



CITY of BRISBANE

City Council Meeting Agenda

Thursday, January 18, 2024 at 7:30 PM • Hybrid Meeting 50 Park Place, Brisbane, CA

The public may observe/participate in City Council meetings using remote public comment options or attending in person. City Council members shall attend in person unless remote participation is permitted by law. The City Council may take action on any item listed in the agenda.

TO ADDRESS THE COUNCIL

IN PERSON

Location: 50 Park Place, Brisbane, CA 94005, Community Meeting Room

Mayor O'Connell will be teleconferencing from 52 Josefa Ortiz de Dominguez Colibri Condos #104 Bucerias, Nayarit, Mexico

Masking is not required but according to the California Department of Public Health guidelines, people at higher risk for severe illness should consider masking. To help maintain public health and safety, we respectfully request that people not attend in-person if they are experiencing symptoms associated with COVID-19 or are otherwise ill and likely contagious (e.g., respiratory illnesses).

To address the City Council on any item – whether on the posted agenda or not – please fill out a Request to Speak Form located in the Community Meeting Room Lobby and submit it to the City Clerk. Speakers are not required to submit their name or address.

REMOTE PARTICIPATION

Members of the public may participate in the City Council meeting by logging into the Zoom Webinar listed below. City Council meetings may also be viewed live and/or on-demand via the City's YouTube Channel, youtube.com/brisbaneca, or on Comcast Ch. 27. Archived videos may be replayed on the City's website, brisbaneca.org/meetings. Please be advised that if there are technological difficulties, the meeting will nevertheless continue if remote participation is available.

The agenda materials may be viewed online at brisbaneca.org at least 72 hours prior to a Regular Meeting, and at least 24 hours prior to a Special Meeting.

Remote Public Comments:

Remote meeting participants may address the City Council. We also encourage you to submit public comments in writing in advance of a meeting. Aside from commenting personally while in the Zoom Webinar, the following email and text line will be also monitored during the meeting and public comments received will be noted for the record during Oral Communications 1 and 2 or during an agenda item.

Email: ipadilla@brisbaneca.org or **Text:** (628) 219-2922

Join Zoom Webinar: zoom.us (please use the latest version: zoom.us/download)
brisbaneca.org/cc-zoom

Webinar ID: 991 9362 8666

Call In Number: 1 (669) 900-9128

Note: Callers dial *9 to "raise hand" and dial *6 to mute/unmute.

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.

WRITINGS THAT ARE RECEIVED AFTER THE AGENDA HAS BEEN POSTED

Any writings that are received after the agenda has been posted but before 4pm of the day of the meeting will be available for public inspection at the front lobby in City Hall and on the internet (brisbaneca.org/meetings). Any writings that are received after 4pm of the day of the meeting will be available on the internet at the start of the meeting (brisbaneca.org/meetings), at which time the materials will be distributed to the Council.

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

ROLL CALL

- A. Consider any request of a City Councilmember to attend the meeting remotely under the “Emergency Circumstances” of AB 2449

ADOPTION OF AGENDA

ORAL COMMUNICATIONS NO. 1

CONSENT CALENDAR

- B. Approve Minutes of City Council Special Meeting of December 14, 2023
- C. Approve Minutes of City Council Closed Session Meeting of December 14, 2023
- D. Accept Investment Report as of November 2023
- E. Introduction of an Ordinance, Waiving First Reading, Repealing and Replacing Chapter 6.04 of the Brisbane Municipal Code Concerning Animal Control Regulations to Clarify Existing Definitions, Enact Additional Requirements, and Revise Service Fees

(Introduction of the Ordinance is not subject to environmental review because the Ordinance is general policy and procedure making and therefore it is not a project under the California Environmental Quality Act. Section 15378 (b) of the CEQA Guidelines)

- F. Consider Adoption of the Dark Sky Ordinance, waiving second reading, adding Chapter 15.88 Outdoor Lighting Standards to the Brisbane Municipal Code

(This Ordinance is exempt from further environmental review under the California Environmental Quality Act (CEQA) because it is not a project (CEQA Guidelines, §15378 (b) (2)). As proposed, the ordinance will result in required changes to streetlights and other public facilities within fifteen (15) years of the effective date, with an estimated cost upwards of \$1M. Additional implementation costs may include equipment and

training for police officers. Staff proposes to create a program to systematically make updates over time.)

NEW BUSINESS

- G. Capital Improvement Plan Update for Fiscal Year 2023/2024

STAFF REPORTS

- H. City Manager's Report on Upcoming Activities
 - i. Development Projects Status report – Quarter 1 of 2024

MAYOR/COUNCIL MATTERS

- I. Countywide Assignments and Subcommittee Reports
 - i. Congressman Mullin's Coffee with City Council 1/25/23 9am-10am at San Mateo County Office of Education
- J. Written Communications

ORAL COMMUNICATIONS NO. 2

ADJOURNMENT

File Attachments for Item:

B. Approve Minutes of City Council Special Meeting of December 14, 2023



BRISBANE CITY COUNCIL
ACTION MINUTES

**CITY COUNCIL SPECIAL MEETING AGENDA
THURSDAY, DECEMBER 14, 2023**

HYBRID MEETING, 50 PARK PLACE, BRISBANE, CA 94005

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

Mayor Davis called the meeting to order at 7:34 P.M. and led the Pledge of Allegiance.

ROLL CALL

**A. Consider any request of a City Councilmember to attend the meeting remotely under the
“Emergency Circumstances” of AB 2449**

No Councilmembers made a request to attend the meeting remotely under “Emergency Circumstances” of AB 2449. Councilmember Cunningham participated by Teleconference at Unit 2/212 Beach Road Batehaven, NSW 2536, Australia.

Councilmembers present: Councilmembers Cunningham, Lentz, Mackin, O’Connell and Mayor Davis
Councilmembers absent: None

Staff Present: City Manager Holstine, City Clerk Padilla, City Attorney McMorro, Finance Director Yuen, City Engineer Breault, Human Resources Director, Assistant to the City Manager Cheung, Economic Director Bull, Parks and Recreation Supervisor, Fire Chief Myers, Community Development Director Swiecki, Police Chief Macias, Police Commander Garcia and Management Analyst Ibarra

REPORT OUT OF CLOSED SESSION

City Attorney McMorro reported that the City Council made no decision and staff was given direction on the Real Property Negotiation Item and the Anticipated Litigation Item. Council was provided an update on the Pending Litigation Item.

ADOPTION OF AGENDA

Mayor Davis made a request to adjourn the meeting in memory of Peter Grace and Trevor Towle. Councilmember O’Connell made a motion, seconded by Councilmember Cunningham, to approve the agenda as amended. The motion was carried unanimously by all present.

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

Noes: None

Absent: None

Abstain: None

AWARDS AND PRESENTATIONS

A. HIP Housing Calendar

Napallo Gómez-Somer, a board member of HIP Housing, thanked the Council for their support of HIP Housing and shared with them the new HIP Housing Calendar for 2024.

B. Volunteers of the Year and the Youth Volunteer of the Year Award

Mayor Davis presented Sagar Rajan with a Proclamation recognizing him for his volunteer service to the City of Brisbane and for being awarded the Youth Volunteer of the Year Award.

Mayor Davis presented Camille and Marc Salmon with a Proclamation recognizing them for their volunteer service to the City of Brisbane for being awarded the Volunteers of the Year Award.

ORAL COMMUNICATIONS NO. 1

Michele Salmon commented that she's against selling public property from Closed Session's Property Negotiation item because it is a safety buffer for our town and it's next to habitat.

CONSENT CALENDAR

C. Approve Minutes of City Council Special Meeting of November 29, 2023

D. Approve Minutes of City Council Meeting of November 16, 2023

E. Approve Minutes of City Council Special Meeting of November 16, 2023

F. Approve Minutes of City Council Closed Session Meeting of November 16, 2023

G. City's Investment Report for October 2023

H. Acceptance of Annual Report of Development Impact Fees for the Fiscal Year Ended June 30, 2023

Councilmember Mackin made a motion, seconded by Councilmember O'Connell, to approve the agenda as amended. The motion was carried unanimously by all present.

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

Noes: None

Absent: None

Abstain: None

NEW BUSINESS

I. Election of New Mayor and Mayor Pro Tem

Councilmembers Lentz made a statement on how everyone in the Council should have the same opportunity to be elected as Mayor. Councilmember Mackin made a statement on how she is casting her vote for Mayor and Mayor Pro Tem during such a critical juncture for Brisbane. She stated that she would like to nominate Mayor Pro Tem O'Connell as Mayor and Councilmember Cunningham as Mayor Pro Tem.

Nancy Lacsamana commented that this matter has been divisive in the community. She added that Councilmember Lentz has had an eight-year gap from being Mayor and the Council is setting an awful precedent. She also mentioned that Council needs to be more diverse.

Roland Lebrun commented that if constituents are not agreeing with Council decisions regarding the rotation, place a measure for the Mayor to get elected by Brisbane and not by Councilmembers.

It was noted for the record that Jennifer, Ken, Cassandra and Sebastian Bousquet submitted written correspondence stating that they are hopeful that Councilmember Lentz will be appointed Mayor for the next rotation.

Councilmember Mackin made a motion, seconded by Mayor Davis, to elect Mayor Pro Tem O'Connell for Mayor and Councilmember Cunningham for Mayor Pro Tem. The motion passes with a 4 to 1 vote.

Ayes: Councilmember Cunningham, Mackin, O'Connell and Mayor Davis

Noes: Councilmember Lentz

Absent: None

Abstain: None

J. Administration of Oath of Office of Newly Elected Mayor and Mayor Pro Tem

City Clerk Padilla administered the Oath of Office for the newly elected Mayor Terry O'Connell. Mayor Pro Tem Karen Cunningham was teleconferencing from Australia and will take the Oath of Office once she is back in Brisbane.

Newly elected Mayor O'Connell thanked the Council for the honor of serving as Mayor.

K. Recognize Outgoing Mayor Madison Davis for Her Service

Newly elected Mayor O'Connell read a Proclamation recognizing outgoing Mayor Madison Davis for her dedicated service to the City of Brisbane as Mayor from December 15, 2023 to December 14, 2023. The Council appreciated her energy and passing in making the City of Brisbane a better place to live, thrive and prosper.

The Council took a brief break for refreshments.

STAFF REPORTS

L. City Manager's Report on Upcoming Activities

No report was given.

MAYOR/COUNCIL MATTERS

M. Confirmation of City Manager Recruitment Subcommittee

After a brief report from City Manager Holstine, Councilmember Cunningham made a motion, seconded by Councilmember Davis, to select Councilmember Davis and newly elected Mayor O'Connell to continue as members of the Ad Hoc City Manager Recruitment Subcommittee. The motion was carried unanimously by all present.

Ayes: Councilmember Cunningham, Davis, Lentz, Mackin and Mayor O'Connell

Noes: None

Absent: None

Abstain: None

N. Countywide Assignments and Subcommittee Reports

Councilmembers reported on their latest activities within their Countywide Assignments and Subcommittees.

O. Written Communications

Written Communication was received from Jennifer, Ken, Cassandra and Sebastian Bousquet (12/14/23) regarding Item J, the Election of the New Mayor and Mayor Pro Tem.

ORAL COMMUNICATIONS NO. 2

Michele Salmon was concerned about the trees in the Marina that are dying. She is concerned that this is due to a breach in the cap. She also noted that former Councilmember Lori Liu was elected and lived on the Ridge.

Roland Lebrun has a possible candidate for the City Manager recruitment but the recruitment is not yet open.

Councilmember Cliff Lentz thanked the members of the public who spoke in support of him.

ADJOURNMENT

Mayor O'Connell adjourned the meeting at 8:51 P.M. in memory of Peter Grace and Trevor Towle.

Ingrid Padilla

City Clerk

File Attachments for Item:

C. Approve Minutes of City Council Closed Session Meeting of December 14, 2023



BRISBANE CITY COUNCIL

ACTION MINUTES

BRISBANE CITY COUNCIL CLOSED SESSION MEETING

THURSDAY, DECEMBER 18, 2023

*HYBRID MEETING, 50 PARK PLACE LARGE CONFERENCE ROOM,
BRISBANE, CA*

7:00 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. Conference With Real Property Negotiator Under Government Code Section 54956.8

PROPERTY: A portion of Lot 1, Block I, Tract 862, being approximately 29,000 square feet and located generally west of South Hill Drive

NEGOTIATOR: City Manager Clay Holstine

NEGOTIATING PARTIES: City of Brisbane, BLT Enterprises

UNDER NEGOTIATION: Terms of Payment

E. Conference with Legal Counsel—Anticipated Litigation

Initiation of litigation pursuant to paragraph (4) of subsection (d) of Section 54956.9.

Number of cases: 1

F. Conference with Legal Counsel—Pending Litigation

Government Code, Section 54956.9 (d) (1). Number of Cases: One

- County of San Mateo, Town of Atherton, City of Brisbane, et al **vs** Monsanto Company, Solutia, Inc., Pharmacia, LLC and DOES 1-100 (Case No: 22CIV1667)

Mayor Davis called the meeting to order at 7:01 P.M. Councilmember Cunningham participated by Teleconference at Unit 2/212 Beach Road Batehaven, NSW 2536, Australia.

Councilmember O'Connell made a motion, seconded by Councilmember Lentz, to approve the Closed Session Meeting Agenda as it stands. The motion passed unanimously by all present.

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

Noes: None

Absent: None

Abstain: None

Michele Salmon commented that she is against selling the public property because we need it for fire safety and access to trails.

Roland Lebrun commented that it would be helpful to mark the portion of the parcel that is being discussed.

Mayor Davis adjourned the meeting into Closed Session.

REPORT OUT OF CLOSED SESSION

City Attorney McMorrow reported that the City Council made no decision and staff was given direction on the Real Property Negotiation and the Anticipated Litigation Item. Council was provided an update on the Pending Litigation Item.

ADJOURNMENT

The meeting was adjourned at 7:31 P.M.

Ingrid Padilla, City Clerk

File Attachments for Item:

D. Accept Investment Report as of November 2023

CITY OF BRISBANE
CASH BALANCES & INVESTMENTS
SOURCE OF FUNDING
November 30, 2023

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		\$ 3,898,417	\$ 3,898,417	\$ 3,898,417	0.000		
STATE FUND (LAIF)	Deposit on call	continuous	\$ 553,718	\$ 553,718	\$ 553,718	3.760	on call	110% collateral no rating
<i>Other Investments</i>								
	FFCB	3/8/2022	\$ 1,000,000	\$ 1,000,000	\$ 990,050	1.670	03/08/2024	
	FHLB	4/22/2022	\$ 1,000,000	\$ 1,000,000	\$ 988,500	2.400	04/22/2024	
	Goldman Sachs	5/1/2019	\$ 246,000	\$ 246,000	\$ 243,262	2.750	05/01/2024	
	FHLB	7/26/2022	\$ 1,000,000	\$ 1,000,000	\$ 987,130	3.350	07/26/2024	
	Wells Fargo Bank	9/23/2022	\$ 250,000	\$ 250,000	\$ 246,110	3.750	09/23/2024	
	American Express	9/21/2022	\$ 250,000	\$ 250,000	\$ 246,240	3.750	09/24/2024	
	FHLB	12/31/2021	\$ 1,000,000	\$ 1,000,000	\$ 964,900	1.000	09/30/2024	
	FHLM	12/13/2022	\$ 1,000,000	\$ 1,000,000	\$ 995,180	5.140	12/13/2024	
	FHLB	3/24/2022	\$ 1,000,000	\$ 1,000,000	\$ 960,020	2.000	03/24/2025	
	FHLB	4/22/2022	\$ 1,000,000	\$ 1,000,000	\$ 968,200	2.750	04/22/2025	
	FHLB	7/28/2022	\$ 1,000,000	\$ 1,000,000	\$ 982,440	4.050	07/28/2025	
	FHLB	12/31/2021	\$ 1,000,000	\$ 1,000,000	\$ 938,220	1.300	09/30/2025	
	FHLB	10/27/2022	\$ 1,000,000	\$ 1,000,000	\$ 999,190	4.750	10/27/2025	
	FHLB	10/27/2022	\$ 1,000,000	\$ 1,000,000	\$ 995,840	5.250	10/27/2025	
	FFCB	9/12/2022	\$ 1,000,000	\$ 1,000,000	\$ 981,470	4.125	12/12/2025	
	FHLM	8/28/2023	\$ 1,000,000	\$ 1,000,000	\$ 996,450	5.700	06/28/2026	
	FHLM	9/29/2022	\$ 1,000,000	\$ 1,000,000	\$ 978,190	4.150	09/29/2026	
	FHLM	10/30/2023	\$ 1,000,000	\$ 1,000,000	\$ 1,002,270	5.550	10/30/2026	
	FHLB	3/25/2022	\$ 1,000,000	\$ 1,000,000	\$ 936,800	2.600	03/25/2027	
	FHLB	5/26/2022	\$ 1,000,000	\$ 1,000,000	\$ 973,530	3.500	05/26/2027	
	FHLB	5/26/2022	\$ 1,000,000	\$ 1,000,000	\$ 963,720	3.750	05/26/2027	
	FHLB	9/30/2022	\$ 1,000,000	\$ 1,000,000	\$ 985,800	5.000	09/30/2027	
	FHLM	10/11/2023	\$ 1,000,000	\$ 1,000,000	\$ 1,002,680	6.150	10/11/2028	
BNY Mellon	Treasury Obligations	continuous	\$ 2,171,689	\$ 2,171,689	\$ 2,171,689	5.270	on call	110% collateral
Sub-total			\$ 22,917,689	\$ 22,917,689	\$ 22,497,881			
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	\$ 1	10036			
		Interest Fund	Fed Treas Obl	\$ 0	10037			
U.S. Bank	2015 Utility Capital (545)	Improvements	Fed Treas Obl	\$ -	10031			
		Reserve	Fed Treas Obl	\$ 483	10032			
		Expense Fund	Fed Treas Obl	\$ -	10035			
BNY Mellon	2023 BGVMIDFA Bond (328)	Improvements	Fed Treas Obl	\$ -	10031			
		Reserve / Project	Fed Treas Obl	\$ 5,568,949	10032			
		Expense Fund	Fed Treas Obl	\$ 3,060	10035			
		Principal	Fed Treas Obl	\$ -	10036			
		Interest Fund	Fed Treas Obl	\$ -	10037			
PARS	OPEB Trust	Trust Cash	Investments	\$ 3,776,074	13050			
PARS	Retirement Trust	Trust Cash	Investments	\$ 1,468,417	13050			
Sub-total	Cash with Fiscal Agents			\$ 10,816,985				
Total other investments			\$ 33,734,675	\$ 33,734,675	\$ 22,497,881			
TOTAL INVESTMENTS & CASH BALANCES			\$ 38,186,810	\$ 38,186,810	\$ 26,950,016			

Outstanding Loans to Department Heads

	Date of loan	Amount	Amount Remaining	Interest Rate
Stuart Schillinger	4/1/2002	318,750	\$ 318,750	Variable, LAIF + 1%
Clay Holstine (1)	7/8/2008	300,000	\$ -	Paid off Dec 2016
Clay Holstine (2)	9/10/2008	200,000	\$ 60,000	Variable, LAIF + 1%

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

Two year Treasury	4.73%	
Weighted Interest	3.30%	
Weighted maturity	1.85	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) 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.

Carolina Yuen
CITY TREASURER

File Attachments for Item:

E. Introduction of an Ordinance, Waiving First Reading, Repealing and Replacing Chapter 6.04 of the Brisbane Municipal Code Concerning Animal Control Regulations to Clarify Existing Definitions, Enact Additional Requirements, and Revise Service Fees

(Introduction of the Ordinance is not subject to environmental review because the Ordinance is general policy and procedure making and therefore it is not a project under the California Environmental Quality Act. Section 15378 (b) of the CEQA Guidelines)



CITY COUNCIL CLOSED SESSION AGENDA REPORT

Meeting Date: January 18, 2024

From: Clayton Holstine, Interim City Manager & Lisa Macias, Police Chief

Subject: Ordinance Repealing and Replacing Chapter 6.04 of the Brisbane Municipal Code Concerning Animal Control Regulations to Clarify Existing Definitions, Enact Additional Requirements, and Revise Service Fees

Introduction and adoption of the Ordinance is not subject to environmental review because the Ordinance is general policy and procedure making and therefore it is not a project under the California Environmental Quality Act. Section 15378 (b) of the CEQA Guidelines.

RECOMMENDATION:

Introduce an ordinance repealing and replacing Chapter 6.04 of the Brisbane Municipal Code concerning animal control regulations to clarify existing definitions, enact additional requirements for animal control, and revise animal control service fees

BACKGROUND:

Chapter 6.04 of the Brisbane Code contains regulations regarding animal control in the City. The animal control regulations are in place to protect the health and safety of City residents. The regulations historically have mirrored those adopted by the County in that the County, through its agreement with the Peninsula Humane Society ("PHS"), enforces the animal control regulations in the City.

