



# CITY of BRISBANE

## City Council Meeting Agenda

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Thursday, June 6, 2024 at 7:30 PM • Hybrid Meeting 50 Park Place, Brisbane, CA

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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

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

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The agenda materials may be viewed online at [brisbaneca.org](https://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](mailto:ipadilla@brisbaneca.org) or **Text:** (628) 219-2922

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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](https://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](https://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**

### **AWARDS AND PRESENTATIONS**

- B. Proclaiming June 2024 as Pride Month
- C. Juneteenth Proclamation

### **ORAL COMMUNICATIONS NO. 1**

### **CONSENT CALENDAR**

- D. Approve Minutes of City Council Meeting of May 2, 2024
- E. Approve Minutes of City Council Closed Session Meeting of May 16, 2024
- F. Approve Minutes of City Council Meeting of May 16, 2024
- G. Approve Minutes of Special City Council Meeting of May 30, 2024
- H. Accept Investment Report as of April 2024
- I. Introduce an Ordinance Amending Section 8.44.180 of the Brisbane Municipal Code Requiring That Tobacco Retailers Be Inspected At Least Twice Every 12 Months to Ensure They Are Complying with the Tobacco Retailer Permit Ordinance

- J. Award the Construction Contract for the 2023 Slurry Seal to Graham Contractors, Inc. in the Amount of \$249,500, and Authorize the Mayor to Sign the Agreement for the City
- K. Adopt a Resolution Establishing the 2024 Business License Tax for Liquid Storage Facilities as to Kinder Morgan/SFPP
- L. Sierra Point Landscaping and Lighting District for the Fiscal Year 2024-2025
  - i. Adopt a Resolution, "Appointing Attorney for the Sierra Point Landscaping and Lighting District for the Fiscal Year 2024-2025."
  - ii. Adopt a Resolution, "Appointing Engineer for the Sierra Point Landscaping and Lighting District for the Fiscal Year 2024-2025."
  - iii. Adopt a Resolution, "A Resolution of Preliminary Approval of Engineer's Report - Fiscal Year 2024-2025 - Sierra Point Landscaping and Lighting District"
  - iv. Adopt a Resolution, "A Resolution of Intention to order the levy and collection of assessments pursuant to the Landscaping and Lighting Act of 1972 - Fiscal Year 2024-2025 - Sierra Point Landscaping and Lighting District"
- M. Adoption of Resolution establishing the Appropriation Limit for Fiscal Year 2024-2025

## **PUBLIC HEARING**

- N. Consider Adoption of Resolutions to Approve the Budget for Fiscal Year 2024/25
  - 1. Adopt Resolution adopting the annual budget for Fiscal Year 2024-2025 and making appropriations for the amounts budgeted for the City, the Successor Agency and Housing Authority
  - 2. Adopt Guadalupe Valley Municipal Improvement District Resolution adopting the annual budget for Fiscal Year 2024-2025 and making appropriations for the amounts budgeted
- O. Consider Adoption of Resolution Adopting a Master Fee Schedule
- P. Consider Adoption of Resolution Imposing a National Pollutant Discharge Elimination System (NPDES) Compliance Fees on Commercial Property Owners Within an Identified Study Area
- Q. Consider Introduction of an Ordinance Approving a Zoning Text and Map Amendment 2024-RZ-1, Overlay to R-1 Residential District and the R-BA Brisbane Acres Residential District in Entirety

(It is being recommended to introduce an ordinance approving a zoning text and map amendment 2024-RZ-1 amending regulations within Title 16 and 17 of the Brisbane Municipal Code to add the R-TUO residential two unit overlay district as new chapter 17.05 and related amendments; and finding that this project is exempt from environmental review under CEQA Guidelines Sections 15061(b)(1) & (3), Section 15183)

- R. Consider Introduction of an Ordinance Approving a Zoning Text Amendment 2024-RZ-2, City-wide

(It is being recommended to introduce an ordinance approving omnibus zoning amendments to modify the development standards for multifamily and residential mixed use zoning districts consistent with California Senate Bill SB 478 (“housing opportunity act”) and as provided in the 2023-2031 Housing Element; and finding that this project is exempt from environmental review under CEQA Guidelines Sections 15061(b)(3), Section 15183)

#### **OLD BUSINESS**

- S. Consider Adopting a Resolution to Amend the Master Pay Schedule
- T. Consider Adoption of a Resolution to Initiate a Test Residential Parking Permit Program on Thomas Ave Based Upon Results of Outreach to Residents

#### **STAFF REPORTS**

- U. City Manager’s Report on Upcoming Activities

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

- V. Update on Committee Recruitment
- W. Countywide Assignments and Subcommittee Reports
- X. Written Communications

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

#### **ADJOURNMENT**

**File Attachments for Item:**

D. Approve Minutes of City Council Meeting of May 2, 2024



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

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**CITY COUNCIL MEETING AGENDA  
THURSDAY, MAY 2, 2024**

*HYBRID MEETING, 50 PARK PLACE, BRISBANE, CA 94005*

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

Mayor O’Connell called the meeting to order at 7:32 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 under the Emergency Circumstances of AB 2449.

Councilmembers present: Councilmembers Cunningham, Davis, Lentz, Mackin, and Mayor O’Connell

Councilmembers absent: None

Staff Present: Interim City Manager Holstine, City Clerk Padilla, City Attorney McMorrow, Finance Director Yuen, City Engineer Breault, Community Development Director Swiecki, Human Resources Director Partin, Parks and Recreation Director Leek, Parks and Recreation Supervisor Houghton, Recreation Coordinator Nahass-Lopez, Economic Development Director Bull, Assistant to the City Manager Cheung, Fire Inspector Preston, Police Commander Garcia, and Administrative Management Analyst Ibarra

**REPORT OF OUT CLOSED SESSION**

City Attorney McMorrow reported that Councilmembers rejected the claim. Councilmembers were also provided an update on the Personnel Matters Item E and Anticipated Litigation Item F and no action was taken.

**ADOPTION OF AGENDA**

Mayor O’Connell requested to move Youth Advisory Committee Presentation Ahead of the Proclamations and Awards Items B and C. Councilmember Cunningham made a motion, seconded by Councilmember Davis, to adopt the agenda as amended. The motion was carried unanimously by all present.

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

Noes: None

Absent: None

Abstain: None

## **AWARDS AND PRESENTATIONS**

### **D. Youth Advisory Committee Presentation**

The Youth Advisory Committee members were introduced by Parks and Recreation Supervisor Houghton. The Brisbane's Youth Advisory Committee (YAC) is comprised of 7th-12th graders. Committee members have the important duty of advising the Parks & Recreation Commission and Recreation staff on the programs and issues that concern the youth and teens in the Brisbane community. YAC members presented their activities and events such as the bi-annual YAC Attack event through the California Parks & Recreation society. YAC Attack is a one-day educational leadership conference for YAC members from all over Northern California. The City Council thanked the YAC members for their leadership and service.

### **B. Proclaiming May 2024 as Wildfire Awareness Month**

Mayor O'Connell proclaimed May 2024 as Wildfire Preparedness Month and encouraged all Brisbane residents to increase their knowledge and awareness of proper safety measures to protect themselves from the devastating effects of wildfires.

### **C. Proclaiming May 19-25, 2024 as Emergency Medical Services (EMS) Week**

Mayor O'Connell proclaimed the Week of May 19 - 25, 2024, as Emergency Medical Services Week.

Clyde Preston, Safety Inspector and Fire Investigator from North County Fire, accepted the proclamations for both Wildfire Preparedness Month and Emergency Medical Services Week. He thanked the Council for the recognition and support of North County Fire's initiatives.

### **E. Jackie Speier Foundation Presentation**

Sheryl Young, San Mateo County Program Director of Philanthropic Ventures Foundation presented on behalf of the Jackie Speier Foundation about the Baby Bonus Program, a guaranteed basic income project. The target population for this project is women with low-income who just gave birth in San Mateo County. The Baby Bonus Project provides a cash gift, coordinated services and links to benefits enrollment.

After some questions, City Council thanked Sheryl Young for her presentation.

## **ORAL COMMUNICATIONS NO. 1**

No member of the public wished to speak.

## **CONSENT CALENDAR**

### **F. Approve Minutes of City Council Meeting of March 21, 2024**

### **G. Approve Minutes of City Council Meeting of April 4, 2024**

- H. Approve Minutes of City Council Closed Session Meeting of April 4, 2024**
- I. Accept Investment Report as of March 2024**
- J. Receive the recommendation from the Public Art Advisory Committee and authorize the repairs to the existing art sculptures in Firth Park, in the amount of \$5,128**
- K. Receive Recology Brisbane's 2024 Rate Increase**
- L. Receive South San Francisco Scavenger's 2024 Rate Increase**
- M. Approve Lyrical Opposition's Lyrical Festival and Fundraiser as a cosponsored event**
- N. Adopt an Ordinance, waiving second reading, revising Chapter 10.26 to the Brisbane Municipal Code Concerning "Residential Parking Permit Program"**
- O. Reject Smelly Mel's Plumbing's Bid as Nonresponsive and Award the Construction Contract for the Alvarado Stairway Water Main Rehabilitation Project, Job No. 921L to Golden Bay Construction, Inc., in the amount of \$225,270.00, and Authorize the Mayor to Sign the Agreement for the City**

Councilmember Lentz made a motion, seconded by Councilmember Davis, to approve Consent Calendar Items F-O. The motion was passed unanimously by all present.

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

Noes: None

Absent: None

Abstain: None

#### **NEW BUSINESS**

- P. Adopt a Resolution to Appoint Jeremy Dennis as City Manager and Authorize the Mayor to Execute the Employment Agreement**

Mayor O'Connell reported that under this item, the Council will consider adopting a Resolution appointing Jeremy Dennis as City Manager, effective June 24, 2024, and authorizing the Mayor to sign an Employment Agreement between the City and Mr. Dennis.

The Mayor added that the Resolution provides for the following: In accordance with Government Code Section 54953(c)(3), the City Manager's salary and benefits will be:

- An annual salary of \$315,000
- The benefits provided to the City Manager, including vacation and sick leave and medical benefits, shall be the same as those provided to the City's Executive Management Group. Mr. Dennis will begin employment with 128 hours of personal leave (combined vacation and sick leave).
- Mr. Dennis will also receive 80 hours of administrative leave annually, but such leave must be taken within 12 months or it is lost.



- The term of the Agreement is from June 24, 2024 through June 25, 2027.

After no Council questions, public comment or discussion, Councilmember Mackin made a motion, seconded by Councilmember Cunningham, to adopt a Resolution to appoint Jeremy Dennis as City Manager and Authorize the Mayor to Execute the Employment Agreement. The motion was passed unanimously by all present.

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

### **Q. Planning Program-70 Old County Road/Parkside/Crocker Park**

**(It is being recommended that the City Council provide direction for future planning efforts in this area and authorize staff to prepare a scope of work reflecting the City Council's direction.)**

Community Development Director Swiecki reported in 2022 the City of Brisbane purchased the approximately 1.27acre former Bank of America site at 70 Old County Road. The City Council expressed its intent and desire to engage the community in a thorough and thoughtful manner to determine the preferred land use of this key site at the entrance to Brisbane. In further discussions with the Economic Development subcommittee it was suggested that consideration be given to further expanding the planning program scope to include Crocker Park, with an emphasis on evaluating the potential for future housing sites within Crocker Park. To move planning efforts forward, the scope of work needs to be defined to enable staff to prepare a request for proposals for the appropriate consultant services which will be required.

After Council questions, CMF made public comment about the Council needing a common vision and Economic Development Director Mitch Bull made public comment about how affordable housing is linked to Economic Development.

During Council discussion, staff members were directed to move forward with hiring a consulting firm to engage the community to determine the land use of the Bank of America site with the Village Plaza as phased in or separate. Any discussion about reviewing the Parkside Plan and housing will be referred to the Affordable Housing Subcommittee.

### **STAFF REPORTS**

#### **R. City Manager's Report on Upcoming Activities**

Interim City Manager Holstine reported on the latest news and upcoming events in the City.

### **MAYOR/COUNCIL MATTERS**

#### **S. Recruitment Update**

City Clerk Padilla was directed by Council to extend the recruitment for committee vacancies another month since another vacancy opened up in the Complete Streets Safety Committee.

## T. Countywide Assignments and Subcommittee Reports

City Councilmembers reported on their countywide assignments and subcommittee meetings.

## U. Written Communications

Councilmembers received the following written communication between April 17, 2024 and May 2, 2024:

- Pabalan (04-17-2024) Equity in City leadership
- Salmon (04-27-2024) SB9 Ruling
- Dillworth (04-29-2024) 70 County Rd Crocker Sierra Pt. zoning
- Young (04-17-2024) Proposal Baby bonus program

## ORAL COMMUNICATIONS NO. 2

CMF asked a question about the case studies discussed at the Elections Issues Subcommittee.

## ADJOURNMENT

Mayor O'Connell adjourned the meeting at 10:04 P.M.

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Ingrid Padilla  
City Clerk

DRAFT

**File Attachments for Item:**

E. Approve Minutes of City Council Closed Session Meeting of May 16, 2024




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


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**BRISBANE CITY COUNCIL CLOSED SESSION MEETING**
**THURSDAY, MAY 16, 2024**

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

**1. 6:30 P.M. CLOSED SESSION**
**A. Approval of the Closed Session Agenda**

**B. Public Comment.** Members of the public may address the Councilmembers on any item on the closed session agenda

**C. Adjournment into Closed Session**

**D. Liability Claim: Claimant Robertson, pursuant to Government Code, section 54956.95**

**E. Liability Claim: Claimant Flores, pursuant to Government Code, section 54956.95**

**F. CONFERENCE WITH LEGAL COUNSEL—PENDING LITIGATION**

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

• **City of Brisbane v. CA High-Speed Rail Authority (Superior Court of Sacramento County, Case No. 80004010)**

**G. Conference with Legal Counsel-Anticipated Litigation. Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9 (One potential case)**

Mayor O'Connell called the meeting to order at 6:32 P.M. Councilmember Cunningham made a motion, seconded by Councilmember Davis, to approve the Closed Session Meeting agenda as it stands. The motion passed unanimously by all present.

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

Noes: None

Absent: None

Abstain: None

There was no public comment. Mayor O'Connell adjourned the meeting into Closed Session.

**REPORT OUT OF CLOSED SESSION**

City Attorney McMorrow reported that Councilmembers rejected the Liability Claims D and E. Councilmembers were also provided an update on the Personnel Matters Item F and Anticipated Litigation ItemG and no action was taken by the City Council.

**ADJOURNMENT**

The meeting was adjourned at 7:13 P.M.

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Ingrid Padilla, City Clerk

DRAFT

**File Attachments for Item:**

F. Approve Minutes of City Council Meeting of May 16, 2024



**BRISBANE CITY COUNCIL**

**ACTION MINUTES**

**CITY COUNCIL MEETING AGENDA  
THURSDAY, MAY 16, 2024**

*HYBRID MEETING, 50 PARK PLACE, BRISBANE, CA 94005*

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

Mayor O’Connell called the meeting to order at 7:30 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 under the Emergency Circumstances of AB 2449.

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

Staff Present: Interim City Manager Holstine, City Clerk Padilla, City Attorney McMorrow, Finance Director Yuen, Deputy of Public Works Kinser, Deputy of Public Works Flanagan, Assistant to the City Manager Cheung, Public Works Staffand Crew, Police Commander Garcia and Administrative Management Analyst Ibarra

**REPORT OUT OF CLOSED SESSION**

City Attorney McMorrow reported that Councilmembers rejected the Liability Claims D and E. Councilmembers were also provided an update on the Personnel Matters Item F and Anticipated Litigation Item G and no action was taken by the City Council.

**ADOPTION OF AGENDA**

Councilmember Mackin made a motion, seconded by Councilmember Cunningham, to adopt the agenda as it stands. The motion was carried unanimously by all present.

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

Noes: None

Abstain: None

Present: None

## AWARDS AND PRESENTATIONS

### **B. Proclaiming May 2024 as Asian American Pacific Islander Heritage Month**

Mayor O'Connell proclaimed May 2024 as Asian American, Native Hawaiian and Pacific Islander Heritage Month in the City of Brisbane. And called upon all community members to learn more about the history of Asian Americans, Native Hawaiians, and Pacific Islanders, and to observe this month supporting local programs and activities.

Kristi Yawata, founder of the Brisbane Lunch Truck, received the proclamation. Ms. Yawata has been deeply involved in the Brisbane community for more than 20 years. She is a founding board member of the Silverspot Nursery School and former classroom aide at Brisbane Elementary School. She thanked the Council for the recognition.

### **C. Proclaiming May 2024 as Mental Health Awareness Month**

Mayor O'Connell proclaimed May 2024 as Mental Health Month in the City of Brisbane to enhance public awareness of mental health, to help end the stigma and direct members of the community to resources and support for mental health and substance use conditions.

Yoko Ng, San Mateo County Behavioral Health Commissioner, thanked their Council for their support and advocacy for Mental Health Month.

### **D. Proclaiming May 19-25, 2024 as Public Works Week**

Mayor O'Connell designated the week of May 19–25, 2024, as National Public Works Week. She urged the public to pay tribute to our public works professionals, engineers, managers, and employees and to recognize the substantial contributions they make to protecting our national health, safety, and advancing quality of life for all.

Deputy Directors of Public Works Kinser and Flanagan received the proclamation along with the Public Works Department staff and crew and thanked the Council for their recognition and support.

## **ORAL COMMUNICATIONS NO. 1**

Nancy Lacsamana thanked the Public Works Department for their service and good work.

Roland Lebrun provided an update on the California High Speed Rail Authority.

## **CONSENT CALENDAR**

### **E. Approve Minutes of City Council Meeting of April 18, 2024**

### **F. Approve Minutes of City Council Closed Session Meeting of May 2, 2024**

### **G. Approve the Friends of the Brisbane Library's City-Wide Yard Sale as a Co-Sponsored Event**



**I. Approve a Resolution Adopting a Project, the Overlay of Monterey Street between Visitacion Avenue and San Bruno Avenue, for fiscal year 2024-2025 funded by Senate Bill 1: the Road Repair and Accountability Act of 2017**

(The Fiscal Impact of this Item: The project recommended for this year is to utilize 2024-25 RMRA funds to complete a mill-and-overlay of Monterey Street between Visitacion Avenue and San Bruno Avenue, as identified in the City's pavement management system. City will receive an estimated \$124,200 to fund the cost of this work.)

Councilmember Davis made a motion, seconded by Councilmember Lentz, to approve Consent Calendar Items E-G and I. The motion was carried unanimously by all present.

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

Noes: None

Abstain: None

Absent: None

**H. Approve the Mothers of Brisbane's CPR/First Aid Training as a Cosponsored Event**

Councilmember Cunningham pulled Consent Calendar Item H for a brief discussion. She requested staff to widely publicize this important community event.

After no public comment, Councilmember Mackin made a motion, seconded by Councilmember Cunningham, to approve Consent Calendar Items E-G and I. The motion was carried unanimously by all present.

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

Noes: None

Abstain: None

Absent: None

**OLD BUSINESS**

**J. Elections Issues Update**

Interim City Manager Holstine reported that Councilmembers are being asked to consider the recommendations from the Charter City and Election Issues Subcommittee and provide directions to staff regarding the election issues of a directly elected mayor, council term limits, and term limits.

After a brief presentation from Douglas Johnson from National Demographics Corporation and council questions, Roland Lebrun and Nancy Lacsamana commended on the election issues .

After council discussion, the interim City Manager was directed to have signing authority up to \$11,500 to work with the National Demographics Corporation for a demographic study.

**STAFF REPORTS**

**K. City Manager's Report on Upcoming Activities**

- i. San Mateo County Alert and Overview of City Communication Platforms

Assistant to the City Manager Cheung provided an overview of the City Communication platforms and how to sign up for the SMC Alert, San Mateo County's primary alert and warning system.

## **MAYOR/COUNCIL MATTERS**

### **L. Countywide Assignments and Subcommittee Reports**

Councilmembers reported on their countywide assignments and subcommittee meetings.

### **M. Written Communications**

Council received the following written communications between 5/2/24-5/16/24:

- Kerekes (05-08-2024) Abandoned unregistered cars
- Dilworth (05-09-2024) Rezone 2024
- Lawrence (05-07-2024) County violations of the Federal and State info access acts
- Strecker (05-12-2024) Complete streets resignation

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

Roland Lebrun commented on SMC Alerts and the demographic study.

Chris Florkowski commented on the need for safer roads for cyclists.

### **ADJOURNMENT**

Mayor O'Connell adjourned the meeting at 9:22 P.M.

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Ingrid Padilla  
City Clerk

**File Attachments for Item:**

G. Approve Minutes of Special City Council Meeting of May 30, 2024




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


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**CITY COUNCIL SPECIAL MEETING AGENDA  
THURSDAY, MAY 30, 2024**

*HYBRID MEETING, 50 PARK PLACE, BRISBANE, CA 94005*

**6:00 P.M. CALL TO ORDER – PLEDGE OF ALLEGIANCE**

Mayor O’Connell called the meeting to order at 6:02 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 under the Emergency Circumstances of AB 2449.

Councilmembers present: Councilmembers Cunningham, Davis, Lentz, Mackin, and Mayor O’Connell

Councilmembers absent: None

Staff Present: Interim City Manager Holstine, City Clerk Padilla, City Attorney McMorrow, Finance Director Yuen, City Engineer Breault, Community Development Director Swiecki, Human Resources Director Partin, Deputy Fire Chief Abelson, Deputy Fire Chief Johnson, Financial Services Manager Nguyen, Economic Development Director Bull, Assistant to the City Manager Cheung, Parks and Recreation Supervisor Houghton, Senior Management Analyst Velilla, Police Chief Macias, Police Commanded Garcia and Administrative Management Analyst Ibarra

**ADOPTION OF AGENDA**

Councilmember Cunningham made a motion, seconded by Councilmember Davis, to adopt the agenda as it stands. The motion was carried unanimously by all present.

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

Noes: None

Absent: None

Abstain: None

## **ORAL COMMUNICATIONS NO. 1**

No member of the public wished to provide public comment.

## **NEW BUSINESS**

### **B. Presentation on Audit**

Finance Director Yuen reported that it is being recommended for the City Council to accept the draft of the Fiscal 2022/2023 Annual Comprehensive Financial Report to correlate with the review of the proposed Fiscal Year 2025 Budget.

She added that the financial statements of the City of Brisbane for the fiscal year ending June 30, 2023, were prepared by the Finance staff and examined by an independent auditing firm, Maze and Associates. Currently, the auditors have indicated the expectation that their opinion will reveal that the financial statements present fairly, in all material respects, the respective financial position of the City as of June 30, 2023, and that the financial statements were prepared in conformity with general accepted accounting principles.

After receiving an overview of the Financial Statements from Finance Director Yuen, Council asked clarifying questions. After no public comment, Council accepted the draft of the Fiscal 2022/2023 Annual Comprehensive Financial Report and thanked Finance Director Yuen for her presentation.

### **C. Budget Workshop**

#### **i. City Manager Introduction to the 2024/25 Budget**

Interim City Manager Holstine provided an overview of what will be discussed during the Budget Workshop, noting that Councilmembers were provided a draft of the Fiscal Year 2024/25 Budget. The Budget resolutions along with the Master Fee Schedule will be scheduled to be considered for adoption at the City Council Meeting of June 6, 2024.

#### **ii. Finance Director Overview of the 2024/25 Budget**

Finance Director Yuen provided an overview of the 2024/25 Budget. She noted that for Fiscal Year 2024/25, the proposed revenue for the year is \$28,460,000 and the proposed expenses for the year is \$31,399,000.

#### **iii. Department Presentations**

- **Public Works / Utilities / Marina/Library**
- **Community Development**
- **Police Department**
- **Fire Department**
- **Parks & Recreation / Co-Sponsorships**
- **Finance**
- **Human Resources**
- **City Manager / City Council**
- **City Clerk**
- **Central Services / Debt**

The department heads and deputy staff presented their department's budget requests along with their program highlights and their department's new budget requests for Fiscal Year 2024/2025.

After Council questions, public comment was made by Jason Nunan wanting to clarify the staffing of the police department and by Diana Sosa commending the traffic control efforts of the Police Department.

#### **iv. Wrap Up**

During discussion, members of the City Council were concerned about the \$2.7 million gap between the projected income versus expenditures of the 2024/25 Budget. They directed staff to provide a list of expenditures from all departments that can be placed on hold for six months or non-critical programs that can be pushed to the next fiscal year totaling \$500,000. At the City Council Meeting of June 6, 2024, the City Councilmembers will also review the master fee schedule and other ways to increase the City's income revenue streams.

#### **ADJOURNMENT**

Mayor O'Connell adjourned the meeting at 11:13 P.M.

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Ingrid Padilla  
City Clerk

**File Attachments for Item:**

H. Accept Investment Report as of April 2024

**CITY OF BRISBANE  
CASH BALANCES & INVESTMENTS  
SOURCE OF FUNDING  
April 30, 2024**

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		\$ 3,208,069	\$ 3,208,069	\$ 3,208,069	0.000		110% collateral
STATE FUND (LAIF)	Deposit on call	continuous	\$ 1,580,260	\$ 1,580,260	\$ 1,580,260	4.270	on call	no rating
<b>Other Investments</b>								
	Goldman Sachs	5/1/2019	\$ 246,000	\$ 246,000	\$ 245,982	2.750	05/01/2024	
	FHLB	7/26/2022	\$ 1,000,000	\$ 1,000,000	\$ 995,250	3.350	07/26/2024	
	Wells Fargo Bank	9/23/2022	\$ 250,000	\$ 250,000	\$ 248,288	3.750	09/23/2024	
	American Express	9/21/2022	\$ 250,000	\$ 250,000	\$ 248,271	3.750	09/24/2024	
	FHLB	12/31/2021	\$ 1,000,000	\$ 1,000,000	\$ 982,090	1.000	09/30/2024	
	FHLM	12/13/2022	\$ 1,000,000	\$ 1,000,000	\$ 998,210	5.140	12/13/2024	
	FHLB	3/24/2022	\$ 1,000,000	\$ 1,000,000	\$ 971,130	2.000	03/24/2025	
	FHLB	4/22/2022	\$ 1,000,000	\$ 1,000,000	\$ 974,780	2.750	04/22/2025	
	FHLB	7/28/2022	\$ 1,000,000	\$ 1,000,000	\$ 986,260	4.050	07/28/2025	
	FHLB	12/31/2021	\$ 1,000,000	\$ 1,000,000	\$ 946,760	1.300	09/30/2025	
	FHLB	10/27/2022	\$ 1,000,000	\$ 1,000,000	\$ 993,810	4.750	10/27/2025	
	FFCB	9/12/2022	\$ 1,000,000	\$ 1,000,000	\$ 982,280	4.125	12/12/2025	
	FHLM	9/29/2022	\$ 1,000,000	\$ 1,000,000	\$ 975,730	4.150	09/29/2026	
	FHLM	10/30/2023	\$ 1,000,000	\$ 1,000,000	\$ 998,760	5.550	10/30/2026	
	FFCB	12/1/2023	\$ 1,000,000	\$ 1,000,000	\$ 997,680	5.060	12/01/2026	
	FHLB	3/25/2022	\$ 1,000,000	\$ 1,000,000	\$ 935,950	2.600	03/25/2027	
	FHLB	5/26/2022	\$ 1,000,000	\$ 1,000,000	\$ 979,920	3.500	05/26/2027	
	FHLB	5/26/2022	\$ 1,000,000	\$ 1,000,000	\$ 961,800	3.750	05/26/2027	
	FHLB	9/30/2022	\$ 1,000,000	\$ 1,000,000	\$ 993,400	5.000	09/30/2027	
BNY Mellon	Treasury Obligations	continuous	\$ 8,572,683	\$ 8,572,683	\$ 8,572,683	5.220	on call	110% collateral
Sub-total			\$ 25,318,683	\$ 25,318,683	\$ 24,989,035			
U.S. Bank	2014 BGPGA Bond (330)	Improvements	Fed Treas Obl	\$ -	10031			
		Reserve Fund	Fed Treas Obl	\$ 1	10032			
		Revenue Fund	Fed Treas Obl	\$ 1	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	\$ 105	10032			
		Expense Fund	Fed Treas Obl	\$ -	10035			
BNY Mellon	2023 BGVMIDFA Bond (328)	Improvements	Fed Treas Obl	\$ 176,059	10031			
		Reserve / Project	Fed Treas Obl	\$ 4,153,745	10032			
		Expense Fund	Fed Treas Obl	\$ -	10035			
		Principal	Fed Treas Obl	\$ -	10036			
		Interest Fund	Fed Treas Obl	\$ -	10037			
PARS	OPEB Trust	Trust Cash	Investments	\$ 3,983,693	13050			
PARS	Retirement Trust	Trust Cash	Investments	\$ 1,549,154	13050			
Sub-total	Cash with Fiscal Agents			\$ 9,862,759				
	Total other investments			\$ 35,181,442	\$ 35,181,442	\$ 24,989,035		
<b>TOTAL INVESTMENTS &amp; CASH BALANCES</b>				\$ 39,969,771	\$ 39,969,771	\$ 29,777,364		

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%

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

Two year Treasury	5.04%	
Weighted Interest	3.72%	
Weighted maturity	1.20	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:**

I. Introduce an Ordinance Amending Section 8.44.180 of the Brisbane Municipal Code Requiring That Tobacco Retailers Be Inspected At Least Twice Every 12 Months to Ensure They Are Complying with the Tobacco Retailer Permit Ordinance



**CITY COUNCIL AGENDA REPORT**

**Meeting Date: June 6, 2024**

**From: Clay Holstine, Interim City Manager**

**Subject: Ordinance Amending Compliance Requirements for Tobacco Retailers in Brisbane**

**Recommendation**

In order to mirror the San Mateo County Ordinance concerning Tobacco Retailers, introduce an ordinance amending Section 8.44.180 of the Brisbane Municipal Code requiring that tobacco retailers be inspected at least twice every 12 months to ensure they are complying with the Tobacco Retailer Permit Ordinance.

**Background**

The San Mateo County (County) Board of Supervisors has enacted various legislation concerning tobacco retailers, such as requiring such retailers to be inspected at least twice every 12 months to ensure they are in compliance with all laws concerning the selling of tobacco products. The County Ordinance provides the County may administer and enforce its Ordinance in the City if the City adopts without substantive change the County Ordinance into its Municipal Code and authorizes the County to administer and enforce the Ordinance on behalf of the City. Most recently, the County adopted such an ordinance in 2023. Thereafter, the City Council adopted its own Ordinance, codified in Chapter 8.44 of the Municipal Code, adopting the County Ordinance without substantive change. By so adopting Chapter 8.44, the City authorized the County to administer and enforce the Ordinance within the City.

Recently it came to the attention of City staff that there is a slight discrepancy between the County Ordinance and the City Ordinance concerning the number of times a tobacco retailer is to be inspected every 12 months to ensure the retailer is complying with the Ordinance. The County Ordinance provides that the inspection must occur at least twice every 12 months but the City Ordinance requires only an annual inspection. Moreover, the County Ordinance provides that if there has been found a violation, the tobacco retailer must be re-inspected within three months. The City Ordinance has no similar provision.

The attached Ordinance amending Section 8.44.180 of the Brisbane Municipal Code corrects these discrepancies.

**Discussion**

Under the proposed Ordinance, the County will conduct inspections of the three tobacco retailers in Brisbane (Christy’s Donuts, Julie’s Brisbane Liquor and Deli, and Midtown Market) twice a year to ensure these retailers are in compliance with the Tobacco Retailer Permit Ordinance. To date, staff is not aware that any of these retailers have violated that Ordinance. If such a violation were to occur, the County would re-inspect within three months.

The adoption of this Ordinance will mirror the City Ordinance with the County Ordinance.

**Environmental Review**


Introduction and adoption of this Ordinance is an administrative activity of the City that will not result in a direct or indirect physical change to the environment and therefore it is not a project under the California Environmental Quality Act (CEQA). CEQA Guidelines, Section 15378 (b) (5). Accordingly, no further environmental review is required in order to introduce and adopt this Ordinance.

**Fiscal Impact**

There is no direct fiscal impact to the City if this Ordinance is adopted. The County Health’s Environmental Health Services Division permit fees established by the County and paid by tobacco retailers throughout the County fund the program.

**Attachments:**

- 1. Ordinance amending Section 8.44.180 of the Brisbane Municipal Code

  
\_\_\_\_\_  
Michael Roush, Legal Counsel

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

**ORDINANCE NO.**

AN ORDINANCE OF THE CITY OF BRISBANE AMENDING SECTION 8.44.180 OF THE BRISBANE MUNICIPAL CODE CONCERNING COMPLIANCE REQUIREMENTS FOR TOBACCO RETAILERS

THE CITY COUNCIL OF THE CITY OF BRISBANE DOES ORDAIN AS FOLLOWS:

Section 1. Section 8.44.180 of the Brisbane Municipal Code is amended as follows:

**“8.44.180 Compliance monitoring.**

(Subsection A, no change.)

B. Individuals designated to enforce the provisions of this chapter shall inspect each Tobacco Retailer at least two times during each twelve-month period to determine if the Tobacco Retailer is complying with all applicable laws. Compliance checks shall take place during normal business hours, with or without notice. If a violation has occurred, the Tobacco Retailer shall be inspected again within three months. All permitted premises must be open to inspection by designated persons during regular business hours.

(Subsection C, no change.)”

**Section 2: CEQA Determination**

Introduction and adoption of this Ordinance is not subject to further review under the California Environmental Quality Act (CEQA) because it is a continuing administrative activity of the city, namely general policy and procedure making, and therefore it is not a “project” under CEQA. CEQA Guidelines, Section 15378 (b) (2).

**Section 3: Effective Date.**

This Ordinance shall be in effect thirty days after its final passage and adoption.

\* \* \* \*

The above and foregoing Ordinance was regularly introduced and after the waiting time required by law, was thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on the \_\_\_\_\_ day of \_\_\_\_\_, 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:**

J. Award the Construction Contract for the 2023 Slurry Seal to Graham Contractors, Inc. in the Amount of \$249,500, and Authorize the Mayor to Sign the Agreement for the City



## CITY COUNCIL AGENDA REPORT

**Meeting Date:** June 6, 2024

**From:** Karen Kinser, Deputy Director of Public Works

**Subject:** 2023 Slurry Seal (Project No. 923F)

### Community Goal/Result - Safe Community

**Purpose** - To provide preventative maintenance and repair to various streets in Brisbane

**Recommendation** - Award the construction contract for the 2023 Slurry Seal to Graham Contractors, Inc. in the amount of \$249,500, and authorize the mayor to sign the Agreement for the City.

### Background

The city received three bids on May 22, 2024:

Graham Contractors, Inc.	\$249,500.00
Pavement Coatings Co.	\$272,488.00
VSS International, Inc.	\$289,000.00

Staff reviewed the apparent low bid and determined that the proposal was responsive, and the bidder was responsible. Impacts to pedestrians, cyclists, and the motoring public will be minimal during construction, which is expected to occur in the summer. The contractor will be required to keep one lane of traffic open during construction at all times. As required by AB 413, the "daylighting" bill, parking striping will not be replaced at approaches to crosswalks within the project limits.

### Environmental Review

The pavement project is categorically exempt from provisions of CEQA in that the proposals are replacement or reconstruction of existing uses on the same site as the existing facilities with no change in purpose or expansion of capacity (California Code of Regulations, Title 14, Division 6, Chapter 3, Article 19, §15302 "Class 2 – Replacement or Reconstruction").

### Fiscal Impact

2022-2023 RMRA Funds and Measure A Sales Tax and State Gas Tax revenues will fund this project.

Karen Kinser, Deputy Director of Public Works

Randy Breault, Director of Public Works/City Engineer

Clay Holstine, City Manager

**File Attachments for Item:**

K. Adopt a Resolution Establishing the 2024 Business License Tax for Liquid Storage Facilities as to Kinder Morgan/SFPP





## CITY COUNCIL AGENDA REPORT

**Meeting Date:** June 6, 2024

**From:** Carolina Yuen, Finance Director

**Subject:** Resolution Establishing the 2024 Business License Tax for Liquid Storage Facilities as to Kinder Morgan/SFPP

### Community Goal/Result

Fiscally Prudent  
Economic Development

### Purpose

To establish for calendar year 2024 the amount of the business license tax charged to Kinder Morgan/SFPP for its liquid storage facilities in Brisbane under Section 5.20.011 of the Brisbane Municipal Code.

### Recommendation

Adopt the attached resolution imposing a business license tax in the amount of \$229,198 as to Kinder Morgan/SFPP for calendar year 2024.

### Background

The City receives revenues from diverse sources in order to provide the necessary high-quality services the community expects.

At the general election in November 2013, Brisbane voters approved an annual business license tax on persons engaged in the business of operating, leasing, supplying or providing a liquid storage facility in the City of Brisbane. The ballot measure added Section 5.20.011 to the Brisbane Municipal Code, allowing the City to impose up to a maximum business license tax of \$115.28 per year for each 1,000 cubic feet of liquid storage capacity.

In 2014 and 2015, the City Council imposed by resolution a business license tax of \$38.91 for each 1,000 cubic feet of storage capacity. In 2016 and 2017, the Council imposed by resolution a business license tax of \$115.28 for each 1,000 cubic feet of storage capacity. As to Kinder Morgan/SFPP, LP, the owner of the only liquid storage facility currently in Brisbane, this rate translated to a tax of \$135,000 in 2014, \$135,000 in 2015, \$400,000 in 2016, and \$400,000 in 2017. The company paid the 2014, 2015 and 2016 fees under protest and did not pay the license tax for 2017 but filed a civil suit against the City in the San Mateo County Superior Court seeking reimbursement for the taxes paid in 2014, 2015 and 2016.

The litigation was settled in 2017. Under the terms of the settlement agreement, the City and Kinder Morgan/SFPP agreed that for 2017, the liquid fuel storage tax rate would be set by the

Brisbane City Council at an amount that is equivalent to 3.5 cents per barrel of liquid fuel transported through the Brisbane Terminal for delivery at the terminal or “over the rack” (\$261,091), that for 2018, the tax rate would be equivalent to 4 and 1/3 cents per barrel (\$323,332) and for 2019, the tax rate would be 5 and 1/3 cents per barrel (\$356,458).

The settlement agreement also provided that at the November 2019 municipal election, Council would place before the voters a revision to the then current business license tax concerning liquid storage facilities that would provide that the tax rate will be up to 6 cents per barrel, with the exact rate to be determined annually by the Council. That liquid storage tax formula would then be applied for subsequent years, but in no event would the tax be greater than \$400,000. The voters approved the revision to the business license tax as described.

Since 2020, Kinder Morgan/SFPP has reported the following number of over the rack barrels and accordingly has paid the business license tax as set forth below:

- 2020 - \$400,000 maximum allowed based on 8,326,342 barrels from 2019
- 2021 - \$288,586 based on 4,809,771 barrels from 2020
- 2022 - \$324,327 based on 5,405,448 barrels from 2021
- 2023 - \$338,159 based on 5,635,991 barrels from 2022

Staff presented a staff report and resolution at the April 18, 2024 meeting seeking authorization to invoice Kinder Morgan. Council requested staff review with Kinder Morgan the decrease in results and trend further.

**Discussion**

Kinder Morgan/SFPP has provided the City with information that in 2023 there were 3,819,969 barrels “over the rack.” The ordinance provides that the tax rate may be up to 6 cents per barrel, with a business license cap of \$400,000. Adoption of the attached resolution will set the tax rate at 6 cents per barrel and impose for 2024 a business license tax for Kinder Morgan/SFPP of \$229,198. Kinder Morgan has described the recent decrease in barrels partially to be the result of losing a significant customer and some diesel customers shifting their business away to Renewable Diesel available at other locations, as well as elimination of coding errors which may have caused potential overreporting in previous years. Staff has requested supplemental information to validate the decreasing trend. Although staff continues to review the information received with Kinder Morgan, staff recommends Council use the information provided thus far to invoice for current year to allow enough time to collect and recognize for the current fiscal year.

**Fiscal Impact**

As to Kinder Morgan/SFPP, Council’s adoption of the attached resolution will result in a business license tax of \$229,198 for calendar year 2024.

**Measure of Success**

Kinder Morgan/SFPP to make a payment of \$229,198 to the City for 2024.

**Attachment** - Resolution Establishing the Business License Tax to Kinder Morgan/SFPP LLC for Calendar Year 2024.

*Carolina Yuen*

Carolina Yuen, Finance Director

*Clay Holstine*

Clay Holstine, City Manager

**RESOLUTION NO. 2024-\_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE ESTABLISHING THE BUSINESS LICENSE TAX CHARGED TO KINDER MORGAN/SFPP LLC FOR CALENDAR YEAR 2024 UNDER SECTION 5.20.011 OF THE BRISBANE MUNICIPAL CODE**

**WHEREAS**, Section 5.20.011 of the Brisbane Municipal Code imposes an annual business license tax on persons engaged in the business of operating, leasing, supplying or providing a liquid storage facility in the City; and

**WHEREAS**, Kinder Morgan/SFPP LLC, a business in Brisbane engaged in the business of operating, leasing, supplying or providing a liquid storage facility, and the City have agreed that for calendar year 2024 the liquid fuel storage tax will be set by the City Council based on a formula in an amount of six cents per barrel of liquid fuel transported throughout the Brisbane Terminal for delivery at the terminal (“over the rack”) during calendar year 2023; and

**WHEREAS**, Kinder Morgan/SFPP LLC provided data to the City indicating that the number of barrels “over the rack” for calendar year 2023 was 3,819,969; and

**WHEREAS**, the Section 5.20.011 provides the City Council may set a tax rate for these facilities up to six cents per barrel, so long as the overall tax amount does not exceed \$400,000.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRISBANE AS FOLLOWS:**

- 1. For 2024, the City Council sets the business license tax rate for the Kinder Morgan/SFPP liquid storage facility in Brisbane at six cents per barrel and the annual business license tax charged to Kinder Morgan/SFPP LLC for 2024 shall be \$229,198.
- 2. Payment of the business license taxes for 2024 shall be due and payable in full by June 30, 2024.

\_\_\_\_\_  
Terry O’Connell, Mayor

I hereby certify that the foregoing Resolution No. 2024-\_\_\_\_ was duly and regularly adopted at a regular meeting of the Brisbane City Council on June 6, 2024 by the following vote:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

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Ingrid Padilla, City Clerk

**File Attachments for Item:**

L. Sierra Point Landscaping and Lighting District for the Fiscal Year 2024-2025

i. Adopt a Resolution, "Appointing Attorney for the Sierra Point Landscaping and Lighting District for the Fiscal Year 2024-2025."

ii. Adopt a Resolution, "Appointing Engineer for the Sierra Point Landscaping and Lighting District for the Fiscal Year 2024-2025."

iii. Adopt a Resolution, "A Resolution of Preliminary Approval of Engineer's Report - Fiscal Year 2024-2025 - Sierra Point Landscaping and Lighting District"

iv. Adopt a Resolution, "A Resolution of Intention to order the levy and collection of assessments pursuant to the Landscaping and Lighting Act of 1972 - Fiscal Year 2024-2025 - Sierra Point Landscaping and Lighting District"



## CITY COUNCIL AGENDA REPORT

**Meeting Date:** June 6, 2024

**From:** Karen Kinser, Deputy Director of Public Works

**Subject:** Sierra Point Landscape and Lighting District Annual Appointments, Preliminary Approval of Engineer’s Report and Intention to Order the Levy and Collection of Assessments

### Community Goal/Result

Economic Development

### Purpose

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

### Recommendation

Adopt the following resolutions:

1. Proposed Resolution, “Appointing Attorney for the Sierra Point Landscaping and Lighting District for the Fiscal Year 2024-2025.”
2. Proposed Resolution, “Appointing Engineer for the Sierra Point Landscaping and Lighting District for the Fiscal Year 2024-2025.”
3. Proposed Resolution, “A Resolution of Preliminary Approval of Engineer's Report - Fiscal Year 2024-2025 - Sierra Point Landscaping and Lighting District”
4. Proposed Resolution, “A Resolution of Intention to order the levy and collection of assessments pursuant to the Landscaping and Lighting Act of 1972 - Fiscal Year 2024-2025 - Sierra Point Landscaping and Lighting District”

### Background

These four resolutions are part of the required annual process for the Sierra Point Landscaping and Lighting District. In order, they appoint an Attorney and an Engineer of Record for the landscaping and lighting district, preliminarily approve the Engineer’s Report (which specifies the work to be completed, the cost of the work, and the proportionate share of the costs within the district for the next fiscal year) and indicate intention to order the levy and collection of assessments for said district.

### Discussion

The requested actions begin the annual process that provides funding for the operation and maintenance of the Sierra Point Landscaping and Lighting District. At a later meeting, a Public Hearing will be held to confirm and order the Improvements/Assessments.

If the Council chooses to not approve these Resolutions, then the city will most likely not have a mechanism to collect the assessments which fund the operation and maintenance of the landscaping, irrigation and lighting at Sierra Point.

**Fiscal Impact**


There is no direct fiscal impact as a result of approving the recommended resolutions; all work to be completed in this phase of the process will be completed by existing staff.

**Measure of Success**

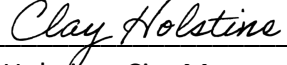
Approval of the Engineer’s Report and confirming the assessments will allow for the ongoing maintenance and improvements of the landscaping, lighting and pathways at Sierra Point.

**Attachments**

- 1. Proposed Resolutions (4)
- 2. Draft Engineer’s Report

  
 \_\_\_\_\_  
 Karen Kinser, Deputy Director of Public Works

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

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



RESOLUTION NO. 2024-\_\_

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE  
APPOINTING ATTORNEY FOR THE SIERRA POINT  
LANDSCAPING AND LIGHTING DISTRICT  
FISCAL YEAR 2024-2025

**WHEREAS**, the City Council of the City of Brisbane has determined to undertake proceedings for the levy and collection of assessments upon the several lots or parcels of land in the Sierra Point Landscaping and Lighting District pursuant to the Landscaping and Lighting Act of 1972 for the construction or installation of improvements, including the maintenance or servicing, or both, thereof for the fiscal year 2024-2025; and

**WHEREAS**, the public interest and general welfare will be served by appointing and employing an attorney for the preparation and conduct of said proceedings;

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

Thomas McMorrow, Attorney at Law, or his successor, is hereby appointed and employed to do and perform all legal services required for said proceedings.

\_\_\_\_\_  
Terry O’Connell, Mayor  
City of Brisbane

\* \* \* \*

I, the undersigned, hereby certify that the foregoing Resolution No. 2024- was adopted at a regular meeting of the City Council of the City of Brisbane on the 6th day of June, 2024 by the following vote:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
Ingrid Padilla, City Clerk  
City of Brisbane

**RESOLUTION NO. 2024-\_\_**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE  
APPOINTING ENGINEER FOR THE SIERRA POINT  
LANDSCAPING AND LIGHTING DISTRICT  
FISCAL YEAR 2024-2025**

**WHEREAS**, the City Council of the City of Brisbane has determined to undertake proceedings for the levy and collection of assessments upon the several lots or parcels of land in the Sierra Point Landscaping and Lighting District, pursuant to the Landscaping and Lighting Act of 1972 for the construction or installation of improvements, including the maintenance or servicing, or both, thereof for fiscal year 2024-2025;

**WHEREAS**, the public interest and general welfare will be served by appointing and employing an engineer for the preparation and conduct of said proceedings;

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

Karen A. Kinser, P.E., Deputy Director of Public Works, is hereby appointed and employed as Engineer of Work, employed in order to perform all engineering work necessary in and for said proceedings.

\_\_\_\_\_  
Terry O’Connell, Mayor  
City of Brisbane

\* \* \* \*

I, the undersigned, hereby certify that the foregoing Resolution No. 2024- was adopted at a regular meeting of the City Council of the City of Brisbane on the 6th day of June, 2024 by the following vote:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
Ingrid Padilla, City Clerk  
City of Brisbane

**RESOLUTION NO. 2024-\_\_**

**RESOLUTION OF PRELIMINARY APPROVAL OF ENGINEER'S REPORT  
FISCAL YEAR 2024 – 2025**

**SIERRA POINT LANDSCAPING AND LIGHTING DISTRICT**

**RESOLVED**, by the City Council of the City of Brisbane, California, that

**WHEREAS**, the Engineer of Work has prepared and filed with the Clerk of said City a report, in writing, all as therein more particularly described, under and pursuant to the Landscaping and Lighting Act of 1972;

**WHEREAS**, under and pursuant to said Act, the report has been presented to this Council for consideration; and

**WHEREAS**, said Council has duly considered said report and each and every part thereof, and finds that each and every part of said report is sufficient, and that neither said report, nor any part thereof should be modified in any respect.

**NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED and ORDERED**, as follows:

1. That the plans and specifications for the existing improvements and the proposed new improvements to be made within the assessment district or within any zone thereof, contained in said report, be, and they are hereby, preliminarily approved.

2. That the Engineer's estimate of the itemized and total costs and expenses of said improvements, maintenance and servicing thereof, and of the incidental expenses in connection therewith, contained in said report, be, and each of them are hereby, preliminarily approved.

3. That the diagram showing the exterior boundaries of the assessment district referred to and described in said Engineer's Report and also the boundaries of any zones therein and the lines and dimensions of each lot or parcel of land within said district as such lot or parcel of land is shown on the County Assessor's maps for the fiscal year to which the report applies, each of which lot or parcel of land has been given a separate number upon said diagram, as contained in said report, be, and it is hereby, preliminarily approved.

4. That the proposed assessment of the total amount of the estimated costs and expenses of the proposed improvements upon the several lots or parcels of land in said district in proportion to the estimated benefits to be received by such lots or parcels, respectively, from said improvements including the maintenance or servicing,

or both, thereof, and of the expenses incidental thereto, as contained in said report, be, and they are hereby, preliminarily approved.

5. That said report shall stand as the Engineer's Report for the purpose of all subsequent proceedings to be had.

\_\_\_\_\_  
Terry O'Connell, Mayor  
City of Brisbane

\* \* \* \*

I, the undersigned, hereby certify that the foregoing Resolution No. 2024- was adopted at a regular meeting of the City Council of the City of Brisbane on the 6th day of June, 2024 by the following vote:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
Ingrid Padilla, City Clerk  
City of Brisbane

**RESOLUTION NO. 2024-\_\_**

**A RESOLUTION OF INTENTION TO ORDER THE LEVY AND COLLECTION  
OF ASSESSMENTS  
PURSUANT TO THE LANDSCAPING AND LIGHTING ACT OF 1972  
FISCAL YEAR 2024-2025**

**SIERRA POINT LANDSCAPING AND LIGHTING DISTRICT**

**RESOLVED**, by the City Council of the City of Brisbane, California, as follows:

**WHEREAS**, pursuant to the Landscaping and Lighting Act of 1972, the Engineer of Work of said City has prepared and filed with the Clerk of this City the written report, which said submitted report has been preliminarily approved by this Council in accordance with said Act;

**NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED and ORDERED**, as follows:

1. In its opinion the public interest and convenience require and it is the intention of this Council to order the levy and collection of assessments for Fiscal Year 2024-2025 pursuant to the provisions of the Landscaping and Lighting Act of 1972, Part 2, Division 15 of the Streets and Highways Code of the State of California, for the construction or installation of the improvements, including the maintenance or servicing, or both, thereof, more particularly described in Exhibit "A" hereto attached and by reference incorporated herein.

2. The cost and expenses of said improvements, including the maintenance or servicing, or both, thereof, are to be made chargeable upon the assessment district designated as Sierra Point Landscaping and Lighting District, the exterior boundaries of which district are the composite and consolidated area as more particularly described on a map thereof on file in the office of the Clerk of said City, to which reference is hereby made for further particulars. Said map indicates by a boundary line the extent of the territory included in the district and of any zone thereof and the general location of said district.

3. Said Engineer's Report prepared by the Engineer of Work of said City, preliminarily approved by this Council, and on file with the Clerk of this City is hereby referred to for a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within the district.

4. Notice is hereby given that on July 18, 2024, or as soon thereafter as the matter may be heard, at the Brisbane Community Meeting Room, Brisbane City Hall, 50 Park Place, Brisbane, California, the City Council shall convene and hold a public

meeting to receive public testimony with respect to said assessments, pursuant to Government Code Section 59954.6. The City Clerk is authorized to cause publication of notice of said public meeting pursuant to Government Code 6063 and to mail such notice by first-class mail to the owners of the property to be assessed as shown by the last equalized assessment roll said notice shall contain the information as specified by Government Code Section 54954.6 (C)(2).

5. Notice is hereby given that on July 18, 2023, or as soon thereafter as the matter may be heard, at the Brisbane Community Meeting Room, Brisbane City Hall, 50 Park Place, Brisbane, California, be and the same are hereby appointed and fixed as the time and place for a hearing by this Council on the question of the levy and collection of the proposed assessment for the construction or installation of said improvements, including the maintenance and servicing, or both, thereof, and when and where it will consider all oral statements and all written protests made or filed by any interested person at or before the conclusion of said hearing, against said improvements, the boundaries of the assessment district and any zone therein, the proposed diagram or the proposed assessment, to the Engineer's estimate of the cost thereof, and when and where it will consider and finally act upon the Engineer's Report.

6. The Clerk of said City is hereby directed to give notice of said hearing by causing a copy of this Resolution to be published once in the San Mateo Times, a newspaper published and circulated in San Mateo County, there being no newspaper published in said City, and by conspicuously posting a copy thereof upon the official bulletin board customarily used by the City for the posting of notices, said posting and publication to be had and completed at least ten (10) days prior to the date of hearing specified herein.

7. The office of the City Manager of said City is hereby designated as the office to answer inquiries regarding any protest proceedings to be had herein and may be contacted during regular office hours at City Hall, 50 Park Place, Brisbane, California 94005 or by calling (415) 508-2110.

\_\_\_\_\_  
Terry O'Connell, Mayor  
City of Brisbane

\* \* \* \*

I, the undersigned, hereby certify that the foregoing Resolution No. 2024- was adopted at a regular meeting of the City Council of the City of Brisbane on the 6th day of June, 2024 by the following vote:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
Ingrid Padilla, City Clerk

City of Brisbane  
**EXHIBIT “A” to Resolution No. 2024-\_\_**

**Description of District Purpose**

**SIERRA POINT  
LANDSCAPING AND LIGHTING DISTRICT**

- a) The construction or installation, including the maintenance or servicing, or both, thereof, of public landscaping, including irrigation, trees, shrubs, grass, or other vegetation.
- b) The construction or installation, including the maintenance or servicing, or both, thereof, of public lighting facilities, including standards, poles and electric current or energy.

CITY OF BRISBANE

**SIERRA POINT**

**LANDSCAPING AND LIGHTING DISTRICT**

**ENGINEER'S REPORT**

on the  
Levy of an Assessment  
for the  
2024 - 2025 Fiscal Year

Prepared by

Karen Kinser, P.E.  
Deputy Director of Public Works

May 28, 2024



I. BACKGROUND

In 1983, the Brisbane City Council determined to undertake proceedings under the provisions of Division 15, Part 2, of the California Streets and Highways Code, entitled “Landscaping and Lighting Act of 1972”, for the formation of an assessment district for the purpose of constructing, installing, maintaining and servicing the following facilities within said district:

- a) Public landscaping, including trees, shrubs, grass, other vegetation, and irrigation facilities.
- b) Public lighting facilities, including standards, poles, and electric current or energy.

The proposed district was designated the “Sierra Point Landscaping and Lighting District”.

This report was prepared as part of an annually occurring process to detail the assessment charges and district expenses covering the 2024 - 2025 fiscal year.

II. PLANS AND SPECIFICATIONS

The original plans and specifications for this assessment district have been separately bound but are incorporated herein by this reference thereto.

III. ESTIMATE OF COSTS

The costs of this assessment district for the 2024 - 2025 fiscal year are estimated to be as follows:

**ZONE 1 & 2 CONSTRUCTION & MAINTENANCE COSTS**

	<b>FY 24/25</b>
Employee costs	123,189
Supplies and services	377,150
Administrative costs	91,380
<b>TOTAL ZONE 1 &amp; 2</b>	<b>\$591,719</b>

Supplies and services include 165safety clothing, maintenance of vehicles and equipment, small tools and supplies, landscape and irrigation maintenance including materials, electricity, and water.

Administrative charges are indirect, overhead costs to manage the district.

A detailed breakdown of these costs is available to assesses upon request.

Costs associated with this assessment district for the 2024 - 2025 fiscal year are to be paid as follows:

**ZONE 1 & 2 FUNDING SOURCES**

		<b>FY 24/25</b>
	Assessment charges	591,719
	<b>TOTAL ZONE 1 &amp; 2</b>	<b>\$591,719</b>

IV. DIAGRAM

The assessment diagrams for Zones 1 and 2 are attached hereto and are a part of this report.

V. ASSESSMENT

The assessments to be made against the assessable lots and parcels of land within this assessment district are attached hereto and are a part of this report.

