



CITY of BRISBANE

Planning Commission Meeting Agenda

Thursday, May 08, 2025 at 7:30 PM • Hybrid Meeting
• Brisbane City Hall 50 Park Place, Brisbane CA

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

TO ADDRESS THE COMMISSION

In Person:

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

Masks are no longer required but are highly recommended in accordance with California Department of Health Guidelines. To maintain public health and safety, please do not attend in person if you are experiencing symptoms associated with COVID-19 or respiratory illness.

To address the Planning Commission on any item on or not on the posted agenda, fill out a Request of Speak Form located in the Community Meeting Room Lobby and submit it to the City staff.

Remote Participation:

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

Remote Public Comments:

Meeting participants are encouraged to submit public comments in writing in advance of the meeting to jswiecki@brisbaneca.org. Remote meeting participants may address the Planning Commission via Zoom Webinar using the link or the call in number listed below. Note, the above email will not be monitored during the meeting and emails received during the meeting will not be responded to or brought to the attention of the Planning Commission during the meeting.

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

Webinar ID: 970 0458 3387

Call In Number: +1 (669) 900-9128

SPECIAL ASSISTANCE

If you need special assistance to participate in this meeting, please contact the Community Development Department at (415) 508-2120 in advance of the meeting. 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

All written communications are provided to the Planning Commission. Any written communication that is received after the agenda has been posted but before 4 p.m. of the day of the meeting will be available for public inspection at the front lobby in City Hall and online at brisbaneca.org/meetings. Any writings that are received after 4 p.m. of the day of the meeting will be distributed to the Planning Commission and made available for public inspection at the front lobby and on the internet the day after the meeting (brisbaneca.org/meetings).

Commissioners: Funke, Gooding, Lau, Patel, and Sayasane

CALL TO ORDER

ROLL CALL

ADOPTION OF AGENDA

CONSENT CALENDAR

Please Note: Items listed here as Consent Calendar Items are considered routine and will be acted upon collectively by one motion adopting the Planning Department's recommendation unless a member of the public, the Commission, or its staff asks to remove an item to discuss it. Prior to the motion, the Chairperson will ask if anyone wishes to remove an item from the Consent Calendar.

- A. [Approval of draft meeting minutes of April 10, 2025](#)

ORAL COMMUNICATIONS (Limited to a total of 15 minutes)

WRITTEN COMMUNICATIONS

NEW BUSINESS

- B. [Public Hearing: 60 Industrial Way; Use Permit 2025-UP-01; M-1 district; Use Permit for automobile repair facility in the approximately 10,200 square foot, northern portion of the single-story building; and finding that this project is categorically exempt from environmental review under CEQA Guidelines Section 15301; Mickey Kelley, applicant; Sierra Hotel Management Corp, owner.](#)
- C. [Public Hearing: Zoning Text Amendment 2025-RZ-02; Citywide; Zoning Text Amendments to update the City's existing Accessory Dwelling Unit regulations to comply with current State law; and finding that this project is statutorily exempt from environmental review under CEQA Guidelines Section 15282\(h\) because it involves](#)

[adoption of an ordinance regarding second units in single-family and multi-family residential zones; City of Brisbane, applicant.](#)

OLD BUSINESS

ITEMS INITIATED BY STAFF

ITEMS INITIATED BY THE COMMISSION

- D. [Consideration of changing Commission meeting time](#)

ADJOURNMENT

- E. Adjournment to the regular meeting of May 22, 2025.

APPEALS PROCESS

Anyone may appeal the action of the Planning Commission to the City Council. Except where specified otherwise, appeals shall be filed with the City Clerk not later than 15 calendar days following the Planning Commission's decision. Exceptions to the 15-day filing period include the following: appeals shall be filed with the City Clerk within 6 calendar days of the Planning Commission's action for use permits and variances and 10 calendar days for tentative maps and advertising sign applications. An application form and fee are required to make a formal appeal. For additional information, please contact the City Clerk at 415-508-2110.

File Attachments for Item:

A. Approval of draft meeting minutes of April 10, 2025

DRAFT
BRISBANE PLANNING COMMISSION
Action Minutes of April 10, 2025
Hybrid Meeting

CALL TO ORDER

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

ROLL CALL

Present: Commissioners Funke, Gooding, Lau, and Sayasane

Absent: Commissioner Patel

Staff Present: Director Swiecki, Principal Planner Ayres, Senior Planner Johnson

ADOPTION OF AGENDA

A motion was made by Commissioner Funke and seconded by Commissioner Lau to adopt the agenda. Motion approved 4-0.

CONSENT CALENDAR

A. Approval of draft meeting minutes of November 14, 2024

B. Approval of draft meeting minutes of February 27, 2025

A motion by Commissioner Gooding, seconded by Commissioner Funke, to approve the consent calendar was approved 4-0.

ORAL COMMUNICATIONS

Michele Salmon, Brisbane resident, expressed her concern about the homes on the Northeast Ridge that have enclosed their courtyard area, thereby increasing their square footage. She noted that additions, altering the flow of water, and enclosed fences, are not allowed per the CC&Rs.

WRITTEN COMMUNICATIONS

There were none.

NEW BUSINESS

There were none.

OLD BUSINESS

There were none.

WORKSHOP

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Brisbane Planning Commission Minutes
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- C. Discussion of Amendment to the Open Space Element of the General Plan, to comply with California Senate Bill 1425 (2023) requiring an update by January 1, 2026.

Senior Planner Johnson presented to the Commission.

The Commission asked questions of staff regarding the source of the draft goals, how annual reports are provided to the City Council, the Brisbane Acres requisitions, and considerations in preserving and or acquiring additional open space.

Chairperson Sayasane opened public comment.