The County's animal control ordinance was originally adopted on October 23, 1951, and, until earlier this year, was last updated on October 17, 2006. Brisbane has amended Chapter 6.04 as the County amended its ordinance. The County adopted a revised County ordinance on January 8, 2024 that will go into effect on February 8, 2024.

Twenty cities within the County have adopted animal control ordinances that are the same or substantially the same as the County's ordinances, as required by the animal control services agreement between the cities and the County. The County has a separate contract with PHS (entered into in 2021) by which PHS carries out the day to day enforcement of the City's ordinance in Brisbane.

In 2023, the Animal Control and Licensing Program Manager of San Mateo County Health informed each of the cities within the County, including Brisbane, that a process has started to revise and update the County Animal Control Ordinances and invited all parties to participate in

the discussion and development process. From that open invitation, the Program Manager worked with a committee of five City Attorneys, representing South San Francisco, Millbrae, Pacifica, Half Moon Bay, and Redwood City, as well as the County Attorney's Office, and with ongoing input from the Peninsula Humane Society and Society for the Prevention of Cruelty to Animals (including its counsel), to develop a draft Animal Control Ordinance. All key stakeholders (the County, Cities, and the contractor animal control agency) of San Mateo County animal control ultimately were involved in the drafting process.

The committee of stakeholders identified opportunities to clarify existing language, remove repetitive language, and add substantive changes to the existing ordinances, with an emphasis on increasing efficiency in enforcement, clarifying language deemed confusing, and addressing deficiencies that had emerged after years of experience and enforcement under the then current County ordinance. The intent of a revised County ordinance was to enhance enforceability, create streamlined processes, provide clarity in definitions based on real-world experience, and above all else, ensure public safety.

As part of the development process, the County Program Manager undertook a comprehensive study of other jurisdictions within California and in some circumstances sought feedback from those jurisdictions on how certain elements worked or did not work. The Program Manager carefully considered input from all relevant parties in order to draft a proposed ordinance that reflects the interests of all stakeholders.

Based thereon, the County repealed its animal control ordinance and replaced it with a revised and restated ordinance. In order for the County, through PHS, to enforce the provisions of its revised ordinance in Brisbane, Brisbane must also adopt the revised and restated County ordinance. Staff recommends City Council do so.

DISCUSSION

The following are the key provisions of the proposed ordinance updating Chapter 6.04 of the Brisbane Municipal Code:

- Updates existing definitions to improve enforcement capabilities and remove potential areas of confusion, particularly as relates to "Dangerous" and "Vicious" animal designations.
- Lowers the rabies vaccination age requirement, consistent with current state law.
- Updates language and enforcement regarding "Vicious" animals. An animal designated as "Vicious" is, in many circumstances, to be humanely euthanized. The proposed code raises the threshold for when an animal may be declared "Vicious" (and thus is to be

euthanized) as consistent with current standards and practical enforcement considerations. For offending animals deemed a significant danger to the public, a “Vicious” animal designation is still applicable.

- Updates language and enforcement regarding “Dangerous” animals. An animal designated as “Dangerous” is one which has exhibited behavior that indicates that heightened safety requirements for the keeping of such animal are required to ensure public protection. The proposed revised ordinance revises and clarifies the threshold for when an animal may be designated as “Dangerous.” Currently, a Dangerous animal designation remains for the life of the animal. Under the proposed revisions, an owner may apply for the designation to be lifted after a period of three years if it has been safely maintained under the permit, removing the need for oversight and enforcement. The County’s Program Manager has found that most animals deemed “Dangerous” (about 90%) do not re-offend, and that the lifting of designations for animals deemed no longer a danger to the public is consistent with the practice in other jurisdictions, as well as state recommendations under the California Food and Agriculture Code.
- Removes language indicating that an animal owner may not maintain a “Dangerous” animal in a home with a juvenile person under the age of 18. The committee could not find any other jurisdiction with this restriction in an ordinance, and is not aware of any instance in which it had actually improved public safety.
- Revises the fee schedule. Increases various fees, and clarifies the offenses for which administrative citations may be issued for violations of the ordinance.

The City Attorney has reviewed and approved the proposed ordinance as to form.

FISCAL IMPACT:

There is no direct fiscal impact from introducing/adopting this Ordinance. Any costs associated with implementing and enforcing the Ordinance will be recovered by imposing the fees set forth in the fee schedule in the Ordinance.

Clay Holstine

Clayton Holstine, Interim City Manager

Lisa Macias

Lisa Macias, Police Chief

Attachment: Ordinance Concerning Animal Control Regulations

ORDINANCE NO. _____

* * * * *

**AN ORDINANCE OF THE CITY OF BRISBANE REPEALING AND REPLACING
CHAPTER 6.04 (ANIMAL CONTROL) OF THE BRISBANE MUNICIPAL CODE TO
CLARIFY EXISTING DEFINITIONS, ENACT ADDITIONAL REQUIREMENTS FOR
ANIMAL CONTROL, AND REVISE ANIMAL CONTROL SERVICE FEES**

The City Council of the City of Brisbane **ORDAINS** as follows:

SECTION 1. Chapter 6.04 of the Brisbane Municipal Code is hereby repealed, and a new Chapter 6.04 of the Brisbane Municipal Code is hereby adopted, to be entitled and numbered and to read as follows:

CHAPTER 6.04 ANIMAL CONTROL

6.04.010 – Definitions

The following words and phrases, when used in this Chapter shall have the meaning set forth below:

"Animal Control Officer" – any person designated as the Animal Control Program Manager for the County, as well as the head of the County's animal control contractor and their duly authorized officers or deputies. In the event the County has no animal control contractor to provide animal control officers, or in cases of emergency in which additional animal control officers are needed, "animal control officer(s)" may include persons so designated by the Animal Control Manager.

"Animal Control Program" – that program established by the County and participating cities, and the Program's animal control contractor(s), if any, which contractor is specifically charged with regulating and enforcing laws dealing with animal

control within the participating jurisdictions. Animal Control Program includes the Licensing Program.

"Animal Control Program Manager" - that person employed by the County to oversee the Animal Control Program or designee.

"Animal Control Shelter" - A San Mateo County facility operated by the County, or by another public entity, an accredited, tax-exempt humane non-profit organization contracted with the County, or a for-profit business contracted with the County for the purpose of impounding, sheltering, adopting, or euthanizing seized, stray, distressed, homeless, abandoned, or unwanted animals.

"Caretaker" - any person 18 years of age, or older, who has assumed responsibility for the care, custody, or control of an animal(s).

"City"—the City of Brisbane, a municipal corporation.

"Dangerous Animal" - any animal, except a trained animal assisting a peace officer engaged in law enforcement duties, that constitutes a danger to persons or animals, and/or demonstrates any of the following behavior(s):

- (a) behavior that results in bodily harm that is less serious than a "Severe Injury", or
constitutes a substantial threat of bodily harm to a person; or
- (b) an attack on another animal which results in an injury that is sufficient to require veterinary care even if not received.

An animal which has been declared by an out of county jurisdiction as "potentially dangerous," "dangerous," "vicious," or any other similar designation, may be deemed a Dangerous or Vicious animal for the purposes of this Chapter, as determined by an Animal Control Officer.

"Health Officer" - that person so designated by the County of San Mateo.

“Humane Officer” - any person who is qualified and appointed pursuant to California Corporations Code Section 14502, and who is an employee of the County and designated as such by the County or an employee of a society for prevention of cruelty to animals or humane society that has contracted with the County to provide animal control services.

“Licensing Program” - that program within San Mateo County Health, including but not limited to, any County contractor specifically charged with regulating and selling animal licenses in the County of San Mateo.

“Owner” - any person 18 years of age or older who:

- (a) holds the license to the animal; or
- (b) if the animal is not licensed, is legally entitled to possession of the animal; or
- (c) has exercised primary responsibility for the care of the animal for thirty (30) or more consecutive calendar days.

“Person” – means any individual, partnership, corporation, organization, trade or professional association, firm, limited liability company, joint venture, association, trust, estate, or any other legal entity, and any officer, member, shareholder, director, employee, agent, or representative thereof.

“Severe injury” - Any physical injury to a human caused by an animal attack that involves tooth derived muscle tears, disfiguring wounds or laceration(s), multiple bites requiring sutures, broken bones and/or requires corrective surgery.

“Service Animal” - any animal defined as such by federal or state law.

“Vicious Animal” - any animal, except a trained animal assisting a peace officer engaged in law enforcement duties, which meets any or all of the following criteria:

- (a) Any animal that, at the time of the attack, is already designated as a Dangerous Animal and/or is the subject of a Dangerous Animal Permit, and which is found to have engaged in any of the following:
 - (1) behavior that results in bodily harm, or constitutes a substantial threat of bodily harm, to a person; or
 - (2) an attack on another animal which results in an injury that is sufficient to require veterinary care, whether or not received.
- (b) Any animal that inflicts Severe Injury to or kills a person.
- (c) Any animal which cannot be safely maintained with a Dangerous Animal permit.
- (d) Any animal designated by another governmental jurisdiction as, "dangerous", "vicious", or any other similar designation, if that prior designation is based on behavior which would meet the definition of Vicious under this Chapter, as determined by an Animal Control Officer.

6.04.020 - Animal Control Program.

- (a) The Animal Control Program is responsible for the enforcement of this Chapter.

The duties of the Animal Control Program shall include, but not be limited to, the following:

- (1) Provide animal control, sheltering services, and a rabies control program to carry out and enforce all provisions of this Chapter and California Health & Safety Code section 121690, and keep such records as may be required by law or contract.
- (2) Enforce the provisions of this Chapter and all applicable state and local laws relating to the care, treatment, and impounding of animals, and specifically to issue citations and to make arrests for violations of the provisions of this Chapter and related state laws, to the extent authorized by law.
- (3) Impound animals found to be in violation of this Chapter in the interest of protecting public health and safety.

- (4) Investigate animals pursuant to this Chapter or applicable state law and, if deemed appropriate, designate any such animals as Dangerous or Vicious pursuant to this Chapter.
 - (5) Impound animals which are in imminent or ongoing danger, or which are in need of safekeeping in order to protect the health and safety of the animal.
 - (6) Impound animals that are causing a threat to public safety.
 - (7) Where authorized under the law, to enter upon any premises upon which any animal is kept in order to seize or impound of any animal if reasonable cause exists to believe that such animal is being kept or has behaved in violation of the provisions of this Chapter.
 - (8) To remove and dispose of the carcass of any animal(s) found on any public right of way, except freeways or other areas maintained by Caltrans.
 - (9) Quarantine animals under the direction of the County Health Officer to ensure public health and safety.
 - (10) Euthanize and/or dispose of animal(s) humanely and in accordance with the law.
 - (11) Place for adoption, when appropriate, properly impounded animals if such animals are not redeemed after due notice to known Owners in accordance with the law.
 - (12) Provide and hold vaccination clinics in strategic locations throughout the County pursuant to Health and Safety Code 121690.
 - (13) Provide or make available at low cost, spay/neuter surgeries to dogs, cats, and rabbits.
 - (14) Provide for issuance of an animal license for a period not to exceed the term of the anti-rabies vaccination, as provided by state law.
 - (15) To collect any fees or charges provided for in this Chapter for the licensing, impounding and/or keeping of any animal, or for the enforcement of this Chapter.
- (b) Animal Control Officers qualified under Penal Code section 830.9, who are either employees of the County designated as such by the County, or employee(s) of and designated as such by a society for prevention of cruelty to animals or humane society which has contracted with the

County to provide animal control services, shall have the authority to issue citations and/or notices to appear in court, and obtain and execute search warrants to the maximum extent allowed by law, for violations of state and local animal control laws. Animal Control Officers shall have the authority provided by state law including, but not limited to, that described by Penal Code section 830.9. Animal Control Officers must complete Penal Code section 832 training.

- (c) Those employees of a society for prevention of cruelty to animals or humane society under contract with the County to provide animal control services, who have been appointed and qualify as humane officers under California Corporations Code section 14502, or its successor statute, shall have the authority to issue citations and/or notices to appear in court, and obtain and execute search warrants, to the maximum extent allowed by law, for violations of state and local animal control laws.
- (d) The County may contract for animal control services to be performed countywide, including within cities, provided agreement is made with the participating jurisdictions.

6.04.030 - Rabies Vaccinations.

- (a) Every dog or cat Owner shall ensure their animal is vaccinated for rabies by a licensed veterinarian in the manner prescribed or approved by state law and the State of California Department of Public Health, after the dog or cat attains the age of three (3) months of age and/or within ten (10) calendar days of acquiring an unvaccinated animal. This vaccination shall be obtained prior to issuing a license for the dog or cat. In addition, proof of vaccination shall be provided by the Owner or Veterinarian to the Licensing Program or the County's animal control contractor.
- (b) Every veterinarian who vaccinates or causes or directs to be vaccinated in the County any dog, or cat with rabies vaccine shall certify that such animal has been vaccinated. Every veterinarian shall submit to the licensing authority a copy of the County-approved rabies vaccination form, within ten (10) calendar days of the beginning of each month, for any dog or cat which they vaccinate or direct to be vaccinated with anti-rabies during the previous month. An Animal Control Officer or Animal Licensing staff shall have the right to inspect records of rabies vaccinations during normal business hours.
- (c) Upon receipt of a written request from a licensed veterinarian to exempt a microchipped pet from receiving a one or three-year vaccination, for medical reasons, the County Health Officer and/or designee shall review the basis for the request for exemption and approve or/deny said request.

6.04.040 - Dog and Cat Licenses.

- (a) Licensing requirements for dogs and cats shall be as follows:
- (1) An annual license shall be obtained, and an annual license fee shall be paid by the Owner for every dog or cat over the age of three (3) months owned or kept in the City. Said annual license fee shall be first due when the animal reaches three (3) months of age or within sixty (60) calendar days after the dog or cat is acquired, and due on the expiration date of the rabies vaccination and each year thereafter.
 - (2) New residents shall have sixty (60) calendar days in which to acquire such license.
 - (3) Persons renewing their license shall have thirty (30) calendar days following their due date before being found delinquent and assessed a late penalty.
 - (4) The fee for such license shall be as set forth in section 6.04.350 of this Chapter. The fee paid for the licensing of altered dogs and cats shall be less than said license fee for unaltered cats or dogs upon presentation of the proper certification. The license fee paid by persons over the age of 60 shall be at a discount.
 - (5) An Owner may obtain a three-year license for a cat or dog by submitting to the Licensing Program adequate proof of a three-year rabies vaccination of the animal to be licensed and payment of the applicable fees, as set forth in section 6.04.350 of this code.
 - (6) Any person who fails to pay such license fee after said fee is due or said dog or cat is required to be licensed, in addition to paying any past due license fee(s), may also be required to pay a late fee in accordance with Section 6.04.350 of this Chapter or may receive an administrative citation.
 - (7) A license shall be obtained, but no license fee shall be payable, by the Owner of any dog being raised, trained or used as a service animal, or for dogs that have served as a member of the armed forces of the United States of America, or any dog used by a local law enforcement agency for the purposes of law enforcement.
 - (8) Animals with microchip implants or other permanent identification acceptable to the Animal Control Program are not exempt from the mandatory licensing requirements.

(b) The licensing provisions in this Chapter are not applicable to the following:

- (1) Dogs or cats used for diagnostic purposes or research, the use having been approved by the California State Department of Health Services pursuant to section 1666 of the Health and Safety Code.
- (2) Dogs or cats used for teaching purposes in recognized educational institutions.
- (3) Dogs or cats owned by veterinarians licensed by the State and kept on the premises used by said veterinarians in their practice.

(c) Tags for dogs and cats shall be issued as follows:

- (1) The Licensing Program shall procure and, when licensing fee is paid, issue a lifetime tag which shall bear the number of the license. A record shall be kept with the name of the Owner together with a description of the dog or cat for which the license is issued and the number of the license, and a tag shall be provided to such person upon payment for such license as provided by this Chapter.
- (2) Whenever a tag has been lost or stolen, the Owner of the animal may request a duplicate tag upon payment of the required fee.
- (3) The Owner of a licensed dog or cat shall affix such tag to a suitable collar, which collar shall remain on the dog or cat at all times.
- (4) When an animal has been designated as a service animal, the Owner may obtain a lifetime service tag and shall be required to follow the requirements in Section 6.04.030 (a). Said tag will replace a regular dog license.
- (5) The owner or operator of any kennel, animal breeding facility, pet shop, or any place or establishment where animals are sold, adopted, or given away shall keep a permanent record of the name, address, and phone number of the purchaser of any dog or cat, along with the breed, color, sex, and age of each animal sold, adopted, or given away and shall forward such information to Animal Control Services within thirty (30) calendar days thereafter. An Animal Control Officer, County representative, or employee of the County's animal control contractor shall have the right to inspect such records during normal business hours, with forty-eight (48) hours prior notice to the Owner or operator.

6.04.050 - Public Protection from Dogs.

- (a) No Owner or possessor of a dog shall cause or allow such dog to bite, or physically threaten or harass any person unless necessary to protect the physical safety of a person.
- (b) Every Owner or possessor of a dog shall prevent such dog from causing injury to another animal while such animal is lawfully upon public or private property. The failure of the owner of a victim animal to have the animal on a leash shall not, in itself, constitute a mitigating factor in any attack.
- (c) No Owner or possessor of a dog shall command or provoke such dog to attack, sic or threaten a person unless such action is necessary to protect the physical safety of a person.
- (d) No Owner or possessor of a dog that resides other than in the City and is found to have violated this section shall thereafter allow such dog to be brought into the City unless the dog is fully enclosed in a vehicle and passing through to another location without stopping at any public or private premises within the City.

6.04.060 - Prohibited Conduct.

No Owner or other person having care, custody or control of any animal shall cause or permit it to do any of following:

- (a) To be upon any public street, sidewalk, park, school ground, any public property, or upon any unenclosed premises in this jurisdiction unless:
 - 1) the animal is properly licensed, if such licensing is necessary hereunder,
and
 - 2) the animal is controlled by a chain, lead rope, or leash, which is connected
to the animal's collar, saddle, harness, or halter. This requirement is not applicable to cats, or to service animals under the complete control of the Owner or caretaker.

An electric or invisible fence does not constitute an enclosure for the purposes of this requirement.

- (b) To trespass upon any private property without the consent of the owner thereof, and to knowingly permit the animal to remain upon the property, or to habitually continue to trespass thereon.
- (c) To suffer or permit such animal to habitually bark or meow or otherwise act to disturb the peace of any citizen or to be a public nuisance.

- (d) To be without proper and adequate food, water, shelter, care, and attention.
- (e) No person shall possess within the City any animal designated by another jurisdiction as “potentially dangerous”, “dangerous”, or “vicious,” or other designation based on the animal’s potential danger to humans and/or animals, without previously notifying Animal Control and receiving express written permission from the Animal Control Manager for the animal’s presence or residence in the City. A failure to receive prior permission is in itself a sufficient basis for an Animal Control Officer or peace officer to seize and impound such animal.
- (f) Subsection (a) 1) 2) of this section shall not be applicable to cats.

6.04.070 - Protection of Animals in Motor Vehicles.

- (a) No person shall leave or confine an animal in any unattended motor vehicle under conditions that endanger the health or well-being of said animal due to heat, cold, lack of adequate ventilation, lack of water, or other circumstances that could reasonably be expected to cause suffering, disability, or death of said animal.
- (b) An Animal Control Officer, Humane Officer or peace officer may remove an animal from a motor vehicle if the animal’s safety reasonably appears to be in immediate danger from heat, cold, lack of adequate ventilation, lack of water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal. An Animal Control Officer, Humane Officer or peace officer is authorized to take all steps that are necessary for the removal of such animal from the motor vehicle, including, but not limited to, breaking into the motor vehicle, after a reasonable effort has been made to locate the Owner or other person responsible.
- (c) If an animal is removed from a motor vehicle as set forth herein, the removing officer shall, if deemed necessary by the officer, take it to an animal shelter, veterinary hospital, or other place of safekeeping.
- (d) An Animal Control Officer or peace officer who removes an animal from a motor vehicle shall, in a conspicuous location on or within the motor vehicle, leave written notice bearing their name and office, and the address of the location where the animal can be claimed. The animal may be released to the Owner only after payment of all fees that have accrued

for the maintenance, care, medical treatment, or impoundment of the animal.

- (e) Nothing in this section shall preclude prosecution under both this section and California Penal Code Section 597 or any other provision of state or local law.

6.04.080 - Release from Confinement.

No person other than the Owner, or person authorized by the Owner of the animal shall release any animal from any confinement, vehicle, or restraint unless such release is necessary for the immediate health and safety of the animal. This section shall not apply to Animal Control Officers, Humane Officers, and/or peace officers.

6.04.090 - Declaration of Dangerous Animal.

- (a) No person shall knowingly keep, have, maintain, sell, trade, or let for hire an animal designated as Dangerous under this Chapter without obtaining a Dangerous Animal Permit from the Animal Control Officer. The animal Owner shall comply with all conditions of the Dangerous Animal Permit including, but not limited to, all requirements of section 6.04.100 of this Chapter. Any animal which is determined to be Dangerous under this Chapter and for which a permit has not been obtained shall be surrendered to an Animal Control Officer, Peace Officer, or a County animal control contractor agency for appropriate disposition, which may include humane euthanasia.
- (b) In determining whether or not an animal shall be designated as Dangerous, the Animal Control Officer, peace officer, or hearing officer may consider any relevant facts and circumstances, including but not limited to:
 - (1) the alleged attacking animal's prior history.
 - (2) the alleged attacking animal's Owner(s) ability to comply with this Chapter, and/or compliance with any prior Dangerous Animal Permits held by the alleged attacking animal's Owner(s).