Respectfully submitted,

Dated 5/28/24



Karen Kinser, P.E.  
Deputy Director of Public Works

Filed in the office of the City Clerk of the City of Brisbane, San Mateo County, California, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Ingrid Padilla  
City Clerk

Filed in the office of the County Controller-Auditor of the County of San Mateo, California, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Juan Raigoza  
County Controller

**ASSESSMENT ROLL**

<u>ASSESSMENT NUMBER</u>	<u>ASSESSOR'S PARCEL NUMBER</u>	<u>PARCEL AREA, AC.</u>	<u>ASSESSMENT</u>
<u>ZONE 1</u>			
A 1	007—165—210	4.41	\$24,570
A 2	007—165—230	8.97	49,976
A 3	007—165—110	3.44	19,166
A 4	007—165—050	6.13	34,153
A 5	007—164—020	5.66	31,534
A 6	007—164—010	10.20	56,828
A 7	007—165—130	9.78	54,488
A 8	007—165—140	7.13	39,724
A 9	007—165—150	5.93	33,038
A 10	007—163—030	3.52	19,611
A 11	007—163—040	3.08	17,160
A 12	007—165—120	4.56	25,406
C 1	015—011—090	Note <sup>1</sup>	0
C 2	015—011—100	6.92	38,554
C 3	015—011—130	8.57	47,747
C 4	015—011—120	8.56	47,691
C 5	015—011—140	2.41	13,427
Subtotal Zone 1		99.27	\$553,074

<sup>1</sup> Although previously assessed, this parcel is owned by California State Lands Commission, which is exempt from local assessments.

ZONE 2

B 1	None (placeholder only)		-0-
B 2	005—162—430 (Ptn)	15.2	7,190
B 3	005—162—300	66.5	31,455
B 4	005—162—400 (Ptn)	Note <sup>2</sup>	-0-
B 5	005—162—410 (Ptn)	0.2 <sup>3</sup>	-0-
B 6	005—162—390	Note <sup>4</sup>	-0-
B 7	005—162—420 (Ptn)	Note <sup>4</sup>	-0-
	Subtotal Zone 2	81.7	\$ 38,645
	Total	180.99	\$591,719

**METHOD OF ASSESSMENT SPREAD**

The amounts to be assessed against the parcels of property to pay the costs and expenses of the work and improvements shall be based on the estimated benefits to be derived by the various properties within the assessment district.

Construction and maintenance costs shall be segregated by zone, and then spread to the parcels within each zone in proportion to the area of the benefited parcels within the zone.

Incidental expenses shall be spread proportionally to the area of benefited parcels within the assessment district.

Due to the County Auditor's requirement that individual parcel assessments be rounded to the nearest even cent, the total of said individual assessments may not exactly equal the total estimate of costs.

<sup>2</sup> This portion of this parcel is private land over which the public has been granted access for use as the street, Tunnel Avenue.

<sup>3</sup> No assessment has been imposed for a value less than \$100.

<sup>4</sup> B6 and B7 are publicly owned portions of Tunnel Avenue.

**NAMES AND ADDRESSES OF OWNERS**

<b>ASSESSMENT NUMBER</b>	<b>APN NUMBER</b>	<b>ASSESSEE</b>
A-1	007-165-210	BP3 SF4 1000 Marina LLC 4380 La Jolla Village Dr. Suite 230 San Diego, CA 92122
A-2	007-165-230	BP3 SF5 3000 3500 Marina LLC 4380 La Jolla Village Dr. Suite 230 San Diego, CA 92122
A-3	007-165-110	SNH Brisbane Ca LLC 255 Washington St Newton, MA 02458
A-12	007-165-120	PPF OFF 7000 Marina Blvd LP C/O Morgan Stanley Real Estate Advisor 555 California St. 21 <sup>st</sup> Floor San Francisco, CA 94101
A-4	007-165-050	Grand Sierra Properties, Inc. 150 Executive Park Blvd. #4000 San Francisco, CA 94134
A-5	007-164-020	HCP Life Science REIT, Inc. 1920 Main St, Suite 1200 Irvine, CA 92614
A-6	007-164-010	HCP Life Science REIT, Inc. 1920 Main St, Suite 1200 Irvine, CA 92614
A-7	007-165-130	Slough Brisbane LLC
A-8	007-165-140	1920 Main St. Suite 1200
A-9	007-165-150	Irvine, CA 92614
A-10	007-163-030	Summit Hospitality 114 LLC 12600 Hill Country Blvd., #R-100 Austin, TX 78738
A-11	007-163-040	Bre Sh Brisbane Owner LLC PO Box A-3956 Chicago, IL 60690-3956

B-2 B-3 B-4 B-5	005-162-430 005-162-300 005-162-400 005-162-410	Oyster Point Properties, Inc. 150 Executive Park Blvd. #4200 San Francisco, CA 94134-3332
B-6 B-7	005-162-390 005-162-420	City of Brisbane 50 Park Place Brisbane, CA 94005
C-1	015-011-090	State of California C/O State Lands Commission Attn: Title Unit 100 Howe Ave., Ste. 100 Sacramento, CA 95825
C-2	015-011-100	HCP Life Sciences REIT, Inc. 3000 Meridian Boulevard #200 Franklin, TN 37067
C-3	015-011-130	DW LSP 5000 Shoreline LLC C/O Divco West Real Estate Group Attn: Sam Hamilton PO Box 130667 Carlsbad, CA 92013
C-4	015-011-120	DW LSP 5000 Shoreline LLC C/O Divco West Real Estate Group Attn: Sam Hamilton PO Box 130667 Carlsbad, CA 92013
C-5	015-011-140	GNS Shoreline LP C/O Altusgroup USINC/Ventas #6904 PO Box 71970 Phoenix, AZ 85050

**File Attachments for Item:**

M. Adoption of Resolution establishing the Appropriation Limit for Fiscal Year 2024-2025





## CITY COUNCIL AGENDA REPORT

**Meeting Date:** June 6, 2024

**From:** Carolina Yuen, Finance Director

**Subject:** Adoption of Resolution Establishing Appropriation Limit for Fiscal Year 2024/25

### Community Goal/Result

Fiscally Prudent - Brisbane's fiscal vitality will reflect sound decisions which also speak to the values of the community

### Purpose

To ensure the City's taxes are not too great a burden on the Community.

### Recommendation

Adopt Resolution establishing the Appropriation Limit for Fiscal Year 2024/25.

### Background

Proposition 4 was adopted by California voters in November 1979. This measure codified Article XIII B of the California Constitution, (Government Code 7901). This section specifies that governmental entities must calculate and adopt annually an appropriation limit beginning with fiscal year 1978-79. These limits are also referred to as "Gann Limits" in reference to one of the measures co-authors. The fundamental purpose of the appropriation limit is to keep real per-person government spending under 1978-79 levels, adjusted for inflation, and to measure if the City has revenues that cannot be appropriated because of the limit – meaning the City has "excess revenues."

In June of 1990, California voters approved Proposition 111, which amended Government Code Section 7901 as it applies to the Appropriation Limit. According to Proposition 111, cities are permitted to adjust their appropriation limit annually by the following two factors:

1. Either the percentage change in the California per capita personal income for the preceding year or the percentage change in the growth of non-residential assessed valuation due to non-residential construction; and
2. Either the percentage change in population of the City or the County.

Attached is the calculation of the appropriation limit as allowed by Proposition 111.

**Discussion**

The indexes used in calculating the appropriation limit for FY 2024/25 are the percentage change in the California Per Capita Personal Income, 3.62%, and the County’s population growth/(reduction) (-.50%), totaling a combined growth rate of 3.10%. The City’s resulting Appropriation Limit is \$27,465,552. The tax proceeds expected to be received, including for the Guadalupe Valley Municipal Improvement District, is \$20,048,493 or 73.0% of the limit. Therefore, the City is below the maximum allowable appropriation limit and in compliance with State Law.

**Fiscal Impact**

There is no financial impact associated with the adoption of this Resolution. The City expects to receive approximately \$7,417,059 less in taxes than is allowed under the appropriation limit. If tax proceeds received are determined to exceed the limit, such revenues in excess must be returned to the taxpayers of the City of Brisbane in accordance to the procedures directed by the City Council.

**Measure of Success**

The City is able to meet the needs of the Community while abiding by the Appropriation (Gann) Limit.

**Attachments**

- 1. Resolution for FY2024/25 Appropriation Limit
- 2. Appropriation Limit Calculation for FY 2024/25

*Carolina Yuen*  
\_\_\_\_\_  
Carolina Yuen, Finance Director

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

**RESOLUTION NO. 2024-\_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE ESTABLISHING THE APPROPRIATION LIMIT FOR THE FISCAL YEAR 2023/2024 PURSUANT TO ARTICLE XIII B AS AMENDED OF THE CALIFORNIA STATE CONSTITUTION**

**WHEREAS**, Proposition 4 was approved by the California voters on November 6, 1979, thereby adding Article XIII B of the California State Constitution; and

**WHEREAS**, on June 4, 1990 the California Voters amended Article XIII B and the California Constitution by approving Proposition 111 which became effective July 1, 1990; and

**WHEREAS**, it is the desire of the City Council of the City of Brisbane to establish the Appropriation Limit for the Fiscal Year 2024/25 pursuant to Article XIII B as amended of the California State Constitution; and

**NOW, THEREFORE, BE IT RESOLVED THAT** the City Council of the City of Brisbane hereby finds and determines;

1. That the California Per Capita Income (CPCPI) to be utilized to calculate the Appropriations Limit for Fiscal Year 2024/25, increased by 3.62% and that the Non-Residential Construction growth factor was not available from the County Assessor.
2. That during Calendar Year 2023 the percentage increase in the County of San Mateo and the City of Brisbane population was -0.50% and -0.72% respectively.
3. That the higher percentage shown in 1 and 2 above be applied to determine the appropriation limit for Fiscal Year 2024/25.
4. That the 2024/25 appropriation limit for the City of Brisbane is calculated to be \$27,465,552.
5. The 2024/25 budget anticipates tax revenues of \$20,048,493, which is \$7,417,059 less than the appropriation limit.

**BE IT FURTHER RESOLVED THAT** any revenues from proceeds of taxes and user fees in excess of costs received during the Fiscal Year 2024/25 over and above the appropriated limit of \$27,465,552 must be returned to the taxpayers of the City of Brisbane in accordance with the procedure to be adopted by the City Council of the City of Brisbane when such amount of refund is determined.

\_\_\_\_\_  
Terry O'Connell, Mayor

I hereby certify that the foregoing Resolution No. 2024-\_\_\_\_\_ was duly and regularly adopted at a meeting of the Brisbane City Council on June 6, 2024, by the following vote:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

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Ingrid Padilla, City Clerk

**CITY OF BRISBANE  
COMPUTATION OF APPROPRIATION LIMIT  
FOR FISCAL YEAR 2024/25**

	( 1 )	( 2 )	( 3 )
	<b>% Change in CPCPI</b>	<b>% Change in Non-Residential Construction</b>	<b>The Greater % Change</b>
1 % Change in CPCPI or Non-Residential Construction	3.62%	NA	3.62%
	<b>% Change In County Population</b>	<b>% Change In City Population</b>	<b>The Higher Growth %</b>
2 % Change in County or City Population	-0.50%	-0.72%	-0.50%

**CALCULATIONS**

a	Prior year's Appropriation Limit	\$26,639,230
b	Multiply 1+Line 1 by 1+Line 2	103.10%
c	Multiply Line (a) by Line (b), and subtract Line (a)	\$826,322
d	Add Lines (a), and (c) and enter total here	\$27,465,552
e	<b>APPROPRIATION LIMIT FOR 2024/25</b>	<b>\$27,465,552</b>
	<b>Estimated tax proceeds as budgeted for fiscal year 2024/25</b>	<b>\$20,048,493</b>
	<b>Estimated tax proceeds to Limit</b>	<b>73.00%</b>
	<b>Estimated Excess Limit Capacity</b>	<b>\$7,417,059</b>

**File Attachments for Item:**

N. Consider Adoption of Resolutions to Approve the Budget for Fiscal Year 2024/25

1. Adopt Resolution adopting the annual budget for Fiscal Year 2024-2025 and making appropriations for the amounts budgeted for the City, the Successor Agency and Housing Authority

2. Adopt Guadalupe Valley Municipal Improvement District Resolution adopting the annual budget for Fiscal Year 2024-2025 and making appropriations for the amounts budgeted



## CITY COUNCIL AGENDA REPORT

**Meeting Date:** June 6, 2024

**From:** Carolina Yuen

**Subject:** Adoption Resolutions to Approve the Fiscal Year 2024/25

### Budget

#### **Community Goal/Result**

Fiscally Prudent – Brisbane’s fiscal vitality will reflect sound decisions which also speak to the values of the community

#### **Purpose**

To provide a fiscal plan which provides flexibility to City Council and the Community to provide for services during the time of unknown economic circumstances while planning for the long-term recovery.

#### **Recommendation**

Adopt the attached resolutions to approve the budget for Fiscal Year 2024/25.

#### **Background**

On May 30, 2024, Staff presented an overview of the budget to the City Council. Staff also initiated reviews of departmental budgets including highlights from previous year, variances from previous year and budgeted requests. Council requested staff come back on June 6, 2024, with proposed items that were identified to either be placed on hold or pushed to the FY26 budget to minimize budgeted deficit.

#### **Discussion**

Any changes to the proposed budget are unknown at this time as reviews are scheduled for earlier in the same meeting.

Financial stability remains a high priority for the City of Brisbane. Staff looks forward to working with the Council and the community to address the financial challenges that lay ahead. Staff will continue to seek ways to provide services to the community as efficiently as possible. The City will continue to consider appropriate economic development and tax revenue generation projects that are viable for our City.

#### **Fiscal Impact**

The General Fund budget for Fiscal Year 2024/25 is balanced within available resources. The anticipated Net Use of Fund Balance is \$2,699,000.

**Attachments**

- 1. Resolution Adopting the Annual Budget for the Fiscal Year 2024/25
- 2. Resolution Adopting the GVMID Annual Budget for the Fiscal Year
- 3. 2024/25 FY25 Budget Overview
- 4. Copy of May 30, 2024 Budget Overview Staff Report
- 5. List of General Fund Budget Requests and Identified Savings

*Carolina Yuen*  
\_\_\_\_\_  
Carolina Yuen, Finance Director

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



**RESOLUTION NO. 2024-\_\_\_\_\_****A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF BRISBANE  
ADOPTING THE ANNUAL BUDGET  
FOR THE FISCAL YEAR 2024-2025 AND  
MAKING APPROPRIATIONS FOR THE AMOUNTS BUDGETED**

**WHEREAS**, a proposed annual budget for the City of Brisbane for the Fiscal Year commencing July 1, 2024 and ending June 30, 2025 was submitted to the City Council

**NOW, THEREFORE, THE CITY COUNCIL DOES RESOLVE**, that the proposed budget, as submitted is adopted as the annual budget for the Fiscal Year commencing July 1, 2024 and ending June 30, 2025 and thereby appropriates the amounts budgeted.

**PASSED, APPROVED AND ADOPTED** this 6th day of June 2024.

---

Terry O'Connell  
Mayor

I hereby certify that the foregoing **Resolution No. 2024-\_\_\_\_\_** was duly and regularly adopted at a regular meeting of the Brisbane City Council on June 6th, 2023 by the following vote:

AYES:  
NOES:  
ABSENT:

---

Ingrid Padilla  
City Clerk

**RESOLUTION NO. GVMID 2024-\_\_\_\_\_**

**A RESOLUTION OF GUADALUPE VALLEY  
MUNICIPAL IMPROVEMENT DISTRICT (GVMID)  
ADOPTING THE ANNUAL BUDGET  
FOR THE FISCAL YEAR 2024-2025  
MAKING APPROPRIATIONS FOR THE AMOUNTS BUDGETED**

**WHEREAS**, a proposed annual budget for the Guadalupe Valley Municipal District (GVMID) for the Fiscal Year commencing July 1, 2024 and ending June 30, 2025 was submitted to the Board of Directors, and

**WHEREAS**, a public hearing and proceedings for the adoption of said budget have been duly held and

**NOW, THEREFORE BE IT RESOLVED** by the Board of Directors of the GVMID that the proposed budget, as submitted, is adopted as the annual budget for the Fiscal Year commencing July 1, 2024 and ending June 30, 2025 and thereby appropriates the amounts budgeted.

**PASSED, APPROVED AND ADOPTED** this 6th day of June 2024.

\_\_\_\_\_  
Terry O'Connell  
President of the Board

I hereby certify that the foregoing **Resolution No. GVMID 2024-\_\_\_\_\_** was duly and regularly adopted at a regular meeting of the Guadalupe Valley Municipal Improvement District on June 6th, 2024 by the following vote:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
Ingrid Padilla  
District Secretary



	FY22/23	FY23/24	FY24/25
June Adopted Budgeted Revenue	21,816,001	26,695,707	28,639,787
June Adopted Budgeted Expenses, net of transfers	25,013,662	28,599,443	31,339,180
Budgeted Surplus (Use of Fund Balance)	<u>(3,197,661)</u>	<u>(1,903,736)</u>	<u>(2,699,392)</u>
Mid-Year Amended Budgeted Revenues	26,244,277	28,891,077	
Mid-Year Amended Budgeted Expenses, net of transfers	25,573,882	28,599,443	
Amended Surplus (Use of Fund Balance)	<u>670,395</u>	<u>291,634</u>	
Actual / Anticipated Revenues	28,562,247	28,891,077	28,639,787
Actual / Anticipated Expenses, net of transfers	28,127,479	28,078,493	31,339,180
Actual / Reprojected Surplus (Use of Fund Balance)	<u>434,768</u>	<u>812,584</u>	<u>(2,699,392)</u>
Beginning Fund Balance	15,200,290	15,635,058	16,447,642
Ending Fund Balance	15,635,058	16,447,642	13,748,249
Reserve Policy:			
Recession Reserve	2,500,000	2,500,000	2,500,000
Unanticipated Events	3,500,000	3,500,000	3,500,000
Annual Fluctuation (5% Revenues/5% Expenses)	2,834,486	2,848,478	2,998,948
Total Required Reserve	<u>8,834,486</u>	<u>8,848,478</u>	<u>8,998,948</u>
Fund Balance Above Required Balance	6,800,572	7,599,163	4,749,301
Additional Restrictions on Fund Balance	5,810,028	6,500,000	5,500,000
Available Fund Balance	<u>990,544</u>	<u>1,099,163</u>	<u>(750,699)</u>



## CITY COUNCIL AGENDA REPORT

**Meeting Date:** May 30, 2024

**From:** Carolina Yuen

**Subject:** Overview of Proposed Budget for Fiscal Year 2024/25

### Community Goal/Result

Fiscally Prudent – Brisbane’s fiscal vitality will reflect sound decisions which also speak to the values of the community

### Purpose

To provide a fiscal plan which provides flexibility to City Council and the Community to provide for services during the time of unknown economic circumstances while planning for the long-term recovery.

### Recommendation

It is recommended that the City Council receive a general overview and department presentations of the proposed Budget for Fiscal Year (FY) 2024/25 and consider for approval at the next City Council meeting scheduled for June 6, 2024.

### Background

For several years, the City has adopted two-year budgets. Most recently the FY2020-22 biennial budget was approved on June 4<sup>th</sup>, 2020, adopting Resolution 2020-23. Subsequently, the City and local economy were in the midst of the impact of COVID-19, other volatile economic conditions, and City staff were implementing a new Priority Based Budgeting software program for the next year. The City Manager therefore proposed a one-year budget covering the period of July 1, 2022, through June 30, 2023 (FY2022/23) which was adopted on June 16, 2022, and covering the period of July 1, 2023, through June 30, 2024 (FY2023/24) which was adopted on June 29, 2023. The City Manager announced his retirement for the end of 2023 and is therefore proposing another one-year budget covering the period of July 1, 2024 through June 30, 2025 (FY2024/25) with the recommendation of returning to a biennial budget schedule starting the subsequent fiscal year.

### Discussion

The City’s budget document contains revenues, appropriations, and other financial information pertaining to all City operating budgets. The Capital Improvement Plan is not included, as it is usually reviewed during the off years of the biennial budget cycle and will therefore be revisited at a later period. The City’s budget goal is to achieve a balanced budget with revenues, including reimbursements or transfer from other funds for services provided, equal to or greater than expenditures. At times, the City can plan for revenues to be less than expenses, and therefore the budget is balanced by using its available resources or Fund Balance.

Budgetary control is maintained at the Department/Program level. The City Manager may approve transfer of appropriation from one program, activity, or line item within or across departments. Total appropriation within a fund may be increased by the City Manager up to \$200,000. Anything exceeding this threshold can only be increased with Council approval. Departments monitor and control budgets using the City’s financial system, through reports of revenue and expenditure accounts. The financial system monitors expenditures down to the line-item level. The Council is provided with a mid-year financial status report that reflects year-to-date expenditures and revenues compared to budget.

The presentation tonight will focus on the General Fund which supports the City’s main operations, funded by a variety of taxes, program fees and service charges. Information will also be presented for two proprietary funds (business-type activities) that are funded primarily through user charges -- the Utility Fund and the Marina Fund.

General Fund Revenues:

For FY2024/25, staff is projecting that revenues will decrease from the current year by approximately \$251,000 from current year’s expected results, although increasing from the FY2023/24 budget by \$1.9 million. The City expects Sales Taxes and Transient Occupancy Tax (TOT) to grow over the current year, but setting conservative targets for Property Taxes, Business Licenses, and Fees and Charges.

Property Taxes: Sierra Point construction continues to positively impact our property taxes which remain strong overall, but we’re projecting a decrease due to the offset from the reductions in ERAF and other miscellaneous county related tax distributions for a total decrease of \$441,000 or 6% from mid-year FY24 projections. Budgeted Property Taxes of \$6.4 million is 15% over the FY24 Budget.

Sales Taxes are expected to continue to increase from current year to a target of \$5.9 million and \$1.8 million for Bradley Burns and Transaction and Use Sales Tax, respectively. The City has now collected a full year of the Transaction and Use Sales Tax that went into effect in 2023, and although the results are below the original expectation of \$2 million, it is still contributing strong revenues. Budgeted Sales Taxes of \$7.8 million is 2% less than the FY24 Budget.

Transient Occupancy Tax (TOT): Although we are projecting an increase in (TOT) by \$117,000 to \$1.9 million, this revenue source is still projected to be well below our pre-COVID-19 average of \$3 million which appears to be the new normal. Short Term Rentals are providing additional TOT, but difficult to project. Budgeted TOT of \$1.9 million remains flat with FY24 Budget.

Business License revenue is expected to decrease from mid-year projections by \$158,000 starting with a known reduction in liquid storage revenues and conservative target for overall business licenses. However, the City has now collected a full year of the business license tax on hotels, raising our Business License revenue to \$5.4 million which is 3% above the FY24 budget.

Fees & Charges: We've seen growth in Park and Recreation charges due to expanded programming, but our Building and Planning fees are historically kept rather flat for budgeting purposes. Therefore, we are budgeting an increase of \$355,000 from mid-year 2024 projections to \$2,061,000 which is an increase of 1% over prior year's budget.

Following is a comparison of the proposed FY25 Budget of our major revenue sources in comparison to previous years coming out of COVID:

Major Revenue Source	Actual FY2021/22 Recovery	Actual FY2022/23 Recovery	Projected FY2023/24	Budget FY2024/25
Property Tax	\$5,002,000	\$6,186,000	\$6,858,000	\$6,418,000
Sales Tax	\$5,238,000	\$6,908,000	\$7,605,000	\$7,767,000
TOT	\$1,299,000	\$2,151,000	\$1,784,000	\$1,902,000
Business License	\$4,666,000	\$5,778,000	\$5,599,000	\$5,441,000

Budgeted Revenue for FY2024/25 does not include bond funding for the City Hall Annex which is expected to be received and used in FY24. Budgeted Revenue also does not include any reimbursements from federal and/or state grants in response to the 2022/23 New Year's Atmospheric River Storms. Staff is actively working with FEMA and CalOES but timing of receipt is unknown. A portion of the granted funds have been issued and received in the current fiscal year. Staff is expecting to receive at least \$1.9 million in reimbursements.

General Fund Expenses:

Considering the revenues are not budgeted to outpace expenses in FY2024/25, staff is making the following recommendations and comments regarding expenses:

- We recommend the City continue to provide necessary services for FY2024/25
- Open positions should continue to be actively filled. There are no requests for additional staffing except for an IT position that was discussed and approved in FY23 as part of the Technology plan. Staff recommends resuming plans to recruit for this position in FY25.
- The City Hall expansion project and tenant improvements at the leased property located at 25 Park Place is expected to be completed by the start of FY2024/25. Bonds were issued in the amount of \$5.4 million to cover improvements and furnishings for the property. Costs related to occupying the space and maintenance after the move are incorporated into the FY25 budget.

- The City updated its labor agreements with the various bargaining groups in 2022. The agreements included agreed-upon rate increases of 6% effective July 2025, which are driving the majority of the increase to the Salaries and Benefits line of each department.
- With this budget, staff has implemented labor costing software to better predict and measure the impact of the 2022 labor agreements. Also, this software allowed us to include costs associated with our part-time labor force that was challenging to measure in the past. We believe the FY25 Budget has provided a better picture of the City's labor costs.
- Increases in insurance coverage has also impacted salaries and benefits. Each department is absorbing an increase to the City's General Liability and Workers Comp coverage of 7%.
- In previous years, staff was given guidance to update their budgets to incorporate a low cost of living adjustment for various expenses. Due to the rising costs of fuel, shipping and other services, we recommended that staff take a deeper dive and apply actual rate adjustments to their proposed FY25 budgets. This resulted in some catch up for the costs of supplies and services. We believe the FY25 Budget has provided a better picture of ongoing and routine expenses.
- We recommend the City delay funding pension reserves until mid-year results are projected, except for savings as a result of paying the required Unfunded Liability amount as charged by CalPERS in lump sum instead of monthly payments

With these considerations, overall Expenses from the General Fund are expected to total \$31,339,000. Therefore, staff recommends the use of available resources as required to meet the established programs and initiatives.

#### Fund Balance:

The net use of Fund Balance for FY2024/25 is therefore anticipated to be \$2,509,000 (difference between revenues and expenditures). As part of the Mid-Year Budget Review, staff identified the ending fund balance for FY2023/24 is expected to be \$16,448,000, where a portion is restricted for existing debt, contract commitments, and encumbrances, leaving an unrestricted and available amount of \$1,099,000 which we recommend be used in FY2024/25.

Over the past decade the City has built up its reserves to be able to continue to provide necessary services during times of economic stress. The City Council has looked at a three-pronged reserve policy:

- Recession Reserve – To be used during times of national economic downturns, set at \$2.5 million.
- Emergency Reserve for Unanticipated Events – To be used during times of local events which increases the City's need to spend or decreases the City's ability to collect anticipated revenues, set at \$3.5 million.

- Annual Fluctuation Reserve – To be used for one-time events which either increase expenditures or decreases revenues, set at 5% of Budgeted Revenues plus 5% of Budgeted Expenses.

The City’s reserve policy has resulted in a healthy fund balance and the City fared well through the COVID-19 event, increase in fuel costs, supply-chain shortages, and recent volatile markets. However, building activity within the City continues to grow and programs have not slowed down. Although historically the City has earned more than projected and spent less than budgeted, Staff recommends tapping into the Annual Fluctuation Reserve to meet the objectives outlined above if necessary.

Based on the recent actual results and budgeted projects, staff anticipates the available reserves as shown below if these reserves are used:

Reserve	Actual 6/30/2022	Actual 6/30/2023	Projected 6/30/2024	Projected 6/30/2025
Recession Reserve	\$164,000	\$2,500,000	\$2,500,000	\$2,500,000
Emergency Reserve	\$3,500,000	\$3,500,000	\$3,500,000	\$3,500,000
Annual Reserve	\$2,438,000	\$2,834,000	\$2,848,000	\$300,000

The above projections are based on conservative estimates due to uncertainties in the local, national and global economy and markets.

American Rescue Plan Act (ARPA) – the federal government enacted a federal stimulus bill known as ARPA to aid state and local jurisdictions for economic recovery from the COVID-19 pandemic. The City received a program-to-date total of \$1,117,402 and deposited these monies funds into a separate fund until use of the funds could be determined. The City has until 12/31/24 to determine how to use any remaining funds. After issuing small business grants to businesses impacted by COVID, there is a remaining balance of \$897,402 as of this date. These funds are reflected as part of Other Revenue in the General Fund FY25 Budget.

The City initially reported its intent to use these funds under the Revenue Replacement category which was a standard allowance for any revenue loss in 2020 and 2021. This allowed a local government to undertake a less restrictive array of potential one-time expenditures including capital improvement projects; funding of infrastructure, including roads; modernization of cybersecurity, including hardware, software and protection of critical infrastructure; provision of police, fire and other public safety services (e.g., purchasing of safety vehicles, other equipment, salaries and fringe benefits of public safety personnel); park improvement projects; purchase of equipment and supplies for local government, improvements to utilities infrastructure and renovating public buildings.



We recommend the Council consider the following options in using these funds: to replenish the Vehicle Replacement Fund for the additional safety vehicles ordered ahead of schedule due to supply chain concerns; revisit the Capital Improvement Plan for any items deemed critical; cover a portion of the LIRA transfer; or determine a one-time project the Council deems appropriate within the guidelines.

#### Other Considerations and Budget Threats:

As the City continues to fully financially recover from local economy slowdowns, there are some long-term financial implications to consider:

- A new City Manager is expected to start in June of this year. A change in management and delay in hiring an Assistant City Manager may have unforeseen transitional costs.
- PERS rates – in July 2021, CalPERS announced their investment return for FY2020-21 was 21.3% which triggered a reduction in their discount rate from 7% to 6.8%. In November 2021, the CalPERS Board voted to maintain the 6.8% discount rate target for its investment portfolio. This discount rate is the long-term interest rate used to fund future pension benefits. The less earned by the CalPERS investment portfolio, the more the City must cover to fund the pension liability, also known as the unfunded liability.
- Pension Trust Fund Reserves – Staff recommended resuming funding the reserves as part of the FY2023/24 Mid-Year review. The goal was to reach \$5M which would cover two years' worth of our unfunded liability payment. With the anticipated growth in our Unfunded Liability payment, staff will recommend this Trust Fund grow accordingly as well. At a minimum any savings from a prepayment of the annual cost versus monthly payments should be considered for transfer to the Pension Trust. Resuming annual funding would be at \$500,000 for the next ten years.
- Healthcare, Liability Insurance and Workers' Compensation costs have been rising in recent years. Any additional increases will need to immediately be implemented.
- Staff would like to research available business license tax opportunities for the Life Science segment of the local business community within the coming year.

Any one or combination of these items will continue to have impacts on our ability to begin new programs going forward and add stress to our bottom line.

Financial stability remains a high priority for the City of Brisbane. Staff looks forward to working with the Council and the community to address the financial challenges that lay ahead. Staff will continue to seek ways as efficiently as possible to provide services to the community. The City will continue to consider appropriate economic development and tax revenue generation projects that are viable for our City.

#### **Fiscal Impact**

There are no fiscal implications to receive this report. Recommendations related to the FY2024/25 Budget will be presented at a future City Council meeting.

**Measure of Success**

Council will accept proposed budget for additional review and consider for approval at future meeting.

**Attachments**

Attachment 1 Budget Overview Summary

Attachment 2 Proposed Department Expenses

Carolina Yuen  
Carolina Yuen, Finance Director

Clay Holstine  
Clay Holstine, City Manager

City of Brisbane  
 FY25 General Fund Budget Requests

Following are changes to proposed department budgets for FY25 upon additional review:

4120 - Patrol	Missing Headcount - transfer value from Fire	\$ 217,783
4501 - Fire	Overstated Headcount from FY24 retirement - transfer to PD	<u>\$ (217,783)</u>
		<u><u>\$ -</u></u>

Following are budget requests for FY25, with potential savings identified by staff to limit impact:

Division	Budget Request Description	FY25 Requests	Staff-identified Potential Savings	FY25 Requests less Potential Savings	Strategy for Savings
1000 - City Council	Total requests	\$ 19,400		\$ 19,400	
1000 - City Council	Staffing (vacant position)	\$ -	\$ (15,481)	\$ (15,481)	Delay hire of History Project Assistant for at least 6 months
Subtotal - 1000 - City Council		\$ 19,400	\$ (15,481)	\$ 3,920	
2100 - City Manager	Total requests	\$ 25,100		\$ 25,100	
2100 - City Manager	Staffing (vacant position)		\$ (47,650)	\$ (47,650)	Delay staffing Assistant City Manager to Fall of 2024
Subtotal - 2100 - City Manager		\$ 25,100	\$ (47,650)	\$ (22,550)	

N.

Division	Budget Request Description	FY25 Requests	Staff-identified Potential Savings	FY25 Requests less Potential Savings	Strategy for Savings
2110 - City Clerk	Total requests	\$ 15,000		\$ 15,000	
2110 - City Clerk	Election year costs		\$ (15,000)	\$ (15,000)	Payment expected in 2025
Subtotal - 2110 - City Clerk		\$ 15,000	\$ (15,000)	\$ -	
<hr/>					
2112 - Open Space	Total requests	\$ 44,000		\$ 44,000	
2112 - Open Space	Green Team Projects		\$ (10,000)	\$ (10,000)	
Subtotal - 2112 - Open Space		\$ 44,000	\$ (10,000)	\$ 34,000	
<hr/>					
2200 - Finance	Total requests	\$ 87,000		\$ 87,000	
2200 - Finance	Staffing - Info Tech Administrator		\$ (78,155)	\$ (78,155)	Delay staffing to 2025
Subtotal - 2200 - Finance		\$ 87,000	\$ (78,155)	\$ 8,845	
<hr/>					
3000 - Comm Dev	Total requests	\$ 77,508	\$ -	\$ 77,508	
3000 - Comm Dev	Housing Consultant		\$ (39,000)	\$ (39,000)	move to Housing Authority Fund
Subtotal - 3000 - Community Development		\$ 77,508	\$ (39,000)	\$ 38,508	
<hr/>					
4110 - PD Records	Total requests	\$76,602	\$ -	76,602	
4110 - PD Records	Communications: Smart Phones/laptop lines & cable services		\$ (15,000)	(15,000)	Covered in Central Services
Subtotal - 4110 Police Records		\$ 76,602	\$ (15,000)	\$ 61,602	

N.

Division	Budget Request Description	FY25 Requests	Staff-identified Potential Savings	FY25 Requests less Potential Savings	Strategy for Savings
4501 - Fire	Total requests	\$ 74,724	\$ -	\$ 74,724	
4501 - Fire	Staffing	\$ -	\$ (143,438)	\$ (143,438)	Delay filling of position due to retirement
<b>Subtotal - 4501 Fire</b>		<b>\$ 74,724</b>	<b>\$ (143,438)</b>	<b>\$ (68,714)</b>	
<hr/>					
6005 - Str /Storm Drains	Total requests	\$ 149,300	\$ -	\$ 149,300	
6005 - Str /Storm Drains	Fire Safety Planning		\$ (50,000)	\$ (50,000)	Can delay for FY 2026
<b>Subtotal - 6005 Streets &amp; Storm Drains</b>		<b>\$ 149,300</b>	<b>\$ (50,000)</b>	<b>\$ 99,300</b>	
<hr/>					
6015 - Parks Maintenance	Total requests	\$ 113,000	\$ -	\$ 113,000	
6015 - Parks Maintenance	Community Park - Bathroom Renovations		\$ (18,000)	\$ (18,000)	Can delay for 2025
6015 - Parks Maintenance	Community Park - Play Structure Repairs		\$ (15,000)	\$ (15,000)	Can delay for 2025
<b>Subtotal - 6015 - Parks Maintenance</b>		<b>\$ 113,000</b>	<b>\$ (33,000)</b>	<b>\$ 80,000</b>	
<hr/>					
7002 - Rec Facilities	Total requests	\$ 8,200	\$ -	\$ 8,200	
7002 - Rec Facilities	Playground surfacing - top coat seal		\$ (8,000)	\$ (8,000)	Can delay to 2025
<b>Subtotal - 7002 Recreation Facilities</b>		<b>\$ 8,200</b>	<b>\$ (8,000)</b>	<b>\$ 200</b>	

N.

Division	Budget Request Description	FY25 Requests	Staff-identified Potential Savings	FY25 Requests less Potential Savings	Strategy for Savings
7008 - Aquatics	Total requests	\$ 80,940	\$ -	\$ 80,940	
7008 - Aquatics	Pressure washing roof & pool		\$ (4,000)	\$ (4,000)	Delay for 6 months
Subtotal - 7008 - Aquatics		\$ 80,940	\$ (4,000)	\$ 76,940	
<hr/>					
8001 Central Svcs	Total requests	\$ 210,620		\$ 210,620	
8001 Central Svcs	Professional Svc - Additional Technology Service		\$ (7,500)	\$ (7,500)	Reduce 3 months of additional Endsight support
Subtotal - 8100 Central Services		\$ 210,620	\$ (7,500)	\$ 203,120	

Total Gen Fund Savings \$ (466,223.75)

**File Attachments for Item:**

O. Consider Adoption of Resolution Adopting a Master Fee Schedule



## CITY COUNCIL AGENDA REPORT

**Meeting Date:** June 6, 2024

**From:** Carolina Yuen, Finance Director

**Subject:** Adoption of Resolution Amending the Master Fee Schedule

Adopted on June 29, 2023.

### Community Goal/Result

Fiscally Prudent - Brisbane's fiscal vitality will reflect sound decisions which also speak to the values of the community

### Purpose

To ensure the users of services as outlined in the City's Cost Recovery Policy pay for the services provided by the City.

### Recommendation

Adopt attached Resolution, which generally increases fees by 2.5%.

### Background

On May 30, 2002, City Council reviewed and approved target recovery percentages for the City's fee schedule. On June 10, 2002, during the presentation of the first reading of Ordinance 468, staff stated the City Council would have the opportunity to review and approve fees annually. Staff therefore presents the Master Fee Schedule each fiscal year.

The attached Resolution is the annual revision recommended by staff. The revision is allowed up to the inflation increase using the San Francisco – Oakland – Hayward, CA Consumer Price Index for All Urban Consumers (CPI-U) for All Items Less Energy for 12 months through the previous December.

In the previous fiscal year, the City increased rates generally by 4% and adjusted some rates after a thorough review to keep our fees in line with the cost of providing the service. This year's analysis and revision would allow up to an increase of 2.5% which was the inflation increase using the CPI-U through December 2023. Staff recommends we raise by the fully allowed rate of 2.5%, similar to last year, to keep up with increases in costs.

Fee increases go into effect 60 days after approval. Therefore, rates which are attached would go into effect on August 7, 2024.



**Discussion**

After seeking input from each department, the exception to the 2.5% increase was determined in some line items within Parks and Recreation, Finance, Planning and Public Works.

- Parks and Recreation: The Parks and Recreation Commission examined rates from various surrounding agencies to compare market rates for the various Park and Recreation fees. As a result of the review, the Commission recommended the following changes that are incorporated with the proposed FY25 Master Fee Schedule:
  - Facility Rentals increase: 6%
  - Community Park Rentals increases: 10% for residents; 25% for non-residents
  - Aquatics increases: 10% for residents; 25% for non-residents (except for Gold Party packages that are increased to \$350/\$500, respectively)
  - Youth Activities increases: 10% for residents; 25% for non-residents
  - Adult sports: adjusted to specific rates
- Finance: Rates related to Utility Billing penalties were kept flat since the water and sewer rates recently increased. Staff recommends revisiting during the Master Fee Study.
- Planning: Several rates tied to hourly wages had to be adjusted to correlate to cost recovery expected with July 2024 pay increases. Planning also updated their fees to align to the related process, and adjusted fees that no longer require public hearings to reduce to staff cost.
- Public Works: Several rates tied to hourly wages had to be adjusted to correlate to cost recovery expected with July 2024 pay increases.

**Fiscal Impact**

If all of the fees were adopted based on the current target recovery percentages, the City would see an increase of approximately \$36,000 based on the FY2024/25 proposed budget. The actual amount may differ based on the amount each individual service is used by our customers and residents.

**Measure of Success**

Users of City services pay for the appropriate portion of the cost of providing the service.

**Attachments**

Resolution Calling to Amend the Master Fee Schedule  
Master Fee Schedule for FY 2024/25

*Carolina Yuen*  
\_\_\_\_\_  
Carolina Yuen, Finance Director

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

**RESOLUTION NO. 2024-\_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE  
ADOPTING A MASTER FEE SCHEDULE**

**WHEREAS**, Section 3.32.010 of the Brisbane Municipal Code requires the City Council to establish, by resolution, a percentage of cost recovery for user fees and service charges collected by the City which was done by Resolution 2003-23; and

**WHEREAS**, on June 6, 2024, the City Council conducted a public hearing to consider the proposed cost recovery percentages and Master Fee Schedule, at which time any person interested in the matter was given an opportunity to be heard; and

**WHEREAS**, the City Council finds that:

The proposed user fees and service charges set forth on the Master Fee Schedule do not exceed the actual cost of providing the services to which they relate, as determined by the user fee study; and

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRISBANE AS FOLLOWS:**

1. The Master Fee Schedule attached hereto as Exhibit A is hereby approved and adopted.
2. The Master Fee Schedule adopted by this Resolution shall supersede all price schedules pertaining to the same subject matter, and all such prior schedules, regardless of the manner in which the same may have been established or adopted, are hereby repealed and declared to be of no further force or effect.
3. This Resolution shall become effective sixty (60) days following the date of this adoption and shall be applicable to all user fees and service charges described therein which are payable to the City from and after such effective date.

\_\_\_\_\_  
Terry O'Connell, Mayor

I hereby certify that the foregoing Resolution No. 2024-\_\_\_\_ was duly and regularly adopted at a regular meeting of the Brisbane City Council on June 6, 2024 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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Ingrid Padilla, City Clerk

**CITY OF BRISBANE**  
**2024/25**  
**MASTER FEE SCHEDULE**

**Proposed 6/6/2024**  
**To be effective 8/07/24**

<b>Planning Fees</b>	<b>2023/24 Adopted Fee</b>	<b>2024/25 Proposed Fee</b>	<b>Basis</b>
Full Cost Hourly Rates by Staff Position:			
Director	\$267	\$292	expressed for 100% cost recovery; applicable cost recovery on a permit for which a fee is charged on an hourly basis
Principal Planner	\$204	\$223	
Senior Planner	\$172	\$188	
Associate Planner	\$145	\$158	
Building Permit Technician	\$110	\$120	
Planning Technician	\$110	\$120	
Administrative Assistant	\$108	\$117	
Office Specialist	\$101	\$110	
Accessory Dwelling Unit Permit:			
P1 Accessory Dwelling Units	\$366	\$375	
Use Permits:			
P2 Conditional uses listed in District Regulations not listed below	\$1,238	\$1,376	
P3a Transfer of development rights within the R- BA district	\$3,068	\$3,145	
P3b Clustered development within the R-BA district	\$3,068	\$3,145	
P4 <del>See P73 Exceptions to Fence Regulations-</del>			
-Residential Uses	\$1,077		Consolidated with Exceptions
-Retaining Walls	\$1,077		
-All Other Uses	\$1,434		
P5 <del>Height Limits per BMC 17.32.060.B Greenhouses on substandard lots</del>	\$1,238	\$1,376	
P6 Horses in any district (with exceptions)	\$1,238	\$1,376	
P7 <del>Public buildings, schools, parks, churches:</del>			
- <del>New Construction</del>	\$1,238	n/a	Consolidated with Use Permit
- <del>Use Only</del>	\$1,238	n/a	
P8 <del>Hospitals, etc:</del>	\$1,238	n/a	Consolidated with Use Permit
P9 <del>Philanthropic or charitable institutions</del>			
- <del>New Construction</del>	\$1,238	n/a	Consolidated with Use Permit
- <del>Use Only</del>	\$1,238	n/a	
P10 <del>Public utilities in all districts</del>	\$1,654	n/a	Consolidated with Use Permit
P11 <del>Temporary uses of not more than 45 days duration - all districts</del>	\$1,295	n/a	Consolidated with Use Permit
P12 <del>Condominiums, cooperatives, new construction and conversion</del>	\$1,659	\$1,892	
P13 Non conforming parking			
- in R and NCRO districts	\$1,385	\$1,376	
- in other districts	\$1,846	\$1,892	
P13a Use Permit to Expand Nonconforming Residential Uses	\$1,385	\$1,376	
Home Occupation Permits:			
P14 Home occupations in residential districts	\$44	\$45	
Design Permits			
P15a Design Permit for new construction: residential	\$2,038	\$2,089	
P15b Design Permit for new construction: non-residential or mixed use	\$3,404	\$3,489	

Planning Fees, cont.		2023/24 Adopted Fee	2024/25 Proposed Fee	Basis
P16	Design Permit for remodeling existing structures	\$1,903	\$2,089	
P16a	Design Permit Extension	\$1,571	\$1,610	
Variances:				
P17	Variance to code provisions for new construction to all structures	\$1,537	\$1,575	
P18	Variance to code provisions for remodel of existing structures			
	- residential structures	\$1,151	\$1,180	
	- other structures	\$1,537	\$1,575	
Sign Permits:				
P19	Sign permits in all districts			
	- with Hearing	\$898	\$920	
	- without Hearing	\$378	\$387	
P20	Sign Programs	\$1,040	\$1,066	Includes P19 Sign Permit fee
Planned Development Permits:				
P21	Planned Development Permit		\$5,000 deposit	deposit required
Development Agreements:				
P22	Development Agreement		\$5,000 deposit	deposit required
Specific Plans:				
P23	Specific Plan		\$5,000 deposit	deposit required
Exceptions to the Code:				
P25a	<del>See P5</del> Height limits per BMC 17.32.060.B	\$1,531	n/a	
P25b	Height limits per BMC 17.32.060.C	\$1,531	n/a	
	- residential structures	\$691	\$648	
	- other structures	\$922	\$648	
P60	<del>Accessibility Improvement Permits</del>	\$236	n/a	
P61aPC	Setback Exception Modification - residential properties	\$890	\$648	
P61aZA	Setback Exception Modification - residential properties	\$693	\$648	
P61bPC	Setback Exception Modification - all other properties	\$1,186	\$648	
P61bZA	Setback Exception Modification - all other properties	\$922	\$648	
Minor Modifications:				
P26	<del>Minor</del> Modifications per BMC 17.56.090	\$609	\$648	
Grading Permits:				
P27	Grading Permit Review by Planning Commission	\$1,728	\$1,771	
Amendments:				
P28	General Plan Map	\$1,958	\$2,007	
P29	General Plan Text	\$1,958	\$2,007	
P30	Zoning Map	\$1,958	\$2,007	
<del>P30a</del>	<del>Housing Development Permit</del> SEE BELOW	\$2,563		see below
P31	Zoning Ordinance Text	\$1,941	\$1,990	
Subdivisions:				
P32	Tentative Subdivision Map and Condominium Plans with 5 or more lots/units	\$3,391	\$3,476	Plus \$275 per lot

Planning Fees, cont.		2023/24 Adopted Fee	2024/25 Proposed Fee	Basis
P34	Tentative Parcel Map and Condominium Plans with 4 or less lots/ units	\$3,391	\$3,476	
P35a	Final Parcel Map		\$529	Plus refer to PW11 (Public Works)
P35b	Final Subdivision Map		\$705	Plus refer to PW14 (Public Works)
P36	Time Extension for Approved Tentative Map	\$1,627	\$1,620	
P37	Amendment to Approved Tentative Map or Ministerial Parcel Map	\$1,532	\$1,620	
P38	Correction/ Amendment to Final Map	\$460	\$447	
P40	Modifications to Subdivision Provisions	\$1,687	\$1,729	
P41	Vesting Tentative Subdivision Map	\$6,791	\$6,961	Plus \$275 per lot
P42a	Certificate of Compliance per GC 66499.35(a) and (b)	\$1,181	\$1,157	
P42b	Certificate of Compliance per GC 66499.35 (c)	\$424	\$447	
P43	Lot Line Adjustment	\$1,129	\$1,157	
P43a	Parcel Map Waivers	\$1,129	\$1,157	
P44	Reversions to Acreage	\$1,029	\$1,157	
P45	Lot Merger	\$424	\$447	
Appeals:				
P46	Tie-vote at Planning Commission	\$0	\$0	
P47	All other appeals	\$443	\$454	
Environmental Review:				
P48	Categorical Exemption			
P49	Initial Study/Negative Declaration ( fee includes those cases in which a Determination of HCP Compliance by the Planning Commission is needed, where no other Planning Permit is required.)	\$3,001	\$3,076	reimbursement for peer review may be required
P50	Environmental Impact Reports	consult. cost +10% hourly	consult. cost +10% hourly	deposit required
P51	Mitigation Monitoring-Inspections etc.			
Other Services:				
P52	Pre-application Review -single family dwelling on lot of record -all other applications	hourly hourly	hourly	Consolidated
P53	Administrative review subsequent documents from Con. of Appr.	hourly	hourly	
P54	Parking lot redesign/landscape plan review (per BMC section 15.70.030)	\$675	\$692	
P55	Research record search	hourly	hourly	
P56	Technical report review	consult. cost +10%	consult. cost +10%	
P57	Zoning enforcement penalty	10x orig fee	10x orig fee	
P59	Archiving of records	hourly	hourly	
P62a	Concept review (greater 20,000 sq. feet commercial or 10 units or more of residential)	hourly	hourly	
P62b	Concept review (less than 20,000 sq. feet or less than 10 residential units)	hourly	hourly	
P63	Telecommunications Administrative Permit	\$1,239	\$1,270	
P64	Alcohol Public Convenience Necessity (PCN)	\$460	\$648	
P65	Tree Removal Permit	\$387	\$397	
P66	Administrative Appeal (to City Manager)	\$111	\$114	
P67	Address Assignment	\$128	\$131	
P68	Construction Noise Exception Permit per BMC 8.28.080	\$765	\$784	
P69	Outdoor Sound Amplification Request	\$223	\$229	
P70	Short Term Rental Permit	\$360	\$369	
P71	C.3 Stormwater Review/Inspection	consult. cost + \$186	consult. cost + \$191	
P30a	Housing Development Permit	\$2,563	\$2,627	
P72	Plan Lines		\$3,476	[New]

Planning Fees		2023/24 Adopted Fee	2024/25 Proposed Fee	Basis
P73	Lighting Division		\$648	[New]
P74	Consultant Management Fee		10% of consultant fee	[New]

Parks and Recreation Fees	2023/24 Adopted Fee	2024/25 Proposed Fee	Basis
<b>Facility Rentals:</b>			
Alcohol Surcharge Fee (rental with 100 or more persons)	\$100	\$106	per event for any rental facility
<b>Athletic Fields</b>			
Lights	\$29	\$31	per hour
Non Profit Closed to Public			
- Brisbane Non Profit	\$18	\$19	per hour
- Non Brisbane Non Profit	\$29	\$31	per hour
Residential	\$46	\$49	per hour
Non-Residential	\$80	\$85	per hour
Game Preparation	\$29	\$31	per game
<b>Mission Blue Center</b>			
<b>Residential</b>			
1 Room - Weekday	\$181	\$192	per hour
Entire Facility - Weekday	\$280	\$297	per hour
1 Room - Weekend	\$226	\$239	per hour
Entire Facility - Weekend	\$350	\$371	per hour
<b>Non-Residential</b>			
1 Room - Weekday	\$276	\$292	per hour
Entire Facility - Weekday	\$408	\$432	per hour
1 Room - Weekend	\$337	\$357	per hour
Entire Facility - Weekend	\$516	\$547	per hour
Refundable Deposit	\$500	\$530	
Community Center Rental: Resident	\$85	\$90	per hour
Community Center Rental: Non-Resident	\$104	\$110	per hour
Refundable Deposit	\$200	\$212	
Volleyball Courts: Resident	\$28	\$30	per hour
Volleyball Courts: Non-Resident	\$33	\$35	per hour
<b>Community Park Rentals:</b>			
Area 1, 2 and 3 (4 tables): Resident	\$104	\$114	per day
Area 1, 2 and 3 (4 tables): Non-Resident	\$208	\$260	per day
Refundable Deposit	\$50	\$50	
Lawn Area: Resident under 50 people	\$47	\$51	per day (previously per hour with 3 hour minimum)
Lawn Area: Resident under 100 people	\$125	\$137	per day (previously per hour with 3 hour minimum)
Lawn Area: Resident over 100 people	\$234	\$257	per day (previously per hour with 3 hour minimum)
Lawn Area: Non-Resident under 50 people	\$94	\$117	per day (previously per hour with 3 hour minimum)
Lawn Area: Non-Resident under 100 people	\$250	\$312	per day (previously per hour with 3 hour minimum)
Lawn Area: Non-Resident over 100 people	\$468	\$585	per day (previously per hour with 3 hour minimum)
Gazebo Area: Resident	\$73	\$80	per hour
Gazebo Area: Non-Resident	\$94	\$118	per hour
Refundable Deposit	\$200	\$200	



Parks and Recreation Fees, cont.	2023/24 Adopted Fee	2024/25 Proposed Fee	Basis
<b>Aquatics:</b>			
Daily Admission: Adult Resident	\$6	\$7	per person
Daily Admission: Adult Non-Resident	\$9	\$11	per person
Daily Admission: Adult Non-Resident Summer	\$11	\$14	per person
Monthly Pass: Adult Resident	\$60	\$66	per pass
Monthly Pass: Adult Non-Resident	\$90	\$113	per pass
Daily Admission: Youth/Senior Resident	\$4	\$5	per person
Daily Admission: Youth/Senior Non-Res.	\$6	\$8	per person
Monthly Pass: Senior Resident	\$40	\$44	per pass
Monthly Pass: Senior Non-Resident	\$60	\$75	per pass
Swim Lessons (8): Resident	\$80	\$88	per lesson package / \$11 per class
Swim Lessons (8): Non-Resident	\$96	\$120	per lesson package / \$15 per class
Semi-Private Swim Lessons (4): Resident	\$116	\$128	per lesson package
Semi-Private Swim Lessons (4): Non Resident	\$148	\$185	per lesson package
Private Swim Lesson (4): Resident	\$162	\$178	per lesson package
Private Swim Lesson (4): Non-Resident	\$206	\$258	per lesson package
Private Rentals: Resident (silver)	\$155	\$171	per party package
Private Rentals: Resident (gold)	\$314	\$350	per party package
Private Rentals: Non-Resident (silver)	\$198	\$248	per party package
Private Rentals: Non-Resident (gold)	\$398	\$500	per party package
Lifeguard Certification Class	\$216	\$238	per person, per session
Piranha Swim Club: Resident	\$5	\$6	per person, per class
Piranha Swim Club: Non-Resident	\$7	\$9	per person, per class
<b>Youth Activities:</b>			
Club Rec Monthly	\$1,783	\$1,961	per person, per 10 months
Club Rec Monthly: Non-Resident	\$2,181	\$2,726	per person, per 10 months
Daily Camp Fee	\$39	\$43	per person, per day
Daily Camp Fee: Non-Resident	\$48	\$60	per person, per day
Preschool:Resident	\$6	\$7	per person, per hour
Preschool:Non-Resident	\$8	\$9	per person, per hour
Club Rec: Enrichment Clubs	\$5 - \$50	\$5 - \$70	per person, per activity
Youth Classes	Based on cost of class	Based on cost of class	per person, per activity
Youth Sports	\$78	\$86	per person, per season
Processing Fee	Based on cost of class	Based on cost of class	Per class session or sports
Late Pick-up Fee		\$1	Per minute [NEW]
<b>Administrative</b>			
Transaction Fee - Drop in Class	\$1	\$1	Per class for drop in only
Transaction Fee - For classes under \$100	\$10	\$10	Per class session or sport
Transaction Fee - For Classes \$100 and over	\$22	\$22	Per class session or sport

Parks and Recreation Fees, cont.	2023/24 Adopted Fee	2024/25 Proposed Fee	Basis
Adult Sports: Adult Softball Adult Open Gym	\$831 \$4	\$1,000 \$5	per team, per season per person, per class
Teens: Teen Programs Middle School Dances	\$10 - \$100 \$5	\$10 - \$100 \$5 - \$20	per person, per activity per person, per activity
Seniors Senior Programs	\$5 - \$200	\$5 - \$200	per person, per activity
Special Events: Derby Kit Pop-Up Events Day in the Park - Event Tickets Community Night with the Giants Tickets Concerts in the Park - Sponsorships Parents Night Out Events LUNAFEST - Event Tickets LUNAFEST - Sponsorships	\$29 \$5 - \$100 \$1 \$20 \$100 - \$2,500 \$25 \$20 - \$100 \$100 - \$5,000	\$40 \$5 - \$100 \$1 \$25 \$100 - \$2,500 \$25 - \$50 \$20 - \$100 \$100 - \$5,000	per derby kit per person, per activity per ticket per ticket per sponsorship per person, per activity per ticket per sponsorship

Finance Fees		2023/24 Adopted Fee	2024/25 Proposed Fee	Basis
F1	Deposit for Water and Service: Single/Commercial (\$20 non-refundable)			refundable deposit continues as current; \$20 non-refundable fee
F1	Deposit for Water and Service: Duplex (\$20 non-refundable)			
F2	Deposit after 2nd Disconnection			max of fee or 5% of balance
F3	Penalty for delinquent payment (5 days prior to shut off)	\$5	\$5	
F5	24 hour notice (tagging) - (within 24 month period): 10th	\$54	\$54	
F6	Water Turn On - After payment of delinquent account: 8a-4p	\$55	\$55	
F6	Water Turn On - After payment of delinquent account: after 4p	\$139	\$139	
F6a	Water Turn On - After 3rd notice for backflow recertification	\$307	\$307	
F7	Copy of Annual Budget	\$85	\$88	
F8	Annual Financial Report	\$19	\$20	
F9	Returned Check Charge (All Departments)	\$64	\$65	

