTION 6: Section 17.01.060 - Requirement for lot of record and infrastructure improvements of Chapter 17.01 of the Zoning Ordinance is amended to read as follows:**

**17.01.060 - Requirement for lot of record and infrastructure improvements.**

- A. Except as permitted under subsections B and C of this section or as may be permitted under other provisions of this title, no permit or approval shall be granted for the construction or expansion of any new or existing main or accessory structure of any size upon any land, nor shall any permit or approval be granted for the establishment or expansion of any use upon any land, unless both of the following requirements are satisfied:
1. The land constitutes a lot of record, as such term is defined in Chapter 17.02 of this title, or the granting of the permit or approval is conditioned upon such land being established as a lot of record through the recording of a parcel map approved by the city; and
  2. All infrastructure improvements necessary for providing service to the existing or proposed structure or use have been constructed or installed in accordance with applicable city standards as determined by the city engineer, or the granting of the permit or approval is conditioned upon such improvements being constructed or installed pursuant to the terms and within such period of time as set forth in an improvement agreement between the city and the applicant, which agreement shall be recorded in the office of the county recorder and shall constitute a covenant running with the land. The improvement agreement may require the applicant to provide security for performance of the work, in such form and amount as determined by the approving authority, and may provide for the applicant to either construct the improvements or to participate in an arrangement for such construction by others, or any combination thereof.

- B. In the case of a lot of record which does not abut a public street providing the principal means of access to that lot, the following improvements may be constructed without compliance with the infrastructure requirements set forth in subsection (A)(2) of this section; provided, however no such improvements shall be allowed unless the approving authority determines that adequate infrastructure to service the proposed improvement is available at the site or will be constructed as part of the project:
1. Unenclosed hot tubs, decks, stairways and landings located on the same lot as a lawfully constructed dwelling;
  2. Retaining walls;
  3. Parking garages and carports, no portion of which is used or usable for human occupancy;
  4. An addition, not exceeding a floor area of one hundred (100) square feet, to a lawfully constructed building or structure. Only one such addition shall be allowed under this exemption;
  5. Repairs or remodels which do not change the original size or significantly alter the configuration and/or habitable floor area of a lawfully constructed building or structure, as determined by the planning director.
  6. The conversion of existing floor area of the main dwelling or the conversion of existing floor area of an accessory structure to an accessory dwelling unit or a junior accessory dwelling unit as permitted under Chapter 17.43 of this title. Such conversion may include the addition of floor area as provided in paragraph 4 of this subsection B. Only one such conversion shall be allowed under this exemption.
- C. Additions or alterations may be made to a lawfully constructed building or structure which is located on a lot of record, without compliance with the infrastructure requirements set forth in subsection (A)(2) of this section, where both of the following conditions are satisfied:
1. The additions or alterations are exempt from the provisions of Chapter 15.10.060; and
  2. A public street abutting the lot on which the building or structure is located provides the principal means of access to that lot.

**SECTION 7: Section 17.02.235 – Dwelling of Chapter 17.02 of the Zoning Ordinance 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) and (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 (2) 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. Permanent residency shall mean continuous occupancy of the dwelling unit for a period of thirty (30) days or more.
- 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. "Accessory dwelling unit" means a separate dwelling unit created upon a site that contains a single-family dwelling, duplex, or multiple-family dwelling. Subject to the restrictions of this title, the accessory dwelling unit may be within, attached to, or detached from the single-family dwelling, duplex, or multiple-family dwelling. An accessory dwelling unit shall include permanent provisions for living, sleeping, eating, cooking, and sanitation. The term "secondary dwelling unit" shall have the same meaning throughout this title.
- E. "Junior accessory dwelling unit" means a dwelling unit that is no more than five hundred (500) square feet in size and contained entirely within a single-family dwelling. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the single-family dwelling. Junior accessory dwelling units are distinguished from accessory dwelling units in that they: (1) must include the conversion of existing, legally permitted floor area within an existing single-family dwelling; (2) must be owner occupied, or the main dwelling be owner occupied; and (3) are subject to unique standards that are not applicable to accessory dwelling units, as specified in Chapter 17.43 of this Title.
- F. "Single-family dwelling" means a dwelling unit constituting the only principal structure upon a single site (excluding any lawfully established accessory 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 8: Section 17.06.020 – Permitted uses of Chapter 17.06 of the Zoning Ordinance is amended to read as follows:**

**17.06.020 - Permitted uses.**

The following permitted uses shall be allowed in the R-1 district:

- A. Single-family dwellings.
- B. Accessory structures and uses incidental to a permitted use, including personal cultivation of cannabis in compliance with Title 8, Chapter 8.12.
- C. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.
- D. Small family day care homes.

- E. Accessory dwelling units and junior accessory dwelling units, in accordance with Chapter 17.43 of this title.

**SECTION 9: Section 17.06.040 – Development regulations of Chapter 17.06 of the Zoning Ordinance is amended to read as follows:**

**17.06.040 - Development regulations.**

The following development regulations shall apply to any lot in the R-1 district:

A. Lot Area.

1. The minimum area of any lot shall be five thousand (5,000) square feet.
2. A single-family dwelling may be constructed on a lot of record with an area of less than five thousand (5,000) square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.32.100.

B. Density of Development. Not more than one single-family dwelling shall be located on each lot in the R-1 district.

C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

Width	Depth
50 feet	100 feet

D. Setbacks. The minimum required setbacks for any lot, except as provided in Section 17.32.070, shall be as follows:

1. Front setback: Fifteen (15) feet, with the following exceptions:
  - a. Where the lot has a slope of fifteen percent (15%) or greater, the minimum front setback may be reduced to ten (10) feet.
  - b. Where fifty percent (50%) or more of the lots of record in a block have been improved with single-family dwellings, the minimum front setback may be the average distance of the front outside wall of the single-family structures from the front lot line, if less than fifteen (15) feet. Notwithstanding the foregoing, the minimum front setback for garages or carports shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.
2. Side setback: five (5) feet, with the exception that a lot having a width of less than fifty (50) feet may have a side setback reduced to ten percent (10%) of the lot width, but in no event less than three (3) feet or the minimum setback required by the Uniform Building Code, whichever is greater. Notwithstanding the foregoing, the minimum side setback for garages or carports accessed from a street or alley along that side of the lot shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

3. Rear setback: Ten (10) feet.
- E. Lot Coverage. The maximum coverage by all structures on any lot shall be forty percent (40%).
- F. Floor Area Ratio. The maximum floor area ratio for all buildings on a lot shall be 0.72. Where the size of the lot is three thousand seven hundred (3,700) square feet or less, one covered parking space designed to accommodate a full-size automobile shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of two hundred (200) square feet.
- G. Height of Structures.
1. Except as otherwise provided in paragraph 2 of this subsection G and in Section 17.32.060, the maximum height of any structure shall be as follows:
    - a. Twenty-eight (28) feet, for lots having a slope of less than twenty percent (20%); or
    - b. Thirty (30) feet, for lots having a slope of twenty percent (20%) or more.
  2. For a distance of fifteen (15) feet from the front lot line, the height of any structure shall not exceed twenty (20) feet as measured from finish grade; provided, however, garages and carports may be constructed to a height of fifteen (15) feet above the elevation of the center of the adjacent street when permitted by Section 17.32.070 of this title. A garage or carport in compliance with this subsection may exceed a height of thirty (30) feet, but the height of any permitted living area underneath shall not exceed thirty (30) feet from finish grade.
- H. Articulation Requirements. Unless exempted, outside walls that are greater in size than twenty (20) feet in width and twenty (20) feet in height shall have a cumulative area of articulation as follows:
1. Front outside wall: Thirty percent (30%) articulation.
  2. Side outside walls:
    - a. Interior side outside wall: No articulation requirement.
    - b. Exterior side outside wall: Where the structure is located on a lot having an average width of forty (40) feet or greater, the articulation requirement for the exterior side outside wall shall be twenty percent (20%). No articulation shall be required for the exterior side outside wall of structures located on lots having an average width of less than forty (40) feet.
  3. Rear outside wall: Thirty percent (30%) articulation.
  4. Exemptions: Single story two (2) car garages and accessory structures not exceeding a floor area of one hundred twenty (120) square feet shall be exempted from all articulation requirements.
- I. Landscaping Requirements.

1. Front Setback. A minimum of fifteen percent (15%) of the front setback area shall be landscaped where the lot has a front lot line of thirty (30) feet or greater.
  2. Downslope Lots. The rear of any newly constructed main structure on a downslope lot shall be screened with trees and shrubs in accordance with a landscape plan approved by the planning director.
  3. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.
- J. Nonconforming Residential Structures and Uses. Nonconforming residential structures and nonconforming residential uses, as defined in Section 17.02.560, may be repaired, restored, reconstructed, enlarged or expanded in accordance with the provisions of Chapters 17.38 and 17.34 of this title.
- K. Recycling Area Requirements. For new subdivisions containing an area where solid waste is collected and loaded in a location which serves five (5) or more living units, adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided to serve the needs of the living units which utilize the area. This requirement shall also apply to all institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.

**SECTION 10: Section 17.08.020 – Permitted uses of Chapter 17.08 of the Zoning Ordinance is amended to read as follows:**

**17.08.020 - Permitted uses.**

The following permitted uses shall be allowed in the R-2 district:

- A. Single-family dwellings.
- B. Duplexes.
- C. Multiple family dwellings containing not more than six (6) dwelling units.
- D. Dwelling groups.
- E. Accessory structures and uses incidental to a permitted use, including personal cultivation of cannabis in compliance with Title 8, Chapter 8.12.
- F. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.
- G. Small family day care homes.

H. Accessory dwelling units and junior accessory dwelling units, in accordance with Chapter 17.43 of this title.

**SECTION 11: Section 17.08.040 – Development regulations of Chapter 17.08 of the Zoning Ordinance is amended to read as follows:**

**17.08.040 - Development regulations.**

The following development regulations shall apply to any lot in the R-2 district:

A. Lot Area.

1. The minimum area of any lot shall be five thousand (5,000) square feet, except as otherwise provided in subsection B of this Section 17.08.040.
2. A single-family dwelling may be constructed on a lot of record with an area of less than five thousand (5,000) square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.32.100.

B. Density of Development. The minimum lot area for each dwelling unit on the site shall be two thousand five hundred (2,500) square feet; provided, however, a lot having an area of four thousand nine hundred fifty (4,950) square feet or greater shall be considered conforming for a development density of two (2) units.

C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

Width	Depth
50 feet	100 feet

D. Setbacks. The minimum required setbacks for any lot, except as provided in Section 17.32.070, shall be as follows:

1. Front setback: Fifteen (15) feet, with the following exceptions:
  - a. Where the lot has a slope of fifteen percent (15%) or greater, the minimum front setback may be reduced to ten (10) feet.
  - b. Where fifty percent (50%) or more of the lots of record in a block have been improved with single-family dwellings, the minimum front setback may be the average distance of the front outside wall of the single-family structures from the front lot line, if less than fifteen (15) feet. Notwithstanding the foregoing, the minimum front setback for garages or carports shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.
2. Side setback: five (5) feet, with the exception that a lot having a width of less than fifty (50) feet may have a side setback reduced to ten percent (10%) of the lot width, but in no event less than three (3) feet or the minimum setback required by the Uniform Building Code, whichever is greater. Notwithstanding the foregoing, the minimum side setback for garages, or carports accessed from a street or alley along that side of the lot



shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

3. Rear setback: Ten (10) feet.

E. Lot Coverage. The maximum coverage by all structures on any lot shall be fifty percent (50%).

F. Floor Area Ratio. The maximum floor area ratio for all buildings on a lot shall be 0.72, subject to the following exclusions:

1. In the case of single-family dwellings, where the size of the lot is three thousand seven hundred (3,700) square feet or less, one covered parking space designed to accommodate a full-size automobile shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of two hundred (200) square feet.
2. In the case of duplexes and multiple-family dwellings, the area of all covered parking spaces required to be provided for the site shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of four hundred (400) square feet per unit.

G. Height of Structures.

1. Except as otherwise provided in paragraph 2 of this subsection G and in Section 17.32.060, the maximum height of any structure shall be as follows:
  - a. Twenty-eight (28) feet, for lots having a slope of less than twenty percent (20%); or
  - b. Thirty (30) feet, for lots having a slope of twenty percent (20%) or more.
2. For a distance of fifteen (15) feet from the front lot line, the height of any structure shall not exceed twenty (20) feet as measured from finish grade; provided, however, garages and carports may be constructed to a height of fifteen (15) feet above the elevation of the center of the adjacent street when permitted by Section 17.32.070 of this title. A garage or carport in compliance with this subsection may exceed a height of thirty (30) feet, but the height of any permitted living area underneath shall not exceed thirty (30) feet from finish grade.

H. Articulation Requirements. Unless exempted, outside walls that are greater in size than twenty (20) feet in width and twenty (20) feet in height shall have a cumulative area of articulation as follows:

1. Front outside wall: Thirty percent (30%) articulation.
2. Side outside walls:
  - a. Interior side outside wall: No articulation requirement.
  - b. Exterior side outside wall: Where the structure is located on a lot having an average width of forty (40) feet or greater, the articulation requirement for the exterior side outside wall shall be twenty percent (20%). No

articulation shall be required for the exterior side outside wall of structures located on lots having an average width of less than forty (40) feet.

3. Rear outside wall: Thirty percent (30%) articulation.
  4. Exemptions: Single story two (2) car garages and accessory structures not exceeding a floor area of one hundred twenty (120) square feet shall be exempted from all articulation requirements.
- I. Landscaping Requirements.
1. Front Setback. A minimum of fifteen percent (15%) of the front setback area shall be landscaped where the lot has a front lot line of thirty (30) feet or greater.
  2. Downslope Lots. The rear of any newly constructed main structure on a downslope lot shall be screened with trees and shrubs in accordance with a landscape plan approved by the planning director.
  3. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.
- J. Nonconforming Residential Structures and Uses. Nonconforming residential structures and nonconforming residential uses, as defined in Section 17.02.560, may be repaired, restored, reconstructed, enlarged or expanded in accordance with the provisions of Chapters 17.38 and 17.34 of this title.
- K. Recycling Area Requirements:
1. Adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.
  2. This requirement shall apply to all new residential buildings having five (5) or more living units, institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. This requirement shall also apply to such existing developments for which building permit applications are submitted within a twelve-month period collectively adding thirty percent (30%) or more to the existing floor area of the development project.

**SECTION 12: Section 17.10.020 – Permitted uses of Chapter 17.10 of the Zoning Ordinance is amended to read as follows:**

**17.10.020 - Permitted uses.**

The following permitted uses shall be allowed in the R-3 district:

- A. Multiple-family dwellings;
- B. Single-family dwellings.
- C. Duplexes.
- D. Dwelling groups.
- E. Accessory structures and uses incidental to a permitted use, including personal cultivation of cannabis in compliance with Title 8, Chapter 8.12.
- F. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.
- G. Small family day care homes.
- H. Accessory dwelling units and junior accessory dwelling units, in accordance with Chapter 17.43 of this title.

**SECTION 13: Section 17.10.040 – Development regulations of Chapter 17.10 of the Zoning Ordinance is amended to read as follows:**

**17.10.040 - Development regulations.**

The following development regulations shall apply to any lot in the R-3 district:

- A. Lot Area.
  - 1. The minimum area of any lot shall be five thousand (5,000) square feet, except as otherwise provided in subsection B of this section.
  - 2. A single-family dwelling may be constructed on a lot of record with an area of less than five thousand (5,000) square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.32.100.
- B. Density of Development. The minimum lot area for each dwelling unit on the site shall be one thousand five hundred (1,500) square feet; provided, however, a lot having an area of four thousand nine hundred fifty (4,950) square feet or greater shall be considered conforming for a development density of three (3) units.
- C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

Width	Depth
50 feet	100 feet

- D. Setbacks. The minimum required setbacks for any lot, except as provided in Section 17.32.070, shall be as follows:
  - 1. Front setback: Fifteen (15) feet, with the following exceptions:
    - a. Where the lot has a slope of fifteen percent (15%) or greater, the minimum front setback may be reduced to ten (10) feet.

- b. Where fifty percent (50%) or more of the lots of record in a block have been improved with single-family dwellings, the minimum front setback may be the average distance of the front outside wall of the single-family structures from the front lot line, if less than fifteen (15) feet. Notwithstanding the foregoing, the minimum front setback for garages or carports shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.
  - 2. Side setback: five (5) feet, with the exception that a lot having a width of less than fifty (50) feet may have a side setback reduced to ten percent (10%) of the lot width, but in no event less than three (3) feet or the minimum setback required by the Uniform Building Code, whichever is greater. Notwithstanding the foregoing, the minimum side setback for garages, or carports accessed from a street or alley along that side of the lot shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.
  - 3. Rear setback: Ten (10) feet.
- E. Lot Coverage. The maximum coverage by all structures on any lot shall be sixty percent (60%).
- F. Floor Area Ratio. The maximum floor area ratio for all buildings on a lot shall be 0.72, subject to the following exclusions:
  - 1. In the case of single-family dwellings, where the size of the lot is three thousand seven hundred (3,700) square feet or less, one covered parking space designed to accommodate a full-size automobile shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of two hundred (200) square feet.
  - 2. In the case of duplexes and multiple-family dwellings, the area of all covered parking spaces required to be provided for the site shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of four hundred (400) square feet per unit.
- G. Height of Structures.
  - 1. Except as otherwise provided in paragraph 2 of this subsection G and in Section 17.32.060, the maximum height of any structure shall be as follows:
    - a. Twenty-eight (28) feet, for lots having a slope of less than twenty percent (20%); or
    - b. Thirty (30) feet, for lots having a slope of twenty percent (20%) or more.
  - 2. For a distance of fifteen (15) feet from the front lot line, the height of any structure shall not exceed twenty (20) feet as measured from finish grade; provided, however, garages and carports may be constructed to a height of fifteen (15) feet above the elevation of the center of the adjacent street when permitted by Section 17.32.070 of this title. A garage or carport in compliance with this subsection may exceed a height of thirty (30) feet, but the height of any permitted living area underneath shall not exceed thirty (30) feet from finish grade.

H. Articulation Requirements. Unless exempted, outside walls that are greater in size than twenty (20) feet in width and twenty (20) feet in height shall have a cumulative area of articulation as follows:

1. Front outside wall: Thirty percent (30%) articulation.
2. Side outside walls:
  - a. Interior side outside wall: No articulation requirement.
  - b. Exterior side outside wall: Where the structure is located on a lot having an average width of forty (40) feet or greater, the articulation requirement for the exterior side outside wall shall be twenty percent (20%). No articulation shall be required for the exterior side outside wall of structures located on lots having an average width of less than forty (40) feet.
3. Rear outside wall: Thirty percent (30%) articulation.
4. Exemptions: Single story two (2) car garages and accessory structures not exceeding a floor area of one hundred twenty (120) square feet shall be exempted from all articulation requirements.

I. Landscaping Requirements.

1. Front Setback. A minimum of fifteen percent (15%) of the front setback area shall be landscaped where the lot has a front lot line of thirty (30) feet or greater.
2. Downslope Lots. The rear of any newly constructed main structure on a downslope lot shall be screened with trees and shrubs in accordance with a landscape plan approved by the planning director.
3. Sites with Three (3) or More Units. Not less than ten percent (10%) of the lot area shall be improved with landscaping where three (3) or more dwelling units are located on the same site.
4. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

J. Nonconforming Residential Structures and Uses. Nonconforming residential structures and nonconforming residential uses, as defined in Section 17.02.560, may be repaired, restored, reconstructed, enlarged or expanded in accordance with the provisions of Chapters 17.38 and 17.34 of this title.

K. Recycling Area Requirements:

1. Adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid

waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.

2. This requirement shall apply to all new residential buildings having five (5) or more living units, institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. This requirement shall also apply to such existing developments for which building permit applications are submitted within a twelve-month period collectively adding thirty percent (30%) or more to the existing floor area of the development project.

**SECTION 14: Section 17.12.020 – Permitted uses of Chapter 17.12 of the Zoning Ordinance is amended to read as follows:**

**17.12.020 - Permitted uses.**

The following permitted uses shall be allowed in the R-BA district:

- A. Single-family dwellings.
- B. Accessory structures and uses incidental to a permitted use, including personal cultivation of cannabis in compliance with Title 8, Chapter 8.12.
- C. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.
- D. Small family day care homes.
- E. Accessory dwelling units and junior accessory dwelling units, when authorized by a permit under Chapter 17.43 of this title.

**SECTION 15: Section 17.12.040 – Development regulations of Chapter 17.12 of the Zoning Ordinance is amended to read as follows:**

**17.12.040 - Development regulations.**

The following development regulations shall apply to any lot in the R-BA district:

- A. Lot Area.
  1. The minimum area of any lot shall be twenty thousand (20,000) square feet, except as otherwise provided in Section 17.12.050, Density transfer, and Section 17.12.055, Clustered development, of this chapter.
  2. A single-family dwelling may be constructed on a lot of record with an area of less than twenty thousand (20,000) square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.01.060 of Chapter 17.01 of this title.
- B. Density of Development. Not more than one single-family dwelling shall be located on each lot in the R-BA District.
- C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

Width	Depth
110 feet	140 feet

- D. Setbacks. The minimum required setbacks for any lot, except as provided in Section 17.32.070, shall be as follows:
1. Front setback: Ten (10) feet.
  2. Side setback: Ten percent (10%) of the lot width, but in no event more than fifteen (15) feet or less than five (5) feet. Notwithstanding the foregoing, the minimum side setback for garages or carports accessed from a street or alley along that side of the lot shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.
  3. Rear setback: Ten (10) feet.
- E. Lot Coverage. The maximum coverage by all structures on any lot shall be twenty-five percent (25%).
- F. Floor Area Ratio. The maximum floor area ratio of all buildings on a lot shall be 0.72; provided, however, that in no event shall the floor area of all buildings on a lot exceed five thousand five hundred (5,500) square feet.
- G. Height of Structures.
1. Except as otherwise provided in paragraph 2 of this subsection G and in Section 17.32.060, the maximum height of any structure shall be thirty-five (35) feet.
  2. For a distance of twenty (20) feet from the front lot line, the height of any structure shall not exceed twenty (20) feet as measured from finish grade; provided, however:
    - a. Residential structures on sites sloping down from the adjacent street may be constructed to a height of twenty (20) feet above the elevation of the center of the street, so long; and
    - b. Garages and carports may be constructed to a height of fifteen (15) feet above the elevation of the center of the adjacent street and may exceed a height of thirty-five (35) feet, but the height of any permitted living area underneath shall not exceed thirty-five (35) feet from finish grade.
- H. Wildland Interface. The development shall incorporate such measures as the fire chief may deem necessary to protect against the spread of fire between the site and the adjacent wildland.
- I. HCP Compliance. All development within the R-BA District, except as provided in Section 17.01.060, shall comply with the requirements of the San Bruno Mountain Area Habitat Conservation Plan (HCP), including site activity review, environmental assessments, and operating programs for planned management units, consistent with the objectives and obligations set forth in the HCP.

J. Articulation Requirements. Unless exempted, outside walls that are greater in size than twenty (20) feet in width and twenty (20) feet in height shall have a cumulative area of articulation as follows:

1. Front outside wall: Thirty percent (30%) articulation.
2. Side outside walls:
  - a. Interior side outside wall: No articulation requirement.
  - b. Exterior side outside wall: Where the structure is located on a lot having an average width of forty (40) feet or greater, the articulation requirement for the exterior side outside wall shall be twenty percent (20%). No articulation shall be required for the exterior side outside wall of structures located on lots having an average width of less than forty (40) feet.
3. Rear outside wall: Thirty percent (30%) articulation.
4. Exemptions: Single story two (2) car garages and accessory structures not exceeding a floor area of one hundred twenty (120) square feet shall be exempted from all articulation requirements.

K. Landscaping Requirements.

1. Landscape Plan. All development proposals and re-landscaping projects subject to the water conservation in landscaping ordinance (Chapter 15.70), except as permitted in Section 17.01.060 of Chapter 17.01 of this title, shall include a landscape plan to be approved by the planning director in consultation with the HCP plan operator. The plan shall show all proposed landscaping and the location of all protected trees and rare plants. The landscape plan shall be consistent with all of the following objectives:
  - a. Preservation of protected trees and rare plants to the greatest extent possible;
  - b. Use of plants that are compatible with the natural flora and fauna, and are not invasive to the HCP area;
  - c. Use of water conserving plants;
  - d. Use of plants that will effectively screen structures and blend with the natural landscape; and
  - e. Use of landscaping that is fire resistant.
2. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

L. Ridgeline. Development on any site through which a ridgeline runs as identified in Figure 17.02.695, Ridgelines, shall be subject to design permit approval, except for accessory dwelling units and junior accessory dwelling units and except as provided in Section 17.01.060.



1. In addition to the required contents of application for design permit set forth in Section 17.42.020(A), story poles certified by a licensed architect, surveyor, civil engineer or contractor to represent the height of the proposed building shall be erected at the locations of its outer corners and roof peaks according to a plan pre-approved by the community development director. The upper one-foot length of each pole shall be painted OSHA yellow so as to be clearly visible from a distance.
  2. In addition to the findings required for issuance of design permits set forth in Section 17.42.040, the planning commission shall find that the building's placement, height, bulk and landscaping will preserve those public views of the San Bruno Mountain State and County Park as seen from the Community Park and from the Bay Trail along the Brisbane Lagoon and Sierra Point shorelines that are found to be of community-wide value. Methods to accomplish this may include varying the building's roofline to reflect the ridgeline's topography, orienting the building to minimize the impact of its profile upon public views, locating the building on the lower elevations of the site, and reducing the building's height below the maximum permitted in the district.
  3. An existing structure may be repaired or replaced in accordance with Section 17.38.090 without design permit approval, but any alteration or expansion which raises any portion of the roofline or increases the building's lot coverage shall be subject to design permit approval under this section.
- M. Canyon Watercourses and Wetlands. Development of the site, including any temporary disturbance, shall be set back thirty (30) feet in each direction from the center line of any watercourse, and twenty (20) feet from the boundary of any wetlands. The specific location of watercourse center lines and wetland boundaries shall be determined by qualified personnel under the city's direction.
- N. Trails. The development shall incorporate public access trails to the extent feasible given the environmental sensitivities of the site.
- O. Nonconforming Residential Structures and Uses. Nonconforming residential structures and nonconforming residential uses, as defined in Section 17.02.560, may be repaired, restored, reconstructed, enlarged or expanded in accordance with the provisions of paragraph 3 of subsection L of Section 17.12.040 and Chapters 17.34 and 17.38 of this title.
- P. Recycling Area Requirements. For new subdivisions containing an area where solid waste is collected and loaded in a location which serves five (5) or more living units, adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided to serve the needs of the living units which utilize the area. This requirement shall also apply to all institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.

**SECTION 16: Section 17.14.020 – Permitted uses of Chapter 17.14 of the Zoning Ordinance is amended to read as follows:****17.14.020 - Permitted uses.**

The following uses are permitted uses in the NCRO-1 and NCRO-2 districts, if conducted in accordance with the performance standards set forth in 17.14.070 of this chapter:

- A. Financial institutions.
- B. Medical facilities.
- C. Offices.
- D. Personal services.
- E. Restaurants.
- F. Retail sales and rental.
- G. Home occupations, in the NCRO-2 District only.
- H. Accessory dwelling units and junior accessory dwelling units associated with an existing or proposed single-family dwelling, duplex, or multiple-family dwelling in compliance with the provisions of Chapter 17.43 of this title, in the NCRO-2 District only.

**SECTION 17: Section 17.14.060 – Development regulations for the NCRO-2 district of Chapter 17.14 of the Zoning Ordinance is amended to read as follows:****17.14.060 - Development regulations for the NCRO-2 district.**

Development regulations for the NCRO-2 district are as follows:

- A. Lot Area. The minimum area of any lot in the NCRO-2 district shall be two thousand five hundred (2,500) square feet.
- B. Lot Dimensions. The minimum dimensions of any lot in the NCRO-2 district shall be as follows:

Width	Depth
25 feet	No requirement

- C. Density of Residential Use. Dwelling unit density in a mixed use shall be established by the use permit.
- D. Setbacks. The minimum required setbacks for any lot in the NCRO-2 district, except as provided in Section 17.32.070, shall be as follows:
  - 1. Front setback: No requirement (0).
  - 2. Side Setback: No requirement (0), except a ten (10) foot setback shall be required on the side setback where abutting any residential district.
  - 3. Rear Setback: Ten (10) feet.

- E. Lot Coverage. The maximum coverage by all structures on any lot in the NCRO-2 district shall be ninety percent (90%).
- F. Height of Structures. The maximum height of any structure, except as provided in Section 17.32.060, shall be twenty-eight (28) feet, except that the height may extend to thirty-five (35) feet when authorized by a design permit granted pursuant to Chapter 17.42 of this title and provided the approving authority is able to make the findings set forth in Section 17.14.110 of this chapter.
- G. Fencing Requirements. If the site is next to a residential district, a wood fence of not less than eight (8) feet in height that adequately screens the site from the adjacent residential property shall be installed along the property line abutting the residential district. The planning director may approve deviations from the material and height requirements set forth in the preceding sentence, based upon a finding that the modified fence is more appropriate for the site and the adjacent residential property.
- H. Storefronts. All uses at street level facing Visitacion and/or San Bruno Avenues shall be storefronts, as defined in Section 17.02.746 of this title, except for entrances to uses above or behind the storefronts. Such uses shall comply with the following additional requirements:
1. The minimum floor area for a storefront use is six hundred (600) square feet. The approving authority may approve a lesser floor area if the approving authority finds that such lesser area is as large as possible for the intended storefront use, given the size, configuration, and physical constraints of the structure and the site.
  2. No off-street parking shall be located on any portion of the site between the curb line and the storefront.
  3. New construction shall incorporate the necessary vents and chases into the building design so as to allow future changes in occupancy of the storefront area.
  4. Single-family dwellings in which mixed uses are conducted shall have a storefront character as viewed from the street.
- I. Passive Open Space. Usable passive open space shall be provided for residential uses of at least sixty (60) square feet per unit. Such passive open space may be provided as individual patios or decks, or as common patio or garden area, or any combination thereof. Notwithstanding that an attached or detached accessory dwelling unit greater than eight hundred (800) square feet is added to an existing residential use, there shall be no reduction in the amount of required usable passive open space for the other residential use. If an existing residential use has passive open space that does not conform to the sixty (60) square feet per unit requirement, the addition of an attached or detached accessory dwelling unit greater than eight hundred (800) square feet to that use shall not further reduce the amount of passive open space. The addition of an attached or detached accessory dwelling unit that is eight hundred (800) feet or less may result in a loss of the required usable passive open space for the other residential uses, including the loss of non-forming passive open space.
- J. Recycling Area Requirements.

1. Adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.
2. This requirement shall apply to all new commercial or institutional buildings, residential buildings having five or more living units, and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. This requirement shall also apply to any existing development for which building permit applications are submitted within a twelve-month period collectively adding thirty percent (30%) or more to the existing floor area of the development project. For existing developments occupied by multiple tenants, this requirement shall apply to building permit applications submitted by any tenant within a twelve-month period collectively adding thirty percent (30%) or more to the existing floor area of that portion of the development which said tenant leases. Such recycling areas shall, at a minimum, be sufficient in capacity, number, and distribution to serve that portion of the development project which said tenant leases.

**SECTION 18: Section 17.16.020 – Permitted uses of Chapter 17.16 of the Zoning Ordinance is amended to read as follows:**

**17.16.020 - Permitted uses.**

A. The following are permitted uses in the SCRO-1 district:

1. Emergency shelters in compliance with Section 17.16.040.
2. Accessory dwelling units and junior accessory dwelling units associated with an existing or proposed single-family dwelling, duplex, or multiple-family dwelling in compliance with the provisions of Chapter 17.43 of this title.

**SECTION 19: Section 17.16.040 – Development regulations of Chapter 17.16 of the Zoning Ordinance is amended to read as follows:**

**17.16.040 - Development regulations.**

Development regulations in the Southwest Bayshore district are as follows:

- A. Lot Area. The minimum area of any lot shall be seven thousand five hundred (7,500) feet.
- B. Density of Development. The minimum lot area for each dwelling unit on a site shall be as follows:
  1. Single-family dwellings: Seven thousand five hundred (7,500) square feet;
  2. Duplex dwellings: Three thousand seven hundred fifty (3,750) square feet;

3. Multiple-family dwellings and dwelling groups: One thousand five hundred (1,500) square feet;
4. Mixed use or live/work development: Dwelling unit density shall be determined by the use permit.

C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

Width	Depth
50 feet	No requirement

D. Setbacks. The minimum required setbacks for any lot, except as provided in Section 17.32.070, shall be as follows:

1. Front setback;
  - a. Residential/Mixed Use: Ten (10) feet;
  - b. Commercial Uses: Twenty-five (25) feet for commercial uses;
  - c. Exception: The setbacks may be reduced to zero (0) where development includes dedication to public right-of-way for a frontage access road and sidewalk, to the satisfaction of the city engineer and fire department.
2. Side setback:
  - a. Residential/Mixed Use: Five (5) feet;
  - b. Commercial Uses: Fifteen (15) feet;
  - c. Exception: The planning commission may approve exceptions to the side setback regulations through the granting of a use permit.
3. Rear setback: Ten (10) feet.

E. Lot Coverage. The maximum coverage by all structures on any lot shall be seventy percent (70%).

F. Height of Structures. The maximum height of any structure, except as provided in Section 17.32.060, shall be thirty-five (35) feet.

G. Landscaping Requirements.

1. Not less than ten percent (10%) of the lot area shall be improved with landscaping. The addition of an attached or detached accessory dwelling unit greater than eight hundred (800) square feet shall not result in a loss of the required landscape area. The addition of an attached or detached accessory dwelling unit that is eight hundred (800) square feet or less may result in a loss of the required landscape area.
2. Plant materials shall be drought resistant and non-invasive as required by the planning director.

3. Landscaping required under this section, including replacement landscaping, shall be installed according to detailed plans approved by the planning director. The landscape plans shall be consistent with the following objectives:
  - a. Use of plants that are not invasive;
  - b. Use of water conserving plants; and
  - c. Use of plants and other landscape features that are appropriate to the context.
4. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

#### H. Screening Requirements.

1. Outside storage of pallets or containers used for transportation and delivery of items related to the uses conducted on the site shall not be located in any required setback from a street and shall be screened from off-site view to the extent it is reasonable to do so.
2. The off-site visibility of exterior equipment such as heating and ventilation units, above-ground storage tanks, compactors and compressors, shall be mitigated through such measures as may be reasonable under the circumstances, including, but not limited to, the installation of screening, fencing, painting, or landscaping, or any combination of the foregoing.
3. The screening requirements set forth in subsections (H)(1) and (H)(2) of this section are not intended to be exclusive and the approving authority may require, as a condition of the use permit, such other and additional screening measures as it deems necessary or appropriate to mitigate any potential adverse visual and audible impacts created by the intended use.

#### I. Recycling Area Requirements.

1. Adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.
2. This requirement shall apply to all new commercial or institutional buildings, residential buildings having five (5) or more living units, and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. This requirement shall also apply to any existing development for which building permit applications are submitted within a twelve-month period collectively adding thirty percent (30%) or more to the existing floor area of the development project. For existing developments occupied by multiple tenants, this requirement shall apply to building permit applications submitted by any tenant within

a twelve-month period collectively adding thirty percent (30%) or more to the existing floor area of that portion of the development which said tenant leases. Such recycling areas shall, at a minimum, be sufficient in capacity, number, and distribution to serve that portion of the development project which said tenant leases.