- (3) whether any of the animals involved were previously deemed by a governmental jurisdiction as “potentially dangerous, “dangerous”, “vicious” or any other similar designation.
- (c) In determining whether or not an animal shall be designated as Dangerous, the Animal Control Officer, peace officer, or hearing officer, may consider the following mitigating factors:
 - (1) Whether at the time of the injury, attack or molestation, the person or animal suffering the injury, attack or molestation:
 - (i) provoked, tormented, teased, abused or assaulted the animal, thereby causing or contributing to the alleged behavior;
 - (ii) committed a willful trespass or other tort upon the private property of the Owner or caretaker of the animal in the presence of the animal;
 - (iii) threatened or committed an unjustified attack or assault against the Owner, caretaker or other person in control of the animal in the presence of the animal
 - (2) Any other mitigating factor relevant to whether the animal poses a threat to public health or safety. The failure of the Owner or person in control of a victim animal to have the victim animal on a leash shall not, in itself, constitute a mitigating factor in any attack.
- (d) The unwillingness of a victim or a particular witness to testify at a hearing shall not prevent designation of an animal as a Dangerous Animal, as long as sufficient evidence exists to support the designation.
- (e) In the event that an Animal Control Officer or peace officer determines it necessary to protect the health or safety of the public, or of any animal, they may immediately impound any animal according to the procedures set forth in this Chapter.
- (f) If an Animal Control Officer or peace officer has investigated and determined that an animal is Dangerous, the Animal Control Officer or peace officer shall deliver written notice of such determination to the Owner of the animal pursuant to section 6.04.260.

- (g) Should the Owner of the animal wish to contest the Dangerous Animal designation, the Owner may request a hearing, which hearing shall be conducted according to the procedures set forth in section 6.04.150 of this Chapter. The Owner shall submit a written request for a Dangerous Animal hearing to the Animal Control Officer within seven (7) calendar days of the written notification by the Animal Control Officer and/or peace officer that the animal has been declared dangerous.
- (1) Should the animal Owner not submit a request for an administrative hearing within the required timeframe, the administrative hearing process shall be deemed waived, the Dangerous Animal designation will be final, and the animal Owner shall obtain a Dangerous Animal permit within seven (7) calendar days of the written notification that the animal has been declared Dangerous.
 - (2) If the animal Owner requested a hearing and the hearing officer confirms the determination that the animal is Dangerous, the Owner must obtain the Dangerous Animal permit and meet the conditions required by such permit, within seven (7) calendar days of notice of such decision, unless the time is extended by an Animal Control Officer.
 - (3) If an animal is designated as Dangerous, but the Owner fails to obtain a Dangerous Animal Permit within the required timeframe, the animal will be deemed abandoned, and will be subject to disposition as deemed appropriate, including potential euthanasia by the County's animal control contractor, at the discretion of the Animal Control Officer, peace officer or City or County representative. If not already impounded, the animal will be promptly impounded. The Owner of the animal shall be responsible for all costs of impoundment of the animal incurred prior to such abandonment.
- (h) If after investigation by an Animal Control Officer or peace officer, that officer determines that the animal is not Dangerous, the victim or an Owner of a victim animal may appeal that determination, within seven (7) calendar days of notice of the decision given pursuant to section 6.04.260, by submitting to the Animal Control Officer or peace officer a written request for a hearing and paying the required fee. The Animal Control Officer or peace officer shall prepare a written report documenting its reasons for determining the animal not Dangerous and shall include evidence it has considered for and against the designation in its report. The hearing shall be conducted according to the procedures set forth in section 6.04.150 of this Chapter.
- (i) No animal designated by the County as a Dangerous Animal may be

transferred to a new place of residence or to a new Owner or Caretaker without prior written approval of the Animal Control Program Manager. Prior to the relocation, a written request for the relocation must be delivered to the Animal Control Program Manager and the County's animal control contractor, if any, at least 30 calendar days prior to the relocation.

- (j) If an Animal Control Officer declares an animal as Dangerous which has already been declared Potentially Dangerous or Dangerous by another jurisdiction located outside of the City, the Owner of such animal must obtain and comply with a Dangerous Animal Permit at least seven (7) calendar days prior to moving the animal into the City. The animal shall not reside in the City until the Dangerous Animal Permit has been issued by the Animal Control Program and the Owner meets the conditions of said permit.
- (k) A permit issued under this section is subject to renewal annually. An annual inspection of the location where the animal resides will be performed by an Animal Control Officer. Inspections may occur at any reasonable hour and will occur at least annually. The fee for such permit and inspection shall be as set forth in section 6.04.350 of this Chapter. Fees shall not be refundable. If the registered Owner fails to pay the permit fee and/or comply with the requirements of the permit within ten (10) calendar days of the annual inspection date, the permit may be revoked and the animal may be impounded for appropriate disposition, as determined by an Animal Control Officer, peace officer, County contracted agency or City designee, including humane euthanasia.
- (l) A Dangerous Animal designation is a designation that remains with that animal for its lifetime, unless terminated as provided by this subsection. A Dangerous Animal designation may be terminated if all of the following criteria have been met, as determined by an Animal Control Officer or peace officer and the Animal Control Manager and/or City designee:
 - (1) The Owner has complied with all Dangerous Animal Permit requirements for a period of three (3) years and the animal has not been found to have committed any violations of the requirements of the permit, or of this Chapter, or any other applicable animal control laws, for the duration of that period.

- (2) The animal has remained current on all rabies or similar required vaccinations and has remained current on its licensing and paid all fees for the duration of the three (3) year period.

If an animal Owner disputes a finding that the Dangerous Animal designation will not be terminated, the animal Owner may request an administrative hearing to be held according to the procedures set forth in section 6.04.150 of this Chapter.

6.04.100 - Dangerous Animal Permit Requirements.

- (a) Any Owner of a Dangerous Animal shall ensure compliance with the following rules and regulations which shall be mandatory requirements for any Dangerous Animal Permit:
 - (1) When the animal is off the property of its Owner, ensure that the animal is not kept upon any unenclosed premise unless said animal is leashed and muzzled with a cage or basket muzzle, or any other muzzle approved by the Animal Control Officer. The leash shall not exceed four (4) feet in length and having a minimum tensile strength of 300 pounds and shall be under the direct control and supervision of the Owner or a person of such age, size, and strength as can easily control such animal. Extraordinary care shall be taken by the Owner and/or caretaker to ensure that such restraint is sufficient to control the animal in a manner which it will not endanger other persons or animals.
 - (2) Ensure said animal is never kept on any unenclosed premises even if tethered, tied or staked.
 - (3) Ensure said animal is kept in a fenced yard, kennel, dog run or other enclosure, sufficient to prevent the escape of the animal or entry of young children, as approved by the Animal Control Officer or peace officer. An electric or invisible fence is not an acceptable means of enclosure for the purpose of this requirement.
 - (4) Maintain the animal so that it is not a threat to any mail carrier,

sanitation worker, meter person, or other person who has the lawful right to enter the property.

- (5) Ensure that all structures used to confine the animals are locked with a key or combination lock when such animals are within the fenced yard, kennel, run or enclosure.
- (6) Regularly inspect the fenced yard, kennel, dog run or enclosure to ensure that it is secure to maintain the animal and keep young children out.
- (7) Allow inspections by any Animal Control Officer or peace officer at any reasonable hour of the premises or premises upon which the animal is maintained.
- (8) Pay permit and property inspection fees as set forth in section 6.04.350 of this Chapter within (10) ten calendar days of the permit issuance or renewal.
- (9) Obtain and post approved sign(s) from the Animal Control Program after payment of a non-refundable fee as set forth in Section 6.04.350 of this Chapter. Sign(s) shall be conspicuously posted in a manner visible to the public at all entrances to the property where the animal is kept, warning persons of the presence of a Dangerous Animal as directed by the Animal Control Officer or peace officer. Such sign(s) must be surrendered in the event of the revocation of the permit, death of animal, or approved relocation of the animal.
- (10) Advise all members who reside in the same household and on the same premises of the conditions established by the permit for keeping or maintaining said Dangerous Animal.
- (11) Ensure said animal wears, at all times, a separate Dangerous Animal tag issued by the Animal Control Program in addition to complying with license requirements as defined in Section 6.04.040 of this Chapter.
- (12) Ensure said animal be microchipped and inform the Animal Control Officer with the microchip number within thirty (30) calendar days from the date the Dangerous Animal Permit was issued.

- (13) Within forty-five (45) calendar days from the date the Dangerous Animal Permit was issued, unless this period is extended by the Animal Control Manager or city representative at their sole discretion, said animal shall be spayed or neutered by a California licensed veterinarian, at Owner expense, and within those forty-five (45) days, the Owner shall also present written proof to the Animal Control Officer that the surgery was performed. In the event an animal cannot be safely altered, due to a medical reason, the Owner shall present the Animal Control Program Manager and Animal Control Officer with a written request from a California licensed Veterinarian stating the medical reason(s) that the animal should not be altered. The County Health Officer or designee will approve or deny the request. If said request is denied, the animal shall be altered by a California licensed Veterinarian within fifteen (15) calendar days from the date of notification that the request was not approved, and within those fifteen (15) calendars days provide such written proof to the Animal Control Officer that the surgery was performed.
 - (14) Notify an Animal Control Officer and the Animal Control Program Manager of the animal's death within twenty-four (24) hours and produce the animal's body for verification upon request.
 - (15) Notify an Animal Control Officer and the Animal Control Program Manager immediately in the event the animal becomes lost, stolen, or escapes from its fenced yard, kennel run, or enclosure.
 - (16) Pay all reoccurring of additional fees within ten (10) calendar days of service of the invoice or annual permit. Non-payment of fee may result in the permit being revoked unless a payment plan has been approved by the County or City.
 - (17) Comply with all other permit conditions or requirements imposed by an Animal Control Officer, peace officer, or hearing officer pursuant to this Chapter.
 - (18) Comply with all local and state laws regarding the care, use, control, and maintenance of animals.
- (b) Any Owner of a Dangerous Animal shall ensure compliance with the following additional requirements, if directed to do so by an Animal Control

Officer, peace officer and/or hearing officer:

- (1) Prove financial responsibility by posting a bond or certificate of insurance for an amount of three hundred thousand dollars (\$300,000) per animal within thirty (30) calendar days from the date of the Dangerous designation. Bond or certificate of insurance will be provided to the Animal Control Program Manager annually prior to expiration of said bond or certificate.
 - (2) Provide private behavioral and obedience training to the animal, at the Owner's expense and within the time set forth by the hearing officer or an Animal Control Officer following the issuance of a Dangerous Animal Permit. Proof of participation, a report of behavioral assessment, and/or a certificate of satisfactory completion from an animal behaviorist or organization approved by an Animal Control Officer shall be provided to the Animal Control Officer and Program Manager of Animal Control within seven (7) calendar days following the completion of the mandatory training, but not more than ninety (90) calendar days from the date of the Dangerous designation.
 - (3) Comply with any other permit requirements determined to be reasonably necessary to protect the public's health or safety and/or the health or safety of other animals.
- (c) No more than two Dangerous Animals may be kept by any person(s) at any one household, residence, business, or other location, without prior written approval of the designee of the appropriate jurisdiction.

6.04.110 - Revocation or Modification of Dangerous Animal Permit.

- (a) Any Dangerous Animal permit issued pursuant to this Chapter may be revoked or modified by the inclusion of additional requirements or otherwise, if the Animal Control Officer or peace officer has reasonable cause to believe any of the following to be true:
 - (1) The dangerous animal Owner or any person to whom the Owner has given care, custody, or control of the animal has violated any

local or state laws relating to the keeping, care or use of any animals.

- (2) The Owner or any person to whom the Owner has given care, custody, or control of the animal has violated any dangerous animal permit conditions, or any requirement imposed by the Animal Control Officer, peace officer, or hearing officer.
 - (3) The Owner or any person to whom the Owner has given care, custody, or control changed the location of his/her residence or his/her place of business or sells, assigns, transfers, donates, leases, or otherwise disposes of the animal for which the permit was issued without first notifying an Animal Control Officer as outlined in Section 6.04.090
 - (4) The Owner or any person to whom the Owner has given care, custody or control of the animal has changed the residence or premises where the animal is maintained without first complying with the guidelines set forth in Section 6.04.090
 - (5) The Owner or any person to whom the Owner has given care, custody, or control of the animal is unable or unwilling to comply with the conditions of the dangerous animal permit.
- (b) In the event that it is reasonably necessary to protect the public or an animal's health and safety, the Animal Control Officer or peace officer may impound or cause to be impounded the animal while an investigation is taking place.
- (c) If, after investigation, the Animal Control Officer or peace officer concludes that there is probable cause to believe that one or more of the above conditions for revocation or modification of the permit has occurred, the officer shall deliver written notice of revocation or modification to the Owner. Said notice shall specify the grounds of revocation or modification of the permit. Should the Owner of the animal wish to contest the revocation or modification of the permit, the Owner may request an administrative hearing to be held before a hearing officer, as designated by the Animal Control Program Manager, within seven (7) calendar days of receiving the notice of revocation. Said administrative hearing date shall be not less than seven (7) calendar days or no more than (20) twenty calendar days after the date the request for hearing is received by the Animal Control Manager. The administrative hearing shall be conducted as set forth in section 6.04.150 of this chapter. The hearing officer conducting the hearing may either modify the terms of the permit or revoke the permit.

Any party to the hearing has the right to appeal the administrative hearing decision to the County of San Mateo Superior Court by filing a Petition for a Writ of Administrative Mandate pursuant to California Civil Procedure, Section 1094.5 and 1094.6.

- (d) Upon written notice by the Animal Control Officer, peace officer, or hearing officer, if a hearing was held, if any modifications to a dangerous animal permit are made, the Owner shall immediately comply with such modified permit requirements.
- (e) Upon written notice from an Animal Control Officer, peace officer or hearing officer of the revocation of a Dangerous Animal permit, the Owner of such animal shall within two (2) calendar days of such notification, surrender said animal to an Animal Control Officer. The Dangerous Animal shall be impounded and humanely euthanized unless the County designee or City designee has approved a different disposition. At the sole discretion of the appropriate City or County representative, such animal may be permanently removed from the County of San Mateo to another jurisdiction with written approval from that jurisdiction.

6.04.120 - Possession of Animals After Revocation of Dangerous Animal Permit.

No Person who has been determined to be in possession of or had Ownership of a Dangerous Animal for which a permit has been revoked under this chapter shall be granted any Dangerous Animal permit for a period of three years following such determination or revocation.

6.04.130 - Declaration of Vicious Animals.

- (a) No person shall keep, have, maintain, sell, trade, or let for hire an animal which has been designated as Vicious under the provisions of this Chapter.
- (b) If an Animal Control Officer and/or peace officer has investigated and determined that an animal is Vicious, the Animal Control Officer or peace officer shall deliver written notice of such determination to the Owner of the animal. Service of notice shall be made in accordance with section 6.40.260 subdivision (a) of this Chapter. An Animal Control Officer and/or Peace Officer shall immediately impound the animal, or cause to be impounded, the animal according to the procedures set forth in Section 6.04.160 of this Chapter. The animal shall be deemed abandoned and shall be humanely euthanized unless the County designee or City designee has approved a different disposition or unless the Owner timely requests an administrative hearing.

- (c) In determining whether an animal shall be designated Vicious, in addition to any other facts and circumstances of the incident(s), the applicable decision-maker may consider the following potentially mitigating factors.

- (1) Whether at the time of the injury, attack or molestation, the person or animal suffering the injury, attack, or molestation:
 - (i) provoked, tormented, teased, abused, or assaulted the animal, thereby causing or contributing to the alleged behavior
 - (ii) committed a willful trespass or other tort upon the private property of the Owner or caretaker of the animal; and/or
 - (iii) threatened or committed an unjustified attack or assault against the Owner, caretaker, or other person in control of the charged animal.

The failure of the Owner or other person in control of a victim animal to have the animal on a leash shall not, in itself, constitute a mitigating factor in any attack.

- (2) Whether the Owner is willing and able to comply with the conditions of a Dangerous Animal permit, and whether the animal can be safely maintained on a Dangerous Animal permit considering the nature of the attack and cooperativeness and abilities of the Owner.

- (d) The decision-maker may also consider, among any other relevant facts and circumstances, the following factors:

- (1) whether any of the animals involved were previously deemed by any governmental jurisdiction as, "dangerous", "vicious", or any other similar designation, and/or the animal Owner's prior compliance or lack thereof with any applicable dangerous animal permit requirements or this Chapter;
- (2) the attacking animal's history of attacks, bites or threatening behavior;
- (3) whether the animal demonstrated such aggressive behavior that it is reasonable to conclude that the animal cannot be safely maintained with a Dangerous Animal permit; and
- (4) whether the Owner is unable or unwilling to comply with the conditions of a Dangerous Animal permit.

- (e) Should the Owner of the animal wish to contest the Vicious Animal designation, the Owner may request an administrative hearing to be conducted according to the procedures set forth in section 6.04.150 of this Chapter. The Owner shall submit a written request for a Vicious Animal hearing to the Animal Control Officer within seven (7) calendar days of the written notification by the Animal Control Officer and/or peace officer that the animal has been declared Vicious.
- (f) Should the Owner not submit a request for an administrative hearing within the required timeframe, the administrative hearing process shall be deemed waived, the Vicious Animal designation will be considered final for purposes of exhaustion of administrative remedies, and the animal will be subject to disposition by the Animal Control Officer, peace officer, or City or County designee. The Owner shall lose all rights of Ownership and control of the animal, and the animal will be subject to humane euthanasia, unless another disposition is deemed appropriate by a City and/or County designee, without further notice to the Owner.
- (g) The unwillingness of a victim or a particular witness to testify at a hearing shall not prevent designation of an animal as Vicious as long as sufficient evidence exists to support the designation.
- (h) If after investigation, an Animal Control Officer and/or peace officer determines that the animal is not Vicious, the Officer will prepare a written decision upon request by any victim suffering physical injury or an Owner of a victim animal, either of whom may appeal that determination. Any victim suffering physical injury as a result of the attack, or Owner of a victim animal, may appeal the determination that an animal is not Vicious by submitting, within seven (7) calendar days of the service of the decision pursuant to section 6.04.260, a written request to the Animal Control Officer for an administrative hearing and paying the required fee as set forth in Section 6.04.350 of this Chapter. The administrative hearing shall be conducted according to the procedures set forth in section 6.04.150 of this Chapter.

6.04.140 - Providing False Information.

It shall be unlawful for a person to willfully and knowingly provide false or misleading information to Animal Control Program staff, including but not limited to an Animal Control Officer, Peace Officer, Animal Control Program Manager, and/or Hearing Officer regarding animal Ownership, licensing, rabies vaccination, medical treatment and condition, and/or any other matter pertaining to the enforcement of state or local law.

6.04.150 - Administrative Hearing Procedures.

- (a) Administrative hearings held under this Chapter shall be conducted by a hearing officer or designated representative appointed by the Director or designee of the San Mateo County Health. Any city contracting with the County for animal control services may elect to utilize the services of any San Mateo County designated hearing officer to conduct hearings on behalf of the city pursuant to that city's animal control ordinances. The hearings shall be scheduled no less than seven (7) calendar days and no more than fifteen (15) calendar days from the receipt of the request for the hearing unless the hearing officer finds good cause for continuance.
- (b) The Animal Control Officer or peace officer conducting the investigation shall provide their investigation report and any evidence gathered by the officer to the Animal Control Manager or designee no less than 72 hours prior to said administrative hearing. The Animal Control Manager or designee will promptly provide the report to the parties to the case, including the Owner of the subject dog and the Owner of the victim dog.
- (c) The administrative hearing shall be conducted in an informal manner consistent with due process of law. Any party may be represented by counsel. The parties may present relevant evidence including witnesses. The strict rules of evidence shall not be applicable. Any relevant evidence, including but not limited to hearsay evidence, may be admitted if it is the sort of evidence on which reasonable persons are accustomed to rely on in the conduct of serious affairs. The hearing officer shall decide the matter based on preponderance of the evidence presented at the hearing. The administrative hearing shall be recorded, and all documentary evidence submitted at the administrative hearing shall be preserved by the Animal Control Manager for a period of no less than two years. Any party may arrange for a court reporter to be present. Any party desiring the

presence of a court reporter shall make all necessary arrangements and shall be responsible for payment of all costs.