City Clerk Fees		2023/24 Adopted Fee	2024/25 Proposed Fee	Basis
C1	Agenda Packet Subscription: Regular	\$0	\$0	
C1	Agenda Only: Regular (no packet, SASE from subscriber)	\$0	\$0	
C1	Agenda by Email	\$0	\$0	
C1	Agenda Subscription: Seniors/Students	\$0	\$0	
C4	Copy of Election Documents	\$0	\$0	
C5	Copy of Municipal Code Book	\$0	\$0	
C6	Document Certification	\$2	\$2	in addition to per page fee
C7	Annual Minutes Subscription: Regular Mail	\$158	\$162	
C7	Minutes Subscription: Email	\$0	\$0	
C8	Photocopying	\$0.35	\$0.35	per page; no labor time allowed
C10	Tapes of Meetings (per tape)	\$19	\$19	
C11	Transcription of Minutes	\$6	\$6	in addition to \$50/hr contract
C12	Campaign Statements			\$0.10 per page max by law
C13	General Research (per hour) - City Clerk			cannot charge for labor time
C13	General Research (per hour) - Deputy City Clerk			cannot charge for labor time

Police Fees		2023/24 Adopted Fee	2024/25 Proposed Fee	Basis
PO1	Copies of Reports	\$0	\$0	
PO2	Alarm System Permits	\$0	\$0	
PO3	Bicycle Registration	\$0	\$0	
PO4	Booking Fee	\$0	\$0	Not charged to book suspects
PO5	Clearance & Good Conduct Letters: Resident	\$6	\$6	
PO5	Clearance & Good Conduct Letters: Non-Resident	\$38	\$39	
PO6	Subpoena Dues / Tecum Processing (per hour)	\$38	\$39	
PO7	Concealed Weapons Permit Process	\$73	\$75	
PO8	Concealed Weapons Renewal Fee	\$0	\$0	
PO9	Copies of Tape Recordings	\$36	\$37	plus actual cost
PO10	Court Appearance All Personnel	As per State law	As per State law	\$275 deposit per day
PO14	False Alarms - Structure	\$0	\$0	
PO15	Fingerprinting Resident: Adult	\$35	\$36	
PO15	Fingerprinting Resident: Minor	\$0	\$0	
PO16	Fingerprinting Non-Resident	\$109	\$112	
PO17	Massage Certificate of Registration	\$132	\$135	
PO18	Massage Certificate of Registration Early Renewal	\$34	\$35	
PO19	Special Event Permit (per hour)	\$0	\$0	
PO20	Photograph Copies (plus actual costs)	\$100	\$103	
PO21	Photograph Enlargements (plus actual costs)	\$100	\$103	
PO22	Private Patrol Permit Fee	\$0	\$0	
PO23	Repeat Nuisance Call (per hour)	\$0	\$0	
PO24	Vehicle Releases / Enforcement	\$61	\$63	
PO25	Vehicle Releases / Abandonment	\$61	\$63	
PO26	Film Crew	\$607	\$622	
PO27	Reposessed Vehicle Release	\$15	\$15	Capped by State Law

<b>Fire Fees</b> "A" designates an Annual Permit; "EO" an Each Occurrence Permit; "A/EO" both		2023/24 Adopted Fee	2024/25 Proposed Fee	Basis
FD1	Aerosol Products	\$274	\$281	A
FD4	Asbestos/Lead Coating Removal	\$420	\$431	
FD5	Automobile Wrecking Yard	\$283	\$290	A
FD6	Apartment House (incl. condos & congregate res.)			
	3 units to 10 units	\$283	\$290	A
	11 units to 20 units	\$356	\$365	A
	Greater than 20 units	\$356	\$365	A, plus \$1.30 per unit over 20
FD7	Battery system	\$140	\$144	A
FD8	Candles or Open Flames in Assembly Areas (may combine with assembly	\$140	\$144	A/EO
FD9	Carnivals or Fairs	\$420	\$431	EO
FD11	Cellulose Nitrate Storage	\$352	\$361	A
FD12	Combustible Fiber Storage	\$283	\$290	A
FD13	Combustible Material Storage	\$283	\$290	A
FD14	Compressed Gases (in excess of the amts. listed in CFC, Table 105-A)	\$283	\$290	A
FD15	Commercial Rubbish Handling Plant	\$410	\$420	A
FD16	Cryogen's (in excess of the amounts listed in CFC, Table 105-B)	\$420	\$431	A
FD17	Dry Cleaning Plants	\$283	\$290	A
FD18	Dust Producing Operations	\$283	\$290	A/EO
FD19	Explosives or Blasting Agents	\$420	\$431	EO
FD21	Fireworks Display (fees for standby Fire staff, when req'd, are add'l)	\$420	\$431	EO
FD22	Flammable or Combustible Liquid Pipeline	\$420	\$431	A
FD23	To Store, Handle or Use Flam/Combust. Liquids	\$210	\$215	A
FD24	Flammable or Combustible Liquids in Tanks, vessels > 60 gal. capacity); largest To 10,000 gallons tank size:			
	1 tank	\$408	\$418	A
	2-3 tanks	\$408	\$418	A, plus \$125.00 per tank over the first
	3 + tanks	\$544	\$558	A, plus \$290.00 per tank over the first
	Over 10,000 to 100,000 gallons tank size:			
	1 tank	\$614	\$629	A
	2-3 tanks	\$614	\$629	A, plus \$290.00 per tank over the first
	3+ tanks	\$814	\$834	A, plus \$290.00 per tank over the first
	Over 100,000 gallons tank size:			
	1 tank	\$1,225	\$1,256	A
	2-3 tanks	\$1,225	\$1,256	A, plus \$312.00 per tank over the first
	3+ tanks	\$1,225	\$1,256	A, plus \$312.00 per tank over the first
FD26	Tank Vehicles	\$210	\$215	A
FD27	Install, Alter, Remove, Abandon, Place Temporarily Any	\$564	\$578	EO
FD30	Fumigation or Thermal Insecticidal Fogging:	\$210	\$215	
FD 31	Hazardous Materials (to store, disperse, handle amounts in excess of the quantities listed in CFC table 105.620) (for cryogenes, compressed gasses, flammable or comubustible liquids, and liquified petroleum gases, see respective permit categories elsewhere in this fee schedule)			refer to Hazardous material table HM-1 below
FD32	High-Piled Combustible Storage	\$420	\$431	A
FD33	High-Rise Building Annual Inspection	\$420	\$431	A
FD34	Hot work operations:	\$211	\$216	A
FD35	Hotels, Motels and Lodging Houses	\$283	\$290	A

<b>Fire Fees, cont.</b>		<b>2023/24 Adopted Fee</b>	<b>2024/25 Proposed Fee</b>	<b>Basis</b>
"A" designates an Annual Permit; "EO" an Each Occurrence Permit; "A/EO" both				
FD36	Liquefied Petroleum Gases (except portable containers <125 gal. cap.)	\$283	\$290	A
FD37	Liquid/Gas-Fueled Vehicles or Equipment in Assembly Buildings	\$211	\$216	EO
FD38	Lumber Yards (over 100,000 board feet)	\$283	\$290	A
FD39	Magnesium Working	\$211	\$216	A
FD40	Mall, Covered	\$420	\$431	A
FD41	Motor vehicle fuel dispensing stations:	\$420	\$431	A
FD42	Occupant Load Increase	\$283	\$290	EO
FD43	Open Burning	\$283	\$290	EO
FD45	Ovens, Industrial Baking or Drying	\$283	\$290	A
FD47	Places of Assembly (churches, schools, NPOs permitted at no fee)	\$34	\$35	A
	A-1, A-2, A-2.1	\$333	\$341	A
	A-3, A-4	\$272	\$279	A
	Special Assembly events	\$272	\$279	EO
FD48	Pyrotechnic Special Effects Material (fees for standby Fire staff, when required,	\$416	\$426	EO
FD50	Refrigeration Equipment	\$211	\$216	A
FD51	Repair Garage	\$283	\$290	A
FD52	Spraying or Dipping	\$283	\$290	A
FD53	Temporary membrane structures, tents, and canopies	\$283	\$290	EO
FD54	Tire Storage	\$283	\$290	A
FD55	Wood Products (over 200 cu. ft.)	\$283	\$290	A
Construction Fire Permit Fees:				
Automatic Sprinkler System Permit (installation of suspended piping larger than				
FD56	For other than 1 and 2 family dwellings:			
	- New (per sq. ft.)	\$0.25	\$0.26	per square foot; \$330 minimum fee
	- Alteration (per sq. ft. of protected area, )	\$0.25	\$0.26	per square foot; \$206 minimum fee
FD57	One and Two-family dwellings:			
	- New (per sq. ft.)	\$0.25	\$0.26	per square foot; \$218 minimum fee
	- Alteration (per sq. ft. of protected area)	\$0.25	\$0.26	per square foot; \$136 minimum fee
FD 58	Fixed Extinguishing System Permit: New and Upgrade Installations	\$448	\$459	This includes one on site inspection
FD 59	Fire Plan Check and resubmittal			\$150 initial and each resubmittal
FD60	Fire Alarm Permit:	\$222	\$228	per 3,000 sq. ft.
FD61	Construction, Alteration & Renovation Permit			
	- Construction alteration	\$193	\$198	per 3,000 sq. ft.
FD62	Gas Piping System Installation Permit	\$352	\$361	
FD63	Underground Fire Protection Piping Permit	\$467	\$479	

<b>Fire Fees, cont.</b>		<b>2023/24 Adopted Fee</b>	<b>2024/25 Proposed Fee</b>	<b>Basis</b>
"A" designates an Annual Permit; "EO" an Each Occurrence Permit; "A/EO" both				
<b>Miscellaneous Fees:</b>				
FD64	Consultant Service Fee (actual cost plus admin fee)	\$56	\$57	per hour in addition to cost
FD67	Document Review (per hour)	\$140	\$144	per hour
FD68	Copy of Fire Report	\$21	\$22	
FD69	False Alarm in Excess of 3 per Calendar Year (accidental or equipment)	\$176	\$180	
FD70	Fire Hazard Abatement performed by City or City Contractor (including, but not limited to, combustible or flammable vegetation removal)			Abatement cost plus administrative fee
FD71	Hydrant Flow Test	\$627	\$643	
FD72	New Business Fire Inspection	\$213	\$218	
FD73	Other Services (per half hour and portion thereof)	\$70	\$72	per half-hour
FD74	Re-Inspection Fee (for each following second re-inspection)	\$144	\$148	
FD75	Standby Engine Company	\$361	\$370	for 1st hour; \$108 ea. add'l. 1/2 hr.
FD76	Standby Firefighter (1 hour minimum)	\$116	\$119	per hour
FD77	Work Performed after Normal Working Hours (Callback is a 3-hr min)	\$211	\$216	per hour
HM-1	<b>Hazardous Materials Table Schedule:</b>			
	<b>Range Solids (pounds)</b>			
	1 0 to 500	\$398	\$408	A
	2 >500 to 5,000	\$557	\$571	A
	3 >5,000 to 25,000	\$746	\$765	A
	4 >25,000 to 50,000	\$1,087	\$1,114	A
	5 >50,000 to 80,000	\$1,574	\$1,613	A
	6 >80,000 to 120,000	\$2,277	\$2,334	A
	7 >120,000	\$2,963	\$3,037	A
	<b>Range Liquids (gallons)</b>			
	1 0 to 55	\$398	\$408	A
	2 >55 to 550	\$557	\$571	A
	3 >550 to 2,750	\$745	\$764	A
	4 >2,750 to 5,500	\$1,087	\$1,114	A
	5 >5,500 to 10,000	\$1,574	\$1,613	A
	6 >10,000 to 15,000	\$2,277	\$2,334	A
	7 > 15,000	\$2,963	\$3,037	A
	<b>Range Gas (cubic feet)</b>			
	1 0 to 200	\$308	\$316	A
	2 >200 to 2,000	\$557	\$571	A
	3 >2,000 to 10,000	\$745	\$764	A
	4 >10,000 to 20,000	\$1,087	\$1,114	A
	5 >20,000 to 40,000	\$1,574	\$1,613	A
	6 >40,000 to 60,000	\$2,277	\$2,334	A
	7 >60,000	\$2,963	\$3,037	A



<b>Public Works Fees</b>		<b>2023/24 Adopted Fee</b>	<b>2024/25 Proposed Fee</b>	<b>Basis</b>
"F/A" designates the need for a Force Account				
PW 1	Grading Permit Plan Check			
	- 6-50 cub. yds.	\$112	\$115	
	- 51-100 cub. yds.	\$112	\$115	
	- 101-1,000 cub. yds.	\$452	\$463	
	- 1,001-10,000 cub. yds.	\$906	\$929	
	- 10,001-100,000 cub. yds.	\$4,871	\$4,993	
	- 100,001-200,000 cub. yds.	\$8,120	\$8,323	
	- 200,000 or more cub. yds.	\$16,244	\$16,650	
PW 1a	Geotechnical Peer Review			Force Account minimum \$5,000
PW 2	Grading Permit - Inspection:			
	- 0-5 cub. yds. (no permit required)			
	- 6-50 cub. yds.	\$449	\$460	
	- 51-100 cub. yds.	\$900	\$923	
	- 101-1,000 cub. yds.	\$16,125	\$16,528	or create a Force Account and billed on actual time
	- 1,001-10,000 cub. yds.	\$24,194	\$24,799	or create a Force Account and billed on actual time
	- 10,001-100,000 cub. yds.			actual cost w/ F/A min \$10,000
	- 100,000 - 200,000 cub. yds.			actual cost w/ F/A min \$10,000
	- 200,000 + cub. yds.			actual cost w/ F/A min \$10,000
PW 2a	Grading Permit - SWPPP Compliance			
	Single Parcel (assessed every 2 reviews)	\$158	\$162	plus actual cost insp w/F/A min \$591
	Subdivision subject to Map Act Provisions (assessed every 2 reviews)	\$635	\$651	plus actual cost insp w/F/A = actual cost of erosion control plan
	Development subject to C.3 Provisions (assessed every 2 reviews)	\$1,274	\$1,306	plus actual cost insp w/F/A = actual cost of erosion control plan
PW 3	Blasting Permit	\$906	\$929	
PW 4	Special Permit (after hours work), plus actual cost of inspection/work	\$227	\$233	F/A min \$500 for Inspection
PW 5	Grading Permit (paving), plus actual cost of inspection/work	\$227	\$233	F/A min \$500 for Inspection
PW 6	Grading Permit (drainage alteration), plus actual cost of inspect/work	\$227	\$233	F/A min \$500 for Inspection
PW 7	Truck Haul Permit	\$112	\$115	
PW 7a	Truck Haul Impact Fee (per cubic yard, \$90 minimum fee)	\$0.59	\$0.60	
PW 7b	Late Fee related to Truck Haul Permits	1%	1%	per month on outstanding of more than 60 days
PW 8	Encroachment Permit (hourly inspect. cost)	\$112	\$115	plus actual cost insp w/F/A min \$500
PW 9	Site Work Permit - Engineering Review (assessed every 2 reviews)	\$450	\$461	
PW 9a	Site Work Permit - Retaining Wall Design			Force Account minimum \$5,000
PW 9b	Site Work Permit - Fast Track Review (each occurrence)	\$431	\$442	
PW 10	Tentative Parcel Map Review	\$614	\$629	
PW 11	Final Parcel Map Review	\$614	\$629	plus actual cost LS reviw (requires \$1,500 F/A min)

<b>Public Works Fees, cont.</b> "F/A" designates the need for a Force Account		<b>2023/24 Adopted Fee</b>	<b>2024/25 Proposed Fee</b>	<b>Basis</b>
PW 12	Water Installation - Inspection and Meter			
	- 5/8" meter	\$507	\$551	2 Hours PW Inspector time plus cost of meter
	- 3/4" meter	\$525	\$569	2 Hours PW Inspector time plus cost of meter
	- 1" meter	\$563	\$607	2 Hours PW Inspector time plus cost of meter
	- 1.5" Meter	\$917	\$961	2 Hours PW Inspector time plus cost of meter
	- 2" meter	\$1,434	\$1,522	4 Hours PW Inspector time plus cost of meter
	- 3" meter	\$2,575	\$2,663	4 Hours PW Inspector time plus cost of meter
	- 4" meter	\$3,004	\$3,092	4 Hours PW Inspector time plus cost of meter
PW 13	Sanitary Sewer Lateral Installation - Inspection			
	Single Family Unit	\$309	\$353	2 Hours PW Inspector time
	Multiple Unit Dwelling	\$618	\$706	4 Hours PW Inspector time
	Commercial, Industrial, Public & Other Uses	\$618	\$706	4 Hours PW Inspector time
PW 14	Final Subdivision Map	\$7,830	\$8,026	Plus \$500 per lot
PW 15	Fire Hydrant Flow Test	\$755	\$755	Cost of hydrant
PW 16	Water, Sewer, Storm Drain system capacity modeling	\$450	\$450	Force Account minimum \$5,000

**File Attachments for Item:**

P. Consider Adoption of Resolution Imposing a National Pollutant Discharge Elimination System (NPDES) Compliance Fees on Commercial Property Owners Within an Identified Study Area



## CITY COUNCIL AGENDA REPORT

**Meeting Date:** June 6, 2024

**From:** Director of Public Works/City Engineer

**Subject:** Public Hearing for Proposed Fee for Costs Associated with the National Pollutant Discharge Elimination System (NPDES)

This action is exempt from CEQA because it is not a project (CCR Title 14 §15378 (b) (2)).

**Community Goal/Result:** Ecological Sustainability, Fiscally Prudent

### Purpose

To hold the public hearing required before considering approval of a resolution imposing new fees on commercial property owners to pay for costs associated with the city’s compliance with NPDES.

### Recommendation

1. Open the Public Hearing, receive comments from interested parties, and consider protests to imposing the fees.
2. In the absence of a majority protest, approve a resolution, “Imposing National Pollutant Discharge Elimination System Compliance Fees on Commercial Property Owners Within An Identified Study Area.”

### Background

The City of Brisbane is required to comply with all the conditions imposed under the Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit issued by the San Francisco Bay Region Water Quality Control Board (“Water Control Board”). The legal authority for the Water Control Board to issue a waste discharge permit under the NPDES is the majority of cities and counties in the Bay Area discharge stormwater into the San Francisco Bay. (The City and County of San Francisco is unique in this regard; in that it discharges stormwater and sewer into the same collection system where both are ultimately treated before discharge).

The Water Control Board has determined that stormwater discharges from urban areas are significant sources of pollutants that cause or may be causing water quality impairment in the Bay. The primary contribution to stormwater is the result of impervious materials (e.g., buildings, roads, parking lots) that prevent rain from percolating into the soil. The City’s two most significant contributors to the square footage of impervious materials are one, the public roads, sidewalks, and public buildings, and two, the comparable contributors within the commercial areas of Crocker Industrial Park, Sierra Point, and a few smaller zoned commercial districts.

To prevent this degradation of water quality in the Bay, the Water Control Board issued an

updated Municipal Regional Permit effective July 21, 2022. The permit includes 22 provisions that the City must comply with or potentially face fines of up to \$10,000 per day. These provisions include detailed oversight of all development to ensure stormwater controls are implemented; regular inspections of industrial and commercial properties; implementation of an illicit discharge detection and elimination program; and trash load reduction.

The latter provision is one of the most expensive, as it requires placement of trash capture devices in nearly all of the City’s storm drain inlets, and also includes at least annual cleaning and inspection of these storm drain inlets.

In order to comply with the conditions of the permit, the City necessarily incurs significant costs, including the cost (a) to inspect properties to ensure that the owners are demonstrating compliance with capturing trash, (b) to inspect for illegal storm water discharges and connections, (c) to monitor and protect the receiving storm water runoff (the Lagoon and the Bay), (d) for street sweeping, (e) to inspect and clean catch basins and (f) to pay additional fees imposed by the City/County Association of Governments of San Mateo County to comply with Water Control Board requirements.

The City’s cost in FY 23-24 to meet all these provisions is \$582,377. Even with the input of \$52,000 collected from all Brisbane parcels for the local stormwater program, franchise fees from solid waste haulers, and funding sources such as San Mateo County Measure M, the City’s General Fund backfilled the NPDES program budget with \$408,377.

**Discussion**

Staff Identified a “commercial study area” where the parcels in said area with impervious materials (e.g., building roofs, parking lots, etc.) would be subject to the proposed fee. Each parcel owner within the study area was sent correspondence dated March 25, 2024 requesting input on the proposed fee, and was later sent correspondence dated April 18, 2024 advising that the city had scheduled a public hearing on June 6, 2024 to consider protests to imposing the fees. As of the writing of this staff report, the city has received very little communication from the impacted parcel owners.

The referenced “commercial study area” is attached to the proposed resolution.

**Fiscal Impact**

Because commercial property owners benefit directly and significantly from the City’s NPDES program, it is fair to allocate a certain percentage of the cost of the fees for this program to such owners. In an effort to allocate the costs in a fair way, the City has mapped all of the impermeable areas under its control and those under the control of commercial property owners. The summary of that mapping is as follows:

Private Building Footprint:	5,238,051 Sq Ft
Private Impervious (parking areas, etc.):	8,331,096 Sq Ft
Subtotal:	13,569,147 Sq Ft
Public Impervious (building and parking areas):	895,744 Sq Ft
Public Sidewalks and Roads:	5,768,354 Sq Ft
Subtotal:	6,664,098 Sq Ft
TOTAL:	20,223,245 Sq Ft

Private impervious commercial areas are approximately 2/3 of the impervious areas contributing to stormwater runoff when compared to public impervious areas.

To allocate the costs equitably and using by way of example this fiscal year’s backfill amount of \$408,377, that amount, when divided by 20,233,245, results in a square foot allocation of \$.02 per square foot of impervious area.

As the City is already backfilling the NPDES budget from the General Fund, the pending proposal is to charge an annual fee to commercial property owners based on square footage of impervious area. In this year, for example, the fee would have been \$.02 per square foot of impervious surface.

**Measure of Success**

An equitably funded NPDES division budget that allows the city to remain in compliance with the Municipal Regional Permit and that supports the important work of preventing pollutants from discharging into the San Francisco Bay.

**Environmental Review**

Adoption of this resolution 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. Resolution Imposing National Pollutant Discharge Elimination System Compliance Fees on Commercial Property Owners Within An Identified Study Area

*R.L. Breault*  
 \_\_\_\_\_  
 Randy Breault, Public Works Director

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

**RESOLUTION NO. 2024-\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE  
IMPOSING NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
COMPLIANCE FEES ON COMMERCIAL PROPERTY OWNERS WITHIN  
AN IDENTIFIED STUDY AREA**

WHEREAS, the City of Brisbane is required to comply with all the conditions imposed under the Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit issued by the San Francisco Bay Region Water Quality Control Board (“Water Control Board”); and

WHEREAS, the legal authority for the Water Control Board to issue a waste discharge permit under the NPDES is the majority of cities and counties in the Bay Area discharge stormwater into the San Francisco Bay; and

WHEREAS, The Water Control Board has determined that stormwater discharges from urban areas are significant sources of pollutants that cause or may be causing water quality impairment in the Bay; and

WHEREAS, the primary contribution to stormwater is the result of impervious materials (e.g., buildings, roads, parking lots) that prevent rain from percolating into the soil; and

WHEREAS, The City’s two most significant contributors to the square footage of impervious materials are one, the public roads, sidewalks, and public buildings, and two, the comparable contributors within the commercial areas of Crocker Industrial Park, Sierra Point, and a few smaller zoned commercial districts; and

WHEREAS, to prevent this degradation of water quality in the Bay, the Water Control Board issued an updated Municipal Regional Permit effective July 21, 2022; the permit includes 22 provisions that the City must comply with or potentially face fines of up to \$10,000 per day; and

WHEREAS, these provisions include detailed oversight of all development to ensure stormwater controls are implemented; regular inspections of industrial and commercial properties; implementation of an illicit discharge detection and elimination program; and trash load reduction; and

WHEREAS, the latter provision is one of the most expensive, as it requires placement of trash capture devices in nearly all of the City’s storm drain inlets, and also includes at least annual cleaning and inspection of these storm drain inlets; and

WHEREAS, in order to comply with the conditions of the permit, the City necessarily incurs significant costs, including the cost (a) to inspect properties to ensure that the owners are demonstrating compliance with capturing trash, (b) to inspect for illegal storm water discharges and connections, (c) to monitor and protect the receiving

storm water runoff (the Lagoon and the Bay), (d) for street sweeping, (e) to inspect and clean catch basins and (f) to pay additional fees imposed by the City/County Association of Governments of San Mateo County to comply with Water Control Board requirements; and

WHEREAS, The City’s cost in FY 23-24 to meet all these provisions is \$582,377 and even with the input of \$52,000 collected from all Brisbane parcels for the local stormwater program, franchise fees from solid waste haulers, and funding sources such as San Mateo County Measure M, the City’s General Fund backfilled the NPDES program budget with \$408,377; and

WHEREAS, staff identified a “commercial study area” where the parcels in said area with impervious materials (e.g., building roofs, parking lots, etc.) would be subject to the proposed fee; each parcel owner within the study area was sent correspondence dated March 25, 2024 requesting input on the proposed fee, and was later sent correspondence dated April 18, 2024 advising that the city had scheduled a public hearing on June 6, 2024 to consider protests to imposing the fees; and

WHEREAS, because commercial property owners benefit directly and significantly from the City’s NPDES program, it is fair to allocate a certain percentage of the cost of the fees for this program to such owners; and

WHEREAS, in an effort to allocate the costs in a fair way, the City has mapped all of the impermeable areas under its control and those under the control of commercial property owners; and

WHEREAS, The summary of that mapping is as follows:

Private Building Footprint:	5,238,051 Sq Ft
Private Impervious (parking areas, etc.):	8,331,096 Sq Ft
Subtotal:	13,569,147 Sq Ft
Public Impervious (building and parking areas):	895,744 Sq Ft
Public Sidewalks and Roads:	5,768,354 Sq Ft
Subtotal:	6,664,098 Sq Ft
TOTAL:	20,223,245 Sq Ft

WHEREAS, private impervious commercial areas are approximately 2/3 of the impervious areas contributing to stormwater runoff when compared to public impervious areas.

WHEREAS, for the reasons expressed above, the City Council has determined that the increases in cost of complying with the NPDES Permit have made it necessary to impose new fees on commercial property owners within an identified study area; and



WHEREAS, a proposed schedule of fees and the identified study area were presented to the City Council, a copy of which is attached hereto and incorporated herein by reference; and

WHEREAS, as required by law, notice of the proposed new fees was given to the persons who are responsible for payment of such charges, as shown on the records of the City, which included notice of a public hearing to be conducted by the City Council at which time any protests to the proposed new fees would be considered, such notice having been given at least 45 days prior to the hearing; and

WHEREAS, on June 6, 2024, the City Council conducted a public hearing on the proposed new fees to be collected on the associated parcel's tax roll, at which time any person was given an opportunity to protest the same; and

WHEREAS, protests were not made by a majority of the persons who would be responsible for the new fees.

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

- 1. The schedule of fees for National Pollutant Discharge Elimination System compliance on commercial property owners within an identified study area attached hereto is approved (Attachment A).
- 2. The new fees shall be effective as of July 1, 2024 and shall be collected by the San Mateo County Tax Collector.

\_\_\_\_\_  
Terry O'Connell, Mayor

\* \* \* \*

**PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Brisbane held on the sixth day of June, 2024, by the following vote:

P.

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

ATTEST:

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Ingrid Padilla, City Clerk

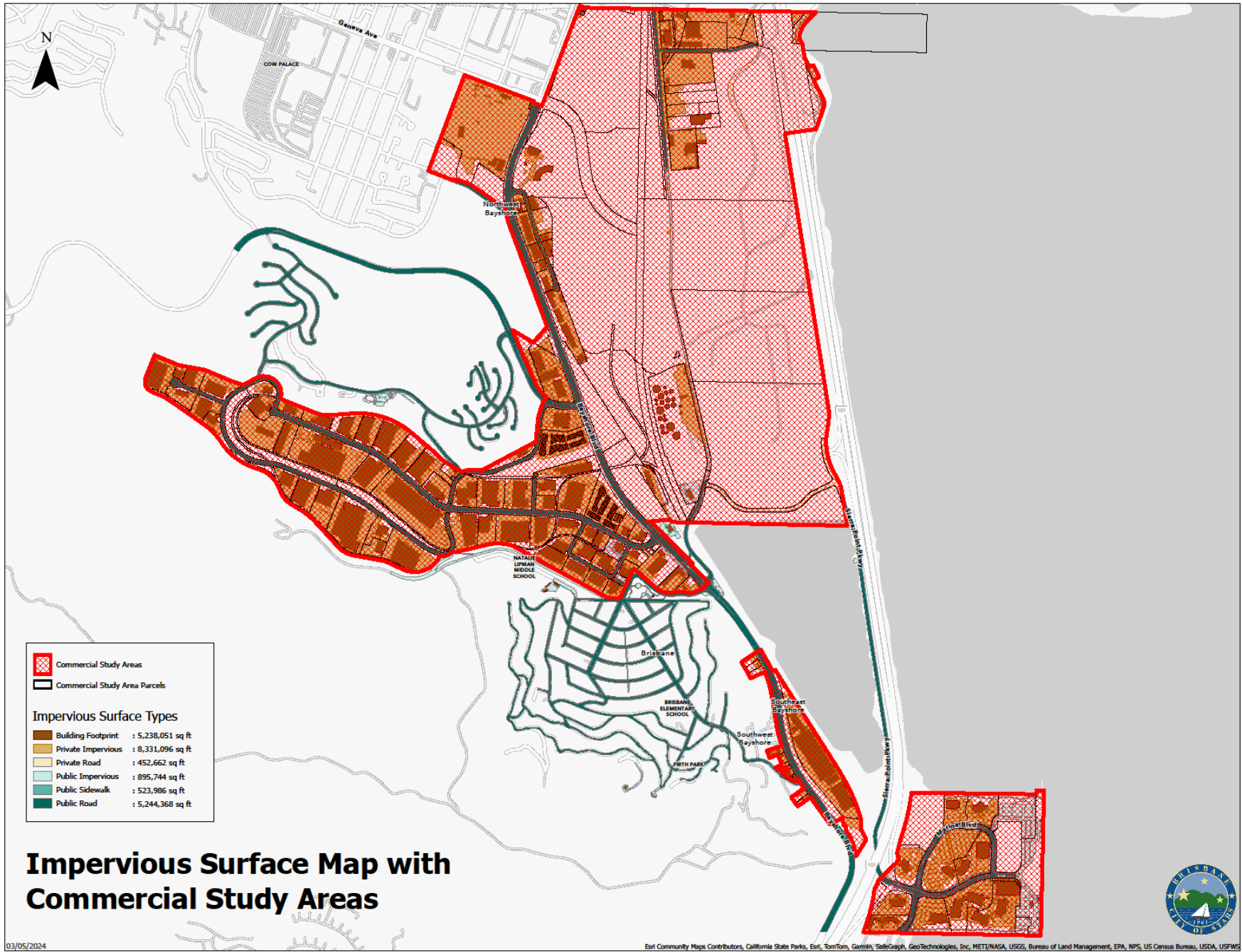
## ATTACHMENT A to Resolution No. 2024-\_\_

Schedule of Fees for National Pollutant Discharge Elimination System Compliance on  
Commercial Businesses Within an Identified Study Area**Fees shall be calculated using the following methodology:**

1. No later than May 31<sup>st</sup> of each calendar year, city staff shall confirm the total square footage of the public impervious areas (i.e., buildings footprints, parking areas, sidewalks and roads).
2. No later than May 31<sup>st</sup> of each calendar year, city staff shall review the private parcels identified on the attached “Impervious Surface Map with Commercial Study Areas” and calculate the total square footage of impervious areas (i.e., buildings footprints, parking areas, etc.) associated with each parcel.
3. No later than May 31<sup>st</sup> of each calendar year, city staff shall prepare a total budget for the NPDES division within the Public Works Department. From that budget, staff shall subtract all external funding sources other than fees to be calculated pursuant to this resolution.
4. City staff shall divide the dollar amount calculated in paragraph 3 above by the sum of all square footage calculated in paragraphs 1 and 2 above. The result of this final calculation shall be the per square foot fee charged to each commercial business parcel within the identified study area.

## By example:

1. In 2024, the total of public impervious area is 6,664,098 square feet.
2. In 2024, the total of private commercial impervious area within the study area is 13,569,147 square feet.
3. The FY23-24 NPDES division budget, minus external funding sources, is \$408,377.
4.  $\$408,377 \div (6,664,098 + 13,569,147) = \$.02/\text{square foot}$ .



**File Attachments for Item:**

Q. Consider Introduction of an Ordinance Approving a Zoning Text and Map Amendment 2024-RZ-1, Overlay to R-1 Residential District and the R-BA Brisbane Acres Residential District in Entirety

(It is being recommended to introduce an ordinance approving a zoning text and map amendment 2024-RZ-1 amending regulations within Title 16 and 17 of the Brisbane Municipal Code to add the R-TUO residential two unit overlay district as new chapter 17.05 and related amendments; and finding that this project is exempt from environmental review under CEQA Guidelines Sections 15061(b)(1) & (3), Section 15183)



**CITY COUNCIL AGENDA REPORT**

**Meeting Date:** June 6, 2024

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

**Subject: Zoning Map and Text Amendment 2024-RZ-1** – zoning text and map amendment 2024-RZ-1 amending regulations within Title 16 and 17 of the Brisbane Municipal Code to add the R-TUO residential two unit overlay district as new chapter 17.05 and related amendments; and finding that this project is exempt from environmental review under CEQA Guidelines Sections 15061(b)(1) & (3), Section 15183; City of Brisbane, applicant.

**COMMUNITY GOAL/RESULT**

Safe Community - Residents and visitors will experience a sense of safety.

**PURPOSE**

To amend the zoning ordinance to establish regulations for urban lot splits and two-unit developments consistent with the requirements of Senate Bill SB 9.

**RECOMMENDATION**

Introduce the ordinance amending the zoning text and zoning map to establish the R-TUO Residential Two Unit Overlay district and related code amendments, as provided in Attachments 1 and 2.

**BACKGROUND**

California Senate Bill SB 9 (2021) was codified as Gov’t Code Sections 65852.21(j) and 66411.7(n). These regulations became effective on January 1, 2022 and require jurisdictions statewide to permit two-unit primary dwellings in the single-family residential zoning districts on lots where one single-family dwelling would normally be permitted, or for single-family lots to be split into two lots, subject to certain restrictions. For Brisbane, this is applicable to the R-1 Residential District and the R-BA Brisbane Acres Residential District. It does not apply to multifamily zoning districts.

Property owners may invoke the provisions of SB 9, absent a City ordinance. Since January 2022, the City has had four such applications submitted, two for urban lot splits and two for two unit

developments. Although SB 9 may be invoked without City regulations, the revised 2023-2031 Housing Element (Housing Element) includes a program for Brisbane to update its zoning ordinance to implement SB 9. That is:

*“Program 2.A.6: Adopt implementing ordinance for ministerial duplex conversions and single-family lot splits as provided by Government Code Sections 65852.21 and 66411.7.”*

State law also allows jurisdictions to adopt objective standards through local ordinance, so long as they would not preclude two unit developments that would otherwise comply with the law.

The Planning Commission held workshops in 2023 to early 2024 on the proposed regulations, then a held a public hearing on May 9, 2024. The Planning Commission, by a vote of 4-0, recommended that City Council adopt the proposed ordinance. The Planning Commission resolution, draft minutes and agenda report are provided in Attachments 4, 5 and 6. Public correspondence is provided in Attachment 7.

Correspondence and the Planning Commission’s discussion referenced a recent ruling by a Los Angeles Superior Court judge’s overturning SB 9 as it applies to five charter cities in Southern California and its potential applicability to Brisbane. The City’s Legal Counsel indicated that the decision has no effect on other trial courts or other cities. Also, the cities in question are charter cities, not general law cities, such as Brisbane, and the decision hinged on SB 9 conflicting with the land use authority of those cities under their charters. As such, the decision is not relevant to SB 9 as it applies to the City of Brisbane.

#### **DISCUSSION:**

SB 9 allows for owners of certain eligible lots within the single-family zoning districts to either split an existing lot of record to two lots, or to keep the lot as-is and develop it with two primary units where one single family dwelling would otherwise be permitted. Note that a primary dwelling unit is a housing unit that is not a junior accessory dwelling unit (JADU) or accessory dwelling unit (ADU). Primary dwelling unit is a broad term that, for the purposes of the proposed overlay district, may include single family dwellings, duplex dwelling units and two-unit dwelling groups. In multifamily zoning districts a primary unit may also refer to units within a multifamily development.

State law and Brisbane code also allows for JADUs and ADUs, both on lots with single family dwellings and those established through SB 9. There are various ways that development under SB 9 could be accomplished, but in essence the maximum number of units that could be permitted by invoking SB 9 is four units and the maximum without SB 9 is three units. Note that per SB 9, the permitting process would be ministerial, whether the development is as a two unit development on an existing lot, or by urban lot split.

Specific provisions, as required by SB 9, allow for the following:

- Primary dwelling units of 800 square feet in floor area must be allowed, regardless of the underlying district's floor area ratio (FAR) maximums. Note that JADU and ADU sizes are provided in BMC Chapter 17.43, consistent with state law, and these would not change.
- The district's lot coverage limits may not be used to prevent development that would otherwise comply with the development standards.
- Required side and rear setbacks shall not exceed 4 feet.
- No more than 1 off-street parking space per primary dwelling unit may be required by the City.
- For urban lot splits, the two resultant lots must each be at least 1,200 square feet and the size difference between the lot must be in the proportion range of 50:50 to 40:60, so they would be near the same size.

Additional provisions proposed in the draft ordinance are outlined below, with further discussion on the next page:

- In cases where the 4 foot setback would be less than the underlying district setback, a height limit of 25 feet is proposed as discussed below. The existing district setback standards range from 3 to 5 feet for the side and 10 feet in the rear in the R-1 district and 5 to 15 feet for the side and 10 feet in the rear in the R-BA district.
- Each primary dwelling unit would be required to have a minimum of one standard size off-street parking space, as indicated above, and that parking may be either uncovered or covered by a carport. Garage parking may also be provided, as an owner's option in addition to the minimum parking, but it may not count toward meeting the required parking.
- Shared driveways may be permitted.

Height Limit: The 25 foot height limit is proposed for that portion of a primary dwelling that is located between the underlying district setback and the 4 foot setback allowed by SB 9. For example, the rear setback for structures in the R-1 district is 10 feet minimum from the rear lot line, whereas SB 9 reduces that setback to a 4 feet minimum. The 25 foot height limit would apply to that portion of a structure located between the 10 foot and 4 foot setbacks.

The height of 25 feet is proposed as it is the same as recently adopted state law for ADU heights, which may also have 4 foot setbacks. This same objective standard would apply to any primary



unit on an R-BA ridgeline lot, since the design permit provisions for ridgeline lots would not apply in the case of a two unit development using the overlay standards. This would be a reduction from the current district height limit of 35 feet in the R-BA district and the 30 height limit in the R-1. (Note that the draft ordinance 2024-RZ-2, which is also on the agenda for tonight, would raise the underlying district heights to 36 feet, but the 25 foot limit would apply to that portion of a structure that's within the normal setback area.)

Parking & Shared Driveways: As noted above, each primary dwelling unit would be required to have a minimum of one standard size off-street parking space. That may be uncovered or covered by a carport. Garage parking may also be provided, as an owner's option in addition to the minimum parking, but it may not count toward meeting the required parking. The provision of not counting garage parking toward the minimum requirement is proposed as a result of Planning Commission concerns raised about the use of garage spaces for other uses besides parking, such as storage, and the limited number of on-street parking spaces in many of the R-1 residential neighborhoods. Note that JADU or ADU off-street parking generally is not required, with some exceptions depending on distance to public transportation, and this would not be changed through this ordinance.

Shared driveways may also be permitted, given the proposed amendment to the driveway definition, but where parking is required for the different units, they must be independently accessible (i.e. not in tandem with another unit). Note that the amendment to allow for shared driveways would be within Chapter 17.02 - Definitions, so it would extend beyond the overlay zoning district.

The Planning Commission recommended an additional provision following the public hearing, that an informational notice to be sent to adjacent property owners upon issuance of a building permit approval, for projects approved utilizing the overlay provisions. That has been included in the draft ordinance as Section 17.05.100 - Notices.

Correspondence received prior to the Planning Commission hearing was duly considered by the Commission and is provided for reference in Attachment 7.

#### **FISCAL IMPACT**

None.

#### **MEASURE OF SUCCESS**

To provide clear provisions in the BMC in compliance with SB 9 (2021).

**ATTACHMENTS**

1. Draft Ordinance Establishing the R-TUO Zoning District
2. Draft Zoning Map Amendment Showing the Proposed R-TUO District
3. Redlined Draft Ordinance
4. Planning Commission Resolution 2024-RZ-1
5. Draft Planning Commission Meeting Minutes, May 9, 2024
6. Planning Commission Agenda Report, May 9, 2024
7. Correspondence

*John Swiecki*  
\_\_\_\_\_  
John Swiecki, Community Development Director

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

**ATTACHMENT 1**

**DRAFT ORDINANCE NO. \_\_\_\_  
AN ORDINANCE OF THE CITY OF BRISBANE  
AMENDING BRISBANE MUNICIPAL CODE TITLES 16 AND 17 – TO ADD CHAPTER 17.05 RESIDENTIAL  
OVERLAY TO PROVIDE FOR URBAN LOT SPLITS AND TWO-UNIT DEVELOPMENTS IN SINGLE FAMILY  
RESIDENTIAL ZONES AND TO AMEND SECTION 17.02.235 TO ADD A DEFINITION FOR “PRIMARY  
DWELLING UNIT” OR “MAIN DWELLING” AND TO MODIFY SECTIONS 17.02.120 AND 17.02.220  
DEFINING CARPORTS AND DRIVEWAYS AND TO AMEND THE ZONING MAP TO ADD THE R-TUO  
RESIDENTIAL TWO UNIT OVERLAY DISTRICT**

**Now, the City Council of the City of Brisbane hereby ordains as follows:**

**SECTION 1. Section 16.12.040 - Tentative and final parcel map—Exceptions to requirements is amended as follows:**

**16.12.040 - Tentative and final parcel map- Exceptions to requirements**

A tentative parcel map and final parcel map shall not be required in the following cases:

- A. Where the subdivision is created by a short-term lease, terminable by either party on not more than thirty (30) days' written notice, of a portion of the operating right-of-way of a railroad corporation, as defined by Section 230 of the Public Utilities Code;
- B. Where land is conveyed to or from a government agency, public entity or public utility, or to a subsidiary of a public utility for rights-of-way, unless a showing is made in individual cases that public policy necessitates a parcel map.
- C. Where an urban lot split is proposed, see Chapter 17.05 of Title 17 of this Municipal Code.

\*\*\*\*\*

**SECTION 4. Section 17.02.120 - Carport is amended, as follows:**

17.02.120 - Carport. "Carport" means an accessory structure or a portion of a main structure designed for the storage of motor vehicles having a roof or other solid covering and enclosed on no more than two (2) sides.

\*\*\*\*\*

**SECTION 5. Section 17.02.220 - Driveway is amended, as follows:**

17.02.220 - Driveway. "Driveway" means a private roadway which provides access to off-street parking or loading spaces, and the use of which is limited to persons residing on the site, their invitees, or persons working on the site. A driveway may be shared, to serve two or more lots, by access easement across one or more of the affected lots. This does not include private streets as defined in Section 17.02.750.

\*\*\*\*\*

**SECTION 2: Section 17.02.230 - Duplex is hereby deleted in its entirety.**

\*\*\*\*\*

**SECTION 3. Section 17.02.235 - Dwelling is amended to add a definition for “Duplex dwelling” and “Primary dwelling unit” or “Main Dwelling”, as follows:**

**17.02.235 - Dwelling.**

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

- A. "Duplex dwelling" means a building containing two dwelling units totally separated from each other by a wall, floor or ceiling; provided, however, that a building containing a single-family dwelling and a lawful accessory dwelling unit or junior accessory dwelling unit shall not be deemed a duplex.
- B. "Dwelling group" means a group of two (2) or more detached buildings located upon the same site, each of which contains one or more dwelling units.
- C. "Dwelling unit" means a room or group of rooms including living, sleeping, eating, cooking and sanitation facilities, constituting a separate and independent housekeeping unit, designed, occupied, or intended for occupancy by one family on a permanent basis. Permanent residency shall mean continuous occupancy of the dwelling unit for a period of thirty (30) days or more.
- D. "Multiple-family dwelling" means a building or site containing three (3) or more dwelling units (also see "duplex"). The term includes single-room-occupancy dwelling units, typically comprised of one or two (2) rooms (which may include a kitchen and/or a bathroom, in addition to a bed), that are restricted to occupancy by no more than two (2) persons.
- E. "Accessory dwelling unit" means a separate dwelling unit created upon a site that contains a single-family dwelling, duplex, or multiple-family dwelling. Subject to the restrictions of this title, the accessory dwelling unit may be within, attached to, or detached from the single-family dwelling, duplex, or multiple-family dwelling. An accessory dwelling unit shall include permanent provisions for living, sleeping, eating, cooking, and sanitation. The term "secondary dwelling unit" shall have the same meaning throughout this title.
- F. "Junior accessory dwelling unit" means a dwelling unit that is no more than five hundred (500) square feet in size and contained entirely within a single-family dwelling. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the single-family dwelling. Junior accessory dwelling units are distinguished from accessory dwelling units in that they: (1) must include the conversion of existing, legally permitted floor area within an existing single-family dwelling; (2) must be owner occupied, or the main dwelling be owner occupied; and (3) are subject to unique standards that are not applicable to accessory dwelling units, as specified in Chapter 17.43 of this Title.
- G. "Primary dwelling unit" or "Main Dwelling" means a dwelling unit that is not an accessory dwelling unit or a junior accessory dwelling unit.

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

\*\*\*\*\*

**SECTION 6. Section 17.04.010 - Establishment of Districts is amended to add the "R-TUO Residential two unit overlay district" as follows:**

The districts into which the city is divided are hereby established and designated as follows:

- A. R-1 Residential district.
- B. R-2 Residential district.
- C. R-3 Residential district.
- D. R-BA: Brisbane acres residential district.
- E. R-TUO Residential two unit overlay district.
- F. C-1: Commercial mixed use district.
- G. NCRO: Central Brisbane commercial district.
- H. HC: Beatty heavy commercial district.
- I. SCRO-1: Southwest Bayshore commercial district.
- J. SP-CRO: Sierra Point commercial district.
- K. TC-1: Crocker Park trade commercial district.
- L. TC-2: Southeast Bayshore trade commercial district.
- M. MLB: Marsh Lagoon Bayfront district.
- N. O-S: Open space district.
- O. P-D: Planned development district.
- P. PAOZ: Parkside overlay district.
- Q. R-MHP: Residential mobile home park district.

\*\*\*\*\*

**Section 7. Chapter 17.05 Residential Two Unit Overlay District is added to Title 17 as follows:**

**17.05 Residential Two Unit Development Overlay District.**

**17.05.010 Purpose.** The purpose of this Chapter is to allow no more than two detached or attached primary dwelling units on one lot of record, establish objective standards for the District, and regulate certain subdivisions of a lot of record in single-family zoning districts, in accordance with State law. This Chapter shall be implemented and interpreted in conjunction with California Government Code Sections 65852.21 and 66411.7, as may be amended, and applicable objective standards and procedures set forth in Chapters 17.06, 17.12, 17.43, 16.12, 16.16, and 16.20 of the Brisbane Municipal Code.

**17.05.020 Applicability and Relation to Other Sections.** This Chapter is provided as an overlay district to the R-1 and R-BA residential districts, to comply with State law, and to carry out the purpose of Section 17.05.010, and, unless specifically addressed within this Chapter, the R-1 and R-BA district standards shall apply, as applicable. This Chapter also allows for ministerial approval of urban lot splits in conjunction with Chapter 16.16 and 16.20 of this Code.

This chapter shall not supersede the provisions of Section 17.01.060 - Requirement For Lot of Record and Infrastructure Improvements-- but applications shall be considered in concert with the provisions of that Section.

This chapter may be applied to a substandard lot, as further described in Section 17.47.030- Exceptions – Lot Area, Lot Dimensions and Lot Lines, if the substandard lot is a lot of record, as defined in Section 17.02.490.

### **17.05.030 Definitions**

For the purposes of this Chapter, the following definitions apply. Terms not defined herein shall be based upon the definitions in Chapter 17.02.

- A. "Access Corridor" means an access easement or the "pole" of a flag lot that provides vehicular access to the public right-of-way, that is free of features that obstruct ingress/egress to a lot.
- B. "Acting in Concert" means the property owner, or a person as an agent or representative of the property owner, knowingly participating with another person in joint activity or parallel action toward a common goal of subdividing an adjacent parcel.
- C. "Car Share Facility" means one or more parking space(s) that have been designated permanently for car share vehicles, where the vehicles are leased for short periods of time, often by the hour.
- D. "Department" means the Community Development Department.
- E. "Existing Exterior Structural Wall" means and constitutes the original bottom plate and original top plate in its existing position, original studs (with the exception for new window framing), and capable of standing without support
- F. "Flag or Panhandle Lot" means a parcel which includes a strip of land that is owned in fee that is used primarily for vehicular access from a public or private street to the major portion of the parcel.
- G. "High Quality Transit Corridor" means a corridor with fixed bus route service with service intervals no longer than 15 minutes during peak commute hours, or as defined in State law.
- H. "Major Transit Stop" means a site containing any of the following: (i) an existing rail or bus rapid transit station; (ii) a ferry terminal served by either a bus or rail transit service; or (iii) the intersection of two or more major bus routes with a frequency of service intervals of 15 minutes or less during the morning and afternoon peak commute periods, or as defined in state law.
- I. "Primary Dwelling Unit" or "Primary Unit" means the same as defined in section 17.02.235.G.
- J. "Specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date an application was deemed complete.
- K. "Two-unit Development" means a proposed housing development that contains two primary dwelling units on a single lot.

- L. “Urban Lot Split” means a subdivision of an existing lot of record in a single-family zoning district into no more than two separate legal lots, which subdivision satisfies all of the criteria and standards set forth in this Chapter and Government Code Section 66411.7.

**17.05.040 Eligibility.**

- A. To be eligible for a two-unit development or urban lot split as specified in this Chapter, the application shall meet all of the following criteria:
1. The lot is a lot of record and is located within the R-1 Residential zoning district or the R-BA Brisbane Acres Residential zoning district.
  2. The owner(s) of the lot has not exercised the owner’s rights under Government Code Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the application has been submitted.
  3. The lot is not within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.
  4. The lot does not contain any of the site conditions listed in Government Code section 65913.4, subdivision (a)(6)(B-K), or successor provisions or as amended, which includes, but is not limited to, lands within wetlands, a very high fire hazard severity zone, a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood), habitat for protected species, and lands under a conservation easement.
  5. The lot has not previously been subdivided under this Chapter, or under Government Code section 66411.7.
  6. For urban lot splits, Prior to a lot split being recorded, the property owner(s) shall sign an affidavit stating that the owner, or a member or members of the owner’s immediate family, intends to occupy one of the dwelling units as the person’s principal residence for a minimum of three years. This requirement shall not apply to an applicant that is a “community land trust,” as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code, or is a “qualified nonprofit corporation” as described in Section 214.15 of the Revenue and Taxation Code.

**17.05.050 Anti-displacement/Eligibility Criteria.**

- A. Development under this Chapter shall not result in displacement of tenants from:
1. A lot that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
  2. A lot that is subject to any form of rent or price control through the City’s valid exercise of its police power.
- B. Development under this Chapter shall not result in:
1. Demolition or alteration as defined in Section 15.10.040.A or B of a dwelling unit that has been occupied by a tenant in the last three years.
  2. Demolition of a building, or alteration as defined in Section 15.10.040.A or B, when the building is occupied by a tenant.

**17.05.060 Permitted Uses.** The following uses, defined in Chapter 17.02 - Definitions, are permitted in this overlay zoning district in accordance with the development standards and are added to the permitted uses provided in Chapters 17.06 - R-1 Residential District and 17.12 - R-BA Brisbane Acres Residential District of this title:

- A. Duplex dwellings.
- B. Dwelling groups of two primary dwelling units per lot.

**17.05.070 Two Unit Developments without an Urban Lot Split.** A Two Unit Development on a lot of record that has not been split under the urban lot split provisions of this Chapter shall comply with the development standards provided in this section.

**A. Development Standards.** Where not expressly stated, the R-1 and R-BA zoning district development standards, set forth in Chapters 17.06 and 17.12, and ADU and JADU development standards set forth in Chapter 17.43, shall apply. For urban lot split development standards see Section 17.05.080.C.

1. Number of dwelling units. Development of up to four dwelling units may be built in the same lot area typically used for a single-family residence, without an urban lot split, as follows:

Development Scenario Options on a Single Lot without Urban Lot Split	Single Family Dwelling	Duplex Dwelling (two attached primary units")	Two-unit Dwelling Group (two detached primary units")	ADU	JADU	Total Dwelling Units
Type A.	NA	2				2
Type B.	NA		2			2
Type C.	NA	2		1		3
Type D.	NA		2	1		3
Type E.	NA	2		2		4
Type F.	NA		2	2		4
Type G.	NA		2	1	1	4

Notes:

- 1. NA: Not applicable. Development of a single-family dwelling on a lot of record may be permitted per the zoning district standards, provided in Chapter 17.06 and 17.12, without invoking the two unit overlay provisions.
- 2. See Chapter 17.43 for applicable development regulations for ADU's or JADU's..
- 3. Four units are the maximum that may be permitted on a lot.
- 4. If Types A through D are initially developed, one or two ADUs may later be added up to the maximum allowed, Types E or F, subject to the provisions of this Chapter.

2. Primary Dwelling Unit Size. Each of the primary dwelling units shall be permitted to be at least 800 square feet in floor area, regardless of the zoning district's lot coverage and floor area ratio (FAR) limits. For primary dwelling units over 800 square feet, the zoning district floor area standards shall apply; provided, however, this shall not preclude the option to construct smaller primary dwelling units in compliance with the state building code. The minimum floor area for each unit shall be as permitted by the state building code.



3. Lot coverage. The R-1 or R-BA district lot coverage limit shall apply except where it would preclude development of new primary units of 800 square feet, or retention of the lot coverage of an existing primary unit or addition of accessory dwelling unit, in compliance with the provisions of this Chapter and Chapter 17.43 of this Title.

4. Side and Rear Setbacks. Minimum side and rear setbacks for the primary dwelling units shall be 4 feet, except for the following:

- (a) Where the underlying district development standards allow for a lesser setback, the district standards shall apply.
- (b) No setback shall be required for an existing legal non-conforming structure, or a replacement structure constructed in the same location and to the same dimensions as an existing legal non-conforming structure.

5. Height of Primary Dwelling Units.

- (a) Where a primary dwelling unit utilizes the 4-foot side or rear setback allowance, for a reduced setback versus the district's setback, no portion of the building that is located in the area between the 4-foot setback and the district's setback minimum shall exceed 25 feet in height.
- (b) The maximum height of any primary dwelling unit on a ridgeline lot within the R-BA district, as defined in Section 17.02.695, shall be 25 feet, except for (i) an existing legal non-conforming structure, (ii) a replacement structure constructed in the same location and to the same dimensions as an existing legal non-conforming structure, or (iii) as approved by design review permit per Section 17.12.040.L.

6. Off-Street Parking.

(a) A minimum of one standard size, off-street parking space (uncovered or carport) for each primary dwelling unit shall be required (refer to Chapter 17.34 for parking space design standards). Garage parking space(s) shall not count towards meeting the minimum parking requirements.

(b) Shared driveways may be permitted to serve more than one dwelling unit, subject to approval by the City Engineer, based on finding that a shared driveway will not pose a hazard to public safety. See the definition of driveway in Section 17.02.220 of this title.

(c) Notwithstanding the parking requirements indicated above, no off-street parking shall be required if:

- (i) The lot is located within one-half mile walking distance of either a transit stop located in a high-quality transit corridor, as defined in Public Resources Code Section 21155(b), or a major transit stop, as defined in Public Resources Code Section 21064.3; or
- (ii) There is a designated parking area for one or more car-share facilities within one block of the lot.

**17.05.080 Urban Lot Splits.** The City may approve a parcel map for an urban lot split ministerially, subject to the procedures, requirements and development standards provided in this section.

**A. Ministerial Parcel Map Procedures.** The parcel map shall be prepared following the tentative map form and procedures provided in Chapter 16.16 - Tentative Map Procedures and Chapter 16.20- Final Map Procedures, except that the parcel map shall be approved by the City Engineer. The City Engineer shall have authority to waive specific requirements provided in Chapter 16.16 and Chapter 16.20, if the City Engineer deems the requirements inapplicable, given the site location or other characteristics.