- J. Emergency Shelters. Development standards for emergency shelters shall be the same as for residential development in the district, except density of development regulations, and emergency shelters that meet the following requirements are exempt from the requirement of a design permit and use permit:
1. No emergency shelter shall be allowed to be located within three hundred (300) feet of another emergency shelter.
  2. The required setbacks for new development shall be:
    - a. Front setback: Ten (10) feet; except that the front setback may be reduced to zero (0) where development includes dedication to public right-of-way for a frontage access road and sidewalk, to the satisfaction of the city engineer and fire department.
    - b. Side setback: Five (5) feet; except that the planning commission may approve exceptions to the side setback regulations through the granting of a use permit.
    - c. Rear setback: Ten (10) feet.
  3. A maximum of twelve (12) persons (twelve (12) beds) to be served nightly.
  4. Each resident shall be provided personal living space.
  5. Bathrooms and bathing facilities shall be provided, adequate for the number of residents.
  6. Laundry facilities or services shall be provided on site, adequate for the number of residents.
  7. The length of stay for individual clients shall not exceed six (6) months, or as allowed by state law.
  8. Staff and services shall be provided to assist residents to obtain permanent shelter and income.
  9. For security, the facility shall provide outdoor lighting of common areas, entries, parking areas, pathways, in compliance with Section 17.16.050(E).
  10. For security, the shelter shall be adequately staffed twenty-four (24) hours a day, seven (7) days a week.
  11. Parking shall be as specified in Chapter 17.34.
  12. Outdoor activities, such as recreation, eating, and staging for drop-off, intake, and pick-up, may be conducted at the facility, between the hours of five (5:00) a.m. and ten

(10:00) p.m. A night operations use permit is required for outdoor activities between the hours of ten (10:00) p.m. and five (5:00) a.m., as provided for in Section 17.16.070.

13. The facility may provide the following:

- a. Kitchen facilities;
- b. Dining area;
- c. Recreation room;
- d. Training and counseling support services;
- e. Child care facilities;
- f. Other facilities or services that are accessory to an emergency shelter.

14. Prior to commencing operation, the emergency shelter provider must have a written management plan, which shall be provided to the planning director. The management plan must include provisions for staff training, resident identification process, neighborhood outreach, policies regarding pets, the timing and placement of outdoor activities, provisions for residents' meals (including special dietary needs), medical care, mental health care, dental care, temporary storage of residents' personal belongings, safety and security, provisions in case of area-wide emergencies, screening of residents to ensure compatibility with services provided at the facility, plans to help secure other provisions for those who may not be part of the shelter's target population, computer access for residents, and training, counseling and social service programs for residents, as applicable.

K. Mobile Home Parks.

- 1. Mobile home parks in the SCRO-1 district shall be subject to the development and parking standards established in Chapter 17.11 of this Title.
- 2. Conversion, closure, or cessation of a mobile home park in the SCRO-1 district shall be subject to the procedures established in Section 17.11.090 of this Title.

**SECTION 20: Section 17.27.020 – Permitted uses of Chapter 17.27 of the Zoning Ordinance is amended to read as follows:**

**17.27.020 - Permitted uses. (PAOZ-1 & PAOZ-2)**

The following are permitted uses in the PAOZ-1 and PAOZ-2 districts:

PAOZ-1	PAOZ-2	Permitted Uses
X	Not permitted	Single-family dwellings



PAOZ-1	PAOZ-2	Permitted Uses
X	X	Multiple-family dwellings
X	X	Dwelling groups
X	X	Accessory structures
X	X	Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44
X	X	Small family day care homes
X	X	Accessory dwelling units, in compliance with Chapter 17.43 of this title.
X	Not permitted	Junior accessory dwelling units, in compliance with Chapter 17.43 of this title.

**SECTION 21: Section 17.27.040 – Development regulations for the PAOZ-1 district of Chapter 17.27 of the Zoning Ordinance is amended to read as follows:**

**17.27.040 - Development regulations for the PAOZ-1 district.**

Development regulations for the PAOZ-1 district are as follows:

- A. Lot Area. There is no minimum lot area.
- B. Density of Development. The minimum development density for any site shall be twenty (20) dwelling units per acre and the maximum development density shall be twenty-eight (28) dwelling units per acre.
- C. Lot Dimensions. There are no minimum lot dimensions.
- D. Setbacks. The minimum required setbacks for any building shall be as follows:
  - 1. Front: Five (5) feet minimum, fifteen (15) feet maximum.
  - 2. Side: Five (5) feet minimum, ten (10) feet maximum.

3. Street Side: Ten (10) feet minimum and maximum.
  4. Rear: Fifteen (15) feet minimum.
  5. Any architectural projection (including lobbies, porches, stoops, canopies, and other entry-related architectural features) may extend up to two (2) feet into the required front setback area.
- E. Lot Coverage. There is no maximum lot coverage.
- F. Floor Area Ratio. There is no maximum floor area ratio.
- G. Height.
1. Buildings and Architectural Features. The maximum building height shall be thirty-eight (38) feet and three (3) stories. Architectural features, including chimneys, elevators, towers, turrets, eaves, skylights or roof windows, utilities, utility penthouses, and solar panels, are allowed to project up to a maximum of ten (10) feet above the maximum building height.
  2. Fences and Walls. Fences and walls in front yards shall be no more than three (3) feet in height from the adjacent sidewalk. Fences and walls in side yards shall not exceed six (6) feet in height. Deviations from maximum fence and wall heights shall require approval by the planning commission as provided in Section 17.32.050(B)(5) of this title.
- H. Landscaping Requirements. Not less than thirty percent (30%) of the lot area shall be landscaped. New and rehabilitated, irrigated landscapes are subject to the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest State provisions, whichever is more effective in conserving water. Landscaping shall conform to the development standards established in Section 3.5 of the Parkside Precise Plan. The addition of an attached or detached accessory dwelling unit greater than eight hundred (800) square feet shall not result in a loss of the required landscaping. The addition of an attached or detached accessory dwelling unit that is eight hundred (800) square feet or less may result in a loss of the required landscape area.
- I. Open Area Requirements. At least four hundred (400) square feet of open area shall be provided for the dedicated use of each dwelling unit. The open area requirement shall not be met by shared or communal open areas. The addition of an attached or detached accessory dwelling unit greater than eight hundred (800) square feet shall not result in a loss of the required open areas. The addition of an attached or detached accessory dwelling unit that is eight hundred (800) square feet or less may result in a loss of the required open area.
- J. Building Design. All buildings shall substantially comply with the building design standards established in Section 3.3 of the Parkside Precise Plan. Projects that do not comply with those building design standards shall be subject to design review as set forth in Section 17.27.060(B), in addition to any other discretionary review required by the specific deviations.
- K. Site Design. All projects shall substantially comply with the site design standards established in Section 3.4 of the Parkside Precise Plan. Projects that do not comply with those site design standards shall be subject to design review as set forth in Section 17.27.060(B), in addition to any other discretionary review required by the specific deviations.

L. Parking. Required on-site parking for single-family dwellings shall be two (2) spaces per dwelling, both of which shall be in an enclosed garage. For multiple-family dwellings, accessory dwelling units, and junior accessory dwelling units, required on-site parking and additional guest parking shall be provided as set forth in Section 17.34.020 of this title.

1. Design Requirements. Off-street parking facilities shall comply with the design standards as set forth in Table 1, which appears immediately following this section.

M. Recycling Area Requirements.

1. Adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.
2. These requirements shall apply to all new residential buildings having five (5) or more dwelling units, institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the City) where solid waste is collected and loaded. These requirements shall also apply to an existing development project for which building permit applications are submitted within a twelve-month period that collectively add thirty percent (30%) or more to the existing floor area of the development project.

**SECTION 22: Section 17.27.050 – Development regulations for the PAOZ-2 district of Chapter 17.27 of the Zoning Ordinance is amended to read as follows:**

**17.27.050 - Development regulations for the PAOZ-2 district.**

Development regulations for the PAOZ-2 district are as follows:

- A. Lot Area. There is no minimum lot area.
- B. Density of Development. The minimum development density for any site shall be twenty-four (24) dwelling units per acre and the maximum development density shall be twenty-eight (28) dwelling units per acre.
- C. Lot Dimensions. There are no minimum lot dimensions.
- D. Setbacks. The minimum required setbacks for any building shall be as follows:
  1. Front: Five (5) feet minimum, twenty (20) feet maximum.  
  
Any architectural projection (including lobbies, porches, stoops, canopies, and other entry-related architectural features) may extend up to two (2) feet into the required front setback area.
  2. Side: Five (5) feet minimum.

Upper floor second and third-story balconies may extend up to two (2) feet into the required side setback area.

3. Street Side: Ten (10) feet minimum and maximum.
  4. Rear: Fifteen (15) feet minimum.
- E. Lot Coverage. The maximum coverage by all structures on any lot shall be sixty percent (60%).
- F. Floor Area Ratio. There is no maximum floor area ratio.
- G. Height.
1. Buildings and Architectural Features. The maximum building height shall be forty (40) feet and three (3) stories. Architectural features, including chimneys, elevators, towers, turrets, eaves, skylights or roof windows, utilities, utility penthouses, and solar panels, are allowed to project up to a maximum of ten (10) feet above the maximum building height.
  2. Fences and Walls. Fences and walls in front yards shall be no more than three (3) feet in height from the adjacent sidewalk. Fences and walls in side yards shall not exceed six (6) feet in height. Deviations from the fence and wall heights shall require approval by the planning commission as set forth in Section 17.32.050(B)(5) of this title.
- H. Landscaping Requirements. Not less than twenty percent (20%) of the lot area shall be landscaped. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest State provisions, whichever is more effective in conserving water. Landscaping shall conform to the development standards established in Section 3.5 of the Parkside Precise Plan. The addition of an attached or detached accessory dwelling unit greater than eight hundred (800) square feet shall not result in a loss of the required landscaping area. The addition of an attached or detached accessory dwelling unit that is eight hundred (800) square feet or less may result in a loss of the required landscape area.
- I. Open Area Requirements. At least one hundred (100) square feet of open area per dwelling unit shall be provided. The open area may be met through a combination of common or private open areas provided on-site. Open areas shall be usable and shall support residents' passive and/or active use. The computation of open areas may include amenities and structures designed to enhance usability, such as swimming pools, rooftop gardens or decks, fountains, planters, benches, and usable landscaping. The addition of an attached or detached accessory dwelling unit greater than eight hundred (800) square feet shall not result in a loss of the required open areas. The addition of an attached or detached accessory dwelling unit that is eight hundred (800) square feet or less may result in a loss of the required open area.
- J. Building Design. All buildings shall substantially comply with the building design standards established in Section 3.3 of the Parkside Precise Plan. Projects that do not comply with those building design standards shall be subject to design review as set forth in Section 17.27.060(B), in addition to any other discretionary review required by the specific deviations.
- K. Site Design. All projects shall substantially comply with the site design standards established in Section 3.4 of the Parkside Precise Plan. Projects that do not comply with those site design

standards shall be subject to design review as set forth in Section 17.27.060(B), in addition to any other discretionary review required by the specific deviations.

L. **Parking.** Required on-site parking and additional guest parking shall be as established in Section 17.34.020 of this title for multiple-family developments and accessory dwelling units.

1. **Design Requirements.** Off-street parking facilities shall comply with the design standards as set forth in Table 1, which appears immediately following this section.
2. Short-term and long-term parking for bicycles in the PAOZ-2 district shall be provided as follows: Long-Term: 1/10 units; Short-Term: 1/20 units.

Bicycle parking design shall conform to the standards established in Section 3.4 of the Parkside Precise Plan.

M. **Recycling Area Requirements.**

1. Adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.
2. These requirements shall apply to all new residential buildings having five (5) or more living units, institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. These requirements shall also apply to existing development project for which building permit applications are submitted within a twelve-month period that collectively add thirty percent (30%) or more to the existing floor area of the development project.

**SECTION 23: Section 17.28.120 – Amendment or modification of a PD permit of Chapter 17.28 of the Zoning Ordinance is amended to read as follows:**

**17.28.120 - Amendment or modification of PD permit.**

- A. Amendments or modifications to a PD permit shall require approval by the city council, except as follows:
  1. The planning commission and the zoning administrator shall have authority to approve any items which, under the terms of the PD permit, have been specifically delegated to either of them for approval, either as a condition for issuance of the permit or at any time thereafter.
  2. Minor changes during the course of construction which do not materially affect the use, nature, appearance, quality or character of the project may be approved by the zoning administrator.

3. The relocation of a use or activity authorized by the PD permit to another location regulated by the same permit where no significant adverse impacts are created as a result of such relocation may be approved by the zoning administrator.
  4. The construction of an accessory dwelling unit or junior accessory dwelling unit in compliance with Chapter 17.43 of this title shall be approved ministerially by the zoning administrator.
- B. The application requirements, public hearing procedures and findings required for amendments or modifications to a PD permit shall be as prescribed in Sections 17.28.040, 17.28.050 and 17.28.080 of this chapter.

**SECTION 24: Section 17.32.070 - Exceptions – Setback requirements of Chapter 17.32 of the Zoning Ordinance is amended to read as follows:**

**17.32.070 - Exceptions – Setback requirements.**

- A. Notwithstanding any other provision of this title, certain structures or portions thereof may extend into a front, rear or side setback area to the extent permitted by the following chart:

1. Projections from a Building.

- a. Overhanging Architectural Features (Such as Eaves, Cornices Canopies, Rain Gutters and Downspouts).

Front setback area:	May extend three (3) feet from the building into the front setback area, but no closer than five (5) feet from the front lot line.
Rear setback area:	May extend three (3) feet from the building into the rear setback area, but no closer than seven (7) feet from the rear lot line.
Side setback area:	May extend three (3) feet from the building into the side setback area, but no closer than two and one-half (2½) feet from the side lot line. Rain gutters and downspouts may extend no closer than two (2) feet from the side lot line. In the R-1 district, a noncombustible awning over the main entrance to a residence located at the side of the structure may extend four (4) feet from the building into any portion of the side setback area, but shall not extend over or drain onto the abutting property.

- b. Cantilevered Windows No Greater Than Ten (10) Feet in Length That Do Not Include Any Floor Area (Such as Bay, Box, Bow, and Greenhouse Windows).

Front setback area:	May extend three (3) feet from the building into the front setback area, but no closer than five (5) feet from the front lot line.
Rear setback area:	May extend three (3) feet from the building into the rear setback area, but no closer than seven (7) feet from the rear lot line.

Side setback area:	May extend two (2) feet into the side setback area, but no closer than three (3) feet from the side lot line.
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## c. Supported Decks, Cantilevered Decks and Balconies.

Front setback area:	May extend five (5) feet from the building into the front setback area, but no closer than five (5) feet from the front lot line. Decks may be located atop a garage or carport approved under Section 17.32.070(A)(3)(a) and may extend to the front of the garage, but the railings of such deck may not exceed fifteen (15) feet in height above the elevation of the center of the adjacent street or four (4) feet from the surface of the deck, whichever is less, while at the same time maintaining the minimum railing height required by the building code.
Rear setback area:	May extend five (5) feet from the building into the rear setback area, but no closer than five (5) feet from the rear lot line. This exception shall not apply to the NCRO district.
Side setback area:	No exception permitted.

Modifications. The planning commission may approve a modification to the foregoing exceptions if there are not more than two (2) units on the site and the planning commission is able to make all of the following findings:

- i. The modification is necessary in order to gain access to the property or to the dwelling unit on the property.
- ii. The modification is necessary because of unusual or special circumstances relating to the configuration of the property.
- iii. The visual impacts of the modification have been minimized.

## d. Deck Railings within Setback Areas.

Front setback area:	May not be higher than four (4) feet from the surface of the deck.
Rear setback area:	May not be higher than four (4) feet from the surface of the deck.
Side setback area:	No exception permitted.

## e. Stairs, Ramps and Landings (That Are Open and Uncovered and Serve Buildings with No More Than Two Units).

Front setback area:	No more than one set of stairs per dwelling unit may extend from the building into the front setback area. Each set of stairs must lead to the front entrance of the unit. The height of the stairway within the front setback area shall not exceed twenty (20) feet. Stairs on grade, sidewalks, and other flatwork constructed of noncombustible materials may be located anywhere within the front setback area.
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Rear setback area:	No more than one set of stairs per dwelling unit may extend from the building into the rear setback area, but no closer than five (5) feet from the rear lot line. Stairs on grade, sidewalks, and other flatwork constructed of noncombustible materials may be located anywhere within the rear setback area.
Side setback area:	No more than one set of stairs per dwelling unit may extend from the building into the side setback area, but no closer than three (3) feet from the side lot line. Stairs on grade, sidewalks, and other flatwork constructed of noncombustible materials may be located anywhere within the side setback area.

Modifications. The planning commission may approve a modification to the foregoing exceptions for stairs, ramps and landings if there are not more than two units on the site and the planning commission is able to make all of the following findings:

- i. The modification is necessary in order to gain access to the property or to the dwelling unit on the property.
- ii. The modification is necessary because of unusual or special circumstances relating to the configuration of the property.
- iii. The visual impacts of the modification have been minimized.

The planning commission may also approve a modification to the foregoing exceptions as part of a design permit being granted for three (3) or more units on the site, if the commission is able to make all of the findings listed above.

f. Accessibility Improvements (Such as Ramps, Elevators, and Lifts).

All Setback Areas. Accessibility improvements, such as ramps, elevators and lifts, may be allowed within any front, rear or side area setback upon the granting of an accessibility improvement permit by the zoning administrator, following the conduct of a hearing with ten (10) days' notice thereof being given to the owners of all adjacent properties. The zoning administrator may issue the accessibility improvement permit if he or she finds and determines that:

- i. The exception is necessary to meet special needs for accessibility of a person having a physical handicap which impairs his or her ability to access the property and cannot be addressed through the standard exceptions to the setback area requirements under this Section 17.32.070.
- ii. Visual impacts of the accessibility improvements located within a setback area have been minimized.
- iii. The accessibility improvements will not create any significant adverse impacts upon adjacent properties in terms of loss of privacy, noise or glare.



- iv. The accessibility improvements will be constructed in a sound and workmanlike manner, in compliance with all applicable provisions of the building and fire codes.

2. Small Free-Standing Structures.

- a. Small Accessory Buildings and Roofed Structures (Such as Gazebos, Greenhouses, Garden and Utility Sheds).

Front setback area:	No exception permitted.
Rear setback area:	May be placed at any location within the rear setback area which is not less than five (5) feet from the rear lot line or three (3) feet from the interior side lot line, provided the building or structure, or portion thereof, within the rear setback area does not exceed eight (8) feet in height and does not have a floor area in excess of one hundred twenty (120) square feet.
Side setback area:	May be placed at any location within the interior side setback area which is not less than three (3) feet from the interior side lot line, provided the building or structure, or portion thereof, within the interior side setback area does not exceed eight (8) feet in height and does not have a floor area in excess of one hundred twenty (120) square feet. No exception is permitted for an exterior side setback area.

Modifications. The zoning administrator may approve a modification to the foregoing exceptions for small accessory buildings and roofed structures, following the conduct of a hearing with ten (10) days' notice thereof being given to the owners of all adjacent properties, if the zoning administrator is able to make all of the following findings:

- i. The modification will not result in overbuilding the site or result in the removal of significant greenscape.
- ii. The modification will not create any significant adverse impacts upon adjacent properties in terms of loss of privacy, noise, or glare.
- iii. The accessory structure is designed to be compatible with the primary dwelling(s) on the site.

A building permit shall be required to construct or install any accessory structure for which a modification has been granted under this subsection.

- b. Unroofed and Openwork Roofed Garden Structures (Such as Arbors, Porticos, Trellises and Lath Houses).

Front setback area:	May not exceed eight (8) feet in height or cover more than fifteen percent (15%) of the front setback area.
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Rear setback area:	May be placed at any location within the rear setback area which is not less than five (5) feet from the rear lot line, provided the structure, or portion thereof, within the rear setback area does not exceed eight (8) feet in height and does not cover more than fifteen percent (15%) of the rear setback area.
Side setback area:	May be placed at any location within the side setback area which is not less than three (3) feet from the side lot line, provided the structure, or portion thereof, within the side setback area does not exceed eight (8) feet in height and does not cover more than fifteen percent (15%) of the side setback area.

Modifications. The zoning administrator may approve a modification to the foregoing exceptions for unroofed and openwork roofed garden structures, following the conduct of a hearing with ten (10) days' notice thereof being given to the owners of all adjacent properties, if the zoning administrator is able to make all of the following findings:

- i. The modification will not result in overbuilding the site or result in the removal of significant greenscape.
- ii. The modification will not create any significant adverse impacts upon adjacent properties in terms of loss of privacy, noise, or glare.
- iii. The accessory structure is designed to be compatible with the primary dwelling(s) on the site.

### 3. Miscellaneous Improvements.

- a. Garages and Carports and Parking Decks on Slopes of Fifteen Percent (15%) or Greater.

Front setback area:	Garages, carports and parking decks not more than fifteen (15) feet in height above the elevation of the center of the adjacent street in the R-1, R-2 and R-3 Districts and parking decks in the R-BA District may be placed at any location within the front setback area provided: (i) there is no encroachment into any side setback area, and (ii) the garage is approved by the city engineer, based upon a finding that no traffic or safety hazard will be created.
Rear setback area:	On through lots, garages, carports and parking decks not more than fifteen (15) feet in height above the elevation of the center of the adjacent street may be placed at any location within the rear setback area provided: (i) there is no encroachment into any side setback area, and (ii) the garage is approved by the city engineer, based upon a finding that no traffic or safety hazard will be created.
Side setback area:	No exception permitted.

- b. Decorative Artwork, Ponds, Fountains and Similar Water Features, Not More Than Six (6) Feet in Height.

Front setback area:	May be placed at any location within the front setback area.
Rear setback area:	May be placed at any location within the rear setback area.
Side setback area:	No exception permitted.

c. Existing Permitted Garages or Accessory Buildings Converted into Accessory Dwelling Units.

Front setback area:	May be placed at any location within the front setback area.
Rear setback area:	May be placed at any location within the rear setback area.
Side setback area:	May be placed at any location within the side setback area.

4. Accessory Dwelling Units

a. Exceptions to the setback requirements for accessory dwelling units shall be as established in Chapter 17.43.

B. The exceptions set forth in subsection A of this Section 17.32.070 shall not be construed to include chimney boxes, swimming pools and spas, exposed plumbing, or mechanical equipment such as heating and air conditioning units or pool pumps, and no exceptions to the setback requirements shall be permitted for any of these structures.

C. Any structure, architectural feature, wall, or other improvement lawfully constructed within a setback area and constituting a nonconforming structure as defined in Section 17.02.560, may be allowed to continue in accordance with Chapter 17.38 of this title.

**SECTION 25: Section 17.34.020 – Minimum requirements of Chapter 17.34 of the Zoning Ordinance is amended to read as follows:**

**17.34.020 – Minimum requirements.**

A. The following minimum parking requirements shall apply to all buildings erected, new uses commenced, and to the area of extended uses commenced after the effective date of this Chapter. For any use not specifically mentioned in this Chapter, the planning commission shall determine the amount of parking required. All required off-street parking facilities shall be on-site unless specified differently in this Chapter or as permitted under Title 12 of this Code. Required off-street parking facilities need not be provided as covered parking unless specified differently in this chapter:

Uses:	Parking Requirements:
Single-family dwellings and group care homes:	

Uses:	Parking Requirements:
Studio or 1-bedroom dwellings not more than 900 square feet in floor area:	1 off-street space (uncovered or covered).
All other dwellings not exceeding 1,800 square feet in floor area:	1 off-street space plus 1 space which shall be in a garage or carport.
Dwellings exceeding 1,800 square feet in floor area on lots having less than 37.5 feet in frontage:	2 off-street spaces plus 1 space which shall be in a garage or carport.
Dwellings exceeding 1,800 square feet in floor area on lots of 37.5 feet frontage or greater:	2 on-street or off-street spaces plus 2 spaces which shall be in a garage or carport.
	See Section 17.34.020(B)(1) regarding garage and carport exclusions from the floor area calculation.
	Additional guest parking spaces shall be provided for all residential subdivisions of 5 or more single-family residences, at the rate of 1 parking space for every 5 units. Such spaces shall be located entirely within the public right-of-way and available for public use. Any accessible parking spaces required per Section 17.34.040(D) shall count as guest parking spaces.
Accessory dwelling units	In the R-1, R-2, R-3, NCRO-2, SCRO-1, PAOZ-1, or PAOZ-2 Districts: No off-street parking required. In the R-BA and PD Districts: 1 off-street parking space (uncovered or covered), unless the accessory dwelling unit is located within one-half mile walking distance of public transit, or the accessory dwelling unit is part of the proposed or existing dwelling, as defined in Section 17.02.235, or an accessory structure as defined in subsection B of Section 17.02.755.
Junior accessory dwelling units	No off-street parking required.
Duplex or multiple family dwelling units; Mobilehome park units:	
Studios	1 (uncovered or covered) space per unit.

Uses:	Parking Requirements:
1-bedroom units	1½ spaces (1 of which shall be covered) per unit; only 1 (covered) space required for units not over 900 square feet in floor area.
2-bedroom units	1½ spaces (1 of which shall be covered) per unit.
3-bedroom units or larger	2 spaces (1 of which shall be covered) per unit, plus 1 (uncovered or covered) space for units over 2,700 square feet.
	See Section 17.34.020(B)(1) regarding garage and carport exclusions from the floor area calculation.
	Additional guest parking spaces shall be provided for all developments of 5 or more units at the rate of 1 parking space for every 5 units. The accessible parking spaces required per Section 17.34.040(D) shall count as guest parking spaces.
Emergency shelters	0.35 space per bed plus 1 space per staff member on the largest shift.
Hotels, motels	1 space per unit, plus applicable requirements for restaurants, bars and meeting halls.
Cultural facilities, meeting halls and places of worship	
	1 space for each 50 square feet of assembly area or 1 space for each 4 fixed seats, whichever is greater, plus 1 space for each 300 square feet of the remaining floor area of the building (meeting rooms not exceeding 750 square feet and ancillary to an office use shall be included with the floor area of the office in calculating the parking requirement for the office use).
Commercial recreation	3 spaces per ball court; 2.5 spaces per batting cage; 4 spaces per lane for bowling alleys; 2 spaces per tee for golf courses; 20 spaces per playing field; 2 spaces per shooting range; 2 spaces per horse stall for stables; 1 space per 100 square feet of water area for swimming pools.

Uses:	Parking Requirements:
	For commercial recreation uses that do not fall within the above categories, 1 parking space shall be required for every 4 fixed seats for spectators, 1 parking space per each 200 square feet of floor area used for indoor commercial recreation, and 1 parking space per each 1,000 square feet of site area used for outdoor commercial recreation.
Marinas	1 space per 0.75 berths.
Schools—Public, private or commercial	1 space for each classroom and office.
Hospitals	1 space per bed plus 1 space for each 2 employees on the largest shift.
Financial services	1 space for each 200 square feet of gross floor area.
Administrative office	1 space for each 300 square feet of gross floor area.
Professional office	1 space for each 250 square feet of gross floor area.
Retail stores, restaurants, bars, offices	1 space for each 300 square feet of gross floor area.
Service stations	2 spaces for each working bay plus 1 space for each employee on the largest shift.
Warehousing, light fabrication, food production, media studios, printing	1 space for each 1,000 square feet of gross floor area.
Convalescent hospitals, sanitariums, rest homes	1 space for each 7 beds plus 1 space for each 2 employees on the largest shift.

B. The minimum parking requirements shall be calculated according to the following:

1. All references to square feet shall be in regards to floor area as defined in Chapter 17.02. The floor area of garages and carports shall not be included in measuring floor area to calculate the parking requirements, except for any floor area exceeding 400 square feet within a garage or carport exclusively for the use of a single residential unit.
2. When more than one use subject to the parking requirements occupies a site, the requirements for each use shall be calculated separately. The floor area occupied by accessory uses, such as hallways, bathrooms, breakrooms, utility rooms and storage closets, shall be included in the calculation of the parking requirements for the associated primary use.

3. No parking shall be required for accessory structures 200 square feet or less in floor area.
4. When application of the parking requirements results in a fractional number, all fractions shall be rounded up from 0.5 to the next whole number, except when specified otherwise. No parking shall be required for uses for which the requirement is less than 0.5 space.

**SECTION 26: Section 17.38.030 – Expansion of nonconforming uses of Chapter 17.38 of the Zoning Ordinance is amended to read as follows:**

**17.38.030 - Expansion of nonconforming uses.**

- A. Except as otherwise provided in subsection B of this 17.38.030 and Section 17.38.110 of this chapter, a nonconforming use may not be enlarged, expanded or intensified. This prohibition shall include any enlargement, expansion or intensification of a nonconforming use which:
  1. Increases the site area or floor area occupied by the nonconforming use; or
  2. Increases the amount, volume, or intensity of nonconforming business use, or the machinery, equipment, trade fixtures or other personal property utilized in the conduct of such use; or
  3. Displaces any conforming use occupying a structure or site.
- B. Nonconforming residential uses located in the R-1, R-2, R-3 or R-BA district may be enlarged or expanded upon the granting of a use permit by the planning commission pursuant to Chapter 17.40 of this title. In addition to the findings required by Chapter 17.40, the planning commission shall also find and determine that:
  1. Parking spaces in accordance with the requirements set forth in Chapter 17.34 of this title will be provided for the nonconforming use and all other uses on the site;
  2. Any expansion of the nonconforming facility will comply with all applicable development standards for the district in which the site is located, including, but not limited to, floor area ratio, setbacks, height, and coverage limitations.
  3. The nonconforming facility will comply with all applicable provisions of the building, health and fire codes.
  4. The nonconforming use will comply with such other conditions and requirements which, in the judgment of the planning commission, are necessary or appropriate to mitigate any potential adverse impacts of the expansion on the neighborhood.

Note. A single-family dwelling on a lot of record in an R-1, R-2, R-3, or R-BA district having less than the minimum lot area prescribed by the applicable district regulations, shall constitute a conforming use and may be enlarged or expanded subject to the development standards of the applicable district and the limitations set forth in Section 17.32.055 of Chapter 17.32 of this title.

**SECTION 27: Section 17.38.040 – Maintenance and repair of nonconforming facility of Chapter 17.38 of the Zoning Ordinance is amended to read as follows:**

**17.38.040 - Maintenance and repair of nonconforming facility.**

- A. Nonconforming facilities may be continued, maintained and repaired so as to protect the health and safety of the occupants and preserve the useful life of the structure.

- B. Nonconforming facilities may be remodeled and the interior reconfigured so long as there is no enlargement, expansion, or intensification of the nonconforming use, except as otherwise permitted by subsection B of Section 17.38.030.

**SECTION 28: Section 17.38.060 – Reconstruction or replacement of nonconforming facility of Chapter 17.38 of the Zoning Ordinance is amended to read as follows:**

**17.38.060 - Reconstruction or replacement of nonconforming facility.**

A nonconforming facility which is damaged or destroyed may be reconstructed or replaced for continued occupancy by the nonconforming use or uses previously conducted therein, subject to the following limitations:

- A. The site area or floor area occupied by the nonconforming use, and the intensity of activity conducted by the nonconforming use, subsequent to reconstruction or replacement of the facility shall not exceed that existing prior to the damage or destruction of the facility, except as otherwise permitted by subsection B of 17.38.030.
- B. The reconstructed or replaced facility shall comply with all of the applicable regulations of this title, other than the use of the structure, and all applicable provisions of the building, health, and fire codes.

**SECTION 29: Section 17.38.080 – Alteration or expansion if nonconforming structures of Chapter 17.38 of the Zoning Ordinance is amended to read as follows:**

**17.38.080 - Alteration or expansion of nonconforming structures.**

- A. A nonconforming structure shall not be altered, enlarged, or expanded so as to increase the degree of noncompliance or otherwise increase the discrepancy between existing conditions and the requirements of this title.
- B. Structural alterations may be permitted when necessary to comply with the requirements of law.
- C. The prohibitions of this section shall not apply to any alteration, enlargement or expansion for which a variance is granted pursuant to Chapter 17.46 or to which a use permit is granted pursuant to Chapter 17.34 and 17.40 of this title.

**SECTION 30: Section 17.38.090 – Repair and replacement of nonconforming residential structures of Chapter 17.38 of the Zoning Ordinance is amended to read as follows:**

**17.38.090 - Repair and replacement of nonconforming residential structures.**

- A. Damage of Less Than Seventy-Five Percent (75%). A nonconforming structure used for residential purposes which is damaged or destroyed by fire, flood, wind, earthquake, or other natural disaster to the extent of less than seventy-five percent (75%) of its floor area may be repaired, restored or reconstructed to its original size and configuration. All new construction, restoration and replacement shall comply with all applicable provisions of the building, health and fire codes.
- B. Damage of More Than Seventy-Five Percent (75%). A nonconforming structure used for residential purposes which is damaged or destroyed by fire, flood, wind, earthquake, or other natural disaster to the extent of seventy-five percent (75%) or more of its floor area may be repaired, restored or reconstructed provided that all of the following conditions are satisfied:



1. The total floor area of the restored structure shall not be greater than the total floor area of the original structure.
  2. The total number of dwelling units in the restored structure shall not be greater than the total number of dwelling units in the original structure.
  3. The front, side and rear setbacks of the restored structure shall not be less than the setbacks of the original structure.
  4. The number of off-street parking places shall not be reduced from the number available prior to the restoration.
  5. The new construction, restoration and replacement shall comply with all applicable provisions of the building, health and fire codes.
- C. Mixed Use Structure. A nonconforming structure containing both residential and nonresidential uses may be restored in accordance with the provisions of this section where the residential uses constitute more than fifty percent (50%) of the floor area of the entire structure.

**SECTION 31: A new Section 17.38.110 – Addition of accessory dwelling units to nonconforming uses or structures is added to Chapter 17.38 of the Zoning Ordinance to read as follows:**

**17.38.110 - Addition of Accessory Dwelling Units to Nonconforming Uses or Structures.**

- A. Nonconforming single-family, duplex, or multiple-family uses may be expanded to accommodate accessory dwelling units and junior accessory dwelling units pursuant to Chapter 17.43 of this title.
- B. A nonconforming structure may be rebuilt in the same location and to the same dimensions, including height, as the existing structure and converted to an accessory dwelling unit pursuant to Chapter 17.43 of this title.

**SECTION 32: Chapter 17.43 - Accessory Dwelling Units of the Zoning Ordinance is amended in its entirety to read as follows:**

**Chapter 17.43 - Accessory Dwelling Units and Junior Accessory Dwelling Units**

**17.43.010 - Purposes of chapter.**

Accessory dwelling units and junior accessory dwelling units are permitted under this chapter to achieve the following purposes:

- A. To provide opportunities to establish accessory dwelling units and junior accessory dwelling units on building sites developed with existing or proposed single-family dwellings, duplexes, or multiple-family dwellings.
- B. To provide affordable housing to meet the needs of Brisbane citizens.
- C. To ensure that the development of accessory dwelling units is compatible with existing development and reflects the diversity of the community.
- D. To implement and promote the goals and policies of the general plan so as to guide and manage residential development in the city in accordance with such plan.

**17.43.020 - Definitions.**

In addition to the definitions set forth in Chapter 17.02, all of which are applicable to this chapter, the following words and phrases shall have the meanings respectively ascribed to them in this section, unless the context or the provision clearly requires otherwise:

"Impact fees" include the fees specified in Sections 66000 and 66477 of the Government Code, but do not include utility connection fees or capacity charges.

"Living area" means the interior habitable area of a main dwelling unit, including basements and attics but not including a garage or any accessory structure.

"Main dwelling" means that dwelling unit on the property that is not an accessory dwelling unit or a junior accessory dwelling unit.