Michele Salmon, Brisbane Resident, suggested the Commission reference the original text in the 1994 General Plan, the Open Space element and in the 2001 Open Space Plan. She spoke about the Brisbane Acres and environmental concerns regarding endangered species population and habitat and historical structure preservation. She also spoke about additional areas that should be maintained as habitat and recreation areas.

Chairperson Sayasane asked and Senior Planner Johnson confirmed that more information and further discussion will be available after the Parks and Recreation Commission and the Open Space and Ecology Committee (OSEC) workshops in May.

ITEMS INITIATED BY STAFF

Director Swiecki stated the Draft EIR for the Baylands Specific Plan was published and available to view online, a public meeting to accept public comment will be held on June 12, 2025, and the written comment period will be open until the end of August 2025.

ITEMS INITIATED BY THE COMMISSION

- D. Consideration of changing Commission meeting time

With one member of the Commission and one staff member absent, the discussion was deferred to the next meeting.

ADJOURNMENT

- E. Chairperson Sayasane declared the meeting adjourned to the next regular meeting of May 8, 2025 at approximately 8:15 p.m.

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Attest:

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, on the City's website at <http://www.brisbaneca.org/meetings>, or on DVD (by request only) at City Hall.

File Attachments for Item:

B. Public Hearing: 60 Industrial Way; Use Permit 2025-UP-01; M-1 district; Use Permit for automobile repair facility in the approximately 10,200 square foot, northern portion of the single-story building; and finding that this project is categorically exempt from environmental review under CEQA Guidelines Section 15301; Mickey Kelley, applicant; Sierra Hotel Management Corp, owner.



PLANNING COMMISSION AGENDA REPORT

Meeting Date: May 8, 2025

From: Ken Johnson, Senior Planner

Subject: 60 Industrial Way; 2025-UP-1; M-1 district; Use Permit for automobile repair facility in the approximately 10,200 square foot, northern portion of the single-story building; and finding that this project is categorically exempt from environmental review under CEQA Guidelines Section 15301; Michael Kelley, applicant; Sierra Hotel Management Corp, owner.

REQUEST: The applicant requests approval of a use permit for 60 Industrial Way, to allow for an automobile repair facility, primarily to service fleet taxis. That is within the approximately 10,200 square foot northern portion of the building at 60-130 Industrial Way.

RECOMMENDATION: Approve Permit application 2025-UP-1 via adoption of Resolution 2025-UP-1, containing the findings and conditions of approval (See Attachment A).

ENVIRONMENTAL DETERMINATION: The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per Section 15301 - this project falls within a class of projects which the State has determined not to have a significant effect on the environment. The exceptions to this categorical exemption referenced in Section 15300.2 of the CEQA Guidelines do not apply.

APPLICABLE CODE SECTIONS: Brisbane Municipal Code (BMC) Section 17.20.020.D allows for automotive repair shops, including for repair of vehicle fleets. BMC Chapter 17.40, provides procedures, required findings and conditions for the approval of use permit applications.

BACKGROUND: Historically, auto repair facilities have been permitted in the M-1 zoning district, which are those sites along Industrial Way. In 2015, the permitted and conditional uses were updated for this district. At that time, heavy equipment repair and automobile repair, including fleet vehicles, were made conditional uses in the district. In so doing, existing vehicle repair facilities became legal nonconforming, which meant that they could continue to operate. However, any new automobile repair facilities were required to apply for a conditional use permit.

The subject suite within this building previously operated as an auto repair facility in the early 2000's. However, the auto repair facility ceased operations and the facility was used as a warehouse for an event equipment contractor. Since the auto repair operation ceased, there are no legal nonconforming rights for this suite.

Earlier this year, the applicant submitted for a business license and a conditional use permit for a three bay (or lift) auto repair facility, plus an area for autobody repair. In the course of processing the permit, it was found that the business had already begun operations at the site, so this application would be to allow the use to continue.

DESCRIPTION OF THE SITE AND PROPOSED USE: The site has an approximately 40,000 sq ft single-story, metal warehouse building, that is divided into several suites, from 60 to 130 Industrial Way. Two automobile repair facilities are located on the south end of the building, operating as legal nonconforming uses. Immediately adjacent, at 80 Industrial Way, is a warehouse/office for Flywheel, a taxi business. The proposed use at 60 Industrial Way would be within the approximately 10,200 square foot suite at the north end of the building. The sites bordering the subject site on the north side include a contractor's office/storage yard and a Bayshore Sanitary District pump station. Industrial Way borders the eastern edge of the site, with the closest uses across the street being an outdoor vehicle storage yard, office/warehouses for roofing and flooring contractors and an autobody shop. Bayshore Boulevard borders the site on its western side and is screened behind trees and shrubs.

Beyond these uses are more industrial uses to the north and south along Industrial Way, and the largely vacant lands of the Baylands farther to the north, east and south. Across Bayshore Boulevard are vacant lands and the PG&E Martin substation. Beyond those properties are the nearest residential uses of Viewpoint and the Ridge on the Brisbane side, to the southwest and the Bayshore Heights neighborhood of Daly City beyond the PG&E station to the west. The residential uses are approximately a quarter mile or more from the site. A site vicinity map is provided with Attachment B.

The site is accessed from Industrial Way by a loop driveway along its north, west and south sides. A loading ramp is located along the eastern edge of the building between Industrial Way and the building's edge. There's a signalized intersection at Industrial Way and Bayshore Boulevard.

The applicant has indicated that the proposed use is intended to primarily serve the adjacent Flywheel taxi business, but would provide automotive repair services to other clients as well. The building would include three lifts for mechanical service and one area or bay for body work. Initially the applicant plans to have painting work done off site, but has requested that a paint booth also be allowed, if needed in the future, subject to obtaining the required air permit through the Bay Area Air Quality Management District (BAAQMD).