**B. Ministerial Parcel Map Requirements.** A parcel map for an urban lot split shall meet the requirements of Chapter 16.16 and 16.20 of the Municipal Code, as deemed applicable by the City Engineer, and all of the following requirements:

1. The parcel map subdivides an existing lot of record to create no more than two legal lots of record of approximately equal lot area provided that one lot shall not be smaller than 40 percent of the lot area of the original lot of record proposed for subdivision.
2. Both newly created lots of record shall be no smaller than 1,200 square feet.
3. The zoning district lot width and depth dimension minimums shall not apply.
4. Flag lots may be approved. The flagpole portion, whether part of the flag lot or an easement on the flag lot, shall have a minimum width of 12 feet to accommodate a driveway, unless a lesser width is approved by the City Engineer. The location and dimensions of driveways are subject to approval by the City Engineer as set forth in Section 12.24.015.
5. Both parcels resulting from the urban lot split shall have access to, provide access to, or adjoin the public right-of-way through right-of-way frontage or recorded access easements.
6. The approved parcel map shall include a notation that the parcels were created using the Urban Lot Split provisions of this Chapter and the resulting parcels cannot be further subdivided under this Chapter.
7. The urban lot split conforms to all applicable objective requirements of the Subdivision Map Act, except as otherwise expressly provided in this Chapter.
8. The parcel being subdivided was not established through prior exercise of an urban lot split as provided for in this Chapter.
9. Neither the property owner of the parcel being subdivided nor any person acting in concert with the property owner has previously subdivided an adjacent parcel using an urban lot split as provided for in this Chapter.

**C. Development Standards for Urban Lot Splits.** Development on lots that have been split under this Chapter shall comply with the development standards provided in this section. Where not expressly stated, the R-1 and R-BA zoning district development standards, set forth in Chapters 17.06 and 17.12, and ADU and JADU development standards set forth in Chapter 17.43, shall apply.

1. Number of dwelling units. With an urban lot split, development of no more than four dwelling units may be built in the same lot area that would otherwise be used for a single-family residence, as shown in Tables a and b provided below. Note that Tables a and b are to be used together to detail possible development scenarios following an urban lot split. Table a provides various development scenarios that are possible on a single lot, following a lot split, as Types A through I. Table b shows how the scenario types may then be combined for the two resultant lots. For example, if one resultant lot is developed with three units (Types F, G, H or I), the second resultant lot may only be developed with a single family dwelling (Type A), for a maximum of four units on the two resultant lots.

a. Number and Types of Units- With Urban Lot Split

Development Scenario Options for Each Resultant Lot Following Split	Single Family Residence	Duplex	Two-unit Dwelling Group	ADU	JADU <sup>(2)</sup>	Total Units per lot
Type A	1					1
Type B	1			1		2
Type C	1				1	2
Type D		2				2
Type E			2			2
Type F	1			1	1	3
Type G		2		1		3
Type H			2	1		3
Type I			2		1	3

Notes:

- Urban lot splits may utilize a combination of buildout types A – H, provided that all of the following conditions are met: a) the total number of units does not exceed four across the two lots, b) each of the two lots is to be developed with at least one primary dwelling unit, and c) development of ADUs and JADUs shall comply with Chapter 17.43.
- JADU's are not permitted as a part of building that contains 2 or more units (i.e. duplex).

b. Lot Split - Resulting Lot Buildout Scenarios. The following table shows the total units that may be achieved by applying the development scenario options from Table 17.05.080.C.1.a to the two resultant lots.

RESULTANT LOT 2 (Housing Unit Totals)	RESULTANT LOT 1 (Housing Unit Totals)									
	Buildout Type (units)	Type A (1)	Type B (2)	Type C (2)	Type D (2)	Type E (2)	Type F (3)	Type G (3)	Type H (3)	Type I (3)
Type A (1)	2	3	3	3	3	3	4	4	4	4
Type B (2)	3	4	4	4	4	4	NP	NP	NP	NP
Type C (2)	3	4	4	4	4	4	NP	NP	NP	NP
Type D (2)	3	4	4	4	4	4	NP	NP	NP	NP
Type E (2)	3	4	4	4	4	4	NP	NP	NP	NP
Type F (3)	4	NP	NP	NP	NP	NP	NP	NP	NP	NP
Type G (3)	4	NP	NP	NP	NP	NP	NP	NP	NP	NP
Type H (3)	4	NP	NP	NP	NP	NP	NP	NP	NP	NP
Type I (3)	4	NP	NP	NP	NP	NP	NP	NP	NP	NP

Note: NP: Not Permitted for the buildout scenario. Buildout scenario may not exceed four units.

2. Primary Dwelling Unit Size. Each of the primary dwelling units shall be permitted to be at least 800 square feet in floor area, regardless of the zoning district's lot coverage and floor area ratio (FAR) limits. For primary dwelling units over 800 square feet, the zoning district floor area standards shall apply; provided, however, this shall not preclude the option to construct smaller primary dwelling units in compliance with the state building code. The minimum floor area for each unit shall be as permitted by the state building code.

3. Lot coverage. The zoning district's lot coverage limit shall not apply where it would preclude development of new primary units of at least 800 square feet, retention of the lot coverage of an existing primary unit or addition of accessory dwelling unit, in compliance with the provisions of this Chapter and Chapter 17.43 of this Title.

4. Side and Rear Setbacks. Minimum side and rear setbacks for the primary dwelling units shall be four feet, except for the following:

(a) Where the underlying zoning district development standards allow for a lesser setback, the district standards shall prevail.

(b) No setback shall be required for an existing legal non-conforming structure, or a replacement structure constructed in the same location and to the same dimensions as an existing legal non-conforming structure.

5. Height of Primary Units.

(a) Where a primary dwelling unit utilizes the 4-foot side or rear setback allowance, for a reduced setback versus the district's setback, no portion of the building that is located in the area between the four 4-foot setback and the district's setback minimum shall exceed 25 feet in height.

(b) The maximum height of any primary dwelling unit on a ridgeline lot within the R-BA district, as defined in Section 17.02.695, shall be 25 feet, except for (i) an existing legal non-conforming structure, (ii) a replacement structure constructed in the same location and to the same dimensions as an existing legal non-conforming structure, or (iii) as approved by design permit per Section 17.12.040.L.

6. Off-Street Parking.

(a) A minimum of one standard size, off-street parking space (uncovered or carport) for each primary dwelling unit shall be required (refer to Chapter 17.34 for parking space design standards). Garage parking space(s) shall not count towards meeting the minimum parking requirements.

(b) Shared driveways may be permitted to serve more than one lot, subject to approval by the City Engineer, based on finding that the driveway will not pose a hazard to public safety. See the definition of driveway in Section 17.02.220 of this title.

(c) Notwithstanding the parking requirements indicated above, no off-street parking shall be required if:

- (iii) The lot is located within one-half mile walking distance of either a transit stop located in a high-quality transit corridor, as defined in Public Resources Code Section 21155(b), or a major transit stop, as defined in Public Resources Code Section 21064.3; or
- (iv) There is a designated parking area for one or more car-share facilities within one block of the parcel.

7. Deed Restriction. A property owner utilizing the provisions of this Chapter shall record a deed restriction, in a form acceptable to the City, that does the following:

- (a) Where applicable, documents that the lot split complies with the provisions of this Chapter and restrictions provided in Government Code section 66411.7.
- (b) Expressly prohibits any rental of any dwelling unit on the property or properties for a term of 30 days or less.

#### **17.05.090 Requirement for a Building Permit**

Demolition, alteration or construction of any building shall require building permit(s). All construction shall be in conformance with the most recent edition of the California Model Codes with any applicable Brisbane amendments.

#### **17.05.100 Notices**

Upon issuance of a building permit for a two unit development under Section 17.05.070 or a building permit following an urban lot split under Section 17.05.080, the City shall provide an informational notice to the property owners adjacent to and directly across the street from the subject site(s). The notice shall provide a brief description of the project and information on how to view approved plans.

#### **17.05.110 Condominiums**

Condominiums may be established for primary dwelling units in accordance with Chapter 17.30 - Condominiums. Establishment of condominiums shall be subject to ministerial approval by the Community Development Director, based on conformance with the applicable provisions of this chapter and Chapter 17.30.

**17.05.120 Findings of Denial.** The City may deny a two-unit housing development or urban lot split, based upon a preponderance of the evidence, that the proposed housing development would have a specific, adverse impact, as defined in Section 17.05.030.J.

\*\*\*\*\*

**SECTION 8:** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Brisbane hereby declares that it would have passed this Ordinance and each section,

subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

\*\*\*\*\*

**SECTION 9:** This Ordinance shall be in full force and effect thirty days after its passage and adoption.

\_\_\_\_\_  
Terry O'Connell, Mayor

\* \* \*


The above and foregoing Ordinance was adopted at a regular meeting of the City Council of the City of Brisbane held on the \_\_\_\_\_ day of \_\_\_\_\_, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

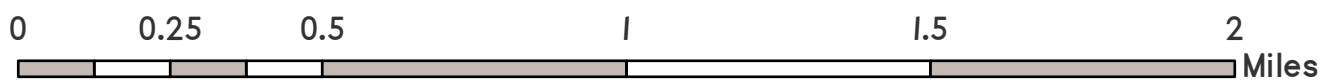
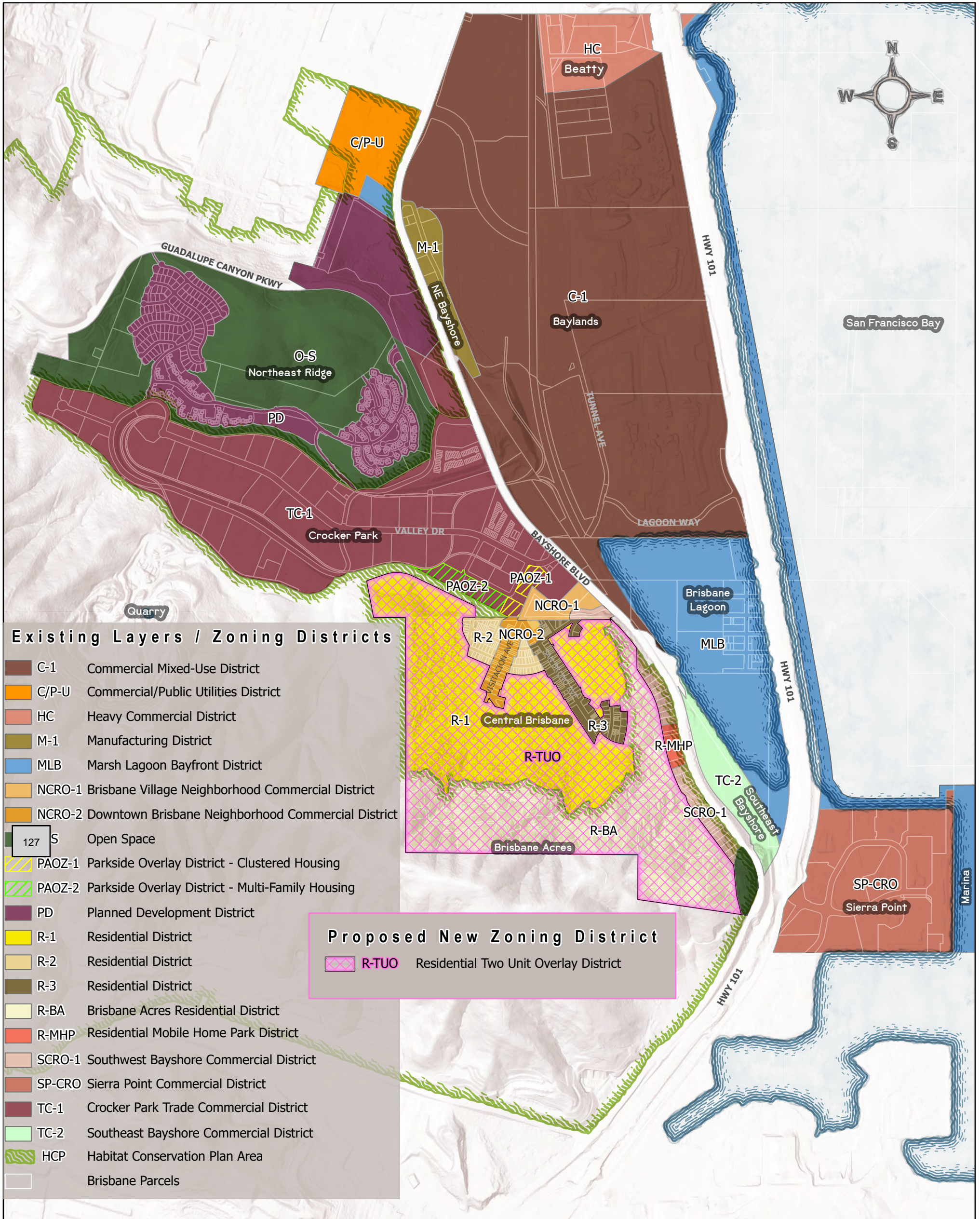
ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
City Clerk

  
\_\_\_\_\_  
City Attorney

# ATTACHMENT 2 - DRAFT ZONING MAP AMENDMENT 2024-RZ-1



Parcel and HCP GIS data provided by San Mateo County  
Zoning GIS data provided by City of Brisbane

CITY OF BRISBANE CALIFORNIA



## ATTACHMENT 3 REDLINED DRAFT ORDINANCE

**Note:** **Red** text indicates proposed as new or strikeout amendments to the Brisbane Municipal Code (BMC).

**Section 16.12.040 - Tentative and final parcel map—Exceptions to requirements is amended as follows:**

**16.12.040 - Tentative and final parcel map- Exceptions to requirements**

A tentative parcel map and final parcel map shall not be required in the following cases:

A. Where the subdivision is created by a short-term lease, terminable by either party on not more than thirty (30) days' written notice, of a portion of the operating right-of-way of a railroad corporation, as defined by Section 230 of the Public Utilities Code;

B. Where land is conveyed to or from a government agency, public entity or public utility, or to a subsidiary of a public utility for rights-of-way, unless a showing is made in individual cases that public policy necessitates a parcel map.

**C. Where an urban lot split is proposed, see Chapter 17.05 of Title 17 of this Municipal Code.**

**Section 17.02.120 - Carport is amended, as follows:**

17.02.120 - Carport. "Carport" means an accessory structure or a portion of a main structure designed for the storage of motor vehicles having a roof or other solid covering and enclosed on no more than two (2) sides.

~~"Carport" means an accessory structure or a portion of a main structure designed for the storage of motor vehicles having a permanent roof and not enclosed on two (2) or more sides.~~

**Section 17.02.220 - Driveway is amended, as follows:**

17.02.220 - Driveway. "Driveway" means a private roadway which provides access to off-street parking or loading spaces, **and the use of which is limited to persons residing on the site, their invitees, or persons working on the site.** A driveway may be shared, to serve two or more lots, by access easement across one or more of the affected lots. This does not include private streets as defined in Section 17.02.750.

~~on a single site, the use of which is limited to persons residing or working on the site and their invitees, licensees and business visitors.~~

**Section 17.02.230 - Duplex is hereby deleted in its entirety.**



**Section 17.02.235 - Dwelling is amended to add a definition for “Duplex dwelling” and “Primary dwelling unit” or “Main Dwelling”, as follows:**

**17.02.235 - Dwelling.**

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

- A. "Duplex dwelling" means a building containing two dwelling units totally separated from each other by a wall, floor or ceiling; provided, however, that a building containing a single-family dwelling and a lawful accessory dwelling unit or junior accessory dwelling unit shall not be deemed a duplex.
- B. ~~A.~~ "Dwelling group" means a group of two (2) or more detached buildings located upon the same site, each of which contains one or more dwelling units.
- C. ~~B.~~ "Dwelling unit" means a room or group of rooms including living, sleeping, eating, cooking and sanitation facilities, constituting a separate and independent housekeeping unit, designed, occupied, or intended for occupancy by one family on a permanent basis. Permanent residency shall mean continuous occupancy of the dwelling unit for a period of thirty (30) days or more.
- D. ~~C.~~ "Multiple-family dwelling" means a building or site containing three (3) or more dwelling units (also see "duplex"). The term includes single-room-occupancy dwelling units, typically comprised of one or two (2) rooms (which may include a kitchen and/or a bathroom, in addition to a bed), that are restricted to occupancy by no more than two (2) persons.
- E. ~~D.~~ "Accessory dwelling unit" means a separate dwelling unit created upon a site that contains a single-family dwelling, duplex, or multiple-family dwelling. Subject to the restrictions of this title, the accessory dwelling unit may be within, attached to, or detached from the single-family dwelling, duplex, or multiple-family dwelling. An accessory dwelling unit shall include permanent provisions for living, sleeping, eating, cooking, and sanitation. The term "secondary dwelling unit" shall have the same meaning throughout this title.
- F. ~~E.~~ "Junior accessory dwelling unit" means a dwelling unit that is no more than five hundred (500) square feet in size and contained entirely within a single-family dwelling. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the single-family dwelling. Junior accessory dwelling units are distinguished from accessory dwelling units in that they: (1) must include the conversion of existing, legally permitted floor area within an existing single-family dwelling; (2) must be owner occupied, or the main dwelling be owner occupied; and (3) are subject to unique standards that are not applicable to accessory dwelling units, as specified in Chapter 17.43 of this Title.
- G. "Primary dwelling unit" or "Main Dwelling" means a dwelling unit that is not an accessory dwelling unit or a junior accessory dwelling unit.
- H. ~~F.~~ "Single-family dwelling" means a dwelling unit constituting the only principal structure upon a single site (excluding any lawfully established accessory dwelling unit that may be located within the same structure on upon the same site). The term includes employee housing for six (6) or fewer persons, residential care facilities, licensed by the state to provide twenty-four-hour nonmedical care, serving six (6) or fewer persons (not including the operator, the operator's

family or persons employed as staff) in need of supervision, personal services, or assistance essential for sustaining the activities of daily living or for the protection of the individual. Also see "Group care home" for seven (7) or more persons.

**Section 17.04.010 - Establishment of Districts is amended to add the “R-TUO Residential two unit overlay district” as follows:**

The districts into which the city is divided are hereby established and designated as follows:

- A. R-1 Residential district.
- B. R-2 Residential district.
- C. R-3 Residential district.
- D. R-BA: Brisbane acres residential district.
- E. **R-TUO Residential two unit overlay district.**
- F. ~~E~~-C-1: Commercial mixed use district.
- G. ~~F~~-NCRO: Central Brisbane commercial district.
- H. ~~G~~-HC: Beatty heavy commercial district.
- I. ~~H~~-SCRO-1: Southwest Bayshore commercial district.
- J. ~~I~~-SP-CRO: Sierra Point commercial district.
- K. ~~J~~-TC-1: Crocker Park trade commercial district.
- L. ~~K~~-TC-2: Southeast Bayshore trade commercial district.
- M. ~~L~~-MLB: Marsh Lagoon Bayfront district.
- N. ~~M~~-O-S: Open space district.
- O. ~~N~~-P-D: Planned development district.
- P. ~~O~~-PAOZ: Parkside overlay district.
- Q. ~~P~~-R-MHP: Residential mobile home park district.

**Chapter 17.05 Residential Two Unit Overlay District is added to Title 17 as follows:**

**17.05 Residential Two Unit Development Overlay District.**

**17.05.010 Purpose.** The purpose of this Chapter is to allow no more than two detached or attached primary dwelling units on one lot of record, establish objective standards for the District, and regulate certain subdivisions of a lot of record in single-family zoning districts, in accordance with State law. This Chapter shall be implemented and interpreted in conjunction with California Government Code Sections 65852.21 and 66411.7, as may be amended, and applicable objective standards and procedures set forth in Chapters 17.06, 17.12, 17.43, 16.12, 16.16, and 16.20 of the Brisbane Municipal Code.

**17.05.020 Applicability and Relation to Other Sections.** This Chapter is provided as an overlay district to the R-1 and R-BA residential districts, to comply with State law, and to carry out the purpose of Section 17.05.010, and, unless specifically addressed within this Chapter, the R-1 and R-BA district standards shall apply, as applicable. This Chapter also allows for ministerial approval of urban lot splits in conjunction with Chapter 16.16 and 16.20 of this Code.

This chapter shall not supersede the provisions of Section 17.01.060 - Requirement For Lot of Record and Infrastructure Improvements-- but applications shall be considered in concert with the provisions of that Section.

This chapter may be applied to a substandard lot, as further described in Section 17.47.030- Exceptions – Lot Area, Lot Dimensions and Lot Lines, if the substandard lot is a lot of record, as defined in Section 17.02.490.

### **17.05.030 Definitions**

For the purposes of this Chapter, the following definitions apply. Terms not defined herein shall be based upon the definitions in Chapter 17.02.

- A. “Access Corridor” means an access easement or the “pole” of a flag lot that provides vehicular access to the public right-of-way, that is free of features that obstruct ingress/egress to a lot.
- B. “Acting in Concert” means the property owner, or a person as an agent or representative of the property owner, knowingly participating with another person in joint activity or parallel action toward a common goal of subdividing an adjacent parcel.
- C. “Car Share Facility” means one or more parking space(s) that have been designated permanently for car share vehicles, where the vehicles are leased for short periods of time, often by the hour.
- D. “Department” means the Community Development Department.
- E. “Existing Exterior Structural Wall” means and constitutes the original bottom plate and original top plate in its existing position, original studs (with the exception for new window framing), and capable of standing without support
- F. “Flag or Panhandle Lot” means a parcel which includes a strip of land that is owned in fee that is used primarily for vehicular access from a public or private street to the major portion of the parcel.
- G. “High Quality Transit Corridor” means a corridor with fixed bus route service with service intervals no longer than 15 minutes during peak commute hours, or as defined in State law.
- H. “Major Transit Stop” means a site containing any of the following: (i) an existing rail or bus rapid transit station; (ii) a ferry terminal served by either a bus or rail transit service; or (iii) the intersection of two or more major bus routes with a frequency of service intervals of 15 minutes or less during the morning and afternoon peak commute periods, or as defined in state law.
- I. “Primary Dwelling Unit” or “Primary Unit” means the same as defined in section 17.02.235.G.
- J. “Specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date an application was deemed complete.
- K. “Two-unit Development” means a proposed housing development that contains two primary dwelling units on a single lot.
- L. “Urban Lot Split” means a subdivision of an existing lot of record in a single-family zoning district into no more than two separate legal lots, which subdivision satisfies all of the criteria and standards set forth in this Chapter and Government Code Section 66411.7.

### **17.05.040 Eligibility.**

- A. To be eligible for a two-unit development or urban lot split as specified in this Chapter, the application shall meet all of the following criteria:
1. The lot is a lot of record and is located within the R-1 Residential zoning district or the R-BA Brisbane Acres Residential zoning district.
  2. The owner(s) of the lot has not exercised the owner's rights under Government Code Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the application has been submitted.
  3. The lot is not within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.
  4. The lot does not contain any of the site conditions listed in Government Code section 65913.4, subdivision (a)(6)(B-K), or successor provisions or as amended, which includes, but is not limited to, lands within wetlands, a very high fire hazard severity zone, a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood), habitat for protected species, and lands under a conservation easement.
  5. The lot has not previously been subdivided under this Chapter, or under Government Code section 66411.7.
  6. For urban lot splits, Prior to a lot split being recorded, the property owner(s) shall sign an affidavit stating that the owner, or a member or members of the owner's immediate family, intends to occupy one of the dwelling units as the person's principal residence for a minimum of three years. This requirement shall not apply to an applicant that is a "community land trust," as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code, or is a "qualified nonprofit corporation" as described in Section 214.15 of the Revenue and Taxation Code.

**17.05.050 Anti-displacement/Eligibility Criteria.**

- A. Development under this Chapter shall not result in displacement of tenants from:
1. A lot that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
  2. A lot that is subject to any form of rent or price control through the City's valid exercise of its police power.
- B. Development under this Chapter shall not result in:
1. Demolition or alteration as defined in Section 15.10.040.A or B of a dwelling unit that has been occupied by a tenant in the last three years.
  2. Demolition of a building, or alteration as defined in Section 15.10.040.A or B, when the building is occupied by a tenant.

**17.05.060 Permitted Uses.** The following uses, defined in Chapter 17.02 - Definitions, are permitted in this overlay zoning district in accordance with the development standards and are added to the permitted uses provided in Chapters 17.06 - R-1 Residential District and 17.12 - R-BA Brisbane Acres Residential District of this title:

- A. Duplex dwellings.

**B. Dwelling groups of two primary dwelling units per lot.**

**17.05.070 Two Unit Developments without an Urban Lot Split.** A Two Unit Development on a lot of record that has not been split under the urban lot split provisions of this Chapter shall comply with the development standards provided in this section.

**A. Development Standards.** Where not expressly stated, the R-1 and R-BA zoning district development standards, set forth in Chapters 17.06 and 17.12, and ADU and JADU development standards set forth in Chapter 17.43, shall apply. For urban lot split development standards see Section 17.05.080.C.

1. **Number of dwelling units.** Development of up to four dwelling units may be built in the same lot area typically used for a single-family residence, without an urban lot split, as follows:

Development Scenario Options on a Single Lot without Urban Lot Split	Single Family Dwelling	Duplex Dwelling (two attached primary units")	Two-unit Dwelling Group (two detached primary units")	ADU	JADU	Total Dwelling Units
Type A.	NA	2				2
Type B.	NA		2			2
Type C.	NA	2		1		3
Type D.	NA		2	1		3
Type E.	NA	2		2		4
Type F.	NA		2	2		4
Type G.	NA		2	1	1	4

Notes:

1. NA: Not applicable. Development of a single-family dwelling on a lot of record may be permitted per the zoning district standards, provided in Chapter 17.06 and 17.12, without invoking the two unit overlay provisions.
2. See Chapter 17.43 for applicable development regulations for ADU's or JADU's..
3. Four units are the maximum that may be permitted on a lot.
4. If Types A through D are initially developed, one or two ADUs may later be added up to the maximum allowed, Types E or F, subject to the provisions of this Chapter.

2. **Primary Dwelling Unit Size.** Each of the primary dwelling units shall be permitted to be at least 800 square feet in floor area, regardless of the zoning district's lot coverage and floor area ratio (FAR) limits. For primary dwelling units over 800 square feet, the zoning district floor area standards shall apply; provided, however, this shall not preclude the option to construct smaller primary dwelling units in compliance with the state building code. The minimum floor area for each unit shall be as permitted by the state building code.

3. **Lot coverage.** The R-1 or R-BA district lot coverage limit shall apply except where it would preclude development of new primary units of 800 square feet, or retention of the lot coverage of an existing primary unit or addition of accessory dwelling unit, in compliance with the provisions of this Chapter and Chapter 17.43 of this Title.

4. **Side and Rear Setbacks.** Minimum side and rear setbacks for the primary dwelling units shall be 4 feet, except for the following:

- (a) Where the underlying district development standards allow for a lesser setback, the district standards shall apply.
- (b) No setback shall be required for an existing legal non-conforming structure, or a replacement structure constructed in the same location and to the same dimensions as an existing legal non-conforming structure.

5. Height of Primary Dwelling Units.

- (a) Where a primary dwelling unit utilizes the 4-foot side or rear setback allowance, for a reduced setback versus the district's setback, no portion of the building that is located in the area between the 4-foot setback and the district's setback minimum shall exceed 25 feet in height.
- (b) The maximum height of any primary dwelling unit on a ridgeline lot within the R-BA district, as defined in Section 17.02.695, shall be 25 feet, except for (i) an existing legal non-conforming structure, (ii) a replacement structure constructed in the same location and to the same dimensions as an existing legal non-conforming structure, or (iii) as approved by design review permit per Section 17.12.040.L.

6. Off-Street Parking.

(a) A minimum of one standard size, off-street parking space (uncovered or carport) for each primary dwelling unit shall be required (refer to Chapter 17.34 for parking space design standards). Garage parking space(s) shall not count towards meeting the minimum parking requirements.

(b) Shared driveways may be permitted to serve more than one dwelling unit, subject to approval by the City Engineer, based on finding that a shared driveway will not pose a hazard to public safety. See the definition of driveway in Section 17.02.220 of this title.

(c) Notwithstanding the parking requirements indicated above, no off-street parking shall be required if:

- (i) The lot is located within one-half mile walking distance of either a transit stop located in a high-quality transit corridor, as defined in Public Resources Code Section 21155(b), or a major transit stop, as defined in Public Resources Code Section 21064.3; or
- (ii) There is a designated parking area for one or more car-share facilities within one block of the lot.

**17.05.080 Urban Lot Splits.** The City may approve a parcel map for an urban lot split ministerially, subject to the procedures, requirements and development standards provided in this section.

**A. Ministerial Parcel Map Procedures.** The parcel map shall be prepared following the tentative map form and procedures provided in Chapter 16.16 - Tentative Map Procedures and Chapter 16.20- Final Map Procedures, except that the parcel map shall be approved by the City Engineer. The City Engineer shall have authority to waive specific requirements provided in Chapter 16.16 and Chapter 16.20, if the City Engineer deems the requirements inapplicable, given the site location or other characteristics.

**B. Ministerial Parcel Map Requirements.** A parcel map for an urban lot split shall meet the requirements of Chapter 16.16 and 16.20 of the Municipal Code, as deemed applicable by the City Engineer, and all of the following requirements:

1. The parcel map subdivides an existing lot of record to create no more than two legal lots of record of approximately equal lot area provided that one lot shall not be smaller than 40 percent of the lot area of the original lot of record proposed for subdivision.
2. Both newly created lots of record shall be no smaller than 1,200 square feet.
3. The zoning district lot width and depth dimension minimums shall not apply.
4. Flag lots may be approved. The flagpole portion, whether part of the flag lot or an easement on the flag lot, shall have a minimum width of 12 feet to accommodate a driveway, unless a lesser width is approved by the City Engineer. The location and dimensions of driveways are subject to approval by the City Engineer as set forth in Section 12.24.015.
5. Both parcels resulting from the urban lot split shall have access to, provide access to, or adjoin the public right-of-way through right-of-way frontage or recorded access easements.
6. The approved parcel map shall include a notation that the parcels were created using the Urban Lot Split provisions of this Chapter and the resulting parcels cannot be further subdivided under this Chapter.
7. The urban lot split conforms to all applicable objective requirements of the Subdivision Map Act, except as otherwise expressly provided in this Chapter.
8. The parcel being subdivided was not established through prior exercise of an urban lot split as provided for in this Chapter.
9. Neither the property owner of the parcel being subdivided nor any person acting in concert with the property owner has previously subdivided an adjacent parcel using an urban lot split as provided for in this Chapter.

**C. Development Standards for Urban Lot Splits.** Development on lots that have been split under this Chapter shall comply with the development standards provided in this section. Where not expressly stated, the R-1 and R-BA zoning district development standards, set forth in Chapters 17.06 and 17.12, and ADU and JADU development standards set forth in Chapter 17.43, shall apply.

1. Number of dwelling units. With an urban lot split, development of no more than four dwelling units may be built in the same lot area that would otherwise be used for a single-family residence, as shown in Tables a and b provided below. Note that Tables a and b are to be used together to detail possible development scenarios following an urban lot split. Table a provides various development scenarios that are possible on a single lot, following a lot split, as Types A through I. Table b shows how the scenario types may then be combined for the two resultant lots. For example, if one resultant lot is developed with three units (Types F, G, H or I), the second resultant lot may only be developed with a single family dwelling (Type A), for a maximum of four units on the two resultant lots.

a. Number and Types of Units- With Urban Lot Split

Development Scenario Options for Each Resultant Lot Following Split	Single Family Residence	Duplex	Two-unit Dwelling Group	ADU	JADU <sup>(2)</sup>	Total Units per lot
Type A	1					1
Type B	1			1		2
Type C	1				1	2
Type D		2				2
Type E			2			2
Type F	1			1	1	3
Type G		2		1		3
Type H			2	1		3
Type I			2		1	3

Notes:

- Urban lot splits may utilize a combination of buildout types A – H, provided that all of the following conditions are met: a) the total number of units does not exceed four across the two lots, b) each of the two lots is to be developed with at least one primary dwelling unit, and c) development of ADUs and JADUs shall comply with Chapter 17.43.
- JADU's are not permitted as a part of building that contains 2 or more units (i.e. duplex).

b. Lot Split - Resulting Lot Buildout Scenarios. The following table shows the total units that may be achieved by applying the development scenario options from Table 17.05.080.C.1.a to the two resultant lots.

		RESULTANT LOT 1 (Housing Unit Totals)								
RESULTANT LOT 2 (Housing Unit Totals)	Buildout Type (units)	Type A (1)	Type B (2)	Type C (2)	Type D (2)	Type E (2)	Type F (3)	Type G (3)	Type H (3)	Type I (3)
	Type A (1)	2	3	3	3	3	4	4	4	4
	Type B (2)	3	4	4	4	4	NP	NP	NP	NP
	Type C (2)	3	4	4	4	4	NP	NP	NP	NP
	Type D (2)	3	4	4	4	4	NP	NP	NP	NP
	Type E (2)	3	4	4	4	4	NP	NP	NP	NP
	Type F (3)	4	NP	NP	NP	NP	NP	NP	NP	NP
	Type G (3)	4	NP	NP	NP	NP	NP	NP	NP	NP
	Type H (3)	4	NP	NP	NP	NP	NP	NP	NP	NP
	Type I (3)	4	NP	NP	NP	NP	NP	NP	NP	NP

Note: NP: Not Permitted for the buildout scenario. Buildout scenario may not exceed four units.



2. Primary Dwelling Unit Size. Each of the primary dwelling units shall be permitted to be at least 800 square feet in floor area, regardless of the zoning district's lot coverage and floor area ratio (FAR) limits. For primary dwelling units over 800 square feet, the zoning district floor area standards shall apply; provided, however, this shall not preclude the option to construct smaller primary dwelling units in compliance with the state building code. The minimum floor area for each unit shall be as permitted by the state building code.

3. Lot coverage. The zoning district's lot coverage limit shall not apply where it would preclude development of new primary units of at least 800 square feet, retention of the lot coverage of an existing primary unit or addition of accessory dwelling unit, in compliance with the provisions of this Chapter and Chapter 17.43 of this Title.

4. Side and Rear Setbacks. Minimum side and rear setbacks for the primary dwelling units shall be four feet, except for the following:

(a) Where the underlying zoning district development standards allow for a lesser setback, the district standards shall prevail.

(b) No setback shall be required for an existing legal non-conforming structure, or a replacement structure constructed in the same location and to the same dimensions as an existing legal non-conforming structure.

5. Height of Primary Units.

(a) Where a primary dwelling unit utilizes the 4-foot side or rear setback allowance, for a reduced setback versus the district's setback, no portion of the building that is located in the area between the four 4-foot setback and the district's setback minimum shall exceed 25 feet in height.

(b) The maximum height of any primary dwelling unit on a ridgeline lot within the R-BA district, as defined in Section 17.02.695, shall be 25 feet, except for (i) an existing legal non-conforming structure, (ii) a replacement structure constructed in the same location and to the same dimensions as an existing legal non-conforming structure, or (iii) as approved by design permit per Section 17.12.040.L.

6. Off-Street Parking.

(a) A minimum of one standard size, off-street parking space (uncovered or carport) for each primary dwelling unit shall be required (refer to Chapter 17.34 for parking space design standards). Garage parking space(s) shall not count towards meeting the minimum parking requirements.

(b) Shared driveways may be permitted to serve more than one lot, subject to approval by the City Engineer, based on finding that the driveway will not pose a hazard to public safety. See the definition of driveway in Section 17.02.220 of this title.

(c) Notwithstanding the parking requirements indicated above, no off-street parking shall be required if:

- (iii) The lot is located within one-half mile walking distance of either a transit stop located in a high-quality transit corridor, as defined in Public Resources Code Section 21155(b), or a major transit stop, as defined in Public Resources Code Section 21064.3; or
- (iv) There is a designated parking area for one or more car-share facilities within one block of the parcel.

7. Deed Restriction. A property owner utilizing the provisions of this Chapter shall record a deed restriction, in a form acceptable to the City, that does the following:

- (a) Where applicable, documents that the lot split complies with the provisions of this Chapter and restrictions provided in Government Code section 66411.7.
- (b) Expressly prohibits any rental of any dwelling unit on the property or properties for a term of 30 days or less.

**17.05.090 Requirement for a Building Permit**

Demolition, alteration or construction of any building shall require building permit(s). All construction shall be in conformance with the most recent edition of the California Model Codes with any applicable Brisbane amendments.

**17.05.100 Notices**

Upon issuance of a building permit for a two unit development under Section 17.05.070 or a building permit following an urban lot split under Section 17.05.080, the City shall provide an informational notice to the property owners adjacent to and directly across the street from the subject site(s). The notice shall provide a brief description of the project and information on how to view approved plans.

**17.05.110 Condominiums**

Condominiums may be established for primary dwelling units in accordance with Chapter 17.30 - Condominiums. Establishment of condominiums shall be subject to ministerial approval by the Community Development Director, based on conformance with the applicable provisions of this chapter and Chapter 17.30.

**17.05.120 Findings of Denial.** The City may deny a two-unit housing development or urban lot split, based upon a preponderance of the evidence, that the proposed housing development would have a specific, adverse impact, as defined in Section 17.05.030.J.

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**RESOLUTION 2024-RZ-1**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BRISBANE  
RECOMMENDING CITY COUNCIL APPROVAL OF ZONING TEXT AND MAP AMENDMENT 2024-RZ-1  
AMENDING BRISBANE MUNICIPAL CODE TITLES 16 AND 17, TO AMEND SECTION 16.12.040 -  
TENTATIVE AND FINAL PARCEL MAP- EXCEPTIONS TO REQUIREMENTS, ADD CHAPTER 17.05  
RESIDENTIAL OVERLAY, TO PROVIDE FOR URBAN LOT SPLITS AND TWO-UNIT DEVELOPMENTS IN  
SINGLE FAMILY RESIDENTIAL ZONES, AND TO AMEND SECTION 17.02.235, TO ADD A DEFINITION FOR  
“PRIMARY DWELLING UNIT” OR “MAIN DWELLING”, AND TO AMEND SECTIONS 17.02.120 AND  
17.02.220 DEFINING CARPORTS AND DRIVEWAYS**

WHEREAS, Senate Bill 9 (“SB 9”), which amended Section 66452.6 of the Government Code and added Sections 65852.21 and 66411.7 to the Government Code, to allow for streamlined ministerial approval of two-unit development and urban lot splits within single-family zoned areas, was signed by the Governor of California on September 16, 2021; and

WHEREAS, these changes to the Government Code became effective on January 1, 2022; and

WHEREAS, SB 9 requires cities and counties, including the City of Brisbane, to ministerially approve a parcel map for an urban lot split and/or a proposed housing development containing a maximum of two primary residential units within a single-family residential zone, if the proposal meets certain statutory criteria; and

WHEREAS, SB 9 specifies that proposed projects and subdivisions cannot be proposed in prohibited locations under Government Code Section 65913.4(a)(6)(B)-(K) such as lands within an earthquake fault zone, federally designated flood plan, historic district or property, and high fire hazard severity zone as defined under state law; and

WHEREAS, SB 9 further restricts the standards and regulations that local agencies, including the City of Brisbane, may impose to only objective zoning, subdivision, and design standards that do not conflict with the statute and where those standards must not physically preclude a unit size of at least 800 square feet or qualifying urban lot split; and

Whereas, no parcel within the overlay district is located within one-half mile walking distance of either a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code, or within one block of a car share facility.

WHEREAS, the City seeks to regulate development pursuant to SB 9 through the implementation of regulations concerning duplex residential developments and urban lot splits; and

WHEREAS, pursuant to Section 65852.21(j) and 66411.7(n) of the Government Code, a local agency may adopt an ordinance to implement SB 9; and

WHEREAS, City Council adopted the revised 2023-2031 Housing Element (Housing Element) on May 18, 2023, which was subsequently certified by the California Department of Housing and Community Development; and

WHEREAS, the Housing Element includes Program 2.A.6, "Adopt implementing ordinance for ministerial duplex conversions and single-family lot splits as provided by Government Code Sections 65852.21 and 66411.7", and

WHEREAS, the draft ordinance attached as Exhibit A to this resolution proposes amendments to Title 16 and Title 17; and

WHEREAS, Exhibit B to this resolution proposes amendment to the zoning map to establish a new R-TUO Residential Two Unit Overlay District, to overlay the R-1 Residential District and the R-BA Residential Brisbane Acres District; and

WHEREAS, on May 9, 2024, the Planning Commission conducted a hearing of the application, publicly noticed in compliance with Brisbane Municipal Code Chapters 1.12 and 17.54, at which time any person interested in the matter was given an opportunity to be heard; and

WHEREAS, the Planning Commission reviewed and considered the staff memorandum relating to said application, and the written and oral evidence presented to the Planning Commission in support of and in opposition to the application; and

WHEREAS, adoption of this ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to California Government Code Section 15061(b)(1) & (3), Section 15183 relating to the implementation of the Housing Element, and because it involves code amendments pursuant to California Government Code Section 65852.21(j) and Section 66411.7(n) relating to the implementation of SB 9; and

NOW, THEREFORE, based upon the evidence presented, both written and oral, the Planning Commission of the City of Brisbane hereby RECOMMENDS that the City Council adopt the attached ordinance.

ADOPTED this ninth day of May, 2024, by the following vote:

AYES: Funke, Lau, Patel, and Sayasane

NOES: NA

ABSENT: Gooding

*Pamala Sayasane*  
PAMALA SAYASANE, Vice Chairperson  
for ALEX LAU, Chairperson

ATTEST:

*John Swiecki*  
\_\_\_\_\_  
JOHN SWIECKI, Community Development Director

DRAFT  
BRISBANE PLANNING COMMISSION  
Action Minutes of May 9, 2024  
Hybrid Meeting

ROLL CALL

Present: Commissioners Funke, Lau, Patel, and Sayasane  
Absent: Gooding  
Staff Present: Director Swiecki, Senior Planner Johnson, Associate Planner Robbins

CALL TO ORDER

Chairperson Lau called the meeting to order at 7:30 p.m.

ADOPTION OF AGENDA

A motion by Commissioner Sayasane, seconded by Commissioner Funke to adopt the agenda. Motion approved 4-0.

CONSENT CALENDAR

A motion by Commissioner Funke, seconded by Commissioner Sayasane to adopt the consent calendar. Motion approved 4-0.

ORAL COMMUNICATIONS

There were none.

WRITTEN COMMUNICATIONS

Chairperson Lau acknowledged written correspondence pertaining to New Business Items A and B

NEW BUSINESS

**A. PUBLIC HEARING: Zoning Text and Map Amendment 2024-RZ-1, R-1 Residential District and the R-BA Brisbane Acres Residential District in entirety;** recommendation to City Council on zoning text and map amendment 2024-RZ-1 amending regulations within Title 16 and 17 of the Brisbane Municipal Code to add the R-TUO residential two unit overlay district as new chapter 17.05 and related amendments; and finding that this project is exempt from environment review under CEQA Guidelines Sections 15061(b)(1) & (3), Section 15183; City of Brisbane, applicant.

Senior Planner Johnson presented staff report to the Commission.

Commissioner Sayasane asked about the pending court decision on SB 9 in the Los Angeles Superior Court and whether the City's decision on the ordinance should be postponed until after that ruling has further played out. Director Swiecki responded, noting that Brisbane's legal counsel had reviewed this matter and indicated that the decision is from a trial court in southern California and is only applicable to those specific charter cities. It would not be applicable to Brisbane which is a general law city. In response to an inquiry as to what would happen if SB9 was repealed or invalidated, Mr. Swiecki responded the City could amend its zoning regulations accordingly.

Commissioner Patel asked about whether there were notification procedures included in the draft ordinance. Staff responded that there were not, since lot splits and two-unit developments are to be ministerial, per SB 9. Mr Swiecki noted an informational notification could be provided.

Chairperson Lau opened the public hearing.

With no one wishing to address the Commission, a motion was made by Commissioner Patel and seconded by Commissioner Funke to close the public hearing. The motion was approved 4-0.

After discussion, a motion was made by Commissioner Patel and seconded by Commissioner Funke to approve the application, including an informational notification provision to adjacent property owners, via adoption of Resolution 2024-RZ-1. The motion was approved 4-0.

Chairperson Lau read the appeal procedure.

**B. PUBLIC HEARING: Zoning Text Amendment 2024-RZ-2, City-wide;** recommendation to City Council on omnibus zoning amendments to modify the development standards for multifamily and residential mixed use zoning districts consistent with California Senate Bill SB 478 ("housing opportunity act") and as provided in the 2023-2031 Housing Element for building heights, lot coverage and floor area ratios, and related amendments, including, but not limited to, organizational amendments and amendments to development regulation exceptions and Zoning Administrator procedures; and finding that this project is exempt from environment review under CEQA Guidelines Sections 15061(b)(3), Section 15183; City of Brisbane, applicant.

Senior Planner Johnson presented staff report to the Commission.

Senior Planner Johnson responded to the Commission's questions regarding the balance between lot coverage and the floor area ratio for multifamily developments that would have a 1.25 floor area ratio maximum, the process for Planning Commission appeals on Zoning Administrator items, the rationale for increasing the height limit to 36 feet, the difference between minor versus and major modifications, and the neighbor notification process for Zoning Administrator applications.

Chairperson Lau opened the public hearing.

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With no one wishing to address the Commission, a motion was made by Commissioner Patel and seconded by Commissioner Funke to close the public hearing. The motion was approved 4-0.

A motion was made by Commissioner Patel and seconded by Commissioner Sayasane to approve the application via adoption of Resolution 2024-RZ-2. The motion was approved 4-0.

Chairperson Lau read the appeal procedure.

#### ITEMS INITIATED BY STAFF

Director Swiecki noted the following:

1. County-wide planning commissioner training will be held at the end of May,
2. The City Council authorized staff to initiate the Bank of America planning process.
3. Jeremy Dennis was hired as the new City Manager.

#### ITEMS INITIATED BY THE COMMISSION

Commissioner Sayasane announced she registered for the commissioner training and invited the other members to join.

#### ADJOURNMENT

Chairperson Lau adjourned the meeting at approximately 8:44 p.m. to the next regular meeting of May 23, 2024.

Attest:

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John A. Swiecki, Community Development Director

NOTE: A full video record of this meeting can be found on the City's YouTube channel at [www.youtube.com/BrisbaneCA](http://www.youtube.com/BrisbaneCA), on the City's website at <http://www.brisbaneca.org/meetings>, or on DVD (by request only) at City Hall.



**PLANNING COMMISSION AGENDA REPORT**

**Meeting Date:** 5/9/2024

**From:** Ken Johnson, Senior Planner

**Subject:** **Zoning Map and Text Amendment 2024-RZ-1** – zoning text and map amendment 2024-RZ-1 amending regulations within Title 16 and 17 of the Brisbane Municipal Code to add the R-TUO residential two unit overlay district as new chapter 17.05 and related amendments; and finding that this project is exempt from environment review under CEQA Guidelines Sections 15061(b)(1) & (3), Section 15183; City of Brisbane, applicant.

**REQUEST:** To amend the zoning text provisions and zoning map, to add Chapter 17.05 to Title 17 of the Brisbane Municipal Code (BMC) establishing an overlay zoning district for urban lot split and two-unit developments within the single-family residential zoning districts, consistent with Senate Bill SB 9 (2021) and update related provisions in Title 16 and 17. The BMC chapters and sections to be amended are outlined below, under Applicable Code Sections.

**RECOMMENDATION:** Via adoption of Resolution 2024-RZ-1, recommend that City Council adopt Zoning Text and Map Amendment 2024-RZ-1, as provided in Exhibits A and B of Attachment A.

**ENVIRONMENTAL DETERMINATION:** The adoption of this ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to California Government Code Section 15061(b)(1) & (3), Section 15183 relating to the implementation of the Housing Element, and because it involves code amendments pursuant to California Government Code Section 65852.21(j) and Section 66411.7(n) relating to the implementation of SB 9 (2021). The exceptions requiring further review as might be necessary to examine a project specific significant effects does not apply.

**APPLICABLE CODE SECTIONS:** Procedures for zoning amendments are provided in BMC Chapter 17.50. The proposed updates for this amendment pertain to establishing an overlay zoning district providing for urban lot splits and two-unit developments within the single-family residential zoning districts, for the R-1 Residential District and R-BA Brisbane Acres Residential District, and related amendments. The following BMC chapters or sections are applicable to this amendment, with the proposed action indicated for each:

BMC Title 16:

- Section 16.12.040 - Tentative and final parcel map—Exceptions to requirements - amend.

BMC Title 17:

- Section 17.02.120 - Carport definition – amend.



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- Section 17.02.220 - Driveway definition – amend.
- Section 17.02.230 - Duplex definition - delete and include in the dwelling definition.
- Section 17.02.235 - Dwelling definition - amend.
- Section 17.04.010 - Establishment of Districts - amend to add the R-TUO Residential two unit overlay district.
- Chapter 17.05 - Residential Two Unit Overlay District – add.

Zoning Map – amend to add the R-TUO Residential Two Unit Overlay district.

Additionally, although not proposed for amendment as part of this ordinance, BMC Chapters 17.06 and 17.12 provide the R-1 and R-BA zoning provisions, which the new district would overlay. The R-1 and R-BA provisions would remain effective, except where specifically addressed within the overlay zoning.

**BACKGROUND:** California Senate Bill SB 9 (2021) was codified as Gov’t Code Sections 65852.21(j) and 66411.7(n). These codes became effective on January 1, 2022 and require jurisdictions statewide to permit two-unit primary dwellings in the single-family residential zoning districts on lots where one single-family dwelling would normally be permitted or for single-family lots to be split into two lots. For Brisbane, this is applicable to the R-1 Residential District and the R-BA Brisbane Acres Residential District.

Although property owners may invoke the provisions of SB 9, absent a City ordinance, the revised 2023-2031 Housing Element (Housing Element), adopted City Council and certified by the State in May 2023, includes a program for Brisbane to update its zoning ordinance to implement SB 9. That is:

*“Program 2.A.6: Adopt implementing ordinance for ministerial duplex conversions and single-family lot splits as provided by Government Code Sections 65852.21 and 66411.7.”*

State law also allows jurisdictions to adopt objective standards through local ordinance, so long as they would not preclude two unit developments that would otherwise comply with the law. This is discussed further in the next section.

Following adoption of the Housing Element, the Planning Commission held four workshops during their regularly scheduled public meetings, between June 2023 and February 2024 to discuss the implications of the provisions of a draft ordinance addressing SB 9, as well as other Housing Element related zoning amendments that are provided as a separate draft ordinance. The links to the workshop reports, minutes and videos are provided with the weblinks in Attachment C of this report.

**DISCUSSION:** As noted above, the purpose of this amendment would be to add Chapter 17.05 to Title 17, to establish the R-TUO Residential Two Unit Overlay District zoning and update the zoning map to show its limits, which extend over the entire R-1 Residential District and the R-BA Brisbane Acres Residential District. Related definitions within Chapter 17.02 would also be amended. The amendment to Title 16 – Subdivisions would provide a cross reference within the tentative and final parcel map exceptions section to the new Chapter 17.05, within Title 17. Attachment A provides the draft Planning Commission Resolution and draft zoning text and map amendments as Exhibits A and B. A redlined version of the draft ordinance is also provided as Attachment B.

The key provisions of draft ordinance are outlined as follows, by BMC section:

Section 17.05.030 Definitions: This section provides a number of definitions that are generally taken from state law and are specific to the new overlay district chapter. Additional updates are also provided within Chapter 17.02 - Definitions that have broader applicability, beyond the overlay district. A few of the key definitions are as follows:

*“Two-unit Development’ means a proposed housing development that contains two primary dwelling units on a single lot.”*

*“Urban Lot Split’ means a subdivision of an existing lot of record in a single-family zoning district into no more than two separate legal lots, which subdivision satisfies all of the criteria and standards set forth in this Chapter and Government Code Section 66411.7.”*

A cross reference is also provided to Section 17.02.235.G, to add a definition for primary unit, *“Primary dwelling unit’ or ‘Main Dwelling’ means a dwelling unit that is not an accessory dwelling unit or a junior accessory dwelling unit.”*

The ordinance, consistent with state law, allows for two “primary units” on an existing lot of record, or, as an alternative, the lot may be split and up to two primary units may be located on each of the two resultant lots. Accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) may also be permitted, but the total number of units for primary units, ADUs and JADUs may not exceed four for the original lot area. Further discussion of the potential lot configurations is provided below.

Section 17.05.040 - Eligibility and Section 17.05.050 - Anti-displacement/Eligibility Criteria: These two sections in the draft ordinance outline a number of criteria for eligibility and may be referenced in their entirety in the Attachment A or B. The provisions limit the lots that may be eligible to those that are within the two single family residential zones, those that are not in wetlands or where there is habitat for protected species, among other requirements. The provisions, in accordance with state law, are also to protect tenants from evictions.

Section 17.05.060 Permitted Uses: This section identifies duplex dwellings and dwelling groups as permitted uses, which otherwise would not be permitted in the R-1 or R-BA districts. A duplex is comprised of two primary dwelling units attached within a single building with shared wall(s) or ceiling, whereas a dwelling group is comprised of detached primary dwelling units. The underlying R-1 and R-BA district zoning would also still allow for single family dwellings, ADUs and JADUs, as it currently does.

Section 17.05.070 Two Unit Developments without an Urban lot Split: This section details the development standards for a lot developed with two primary units without splitting the lot. The following table is excerpted from the draft ordinance and provides the various development scenarios:

Development Scenario Options on a Single Lot without Urban Lot Split	Single Family Dwelling	Duplex Dwelling (two attached primary units")	Two-unit Dwelling Group (two detached primary units")	ADU	JADU	Total Dwelling Units
Type A.	NA	2				2
Type B.	NA		2			2
Type C.	NA	2		1		3
Type D.	NA		2	1		3
Type E.	NA	2		2		4
Type F.	NA		2	2		4
Type G.	NA		2	1	1	4

Single family dwellings are shown on this table as not applicable (NA), since the overlay district provisions do not apply to the development of a single family dwelling (SFD) on a lot of record in either the R-1 or R-BA zoning district. Also, by current State and City provisions, only one JADU may be built on a lot and it must be attached to one of the two-unit dwelling group structures, City regulations do not allow the development of a JADU in conjunction with a duplex or multifamily building. ADU and JADU provisions are further provided in Chapter 17.43 - Accessory Dwelling Units and Junior Accessory Dwelling Units and would not be amended with this ordinance. Current ADU and JADU provisions allow for an ADU to be attached or detached to a SFD on a single lot. A JADU may be permitted in addition to an ADU, but it must be attached to the SFD and the ADU must then be detached, per Chapter 17.43.

Some other key provisions are as follows:

- Per State law, the City must allow primary dwelling units to be 800 square feet in floor area. However, this would not preclude the owner from developing a larger primary unit,

if it complies with the underlying district floor area ratio (FAR) limits. It would also not preclude the owner from developing to a smaller floor area, as long as it is in compliance with the California Building Code (CBC).

- Per State law, minimum side and rear setbacks would be 4 feet from the lot line. This is a reduction in the required district setbacks for many lots, except in the R-1 district where the side lot line would normally be required to be only 3 feet for lots of 30 feet in width or less.
- In cases where the 4 foot setback would be less than the underlying district standard setback, an objective standard for height of 25 feet is proposed. Note that this height is suggested by staff to be the same as recently adopted state law for ADU heights, which may also have 4 foot setbacks. This same objective standard would apply to any primary unit on an R-BA ridgeline lot, since the design permit provisions for ridgeline lots would not apply in the case of a two unit development using the overlay standards. This would be a reduction from the current district height limit of 35 feet in the R-BA district and the 30 height limit in the R-1. (Note that the draft ordinance 2024-RZ-2, which the Commission will hear separately, would raise the underlying district heights to 36 feet.)
- Each primary dwelling unit would be required to have a minimum of one standard size off-street parking space. That may be uncovered or covered by a carport. Garage parking may also be provided, as an owner's option in addition to the minimum parking, but it may not count toward meeting the required parking. The provision of not counting garage parking toward the minimum requirement is proposed as a result of Planning Commission concerns raised about the use of garage spaces for other uses besides parking, such as storage, and the limited number of street parking spaces in many of the R-1 residential neighborhoods. Note that JADU or ADU off-street parking is generally not required, with some exceptions depending on distance to public transportation.
- Shared driveways may also be permitted, given the proposed amendment to the driveway definition, but where parking is required for the different units, they must be independently accessible (i.e. not in tandem with another unit).
- Short term rentals would not be permitted for any of the units on the lot.

17.05.080 Urban Lot Splits: Under state law, an alternative to developing two primary units, plus up to two ADUs or an ADU and JADU, for four units total on a single existing lot, is to split the lot into two lots of similar size and then develop up to four units across both lots. This is subject to a number of requirements to allow for ministerial approval of a parcel map to split a property, as

outlined in the draft ordinance. In such cases, the development scenarios may include two units on each lot, or three units on one lot and one on the other. That may include either one or two primary units on a resultant lot following a lot split. That's the same total potential unit count as without a lot split as described above, but there are some additional provisions that would apply.