"Efficiency kitchen" means a kitchenette or a small kitchen or part of a room equipped as a kitchen in a junior accessory dwelling unit and shall include all of the following: (1) a cooking facility with appliances, and (2) a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

"Multiple-family dwellings" means a dwelling than contains two (2) or more dwelling units (including a "duplex"), provided, however, that a property containing a single-family dwelling and a lawful accessory dwelling unit (either attached and detached) and/or a junior accessory dwelling unit shall not be deemed a multiple-family dwelling.

**17.43.030 – Permit Requirements.**

- A. Except as provided by subsection C of this Section 17.43.030, building permit applications for junior accessory dwelling units or accessory dwelling units shall be ministerially processed within sixty (60) days of receipt of a complete building permit application and approved if they meet the requirements of this chapter. Incomplete applications will be returned to the applicant with a written explanation of the additional information required for approval.
- B. Notwithstanding subsection A, if the building permit application submitted will also create a new single-family dwelling or multiple-family dwelling on the lot, the application for the junior accessory dwelling unit or accessory dwelling unit(s) shall not be acted upon until the building permit application for the new single-family dwelling or multiple-family dwelling is approved, but thereafter shall be ministerially processed within sixty (60) days of receipt of a complete application and approved if it meets the requirements of this chapter. Occupancy of the junior accessory dwelling unit or accessory dwelling unit(s) shall not be allowed until the City approves occupancy of the main dwelling.
- C. The City shall grant a delay in processing an application for an accessory dwelling unit or junior accessory dwelling unit if requested by the applicant.
- D. All junior accessory dwelling unit and accessory dwelling unit applications shall be subject to building inspection and permit fees as established by resolution of the City Council and water and sewer connection and capacity fees in compliance with Title 13, except that:
  1. No impact fees may be imposed on a junior accessory dwelling unit or accessory dwelling unit that is less than seven hundred fifty (750) square feet.

2. For accessory dwelling units that have a floor area of seven hundred fifty (750) square feet or more, impact fees shall be charged proportionately in relation to the current impact fees for the square footage of the main dwelling.
- E. Construction of an accessory dwelling unit and/or junior accessory dwelling unit in the R-BA Brisbane Acres Residential District shall require submittal of an application for an accessory dwelling unit permit in addition to an application for a building permit. Accessory dwelling unit permits shall be granted ministerially by the director of community development pursuant to this chapter within sixty (60) days of receipt of a complete permit application in accordance with Section 65852.2 of the California Government Code.

#### **17.43.040 – Development regulations for accessory dwelling units.**

Accessory dwelling units shall comply with all of the following development standards:

- A. Zoning Districts. Accessory dwelling units may only be established or occupied in the R-1, R-2, R-3, R-BA, NCRO-2, SCRO-1, PAOZ-1, PAOZ-2 and PD zoning districts with an existing or proposed single-family or multiple-family dwelling.
- B. Density. An accessory dwelling unit that conforms to this Chapter 17.43 shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located. The accessory dwelling unit shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot and shall not be considered in the application of any City ordinance, policy, or program to limit residential growth.
- C. Lot Size. There is no minimum lot size requirement.
- D. Number of Units.
  1. No more than one accessory dwelling unit may be constructed on any lot developed with a single-family dwelling.
  2. The number of accessory dwelling units permitted on any lot developed with a multiple-family dwelling shall comply with Section 17.43.050 of this chapter.
- E. Attached or Detached. Accessory dwelling units may be attached to or located within the existing or proposed main dwelling, including garages, storage areas, or accessory structures, or detached from the main dwelling on the same lot.
- F. Unit Size. Accessory dwelling units shall not exceed one thousand (1,000) square feet in floor area, as defined in Section 17.02.315 of Chapter 17.02 of this title.
- G. Setbacks. Accessory dwelling units shall be subject to the following setback requirements:
  1. Front Setback: The minimum front setback shall be as established in the underlying zoning district regulations.
  2. Side Setback. Accessory dwelling units on a lot of forty (40) feet or more in width shall have a minimum side setback of four (4) feet. Accessory dwelling units on a lot with a width of less than forty (40) feet shall provide minimum side setbacks in compliance with the underlying zoning district regulations.

3. Rear Setback. Accessory dwelling units on any lot shall have a rear setback of at least four (4) feet.
  4. No setback shall be required for an existing, legally permitted living area, garage, or accessory structure with nonconforming setbacks that is converted to an accessory dwelling unit or a portion of an accessory dwelling unit or an accessory dwelling unit constructed in the same location and to the same dimensions, including height, as an existing, legally permitted living area, garage, or accessory structure with nonconforming setbacks.
- H. Lot Coverage. Accessory dwelling units shall be included in calculating the lot coverage for the lot on which the accessory dwelling unit is located, except for accessory dwelling units eight hundred (800) square feet or less in floor area and no more than sixteen (16) feet in height.
- I. Floor Area Ratio. The floor area of the accessory dwelling unit shall be included in calculating the floor area ratio for the lot on which the accessory dwelling unit is located, except that:
1. Accessory dwelling units eight hundred (800) square feet or less in floor area and no more than sixteen (16) feet in height, if detached, are exempt from calculating the floor area ratio for the lot; and
  2. Accessory dwelling units proposed within the space of a single-family dwelling or existing accessory structure may include an expansion of not more than one hundred fifty (150) square feet beyond the physical dimensions of the existing accessory structure or single-family dwelling, provided however, that the expansion of the single-family dwelling or accessory structure shall be limited to accommodating ingress and egress for the accessory dwelling unit, the setbacks of the expansion shall comply with the setback standards set forth in subsection G of Section 17.43.040 or of the underlying zoning district if the accessory dwelling unit is attached to the single-family dwelling, and shall be compliant with building, health, and fire codes.
- J. Height. Accessory dwelling units shall not exceed two stories and shall be subject to the height maximum established in the underlying zoning district.
- K. Required Facilities. An accessory dwelling unit shall include all of the following facilities:
1. A kitchen, including a sink, food preparation counter, storage cabinets, and permanent cooking facilities such as a range or cooktop and oven, that meet Building Code standards; and
  2. A full bathroom, including sink, toilet, and shower and/or bath facilities.
- L. Landscaping. Accessory dwelling units shall be subject to the landscaping requirements of the underlying zoning district.
- M. Parking. Parking spaces for the main dwelling and accessory dwelling units shall be provided in accordance with the requirements set forth in Chapter 17.34, except that when a garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of an accessory dwelling unit, any parking spaces that were provided by such garage, carport, or covered parking structure are not required to be replaced.
- N. Unit Access.

1. As required by Section 17.01.060, the lot on which the accessory dwelling unit is located shall have a legal means of access to the public right of way that complies with the street standards set forth in Section 12.24.010.
  2. A separate exterior entry from the main entrance to the main dwelling shall be required to serve each attached accessory dwelling unit. Interior entry access between an accessory dwelling unit and the main dwelling is permitted, provided that the interior entry is located off a common living area of the main dwelling, such as a living room, family room, dining room, kitchen, or an interior hallway leading to common living areas.
- O. Utilities. The lot is served by adequate water, sewer, and storm drain facilities which comply with city standards as established per Title 13 of this Code. An accessory dwelling unit shall not be considered a new residential use for the purposes of calculating connection fees or capacity charges for water and sewer service provided by the City, pursuant to Title 13 of this Code. As to the main dwelling, a separate water connection, a separate sewer service connection, or a separate power connection for water, sewer, and power service is not required for an accessory dwelling unit.
- P. Compliance with Codes. The accessory dwelling unit and all new construction on the lot that will be performed in connection therewith shall comply with all applicable provisions of this title and all applicable building, health and fire codes.
1. Accessory dwelling units shall not be required to provide fire sprinklers except when fire sprinklers are required for the main dwelling, as determined by the building official consistent with Chapter 15.10.

#### **17.43.050 - Accessory dwelling units in multiple-family dwellings.**

In addition to compliance with the development regulations established in Section 17.43.040 of this chapter, accessory dwelling units on lots with existing multiple-family dwellings shall also comply with all of the following criteria:

- A. At least one attached accessory dwelling unit shall be allowed per lot developed with a multiple-family dwelling.
1. The total number of attached accessory dwelling units permitted shall not exceed a maximum of twenty-five percent (25%) of the total number of existing dwelling units within the existing multiple-family dwelling.
  2. Attached accessory dwelling units shall be allowed within existing portions of multiple-family dwellings that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, provided, that each accessory dwelling unit complies with state building standards for dwellings. An accessory dwelling unit shall not be created within any portion of the habitable area of an existing dwelling unit in a multiple-family dwelling.
- B. In addition to attached accessory dwelling units permitted under subsection A, not more than two detached accessory dwelling units may be allowed on a lot developed with a multiple-family dwelling. Detached accessory dwelling units shall be subject to the following standards:
1. Setbacks. The setback requirements of Section 17.43.040 of this Chapter apply.

2. Floor Area. Detached accessory dwelling units may not exceed eight hundred (800) square feet in floor area per unit.
3. Height. Detached accessory dwelling units shall not exceed sixteen (16) feet in height.

**17.43.060 - Development regulations for junior accessory dwelling units.**

Junior accessory dwelling units shall comply with all of the following development standards:

- A. Zoning Districts. Junior accessory dwelling units may only be established or occupied on lots in the R-1, R-2, R-3, R-BA, NCRO-2, SCRO-1, PAOZ-1, and PD zoning districts with an existing or proposed single-family dwelling.
- B. Density. A junior accessory dwelling unit that conforms to this Chapter 17.43 shall be deemed to be an accessory use and shall not be considered to exceed the allowable density for the lot upon which it is located. The junior accessory dwelling unit shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot and shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.
- C. Lot Size. There is no minimum lot size requirement.
- D. Number of Units.
  1. No more than one junior accessory dwelling unit may be constructed on any lot developed with an existing or proposed single-family dwelling.
  2. A junior accessory dwelling unit may be permitted on a lot with an accessory dwelling unit, provided the following criteria are met:
    - a. The accessory dwelling unit is fully detached and the junior accessory dwelling unit is within an existing or proposed single-family dwelling; and
    - b. The detached accessory dwelling unit does not exceed a total floor area of more than eight hundred (800) square feet and a height limitation of sixteen (16) feet.
- E. Floor Area Requirements.
  1. Junior accessory dwelling unit shall not exceed five hundred (500) square feet in floor area and shall be constructed within the existing walls of the main dwelling. The floor area of the junior accessory dwelling unit shall be included in calculating the floor area ratio for the lot on which the junior accessory dwelling unit is located and subject to the maximum floor area ratio established in the underlying zoning district.
    - a. Exemption: A junior accessory dwelling unit may expand the main dwelling by not more than one hundred fifty (150) square feet beyond the physical dimensions of the main dwelling, provided that the expansion of the main dwelling shall be limited to accommodating ingress and egress for the junior accessory dwelling unit. The setbacks of the expansion shall comply with the setback standards of the underlying zoning district and shall be compliant with building, health, and fire codes.

## F. Unit Access.

1. As required by Section 17.01.060, the lot on which the junior accessory dwelling unit is located shall have a legal means of access to the public right of way that complies with the street standards set forth in Section 12.24.010.
2. A separate exterior entry from the main entrance to the main dwelling shall be provided to serve the junior accessory dwelling unit only. Interior entry access between the junior accessory dwelling unit and the main dwelling is permitted, provided that the interior entry is located off a common living area of the main dwelling, such as a living room, family room, dining room, kitchen, or an interior hallway leading to these common living areas.

## G. Required Facilities. A junior accessory dwelling unit shall include all of the following facilities:

1. At a minimum, an efficiency kitchen.
2. Sanitation facilities, but such facilities may be separated from or shared with the main dwelling.

## H. Owner Occupancy. Either the main dwelling or the junior accessory dwelling unit shall be occupied by the record owner of the property as the owner's principal place of residence. In the case of ownership by a corporation, limited liability company, partnership, trust or association, either the main dwelling or the junior accessory dwelling unit shall be the principal place of residence of an officer, director, shareholder, or member of the company, a partner in the partnership, a trustor or beneficiary of the trust, a member of the association, or an employee of any such organization. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

## I. Recordation of Declaration of Restrictions.

1. A Declaration of Restrictions shall be recorded to run with the land that indicates the following:
  - a. Only one unit may be occupied solely by persons other than the owner or owners of record;
  - b. If a junior accessory dwelling unit is rented, the unit shall not be rented for a period of less than 30 consecutive calendar days;
  - c. Sale of the junior accessory dwelling unit separately from the main dwelling is prohibited; and
  - d. The approved size and attributes of the junior accessory dwelling unit.
2. A copy of this Declaration of Restrictions must be given to each prospective purchaser or occupant.

## J. Parking. Parking spaces for the main dwelling and junior accessory dwelling unit shall be provided in accordance with the requirements set forth in Chapter 17.34 of this title.

## K. Utilities. The lot shall be served by adequate water, sewer, and storm drain facilities which comply with city standards as established per Title 13 of this Code. A junior accessory dwelling

unit shall not be considered a new residential use for the purposes of calculating connection fees or capacity charges for water and sewer service provided by the City.

- L. Compliance with Codes. The junior accessory dwelling unit and all new construction on the lot that will be performed in connection therewith shall comply with all applicable provisions of this title and all applicable building, health, and fire codes.
  - 1. Junior accessory dwelling units shall not be required to provide fire sprinklers except when fire sprinklers are required for the main dwelling, as determined by the building official consistent with Chapter 15.10.

**17.43.070 - Prohibition on sale and limitation on rental.**

- A. Accessory dwelling units and junior accessory dwelling units shall not be sold separately from the main dwelling(s).
- B. If an accessory dwelling unit or junior accessory dwelling unit is rented, the unit shall not be rented for a period of less than 30 consecutive calendar days.

**17.43.080 – Delay of enforcement of building standards.**

- A. Prior to January 1, 2030, the owner of an accessory dwelling unit that was built before January 1, 2020, may submit an application to the building official requesting that correction of any violation of building standards be delayed for five years. For the purposes of this section, “building standards” refer to those standards enforced by local agencies under the authority of Section 17960 and following of the California Health and Safety Code.
- B. The building official shall grant any application submitted under subsection A of this Section if the building official determines that enforcement of the building standard is not necessary to protect health and safety. In making this determination, the building official shall consult with the fire marshal.
- C. No applications submitted pursuant to this section shall be approved on or after January 1, 2030; provided, however, any delay to correct a violation that was approved by the building official before January 1, 2030, shall be valid for the full term of the delay that the building official approved at the time the building official approved the application.
- D. Until January 1, 2030, any notice to correct a violation of building standard that is issued to the owner of an accessory dwelling unit built before January 1, 2020 shall include a statement that the owner has a right to request a delay in enforcement of the building standard for an accessory dwelling unit pursuant to this section.
- E. This section shall remain in effect until January 1, 2035, and as of that date is repealed.

**17.43.090 - Appeals.**

Any decision or determination by the director of community development or building official pursuant to this chapter may be appealed in accordance with the procedure set forth in Chapter 17.52 of this title.

**SECTION 33:** 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 34:** 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 35:** This Ordinance shall be in full force and effect thirty 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 October 2020, by the following vote:

AYES:

NOES:

ABSENT:


ABSTAIN:

\_\_\_\_\_  
Terry O'Connell, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Ingrid Padilla, City Clerk

  
\_\_\_\_\_  
City Attorney

ATTACHMENT 3  
PLANNING COMMISSION AGENDA REPORT

# *City of Brisbane*

## *Planning Commission Agenda Report*

**TO:** Planning Commission For the Meeting of 5/14/2020

**SUBJECT:** Zoning Text Amendment RZ-1-20; Zoning Text Amendments to update the City's existing Accessory Dwelling Unit (ADU) regulations and increase the Floor Area Ratio (FAR) exemption for covered parking on small lots to 400 square feet; City of Brisbane, applicant; Citywide.

**REQUEST:** Recommend City Council adoption of proposed zoning text amendments to:

- (1) Increase the FAR exemption for covered parking for lots 3,700 square feet or smaller in size in the R-1, R-2, and R-3 Residential zoning districts; and
- (2) Update the existing ADU regulations in Title 17 to comply with State law.

**RECOMMENDATION:** Recommend City Council adoption of Zoning Text Amendment RZ-1-20 via adoption of Resolution RZ-1-20.

**ENVIRONMENTAL DETERMINATION:** The project is statutorily exempt from the requirements of California Environmental Quality Act (CEQA) pursuant to Section 15282(h) of the CEQA Guidelines, which exempts adoption of an ordinance regarding ADUs in single-family and multifamily residential zones. In addition to being statutorily exempt from CEQA, the project falls within a class of projects which are consistent with existing zoning or general plan policies for which an EIR was certified and shall therefore not require further review. The exception to this exemption does not apply.

### **APPLICABLE CODE SECTIONS:**

- General provisions ([BMC Chapter 17.01](#))
- "Dwelling" defined in [Chapter 17.02](#)
- R-1 Residential District ([BMC Chapter 17.06](#))
- R-2 Residential District ([BMC Chapter 17.08](#))
- R-3 Residential District ([BMC Chapter 17.10](#))
- R-BA Residential District ([BMC Chapter 17.12](#))
- Downtown Brisbane Neighborhood Commercial District ([BMC Chapter 17.14](#))
- Southwest Bayshore Commercial District ([BMC Chapter 17.16](#))
- Parkside Overlay District ([BMC Chapter 17.27](#))
- Planned Development District ([BMC Chapter 17.28](#)).
- Setback exceptions ([BMC Chapter 17.32](#))
- Off-street parking ([BMC Chapter 17.34](#))
- Nonconforming uses and structures ([BMC Chapter 17.38](#))
- Accessory Dwelling Units ([BMC Chapter 17.43](#))

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## ANALYSIS AND FINDINGS:

### **1. Floor Area Ratio Parking Exemption**

#### Background

Lots 3,700 square feet or less in the R-1, R-2, and R-3 Residential Districts with a single-family dwelling are currently granted a 200 square foot exemption for covered parking (equivalent to one parking space) when calculating the floor area ratio (FAR) for the property. The origin and timeline of the FAR exemption for covered parking on small lots is described in Attachment F.

On July 17, 2019, the City Council Planning Issues Subcommittee met to discuss amending the FAR exemption for garages on small lots and on September 5, 2019 the City Council initiated a zoning text amendment to increase the FAR exemption for garages on small lots as a means to increasing the supply of available off-street parking in residential areas.

#### Draft Ordinance

The draft ordinance would increase the FAR exemption for covered parking to 400 square feet, or the equivalent of two parking spaces, for single-family dwellings in the R-1, R-2, and R-3 Residential zoning districts, matching the original 400 square foot exemption passed in 2002. No change is made towards its limitation to lots 3,700 square feet or less.

### **2. Accessory Dwelling Units**

#### Background

In 2019, the California State Legislature passed a flurry of bills pertaining to Accessory Dwelling Units (ADUs) (see Attachments C, D, and E) that became effective January 1, 2020. The City's current ADU regulations (BMC Chapter 17.43) were last updated in May 2018 (Ordinance 626) and must be updated to comply with current State law.

These new State laws require local agencies to:

- Permit ADUs in any zoning district zoned for single or multifamily dwellings (including mixed use zones);
- Allow ADUs in multifamily buildings;
- Permit ADUs in a planned developments regardless of any existing covenant, condition, or restriction(CC&Rs);
- Exempt ADUs meeting certain size, height, and setback limitations from FAR and lot coverage limits;
- Allow conversion or demolition of a garage, carport, or covered parking structure in conjunction with the construction of an ADU without replacement off-street parking;
- Permit a junior ADU (JADU) in addition to an ADU on single family lots;
- Allow conversion of legal nonconforming accessory structures into ADUs;
- Require that rentals of ADUs must be for a term longer than 30 consecutive days;

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- Eliminate owner-occupancy requirements for ADUs; and
- Require owner-occupancy for JADUs.

The primary goal of the State when passing this new legislation was to increase affordable housing by easing regulations on ADUs.

### **Draft Ordinance**

The draft ordinance proposes a complete overhaul of the existing Chapter 17.43, Accessory Dwelling Units of the BMC and a number of minor amendments to other sections of the BMC to comply with the new State regulations. Below is a list of the major amendments the draft ordinance addresses.

#### **➤ Zoning Districts**

<b>State Legislation:</b>	<ul style="list-style-type: none"> <li>▪ ADUs must be permitted in all residential and mixed-use zones, with limited exceptions.</li> <li>▪ CC&amp;Rs that prohibit or restrict ADUs and JADUs for single family dwellings are null and void.</li> </ul>
<b>Existing BMC:</b>	<ul style="list-style-type: none"> <li>▪ ADUs allowed in R-1, R-2, R-3, R-BA, and SCRO-1 zoning districts only.</li> </ul>
<b>Draft Ordinance:</b>	<ul style="list-style-type: none"> <li>▪ ADUs allowed in any zone that permits residential uses either by right or conditionally (R-1, R-2, R-3, R-BA, NCRO-2, SCRO-1, PAOZ-1, PAOZ-2 and PD zoning districts) with an existing or proposed single-family or multiple-family dwelling.</li> </ul>

#### **➤ Unrestricted ADUs**

<b>State Legislation:</b>	<ul style="list-style-type: none"> <li>▪ Must allow an “unrestricted ADU” up to 800 square feet that is at least 16 feet in height with 4 foot side and rear yard setbacks on any residential lot.</li> </ul>
<b>Existing BMC:</b>	<ul style="list-style-type: none"> <li>▪ ADUs may be limited or restricted by lot coverage, FAR, and development standards.</li> </ul>
<b>Draft Ordinance:</b>	<ul style="list-style-type: none"> <li>▪ “Unrestricted ADUs” less than 16 feet tall and 800 square feet or less in size are exempt from lot coverage, FAR, and other development standards.</li> <li>▪ Any ADU greater than 800 square feet and/or 16 feet tall shall be included in the calculation of floor area, lot coverage, and open space requirements.</li> </ul>

#### **➤ Junior Accessory Dwelling Units**

<b>State Legislation:</b>	<ul style="list-style-type: none"> <li>▪ JADUs must be allowed in any zone that allow single-family dwellings;</li> <li>▪ JADUs shall be contained within existing walls of main dwelling, owner occupied, and no more than 500 square feet.</li> <li>▪ Single-family dwellings may have one detached ADU up to 800 square feet and less than 16 feet tall and a JADU.</li> </ul>
<b>Existing BMC:</b>	<ul style="list-style-type: none"> <li>▪ JADUs not permitted.</li> </ul>

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<b>Draft Ordinance:</b>	<ul style="list-style-type: none"> <li>▪ Defines JADU as a dwelling unit no more than 500 square feet in size contained entirely within a single-family dwelling. A JADU may share sanitation facilities with the single-family dwelling and are distinguished from ADUs in that they:               <ol style="list-style-type: none"> <li>(1) must include the conversion of existing, legally permitted floor area within an existing single-family dwelling; and</li> <li>(2) must be owner occupied, or the main dwelling be owner occupied; and</li> <li>(3) are subject to unique standards that are not applicable to ADUs.</li> </ol> </li> <li>▪ JADUs permitted only in conjunction with an existing or proposed single-family dwelling; may have a detached ADU and JADU.</li> </ul>
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➤ **Accessory Dwelling Units in Multiple-Family Dwellings**

<b>State Legislation:</b>	<ul style="list-style-type: none"> <li>▪ ADUs permitted in multiple-family dwellings.</li> <li>▪ At least one attached ADU shall be allowed; the total number of attached ADUs permitted is limited to 25% of the total number of existing dwelling units.</li> <li>▪ Attached ADUs shall be allowed within existing portions of multiple-family dwellings that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages; attached ADUs shall not be created within any portion of the habitable area of an existing dwelling unit in a multiple-family dwelling.</li> <li>▪ No more than two additional detached ADUs may be permitted; each detached ADU shall be limited to a height of 16 feet, a total floor area of 800 square feet, and a minimum side and rear setback of 4 feet.</li> </ul>
<b>Existing BMC:</b>	<ul style="list-style-type: none"> <li>▪ ADUs not permitted in multiple-family dwellings.</li> </ul>
<b>Draft Ordinance:</b>	<ul style="list-style-type: none"> <li>▪ ADUs are permitted in multiple-family dwellings in any zone that allows residential uses either by right or conditionally.</li> <li>▪ Complies with new state laws regulating quantity, location, and size of ADUs in multiple-family dwellings.</li> </ul>

➤ **Setbacks and Height**

<b>State Legislation:</b>	<ul style="list-style-type: none"> <li>▪ Setbacks: 4-foot side and rear setbacks; rebuilds or conversions may maintain nonconforming setbacks.</li> </ul>
<b>Existing BMC:</b>	<ul style="list-style-type: none"> <li>▪ Setbacks: Front: Per district regulations; Side: 5-3 feet based on lot width; Rear: 10 feet; Converted structures may retain existing nonconforming setbacks.</li> <li>▪ Height: established by underlying zone.</li> </ul>
<b>Draft Ordinance:</b>	<ul style="list-style-type: none"> <li>▪ Setbacks: Front: no change; Side: 3-4 feet based on lot width; rebuilds or converted structures may maintain nonconforming setbacks.</li> <li>▪ Height: established by underlying zone; two-story limit; “unrestricted ADUs” limited to 16 feet.</li> </ul>

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➤ **Parking**

<b>State Legislation:</b>	<ul style="list-style-type: none"> <li>One parking space for ADUs except no parking required when located within one-half mile of transit.</li> <li>When a garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of an ADU, any parking spaces that were provided by such garage, carport, or covered parking structure are not required to be replaced.</li> <li>No parking required for JADU.</li> </ul>
<b>Existing BMC:</b>	<ul style="list-style-type: none"> <li>No off-street parking required for ADUs.</li> </ul>
<b>Draft Ordinance:</b>	<ul style="list-style-type: none"> <li>No off-street parking required for ADUs except in the R-BA or PD zoning districts; one parking space required in R-BA and PD except no parking is required when located within one-half mile of transit.</li> <li>Complies with new state laws regulating parking facility conversions to ADUs and parking requirements for JADUs.</li> </ul>

➤ **Owner Occupancy and Short-Term Rentals**

<b>State Legislation:</b>	<ul style="list-style-type: none"> <li>Cannot require owner occupancy for ADUs; JADUs shall require owner occupancy restrictions.</li> <li>ADUs and JADUs cannot be rented for less than 30 consecutive days.</li> </ul>
<b>Existing BMC:</b>	<ul style="list-style-type: none"> <li>Owner occupancy required for all ADUs.</li> <li>Short term rentals (STR) currently banned in City; RZ-2-19 would permit STR in ADUs legally established before April 1, 2017.</li> </ul>
<b>Draft Ordinance:</b>	<ul style="list-style-type: none"> <li>Complies with new state laws regulating owner occupancy restrictions and STR for ADUs and JADUs.</li> <li>RZ-2-19 would permit STR in ADUs legally established before April 1, 2017.</li> </ul>

**ATTACHMENTS:**

- A. Draft Resolution RZ-1-20 (including draft ordinance) (Resolution only)
- B. ~~Redline copy of proposed zoning text amendments~~ (Not provided)
- C. Department of Housing and Community Development Memorandum addressing California Law regarding ADUs and JADUs
- D. Government Code Sections [65852.2](#) and [6585.22](#), relating to ADUs
- E. Summary of new State legislation
- F. ~~History of FAR covered parking exception~~ (Not provided)
- G. May 14, 2020 Planning Commission Draft Meeting Minutes

  
Jeremiah Robbins, Associate Planner

  
John Swiecki, Community Development Director

ATTACHMENT 3.A  
RESOLUTION RZ-1-20



## RESOLUTION NO. RZ-1-20

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BRISBANE  
RECOMMENDING CITY COUNCIL APPROVAL OF ZONING TEXT AMENDMENT RZ-1-20  
AMENDING REGULATIONS CONCERNING ACCESSORY DWELLING UNITS AND  
JUNIOR ACCESSORY DWELLING UNITS TO COMPLY WITH STATE LAW AND  
REVISING THE FLOOR AREA RATIO EXEMPTION FOR COVERED PARKING ON SMALL LOTS

**WHEREAS**, the City Council adopted the Housing Element for the 2015-2022 cycle on April 2, 2015 via Resolution No. 2015-08; and

**WHEREAS**, Housing Element Goal H.B establishes the community's aspiration to maintain a diverse housing stock in Brisbane; and

**WHEREAS**, Housing Element Policy H.B.1 encourages the construction of a balance of housing types, sizes, and tenure, and the inclusion of affordable dwelling units in multiple-family developments; and

**WHEREAS**, Housing Element Policy H.I.1 encourages reducing regulatory constraints on the development of new housing, especially infill housing and housing that adds to the mix of types, size, tenure and affordability of the local housing stock; and

**WHEREAS**, effective January 1, 2020, Senate Bill 13, Assembly Bill 68, and Assembly Bill 881 amended Sections 65852.2 and 65852.22 of the Government Code and changed the requirements for local governments relating to accessory dwelling units (ADUs) and junior ADUs (JADUs); and

**WHEREAS**, the City's current ordinance regarding ADUs must be updated to comply with current State law; and

**WHEREAS**, on September 5, 2019, the City Council initiated a zoning text amendment to increase the floor area ratio exemption for covered parking on lots equal to or less than 3,700 square feet in area; and

**WHEREAS**, the draft ordinance attached as Exhibit A to this resolution proposes amendments to Title 17 (Zoning) of the Brisbane Municipal Code in order to comply with current State law regarding ADUs and JADUs; and

**WHEREAS**, the draft ordinance attached as Exhibit A to this resolution proposes amendments to Title 17 (Zoning), specifically existing Chapters 17.06 (R-1 Residential District), 17.08 (R-2 Residential District), and 17.10 (R-3 Residential District), to increase the floor area ratio exemption for covered parking on lots equal to or less than 3,700 square feet in area; and

**WHEREAS**, on May 14, 2020, the Planning Commission conducted a hearing of the draft ordinance concerning ADUs and JADUs and revisions to the floor area ratio covered parking exemption for small lots, publicly noticed in compliance with Brisbane Municipal Code Chapters 1.12 and 17.54, at which time any person interested in the matter was given an opportunity to be heard; and

**WHEREAS**, the draft ordinance is statutorily exempt from the provisions of the California Environmental Quality Act (CEQA) per Section 15282(h) of the CEQA Guidelines and categorically exempt from CEQA per Section 15183(a) of the CEQA Guidelines, and the exceptions to the categorical exemption are inapplicable.

**NOW, THEREFORE**, based upon the evidence presented, both written and oral, the Planning Commission of the City of Brisbane hereby RECOMMENDS that the City Council adopt the attached ordinance.

**ADOPTED** this 14th of May 2020 by the following vote:

AYES: Gomez, Gooding, Mackin, Patel, and Sayasane

NOES: None

ABSENT: None

*Pamala Sayasane*  
PAMALA SAYASANE  
Chairperson

ATTEST:

*John Swiecki*  
\_\_\_\_\_  
JOHN SWIECKI, Community Development Director

ATTACHMENT 3.C  
ADU MEMO FROM HCD

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Avenue, Suite 500  
Sacramento, CA 95833  
(916) 263-2911 / FAX (916) 263-7453  
[www.hcd.ca.gov](http://www.hcd.ca.gov)

**MEMORANDUM**

**DATE:** January 10, 2020

**TO:** Planning Directors and Interested Parties

**FROM:** Zachary Olmstead, Deputy Director  
Division of Housing Policy Development

**SUBJECT:** **Local Agency Accessory Dwelling Units**  
**Chapter 653, Statutes of 2019 (Senate Bill 13)**  
**Chapter 655, Statutes of 2019 (Assembly Bill 68)**  
**Chapter 657, Statutes of 2019 (Assembly Bill 587)**  
**Chapter 178, Statutes of 2019 (Assembly Bill 670)**  
**Chapter 658, Statutes of 2019 (Assembly Bill 671)**  
**Chapter 659, Statutes of 2019 (Assembly Bill 881)**

This memorandum is to inform you of the amendments to California law, effective January 1, 2020, regarding the creation of accessory dwelling units (ADU) and junior accessory dwelling units (JADU). Chapter 653, Statutes of 2019 (Senate Bill 13, Section 3), Chapter 655, Statutes of 2019 (Assembly Bill 68, Section 2) and Chapter 659 (Assembly Bill 881, Section 1.5 and 2.5) build upon recent changes to ADU and JADU law (Government Code Section 65852.2, 65852.22 and Health & Safety Code Section 17980.12) and further address barriers to the development of ADUs and JADUs. (Attachment A includes the combined ADU statute updates from SB 13, AB 68 and AB 881).

This recent legislation, among other changes, addresses the following:

- Development standards shall not include requirements on minimum lot size (Section (a)(1)(B)(i)).
- Clarifies areas designated for ADUs may be based on water and sewer and impacts on traffic flow and public safety.
- Eliminates owner-occupancy requirements by local agencies (Section (a)(6) & (e)(1)) until January 1, 2025.
- Prohibits a local agency from establishing a maximum size of an ADU of less than 850 square feet, or 1000 square feet if the ADU contains more than one bedroom (Section (c)(2)(B)).
- Clarifies that when ADUs are created through the conversion of a garage, carport or covered parking structure, replacement offstreet parking spaces cannot be required by the local agency (Section (a)(1)(D)(xi)).

- Reduces the maximum ADU and JADU application review time from 120 days to 60 days (Section (a)(3) and (b)).
- Clarifies “public transit” to include various means of transportation that charge set fees, run on fixed routes and are available to the public (Section (j)(10)).
- Establishes impact fee exemptions or limitations based on the size of the ADU. ADUs up to 750 square feet are exempt from impact fees and impact fees for an ADU of 750 square feet or larger shall be proportional to the relationship of the ADU to the primary dwelling unit (Section (f)(3)).
- Defines an “accessory structure” to mean a structure that is accessory or incidental to a dwelling on the same lot as the ADU (Section (j)(2)).
- Authorizes HCD to notify the local agency if the department finds that their ADU ordinance is not in compliance with state law (Section (h)(2)).
- Clarifies that a local agency may identify an ADU or JADU as an adequate site to satisfy RHNA housing needs as specified in Gov. Code Section 65583.1(a) and 65852.2(m).
- Permits JADUs without an ordinance adoption by a local agency (Section (a)(3), (b) and (e)).
- Allows a permitted JADU to be constructed within the walls of the proposed or existing single-family residence and eliminates the required inclusion of an existing bedroom or an interior entry into the single-family residence (Gov. Code Section 65852.22).
- Allows upon application and approval, an owner of a substandard ADU 5 years to correct the violation, if the violation is not a health and safety issue, as determined by the enforcement agency (Section (n)).
- Creates a narrow exemption to the prohibition for ADUs to be sold or otherwise conveyed separate from the primary dwelling by allowing deed-restricted sales to occur. To qualify, the primary dwelling and the ADU are to be built by a qualified non-profit corporation whose mission is to provide units to low-income households (Gov. Code Section 65852.26).
- Removes covenants, conditions and restrictions (CC&Rs) that either effectively prohibit or unreasonably restrict the construction or use of an ADU or JADU on a lot zoned for single-family residential use are void and unenforceable (Civil Code Section 4751).
- Requires local agency housing elements to include a plan that incentivizes and promotes the creation of ADUs that can offer affordable rents for very low, low-, or moderate-income households and requires HCD to develop a list of state grants and financial incentives in connection with the planning, construction and operation of affordable ADUs (Gov. Code Section 65583 and Health and Safety Code Section 50504.5) (Attachment D).