The applicant's project description indicates that they would employ three (3) people. Operational hours are proposed to be from 7 AM to 5 PM, Monday through Saturday. However, based on the industrial nature of the area and significant distance to nearby residences or other potentially sensitive uses, staff is suggesting that the permit allow for open ended days of operation and hours of operation. This would be to allow for occasional work that might need to extend beyond their planned hours of operation, subject to clean, quiet and safe operations, per the conditions of approval. Note that there is no requirement in the BMC for a night operations permit in this district. The total customers per day are estimated by the applicant to be approximately fifteen (15). Based on the employee and customer count, the total trips per day is estimated at approximately 50 or fewer.

Hazardous materials to be stored inside the facility would include approximately 55 gallons of new oil, 110 gallons of waste oil, 30 used tires and 15 batteries.

As noted above, the facility would have three vehicle lifts, plus a bay for body work. The floor plan/site plan is provided with Attachment C. The plan also shows 4 spaces inside the building for parking/staging of vehicles. Outside the building, the parking lot is proposed to be striped for 14 spaces, while leaving a two-way drive aisle. This would meet the off-street parking standard of 11 spaces, based on the project description, which requires 2 spaces for each working bay plus 1 space for each employee on the largest shift, as provided in the BMC for service station uses.

All uses would be contained within the building, except for parking and incidental deliveries.

ANALYSIS AND FINDINGS: Use Permit findings provided in BMC Section 17.40.060 indicate that in granting a use permit, the Planning Commission:

- shall consider and give due regard to the nature and condition of all adjacent uses and structures, and to general and specific plans for the area in question. And
- shall determine whether or not the establishment, maintenance or operation of the use applied for will, under the circumstances of the particular case, be detrimental to the health, safety, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, or whether it will be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the city.

The application would meet the required findings.

First, the zoning ordinance implements the general plan and allows for establishment of automotive repair shops, including fleet vehicles, in this district. There is no specific plan for this area of the City. The adjacent and nearby business include a number of other uses that are

industrial in nature and include other automotive repair facilities, both within this building and across the street. The site and the district as a whole are largely isolated and screened from other non-industrial uses, with the nearest residential uses being approximately a quarter mile away or more. In short, the use would be consistent with the character of the neighborhood.

On the second finding, the use would not be detrimental to the health, safety, comfort or general welfare of persons residing or working in the neighborhood, nor would it be injurious or detrimental to property or improvements in the neighborhood or the general welfare of the City. This finding goes hand-in-hand with the first finding regarding the nature of adjacent uses.

The use would be conducted inside the building and any hazardous materials related to automobile repair would be temporarily stored in small quantities pending recycling to the satisfaction of the North County Fire Authority, per the conditions of approval. If painting is to be done at the facility, a paint booth will be required via building permit and BAAQMD permit.

Traffic for this use is expected to be fairly low, given the anticipated number of vehicles to be serviced each day. Parking would be required to be striped under a building permit to meet at least the minimum standards for this facility, based on the number of employees and bays, to the satisfaction of the Community Development Director. The applicant's proposed site plan shows space to meet the requirements for the facility.

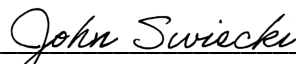
Finally, this application was provided to the North County Fire Authority, Dept of Public Works, Police Dept, and Building Dept for review and comment. None of the departments raised objections to the proposed use.

ATTACHMENTS:

- A. Draft Resolution 2025-UP-1
- B. Site vicinity Map
- C. Site Plan/Floor Plan
- D. Applicant's Project Description



Ken Johnson, Senior Planner



John Swiecki, Community Development Director

ATTACHMENT A

Draft

RESOLUTION 2024-UP-1

A RESOLUTION OF THE PLANNING COMMISSION OF BRISBANE
 CONDITIONALLY APPROVING USE PERMIT FOR
 AN AUTOMOTIVE REPAIR FACILITY, PERMIT 2025-UP-1
 AT 60 INDUSTRIAL WAY

WHEREAS, Michael Kelley, the applicant, applied to the City of Brisbane for Conditional Use Permit 2025-UP-1 for an automobile repair facility, serving fleet and individual customer vehicles, within the approximately 10,200 square foot northern suite of the building at 60-130 Industrial Way; and

WHEREAS, Brisbane Municipal Code (BMC) Section 17.20.020.D allows for Planning Commission approval of a conditional use permit for automotive repair shops (both automobile light repair and automobile heavy repair), and including vehicle fleets; and

WHEREAS, on May 8, 2025, the Planning Commission conducted a public hearing on 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, the applicant's plans and supporting materials, and the written and oral evidence presented to the Planning Commission in support of and in opposition to the application; and

WHEREAS, the Planning Commission finds that the proposed project is categorically exempt from the provisions of the California Environmental Quality Act; pursuant to Section 15301 of the State CEQA Guidelines; and

WHEREAS, the Planning Commission of the City of Brisbane hereby makes the findings attached herein as Exhibit A in connection with the application.

NOW THEREFORE, based upon the findings set forth hereinabove, the Planning Commission of the City of Brisbane, at its meeting of May 8, 2025, did resolve as follows:

Use Permit 2025-UP-1 is approved, per the findings and conditions of approval contained in Exhibit A to this resolution.

ADOPTED this eighth day of May, 2025, by the following vote:

AYES:

NOES:

ABSENT:

PAMALA SAYASANE
Chairperson

ATTEST:

JOHN A SWIECKI, Community Development Director

ATTACHMENT A
continued

Draft
EXHIBIT A

Action Taken: Conditionally approve 2025-UP-1 per the staff memorandum with attachments, via adoption of Resolution 2025-UP-1.