The various development scenarios are provided in Tables a and b in Section 17.05.080.C.1 of the draft ordinance (see Attachment A). Table a shows the development potential on a single lot after an urban lot split and Table b shows how the development on the two lots may then be combined, to not exceed four units. The two tables are designed to be used together. The draft development provisions are further provided in Section 17.05.080.C and some of the key provisions are outlined as follows:

- All of the development provisions and use restrictions outlined above for two unit developments would be applicable to urban lot splits.
- For an urban lot split, both resultant lots must be at least 1,200 square feet.
- The size difference between the two resultant lots must be in the proportion range of 50:50 to 40:60, so they would be near the same size.

Procedurally, whether as a two unit development or pursuant to an urban lot split (following ministerial parcel map approval), development using the overlay district provisions would be effectuated through the building permit process and the single property or resultant two properties would have a deed restriction, on a form acceptable to the City, that would detail the various restrictions on the property. That would be recorded with the County and carry with the land.

This draft ordinance was provided to the Public Works Director/City Engineer, Building Department, North County Fire Authority and City's Legal Counsel and comments have been incorporated.

Finally, correspondence received from the public prior to publication of this report are included in Attachment D. One such correspondence outlines a recent ruling by a Los Angeles Superior Court judge's ruling on SB 9 (Attachment D). The correspondent requested that any hearing and decision on this zoning and map amendment be postponed. Planning staff consulted with the City's Legal Counsel, Michael Roush, who indicated that the decision is from a trial court in Southern California that concerns just five cities and has no binding effect on other trial courts or other cities. Also, the cities in question are charter cities, not general law cities, such as Brisbane, and the decision hinged on that SB 9 conflicts with the land use authority of those cities under their charters. As such, the decision is not relevant to SB 9 as it applies to the City of Brisbane.

Any comments received after publication will be provided to the Commission separately.

Q.

2024-RZ-1  
May 9, 2024 Meeting

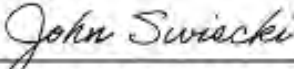
**ATTACHMENTS:**

- A. ~~Draft Resolution 2021-RZ-1~~
  - ~~Exhibit A -Draft ordinance, zoning text amendment~~
  - ~~Exhibit B - Draft zoning map amendment~~
- B. ~~Redlined copy of proposed zoning text amendments~~
- C. Workshop links:
  - a. February 22, 2024 ([Memorandum to PC](#)) ([Minutes](#))
  - b. December 5, 2023 ([Memorandum to PC](#)) ([Minutes](#))
  - c. October 26, 2023 ([Memorandum to PC](#)) ([Minutes](#))
  - d. June 8, 2023 ([Memorandum to PC](#)) ([Minutes](#))
- D. ~~Public Correspondence~~

See as separate attachments to the City Council agenda report of 6/6/24.



Ken Johnson, Senior Planner



John Swiecki, Community Development Director

Q.

**ATTACHMENT 7**

**Sent:** Saturday, April 27, 2024 11:14 AM

**To:** Padilla, Ingrid <[cityclerk@ci.brisbane.ca.us](mailto:cityclerk@ci.brisbane.ca.us)>

**Subject:** Article about SB9 and rezoning

Hi Ingrid - Could you please share this article as soon as possible with the Brisbane City Council, the Brisbane Planning Commission, our attorney, Tom McMorrow, Planning Staff and the City Manager?

I am requesting that we postpone making any decisions or holding hearings on Zoning Text and Map Amendment 2024-RZ-1. This rezoning will have a very severe impact on Brisbane.

Thank you.

Respectfully, Michele Salmon

Q. SINGLE-FAMILY ZONING LAW

# Ruling could upend housing

## Judge overturns law that allows splitting properties

BY KATE TALERICO

[KTALERICO@BAYAREANEWSGROUP.COM](mailto:KTALERICO@BAYAREANEWSGROUP.COM)

A controversial housing law that abolished single-family zoning across California has been ruled unconstitutional by a Los Angeles County judge, but the narrow ruling is likely to be appealed by the state and it's unclear how it might affect the Bay Area.

Passed in 2021, Senate Bill 9 allows single-family homeowners to split their lots in two and build two homes on each lot — allowing up to four units in a lot previously zoned for just one.

Five Southern California cities — Redondo Beach, Carson, Torrance, Whittier and Del Mar — sued the state in 2022, claiming the law was unconstitutional because it interfered with local authority over land use and zoning.

The Los Angeles County Superior Court judge's ruling, issued Monday, means that SB 9 can't be applied in these five cities. The judge is expected to produce a ruling in the next month that could strike down SB 9 in cities across the state.

What will happen in the Bay Area remains to be seen. For now, legal experts say SB 9 still applies. But if the ruling next month applies more widely, the law could be struck down in what are known as charter cities, those that have authority over municipal affairs, even when they might be at odds with a state statute. California has more than 120 charter cities, including Oakland, San Jose and San Francisco, meaning SB 9 could be upended in the region's three largest cities.

The attorney general's office said it is reviewing the decision and “will consider all options in defense of SB 9.”

Housing advocates worry that the court ruling chips away at a key piece of legislation intended to increase density around the state.

“The writing is on the wall for this particular court ruling to upend future SB 9 processing,” said Rafa Sonnenfeld, policy director at the San Francisco-based pro-housing group YIMBY Action.



Q. C Davis law professor Chris Elmendorf called it “the most ridiculous opinion that any court has issued in a housing-related case.”

At the heart of the case is local authority and what gives the state the right to usurp control. In California, the constitution requires that state laws stepping on cities’ local control must show a reasonable relationship between the stated intention and the design of the law.

In the case of SB 9, that stated intention was improving housing affordability.

The dominant theory in housing policy in recent years is that the state’s decadeslong undersupply of housing has pushed up the cost of rent and homeownership and that building more housing — both market-rate and subsidized — will improve affordability. That was reflected in SB 9’s design, which allows for more homes to be built via lot splits. In contrast to state-subsidized affordable housing or deed restrictions that cap rent, the affordable housing created through SB 9 would be what housing policymakers call “naturally occurring.”

But the judge, Curtis Kin, ruled that the legislature’s intention — housing affordability — didn’t match up with the design. Because SB 9 doesn’t require any of the units constructed to actually be below-market-rate, it was not “reasonably related and sufficiently narrowly tailored” to ensuring access to affordable housing, and therefore unconstitutional.

The judge’s opinion echoed critics’ doubts that increasing supply actually boosts affordability.

“The decision confirms that most of these so-called housing affordability laws are a sham and won’t result in much-needed affordable housing,” said Susan Candell, a Lafayette city councilmember and proponent of the Our Neighborhood Voices initiative, which seeks to return local land-use decisions back to cities.

“In Redondo Beach, we support laws that reasonably address the crisis in affordable housing, but this isn’t one of them,” City Attorney Michael Webb said. “This would just create more market rate housing.”

The opinion is a victory for CalCities, a group lobbying on behalf of the state’s cities, which submitted an amicus brief arguing that SB 9 has stripped cities of their discretion to determine the location, density and site characteristics of housing without ensuring the construction of more affordable housing units.

“The court’s ruling reaffirms the foundational principle that land use planning and zoning are local matters,” League of California Cities Executive Director and CEO Carolyn Coleman said in a statement.

But pro-housing advocates say the judge’s ruling relies on a narrow definition of housing affordability.

Q. It's clear that the legislature intended for 'affordable housing' to mean the naturally affordable housing that happens with more production," Sonnenfeld said. "But the ambiguity over the phrase 'affordable housing' is unfortunately causing some confusion in the courts. That could be easily fixed by the legislature."

Ben Bear, CEO of BuildCasa, a startup that helps homeowners split their lots under SB 9 and sell them to developers, said SB 9 enables housing affordability by increasing supply of small starter homes, "which makes all housing more affordable through the chain reaction effect."

"We've seen that SB 9 units can sell for 30%-50% less per unit than other single-family homes due to increased density," Bear said.

Advocates hope the legislature revives an SB 9 clean-up bill proposed last year by Sen. Toni Atkins, a San Diego Democrat, that could also clarify the law's intention and resolve the judge's concerns.

Even Candell of the Lafayette City Council acknowledged that a simple cleanup to SB 9 could render the Los Angeles Court's decision moot.

"We've lost the war," she said. "We can't undo all these laws one by one."

To the Planning Commission  
 From: Dana Dillworth  
 R: Zoning Amendments RZ-2024-1 and RZ-2024- 2  
 May 9, 2024

Don't pass these changes without asking for further studies to disclose these plans' full impacts.

Where is the map? It didn't print out. I only see text.

Rezone the whole town, with a multiplying, quadrupling effect of housing impacts, including the Brisbane Acres, with no study? No infrastructure studies, no hillside stability studies, no commercial safety set-back rules, no natural rivers assessment, no habitat studies, no nothing?

**This cannot be in balance with our General Plan because it is not balanced with the other elements and community goals in our General Plan.**

Where are the other city commissions and committees weighing in on quadrupling requirements for their areas of concern? Like more open space and mitigations for environmental impacts requiring native plant plantings, net-zero and solar orientation of buildings, stream setbacks, rainwater systems, etc? How about requirements for recreation and community-building opportunities per capita? Pocket gardens. Where is Open Space being mapped or do we accept 1-foot wide planters for Open Space? Where are the safety features like wildfire suppression zoning? Where's the Art Commission weighing in on 40 square foot walls as an opportunity for art or native plantings vs. fenestration through your ministerial housing-only myopic requirements?

What happened to disclosing known hazards (prior land slides at Kings and Humboldt, Harold, and Old County Road below Tulare) and new conditions of recent slides (Glenn and Buckeye Canyons) that make blanket rezoning unsafe. When do you disclose streets that are unable to handle the quadruple traffic or machinery needed for gouging the hillside?

While these documents incorporate the meetings that were presented to the public as study sessions, the impacts of these changes have never been studied by professionals. If it has been studied, please provide the report and its authors. Public comments both at the planning commission and city council level for housing element revisions included requests for studies for sea-level rise, hill and slope stability, rare and endangered species habitat restoration programs, programs to mitigate loss of solar when your neighbor's project shadows your panels, and review of toxins, should all be incorporated (by reference) into this document, including my recent comments to council about re-zoning Crocker Park and Sierra Point for housing.

Absent full knowledge or disclosure of the safety and environmental issues puts the public at risk. For this reason I object to the use of a Zoning Administrator substituting for an openly, noticed planning meeting process. An assigned regulator cannot know the nuances in this town without you disclosing them at this time. Particularly, the Brisbane Acres requirement of 60% habitat preservation; I don't see the lands contractually dedicated for Open Space mapped properly.

Your admission is that this is piecemeal. Stop. You have further revisions pending which includes unlimited heights... Can we see/study all of the impacts of all the new California laws? CEQA requires us to evaluate future and potential projects. I see no mention here. You have not provided adequate information nor proper studies to continue this zoning plan.

Q.

Some other disturbing facts is that his disallows Air b'n b uses. I know this is a contentious issue and represents an unlawful taking to citizens that have abided by the city's onerous regulations and if the intent for this passage is to provide for low- and moderate-income housing... it will not. Focus on that, the city's responsibility to all citizens AND the environment, not undermining the fabric and safety of our town to speculators.

**File Attachments for Item:**

R. Consider Introduction of an Ordinance Approving a Zoning Text Amendment 2024-RZ-2, City-wide

(It is being recommended to introduce an ordinance approving omnibus zoning amendments to modify the development standards for multifamily and residential mixed use zoning districts consistent with California Senate Bill SB 478 (“housing opportunity act”) and as provided in the 2023-2031 Housing Element; and finding that this project is exempt from environmental review under CEQA Guidelines Sections 15061(b)(3), Section 15183)



**CITY COUNCIL AGENDA REPORT**

**Meeting Date:** June 6, 2024

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

**Subject: Zoning Text Amendments to Title 17 – Omnibus Zoning Amendments** to modify the development standards for multifamily and residential mixed use zoning districts consistent with California Senate Bill SB 478 (“housing opportunity act”) and as provided in the 2023-2031 Housing Element for building heights, lot coverage and floor area ratios, and related amendments, including, but not limited to, organizational amendments and amendments to development regulation exceptions and Zoning Administrator procedures; and finding that this project is exempt from environment review under CEQA Guidelines Sections 15061(b)(3), Section 15183; City of Brisbane, applicant.

**COMMUNITY GOAL/RESULT**

Safe Community - Residents and visitors will experience a sense of safety.

**PURPOSE**

To amend the zoning text provisions in a number of Chapters in the Brisbane Municipal Code (BMC), consistent with the revised 2023-2031 Housing Element goals, policies and programs.

**RECOMMENDATION**

Introduce the ordinance amending the zoning text as provided in Attachment 1.

**BACKGROUND**

On May 18, 2023, City Council adopted the revised 2023-2031 Housing Element (Housing Element) and it was subsequently certified by the California Department of Housing and Community Development (HCD). It includes goals which are applicable to this ordinance, along with related policies and implementation programs. Goals 2 and 7 are:

*“Facilitate and support the production of housing at all income levels, but especially affordable housing.”*

*“Avoid unreasonable government constraints to the provision of housing.”*

Additionally, California Senate Bill SB 478 (2021) was codified as Government Code Section 65913.11 and became effective on January 1, 2022. It requires that a local agency allow minimum floor area ratios (FARs) of at least 1.0 for 3 to 7 unit developments and 1.25 for 8 to 10 unit developments.

The Planning Commission held workshops on June 8, 2023 and February 22, 2024 regarding the proposed amendment. In the workshops it was suggested that the Housing Element Program 2.A.12, which calls for raising the height limits to 36 feet, should be extended to the single family zoning districts, to provide for equity across the various residential districts. It was also suggested that the floor area ratio standards for multifamily developments of three or more units should be consistent.

On May 9, 2024, the Planning Commission held a public hearing and, by a vote of 4-0, recommended that City Council adopt the proposed ordinance. The Planning Commission resolution, draft minutes and agenda report are provided in Attachments 3, 4 and 5. Public correspondence to the Commission is provided in Attachment 6.

**DISCUSSION:**

The ordinance updates the residential zoning regulations as provided in the Housing Element programs, provides for reorganization of certain sections, and updates and clarifies procedural requirements for planning permits. The draft ordinance is provided as Attachment 1 and a redlined version is provided as Attachment 2. The redlined version shows only proposed substantive amendments and does not show redlines for edits that were made for reorganizational purposes.

In summary, the amendments provided in the draft ordinance are as follows:

- Update development standards for the residential districts and exceptions to development standards to tables, for clarity and ease of use.
- Single family zoning districts (R-1 and R-BA), to increase the maximum height of 28 feet or 30 feet, depending on the slope of the lot, to a maximum of 36 feet.
- Multifamily zoning districts (R-2 and R-3) and mixed-use districts that allow multifamily development (NCRO-2 and SCRO-1), to increase the height maximums to 36 feet. The R-2 and R-3 districts currently allow for heights up to 28 or 30 feet and the NCRO-2 and SCRO-1 allow for 35 feet. The FAR for these districts would also be increased from 0.72 to

1.25, along with related SB 478 provisions, including that the lot coverage limit may not preclude development to the 1.25 FAR.

- The exceptions to the development regulations that are currently provided in Chapter 17.32 - General Use Regulations, would be reorganized and made a new chapter “Chapter 17.47 - Exceptions to District Development Regulations”. Aside from reorganization, a few notable amendments within that new chapter are that, 1) requests for reasonable accommodations would become an administrative review through the building permit process, 2) other types of setback and height exceptions would have some updates as illustrated in the redlined ordinance 3) the procedures for requests for modification of an exception would be normalized to require zoning administrator review.
- Both Chapter 14.46 - Variances and Section 17.42.070 - Amendment of Design Permit – Minor Modifications would have minor updates for clarity.
- Chapter 17.52 - Appeals would be updated to provide for more structure and consistency to the time periods and process. Currently, various appeals timeframes are provided in Title 17 for different applications. While this update is not an attempt to address all of these, it would serve as a start for greater consistency. Where another section of Title 17 provides a different appeal period, it would prevail. Otherwise, the appeal periods would be as provided on Chapter 17.52.
- Finally, Chapter 17.56 - Zoning Administrator would be retitled from Administration to Zoning Administrator, to more accurately reflect its contents. The amendment would update the list of application types subject to zoning administrator approval. It also further updates and fleshes out the procedures for evaluating and hearing proposed modifications to planning permits into three types, 1) substantial conformance, 2) minor modification 3) major modification. Note that major modifications would be subject to review and approval by the original decision-making body, while minor modifications would be subject to Zoning Administrator review.

Correspondence received prior to the Planning Commission hearing was duly considered by the Commission and is provided for reference in Attachment 6.

**FISCAL IMPACT**

None.

**MEASURE OF SUCCESS**

To provide clear provisions in the BMC.



**ATTACHMENTS**

1. Draft Omnibus Ordinance
2. Redlined Draft Ordinance
3. Planning Commission Resolution 2021-RZ-2
4. Draft Planning Commission Meeting Minutes, May 9, 2024
5. Planning Commission Agenda Report, May 9, 2024
6. Correspondence

*John Swiecki*  
\_\_\_\_\_  
John Swiecki, Community Development Director

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

**DRAFT ORDINANCE NO. \_\_\_\_**  
**AN ORDINANCE OF THE CITY OF BRISBANE**  
**AMENDING BRISBANE MUNICIPAL CODE TITLE 17 – OMNIBUS ZONING AMENDMENTS**  
**TO MODIFY THE DEVELOPMENT STANDARDS FOR MULTIFAMILY AND RESIDENTIAL MIXED USE**  
**ZONING DISTRICTS CONSISTENT WITH CALIFORNIA SENATE BILL SB 478 (“HOUSING OPPORTUNITY**  
**ACT”); FOR ADMINISTRATIVE RESTRUCTURING OF THE DEVELOPMENT STANDARDS SECTIONS FOR THE**  
**RESIDENTIAL ZONING DISTRICTS; TO CLARIFY THE REVIEWING AUTHORITY FOR DESIGN PERMIT**  
**MODIFICATIONS IN CHAPTER 17.42 AND VARIANCES IN CHAPTER 17.46; CREATE A SEPARATE**  
**CHAPTER AND UPDATE EXCEPTIONS TO THE DISTRICT DEVELOPMENT REGULATIONS AS A NEW**  
**CHAPTER 17.47; TO UPDATE THE APPEALS PROCEDURES IN CHAPTER 17.52; AND RE-TITLE AND**  
**UPDATE THE ZONING ADMINISTRATOR PROCEDURES IN CHAPTER 17.56.**

**SECTION 1: Section 17.02.065 - Outside Wall is hereby deleted in its entirety.**

**Section 2: New Section 17.02.785 - Wall, is added to read as follows:**

17.02.785 - Wall.

“Wall” means a vertical structure that encloses or divides an area of land or interior spaces of a building. See also the definition of retaining wall in Section 17.02.690 of this Chapter. A wall, as provided in the following sub-definitions, is part of a building or structure and is not a fence. Fence is defined in Section 17.02.300 and provided in Section 17.47.050.B.

- A. "Outside wall" means any wall that defines the exterior boundaries of a building or structure, including the following:
  - a. Front outside wall – generally that wall or walls parallel to the front lot line
  - b. Rear outside wall – generally that wall or walls parallel to the rear lot line
  - c. Side outside wall – generally that wall or walls parallel to the side lot line
- B. "Exterior (front, rear or side) outside wall" means a front, rear or side outside wall generally parallel to a street.
- C. "Interior (front, rear or side) outside wall" means a front, rear or side outside wall other than an exterior side outside wall.
- D. “Inside Wall” or “Interior Wall” means a wall that is inside the boundaries of a structure, that is not an outside wall.

**SECTION 3: Section 17.06.040 - Development Regulations, of Chapter 17.06 - R-1 Residential District, is amended to read as follows:**

**17.06.040 - Development regulations.**

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

**(Subsections A- I combined to amended Subsection A.)**

A. Table 17.06.040.A: R-1 District Development Regulations

Type	Description	Single-family Dwelling	Exceptions and Notes
Density of Development – maximum		1 DU/5,000 square feet	A single-family dwelling may be constructed on a lot of record with an area of less than 5,000 square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.47.030
Lot Dimensions	Lot Area – minimum	5,000 square feet	Exceptions to Lot area, lot dimensions and lot lines. See Chapter 17.05 of this title for urban lot split and two-unit development provisions.
	Lot Width - minimum	50 feet	
	Lot Depth - minimum	100 feet	
Setback minimums	Front: For dwellings and structures, except garages and carports.	15 feet for lots with a slope of less than 15 percent; or  10 feet for lots with a slope of 15 percent or greater; or  Where 50 percent or more of the lots of record in a block have been improved with single-family dwellings, the average distance of the front outside wall of the single-family structures from the front lot line on the same side of the street, if less than 10 or 15 feet, as otherwise applicable.	That portion of the structure that is subject to this setback exception (within the district standard setback area) shall not exceed 20 feet in height measured from finish grade.
	Front: For garages and carports.	10 feet	See exception allowing for lesser setback by City Engineer approval in Section 17.47.050
	Side: For dwellings and structures on lots greater than or equal to 50 feet wide .	5 feet	See setback exceptions in Chapter 17.47. Does not apply to garages and carports accessed from a street or alley.
	Side: For dwellings and structures on lots less than 50 feet wide, except garages and carports accessed from a street or alley.	10 percent of the lot width, but not less than 3 feet.	See setback exceptions in Chapter 17.47
	Side: For garages or carports accessed from a street or alley along that side of the lot.	10 feet	See exception allowing for lesser setback by City Engineer approval in Section 17.47.050
	Rear	10 feet	See exceptions in Chapter 17.47, including decks and an allowance for a lesser setback for garages and carports on through lots, by

Type	Description	Single-family Dwelling	Exceptions and Notes
			City Engineer approval, in Section 17.47.050.
Coverage	Lot Coverage	40 percent of lot area	See lot coverage definition in Section 17.02.495.
Floor Area	Floor Area Ratio: For lots greater than three thousand seven hundred (3,700) square feet.	0.72	See definition of floor area and floor area ratio in Section 17.02.315.
	Floor Area Ratio: For lots less than or equal to three thousand seven hundred (3,700) square feet	0.72, plus up to 200 square feet for a garage parking space	
Height	Height of dwellings and structures, if not within the setback areas and at least 15 feet from the front lot line.	36 feet	See the definition of height in Section 17.02.400.  See various exceptions in Chapter 17.47.  See the exception for garages in the front setback in Table 17.47.050.A
	Height of dwellings and structures for the area within 15 feet of the front lot line, where less than a 15 foot setback is permitted.	20 feet above finish grade	
	Height of garages and carports when permitted within the front setback area	15 feet above the elevation of the center of the adjacent street when permitted by Section 17.47.050 of this title.	
Articulation	Front: outside walls greater than 20 ft by 20 ft	30 percent	Articulation requirements are as a cumulative area. See definition of articulation in Section 17.02.050 and the definitions of outside walls, interior and exterior side outside walls in Section 17.02.065 of this title.  Exempt from articulation requirements: <ul style="list-style-type: none"> <li>• Single story 1 and 2 car garages.</li> <li>• Accessory structures not exceeding a floor area of 120 square feet.</li> <li>• Walls that are smaller than those listed in this table.</li> </ul>
	Side: exterior side outside walls greater than 20 ft by 20 ft on greater than or equal to 40 ft wide lots	20 percent	
	Side: interior side outside walls greater than 20 ft by 20 ft	NA	
	Rear: Rear outside wall greater than 20 ft by 20 ft	30 percent	
Landscaping	Front Setback Area for lots with greater than or equal to 30 ft front lot line (minimum)	15 percent	New and rehabilitated, irrigated landscapes are subject to the provisions of the water

Type	Description	Single-family Dwelling	Exceptions and Notes
	Rear of newly constructed main structure on a downslope lot	Screened with trees and shrubs in accordance with a landscape plan approved by the planning director	conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

Note: See also, Chapter 17.47 - Exceptions to District Development Regulations.

- B. Nonconforming Residential Structures and Uses. Nonconforming residential structures and nonconforming residential uses, as defined in Section 17.02.560, may be repaired, restored, reconstructed, enlarged or expanded in accordance with the provisions of Chapters 17.38 and 17.34 of this title.
  
- C. Recycling Area Requirements. For new subdivisions containing an area where solid waste is collected and loaded in a location which serves five (5) or more living units, adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided to serve the needs of the living units which utilize the area. This requirement shall also apply to all institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.

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**SECTION 4: Section 17.08.040. - Development Regulations, of Chapter 17.08 - R-2 Residential District, is amended to read as follows:**

**17.08.040 - Development regulations.**

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

**(Subsections A - I combined to amended Subsection A.)**

- A. Table 17.08.040.A: R-2 District Development Regulations

Type	Description	Single-family Dwelling	Two-units	Multi-family (three or more primary dwelling units)	Exceptions and Notes
Density of Development – maximum		1 DU/2,500 square feet			Except a lot having an area of 4,950 square feet or greater shall be considered conforming for a development density of two units.
Lot Dimensions	Lot Area – minimum	5,000 square feet	4,950 square feet	No Requirement for lot of record	
	Lot Width - minimum	50 feet	50 feet		
	Lot Depth - minimum	100 feet	100 feet		
Setback minimums	Front: For dwellings and structures, except garages and carports.	15 feet for lots with a slope of less than 15 percent; or  10 feet for lots with a slope of 15 percent or greater; or  Where 50 percent or more of the lots of record in a block have been improved with single-family dwellings, the average distance of the front outside wall of the single-family structures from the front lot line on the same side of the street, if less than 10 or 15 feet, as otherwise applicable.			That portion of the structure that is subject to this setback exception (within the district standard setback area) shall not exceed 20 feet in height from finish grade. See height definition in section 17.02.400.
	Front: For garages and carports.	10 feet			See exception allowing for lesser setback by City Engineer approval in Section 17.47.050
	Side: For dwellings and structures on lots greater than or equal to 50 feet wide except garages and carports accessed from a street or alley.	5 feet			See setback exceptions in Chapter 17.47
	Side: For dwellings and structures on lots less than 50 feet wide, except garages and carports accessed from a street or alley.	10 percent of the lot width, but not less than 3 feet.			See setback exceptions in Chapter 17.47
	Side: For garages or carports accessed from a street or alley along that side of the lot.	10 feet			See exception allowing for lesser setback by City Engineer approval in Section 17.47.050
	Rear	10 feet			See exceptions in Chapter 17.47, including decks and an allowance for a lesser setback for garages and carports on through lots, by City Engineer approval, in Section 17.47.050.

Type	Description	Single-family Dwelling	Two-units	Multi-family (three or more primary dwelling units)	Exceptions and Notes
Coverage	Lot Coverage	50 percent of lot area			See lot coverage definition in Section 17.02.495. Lot coverage over 50 percent may be approved by the planning director, if required to meet the 1.25 FAR for developments of 3 or more units on a lot.
Floor Area	Floor Area Ratio: For lots greater than three thousand seven hundred (3,700) square feet.	0.72	0.72	1.25	See definition of floor area and floor area ratio in Section 17.02.315.
	Floor Area Ratio: For lots less than or equal to three thousand seven hundred (3,700) square feet	0.72, plus up to 200 square feet for a garage parking space.	0.72, plus up to 400 square feet for garage parking spaces.	1.25	
Height	Height of dwellings and structures, if not within the setback areas and at least 15 feet from the front lot line.	36 feet			See the definition of height in Section 17.02.400.  See various exceptions in Chapter 17.47.  See the exception for garages in the front setback in Table 17.47.050.A
	Height of dwellings and structures for the area within 15 feet of the front lot line, where less than a 15-foot setback is permitted.	20 feet			
	Height of garages and carports when permitted within the front setback area	15 feet above the elevation of the center of the adjacent street when permitted by Section 17.47.050 of this title.			
Articulation	Front: outside walls greater than 20 ft by 20 ft	30 percent			Articulation requirements are as a cumulative area. See definition of articulation in Section 17.02.050 and the definitions of outside walls, interior and exterior side outside walls in Section 17.02.065 of this title.
	Side: exterior side outside walls that are greater than 20 ft by 20 ft on greater than or equal to 40 ft wide lots	20 percent			
	Side: interior side outside walls	NA			
	Rear: Rear outside wall	30 percent			Exempt from articulation requirements: <ul style="list-style-type: none"> <li>• Single story 2 car garages.</li> <li>• Accessory structures not exceeding a floor</li> </ul>

Type	Description	Single-family Dwelling	Two-units	Multi-family (three or more primary dwelling units)	Exceptions and Notes
					<p>area of 120 square feet.</p> <ul style="list-style-type: none"> <li>• Walls that are smaller than those listed in this table.</li> <li>• Where superseded by objective design standards established in Chapter 17.45 - Housing Development Permits.</li> </ul>
Landscaping	Front Setback Area for lots with greater than or equal to 30 ft front lot line (minimum)	15 percent			New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.
	Rear of newly constructed main structure on a downslope lot	Screened with trees and shrubs in accordance with a landscape plan approved by the planning director			

Notes:

1. Certain development regulations may be superseded for housing development projects, as defined in Chapter 17.02, by objective design standards provided in Chapter 17.45 - Housing Development Permits.
2. See also, Chapter 17.47 - Exceptions to District Development Regulations.

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

C. Recycling Area Requirements:

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

2. This requirement shall apply to all new residential buildings having five (5) or more living units, institutional buildings and city facilities (including buildings, structures, and outdoor



recreation areas owned by the city) where solid waste is collected and loaded. This requirement shall also apply to such existing developments for which building permit applications are submitted within a twelve-month period collectively adding thirty percent (30%) or more to the existing floor area of the development project.

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**SECTION 5: Section 17.10.040 - Development Regulations, of Chapter 17.10 - R-3 Residential District, is amended to read as follows:**

**17.10.040 - Development regulations.**

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

**(Subsections A - I combined to amended Subsection A.)**

A. Table 17.10.040.A: R-3 District Development Regulations

Type	Description	Single-family Dwelling	Two-units	Multi-family (three or more primary dwelling units)	Exceptions and Notes
Density of Development – maximum		1 DU/1,500 square feet			A single-family dwelling may be constructed on a lot of record with an area of less than five thousand (5,000) square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.32.100.
Lot Dimensions	Lot Area – minimum	5,000 square feet	5,000 square feet	No Requirement for lot of record	
	Lot Width - minimum	50 feet	50 feet		
	Lot Depth - minimum	100 feet	100 feet		
Setback minimums	Front: For dwellings and structures, except garages and carports.	15 feet for lots with a slope of less than 15 percent; or 10 feet for lots with a slope of 15 percent or greater; or Where 50 percent or more of the lots of record in a block have been improved with single-family dwellings, the average distance of the front outside wall of the single-family structures from the front lot line on the same side of the street, if less than 10 or 15 feet, as otherwise applicable.			That portion of the structure that is subject to this setback exception (within the district standard setback area) shall not exceed 20 feet in height from finish grade. See height definition in section 17.02.400.
	Front: For garages and carports.	18 feet			

Type	Description	Single-family Dwelling	Two-units	Multi-family (three or more primary dwelling units)	Exceptions and Notes
	Side: For dwellings and structures on lots greater than or equal to 50 feet wide except garages and carports accessed from a street or alley.	5 feet			Notwithstanding the foregoing, the minimum side setback for garages, or carports accessed from a street or alley along that side of the lot shall be 10 feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.
	Side: For dwellings and structures on lots less than 50 feet wide, except garages and carports accessed from a street or alley.	10 percent of the lot width, but not less than 3 feet.			
	Side: For garages or carports accessed from a street or alley along that side of the lot.	10 feet			See exception allowing for lesser setback by City Engineer approval in Section 17.47.050
	Rear	10 feet			See exceptions in Chapter 17.47, including decks and an allowance for a lesser setback for garages and carports on through lots, by City Engineer approval, in Section 17.47.050.
Coverage	Lot Coverage	60 percent of lot area			See lot coverage definition in Section 17.02.495. Lot coverage over 60 percent may be approved by the planning director, if required to meet the 1.25 FAR for developments of three or more units on a lot.
Floor Area	Floor Area Ratio: For lots greater than three thousand seven hundred (3,700) square feet.	0.72	0.72	1.25	See definition of floor area and floor area ratio in Section 17.02.315.
	Floor Area Ratio: For lots less than or equal to three thousand seven hundred (3,700) square feet	0.72, plus up to 200 square feet for a garage parking space.	0.72, plus up to 400 square feet for garage parking spaces.	1.25	
Height	Height of dwellings and structures, if not within the setback areas and at least 15 feet from the front lot line.	36 feet			See the definition of height in Section 17.02.400.  See various exceptions in Chapter 17.47.  See the exception for garages in the front setback in Table 17.47.050.A
	Height of dwellings and structures for the area within 15 feet of the front lot line, where less than a 15-foot setback is permitted.	20 feet			

Type	Description	Single-family Dwelling	Two-units	Multi-family (three or more primary dwelling units)	Exceptions and Notes
	Height of garages and carports when permitted within the front setback area	15 feet above the elevation of the center of the adjacent street when permitted by Section 17.47.050 of this title.			
Articulation	Front: outside walls greater than 20 ft by 20 ft	30 percent			Articulation requirements are as a cumulative area. See definition of articulation in Section 17.02.050 and the definitions of outside walls, interior and exterior side outside walls in Section 17.02.065 of this title.
	Side: exterior side outside walls that are greater than 20 ft by 20 ft on greater than or equal to 40 ft wide lots	20 percent			
	Side: interior side outside walls	NA			
	Rear: rear outside wall.	30 percent			
Landscaping	Front Setback Area for lots with greater than or equal to 30 ft front lot line (minimum)	15 percent			New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.
	Rear of newly constructed main structure on a downslope lot.	Screened with trees and shrubs in accordance with a landscape plan approved by the planning director			
	Sites with Three (3) or More Units	Not less than ten percent (10 percent) of the lot area shall be improved with landscaping.			

Notes:

1. Certain development regulations may be superseded for housing development projects, as defined in Chapter 17.02, by objective design standards provided in Chapter 17.45 - Housing Development Permits.
2. See also, Chapter 17.47 - Exceptions to District Development Regulations.

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

1. So as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare, areas for depositing, collecting and loading refuse and recyclable materials shall be provided and fully enclosed within an enclosure a minimum of six (6) feet tall. All receptacles for collection and recycling shall be completely screened from view at street level. All enclosures and gates shall be designed to withstand heavy use. Wheel stops or curbs shall be provided to prevent dumpsters from banging into walls of enclosure. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. Lighting shall be provided at all enclosures for nighttime security and use. Lights shall be full cutoff luminaires, as certified by the manufacturer, with the light source directed downward and away from adjacent residences. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.

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

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**SECTION 6: Section 17.12.040 - Development Regulations, of Chapter 17.12 - R-BA Brisbane Acres Residential District, is amended to read as follows:**

**17.12.040 - Development regulations.**

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

**(Subsections A- H combined to amended Subsection A.)**

A. Table 17.12.040.A: R-BA District Development Regulations

Type	Description	Single-family Dwelling	Exceptions and Notes
Density of Development – maximum		1 DU/20,000 square feet	Not more than one single-family dwelling shall be located on each lot in the R-BA District, except as otherwise provided in Section 17.12.050, Density transfer, and Section 17.12.055,
Lot Dimensions	Lot Area – minimum	20,000 square feet	
	Lot Width - minimum	110 feet	
	Lot Depth - minimum	140 feet	

Type	Description	Single-family Dwelling	Exceptions and Notes
			<p>Clustered development, of this chapter, or Chapter 17.05 of this title for urban lot split and two-unit development provisions.</p> <p>A single-family dwelling may be constructed on a lot of record with an area of less than 20,000 square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.01.060 of Chapter 17.01 of this title.</p> <p>See also Chapter 17.05 of this title for urban lot split and two-unit development provisions.</p>
Setback minimums	Front.	10 feet	See exception allowing for lesser garage setback by City Engineer approval in Section 17.47.050.
	Side: For dwellings and structures, except garages and carports accessed from a street or alley	10 percent of the lot width, but in no event more than 15 feet or less than 5 feet.	See also setback exceptions in Chapter 17.47
	Side: For garages or carports accessed from a street or alley along that side of the lot.	10 feet	See exception allowing for lesser setback by City Engineer approval in Section 17.47.050
	Rear.	10 feet	See exceptions in Chapter 17.47, including decks and an allowance for a lesser setback for garages and carports on through lots, by City Engineer approval, in Section 17.47.050.
Coverage	Lot Coverage	25 percent of lot area	<p>See lot coverage definition in Section 17.02.495.</p> <p>See provisions for two-unit developments and urban lot splits in Chapter 17.05.</p>
Floor Area	Floor Area Ratio	0.72 provided, however, that in no event shall the floor area of all buildings on a lot exceed 5,500 square feet	<p>Accessory dwelling units and junior accessory dwelling units are excepted from the floor area ratio limits as permitted in Chapter 17.43</p> <p>See definition of floor area and floor area ratio in Section 17.02.315.</p>

Type	Description	Single-family Dwelling	Exceptions and Notes
			See provisions for two-unit developments and urban lot splits in Chapter 17.05.
Height	The maximum height of any structure outside the side and rear setbacks and more than 20 feet from the front lot line.	36 feet	See the definition of height in Section 17.02.400.  See various exceptions in Chapter 17.47.  See other exception for garages in the front setback in Table 17.47.050.A
	The maximum height of any structure within twenty (20) feet from the front lot line, .	Residential structures on sites sloping down from the adjacent street may be constructed to a height of twenty (20) feet above the elevation of the center of the street.	
		Garages and carports may be constructed to a height of 15 feet above the elevation of the center of the adjacent street and may exceed a height of thirty-six (36) feet, but the height of any permitted living area underneath shall not exceed 36 feet from finish grade.	
Articulation	Front: outside walls greater than 20 ft by 20 ft	30 percent	Articulation requirements are as a cumulative area. See definition of articulation in Section 17.02.050 and the definitions of outside walls, interior and exterior side outside walls in Section 17.02.065 of this title.  Exempt from articulation requirements: <ul style="list-style-type: none"> <li>• Single story 2 car garages.</li> <li>• Accessory structures not exceeding a floor area of 120 square feet.</li> <li>• Walls that are smaller than those listed in this table.</li> </ul>
	Side: exterior side outside walls that are greater than 20 ft by 20 ft on greater than or equal to 40 ft wide lots	20 percent	
	Side: interior side outside walls	NA	
	Rear: rear outside wall	30 percent	

Note: See also, Chapter 17.47 - Exceptions to District Development Regulations.

- B. Wildland Interface. The development shall incorporate such measures as the fire chief may deem necessary to protect against the spread of fire between the site and the adjacent wildland.
- C. HCP Compliance. All development within the R-BA District, except as provided in Section 17.01.060, shall comply with the requirements of the San Bruno Mountain Area Habitat Conservation Plan (HCP), including site activity review, environmental assessments, and

operating programs for planned management units, consistent with the objectives and obligations set forth in the HCP.

**(Subsection J. Articulation Requirements, removed. See Table 17.12.040.A, above.)**

D. Landscaping Requirements.

1. Landscape Plan. All development proposals and re-landscaping projects subject to the water conservation in landscaping ordinance (Chapter 15.70), except as permitted in Section 17.01.060 of Chapter 17.01 of this title, shall include a landscape plan to be approved by the planning director in consultation with the HCP plan operator. The plan shall show all proposed landscaping and the location of all protected trees and rare plants. The landscape plan shall be consistent with all of the following objectives:

- a. Preservation of protected trees and rare plants to the greatest extent possible;
- b. Use of plants that are compatible with the natural flora and fauna, and are not invasive to the HCP area;
- c. Use of water conserving plants;
- d. Use of plants that will effectively screen structures and blend with the natural landscape; and
- e. Use of landscaping that is fire resistant.

2. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

**(Subsection L. Ridgeline, removed. See new Section 17.12.045 below.)**

- E. Canyon Watercourses and Wetlands. Development of the site, including any temporary disturbance, shall be set back 30 feet in each direction from the center line of any watercourse, and 20 feet from the boundary of any wetlands. The specific location of watercourse center lines and wetland boundaries shall be determined by qualified personnel under the city's direction.
- F. Trails. The development shall incorporate public access trails to the extent feasible given the environmental sensitivities of the site.
- G. Nonconforming Residential Structures and Uses. Nonconforming residential structures and nonconforming residential uses, as defined in Section 17.02.560, may be repaired, restored, reconstructed, enlarged or expanded in accordance with the provisions of paragraph 3 of subsection L. of Section 17.12.040 and Chapters 17.34 and 17.38 of this title.
- H. Recycling Area Requirements. For new subdivisions containing an area where solid waste is collected and loaded in a location which serves five (5) or more living units, adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided to serve the needs of the living units which utilize the area. This requirement shall also apply to all institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to

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

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**SECTION 7: New Section 17.12.045 - Ridgeline Development is added to Chapter 17.12 R-BA Brisbane Acres Residential District as follows:**

**17.12.045 - Ridgeline Development.**

- A. Ridgeline. Development on any site through which a ridgeline runs as identified in Figure 17.02.695, Ridgelines, shall be subject to design permit approval, except for accessory dwelling units and junior accessory dwelling units and except as provided in Section 17.01.060.
  - 1. In addition to the required contents of application for design permit set forth in Section 17.42.020, story poles certified by a licensed architect, surveyor, civil engineer or contractor to represent the height of the proposed building shall be erected at the locations of its outer corners and roof peaks according to a plan pre-approved by the planning director. The upper one-foot length of each pole shall be painted OSHA yellow so as to be clearly visible from a distance.
  - 2. In addition to the findings required for issuance of design permits set forth in Section 17.42.040, the planning commission shall find that the building's placement, height, bulk and landscaping will preserve those public views of the San Bruno Mountain State and County Park as seen from the Community Park and from the Bay Trail along the Brisbane Lagoon and Sierra Point shorelines that are found to be of community-wide value. Methods to accomplish this may include varying the building's roofline to reflect the ridgeline's topography, orienting the building to minimize the impact of its profile upon public views, locating the building on the lower elevations of the site, and reducing the building's height below the maximum permitted in the district.
  - 3. An existing structure may be repaired or replaced in accordance with Section 17.38.090 without design permit approval, but any alteration or expansion which raises any portion of the roofline or increases the building's lot coverage shall be subject to design permit approval under this section.

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**SECTION 8: Section 17.14.060 - Development regulations for the NCRO-2 district is amended to read as follows:**



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

- A. Lot Area. The minimum area of any lot in the NCRO-2 district shall be two thousand five hundred (2,500) square feet, except that a lot of record that is less than 2,500 square feet, created prior to January 1, 2022, shall be recognized as conforming for 3 or more dwelling units as part of a mixed-use development, pursuant to Section 17.14.040.K.2.

**(Subsections B and C, no change.)**

D. Setbacks. The minimum required setbacks for any lot in the NCRO-2 district, except as provided in Chapter 17.47, shall be as follows:

- 1. Front setback: No requirement.
- 2. Side Setback: No requirement, except a 10 foot setback shall be required on the side where abutting any residential district.
- 3. Rear Setback: 10 feet.

**(Subsection E no change)**

F. Height of Structures. The maximum height of any structure, except as provided in Chapter 17.47, shall be 36 feet.

G. Fencing Requirements. Fencing shall be subject to zoning administrator review as set forth in Section 17.47.060, except where subject to a design permit per Section 17.14.110. If the site is next to a residential district, a fence not to exceed 10 feet in height, that screens the site from the abutting residential property rear or side yard areas shall be installed along the property line.

**(Subsections H, I and J no change)**

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**SECTION 9: Section 17.16.040 - Development Regulations, of Chapter 17.16 - SCRO-1 Southwest Bayshore Commercial District, is amended to read as follows:**

Development regulations in the Southwest Bayshore district are as follows:

- A. Lot Area. The minimum area of any lot shall be seven thousand five hundred (7,500) feet, except that a lot of record that is less than 7,500 square feet, created prior to January 1, 2022, shall be recognized as conforming for 3 or more dwelling units.

**(Subsections B and C, no change.)**

D. Setbacks. The minimum required setbacks for any lot, except as provided in Chapter 17.47, shall be as follows:

- 1. Front setback:
  - a. Residential/Mixed Use: 10 feet;

- b. Commercial Uses: 25 feet for commercial uses;
- c. Exception: The setbacks may be reduced to zero where development includes dedication to public right-of-way for a frontage access road and sidewalk, to the satisfaction of the city engineer and fire department.

2. Side setback:

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

3. Rear setback: 10 feet.

**(Subsection E, no change.)**

F. Height of Structures. The maximum height of any structure, except as provided in Chapter 17.47, shall be 36 feet.

**(Subsections G, H, I, J, K, L and M, no change.)**

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**SECTION 10: Section 17.27.040 - Development Regulations for the PAOZ-1 District is amended to read as follows:**

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

**(Subsections A, B, C, D, E and F, no change.)**

G. Height.

1. Buildings and Architectural Features. The maximum building height shall be 38 feet and 3 stories. Architectural features, including chimneys, elevators, towers, turrets, eaves, skylights or roof windows, utilities, utility penthouses, and solar panels, are allowed to project up to a maximum of 10 feet above the maximum building height.

2. Fences and Walls. Fences and walls in front yards shall be no more than 3 feet in height from the adjacent sidewalk. Fences and walls in side yards shall not exceed 6 feet in height. Deviations from maximum fence and wall heights shall require approval by the zoning administrator as provided in Chapter 17.47.

(Subsections H, I, J, K, L and M, no change.)

**SECTION 11: Section 17.27.050 - Development Regulations for the PAOZ-2 District is amended to read as follows:**

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

(Subsections A, B, C, D, E and F, no change.)

**G. Height.**

1. Buildings and Architectural Features. The maximum building height shall be 38 feet and 3 stories. Architectural features, including chimneys, elevators, towers, turrets, eaves, skylights or roof windows, utilities, utility penthouses, and solar panels, are allowed to project up to a maximum of 10 feet above the maximum building height.

2. Fences and Walls. Fences and walls in front yards shall be no more than 3 feet in height from the adjacent sidewalk. Fences and walls in side yards shall not exceed 6 feet in height. Deviations from maximum fence and wall heights shall require approval by the zoning administrator as provided in Chapter 17.47.

(Subsections H, I, J, K, L and M, no change.)

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**SECTION 12: Sections 17.032.050 - Fences, hedges and walls, 17.032.055 - Exceptions – Lot area, lot dimensions and lot lines, 17.32.060 - Exceptions – Height Limit, 17.32.070 - Exceptions – Setback requirements, and 17.32.080 - Requests for reasonable accommodations are hereby deleted in their entirety.**

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**SECTION 13: Section 17.42.070 - Amendment of design permit—Minor modifications is amended to read as follows:**

**17.42.070 - Amendment of design permit—Modifications.**

A. Amendments or modifications to a design permit shall require approval by the zoning administrator as set forth in Section 17.56.090 of this title, or by the planning commission if referred by the zoning administrator.

**SECTION 14: Chapter 17.46 - Variances is amended to read as follows:**

**Chapter 17.46 - VARIANCES**

**17.46.010 - Application—Required circumstances.**

Applications for variances from the strict application of the terms of this title may be made and variances granted when the following circumstances are found to apply:

- A. That any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and district in which the subject property is located;
- B. That because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of this title is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.

**17.46.020 - Application—Form—Contents.**

Application for variance shall be made in writing by a property owner, lessee, purchaser in escrow, or optionee with the consent of the owners, on a form prescribed by the planning director. The application shall be accompanied by a fee, set by the city council, a plan of the details of the variance requested and evidence showing:

- A. That the granting of the variance will not be contrary to the intent of this title or to the public safety, health and welfare; and
- B. That due to special conditions or exceptional characteristics of the property or its location, the strict application of this chapter results in practical difficulties and unnecessary hardship. "Hardship," as used in this chapter does not mean personal or financial hardship but refers to the conditions in subsection B of Section 17.46.010.

**17.46.030 - Application—Hearing date—Notice.**

The planning commission shall conduct a public hearing on the application for a variance. Notice of such hearing shall be given as set forth in Chapter 17.54.

**17.46.040 - Granting.**

- A. After the conclusion of the public hearing or continuations thereof, the planning commission may grant or deny a variance from the strict application of the regulations established by this chapter. The commission may impose any reasonable conditions deemed necessary to achieve the purpose of this title.
- B. A variance shall be effective the seventh (7th) day after planning commission approval unless the action is appealed to the city council, in which case the variance shall not be effective until final action upon the appeal.

**17.46.050 - Nonconforming uses not allowed.**

The use of lands or buildings not in conformity with the regulations specified for the district in which such lands or buildings are located may not be allowed by the granting of a variance.

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**SECTION 15: New Chapter 17.47 - Exceptions to District Development Regulations is added to read as follows:**

**17.47 - EXCEPTIONS TO DISTRICT DEVELOPMENT REGULATIONS**

**17.47.010 - Purpose of Chapter**

The purpose of this chapter is to provide standards and procedures for recognition of certain substandard lots as legal lots for development, as well as exceptions to specified district development regulations for certain structures and other built features.

**17.47.020 - Applicability**

Unless indicated otherwise in this title, the exceptions provided in this chapter shall apply to all districts.

**17.47.030 - Exceptions to Lot area, lot dimensions and lot lines.**

Lots sizes and dimensions shall conform to the district development regulations, except as provided herein.

**A. Substandard Lots.**

1. No substandard lot shall be independently developed if it is less than 5,000 square feet in area and if it was owned in common with contiguous property in the same district on October 27, 1969. A substandard lot at least 5,000 square feet in area may be developed as a standard site under the applicable district regulations.
2. In any R district, single-family dwellings only may be erected on any substandard lot less than 5,000 square feet in area, if the lot was not owned in common with contiguous property in the same district on October 27, 1969.
3. As an exception to A.1, a property in the R-1 Residential district consisting of 4 contiguous lots of record totaling at least 9,650 square feet that were owned in common on October 27, 1969, may be developed as 2 sites, each consisting of one pair of contiguous lots.
4. Any substandard lot created through a parcel map, resubdivision or lot line adjustment approved by the city after October 27, 1969, shall be recognized as a standard lot.
5. Contiguous substandard lots owned in common may be subject to merger in compliance with this section and Municipal Code Chapter 16.12.

B. Urban Lot Split. A lot may be created and developed in the R-1 and R-BA districts that does not conform to the lot area and dimensions subject to the provisions of the Two-unit Development Residential Overlay District - R-1 and R-BA Districts, as set forth in Chapter 17.05.

**C. Modification in Conjunction with Application for Tentative Map.** The planning commission may approve an application for a modification to the lot dimension regulations set forth in Title 17, Zoning, for real property located in any subdivision proposed in compliance with Title 16, Subdivisions, subject to the following findings:

1. The property is of such size or shape, or is subject to such title limitations of record, or is affected by such topographical location or conditions, or is to be devoted to such use that it is impossible, impractical or undesirable in a particular case for the subdivider to fully conform to the regulations;
2. Each lot or parcel subject to the modification will be capable of being developed in accordance with the other applicable provisions of the zoning ordinance; and
3. The modification conforms with the spirit and purpose of this title.

**D. Lot Line Adjustment.** In compliance with the procedures set forth in Chapter 16.32 of Title 16, Subdivisions, the planning director may approve a lot line adjustment that will not increase the degree of noncompliance or otherwise increase the discrepancy between existing conditions and the requirements of the Zoning Ordinance, even though the resulting parcels may not fully comply with the development regulations of the applicable zoning district. Where each lot is a substandard lot as defined in Section 17.02.490.H, a lot line adjustment may be utilized to effectuate an urban lot split, subject to the provisions of the two-unit development residential overlay district, as set forth in Chapter 17.05.

**E. Elimination of Interior Lot Lines.** A property owner may eliminate an interior lot line between record lots in common ownership through recordation of a declaration of merger signed by the property owner and acknowledged by the planning director, as prescribed by Chapter 16.12 of Title 16, Subdivisions.

### 17.47.040 - Height Limit Exceptions

Heights of structures shall conform to the district development regulations, except as provided herein.

#### A. Height Exception Limits.

The following height limit exceptions in Table 17.47.040.A apply to all zoning districts:

**Table 17.47.040.A**

Type	Applicability	Height Exception	Eligible for Modification?
Chimney	Chimney not exceeding 3 feet in width or depth.	Feature may be less than or equal to 5 feet over the district height limit, or as required to comply with the California Building Code.	No. Modification to the height exception provided may only be by variance, per Chapter 17.46, subject to the findings therein.
Miscellaneous structures	Cupolas, monuments, water tanks, mechanical appurtenances and similar structures.	Subject to use permit approval by the Planning Commission.	No. Modification to the height exception provided may only be by use permit, per Chapter 17.40 of this title, subject to the findings therein.

Type	Applicability	Height Exception	Eligible for Modification?
Rooftop solar	Rooftop solar energy systems, including those for water heating as well as photovoltaic purposes.	Feature may be less than or equal to 24 inches above the roofline of the structure on which it is mounted, measured from the exterior roofing material to the highest point of the panel, regardless of the building height. If greater than 24 inches above the roofline and over the district height limit, the feature is subject to approval by the zoning administrator, per Section 17.32.060.B.	Yes (see Section 17.47.060)

Note: Height exceptions may be superseded by objective design standards established in this title, including but not limited to the POAZ Parkside Overlay District and Housing Development Permits.

**17.47.050 - Setback Exceptions**

Setbacks from lot lines to buildings and structures shall conform to the district development regulations, except as provided herein.

**A. Setback Exception Limits.** Notwithstanding any other provision of this title, certain structures or portions thereof may extend into a front, rear or side setback area to the extent permitted by Table 17.47.050.A and subject to applicable building and fire codes:

**Table 17.47.050.A**

Type	Applicability	Required Front Setback (ft)	Required Rear Setback (ft)	Required Side Setback (ft)
Residential Garages, Carports and Parking Decks in the R-1, R-2, R-3 and R-BA districts	<ul style="list-style-type: none"> <li>If located within the setback area, a garage, carport, or parking deck may not exceed 15 feet in height above the centerline of the adjacent street.</li> <li>Notwithstanding the allowable exceptions, placement is subject to approval by the city engineer, based upon a finding that no traffic or safety hazard will be created.</li> <li>A garage or carport in compliance with this subsection may exceed the district height limit, but the height of any permitted living space underneath shall not exceed the district height limit.</li> </ul>	0	Interior rear: NA  Exterior rear (through lots): 0	Interior side: NA  Exterior side (i.e. corner street or alley lots): 0
Overhanging Architectural Features	Includes such features as eaves and cornices that extend from the wall of a building and into the setback area.	5	7	2.5
Gutters and downspouts		5	7	2
Cantilevered Windows	<ul style="list-style-type: none"> <li>Includes window(s) extending from the wall of a building into the setback area such as bay windows, box windows, etc.</li> <li>To qualify for the exception, the window may not include floor area. If the window includes a built-in bench seat or shelf, 16 inches or higher from the floor, without steps, the area will not be counted as floor area regardless of the clear height above the bench or step (see also Floor Area defined, Section 17.02.315).</li> </ul>	5	7	3
Decks and Balconies	Either free-standing or attached to a building.	5	5	NA



Type	Applicability	Required Front Setback (ft)	Required Rear Setback (ft)	Required Side Setback (ft)
Roof Decks and associated guardrails over a garage that is subject to a setback exception	<ul style="list-style-type: none"> <li>Roof decks over garages that are subject to the garage setback exception may not be covered by a roofed or unroofed structure (i.e. pergola over a roof deck), except that the portion of a deck covered by an eave from an adjacent building segment may cover the portion of the deck not to exceed 3 feet from the edge of the building wall</li> </ul>	0	Interior rear: NA  Exterior rear (i.e. through lots): 0	NA
Stairs, Ramps and Landings to a building entrance	<ul style="list-style-type: none"> <li>Applies only to unenclosed stairs, ramps or landings.</li> <li>May not drain onto the neighbor's property.</li> <li>Materials within a setback must be non-combustible, to the satisfaction of the building official.</li> </ul>	0	5	0
Awning over a building entrance or landing	<ul style="list-style-type: none"> <li>Allowed as a type of projection from a building.</li> <li>May not drain to the neighbor's property.</li> <li>In all zoning districts except the R-1 District, to be eligible for a side setback exception, the awning may project no more than 3 feet from the building into the side setback area.</li> <li>In the R-1 District, to be eligible for a side setback exception the awning may extend 4 feet from the building into the side setback area but shall not extend over the abutting property.</li> </ul>	5	5	All districts except R-1: 2.5  R-1 district only: 0

Type	Applicability	Required Front Setback (ft)	Required Rear Setback (ft)	Required Side Setback (ft)
Roofed Accessory Structures (such as detached home offices and art studios, sheds and gazebos)	<ul style="list-style-type: none"> <li>The portion of the structure encroaching within the setback area may not exceed 10 feet in height measured from lowest grade immediately adjacent to the structure’s exterior walls or the alignment of the supporting posts.</li> <li>The square footage of the portion of the structure encroaching within the setback area may not exceed 120 square feet.</li> <li>These exceptions do not apply to accessory dwelling units. ADU development regulations are contained in Chapter 17.43.</li> </ul>	NA	5	Interior side: 3 Exterior side: NA
Unroofed Accessory Structures (such as arbors, trellises, pergolas and gateways)	The structure’s portion within the setback area may not exceed 10 feet in height and may not cover more than 15 percent of the front setback area	0	5	3
Ponds, Fountains and Similar Decorative Water Features	Feature must not exceed 6 feet in height. <sup>(2)</sup>	0	0	0
Decorative Artwork	Feature must not exceed 6 feet in height. The artwork shall not block access to a building entrance or otherwise create a safety hazard.	0	0	0
Flag pole & flag	<ul style="list-style-type: none"> <li>Not more than 1 pole per lot</li> <li>Height of pole less than or equal to 20 feet</li> <li>Individual flag size than or equal to 3 by 5 ft, with up to two on a pole</li> <li>Flag may not extend over the property line when fully extended.</li> <li>May not include advertising.</li> <li>Unlighted only.</li> <li>Flags shall be maintained in good repair.</li> </ul>	5	5	NA
Accessory Dwelling Units		See Chapter 17.43.		
Fences, hedges and walls		See Section 17.47.050.B		

**Notes:**

1. NA: Not applicable. In such cases, the standard setback provided in the zoning district’s development regulations shall prevail.
2. The exceptions set forth in this Table shall not be construed to include chimney boxes, swimming pools and spas, exposed plumbing, or mechanical equipment such as heating and air conditioning units or pool pumps, and no exceptions to the setback requirements shall be permitted for any of these structures.
3. The exceptions set forth in this Table do not waive the requirement to obtain any other required permits from the City, including, but not limited to, a building permit. New construction or tenant improvements on commercial properties may also require a design permit, in which case the requested exception may be included in the design permit application.
4. In a case of conflict between the setback exceptions listed here and other laws, regulations or conditions of approval, the most stringent requirements shall prevail.
5. Fire Code may prohibit certain materials from use within setback areas.
6. Non-combustible flatwork, such as concrete pavers and stone on grade, are not subject to setbacks and may be placed anywhere within a setback area.
7. Setback exceptions may be superseded by objective design standards established in this title, including but not limited to the POAZ Parkside Overlay District and Housing Development Permits.
8. See the definition of setback in Section 17.02.715 - Setback – Setback Area.