For assistance, please see the amended statutes in Attachments A, B, C and D. HCD continues to be available to provide preliminary reviews of draft ADU ordinances to assist local agencies in meeting statutory requirements. In addition, pursuant to Gov. Code Section 65852.2(h), adopted ADU ordinances shall be submitted to HCD within 60 days of adoption. For more information and updates, please contact HCD’s ADU team at [adu@hcd.ca.gov](mailto:adu@hcd.ca.gov).

ATTACHMENT 3.D

HYPELINKS TO GOVERNMENT CODE REGARDING ADUs

Government Code Section [65852.2](#) and [65852.22](#)

ATTACHMENT 3.E  
SUMMARY OF NEW STATE LEGISLATION

Attachment E  
Summary of new State legislation regarding ADUs

**AB 68 (Ting) & AB 881 (Bloom)** – Allows ADUs in any zone that permits dwelling units; no conformance rezoning as condition of approval.

Requires local agencies to approve or deny an ADU project on existing SF/MF units within 60 days.

Prohibits local agencies from adopting ADU ordinances that: impose minimum lot size requirements for ADUs; impose lot coverage standards; require replacement off-street parking when a “garage, carport or covered parking structure” is demolished or converted to construct the ADU.

Allows for an ADU as well as a "junior" ADUs in SF units.

Junior ADU must be within existing structure, must be owner occupied or primary unit must be owner occupied, and cannot exceed 500 sq ft; may share sanitary facilities and must have efficiency kitchen.

ADU max size is 1200 sq ft; minimum allowed 800 sq ft/16’ height/ 4’ rear & side setback; must have permanent cooking and sanitary facilities.

Allows ADUs in multifamily buildings including ministerial approval of ADUs in existing non-livable areas such as storage rooms, boiler rooms, etc.

No impact fees for ADUs less than 750 sq ft; no connection/capacity fees for ADUs unless in conjunction with a new SF residence.

Rental of ADUs must be for a term longer than 30 days.

**SB 13 (Wieckowski)** – until January 1, 2025, prohibit a local agency from imposing an owner-occupant requirement as a condition of issuing a permit.

Authorize the owner of an accessory dwelling unit built before January 1, 2020, or built on or after January 1, 2020, under specified circumstances, that receives a notice to correct violations or abate nuisances to request that the enforcement of the violation be delayed for 5 years if correcting the violation is not necessary to protect health and safety, as determined by the enforcement agency, subject to specified requirements.

**AB 587 (Friedman)** – local agencies may now allow ADUs to be sold or conveyed separately from a primary residence if certain conditions are met.

**AB 670 (Friedman)** – prevents homeowners' associations from barring ADUs; makes void and unenforceable any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a planned development, and any provision of a governing document, that effectively prohibits or unreasonably restricts the construction or use of an accessory dwelling unit or junior accessory dwelling unit on a lot zoned for single-family residential use.

**AB 671 (Friedman)** – requires local governments to include a plan to incentivize and promote the creation of ADUs that can be offered at affordable rent for, “very low, low, or moderate-income households” in their General Plan Housing Element.

Require the Department of Housing and Community Development to develop and post on its website, by Dec. 31, 2020, a list of state grants and financial incentives for ADU development.



ATTACHMENT 3.G  
PLANNING COMMISSION MEETING MINUTES

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DRAFT

The Planning Commission discussed with staff their concerns with their purview of authority when reviewing grading permits, particularly with potential impact to site hydrology.

At the request of staff, the meeting was recessed for 5 minutes to address technical issues associated with the call-in public access to the meeting.

Chairperson Sayasane brought the meeting back to order and the recognized members of the public wishing to address the Commission.

Prem Lall, Brisbane resident, spoke against the project.

There were no other members of the public wishing to address the Commission.

After some discussion, Commissioner Mackin made a motion to deny the applicant's request for reconsideration and adopt findings of denial for the project, but later withdrew the motion.

Following further discussion, Commissioner Patel moved to grant the applicant's request to reconsider the application at a future public hearing. Commissioner Gooding seconded the motion and the motion was approved 5-0.

#### NEW BUSINESS

**D. Zoning Text Amendment RZ-1-20; Various zoning districts;** Zoning text amendments to update the existing accessory dwelling unit (ADU) regulations in the zoning ordinance to comply with updated State regulations, and to increase the existing floor area ratio (FAR) exception of 200 square feet to 400 square feet for covered parking on substandard lots; City of Brisbane, applicant.

Associate Planner Robbins gave the staff presentation.

The Planning Commission identified concerns about potential implications of increasing the FAR covered parking exception in conjunction with the required, limitations on ADU parking requirements in State legislation.

Chairperson Sayasane opened the public hearing.

With no one coming forward to address the Commission, Commissioner Gooding moved to close the public hearing. Commissioner Gomez seconded the motion and it was approved 5-0.

Following deliberation, Commissioner Mackin moved to recommend City Council adoption of the draft ordinance by adopting Resolution RZ-1-20. Commissioner Gooding seconded the motion and the motion was approved 5-0.

Chairperson Sayasane read the appeals process of Planning Commission actions.

#### ITEMS INITIATED BY STAFF

**File Attachments for Item:**

J. Consider Introduction of Ordinance No. 657 Brisbane amending sections 17.06.040, 17.08.040, and 17.10.040 of the Brisbane municipal code concerning the floor area ratio exemption for garages on small lots.

(Due to technological issues, the public hearing on this item was not opened at the City Council's meeting of September 17, 2020 and was continued to the City Council meeting of October 1, 2020)



## CITY COUNCIL AGENDA REPORT

**Meeting Date:** October 1, 2020

**From:** John Swiecki, Community Development Director

**Subject:** Proposed Ordinance No. 657 (Zoning Text Amendment RZ-1-20); Zoning amendments to amend existing floor area ratio exemption for garages on substandard lots in residential zoning districts

### Community Goal/Result

Community Building

### Purpose

To amend the Brisbane Municipal Code (BMC) to increase the Floor Area Ratio (FAR) exemption from 200 sq ft to 400 sq ft for garages on lots 3,700 sq ft or smaller in size in the R-1, R-2, and R-3 Residential zoning districts.

### Recommendation

That the City Council introduce Ordinance No. 657.

### Background

On September 5, 2019, the City Council initiated a zoning text amendment to increase the FAR exemption for garages on small lots in the R-1, R-2, and R-3 Residential districts to increase the potential supply of off-street parking in those districts. Attachment 3.F has a detailed history of the origin and evolution of the current FAR covered parking exemption.

On May 14, 2020, the Planning Commission unanimously adopted Resolution RZ-1-20 recommending that the current FAR exemption be increased to 400 sq ft, or the equivalent of a two-car garage, as provided in the attached draft Ordinance 657 (Attachment 1). (Note: RZ-1-20 also contained zoning amendments to the City's accessory dwelling unit regulations, which will be presented separately to the Council as Ordinance No. 653.) The Planning Commission agenda report, draft meeting minutes, and adopted resolution are attached for reference and include a detailed description of the proposed zoning amendments. (See Attachment 3.)

### Discussion

Current zoning regulations establish an allowance whereby 200 square foot of garage area is excluded from the floor area ratio (FAR) calculation for lots 3,700 square feet in size or less developed with a single-family dwelling in the R-1, R-2, and R-3 Residential zoning districts. The proposed ordinance would increase the exemption to 400 square feet, the equivalent of a two-car garage per the City's garage design standards.

The intent of the ordinance is to promote/encourage the provision of off-street parking, while as a practical matter it would also increase the functional FAR and allow for larger homes on these lots. Lot coverage would still limit the overall footprint of the single-family dwelling.

The Council should note that draft Ordinance 653 would codify current State law which allows garages to be converted to accessory dwelling units without the provision of replacement off-street parking. This is in contrast with existing provisions in Chapter 17.34 that mandate that garages not be converted to any other use that would impair their basic use as storage for motor vehicles, a provision has traditionally presented a challenge to enforce on lots of all sizes.

**Fiscal Impact**

None.

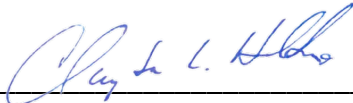
**Measure of Success**

Adoption of zoning regulations that incentivize the development of additional off-street parking in the City's residential neighborhoods.

**Attachments**

1. Draft Ordinance No. 657
2. Redline Copy of proposed Zoning Text Amendments
3. May 14, 2020 Planning Commission Resolution RZ-1-20 (Excerpt), Minutes, and Agenda Report
4. City Council meeting minutes of September 5, 2019 (Excerpt)

  
\_\_\_\_\_  
John Swiecki, Community Development Director

  
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Clay Holstine, City Manager

ATTACHMENT 1

DRAFT ORDINANCE NO. 657

**draft**  
**ORDINANCE NO. 657**

**AN ORDINANCE OF THE CITY OF BRISBANE  
AMENDING SECTIONS 17.06.040, 17.08.040, AND 17.10.040  
OF THE BRISBANE MUNICIPAL CODE  
CONCERNING THE FLOOR AREA RATIO EXEMPTION  
FOR GARAGES ON SMALL LOTS**

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

**SECTION 1: Section 17.06.040 – Development regulations of Chapter 17.06 of the Zoning Ordinance is amended to read as follows:**

**17.06.040 - Development regulations.**

The following development regulations shall apply to any lot in the R-1 district:

(Subsections A-E, no change.)

- F. Floor Area Ratio. The maximum floor area ratio for all buildings on a lot shall be 0.72. Where the size of the lot is three thousand seven hundred (3,700) square feet or less, no more than two covered parking spaces designed to accommodate full-size automobiles shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of four hundred (400) square feet.

(Subsections G-K, no change.)

**SECTION 2: Section 17.08.040 – Development regulations of Chapter 17.08 of the Zoning Ordinance is amended to read as follows:**

**17.08.040 - Development regulations.**

The following development regulations shall apply to any lot in the R-2 district:

(Subsections A-E, no change.)

- F. Floor Area Ratio. The maximum floor area ratio for all buildings on a lot shall be 0.72, subject to the following exclusions:
- a. In the case of single-family dwellings, where the size of the lot is three thousand seven hundred (3,700) square feet or less, no more than two covered parking spaces designed to accommodate full-size automobiles shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of four hundred (400) square feet.

(Paragraph 2, no change.)

(Subsections G-K, no change.)

**SECTION 3: Section 17.10.040 – Development regulations of Chapter 17.10 of the Zoning Ordinance is amended to read as follows:**

**17.10.040 - Development regulations.**

The following development regulations shall apply to any lot in the R-3 district:

(Subsections A-E, no change.)

F. Floor Area Ratio. The maximum floor area ratio for all buildings on a lot shall be 0.72, subject to the following exclusions:

- a. In the case of single-family dwellings, where the size of the lot is three thousand seven hundred (3,700) square feet or less, no more than two covered parking spaces designed to accommodate full-size automobiles shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of four hundred (400) square feet.

(Paragraph 2, no change.)

(Subsections G-K, no change.)

**SECTION 4:** 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 5:** 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 6:** This Ordinance shall be in full force and effect thirty 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 October 2020, by the following vote:



AYES:

NOES:

ABSENT:

ABSTAIN:

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Terry O'Connell, Mayor

ATTEST:

APPROVED AS TO FORM:

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Ingrid Padilla, City Clerk



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City Attorney

ATTACHMENT 2

REDLINE COPY OF PROPOSED AMENDMENTS

## Proposed Zoning Text Amendments: RZ-1-20 FAR Parking Exception

### 17.06.040 - Development regulations.

The following development regulations shall apply to any lot in the R-1 district:

A. Lot Area.

1. The minimum area of any lot shall be five thousand (5,000) square feet.
2. A single-family dwelling may be constructed on a lot of record with an area of less than five thousand (5,000) square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.32.100.

B. Density of Development. Not more than one single-family dwelling shall be located on each lot in the R-1 district.

C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

Width	Depth
50 feet	100 feet

D. Setbacks. The minimum required setbacks for any lot, except as provided in Section 17.32.070, shall be as follows:

1. Front setback: Fifteen (15) feet, with the following exceptions:

- a. Where the lot has a slope of fifteen percent (15%) or greater, the minimum front setback may be reduced to ten (10) feet.
- b. Where fifty percent (50%) or more of the lots of record in a block have been improved with single-family dwellings, the minimum front setback may be the average distance of the front outside wall of the single-family structures from the front lot line, if less than fifteen (15) feet. Notwithstanding the foregoing, the minimum front setback for garages or carports shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

2. Side setback: five (5) feet, with the exception that a lot having a width of less than fifty (50) feet may have a side setback reduced to ten percent (10%) of the lot width, but in no event less than three (3) feet or the minimum setback required by the Uniform Building Code, whichever is greater. Notwithstanding the foregoing, the minimum side setback for garages or carports accessed from a street or alley along that side of the lot shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

3. Rear setback: Ten (10) feet.

E. Lot Coverage. The maximum coverage by all structures on any lot shall be forty percent (40%).

F. Floor Area Ratio. The maximum floor area ratio for all buildings on a lot shall be 0.72. Where the size of the lot is three thousand seven hundred (3,700) square feet or less, ~~one no more than two~~ covered parking spaces designed to accommodate ~~a~~ full-size automobiles shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of ~~two four~~ hundred ~~(200)(400)~~ square feet.

G. Height of Structures.

1. Except as otherwise provided in paragraph 2 of this subsection G and in Section 17.32.060, the maximum height of any structure shall be as follows:
  - a. Twenty-eight (28) feet, for lots having a slope of less than twenty percent (20%); or
  - b. Thirty (30) feet, for lots having a slope of twenty percent (20%) or more.
2. For a distance of fifteen (15) feet from the front lot line, the height of any structure shall not exceed twenty (20) feet as measured from finish grade; provided, however, garages and carports may be constructed to a height of fifteen (15) feet above the elevation of the center of the adjacent street when permitted by Section 17.32.070 of this title. A garage or carport in compliance with this subsection may exceed a height of thirty (30) feet, but the height of any permitted living area underneath shall not exceed thirty (30) feet from finish grade.

H. Articulation Requirements. Unless exempted, outside walls that are greater in size than twenty (20) feet in width and twenty (20) feet in height shall have a cumulative area of articulation as follows:

1. Front outside wall: Thirty percent (30%) articulation.
2. Side outside walls:
  - a. Interior side outside wall: No articulation requirement.
  - b. Exterior side outside wall: Where the structure is located on a lot having an average width of forty (40) feet or greater, the articulation requirement for the exterior side outside wall shall be twenty percent (20%). No articulation shall be required for the exterior side outside wall of structures located on lots having an average width of less than forty (40) feet.
3. Rear outside wall: Thirty percent (30%) articulation.
4. Exemptions: Single story two (2) car garages and accessory structures not exceeding a floor area of one hundred twenty (120) square feet shall be exempted from all articulation requirements.

I. Landscaping Requirements.

1. Front Setback. A minimum of fifteen percent (15%) of the front setback area shall be landscaped where the lot has a front lot line of thirty (30) feet or greater.
  2. Downslope Lots. The rear of any newly constructed main structure on a downslope lot shall be screened with trees and shrubs in accordance with a landscape plan approved by the planning director.
  3. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.
- J. Nonconforming Residential Structures and Uses. Nonconforming residential structures and nonconforming residential uses, as defined in Section 17.02.560, may be repaired, restored, reconstructed, enlarged or expanded in accordance with the provisions of Chapters 17.38 and 17.34 of this title.
- K. Recycling Area Requirements. For new subdivisions containing an area where solid waste is collected and loaded in a location which serves five (5) or more living units, adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided to serve the needs of the living units which utilize the area. This requirement shall also apply to all institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.

**17.08.040 - Development regulations.**

The following development regulations shall apply to any lot in the R-2 district:

A. Lot Area.

1. The minimum area of any lot shall be five thousand (5,000) square feet, except as otherwise provided in subsection B of this Section 17.08.040.
2. A single-family dwelling may be constructed on a lot of record with an area of less than five thousand (5,000) square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.32.100.

B. Density of Development. The minimum lot area for each dwelling unit on the site shall be two thousand five hundred (2,500) square feet; provided, however, a lot having an area of four thousand nine hundred fifty (4,950) square feet or greater shall be considered conforming for a development density of two (2) units.

C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

Width	Depth
50 feet	100 feet

D. Setbacks. The minimum required setbacks for any lot, except as provided in Section 17.32.070, shall be as follows:

1. Front setback: Fifteen (15) feet, with the following exceptions:
  - a. Where the lot has a slope of fifteen percent (15%) or greater, the minimum front setback may be reduced to ten (10) feet.
  - b. Where fifty percent (50%) or more of the lots of record in a block have been improved with single-family dwellings, the minimum front setback may be the average distance of the front outside wall of the single-family structures from the front lot line, if less than fifteen (15) feet. Notwithstanding the foregoing, the minimum front setback for garages or carports shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.
2. Side setback: five (5) feet, with the exception that a lot having a width of less than fifty (50) feet may have a side setback reduced to ten percent (10%) of the lot width, but in no event less than three (3) feet or the minimum setback required by the Uniform Building Code, whichever is greater. Notwithstanding the foregoing, the minimum side setback for garages, or carports accessed from a street or alley along that side of the lot shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.
3. Rear setback: Ten (10) feet.

E. Lot Coverage. The maximum coverage by all structures on any lot shall be fifty percent (50%).

F. Floor Area Ratio. The maximum floor area ratio for all buildings on a lot shall be 0.72, subject to the following exclusions:

1. In the case of single-family dwellings, where the size of the lot is three thousand seven hundred (3,700) square feet or less, ~~one no more than two~~ covered parking spaces~~s~~ designed to accommodate ~~a~~ full-size automobiles~~s~~ shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of ~~two four~~ hundred ~~(200)(400)~~ square feet.
2. In the case of duplexes and multiple-family dwellings, the area of all covered parking spaces required to be provided for the site shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of four hundred (400) square feet per unit.

G. Height of Structures.

1. Except as otherwise provided in paragraph 2 of this subsection G and in Section 17.32.060, the maximum height of any structure shall be as follows:
  - a. Twenty-eight (28) feet, for lots having a slope of less than twenty percent (20%); or
  - b. Thirty (30) feet, for lots having a slope of twenty percent (20%) or more.
2. For a distance of fifteen (15) feet from the front lot line, the height of any structure shall not exceed twenty (20) feet as measured from finish grade; provided, however, garages and carports may be constructed to a height of fifteen (15) feet above the elevation of the center of the adjacent street when permitted by Section 17.32.070 of this title. A garage or carport in compliance with this subsection may exceed a height of thirty (30) feet, but the height of any permitted living area underneath shall not exceed thirty (30) feet from finish grade.

H. Articulation Requirements. Unless exempted, outside walls that are greater in size than twenty (20) feet in width and twenty (20) feet in height shall have a cumulative area of articulation as follows:

1. Front outside wall: Thirty percent (30%) articulation.
2. Side outside walls:
  - a. Interior side outside wall: No articulation requirement.
  - b. Exterior side outside wall: Where the structure is located on a lot having an average width of forty (40) feet or greater, the articulation requirement for the exterior side outside wall shall be twenty percent (20%). No articulation shall be required for the exterior side outside wall of structures located on lots having an average width of less than forty (40) feet.

3. Rear outside wall: Thirty percent (30%) articulation.
4. Exemptions: Single story two (2) car garages and accessory structures not exceeding a floor area of one hundred twenty (120) square feet shall be exempted from all articulation requirements.

I. Landscaping Requirements.

1. Front Setback. A minimum of fifteen percent (15%) of the front setback area shall be landscaped where the lot has a front lot line of thirty (30) feet or greater.
2. Downslope Lots. The rear of any newly constructed main structure on a downslope lot shall be screened with trees and shrubs in accordance with a landscape plan approved by the planning director.
3. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

J. Nonconforming Residential Structures and Uses. Nonconforming residential structures and nonconforming residential uses, as defined in Section 17.02.560, may be repaired, restored, reconstructed, enlarged or expanded in accordance with the provisions of Chapters 17.38 and 17.34 of this title.

K. Recycling Area Requirements:

1. Adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.
2. This requirement shall apply to all new residential buildings having five (5) or more living units, institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. This requirement shall also apply to such existing developments for which building permit applications are submitted within a twelve-month period collectively adding thirty percent (30%) or more to the existing floor area of the development project.



**17.10.040 - Development regulations.**

The following development regulations shall apply to any lot in the R-3 district:

A. Lot Area.

1. The minimum area of any lot shall be five thousand (5,000) square feet, except as otherwise provided in subsection B of this section.
2. A single-family dwelling may be constructed on a lot of record with an area of less than five thousand (5,000) square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.32.100.

B. Density of Development. The minimum lot area for each dwelling unit on the site shall be one thousand five hundred (1,500) square feet; provided, however, a lot having an area of four thousand nine hundred fifty (4,950) square feet or greater shall be considered conforming for a development density of three (3) units.

C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

Width	Depth
50 feet	100 feet

D. Setbacks. The minimum required setbacks for any lot, except as provided in Section 17.32.070, shall be as follows:

1. Front setback: Fifteen (15) feet, with the following exceptions:
  - a. Where the lot has a slope of fifteen percent (15%) or greater, the minimum front setback may be reduced to ten (10) feet.
  - b. Where fifty percent (50%) or more of the lots of record in a block have been improved with single-family dwellings, the minimum front setback may be the average distance of the front outside wall of the single-family structures from the front lot line, if less than fifteen (15) feet. Notwithstanding the foregoing, the minimum front setback for garages or carports shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.
2. Side setback: five (5) feet, with the exception that a lot having a width of less than fifty (50) feet may have a side setback reduced to ten percent (10%) of the lot width, but in no event less than three (3) feet or the minimum setback required by the Uniform Building Code, whichever is greater. Notwithstanding the foregoing, the minimum side setback for garages, or carports accessed from a street or alley along that side of the lot shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.
3. Rear setback: Ten (10) feet.

- E. Lot Coverage. The maximum coverage by all structures on any lot shall be sixty percent (60%).
- F. Floor Area Ratio. The maximum floor area ratio for all buildings on a lot shall be 0.72, subject to the following exclusions:
1. In the case of single-family dwellings, where the size of the lot is three thousand seven hundred (3,700) square feet or less, ~~one no more than two~~ covered parking spaces~~s~~ designed to accommodate ~~a~~ full-size automobiles~~s~~ shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of ~~two four~~ hundred ~~(200)(400)~~ square feet.
  2. In the case of duplexes and multiple-family dwellings, the area of all covered parking spaces required to be provided for the site shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of four hundred (400) square feet per unit.
- G. Height of Structures.
1. Except as otherwise provided in paragraph 2 of this subsection G and in Section 17.32.060, the maximum height of any structure shall be as follows:
    - a. Twenty-eight (28) feet, for lots having a slope of less than twenty percent (20%); or
    - b. Thirty (30) feet, for lots having a slope of twenty percent (20%) or more.
  2. For a distance of fifteen (15) feet from the front lot line, the height of any structure shall not exceed twenty (20) feet as measured from finish grade; provided, however, garages and carports may be constructed to a height of fifteen (15) feet above the elevation of the center of the adjacent street when permitted by Section 17.32.070 of this title. A garage or carport in compliance with this subsection may exceed a height of thirty (30) feet, but the height of any permitted living area underneath shall not exceed thirty (30) feet from finish grade.
- H. Articulation Requirements. Unless exempted, outside walls that are greater in size than twenty (20) feet in width and twenty (20) feet in height shall have a cumulative area of articulation as follows:
1. Front outside wall: Thirty percent (30%) articulation.
  2. Side outside walls:
    - a. Interior side outside wall: No articulation requirement.
    - b. Exterior side outside wall: Where the structure is located on a lot having an average width of forty (40) feet or greater, the articulation requirement for the exterior side outside wall shall be twenty percent (20%). No articulation shall be required for the exterior side outside wall of structures located on lots having an average width of less than forty (40) feet.

3. Rear outside wall: Thirty percent (30%) articulation.
4. Exemptions: Single story two (2) car garages and accessory structures not exceeding a floor area of one hundred twenty (120) square feet shall be exempted from all articulation requirements.

I. Landscaping Requirements.

1. Front Setback. A minimum of fifteen percent (15%) of the front setback area shall be landscaped where the lot has a front lot line of thirty (30) feet or greater.
2. Downslope Lots. The rear of any newly constructed main structure on a downslope lot shall be screened with trees and shrubs in accordance with a landscape plan approved by the planning director.
3. Sites with Three (3) or More Units. Not less than ten percent (10%) of the lot area shall be improved with landscaping where three (3) or more dwelling units are located on the same site.
4. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

J. Nonconforming Residential Structures and Uses. Nonconforming residential structures and nonconforming residential uses, as defined in Section 17.02.560, may be repaired, restored, reconstructed, enlarged or expanded in accordance with the provisions of Chapters 17.38 and 17.34 of this title.

K. Recycling Area Requirements:

1. Adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.
2. This requirement shall apply to all new residential buildings having five (5) or more living units, institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. This requirement shall also apply to such existing developments for which building permit applications are submitted within a twelve-month period collectively adding thirty percent (30%) or more to the existing floor area of the development project.

ATTACHMENT 3  
PLANNING COMMISSION AGENDA REPORT

# *City of Brisbane*

## *Planning Commission Agenda Report*

**TO:** Planning Commission For the Meeting of 5/14/2020

**SUBJECT:** Zoning Text Amendment RZ-1-20; Zoning Text Amendments to update the City's existing Accessory Dwelling Unit (ADU) regulations and increase the Floor Area Ratio (FAR) exemption for covered parking on small lots to 400 square feet; City of Brisbane, applicant; Citywide.

**REQUEST:** Recommend City Council adoption of proposed zoning text amendments to:

- (1) Increase the FAR exemption for covered parking for lots 3,700 square feet or smaller in size in the R-1, R-2, and R-3 Residential zoning districts; and
- (2) Update the existing ADU regulations in Title 17 to comply with State law.

**RECOMMENDATION:** Recommend City Council adoption of Zoning Text Amendment RZ-1-20 via adoption of Resolution RZ-1-20.

**ENVIRONMENTAL DETERMINATION:** The project is statutorily exempt from the requirements of California Environmental Quality Act (CEQA) pursuant to Section 15282(h) of the CEQA Guidelines, which exempts adoption of an ordinance regarding ADUs in single-family and multifamily residential zones. In addition to being statutorily exempt from CEQA, the project falls within a class of projects which are consistent with existing zoning or general plan policies for which an EIR was certified and shall therefore not require further review. The exception to this exemption does not apply.

### **APPLICABLE CODE SECTIONS:**

- General provisions ([BMC Chapter 17.01](#))
- "Dwelling" defined in [Chapter 17.02](#)
- R-1 Residential District ([BMC Chapter 17.06](#))
- R-2 Residential District ([BMC Chapter 17.08](#))
- R-3 Residential District ([BMC Chapter 17.10](#))
- R-BA Residential District ([BMC Chapter 17.12](#))
- Downtown Brisbane Neighborhood Commercial District ([BMC Chapter 17.14](#))
- Southwest Bayshore Commercial District ([BMC Chapter 17.16](#))
- Parkside Overlay District ([BMC Chapter 17.27](#))
- Planned Development District ([BMC Chapter 17.28](#)).
- Setback exceptions ([BMC Chapter 17.32](#))
- Off-street parking ([BMC Chapter 17.34](#))
- Nonconforming uses and structures ([BMC Chapter 17.38](#))
- Accessory Dwelling Units ([BMC Chapter 17.43](#))

RZ-1-20  
May 14, 2020 Meeting  
Page 2 of 5

## ANALYSIS AND FINDINGS:

### **1. Floor Area Ratio Parking Exemption**

#### Background

Lots 3,700 square feet or less in the R-1, R-2, and R-3 Residential Districts with a single-family dwelling are currently granted a 200 square foot exemption for covered parking (equivalent to one parking space) when calculating the floor area ratio (FAR) for the property. The origin and timeline of the FAR exemption for covered parking on small lots is described in Attachment F.

On July 17, 2019, the City Council Planning Issues Subcommittee met to discuss amending the FAR exemption for garages on small lots and on September 5, 2019 the City Council initiated a zoning text amendment to increase the FAR exemption for garages on small lots as a means to increasing the supply of available off-street parking in residential areas.

#### Draft Ordinance

The draft ordinance would increase the FAR exemption for covered parking to 400 square feet, or the equivalent of two parking spaces, for single-family dwellings in the R-1, R-2, and R-3 Residential zoning districts, matching the original 400 square foot exemption passed in 2002. No change is made towards its limitation to lots 3,700 square feet or less.

### **2. Accessory Dwelling Units**

#### Background

In 2019, the California State Legislature passed a flurry of bills pertaining to Accessory Dwelling Units (ADUs) (see Attachments C, D, and E) that became effective January 1, 2020. The City's current ADU regulations (BMC Chapter 17.43) were last updated in May 2018 (Ordinance 626) and must be updated to comply with current State law.

These new State laws require local agencies to:

- Permit ADUs in any zoning district zoned for single or multifamily dwellings (including mixed use zones);
- Allow ADUs in multifamily buildings;
- Permit ADUs in a planned developments regardless of any existing covenant, condition, or restriction(CC&Rs);
- Exempt ADUs meeting certain size, height, and setback limitations from FAR and lot coverage limits;
- Allow conversion or demolition of a garage, carport, or covered parking structure in conjunction with the construction of an ADU without replacement off-street parking;
- Permit a junior ADU (JADU) in addition to an ADU on single family lots;
- Allow conversion of legal nonconforming accessory structures into ADUs;
- Require that rentals of ADUs must be for a term longer than 30 consecutive days;

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- Eliminate owner-occupancy requirements for ADUs; and
- Require owner-occupancy for JADUs.

The primary goal of the State when passing this new legislation was to increase affordable housing by easing regulations on ADUs.

### **Draft Ordinance**

The draft ordinance proposes a complete overhaul of the existing Chapter 17.43, Accessory Dwelling Units of the BMC and a number of minor amendments to other sections of the BMC to comply with the new State regulations. Below is a list of the major amendments the draft ordinance addresses.

#### **➤ Zoning Districts**

<b>State Legislation:</b>	<ul style="list-style-type: none"> <li>▪ ADUs must be permitted in all residential and mixed-use zones, with limited exceptions.</li> <li>▪ CC&amp;Rs that prohibit or restrict ADUs and JADUs for single family dwellings are null and void.</li> </ul>
<b>Existing BMC:</b>	<ul style="list-style-type: none"> <li>▪ ADUs allowed in R-1, R-2, R-3, R-BA, and SCRO-1 zoning districts only.</li> </ul>
<b>Draft Ordinance:</b>	<ul style="list-style-type: none"> <li>▪ ADUs allowed in any zone that permits residential uses either by right or conditionally (R-1, R-2, R-3, R-BA, NCRO-2, SCRO-1, PAOZ-1, PAOZ-2 and PD zoning districts) with an existing or proposed single-family or multiple-family dwelling.</li> </ul>

#### **➤ Unrestricted ADUs**

<b>State Legislation:</b>	<ul style="list-style-type: none"> <li>▪ Must allow an “unrestricted ADU” up to 800 square feet that is at least 16 feet in height with 4 foot side and rear yard setbacks on any residential lot.</li> </ul>
<b>Existing BMC:</b>	<ul style="list-style-type: none"> <li>▪ ADUs may be limited or restricted by lot coverage, FAR, and development standards.</li> </ul>
<b>Draft Ordinance:</b>	<ul style="list-style-type: none"> <li>▪ “Unrestricted ADUs” less than 16 feet tall and 800 square feet or less in size are exempt from lot coverage, FAR, and other development standards.</li> <li>▪ Any ADU greater than 800 square feet and/or 16 feet tall shall be included in the calculation of floor area, lot coverage, and open space requirements.</li> </ul>

#### **➤ Junior Accessory Dwelling Units**

<b>State Legislation:</b>	<ul style="list-style-type: none"> <li>▪ JADUs must be allowed in any zone that allow single-family dwellings;</li> <li>▪ JADUs shall be contained within existing walls of main dwelling, owner occupied, and no more than 500 square feet.</li> <li>▪ Single-family dwellings may have one detached ADU up to 800 square feet and less than 16 feet tall and a JADU.</li> </ul>
<b>Existing BMC:</b>	<ul style="list-style-type: none"> <li>▪ JADUs not permitted.</li> </ul>

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<b>Draft Ordinance:</b>	<ul style="list-style-type: none"> <li>▪ Defines JADU as a dwelling unit no more than 500 square feet in size contained entirely within a single-family dwelling. A JADU may share sanitation facilities with the single-family dwelling and are distinguished from ADUs in that they:               <ol style="list-style-type: none"> <li>(1) must include the conversion of existing, legally permitted floor area within an existing single-family dwelling; and</li> <li>(2) must be owner occupied, or the main dwelling be owner occupied; and</li> <li>(3) are subject to unique standards that are not applicable to ADUs.</li> </ol> </li> <li>▪ JADUs permitted only in conjunction with an existing or proposed single-family dwelling; may have a detached ADU and JADU.</li> </ul>
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➤ **Accessory Dwelling Units in Multiple-Family Dwellings**

<b>State Legislation:</b>	<ul style="list-style-type: none"> <li>▪ ADUs permitted in multiple-family dwellings.</li> <li>▪ At least one attached ADU shall be allowed; the total number of attached ADUs permitted is limited to 25% of the total number of existing dwelling units.</li> <li>▪ Attached ADUs shall be allowed within existing portions of multiple-family dwellings that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages; attached ADUs shall not be created within any portion of the habitable area of an existing dwelling unit in a multiple-family dwelling.</li> <li>▪ No more than two additional detached ADUs may be permitted; each detached ADU shall be limited to a height of 16 feet, a total floor area of 800 square feet, and a minimum side and rear setback of 4 feet.</li> </ul>
<b>Existing BMC:</b>	<ul style="list-style-type: none"> <li>▪ ADUs not permitted in multiple-family dwellings.</li> </ul>
<b>Draft Ordinance:</b>	<ul style="list-style-type: none"> <li>▪ ADUs are permitted in multiple-family dwellings in any zone that allows residential uses either by right or conditionally.</li> <li>▪ Complies with new state laws regulating quantity, location, and size of ADUs in multiple-family dwellings.</li> </ul>

➤ **Setbacks and Height**

<b>State Legislation:</b>	<ul style="list-style-type: none"> <li>▪ Setbacks: 4-foot side and rear setbacks; rebuilds or conversions may maintain nonconforming setbacks.</li> </ul>
<b>Existing BMC:</b>	<ul style="list-style-type: none"> <li>▪ Setbacks: Front: Per district regulations; Side: 5-3 feet based on lot width; Rear: 10 feet; Converted structures may retain existing nonconforming setbacks.</li> <li>▪ Height: established by underlying zone.</li> </ul>
<b>Draft Ordinance:</b>	<ul style="list-style-type: none"> <li>▪ Setbacks: Front: no change; Side: 3-4 feet based on lot width; rebuilds or converted structures may maintain nonconforming setbacks.</li> <li>▪ Height: established by underlying zone; two-story limit; “unrestricted ADUs” limited to 16 feet.</li> </ul>



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➤ **Parking**

<b>State Legislation:</b>	<ul style="list-style-type: none"> <li>One parking space for ADUs except no parking required when located within one-half mile of transit.</li> <li>When a garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of an ADU, any parking spaces that were provided by such garage, carport, or covered parking structure are not required to be replaced.</li> <li>No parking required for JADU.</li> </ul>
<b>Existing BMC:</b>	<ul style="list-style-type: none"> <li>No off-street parking required for ADUs.</li> </ul>
<b>Draft Ordinance:</b>	<ul style="list-style-type: none"> <li>No off-street parking required for ADUs except in the R-BA or PD zoning districts; one parking space required in R-BA and PD except no parking is required when located within one-half mile of transit.</li> <li>Complies with new state laws regulating parking facility conversions to ADUs and parking requirements for JADUs.</li> </ul>

➤ **Owner Occupancy and Short-Term Rentals**

<b>State Legislation:</b>	<ul style="list-style-type: none"> <li>Cannot require owner occupancy for ADUs; JADUs shall require owner occupancy restrictions.</li> <li>ADUs and JADUs cannot be rented for less than 30 consecutive days.</li> </ul>
<b>Existing BMC:</b>	<ul style="list-style-type: none"> <li>Owner occupancy required for all ADUs.</li> <li>Short term rentals (STR) currently banned in City; RZ-2-19 would permit STR in ADUs legally established before April 1, 2017.</li> </ul>
<b>Draft Ordinance:</b>	<ul style="list-style-type: none"> <li>Complies with new state laws regulating owner occupancy restrictions and STR for ADUs and JADUs.</li> <li>RZ-2-19 would permit STR in ADUs legally established before April 1, 2017.</li> </ul>

**ATTACHMENTS:**

- A. Draft Resolution RZ-1-20 (including draft ordinance) (Resolution only)
- B. Redline copy of proposed zoning text amendments (Not provided)
- C. ~~Department of Housing and Community Development Memorandum addressing California Law regarding ADUs and JADUs~~
- D. ~~Government Code Sections 65852.2 and 6585.22, relating to ADUs~~
- E. ~~Summary of new State legislation~~
- F. History of FAR covered parking exception
- G. May 14, 2020 Planning Commission Draft Meeting Minutes

  
Jeremiah Robbins, Associate Planner

  
John Swiecki, Community Development Director

ATTACHMENT 3.A  
RESOLUTION RZ-1-20

## RESOLUTION NO. RZ-1-20

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BRISBANE  
RECOMMENDING CITY COUNCIL APPROVAL OF ZONING TEXT AMENDMENT RZ-1-20  
AMENDING REGULATIONS CONCERNING ACCESSORY DWELLING UNITS AND  
JUNIOR ACCESSORY DWELLING UNITS TO COMPLY WITH STATE LAW AND  
REVISING THE FLOOR AREA RATIO EXEMPTION FOR COVERED PARKING ON SMALL LOTS

**WHEREAS**, the City Council adopted the Housing Element for the 2015-2022 cycle on April 2, 2015 via Resolution No. 2015-08; and

**WHEREAS**, Housing Element Goal H.B establishes the community's aspiration to maintain a diverse housing stock in Brisbane; and

**WHEREAS**, Housing Element Policy H.B.1 encourages the construction of a balance of housing types, sizes, and tenure, and the inclusion of affordable dwelling units in multiple-family developments; and

**WHEREAS**, Housing Element Policy H.I.1 encourages reducing regulatory constraints on the development of new housing, especially infill housing and housing that adds to the mix of types, size, tenure and affordability of the local housing stock; and

**WHEREAS**, effective January 1, 2020, Senate Bill 13, Assembly Bill 68, and Assembly Bill 881 amended Sections 65852.2 and 65852.22 of the Government Code and changed the requirements for local governments relating to accessory dwelling units (ADUs) and junior ADUs (JADUs); and

**WHEREAS**, the City's current ordinance regarding ADUs must be updated to comply with current State law; and

**WHEREAS**, on September 5, 2019, the City Council initiated a zoning text amendment to increase the floor area ratio exemption for covered parking on lots equal to or less than 3,700 square feet in area; and

**WHEREAS**, the draft ordinance attached as Exhibit A to this resolution proposes amendments to Title 17 (Zoning) of the Brisbane Municipal Code in order to comply with current State law regarding ADUs and JADUs; and

**WHEREAS**, the draft ordinance attached as Exhibit A to this resolution proposes amendments to Title 17 (Zoning), specifically existing Chapters 17.06 (R-1 Residential District), 17.08 (R-2 Residential District), and 17.10 (R-3 Residential District), to increase the floor area ratio exemption for covered parking on lots equal to or less than 3,700 square feet in area; and

**WHEREAS**, on May 14, 2020, the Planning Commission conducted a hearing of the draft ordinance concerning ADUs and JADUs and revisions to the floor area ratio covered parking exemption for small lots, publicly noticed in compliance with Brisbane Municipal Code Chapters 1.12 and 17.54, at which time any person interested in the matter was given an opportunity to be heard; and

**WHEREAS**, the draft ordinance is statutorily exempt from the provisions of the California Environmental Quality Act (CEQA) per Section 15282(h) of the CEQA Guidelines and categorically exempt from CEQA per Section 15183(a) of the CEQA Guidelines, and the exceptions to the categorical exemption are inapplicable.