Findings:

1. Per Brisbane Municipal Code (BMC) Section 17.40.060.A, the Planning Commission has considered and given due regard to the nature and condition of all adjacent uses and structures; and
2. The use is consistent with the City's General Plan, which is expressed through the M-1 district zoning provided in BMC Chapter 17.20 allowing for automobile repair facilities by conditional use permit, and there is no specific plan for this area of Brisbane.
3. Per BMC Section 17.40.060.B, the establishment, maintenance and operation of the use applied for will not be detrimental to the health, safety, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, nor will it will be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the city.
4. The proposed interim use is CEQA categorically exempt, as detailed in the agenda report and resolution, and the use will not create any significant unmitigated adverse environmental impacts.

CONDITIONS OF APPROVAL:

Other Required Permits and Business License

- A. The applicant, or applicant's agent, shall obtain building permit(s) that at a minimum shall address the following items:
 - I. Parking lot striping to the satisfaction of the Community Development Director, Building Dept and North County Fire Authority (NCFA). At a minimum, this is to include the number of spaces required for the use, consistent with BMC Chapter 17.34, fire apparatus access and the California Building Code for accessibility. The plans shall include details on how the parking spaces for this suite are to be identified in the field as separate from other suites, to the satisfaction of the City. The building permit application shall be submitted within 30 days of the effective date of this permit and the applicant shall diligently pursue the application to completion.

- II. For a paint booth, prior to installation, a building permit shall be required if the facility will be used for painting vehicles.
 - III. Any other interior or exterior tenant improvements, as may be applicable.
- B. Prior to installation of advertising signage, a sign review permit and, if applicable, a building permit shall be required.
 - C. A business license shall be obtained through the Finance Dept and maintained in good standing on an ongoing basis.
 - D. The business shall provide documentation to the City of other agency approvals, as applicable, including but not limited to Bureau of Automotive Repair License, Bay Area Air Quality Management District and EPA for materials handling.
 - E. The business shall provide documentation demonstrating compliance with Proposition 65 (1986) warnings regarding potential exposure to harmful chemicals.

Operational Conditions

- B. The business shall operate in a safe, clean and quiet manner and comply with all licensing and storage requirements applicable to the operation of an automotive repair facility.
- C. Hours of operation are permitted to be all hours and daily. Such hours may be required to be reduced upon written notice by the Community Development Director, if the extended hours are deemed by the Director to result in unusual noise disturbance to the nearby properties or is deemed to not be safe for the neighborhood.
- D. The site shall be maintained free of trash and debris.
- E. Hazardous materials to be stored inside the facility may include up to 55 gallons of new oil, 110 gallons of waste oil, 30 used tires and 15 batteries. Request for approval of storage over these quantities may be requested in writing to the Community Development Director. All materials shall be properly stored inside the building and may be subject to City and other agency inspection without prior notice.
- F. Noise shall be confined to the building suite.
- G. Parking shall be maintained on the site for use by this business and vehicles may not be parked within the required driveway access, or parking spaces for other suites.

Other Conditions

- H. Minor modifications may be approved by the Community Development Director in conformance with all requirements of the Municipal Code.
- I. The use permit shall be effective on the seventh (7th) day after Planning Commission approval, unless the action is appealed to City Council, in which case the permit shall not be effective until a final decision on the appeal has been made by the City Council.
- J. Material violation of any of the Conditions, including material deviations from the approved project description, may be cause for revocation of this permit and termination of all rights granted there under.
- K. This Use Permit is subject to the revocation procedures established in Brisbane Municipal Code Chapter 17.48 - Revocation of Use Permit or Variance.



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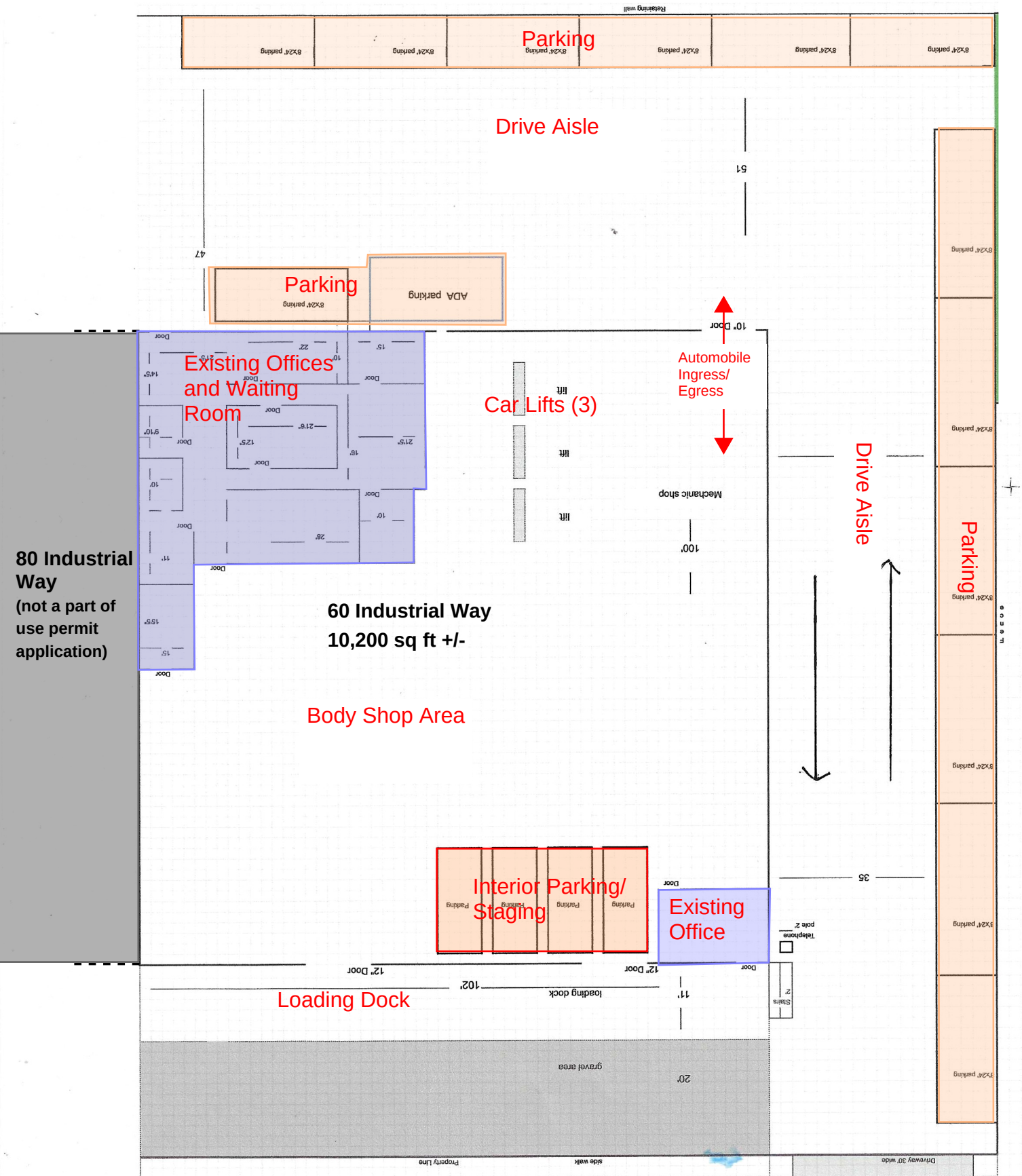