**B. Fences, hedges and walls within setbacks.** Fences, hedges and walls may be erected within setback areas as provided herein.

**1. Fences.**

**a. Height and Fence Type Allowances.** Where a fence, as defined in Section 17.02.300, is to be constructed in a setback area, the following regulations shall apply, except where otherwise indicated in Section 17.47.050.B.1.b. See also the definition of height for fences and walls in Section 17.02.400.C.

Table 17.47.050.B.1

Zoning District	Height Limit – Front Setback (feet)	Height Limit - Side and Rear Setbacks, except that portion extending to the front setback area (feet)	Special provisions
R-1	6	7 or 8*	*If the top 2 feet of a fence is constructed of lattice, or other open pattern, to the satisfaction of the planning director, the fence may be 8 ft in total height in the side and rear setbacks, but not extending into front setback. Otherwise, where lattice or a similar open pattern is not included the limit is 7 ft, but the fence must step down to 6 ft in the front setback area.
R-2	6	7 or 8*	
R-3	6	7 or 8*	
R-BA	6	7 or 8*	

Zoning District	Height Limit – Front Setback (feet)	Height Limit - Side and Rear Setbacks, except that portion extending to the front setback area (feet)	Special provisions
R-MHP	8***	8***	***Fence heights may be up to ten (10) feet along the mobile home park perimeter abutting a public right-of-way.
C-1	8	8	
M-1	8	8	
SCRO-1	8	8	
TC-2	8	8	
HC	8	8	
C/P-U	8	8	
PAOZ-1	As provided in Section 17.27.040.G.2.		
PAOZ-2	As provided in Section 17.27.050.G.2.		
NCRO-1	By setback exception permit for fences on developed sites, per Section 17.47.060. By design permit when associated with new development, or modification of a design permit for existing development when associated with other development modification(s) that is subject to a design modification permit. See Chapter 17.42 for design permits and Section 17.56.090 for modification of a design permit. See also the district development standards for fence provisions.		
NCRO-2			
PD			
SP-CRO			
TC-1			
All Districts	Temporary chain-link demolition/construction barricades not exceeding eight (8) feet in height are permitted in all districts, subject to removal prior to final inspection.		

**b. Overriding Factors and Other Requirements**

- i. In any district, where the director of public works determines that traffic visibility would be affected, due to the location of the fence being near or adjacent to the public right-of-way, the fence height may be required to be reduced, to the satisfaction of the director.
- ii. Where a fence is proposed to be constructed, or has been constructed, adjacent to city property, a boundary survey or other evidence of the location of the fence shall be submitted to the director of public works upon request if the director determines that a question exists as to whether the fence encroaches on public property.
- iii. In all districts, the following materials are prohibited: razor wire, barbed wire and similar materials with sharp edges or points.
- iv. Chain-link fences may not be constructed in or adjacent to residential districts and are required to be black or green vinyl coated, except as approved by the planning director where the fence is not readily within public view or is otherwise screened from view by landscaping.
- v. For fences within the San Bruno Mountain Area Habitat Conservation Plan (HCP), within the R-BA, SCRO-1 and certain PD districts, the height, location and/or design of fences may be subject to

restrictions for protection or passage of butterflies, consistent with the site’s HCP operating program or other required permitting consistent with HCP requirements.

- vi. When construction of a fence would impair the visibility of address numbers on a house, such numbers shall be relocated with approval of the fire prevention officer, or the fence may be required to be lowered.
- vii. Gated driveways are subject to approval by the planning director, based on a determination that the gate will not create a safety hazard.
- viii. A building permit may be required for construction of a fence, depending on such factors as height or location relative to a retaining wall, and is subject to building official determination.

**2. Retaining Walls**

**a. Height.** Where a retaining wall, as defined in Section 17.02.690, is to be constructed in a setback area, the provisions in Table 17.47.050.B.2 shall apply. See also the definition of height for fences and walls in Section 17.02.400.C.

Table 17.47.050.B.2 Retaining Walls in Setback Areas

All Zoning Districts	Permitted Height in All Setback Areas	Special Provisions
	6 feet or less of exposed wall surface	None
	More than 6 feet	Greater than 6 feet of exposed wall surface, where one or more of the following conditions are met, to the satisfaction of the planning director: (i) Walls shall be architecturally integrated with proposed or existing structures on the site; (ii) Wall faces shall be decorative and treated with color, texture, architectural features, trelliswork or other means to visually break up the wall expanses; (iii) Walls shall be screened with water conserving, non-invasive landscaping that at maturity will soften and reduce the visible expanse of walls; (iv) Other means that ensure that the walls are designed to be as visually unobtrusive as possible.

**b. Overriding Factors and Other Requirements.**

- i. Where construction of a retaining wall would result in grading, the provisions of Chapter 15.01 shall apply. If planning commission review of a grading permit is required, per Section 15.01.110, the retaining wall design will be considered as part of the planning commission’s grading review.

- ii. A building permit is generally required for construction of a retaining wall, subject to building official determination.

**3. Hedges**

**a. Height Limit:** Where a hedge, as defined in Section 17.02.390, is to be established within a setback area, the height limit shall be as shown in Table 17.47.050.B.3:

Table 17.47.050.B.3 Hedges within Setbacks

	Permitted Height in All Setback Areas
Hedges in all zoning districts	8 feet

**b. Overriding Factors and Other Requirements**

In any district, where the director of public works determines that traffic visibility would be affected, due to the location of the hedge being near or adjacent to the public right-of-way, the height may be required to be reduced to less than 8 feet, to the satisfaction of the director.

**4. Modification to Fence, Wall and Hedge Exceptions:** All other exceptions, or modification to exceptions, pertaining to fences, walls or hedges shall require approval by the zoning administrator, as provided in Section 17.47.060.

**17.47.060 - Exception Modification Procedures**

Modifications to the height and setback exceptions specified in sections 17.47.040 and 17.47.050 of this Chapter are subject to zoning administrator approval and are subject to the following procedures, except as indicated otherwise:

- A. **Application form, fee and plans.** An application for a height or setback exception shall be made in writing by the owners of the property, lessee, purchaser in escrow, or optionee with the consent of the owners, on a form prescribed by the planning director. At a minimum, the application shall be accompanied by a fee, set by the city council, and plans showing the details of the proposed feature.
- B. **Findings.** The zoning administrator may approve an exception if the zoning administrator makes the following findings, as applicable.
  - 1. Height Exception Modifications for a rooftop solar system may be approved if the zoning administrator makes the finding that the feature would not result in a specific adverse impact upon the public health and safety.

- 2. Setback Exception Modifications may be approved for any of the structures or features listed in Table 17.47.050.A if the zoning administrator makes the findings that:
  - a. The setback exception modification/the feature or structure will not create any significant adverse impacts upon adjacent properties in terms of loss of safety, privacy, noise or glare.
  - b. The feature will be constructed in a sound and workmanlike manner, in compliance with all applicable provisions of the building and fire codes.
  - c. Structures are designed to be compatible with the primary dwelling(s) on the site.
  - d. Architectural features are designed to be compatible with the building on which they are located.
  
- 3. Fence, hedge or wall Exception Modifications may be approved if the zoning administrator makes the findings that:
  - a. The proposed fence, hedge or wall will not create a safety hazard for pedestrians or vehicular traffic.
  - b. The appearance of the fence, hedge or wall is compatible with the design, appearance and scale of the existing buildings and structures in the neighboring area.
  
- C. **Notice procedure and action by the zoning administrator.** The procedure for action by the zoning administrator shall be as provided in Chapter 17.56.
  
- D. **Appeals:** The decision of the zoning administrator or planning commission shall be effective on the close of the appeal period, unless an appeal has been filed pursuant to Chapter 17.52 of this title.
  
- E. **Notice to the Planning Commission:** All decisions of the zoning administrator shall be reported to the planning commission by email at least seven (7) days prior to the expiration of the appeal period. If any two members of the planning commission indicate in writing a desire to appeal the decision it shall be considered appealed and placed on the next available commission agenda, following the public hearing notice procedures provided in Chapter 17.54.

**17.47.070 - Requests for reasonable accommodations.**

Modifications or exceptions to the regulations set forth in Title 17 that are not otherwise addressed in Sections 17.32.060.B and C may be granted as reasonable accommodations for residential and non-residential improvements, or for new development, when designed for, intended for occupancy by, or with supportive services for, persons with disabilities. Such requests may be granted by the planning director through a building permit, if through the building permit application it has been demonstrated that:

- A. The exception is necessary for current or future accessibility to the property or building by persons with disabilities that cannot be addressed within either the applicable zoning district height limits or setbacks, or through the exceptions provided in Sections 17.32.060.B and C.
- B. The accessibility improvement(s) will be constructed in compliance with all applicable provisions of the state and local building and fire codes.

**17.47.080 - Nonconforming Structures and Features.** Any structure, architectural feature, wall, or other improvement lawfully constructed within a setback area or over the height limit and constituting a nonconforming structure as defined in [Section 17.02.560](#), may be allowed to continue in accordance with [Chapter 17.38](#) of this title.

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**SECTION 16: Chapter 17.52 - Appeals is amended to read as follows:**

**Chapter 17.52 - APPEALS**

**Sections:**

**17.52.005 - Appeal from planning director.**

Any person may appeal to the planning commission any order, requirement, decision, determination or other action of the planning director with regard to any matter arising under this title, including any determination concerning the contents, subject matter or completeness of any application, any determination concerning which permit or other approval is required.

**17.52.007 - Appeal from zoning administrator.**

- A. Appeals from the decision of the zoning administrator, except decisions related to housing development permits as set forth in Chapter 17.45 of this title, shall be made to the planning commission.
- B. Appeals from decisions of the zoning administrator relating to housing development permits as set forth in Chapter 17.45 of this title shall be made to the city council.

**17.52.010 - Appeal from planning commission.**

Any person may appeal to the city council any order, requirement, decision, determination or other action of the planning commission in the manner provided in this title, including any planning commission decision of an appeal from an order, requirement, decision, determination or other action of the planning director or zoning administrator.

**17.52.020 - Method and timing.**

- A. All appeals shall be in writing and filed with, and on a form prescribed by, the city clerk and shall be accompanied by a fee, as set by the city council, and shall clearly state the reason for appeal.
- B. The appeal shall be filed according to the following schedule, unless specified otherwise in this title:



- a. Appeal of Planning Director decision: close of business ten (10) days after the decision
- b. Appeal of Zoning Administrator decision: close of business ten (10) days after the decision
- c. Appeal of planning commission decision: close of business fifteen (15) days after the decision

If the appeal closing date would be on a weekend or City observed holiday, the appeal date shall be the close of business on the next business day.

C. In addition to the above, any two (2) members of the planning commission may appeal a decision of the zoning administrator, according to the schedule provided, by filling the appeal in writing with the city clerk. Written appeal to the city clerk may include email. The mere fact that two (2) members of the planning commission have filed an appeal does not of itself require disqualification of either such commission member from hearing and/or deciding the item.

D. In addition to the above, any two (2) members of the city council may appeal any decision, according to the schedule provided, by filling the appeal in writing with the city clerk. The mere fact that two (2) members of the city council have filed an appeal does not of itself require disqualification of either such councilmembers from hearing and/or deciding the item.

E. Upon receipt of such appeal, the city clerk shall notify the planning department and the applicant. A time shall then be set as soon as practical but within sixty (60) days after the receipt of such appeal (unless the applicant agrees otherwise) for a public hearing. Notice of such hearing shall be given as set forth in Chapter 17.54.

**17.52.030 - Planning department report.**

The planning department, upon receipt of the notice of appeal, shall prepare a report of the facts pertaining to the decision and shall submit such report to the appeal hearing body along with the department's recommendation and the reasons for the action.

**17.52.040 - Action on appeal.**

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

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**SECTION 17: Chapter 17.56 - Administration is amended to read as follows:**

**Chapter 17.56 - ZONING ADMINISTRATOR**

**Sections:**

**17.56.010 - Zoning administrator—Function created.**

There is created the function of zoning administrator which shall be carried out by the planning director.

**17.56.020 - Zoning administrator—Powers and duties.**

The zoning administrator shall have all the powers and duties of a board of zoning adjustment as set forth in Section 65900 through 65909 of Article 3 of Chapter 4 of Title 7 of the Government Code of the state.

**17.56.030 - Zoning administrator—Action on applications.**

A. Except as otherwise provided in this title, the zoning administrator shall decide the following, unless referred by the zoning administrator to the planning commission:

- 1. Administrative design review in the POAZ districts pursuant to Section 17.27.060.A;
- 2. Wireless telecommunication facilities pursuant to Section 17.32.032;
- 3. Height and setback exception modification permits pursuant to Section 17.47.060;
- 4. Certain sign permits pursuant to Section 17.36.060;
- 5. Amendments or modifications to a design permit pursuant to Section 17.42.070;
- 6. Housing development permits pursuant to Section 17.45.050;
- 7. Zoning conformance pursuant to Section 17.56.080;
- 8. Planning application modifications pursuant to Section 17.56.090.
- 9. Interim use permit extensions pursuant to Section 17.41.080.D

B. In connection with the applications provided for in this section, the zoning administrator shall have all the duties and responsibilities set forth in this title for the planning commission.

**17.56.080 - Zoning conformance.**

Zoning conformance shall be determined in conjunction with, and as a part of, building permits. If it has been determined that any proposed construction is not in conformity with the regulations for the district in which the construction is to be located, the determination shall be provided by the zoning administrator, or the zoning administrator’s designee. No building permit shall be issued until the zoning conformance has been confirmed by the zoning administrator or the designee.

**17.56.090 - Planning Permit Modifications.**

An applicant may request modifications to a previously approved planning permit prior to or during construction. Examples of such modifications include alteration to an approved building or structure, change in configuration of site improvements, or modification or deletion of conditions of approval. A modification shall not automatically extend the approval expiration date beyond that of the original planning application.

Modifications are classified in three ways based on the significance of the proposed change and amount of additional review required: A) substantial conformance, B) minor, or C) major. The Zoning Administrator shall determine the type of modification required based on the criteria specified below.

A. Substantial Conformance. Modifications that are in substantial conformance with the original planning application can be approved as part of the building permit review process.

- 1. Substantial conformance is generally defined as a modification or change that:
  - a. Results in a project with reduced or inconsequential changes in size, scale, design, or intensity; or
  - b. Is necessary to accommodate parking requirements, utility configurations or other mechanical or operational components of a project identified during building permit review or construction;
  - c. Is in order to comply with updated Federal or State laws including but not limited to, the Americans with Disabilities Act, Building Code requirements, or Fire Code requirements; or
  - d. Cumulatively would not result in substantive changes to the overall project.
- 2. Public notification shall not be required for substantial conformance modifications.

B. Minor Modification. Modifications that result in minor changes to an approved planning application require review and approval by the Zoning Administrator, except if otherwise specified in this title or through the approved planning application conditions of approval.

- 1. Minor modification is generally defined as a modification where all of the following circumstances apply:
  - a. The modification would not result in a Major Modification, as defined below, to the approved site plan or project design;
  - b. The modification would not significantly change the nature of the approved use(s);
  - c. The modification would not significantly intensify the approved use(s); and
  - d. The modification would not result in any new or substantially greater environmental effects than the originally approved project.
- 2. Procedures for minor modifications are set forth in Section 17.56.110, or, where otherwise provided in this title, according to the original permitting procedures.

C. Major Modification. Modifications that result in a significant change, or “substantial modification” as provided in Section 17.42.010.A or this title, require review and approval by the original decision-making body, whether zoning administrator or planning commission except if otherwise specified in this title or as specified through the approved planning application conditions of approval. If the

original decision maker was the planning commission or city council, whether in the first instance or on appeal, then public noticing and a public hearing by the planning commission are required.

1. A modification to a project is considered major if any of the following circumstances in paragraphs a, b, c, d or e apply:

- a. The modifications involve substantive changes to the approved site plan or project design. A substantive change, for the purpose of this section, includes but is not limited to:
  - i. A change that is visually conspicuous from the public right-of-way or adjacent properties; or
  - ii. A change that results in non-conformance with City standards or policies; or
  - iii. A change that alters the intent of a project-specific condition of approval; or
- b. The modifications significantly change the nature of the approved use; or
- c. The modifications significantly intensify the approved use; or
- d. The modifications may result in new or substantially greater environmental impacts than the originally approved project; or
- e. The modifications involve major policy decisions or unique land use characteristics, as determined by the Zoning Administrator.

**17.56.100 - Other Permits.**

Zoning Administrator approvals of permit types provided elsewhere in this title shall be subject to the findings and procedures provided therein. Where procedures are not otherwise provided in this title, the zoning administrator procedures shall be as set forth in Section 17.56.110.

**17.56.110 - Procedures.**

A. Procedures for major modifications to approved planning permits shall follow the same permitting procedures as the original application, as provided elsewhere in this title.

B. The following procedures shall apply to minor modifications and other zoning administrator permits, unless provided otherwise in this title.

- 1. **Application form, fee and plans.** Application shall be made in writing by the owner(s) of the property, lessee, purchaser in escrow, or optionee with the consent of the owners, on a form prescribed by the planning director. At a minimum, the application shall be accompanied by a fee, set by the city council, and plans showing and describing the details of the proposed.
- 2. **Notice procedure and action by the zoning administrator.**
  - a. **Notice of recommended decision and action:**
    - i. The zoning administrator shall provide notice of the application and publish a staff report with a recommended decision to grant or deny the permit at least ten (10) days prior to a decision on the permit application. The notice shall be mailed to all

owners of property adjacent to, and directly across the street from, the exterior boundaries of the subject property.

- ii. If no written public comments are received objecting to the recommended decision by the date indicated on the notice, at least ten (10) days following the issuance of the notice, the zoning administrator shall act on the application consistent with the recommendation contained in the staff report and the decision shall be effective immediately.

**b. Public hearing, when required:**

- i. If written public comments objecting to the recommended decision are received, that relate to the required findings, the zoning administrator shall hold a public hearing on the application. Notice of the hearing shall be given to all owners of property adjacent to, or directly across the street from the exterior boundaries of the subject property, and any party that has requested notice or provided written public comments on the application. The notice of public hearing shall be mailed not less than ten (10) or more than thirty (30) days before the date of the hearing. Alternatively, the zoning administrator may refer the application to the planning commission for public hearing and decision.
- ii. The zoning administrator, or if referred, the planning commission, may either grant or deny the application subject to the required finding(s). The zoning administrator or planning commission may grant the permit subject to such conditions as deemed necessary or appropriate to meet the required findings.

3. **Appeals:** The decision of the zoning administrator or planning commission shall be effective on the close of the appeal period, unless an appeal has been filed pursuant to Chapter 17.52 of this title.

4. **Zoning administrator—Reporting decisions to planning commission.** All decisions of the zoning administrator that are subject to public hearing shall be reported to the planning commission by email at least seven (7) days prior to the expiration of the appeal period. If any two members of the planning commission indicate in writing, including email, a desire to appeal the decision it shall be considered appealed and placed on the next available commission agenda, following the public hearing notice procedures provided in Chapter 17.54.

\*\*\*\*\*

**SECTION 18:** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Brisbane hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

**SECTION 19:** This Ordinance shall be in full force and effect thirty days after its passage and adoption.

\_\_\_\_\_  
Terry O'Connell, Mayor

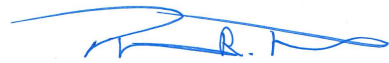
\* \* \*

The above and foregoing Ordinance was adopted at a regular meeting of the City Council of the City of Brisbane held on the \_\_\_\_\_ day of \_\_\_\_\_, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

ATTEST:

APPROVED AS TO FORM:



\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Attorney

## ATTACHMENT 2

### REDLINED DRAFT ORDINANCE 2024-RZ-2

**Note:** The Brisbane Municipal Code (BMC) Sections provided in this draft represent reformatting of the development regulations for most of the districts that allow residential uses and exceptions to development regulations that are applicable to all districts. Reformatting is to a table format and non-substantive changes are not shown. The **Red text** indicates substantive proposed changes.

#### **SECTION 1: Section 17.02.065 - Outside Wall is hereby deleted in its entirety.**

~~17.02.065 – Outside wall.~~

~~"Outside wall" means any wall that defines the exterior boundaries of a structure.~~

~~A. "Front outside wall," "rear outside wall" and "side outside wall" respectively mean the outside wall that is generally parallel to the front, rear or side lot line of the site.~~

~~B. "Exterior side outside wall" means a side outside wall generally parallel to a street. "Interior side outside wall" means any side outside wall other than an exterior side outside wall.~~

#### **Section 2: New Section 17.02.785 - Wall, is added to read as follows:**

17.02.785 - Wall.

"Wall" means a vertical structure that encloses or divides an area of land or interior spaces of a building. See also the definition of retaining wall in Section 17.02.690 of this Chapter. A wall, as provided in the following sub-definitions, is part of a building or structure and is not a fence. Fence is defined in Section 17.02.300 and provided in Section 17.47.050.B.

- A. "Outside wall" means any wall that defines the exterior boundaries of a building or structure, including the following:
  - a. Front outside wall – generally that wall or walls parallel to the front lot line
  - b. Rear outside wall – generally that wall or walls parallel to the rear lot line
  - c. Side outside wall – generally that wall or walls parallel to the side lot line
- B. "Exterior (front, rear or side) outside wall" means a front, rear or side outside wall generally parallel to a street.
- C. "Interior (front, rear or side) outside wall" means a front, rear or side outside wall other than an exterior side outside wall.
- D. "Inside Wall" or "Interior Wall" means a wall that is inside the boundaries of a structure, that is not an outside wall.

#### **SECTION 3: Section 17.06.040 - Development Regulations, of Chapter 17.06 - R-1 Residential District, is amended to read as follows:**

**17.06.040 - Development regulations.**

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

**(Subsections A- I combined to amended Subsection A.)**

A. Table 17.06.040.A: R-1 District Development Regulations

Type	Description	Single-family Dwelling	Exceptions and Notes
Density of Development – maximum		1 DU/5,000 square feet	A single-family dwelling may be constructed on a lot of record with an area of less than 5,000 square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.47.030 Exceptions to Lot area, lot dimensions and lot lines.  See Chapter 17.05 of this title for urban lot split and two-unit development provisions.
Lot Dimensions	Lot Area – minimum	5,000 square feet	
	Lot Width - minimum	50 feet	
	Lot Depth - minimum	100 feet	
Setback minimums	Front: For dwellings and structures, except garages and carports.	15 feet for lots with a slope of less than 15 percent; or  10 feet for lots with a slope of 15 percent or greater; or  Where 50 percent or more of the lots of record in a block have been improved with single-family dwellings, the average distance of the front outside wall of the single-family structures from the front lot line on the same side of the street, if less than 10 or 15 feet, as otherwise applicable.	That portion of the structure that is subject to this setback exception (within the district standard setback area) shall not exceed 20 feet in height measured from finish grade.
	Front: For garages and carports.	10 feet	See exception allowing for lesser setback by City Engineer approval in Section 17.47.050
	Side: For dwellings and structures on lots greater than or equal to 50 feet wide	5 feet	See setback exceptions in Chapter 17.47. Does not apply to garages and carports accessed from a street or alley.
	Side: For dwellings and structures on lots less than 50 feet wide, except garages and carports accessed from a street or alley.	10 percent of the lot width, but not less than 3 feet.	See setback exceptions in Chapter 17.47
	Side: For garages or carports accessed from a street or alley along that side of the lot.	10 feet	See exception allowing for lesser setback by City Engineer approval in Section 17.47.050



Type	Description	Single-family Dwelling	Exceptions and Notes
	Rear	10 feet	See exceptions in Chapter 17.47, including decks and an allowance for a lesser setback for garages and carports on through lots, by City Engineer approval, in Section 17.47.050.
Coverage	Lot Coverage	40 percent of lot area	See lot coverage definition in Section 17.02.495.
Floor Area	Floor Area Ratio: For lots greater than three thousand seven hundred (3,700) square feet.	0.72	See definition of floor area and floor area ratio in Section 17.02.315.
	Floor Area Ratio: For lots less than or equal to three thousand seven hundred (3,700) square feet	0.72, plus up to 200 square feet for a garage parking space	
Height	Height of dwellings and structures, if not within the setback areas and at least 15 feet from the front lot line.	<del>28 feet, or 30 feet for lots with a slope of 20 percent or more.</del> 36 feet	See the definition of height in Section 17.02.400.  See various exceptions in Chapter 17.47.  See the exception for garages in the front setback in Table 17.47.050.A
	Height of dwellings and structures for the area within 15 feet of the front lot line, where less than a 15 foot setback is permitted.	20 feet above finish grade	
	Height of garages and carports when permitted within the front setback area	15 feet above the elevation of the center of the adjacent street when permitted by Section 17.47.050 of this title.	
Articulation	Front: outside walls greater than 20 ft by 20 ft	30 percent	Articulation requirements are as a cumulative area. See definition of articulation in Section 17.02.050 and the definitions of outside walls, interior and exterior side outside walls in Section 17.02.065 of this title.  Exempt from articulation requirements: <ul style="list-style-type: none"> <li>• Single story 1 and 2 car garages.</li> <li>• Accessory structures not exceeding a floor area of 120 square feet.</li> <li>• Walls that are smaller than those listed in this table.</li> </ul>
	Side: exterior side outside walls greater than 20 ft by 20 ft on greater than or equal to 40 ft wide lots	20 percent	
	Side: interior side outside walls greater than 20 ft by 20 ft	NA	
	Rear: Rear outside wall greater than 20 ft by 20 ft	30 percent	
Landscaping	Front Setback Area for lots with greater than or equal to 30 ft front lot line (minimum)	15 percent	New and rehabilitated, irrigated landscapes are subject to the provisions of the water

Type	Description	Single-family Dwelling	Exceptions and Notes
	Rear of newly constructed main structure on a downslope lot	Screened with trees and shrubs in accordance with a landscape plan approved by the planning director	conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

Note: See also, Chapter 17.47 - Exceptions to District Development Regulations.

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

C. ~~K~~ Recycling Area Requirements. For new subdivisions containing an area where solid waste is collected and loaded in a location which serves five (5) or more living units, adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided to serve the needs of the living units which utilize the area. This requirement shall also apply to all institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.

\*\*\*\*\*

**SECTION 4: Section 17.08.040. - Development Regulations, of Chapter 17.08 - R-2 Residential District, is amended to read as follows:**

**17.08.040 - Development regulations.**

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

**(Subsections A - I combined to amended Subsection A.)**

A. Table 17.08.040.A: R-2 District Development Regulations

Type	Description	Single-family Dwelling	Two-units	Multi-family (three or more primary dwelling units)	Exceptions and Notes
Density of Development – maximum		1 DU/2,500 square feet			Except a lot having an area of 4,950 square feet or greater shall be considered conforming for a development density of two units.
Lot Dimensions	Lot Area – minimum	5,000 square feet	4,950 square feet	No Requirement for lot of record <del>4,950</del> for 3 units NA-50 NA-100	
	Lot Width - minimum	50 feet	50 feet		
	Lot Depth - minimum	100 feet	100 feet		
Setback minimums	Front: For dwellings and structures, except garages and carports.	15 feet for lots with a slope of less than 15 percent; or  10 feet for lots with a slope of 15 percent or greater; or  Where 50 percent or more of the lots of record in a block have been improved with single-family dwellings, the average distance of the front outside wall of the single-family structures from the front lot line on the same side of the street, if less than 10 or 15 feet, as otherwise applicable.			That portion of the structure that is subject to this setback exception (within the district standard setback area) shall not exceed 20 feet in height from finish grade. See height definition in section 17.02.400.
	Front: For garages and carports.	10 feet			
	Side: For dwellings and structures on lots greater than or equal to 50 feet wide except garages and carports accessed from a street or alley.	5 feet			
	Side: For dwellings and structures on lots less than 50 feet wide, except garages and carports accessed from a street or alley.	10 percent of the lot width, but not less than 3 feet.			
	Side: For garages or carports accessed from a street or alley along that side of the lot.	10 feet			
	Rear	10 feet			

Type	Description	Single-family Dwelling	Two-units	Multi-family (three or more primary dwelling units)	Exceptions and Notes
					approval, in Section 17.47.050.
Coverage	Lot Coverage	50 percent of lot area			See lot coverage definition in Section 17.02.495. <b>Lot coverage over 50 percent may be approved by the planning director, if required to meet the 1.25 FAR for developments of 3 or more units on a lot.</b>
Floor Area	Floor Area Ratio: For lots greater than three thousand seven hundred (3,700) square feet.	0.72	0.72	<b>1.25</b> <del>0.72</del>	See definition of floor area and floor area ratio in Section 17.02.315.
	Floor Area Ratio: For lots less than or equal to three thousand seven hundred (3,700) square feet	0.72, plus up to 200 square feet for a garage parking space.	0.72, plus up to 400 square feet for garage parking spaces.	<b>1.25</b> <del>0.72, plus up to four hundred (400) square feet for garage parking spaces.</del>	
Height	Height of dwellings and structures, if not within the setback areas and at least 15 feet from the front lot line.	<b><del>28 feet, or 30 feet for lots with a slope of 20 percent or more.</del></b> <b>36 feet</b>			See the definition of height in Section 17.02.400.  See various exceptions in Chapter 17.47.  See the exception for garages in the front setback in Table 17.47.050.A
	Height of dwellings and structures for the area within 15 feet of the front lot line, where less than a 15-foot setback is permitted.	20 feet			
	Height of garages and carports when permitted within the front setback area	15 feet above the elevation of the center of the adjacent street when permitted by Section 17.47.050 of this title.			
Articulation	Front: outside walls greater than 20 ft by 20 ft	30 percent			Articulation requirements are as a cumulative area.  See definition of articulation in Section 17.02.050 and the definitions of outside walls, interior and exterior side outside walls in Section 17.02.065 of this title.
	Side: exterior side outside walls that are greater than 20 ft by 20 ft on greater than or equal to 40 ft wide lots	20 percent			
	Side: interior side outside walls	NA			
	Rear: Rear outside wall	30 percent			

Type	Description	Single-family Dwelling	Two-units	Multi-family (three or more primary dwelling units)	Exceptions and Notes
					Exempt from articulation requirements: <ul style="list-style-type: none"> <li>• Single story 2 car garages.</li> <li>• Accessory structures not exceeding a floor area of 120 square feet.</li> <li>• Walls that are smaller than those listed in this table.</li> <li>• Where superseded by objective design standards established in Chapter 17.45 - Housing Development Permits.</li> </ul>
Landscaping	Front Setback Area for lots with greater than or equal to 30 ft front lot line (minimum)	15 percent			New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.
	Rear of newly constructed main structure on a downslope lot	Screened with trees and shrubs in accordance with a landscape plan approved by the planning director			

Notes:

1. Certain development regulations may be superseded for housing development projects, as defined in Chapter 17.02, by objective design standards provided in Chapter 17.45 - Housing Development Permits.
2. See also, Chapter 17.47 - Exceptions to District Development Regulations.

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

**C. ~~K~~ Recycling Area Requirements:**

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

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

\*\*\*\*\*

**SECTION 5: Section 17.10.040 - Development Regulations, of Chapter 17.10 - R-3 Residential District, is amended to read as follows:**

**17.10.040 - Development regulations.**

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

**(Subsections A - I combined to amended Subsection A.)**

A. Table 17.10.040.A: R-3 District Development Regulations

Type	Description	Single-family Dwelling	Two-units	Multi-family (three or more primary dwelling units)	Exceptions and Notes
Density of Development – maximum		1 DU/1,500 square feet			
Lot Dimensions	Lot Area – minimum	5,000 square feet	5,000 square feet	No Requirement for lot of record <del>4,950</del> for 3 units NA-50 NA-100	A single-family dwelling may be constructed on a lot of record with an area of less than five thousand (5,000) square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.32.100.
	Lot Width - minimum	50 feet	50 feet		
	Lot Depth - minimum	100 feet	100 feet		
Setback minimums	Front: For dwellings and structures, except garages and carports.	15 feet for lots with a slope of less than 15 percent; or  10 feet for lots with a slope of 15 percent or greater; or			That portion of the structure that is subject to this setback exception (within the district standard setback area) shall not exceed 20 feet in height

Type	Description	Single-family Dwelling	Two-units	Multi-family (three or more primary dwelling units)	Exceptions and Notes
		Where 50 percent or more of the lots of record in a block have been improved with single-family dwellings, the average distance of the front outside wall of the single-family structures from the front lot line on the same side of the street, if less than 10 or 15 feet, as otherwise applicable.			from finish grade. See height definition in section 17.02.400.
	Front: For garages and carports.	18 feet			If the front setback is less than 15 feet as provided for slope over 20 percent or by block average setbacks, then the garage setback minimum shall be three (3) feet behind the front wall of the main structure.  If the garage setback exemptions set forth in Section 17.47.050.A of this Title apply, the regulations of that section shall prevail.
	Side: For dwellings and structures on lots greater than or equal to 50 feet wide except garages and carports accessed from a street or alley.)	5 feet			Notwithstanding the foregoing, the minimum side setback for garages, or carports accessed from a street or alley along that side of the lot shall be 10 feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.
	Side: For dwellings and structures on lots less than 50 feet wide, except garages and carports accessed from a street or alley.	10 percent of the lot width, but not less than 3 feet.			
	Side: For garages or carports accessed from a street or alley along that side of the lot.	10 feet			See exception allowing for lesser setback by City Engineer approval in Section 17.47.050
	Rear	10 feet			See exceptions in Chapter 17.47, including decks and an allowance for a lesser setback for garages and carports on through lots, by City Engineer approval, in Section 17.47.050.
Coverage	Lot Coverage	60 percent of lot area			See lot coverage definition in Section 17.02.495.

Type	Description	Single-family Dwelling	Two-units	Multi-family (three or more primary dwelling units)	Exceptions and Notes
					Lot coverage over 60 percent may be approved by the planning director, if required to meet the 1.25 FAR for developments of three or more units on a lot.
Floor Area	Floor Area Ratio: For lots greater than three thousand seven hundred (3,700) square feet.	0.72	0.72	<del>0.72</del> 1.25	See definition of floor area and floor area ratio in Section 17.02.315.
	Floor Area Ratio: For lots less than or equal to three thousand seven hundred (3,700) square feet	0.72, plus up to 200 square feet for a garage parking space.	0.72, plus up to 400 square feet for garage parking spaces.	<del>0.72</del> 1.25	
Height	Height of dwellings and structures, if not within the setback areas and at least 15 feet from the front lot line.	<del>28 feet, or 30 feet for lots with a slope of 20 percent or more.</del> 36 feet			See the definition of height in Section 17.02.400.  See various exceptions in Chapter 17.47.  See the exception for garages in the front setback in Table 17.47.050.A
	Height of dwellings and structures for the area within 15 feet of the front lot line, where less than a 15-foot setback is permitted.	20 feet			
	Height of garages and carports when permitted within the front setback area	15 feet above the elevation of the center of the adjacent street when permitted by Section 17.47.050 of this title.			
Articulation	Front: outside walls greater than 20 ft by 20 ft	30 percent			Articulation requirements are as a cumulative area. See definition of articulation in Section 17.02.050 and the definitions of outside walls, interior and exterior side outside walls in Section 17.02.065 of this title.  Exempt from articulation requirements: <ul style="list-style-type: none"> <li>• Single story 2 car garages.</li> <li>• Accessory structures not exceeding a floor area of 120 square feet.</li> </ul>
	Side: exterior side outside walls that are greater than 20 ft by 20 ft on greater than or equal to 40 ft wide lots	20 percent			
	Side: interior side outside walls	NA			
	Rear: rear outside wall.	30 percent			



Type	Description	Single-family Dwelling	Two-units	Multi-family (three or more primary dwelling units)	Exceptions and Notes
					<ul style="list-style-type: none"> <li>Walls that are smaller than those listed in this table.</li> <li>Where superseded by objective design standards established in Chapter 17.45 - Housing Development Permits.</li> </ul>
Landscaping	Front Setback Area for lots with greater than or equal to 30 ft front lot line (minimum)	15 percent			New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.
	Rear of newly constructed main structure on a downslope lot.	Screened with trees and shrubs in accordance with a landscape plan approved by the planning director			
	Sites with Three (3) or More Units	Not less than ten percent (10 percent) of the lot area shall be improved with landscaping.			

Notes:

1. Certain development regulations may be superseded for housing development projects, as defined in Chapter 17.02, by objective design standards provided in Chapter 17.45 - Housing Development Permits.
2. See also, Chapter 17.47 - Exceptions to District Development Regulations.

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

C. ~~K.~~ Refuse and Recycling Area Requirements.

1. So as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare, areas for depositing, collecting and loading refuse and recyclable materials shall be provided and fully enclosed within an enclosure a minimum of six (6) feet tall. All receptacles for collection and recycling shall be completely screened from view at street level. All enclosures and gates shall be designed to withstand heavy use. Wheel stops or curbs shall be provided to prevent dumpsters from banging into walls of enclosure. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties.

Lighting shall be provided at all enclosures for nighttime security and use. Lights shall be full cutoff luminaires, as certified by the manufacturer, with the light source directed downward and away from adjacent residences. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.

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

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**SECTION 6: Section 17.12.040 - Development Regulations, of Chapter 17.12 - R-BA Brisbane Acres Residential District, is amended to read as follows:**

**17.12.040 - Development regulations.**

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

**(Subsections A- H combined to amended Subsection A.)**

A. Table 17.12.040.A: R-BA District Development Regulations

Type	Description	Single-family Dwelling	Exceptions and Notes
	Density of Development – maximum	1 DU/20,000 square feet	Not more than one single-family dwelling shall be located on each lot in the R-BA District, except as otherwise provided in Section 17.12.050, Density transfer, and Section 17.12.055, Clustered development, of this chapter, or Chapter 17.05 of this title for urban lot split and two-unit development provisions.  A single-family dwelling may be constructed on a lot of record with an area of less than 20,000 square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.01.060 of Chapter 17.01 of this title.  See also Chapter 17.05 of this title for urban lot split and two-unit development provisions.
Lot Dimensions	Lot Area – minimum	20,000 square feet	
	Lot Width - minimum	110 feet	
	Lot Depth - minimum	140 feet	

Type	Description	Single-family Dwelling	Exceptions and Notes
Setback minimums	Front.	10 feet	See exception allowing for lesser garage setback by City Engineer approval in Section 17.47.050.
	Side: For dwellings and structures, except garages and carports accessed from a street or alley	10 percent of the lot width, but in no event more than 15 feet or less than 5 feet.	See also setback exceptions in Chapter 17.47
	Side: For garages or carports accessed from a street or alley along that side of the lot.	10 feet	See exception allowing for lesser setback by City Engineer approval in Section 17.47.050
	Rear.	10 feet	See exceptions in Chapter 17.47, including decks and an allowance for a lesser setback for garages and carports on through lots, by City Engineer approval, in Section 17.47.050.
Coverage	Lot Coverage	25 percent of lot area	See lot coverage definition in Section 17.02.495.  See provisions for two-unit developments and urban lot splits in Chapter 17.05.
Floor Area	Floor Area Ratio	0.72 provided, however, that in no event shall the floor area of all buildings on a lot exceed 5,500 square feet	Accessory dwelling units and junior accessory dwelling units are excepted from the floor area ratio limits as permitted in Chapter 17.43  See definition of floor area and floor area ratio in Section 17.02.315.  See provisions for two-unit developments and urban lot splits in Chapter 17.05.
Height	The maximum height of any structure outside the side and rear setbacks and more than 20 feet from the front lot line.	35 feet	See the definition of height in Section 17.02.400.  See various exceptions in Chapter 17.47.  See other exception for garages in the front setback in Table 17.47.050.A
		36 feet	
	The maximum height of any structure within twenty (20) feet from the front lot line, .	Residential structures on sites sloping down from the adjacent street may be constructed to a height of twenty (20) feet above the elevation of the center of the street.  Garages and carports may be constructed to a height of 15 feet above the elevation of the center of the adjacent street and may exceed a height of thirty-six (36) feet, but the height of any permitted living	

Type	Description	Single-family Dwelling	Exceptions and Notes
		area underneath shall not exceed 36 feet from finish grade.	
Articulation	Front: outside walls greater than 20 ft by 20 ft	30 percent	Articulation requirements are as a cumulative area. See definition of articulation in Section 17.02.050 and the definitions of outside walls, interior and exterior side outside walls in Section 17.02.065 of this title.
	Side: exterior side outside walls that are greater than 20 ft by 20 ft on greater than or equal to 40 ft wide lots	20 percent	
	Side: interior side outside walls	NA	
	Rear: rear outside wall	30 percent	Exempt from articulation requirements: <ul style="list-style-type: none"> <li>• Single story 2 car garages.</li> <li>• Accessory structures not exceeding a floor area of 120 square feet.</li> <li>• Walls that are smaller than those listed in this table.</li> </ul>

Note: See also, Chapter 17.47 - Exceptions to District Development Regulations.

- B. ~~H.~~ Wildland Interface. The development shall incorporate such measures as the fire chief may deem necessary to protect against the spread of fire between the site and the adjacent wildland.
- C. ~~I.~~ HCP Compliance. All development within the R-BA District, except as provided in Section 17.01.060, shall comply with the requirements of the San Bruno Mountain Area Habitat Conservation Plan (HCP), including site activity review, environmental assessments, and operating programs for planned management units, consistent with the objectives and obligations set forth in the HCP.

**(Subsection J. Articulation Requirements, removed. See Table 17.12.040.A, above.)**

- D. ~~K.~~ Landscaping Requirements.
  1. Landscape Plan. All development proposals and re-landscaping projects subject to the water conservation in landscaping ordinance (Chapter 15.70), except as permitted in Section 17.01.060 of Chapter 17.01 of this title, shall include a landscape plan to be approved by the planning director in consultation with the HCP plan operator. The plan shall show all proposed landscaping and the location of all protected trees and rare plants. The landscape plan shall be consistent with all of the following objectives:
    - a. Preservation of protected trees and rare plants to the greatest extent possible;
    - b. Use of plants that are compatible with the natural flora and fauna, and are not invasive to the HCP area;
    - c. Use of water conserving plants;

- d. Use of plants that will effectively screen structures and blend with the natural landscape; and
- e. Use of landscaping that is fire resistant.

2. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

**(Subsection L. Ridgeline, removed. See new Section 17.12.045 below.)**

- E. ~~M.~~ Canyon Watercourses and Wetlands. Development of the site, including any temporary disturbance, shall be set back 30 feet in each direction from the center line of any watercourse, and 20 feet from the boundary of any wetlands. The specific location of watercourse center lines and wetland boundaries shall be determined by qualified personnel under the city's direction.
- F. ~~N.~~ Trails. The development shall incorporate public access trails to the extent feasible given the environmental sensitivities of the site.
- G. ~~O.~~ Nonconforming Residential Structures and Uses. Nonconforming residential structures and nonconforming residential uses, as defined in Section 17.02.560, may be repaired, restored, reconstructed, enlarged or expanded in accordance with the provisions of paragraph 3 of subsection L. of Section 17.12.040 and Chapters 17.34 and 17.38 of this title.
- H. ~~P.~~ Recycling Area Requirements. For new subdivisions containing an area where solid waste is collected and loaded in a location which serves five (5) or more living units, adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided to serve the needs of the living units which utilize the area. This requirement shall also apply to all institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.

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**SECTION 7: New Section 17.12.045 - Ridgeline Development is added to Chapter 17.12 R-BA Brisbane Acres Residential District as follows:**

**17.12.045 - Ridgeline Development.**

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

1. In addition to the required contents of application for design permit set forth in Section 17.42.020, story poles certified by a licensed architect, surveyor, civil engineer or contractor to represent the height of the proposed building shall be erected at the locations of its outer corners and roof peaks according to a plan pre-approved by the planning director. The upper one-foot length of each pole shall be painted OSHA yellow so as to be clearly visible from a distance.
  
2. In addition to the findings required for issuance of design permits set forth in Section 17.42.040, the planning commission shall find that the building's placement, height, bulk and landscaping will preserve those public views of the San Bruno Mountain State and County Park as seen from the Community Park and from the Bay Trail along the Brisbane Lagoon and Sierra Point shorelines that are found to be of community-wide value. Methods to accomplish this may include varying the building's roofline to reflect the ridgeline's topography, orienting the building to minimize the impact of its profile upon public views, locating the building on the lower elevations of the site, and reducing the building's height below the maximum permitted in the district.
  
3. An existing structure may be repaired or replaced in accordance with Section 17.38.090 without design permit approval, but any alteration or expansion which raises any portion of the roofline or increases the building's lot coverage shall be subject to design permit approval under this section.

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**SECTION 8: Section 17.14.060 - Development regulations for the NCRO-2 district is amended to read as follows:**

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

- A. Lot Area. The minimum area of any lot in the NCRO-2 district shall be two thousand five hundred (2,500) square feet, **except that a lot of record that is less than 2,500 square feet, created prior to January 1, 2022, shall be recognized as conforming for 3 or more dwelling units as part of a mixed-use development, pursuant to Section 17.14.040.K.2.**

**(Subsections B and C, no change.)**

D. Setbacks. The minimum required setbacks for any lot in the NCRO-2 district, except as provided in Chapter 17.47, shall be as follows:

1. Front setback: No requirement.
  
2. Side Setback: No requirement, except a 10 foot setback shall be required on the side where abutting any residential district.
  
3. Rear Setback: 10 feet.

**(Subsection E no change)**

F. Height of Structures. The maximum height of any structure, except as provided in Chapter 17.47, shall be ~~twenty-eight (28) feet, except that the height may extend to thirty-five (35) feet when authorized by a design permit granted pursuant to Chapter 17.42 of this title and provided the approving authority is able to make the findings set forth in Section 17.14.110 of this chapter~~ 36 feet.

~~G. Fencing Requirements. If the site is next to a residential district, a wood fence of not less than eight (8) feet in height that adequately screens the site from the adjacent residential property shall be installed along the property line abutting the residential district. The planning director may approve deviations from the material and height requirements set forth in the preceding sentence, based upon a finding that the modified fence is more appropriate for the site and the adjacent residential property.~~

G. Fencing Requirements. Fencing shall be subject to zoning administrator review as set forth in Section 17.47.060, except where subject to a design permit per Section 17.14.110. If the site is next to a residential district, a fence not to exceed 10 feet in height, that screens the site from the abutting residential property rear or side yard areas shall be installed along the property line.

**(Subsections H, I and J no change)**

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**SECTION 9: Section 17.16.040 - Development Regulations, of Chapter 17.16 - SCRO-1 Southwest Bayshore Commercial District, is amended to read as follows:**

Development regulations in the Southwest Bayshore district are as follows:

- A. Lot Area. The minimum area of any lot shall be seven thousand five hundred (7,500) feet, ~~except that a lot of record that is less than 7,500 square feet, created prior to January 1, 2022, shall be recognized as conforming for 3 or more dwelling units.~~

**(Subsections B and C, no change.)**

D. Setbacks. The minimum required setbacks for any lot, except as provided in ~~Chapter 17.47~~, shall be as follows:

- 1. Front setback:
  - a. Residential/Mixed Use: 10 feet;
  - b. Commercial Uses: 25 feet for commercial uses;
  - c. Exception: The setbacks may be reduced to zero where development includes dedication to public right-of-way for a frontage access road and sidewalk, to the satisfaction of the city engineer and fire department.
- 2. Side setback:
  - a. Residential/Mixed Use: 5 feet;

- b. Commercial Uses: 15 feet;
  - c. Exception: The planning commission may approve exceptions to the side setback regulations for commercial uses through the granting of a use permit.
3. Rear setback: 10 feet.

**(Subsection E, no change.)**

F. Height of Structures. The maximum height of any structure, except as provided in Chapter 17.47, shall be ~~thirty-five (35) feet~~36 feet.

**(Subsections G, H, I, J, K, L and M, no change.)**

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**SECTION 10: Section 17.27.040 - Development Regulations for the PAOZ-1 District is amended to read as follows:**

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

**(Subsections A, B, C, D, E and F, no change.)**

G. Height.

- 1. Buildings and Architectural Features. The maximum building height shall be 38 feet and 3 stories. Architectural features, including chimneys, elevators, towers, turrets, eaves, skylights or roof windows, utilities, utility penthouses, and solar panels, are allowed to project up to a maximum of 10 feet above the maximum building height.
- 2. Fences and Walls. Fences and walls in front yards shall be no more than 3 feet in height from the adjacent sidewalk. Fences and walls in side yards shall not exceed 6 feet in height. Deviations from maximum fence and wall heights shall require approval by the ~~planning commission zoning administrator~~ as provided in ~~Section 17.32.050.B.5. of this title~~ Chapter 17.47.

**(Subsections H, I, J, K, L and M, no change.)**

**SECTION 11: Section 17.27.050 - Development Regulations for the PAOZ-2 District is amended to read as follows:**

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



(Subsections A, B, C, D, E and F, no change.)

G. Height.

1. Buildings and Architectural Features. The maximum building height shall be 38 feet and 3 stories. Architectural features, including chimneys, elevators, towers, turrets, eaves, skylights or roof windows, utilities, utility penthouses, and solar panels, are allowed to project up to a maximum of 10 feet above the maximum building height.

2. Fences and Walls. Fences and walls in front yards shall be no more than 3 feet in height from the adjacent sidewalk. Fences and walls in side yards shall not exceed 6 feet in height. Deviations from maximum fence and wall heights shall require approval by the ~~planning commission zoning administrator~~ as provided in ~~Section 17.32.050.B.5. of this title~~ Chapter 17.47.

(Subsections H, I, J, K, L and M, no change.)