- (d) The hearing officer may exclude disorderly or disruptive persons from the hearing or make other orders as necessary to ensure the fair and orderly conduct of the administrative hearing.
- (e) The hearing officer may decide all issues for or against the Owner(s) of the involved animal(s) even if the Owner(s) fail to appear at the hearing.
- (f) Within seven (7) calendar days of the administrative hearing, the hearing officer shall render a written decision, which shall be final for the purposes of exhaustion of administrative remedies upon the date of mailing. The Animal Control Manager or designee shall mail the written decision and affidavit/certificate of mailing showing the date of mailing, on behalf of the hearing officer, by first class mail, postage prepaid. The decision will be mailed to the Owner of the alleged Dangerous or Vicious Animal, the victim or Owner of the victim animal, and the investigating Animal Control Officer or peace officer.
- (g) If the animal is designated Dangerous, the Owner must apply for and obtain a Dangerous Animal permit as provided by this Chapter within seven (7) calendar days of the decision letter in order to maintain the animal and the Owner must comply with all mandatory Dangerous Animal permit rules and regulations as defined in section 6.04.120 of this Chapter. A hearing officer may impose additional permit requirements as set forth in this Chapter.
- (h) If the animal is designated Vicious, the Owner of such animal shall lose all rights of Ownership and control of the animal, and the animal will be subject to humane euthanasia, unless another disposition is deemed appropriate by a City and/or County designee, without further notice to the Owner. An animal designated as Vicious will be held at the animal shelter for a minimum of seven (7) calendar days from the date of the hearing officer's decision, prior to any proposed euthanasia.
- (i) Unless the hearing officer for good cause otherwise determines, the party requesting the administrative hearing is liable for all costs related to such

hearing. A determination by the hearing officer that the animal is not dangerous or vicious shall constitute good cause.

- (j) Hearing officer decisions are appealable to the San Mateo County Superior Court by filing a Petition for Writ of Administrative Mandate pursuant to California Civil Procedure, Section 1094.5 and 1094.6.
- (k) The procedures and/or definitions pertaining to potentially dangerous and vicious dogs set forth in the California Food and Agricultural Code Chapter 9, beginning with section 31601, are not adopted and do not apply within the City. As authorized by Food and Agricultural Code section 31683, the City has adopted its own program for regulation of dangerous and vicious dogs as contained in this Chapter.

6.04.160 - Animals to Be Impounded.

- (a) The Animal Control Program may impound any animal kept or found under conditions that constitute a violation of this Chapter or other state or local law. The animal's Owner shall be responsible for all costs incurred or fees applicable with respect to such impoundment and maintenance in the shelter.
- (b) An Animal Control Officer or peace officer may impound or cause to be impounded an animal when there is reasonable cause to believe that such animal posed, or poses, a threat to the public's health and safety, or the health and safety of another animal. The animal may remain impounded for a period not to exceed fifteen (15) calendar days in order to investigate, and to determine whether or not said animal is Dangerous or Vicious as defined by this Chapter. In calculating the fifteen (15) calendar days, the first day of impoundment is not included. If an animal is not impounded within fifteen (15) calendar days after an investigation began, the Animal Control Officer or peace officer shall make a determination whether or not the animal is Vicious or Dangerous and shall notify the Owner of said animal as soon as reasonably practical thereafter.
- (c) Within twenty-four (24) hours of the impoundment of any animal, the impounding Animal Control Officer shall serve the Owner of the animal with notice of the impoundment.
- (d) No impounded animal may be redeemed unless and until any required

license fee and/or other applicable charges and fees have been paid. In the event such animal is not redeemed within the time set forth by State law, it shall be deemed abandoned and may be adopted, transferred to a rescue, or disposed of in the manner determined by the Animal Control Program. The Animal Control Program shall issue to the Owner or person responsible of the care, custody, and control of said animal a receipt showing an itemized description and the amount of the fee(s) paid.

- (e) The Animal Control Program shall keep a record of all animals impounded, which record shall include a description of the animal, the date of its receipt, the date and manner of disposal, the name of the person redeeming, adopting, or purchasing, the fees, and/or charges related to the animal. Said records shall be kept for a period of seven (7) years.

6.04.170 - Stray Animals.

Any person who finds or picks up a stray or lost animal shall report the same to the Animal Control Shelter within twenty-four hours thereafter and shall release such animal to the Animal Control Shelter upon demand.

6.04.180 - Epidemics.

The San Mateo County Health Officer may determine and declare that rabies or other contagious diseases are epidemic or that other health and safety hazards exist among dogs or other animals within the County. Upon the making of such a declaration, the Health Officer shall prepare and promulgate such orders, rules, and regulations as are necessary for appropriate control of all the animals concerned within the County. Said rules and regulations of the Health Officer may include, but are not limited to, impoundment, quarantine, vaccination, or destruction. It shall be the duty of the Animal Control Officers to assist the Health Officer in carrying out such rules and regulations.

6.04.190 - Bite Reporting Requirements.

- (a) Any Owner or other person who is responsible for the care, custody, or control of an animal that bites a human or other animal shall provide their name and current residence address and telephone number and shall present their driver's license or other form of identification and any information regarding any rabies vaccination for the biting animal to the person bitten or the Owner of the animal bitten. If the person bitten is a

minor, the Owner or person in control of the biting animal shall provide the required information to the parent or guardian of the minor.

- (b) In addition to the above requirements, it shall be the duty of any person having knowledge of any animal which has bitten a human being or other animal within the City to immediately, in no case later than the end of the next calendar day, report the bite to an Animal Control Officer or peace officer and to furnish as much information as possible, including date, time and location of bite, description of animal or person bitten, name and license number of the biting animal, and rabies vaccination history of the biting animal.

6.04.200 - Administrative Citations.

- (a) Should an Animal Control Officer, Humane Officer or peace officer determine that a person has violated any provision this Chapter, that enforcement officer shall have authority to issue and serve notice of an administrative citation as set forth in section 6.04.260, to the person violating the Chapter.
- (b) Each administrative citation shall contain the following information:
 - (1) The name and address of the Owner or other person to be cited.
 - (2) The date(s) of the violation.
 - (3) The address or a specific description of the location where the violation occurred.
 - (4) The section, subsection, and/or provision of this Chapter violated by the person cited and a description of that violation.
 - (5) A prohibition of the continuation or repetition of the violation described in the administrative citation.

- (6) If applicable a description of the potential consequence(s) should the violation continue or be repeated.
 - (7) Either:
 - i) The amount of the administrative fine charged and to be paid by the person cited as a result of the violation; or
 - ii) A notice to correct a certain violation within a reasonable time, and the amount of an administrative fine that may occur if the violation is not corrected or remedied by the date specified.
 - (8) A description of the procedure to pay the fine, to include the time period for and place of payment, and the process by which the County may collect any unpaid amount owed.
 - (9) A description of the administrative citation review process, including the time within which the administrative citation may be appealed and how to appeal the administrative citation, including any form to do so.
 - (10) The name and signature of the citing Animal Control Officer, Humane Officer or peace officer or County designee.
- (c) An administrative citation may be any format, including letter, which conveys the information set forth above.

6.04.210 - Appeal of Administrative Citation.

- (a) A recipient of an administrative citation may contest the citation including, but not limited to, on the basis that the underlying violation did not occur, or that recipient is not the party responsible for the violation and thus was the improper recipient of the administrative citation. The recipient must contest the citation on the form provided by the Animal Program Manager

or Animal Control Officer and file the appeal with the Animal Control Program Manager within twelve (12) calendar days from the date of service of the administrative citation. Any appeal not timely filed will be rejected.

- (b) The appeal shall contain the following provided by the person appealing the citation:
 - (1) The name, mailing address, and telephone number of the party requesting the appeal;
 - (2) A copy of the administrative citation or a reference number thereto;
 - (3) A statement of the grounds for the contest, including a description of the evidence to be presented in support of the contest and copies of any statements or documents to be submitted at the hearing in support of the appeal.
 - (4) The signature of the appealing party;
 - (5) A deposit of the fine assessed as set forth in the citation(s), to be refunded if the appeal is successful.
- (c) Should an appeal be properly and timely requested, the requesting party shall be provided a hearing before a hearing officer to be held pursuant to the procedures set forth in section 6.04.150 as applicable. The Animal Control Program shall notify the person requesting the appeal hearing of the time and place set for the hearing pursuant to section 6.04.260.

6.04.220 - Payment of Administrative Fines.

- (a) In the absence of an appeal by the recipient of the administrative citation, the person cited shall pay the administrative fine in full within thirty (30)

calendar days from the date of service of the notice of citation. In the event of an appeal, after which the violation is upheld, if not already paid, the fine shall be paid in full within ten (10) calendar days after the date that the decision of the hearing officer was served on the recipient.

- (b) Payment of any fine shall not excuse the failure to correct the violation, nor shall it bar further enforcement of the same or any similar violation or any other violation by any applicable means.
- (c) Failure to pay any fines assessed within the guidelines set forth in this Chapter will result in a late charge pursuant to section 6.04.230, which will be collected by the Animal Control Program Manager.

6.04.230 - Amount of Administrative Fines.

- (a) Any person issued an administrative citation for a violation of, and pursuant to, this Chapter shall be assessed and pay a fine as follows:
 - (1) One hundred dollars (\$100) for a first citation.
 - (2) Two hundred dollars (\$200) for a second citation for the same violation within a one-year period.
 - (3) Five hundred (\$500) for each additional citation for the same violation within a one-year period.

6.04.240 - Misdemeanor Violations.

- (a) A person violating any provision of this Chapter shall be guilty of an infraction except as otherwise specifically provided.
- (b) A person violating any provision of section 6.04.050, subsection (a) of section 6.04.090 or subsection (a) of section 6.04.130 of this Chapter shall be guilty of a misdemeanor.

- (c) This section shall not limit any other available criminal, civil or administrative remedies. Any or all applicable remedies shall remain available for violation of the provisions of this Chapter.

6.40.250 - Violation of Chapter a Public Nuisance; Remedies Cumulative.

- (a) Violation of this Chapter is a public nuisance subject to any and all applicable civil, administrative, and criminal remedies, according to the provisions and procedures set forth in this Chapter and other applicable state and local law.
- (b) This section is not intended to limit any other available criminal, civil or administrative remedies. Any or all applicable administrative, civil and /or criminal remedies shall be available for violation of the provisions of this Chapter.
- (c) Each day a violation continues shall constitute a separate violation.

6.40.260 - Service of Documents and Notices.

- (a) Unless otherwise specified herein, the appropriate representative of the Animal Control Program shall provide any required notice or service of documents in the one of the following manners: (1) by personal delivery to the person to be notified or served; or (2) by posting on the property at the address where the subject animal is licensed or the Owner of such animal resides; or (3) by depositing in the United States Mail, in a sealed envelope, first class postage prepaid, and addressed to such person to be notified or served at their last-known business or residence address or as the same appears in the last equalized County assessment roll. Service by mail shall be deemed complete at the time of deposit in the United States Mail receptacle and shall include a declaration or affidavit of service which shall include notice of the date mailed. If agreed in writing by the person to be served, notices or documents may be served electronically at the address provided by the person to be served, to be effective upon being sent.
- (b) Failure to receive any notice specified herein does not affect the validity of proceedings conducted hereunder.

6.04.270 - Field Return Fee.

A fee shall be charged for any animal impounded by a representative of the Animal Control Program and returned by an Animal Control Officer in the field to the Owner or person who is responsible for the care, custody, or control of the animal. The fee charged shall be paid by the Owner or person who is responsible for the care, custody, or control of said animal. Such fee shall be set forth in Section 6.04.350.

6.04.280 - Redemption and Spay/Neuter Fee.

- (a) Upon redemption of any impounded unaltered animal, the person responsible for the care, custody or control of any animal will be required to pay a spay or neuter fee in the amount of \$100.00 in addition to the impound fees imposed under Section 6.04.350 of this Chapter. Such fee shall be refundable upon proof of spay and neuter of the animal within thirty (30) calendar days following the date of redemption.
- (b) Any unaltered animal impounded twice or more within a three-year period shall be altered at a cost to be paid by the Owner/caretaker or person responsible for the care, custody, or control of said animal prior to redemption. At the option of the Owner/caretaker or person responsible for the care, custody, or control of said animal, required spaying or neutering may be performed by a private veterinarian within thirty (30) calendar days.
- (c) Any Owner or Caretaker of an impounded animal subject to mandatory spay/neuter under Subsection (b) of this Section may appeal this requirement by submitting a written request for an administrative hearing to the Animal Control Program Manager. The administrative hearing will be conducted according to the provisions of Section 6.04.150 of this Chapter.
- (d) The Animal Control Program Manager may waive any County or City fee for County or City spay/neuter, vaccination or impoundment of an animal, if the animal is a feral or stray cat and the person bringing the animal to the shelter agrees that the person shall have no rights in the animal or any right to direct or control treatment or disposition of the animal by the Animal Control Program which will retain sole discretion in determining the disposition of the animal, which may include but not be limited to treatment and/or adoption, or euthanasia.

6.04.290 - Quarantine Fee.

A quarantine fee, as set forth in Section 6.04.350, shall be paid by the Owner or caretaker of any animal involved, or potentially involved, in a bite. Such quarantine fee is in addition to any other fees charged set forth in Section 6.04.350 of this Chapter to

recover costs incurred by the Animal Control Program for the sheltering and caring for the quarantined animal.

6.04.350 - Schedule of Fees and Charges.

This Section 6.04.350 sets forth the fees for the Animal Control Program and Licensing Program. No animal shall be released to its Owner, or other person responsible for the care, custody, or control of the animal, unless applicable fees have been paid.

Animal Control and Licensing fees and charges established by this code are as follows:

(a) License Fees.

Dogs		
Unaltered dog		
1-year license		\$55.00
3-year license		\$160.00
Unaltered dog Senior Pet Owner (over 60 yrs.)		\$23.00
1-year license		
3-year license		\$64.00
Altered dog		
1-year license		\$25.00
3-year license		\$70.00
Altered dog Senior Pet Owner (over 60 yrs.)		
1-year license		\$10.00
3-year license		\$25.00
Misc. dog fees		

Late fee	\$20.00
Duplicate tag	\$10.00
Cats	
Unaltered cat	
1-year license	\$20.00
3-year license	\$55.00
Unaltered cat Senior Pet Owner (over 60 yrs.)	\$12.00
1-year license	
3-year license	\$31.00
Altered cat	
1-year license	\$8.00
3-year license	\$19.00
Altered cat/ Senior Pet Owner (over 60 yrs.)	
1-year license	\$5.00
3-year license	\$12.00
Misc. cat fees	
Late fee	\$7.00
Duplicate tag	\$5.00

(b) Redemption Charges

Type A & B (large or medium size animals — horses, cows, hogs, sheep, etc.)	
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Impound cost	\$100.00
Board cost per day	\$30.00
Trailing cost (per use)	\$100.00
Type C (dogs, and cats)	
Impound Costs — First Impound	
Altered — licensed, wearing tag	\$40.00
Unaltered — licensed, wearing tag	\$65.00
Altered — unlicensed, no tag	\$55.00
Unaltered — unlicensed, no tag	\$85.00
Impound Costs — Second Impound	
Altered — licensed, wearing tag	\$90.00
Unaltered — licensed, wearing tag	\$125.00
Altered — unlicensed, no tag	\$105.00
Unaltered — unlicensed, no tag	\$140.00
Impound Costs — Third Impound	
Altered — licensed, wearing tag	\$135.00
Unaltered — licensed, wearing tag	\$155.00
Altered — unlicensed, no tag	\$155.00
Unaltered — unlicensed, no tag	\$180.00
Impound Costs — Fourth Impound	
Altered — licensed, wearing tag	\$180.00
Unaltered — licensed, wearing tag	\$215.00

Altered — unlicensed, no tag	\$200.00
Unaltered — unlicensed, no tag	\$240.00
Impound Costs — Fifth Impound and up	
Altered — licensed, wearing tag	\$225.00
Unaltered — licensed, wearing tag	\$260.00
Altered — unlicensed, no tag	\$245.00
Unaltered — unlicensed, no tag	\$285.00
Board charges (per day)	
Altered — dogs/	\$25.00
Unaltered — dogs/	\$35.00
Altered — cats	\$16.00
Unaltered — cats	\$22.00
Type D (small size animals, e.g., birds, hamsters, or other)	
Impound cost	\$20.00
Board cost	\$10.00

(c) Surrender, Euthanasia and DOA (Dead on Arrival) Disposal Fees

Dog — Licensed or unlicensed	
Surrender	\$60.00
Euthanasia	\$50.00
DOA Disposal	\$30.00
Cat — Licensed or unlicensed	

Surrender	\$60.00
Euthanasia	\$50.00
DOA Disposal	\$30.00
Rabbit/Small Animal	
Surrender	\$40.00
Euthanasia	\$30.00
DOA Disposal	\$15.00
Litter of Three or more	
Surrender	\$50.00
Euthanasia	\$40.00
DOA Disposal	\$20.00
Bird/Fowl	
Surrender	\$20.00
Euthanasia	\$15.00
DOA Disposal	\$20.00
All Other Companion Animals (Reptiles, Amphibians, etc.)	
Surrender	\$25.00
Euthanasia	\$25.00
DOA Disposal	\$20.00
Farm Animals	
Surrender	\$60.00
Euthanasia: Under 100 pounds	\$60.00

Over 100 pounds	\$125.00
DOA Disposal: Under 100 Pounds	\$30.00
Over 100 pounds	\$100.00

(d) Other Animal Control Fees

Quarantine Fee	\$60.00
Dangerous Animal Permit (DAP) Fee	\$300.00
DAP Inspection Fee	\$100.00
DAP Signage	\$15.00
Field Retrieval/Return Fee	\$40.00
Breeding Permit Fee	\$150.00
Fancier Permit and/or Exotic Pet Fee	\$100.00
Return Check Fee	\$25.00
Service Dog Application Processing Fee	\$50.00

(b) Miscellaneous Fee Provisions

- (1) The Animal Control Program, and/or Licensing Program, may establish
license discounts for recognized animal rescue organizations.
- (2) License fees include a one dollar (\$1) annual surcharge on all
licenses for
the animal population trust fund.
- (3) At the discretion of the Animal Control Program Manager, a
payment plan
for all fees outstanding may be permitted upon a showing of good
cause. If a person is in compliance with an agreed upon payment

plan, their outstanding balance shall never be considered “nonpayment” as that term is used in this Chapter.

- (4) The animal control fees for any animal related service not specified in this section shall be reviewed by the Chief of Health or their designee for reimbursement of costs. The Chief of Health or their designee shall have the authority to determine the fee charged for said services. The fee charged shall be paid by the Owner or caretaker of the animal(s) for which said service(s) have been provided.
- (5) Each calendar year, the Animal Control Program Manager shall designate one month as an amnesty period for payment of cat and dog license late fees and for compliance with section 6.04.020 of this Chapter, as provided herein. During the amnesty period, applicants for cat and dog licenses shall not be assessed any late penalty fee or any other penalty for failure to obtain such license or pay any applicable license fee, notwithstanding sections 6.04.040 and 6.04.350 of this Chapter.
- (6) All revenue derived from the fees, fines, forfeitures, and penalties related to the enforcement of this ordinance shall be used to offset the cost of enforcement and administration of this Chapter.
- (7) If the Animal Control Program Manager determines that payment of any fees by the Owner or Caretaker for an impounded animal would cause extreme financial difficulty to the Owner or Caretaker, and that it is in the best interests of the County to allow release of the animal upon these terms, the Animal Control Program Manager may, at their discretion, set up a payment plan or waive all or part of the fees incurred for the animal.

6.04.360 – Scope.

The provisions of this Chapter shall be in effect in the City.

SECTION 2. Severability.

If any section, subsection, sentence, clause, phrase, or word of this Chapter should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, clause, phrase, or word of this Chapter.

SECTION 3. This ordinance shall become effective thirty days after adoption.

The above Ordinance was regularly introduced and after waiting the time required by law was passed and adopted at a regular meeting of the City Council of the City of Brisbane on _____, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor of the City of Brisbane

Attest:

Ingrid Padilla, City Clerk

Approved as to form:

Thomas R. McMorrow, City Attorney

File Attachments for Item:

F. Consider Adoption of the Dark Sky Ordinance, waiving second reading, adding Chapter 15.88 Outdoor Lighting Standards to the Brisbane Municipal Code

(This Ordinance is exempt from further environmental review under the California Environmental Quality Act (CEQA) because it is not a project (CEQA Guidelines, §15378 (b) (2)). As proposed, the ordinance will result in required changes to streetlights and other public facilities within fifteen (15) years of the effective date, with an estimated cost upwards of \$1M. Additional implementation costs may include equipment and training for police officers. Staff proposes to create a program to systematically make updates over time.)



CITY COUNCIL AGENDA REPORT

Meeting Date: January 18, 2024

From: Adrienne Etherton, Sustainability Manager

Subject: Dark Sky Ordinance Second Reading

This Ordinance is exempt from further environmental review under the California Environmental Quality Act (CEQA) because it is not a project (CEQA Guidelines, §15378 (b) (2)).

Community Goal/Result

Ecological Sustainability; Community Building; Safe Community

Purpose

To protect and enhance the local environment and public health by reducing light pollution at night through reasonable restrictions on outdoor lighting.

Recommendation

Adopt an ordinance, waiving second reading, adding Chapter 15.88 Outdoor Lighting Standards to the Brisbane Municipal Code.