**NOW, THEREFORE**, based upon the evidence presented, both written and oral, the Planning Commission of the City of Brisbane hereby RECOMMENDS that the City Council adopt the attached ordinance.

**ADOPTED** this 14th of May 2020 by the following vote:

AYES: Gomez, Gooding, Mackin, Patel, and Sayasane

NOES: None

ABSENT: None

*Pamala Sayasane*  
PAMALA SAYASANE  
Chairperson

ATTEST:

*John Swiecki*  
JOHN SWIECKI, Community Development Director

ATTACHMENT 3.F  
SUMMARY OF FAR COVERED PARKING EXCEPTION

Attachment F  
Summary of FAR covered parking exception

- ORD #463** (2002): Introduced FAR limit of .72 with a 400 sq ft exception for covered parking. The intent was to limit overbuilding – homes too large or too tall on too small of lots – pursuant to policies in the 1994 General Plan. The parking exception was to encourage the construction of garages in Central Brisbane.
- ORD #485** (2004): Added a 3,700 sq ft lot size limit to the application of the parking exception for covered parking and reduced it from 400 sq ft to 200 sq ft for single family homes. (400 sq ft remained the exception for multifamily dwellings.) City Council concerned 400 sq ft exception still permitted homes that were inconsistent with the character of the community and 1994 General Plan policies. Since smaller lots only required one covered parking space the exception was reduced to 200 sq ft, or the area of one parking space.
- ORD #562** (2011): Removed 200 sq ft covered parking exception in R-BA district. Remained in R-1/R-2/R-3 zoning districts. There were no lots that would meet the 3700 sq ft lot size limitation in Brisbane Acres.
- ORD #576** (2016): Added text under Chapter 17.34 - Off-Street Parking of the BMC related to the covered parking exception. “The floor area of garages and carports shall not be included in measuring floor area to calculate the parking requirements, except for any floor area exceeding four hundred (400) square feet within a garage or carport exclusively for the use of a single residential unit.” No change was made to the application or limitations of the exception.
- ORD #615** (2017): Slight modification to the wording of the text under Section 17.34.020.B of the BMC. No change was made to the application or limitations of the exception.

ATTACHMENT 3.G  
PLANNING COMMISSION MEETING MINUTES

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DRAFT

The Planning Commission discussed with staff their concerns with their purview of authority when reviewing grading permits, particularly with potential impact to site hydrology.

At the request of staff, the meeting was recessed for 5 minutes to address technical issues associated with the call-in public access to the meeting.

Chairperson Sayasane brought the meeting back to order and the recognized members of the public wishing to address the Commission.

Prem Lall, Brisbane resident, spoke against the project.

There were no other members of the public wishing to address the Commission.

After some discussion, Commissioner Mackin made a motion to deny the applicant's request for reconsideration and adopt findings of denial for the project, but later withdrew the motion.

Following further discussion, Commissioner Patel moved to grant the applicant's request to reconsider the application at a future public hearing. Commissioner Gooding seconded the motion and the motion was approved 5-0.

#### NEW BUSINESS

**D. Zoning Text Amendment RZ-1-20; Various zoning districts;** Zoning text amendments to update the existing accessory dwelling unit (ADU) regulations in the zoning ordinance to comply with updated State regulations, and to increase the existing floor area ratio (FAR) exception of 200 square feet to 400 square feet for covered parking on substandard lots; City of Brisbane, applicant.

Associate Planner Robbins gave the staff presentation.

The Planning Commission identified concerns about potential implications of increasing the FAR covered parking exception in conjunction with the required, limitations on ADU parking requirements in State legislation.

Chairperson Sayasane opened the public hearing.

With no one coming forward to address the Commission, Commissioner Gooding moved to close the public hearing. Commissioner Gomez seconded the motion and it was approved 5-0.

Following deliberation, Commissioner Mackin moved to recommend City Council adoption of the draft ordinance by adopting Resolution RZ-1-20. Commissioner Gooding seconded the motion and the motion was approved 5-0.

Chairperson Sayasane read the appeals process of Planning Commission actions.

#### ITEMS INITIATED BY STAFF



ATTACHMENT 4  
CITY COUNCIL MEETING MINUTES  
SEPTEMBER 5, 2019 (EXCERPT)

- Executive Management: The pay schedule will reflect a market adjustment of 3.5% for the City Clerk position and a 2% pay increase for all covered positions in the bargaining group.

CM Conway made a motion, seconded by CM Cunningham, to approve of Resolution No. 2019-56 to update the Master Pay Schedule. The motion was passed unanimously by all present.

Ayes: Councilmembers Conway, Cunningham, Lentz, O'Connell and Mayor Davis

Noes: None

Absent: None

## NEW BUSINESS

### **A. Proposed Zoning Text Amendment-Floor Area Ratio Exemption for Garages on Small Lots**

Community Development Director Swiecki reported that Zoning Ordinance (BMC Section 17.06.040) establishes a maximum floor area ratio of .72 in the R-1 residential zone. It further provides that when the lot size is 3,700 square feet or less, a covered parking space not exceeding 200 square feet is excluded from the floor area calculation.

He added that this issue of increasing the garage area that can be excluded from the floor area calculation on small lots is being considered as a means of increasing the supply of available off street parking in residential areas. He reported that the Planning Issues Subcommittee reviewed this item at a meeting on July 17, 2019. Both members were agreeable to referring the matter to the Planning Commission for additional study.

After some Council discussion, CM Conway made a motion, seconded by CM Cunningham, to authorize the Planning Commission to initiate a zoning text amendment increasing the floor area ratio exemption for garages on small lots. The motion was passed unanimously by all present.

Ayes: Councilmembers Conway, Cunningham, Lentz, O'Connell and Mayor Davis

Noes: None

Absent: None

## STAFF REPORTS

### **A. City Manager's Report on upcoming activities**

Administrative Services Director Schillinger reported on the upcoming activities throughout the City.

**File Attachments for Item:**

K. Consider Adoption of Resolution No. 2020-56 Imposing Assessments on Certain Specially Benefitted Property Owners in Sierra Point for Developing, Implementing and Maintaining a Utility Structure Monitoring Program



## CITY COUNCIL AGENDA REPORT

**Meeting Date:** October 1, 2020

**From:** Clayton Holstine, City Manager

**Subject:** Resolution Imposing Assessments on Certain Specially Benefitted Property Owners in Sierra Point for Developing, Implementing and Maintaining a Utility Structure Monitoring Program

### Community Goal/Result

Safe Community

### Recommendation:

Following the public hearing, adopt the attached Resolution (Attachment 1) imposing assessments on certain property owners in Sierra Point for developing, implementing and maintaining a utility structure monitoring program that specially benefit their properties.

### Background

In March 2018 the City of Brisbane received a letter from the Environmental Health Services Division of the San Mateo County Health System informing the City that a structure monitoring program is required for the utility structures situated on the closed Sierra Point Landfill site ("Landfill site") to prevent the accumulation of landfill decomposition gas and to protect public health and safety.

The structure monitoring program must comply with the requirements of Title 27 of the California Code of Regulations, sections 20921 et seq. The Regulations place the burden of submitting a monitoring program plan to the enforcement agency, implementing the program and continuously maintaining the program on the site operator. 27 CCR Sections 20921, 20931. For purposes of these Regulations, the site operator means "the landowner or other person who through a lease, franchise agreement or other arrangement with the landowner becomes legally responsible to the State for complying with all applicable federal, state and local requirements." 27 CCR, Section 20164.

Landowners of property that is benefitted by this structure monitoring program are "operators" responsible for the costs of developing, implementing and maintaining the structure monitoring program at the Landfill site. 27 CCR Sections 20923 (a)(1), 20931.

The City contacted a geotechnical engineering company that created a structure monitoring program at the Landfill site that complies with the requirements of 27 CCR Section 20931. The City will oversee the submission of program plans to the Environmental Health Services Division of the San Mateo County Health System (SMCEH) in its capacity as the local Cal Recycle enforcement agency. The City will also manage the implementation of the monitoring program at the Landfill site.

The utility structures on the Landfill site for which the structure monitoring program has been developed and, in the future, implemented and maintained, serve only a limited number of properties within the Sierra Point area. Accordingly, the cost to develop, implement, and maintain this program

falls only on those property owners who will specially benefit by this program. This list of such property owners is attached to the Resolution as Exhibit 1.

Because these charges are new assessments against these properties, in order to impose these assessment (the charges will be on the owners' respective water bills), the City must conduct a process under Proposition 218, providing notice to the affected property owners of the proposed assessments and providing the owners with an opportunity at a public hearing to protest imposing the assessments. If protests against the proposed assessments are presented by property owners who have a majority of the cost of the assessments, the assessments may not be imposed. Moreover, under Proposition 218, the costs for such a program must be allocated in a fair and reasonable way. The required notice under Proposition 218 was mailed to the affected property owners on July 29, 2020, more than 45 days prior to the date of the public hearing. In order to impose the assessments, the City Council must find that the affected property owners are specially benefitted.

### **Discussion**

In order to impose these assessments, City Council must find that the property owners are specially benefitted by this program. For the following reasons they are:

Development over a closed municipal solid waste landfill requires special permits from multiple regulatory agencies; these permits typically require individualized construction and ongoing inspection that only benefits the properties overlying the closed landfill. In the case of this assessment, SMCEH requires the monitoring of buried utility structures in order to prevent the possible build-up and catastrophic ignition of explosive gases that might be generated from the underlying waste. No other utility vaults operated by the City of Brisbane are subject to this requirement; thus, the monitoring program at Sierra Point provides a unique and special benefit only to the identified property owners. In the absence of the developed properties at Sierra Point, there would be no utility structures and no structure monitoring program would be required.

The City's cost to develop the program was \$20,991 and the annual program costs since March 2019 have been \$41,717. Those costs have been allocated in a fair and reasonable way and in the same way that water capacity charges are calculated, i.e., based on the nominal size, service (e.g., potable or fire) and the number of water meters serving a parcel. For example, if a parcel were served by two 2" and 3" potable water meters and a 6" fire water meter, that parcel would have a 5% share. If the annual monitoring costs were \$40,000, the property owner would be assessed \$2000, 5% of \$40,000.

Using this formula, City staff determined that each property owner's share is as shown on the attached list of property owners. Attachment 2. A more detailed spread sheet showing the owners and their allocated percentages and costs is attached as Attachment 3.

As stated above, in order to impose this assessment on these owners' properties—which assessment will be assessed on their water bills—the law required that the City provide the owners with a notice that (1) sets forth the amount of the assessment to be imposed on each property, (2) the basis upon which the assessment to each property has been calculated (described above), (3) the reason for the assessment (described above) and (4) the date, time and location of a public hearing on the proposed charge. Such notices were mailed to all the affected property owners on July 29, 2020, more than 45 days prior to the public hearing.

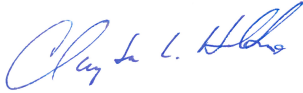
The property owners were notified that the City Council meeting and the public hearing would be conducted virtually and if written protests against the proposed assessment were presented by property owners who have a majority of the cost of the assessments, the assessments could not be imposed. As of the time this agenda report is being published, the City has received no protests.

### Financial Impact

The Council's adoption of the attached Resolution will impose assessments for developing, implementing and maintaining a utility monitoring program in the Sierra Point area on those property owners who specially benefit by this program, rather than spreading the cost of this program on all water customers of the City. Because the City owns property in this area and will specially benefit by the program, its annual charge is estimated to be \$2,811.53

### Attachments

1. Resolution imposing a charge on certain property owners in the Sierra Point area for developing, implementing and maintaining a utility structure monitoring program
2. List of Property Owners and their respective share of the cost
3. Detailed Spread Sheet showing property owners and the allocation of costs



Clayton Holstine, City Manager



Randy Breault, City Engineer



Stuart Schillinger, Finance Director



Thomas McMorrow, Interim City Attorney

**ATTACHMENT 1****RESOLUTION NO. 2020-56****A Resolution of the City Council of the City of Brisbane Imposing Assessments on Certain Specially Benefitted Property Owners in the Sierra Point Area to Develop, Implement and Maintain a Utility Structure Monitoring Program**

Whereas, in March 2018 the City of Brisbane received a letter from the Environmental Health Services Division of the San Mateo County Health System informing the City that a structure monitoring program is required for the utility structures situated on the closed Sierra Point Landfill site ("Landfill site") to prevent the accumulation of landfill decomposition gas and to protect public health and safety; and

Whereas, the structure monitoring program must comply with the requirements of Title 27 of the California Code of Regulations, sections 20921 et seq.; the Regulations place the burden of submitting a monitoring program plan to the enforcement agency, implementing the program and continuously maintaining the program on the site operator (27 CCR Sections 20921, 20931); and for purposes of these Regulations, the site operator means "the landowner or other person who through a lease, franchise agreement or other arrangement with the landowner becomes legally responsible to the State for ...complying with all applicable federal, state and local requirements." (27 CCR, Section 20164); and

Whereas, landowners of property that is benefitted by this structure monitoring program are "operators" responsible for the costs of developing, implementing and maintaining the structure monitoring program at the Landfill site (27 CCR Sections 20923 (a)(1), 20931); and

Whereas, the City contacted a geotechnical engineering company that created a structure monitoring program at the Landfill site that complies with the requirements of 27 CCR Section 20931; the City will oversee the submission of program plans to the Environmental Health Services Division of the San Mateo County Health System in its capacity as the local Cal Recycle enforcement agency; and the City will also manage the implementation of the monitoring program at the Landfill site; and

Whereas, the utility structures on the Landfill site for which the structure monitoring program has been developed and, in the future, implemented and maintained, serve only a limited number of properties within the Sierra Point area and therefore the cost to develop, implement, and maintain this program falls only on those property owners who will specially benefit by this program; and

Whereas, the list of the specially benefitted property owners is attached to this Resolution as Exhibit 1; and

Whereas, because these charges are new assessments, in order to impose these assessments (the assessments/charges will be on the owners' respective water bills), the City has conducted the legally required process under Proposition 218, i.e., providing notice to the affected property owners of the proposed assessments, demonstrating that the costs for the program is allocated in a fair and reasonable way, and providing the owners with an opportunity at a public hearing to protest imposing the assessments; and

Whereas, if protests against the proposed assessments are presented by property owners who have a majority of the cost of the assessments, the assessments may not be imposed; and

Whereas, the required notice under Proposition 218 was mailed to the affected property owners on July 29, 2020, more than 45 days prior to the date of the public hearing; and

Whereas, on September 17, 2020, the Brisbane City Council continued the public hearing to October 1, 2020 and the City Clerk sent a notice to the affected property owners informing them that the public hearing had been continued to that date; and

Whereas, on October 1, 2020, the City Council conducted a public hearing concerning the assessments to be imposed on these property owners; and

Whereas, property owners who have a majority of the cost of the assessments did not protest; and

Whereas, the City Council finds and determines that the property owners on Exhibit 1 are specially benefitted by the utility structure monitoring program and that the costs for developing, implementing and maintaining the utility structure monitoring program have been allocated in a fair and reasonable way, as set forth in the City Council agenda report concerning this matter, the staff presentation and other information received during the public hearing; and

Whereas, based thereon, the City also finds and determines that each specially benefitted property owner's respective share of the cost of the program is as set forth on Exhibit 1.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BRISBANE RESOLVES AS FOLLOWS:**

Section 1. To the extent there are any protests to these assessments being imposed, the protests are overruled.

Section 2. The assessments to develop, implement, and maintain the utility structure monitoring program in the Sierra Point area are allocated to the specially benefitted property owners set forth on Exhibit 1 and their respective share of the costs is as set forth on Exhibit 1.

Section 3. This resolution shall take effect immediately upon its adoption.

---

Terry O'Connell, Mayor



I hereby certify that the foregoing Resolution No. 2020-56 was duly and regularly adopted at a regular meeting of the Brisbane City Council on October 1, 2020 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

Ingrid Padilla, City Clerk

## ATTACHMENT 2

### Structure Monitoring Property Owners

BSP3-SF4 1000 Marina LLC , P.O. Box 60037 Pasadena, CA 91116 re: 1000 Marina Boulevard, Brisbane CA 5%

BRE SH Brisbane Owner LLC c/o Homewood Suites, 2000 Shoreline Court, Brisbane, CA 94005 re: 2000 Shoreline Court, Brisbane, CA 7%

HCP LS Brisbane LLC, 150 California Street, Suite 400, San Francisco, CA94111 re: 2000 Sierra Point Parkway, Brisbane CA 7%

Sierra Point Yacht Club, 500 Sierra Point Parkway, Brisbane, CA 94005, re: 500 Sierra Point Parkway, Brisbane, CA 1%

Ultragenyx, 600 Leveroni Court, Novato, CA 94949 and SHN Medical Office Properties Trust, MS 15 PO Box 182588, Columbus, OH 43218 re: 1500 Marina Blvd., Brisbane, CA 5%

Summit Hotel LLC #114 c/o Ecova, Inc. P.O. box 2440 Spokane, WA 99210 re: 5000 Sierra Point Parkway, Brisbane, CA 8%

Sangiamo Therapeutics, 501 Canal Blvd., Suite A, Richmond, CA 94804 and Marina Boulevard Property LLC, c/o Avidxchange , P.O. Box 62280, Irvine, CA 92602 re: 7000 Marina Blvd., Brisbane, CA 5%

HCP LS Brisbane LLC, 150 California Street, Suite 400 San Francisco, CA 94111, re: 8000 Marina Blvd, Brisbane, CA 7%

HCP LS Brisbane, LLC, 150 California Street, Suite 400, San Francisco, CA 94111 re: 800-1800 Sierra Point Parkway, Brisbane, CA 45%

City of Brisbane, 50 Park Place, Brisbane, CA 94005, re: 400 Sierra Point Parkway, 400 Sierra Point Parkway Fire, Piers 1, 2, 3, 4, 5 and 6, North and South Bathrooms, Dock 3 Restroom, and East Shoreline LDSC 6%

City of Brisbane, 50 Park Place, Brisbane, CA 94005 re: North Shoreline LDSC 1%

City of Brisbane, 50 Park Place, Brisbane, Ca 94005 re: Fishing Pier Brisbane , Marina BLVD Shared Line, South Shoreline LDSC, Infrastructure Shoreline Court Landscape, Marina Landscape 3%

A	K.			\$41,717.09							
		SITUS_ADDR		ANNUAL	contact name	address1	address2	address3	mail city	mail state	mail zip
		007165010	1000 Marina Blvd		BP3-SF4 1000 Marina LLC	PO BOX 60037			Pasadena	CA	91116
		007165010	1000 Marina Blvd Irrigation		BP3-SF4 1000 Marina LLC	PO BOX 60037			Pasadena	CA	91116
		007165010	1000 Marina Fire		BP3-SF4 1000 Marina LLC	PO BOX 60037			Pasadena	CA	91116
				\$2,024.45							
		007163040	2000 Shoreline Ct		BRE SH Brisbane Owner LLC	C/O Homewood Suites	2000 Shoreline Court		Brisbane	CA	94005
		007163040	2000 Shoreline Ct Irrigation		BRE SH Brisbane Owner LLC	C/O Homewood Suites	2000 Shoreline Court		Brisbane	CA	94005
		007163040	2000 Shoreline Ct Fire		BRE SH Brisbane Owner LLC	C/O Homewood Suites	2000 Shoreline Court		Brisbane	CA	94005
				\$2,871.82							
		007164010	2000 Sierra Point Pkwy		HCP INC	P.O. BOX 2440			SPOKANE	WA	99210
		007164010	2000 Sierra Point Pkwy Irrigation		HCP INC	P.O. BOX 2440			SPOKANE	WA	99210
		007164010	2000 Sierra Point Pkwy Fire		HCP LS Brisbane LLC				SF	CA	94111
				\$2,887.06							
		007165020	3000 Marina Blvd								
		007165060	500 Sierra Point Pkwy		Sierra Point Yacht Club		500 Sierra Pt Pkwy		Brisbane	CA	94005
		007165060	500 Sierra Point Pkwy Fire		Sierra Point Yacht Club		500 Sierra Pt Pkwy		Brisbane	CA	94005
				\$524.51							
		007165110	5000 Marina Blvd		ULTRAGENYX	60 Leveroni Court			Novato	CA	94949
		007165110	5000 Marina Blvd Irrigation		SNH Medical Office Properties Trus	P.O. BOX 2440			SPOKANE	WA	99210
		007165110	5000 Marina Blvd Fire		ULTRAGENYX	60 Leveroni Court			Novato	CA	94949
				\$1,898.99							
		007163030	5000 Sierra Point Pkwy		Summit Hotel LLC #114	c/o Ecova Inc	PO Box 2440		Spokane	WA	99210
		007163030	5000 Sierra Point Pkwy		Summit Hotel LLC #114	c/o Ecova Inc	PO Box 2440		Spokane	WA	99210
		007163030	5000 Sierra Point Pkwy Irrigation		Summit Hotel LLC #114	c/o Ecova Inc	PO Box 2440		Spokane	WA	99210
		007163030	5000 Sierra Point Pkwy Fire		Summit Hotel LLC #114	c/o Ecova Inc	PO Box 2440		Spokane	WA	99210
				\$3,519.24							
		007165120	7000 Marina Blvd		Sangamo Therapeutics	501 Canal Blvd Suite A			Richmond	CA	94804
		007165120	7000 Marina Blvd Irrigation		PPF OFF -7000 Marina Blvd LP	P.O. BOX 2096			WARREN	MI	48090
		007165120	7000 Marina Blvd Fire		Sangamo Therapeutics	501 Canal Blvd Suite A			Richmond	CA	94804
		007164020	8000 Marina Blvd		HCP INC	P.O. BOX 2440			SPOKANE	WA	99210
		007164020	8000 Marina Blvd Irrigation		HCP INC	P.O. BOX 2440			SPOKANE	WA	99210
		007164020	8000 Marina Blvd Fire		HCP INC	P.O. BOX 2440			SPOKANE	WA	99210
		007164020	8000 Marina Blvd Garage Fire		HCP INC	P.O. BOX 2440			SPOKANE	WA	99210
		007165050	9000 Marina Blvd		UPC - Hotel						
		007165090	800-1800 Sierra Point Pkwy		HCP LS Brisbane LLC	150 California	Suite 400		SF	CA	94111
		007165090	800-1800 Sierra Point Pkwy	Bldg. D	HCP LS Brisbane LLC	150 California	Suite 400		SF	CA	94111
		007165090	800-1800 Sierra Point Pkwy	Bldg. D	HCP LS Brisbane LLC	150 California	Suite 400		SF	CA	94111
		007165090	800-1800 Sierra Point Pkwy	Bldg. E	HCP LS Brisbane LLC	150 California	Suite 400		SF	CA	94111
		007165090	800-1800 Sierra Point Pkwy	Bldg. E	HCP LS Brisbane LLC	150 California	Suite 400		SF	CA	94111
		007165100	800-1800 Sierra Point Pkwy	Bldg. C	HCP LS Brisbane LLC	150 California	Suite 400		SF	CA	94111
		007165100	800-1800 Sierra Point Pkwy	Bldg. C	HCP LS Brisbane LLC	150 California	Suite 400		SF	CA	94111
		007165100	800-1800 Sierra Point Pkwy	Bldg. B	HCP LS Brisbane LLC	150 California	Suite 400		SF	CA	94111
		007165100	800-1800 Sierra Point Pkwy	Bldg. B	HCP LS Brisbane LLC	150 California	Suite 400		SF	CA	94111
		007165100	800-1800 Sierra Point Pkwy	Bldg. A	HCP LS Brisbane LLC	150 California	Suite 400		SF	CA	94111
		007165100	800-1800 Sierra Point Pkwy	Bldg. A	HCP LS Brisbane LLC	150 California	Suite 400		SF	CA	94111
		007165080			HCP						
		007165040	Shared Use parking lot		City of Brisbane	50 Park Place			Brisbane	CA	94005
	295										

APN	SITUS_ADDR		ANNUAL	contact name	address1	address2	address3	mail city	mail state	mail zip
007165070	Shared Use parking lot			City of Brisbane	50 Park Place			Brisbane	CA	94005
007165060	400 Sierra Pt Pkwy			City of Brisbane	50 Park Place			Brisbane	CA	94005
007165060	400 Sierra Pt Pkwy Fire			City of Brisbane	50 Park Place			Brisbane	CA	94005
007165060	Pier #6			City of Brisbane	50 Park Place			Brisbane	CA	94005
007165060	No Bathroom Brisbane			City of Brisbane	50 Park Place			Brisbane	CA	94005
007165060	East Shoreline LDSC			EAST SHORELINE LANDSCAPE	50 Park Place			Brisbane	CA	94005
007165060	Pier #4 Brisbane			BRISBANE MARINA	50 Park Place			Brisbane	CA	94005
007165060	Pier #3 Brisbane			BRISBANE MARINA	50 Park Place			Brisbane	CA	94005
007165060	Dock 3 Restroom Brisbane			BRISBANE MARINA	50 Park Place			Brisbane	CA	94005
007165060	Pier #2 Brisbane			BRISBANE MARINA	50 Park Place			Brisbane	CA	94005
007165060	Pier #1 Brisbane			BRISBANE MARINA	50 Park Place			Brisbane	CA	94005
007165060	So Bathroom Brisbane			BRISBANE MARINA	50 Park Place			Brisbane	CA	94005
007165060	Pier #5 Brisbane			BRISBANE MARINA	50 Park Place			Brisbane	CA	94005
007165040	North Shoreline LDSC			City of Brisbane	50 Park Place			Brisbane	CA	94005
007172380	Fishing Pier Brisbane			BRISBANE MARINA	50 Park Place			Brisbane	CA	94005
	Marina BLVD Shared Use			City of Brisbane	50 Park Place			Brisbane	CA	94005
	South Shoreline LDSC			BRISBANE MARINA	50 Park Place			Brisbane	CA	94005
	Intrsc Shoreline Court Landscape			City of Brisbane	50 Park Place			Brisbane	CA	94005
	Marina Landscale ISL			City of Brisbane	50 Park Place			Brisbane	CA	94005
	Caltrans Marina Landscape (OFF)			No Account - February 2018	Off and Locked					

**File Attachments for Item:**

L. Consider Potential Sale of City Parcel APN 005-300-999 (formerly, S.P.R.R. SBE 872-41-23R)

(This item is for the purpose of providing full transparency on the context of a potential future sale of this City parcel. The terms and conditions of an actual sale of this City parcel, should it take place, would be on a future City Council agenda. Adoption of Resolution No. 2020-50 will declare that the City parcel is surplus land as defined in the Surplus Lands Act of the State of California.)



## CITY COUNCIL AGENDA REPORT

**Meeting Date:** October 1, 2020

**From:** Director of Public Works/City Engineer

**Subject:** Potential Sale of City Parcel APN 005-300-999  
(formerly, S.P.R.R. SBE 872-41-23R);

Resolution Declaring that City Parcel is Surplus Land

### Community Goal/Result

Economic Development

### Purpose

To review the reasoning that led to a 2014 sale of a former railroad spur parcel that the City acquired in 1996 to the property owner of the business at 210 South Hill (Sheng Kee Bakery); to show how that same reasoning aligns with the potential sale to the property owner of the business at 151 West Hill Place (Frito Lay), and to discuss the next steps if Council chooses to move forward with negotiations for the sale of City Parcel APN 005-300-999.

### Recommendation

1. If Council wishes to continue negotiations for the potential sale of APN 005-300-999;  
 Adopt Resolution No. 2020-55 declaring that certain property owned by the City, a landlocked, vacant site of approximately 28,000 square feet located in Crocker Park, encumbered by a drainage canal, as surplus land, i.e., not necessary for the City's use.
2. If Council declines to continue negotiations for the potential sale of APN 005-300-999;  
 Provide any direction to staff deemed necessary and appropriate

### Background

The City parcel that is the subject of this staff report is highlighted in blue on the included screenshot from San Mateo County Property Information Portal (pg. 5 of 20 of this report).

The next screenshot (pg. 6 of 20) shows the land that was sold to South Hill Properties (Sheng Kee), as well as the discontinuity in the former rail spur immediately to the west of the land sold. The third screenshot (pg. 7 of 20) shows a wider view of the area in question, and also highlights the parcel that is now under discussion for potential sale.

South Hill Properties' original rationale for approaching city staff regarding the sale of the spur adjacent to its property was based on its intent at the time to expand the footprint of its business.

Two issues dominated staff's review of this request and subsequent conversations with Council; first, was the examination of any future "best" uses for this parcel; second, was the presence of existing city storm drain facilities.

The question on future best uses for this parcel was focused primarily on its potential use for access to San Bruno Mountain. As seen in the attached "Vicinity 201 South Hill" photo (pg. 6 of 20), this parcel dead-ends at 201 South Hill, and does not provide any potential for future access to the Mountain. A search of the paper trail of property transactions in this area revealed that Southern Pacific Transportation Company transferred the rail property in question to McKesson Corporation in the 1990s. In 1995, in an effort to comply with additional onsite parking requirements associated with a city-issued building permit, the property owner at 211 South Hill (immediately west of Sheng Kee Bakery) purchased the approximately 45' wide former rail spur contiguous to its western boundary. This land purchase and the city's approval of a lot line adjustment created the area of discontinuity in the former rail spur, which is shown on the referenced photo.

The second issue considered during review of this request was the storm drain facilities. This matter was resolved by requiring the purchaser to maintain the storm drain facilities, including providing permission for the city to inspect their compliance with the agreed upon duty to maintain the vee ditch.

At the Council's 5/5/14 meeting, staff responded to the following concerns from Council and the community; changes in the sale agreement to protect the existing vee ditch, the relationship (or as shown, the lack thereof) to future trail plans, pending building permit information, images of existing conditions, Fire Prevention Services Bureau plan review of proposed building addition, and process for use of funds if the sale were to be approved. (Please see attached staff report for details on each of these items).

## **Discussion**

Frito Lay first approached city staff in 2017 regarding the potential sale of the subject parcel. Similar to the desires of the property owners of 211 South Hill (who purchased the parcel to meet city mandated parking requirements) and the property owners of 201 South Hill (who purchased the parcel to meet city mandated setbacks and parking requirements for a business expansion), Frito Lay desires to consolidate its Valley Drive and West Hill operations into 151 West Hill Place, and need additional land to satisfy the city's parking requirements.

One of the concerns addressed by members of the public during the discussion regarding land sale to Sheng Kee was access to the adjoining eastern portion of the State & County Park. Although there are no existing or master planned trails in the immediate vicinity of the City owned parcel, there are "pioneered trails" created by local users that lead to destinations such as "Crystal Cave". Because of those comments, one of the first things staff discussed with Frito Lay was that in order to consider the sale, the city would require a hiking path easement across Frito Lay's property, as well as an easement across the parcel to be sold connecting directly to

the Park. Frito Lay has indicated its willingness to provide these easements, and also to construct these paths. The easements and path would create direct public access from West Hill Place to the Park.

### **Next Steps**

Compliance with AB 1486 (Ting, 2019), which amended multiple sections of the Government Code, including the Surplus Land Act.

AB 1486 was intended to increase the availability of land held by public agencies for use in creating housing for low/moderate income families, for recreational or school district purposes, and for clustered housing/commercial development near transit stations. The parcel under discussion is not near a transit station, and its 44-foot width is encumbered by a 15' vee ditch easement that makes it likely unsuitable for any housing. Both its small size and its inaccessibility due to being surrounded on all four sides by lands of others also makes it likely unsuitable for recreation or school district purposes.