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**SECTION 12: Sections 17.032.050 - Fences, hedges and walls, 17.032.055 - Exceptions – Lot area, lot dimensions and lot lines, 17.32.060 - Exceptions – Height Limit, 17.32.070 - Exceptions – Setback requirements, and 17.32.080 - Requests for reasonable accommodations are hereby deleted in their entirety.**

~~17.32.050 – Fences, hedges and walls.~~

~~A. General Regulations. Fences, hedges and walls may be erected subject to the following conditions:~~

~~1. Unless otherwise provided elsewhere in this title, fences, hedges and walls not exceeding six (6) feet in height may be constructed in any district within any required setback area, except as follows:~~

~~a. Where the director of public works determines that visibility would be affected, the height of fences, hedges and walls shall be reduced to not less than three (3) feet.~~

~~b. Chain link fences shall not be constructed in or adjoining any R residential district, except as provided in subsections (B)(4) and (B)(5).~~

~~c. Razor wire, barbed wire and similar materials with sharp edges or points shall not be used for fencing in any district, except as provided in subsection (B)(5). Other non-standard fencing materials may be similarly restricted per guidelines approved by the planning commission.~~

~~d. As a condition of approval for properties subject to the San Bruno Mountain Area Habitat Conservation Plan, the planning commission shall restrict the height, location and/or design of fencing to maintain sufficient openness to allow passage of butterflies while remaining consistent with building code requirements.~~

~~2. Where a fence is proposed to be constructed, or has been constructed, adjacent to city property, a boundary survey or other evidence of the location of the fence shall be submitted to the director of public works upon request if the director determines that a question exists as to whether the fence encroaches on public property.~~

~~3. When construction of a fence impairs the visibility of address numbers on a house, such numbers shall be relocated with approval of the fire prevention officer.~~

~~B. Exceptions.~~

~~1. The community development director may approve retaining walls located in any required setback area having a height (as defined in Section 17.02.400) in excess of six (6) feet and falling within any one of the following categories:~~

~~a. The surface of the retaining wall is treated with coloring, texture, architectural features, trelliswork, or other means that will visually divide the height of the retaining wall into horizontal sections of no more than six (6) feet.~~

~~b. Water conserving, non-invasive landscaping of sufficient size at maturity will be planted and maintained to provide screening so that no more than six (6) feet of the height of the retaining wall would remain visible.~~

~~c. The retaining wall is located on a cut slope so that it is not readily visible from off the site.~~

~~2. Fence heights may exceed six (6) feet through the addition of up to two (2) feet of wooden lattice on top within the required side and rear setbacks in the R-1, R-2, R-3, R-BA and NCRO-2 districts, but not within the front setback required per the district's development regulations.~~

~~3. Metal rail and picket fences and black or dark green vinyl-coated chain-link fences not exceeding eight (8) feet in height may be constructed in the C-1, TC-1 and M-1 districts.~~

~~4. Temporary chain-link demolition/construction barricades not exceeding eight (8) feet in height are permitted in all districts, subject to removal prior to final inspection.~~

~~5. In the R-MHP district, fence heights may be constructed up to eight (8) feet along the mobile home park perimeter, except that fence heights may be constructed up to ten (10) feet along the mobile home park perimeter abutting a public right-of-way.~~

~~6. All other exceptions to the general regulations set forth in subsection 17.32.050(A) shall require approval by the planning commission. Application for such exception shall be filed with the community development director and shall be accompanied by payment of a processing fee in such amount as established from time to time by resolution of the city council. The planning commission may grant the exception upon making all of the following findings:~~

~~a. The exception is necessary by reason of unusual or special circumstances or conditions relating to the property in order to gain full use and enjoyment of the property.~~

~~b. The proposed fence, hedge or wall will not create a safety hazard for pedestrians or vehicular traffic.~~

~~c. The appearance of the fence, hedge or wall is compatible with the design, appearance and scale of the existing buildings and structures in the neighboring area.~~

~~17.32.055—Exceptions—Lot area, lot dimensions and lot lines.~~

~~A. Limitations on Substandard Lots.~~

~~1. No substandard lot shall be independently developed if it is less than five thousand (5,000) square feet in area and if it was owned in common with contiguous property in the same district on October 27, 1969.~~

~~A substandard lot at least five thousand (5,000) square feet in area may be developed as a standard site under the applicable district regulations.~~

~~2. In any R district, single family dwellings only may be erected on any substandard lot less than five thousand (5,000) square feet in area, if the lot was not owned in common with contiguous property in the same district on October 27, 1969.~~

~~3. As an exception to subsection (A)(1), a property in the R 1 Residential district consisting of four (4) contiguous lots of record totaling at least nine thousand six hundred fifty (9,650) square feet that were owned in common on October 27, 1969, may be developed as two (2) sites, each consisting of one pair of contiguous lots.~~

~~4. Any substandard lot created through a parcel map, resubdivision or lot line adjustment approved by the city after October 27, 1969, shall be recognized as a standard site.~~

~~5. Contiguous substandard lots owned in common may be subject to merger in compliance with this section and Municipal Code Chapter 16.12.~~

~~B. Modification in Conjunction with Application for Tentative Map. The planning commission may approve an application for a modification to the lot dimension regulations set forth in Title 17, Zoning, for real property located in any subdivision proposed in compliance with Title 16, Subdivisions, subject to the following findings:~~

~~1. The property is of such size or shape, or is subject to such title limitations of record, or is affected by such topographical location or conditions, or is to be devoted to such use that it is impossible, impractical or undesirable in a particular case for the subdivider to fully conform to the regulations;~~

~~2. Each lot or parcel subject to the modification will be capable of being developed in accordance with the other applicable provisions of the zoning ordinance; and~~

~~3. The modification conforms with the spirit and purpose of this title.~~

~~C. Lot Line Adjustment. In compliance with the procedures set forth in Chapter 16.32 of Title 16, Subdivisions, the planning director may approve a lot line adjustment that will not increase the degree of noncompliance or otherwise increase the discrepancy between existing conditions and the requirements of the Zoning Ordinance, even though the resulting parcels may not fully comply with the development regulations of the applicable zoning district.~~

~~D. Elimination of Interior Lot Lines. A property owner may eliminate an interior lot line between record lots in common ownership through recordation of a declaration of merger signed by the property owner and acknowledged by the community development director.~~

~~17.32.060 Exceptions— Height limit.~~

~~A. Chimneys which do not exceed three (3) feet in width or depth may exceed the height limit by no more than five (5) feet except as required to comply with the California Building Code.~~

~~B. Where cupolas, flag poles, monuments, radio and other towers, water tanks, church steeples, mechanical appurtenances and similar structures are permitted in a district, height limits therefore may be exceeded upon the securing of a use permit. Wireless telecommunications facilities shall be subject to the height exception procedures set forth in Section 17.32.035.~~

~~C. Rooftop solar energy systems may exceed the maximum building height limit of the applicable zoning district in accordance with the following procedures:~~

~~1. Rooftop solar energy systems, including those for water heating as well as photovoltaic purposes, that do not extend more than twenty four (24) inches above the roofline of the structure on which they are mounted, measured from the exterior roofing material to the highest point of the panel, are exempt from maximum building height limits in all zoning districts.~~

~~2. Rooftop solar energy systems that extend more than twenty four (24) inches above the roofline of the structure on which they are mounted, measured from the exterior roofing material to the highest point of the panel, may exceed the height limit through approval of an administrative permit by the zoning administrator. If the zoning administrator determines that the granting of the permit would not result in a specific adverse impact upon the public health and safety, the zoning administrator shall give written notice of the intended approval to property owners and occupants on both sides of, to the rear of and directly across the street from the site on which the system is proposed to be located. The notice shall generally describe the nature, design and location of the proposed system and advise the recipients that they may submit written comments on the intended decision by a certain date, which shall be not less than twenty one (21) days from the date of mailing the notice. The notice shall also advise the recipients that they have the right to appeal a decision of the zoning administrator to the planning commission. The zoning administrator shall send a copy of the final decision on the application to each person who has submitted written comments within the time prescribed in the notice.~~

~~D. Exceptions to the height limit to accommodate accessibility improvements (such as elevators and wheelchair van garage spaces) may be allowed upon the granting of an accessibility improvement permit by the zoning administrator, following the conduct of a hearing with ten (10) days' notice thereof being given to property owners and occupants on both sides of, to the rear of and directly across the street from the site. The zoning administrator may issue the accessibility improvement permit if he or she finds and determines that:~~

~~1. The exception is necessary to meet special needs for accessibility of a person having a disability which impairs his or her ability to access the property.~~

~~2. Visual impacts of the accessibility improvements exceeding the height limit will be minimized.~~

~~3. The accessibility improvements will not create any significant adverse impacts upon adjacent properties in terms of loss of privacy, noise or glare.~~

~~4. The accessibility improvements will be constructed in a sound and workmanlike manner, in compliance with all applicable provisions of the building and fire codes.~~

~~17.32.070—Exceptions—Setback requirements.~~

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

~~1. Projections from a Building.~~

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

~~Front setback area; May extend 3 feet from the building into the front setback area, but no closer than 5 feet from the front lot line.~~

~~Rear setback area:; May extend 3 feet from the building into the rear setback area, but no closer than 7 feet from the rear lot line.~~

~~Side setback area:; May extend 3 feet from the building into the side setback area, but no closer than 2½ feet from the side lot line. Rain gutters and downspouts may extend no closer than 2 feet from the side lot line. In the R-1 district, a noncombustible awning over the main entrance to a residence located at the side of the structure may extend 4 feet from the building into any portion of the side setback area, but shall not extend over or drain onto the abutting property.~~

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

~~Front setback area:; May extend 3 feet from the building into the front setback area, but no closer than 5 feet from the front lot line.~~

~~Rear setback area:; May extend 3 feet from the building into the rear setback area, but no closer than 7 feet from the rear lot line.~~

~~Side setback area:; May extend 2 feet into the side setback area, but no closer than 3 feet from the side lot line.~~

~~c. Supported Decks, Cantilevered Decks and Balconies.~~

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

~~Rear setback area:; May extend 5 feet from the building into the rear setback area, but no closer than 5 feet from the rear lot line. This exception shall not apply to the NCRO district.~~

~~Side setback area:; No exception permitted.~~

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

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

~~d. Deck Railings within Setback Areas.~~

~~Front setback area:; May not be higher than 4 feet from the surface of the deck.~~

~~Rear setback area; May not be higher than 4 feet from the surface of the deck.~~

~~Side setback area; No exception permitted.~~

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

~~Front setback area; No more than 1 set of stairs per dwelling unit may extend from the building into the front setback area. Each set of stairs must lead to the front entrance of the unit. The height of the stairway within the front setback area shall not exceed 20 feet. Stairs on grade, sidewalks, and other flatwork constructed of noncombustible materials may be located anywhere within the front setback area.~~

~~Rear setback area; No more than 1 set of stairs per dwelling unit may extend from the building into the rear setback area, but no closer than 5 feet from the rear lot line. Stairs on grade, sidewalks, and other flatwork constructed of noncombustible materials may be located anywhere within the rear setback area.~~

~~Side setback area; No more than 1 set of stairs per dwelling unit may extend from the building into the side setback area, but no closer than 3 feet from the side lot line. Stairs on grade, sidewalks, and other flatwork constructed of noncombustible materials may be located anywhere within the side setback area.~~

~~Modifications. The planning commission may approve a modification to the foregoing exceptions for stairs, ramps and landings if there are not more than two units on the site and the planning commission is able to make all of the following findings:~~

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

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

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

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

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

~~iv. The accessibility improvements will be constructed in a sound and workmanlike manner, in compliance with all applicable provisions of the building and fire codes.~~

~~2. Small Free-Standing Structures.~~

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

~~Front setback area:; No exception permitted.~~

~~Rear setback area:; May be placed at any location within the rear setback area which is not less than 5 feet from the rear lot line or 3 feet from the interior side lot line, provided the building or structure, or portion thereof, within the rear setback area does not exceed 8 feet in height and does not have a floor area in excess of 120 square feet.~~

~~Side setback area:; May be placed at any location within the interior side setback area which is not less than 3 feet from the interior side lot line, provided the building or structure, or portion thereof, within the interior side setback area does not exceed 8 feet in height and does not have a floor area in excess of 120 square feet. No exception is permitted for an exterior side setback area.~~

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

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

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

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

~~Front setback area:; May not exceed 8 feet in height or cover more than 15% of the front setback area.~~

~~Rear setback area:; May be placed at any location within the rear setback area which is not less than 5 feet from the rear lot line, provided the structure, or portion thereof, within the rear setback area does not exceed 8 feet in height and does not cover more than 15% of the rear setback area.~~

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

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

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

~~3. Miscellaneous Improvements.~~

~~a. Garages and Carports and Parking Decks on Slopes of Fifteen Percent (15%) or Greater.~~

~~Front setback area:; Garages, carports and parking decks not more than 15 feet in height above the elevation of the center of the adjacent street in the R-1, R-2 and R-3 Districts and parking decks in the R-BA District may be placed at any location within the front setback area provided: (i) there is no encroachment into any side setback area, and (ii) the garage is approved by the city engineer, based upon a finding that no traffic or safety hazard will be created.~~

~~Rear setback area:; On through lots, garages, carports and parking decks not more than 15 feet in height above the elevation of the center of the adjacent street may be placed at any location within the rear setback area provided: (i) there is no encroachment into any side setback area, and (ii) the garage is approved by the city engineer, based upon a finding that no traffic or safety hazard will be created.~~

~~Side setback area:; No exception permitted.~~

~~b. Decorative Artwork, Ponds, Fountains and Similar Water Features, Not More Than Six (6) Feet in Height.~~

~~Front setback area:; May be placed at any location within the front setback area.~~

~~Rear setback area:; May be placed at any location within the rear setback area.~~

~~Side setback area:; No exception permitted.~~

~~c. Existing Permitted Garages or Accessory Buildings Converted into Accessory Dwelling Units.~~

~~Front setback area:; May be placed at any location within the front setback area.~~

~~Rear setback area:; May be placed at any location within the rear setback area.~~

~~Side setback area:; May be placed at any location within the side setback area.~~

~~4. Accessory Dwelling Units.~~

~~a. Exceptions to the setback requirements for accessory dwelling units shall be as established in Chapter 17.43.~~

~~B. The exceptions set forth in subsection A. of this Section 17.32.070 shall not be construed to include chimney boxes, swimming pools and spas, exposed plumbing, or mechanical equipment such as heating and air conditioning units or pool pumps, and no exceptions to the setback requirements shall be permitted for any of these structures.~~



~~C. Any structure, architectural feature, wall, or other improvement lawfully constructed within a setback area and constituting a nonconforming structure as defined in Section 17.02.560, may be allowed to continue in accordance with Chapter 17.38 of this title.~~

~~17.32.080—Requests for reasonable accommodations.~~

~~Modifications or exceptions to the regulations set forth in Title 17 may be requested as reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities, if the accommodation would not impose an undue financial or administrative burden upon the city and would not require a fundamental alteration in the nature of the applicable regulation. Such requests may be granted by the zoning administrator through application for an accessibility improvement permit, following the conduct of a hearing with ten (10) days' notice thereof being given to property owners and occupants on both sides of, to the rear of and directly across the street from the site. The zoning administrator may issue the accessibility improvement permit if he or she finds and determines that:~~

~~A. The accommodation is necessary to meet special needs for a person having a disability and cannot be addressed through the exceptions under Sections 17.32.060 and 17.32.070.~~

~~B. Any visual impacts of the accommodation will be minimized.~~

~~C. The accommodation will not create any significant adverse impacts upon adjacent properties in terms of loss of privacy, noise or glare.~~

~~D. Any construction resulting from the accommodation will be done in a sound and workmanlike manner, in compliance with all applicable provisions of the building and fire codes.~~

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**SECTION 13: Section 17.42.070 - Amendment of design permit—Minor modifications is amended to read as follows:**

**17.42.070 - Amendment of design permit—~~Minor m~~Modifications.**

A. Amendments or modifications to a design permit shall require approval by the ~~planning commission,~~ **except that the** zoning administrator as set forth in Section 17.56.090 of this title, or by the planning commission if referred by the zoning administrator. ~~shall have authority to approve the following matters:~~

~~1. Any items which, under the terms of the design permit, have been delegated to the zoning administrator for approval, either as a condition for issuance of the permit or at any time thereafter;~~

~~2. Minor changes during the course of construction which do not materially affect the use, nature, appearance, quality or character of the project.~~

~~B. The application requirements, public hearing procedures and findings required for amendments or modifications to a design permit shall be as prescribed in Sections 17.42.020, 17.42.030 and 17.42.040 of this chapter.~~

**SECTION 14: Chapter 17.46 - Variances is amended to read as follows:**

**Chapter 17.46 - VARIANCES**

**17.46.010 - Application—Required circumstances.**

Applications for variances from the strict application of the terms of this title may be made and variances granted when the following circumstances are found to apply:

A. That any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and district in which the subject property is located;

B. That because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of this title is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.

**17.46.020 - Application—Form—Contents.**

Application for variance shall be made in writing by a property owner, lessee, purchaser in escrow, or optionee with the consent of the owners, on a form prescribed by the ~~planning director-zoning administrator~~. The application shall be accompanied by a fee, set by the city council, a plan of the details of the variance requested and evidence showing:

A. That the granting of the variance will not be contrary to the intent of this title or to the public safety, health and welfare; and

B. That due to special conditions or exceptional characteristics of the property or its location, the strict application of this chapter results in practical difficulties and unnecessary hardship. "Hardship," as used in this chapter does not mean personal or financial hardship but refers to the conditions in subsection B of Section 17.46.010.

**17.46.030 - Application—Hearing date—Notice.**

The planning commission shall conduct a public hearing on the application for a variance. Notice of such hearing shall be given as set forth in Chapter 17.54.

**17.46.040 - Granting.**

A. After the conclusion of the public hearing or continuations thereof, the planning commission ~~or zoning administrator~~ may grant or deny a variance from the strict application of the regulations established by this chapter. The commission may impose any reasonable conditions deemed necessary to achieve the purpose of this title.

B. A variance shall be effective the seventh (7th) day after planning commission ~~or zoning administrator~~ approval unless the action is appealed to the city council, ~~or in the case of the zoning administrator, to the planning commission,~~ in which case the variance shall not be effective until final action upon the appeal.

**17.46.050 - Nonconforming uses not allowed.**

The use of lands or buildings not in conformity with the regulations specified for the district in which such lands or buildings are located may not be allowed by the granting of a variance.

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**SECTION 15: New Chapter 17.47 - Exceptions to District Development Regulations is added to read as follows:**

**17.47 - EXCEPTIONS TO DISTRICT DEVELOPMENT REGULATIONS**

**17.47.010 - Purpose of Chapter**

The purpose of this chapter is to provide standards and procedures for recognition of certain substandard lots as legal lots for development, as well as exceptions to specified district development regulations for certain structures and other built features.

**17.47.020 - Applicability**

Unless indicated otherwise in this title, the exceptions provided in this chapter shall apply to all districts.

**17.47.030 - Exceptions to Lot area, lot dimensions and lot lines.**

Lots sizes and dimensions shall conform to the district development regulations, except as provided herein.

**A. Substandard Lots.**

1. No substandard lot shall be independently developed if it is less than 5,000 square feet in area and if it was owned in common with contiguous property in the same district on October 27, 1969. A substandard lot at least 5,000 square feet in area may be developed as a standard site under the applicable district regulations.
2. In any R district, single-family dwellings only may be erected on any substandard lot less than 5,000 square feet in area, if the lot was not owned in common with contiguous property in the same district on October 27, 1969.
3. As an exception to A.1, a property in the R-1 Residential district consisting of 4 contiguous lots of record totaling at least 9,650 square feet that were owned in common on October 27, 1969, may be developed as 2 sites, each consisting of one pair of contiguous lots.

- 4. Any substandard lot created through a parcel map, resubdivision or lot line adjustment approved by the city after October 27, 1969, shall be recognized as a standard lot.
- 5. Contiguous substandard lots owned in common may be subject to merger in compliance with this section and Municipal Code Chapter 16.12.

**B. Urban Lot Split.** A lot may be created and developed in the R-1 and R-BA districts that does not conform to the lot area and dimensions subject to the provisions of the Two-unit Development Residential Overlay District - R-1 and R-BA Districts, as set forth in Chapter 17.05.

**C. ~~B.~~ Modification in Conjunction with Application for Tentative Map.** The planning commission may approve an application for a modification to the lot dimension regulations set forth in Title 17, Zoning, for real property located in any subdivision proposed in compliance with Title 16, Subdivisions, subject to the following findings:

- 1. The property is of such size or shape, or is subject to such title limitations of record, or is affected by such topographical location or conditions, or is to be devoted to such use that it is impossible, impractical or undesirable in a particular case for the subdivider to fully conform to the regulations;
- 2. Each lot or parcel subject to the modification will be capable of being developed in accordance with the other applicable provisions of the zoning ordinance; and
- 3. The modification conforms with the spirit and purpose of this title.

**D. ~~C.~~ Lot Line Adjustment.** In compliance with the procedures set forth in Chapter 16.32 of Title 16, Subdivisions, the planning director may approve a lot line adjustment that will not increase the degree of noncompliance or otherwise increase the discrepancy between existing conditions and the requirements of the Zoning Ordinance, even though the resulting parcels may not fully comply with the development regulations of the applicable zoning district. **Where each lot is a substandard lot as defined in Section 17.02.490.H, a lot line adjustment may be utilized to effectuate an urban lot split, subject to the provisions of the two-unit development residential overlay district, as set forth in Chapter 17.05.**

**E. ~~D.~~ Elimination of Interior Lot Lines.** A property owner may eliminate an interior lot line between record lots in common ownership through recordation of a declaration of merger signed by the property owner and acknowledged by the planning director, as prescribed by Chapter 16.12 of Title 16, Subdivisions.

### 17.47.040 - Height Limit Exceptions

Heights of structures shall conform to the district development regulations, except as provided herein.

#### A. Height Exception Limits.

The following height limit exceptions in Table 17.47.040.A apply to all zoning districts:

**Table 17.47.040.A**

Type	Applicability	Height Exception	Eligible for Modification?
Chimney	Chimney not exceeding 3 feet in width or depth.	Feature may be less than or equal to 5 feet over the district height limit, or as required to comply with the California Building Code.	No. Modification to the height exception provided may only be by variance, per Chapter 17.46, subject to the findings therein.
Miscellaneous structures	Cupolas, <del>flag poles</del> , monuments, water tanks, mechanical appurtenances and similar structures. <del>Church steeples, radio and other towers</del>	Subject to use permit approval by the Planning Commission.	No. Modification to the height exception provided may only be by use permit, per Chapter 17.40 of this title, subject to the findings therein.
Rooftop solar	Rooftop solar energy systems, including those for water heating as well as photovoltaic purposes.	Feature may be less than or equal to 24 inches above the roofline of the structure on which it is mounted, measured from the exterior roofing material to the highest point of the panel, regardless of the building height. If greater than 24 inches above the roofline and over the district height limit, the feature is subject to approval by the zoning administrator, per Section 17.32.060.B.	Yes (see Section 17.47.060)

Note: Height exceptions may be superseded by objective design standards established in this title, including but not limited to the POAZ Parkside Overlay District and Housing Development Permits.

~~D. Exceptions to the height limit to accommodate accessibility improvements (such as elevators and wheelchair van garage spaces) may be allowed upon the granting of an accessibility improvement permit by the zoning administrator, following the conduct of a hearing with ten (10) days' notice thereof being given to property owners and occupants on both sides of, to the rear of and directly across the street from the site. The zoning administrator may issue the accessibility improvement permit if he or she finds and determines that:~~

- ~~1. The exception is necessary to meet special needs for accessibility of a person having a disability which impairs his or her ability to access the property.~~
- ~~2. Visual impacts of the accessibility improvements exceeding the height limit will be minimized.~~
- ~~3. The accessibility improvements will not create any significant adverse impacts upon adjacent properties in terms of loss of privacy, noise or glare.~~
- ~~4. The accessibility improvements will be constructed in a sound and workmanlike manner, in compliance with all applicable provisions of the building and fire codes.~~

### 17.47.050 - Setback Exceptions

Setbacks from lot lines to buildings and structures shall conform to the district development regulations, except as provided herein.

**A. Setback Exception Limits.** Notwithstanding any other provision of this title, certain structures or portions thereof may extend into a front, rear or side setback area to the extent permitted by Table 17.47.050.A and subject to applicable building and fire codes:

**Table 17.47.050.A**

Type	Applicability	Required Front Setback (ft)	Required Rear Setback (ft)	Required Side Setback (ft)
Residential Garages, Carports and Parking Decks in the R-1, R-2, R-3 and R-BA districts	<ul style="list-style-type: none"> <li>If located within the setback area, a garage, carport, or parking deck may not exceed 15 feet in height above the centerline of the adjacent street.</li> <li>Notwithstanding the allowable exceptions, placement is subject to approval by the city engineer, based upon a finding that no traffic or safety hazard will be created.</li> <li>A garage or carport in compliance with this subsection may exceed the district height limit, but the height of any permitted living space underneath shall not exceed the district height limit.</li> </ul>	0	Interior rear: NA  Exterior rear (through lots): 0	Interior side: NA  Exterior side (i.e. corner street or alley lots): 0
Overhanging Architectural Features	Includes such features as eaves and cornices that extend from the wall of a building and into the setback area.	5	7	2.5
Gutters and downspouts		5	7	2

Type	Applicability	Required Front Setback (ft)	Required Rear Setback (ft)	Required Side Setback (ft)
Cantilevered Windows	<ul style="list-style-type: none"> <li>Includes window(s) extending from the wall of a building into the setback area such as bay windows, box windows, etc.</li> <li>To qualify for the exception, the window may not include floor area. If the window includes a built-in bench seat or shelf, 16 inches or higher from the floor, without steps, the area will not be counted as floor area regardless of the clear height above the bench or step (see also Floor Area defined, Section 17.02.315).</li> </ul>	5	7	3
Decks and Balconies	Either free-standing or attached to a building.	5	5	NA
Roof Decks and associated guardrails over a garage that is subject to a setback exception	<ul style="list-style-type: none"> <li>Roof decks over garages that are subject to the garage setback exception may not be covered by a roofed or unroofed structure (i.e. pergola over a roof deck), except that the portion of a deck covered by an eave from an adjacent building segment may cover the portion of the deck not to exceed 3 feet from the edge of the building wall</li> </ul>	0	Interior rear: NA  Exterior rear (i.e. through lots): 0	NA
Stairs, Ramps and Landings to a building entrance	<ul style="list-style-type: none"> <li>Applies only to unenclosed stairs, ramps or landings.</li> <li>May not drain onto the neighbor's property.</li> <li>Materials within a setback must be non-combustible, to the satisfaction of the building official.</li> </ul>	0	5	0

Type	Applicability	Required Front Setback (ft)	Required Rear Setback (ft)	Required Side Setback (ft)
Awning over a building entrance or landing	<ul style="list-style-type: none"> <li>Allowed as a type of projection from a building.</li> <li>May not drain to the neighbor's property.</li> <li>In all zoning districts except the R-1 District, to be eligible for a side setback exception, the awning may project no more than 3 feet from the building into the side setback area.</li> <li>In the R-1 District, to be eligible for a side setback exception the awning may extend 4 feet from the building into the side setback area but shall not extend over the abutting property.</li> </ul>	5	5	All districts except R-1: 2.5  R-1 district only: 0
Roofed Accessory Structures (such as detached home offices and art studios, sheds and gazebos)	<ul style="list-style-type: none"> <li>The portion of the structure encroaching within the setback area may not exceed <del>8</del>-10 feet in height measured from lowest grade immediately adjacent to the structure's exterior walls or the alignment of the supporting posts.</li> <li>The square footage of the portion of the structure encroaching within the setback area may not exceed 120 square feet.</li> <li>These exceptions do not apply to accessory dwelling units. ADU development regulations are contained in Chapter 17.43.</li> </ul>	NA	5	Interior side: 3 Exterior side: NA
Unroofed Accessory Structures (such as arbors, trellises, pergolas and gateways)	The structure's portion within the setback area may not exceed <del>8</del> -10 feet in height and may not cover more than 15 percent of the front setback area	0	5	3
Ponds, Fountains and Similar Decorative Water Features	Feature must not exceed 6 feet in height. <sup>(2)</sup>	0	0	NA-0



Type	Applicability	Required Front Setback (ft)	Required Rear Setback (ft)	Required Side Setback (ft)
Decorative Artwork	Feature must not exceed 6 feet in height. The artwork shall not block access to a building entrance or otherwise create a safety hazard.	0	0	<del>NA</del> 0
Flag pole & flag	<ul style="list-style-type: none"> <li>• Not more than 1 pole per lot</li> <li>• Height of pole less than or equal to 20 feet</li> <li>• Individual flag size than or equal to 3 by 5 ft, with up to two on a pole</li> <li>• Flag may not extend over the property line when fully extended.</li> <li>• May not include advertising.</li> <li>• Unlighted only.</li> <li>• Flags shall be maintained in good repair.</li> </ul>	5	5	NA
Accessory Dwelling Units		See Chapter 17.43.		
Fences, hedges and walls		See Section 17.47.050.B		

**Notes:**

1. NA: Not applicable. In such cases, the standard setback provided in the zoning district’s development regulations shall prevail.
2. The exceptions set forth in this Table shall not be construed to include chimney boxes, swimming pools and spas, exposed plumbing, or mechanical equipment such as heating and air conditioning units or pool pumps, and no exceptions to the setback requirements shall be permitted for any of these structures.
3. The exceptions set forth in this Table do not waive the requirement to obtain any other required permits from the City, including, but not limited to, a building permit. New construction or tenant improvements on commercial properties may also require a design permit, in which case the requested exception may be included in the design permit application.
4. In a case of conflict between the setback exceptions listed here and other laws, regulations or conditions of approval, the most stringent requirements shall prevail.
5. Fire Code may prohibit certain materials from use within setback areas.
6. Non-combustible flatwork, such as concrete pavers and stone on grade, are not subject to setbacks and may be placed anywhere within a setback area.
7. Setback exceptions may be superseded by objective design standards established in this title, including but not limited to the POAZ Parkside Overlay District and Housing Development Permits.
8. See the definition of setback in Section 17.02.715 - Setback – Setback Area.

**B. Fences, hedges and walls within setbacks.** Fences, hedges and walls may be erected within setback areas as provided herein.

**1. Fences.**

**a. Height and Fence Type Allowances.** Where a fence, as defined in Section 17.02.300, is to be constructed in a setback area, the following regulations shall apply, except where otherwise indicated in Section 17.47.050.B.1.b. See also the definition of height for fences and walls in Section 17.02.400.C.

Table 17.47.050.B.1

Zoning District	Height Limit – Front Setback (feet)	Height Limit - Side and Rear Setbacks, except that portion extending to the front setback area (feet)	Special provisions
R-1	6	7 or 8*	*If the top 2 feet of a fence is constructed of lattice, or other open pattern, to the satisfaction of the planning director, the fence may be 8 ft in total height in the side and rear setbacks, but not extending into front setback. <b>Otherwise, where lattice or a similar open pattern is not included the limit is 7 ft, but the fence must step down to 6 ft in the front setback area.</b>
R-2	6	7 or 8*	
R-3	6	7 or 8*	
R-BA	6	7 or 8*	
R-MHP	8***	8***	***Fence heights may be up to ten (10) feet along the mobile home park perimeter abutting a public right-of-way.
C-1	8	8	
M-1	8	8	
SCRO-1	8	8	
TC-2	8	8	
HC	8	8	
C/P-U	8	8	
PAOZ-1	As provided in Section 17.27.040.G.2.		
PAOZ-2	As provided in Section 17.27.050.G.2.		
NCRO-1	<b>By setback exception permit for fences on developed sites, per Section 17.47.060. By design permit when associated with new development, or modification of a design permit for existing development when associated with other development modification(s) that is subject to a design modification permit. See Chapter 17.42 for design permits and Section 17.56.090 for modification of a design permit. See also the district development standards for fence provisions.</b>		
NCRO-2			
PD			
SP-CRO			
TC-1			
All Districts	Temporary chain-link demolition/construction barricades not exceeding eight (8) feet in height are permitted in all districts, subject to removal prior to final inspection.		

**b. Overriding Factors and Other Requirements**

- i. In any district, where the director of public works determines that traffic visibility would be affected, due to the location of the fence being near or adjacent to the public right-of-way, the fence height

may be required to be reduced, **to the satisfaction of the director.** ~~shall be reduced to not less than three (3) feet~~

- ii. Where a fence is proposed to be constructed, or has been constructed, adjacent to city property, a boundary survey or other evidence of the location of the fence shall be submitted to the director of public works upon request if the director determines that a question exists as to whether the fence encroaches on public property.
- iii. In all districts, the following materials are prohibited: razor wire, barbed wire and similar materials with sharp edges or points.
- iv. Chain-link fences may not be constructed in or adjacent to residential districts and are required to be black or green vinyl coated, except as approved by the planning director where the fence is not readily within public view or is otherwise screened from view by landscaping.
- v. For fences within the San Bruno Mountain Area Habitat Conservation Plan (HCP), within the R-BA, SCRO-1 and certain PD districts, the height, location and/or design of fences may be subject to restrictions for protection or passage of butterflies, consistent with the site’s HCP operating program or other required permitting consistent with HCP requirements. ~~As a condition of approval for properties subject to the San Bruno Mountain Area Habitat Conservation Plan, the planning commission shall restrict the height, location and/or design of fencing to maintain sufficient openness to allow passage of butterflies while remaining consistent with building code requirements.~~
- vi. When construction of a fence would impair the visibility of address numbers on a house, such numbers shall be relocated with approval of the fire prevention officer, ~~or the fence may be required to be lowered.~~
- vii. ~~Gated driveways are subject to approval by the planning director, based on a determination that the gate will not create a safety hazard.~~
- viii. A building permit may be required for construction of a fence, depending on such factors as height or location relative to a retaining wall, and is subject to building official determination.

**2. Retaining Walls**

**a. Height.** Where a retaining wall, as defined in Section 17.02.690, is to be constructed in a setback area, the provisions in Table 17.47.050.B.2 shall apply. See also the definition of height for fences and walls in Section 17.02.400.C.

**Table 17.47.050.B.2 Retaining Walls in Setback Areas**

All Zoning Districts	Permitted Height in All Setback Areas	Special Provisions
	6 feet or less of exposed wall surface	None
	More than 6 feet	<p>Greater than 6 feet of exposed wall surface, where one or more of the following conditions are met, to the satisfaction of the planning director:</p> <ul style="list-style-type: none"> <li>(i) Walls shall be architecturally integrated with proposed or existing structures on the site;</li> <li>(ii) Wall faces shall be decorative and treated with color, texture, architectural features, trelliswork or other means to visually break up the wall expanses;</li> <li>(iii) Walls shall be screened with water conserving, non-invasive landscaping that at maturity will soften and reduce the visible expanse of walls;</li> <li>(iv) Other means that ensure that the walls are designed to be as visually unobtrusive as possible</li> </ul> <p><b>(Note: Taken from BMC Section 15.01.110.B.2)</b></p> <p><del>a. The surface of the retaining wall is treated with coloring, texture, architectural features, trelliswork, or other means that will visually divide the height of the retaining wall into horizontal sections of no more than six (6) feet.</del></p> <p><del>b. Water conserving, non-invasive landscaping of sufficient size at maturity will be planted and maintained to provide screening so that no more than six (6) feet of the height of the retaining wall would remain visible.</del></p> <p><del>c. The retaining wall is located on a cut slope so that it is not readily visible from off the site.</del></p>

**b. Overriding Factors and Other Requirements.**

- i. Where construction of a retaining wall would result in grading, the provisions of Chapter 15.01 shall apply. If planning commission review of a grading permit is required, per Section 15.01.110, the retaining wall design will be considered as part of the planning commission’s grading review.
- ii. A building permit is generally required for construction of a retaining wall, subject to building official determination.

**3. Hedges**

**a. Height Limit:** Where a hedge, as defined in Section 17.02.390, is to be established within a setback area, the height limit shall be as shown in Table 17.47.050.B.3:

**Table 17.47.050.B.3 Hedges within Setbacks**

	Permitted Height in All Setback Areas
Hedges in all zoning districts	8 feet

**b. Overriding Factors and Other Requirements**

In any district, where the director of public works determines that traffic visibility would be affected, due to the location of the hedge being near or adjacent to the public right-of-way, the height may be required to be reduced to less than 8 feet, to the satisfaction of the director.

**4. Modification to Fence, Wall and Hedge Exceptions:** All other exceptions, or modification to exceptions, pertaining to fences, walls or hedges shall require approval by the zoning administrator, as provided in Section 17.47.060.

**17.47.060 - Exception Modification Procedures**

Modifications to the height and setback exceptions specified in sections 17.47.040 and 17.47.050 of this Chapter are subject to zoning administrator approval and are subject to the following procedures, except as indicated otherwise:

- A. **Application form, fee and plans.** An application for a height or setback exception shall be made in writing by the owners of the property, lessee, purchaser in escrow, or optionee with the consent of the owners, on a form prescribed by the planning director. At a minimum, the application shall be accompanied by a fee, set by the city council, and plans showing the details of the proposed feature.
- B. **Findings.** The zoning administrator may approve an exception if the zoning administrator makes the following findings, as applicable.
  - 1. Height Exception Modifications for a rooftop solar system may be approved if the zoning administrator makes the finding that the feature would not result in a specific adverse impact upon the public health and safety.
  - 2. Setback Exception Modifications may be approved for any of the structures or features listed in Table 17.47.050.A if the zoning administrator makes the findings that:
    - a. The setback exception modification/the feature or structure will not create any significant adverse impacts upon adjacent properties in terms of loss of safety, privacy, noise or glare.
    - b. The feature will be constructed in a sound and workmanlike manner, in compliance with all applicable provisions of the building and fire codes.
    - c. Structures are designed to be compatible with the primary dwelling(s) on the site.
    - d. Architectural features are designed to be compatible with the building on which they are located.
  - 3. Fence, hedge or wall Exception Modifications may be approved if the zoning administrator makes the findings that:

- a. The proposed fence, hedge or wall will not create a safety hazard for pedestrians or vehicular traffic.
  - b. The appearance of the fence, hedge or wall is compatible with the design, appearance and scale of the existing buildings and structures in the neighboring area.
- C. **Notice procedure and action by the zoning administrator.** The procedure for action by the zoning administrator shall be as provided in Chapter 17.56.
- D. **Appeals:** The decision of the zoning administrator or planning commission shall be effective on the close of the appeal period, unless an appeal has been filed pursuant to Chapter 17.52 of this title.
- E. **Notice to the Planning Commission:** All decisions of the zoning administrator shall be reported to the planning commission by email at least seven (7) days prior to the expiration of the appeal period. If any two members of the planning commission indicate in writing a desire to appeal the decision it shall be considered appealed and placed on the next available commission agenda, following the public hearing notice procedures provided in Chapter 17.54.

**17.47.070 - Requests for reasonable accommodations.**

Modifications or exceptions to the regulations set forth in Title 17 that are not otherwise addressed in Sections 17.32.060.B and C may be granted as reasonable accommodations for residential and non-residential improvements, or for new development, when designed for, intended for occupancy by, or with supportive services for, persons with disabilities. Such requests may be granted by the planning director through a building permit, if through the building permit application it has been demonstrated that:

- A. The exception is necessary for current or future accessibility to the property or building by persons with disabilities that cannot be addressed within either the applicable zoning district height limits or setbacks, or through the exceptions provided in Sections 17.32.060.B and C.
- B. The accessibility improvement(s) will be constructed in compliance with all applicable provisions of the state and local building and fire codes.

**17.47.080 - Nonconforming Structures and Features.** Any structure, architectural feature, wall, or other improvement lawfully constructed within a setback area or over the height limit and constituting a nonconforming structure as defined in [Section 17.02.560](#), may be allowed to continue in accordance with [Chapter 17.38](#) of this title.

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**SECTION 16: Chapter 17.52 - Appeals is amended to read as follows:**

**Chapter 17.52 - APPEALS**

**Sections:**

**17.52.005 - Appeal from planning director.**

Any person may appeal to the planning commission any order, requirement, decision, determination or other action of the planning director with regard to any matter arising under this title, including any determination concerning the contents, subject matter or completeness of any application, any determination concerning which permit or other approval is required.

~~Any person may appeal to the planning commission any order, requirement, decision, determination or other action of the planning director with regard to any matter arising under this title, including any determination concerning the contents, subject matter or completeness of any application, any determination concerning which permit or other approval is required, and any determination pursuant to Sections or . Any such appeal shall be in writing and shall be filed with the planning department within fifteen (15) days after the action complained of. The appeal shall be accompanied by a fee, as set by the city council, and shall clearly state the reason for appeal. Upon receipt of such an appeal, the planning department, acting under the direction of the planning director, shall bring the appeal before the planning commission within thirty (30) days and shall notify the appellant and (if different) the applicant of the date and time of the planning commission meeting at which the appeal will be heard. No other notice need be given, except such additional notice as may be required by state or other law. The planning commission shall proceed to hear and determine the appeal at the same meeting or at such later meeting as it shall determine, and in connection therewith may continue the same from time to time.~~

**17.52.007 - Appeal from zoning administrator.**

- A. Appeals from the decision of the zoning administrator, except decisions related to housing development permits as set forth in Chapter 17.45 of this title, shall be made to the planning commission.
- B. Appeals from decisions of the zoning administrator relating to housing development permits as set forth in Chapter 17.45 of this title shall be made to the city council.

**17.52.010 - Appeal from planning commission.**

Any person may appeal to the city council any order, requirement, decision, determination or other action of the planning commission in the manner provided in this title, including any planning commission decision of an appeal from an order, requirement, decision, determination or other action of the planning director or zoning administrator.

**17.52.020 - Method and timing.**

- A. All appeals shall be in writing and filed with, ~~and on a form prescribed by~~, the city clerk and shall be accompanied by a fee, as set by the city council, and shall clearly state the reason for appeal.
- B. The appeal shall be filed according to the following schedule, unless specified otherwise in this title:
  - a. Appeal of Planning Director decision: close of business ~~ten (10) fifteen (15)~~ days after the decision
  - b. Appeal of Zoning Administrator decision: close of business ten (10) days after the decision

c. Appeal of planning commission decision: close of business fifteen (15) days after the decision

If the appeal closing date would be on a weekend or City observed holiday, the appeal date shall be the close of business on the next business day.

C. In addition to the above, any two (2) members of the planning commission may appeal a decision of the zoning administrator, according to the schedule provided, by filling the appeal in writing with the city clerk. Written appeal to the city clerk may include email. The mere fact that two (2) members of the planning commission have filed an appeal does not of itself require disqualification of either such commission member from hearing and/or deciding the item.

D. In addition to the above, any two (2) members of the city council may appeal any decision, according to the schedule provided, by filling the appeal in writing with the city clerk. The mere fact that two (2) members of the city council have filed an appeal does not of itself require disqualification of either such councilmembers from hearing and/or deciding the item.

E. Upon receipt of such appeal, the city clerk shall notify the planning department and the applicant. A time shall then be set as soon as practical but within sixty (60) days after the receipt of such appeal (unless the applicant agrees otherwise) for a public hearing. Notice of such hearing shall be given as set forth in Chapter 17.54.

**17.52.030 - Planning department report.**

The planning department, upon receipt of the notice of appeal, shall prepare a report of the facts pertaining to the decision and shall submit such report to the appeal hearing body along with the department's recommendation and the reasons for the action.

**17.52.040 - ~~Council~~ Action on appeal.**

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

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**SECTION 17: Chapter 17.56 - Administration is amended to read as follows:**



**Chapter 17.56 - ZONING ADMINISTRATOR ADMINISTRATION**

**Sections:**

**17.56.010 - Zoning administrator—Function created.**

There is created the function of zoning administrator which shall be carried out by the planning director.

**17.56.020 - Zoning administrator—Powers and duties.**

The zoning administrator shall have all the powers and duties of a board of zoning adjustment as set forth in Section 65900 through 65909 of Article 3 of Chapter 4 of Title 7 of the Government Code of the state.

**17.56.030 - Zoning administrator—Action on applications.**

A. Except as otherwise provided in this title, the zoning administrator shall decide the following, unless referred by the zoning administrator to the planning commission:

- 1. Administrative design review in the POAZ districts pursuant to Section 17.27.060.A;
- 2. Wireless telecommunication facilities pursuant to Section 17.32.032;
- 3. Height and setback exception modification permits pursuant to Section 17.47.060;
- 4. Certain sign permits pursuant to Section 17.36.060;
- 5. Amendments or modifications to a design permit pursuant to Section 17.42.070;
- 6. Housing development permits pursuant to Section 17.45.050;
- 7. Zoning conformance pursuant to Section 17.56.080;
- 8. Planning application modifications pursuant to Section 17.56.090.
- 9. Interim use permit extensions pursuant to Section 17.41.080.D
- 10. ~~Variances, accessibility improvements, large family daycare homes~~

B. In connection with the applications provided for in this section, the zoning administrator shall have all the duties and responsibilities set forth in this title for the planning commission.

**17.56.080 - Zoning conformance.**

Zoning conformance shall be determined in conjunction with, and as a part of, building permits. If it has been determined that any proposed construction is not in conformity with the regulations for the district in which the construction is to be located, the determination shall be provided by the zoning administrator, ~~or the zoning administrator’s designee.~~ No building permit shall be issued until the zoning conformance has been confirmed by the zoning administrator or the ~~authorized representative designee.~~

**17.56.090 - Planning ~~Application Permit~~ Modifications.**

An applicant may request modifications to a previously approved planning permit prior to or during construction. Examples of such modifications include alteration to an approved building or structure, change in configuration of site improvements, or modification or deletion of conditions of approval. A modification shall not automatically extend the approval expiration date beyond that of the original planning application.

Modifications are classified in three ways based on the significance of the proposed change and amount of additional review required: A) substantial conformance, B) minor, or C) major. The Zoning Administrator shall determine the type of modification required based on the criteria specified below.

**A. Substantial Conformance. Modifications that are in substantial conformance with the original planning application can be approved as part of the building permit review process.**

- 1. Substantial conformance is generally defined as a modification or change that:
  - a. Results in a project with reduced or inconsequential changes in size, scale, design, or intensity; or
  - b. Is necessary to accommodate parking requirements, utility configurations or other mechanical or operational components of a project identified during building permit review or construction;
  - c. Is in order to comply with updated Federal or State laws including but not limited to, the Americans with Disabilities Act, Building Code requirements, or Fire Code requirements; or
  - d. Cumulatively would not result in substantive changes to the overall project.
- 2. Public notification shall not be required for substantial conformance modifications.

**B. Minor Modification. Modifications that result in minor changes to an approved planning application require review and approval by the Zoning Administrator, except if otherwise specified in this title or through the approved planning application conditions of approval.**

- 1. Minor modification is generally defined as a modification where all of the following circumstances apply:
  - a. The modification would not result in a Major Modification, as defined below, to the approved site plan or project design;
  - b. The modification would not significantly change the nature of the approved use(s);
  - c. The modification would not significantly intensify the approved use(s); and
  - d. The modification would not result in any new or substantially greater environmental effects than the originally approved project.
  - e. ~~A maximum of twenty percent (20percent) reduction in lot area, building coverage and yard requirements;~~
  - f. ~~A maximum of twenty percent (20percent) increase in the height limit in fence, wall and hedge requirements.~~
- 2. Procedures for minor modifications are set forth in Section 17.56.110, or, where otherwise provided in this title, according to the original permitting procedures.

C. Major Modification. Modifications that result in a significant change, or “substantial modification” as provided in Section 17.42.010.A or this title, require review and approval by the original decision-making body, whether zoning administrator or planning commission except if otherwise specified in this title or as specified through the approved planning application conditions of approval. If the original decision maker was the planning commission or city council, whether in the first instance or on appeal, then public noticing and a public hearing by the planning commission are required.

1. A modification to a project is considered major if any of the following circumstances in paragraphs a, b, c, d or e apply:

- a. The modifications involve substantive changes to the approved site plan or project design. A substantive change, for the purpose of this section, includes but is not limited to:
  - i. A change that is visually conspicuous from the public right-of-way or adjacent properties; or
  - ii. A change that results in non-conformance with City standards or policies; or
  - iii. A change that alters the intent of a project-specific condition of approval; or
- b. The modifications significantly change the nature of the approved use; or
- c. The modifications significantly intensify the approved use; or
- d. The modifications may result in new or substantially greater environmental impacts than the originally approved project; or
- e. The modifications involve major policy decisions or unique land use characteristics, as determined by the Zoning Administrator.

**17.56.100 - Other Permits.**

Zoning Administrator approvals of permit types provided elsewhere in this title shall be subject to the findings and procedures provided therein. Where procedures are not otherwise provided in this title, the zoning administrator procedures shall be as set forth in Section 17.56.110.

**17.56.110 - Procedures.**

A. Procedures for major modifications to approved planning permits shall follow the same permitting procedures as the original application, as provided elsewhere in this title.

B. The following procedures shall apply to minor modifications and other zoning administrator permits, unless provided otherwise in this title.

- 1. **Application form, fee and plans.** Application shall be made in writing by the owner(s) of the property, lessee, purchaser in escrow, or optionee with the consent of the owners, on a form prescribed by the planning director. At a minimum, the application shall be accompanied by a fee, set by the city council, and plans showing and describing the details of the proposed.
- 2. **Notice procedure and action by the zoning administrator.**

- a. **Notice of recommended decision and action:**
    - i. The zoning administrator shall provide notice of the application and publish a staff report with a recommended decision to grant or deny the permit at least ten (10) days prior to a decision on the permit application. The notice shall be mailed to all owners of property adjacent to, and directly across the street from, the exterior boundaries of the subject property.
    - ii. If no written public comments are received objecting to the recommended decision by the date indicated on the notice, at least ten (10) days following the issuance of the notice, the zoning administrator shall act on the application consistent with the recommendation contained in the staff report and the decision shall be effective immediately.
  - b. **Public hearing, when required:**
    - i. If written public comments objecting to the recommended decision are received, that relate to the required findings, the zoning administrator shall hold a public hearing on the application. Notice of the hearing shall be given to all owners of property adjacent to, or directly across the street from the exterior boundaries of the subject property, and any party that has requested notice or provided written public comments on the application. The notice of public hearing shall be mailed not less than ten (10) or more than thirty (30) days before the date of the hearing. Alternatively, the zoning administrator may refer the application to the planning commission for public hearing and decision.
    - ii. The zoning administrator, or if referred, the planning commission, may either grant or deny the application subject to the required finding(s). The zoning administrator or planning commission may grant the permit subject to such conditions as deemed necessary or appropriate to meet the required findings.
3. **Appeals:** The decision of the zoning administrator or planning commission shall be effective on the close of the appeal period, unless an appeal has been filed pursuant to Chapter 17.52 of this title.
4. **Zoning administrator—Reporting decisions to planning commission.** All decisions of the zoning administrator that are subject to public hearing shall be reported to the planning commission by email at least seven (7) days prior to the expiration of the appeal period. If any two members of the planning commission indicate in writing, including email, a desire to appeal the decision it shall be considered appealed and placed on the next available commission agenda, following the public hearing notice procedures provided in Chapter 17.54.

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**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BRISBANE  
RECOMMENDING CITY COUNCIL APPROVAL  
OF ZONING TEXT AMENDMENT 2024-RZ-2**

**AMENDING BRISBANE MUNICIPAL CODE TITLE 17 – OMNIBUS ZONING AMENDMENTS  
TO MODIFY THE DEVELOPMENT STANDARDS FOR MULTIFAMILY AND RESIDENTIAL MIXED USE  
ZONING DISTRICTS CONSISTENT WITH CALIFORNIA SENATE BILL SB 478 (“HOUSING OPPORTUNITY  
ACT”); FOR ADMINISTRATIVE RESTRUCTURING OF THE DEVELOPMENT STANDARDS SECTIONS FOR THE  
RESIDENTIAL ZONING DISTRICTS; TO CLARIFY THE REVIEWING AUTHORITY FOR DESIGN PERMIT  
MODIFICATIONS IN CHAPTER 17.42 AND VARIANCES IN CHAPTER 17.46; CREATE A SEPARATE  
CHAPTER AND UPDATE EXCEPTIONS TO THE DISTRICT DEVELOPMENT REGULATIONS AS A NEW  
CHAPTER 17.47; TO UPDATE THE APPEALS PROCEDURES IN CHAPTER 17.52; AND RE-TITLE AND  
UPDATE THE ZONING ADMINISTRATOR PROCEDURES IN CHAPTER 17.56.**

WHEREAS, City Council adopted the revised 2023-2031 Housing Element (Housing Element) on May 18, 2023, which was subsequently certified by the California Department of Housing and Community Development; and

WHEREAS, the Housing Element provides certain goals, policies and programs aimed at facilitating development of new housing, maintaining existing housing, streamlining housing development permitting and providing for special needs populations, including Programs 2.A.12, 7.A.1 and 7.A.3; and

WHEREAS, Senate Bill 478 (“SB 478”), which was signed by the Governor on September 28, 2021, added Government Code Section 65913.11 (Government Code) to require that a local agency shall not impose floor area ratio standards of less than 1.0 for three to seven unit developments or less than 1.25 for eight to ten unit developments, in the zoning districts that allow for multifamily development; and

WHEREAS, the Government Code requires that a local agency may not impose a lot coverage requirement that would physically preclude a housing development project that meets the requirements established in the Government Code from achieving the floor area ratio allowed; and

WHEREAS, these changes to the Government Code became effective on January 1, 2022; and

WHEREAS, SB 478 does not prohibit a local agency from imposing any zoning or design standards, including, but not limited to, building height and setbacks, on a housing development project that meets the requirements of the Government Code other than zoning or design standards that establish floor area ratios or lot size requirements that expressly conflict with the standards in subdivision; and

WHEREAS, the City seeks to update Title 17 consistent with the Government Code and the Housing Element goals, policies and programs and to clarify and simplify provisions contained in Title 17; and

WHEREAS, the draft ordinance attached as Exhibit A to this resolution proposes amendments to Title 17; and

WHEREAS, on May 9, 2024, the Planning Commission conducted a hearing of the application, publicly noticed in compliance with Brisbane Municipal Code Chapters 1.12 and 17.54, at which time any person interested in the matter was given an opportunity to be heard; and

WHEREAS, the Planning Commission reviewed and considered the staff memorandum relating to said application, and the written and oral evidence presented to the Planning Commission in support of and in opposition to the application; and

WHEREAS, adoption of this ordinance is not a project under the California Environmental Quality Act (CEQA) pursuant to California Government Code Section 15061(b)(3) because it involves code amendments that would not cause a significant effect on the environment and Section 15183 relating to the implementation of the Housing Element; and

NOW, THEREFORE, based upon the evidence presented, both written and oral, the Planning Commission of the City of Brisbane hereby RECOMMENDS that the City Council adopt the attached ordinance.

ADOPTED this ninth day of May, 2024, by the following vote:

- AYES: Funke, Lau, Patel, and Sayasane
- NOES: NA
- ABSENT: Gooding

*Pamala Sayasane*  
 \_\_\_\_\_  
 PAMALA SAYASANE, Vice Chairperson  
 for ALEX LAU, Chairperson

ATTEST:  
 \_\_\_\_\_  
*John Swiecki*  
 JOHN SWIECKI, Community Development Director

DRAFT  
BRISBANE PLANNING COMMISSION  
Action Minutes of May 9, 2024  
Hybrid Meeting

ROLL CALL

Present: Commissioners Funke, Lau, Patel, and Sayasane  
Absent: Gooding  
Staff Present: Director Swiecki, Senior Planner Johnson, Associate Planner Robbins

CALL TO ORDER

Chairperson Lau called the meeting to order at 7:30 p.m.

ADOPTION OF AGENDA

A motion by Commissioner Sayasane, seconded by Commissioner Funke to adopt the agenda. Motion approved 4-0.

CONSENT CALENDAR

A motion by Commissioner Funke, seconded by Commissioner Sayasane to adopt the consent calendar. Motion approved 4-0.

ORAL COMMUNICATIONS

There were none.

WRITTEN COMMUNICATIONS

Chairperson Lau acknowledged written correspondence pertaining to New Business Items A and B

NEW BUSINESS

**A. PUBLIC HEARING: Zoning Text and Map Amendment 2024-RZ-1, R-1 Residential District and the R-BA Brisbane Acres Residential District in entirety;** recommendation to City Council on zoning text and map amendment 2024-RZ-1 amending regulations within Title 16 and 17 of the Brisbane Municipal Code to add the R-TUO residential two unit overlay district as new chapter 17.05 and related amendments; and finding that this project is exempt from environment review under CEQA Guidelines Sections 15061(b)(1) & (3), Section 15183; City of Brisbane, applicant.

Senior Planner Johnson presented staff report to the Commission.

Commissioner Sayasane asked about the pending court decision on SB 9 in the Los Angeles Superior Court and whether the City's decision on the ordinance should be postponed until after that ruling has further played out. Director Swiecki responded, noting that Brisbane's legal counsel had reviewed this matter and indicated that the decision is from a trial court in southern California and is only applicable to those specific charter cities. It would not be applicable to Brisbane which is a general law city. In response to an inquiry as to what would happen if SB9 was repealed or invalidated, Mr. Swiecki responded the City could amend its zoning regulations accordingly.

Commissioner Patel asked about whether there were notification procedures included in the draft ordinance. Staff responded that there were not, since lot splits and two-unit developments are to be ministerial, per SB 9. Mr Swiecki noted an informational notification could be provided.

Chairperson Lau opened the public hearing.

With no one wishing to address the Commission, a motion was made by Commissioner Patel and seconded by Commissioner Funke to close the public hearing. The motion was approved 4-0.

After discussion, a motion was made by Commissioner Patel and seconded by Commissioner Funke to approve the application, including an informational notification provision to adjacent property owners, via adoption of Resolution 2024-RZ-1. The motion was approved 4-0.

Chairperson Lau read the appeal procedure.

**B. PUBLIC HEARING: Zoning Text Amendment 2024-RZ-2, City-wide;** recommendation to City Council on omnibus zoning amendments to modify the development standards for multifamily and residential mixed use zoning districts consistent with California Senate Bill SB 478 ("housing opportunity act") and as provided in the 2023-2031 Housing Element for building heights, lot coverage and floor area ratios, and related amendments, including, but not limited to, organizational amendments and amendments to development regulation exceptions and Zoning Administrator procedures; and finding that this project is exempt from environment review under CEQA Guidelines Sections 15061(b)(3), Section 15183; City of Brisbane, applicant.

Senior Planner Johnson presented staff report to the Commission.

Senior Planner Johnson responded to the Commission's questions regarding the balance between lot coverage and the floor area ratio for multifamily developments that would have a 1.25 floor area ratio maximum, the process for Planning Commission appeals on Zoning Administrator items, the rationale for increasing the height limit to 36 feet, the difference between minor versus and major modifications, and the neighbor notification process for Zoning Administrator applications.

Chairperson Lau opened the public hearing.



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With no one wishing to address the Commission, a motion was made by Commissioner Patel and seconded by Commissioner Funke to close the public hearing. The motion was approved 4-0.

A motion was made by Commissioner Patel and seconded by Commissioner Sayasane to approve the application via adoption of Resolution 2024-RZ-2. The motion was approved 4-0.

Chairperson Lau read the appeal procedure.

#### ITEMS INITIATED BY STAFF

Director Swiecki noted the following:

1. County-wide planning commissioner training will be held at the end of May,
2. The City Council authorized staff to initiate the Bank of America planning process.
3. Jeremy Dennis was hired as the new City Manager.

#### ITEMS INITIATED BY THE COMMISSION

Commissioner Sayasane announced she registered for the commissioner training and invited the other members to join.

#### ADJOURNMENT

Chairperson Lau adjourned the meeting at approximately 8:44 p.m. to the next regular meeting of May 23, 2024.

Attest:

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John A. Swiecki, Community Development Director

NOTE: A full video record of this meeting can be found on the City's YouTube channel at [www.youtube.com/BrisbaneCA](http://www.youtube.com/BrisbaneCA), on the City's website at <http://www.brisbaneca.org/meetings>, or on DVD (by request only) at City Hall.



**PLANNING COMMISSION AGENDA REPORT**

**Meeting Date:** 5/9/2024

**From:** Ken Johnson, Senior Planner

**Subject:** **Zoning Text Amendments to Title 17** – Omnibus Zoning Amendments to modify the development standards for multifamily and residential mixed use zoning districts consistent with California Senate Bill SB 478 (“housing opportunity act”) and as provided in the 2023-2031 Housing Element for building heights, lot coverage and floor area ratios, and related amendments, including, but not limited to, organizational amendments and amendments to development regulation exceptions and Zoning Administrator procedures; and finding that this project is exempt from environment review under CEQA Guidelines Sections 15061(b)(3), Section 15183; City of Brisbane, applicant.

**REQUEST:** To amend the zoning text provisions in a number of Chapters in the Brisbane Municipal Code (BMC), as outlined in the Applicable Codes Section of this report. This includes updates to the residential and mixed use development standards consistent with California Senate Bill SB 478 (“housing opportunity act”) and as provided in the 2023-2031 Housing Element. It also includes reorganization of the development standards in the residential district zoning for clarity and updates to the procedures for planning permit approvals and appeals.

**RECOMMENDATION:** Via Resolution 2024-RZ-2, recommend that City Council adopt Zoning Text Amendment 2024-RZ-2, as provided in Exhibit A of Attachment A.

**ENVIRONMENTAL DETERMINATION:** The adoption of this ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to California Government Code Section 15061(b)(3), Section 15183 relating to the implementation of the Housing Element. The exception requiring further review as might be necessary to examine a project specific significant effects does not apply.

**APPLICABLE CODE SECTIONS:** Procedures for zoning amendments are provided in BMC Chapter 17.50. The following BMC chapters or sections contained within Title 17 – Zoning are applicable to this amendment, with the proposed action indicated for each:

- Section 17.02.065 - Outside Wall definition – delete and include in Wall definition.
- Section 17.02.785 - Wall definition – new, but amended from Outside Wall definition.
- Section 17.06.040 - R-1 Development Regulations - amended.
- Section 17.08.040 - R-2 Development Regulations - amended.
- Section 17.10.040 - R-3 Development Regulations - amended.

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- Section 17.12.040 - R-BA Development Regulations - amended.
- Section 17.12.045 - Ridgeline Development – new section, relocated from Section 17.12.040.
- Section 17.14.060 - NCRO-2 Development Regulations - amended.
- Section 17.16.040 - SCRO-1 Development Regulations - amended.
- Section 17.27.040 - POAZ-1 Development Regulations - amended.
- Section 17.27.050 - POAZ-2 Development Regulations - amended.
- Sections 17.032.050 to 17.32.080 - various exceptions to district development regulations – relocated to new Chapter 17.47 and amended.
- Section 17.42.070 - Amendment of Design Permits – Minor Modifications - amended.
- Chapter 17.46 - Variances – amended.
- Chapter 17.47 - Exceptions to District Development Regulations – new chapter from relocated sections 17.32.050 to 17.32.080.
- Chapter 17.52 - Appeals – amended.
- Chapter 17.56 - Administration – retitled to Zoning Administrator and amended.