This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

ATTACHMENT C SITE PLAN/FLOOR PLAN

Item B.



INDUSTRIAL WAY



10'-0" Scale (approx.)

Flywheel Auto Repair Center
60 Industrial Way

Flywheel Auto Repair Center will specialize in drive for hire vehicles, Taxi, Uber, Lyft etc. Most of our customers will probably wait while repairs are done. We anticipate around 5 customers at a time. We will have 3 employees.

We are considering adding a paint booth at a later date, if we decide to we will get all necessary permits at that time.

Michael Kelley

File Attachments for Item:

C. Public Hearing: Zoning Text Amendment 2025-RZ-02; Citywide; Zoning Text Amendments to update the City's existing Accessory Dwelling Unit regulations to comply with current State law; and finding that this project is statutorily exempt from environmental review under CEQA Guidelines Section 15282(h) because it involves adoption of an ordinance regarding second units in single-family and multi-family residential zones; City of Brisbane, applicant.



PLANNING COMMISSION AGENDA REPORT

Meeting Date: May 8, 2025

From: Jeremiah Robbins, Associate Planner

Subject: Zoning Text Amendment 2025-RZ-02; Zoning Text Amendments to update the City's existing Accessory Dwelling Unit (ADU) regulations; and finding that this project is statutorily exempt from environment review under CEQA Guidelines Section 15282(h); City of Brisbane, applicant; Citywide.

REQUEST: The proposed zoning text amendments would modify the City's ADU Ordinance to be in compliance with State law.

RECOMMENDATION: Recommend City Council adoption of the proposed zoning text amendments via adoption of Resolution 2025-RZ-02.

ENVIRONMENTAL DETERMINATION: The project is exempt from the requirements of California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17, which states that the CEQA does not apply to the adoption of local ordinances regulating construction of second units, and by CEQA Section 15282(h) that exempts adoption of an ordinance regarding second units in single-family and multifamily residential zones. In addition to being statutorily exempt from CEQA, the project is consistent with the General Plan per State CEQA Guidelines Section 15183(a)--this proposal falls within a class of projects which are consistent with existing zoning or general plan policies for which an EIR was certified and shall therefore not require further review. The exception to this section requiring environmental review as might be necessary to examine project specific significant effects does not apply.

APPLICABLE CODE SECTIONS: Brisbane Municipal Code (BMC):

- "Dwelling" defined in [§17.02.235](#)
- R-BA Residential District Development Regulations in [§ 17.12.40](#)
- Setback exceptions in [§ 17.32.070](#)
- Off-street parking requirements in [§ 17.34.020](#)
- Accessory Dwelling Units, [Chapter 17.43](#)

ANALYSIS AND FINDINGS:

Background

The City last updated its ADU ordinance in October 2020. Since then, the State has passed a number of laws meant to clarify and/or streamline the production of ADUs and junior ADUs (JADUs). A complete summary of recent changes to the state's ADU Law since 2022 is available in attachment C, but generally the changes require local agencies to:

- Impose only objective development standards on ADUs
- Streamline the permitting process

- Eliminate separate zoning review
- Permit more than one ADU, under certain circumstances, on both single-family and multiple-family properties; and
- Ministerially approve “state-exempt” ADUs and JADUs.

Additionally, amendments since 2020 have been made to modify parking requirements, height limitations, and/or other development requirements, or otherwise prohibit a local agency from imposing additional requirements as a condition of approval. Lastly, the state has updated Government Code sections related to ADU and JADU law from sections 65852.2, 65852.22, 65852.23, and 65852.26 to Government Code sections 66310-66342.

Draft Ordinance

The draft ordinance proposes a number of changes to BMC Chapter 17.43, Accessory Dwelling Units, and minor amendments to other sections of the BMC to comply with the new State regulations. Below is a list of the significant or substantial amendments within the draft ordinance.