Notwithstanding its obvious inapplicability to the intent of AB 1486, prior to selling the land, the city is required to make a finding in a regular public meeting that the land is not necessary for the City's use, which the Act defines as "surplus land."

Approval of Resolution No. 2020-55 will satisfy the requirements of AB 1486.

### Final negotiations with the purchasing party

If there is no interest in any of the public agencies or affordable housing developers in purchasing the property at a price that the City Council deems fair, the city may then enter into negotiations to determine a mutually satisfactory sales price with a third party, such as Frito Lay. Based on the unsuitability of the parcel for housing or school purposes, and with no existing/planned trail on the San Bruno Mountain State and County Park trail map within 1/4-1/2 mile of the western terminus of the parcel, staff does not anticipate receiving offers from affordable housing developers, the County of San Mateo, or school districts.

### Conformity with the City's General Plan and Sale of the Property

If the City were to receive an acceptable offer to purchase the parcel, before the property may be sold, the Planning Commission, or the City Council on appeal, must find that the sale is consistent with the City's General Plan. Such an item would not be presented until the City has an offer concerning the sale of the property that City staff is prepared to recommend to the City Council. Once that finding has been made, the City Council in open session would consider whether to approve a Purchase and Sale Agreement for the parcel, along with any conditions such as easements on the parcel for the drainage canal and a constructed hiking trail.



## Fiscal Impact

The sale of property to Sheng Kee, approved by Council on 5/5/14, resulted in one-time revenue to the city of \$293,059.70. In December 2016, Council approved the use of \$50,000 from this revenue to develop the City's Bicycle and Pedestrian Master Plan. Subsequently, Council requested joint recommendations from the Open Space and Ecology Committee/Parks & Recreation Commission for uses of the remaining funds. The Council then approved spending \$50,000 for a Firth Canyon Clean-up project, and \$100,000 for the Crocker Trail Master Plan. There remains \$93,000 from this sale to be expended.

Considering the square footage of the current parcel under consideration for sale, and assuming a similar per square foot sale price, sale of this parcel would result in a one-time revenue of approximately \$280,000. Council would have discretion to direct this money's placement into a nondesignated account in the General Fund, in a designated account such as was done with the earlier sale (with specific expenditures to be determined at a later date), or in any other account not prohibited by law.

## Measure of Success

- A response to a request from a local business.
- If Council directs staff to move forward with negotiations for the requested sale, direction to staff on how to develop plans/proposals for future expenditures from funds generated by the sale.

## Attachments

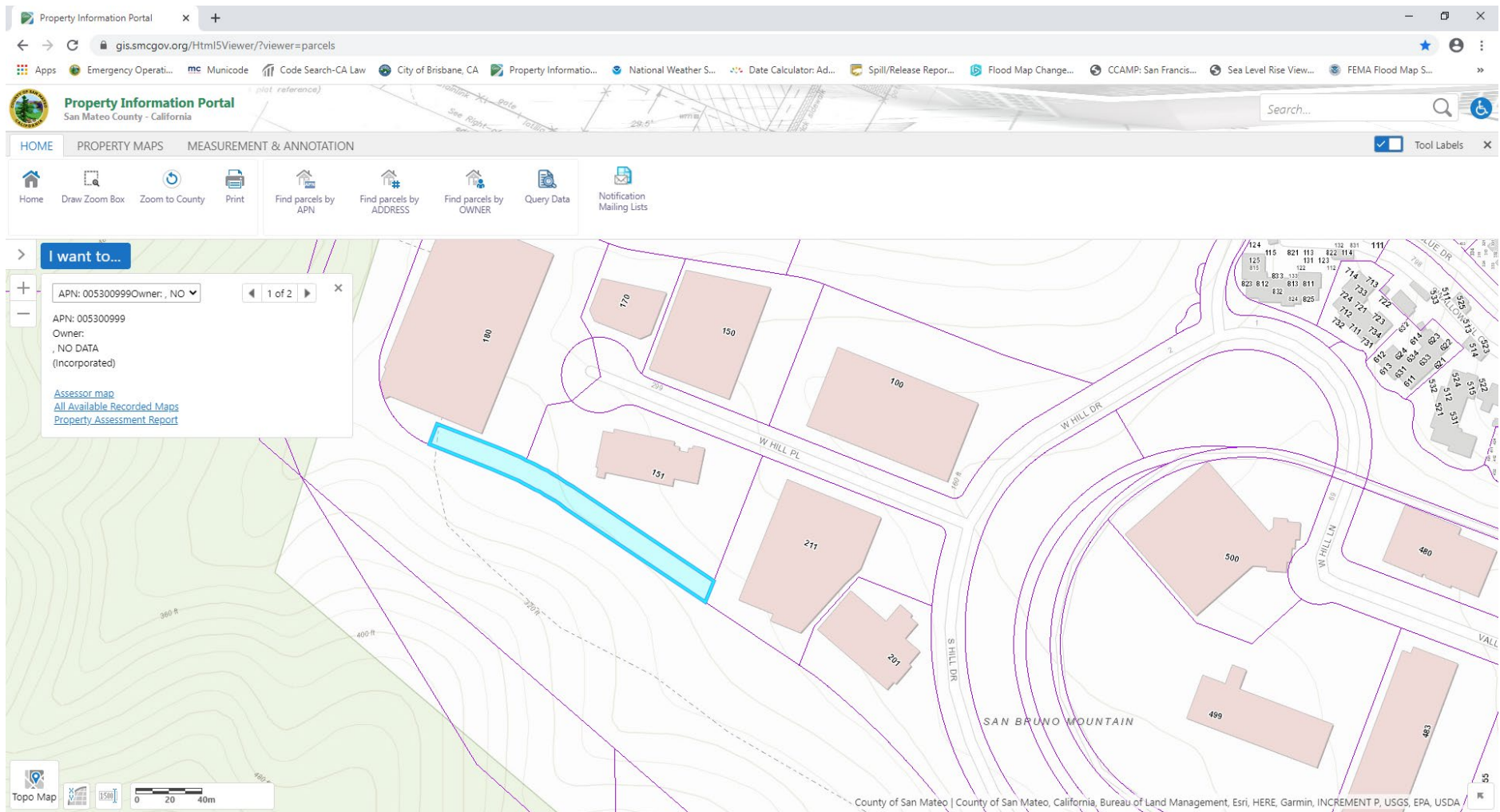
1. Screenshot from San Mateo County Property Information Portal [pg. 5 of 20]
2. Orthodigital view from 201 South Hill sale [pg. 6 of 20]
3. Orthodigital view highlight requested sale to 151 West Hill Place [pg. 7 of 20]
4. 4/7/14 Staff Report re spur sale to Sheng Kee (minus attachments) [pg. 8 of 20]
5. 5/5/14 Staff Report re spur sale to Sheng Kee (minus attachments) [pg. 11 of 20]
6. 9/17/20 Staff Report re declaring property surplus land (including Resolution No. 2020-55) [pg. 15 of 20]

*R.L. Breault*

Randy Breault, Public Works Director

*Clay L. Holstine*

Clay Holstine, City Manager



- City owned parcel shown in blue
- Frito Lay parcel at 151 West Hill Place
- Discontinuity in trail spur shown at 211 South Hill Drive
- Sheng Kee (now owning former city railroad spur) at 201 South Hill

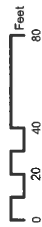




Area where continuity of former SPRR trail is interrupted

Sheng Kee Bakery

Portion of city parcel to be sold





L.

Vicinity 201 South Hill-wider view

Extent of city owned former rail parcel parallel to West Hill Place



# City of Brisbane

## Agenda Report

TO: Honorable Mayor and City Council

FROM: Randy Breault, Director of Public Works/City Engineer via City Manager

SUBJECT: Sale of City Real Property – Lot 1, Block I

DATE: April 7, 2014

### **City Council Goals:**

To promote economic development that stabilizes and diversifies the tax base. (#4)

To develop plans and pursue opportunities to enhance Open Space. (#7)

### **Purpose:**

To obtain Council's approval to sell a portion of the former Southern Pacific Transportation Company's rail spur to an existing business in Crocker Industrial Park that owns the adjoining parcel.

### **Recommendation:**

Approve the attached "Purchase and Sales Agreement" that transfers "Lot 1, Block I" from the City of Brisbane to South Hill Properties, LLC.

### **Background:**

South Hill Properties operates a business as Sheng Kee Bakery at 201 South Hill Drive. Based on a desire to expand their facilities in Brisbane, the company had real estate brokers reach out to city staff to inquire about the possibility of purchasing the former rail spur that paralleled the western edge of their existing property. The general location of this undeveloped parcel requested for purchase is identified on the attached "201 South Hill" (2 pages).

Two issues dominated staff's review of this request and subsequent closed session conversations with Council; first, was the examination of any future "best" uses for this parcel; second, was the presence of existing city storm drain facilities.

The question on future best uses for this parcel was focused primarily on its potential use for access to San Bruno Mountain. As seen in the attached "Vicinity 201 South Hill" photo, this



parcel dead-ends at 201 South Hill, and does not provide any potential for future access to the mountain. A search of the paper trail of property transactions in this area revealed that Southern Pacific Transportation Company transferred the rail property in question to McKesson Corporation in the 1990s. In 1995, in an effort to comply with additional onsite parking requirements associated with a city-issued building permit, the property owner at 211 South Hill (immediately west of Sheng Kee Bakery) purchased the approximately 45' wide former rail spur contiguous to its western boundary. This land purchase and the city's approval of a lot line adjustment created the area of discontinuity in the former rail spur, which is shown on the "Vicinity 201 South Hill" photo.

While this discontinuity creates a moot point in the discussion of using this spur for effective trail access, it is informative to note that even if this discontinuity did not exist, the city's ownership of former rail spurs in this area ends just one parcel away (see "Vicinity 201 South Hill-wider view" photo).

The second issue considered during review of this request was the storm drain facilities. This matter is proposed to be resolved by requiring the purchaser to maintain the storm drain facilities, including providing permission for the city to inspect their compliance.

### **Discussion:**

A valid argument can be made that selling a parcel the City is not presently using, and for which it has no identified future use, to accommodate this existing business' expansion will contribute to the positive economic development of Crocker Industrial Park. The concern the Council addressed during conversations with its real property negotiator was whether or not there were opportunities to use the revenue from this sale to make improvements for access to San Bruno Mountain in other areas (i.e., where discontinuities in parcel ownership did not prevent that).

Development of those other opportunities was not completed as part of this staff report, and may be items the Council wishes to refer to other standing committees/commissions for input to a future Council decision. Staff did confer with several employees of the San Mateo County Parks and Recreation Department, and the overwhelming response was that County Parks would be interested in assisting the City with any efforts to implement trail and trail access projects that are shown on the park's Existing Land Use or in its Master Plan.

### **Fiscal Impact:**

The proposed sale would produce a one-time revenue to the city in the amount of \$293,059.70 (e.g., \$301,851.50 purchase price minus \$8,791.80 broker's sales commission).

### **Measure of Success**

The sale of unutilized land with no identified future use, resulting in one-time revenue that the City can program as directed by the City Council.

**Attachments:**

- 201 South Hill orthodigital photo and copy of Assessor's Page 30 from Book 5
- Vicinity 201 South Hill orthodigital photo
- Vicinity 201 South Hill-wider view orthodigital photo
- Purchase and Sales Agreement

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Director of Public Works/City Engineer

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City Manager

# City of Brisbane

## Agenda Report

TO: Honorable Mayor and City Council

FROM: Randy Breault, Director of Public Works/City Engineer via City Manager

SUBJECT: Sale of City Real Property – Lot 1, Block I

DATE: May 5, 2014

### **City Council Goals:**

To promote economic development that stabilizes and diversifies the tax base. (#4)  
 To develop plans and pursue opportunities to enhance Open Space. (#7)

### **Purpose:**

To obtain Council's direction on a business owner's request to sell a portion of the former Southern Pacific Transportation Company's rail spur (now owned by the City) to the existing business in Crocker Industrial Park that owns the adjoining parcel.

### **Recommendation:**

Approve the attached "Purchase and Sales Agreement" that transfers "Lot 1, Block I" from the City of Brisbane to South Hill Properties, LLC.

### **Background:**

This item was first heard by the City Council on April 7, 2014. The staff report from that meeting is attached.

### **Discussion:**

#### **Requested change in agreement language**

The Council requested language requiring the Buyer to notify City and obtain our concurrence before performing any maintenance in the concrete vee ditch that runs along the west side of the parcel requested for purchase. Paragraph 7 of the Agreement was modified to include this requirement.



### Relationship to future trail plans

At its April 17, 2014 meeting, Council asked for a copy of the future trail plans for this area. Three documents are attached to comply with this request; San Bruno Mountain State and County Park Master Plan (Fig. 3-1, with the proposed trail and trail access closest to the city parcel in question, as well as the location of Sheng Kee Bakery, highlighted in black), a Proposed Future SBM Trails near 201 South Hill orthodigital photo (at a scale of 1":1,840', with the same annotations), and the same orthodigital at a zoomed in scale of 1":420' (not annotated).

A review of these plans shows that the only future trail proposed near the parcel in question moves away from the former spur in the vicinity of our existing detention basin. It seems that the challenging elevation gain southwest of the vee ditch is a likely explanation for the trail's southwesterly movement along nearly the entire parcel requested for purchase.

### Building permit information

The Council indicated a desire to review building permit information previously submitted by Sheng Kee Bakery. Six different pieces of information were provided and labelled "Planning".

- Planning 1 and 2 are photos of existing conditions from the front of the address, and from the street immediately southeast of the address.
- Planning 3 is a Planning Department created overlay of the applicant's proposed project onto an orthodigital photo of existing conditions.
- Planning 4 is the applicant's proposed site plan.
- Planning 5 is the proposed planting plan.
- Planning 6 is elevation views of the proposed expansion.

The Planning Director will be available at the Council meeting to answer any questions on the submitted information.

### Images of existing conditions

There were numerous comments heard regarding the status and value of both the city's parcel and existing vegetation along the Sheng Kee Bakery street frontage. The attached iPad photos and Google Maps attempt to reflect current conditions:

- Photo 1 shows the former railroad spur and the track ballast left behind.
- Photo 2 shows the same conditions from a different perspective.
- Photo 3 shows where some grass and eucalyptus trees have grown in on the former spur.

- Photo 4 is a view facing north from the city's access to the detention basin.
- Photo 5 shows existing property frontage vegetation from the street.
- Photo 6 shows a small grove of trees at the SE end of the Sheng Kee Bakery existing frontage.
- Photo 7 is a zoomed in view of that grove, attempting to show that the trees are being choked by blackberry vines, with the northernmost tree in an extreme state of distress.

#### Fire Prevention Services Bureau plan review

The Council heard comments that a 100-foot fire code setback was required in this area. The Fire Marshal reviewed the fire department's conditions of approval, as well as applicable fire and Municipal Codes, and found no requirement for such a setback. The conditions of approval based on the first round of plan checks for the proposed building expansion were:

- Show a comprehensive fire department access plan.
- Show exiting.
- Provide water flow data with information verifying the required flow is available.
- Alter existing fire sprinklers and alarms to conform to NFPA 13 and 72.

The Fire Marshal will be available at the Council meeting to answer any questions on the submitted information.

#### Process for use of funds to be received if the sale is approved

Council asked for staff's recommendation regarding decision-making for use of the funds if the sale is approved. Staff's recommendation is that Council direct the below-listed appointed bodies to develop a proposed list of uses, including budget amounts, as candidate projects for the Council to consider:

- Complete Streets Safety Committee
- Open Space & Ecology Committee
- Parks & Recreation Commission

Council may wish to provide guidance that candidate projects will be evaluated based on their expected contribution to development of trails, access to San Bruno Mountain, improving pedestrian conditions, and any other criteria the Council deems appropriate.

Staff also notes that Mr. McIntire, Executive Director of San Bruno Mountain Watch, recommended Council reserve the use of these funds for the purchase of equivalent or higher value land/habitat.

**Fiscal Impact:**

The proposed sale would produce a one-time revenue to the city in the amount of \$293,059.70 (e.g., \$301,851.50 purchase price minus \$8,791.80 broker's sales commission).

**Measure of Success**

A decision by Council that responds definitively to the business' request, and if the decision is made to sell the parcel, general guidance on how a proposed list of uses of the revenue received will be developed for Council's future consideration.

**Attachments:**

- April 7, 2014 staff report
- Purchase and Sales Agreement (revised 4/15/14, see modified paragraph 7)
- San Bruno Mountain State and County Park Master Plan Fig. 3-1
- Proposed Future SBM Trails near 201 South Hill orthodigital photo (scale of 1":1,840')
- Proposed Future SBM Trails near 201 South Hill orthodigital photo (scale of 1":420')
- Planning 1-6
- Photo 1-7

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Director of Public Works/City Engineer

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City Manager



## CITY COUNCIL AGENDA REPORT

**Meeting Date:** September 17, 2020

**From:** Clay Holstine, City Manager

**Subject:** Resolution Declaring Property Owned by the City of Brisbane as Surplus Land

### Community Goal/Result

Fiscally Prudent

### Recommendation

Adopt the attached resolution (Attachment 1) declaring that certain property owned by the City, a landlocked, vacant site of approximately 28,000 square feet located in Crocker Park, encumbered by a drainage canal, as surplus land.

### Background

State law, the Surplus Lands Act (“SLA”) requires that before a local agency (broadly defined) takes any action to dispose (sell or lease) property, it must declare the property to be either “surplus land” or “exempt surplus land”. Unless the surplus land is exempt, the agency must give written notice of its availability to any local public entity, including schools and park districts, within whose jurisdiction the property is located, as well as to housing sponsors that have notified the State Department of Housing and Community Development (HCD) of their interest in surplus property. The notice of availability must be given prior to the agency “participating in negotiations to dispose of the property”. An entity receiving notice from the agency has 60 days to notify the agency of its interest in purchasing the property and the agency is required to negotiate in good faith for not less than 90 days with any entity that has responded. Notwithstanding the obligation to negotiate in good faith, the local agency is not required to sell or lease the property for less than fair market value.

If an agency fails to provide the proper notices, there is a significant penalty that requires a local agency to forfeit 30% of the purchase/lease proceeds for the first violation and 50% for any subsequent violations.

The SLA has a number of exemptions but none of those exemptions are expressly applicable to this site.

The City owns property in Crocker Park that it obtained without cost from the McKesson Corporation in 1996. The property in question is former railroad right of way and, at the time the City took title to the property, the property was approximately six hundred ninety (690) feet in length and forty-four (44) feet in width. This strip of land was (and remains) undeveloped and is landlocked. Portions of the property are encumbered with a drainage

canal. The McKesson Corporation did not impose any conditions or restrictions on the use of the property when it transferred the property to the City and no conditions or restrictions on its use exist today. Many of the properties that adjoin this strip of land are developed.

In 2015, the City sold a portion of former railroad right of way property (29,306 square feet) to South Hill Properties (Sheng Kee Bakery) that owned (and owns) property (201 South Hill Drive) immediately adjacent to the property sold by the City. Also adjacent to this City owned property in question is a 2.1 acre site owned by the Frito-Lay Corporation ("Frito-Lay"), at 151 West Hill Place. Frito-Lay has also requested the City to sell a portion of City property—approximately 28,000 square feet-- immediately adjacent to its property, as occurred in an earlier South Hill Properties transaction, for parking purposes. A map depicting the area of which Frito-Lay has an interest in attached as Attachment 2. Of the 28,000 square feet adjacent to the Frito-Lay property, approximately one-third is encumbered with a drainage canal. Frito-Lay has indicated that if this property were sold to it, it would construct a trail on a portion of its property as well as on the property sold to it by the City, in order to connect to the eastern boundary of San Bruno Mountain State and County Park. Frito-Lay has also indicated it would restrict the property it would purchase from the City for parking of vehicles only and that it would maintain the drainage canal.

The City has no current use of this property and has no foreseeable use of it for public purposes. The City would, however, maintain the trail if this property were sold to Frito-Lay and the trail constructed.

### **Discussion**

Because the City does not need this property for its use, in order for the City to sell the property, it must declare the property surplus land (and provide the notices described above).

As to this property, staff recommends the City declare this property "surplus land", as none of the exemptions apply. Following that declaration, City staff will notify the various agencies and any "sponsors" on HCD's list of the availability of the site. Assuming the City does not receive any interest within 60 days from any one to whom notice has been sent, staff will proceed with its discussions with Frito-Lay. If the City receives any interest, it must in good faith negotiate for the sale of the property for 90 days with the interested party. The City, however, is under no obligation to sell the property for less than fair market value. If the City does not receive any interest or, if such interest is received but no agreement is reached, then discussions with Frito-Lay for disposition of the property will continue.

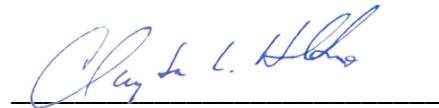
Attached is a resolution making the findings that the property is surplus land.

**Fiscal Impact**

There is no fiscal impact by adopting the attached resolution. If the resolution is adopted, the City may proceed to sell the property for its fair market value. Any purchase and sale agreement would be presented to the City Council at a City Council meeting.

**Attachments:**

1. Resolution Declaring Property Owned by the City of Brisbane as Surplus Land
2. Map depicting the Property to be declared Surplus Land



Clay Holstine, Executive Director



Thomas McMorrow, Interim City Attorney



Michael Roush, Legal Counsel

## BRISBANE CITY COUNCIL RESOLUTION NO. 2020-55

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE DECLARING CERTAIN PROPERTY IT OWNS AS SURPLUS LAND

Whereas, State law, the Surplus Lands Act (“SLA”) requires that before a local agency, including a City, takes any action to sell or lease its property, it must declare the property to be either “surplus land” or “exempt surplus land”; and

Whereas, “surplus land” means land owned in fee simple by any local agency for which the local agency’s governing body takes formal action in a regular meeting declaring that such land is surplus and is not necessary for the agency’s use; and

Whereas, unless the surplus land is exempt, the agency must give written notice of its availability to any local public entity, including schools and park districts, within whose jurisdiction the property is located, as well as to housing sponsors that have notified the State Department of Housing and Community Development (HCD) of their interest in surplus property; and

Whereas, the City of Brisbane owns vacant, landlocked, property in Crocker Park, and

Whereas, the Frito-Lay Corporation also owns property within Crocker Park and approximately 28,000 square feet of City owned property lies immediately adjacent to the Frito-Lay property; and

Whereas, Frito Lay has asked the City whether it would sell to it the approximate 28,000 square feet of City property, as depicted on the attached Exhibit 1, to be used by Frito-Lay solely for the parking of vehicles; and

Whereas, there is a drainage canal on the property and Frito-Lay has indicated that if the City sells the property to it, it would maintain the drainage canal in perpetuity; and

Whereas, Frito-Lay has also indicated that it would construct on its existing property and on the property it would acquire from the City a trail that would connect to the eastern boundary of San Bruno Mountain State and County Park; and

Whereas, the City Council finds and determines that the City has no need of this property for public purposes because of its odd shape and location and that Frito-Lay, should the property be sold to it, would maintain the drainage canal on the property in perpetuity; and

Whereas, the City Council further finds, based upon the foregoing recitals, that the approximate 28,000 square feet of City owned property is surplus land.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BRISBANE RESOLVES AS FOLLOWS:

Section 1. The vacant, approximately 28,000 square foot site in Crocker Park, as depicted on the attached Exhibit 1, is declared surplus land and the City Manager shall, on behalf of the City, (a) send the appropriate notices under Government Code, section 54222, (b) negotiate in good faith for the disposition of the property should there be any interest in the property, and (c) participate in negotiations to dispose of the property should there be no interest or, if there is interest, no agreement as to the property’s disposition is reached.

Section 2. This Resolution shall become effective immediately upon its adoption.

Terry O'Connell, Mayor

I hereby certify that the foregoing Resolution No. 2020-55 was duly and regularly adopted at a regular meeting of the Brisbane City Council on October 1, 2020 by the following vote:

AYES:

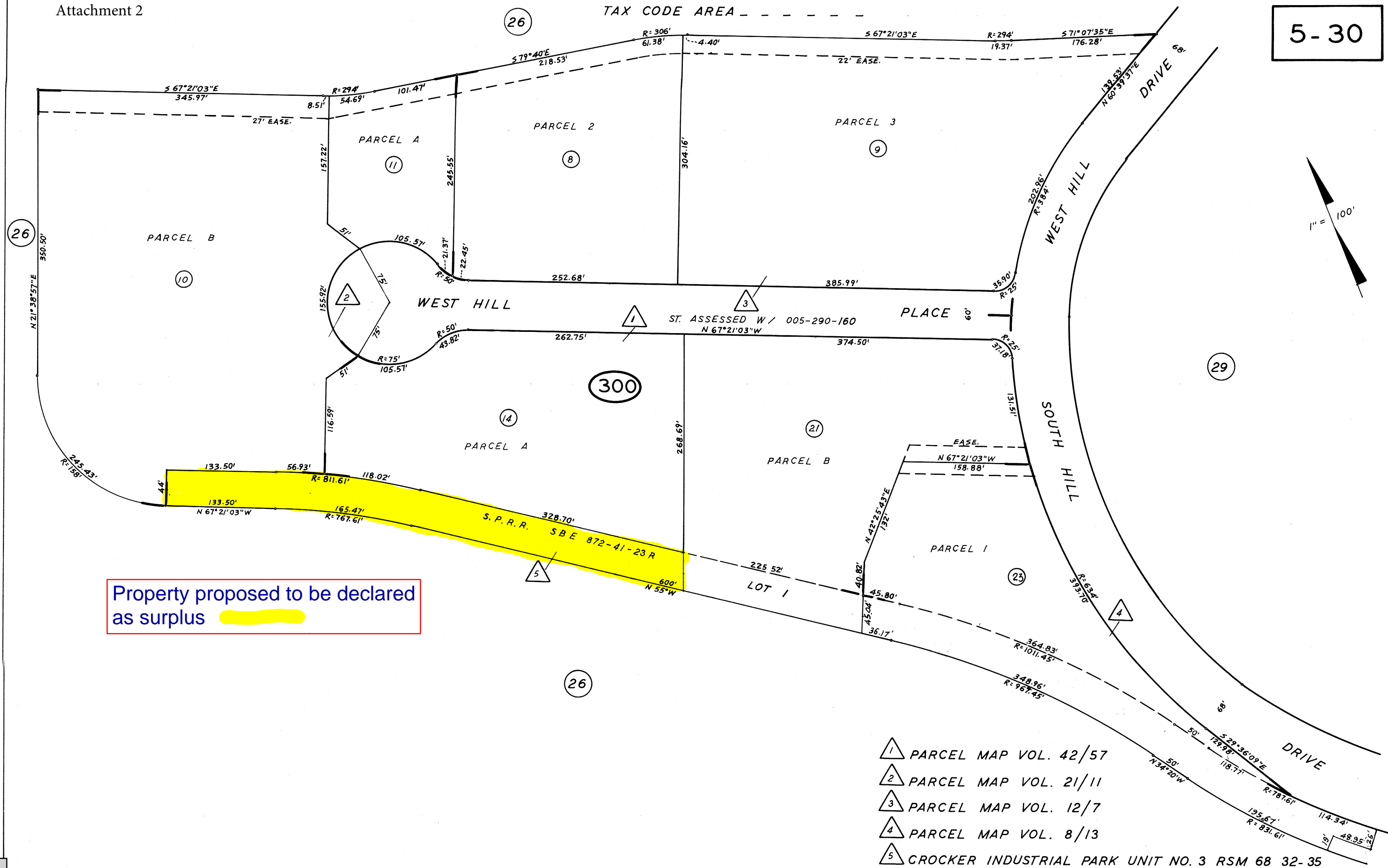
NOES:

ABSENT:

ABSTAIN:

Ingrid Padilla, City Clerk





Property proposed to be declared as surplus

**File Attachments for Item:**

M. Dog Park Resurfacing

(Council will consider approving funding in the amount of \$60,000 for resurfacing of the dog park as recommended by the Parks & Recreation Commission)



## CITY COUNCIL AGENDA REPORT

**Meeting Date:** October 1, 2020

**From:** Noreen Leek, Recreation Manager

**Subject:** Dog Park Resurfacing

### Community Goal/Result

Community Building

### Purpose

Maintain high-quality recreation facilities for community interaction.

### Recommendation

Approve funding in the amount of \$60,000 for resurfacing of the dog park as recommended by the Parks & Recreation Commission.

### Background

On September 25<sup>th</sup>, 2019, the Recreation Facilities Subcommittee along with the City Council Parks & Recreation Liaisons met with stakeholders at the dog park. The purpose of this meeting was to engage the stakeholders and gather input regarding their overall preferences at the park. Although the majority of the meeting was spent discussing park amenities such as seating, water, shade, etc., several residents initiated conversations about park resurfacing.

In the past, dog park users have expressed a preference for grass, and have been vocal about their dissatisfaction regarding the overall condition of the grass. Given the nature of use on the grass at the dog park and that it is a highly concentrated area, it is important to note that the City's approach towards maintenance of the dog park will not result in the turf condition mirroring that of the Community Park. In recent years, there seems to be a shift towards support for alternate surfacing options such as artificial turf, gravel, or decomposed granite.

P&R staff reviewed 24 local dog parks and found only 3 facilities to have any real grass (*Attachment 2*). In all 3 cases, the grass areas were significantly larger than that of Brisbane's (which means less concentrated use) and the condition of the grass at these locations was either similar to or worse than the condition of Brisbane's.

On January 8<sup>th</sup>, 2020 the Parks & Recreation Commission addressed this item, reviewed various alternative surfacing options and estimated costs, and discussed the pros and cons to each. The Commission voted unanimously to recommend to Council to proceed with resurfacing of the park including a majority of hardscape surface (i.e. decomposed granite) and some smaller patches of artificial turf (*Attachment 1*).

**Discussion**

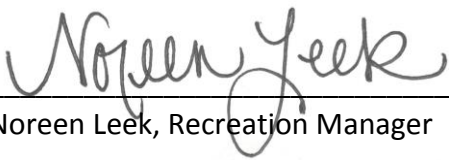
At this time, Council is being asked to consider the recommendation from the Parks & Recreation Commission and authorize funding to proceed with the project.

**Fiscal Impact**

The existing grass area of the dog park is approximately 5,225 square feet. The scope of work will include excavation/sub grading, and installation of base plus surfacing. The budget-level estimate generated by staff is approximately \$60,000. Research conducted by the City's Public Works team suggests that the lifespan of this surfacing is 15-20 years and ongoing maintenance costs would be significantly reduced given that mowing, frequent watering, annual reseeding, and new sod would not be required. Ongoing maintenance would include minor watering of the artificial turf for sanitation purposes, occasional brushing of the turf, and top coating of the hardscape surfacing as needed. The City's Public Works team estimates that ongoing maintenance of the dog park would be reduced by about half of what it is today.

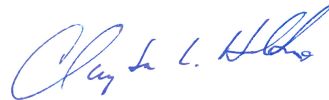
**Attachments**

1. Aerial map of dog park with resurfacing notations
2. Dog Park comparison reviewed by P&R Commission



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Noreen Leek, Recreation Manager



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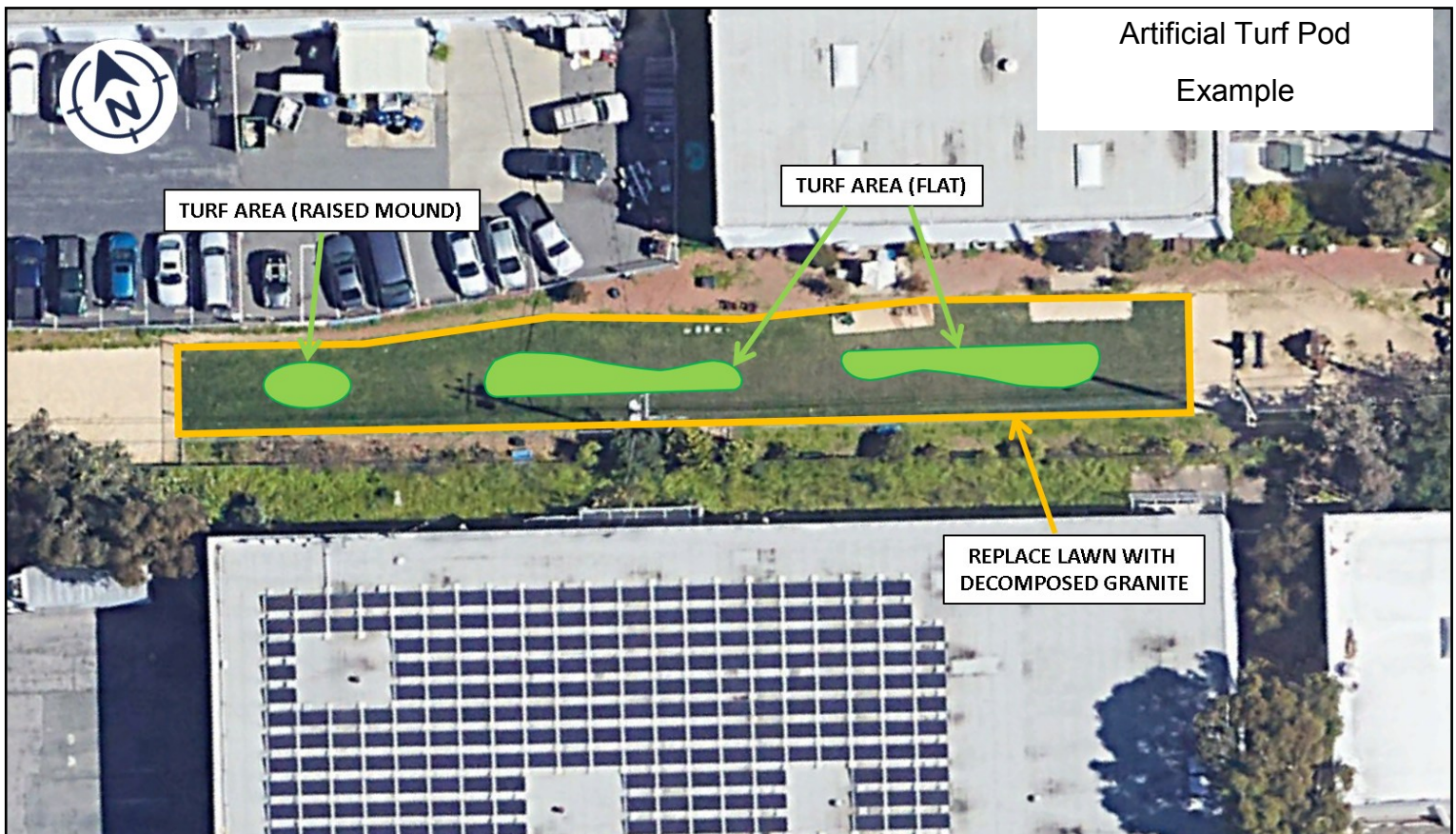
Clay Holstine, City Manager



## Aerial Map of Dog Park with Resurfacing Notations



\*The yellow frame in the photo above denotes the existing grass area that is proposed for resurfacing. The decomposed granite (DG) that would be installed here would compliment the existing DG areas that already exist at both ends of the park nearest the entrances.













321 light green markings in the photo above denote proposed artificial turf pod locations. These small pods will require significantly less maintenance and will provide a secondary type of surfacing for dogs to enjoy.