Background

This ordinance was introduced at the regular City Council meeting held on November 16, 2023, and was passed unanimously with minor changes requested.

Discussion

The following changes were incorporated into the final ordinance, as shown in the redlined version in Attachment 2. The first four changes were requested by Councilmembers and the date in the fifth change was inserted by staff.

1. A definition of “internally illuminated signage” was added and clarification of how that signage is covered was added in section 15.88.040.
2. Clarification of how lighting at building entrances is covered was added in section 15.88.040.
3. Curfew requirements were moved out of the table in section 15.88.050 and consolidated into an existing subsection on Curfew in section 15.88.060.
4. Seasonal lighting dates were shifted to September 15 to January 31.
5. The effective dates in section 15.88.110 were updated from TBD to March 1 of the respective years; the start of the first month after anticipated passage plus 30 days.

Measure of Success

Adoption of the Dark Sky Ordinance leads to reduced local light pollution and energy waste.

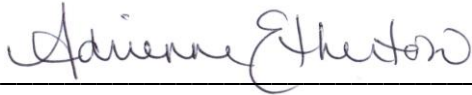
Environmental Review

Adoption of this ordinance does not need further environmental review under the California Environmental Quality Act (CEQA) as it is general policy and procedure making not applied to a

specific instance and therefore it is not a “project” (California Code of Regulations, Title 14, Division 6, Chapter 3, Article 20, §15378 (b) (2)).

Attachments

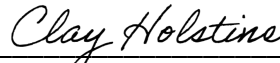
1. November 16, 2023 staff report without attachments
2. Dark Sky Ordinance - redline version
3. Dark Sky Ordinance - clean version



Adrienne Etherton, Sustainability Manager



Randy Breault, Public Works Director



Clay Holstine, Interim City Manager



CITY COUNCIL AGENDA REPORT

Meeting Date: November 16, 2023

From: Adrienne Etherton, Sustainability Manager

Subject: Dark Sky Ordinance

This Ordinance is exempt from further environmental review under the California Environmental Quality Act (CEQA) because it is not a project (CEQA Guidelines, §15378 (b) (2)).

Community Goal/Result

Ecological Sustainability; Community Building; Safe Community

Purpose

To protect and enhance the local environment and public health by reducing light pollution at night through reasonable restrictions on outdoor lighting.

Recommendation

Introduce the Dark Sky Ordinance, waiving first reading, adding Chapter 15.88 Outdoor Lighting Standards to the Brisbane Municipal Code.

Background

Growing evidence in recent years has recognized the significant negative impact of artificial light at night on ecosystems and human health. As LED lighting has decreased in cost and grown in popularity, increased use has contributed to over-lighting that wastes energy, interrupts the sleep of neighbors, and disrupts the habits of pollinators, migratory birds and other species.

Brisbane's Open Space and Ecology Committee (OSEC) has had this on their annual workplan since 2018. Beginning in 2021, an OSEC subcommittee and Sustainability and Planning staff collaborated to evaluate priorities for the ordinance and appropriate standards.

In February 2023, City Council liaisons O'Connell and Mackin joined OSEC to discuss whether the City should pursue International Dark Sky Community certification. Due to the strict requirements of certification and Brisbane's surroundings in a heavily urbanized area, direction was provided to bring forth an ordinance customized to the local context.

John Barentine of Dark Sky Consulting was engaged to review an initial draft of the ordinance. Barentine recommended modifications and helped establish quantitative standards to ensure the ordinance would reduce the impacts on local environmental and public health while providing the lighting necessary to ensure community safety and security. The draft ordinance was reviewed by Public Works, Community Development, Police, Fire, and Code Enforcement staff, and legal counsel.

In September, staff and the subcommittee released a community survey to collect feedback on the proposed ordinance; 173 responses were received with the overwhelming majority from local residents. As you can see in the summary in Attachment 4, most respondents were

supportive of the proposed rules and felt that outdoor lighting at night in Brisbane is a problem, while a vocal minority were opposed or felt it would not make a difference.

OSEC reviewed the ordinance at their October meeting and with a minor modification related to regulation of the Brisbane STARS, voted unanimously to recommend the ordinance for City Council consideration. After OSEC's review, staff noticed the omission of the C/PU zoning district from section 15.88.050, and the need for clarification on lighting exempted from shielding or broader compliance with the ordinance being exempt from the prohibition on light trespass. These changes have been added in redline in the attached draft.

Discussion

Outdoor lighting is crucial for safety and security and is effective when light is used when and where needed; light that is directed into the sky, beyond the property on which it is being used, or in areas not in use is a waste of energy and detrimental to neighbors and the nocturnal environment. The ordinance focuses on a few key strategies to reduce problematic lighting:

1. Shielding: most outdoor light fixtures are required to be fully shielded, that is, physically covering the light source so that light is only emitted downward. Exceptions include low-intensity string lights, seasonal lighting, and lighting of a US or CA flag.
2. Light trespass: the light source (i.e. bulb) cannot be visible offsite of the property.
3. Color temperature: the "correlated color temperature" of outdoor lighting, except seasonal or other exempted lighting, shall be 3000 Kelvin or less, which is a "warmer" yellow light as opposed to "cooler" blue light hues that mimic daylight.
4. Curfews and other lighting controls: most outdoor lighting should be off after 10pm or close of business, whichever is later. Lighting activated by motion sensor which extinguishes ten minutes after activation and lighting at building entrances, parking areas and driveways (residential), or driveway egress points (commercial) is not subject to curfew. Commercial uses shall utilize automated control systems such as motion sensors, timers and/or photocells which are programmable and have battery backup.
5. Sitewide illumination limits which vary by zoning district: The ordinance limits the total illumination, measured in lumens, generated by all exterior lighting on a given property. Maximum illumination limits vary by district and land use, and are based on either the developed lot area (roughly equivalent to the lot coverage) for residential uses or area of hardscape (i.e., driveways, parking lots, patios) for commercial uses. Limits are tailored to the land use, with allowable illumination in Open Space areas only ten percent of those in commercial zones.

In addition, the ordinance exempts or has limited requirements over certain lighting types:

- Exempt: Low-intensity landscape lighting, indoor lighting, combustible fuel lighting when used temporarily in occupied areas, fire alarm notification devices, and any form of lighting regulated by authorities above the City (i.e. school districts, federal agencies such as the Coast Guard). Address lighting, temporary emergency or construction lighting, or temporary lighting not subject to city permitting are exempt but shall be deployed to comply to the greatest practical extent with the ordinance.

- Curfew Only: Brisbane Stars and seasonal/holiday lighting, with seasonal lighting limited to Oct 1 – Feb 15.
- Streetlights: are not subject to curfew and light trespass; acorn-style decorative lights are exempt from shielding until an approved replacement program is in place; a maximum brightness level is established; and all lamps will be replaced upon burnout to meet ordinance standards.
- Recreational and Athletic Fields: shall meet appropriate Illuminating Engineering Society standards and include timers to prevent lights being left on accidentally.

Compliance is addressed across various timelines depending on difficulty:

- All new or replaced outdoor lighting after the effective date shall comply. Planning and building application requirements will be modified to include lighting inventories and other details to demonstrate compliance with the ordinance.
- Within one year of the effective date of the ordinance, all existing outdoor lights (except streetlights) shall make the “easy fixes”: directing lighting downward if possible, adjusting dimmers and motion timers to comply where lighting is equipped with them, and replacing bulbs to meet color and lumen thresholds when they are replaceable.
- More extensive changes, such as replacement of fixtures, shall be completed within:
 - Five (5) years for non-residential zones;
 - Ten (10) years for residential zones;
 - Fifteen (15) years for streetlights and other City facilities.
 - Extensions for financial or other hardship up to one year may be requested.
- Deviations may be approved for unique circumstances and shall achieve the intent of the ordinance to the maximum extent feasible. Decisions shall be noticed publicly and to property owners within a 300’ radius and are appealable to the City Manager.
- Enforcement would be complaint-based and subject to the City’s regular Administrative Citation process.

Altogether, the proposed standards attempt to balance lighting needs for safety, security and outdoor activities while eliminating or reducing lighting that doesn’t serve a useful purpose. The compliance timelines intend to provide property owners ample opportunity to make changes as existing lighting burns out or is otherwise due for replacement and limit the financial burden. Staff and the OSEC dark sky subcommittee expect to embark on an extensive education and outreach campaign to bring awareness to the problem of light pollution and the regulations. In addition, if the Council advises, a program to support conversions among those with financial hardship could be proposed for consideration with the next fiscal year budget; such a program was recommended by some survey respondents.

Fiscal Impact

As proposed, the ordinance will result in required changes to streetlights and other public facilities within fifteen (15) years of the effective date, with an estimated cost upwards of \$1M. Staff proposes to create a program to systematically make updates over time, spreading the cost out, with priority for areas deemed most problematic. This program will be subject to Council’s approval for funding.

Additional implementation costs may include equipment and training for police officers.

Should the City Council wish to consider a program for those with financial hardship, those additional costs could be considered within the annual budget.

Measure of Success

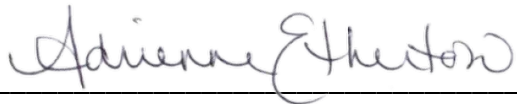
Adoption of the Dark Sky Ordinance leads to reduced local light pollution and energy waste.

Environmental Review

Adoption of this ordinance does not need further environmental review under the California Environmental Quality Act (CEQA) as it is general policy and procedure making not applied to a specific instance and therefore it is not a “project” (California Code of Regulations, Title 14, Division 6, Chapter 3, Article 20, §15378 (b) (2)).

Attachments

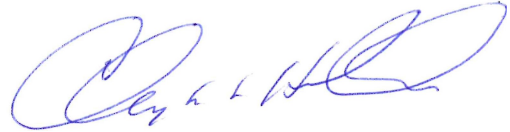
1. Draft Dark Sky Ordinance
2. Sample educational ordinance summary
3. Map of proposed overall light allowances
4. Results of community survey



Adrienne Etherton, Sustainability Manager



Randy Breault, Public Works Director



Clay Holstine, City Manager

ORDINANCE NO. xxx

AN ORDINANCE OF THE CITY OF BRISBANE
ADDING CHAPTER 15.88 TO THE BRISBANE MUNICIPAL CODE
CONCERNING OUTDOOR LIGHTING STANDARDS

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

SECTION 1: Chapter 15.88 is hereby added to the Brisbane Municipal Code to read as follows:

§15.88.010 - Title.

This chapter shall be known as the “Brisbane Dark Sky Ordinance.”

§15.88.020 - Purpose.

The purpose of this chapter is to establish regulations and a process to review outdoor lighting in order to accomplish the following:

- A. Minimize direct glare and prevent excessive lighting, thereby minimizing light pollution caused by inappropriate or misaligned light fixtures, and promoting common courtesy among neighbors;
- B. Reclaim views of the night sky and thereby help preserve Brisbane’s rural quality of life and the scenic value of this desirable visual resource;
- C. Promote wildlife habitation and migration by minimizing light pollution;
- D. Provide sufficient lighting where it is needed to promote safety and security on public and private property;
- E. Allow flexibility in the style of outdoor lighting;
- F. Provide standards for efficient and moderate use of lighting which balance energy use and economic impact;
- G. Provide lighting standards that may evolve according to advancements in technology; and
- H. Promote lighting practices and systems which conserve energy, decrease dependence on fossil fuels and limit greenhouse gas emissions consistent with the California Global Warming Solutions Act and other applicable state and federal law.

§15.88.030 - Definitions.

Notwithstanding the definitions in Chapter 17.02 of this Code, for purposes of this chapter only, the following words and phrases are defined as follows:

- A. “Brisbane Stars” mean outdoor star-shaped lighted structures customary to Brisbane.
- B. “Correlated Color Temperature” or Color Temperature is a specification of the color appearance of the light emitted by a light source, measured in Kelvin (K). Warmer color temperatures are a lower number, and cooler color temperatures are a higher number.

- C. “Curfew” means the time of day when lighting restrictions, based on zoning district, are in effect.
- D. “Developed lot area” means the portion of a lot that is covered or occupied by structures and includes any finished surface, such as a slab or deck, which is covered by a roof or other solid covering with at least seven (7) feet of clearance, other than an eave or overhang, and includes also cantilevered bays and other enclosed architectural projections which contain floor or seating area.
- E. “Directional lighting” means methods of directing light downward, rather than upward or outward, with the intention of directing light where it is needed.
- F. “Dynamic lighting” means lighting that changes intensity or color rapidly during use.
- G. “Fully shielded” means a light fixture constructed and installed in such a manner that all light emitted, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the fixture, is projected below the horizontal plane (from the bottom of the lamp).
- H. “Glare” means light entering the eye directly from a light fixture or indirectly from reflective surfaces that causes visual discomfort or reduced visibility to a reasonable person.
- I. “Hardscaping” means permanent hardscape improvements on a site, including but not limited to parking lots, decks and patios, docks and piers, drives, entrances, curbs, ramps, stairs, steps, medians, walkways, and non-vegetated landscaping that is ten (10) feet or less in width. Materials may include but are not limited to concrete, asphalt, stone, gravel, or wood timbers. Hardscaping does not include the footprint of buildings.
- J. “Internally illuminated signage” means any signage that is illuminated by an interior light source, which is primarily designed to illuminate only the sign.
- ~~J.K.~~ “Lamp” means, in generic terms, a source of optical radiation (i.e., “light”), often called a “bulb” or “tube.” Examples include incandescent, fluorescent, high-intensity discharge (HID) lamps, and low-pressure sodium (LPS) lamps, as well as light-emitting diode (LED) modules and arrays.
- ~~K.L.~~ “Light pollution” means the material adverse effect of artificial light, including, but not limited to, glare, light trespass, sky glow, energy waste, compromised safety and security, and impacts on the nocturnal environment, including light sources that are left on when they no longer serve a useful function.
- ~~L.M.~~ “Light trespass” means a condition in which artificial light emitted from a luminaire on one property, not inclusive of light incidentally scattered or reflected from adjacent surfaces, is directed in such a manner that the light source is visible from any other property.
- ~~M.N.~~ “Lumen” means the common unit of measure used to quantify the amount of visible light produced by a lamp or emitted from a light fixture (as distinct from “Watt,” a measure of power consumption).
- ~~N.O.~~ “Luminaires” means outdoor light fixtures as defined in this Section.

~~O.P.~~ “Outdoor light fixtures” means outdoor illuminating devices, lamps and similar devices, including solar powered lights, and all parts used to distribute the light and/or protect the lamp, permanently installed or portable; synonymous with “luminaires.”

~~P.Q.~~ “Outdoor recreational facility” means outdoor athletic and sports areas, such as ball fields, courts, swimming pools, skate parks and similar, but does not mean or include trails or playgrounds.

~~Q.R.~~ “Seasonal lighting” means lighting installed and operated in connection with holidays or traditions; Brisbane Stars are considered separately for the purposes of this chapter.

~~R.S.~~ “Security lighting” means lighting intended to detect intrusions or other criminal activity occurring on a property or site.

~~S.T.~~ “Skyglow” means the brightening of the nighttime sky that results from scattering and reflection of artificial light by air molecules, moisture, and dust particles in the atmosphere, caused by light directed or reflected upwards or sideways and reduces one’s ability to view the night sky.

~~T.U.~~ “String lights” means light sources connected by free-strung wires or inside of tubing resulting in several or many points of light.

§15.88.040 - Applicability.

- A. All existing outdoor light fixtures installed prior to the effective date of this ordinance shall conform to the provisions of this ordinance according to the compliance schedule set forth in Section 15.88.100.
- B. All outdoor light fixtures installed or replaced after the effective date of this ordinance shall comply with this chapter.
- C. For any property subject to this chapter and also regulated by permit conditions pertaining to outdoor lighting, the more restrictive provisions in terms of minimizing light pollution shall apply.
- D. Nothing in this chapter shall prohibit a declaration of covenants, conditions, and restrictions for private enforcement from further restricting lighting so long as it meets the minimum standards detailed in this chapter.
- E. The following lighting and activities are not regulated by this chapter:
 1. Indoor lighting.
 2. Construction or emergency lighting provided such lighting is temporary, necessary, and is discontinued immediately upon completion of the construction work or termination of the emergency; provided, however, construction or emergency lighting shall be deployed to comply with the ordinance to the greatest practical extent.
 3. Building or premises address identification lighting that complies with the minimum applicable building or health and safety requirements, as determined by the Building Official; provided however, such lighting shall be deployed to comply with this ordinance to the greatest practical extent, with the exception of curfew requirements.

4. Low-intensity landscape lighting which is directed downward and no greater than 300 lumens per fixture; or low-intensity landscape lighting which is dynamic lighting and no more than 100 lumens per fixture.
5. Any form of lighting whose use preempts this ordinance is exempt from this Chapter.
6. Short-term lighting associated with activities that are otherwise exempt from discretionary or ministerial permitting by the City; provided, however, such lighting shall be deployed to comply with this ordinance to the greatest extent practical.
7. Brisbane School District athletic fields and parking lot lights.
8. Combustible fuel lighting (i.e., fire pits, lanterns, or torches) when used temporarily in occupied areas.
9. Fire alarm notification appliances.

F. Brisbane Stars are subject only to the curfew requirements of 15.88.050.

F-G. Internally illuminated signage is subject only to the curfew and total illumination maximums established by Section 15.88.050 of this Chapter.

G-H. Streetlights only as covered under 15.88.070.

I. Recreational and athletic fields only as covered under 15.88.080.

J. —Lighting at building entrances is subject to all requirements of this chapter except for the curfew requirements in subsection 15.88.060.E of this Chapter.

§15.88.050 - Lighting levels by zoning district.

Table 15.88.050

Zoning District	<u>Maximum</u> L umens per SF of hardscape	<u>Maximum</u> L umens per SF of developed lot area	<u>Curfew</u>	
			<u>Residential</u>	<u>Commercial</u>
O-S	0.35		<u>One hour after sunset</u>	<u>N/A</u>
MLB, R-BA	0.875		<u>10 PM⁻¹</u>	
NCRO-2, PAOZ-1, PAOZ-2, PD (residential uses only), R-1, R-2, R-3, R-MHP		1.75	<u>10 PM⁻¹</u>	<u>10 PM or close of business, whichever is later⁻²</u>
NCRO-1, SCRO-1, SP-CRO, HC, M-1, TC-1, TC-2, C/PU	3.5		<u>10 PM⁻¹</u>	<u>10 PM or close of business, whichever is later⁻²</u>

All other zoning districts and uses not named	Determined at time of application or closest applicable district as determined by the Community Development Director
¹ Lighting activated by motion sensor which extinguishes ten (10) minutes after activation and lighting at building entrances, parking areas and driveways is not subject to curfew. ² Includes illuminated signage. Lighting activated by motion sensor which extinguishes ten (10) minutes after activation, lighting at the building entrances and driveway egress points is not subject to curfew.	

§15.88.060 - Citywide requirements.

A. Shielding.

1. Except as provided in paragraph 2 of this subsection A of this section, all outdoor light fixtures shall be fully shielded.
2. Exceptions to the full shielding requirement include:
 - a. String lights that are no more than 300 lumens per fixture (string), or no more than 100 lumens per fixture for dynamic lighting that changes intensity or color rapidly during use, when used in occupied residential and commercial decks or patios.
 - b. Seasonal lighting during the period specified in §15.88.060.F.
 - c. Lighting that illuminates a United States or California flag and the flagpole to which the flag is affixed, provided these luminaires shall be shielded as necessary so that the light source is not visible from the property line.

B. Light trespass is prohibited, except for fixtures exempted from this ordinance or from shielding requirements in subsection 15.88.060.A of this section.

C. Location of Outdoor Lighting. Except as required for security lighting purposes as determined by the Building Official, the following limitations are imposed on the location of outdoor lighting:

1. Lighting around the perimeter of a site is prohibited, except where it is controlled by motion sensor which extinguishes the light no later than ten (10) minutes after activation.
2. For residential sites, outdoor lighting shall only be used within fifty (50) feet of residentially habitable buildings or swimming pools, driveways and walkways.

D. Lighting Color (Color Temperature). The correlated color temperature of all outdoor lighting shall be three thousand (3,000) Kelvin or less except for seasonal lighting.

E. Curfew. ~~Curfews shall be as required per Section 15.88.050 of this Chapter.~~

1. Residential uses: All lighting subject to this ordinance shall be extinguished no later than 10 PM, except lighting at building entrances, parking areas and driveways, and lighting activated by motion sensor which extinguishes ten (10) minutes after activation.

2. Commercial uses:

- a. All lighting, including all illuminated advertising signage, shall be extinguished no later than 10 PM or close of business, whichever is later, except lighting at the building entrances and driveway egress points, and lighting activated by motion sensor which extinguishes ten (10) minutes after activation.

~~a.b. Commercial uses:~~ Automated control systems, such as motion sensors and timers, shall be used to meet the curfew requirements for commercial uses. Photocells or photocontrols shall be used to extinguish all outdoor lighting automatically when sufficient daylight is available. Automated controls shall be fully programmable and supported by battery or similar backup.