❖ *Cross-Reference to SB 9 Legislation*

In addition to new ADU regulations, the state has passed numerous laws meant to increase housing production. One such housing law is colloquially known as Senate Bil 9 (SB 9), which regulates urban lot-splits and two-unit developments. In December 2024, the City adopted the R-TUO overlay district to implement the requirements under SB 9, which, in part, allows a lot in a single-family district to be split and/or developed with up to four dwelling units, including ADUs and JADUs. The draft ordinance specifies one ADU is allowed per lot developed with a single-family or multiple-family dwelling, provided that no more than four total dwelling units are permitted on a lot for which an urban lot split or two-unit development was approved. This means, for example, that a lot split under SB 9 and developed with a duplex on each resultant lot, would not be permitted an ADU since the total number of dwelling units would already be at the maximum allowed.

❖ *Eliminate ADU Permit*

Currently, the BMC requires an ADU permit in addition to a building permit for ADUs proposed within the Brisbane Acres Residential District. With modified streamlining requirements and increased limitations on discretionary review of ADUs since 2020, requiring an additional permit and separate approval is more challenging if not entirely prohibited. Section 66321 of the Government Code prohibits local agencies from requiring separate zoning clearance or review for most ADUs, including all state-exempt ADUs, with the distinction based on attributes of the ADU rather than its location within a certain subarea or zoning district. Additionally, staff has found that a building permit application provides

sufficient opportunity for a comprehensive conformance review of ADUs within the prescribed timeframes under Government Code Sections 65943, 66317, 66320, and 66335.

❖ *Number of ADUs Allowed Per Lot*

The state has changed the permitted number of ADUs allowed on both single-family and multiple family lots. See table below.

State Legislation:	▪ Must permit an attached, detached, or converted ADU on a lot that is zoned to allow single-family or multifamily residential use and includes an existing or proposed dwelling ▪ Must allow any combination of state-exempt ADUs on lots with multiple-family structure as follows: ○ At least one ADU (could potentially be more) constructed within existing non-livable space ○ Two detached ADUs on proposed multi-family development ○ As many as eight detached ADUs on an existing multi-family development (may not exceed the number of primary units) ▪ Must allow any combination of state-exempt ADUs on single-family lots as follows: ○ One ADU constructed within existing space ○ One newly constructed detached ADU ○ One JADU constructed within existing space
Existing BMC:	▪ One ADU per single-family lot ▪ One JADU per single-family lot ○ A JADU may be permitted on a lot with an ADU provided the ADU qualifies as unrestricted (state-exempt) ▪ At least one ADU (could potentially be more) constructed within existing non-livable space of a multiple-family structure ▪ Two detached ADUs on existing or proposed multi-family development
Draft Ordinance:	▪ Matches state language from the Government Code regulating state-exempt ADUs (Section 66323)

❖ *Unrestricted ADUs are now State-Exempt ADUs*

In 2020, the State coined the term “unrestricted ADU.” This referred to an ADU on any residential lot that was exempt from a number of development regulations, such as lot coverage and floor area ratio, provided it was no more than 800 square feet, 16 feet in height or less, and had 4-foot side and rear setbacks. That term has been replaced with “state-exempt ADUs”.

Generally, the premise remains the same with state-exempt ADUs, as certain ADUs are still exempt from a number of development regulations, but under new state legislation cities are prohibited from applying development or design standards not explicitly listed within

Government Code §66323. This limitation also includes any other development regulations for ADUs found within other sections the Government Code.

The draft ordinance defines “state-exempt ADUs”, whereas “unrestricted ADUs” was not previously defined, and adds a new section related to specific regulations and standards applicable to such state-exempt ADUs. See also Number of ADUs Allowed Per Lot for additional changes related to state-exempt ADUs.

❖ *Setbacks*

In 2024, the State mandated that state-exempt ADUs may be constructed within front setback areas. The draft ordinance reflects this change. However, ADUs that are not state-exempt are still prohibited within front setback areas.

❖ *Setback Exemptions*

The draft ordinance incorporates setback exemptions as described below for detached ADUs within Chapter 17.43, when none existed before. New dwelling units constructed in Brisbane since 2020 have mostly been ADUs so more specific setback exceptions are warranted due to unique and state-mandated setback areas for ADUs. The proposed exceptions are generally consistent with existing setback exceptions that apply to the primary structure, and attached ADUs – since a part of the primary structure – would be subject to the setback exceptions available to the primary structure. See Section 17.43.040 of the draft ordinance for the complete list and requirements for detached ADU setback exceptions; below is a list of what may encroach into the setback areas:

- Overhanging architectural features
- Stairs, ramps, and landings
- Supported decks

Discussion

As indicated above, the draft ordinance would bring Brisbane ADU ordinance into compliance with State ADU law. It does not go beyond the statutory minimums, except regarding the height limit for detached ADUs. The Commission may also consider modifying the parking requirement for ADUs based on recent trends, as provided below.

ADU Height Limitations

The latest updates to the State’s maximum height limitation have changed from 16 feet for detached ADUs to the following:

- Base height limitation of 16 feet for detached ADUs;
- Maximum height limitation on a detached ADU to 18 feet if the ADU is “either within a half-mile walking distance of a major transit stop or a high-quality transit corridor” and provides

for an additional two feet for roof pitch to align with the roof pitch of the primary dwelling unit.”

- Increases the base height maximum to 18 feet for a detached ADU that is on a lot with an existing or proposed multifamily, multistory dwelling.
- Establishes a maximum height limitation on an attached ADU at 25 feet, or the existing primary dwelling height limit if lower than 25 feet. Also allows local agencies to limit an ADU to no more than two stories.

The draft ordinance would establish 18 feet as the maximum height for a detached ADU, citywide, rather than as indicated above. Previously, the only major transit stop in Brisbane was the Caltrain stop but Assembly Bill 2553 has modified the definition so that now transit stops on Bayshore and Valley Drive qualify as major stops. This puts nearly all of Central Brisbane and the eastern half of the Northeast Ridge within half a mile of a major transit stop where the State mandates a maximum height limitation of 18 feet. Adopting a singular maximum height limitation for detached ADUs citywide would be more equitable than utilizing the State’s language which would allow some ADUs to be up to 12% taller than other ADUs, even within the same zoning district.