# Dog Park Comparison





Park Name	Location	Surfacing	
Centennial Way Dog Park	South San Francisco	DG + Artificial Turf	
Commodore Park	San Bruno	Mixed, mostly dirt & weeds (not maintained grass)	
Seal Point	San Mateo	Dirt/DG	
Burlingame Dog Exercise Park	Burlingame	Dirt/DG	
St. Mary's Dog Play Area	San Francisco (R&P)	Grass + Asphalt (comparable grass condition to Brisbane's however a much larger area and less concentrated use)	

San Carlos Dog Park	San Carlos	Dirt/DG	
Foster City Dog Park	Foster City	Artificial Turf + DG	
Cipriani Dog Park	Belmont	Dirt/DG	
Sanchez Dog Park	Pacifica	Dirt/DG	
Upper Douglas Dog Park	San Francisco	Grass + Dirt (comparable grass condition to Brisbane's however a much larger area and less concentrated use)	

Alemaný Dog Park	San Francisco	Dirt/DG	
Main Street Dog Agility Park	Redwood City	Dirt/DG	
Smith Field Coastside Dog Park	Half Moon Bay	Wood Chips	
Mitchell Park Dog Park	Palo Alto	Dirt/DG	
Bair Island Dog Park	Redwood City	Artificial Turf	



Village Green Dog Park	Mountain View	Artificial Turf	
Willow Oaks Dog Park	Menlo Park	Grass + Dirt (grass is not maintained – worse condition)	
Golden Gate Park Dog Training Area	San Francisco	Dirt	
Rincon Hill Dog Park	San Francisco	DG	
Mission Bay Dog Park	San Francisco	DG + Artificial Turf	

Lafayette Park	San Francisco	Artificial Turf			
SoMa West Dog Park	San Francisco	Artificial Turf			
Moscone Dog Park	San Francisco	Artificial Turf			
Brotherhood Way Dog Park	San Francisco	DG			

**TOTAL NUMBER OF PARKS ASSESSED: 24**

**TOTAL NUMBER OF PARKS WITH ANY GRASS: 3**

**File Attachments for Item:**

N. Temporary Shelter Improvement for Lunch Truck at Park n Ride Site



## CITY COUNCIL AGENDA REPORT

**Meeting Date:** October 1, 2020

**From:** City Manager

**Subject:** Brisbane Lunch Truck Patio Shelter

### Recommendation

Approve proposed temporary Shelter Patio addition at the Park N Ride site for Brisbane Lunch Truck.

### Background

The City Council approved a lease with Kristi Yawata, Brisbane Lunch Truck, Inc. at the November 7, 2019 Council meeting.

Article 6.01 of the agreement requires pre-approval of site improvements by the Public Works Director. This request is for a temporary Patio Shelter over the area currently used for outdoor siting and dining (COVID-19 conditioned).

The previous licensee placed a tent over this area that received mixed reviews. This item is on Council agenda for review and approval in order to provide transparency. If the Council approves the structure will be subject to building department review and permit.

City Council received comments on this item asking several questions:

Safety of the Shelter – the proposed shelter will be subject to building permit review and inspection.

Liability/Insurance – Section 10 addresses Insurance requirement and Section 11 addresses damage and destruction. Section 17 is the Hold Harmless clause.

Removal of Shelter at termination of the lease – Section 6.04 and Section 20 assigns responsibility to remove all improvements to licensee.

### Financial Impact

There is no impact to the City by allowing for this structure. Earlier this year BLT was offered reduction of rent by 50% for 3 months (April, May and June). In June we renewed the reduction for the remainder of the calendar year. This was in direct response to COVID-19 impact on restaurant and food delivery business.

### Attachment

1. Temporary Patio Shelter Picture
2. License Agreement

A handwritten signature in blue ink, appearing to read "Clay Holstine", is positioned above a horizontal line.

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Clay Holstine, City Manager



Kristi  
Brisbane Lunch Truck  
415-660-6320  
415-606-4602

## **LICENSE AGREEMENT**

**THIS LICENSE AGREEMENT**, dated November 8, 2019 between the City of Brisbane, a municipal corporation ("City") and Brisbane Lunch Truck, Inc., 346 Forest View Drive, South San Francisco, CA 94080 ("Licensee") is made with reference to the following facts:

A. City is the owner of certain real property in the City of Brisbane, County of San Mateo, State of California, located at 3501 Bayshore Boulevard, Brisbane, CA, depicted generally on Exhibit A.

B. Licensee desires to license from the City a portion of the City property, consisting of nine parking spaces as depicted in a black rectangular outline on Exhibit A ("the Licensed Property") for the purposes of providing a food truck operation and the City is willing to license such portion of its property to Licensee, on the terms and conditions hereinafter set forth.

**NOW, THEREFORE, in consideration of the following promises, the parties agree as follows:**

### **ARTICLE 1 LICENSED PREMISES**

**1.01** City licenses to Licensee the Licensed Property.

**1.02** Licensee shall operate on the Licensed Property a food truck operation. Licensee shall maintain the Licensed Property. For the public's use only during the hours of the food truck operation, Licensee shall also provide and maintain a "porta-potty" in the diagonally hashed area of the City's property as also depicted on Exhibit A. Licensee shall service the porta-potty weekly; provided, however, if in the reasonable judgment of the City, the porta-potty needs servicing more than weekly, the City shall pay for such service. Other than as provided in the previous sentence, any and all costs of maintenance of the Licensed Property, the porta-potty, and the porta potty area shall be the sole and exclusive obligation of Licensee. Licensee expressly warrants that the City shall not be liable for any funds concerning costs associated with this License Agreement, whether for maintenance or otherwise, except as provided in this section 1.02.

### **ARTICLE 2 TERM**

**2.01** The term of this License shall be for 12 months or until either (a) the City, in its sole discretion, terminates this License or (b) this License is terminated as provided herein. If City in its sole discretion terminates this License without cause, it shall provide Licensee with 60 days written notice.

### **ARTICLE 3 LICENSE PAYMENT**

**3.01** Licensee shall pay to the Successor Agency for its use of the Licensed Premises the sum of \$575 monthly, prorated for November 2019 and then payable on the first day of each month during the term of this License Agreement.

**3.02** Licensee shall hold the City harmless from and against all insurance premiums, carrying charges, costs, expenses, property or other taxes or assessments, and obligations of every kind and nature whatsoever relating to the Licensed Property which may arise, accrue, or become due during the term of this License.

### **ARTICLE 4 POSSESSION, USE AND HOURS OF OPERATION**

**4.01** The Licensed Property shall be used by Licensee solely for the purpose of conducting a food truck operation and for no other or additional purpose without the prior written approval of the City. Licensee may allow its food truck to remain on the Licensed Property even when the Licensee is not actively conducting the food truck business.

**4.02** Licensee shall not use the Licensed Property or permit anything to be done in or about the Licensed Property which is prohibited by or will in any way conflict with any law, statute, ordinance or governmental rule or regulation now in force or which may hereafter be in force. Licensee shall not use or allow the Licensed Property to be used for any unlawful or objectionable purpose, nor shall Licensee cause, maintain or permit any nuisance in, on or about the Licensed Property or commit or suffer to be committed any waste in, on or about the Licensed Property.

**4.03** Licensee shall provide consistent and advertised hours of operation Monday through Friday between 11 a.m. and 3 p.m. other than on holidays when other uses on the property will preclude the use the Licensed Property for food truck operation purposes. Licensee may request additional hours of operation that City may approve in its sole discretion. Licensee shall notify City in writing if Licensee will be unable to conduct the food truck operation for one or more weeks. Licensee may provide signage concerning the food truck operation subject to the City Engineer's approval of such signage.

### **ARTICLE 5 CONDITION OF LICENSED PROPERTY**

**5.01** Licensee acknowledges and agrees that the Licensed Property is being licensed to Licensee in "AS IS" condition and the Successor Agency shall have no obligation to make any alterations or improvements to the Licensed Property for the benefit of Licensee. Licensee further acknowledges that neither the City nor anyone acting on City's behalf has made any representation or warranty as to the suitability or fitness of the



Licensed Property for the intended use thereof by Licensee and it is the sole responsibility of Licensee to satisfy itself with respect to all such matters.

## **ARTICLE 6 IMPROVEMENTS**

**6.01** Licensee shall install on the Licensed Property only those improvements, such as a connection for water and/or sewer service as approved by the Public Works Director of the City of Brisbane.

**6.02** All fees and costs for construction of any improvements on the Licensed Property, including application and permit fees charged by the City of Brisbane and any other governmental agency, design and construction costs, and the cost of any financing obtained by Licensee for such improvements, shall be the sole responsibility and obligation of Licensee.

**6.04** Upon the termination of this License Agreement, Licensee shall remove from the Licensed Property, without cost, expense or obligation of any kind or nature to the City, all improvements.

## **ARTICLE 7 REPAIRS AND MAINTENANCE**

**7.01** Licensee shall, during the term of this License, at its own cost and expense, keep and maintain all the improvements which may be placed on the Licensed Property in good and neat order and repair and shall allow no nuisance to exist or be maintained therein. The City shall not be obligated to make any repairs of any kind, nature or description whatsoever to the Licensed Property or the improvements thereon.

## **ARTICLE 8 UTILITIES**

**8.01** Licensee shall pay the cost of all utility and other services furnished to the Licensed Property, including, but not limited to, electricity, gas, water, sewer, telephone, and garbage collection service. Whenever possible, Licensee shall establish a separate account and meter with the utility or service provided so that all charges for service are billed directly to Licensee.

## **ARTICLE 9 INDEMNITY**

**9.01** Licensee hereby waives any and all claims against the City for damage to any property or injury to or death of any person in, upon or about the Licensed Property, but not on property owned by the City but not within the Licensed Property, arising at any time and from any cause other than solely by reason of the negligence or willful misconduct of the City. Licensee shall indemnify, defend, and hold the City, and their officers, officials, boards, commissions, employees, and agents, harmless from and against any and all claims, demands, causes of action, liabilities, costs or expenses, including attorney's fees, occasioned by or in any way connected with the condition, use or misuse of the Licensed Property, or occasioned by any act or omission of Licensee and Licensee's agents, servants, employees, invitees or other persons who may come upon the Licensed Property, except for damage to any property or injury to or death of any person caused solely by the negligence or willful misconduct of the City. The indemnity obligations of Licensee set forth herein shall survive and continue beyond the term of this License.

## **ARTICLE 10 INSURANCE**

**10.01** Licensee shall, at no cost to the City, obtain and keep or cause to be kept in force during the term hereof, fire and extended coverage insurance on all improvements on the Licensed Property that are destructible by fire or such perils as insured by a Standard Form fire and extended coverage policy of insurance and in amounts not less than 100 percent of the insurable value of such improvements. The City shall be named in the loss payable clause of such policy, as its interest may appear. All policies placed by Licensee upon the Licensed Property shall contain waivers of any right of subrogation said insurer might otherwise have against the City.

**10.02** During the term of this License, Licensee shall procure and maintain in full force and effect at Licensee's expense: (i) comprehensive general liability insurance with an aggregate limit of not less than One Million Dollars (\$1,000,000.00) per occurrence, insuring against all liability of Licensee, the City for bodily injury and property damage arising out of or in connection with Licensee's maintenance, use, or occupancy of the Licensed Property and also insuring performance by Licensee of the indemnity provisions set forth in Section 9.01 of this License. The amount of such insurance shall be at least \$1,000,000.00, combined single limit. However, the amount of such general liability insurance shall not limit Licensee's liability nor relieve Licensee of any obligations under this License. The general liability insurance policy shall name the City, and their officers, officials, boards, commissions, employees, and agents, as an insured parties thereunder, and shall be endorsed to provide that: (i) the insurance coverage thereunder shall be primary with respect to the City; and (ii) no cancellation or reduction in coverage will be made without twenty (20) days prior written notice to the City by the carrier.

**10.03** Licensee shall provide the City with a copy of each insurance policy required to be maintained hereunder, and each such policy shall be subject to approval as to form, content and amount by the City or their authorized representatives.

## **ARTICLE 11 DAMAGE OR DESTRUCTION**

**11.01** In case of any damage to or destruction of the improvements on the Licensed Property, or any part thereof, and such damage is covered by insurance, Licensee shall have the election to: (i) utilize the insurance proceeds for the restoration, replacement or rebuilding of the improvements with such alterations and additions as may be approved by the City; or (ii) not restore the improvements so damaged or destroyed and apply the insurance proceeds to the clean-up and removal of the damaged or destroyed Improvements so as to restore the Licensed Premises to their condition at the time of execution of this License. Any balance of insurance proceeds shall be paid to Licensee.

**11.02** In the case of any damage to or destruction of the improvements which is not covered by the insurance required to be maintained under Section 10.01 hereof, and such damage exceeds fifty percent (50 percent) of the replacement cost of such Improvements, Licensee may, at its option, terminate this License by giving written notice of termination to the City. Otherwise, Licensee shall restore the Improvements to their original configuration or in such other manner as shall be approved in writing by the City.

## **ARTICLE 12 ASSIGNMENT AND SUBLETTING**

**12.01** Licensee shall not voluntarily or by operation of law assign, transfer, mortgage, sublet, pledge, hypothecate or encumber all or any part of Licensee's interest in this License or in the Licensed Property or any part thereof, without the City's prior written consent and any attempt to do so without such consent being first had and obtained shall be wholly void and shall constitute a breach of this License. The City may withhold its consent in the City's absolute and sole discretion.

**12.02** No consent by the City to any assignment or subletting by Licensee shall relieve Licensee of any obligation to be performed by Licensee under this License, whether occurring before or after such consent, assignment or subletting. The consent by the City to any assignment or subletting shall not relieve Licensee from the obligation to obtain the City's express written consent to any other assignment or subletting. The acceptance of payment by the City from any other person shall not be deemed to be a waiver by the City of any provisions of this License or to be a consent to any assignment, subletting or other transfer. Consent to one assignment, subletting or other transfer shall not be deemed to constitute consent to any subsequent assignment, subletting or other transfer.

## **ARTICLE 13 PERFORMANCE BY CITY ON LICENSEE'S DEFAULT**

**13.01** In the event that Licensee shall fail or neglect to do or perform any act or thing herein provided for it to be done or performed and such failure shall continue for a period of thirty (30) days after written notice from the City specifying the nature of the act or thing to be done or performed, or shall continue beyond the time reasonably required for the performance of any act if the same could not reasonably be performed within said thirty (30) day period, then the City may, but shall not be required to, perform or cause to be performed such act or thing (including the entering upon the Licensed Property for such purpose, if the City elects so to do), and the City shall not be liable or in any way

responsible for any loss, inconvenience, annoyance or damage resulting to Licensee on account thereof; and Licensee shall repay to the City, upon demand as additional rent, the entire reasonable cost and expense thereof, including compensation to the employees, agents and contractors of the City. Any act or thing done by the City, pursuant to the provisions of this Article 13 shall not be, or be construed as, a waiver of any covenant, term or condition herein contained or of the performance thereof.

## ARTICLE 14 BREACH

**14.01** Should Licensee or the City fail to perform or cause to be performed any act required hereunder, including, but not limited to, the following, such failure shall constitute an event of default on the part of Licensee or the City.

- (a) The failure for a period of more than thirty (30) days after written notice from the non-breaching party to the breaching party to do, observe, keep and perform any of the terms, covenants, agreements and provisions of this License which Licensee or the City is required to do, observe, keep or perform.
- (b) As to the Licensee, the permanent abandonment of the Licensed Property by Licensee without making adequate provision for the protection thereof; the adjudication of Licensee as a bankrupt; the making by Licensee of a general assignment for the benefit of creditors; the taking by Licensee of the benefit of any insolvency act or law; the appointment of a permanent receiver or trustee in bankruptcy for Licensee's property; or the appointment of a temporary receiver which is not vacated or set aside within one hundred and twenty (120) days from the date of such appointment.

**14.02** Any notice given under this Article shall specify the event of default and the applicable License provisions, and shall demand that the breaching party perform the provisions of this License within the applicable period of time. No such notice shall be deemed a forfeiture or a termination of this License provided the breaching party cures the default within the applicable period of time.

**14.03** In the event of a breach of this License and upon the failure of the breaching party to cure same after notice as provided in this Article, the non-breaching party, in addition to all other rights and remedies provided by law or equity, may, but is not obligated to, declare this License terminated by written notice to the breaching party, as of a date specified in the notice which shall not be less than thirty (30) days after the date of serving such notice, and, if the Licensee is the breaching party, in such event the City shall be entitled to re-enter and repossess the Licensed Property, together with the improvements thereon

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## ARTICLE 15 WAIVER

**15.01** No covenant, term or condition or the breach thereof shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of any covenant, term or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term or condition. Acceptance by the City of any performance by Licensee after the time the same shall have become due shall not constitute a waiver by the City of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by the City in writing.

## ARTICLE 16 INSPECTION OF PREMISES

**16.01** The City shall be entitled, at all reasonable times, to go upon and into the Licensed Property for the purpose of: (i) inspecting the same; (ii) inspecting the performance by Licensee of the terms and conditions of this License; and (iii) posting and keeping posted thereon notices of non-responsibility for any construction, alteration or repair thereof as required or permitted by any law or ordinance. The aforesaid rights of the City shall be exercised so as not to unreasonably interfere with Licensee's use of the Licensed Property.

## ARTICLE 17 HOLD HARMLESS

**17.01** Should the City,, without fault on the City's part, be made a party to any litigation instituted by Licensee against any third party or by any third party against Licensee, Licensee shall save, defend, and hold the City harmless from any judgment rendered against the City or the Licensed Property or any part thereof, and all costs and expenses, including reasonable attorney's fees, incurred by the City in connection with such litigation.

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## ARTICLE 18 NOTICES

**18.01** Any notices or other communications required or permitted to be given under this License shall be in writing and shall be either personally delivered or sent by certified mail, return receipt requested, or by a delivery service such as Federal Express which provides a receipt or other written evidence of delivery, addressed to the other party at such address as may be furnished from time to time as the place for delivery of notices hereunder. Any notice or other communication sent by mail shall be deemed received on the third business day after deposit of the notice in the U.S. Mail with full postage prepaid

thereon. Pursuant to this section, notices or other communications shall be addressed to the following recipients:

If to the City:

City of Brisbane  
50 Park Place  
Brisbane, CA 94005  
Attn: City Manager

If to Licensee: Brisbane Lunch Truck, Inc.  
346 Forest View Drive  
South San Francisco, CA 94080

## **ARTICLE 19 AUTHORITY OF LICENSEE TO EXECUTE LICENSE**

**19.01** Licensee represents and warrants to the City that: (i) this License is duly executed and delivered by and is binding upon and enforceable against Licensee; and (ii) Licensee has the capacity to enter into this License and consummate the transactions herein provided and nothing prohibits or restricts the right or ability of Licensee to carry out the terms hereof.

## **ARTICLE 20 SURRENDER**

**20.01** Upon the termination of this License, Licensee shall surrender the Licensed Property and remove all of Licensee's personal property and trade fixtures. Any personal property or trade fixtures not removed at the termination of this License shall be deemed abandoned by Licensee. Licensee shall also remove the improvements installed by Licensee and Licensee shall restore the Licensed Property to its condition prior to such installation.

**20.02** Should Licensee fail to remove any personal property or trade fixtures, or fail to remove the improvements as requested by the City, Licensee shall be liable to the City for any and all removal costs, transportation and storage expenses, and the cost of restoring the Licensed Property as required herein. Licensee shall indemnify the City against any loss, damage or liability resulting from delay by Licensee in so surrendering the Licensed Property.

## **ARTICLE 21 MISCELLANEOUS**



**21.01 Captions.** The captions used in this License are for convenience only and shall not be deemed to be relevant in resolving any question of interpretation or construction of any provision contained herein.

**21.02 Entire Agreement.** This License Agreement constitutes the entire agreement between the parties and supersedes and cancels any prior agreements or understandings, whether written or oral. This License Agreement can only be modified by a written amendment hereto executed by both parties.

**21.03 Severability.** If any term or provision of this License shall, to any extent, be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this License shall not be affected thereby, and each term and provision of this License shall be valid and enforceable to the fullest extent permitted by law.

**21.04 Calendar Days.** All references herein to any acts or obligations to be performed within a certain number of days shall mean calendar days.

**21.05 Choice of Law.** This License shall be governed by and interpreted in accordance with the laws of the State of California.

**21.06 Successors and Assigns.** Subject to the restrictions against assignment and subletting by Licensee, this License shall be binding upon and inure to the benefit of the respective heirs, executors, administrators, personal representatives, successors and assigns of the parties hereto.

/

IN WITNESS WHEREOF, the parties have executed this License Agreement the day and year first above written.

/

/CITY OF BRISBANE:

BRISBANE LUNCH TRUCK, INC.

By: \_\_\_\_\_



Clay Holstine, City Manager



Kristi Yawata



Tony Palmer

APPROVED AS TO FORM:



Michael Roush, Legal Counsel

**File Attachments for Item:**

O. City Manager's Report on upcoming activities

i. Update on Plan Bay Area 2050

ii. Update on Regional Housing Needs Assessment





## MEMO

**Date:** October 1, 2020  
**To:** Mayor & City Council  
**From:** City Manager Clay Holstine  
**Subject:** Plan Bay Area 2050

### Recommendation

Review letter that was sent as well as oral presentation and provide direction as appropriate.

### Background

Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC) are in the process of updating Plan Bay Area (PBA). PBA is an effort to plan several decades in the future for regional growth. It is a planning document that is by its very nature visionary not a regulatory. It does not specifically require the City to take any specific action. (See attached letter to Mayor Lui of August 8, 2017).

However, the City is concerned that the current update (PBA 2050) may have several flaws that could inadvertently lead to a disproportionately high number of housing units identified for Brisbane. ABAG/MTC has recently adopted a model that while somewhat obtuse attempts to identify areas where housing meets various regional planning goals. These include placing housing near existing transit, job centers and areas that are ripe for redevelopment (often this includes industrial areas where land values are increased by up zoning to housing). Another strategy is to look at various methods and locations to increase density for housing. (Such as transit stops).

The City's general concern is that the underlying assumptions in the model regarding potential future housing are inaccurate and/or unrealistically aggressive. For example the model assumes the PGE substation will be redeveloped for residential purposes that there is the potential for more housing on the Northeast Ridge, and that some or all of Crocker Park will be redeveloped for residential purposes. The model also ignores city adopted planning regulations like Measure JJ. While the information provided to date by ABAG is unclear, it appears that the model assumes the entirety of the Baylands (including the entire east side, Visitation Creek and Icehouse Hill) can be developed residentially. In part our argument is that the City and its elected leaders spent many years studying the Baylands site to identify areas appropriate for housing development. PBA 2050 should leverage this work and not ignore it.

While PBA 2050 is a high level planning document, it is being used as a basis for updating the Regional Housing Needs Allocation (RHNA). This process does have regulatory implications as the City's next General Plan Housing Element update must demonstrate that the City has identified adequate sites to meet its RHNA obligations in order for the Housing Element to be certified by the Department of Housing and Community Development (HCD) an agency of the State of California. Failure to have a certified Housing Element by HCD would leave the City in a legally vulnerable position, and potentially jeopardize city access to some state funding.

While adoption of PBA 2050 is still over a year away as an environmental impact report (EIR) must be prepared, it appears that MTC and ABAG are highly invested in the preliminary plan and are unlikely to entertain substantial changes. It is important for us to understand that while the model provides an outlier result for our community it seems to generally work for most of the region. This is why our focus is on trying to adjust the model and not undermine it. The latter we doubt we would engender much support for.

The attached letter was sent to the Executive Director of MTC last week. We will report on the status of our request for consultation in open session at the October 1<sup>st</sup> meeting.



**City of Brisbane**  
**50 Park Place**  
**Brisbane, CA 94005-1310**  
**415-508-2100**  
**415-467-4989 Fax**

Therese McMillan  
 Executive Director  
 Metropolitan Transportation Commission  
 375 Beale Street, Suite 800  
 San Francisco, CA 94105

September 22, 2020

Dear Ms. McMillan,

I am writing to you on behalf of the Brisbane City Council, specifically regarding item 8a of your September 23, 2020 agenda - **"Proposed action on revisions to Strategies and Growth Geographies for the Plan Bay Area 2050 Final Blueprint, as well as the Regional Growth Forecast."**

We appreciate the challenges and difficulties in identifying models and tools for projecting growth in the region. We also appreciate and support the regional goals of creating a wider variety and quantity of housing options and to do so using opportunities for transit oriented development.

To that end the City of Brisbane, submitted a proposal to our voters in the Fall of 2018 to determine the path forward on housing for our City. Ballot Measure JJ, which was approved by voters and developed in consultation with regional and state leaders, amended the City's General Plan and identified environmentally appropriate and safe areas to build on the area of a former rail yard allowing up to 2200 housing units. This is literally a doubling of the current population and housing stock of Brisbane.

We are concerned that the methodology that MTC/ABAG is proposing does not adequately take into account either the voter approved initiative or the environmental constraints of the area, including a transfer station for Recology Solid Waste operations which serve the City and County of San Francisco, watercourses and other areas subject to flooding, areas of sensitive habitat, site contamination and other physical limitations. Additionally, it appears that projections made for the remainder of the City assume conversion of a major PGE substation and maintenance yard and other industrial properties to housing.

We are not suggesting that MTC stop or even change their modeling but are asking for direct opportunity to raise these issues at the highest level of your organization. We believe that while the modelling may be accurate for much of the Bay Area, we may indeed be an anomaly. Our assessment of the model is that growth of housing projections would increase by 450% over the planning timeframe. Keep in mind that City voters have already stepped up and approved an increase of approximately 100% in Measure JJ. Beyond that we believe the model as applied in Brisbane is unrealistic and fails to accurately take into account the land use and environmental constraints of the area.

Sincerely,

Clayton Holstine  
 City Manager  
 City of Brisbane



## MEMO

**Date:** October 1, 2020  
**To:** Mayor & City Council  
**From:** City Manager Clay Holstine  
**Subject:** Regional Housing Needs Allocation (RHNA)

### Recommendation

Review attached material and provide direction.

### Background

State of California requires each City and County to plan for its “fair share” of new housing, known as the Regional Housing Need Allocation (RHNA). In the Bay Area, the process is done through our regional agency known as the Association of Bay Area Governments (ABAG).

Many of the factors that influence RHNA are mandated by the state. For example, the state determines the RHNA for the entire Bay Area region, which ABAG in turn distributes among all local jurisdictions. Additionally, RHNA needs to “be consistent” with Plan Bay Area 2050 (PBA 2050), although “consistency” is not precisely defined.

An ABAG subcommittee has been working through 2020 in developing a methodology for allocating RHNA. Many of the factors that drive RHNA numbers are similar to those reflected in PBA 2050, including access to transit, jobs/housing balance and access to high opportunity areas.

While these factors are important, a key decision in the RHNA methodology is what baseline, or starting assumption, is used to develop growth projections. The subcommittee considered two “baseline” options. The first option is to use 2019 data as the starting point and project growth going forward from that 2019 starting point. The other option is to start with the PBA 2050 projections and “work backward” to determine the level of growth needed to hit the 2050 targets. While for many jurisdictions, the two approaches yield relatively minor differences in numbers, the results for Brisbane are staggeringly disparate. The attached table illustrates the differences for Brisbane and all other cities within San Mateo County. As you can see using the 2019 household baseline yields a RHNA of 270 units, while using the PBA 2050 baseline yields a RHNA of 2,890 units. As discussed previously, this discrepancy is based on the fact that the PBA 2050 projections for Brisbane are unrealistic resulting in an excessive RHNA allocation.

### Next Steps

The ABAG methodology subcommittee is recommending using PBA 2050 projections as the baseline for determining RHNA, resulting in an estimated RHNA allocation for Brisbane of 2,890 housing units in the eight year planning cycle from 2022-30. While the City's obligations under RHNA are to zone property for residential purposes, the state is increasingly looking to hold jurisdictions accountable for actual housing production that doesn't meet RHNA.

The subcommittee recommendation will be considered by the ABAG Planning Committee on October 1<sup>st</sup>, followed by review by the ABAG Executive Board on October 15<sup>th</sup>. RHNA numbers are scheduled to be formally adopted in 2021.

The City Attorney is working on a letter to be sent to the ABAG Planning Committee and the Executive Board which will push back on the application of the PBA 2050 methodology on Brisbane. We will share those with the Council once they are complete.



**City of Brisbane**  
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September 30, 2020

ABAG Planning Subcommittee  
375 Beale Street, Suite 800  
San Francisco, CA. 94105-2066

Subject: Proposed RHNA Methodology

Dear ABAG Planning Subcommittee;

The City of Brisbane is writing in opposition to the draft RHNA methodology as recommended for approval by the regional housing needs allocation (RHNA) Methodology Subcommittee on September 18, 2020. While the City understands the rationale for utilizing the 2050 household projections from draft Plan Bay Area 2050 (PBA 2050) as the baseline for determining RHNA allocations, as applied to Brisbane, it results in an unrealistic allocation that places an outsized burden on the City that will not result in increased housing production in the Bay Area region.

There are notable limits on Brisbane's ability to dramatically expand in size – the City is nestled up against the San Bruno Mountains which naturally creates barriers to housing development. The Baylands, the City's largest opportunity site for future housing, includes uses such as a tank farm that supports San Francisco International Airport, Recology's Solid Waste Facility serving San Francisco, aquatic resources such as Guadalupe Channel and Brisbane Lagoon, and Icehouse Hill which is home to protected wildlife, that will limit housing on the property. In addition, much of the land is heavily environmentally impacted by its previous use as a landfill and railyard. Clean up of the Baylands will be complicated and may take the better part of the upcoming RHNA cycle for portions of the land to be made suitable for housing development. And finally, the state's High Speed Rail Authority has identified the Baylands as a critical location for a train maintenance facility as they develop the peninsula portion of the rail line. These factors were not adequately taken into account in developing the projections for PBA 2050.

The City's objections to the proposed methodology is not an indication that the City is unwilling do to its part to address the regional housing shortage. In 2018, the residents of Brisbane voted to amend its General Plan to permit the development of housing on the Baylands and approximately double its population and number of housing units. No other City in the region has made this type of bold commitment to help solve the housing problem. And again, the City's residents did this knowing the development of the property, given the significant environmental impacts on the Baylands, will be a huge undertaking for the City in conjunction with the landowner.



PBA 2050 however, projects more than 9,000 households in Brisbane by 2050 where the City currently has approximately 1,900 households. **That proposed methodology applied to this RHNA cycle would generate an estimated allocation of 2,819 units, within a single 8-year RHNA cycle.** For context, our current RHNA obligation is 83 units of housing, and we've already started planning for more than 1,800 units. The PBA's projection that the City quadruple this commitment by 2050 is unrealistic given the geography of the City and impossible given the decades and costs of the environmental cleanup that would be required before most parts of the Baylands could even be suitable for housing. Having PBA 2050 as a starting point for Brisbane is the first step in a process that sets our City up to fail and to suffer the funding penalties for failure. Brisbane continues to work with ABAG to try to gain a better understanding of the factors behind the PBA 2050 projections and considering the limiting factors at play for Brisbane specifically, will improve the accuracy of the regional model.

The RHNA consequences of relying on these figures will be dire for the City of Brisbane. Establishing such an unattainable target will not increase housing production or further fair housing as the statutory objectives for the regional housing allocation require. Instead this target will put Brisbane in a perpetual state of failure that has real consequences for our residents that affect City planning, housing development allowances, and economic investment in the area. And when Brisbane is unable to meet this impossible allocation, it will mean the entire region continues to lag behind appropriate planning and development overall.

Do not confuse the City's objections to the proposed methodology as an indication that the City of Brisbane is unwilling do to its fair share (and more) to address the regional housing problem. We stand ready to do that in an environmentally responsible manner. In this spirit, the City of Brisbane looks forward to continuing these conversations with ABAG and getting to a result that is achievable for the City and the region.

Thank you for your consideration.

Sincerely,



Terry O'Connell

Mayor, City of Brisbane

## REGIONAL HOUSING NEEDS ALLOCATION



Association of Bay Area Governments

### Frequently Asked Questions about RHNA

#### Topics:

- Regional Housing Needs Allocation (RHNA) Overview
- Regional Housing Needs Determination (RHND) from HCD
- RHNA Methodology
- ABAG Housing Methodology Committee
- Connections between RHNA and Plan Bay Area 2050
- RHNA Subregions
- RHNA and Local Jurisdictions

### REGIONAL HOUSING NEEDS ALLOCATION (RHNA) OVERVIEW

#### What is RHNA?

Local housing is enshrined in state law as a matter of “vital statewide importance” and, since 1969, the State of California has required that all local governments (cities, towns and counties, also known as local jurisdictions) adequately plan to meet the housing needs of everyone in our communities. To meet this requirement, each city or county must develop a Housing Element as part of its General Plan (the local government’s long-range blueprint for growth) that shows how it will meet its community’s housing needs. There are many laws that govern this process, and collectively they are known as [Housing Element Law](#).

The Regional Housing Need Allocation (RHNA) process is the part of Housing Element Law used to determine how many new homes, and the affordability of those homes, each local government must plan for in its Housing Element. This process is repeated every eight years, and for this cycle the Bay Area is planning for the period from 2023 to 2031.

#### How does RHNA assist in addressing the Bay Area’s housing crisis?

The Bay Area’s housing affordability crisis is decades in the making. State law is designed to match housing supply with demand—particularly for affordable homes. Each new RHNA cycle presents new requirements to address dynamic housing markets, which in recent years have seen demand dramatically outstrip supply across all affordability levels.

RHNA provides a local government with a minimum number of new homes across all income levels for which it must plan in its Housing Element. The Housing Element must include sites zoned for enough capacity to meet the RHNA goals as well as policies and strategies to expand housing choices and increase housing affordability.

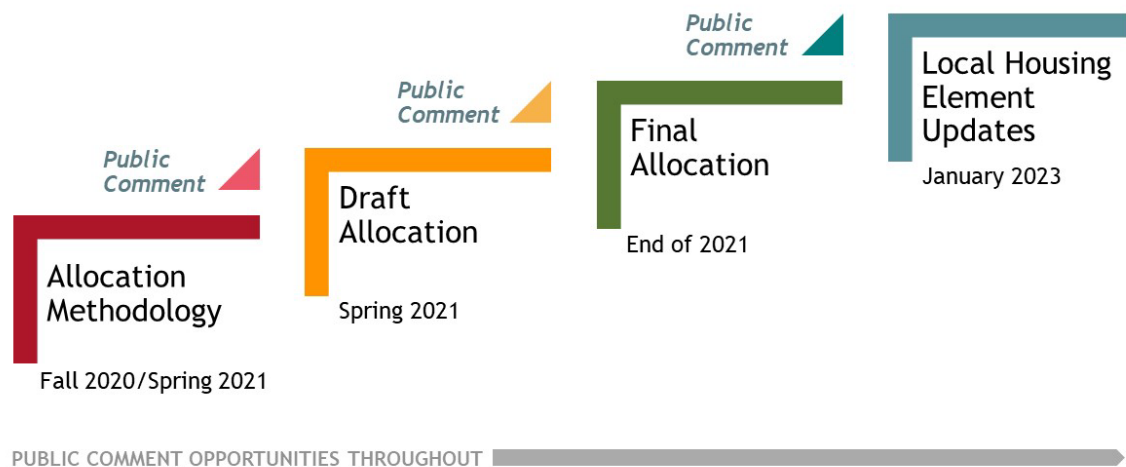


## Who is responsible for RHNA?

Responsibility for completing RHNA is shared among state, regional, and local governments:

- The **role of the State** is to identify the total number of homes for which each region in California must plan in order to meet the housing needs of people across the full spectrum of income levels, from housing for very low-income households all the way to market rate housing. This is developed by the [California Department of Housing and Community Development \(HCD\)](#) and is known as the Regional Housing Need Determination (RHND).
- The **role of the region** is to allocate a share of the RHND to each local government in the region. As the Council of Governments (COG) for the nine-county Bay Area, the Association of Bay Area Governments (ABAG) is responsible for developing the methodology for sharing the RHND among all cities, towns, and counties in the region. ABAG does this in conjunction with a committee of elected officials, city and county staff, and stakeholders called [the Housing Methodology Committee \(HMC\)](#).
- The **role of local governments** is to participate in the development of the allocation methodology and to update their Housing Elements and local zoning to show how they will accommodate their share of the RHND, following the adoption of the RHNA methodology.