- F. Seasonal lighting shall be allowed from ~~October 1~~September 15 to ~~February 15~~January 31 only, subject to curfew requirements established in Section 15.88.050.
- G. All outdoor lighting shall comply with applicable regulations in the California Building Standards Code, as may be amended from time to time.

§15.88.070 – Streetlights

- A. Publicly-owned acorn-style decorative lights, such as those on Visitacion Avenue and in the Ridge neighborhood, are not subject to the shielding requirements of subsection A of §15.88.050 until such time as an approved program for replacement of said lights is in place. Once that program is in place, replacement lights shall be fully shielded.
- B. The lumen output of each streetlight shall be the lowest reasonable lumen output to meet safety standards but in no case greater than 10,000 lumens.
- C. Lamps in all streetlights shall be replaced upon burnout with lamps which meet the color temperature and lumen requirements of this chapter.

§15.88.080 - Recreational and Athletic Field Facilities

For outdoor recreational and/or athletic field facilities, the following standards shall apply:

- A. Illuminating Engineering Society (IES) lighting guidelines according to the appropriate class of play or activity;
- B. Field lighting provided exclusively for illumination of the surface of play and viewing stands, and not for any other applications;
- C. Illuminance levels must be adjustable based on the task (e.g., active play vs. field maintenance);
- D. Off-site impacts of the lighting will be limited to the greatest practical extent possible;
- E. Lights must be extinguished by 8 p.m. except when the facilities are being used for active play and the lights are equipped with a timer;
- F. Timers that automatically extinguish lights must be installed to prevent lights being left on accidentally overnight.

§15.88.090 - Deviation Permit Procedures.

- A. Deviations from the lighting standards provided in this chapter may be approved for private properties if approved by the Community Development Director. Deviations from the lighting standards provided in this chapter may be approved by the Director of Public Works.
- B. Applications to deviate from the lighting standards shall include the following information:
 1. A site plan depicting the location of proposed lighting on the site;
 2. A lighting inventory that provides, at minimum:

- a. The brightness (in lumens) and correlated color temperature (in Kelvin) of each luminaire;
 - b. The height of each fixture;
 - c. The directional angle of each fixture;
 - d. The character of shielding for each luminaire, if any;
 - e. Identification of luminaires that diverge from the standards of this Chapter and are subject to the deviation request;
 - f. Detailed description of the circumstances which necessitate the deviation;
- 3. Such other data and information as may be required by the Community Development Director or the Public Works Director.
- C. The deviation may be granted if the following findings are made:
 - 1. There are unique circumstances affecting the subject property or unique design and land use characteristics that make it infeasible or impractical to comply with strict application of the lighting standards detailed in this chapter.
 - 2. The proposed deviation will achieve the intent of this chapter to the maximum extent feasible.
- D. Notice of the Community Development or Public Works Director's decision to approve or deny the requested deviation shall be mailed to owners of property within a three hundred (300) foot radius of the subject property and posted in compliance with Chapter 1.12 of this Municipal Code. The notice shall describe the requested deviations, the Community Development Director's action to approve or deny the request, and right to appeal the decision to the City Manager pursuant to subsection E of Section 15.88.090.
- E. Appeal Procedures.
 - a. An appeal of the Community Development Director's decision shall be in writing and filed with the City Clerk within fifteen (15) days after the date of the notice described in subsection D of Section 15.88.090. The appeal shall be accompanied by a fee, as set by the city council, and shall clearly state the reason for appeal.
 - b. Upon receipt of such appeal, the City Clerk shall notify the Community Development Director and the applicant and shall set a time for an administrative appeal hearing with the City Manager as soon as practical but within thirty (30) days after the receipt of such appeal.
 - c. Notice of the appeal hearing shall be mailed to the applicant, property owner, appellant, and owners of property within three hundred (300) feet of the subject property.
 - d. The City Manager shall conduct a de novo hearing of the application. At the close of the hearing, the City Manager may affirm, reverse or modify the decision of the Director, or refer the matter to the Director for such further consideration as may be directed by the City Manager. The City Manager's decision following the appeal hearing will be final.

§15.88.100 - Conflicts with other laws.

In the event the provisions in this chapter conflict with federal or state law such that this Chapter may be preempted, this chapter shall be applied in a manner intended to carry out all provisions of law to the maximum extent feasible. When there is an irreconcilable conflict between the provisions of this chapter and the requirements of federal or state law such that the provisions of this Chapter are preempted, the provisions of federal or state law shall prevail over the provisions contained in this chapter but only to the extent necessary to avoid preemption.

§15.88.110 - Application of chapter to existing nonconforming lighting.

- A. Effective Date. The effective date of this chapter shall be ~~TBD, 2023~~ March 1, 2024.
- B. The following requirements shall apply to existing outdoor light fixtures, except streetlights covered in §15.88.070, within one year of the effective date of this ordinance:
 1. Existing outdoor light fixtures with the ability to be redirected shall be directed downward to minimize sky glow, glare and in a manner to minimize light trespass onto adjacent properties.
 2. Outdoor light fixtures that have adjustable dimmers shall be dimmed to comply with Section 15.88.060 to minimize glare and light trespass onto adjacent properties.
 3. Outdoor light fixtures that are motion sensor equipped shall be programmed to extinguish not more than 10 minutes after activation.
 4. Outdoor light fixtures with removeable lamps shall utilize bulbs meeting this chapter's color and lumen thresholds.
- C. Compliance Period. Notwithstanding the provisions in section B of this Section and Chapter 17.38 (Nonconforming Structures and Uses), a property owner shall comply with the remaining requirements of this chapter by the following compliance deadlines. Any nonconforming lighting still in place after the compliance deadline shall remain extinguished at all times.
 1. Existing outdoor lighting in non-residential zoning districts shall comply by ~~TBD, 2028~~ March 1, 2029 [five years from the effective date].
 2. Existing outdoor lighting in residential zoning districts shall comply by ~~TBD, 2033~~ March 1, 2034 [ten years from the effective date].
 3. Existing streetlights and other lighting at City facilities shall comply by ~~TBD, 2038~~ March 1, 2039 [fifteen years from the effective date].
- D. Extension. A private property owner may apply for an extension of these compliance deadlines by submitting a request to the Community Development Director ninety (90) days before the compliance deadline detailing why an extension is needed. With the exception of lighting provided for security purposes, any noncompliant lighting shall remain extinguished while the request is pending. Upon demonstration of good cause for providing a property owner additional time to comply with the requirements of this section, the Community Development Director may extend the property owner's time to comply and/or may require a plan for compliance that requires partial compliance in advance of full compliance. For purposes of this section, the term "good cause" shall mean a significant financial or other

hardship which warrants an extension or conditional extension of the time limit for compliance established herein. In no instance shall the Community Development Director issue an extension of the compliance period in excess of one year's time. The Community Development Director's decision shall be appealable pursuant to the provisions of Chapter 17.52. of this Code.

§15.88.120 - Enforcement and penalties.

Any violation of the provisions of this chapter shall be subject to the provisions of Title 1 Chapters 1.14, 1.16, and 1.18 of this code.

ORDINANCE NO. xxx

AN ORDINANCE OF THE CITY OF BRISBANE
ADDING CHAPTER 15.88 TO THE BRISBANE MUNICIPAL CODE
CONCERNING OUTDOOR LIGHTING STANDARDS

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

SECTION 1: Chapter 15.88 is hereby added to the Brisbane Municipal Code to read as follows:

§15.88.010 - Title.

This chapter shall be known as the “Brisbane Dark Sky Ordinance.”

§15.88.020 - Purpose.

The purpose of this chapter is to establish regulations and a process to review outdoor lighting in order to accomplish the following:

- A. Minimize direct glare and prevent excessive lighting, thereby minimizing light pollution caused by inappropriate or misaligned light fixtures, and promoting common courtesy among neighbors;
- B. Reclaim views of the night sky and thereby help preserve Brisbane’s rural quality of life and the scenic value of this desirable visual resource;
- C. Promote wildlife habitation and migration by minimizing light pollution;
- D. Provide sufficient lighting where it is needed to promote safety and security on public and private property;
- E. Allow flexibility in the style of outdoor lighting;
- F. Provide standards for efficient and moderate use of lighting which balance energy use and economic impact;
- G. Provide lighting standards that may evolve according to advancements in technology; and
- H. Promote lighting practices and systems which conserve energy, decrease dependence on fossil fuels and limit greenhouse gas emissions consistent with the California Global Warming Solutions Act and other applicable state and federal law.

§15.88.030 - Definitions.

Notwithstanding the definitions in Chapter 17.02 of this Code, for purposes of this chapter only, the following words and phrases are defined as follows:

- A. “Brisbane Stars” mean outdoor star-shaped lighted structures customary to Brisbane.
- B. “Correlated Color Temperature” or Color Temperature is a specification of the color appearance of the light emitted by a light source, measured in Kelvin (K). Warmer color temperatures are a lower number, and cooler color temperatures are a higher number.

- C. “Curfew” means the time of day when lighting restrictions, based on zoning district, are in effect.
- D. “Developed lot area” means the portion of a lot that is covered or occupied by structures and includes any finished surface, such as a slab or deck, which is covered by a roof or other solid covering with at least seven (7) feet of clearance, other than an eave or overhang, and includes also cantilevered bays and other enclosed architectural projections which contain floor or seating area.
- E. “Directional lighting” means methods of directing light downward, rather than upward or outward, with the intention of directing light where it is needed.
- F. “Dynamic lighting” means lighting that changes intensity or color rapidly during use.
- G. “Fully shielded” means a light fixture constructed and installed in such a manner that all light emitted, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the fixture, is projected below the horizontal plane (from the bottom of the lamp).
- H. “Glare” means light entering the eye directly from a light fixture or indirectly from reflective surfaces that causes visual discomfort or reduced visibility to a reasonable person.
- I. “Hardscaping” means permanent hardscape improvements on a site, including but not limited to parking lots, decks and patios, docks and piers, drives, entrances, curbs, ramps, stairs, steps, medians, walkways, and non-vegetated landscaping that is ten (10) feet or less in width. Materials may include but are not limited to concrete, asphalt, stone, gravel, or wood timbers. Hardscaping does not include the footprint of buildings.
- J. “Internally illuminated signage” means any signage that is illuminated by an interior light source, which is primarily designed to illuminate only the sign.
- K. “Lamp” means, in generic terms, a source of optical radiation (i.e., “light”), often called a “bulb” or “tube.” Examples include incandescent, fluorescent, high-intensity discharge (HID) lamps, and low-pressure sodium (LPS) lamps, as well as light-emitting diode (LED) modules and arrays.
- L. “Light pollution” means the material adverse effect of artificial light, including, but not limited to, glare, light trespass, sky glow, energy waste, compromised safety and security, and impacts on the nocturnal environment, including light sources that are left on when they no longer serve a useful function.
- M. “Light trespass” means a condition in which artificial light emitted from a luminaire on one property, not inclusive of light incidentally scattered or reflected from adjacent surfaces, is directed in such a manner that the light source is visible from any other property.
- N. “Lumen” means the common unit of measure used to quantify the amount of visible light produced by a lamp or emitted from a light fixture (as distinct from “Watt,” a measure of power consumption).
- O. “Luminaires” means outdoor light fixtures as defined in this Section.

- P. “Outdoor light fixtures” means outdoor illuminating devices, lamps and similar devices, including solar powered lights, and all parts used to distribute the light and/or protect the lamp, permanently installed or portable; synonymous with “luminaires.”
- Q. “Outdoor recreational facility” means outdoor athletic and sports areas, such as ball fields, courts, swimming pools, skate parks and similar, but does not mean or include trails or playgrounds.
- R. “Seasonal lighting” means lighting installed and operated in connection with holidays or traditions; Brisbane Stars are considered separately for the purposes of this chapter.
- S. “Security lighting” means lighting intended to detect intrusions or other criminal activity occurring on a property or site.
- T. “Skyglow” means the brightening of the nighttime sky that results from scattering and reflection of artificial light by air molecules, moisture, and dust particles in the atmosphere, caused by light directed or reflected upwards or sideways and reduces one’s ability to view the night sky.
- U. “String lights” means light sources connected by free-strung wires or inside of tubing resulting in several or many points of light.

§15.88.040 - Applicability.

- A. All existing outdoor light fixtures installed prior to the effective date of this ordinance shall conform to the provisions of this ordinance according to the compliance schedule set forth in Section 15.88.100.
- B. All outdoor light fixtures installed or replaced after the effective date of this ordinance shall comply with this chapter.
- C. For any property subject to this chapter and also regulated by permit conditions pertaining to outdoor lighting, the more restrictive provisions in terms of minimizing light pollution shall apply.
- D. Nothing in this chapter shall prohibit a declaration of covenants, conditions, and restrictions for private enforcement from further restricting lighting so long as it meets the minimum standards detailed in this chapter.
- E. The following lighting and activities are not regulated by this chapter:
 - 1. Indoor lighting.
 - 2. Construction or emergency lighting provided such lighting is temporary, necessary, and is discontinued immediately upon completion of the construction work or termination of the emergency; provided, however, construction or emergency lighting shall be deployed to comply with the ordinance to the greatest practical extent.
 - 3. Building or premises address identification lighting that complies with the minimum applicable building or health and safety requirements, as determined by the Building Official; provided however, such lighting shall be deployed to comply with this ordinance to the greatest practical extent, with the exception of curfew requirements.

4. Low-intensity landscape lighting which is directed downward and no greater than 300 lumens per fixture; or low-intensity landscape lighting which is dynamic lighting and no more than 100 lumens per fixture.
 5. Any form of lighting whose use preempts this ordinance is exempt from this Chapter.
 6. Short-term lighting associated with activities that are otherwise exempt from discretionary or ministerial permitting by the City; provided, however, such lighting shall be deployed to comply with this ordinance to the greatest extent practical.
 7. Brisbane School District athletic fields and parking lot lights.
 8. Combustible fuel lighting (i.e., fire pits, lanterns, or torches) when used temporarily in occupied areas.
 9. Fire alarm notification appliances.
- F. Brisbane Stars are subject only to the curfew requirements of 15.88.050.
- G. Internally illuminated signage is subject only to the curfew and total illumination maximums established by Section 15.88.050 of this Chapter.
- H. Streetlights only as covered under 15.88.070.
- I. Recreational and athletic fields only as covered under 15.88.080.
- J. Lighting at building entrances is subject to all requirements of this chapter except for the curfew requirements in subsection 15.88.060.E of this Chapter.

§15.88.050 - Lighting levels by zoning district.

Table 15.88.050

Zoning District	Maximum lumens per SF of hardscape	Maximum lumens per SF of developed lot area
O-S	0.35	
MLB, R-BA	0.875	
NCRO-2, PAOZ-1, PAOZ-2, PD (residential uses only), R-1, R-2, R-3, R-MHP		1.75
NCRO-1, SCRO-1, SP-CRO, HC, M-1, TC-1, TC-2, C/PU	3.5	
All other zoning districts and uses not named	Determined at time of application or closest applicable district as determined by the Community Development Director	

§15.88.060 - Citywide requirements.

- A. Shielding.
1. Except as provided in paragraph 2 of this subsection A of this section, all outdoor light fixtures shall be fully shielded.

2. Exceptions to the full shielding requirement include:
 - a. String lights that are no more than 300 lumens per fixture (string), or no more than 100 lumens per fixture for dynamic lighting that changes intensity or color rapidly during use, when used in occupied residential and commercial decks or patios.
 - b. Seasonal lighting during the period specified in §15.88.060.F.
 - c. Lighting that illuminates a United States or California flag and the flagpole to which the flag is affixed, provided these luminaires shall be shielded as necessary so that the light source is not visible from the property line.
- B. Light trespass is prohibited, except for fixtures exempted from this ordinance or from shielding requirements in subsection 15.88.060.A of this section.
- C. Location of Outdoor Lighting. Except as required for security lighting purposes as determined by the Building Official, the following limitations are imposed on the location of outdoor lighting:
 1. Lighting around the perimeter of a site is prohibited, except where it is controlled by motion sensor which extinguishes the light no later than ten (10) minutes after activation.
 2. For residential sites, outdoor lighting shall only be used within fifty (50) feet of residentially habitable buildings or swimming pools, driveways and walkways.
- D. Lighting Color (Color Temperature). The correlated color temperature of all outdoor lighting shall be three thousand (3,000) Kelvin or less except for seasonal lighting.
- E. Curfew.
 1. Residential uses: All lighting subject to this ordinance shall be extinguished no later than 10 PM, except lighting at building entrances, parking areas and driveways, and lighting activated by motion sensor which extinguishes ten (10) minutes after activation.
 2. Commercial uses:
 - a. All lighting, including all illuminated advertising signage, shall be extinguished no later than 10 PM or close of business, whichever is later, except lighting at the building entrances and driveway egress points, and lighting activated by motion sensor which extinguishes ten (10) minutes after activation.
 - b. Automated control systems, such as motion sensors and timers, shall be used to meet the curfew requirements for commercial uses. Photocells or photocontrols shall be used to extinguish all outdoor lighting automatically when sufficient daylight is available. Automated controls shall be fully programmable and supported by battery or similar backup.
- F. Seasonal lighting shall be allowed from September 15 to January 31 only, subject to curfew requirements established in Section 15.88.050.
- G. All outdoor lighting shall comply with applicable regulations in the California Building Standards Code, as may be amended from time to time.

§15.88.070 – Streetlights

- A. Publicly-owned acorn-style decorative lights, such as those on Visitacion Avenue and in the Ridge neighborhood, are not subject to the shielding requirements of subsection A of

§15.88.050 until such time as an approved program for replacement of said lights is in place. Once that program is in place, replacement lights shall be fully shielded.

- B. The lumen output of each streetlight shall be the lowest reasonable lumen output to meet safety standards but in no case greater than 10,000 lumens.
- C. Lamps in all streetlights shall be replaced upon burnout with lamps which meet the color temperature and lumen requirements of this chapter.

§15.88.080 - Recreational and Athletic Field Facilities

For outdoor recreational and/or athletic field facilities, the following standards shall apply:

- A. Illuminating Engineering Society (IES) lighting guidelines according to the appropriate class of play or activity;
- B. Field lighting provided exclusively for illumination of the surface of play and viewing stands, and not for any other applications;
- C. Illuminance levels must be adjustable based on the task (e.g., active play vs. field maintenance);
- D. Off-site impacts of the lighting will be limited to the greatest practical extent possible;
- E. Lights must be extinguished by 8 p.m. except when the facilities are being used for active play and the lights are equipped with a timer;
- F. Timers that automatically extinguish lights must be installed to prevent lights being left on accidentally overnight.

§15.88.090 - Deviation Permit Procedures.

- A. Deviations from the lighting standards provided in this chapter may be approved for private properties if approved by the Community Development Director. Deviations from the lighting standards provided in this chapter may be approved by the Director of Public Works.
- B. Applications to deviate from the lighting standards shall include the following information:
 - 1. A site plan depicting the location of proposed lighting on the site;
 - 2. A lighting inventory that provides, at minimum:
 - a. The brightness (in lumens) and correlated color temperature (in Kelvin) of each luminaire;
 - b. The height of each fixture;
 - c. The directional angle of each fixture;
 - d. The character of shielding for each luminaire, if any;
 - e. Identification of luminaires that diverge from the standards of this Chapter and are subject to the deviation request;
 - f. Detailed description of the circumstances which necessitate the deviation;
 - 3. Such other data and information as may be required by the Community Development Director or the Public Works Director.
- C. The deviation may be granted if the following findings are made:

1. There are unique circumstances affecting the subject property or unique design and land use characteristics that make it infeasible or impractical to comply with strict application of the lighting standards detailed in this chapter.
 2. The proposed deviation will achieve the intent of this chapter to the maximum extent feasible.
- D. Notice of the Community Development or Public Works Director's decision to approve or deny the requested deviation shall be mailed to owners of property within a three hundred (300) foot radius of the subject property and posted in compliance with Chapter 1.12 of this Municipal Code. The notice shall describe the requested deviations, the Community Development Director's action to approve or deny the request, and right to appeal the decision to the City Manager pursuant to subsection E of Section 15.88.090.
- E. Appeal Procedures.
- a. An appeal of the Community Development Director's decision shall be in writing and filed with the City Clerk within fifteen (15) days after the date of the notice described in subsection D of Section 15.88.090. The appeal shall be accompanied by a fee, as set by the city council, and shall clearly state the reason for appeal.
 - b. Upon receipt of such appeal, the City Clerk shall notify the Community Development Director and the applicant and shall set a time for an administrative appeal hearing with the City Manager as soon as practical but within thirty (30) days after the receipt of such appeal.
 - c. Notice of the appeal hearing shall be mailed to the applicant, property owner, appellant, and owners of property within three hundred (300) feet of the subject property.
 - d. The City Manager shall conduct a de novo hearing of the application. At the close of the hearing, the City Manager may affirm, reverse or modify the decision of the Director, or refer the matter to the Director for such further consideration as may be directed by the City Manager. The City Manager's decision following the appeal hearing will be final.

§15.88.100 - Conflicts with other laws.