Detached, state-exempt ADUs on a single-family property would be required to be 16 feet or less, as specified under State ADU law, and the draft ordinance does not change what is currently allowed under the BMC for attached ADUs; attached ADUs would be limited to no more than two stories and subject to the height maximum established in the underlying zone ([§17.43.040\(J\)](#)).

ADU Parking Requirements

The State has slightly modified ADU parking standards to be no more than one space per unit or bedroom, whichever is less. This requirement is not applicable to state-exempt units, where no parking can be required. Additionally, parking is not required under a number of situations, with the most pertinent exemption being the ADU is located within one half mile of (any) public transit. Currently, the BMC mirrors the State and the draft ordinance does not propose to further modify nor eliminate parking requirement(s) for ADUs beyond the state’s requirements; ADUs in Central Brisbane are exempt from requiring parking due to proximity to public transit and ADUs proposed within the Brisbane Acres or the Northeast Ridge are required to provide parking, unless otherwise exempted.

Since 2020 the City has approved more than 20 ADUs and none were required to provide parking due to one or more of the exemptions allowed under State ADU law, including ADUs located in districts where the BMC requires parking (unless exempted). While not proposed under the draft ordinance, modifying the attached draft ordinance to require no parking for all ADUs, citywide, would not preclude the applicant from providing a dedicated off-street parking space but it may simplify both the design process and review of ADUs with a uniform parking exemption.

2025-RZ-02
5/8/2025 Meeting

ATTACHMENTS

- A. Draft Resolution 2025-RZ-02 (including draft ordinance)
- B. Redline copy of proposed zoning text amendments
- C. Excerpt from California Department of Housing and Community Development ADU Handbook (January 2025) summarizing new state legislation
- D. Link to [Chapter 13 to Division 1 of Title 7 of the Government Code](#) (Government Code sections 66310-66342)

Jeremiah Robbins

Jeremiah Robbins, Associate Planner

John Swiecki

John Swiecki, Community Development Director

Draft
RESOLUTION 2025-RZ-02
A RESOLUTION OF THE PLANNING COMMISSION OF BRISBANE
RECOMMENDING CITY COUNCIL APPROVAL OF ZONING TEXT AMENDMENT 2025-RZ-02
AMENDING REGULATIONS CONCERNING ACCESSORY DWELLING UNITS AND
JUNIOR ACCESSORY DWELLING UNITS TO COMPLY WITH STATE LAW

WHEREAS, the City Council adopted the Housing Element for the 2023-2033 cycle on May 18, 2023 via Resolution No. 2023-18; and

WHEREAS, Housing Element Goal 2 establishes the community's aspiration to facilitate and support the production of housing at all income levels, but especially affordable housing in Brisbane; and

WHEREAS, Housing Element Policy 2.A encourages zoning for a balance of housing types, sizes, and tenure, such as accessory dwelling units (ADUs), and Program 2.A.10 mandates the City will update its ADU ordinance to comply with current State law; and

WHEREAS, Housing Element Goal 7 establishes the community's aspiration to avoid unreasonable government constraints to the provisions of housing in Brisbane; and

WHEREAS, Housing Element Program 7.A.1 is intended to reducing regulatory constraints on the development of new housing, particularly infill housing and housing that adds to the mix of types, size, tenure and affordability of the local housing stock; and

WHEREAS, since 2020, Assembly Bills 345 (2021), 434 (2023), 1332 (2023), 976 (2023), 1033 (2023), and 2533 (2024) and Senate Bills 477 (2024) and 1211 (2024), collectively, replaced and amended Sections 65852.2, 65852.22, 65852.23, and 65852.26 of the Government Code with Sections 66310-66342 and changed the requirements for local governments relating to ADUs and junior ADUs (JADUs); and

WHEREAS, the City's current ordinance regarding ADUs must be updated to comply with current State law; and

WHEREAS, the draft ordinance attached as Exhibit A to this resolution proposes amendments to Title 17 (Zoning) of the Brisbane Municipal Code in order to comply with current State law regarding ADUs and JADUs; and

WHEREAS, on May 8, 2025, the Planning Commission conducted a public hearing of the draft ordinance concerning ADUs and JADUs, 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

2025 ADU Ordinance Update
ATTACHMENT A

WHEREAS, the draft ordinance is statutorily exempt from the provisions of the California Environmental Quality Act (CEQA) per Section 15282(h) of the CEQA Guidelines and categorically exempt from CEQA per Section 15183(a) of the CEQA Guidelines, and the exceptions to the categorical exemption are inapplicable.

NOW THEREFORE, based upon the evidence presented, both written and oral, the Planning Commission of the City of Brisbane, at its meeting of May 8, 2025, hereby RECOMMENDS that the City Council adopt the attached ordinance.

AYES:

NOES:

ABSENT:

Pamala Sayasane
Chairperson

ATTEST:

JOHN A SWIECKI, Community Development Director

draft
ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF BRISBANE
AMENDING BMC CHAPTERS 15.10, 17.02, 17.12, 17.16, 17.32, 17.34, AND 17.43 TO
AMEND REGULATIONS PERTAINING TO
ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS**

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

SECTION 1: Section 15.10.040 - Definitions in Chapter 15.10 – Additions, alterations, and major rebuilds to existing buildings of the Municipal Code is amended to read as follows:

(Subsections A and B, no change)

- C. “Floor Area” shall mean the sum of the gross horizontal areas of all floors of all buildings or structures measured from the interior face of the exterior walls, but excluding each of the following:
1. Any area where the floor to ceiling height is less than six (6) feet.
 2. Any detached garage or other detached accessory structure which does not constitute habitable space.
 3. Any attached carport or covered deck.
 4. Any attached or detached accessory dwelling unit eight hundred (800) square feet or less in gross horizontal area that, if detached, does not exceed eighteen (18) feet in height, where authorized pursuant to Chapter 17.43 of Title 17 of this Code.