## What are the steps in the RHNA process?



Conceptually, RHNA starts with the Regional Housing Needs Determination provided by HCD, which is the total number of housing units the Bay Area needs, by income group. The heart of ABAG's work on RHNA is developing the methodology to allocate a portion of housing needs to each city, town, and county in the region. ABAG has convened a [Housing Methodology Committee](#) made up of local elected officials and staff and stakeholders to advise staff on the proposed methodology that ABAG will release for public comment in fall 2020. Following that milestone, ABAG will then develop a draft methodology to send to HCD for its review in early 2021.

After ABAG adopts the final methodology in spring 2021, it is used to develop a draft allocation for every local government in the Bay Area. A local government or HCD can appeal any local government's allocation. After ABAG takes action on the appeals, it will issue the final allocation by the end of 2021. Local governments must update Housing Elements by January 2023, including identifying sites that are zoned with enough capacity to meet the RHNA allocation. ABAG's role in the RHNA process ends once it has allocated a share of the Regional Housing Needs Determination (RHND) to each local government in the Bay Area; HCD reviews and approves local Housing Elements.

### What's the timeline for completing RHNA?

The RHNA process is currently underway and will be complete by the end of 2021. Local governments will then have until January 2023 to update their Housing Elements. The proposed timing for the key milestones in the RHNA process is shown below:

ABAG 2023-2031 RHNA and Plan Bay Area 2050 Key Milestones	Proposed Deadline
Housing Methodology Committee kick-off	October 2019
Subregions form	February 2020
HCD Regional Housing Needs Determination	June 2020
Proposed RHNA methodology, draft subregion shares	Fall 2020
Final subregion shares	December 2020
Draft RHNA methodology to HCD for review	Winter 2021
Final RHNA methodology, draft allocation	Spring 2021
RHNA appeals	Summer 2021
Final RHNA allocation	End of 2021
Housing Element due date	January 2023

### This is the 6th cycle for RHNA. What's different this time?

Recent legislation will result in the following key changes for this RHNA cycle:

- It is expected there will be a higher total regional housing need. HCD's identification of the region's total housing needs has changed to account for unmet existing need, rather than only projected housing need. HCD now must consider overcrowded households, cost burdened households (those paying more than 30% of their income for housing), and a target vacancy rate for a healthy housing market (with a minimum of 5%).

- RHNA and local Housing Elements must affirmatively further fair housing. According to HCD, achieving this objective includes preventing segregation and poverty concentration as well as increasing access to areas of opportunity. HCD has mapped [Opportunity Areas](#) and has developed guidance for jurisdictions about [how to address affirmatively furthering fair housing in Housing Elements](#). As required by Housing Element Law, ABAG has surveyed local governments to understand [fair housing issues, strategies, and actions across the region](#).
- There will be greater HCD oversight of RHNA. ABAG and subregions must now submit the draft allocation methodology to HCD for review and comment. HCD can also appeal a jurisdiction's draft allocation.
- Identifying Housing Element sites for affordable units will be more challenging. There are new limits on the extent to which jurisdictions can reuse sites included in previous Housing Elements and increased scrutiny of small, large, and non-vacant sites when these sites are proposed to accommodate units for very low- and low-income households.

### **How can I be more involved in the RHNA process?**

Public participation is encouraged throughout the RHNA process especially at public meetings and during official public comment periods following the release of discussion documents and board decisions. Visit the ABAG website to:

- Learn about the [Housing Methodology Committee](#)
- View [upcoming meetings](#)
- Sign up for the [RHNA mailing list](#)

### **Is ABAG's prior RHNA available to review?**

Yes, you can find more information about the [2015-2023 RHNA](#) on the ABAG website. You can also view documents from the [2007-2014 RHNA](#) and [1999-2006 RHNA](#).

## **REGIONAL HOUSING NEEDS DETERMINATION (RHND) FROM HCD**

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### **What is the Regional Housing Needs Determination?**

The California Department of Housing and Community Development (HCD) identifies the total number of homes for which each region in California must plan in order to meet the housing needs of people at all income levels. The total number of housing units from HCD is separated into four income categories that cover everything from housing for very low-income households all the way to market rate housing. ABAG is responsible for developing a methodology to allocate a portion of this housing need to every local government in the Bay Area.

The four income categories included in the RHND are:

- Very Low Income: 0-50% of Area Median Income
- Low Income: 50-80% of Area Median Income
- Moderate Income: 80-120% of Area Median Income
- Above Moderate Income: 120% or more of Area Median Income

### **What will the actual RHND and RHNA numbers look like this cycle?**

In a [letter dated June 9, 2020](#), the California Department of Housing and Community Development (HCD) provided ABAG with the Regional Housing Needs Determination (RHND) for use in this cycle of RHNA in the Bay Area.

#### ***Regional Housing Needs Determination from HCD: San Francisco Bay Area***

<b>Income Category</b>	<b>Percent</b>	<b>Housing Unit Need</b>
Very Low	25.9%	114,442
Low	14.9%	65,892
Moderate	16.5%	72,712
Above Moderate	42.6%	188,130
<b>Total</b>	<b>100%</b>	<b>441,176</b>

The methodology which will determine each local government's share of the overall regional housing needs is currently being developed and is slated for release in fall 2020.

### **How did HCD develop the RHND?**

HCD is responsible for determining the number of housing units for which each region must plan, known as the Regional Housing Needs Determination (RHND). The RHND is based on a population forecast for the region from the California Department of Finance (DOF) and the application of specific adjustments to determine the total amount of housing needs for the region.

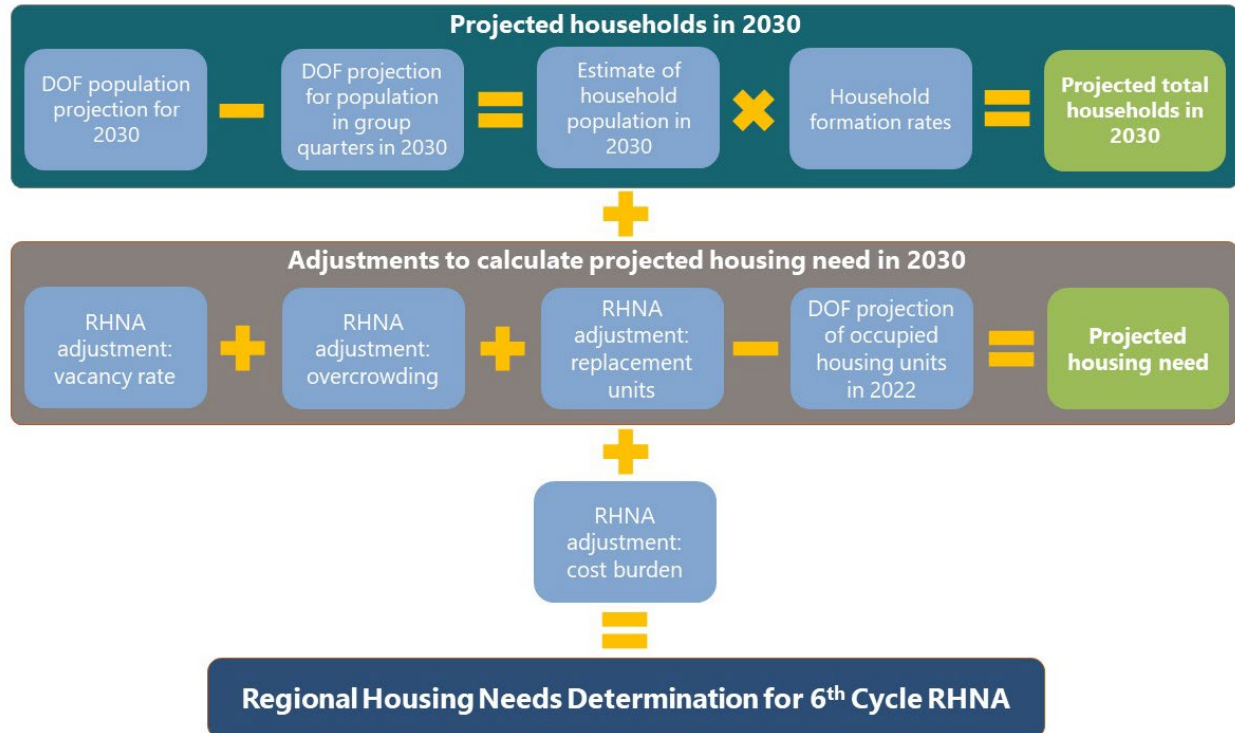
The adjustments are a result of recent legislation that sought to incorporate an estimate of existing housing need by applying factors related to:

- A target vacancy rate for a healthy housing market (defined as no less than 5 percent),
- The rate of overcrowding, which is defined as having more than one person per room in each room in a dwelling.
- The share of cost burdened households, which is defined as households paying more than 30% of household income on housing costs.

The RHNA process only considers the needs of the population in households who are housed in the regular housing market, and excludes the population living in group quarters, which are non-household dwellings, such as jails, nursing homes, dorms, and military barracks. HCD uses the age cohorts of the forecasted population to understand the rates at which people are expected to form households, which can vary for people at different stages of life. This results in

the estimate of the total number of households that will need a housing unit in 2030 (which is the end date of the projection period for the Bay Area's RHNA cycle).

### HCD Process for Identifying Regional Housing Needs Determination (RHND)



The total number of projected households is then adjusted using the factors related to vacancy rate, overcrowding, and an estimate of the need for replacement housing for units that were demolished or lost. This results in a forecast of the number of housing units that will be needed to house all households in the region in 2031. The number of existing occupied housing units is subtracted from the total number of housing units needed, which results in the number of additional housing units necessary to meet the housing need. The final step is an adjustment related to cost-burdened households, which results in the RHND for the region.

## RHNA METHODOLOGY

### What is the RHNA methodology?

At its core, RHNA is about connecting regional housing needs with the local planning process and ensuring local Housing Elements work together to address regional housing challenges. Working with the [Housing Methodology Committee](#), ABAG develops a methodology, or formula, that shares responsibility for accommodating the Bay Area's Regional Housing Needs Determination (RHND) by quantifying the number of housing units, separated into four income categories, that will be assigned to each city, town, and county to incorporate into its Housing Element.

The four income categories included in the RHND are:

- Very Low Income: 0-50% of Area Median Income
- Low Income: 50-80% of Area Median Income
- Moderate Income: 80-120% of Area Median Income
- Above Moderate Income: 120% or more of Area Median Income

The allocation formula is made up of factors that use data for each jurisdiction in the region to determine each jurisdiction's share of the total housing need. The allocation formula assigns units based on relative relationships between jurisdictions within the region. For example, if there is a factor to allocate units based on access to jobs, then a jurisdiction with many jobs will be allocated more units and a jurisdiction with fewer jobs will be allocated fewer units.

### **What are the objectives and factors that must be considered in the RHNA methodology?**

The RHNA objectives provide the guiding framework for how ABAG must develop the methodology. ABAG is required to demonstrate how its methodology furthers each of the objectives. The RHNA factors include a longer list of considerations that must be incorporated into the methodology to the extent that sufficient data is available.

Summary of RHNA objectives [from [Government Code §65584\(d\)](#)]:

1. Increase housing supply and mix of housing types, with the goal of improving housing affordability and equity in all cities and counties within the region.
2. Promote infill development and socioeconomic equity; protect environmental and agricultural resources; encourage efficient development patterns; and achieve greenhouse gas reduction targets.
3. Improve intra-regional jobs-to-housing relationship, including the balance between low-wage jobs and affordable housing units for low-wage workers in each jurisdiction.
4. Balance disproportionate household income distributions (more high-income allocation to lower-income areas, and vice-versa)
5. Affirmatively further fair housing

Summary of RHNA factors [from [Government Code §65584.04\(d\)](#)]:

1. Existing and projected jobs and housing relationship, particularly low-wage jobs and affordable housing
2. Lack of capacity for sewer or water service due to decisions outside a jurisdiction's control
3. The availability of land suitable for urban development
4. Lands protected from urban development under existing federal or state programs
5. County policies to preserve prime agricultural land

6. The distribution of household growth assumed for regional transportation plans and opportunities to maximize use of public transportation and existing transportation infrastructure
7. Agreements between a county and cities in a county to direct growth toward incorporated areas of the county
8. The loss of units in assisted housing developments as a result of expiring affordability contracts.
9. The percentage of existing households paying more than 30 percent and more than 50 percent of their income in rent
10. The rate of overcrowding
11. The housing needs of farmworkers
12. The housing needs generated by the presence of a university within the jurisdiction
13. The housing needs of individuals and families experiencing homelessness
14. The loss of units during a state of emergency that have yet to be rebuilt or replaced at the time of the analysis
15. The region's greenhouse gas emissions targets provided by the State Air Resources Board

### **What does it mean to “affirmatively further fair housing”?**

For the 2023-2031 RHNA, recent legislation added a new objective that requires the RHNA plan to “affirmatively further fair housing.” According to [Government Code Section 65584\(e\)](#), this means:

“Taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.”

In addition to this requirement for promoting fair housing as an outcome for RHNA, statutes required ABAG to collect information about [fair housing issues, strategies, and actions](#) in its survey of local jurisdictions about data to inform the development of the RHNA allocation methodology.

Lastly, a local jurisdiction's Housing Element must also affirmatively further fair housing and include a program that establishes goals and actions to do so. HCD has developed guidance for jurisdictions about [how to address affirmatively furthering fair housing in Housing Elements](#).

**Does RHNA dictate how local governments meet their communities' housing needs or where new housing goes within a given city or town?**

It is important to note the primary role of the RHNA methodology is to encourage a pattern of housing growth for the Bay Area. The final result of the RHNA process is the allocation of housing units by income category to each jurisdiction. It is in the local Housing Element that decisions about where future housing units could be located and the policies and strategies for addressing a community's specific housing needs are made. Local governments will include strategies related to issues such as addressing homelessness, meeting the needs of specific populations, affirmatively furthering fair housing, or minimizing displacement when they develop their Housing Elements. Although the RHNA methodology may include factors that conceptually assign housing to a particular geography, such as near a transit stop or in proximity to jobs, the resulting allocation from ABAG goes to the jurisdiction as a whole. It is up to local governments to use their Housing Elements to select the specific sites that will be zoned for housing.



The following table distinguishes between the narrow scope of RHNA and the broader requirements for jurisdictions' Housing Elements:

RHNA	LOCAL HOUSING ELEMENTS
Determines how many new homes each local jurisdiction must plan for in its Housing Element.	Includes goals, policies, quantified objectives, financial resources, and constraints for the preservation, improvement, and development of housing for all income levels.
Housing allocation is for an entire jurisdiction – housing is not allocated to specific sites or geographies within a jurisdiction.	Identifies sites for housing and provides an inventory of land suitable and available for residential development, including vacant sites and sites having potential for redevelopment.
A jurisdiction's housing allocation is divided across four income groups: very low-, low-, moderate-, and above moderate-income.	Analyzes special housing needs, such as those of the elderly; persons with disabilities, including a developmental disability; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter.
Beyond allocation of housing units by income group, does not address housing needs of specific population groups nor include policy recommendations for addressing those needs.	Must demonstrate local efforts to remove governmental and nongovernmental constraints that hinder locality from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters.
	Analyzes existing affordable units at risk of converting to market-rate due to expiring subsidies or affordability contracts.
	Assesses existing fair housing issues and strategies for affirmatively furthering fair housing.

## ABAG HOUSING METHODOLOGY COMMITTEE

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### What is the Housing Methodology Committee?

For the past several RHNA cycles, ABAG has convened an ad-hoc [Housing Methodology Committee \(HMC\)](#) to advise ABAG staff on the RHNA allocation methodology. The HMC for the 6<sup>th</sup> Cycle was convened in October 2019. The HMC is comprised of local elected officials and staff from every county in the Bay Area as well as stakeholder representatives selected by ABAG staff from a diverse applicant pool:

- 9 local government elected officials (one from each Bay Area county)
- 12 local government housing or planning staff (at least one from every county)
- 16 regional stakeholders representing diverse perspectives, from equity and open space to public health and public transit
- 1 partner from state government

View the HMC roster at [https://abag.ca.gov/sites/default/files/hmc\\_roster\\_06\\_16\\_2020\\_0.pdf](https://abag.ca.gov/sites/default/files/hmc_roster_06_16_2020_0.pdf).

### Why is the Housing Methodology Committee important?

ABAG's Housing Methodology Committee approach stands out compared to most other large Councils of Governments, going beyond the legal requirements by convening a forum where local elected officials, local government staff, stakeholder representatives, and the public can talk about the process together to inform the housing methodology.

The Housing Methodology Committee and its large stakeholder network is a key part of ABAG's approach to creating the RHNA allocation methodology. Through the HMC, ABAG staff seek to facilitate dialogue and information-sharing among local government representatives and stakeholders from across the Bay Area with crucial expertise to enable coordinated action to address the Bay Area's housing crisis. As ABAG strives to advance equity and affirmatively further fair housing, the agency seeks to ensure that a breadth of voices is included in the methodology process.

## CONNECTIONS BETWEEN RHNA AND PLAN BAY AREA 2050

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### How are RHNA and Plan Bay Area 2050 related?

[Plan Bay Area 2050](#) is the Bay Area's next long-range regional plan for transportation, housing, the economy, and the environment, focused on resilient and equitable strategies for the next 30 years. Anticipated to be adopted in fall 2021, Plan Bay Area 2050 will establish a blueprint for future growth and infrastructure. Plan Bay Area 2050 must meet or exceed a wide range of federal and state requirements, including a per-capita greenhouse gas reduction target of 19 percent by 2035. Upon adoption by MTC and ABAG, it will serve as the Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS) for the San Francisco Bay Area.

By law, the RHNA Plan is required to be consistent with the development pattern from Plan Bay Area 2050. These two planning processes seek to address the Bay Area's housing needs over different time horizons: Plan Bay Area 2050 has a planning horizon of 2050, while the 6<sup>th</sup> cycle of RHNA addresses the need to address short-term housing needs, from 2023 to 2031. To achieve the required consistency, both the overall housing growth for the region, as well as housing growth on a more localized level, must be greater in the long-range plan than over the eight-year RHNA cycle.

### **Is Plan Bay Area 2050 used as part of the RHNA process?**

In past RHNA cycles, ABAG used its long-range housing, population, and job forecast as an input into the RHNA methodology. However, this approach is not required by Housing Element Law. For the 6<sup>th</sup> cycle of RHNA, the [Housing Methodology Committee \(HMC\)](#) is still considering whether or not to incorporate data from the Plan Bay Area 2050 Blueprint into the RHNA methodology. Some of the options the HMC has discussed are:

1. Using the forecasted development pattern from the Blueprint as a baseline input into the RHNA methodology
2. Using a hybrid approach that uses the forecasted development pattern from the Blueprint along with additional factors to represent policy goals that are underrepresented in the Blueprint to direct RHNA allocations
3. Not using forecasted data from the Blueprint, but include factors that align with the policies and strategies in the Blueprint to direct RHNA allocations.

HMC members expressed interest and some concerns in considering use of the Plan in the methodology. While the strategies integrated into the Draft Blueprint were adopted in February 2020, the Draft Blueprint forecasted outcomes were released in July 2020. The HMC continued to consider the potential role of the Blueprint, if any, in achieving consistency with Plan Bay Area 2050 in summer 2020. If the Blueprint is not directly integrated, the HMC may need to adjust factors and weights to achieve consistency under Option 3 above.

## **RHNA SUBREGIONS**

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### **What is a subregion?**

Housing Element Law allows two or more jurisdictions to form a "subregion" to conduct a parallel RHNA process to allocate the subregion's housing need among its members. The subregion process allows for greater collaboration among jurisdictions, potentially enabling RHNA allocations that are more tailored to the local context as well as greater coordination of local housing policy implementation. A subregion is responsible for conducting its own RHNA process that meets all of the statutory requirements related to process and outcomes, including developing its own RHNA methodology, allocating a share of need to each member jurisdiction,

and conducting its own appeals process. The subregion's final allocation must meet the same requirements as the regional allocation: it must further the statutory objectives, have considered the statutory factors, and be consistent with the development pattern of the SCS.

### **What subregions have formed for the 6<sup>th</sup> Cycle of RHNA in the Bay Area?**

ABAG has received notification of formation of two subregions:

1. **Napa County:** includes City of American Canyon, City of Napa, Town of Yountville, and the County of Napa (*does not include City of Calistoga or City of St. Helena*)
2. **Solano County:** includes City of Benicia, City of Dixon, City of Fairfield, City of Rio Vista, City of Suisun City, City of Vacaville, City of Vallejo, and County of Solano

### **Can a jurisdiction withdraw from a subregion?**

Consistent with ABAG's approach for previous RHNA cycles, a jurisdiction may withdraw from a subregion without causing the dissolution of the entire subregion. If a jurisdiction withdraws from the subregion, the subregion's share of housing needs will be reduced by the number of units the withdrawing jurisdiction would receive from the most current version of ABAG's methodology available at the time when the jurisdiction decides to withdraw. The withdrawing member will then become part of the region's RHNA process, and it would receive its allocation based on the methodology adopted by ABAG.

## **RHNA AND LOCAL JURISDICTIONS**

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### **How are local jurisdictions involved in RHNA? Do they help create the housing methodology?**

Elected officials and staff from each county are on the [Housing Methodology Committee \(HMC\)](#) to represent the jurisdictions in that county. The HMC will make recommendations about the allocation methodology to the [ABAG Regional Planning Committee \(RPC\)](#), and the RPC will make recommendations to the [ABAG Executive Board](#), which will take action at key points in the RHNA process. Local governments will have the opportunity to comment on the proposed and draft methodology, both in written comments and at public meetings. There will also be an opportunity for local governments to file appeals on the draft allocations.

### **How does RHNA impact local jurisdictions' general plans? What is a Housing Element?**

California's [Housing Element Law](#) states that "designating and maintaining a supply of land and adequate sites suitable, feasible, and available for the development of housing sufficient to meet the locality's housing need for all income levels is essential to achieving the state's housing goals." Once a city, town or county receives its RHNA allocation, it must then update the Housing Element of its general plan and zoning to demonstrate how it will accommodate all of the units assigned for each income category. General plans serve as a local government's blueprint for how the city, town or county will grow and develop. There are seven elements that

all jurisdictions are required to include in the General Plan: land use, transportation, conservation, noise, open space, safety, and housing.

### **What agency is responsible for the certification of Housing Elements?**

ABAG's role in the RHNA process ends once it has allocated a share of the Regional Housing Needs Determination (RHND) to each local government in the Bay Area. The [California Department of Housing and Community Development](#) (HCD) reviews and approves Housing Elements and is responsible for all other aspects of [enforcing Housing Element Law](#).

### **Is there any funding and technical assistance available to assist local jurisdictions in creating their Housing Elements?**

In the 2019-20 Budget Act, Governor Gavin Newsom allocated \$250 million for all regions, cities, and counties to do their part by prioritizing planning activities that accelerate housing production to meet identified needs of every community. With this allocation, HCD established the [Local Early Action Planning Grant Program \(LEAP\)](#) with approximately \$25.6 million expected to come to cities and counties in the Bay Area and the [Regional Early Action Planning Grant Program \(REAP\)](#) with \$23.9 million expected to come to ABAG. The LEAP program augments HCD's [SB2 Planning Grants](#) which have provided approximately \$24 million in funding to localities in the Bay Area. ABAG is currently designing its REAP program to provide in-depth technical assistance to localities.

### **Some individuals in the Bay Area view their jurisdictions as "built out." How might communities with little to no vacant land meet their respective housing allocations?**

Large and small communities throughout the Bay Area have successfully identified under-utilized, infill sites for housing development. In past RHNA cycles, numerous Bay Area communities were able to meet their housing allocation exclusively through the identification of infill sites to provide for future housing needs. Encouraging the development of Accessory Dwelling Units (ADUs) is another strategy many Bay Area communities have used to add more housing choices for residents.

### **Will my jurisdiction be penalized if we do not plan for enough housing?**

State [Housing Element Law](#) requires that jurisdictions plan for all types of housing based on the allocations they receive from the RHNA process. The state requires this planning, in the form of having a compliant housing element, and submitting housing element annual progress reports, as a threshold or points-related requirement for certain funding programs (SB 1 Sustainable Community Planning Grants, SB 2 Planning Grants and Permanent Local Housing Allocation, etc.). Late submittal of a housing element can result in a jurisdiction being required to submit a four-year update to their housing element.

HCD [may refer jurisdictions to the Attorney General](#) if they do not have a compliant housing element, fail to comply with their HCD-approved housing element, or violate housing element

law, the housing accountability act, density bonus law, no net loss law, or land use discrimination law. The consequences of those cases brought by the Attorney General are up to the courts, but can include financial penalties.

In addition, as the housing element is one of the required components of the general plan, a jurisdiction without a compliant housing element, may risk legal challenges to their general plan from interested parties outside of HCD.

Local governments must also implement their commitments from the housing element, and the statute has several consequences for the lack of implementation. For example, failure to rezone in a timely manner may impact a local government's land use authority and result in a carryover of RHNA to the next cycle. Failure to implement programs can also influence future housing element updates and requirements, such as program timing. HCD may investigate any action or lack of action in the housing element.

### **Will my jurisdiction be penalized if we do not build enough housing?**

For [jurisdictions that did not issue permits for enough housing](#) to keep pace consistent with RHNA building goals, a developer can elect to use a ministerial process to get project approval for residential projects that meet certain conditions. This, in effect, makes it easier to build housing in places that are not on target to meet their building goals.

## **GLOSSARY OF ACRONYMS**

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ABAG - Association of Bay Area Governments

AMI – Area Median Income

DOF - California Department of Finance

HCD - California Department of Housing and Community Development

HMC - Housing Methodology Committee

MTC - Metropolitan Transportation Commission

RHNA - Regional Housing Need Allocation

RHND - Regional Housing Need Determination

RTP/SCS - Regional Transportation Plan/Sustainable Communities Strategy

TCAC - California Tax Credit Allocation Committee

## Objectives for developing regional allocations

**65584 (d)** The regional housing needs allocation plan shall further all of the following objectives:

- (1) **Increasing the housing supply and the mix of housing types**, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low income households.
- (2) **Promoting infill development and socioeconomic equity**, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region's greenhouse gas reductions targets provided by the State Air Resources Board pursuant to Section 65080.
- (3) Promoting an **improved intraregional relationship between jobs and housing**, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.
- (4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey.
- (5) **Affirmatively furthering fair housing.**

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## Process for COG gathering info to develop methodology

**65584.04. (b) (1)** No more than six months before the development of a proposed methodology for distributing the existing and projected housing need, each council of governments shall survey each of its member jurisdictions to request, at a minimum, information regarding the factors listed in subdivision (e) that will allow the development of a methodology based upon the factors established in subdivision (e).

(2) With respect to the objective in paragraph (5) of subdivision (d) of Section 65584, the survey shall review and compile information that will allow the development of a methodology based upon the issues, strategies, and actions that are included, as available, in an Analysis of Impediments to Fair Housing Choice or an Assessment of Fair Housing completed by any city or county or the department that covers communities within the area served by the council of governments, and in housing elements adopted pursuant to this article by cities and counties within the area served by the council of governments.

(3) The council of governments shall seek to obtain the information in a manner and format that is comparable throughout the region and utilize readily available data to the extent possible.

(4) The information provided by a local government pursuant to this section shall be used, to the extent possible, by the council of governments, or delegate subregion as applicable, as source information for the methodology developed pursuant to this section. The survey shall state that



none of the information received may be used as a basis for reducing the total housing need established for the region pursuant to Section 65584.01.

(5) If the council of governments fails to conduct a survey pursuant to this subdivision, a city, county, or city and county may submit information related to the items listed in subdivision (e) before the public comment period provided for in subdivision (d).

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### **Local Govt Appeals Process**

**65584.05. (a)** At least one and one-half years before the scheduled revision required by Section 65588, each council of governments and delegate subregion, as applicable, shall distribute a draft allocation of regional housing needs to each local government in the region or subregion, where applicable, and the department, based on the methodology adopted pursuant to Section 65584.04 and shall publish the draft allocation on its internet website. The draft allocation shall include the underlying data and methodology on which the allocation is based, and a statement as to how it furthers the objectives listed in subdivision (d) of Section 65584. It is the intent of the Legislature that the draft allocation should be distributed before the completion of the update of the applicable regional transportation plan. The draft allocation shall distribute to localities and subregions, if any, within the region the entire regional housing need determined pursuant to Section 65584.01 or within subregions, as applicable, the subregion's entire share of the regional housing need determined pursuant to Section 65584.03.

(b) Within 45 days following receipt of the draft allocation, a local government within the region or the delegate subregion, as applicable, or the department may appeal to the council of governments or the delegate subregion for a revision of the share of the regional housing need proposed to be allocated to one or more local governments. Appeals shall be based upon comparable data available for all affected jurisdictions and accepted planning methodology, and supported by adequate documentation, and shall include a statement as to why the revision is necessary to further the intent of the objectives listed in subdivision (d) of Section 65584. An appeal pursuant to this subdivision shall be consistent with, and not to the detriment of, the development pattern in an applicable sustainable communities strategy developed pursuant to paragraph (2) of subdivision (b) of Section 65080. Appeals shall be limited to any of the following circumstances:

(1) The council of governments or delegate subregion, as applicable, failed to adequately consider the information submitted pursuant to subdivision (b) of Section 65584.04.

(2) The council of governments or delegate subregion, as applicable, failed to determine the share of the regional housing need in accordance with the information described in, and the methodology established pursuant to, Section 65584.04, and in a manner that furthers, and does not undermine, the intent of the objectives listed in subdivision (d) of Section 65584.

(3) A significant and unforeseen change in circumstances has occurred in the local jurisdiction or jurisdictions that merits a revision of the information submitted pursuant to subdivision (b) of



Section 65584.04. Appeals on this basis shall only be made by the jurisdiction or jurisdictions where the change in circumstances has occurred.

(c) At the close of the period for filing appeals pursuant to subdivision (b), the council of governments or delegate subregion, as applicable, shall notify all other local governments within the region or delegate subregion and the department of all appeals and shall make all materials submitted in support of each appeal available on a publicly available internet website. **Local governments and the department may, within 45 days, comment on one or more appeals.** If no appeals are filed, the draft allocation shall be issued as the proposed final allocation plan pursuant to paragraph (2) of subdivision (e).

(d) No later than 30 days after the close of the comment period, and after providing all local governments within the region or delegate subregion, as applicable, at least 21 days prior notice, the council of governments or delegate subregion shall conduct one public hearing to consider all appeals filed pursuant to subdivision (b) and all comments received pursuant to subdivision (c).

(e) No later than 45 days after the public hearing pursuant to subdivision (d), the council of governments or delegate subregion, as applicable, shall do both of the following:

(1) Make a final determination that either accepts, rejects, or modifies each appeal for a revised share filed pursuant to subdivision (b). Final determinations shall be based upon the information and methodology described in Section 65584.04 and whether the revision is necessary to further the objectives listed in subdivision (d) of Section 65584. The final determination shall be in writing and shall include written findings as to how the determination is consistent with this article. The final determination on an appeal may require the council of governments or delegate subregion, as applicable, to adjust the share of the regional housing need allocated to one or more local governments that are not the subject of an appeal.

(2) Issue a proposed final allocation plan.

(f) In the proposed final allocation plan, the council of governments or delegate subregion, as applicable, shall adjust allocations to local governments based upon the results of the appeals process. If the adjustments total 7 percent or less of the regional housing need determined pursuant to Section 65584.01, or, as applicable, total 7 percent or less of the subregion's share of the regional housing need as determined pursuant to Section 65584.03, then the council of governments or delegate subregion, as applicable, shall distribute the adjustments proportionally to all local governments. If the adjustments total more than 7 percent of the regional housing need, then the council of governments or delegate subregion, as applicable, shall develop a methodology to distribute the amount greater than the 7 percent to local governments. The total distribution of housing need shall not equal less than the regional housing need, as determined pursuant to Section 65584.01, nor shall the subregional distribution of housing need equal less than its share of the regional housing need as determined pursuant to Section 65584.03.

(g) Within 45 days after the issuance of the proposed final allocation plan by the council of governments and each delegate subregion, as applicable, the council of governments shall hold a public hearing to adopt a final allocation plan. To the extent that the final allocation plan fully

allocates the regional share of statewide housing need, as determined pursuant to Section 65584.01 and has taken into account all appeals, the council of governments shall have final authority to determine the distribution of the region's existing and projected housing need as determined pursuant to Section 65584.01. The council of governments shall submit its final allocation plan to the department within three days of adoption. Within 30 days after the department's receipt of the final allocation plan adopted by the council of governments, the department shall determine if the final allocation plan is consistent with the existing and projected housing need for the region, as determined pursuant to Section 65584.01. The department may revise the determination of the council of governments if necessary to obtain this consistency.

(h) Any authority of the council of governments to review and revise the share of a city or county of the regional housing need under this section shall not constitute authority to revise, approve, or disapprove the manner in which the share of the city or county of the regional housing need is implemented through its housing program.

(i) Any time period in subdivision (d) or (e) may be extended by a council of governments or delegate subregion, as applicable, for up to 30 days.

(j) The San Diego Association of Governments may follow the process in this section for the draft and final allocation plan for the sixth revision of the housing element notwithstanding such actions being carried out before the adoption of an updated regional transportation plan and sustainable communities strategy.

(Amended by Stats. 2019, Ch. 634, Sec. 4. (AB 1730) Effective January 1, 2020.)

County

	Baseline	2050 Households (Blueprint)				
	Income Group	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
San Mateo	Atherton	130	80	50	130	390
	Belmont	450	260	290	760	1,760
	Brisbane	730	420	490	1,280	2,920
	Burlingame	920	530	570	1,480	3,500
	Colma	80	40	30	80	230
	Daly City	1,060	610	800	2,080	4,550
	East Palo Alto	180	100	160	400	840
	Foster City	590	340	340	870	2,140
	Half Moon Bay	130	80	60	140	410
	Hillsborough	250	140	100	260	750
	Menlo Park	720	420	520	1,340	3,000
	Millbrae	570	330	400	1,020	2,320
	Pacifica	530	300	320	820	1,970
	Portola Valley	70	40	40	110	260
	Redwood City	1,280	740	880	2,270	5,170
	San Bruno	520	300	370	950	2,140
	San Carlos	640	370	400	1,030	2,440
	San Mateo	1,710	990	1,120	2,900	6,720
	South San Francisco	970	560	680	1,770	3,980
	Unincorporated San Mateo	980	560	470	1,220	3,230
	Woodside	140	80	50	140	410

2019 Households Baseline					
Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total	
140	80	70	170	460	
640	370	370	960	2,340	
60	30	50	130	270	
780	450	450	1,170	2,850	
20	10	10	30	70	
1,180	680	970	2,520	5,350	
190	110	210	540	1,050	
820	470	440	1,120	2,850	
130	80	60	160	430	
300	170	130	330	930	
750	430	510	1,330	3,020	
500	290	320	820	1,930	
830	480	420	1,100	2,830	
110	60	60	150	380	
1,290	740	900	2,320	5,250	
570	330	460	1,180	2,540	
730	420	420	1,080	2,650	
1,910	1,100	1,220	3,160	7,390	
760	440	620	1,590	3,410	
930	530	430	1,110	3,000	
160	90	70	180	500	