In the event the provisions in this chapter conflict with federal or state law such that this Chapter may be preempted, this chapter shall be applied in a manner intended to carry out all provisions of law to the maximum extent feasible. When there is an irreconcilable conflict between the provisions of this chapter and the requirements of federal or state law such that the provisions of this Chapter are preempted, the provisions of federal or state law shall prevail over the provisions contained in this chapter but only to the extent necessary to avoid preemption.

§15.88.110 - Application of chapter to existing nonconforming lighting.

- A. Effective Date. The effective date of this chapter shall be March 1, 2024.
- B. The following requirements shall apply to existing outdoor light fixtures, except streetlights covered in §15.88.070, within one year of the effective date of this ordinance:

1. Existing outdoor light fixtures with the ability to be redirected shall be directed downward to minimize sky glow, glare and in a manner to minimize light trespass onto adjacent properties.
 2. Outdoor light fixtures that have adjustable dimmers shall be dimmed to comply with Section 15.88.060 to minimize glare and light trespass onto adjacent properties.
 3. Outdoor light fixtures that are motion sensor equipped shall be programmed to extinguish not more than 10 minutes after activation.
 4. Outdoor light fixtures with removeable lamps shall utilize bulbs meeting this chapter's color and lumen thresholds.
- C. Compliance Period. Notwithstanding the provisions in section B of this Section and Chapter 17.38 (Nonconforming Structures and Uses), a property owner shall comply with the remaining requirements of this chapter by the following compliance deadlines. Any nonconforming lighting still in place after the compliance deadline shall remain extinguished at all times.
1. Existing outdoor lighting in non-residential zoning districts shall comply by March 1, 2029 [five years from the effective date].
 2. Existing outdoor lighting in residential zoning districts shall comply by March 1, 2034 [ten years from the effective date].
 3. Existing streetlights and other lighting at City facilities shall comply by March 1, 2039 [fifteen years from the effective date].
- D. Extension. A private property owner may apply for an extension of these compliance deadlines by submitting a request to the Community Development Director ninety (90) days before the compliance deadline detailing why an extension is needed. With the exception of lighting provided for security purposes, any noncompliant lighting shall remain extinguished while the request is pending. Upon demonstration of good cause for providing a property owner additional time to comply with the requirements of this section, the Community Development Director may extend the property owner's time to comply and/or may require a plan for compliance that requires partial compliance in advance of full compliance. For purposes of this section, the term "good cause" shall mean a significant financial or other hardship which warrants an extension or conditional extension of the time limit for compliance established herein. In no instance shall the Community Development Director issue an extension of the compliance period in excess of one year's time. The Community Development Director's decision shall be appealable pursuant to the provisions of Chapter 17.52. of this Code.

§15.88.120 - Enforcement and penalties.

Any violation of the provisions of this chapter shall be subject to the provisions of Title 1 Chapters 1.14, 1.16, and 1.18 of this code.

File Attachments for Item:

G. Capital Improvement Plan Update for Fiscal Year 2023/2024



CITY COUNCIL AGENDA REPORT

Meeting Date: 1/18/2024

From: Carolina Yuen, Finance Director

Subject: Capital Improvement Plan Update

Community Goal/Result

Fiscally Prudent
Safe Community
Community Building
Ecological Sustainability
Economic Development

Purpose

Develop a plan to provide for the long-term replacement of infrastructure, and creation of new amenities for the community.

Recommendation

Review the proposed projects on the City's Capital Improvement Plan (CIP) and set priorities for the completion of projects since the last review of January 20, 2022. Direct staff to return at mid-year to review potential funding sources for Council priority projects. Staff also recommends removing completed projects from CIP List after five years from completion.

Background

The Capital Improvement Plan provides information on the current and long-range infrastructure and equipment requirements of the City. It provides a mechanism for balancing needs and resources and for setting priorities and schedules for capital projects. It is based on needs identified through the planning process, request and recommendations of City departments and the concerns of citizens and elected officials.

The City Council developed the CIP in 2004. Council reviews the plan in the off year of the City's two-year operating budget cycle. Council reviewed the plan last in January 2022 to move forward on projects deemed high priority and to determine if additional projects were needed. Council requested to revisit after the results of Fiscal Year ending June 30, 2022 were known. Due to a planned City Manager transition, budgets were prepared for one-year cycles for Fiscal Years 2023 and 2024. Staff therefore delayed CIP requests until after the FY24 Budget was completed.

Based on the preliminary audited financials for Fiscal Year ending June 30, 2023, the General Fund Available Reserves is approximately \$11,400,000. This includes budgetary policy restrictions on those reserves for major disasters, economic recessions, and contract

commitments. When the Fiscal Year 2024 Budget was approved, Council directed staff to hold from spending on specific items until the economic conditions could be re-evaluated at mid-year. Until the holds on FY24 spending are released, staff has determined there are no reserves available to be used towards capital improvements. However, the projects to be presented today have been requested by staff for discussion including some deemed high priority, to commence if approved and once funds become available.

Discussion

Attached for City Council review is the City's Capital Improvement Plan, coded as follows:

- Yellow is for completed projects.
- Blue is for approved projects. (marked with +)
- Bright Red is for projects that staff consider a priority. (marked with **)
- Green is for projects that are new this year. (marked with N)
- Brown is for projects that Council has requested to be presented again after additional research.

The following projects were completed since we met in January 2022:

CC-07	Crocker Trail Commuter Connectivity Upgrades
DPW-31	Sierra Point Lift Station Improvements (LS#4)
Fire-15	LED Light Upgrade Station 81

The following projects were updated or are new requests since we discussed in January 2022 for a total of \$3,021,500, including five projects that Staff has identified as high priority this year for a:

DPW-93	Brisbane Village DCFC Replacement
DPW-94	Wastewater Infiltration and Inflow Study (high priority)
DPW-95	Guadalupe Canyon Parkway Flushing Unit (high priority)
DPW-96	Crocker Shuttle Stop Improvements (partially funded) (high priority)
Fire-12	Replace Carpet in Station 81 Office and Common Area with Alternative Material (combined with Fire-13)
Fire-14	New Carpet or Alternative Material in Station 81 Dorm Side Area
PR-02	Community Park Installation of Sport Court (formerly Bocce Ball courts, combined with PR-28)
PR-11	Turf Renovation – Lipman Athletic Field (updated priority)
PR-05	Full Size Soccer Field Construction (removed)
PR-26	Sunrise Room Window Coverings (approved with Operating Budget)
PR-28	Sport Court Installation at Community Park (combined with PR-02)

Fiscal Impact

The priority projects at this time total \$3,916,046, for which \$2,850,200 is being requested from the General Fund. City Council has not allocated funds from reserves for Capital Projects at this time. Final fiscal impact to the City will be determined when the projects are approved and what funding source is used.

Measure of Success

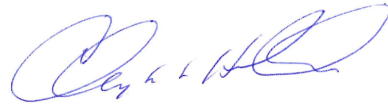
The City maintains the infrastructure it owns and provides for new amenities the Community needs.

Attachments

1. Capital Improvement Plan Guidelines
2. Narratives for new and updated requests
3. Capital Improvement Plan Schedule

Carolina Yuen

Carolina Yuen, Finance Director



Clay Holstine, Interim City Manager

Introduction

The Capital Improvement Plan guides the construction of major maintenance of City facilities and infrastructure. It constitutes a critical component in the City's system of planning, monitoring, and managing corporate business activities. This system links together in a single process the annual cycle of planning, budgeting, implementation, and quality assessment activities.

Capital Improvement Plan Definitions

The Capital Improvement Plan (CIP) is a planning and budgeting tool, which provides information about the City's infrastructure needs. Each year, the list of projects is reviewed for need, cost, and priority. New projects may be added and other projects deleted.

Generally, capital improvement projects are defined as physical assets, constructed or purchased, that have a useful life of ten years or longer and a cost of \$50,000 or more. The following are capital improvements included in the plan:

1. New and expanded facilities for the community.
2. Large scale rehabilitation or replacement of existing facilities.
3. Equipment for any public facility or improvement when first constructed or acquired.
4. The cost of engineering or architectural studies and services related to the improvement.
5. The acquisition of land for a community facility such as park, road, sewer line, etc.

What are Capital Outlays?

"Capital Outlays", which are budgeted within the City's operating budget, include such things as furniture, equipment, vehicles, and motorized equipment needed to support the operation of the City's programs. Generally, a capital outlay item may be defined as an item valued in excess of \$5,000 with a life expectancy of less than 10 years.

What are Capital Projects?

There are two types of capital expenditures. One is infrastructure projects and the other is operating programs. "Capital Projects", which are addressed in the CIP and budgeted within the City's adopted budget, generally include major fixed assets or infrastructure with long term value, such as buildings, roads, and parks; major equipment purchases (large vehicles), computer hardware and computer

software that over the life of the project cost \$250,000 or more. Any of these may involve some form of debt financing.

Capital project costs include all expenditures related to the planning, design, construction, and equipment necessary to open the facility. They include reimbursement for the project manager's time through a transfer from a capital project account.

Why have a Capital Improvement Plan?

The CIP provides information on the current and long-range infrastructure and equipment requirements of the City. It provides a mechanism for balancing needs and resources and for setting priorities and schedules for capital projects. It is based on needs identified through the planning process, requests and recommendations of City departments and the concerns of citizens and elected officials.

The CIP includes identification of the revenue sources, which will be utilized to fund capital improvements. Projects should be included even if revenues are not available to them. Projects may be funded by current revenues or by debt financing, depending on the availability of funds, the nature of the project, and the policies of the City Council.

The CIP strives for efficient use of capital improvement funds by identifying projects and prioritizing them according to their relative importance and urgency of need. Identification assures needed projects are known while prioritization ensures that those projects, which are most urgently needed, are funded first.

Why a separate Capital Improvement Plan?

The Capital Improvement Plan lays out long range capital improvement expenditures. Funds budgeted through the CIP for a specific project during a specific year remain with that project until the project is completed, while the operating budget "terminates" at the end of the fiscal year.

Each year project costs will be reviewed and additional funds may be allocated to a project which, when combined with resources carried over from the prior year, constitute the budget for the new year.

Project Title: Brisbane Village DCFC replacement

Project Number: DPW - 93

Description: Replace the inoperable Electric Vehicle fast charger (DCFC) at the Brisbane Village shopping center.

Year to be completed (Fiscal Year): FY25

Funding Source: City's General Fund.

Grant sources have been considered but this is not an eligible project type for current EV infrastructure funds since it is an existing source. Sources which might otherwise fund replacements rely on newer federal standards which require 4+ stations in the same location and/or higher charging capacities, neither of which are feasible in this location.

Projected Cost in 2024: \$40,500

Any additional staff needed: none

On-going costs created by completion of this project: Network and maintenance fees of \$250/month. Energy costs which will be offset by station revenues.

Community need to be met: EV charging to support the conversion from gas to electric vehicles, meeting city climate goals and state zero-emission vehicle requirements. This station was heavily utilized when it was operable due to its convenient location just off Bayshore with food and other amenities nearby. The fast charging use case is distinct from Level 2 EV charging (which is soon to be available across Bayshore at the Park & Ride lot) in that it provides a relatively quick charge to get drivers back on the road rather than requiring several hours or more to "fill up."

Project Title: Wastewater Infiltration and Inflow Study

Project Number: DPW-94

Description: Perform a system-wide Infiltration and Inflow (I&I) study to evaluate the impacts of I&I on the overall sanitary sewer system, measure the degree of which rainfall-derived inflow occurs, and prioritize future system assessment and rehabilitation efforts.

High Priority

Year to be completed (Fiscal Year): 2024

Funding Source: Enterprise

Projected Cost in 2024: \$120,000

Any additional staff needed: None

On-going costs created by completion of this project: None

Community need to be met: The I&I study will assess the overall performance and efficiency of the existing sanitary system by identifying existing deficiencies in the built sanitary sewer infrastructure and will identify and recommend steps to minimize unaccounted-for flows entering the City's sanitary sewer system that have been observed during significant rainfall events.

Project Title: **Guadalupe Canyon Parkway Flushing Unit**

Project Number: DPW-95

Description: Install a programmable flushing unit on the existing 12-inch diameter water main that supplies and draws water from the 1 million gallon Guadalupe Tank.

High Priority

Year to be completed (Fiscal Year): 2024

Funding Source: Enterprise

Projected Cost in 2024: \$50,000

Any additional staff needed: None

On-going costs created by completion of this project: minimal

Community need to be met: The programmable flushing unit will assist the City's water system operators in more efficiently managing water quality in the Guadalupe Tank and the associated water system mains that service the City's water customers.

Project Title: Crocker Shuttle Stop Improvements

Project Number: DPW-96

Description: Install benches, some bus shelters and ADA improvements at Commute.org stops in Crocker Industrial Park

High Priority

Year to be completed (Fiscal Year): 2025

Funding Source: General Fund

Projected Cost in 2023: \$25,000 Local Match to \$475,000 SMC Co TA ACR/TDM grant

Any additional staff needed: None

On-going costs created by completion of this project: Future maintenance costs will be captured in the city's overall budget for street and sidewalk repairs.

Community need to be met: Will provide a safer and more comfortable commuter experience and encourage further ridership of Commute.org shuttle system.

Project Title: Replace Carpet in Office and Common Area Station 81 with Alternative Materials (Combined with Fire-13)

Project Number: Fire-12

Description: Replace carpeted offices and common areas on Office side of facility with alternative materials

Year to be completed Fiscal Year: 2024

Funding Source: General Fund

Projected Cost in 2024: \$35,000

Any additional staff needed: None

On-going costs created by completion of this project: None

Community need to be met: Ensuring employee safety by providing a safe working environment

Project Title: **New Carpet / Alternative Material in Station 81 Dorm Side Area**

Project Number: Fire-14

Description: Remove and install new carpet or alternative material in dorm side of facility

Year to be completed Fiscal Year: 2024

Funding Source: General Fund

Projected Cost in 2024: \$16,000

Any additional staff needed: None

On-going costs created by completion of this project:

Annual professional carpet cleaning costs

Community need to be met:

Ensuring employee safety by providing a safe working environment

Project Title: Sport Courts Installation at Community Park

Project Number: PR-02 (Combined with PR-28)

Description: Install permanently affixed recreational infrastructure at the Community Park. Potential games on a sport court could include: Bocce Ball, concrete Cornhole, Table Tennis, etc. which would allow for additional recreational opportunities for residents of all ages. Previously specific to Bocce Ball courts; combined with PR-28 to expand scope.

Year to be completed Fiscal Year: TBD

Funding Source: General Fund

Projected Cost in 2024: \$60,000

Any additional staff needed: n/a

On-going costs created by completion of this project: General maintenance of the area consistent with existing park maintenance (blowing, weeding, etc.).

Community need to be met: This would activate existing passive park space into a more engaging and active recreational amenity. This type of park amenity could be utilized by parkgoers of all ages and abilities.

Project Title: Lipman Field Turf Renovation

Project Number: PR-11

Description: Install all-weather turf surfacing **OR** conduct full reconstruction of existing grass field to improve safety.

Upgraded to High Priority

Year to be completed Fiscal Year: TBD

Funding Source: General Fund or shared cost with School District if it can be negotiated

Projected Cost in 2024: \$2,200,000

Any additional staff needed: n/a

On-going costs created by completion of this project: TBD

Community need to be met: Replacing the existing grass with an all-weather turf surfacing would alleviate complications from poor drainage in the area and allow for increased use. It would also reduce water consumption necessary for maintaining a grass field. Full reconstruction of the field and installation of new grass would help to improve drainage complications and mitigate safety hazards.

City of Brisbane
Capital Projects Listed By Department

Completed projects		Approved Projects (+)	Staff Priority Project **	New Projects (N)	Revised Projects	Council requested (C)				
Department	Name	Status	Cost 2020	Cost 2021	Cost 2024	Master Planned	Funding Sources	Funding Sources	Funding Sources	Anticipated Start Date
CC-01	City Council	City Entryway		113,000			General Fund			
CC-02	City Council	City Hall Photovoltaic Design-Build	Completed				General Fund			2018
CC-03	City Council	Expansion of Community Garden (CC)	Follow Up requested by Council for 2022	67,800	140,000	140,000	General Fund			
CC-04	City Council	Railing for Stairway between Mono and Sierra Point	Completed				General Fund			
CC-05	City Council	South Hill Drive Sidewalk Extension	Completed				General Fund			
CC-06	City Council	Stairway between Tulare and Santa Clara		400,000			General Fund			2019
CC-06a	City Council	Stairway between Santa Clara and Alvarado		282,500			General Fund			
CC-06b	City Council	Stairway between Tulare and Santa Clara Design (+)	Revised scope 10/8/20	50,000			General Fund			
CC-07	City Council	Crocker Trail Commuter Connectivity Upgrades	In design Completed 2023	1,000,000			GF - 115,000	Grant		
CC-08	City Council	Crocker Trail Lighting Improvements		500,000			GF - 200,000			
CC-09	City Manager	New Brisbane Library - Construction	Completed	6,702,862			Business License			Spring 2018
CC-10	DPW-OS&E	Firth Canyon Trail Restoration (+)		50,000			280 South Hill Funds			2020
DPW-02	DPW-Buildings	Construct Roof Replacement for Fire Station 81	Completed				General Fund			
DPW-03	DPW-OES	Emergency Fuel Supply/Propane Trap Wagons		223,288			General Fund			
DPW-04	DPW-OES	Purchase mobile showers for use when emergency shelter is open		79,100			General Fund			
DPW-05	DPW-OES	Upgrade City Hall standby generator		258,770			General Fund			
DPW-06	DPW-OES	Upgrade Station 81 standby generator	Grant received Council Match pending	190,000			General Fund-25%	HMGP-75%		Fall 2019
DPW-07	DPW-SD	Channel/conduit Bayshore/Industrial to Tunnel (AA/BB)		7,719,712		Yes	Developer			
DPW-08	DPW-SD	Guadalupe Channel Erosion Control (+)		550,000			Developer			
DPW-09	DPW-SD	New box conduit and detention basin on Bayshore near Industrial (Y)		2,211,664		Yes	Developer			
DPW-10	DPW-SD	SD Pipeline along Valley Dr. from Cypress Ln. to Bankers Ln. (N)		2,453,360		Yes	Developer			
DPW-11	DPW-SD	SD-Eastern Bayshore open channel culverts (U)		1,445,808		Yes	Developer			
DPW-12	DPW-SD	SD-roadway drainage improvements along Tunnel Ave. (X)		877,968		Yes	Developer			
DPW-13	DPW-SD	Upgrade to Brick Arch (BB)		11,399,024		Yes	Developer			
DPW-14	DPW-SD	18"-36" Pipelines in San Benito and San Bruno - Storm Drain (F)		975,520		Yes	General Fund			
DPW-15	DPW-SD	24" - 30" Pipelines in Vistacion Ave. from Sierra point Road to Klamath Storm Dran (G)		901,264		Yes	General Fund			
DPW-16	DPW-SD	30" Pipeline on Bayshore Blvd. - Storm Drain (K)		515,424		Yes	General Fund			
DPW-17	DPW-SD	BMP Modifications to West Hill Place Sediment Basin		55,328		Yes	General Fund			
DPW-18	DPW-SD	Main Street Detention Basin Improvements (W)		677,040		Yes	General Fund			
DPW-19	DPW-SD	New Storm Drainage Master Plan		302,848		Yes	General Fund			
DPW-20	DPW-SD	Pipeline - Park-n-Ride (J)		838,656		Yes	General Fund			
DPW-21	DPW-SD	Replace CMP on North Hill Drive (S), Humboldt Rd (CC), Kings Rd. (DD), Replace SD Humboldt and Solano (D)		248,976		Yes	General Fund			
DPW-22	DPW-SD	SD Culvert Guadalupe Canyon (T,V) and west end of South Hill Dr. (P)		1,482,208		Yes	General Fund			
DPW-23	DPW-SD	SD Pipeline along South Hill Dr. near Valley Drive (Z)		1,100,736		Yes	General Fund			
DPW-24	DPW-SD	SD Pipeline along Valley Dr. from South Hill Drive to Cypress Ln. (M)		1,648,192		Yes	General Fund			
DPW-25	DPW-SD	SD Pipeline for Bayshore Blvd. north of Fire Station (L)		413,504		Yes	General Fund			
DPW-26	DPW-SD	SD Sediment trap and pipeline-parking lot south of Valley Dr. (H)		489,216		Yes	General Fund			
DPW-27	DPW-SD	SD-inlet and grade modifications at Alana Way (EE)		165,984		Yes	General Fund			
DPW-28	DPW-SD	Sediment Trap and Pipeline, Main Street at Bayshore Blvd. (FF)		378,560		Yes	General Fund			
DPW-29	DPW-SD	Storm Drain Pipeline from Visitacion Ave. and San Francisco Ave to Bankers Lane/San Francisco Ave., West of Visitacion Ave./San Bruno Ave. north of Mariposa St. (B,C,E)		2,571,296		Yes	General Fund			
DPW-30	DPW-SD	Vee Ditch Cleaning and Improvements (Q,R)		295,568		Yes	General Fund			
DPW-31	DPW-Sewer	Sierra Point Lift Station Improvements (LS#4)	Construction Phase Completed	512,000		Yes	Developer			
DPW-32	DPW-Sewer	Bayshore Blvd. North - Sewer Replacement		3,887,520		Yes	Utility Fund			2025
DPW-33	DPW-Sewer	Lift Station Condition Assessment and Hydraulic Evaluation (+)		100,000		Yes	Utility Fund			2024
DPW-34	DPW-Sewer	New Sewer Master Plan		660,000		Yes	Utility Fund			2025