Note that the provisions of this ordinance would not supersede the provisions of the ordinance proposed for adoption via application number 2024-RZ-1, which would establish an R-TUO Residential Two Unit Overlay district, provided separately.

**BACKGROUND:** California Senate Bill SB 478 (2021) was codified as Government Code Section 65913.11. This law became effective on January 1, 2022 and requires that a local agency allow minimum floor area ratios (FARs) of at least 1.0 for 3 to 7 unit developments and 1.25 for 8 to 10 unit developments. A local agency may not impose a lot coverage requirement that would physically preclude a housing development project that would meet the FAR requirements for 3 to 10 units. Also, a local agency may not deny a housing development project in the range of 3 to 10 units on an existing lot solely on the basis that it doesn't meet the minimum lot size. For Brisbane, this is applicable to the R-2 and R-3 residential Districts and the NCRO-1 and SCRO-1 mixed use districts. The R-2 and R-3 districts currently have FAR limits of 0.72 and the NCRO-2 and SCRO-1 do not have FAR maximums.

On May 18, 2023, City Council adopted the revised 2023-2031 Housing Element (Housing Element) and it was subsequently certified by the California Department of Housing and Community Development (HCD). It includes a program for Brisbane to update its zoning ordinance to increase the height in the multifamily districts to 36 feet to more reasonably allow for 3 story developments. Additionally, other goals, policies and programs are provided to encourage development of housing, prevent displacement, provide for accessibility and to remove unreasonable government constraints to the provision of housing, as follows:

*Goal 2: Facilitate and support the production of housing at all income levels, but especially affordable housing.*

*Policy 2.A: Provide zoning for a balance of housing types, sizes (bedrooms), tenure and the inclusion of affordable, senior and special needs dwelling units in multi-family developments consistent with the RHNA.*

- *Program 2.A.12: Amend the zoning ordinance for all districts that allow multifamily residential uses, to allow for building heights of at least 36 feet, to be able to accommodate 3-story development.*

*Goal 7: Avoid unreasonable government constraints to the provision of housing.*

*Policy 7.A: Improve the development review and approval process.*

- *Program 7.A.1: Continue to evaluate and implement changes to the zoning ordinance and permitting process to simplify and streamline approval of projects that meet the City's housing goals.*
- *Program 7.A.3: Continue to allow ministerial approval by the Community Development Director, subject to a minimal fee, of exceptions to the Zoning Ordinance for reasonable accommodation for housing for persons with disabilities per Government Code Section 65583(c)(3).*

Following adoption of the Housing Element, the Planning Commission held workshops on June 8, 2023 and February 22, 2024, during their regularly scheduled public meetings, to discuss the provisions of a draft ordinance addressing SB 478 along with proposed amendments to address these other items. The links to the workshop reports and minutes are provided with the links in the Attachments section of this report.

During the workshops, the Planning Commission indicated a desire to provide for equity in terms of height across the various residential districts as well as consistent floor area ratio standards for 3 unit developments and larger.

Also, since this ordinance touches on the development standards for all of the residential and mixed use districts, with the exception of the POAZ-1 and POAZ-2 districts which are addressed through the Parkside Precise Plan, as well as the related exceptions to development standards, a comprehensive zoning amendment has been proposed.

**DISCUSSION:** The ordinance updates the residential zoning regulations as provided in the Housing Element programs, provides for reorganization of certain sections, and updates and clarifies procedural requirements for planning permits. The draft ordinance is provided as Exhibit A of Attachment A and a redlined version is provided as Attachment B. The redlined version

shows only proposed substantive amendments and does not show redlines for edits that were made for reorganizational purposes.

The key amendments provided in the draft ordinance are as follows:

**Sections 17.02.065 and 17.02.785 Definitions:** The definitions provided in Chapter 17.02 apply to any district within the City. The definition in Section 17.02.785 - Outside Wall is updated to provide the definition under the broader definition of Wall and to further clarify the types of outside walls, such as “interior to a lot” or “exterior”. This definition is only for clarity, without substantive changes, and is tied to building articulation provisions later in the ordinance.

**Section 17.06.040 - Development Regulations (R-1 Residential District):** This section of the R-1 Residential zoning district regulations has been reformatted to a table for clarity. The only substantive amendment would be to increase the height for dwellings and structures that are not within the standard setback areas to 36 feet, from the current height limit of either 28 feet for lots with less than a 20 percent slope, or 30 feet for lots with a slope of 20 percent or greater. This is consistent with the requirements established under the Housing Element.

**Section 17.08.040 - Development Regulations (R-2 Residential District):** This section of the R-2 Residential zoning district regulations has been reformatted to a table for clarity. The substantive amendments would be to increase the height for dwellings and structures that are not within the standard setback areas to 36 feet and for multifamily developments of three units or more, the floor area ratio (FAR) would be amended to 1.25 from 0.72, consistent with SB 478. The lot coverage limit would remain at 50 percent, except that over 50 percent may be approved by the planning director, if required to meet the 1.25 FAR. Also, per SB 478 there would be no requirement for the lot area for a lot of record, for multifamily developments of 3 units or more.

**Section 17.10.040 - Development Regulations (R-3 Residential District):** This section of the R-3 Residential zoning district regulations has been reformatted to a table for clarity. The substantive amendments are similar to the R-2 district. The height limit for dwellings and structures that are not within the standard setback areas would be increased to 36 feet and for multifamily developments of three units or more, the floor area ratio (FAR) would be amended to 1.25 from 0.72, consistent with SB 478. The lot coverage limit would remain at 60 percent, except that lot coverage exceeding 60 percent may be approved by the planning director, if required to meet the 1.25 FAR for developments of 3 or more units on a lot. Also, per SB 478 there would be no requirement for the lot area for a lot of record, for multifamily developments of 3 units or more.

**Section 17.12.040 - Development Regulations (R-BA Brisbane Acres Residential District):** This section of the R-BA zoning district regulations has been reformatted to a table for clarity. Similar to the R-1 district, the amendment would increase the height for dwellings and structures that are not within the standard setback areas to 36 feet, from the current height limit of 35 feet. The subsection pertaining to ridgeline development would be relocated to a stand-alone section, but

no substantive amendments are proposed for this section. This would be similar to the organizational structure for clustered development in the R-BA, since there is a planning permit process for both types of developments.

**Section 17.14.060 - Development regulations for the NCRO-2 district:** The substantive amendment for this section would be the change in height, from the current maximum of 35 feet, when authorized by a design permit, to 36 feet consistent with the Housing Element program. Note that any principal structure in this district requires design permit review and approval by the Planning Commission. Per SB 478, there would be no requirement for the lot area for an existing lot of record, for multifamily developments of 3 units or more. The fencing requirements would also be amended, primarily for clarity, but would also allow for greater flexibility on the height for screening abutting residential district property, so that 8 feet would no longer be the required minimum, but it would establish a maximum height of 10 feet. Currently, no maximum height is specified. Fences would be subject to Zoning Administrator approval, unless it is part of a design permit subject to Planning Commission approval.

**Section 17.16.040 - Development regulations for the SCRO-1 district:** The substantive amendment for this section would be the change in height, from the current maximum of 35 feet, to 36 feet, consistent with the Housing Element program. Also, per SB 478, there would be no requirement for the lot area for an existing lot of record, for multifamily developments of 3 units or more.

**Sections 17.27.040 and 17.27.050 - Development regulations for the PAOZ-1 and PAOZ-2 districts:** For consistency with procedures for fence and wall exceptions provided for other districts, such permit applications would be by the Zoning Administrator instead of the Planning Commission.

**Sections 17.32.050 to 17.32.080 - various exceptions to development regulations:** These sections would be removed from Chapter 17.32 - General Use Regulations. The provisions would be relocated and amended as a new “Chapter 17.47 - Exceptions to District Development Regulations”, as described below.

**Section 17.42.070 - Amendment of Design Permit – Minor Modifications:** This amendment would retitle the section to “Amendment of Design Permit – Modifications” and instead of naming the Planning Commission only as the approving authority, amendments may be approved by the Zoning Administrator or the Planning Commission, as set forth in Section 17.56.090, depending on whether it is a major or minor modification. Proposed amendments to Section 17.56.090 are described below.

**Section 17.46 - Variances:** This chapter currently names either the Planning Commission or the Zoning Administrator as the approving authority for “variances from the strict application of the terms of this title”. In practice, variances have been reviewed by the Planning Commission and,

for clarity and consistency with practice, the reference to the Zoning Administrator would be deleted.

**Chapter 17.47 - Exceptions to District Development Regulations:** This new chapter would include the following sections:

- 17.47.010 - Purpose of Chapter
- 17.47.020 - Applicability
- 17.47.030 - Exceptions to Lot area, lot dimensions and lot lines
- 17.47.040 - Height Limit Exceptions
- 17.47.050 - Setback Exceptions
- 17.47.060 - Exception Modification Procedures
- 17.47.070 - Requests for reasonable accommodations.
- 17.47.080 - Nonconforming Structures and Features.

This is largely a reorganization for clarity to distinguish exceptions as separate from Chapter 17.32 - General Uses, such as conditional uses in all districts, wireless telecommunications facilities, etc. The reorganization would provide a vehicle to clarify and update the processing procedures for the various exception permits and provide more consistent processing of the various exceptions. These are outlined as follows:

Exceptions to Lot area, lot dimensions and lot lines: The provisions of this section would remain largely unchanged, except to cross reference and allow that lots may be created by urban lot split, through the new Chapter 17.05.

Height Limit Exceptions: This section has been reformatted to a table for clarity. The height limit exceptions section, at present, names flag poles, church steeples, radio and other towers as part of a class of exceptions having a use permit requirement and these are proposed to be removed from this section. Flag poles would be removed since height limits are included within a new setback exception type. Where a flag pole is proposed interior to a developed lot, not within the setback area, the standard district height provisions would apply. Churches may be conditionally permitted in any district in accordance with BMC Section 17.32.020.B.1 and telecommunications facilities are provided for in Section 17.32.032.

This section also currently includes a procedure for approving accessibility improvements for accommodation of those with a disability. This section has been relocated to a section at the end of this new Chapter 17.47, to allow for administrative permitting through the building permit process. See further discussion below.

Setback Exceptions: This section has been reformatted to tables for clarity. Also, the various procedures for application for a modification to setback exception would be normalized to a single process that's provided in the draft new Section 17.47.060 - Exception Modification Procedures.

A few setback exception standards are proposed to be updated, following discussion at the Planning Commission workshops. Subject to certain conditions, including compliance with the California Building Code (CBC), these include: 1) adding an exception for garages and carports on through lots to have a zero setback from the rear lot line, the same as currently exists for the front, subject to City Engineer approval; 2) stairs, ramps and landings to a building entrance may have a zero side setback; 3) decorative water features and decorative artwork would have no side setback requirement which is the same as currently allowed for the front and rear; and 4) a new exception has been added for flag poles and flags.

Fences, hedges and walls would be included in the setback exceptions chapter and the provisions have been updated. That's largely for clarity, but a few notable amendments are as follows:

The current provisions allow for 8 foot wood fences in the residential districts, side and rear setbacks only, with the top two feet being in lattice. The draft provisions would allow up to 7 feet of solid fence, but if the fence is as high as 8 feet then the top 2 feet must be lattice or a similar open pattern. The 7 foot solid fence height correlates to the threshold for when a building permit would be required per the CBC. Within certain commercial districts that have an public, open campus feel, such as the SP-CRO Sierra Point Commercial District, or are public facing, such as the NCRO-1 and NCRO-2, a fence exception permit would be required for any fence. Alternatively, fences may be approved as part of a design permit, if the fence is part of a new development project that would already be going to the Planning Commission for design review.

Under other requirements for fences, a non-substantive amendment to the requirement for fences within the HCP has been included in the other requirements section, to provide clearer language that any such fencing must be consistent with the HCP operating program for the site or other required permitting consistent with the HCP requirements. Also, gated driveways are not currently addressed in the code and so these would be subject to planning director approval, to verify that the gate would not create a safety hazard.

For retaining walls, although not a substantive change, the conditions for walls over 6 feet in height have been updated to match the same conditions provided for retaining walls that may be approved through the grading ordinance provisions in BMC Section 15.01.110.B.2.

Exception Modification Procedures: As indicated above, exception modification procedures would be normalized to one process through the Zoning Administrator, as detailed in the proposed new Section 17.47.060. Zoning Administrator decisions are to be reported to the Planning Commission at least 7 days prior to the expiration of the 10-day appeal period and decisions may be appealed to the Planning Commission. Appeals timeframes and procedures are also proposed to be updated in Section 17.52, as described below.

Requests for reasonable accommodations. Consistent with Housing Element Program 7.A.3, requests for reasonable accommodations would be deleted from the height and setback



exceptions and made a separate subsection within this new chapter. Unlike the other exceptions, which would require a decision by the Zoning Administrator, reasonable accommodations would be subject to a building permit where it has been demonstrated that the current or future accessibility feature cannot be otherwise addressed through the applicable district height or setbacks provisions. As with all of the exceptions, the accessibility improvement will be required to be constructed in compliance with state and local building and fire codes.

**Chapter 17.52 - Appeals:** Various appeals timeframes are provided in Title 17 for different applications. While this update is not an attempt to address all of these, it would serve to provide more structure and consistency to the time periods and process. Except where specified otherwise in Title 17, decisions of either the Planning Director or the Zoning Administrator would be subject to 10 day appeals periods. Appeal periods are currently 7 days for the Zoning Administrator and 15 days for Planning Director decisions. The Planning Commission appeals are currently 15 days for most applications, except where specified otherwise in the code, and would remain as is. This section would add a procedure for two Planning Commissioners to be able to appeal a decision of the Zoning Administrator, to be heard by the Commission, similar to the process for two City Council members to be able to appeal a decision of the Planning Commission.

**Chapter 17.56 - Zoning Administrator:** Finally, Section 17.56 would be retitled from Administration to Zoning Administrator, to more accurately reflect its contents. The amendment would update the list of application types subject to zoning administrator approval. It also further updates and fleshes out the procedures for evaluating and hearing proposed modifications to planning permits into three types:

- Substantial conformance – may be approved through the building permit review process.
- Minor modification – generally subject to review and approval by the Zoning Administrator following the procedure set forth in Chapter 17.56.
- Major modification - subject to review and approval by the original decision-making body, whether the Zoning Administrator or the Planning Commission.

Procedures for public notice of Zoning Administrator applications and hearing procedures are also provided along with a cross reference to the appeals process provided in Chapter 17.52 and requirements for reporting decisions to the Planning Commission.

This draft ordinance was provided to the Public Works Director/City Engineer, Building Department, North County Fire Authority and City's Legal Counsel and comments have been incorporated into it.

Finally, no correspondence was received from the public prior to publication of this report. Any comments received after publication will be provided to the Commission separately.

2024-RZ-2  
May 9, 2024 Meeting

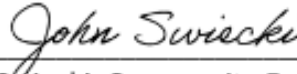
**ATTACHMENTS:**

- A. ~~Draft Resolution 2024-RZ-2~~  
~~Exhibit A Draft ordinance, zoning text amendment~~
- B. ~~Redlined copy of proposed zoning text amendments~~
- C. Workshop links:
  - a. February 22, 2024 ([Memorandum to PC](#)) ([Minutes](#))
  - b. June 8, 2023 ([Memorandum to PC](#)) ([Minutes](#))

See as separate attachments to  
City Council report of 6/6/24.



Ken Johnson, Senior Planner



John Swiecki, Community Development Director

To the Planning Commission  
From: Dana Dillworth  
R: Zoning Amendments RZ-2024-1 and RZ-2024- 2  
May 9, 2024

Don't pass these changes without asking for further studies to disclose these plans' full impacts.

Where is the map? It didn't print out. I only see text.

Rezone the whole town, with a multiplying, quadrupling effect of housing impacts, including the Brisbane Acres, with no study? No infrastructure studies, no hillside stability studies, no commercial safety set-back rules, no natural rivers assessment, no habitat studies, no nothing?

**This cannot be in balance with our General Plan because it is not balanced with the other elements and community goals in our General Plan.**

Where are the other city commissions and committees weighing in on quadrupling requirements for their areas of concern? Like more open space and mitigations for environmental impacts requiring native plant plantings, net-zero and solar orientation of buildings, stream setbacks, rainwater systems, etc? How about requirements for recreation and community-building opportunities per capita? Pocket gardens. Where is Open Space being mapped or do we accept 1-foot wide planters for Open Space? Where are the safety features like wildfire suppression zoning? Where's the Art Commission weighing in on 40 square foot walls as an opportunity for art or native plantings vs. fenestration through your ministerial housing-only myopic requirements?

What happened to disclosing known hazards (prior land slides at Kings and Humboldt, Harold, and Old County Road below Tulare) and new conditions of recent slides (Glenn and Buckeye Canyons) that make blanket rezoning unsafe. When do you disclose streets that are unable to handle the quadruple traffic or machinery needed for gouging the hillside?

While these documents incorporate the meetings that were presented to the public as study sessions, the impacts of these changes have never been studied by professionals. If it has been studied, please provide the report and its authors. Public comments both at the planning commission and city council level for housing element revisions included requests for studies for sea-level rise, hill and slope stability, rare and endangered species habitat restoration programs, programs to mitigate loss of solar when your neighbor's project shadows your panels, and review of toxins, should all be incorporated (by reference) into this document, including my recent comments to council about re-zoning Crocker Park and Sierra Point for housing.

Absent full knowledge or disclosure of the safety and environmental issues puts the public at risk. For this reason I object to the use of a Zoning Administrator substituting for an openly, noticed planning meeting process. An assigned regulator cannot know the nuances in this town without you disclosing them at this time. Particularly, the Brisbane Acres requirement of 60% habitat preservation; I don't see the lands contractually dedicated for Open Space mapped properly.

Your admission is that this is piecemeal. Stop. You have further revisions pending which includes unlimited heights... Can we see/study all of the impacts of all the new California laws? CEQA requires us to evaluate future and potential projects. I see no mention here. You have not provided adequate information nor proper studies to continue this zoning plan.

Some other disturbing facts is that his disallows Air b'n b uses. I know this is a contentious issue and represents an unlawful taking to citizens that have abided by the city's onerous regulations and if the intent for this passage is to provide for low- and moderate-income housing... it will not. Focus on that, the city's responsibility to all citizens AND the environment, not undermining the fabric and safety of our town to speculators.

**File Attachments for Item:**

S. Consider Adopting a Resolution to Amend the Master Pay Schedule



## CITY COUNCIL AGENDA R, EPORT

**Meeting Date:** June 6, 2024

**From:** Abby Partin, Human Resources Director

**Subject:** Adopt Resolution to Amend the Master Pay Schedule

### Community Goal/Result

Fiscally Prudent

### Purpose

To ensure the City maintains competitive pay rates to retain qualified, stable and dedicated workforce for the community.

### Recommendation

Adopt the attached resolution to amend the Master Pay Schedule.

### Background

On November 4, 2016, CalPERS issued Circular Letter 200-050-16, clarifying that pay schedules must comply with Government Code (GC) Section 20636 and California Code of Regulations (CCR), Title 2, Section 570.5. If an agency does not meet the requirements outlined in GC Section 20636 and CCR, Title 2, Section 570.5, CalPERS may determine an amount that may be considered to be the pay rate.

To comply with these codes, pay schedules need to meet the following requirements:

1. Has been duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws;
2. Identifies the position title for every employee position;
3. Shows the payrate for each identified position, which may be stated as a single amount or as multiple amounts within a range;
4. Indicates the time base, including, but not limited to, whether the time base is hourly, daily, bi-weekly, monthly, bi-monthly, or annually;
5. Is posted at the office of the employer or immediately accessible and available for public review from the employer during normal business hours or posted on the employer's internet website;
6. Indicates an effective date and date of any revisions;
7. Is retained by the employer and available for public inspection for not less than five years; and
8. Does not reference another document in lieu of disclosing the payrate.

On May 17, 2017, the City began posting a master pay schedule that combines all of the pay schedules, including Council Member and Commissioner Pay, together in one document as the master pay schedule, to avoid possible issues with CalPERS going forward.

In December 2022, the City completed negotiations and reached an agreement with all of the employee bargaining groups outlining wages, benefits and working conditions for each respective group. Staff posted the approved labor/employment agreements and associated salary information on the City's website to provide the public with access to this information at <https://www.brisbaneca.org/hr/page/labor-agreements> and <https://www.brisbaneca.org/hr/page/salary-information>

On May 2, 2024, the City Council authorized the Mayor to execute the new City Manager's employment contract which included his salary information. The master pay schedule will reflect Mr. Dennis' hourly rate of \$151.44, effective June 24, 2024.

### **Discussion**

Staff is presenting tonight for adoption the master pay schedule to reflect the approved pay increases effective the first full pay period in July 2024. The summary of the updates to the master pay schedule are as follows:

- Confidential Management Employees: The classifications in this group will receive a 6% pay increase and the current filled positions in this group and their respective top step pay rates include: Finance Director at \$115.49 per hour and Human Resources Director at \$113.35.
- Executive Management: The classifications in this group will receive a 6% pay increase and the current filled positions in this group and their respective top step pay rates include: Assistant to the City Manager at \$92.48 per hour, City Clerk at \$74.83 per hour, Community Development Director at \$116.72 per hour, Parks and Recreation Director at \$111.29 per hour and Public Works Director/City Engineer at \$136.64 per hour.
- Police Chief: This classification will receive a 6% pay increase and the new pay rate will be \$136.19 per hour at the top step.
- The following bargaining groups will also receive a 6% pay increase: Brisbane Fire Management, Confidential Employees, General Employees Association, International Association of Firefighters, Local 2400, Mid-Management/Professional Employees, Police Commander, and Police Officers Association.

Historically, the City Council has approved pay increases for hourly unrepresented employees that mirror the pay increases of represented bargaining groups. In order to continue this practice, staff is requesting Council to approve for this fiscal year a similar 6% increase to the pay scales for hourly employees, with the exception of the Intern, Habitat Restoration Lead Worker and Special Assistant positions to ensure the hourly employees are compensated appropriately and their compensation kept in line with their fellow employees in the bargaining units.

Staff recommends City Council approves the attached resolution, so that the City is in compliance with GC Section 20636 and CCR section 570.5, and able to work towards retaining and attracting the quality and expertise of staff required by Council and the community.

**Fiscal Impact**

These increases are reflected in the FY 2024-25 budget.

**Measure of Success**

The City is able to recruit and retain a qualified, stable and dedicated workforce.

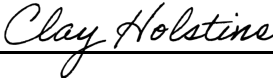
**Attachments**

- 1. CalPERS Circular Letter 200 500 16 Agreement
- 2. Resolution 2024-XX



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Abby Partin, Human Resources  
Director



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Clay Holstine, City Manager



**RESOLUTION NO 2024-XX**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE  
ADOPTING MASTER PAY SCHEDULES  
FOR ALL EMPLOYEES**

**WHEREAS**, the City of Brisbane contracts with the California Public Employee’s Retirement System (CalPERS) to provide retirement benefits for its employees; and

**WHEREAS**, pursuant to the California Code of Regulations, Title 2, Section 570.5 CalPERS requires governing bodies of local agencies contracting with CalPERS to approve and adopt a publicly available pay schedule in accordance with public meeting laws; and

**WHEREAS**, the pay schedule must identify the position title for every employee position, pay rate for each position title, and the applicable time base for the pay rate; and

**WHEREAS**, the City Council of the City of Brisbane desires to approve and adopt a publicly available Master Pay Schedule, showing all established employee positions and pay rates, in accordance with the requirement of California Code of Regulations, Title 2, Section 570.5;

**NOW, THEREFORE**, the City Council of the City of Brisbane resolves as follows:

The Master Pay Schedule as set forth in Exhibit A is approved and is incorporated by reference as though fully set forth herein.

\_\_\_\_\_

Terry O’Connell, Mayor

I hereby certify that the foregoing Resolution No. 2024-XX was duly and regularly adopted at a regular meeting of the Brisbane City Council on June 6, 2024, by the following vote:

- Ayes:
- Noes:
- Absent:
- Abstain:

\_\_\_\_\_

Ingrid Padilla, City Clerk



California Public Employees' Retirement System  
 P.O. Box 942715  
 Sacramento, CA 94229-2715  
**(888) CalPERS** (or **888-225-7377**)  
 TTY: (877) 249-7442  
[www.calpers.ca.gov](http://www.calpers.ca.gov)

Circular Letter: 200-050-16  
 Distribution: IV, V, VI, X, XII, XVI

## Circular Letter

November 4, 2016

**TO: ALL CALPERS EMPLOYERS**

**SUBJECT: STATUTORY AND REGULATORY REQUIREMENTS FOR COMPENSATION  
 EARNABLE AND PUBLICLY AVAILABLE PAY SCHEDULES**

Accurate Payroll reporting is crucial for providing accurate member benefits. The purpose of this letter is to remind employers of the requirements for compensation earnable and publicly available pay schedules.

### **Compensation Earnable**

Only those pay amounts that meet the definition of compensation earnable are used when calculating retirement benefits. For more information about compensation earnable, please refer to the Public Employees' Retirement Law (PERL) Government Code (GC) sections 20636 and 20636.1 which define compensation earnable for State, School, and Public Agency members. Compensation earnable is further clarified by California Code of Regulations (CCR) Section 570.5.

All employers must comply with the compensation earnable provisions and corresponding regulations of the PERL. Where employers fail to comply, pay amounts will be determined to not constitute payrate, and accordingly, CalPERS will be unable to use such pay amounts when calculating members' retirement benefits.

### **Requirement for Publicly Available Pay Schedules**

To meet the definition of compensation earnable, an amount of pay must either constitute payrate or special compensation as defined in the statutes. GC section 20636(d) further requires that payrate and special compensation schedules, ordinances, or similar documents are public records.

Employers must review their pay schedules to verify that all members' pay amounts are included within a publicly available pay schedule.

**Compensation Earnable Government Codes**

GC section 20636(b)(1) (applicable to Public Agency members) and 20636.1(b)(1) (applicable to School members) require pay amounts to be paid pursuant to publicly available pay schedules. For example, GC section 20636 (b)(1) states:

“Payrate means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules. “Payrate,” for a member who is not in a group or class, means the monthly rate of pay or base pay of the member, paid in cash and pursuant to publicly available pay schedules, for services rendered on a full-time basis during normal working hours, subject to the limitations of paragraph (2) of subdivision (e).”

CCR 570.5 specifies the required elements necessary to meet the definition of a publicly available pay schedule as follows:

- (a) For purposes of determining the amount of “compensation earnable” pursuant to GC sections 20630, 20636, and 20636.1, payrate shall be limited to the amount listed on a pay schedule that meets all of the following requirements:
  - (1) Has been duly approved and adopted by the employer’s governing body in accordance with requirements of applicable public meetings laws;
  - (2) Identifies the position title for every employee position;
  - (3) Shows the payrate for each identified position, which may be stated as a single amount or as multiple amounts within a range;
  - (4) Indicates the time base, including, but not limited to, whether the time base is hourly, daily, bi-weekly, monthly, bi-monthly, or annually;
  - (5) Is posted at the office of the employer or immediately accessible and available for public review from the employer during normal business hours or posted on the employer’s internet website;
  - (6) Indicates an effective date and date of any revisions;
  - (7) Is retained by the employer and available for public inspection for not less than five years; and
  - (8) Does not reference another document in lieu of disclosing the payrate.

All eight (8) requirements must be met in one salary schedule for each member’s pay, in order for CalPERS to approve the pay amount as payrate and reportable compensation earnable.

**Publicly Available Pay Schedules Government Code**

If an agency cannot provide a document meeting the requirements for a publicly available pay schedule, then CalPERS must determine that the pay amount fails to meet the definition of payrate. CCR 570.5 (b)(1)-(4) outlines the process by which CalPERS may determine a member's payrate when there is no publicly available pay schedule provided.

CCR 570.5 (b) states:

- (b) Whenever an employer fails to meet the requirements of subdivision (a) above, the Board, in its sole discretion, may determine an amount that will be considered to be payrate, taking into consideration all information it deems relevant including, but not limited to, the following:
- (1) Documents approved by the employer's governing body in accordance with requirements of public meetings laws and maintained by the employer;
  - (2) Last payrate listed on a pay schedule that conforms to the requirements of subdivision (a) with the same employer for the position at issue;
  - (3) Last payrate for the member that is listed on a pay schedule that conforms with the requirements of subdivision (a) with the same employer for a different position;
  - (4) Last payrate for the member in a position that was held by the member and that is listed on a pay schedule that conforms with the requirements of subdivision (a) of a former CalPERS employer.

For assistance or questions, please direct your inquiries to the CalPERS Customer Contact Center at **888 CalPERS** (or **888-225-7377**).

Renee Ostrander, Chief  
Employer Account Management Division

Appendix A

**City of Brisbane Master Pay Schedule**  
Approved per Resolution No. 2024-XX

Job Classification	Hourly Grade A	Hourly Grade B	Hourly Grade C	Hourly Grade D	Hourly Grade E	Monthly	Fixed Hourly	Hourly Range	Effective Date	Bargaining Group	FLSA Status
Accounting Assistant I	\$ 29.20	\$ 30.67	\$ 32.21	\$ 33.82	\$ 35.51				7/1/2024	General Employees	Non-Exempt
Accounting Assistant II	\$ 32.15	\$ 33.76	\$ 35.46	\$ 37.22	\$ 39.09				7/1/2024	General Employees	Non-Exempt
Accounting Systems Analyst	\$ 44.15	\$ 46.48	\$ 48.80	\$ 51.24	\$ 53.80				7/1/2024	General Employees	Non-Exempt
Administrative Assistant	\$ 38.63	\$ 40.57	\$ 42.59	\$ 44.72	\$ 46.96				7/1/2024	General Employees	Non-Exempt
Administrative Management Analyst	\$ 49.18	\$ 51.62	\$ 54.22	\$ 56.91	\$ 59.77				7/1/2024	Confidential Employee	Exempt
Administrative Services Director	\$ 99.29	\$ 104.24	\$ 109.46	\$ 114.93	\$ 120.69				7/1/2024	Confidential Management	Exempt
Assistant Engineer I	\$ 44.99	\$ 47.24	\$ 49.60	\$ 52.09	\$ 54.68				7/1/2024	General Employees	Non-Exempt
Assistant Engineer II	\$ 49.49	\$ 51.94	\$ 54.56	\$ 57.28	\$ 60.15				7/1/2024	General Employees	Non-Exempt
Assistant City Manager	\$ 114.18	\$ 119.88	\$ 125.88	\$ 132.17	\$ 138.79				7/1/2024	Confidential Management	Exempt
Assistant to the City Manager	\$ 76.08	\$ 79.88	\$ 83.89	\$ 88.07	\$ 92.48				7/1/2024	Executive Management	Exempt
Assistant Fire Marshal	\$ 85.40	\$ 89.67	\$ 94.15	\$ 98.86	\$ 103.80				7/1/2024	Brisbane Fire Management	Exempt
Associate Civil Engineer	\$ 58.92	\$ 61.86	\$ 64.95	\$ 68.21	\$ 71.62				7/1/2024	Mid-Management/Professional	Exempt
Associate Planner	\$ 52.06	\$ 54.67	\$ 57.41	\$ 60.27	\$ 63.29				7/1/2024	General Employees	Non-Exempt
Building Permit Technician	\$ 39.42	\$ 41.39	\$ 43.46	\$ 45.64	\$ 47.91				7/1/2024	General Employees	Non-Exempt
Cashier	\$ 16.96	\$ 17.81	\$ 18.70	\$ 19.63	\$ 20.61				7/1/2024	Unrepresented	Non-Exempt
C/CAG Stormwater Program Director	\$ 77.84	\$ 81.73	\$ 85.82	\$ 90.12	\$ 94.62				7/1/2024	Mid-Management/Professional	Exempt
City Clerk	\$ 61.56	\$ 64.65	\$ 67.88	\$ 71.28	\$ 74.83				7/1/2024	Executive Management	Exempt
City Manager	\$ -	\$ -	\$ -	\$ -	\$ -		\$ 151.44		6/24/2024	Unrepresented	Exempt
Code Enforcement Officer	\$ 41.98	\$ 44.08	\$ 46.28	\$ 48.59	\$ 51.03				7/1/2024	General Employees	Non-Exempt
Communications Digital and Media Coordinator	\$ 39.42	\$ 41.39	\$ 43.46	\$ 45.64	\$ 47.91				7/1/2024	General Employees	Non-Exempt
Communications Manager	\$ 57.52	\$ 60.54	\$ 63.72	\$ 67.07	\$ 70.60				7/1/2024	Mid-Management/Professional	Exempt
Community Development Director	\$ 96.01	\$ 100.81	\$ 105.87	\$ 111.16	\$ 116.72				7/1/2024	Executive Management	Exempt
Community Development Technician	\$ 39.42	\$ 41.39	\$ 43.46	\$ 45.64	\$ 47.91				7/1/2024	General Employees	Non-Exempt
Community Services Officer	\$ 34.37	\$ 36.59	\$ 38.42	\$ 40.34	\$ 42.35				7/1/2024	General Employees	Non-Exempt
Council Member	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 400.00			7/1/2024	Elected Position	
Crossing Guard	\$ 16.96	\$ 17.81	\$ 18.70	\$ 19.63	\$ 20.61				7/1/2024	Unrepresented	Non-Exempt
Deputy City Clerk/Executive Assistant	\$ 46.29	\$ 48.60	\$ 51.03	\$ 53.59	\$ 56.26				7/1/2024	Confidential	Exempt
Deputy Director of Public Works	\$ 86.96	\$ 91.31	\$ 95.88	\$ 100.68	\$ 105.70				7/1/2024	Mid-Management/Professional	Exempt
Deputy Finance Director	\$ 77.84	\$ 81.73	\$ 85.82	\$ 90.12	\$ 94.62				7/1/2024	Mid-Management/Professional	Exempt
Director of Marina/Aquatics Services	\$ 63.73	\$ 66.92	\$ 70.27	\$ 73.78	\$ 77.47				7/1/2024	Executive Management	Exempt
Engineering Technician	\$ 43.36	\$ 45.54	\$ 47.81	\$ 50.18	\$ 52.71				7/1/2024	General Employees	Non-Exempt
Executive Administrative Assistant	\$ 40.05	\$ 42.04	\$ 44.14	\$ 46.35	\$ 48.67				7/1/2024	General Employees	Non-Exempt
Facility Attendant	\$ 19.87	\$ 20.86	\$ 21.91	\$ 23.01	\$ 24.15				7/1/2024	Unrepresented	Non-Exempt
Finance Director	\$ 95.02	\$ 99.77	\$ 104.76	\$ 110.02	\$ 115.49				7/1/2024	Confidential Management	Exempt
Financial Services Manager	\$ 67.23	\$ 70.59	\$ 74.12	\$ 77.84	\$ 81.73				7/1/2024	Mid-Management/Professional	Exempt
Fire Captain	\$ 46.95	\$ 49.29	\$ 51.77	\$ 54.35	\$ 57.07				7/1/2024	IAFF Local 2400	Non-Exempt
Fire Prevention Officer	\$ 55.01	\$ 60.78	\$ 63.81	\$ 66.99	\$ 70.35				7/1/2024	IAFF Local 2400	Non-Exempt
Fire Trainee	\$ -	\$ -	\$ -	\$ -	\$ -		\$ 27.36		7/1/2024	IAFF Local 2400	Non-Exempt
Firefighter	\$ 39.29	\$ 41.25	\$ 43.32	\$ 45.46	\$ 47.74				7/1/2024	IAFF Local 2400	Non-Exempt
Firefighter II	\$ 43.22	\$ 45.38	\$ 47.65	\$ 50.01	\$ 52.52				7/1/2024	IAFF Local 2400	Non-Exempt
Firefighter/Paramedic	\$ 39.29	\$ 41.25	\$ 43.32	\$ 45.46	\$ 47.74				7/1/2024	IAFF Local 2400	Non-Exempt
Firefighter/Paramedic II	\$ 43.22	\$ 45.38	\$ 47.65	\$ 50.01	\$ 52.52				7/1/2024	IAFF Local 2400	Non-Exempt
Geographic Information System Manager	\$ 57.52	\$ 60.54	\$ 63.72	\$ 67.07	\$ 70.60				7/1/2024	Mid-Management/Professional	Exempt
Habitat Restoration Lead Worker	\$ -	\$ -	\$ -	\$ -	\$ -		\$ 16.00		7/1/2024	Unrepresented	Non-Exempt
Harbormaster	\$ 54.22	\$ 56.92	\$ 59.77	\$ 62.76	\$ 65.90				7/1/2024	Mid-Management/Professional	Exempt
Head Lifeguard	\$ 23.83	\$ 25.03	\$ 26.27	\$ 27.60	\$ 28.96				7/1/2024	Unrepresented	Non-Exempt
History Project Asst	\$ 40.33	\$ 42.35	\$ 44.46	\$ 46.68	\$ 49.02				7/1/2024	Unrepresented	Non-Exempt
Human Resources Administrator	\$ 79.43	\$ 83.40	\$ 87.57	\$ 91.95	\$ 96.55				7/1/2024	Confidential	Exempt
Human Resources Director	\$ 93.25	\$ 97.91	\$ 102.81	\$ 107.95	\$ 113.35				7/1/2024	Confidential Management	Exempt
Human Resources Technician	\$ 39.42	\$ 41.39	\$ 43.46	\$ 45.64	\$ 47.91				7/1/2024	General Employees	Non-Exempt
Information Technology & Systems Administrator	\$ 59.27	\$ 62.24	\$ 65.35	\$ 68.61	\$ 72.06				7/1/2024	Mid-Management/Professional	Exempt
Intern	\$ -	\$ -	\$ -	\$ -	\$ -			\$16.00 - \$23.00	7/1/2024	Unrepresented	Non-Exempt
Lifeguard	\$ 18.08	\$ 18.99	\$ 19.93	\$ 20.93	\$ 21.96				7/1/2024	Unrepresented	Non-Exempt
Management Analyst (Part-time)	\$ 44.59	\$ 46.83	\$ 49.16	\$ 51.62	\$ 54.20				7/1/2024	Unrepresented	Non-Exempt

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Job Classification	Hourly Grade A	Hourly Grade B	Hourly Grade C	Hourly Grade D	Hourly Grade E	Monthly	Fixed Hourly	Hourly Range	Effective Date	Bargaining Group	FLSA Status
Marina Maintenance Worker I	\$ 33.81	\$ 35.49	\$ 37.26	\$ 39.13	\$ 41.09				7/1/2024	General Employees	Non-Exempt
Marina Maintenance Worker II	\$ 37.18	\$ 39.03	\$ 40.99	\$ 43.02	\$ 45.18				7/1/2024	General Employees	Non-Exempt
Marina Maintenance Worker I ( Part-time)	\$ 34.47	\$ 36.19	\$ 38.00	\$ 39.92	\$ 41.91				7/1/2024	Unrepresented	Non-Exempt
Marina Maintenance Worker II ( Part-time)	\$ 37.90	\$ 39.83	\$ 41.78	\$ 43.86	\$ 46.09				7/1/2024	Unrepresented	Non-Exempt
Marina Services Director	\$ 59.57	\$ 62.55	\$ 65.68	\$ 68.95	\$ 72.41				7/1/2024	Executive Management	Exempt
Office Assistant	\$ 30.98	\$ 32.48	\$ 34.10	\$ 35.81	\$ 37.62				7/1/2024	General Employees	Non-Exempt
Office Assistant (Part-Time)	\$ 31.55	\$ 33.11	\$ 34.77	\$ 36.53	\$ 38.35				7/1/2024	Unrepresented	Non-Exempt
Office Specialist	\$ 36.32	\$ 38.13	\$ 40.05	\$ 42.04	\$ 44.14				7/1/2024	General Employees	Non-Exempt
Office Specialist (Part-Time)	\$ 37.05	\$ 38.89	\$ 40.84	\$ 42.88	\$ 45.03				7/1/2024	Unrepresented	Non-Exempt
Park/Beach/Recreation Commissioner	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 100.00			7/1/2024	Appointed Position	
Parks & Recreation Director	\$ 91.55	\$ 96.14	\$ 100.94	\$ 105.98	\$ 111.29				7/1/2024	Executive Management	Exempt
Parks/Facilities Maintenance Worker I	\$ 33.81	\$ 35.49	\$ 37.26	\$ 39.13	\$ 41.09				7/1/2024	General Employees	Non-Exempt
Parks/Facilities Maintenance Worker I (Part-Time)	\$ 34.47	\$ 36.19	\$ 38.00	\$ 39.92	\$ 41.91				7/1/2024	Unrepresented	Non-Exempt
Parks/Facilities Maintenance Worker II	\$ 37.18	\$ 39.03	\$ 40.99	\$ 43.02	\$ 45.18				7/1/2024	General Employees	Non-Exempt
Payroll/Utility Billing Technician	\$ 39.42	\$ 41.39	\$ 43.46	\$ 45.64	\$ 47.91				7/1/2024	General Employees	Non-Exempt
Planning Commissioner	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 100.00			7/1/2024	Appointed Position	
Police Chief	\$ 112.05	\$ 117.65	\$ 123.52	\$ 129.72	\$ 136.19				7/1/2024	Police Chief	Exempt
Police Commander	\$ 101.01	\$ 106.07	\$ 111.38	\$ 116.95	\$ 122.79				7/1/2024	Police Commander	Exempt
Police Officer	\$ 51.34	\$ 53.91	\$ 56.60	\$ 59.43	\$ 62.40				7/1/2024	Brisbane Police Officers Association*	Non-Exempt
Police Officer - 40 hour shift (Detective/SRC)	\$ 53.91	\$ 56.60	\$ 59.43	\$ 62.40	\$ 65.52				7/1/2024	Brisbane Police Officers Association*	Non-Exempt
Police Corporal	\$ 56.47	\$ 59.30	\$ 62.26	\$ 65.37	\$ 68.64				7/1/2024	Brisbane Police Officers Association*	Non-Exempt
Police Sergeant	\$ 61.85	\$ 64.95	\$ 68.19	\$ 71.60	\$ 75.18				7/1/2024	Brisbane Police Officers Association*	Non-Exempt
Police Trainee	\$ -	\$ -	\$ -	\$ -	\$ -		\$ 37.99		7/1/2024	Unrepresented	Non-Exempt
Pre-School Teacher	\$ 19.99	\$ 21.00	\$ 22.05	\$ 23.16	\$ 24.32				7/1/2024	Unrepresented	Non-Exempt
Principal Analyst	\$ 68.79	\$ 72.24	\$ 75.84	\$ 79.62	\$ 83.61				7/1/2024	Confidential	Exempt
Principal Planner	\$ 73.26	\$ 76.92	\$ 80.77	\$ 84.81	\$ 89.05				7/1/2024	Mid-Management/Professional	Exempt
Program Manager - SMCWPPP	\$ 72.46	\$ 76.10	\$ 79.90	\$ 83.90	\$ 88.10				7/1/2024	Mid-Management/Professional	Exempt
Public Service Aide	\$ 17.79	\$ 18.69	\$ 19.61	\$ 20.58	\$ 21.62				7/1/2024	Unrepresented	Non-Exempt
Public Works Director/City Engineer	\$ 112.42	\$ 118.03	\$ 123.92	\$ 130.13	\$ 136.64				7/1/2024	Executive Management	Exempt
Public Works Inspector	\$ 55.47	\$ 58.25	\$ 61.16	\$ 64.21	\$ 67.43				7/1/2024	General Employees	Non-Exempt
Public Works Lead Maintenance Worker	\$ 44.62	\$ 46.85	\$ 49.18	\$ 51.65	\$ 54.22				7/1/2024	General Employees	Non-Exempt
Public Works Maintenance Worker I	\$ 33.81	\$ 35.49	\$ 37.26	\$ 39.13	\$ 41.09				7/1/2024	General Employees	Non-Exempt
Public Works Maintenance Worker I (Part-time)	\$ 34.47	\$ 36.19	\$ 38.00	\$ 39.92	\$ 41.91				7/1/2024	Unrepresented	Non-Exempt
Public Works Maintenance Worker II	\$ 37.18	\$ 39.03	\$ 40.99	\$ 43.02	\$ 45.18				7/1/2024	General Employees	Non-Exempt
Public Works Superintendent	\$ 72.12	\$ 75.72	\$ 79.51	\$ 83.49	\$ 87.66				7/1/2024	Mid-Management/Professional	Exempt
Public Works Supervisor	\$ 55.12	\$ 57.88	\$ 60.77	\$ 63.81	\$ 67.00				7/1/2024	Mid-Management/Professional	Exempt
Public Works Team Leader	\$ 50.00	\$ 52.63	\$ 55.41	\$ 58.33	\$ 61.39				7/1/2024	Mid-Management/Professional	Exempt
Receptionist	\$ 30.94	\$ 32.48	\$ 34.10	\$ 35.81	\$ 37.62				7/1/2024	General Employees	Non-Exempt
Receptionist (Part-time)	\$ 31.55	\$ 33.11	\$ 34.77	\$ 36.53	\$ 38.35				7/1/2024	Unrepresented	Non-Exempt
Recreation Leader	\$ 19.96	\$ 20.96	\$ 22.01	\$ 23.10	\$ 24.26				7/1/2024	Unrepresented	Non-Exempt
Recreation Leader Aide	\$ 16.96	\$ 17.81	\$ 18.70	\$ 19.63	\$ 20.61				7/1/2024	Unrepresented	Non-Exempt
Recreation Manager	\$ 67.83	\$ 71.21	\$ 74.77	\$ 78.52	\$ 82.44				7/1/2024	Mid-Management/Professional	Exempt
Recreation Program Coordinator	\$ 34.32	\$ 36.62	\$ 38.45	\$ 40.37	\$ 42.38				7/1/2024	General Employees	Non-Exempt
Recreation Supervisor	\$ 50.11	\$ 52.63	\$ 55.25	\$ 58.01	\$ 60.91				7/1/2024	Mid-Management/Professional	Exempt
Regional Compliance Program Manager	\$ 57.52	\$ 60.54	\$ 63.72	\$ 67.07	\$ 70.60				7/1/2024	Mid-Management/Professional	Exempt
Reserve Police Officer	\$ 36.67	\$ 38.51	\$ 40.43	\$ 42.45	\$ 44.58				7/1/2024	Unrepresented	Non-Exempt
Senior Accounting Assistant	\$ 36.42	\$ 38.25	\$ 40.16	\$ 42.18	\$ 44.27				7/1/2024	General Employees	Non-Exempt
Senior Civil Engineer	\$ 72.46	\$ 76.10	\$ 79.90	\$ 83.90	\$ 88.10				7/1/2024	Mid-Management/Professional	Exempt
Senior Human Resources Analyst	\$ 54.94	\$ 57.68	\$ 60.57	\$ 63.60	\$ 66.77				7/1/2024	Confidential	Exempt
Senior Management Analyst	\$ 53.85	\$ 56.54	\$ 59.37	\$ 62.34	\$ 65.45				7/1/2024	Mid-Management/Professional	Exempt
Senior Planner	\$ 61.96	\$ 65.05	\$ 68.31	\$ 71.74	\$ 75.31				7/1/2024	Mid-Management/Professional	Exempt
Senior Recreation Leader	\$ 25.61	\$ 26.89	\$ 28.23	\$ 29.64	\$ 31.13				7/1/2024	Unrepresented	Non-Exempt
Sustainability Manager	\$ 57.52	\$ 60.54	\$ 63.72	\$ 67.07	\$ 70.60				7/1/2024	Mid-Management/Professional	Exempt
Special Assistant	\$ -	\$ -	\$ -	\$ -	\$ -			\$16.00-\$145.00	7/1/2024	Unrepresented	Non-Exempt
Spe Coun-Maj Dev Pro	\$ -	\$ -	\$ -	\$ -	\$ -		\$ 175.04		7/1/2024	Confidential Management	Exempt
Swim Instructor	\$ 19.72	\$ 20.71	\$ 21.75	\$ 22.84	\$ 23.98				7/1/2024	Unrepresented	Non-Exempt
Van Driver	\$ 18.55	\$ 19.49	\$ 20.47	\$ 21.50	\$ 22.57				7/1/2024	Unrepresented	Non-Exempt

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Job Classification	Hourly Grade A	Hourly Grade B	Hourly Grade C	Hourly Grade D	Hourly Grade E	Monthly	Fixed Hourly	Hourly Range	Effective Date	Bargaining Group	FLSA Status
Water Quality Technician	\$ 37.18	\$ 39.03	\$ 40.99	\$ 43.02	\$ 45.18				7/1/2024	General Employees	Non-Exempt

**File Attachments for Item:**

T. Consider Adoption of a Resolution to Initiate a Test Residential Parking Permit Program on Thomas Ave Based Upon Results of Outreach to Residents





## CITY COUNCIL AGENDA REPORT

**Meeting Date:** June 6, 2024

**From:** Karen Kinser, Deputy Director of Public Works

**Subject:** Resolution to initiate test Parking Permit Program on Thomas

### Community Goal/Result

- (1) Safe Community
- (2) Community Building

**Purpose:** To initiate a test residential parking permit program (RPPP) on Thomas Ave. lasting six months, and to later receive feedback from staff on the effectiveness of the program.

**Recommendation:** Adopt the resolution to initiate a test RPPP on Thomas Ave based upon results of outreach to residents.

### Background

On April 18th, Council reviewed neighbor feedback regarding a potential trial program on Tulare St. and/or Thomas Ave. via a returned letter sent to households and other feedback received from staff's follow up door-knocking campaign. The letter sent to households is attached for reference.

Council had further directed staff to revise Brisbane Municipal Code Section 10.26, which allows for neighbors to initiate an RPPP. Also on April 18, Council approved the code revision to reduce the number of households needed to initiate a program on their street to a simple majority, versus the prior 70%.

### Discussion

Of the votes received by the Council meeting date for Thomas Ave., there were 19 in favor and 5 opposed to conducting a 6-month test program. On Tulare St., there were 14 in favor and 14 opposed.

The communication received from those opposing was from households that had more cars than licensed drivers, from a household that objected to the \$20 fee, and one household who thought the guest permit allowance should be more robust. Others did not indicate their reason for opposition.

Consultant IPS Group can set up the RPPP parameters and associated web services, including collection of permit application information for a onetime cost of \$5,000. This cost would not recur if the Council later decided to or residents, through the petition process in BMC 10.26, initiated a program with the same parameters at another location.

### Fiscal Impact

Beyond the \$5,000 database setup cost, installation of signs needed to indicate parking restrictions on Thomas Ave. will be approximately \$3,600. Residents will be required to pay for

each permit applied for and obtained based on IPS’s fee schedule. Staff will send a letter to all affected households detailing costs and methods of payment available to them.

Enforcement will not incur additional costs, as Brisbane Police can respond to complaints with existing staff per the parameters above. Revenue from citations was not estimated nor included.

Attachments

- 1. Resolution Establishing a Trial Residential Parking Permit Program on Thomas Ave.
- 2. Letter sent to households on Tulare St and Thomas Ave on March 20, 2024.



Karen Kinser, Deputy Director of Public Works



Tomas Santoyo-Velazquez, Assistant Engineer



Randy Breault, Director of Public Works/City Engineer



Clay Holstine, City Manager

**RESOLUTION NO. 2024-\_\_****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE  
ESTABLISHING A TRIAL RESIDENTIAL PARKING PERMIT PROGRAM  
ON THOMAS AVENUE**

**WHEREAS**, the Council-appointed citizen advisory Complete Streets Safety Committee heard concerns from residents regarding a lack of available street parking due to storage of excess vehicles on the street as well as use of the street for airport parking by non-residents; and

**WHEREAS**, the Complete Streets Safety Committee reviewed other cities' programs and made a recommendation to the City Council regarding guidelines for a program for either targeted streets or all public streets in Central Brisbane; and

**WHEREAS**, Council determined it wished to investigate the community's interest in a trial program and directed staff to send a survey letter to residents of Thomas Avenue and Tulare Street; and

**WHEREAS**, after reviewing the responses to the trial parking program survey Council determined to establish a trial residential parking permit program on Thomas Avenue; and

**WHEREAS**, the City Council's authority to impose residential parking restrictions by resolution is codified in Brisbane Municipal Code Section 10.26.045.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BRISBANE  
RESOLVES AS FOLLOWS:**

1. A trial residential parking permit program in compliance with Chapter 10.26 of the Brisbane Municipal Code shall be in effect on Thomas Avenue from August 1, 2024 to January 31, 2025.
2. The following guidelines and restrictions will be enforced:
  - a. One permit may be issued per each licensed driver for one vehicle, when both driver and vehicle are registered to the address on Thomas Avenue.
  - b. The fee per permit will be based upon consultant IPS's fee schedule.

- c. Guest permits will be made available. The number of single overnight guest permits per household will be ten (10). The fee per guest permit will be based upon consultant IPS's fee schedule.
- d. Parking will be restricted to permit holders Sunday through Thursday starting at 10 PM and ending at 6 AM the next day.
- e. Parking complaints for nonpermitted vehicles may be made anonymously by phone or through the city website at any time, but enforcement will only be conducted during program hours, and upon receipt of a resident complaint via phone or website.
- f. The City Engineer is directed to post signage as required by Brisbane Municipal Code Section 10.26.070.

\_\_\_\_\_  
Terry O'Connell, Mayor

\* \* \* \*

**PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Brisbane held on the sixth day of June, 2024, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

ATTEST:

\_\_\_\_\_  
Ingrid Padilla, City Clerk



**City of Brisbane**  
50 Park Place  
Brisbane, CA 94005-1310  
(415) 508-2100  
(415) 467-4989 Fax

DATE March 20, 2024

Subject: Residential Parking Program

Dear Residents of Tulare Street and Thomas Avenue,

A number of factors create challenging parking in our community; narrow streets, an economy forcing multiple generations to live under one roof, the occasional “airport parker”, businesses run out of the home and associated with multiple vehicles and pending legislation (State Assembly Bill 413) that will remove parking at intersections to provide better sight distance for pedestrians.

In an effort to reduce the parking challenges and make spaces more equitably available, the Council is asking you if you are willing to have a pilot residential parking permit program implemented on your street. Please reply by April 5th, 2024.

As currently envisioned the program’s parameters are:

1. One permit will be issued per licensed driver for one vehicle, when both driver and vehicle are registered to the address.
2. The fee per permit will be \$20.
3. Guest permits will be made available. If the pilot program is established for 6 months, the number of single overnight guest permits per household will be ten (10).
4. Parking will be restricted to permit holders starting at 10 PM and ending at 6 AM the next day on Sunday through Thursday.
5. Parking complaints for nonpermitted vehicles may be made anonymously by phone or through the city website at any time, but enforcement will only be conducted during program hours, and upon receipt of a resident complaint via phone or website.
6. The program will require 17 signs on Tulare and 7 on Thomas, spaced to provide visibility from any location on the street.

Are you in favor of a test program?  Yes  No

Name and Street Address (one vote per household): \_\_\_\_\_

If you would like more details or wish to comment on the proposed program, please contact Deputy Public Works Director Karen Kinser at (415) 508-2133 or [kkinser@brisbaneca.org](mailto:kkinser@brisbaneca.org). Please return this letter in the included envelope or reply by email to Karen Kinser, including your household address and your vote.

Very truly yours,  
Terry O’Connell  
Mayor, Brisbane City Council

**File Attachments for Item:**

W. Countywide Assignments and Subcommittee Reports



# CITY of BRISBANE

## Council Subcommittee Update

From May 11<sup>th</sup>, 2024, to May 31<sup>st</sup>, 2024

**Charter City & Elections Issues Subcommittee      5/13      Davis, Lentz**

Councilmembers met with National Demographic Corporation (NDC) President Douglas Johnson. They received a roadmap as to what is entailed to draw district lines. Mr. Johnson was invited to CC meeting on May 16<sup>th</sup> to review the project. The councilmembers then discussed Brisbane Election options – mayoral rotation and term limits. This was brought to CC on May 16<sup>th</sup>.

**Fiscal & Administrative Policies Subcommittee      5/29      O’Connell, Cunningham**

Staff met with the Mayor and Mayor Pro-tem to review the budget presentation and receive feedback. Councilmembers gave feedback and suggestions. The budget was presented at CC Special Meeting on 5/30 and will also be discussed at CC regular meeting on 6/6.

**Economic Development Subcommittee      5/30      Cunningham, Lentz**

The subcommittee received an update on the community planning process for City owned property at 70 Old County Road. Staff prepared a preliminary draft scope of work for the subcommittee to review, and this will be incorporated into an RFP. Staff prefer to sole source the RFP to Good City, but it can also be sent to a more extensive consultant list, whatever is the council’s pleasure. This will be discussed at CC meeting on July 18<sup>th</sup>. Economic Development Director Mitch Bull gave an update on businesses and companies in Brisbane as well as an update on the Progress Seminar he attended (both docs may be viewed at: <https://www.brisbaneca.org/citycouncil/page/economic-development-subcommittee-7>).

**Upcoming Subcommittees:**

Best Practices Ad hoc Subcommittee	6/6	2:30pm	Davis, Lentz
Charter Cities 7 Election Issues Subcommittee	6/6	2:45pm	Davis, Lentz
Public Art Advisory Committee	6/17	4:30pm	Cunningham, Davis