City of Brisbane
Capital Projects Listed By Department

Completed projects		Approved Projects (+)	Staff Priority Project **	New Projects (N)	Revised Projects	Council requested (C)				
Department	Name	Status	Cost 2020	Cost 2021	Cost 2024	Master Planned	Funding Sources	Funding Sources	Funding Sources	Anticipated Start Date
DPW-35	DPW-Sewer	Sewer Pipeline Replacements - Priority 1 (+)	Completes 3 of 4 remaining Priority 1 Projects (1. Pipe burst 270LF of existing 6" VCP sewer main w/ 8" HDPE pipe on West Hill Drive; 2. Pipe burst 290LF of existing 6" VCP sewer main w/ 8" HDPE pipe on Upper Bicentennial Walkway; 3. Replace 25LF of existing 6" VCP w/ 8" HDPE with new manhole on Solano.)	330,000			Yes	Utility Fund	Bond	2019
DPW-36	DPW-Sewer	Sewer Pipeline Replacements - Priority 2/3		1,388,800			Yes	Utility Fund		2021
DPW-37	DPW-Sewer	Terminal Manhole Installation		203,280				Utility Fund		2021
DPW-38	DPW-Sewer	Trinity Sewer Replacement		123,200				Utility Fund		2021
DPW-39	DPW-Sewer	Bayshore Blvd. South - 8" Force Main Underground Relcotation	Completed					Utility Fund		
DPW-40	DPW-Sewer	Television Inspection and Evaluation - Sewer	Completed					Utility Fund		
DPW-41	DPW-Streets	Slope Stability for 900 block Humboldt Road	Completed					Disaster Relief	General Fund	
DPW-42	DPW-Streets	Pavement Maintenance Project (Annual)	Funded	300,000				Gas Tax	Measure A	
DPW-43	DPW-Streets	Alley Improvements - Alvarado to San Benito **	Staff Priority	350,000	320,000	320,000		TDA - \$240K	Gen Fund - \$80K	
DPW-43a	DPW-Streets	Alley Improvements - Alvarado to San Benito (study)	Completed - FY21/22	20,000				General Fund		
DPW-43b	DPW-Streets	Alley Improvements - Sierra Point to Humboldt (study)	Completed	20,000				General Fund		
DPW-43c	DPW-Streets	Improvements to San Benito to Humboldt Walkway (handrails & lighting) +	To be completed FY2022-2023 In progress		60,000			General Fund		
DPW-44	DPW-Streets	Intersection Improvements at Bayshore/San Bruno	Completed - FY21/22	52,000				General Fund		
DPW-44a	DPW-Streets	Intersection Improvements at Bayshore/San Bruno (Traffic Light)		550,000				General Fund		
DPW-45	DPW-Streets	Slope Stability Analysis - Bayshore at Ice House Hill	Completed					General Fund -C		
DPW-46	DPW-Streets	Controller Upgrades & Replacements		400,000				Grant	Developer	General Fund
DPW-47	DPW-Streets	Video Detection Upgrade - Phase 2	Completed					Grant	Developer	General Fund
DPW-48	DPW-Streets	Pedestrian Path - Humboldt Road to Kings Road		420,134				South Hill Land Sale	General Fund	
DPW-48a	DPW-Streets	Pedestrian Path - Humboldt Road to Kings Road - Design		50,000				South Hill Land Sale	General Fund	
DPW-49	DPW-Water	Water Main Installation Aqueduct Zone		1,600,144				Developer		
DPW-50	DPW-Water	Water Storage Tank Installation-Aqueduct Zone		6,500,000			Yes	Developer		
DPW-51	DPW-Water	Crocker Tank Replacement	not needed until 2030	3,753,000			Yes	Utility Fund		
DPW-52	DPW-Water	Extended Period Simulation Hydraulic Analysis		75,000			Yes	Utility Fund		2021
DPW-53	DPW-Water	Glen Park Pump Station Upgrade (+)	Funded	2,600,000			Yes	Utility Fund	Bond	2018
DPW-54	DPW-Water	New Water Master Plan	Completed				Yes	Utility Fund		2025
DPW-55	DPW-Water	North Hill Pump Station Upgrade		1,317,680			Yes	Utility Fund		2024
DPW-56	DPW-Water	PRV Construction and Fire Main on Annis/Line F,G,H,I,J and Annis PRV	Completed				Yes	Utility Fund	Bond	2017
DPW-57	DPW-Water	Pump Station Condition Assessment	New	100,000			Yes	Utility Fund		2024
DPW-58	DPW-Water	SCADA System Replacement (+)	Funded	682,000			Yes	Utility Fund	Bond	2018
DPW-59	DPW-Water	Seismic Studies/Plans		200,000			Yes	Utility Fund		2024
DPW-60	DPW-Water	Water Main Replacement-San Bruno and Trinity		448,000				Utility Fund		2024
DPW-61	DPW-Water	Water Meter AMI Sysetm (+)		1,500,000				Utility Fund	Bond	2020
DPW-62	DPW-Water	Water Pipeline Replacements -Priority 1 (+)	Completes remaining Priority 1 Projects (1. New 6" water main interconnection btw. Mariposa & San Bruno Ave.; 2. Replace existing PRV at Placer with new 10" PRV on Humboldt Road)	500,000			Yes	Utility Fund	Bond	2022
DPW-63	DPW-Water	Water Pipeline Replacements -Priority 2		1,534,400			Yes	Utility Fund		2020
DPW-64	DPW-Water	Water Pipeline Replacements -Priority 3		151,200			Yes	Utility Fund		2021
DPW-65	DPW-Water	Golden Aster Pump Station Upgrade		1,129,856			Yes	Utility Fund		2022
DPW-66	DPW-Streets	Sierra Point Parkway Dip Repairs		40,250				General Fund		2020
DPW-67	DPW-SD	Quarry Road 42" CMP Storm Drain Replacement		364,000				General Fund		2023
DPW-68	DPW- Sewer	Valley Drive Lift Station Rehabilitation		280,000			Yes	Utility Fund		2022
DPW-69	DPW-Water	Water System Enhancement		100,000				Utility Fund		2022
DPW-70	DPW-Streets	Bus Stop improvements Van Water and Rodgers Road		450,000				Grant Funding	General Fund	
DPW-71	DPW-Streets	Guadalupe Canyon Parkway Safety Improvments	Completed					Grant Funding	General Fund	2020
DPW -72	DPW- Water	Water/Sewer Station Backup Power Connection	Completed - FY21/22	33,000				Utility Fund		2020

City of Brisbane
Capital Projects Listed By Department

Completed projects		Approved Projects (+)	Staff Priority Project **	New Projects (N)	Revised Projects	Council requested (C)				
Department	Name	Status	Cost 2020	Cost 2021	Cost 2024	Master Planned	Funding Sources	Funding Sources	Funding Sources	Anticipated Start Date
DPW-73	DPW- Water	Fire Hydrant Maintenance	Completed	120,000			Utility Fund			
DPW -74	DPW-Streets	Retaining Wall - 400 Block Kings Road Study	Completed				General Fund			
DPW-74a	DPW-Streets	Retaining Wall - 400 Block Kings Road	Completed				General Fund			
DPW-75	DPW-Streets	18-30 Solano Retaining Wall	Completed	230,000			General Fund			
DPW-76	DPW - Park Maintenance	Bay Trail Rodent Removal (+)		21,000			General Fund			
DPW-77	DPW - Park Maintenance	Community Garden Lumber Replacement		50,000			General Fund			
DPW-78	DPW - Open Space	EV Charging Stations at 3 Locations (+)		100,000			General Fund			
DPW-79	DPW - Streets	Investigation of Widening Trinity cul-de-sac		25,000			General Fund			
DPW-80	DPW - Water	Modified Urban Water Management Plan		40,000			Utility Fund			
DPW-81	DPW -Water	Preparation of Risk and Resilience Assessment and Emergency Response Plan for Drinking Water (+)		50,000			Utility Fund			2021
DPW-82	DPW - SD	Provide System Maintenance of Existing Stormdrain Filters	Completed - FY21/22	20,000			General Fund			
DPW-83	DPW - Streets	San Francisco to Old County at Bayshore Walkway Design		45,000			General Fund			
DPW-84a	DPW - Streets	Shared Use Parking Light Standard Replacements (+)		70,000			General Fund			2021
DPW-84b	DPW - Streets	Shared Use Parking Light Standard Replacements **	Staff Priority	70,000	70,000	70,000	General Fund			2022
DPW-84c	DPW - Streets	Shared Use Parking Light Standard Replacements		70,000			General Fund			2023
DPW-84d	DPW - Streets	Shared Use Parking Light Standard Replacements		70,000			General Fund			2024
DPW-85	DPW - Streets	Shared Use Parking Lot Slurry Seal		180,000			General Fund			
DPW-86	DPW - SD	Update City's FEMA Flood Maps		182,000			General Fund			
DPW-87	DPW - Utilities	BRS Zone 1 Water Tank					Developer			
DPW-88	DPW - Utilities	SPLL Irrigation Retrofits	Completed	266,700			Developer			
DPW-89	DPW - Utilities	HET Retrofit Program	Completed	76,600			Developer			
DPW-90	DPW - Utilities	Aquifer Injection/Water Banking Investigation	Completed	50,000			Developer			
DPW-91	DPW - Streets	Street Light Meters for Visitation Avenue	Completed	50,000			General Fund			
DPW-92	DPW - Streets	San Bruno Retaining Wall at McLain (construction) (+)	To complete 2022-2023		250,000		General Fund			
DPW-93	DPW - Open Space	Brisbane Village DCFC Replacement **	Staff Priority		40,500		General Fund			
DPW-94	DPW - Sewer	Wastewater Infiltration and Inflow Study **	Staff Priority			120,000	Enterprise Fund			
DPW-95	DPW - Water	Guadalupe Canyon Parkway Flushing Unit **	Staff Priority			50,000	Enterprise Fund			
DPW-96	DPW - Streets	Crocker Shuttle Stop Improvements **	Staff Priority			500,000	25,000 Match (General	475,000 SMCo TA ACR/TDM Grant		
FIRE-01	Fire	Communication System	completed				General Fund			
FIRE-02	Fire	Fire Station #81 Seismic Retro-Fit		1,000,000		2,000,000	General Fund			2023
FIRE-09	Fire	Upgrading Exhaust System for Fire Apparatus	completed				General Fund			
FIRE-10	Fire	Painting Exterior of Fire Station	Completed - DPW				General Fund			
Fire-11	Fire	Public Safety Apparatus and Equipment Storage **		175,000	175,000	250,000	General Fund			
Fire-12	Fire	Replace carpet Polished Concrete Floor in Station 81 Office and Common Area with alternative material (N)			35,000	35,000	General Fund			
Fire-13	Fire	New Carpet in Station 81 Office and Living Side Area	alternative to Polished Concrete Floor		15,000		General Fund			
Fire-14	Fire	New Carpet/alternative material in Station 81 Dorm Side Area (N)			8,000	16,000	General Fund			
Fire-15	Fire	LED Light Upgrade Station 81	Completed 2023		12,000		General Fund			
MARINA-01	Marina	Hand Launch Facility		682,000			Grant			
MARINA-02	Marina	Bathymetric Survey of Marina and Entrance Channel	Completed				Marina			2019
MARINA-03	Marina	Dumpster/Recycling Enclosure		56,500			Marina			
MARINA-04	Marina	Preliminary Design and Cost Estimating for R&R of flotation billets, dock utilities and dock boxes		66,964			Marina Fund			2019
MARINA-05	Marina	Pump-a-Head Replacement	Grant reimbursement received FY20				Grant	Marina		
MARINA-06	Marina	Fishing Pier Improvements (+)		97,500			Marina			
MARINA-07	Marina	Small Boat House	Needed only when hand launch facility is built	242,385			Marina			
MARINA0-9	Marina	Creosote Piling Removal	Completed				Marina			
MARINA-10	Marina	Dock Sections Replacement Project	Completed				Marina			
MARINA-11	Marina	Marina Approach Channel Maintenance Dredging	Completed				Marina			
MARINA-12	Marina	Marina Maintenance Dredging	Completed				Marina			
MARINA-14	Marina	North and South Boater Restrooms	Completed				Marina Fund			
MARINA-15	Marina	North and South Public Restrooms	Completed				Marina Fund			
MARINA-16	Marina	Replace Promenade Lights	Completed				Marina Fund			

City of Brisbane
Capital Projects Listed By Department

Completed projects		Approved Projects (+)	Staff Priority Project **	New Projects (N)	Revised Projects	Council requested (C)				
Department	Name	Status	Cost 2020	Cost 2021	Cost 2024	Master Planned	Funding Sources	Funding Sources	Funding Sources	Anticipated Start Date
MARINA-17	Marina	Wooden Component Dock Maintenance Project	Complete	78,000				Marina Fund		
MARINA-18	Marina	Paint Marina Office and Bathroom Buildings		106,000				Marina Fund		
MARINA-19	Marina	Marina Bathroom Building 1	To be completed FY2021-2022		25,000			General Fund		
PR-01	Parks and Recreation	All-Weather Volleyball Court - Lipman	School District did this on it's own					School District		
PR-02	Parks and Recreation	Community Park - Installation of Sport Courts - Beeee Ball Courts (N)	Combined with PR-28	50,000		60,000		General Fund		
PR-03	Parks and Recreation	Dog Park Lighting (+)		10,000				General Fund		
PR-04	Parks and Recreation	Electronic Signboards @ Community Park and Mission Blue	Completed - FY21/22	80,000				General Fund		
PR-05	Parks and Recreation	Full Size Soccer Field Construction	Not a Current Request To be removed	1,300,000				General Fund		
PR-07	Parks and Recreation	Modular Addition - Brisbane Elementary School	Completed					General Fund	County	School District
PR-08	Parks and Recreation	Quarry Road Lighting (+)		40,000				General Fund		
PR-10	Parks and Recreation	Turf Renovatation - B.E.S. Lower Athletic Field		2,200,000		2,200,000		General Fund		
PR-11	Parks and Recreation	Turf Renovation – Lipman Athletic Field (status change) **	Staff Priority	2,200,000		2,200,000		General Fund		
PR-12	Parks and Recreation	Community Center Park Renovation	Completed					General Fund -C		
PR-13	Parks and Recreation	Restroom & Storage Buildings Installation – Lipman School Athletic Field		150,000		175,000		General Fund		
PR-15	Parks and Recreation	Restroom and Storage Buildings Installation - Brisbane Elementary School	Completed					State Bond	General Fund	
PR-16	Parks and Recreation	Master Plan for Guadalupe Valley Trail (Crocker Trail)	Completed - FY21/22					South Hill Land Sale		2019
PR-17	Parks and Recreation	Sound System Replacement at the Community Center						Donated		
PR-18	Parks and Recreation	Mission Blue - Preliminary Design Consultant (+)		45,000				General Fund		
PR-19	Parks and Recreation	Library / Comm Ctr Spatial Analysis & Design Consultant (+)		45,000				General Fund		
PR-20	Parks and Recreation	Lipman Tennis Court Resurfacing		60,000		60,000		General Fund		
PR-21	Parks and Recreation	Lipman Tennis Court Lighting		120,000		120,000		General Fund		
PR-22	Parks and Recreation	Turf Renovation - Mission Blue Field		2,200,000		2,200,000		General Fund		
PR-23	Parks and Recreation	Mission Blue Sports Complex Amenities		20,000		25,000		General Fund		
PR-24	Parks and Recreation	Heat Pump Water Heating System for Community Pool **	In progress	50,000	180,000	180,000		General Fund		late 2022
PR-25	Parks and Recreation	New Tables for Community Pool		20,000		20,000		General Fund		
PR-26	Parks and Recreation	Sunrise Room Window Coverings	Approved with FY24 Operating Budget	10,000		8,000		General Fund Ops Budget		
PR-27	Parks and Recreation	Bankshot Basketball Court		100,000		100,000		General Fund		
PR-28	Parks and Recreation	Sport Court Installation at Community Park		50,000				General Fund		
PR-29	Parks and Recreation	Community Park Playground Resurfacing **			226,046	226,046		State grant - \$180.8K	GF 20% match - \$45.2K	
PD-01	Police	Police Radio System Replacement with Encryption		177,831		177,831		General Fund		2023
CS-01	Central Svcs	City Hall Annex - 25 Park Place				4,000,000		Bond		2023

File Attachments for Item:

H. City Manager's Report on Upcoming Activities

i. Development Projects Status report – Quarter 1 of 2024



CITY COUNCIL AGENDA REPORT

Meeting Date: January 18, 2024

From: Interim City Manager

Subject: Development Projects Status Report – Quarter 1 of 2024

Background

There are several significant development projects that have been applied for and are under review. The purpose of this report is to outline the status of each of these as well as a projected timeline for draft environmental review documents to be issued.

Currently, we have had preliminary discussions with Quarry Development as well as Baylands Development regarding a Development Agreement for their projects. It is anticipated that the other projects at Sierra Point will also apply for Development Agreements.

Recommendation

The attached status report is for information only purposes. City staff are available to answer questions.

Development Projects Status Report

Quarter 1 of 2024

Sierra Point Hotel and Biotech Building: Proposal to develop the vacant site with an 11-story hotel with over 600 rooms, 20,000 square feet of event space, and 11,600 square feet of meeting rooms and an 11-story, approximately 657,620 square foot office/life science tower with about 3,700 square feet of retail over a parking podium containing approximately 1,200 parking spaces. **Project Status** EIR under preparation, expected to be published early 2025.

Guadalupe Quarry Redevelopment The proposed closure and reclamation of the Guadalupe Quarry and annexation of approximately 59 acres of the 146-acre site into the City's limits and to accommodate a proposed 1,319,000 square-foot warehouse. Required approvals include a General Plan Amendment, Pre-zoning, and a Design Permit. **Project Status:** EIR under preparation, expected to be published early 2024.

Baylands Specific Plan Proposed Specific Plan to develop the approximately 660 acre Baylands site with 2,200 residential units, 6.5 million square feet of commercial development and 500,000 square feet of hotel consistent with Measure JJ. **Project Status:** EIR under preparation, expected to be published Spring 2024.

Sierra Point Towers Proposed redevelopment of 2000 Sierra Pt Parkway and 8000 Marina Blvd to demolish the existing parking garage and surface parking lots on the project site and construct three new buildings and a new parking garage. The two existing office buildings on the project site would be retained and incorporated into the site design to create a life science campus.

The project would include a 14-story, 494,000 square foot office/life science building, a 9-story 317,000 square foot office/life science building, a 2-story 40,000 square foot amenity building, and a 12-story parking structure with approximately 3,770 parking spaces. **Project Status:** EIR under preparation, expected to be published late 2024.

File Attachments for Item:

I. Countywide Assignments and Subcommittee Report

i. Congressman Mullin's Coffee with City Council 1/25/23 9am-10am at San Mateo County Office of Education



CITY of BRISBANE

Subcommittee Update

From December 14th, 2023 to January 18th, 2024

Public Art Advisory Committee

1/8

Cunningham, Davis

The committee discussed the Community Park Star Donor wall. The stars are no longer holding to the wall, so the committee considered some options. Since there is discussion about redesigning that area of the park, the committee decided to wait on any funding. The committee reviewed and prioritized their 2024 projects for the year as well as received an update regarding the Public Art Master Plan. The committee also heard an update regarding Phase 3's Art Installation and will be invited to a ribbon cutting in the future.

Fiscal & Administrative Policies Subcommittee

1/9

Cunningham, O'Connell

The subcommittee reviewed the proposed projects on the City's Capital Improvement Plan. They asked a few questions about the Lipman Field project and some older projects that are on the list, and also requested more information on a Fire Department project. This will be presented at the full council on 1/18.

Affordable Housing Subcommittee

1/11

Davis, Lentz

The subcommittee received a presentation from Robert Skelton about the Rebuilding Together Project (RTP). RTP supports vulnerable community members who cannot afford to fix their homes as well as blighted community spaces that need repair throughout San Mateo County. The subcommittee discussed ways to partner with RTP, such as a grant that could be earmarked specifically for Brisbane residents and ways for the community to volunteer time for projects. Staff will work on options to partner with RTP and invite Mr. Skelton to present at a future council meeting sometime in Q1.

Staff then gave an update to the subcommittee on Visitacion Garden Senior Apartments Ground Lease Agreement. BRIDGE Housing approached HIP Housing about a potential lease transfer. This is still in the early stages, but staff will bring updates to the subcommittee as it progresses.

Upcoming Subcommittees:

Liaison to CSSC Subcommittee

1/29 or 1/31 TBD

Cunningham, Mackin

Public Art Advisory Committee

2/5 4:30pm

Cunningham, Davis