(Subsections D and E, no change)

SECTION 2: Section 17.02.235 - Dwelling in Chapter 17.02 - Definitions of the Municipal Code is amended to read as follows:

(Subsections A through D, no change)

- 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. An accessory dwelling unit also includes the following:
1. An efficiency unit, as defined in section 17958.1 of the Health and Safety Code.
 2. A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(Subsections F through H, no change)

SECTION 3: Section 17.12.020 - Permitted uses in Chapter 17.12 - R-BA Brisbane Acres Residential District of the Municipal Code is amended to read as follows:

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

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

SECTION 4: Section 17.32.070 – Exceptions – Setback requirements in Chapter 17.32 – General Use Regulations of the Municipal Code is amended to read as follows:

(Subsections A.1 through A1.3, no change)

3. Accessory Dwelling Units

- a. Exceptions to the setback requirements for detached accessory dwelling units shall be as established in Chapter 17.43.
- b. Attached accessory dwelling units within a principle or primary structure are subject to the setback exceptions contained within Section 17.32.070.

(Subsections B and C, no change)

SECTION 5: Section 17.34.020 – Minimum Requirements in Chapter 17.34 – Off-street Parking of the Municipal Code is amended to read as follows:

- A. The following minimum parking requirements shall apply to all buildings erected, new uses commenced, and to the area of extended uses commenced after the effective date of this chapter. For any use not specifically mentioned in this chapter, the planning commission shall determine the amount of parking required. All required off-street parking facilities shall be on-site unless specified differently in this chapter or as permitted under Title 12 of this code. Required off-street parking facilities need not be provided as covered parking unless specified differently in this chapter:

Uses:	Parking Requirements:
Single-family dwellings and group care homes:	
Studio or 1-bedroom dwellings not more than 900 square feet in floor area:	1 off-street space (uncovered or covered).
All other dwellings not exceeding 1,800 square feet in floor area:	1 off-street space plus 1 space which shall be in a garage or carport.

2025 ADU Ordinance Update
ATTACHMENT A, Exhibit A

Dwellings exceeding 1,800 square feet in floor area on lots having less than 37.5 feet in frontage:	2 off-street spaces plus 1 space which shall be in a garage or carport.
Dwellings exceeding 1,800 square feet in floor area on lots of 37.5 feet frontage or greater:	2 on-street or off-street spaces plus 2 spaces which shall be in a garage or carport.
	See Section 17.34.020.B.1. regarding garage and carport exclusions from the floor area calculation.
	Additional guest parking spaces shall be provided for all residential subdivisions of 5 or more single-family residences, at the rate of 1 parking space for every 5 units. Such spaces shall be located entirely within the public right-of-way and available for public use. Any accessible parking spaces required per Section 17.34.040.D. shall count as guest parking spaces.
Accessory dwelling units	In the R-1, R-2, R-3, NCRO-2, SCRO-1, PAOZ-1, or PAOZ-2 Districts: No off-street parking required. In the R-BA and PD Districts: 1 off-street parking space (uncovered or covered) per accessory dwelling unit or per bedroom, whichever is less, unless any of the following criteria applies: 1. The accessory dwelling unit is located within one-half mile walking distance of public transit; 2. The accessory dwelling unit is part of the proposed or existing dwelling, as defined in Section 17.02.235, or an accessory structure as defined in subsection B of Section 17.02.755; 3. Where the accessory dwelling unit is located within an architecturally and historically significant historic district; 4. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit; or When there is a car share vehicle located within one block of the accessory dwelling unit.
Junior accessory dwelling units	No off-street parking required.
Duplex or multiple family dwelling units; Mobile home park units:	
Studios	1 (uncovered or covered) space per unit.
1-bedroom units	1½ spaces (1 of which shall be covered) per unit; only 1 (covered) space required for units not over 900 square feet in floor area.
2-bedroom units	1½ spaces (1 of which shall be covered) per unit.

2025 ADU Ordinance Update
ATTACHMENT A, Exhibit A

3-bedroom units or larger	2 spaces (1 of which shall be covered) per unit, plus 1 (uncovered or covered) space for units over 2,700 square feet.
	See Section 17.34.020.B.1. regarding garage and carport exclusions from the floor area calculation.
	Additional guest parking spaces shall be provided for all developments of 5 or more units at the rate of 1 parking space for every 5 units. The accessible parking spaces required per Section 17.34.040.D. shall count as guest parking spaces.
Emergency shelters	0.35 space per bed plus 1 space per staff member on the largest shift.
Hotels, motels	One space per unit, plus applicable requirements for restaurants, bars and meeting halls.
Cultural facilities, meeting halls and places of worship	One space for each 50 square feet of assembly area or 1 space for each 4 fixed seats, whichever is greater, plus 1 space for each 300 square feet of the remaining floor area of the building (meeting rooms not exceeding 750 square feet and ancillary to an office use shall be included with the floor area of the office in calculating the parking requirement for the office use).
Commercial recreation	3 spaces per ball court; 2.5 spaces per batting cage; 4 spaces per lane for bowling alleys; 2 spaces per tee for golf courses; 20 spaces per playing field; 2 spaces per shooting range; 2 spaces per horse stall for stables; 1 space per 100 square feet of water area for swimming pools.
	For commercial recreation uses that do not fall within the above categories, 1 parking space shall be required for every 4 fixed seats for spectators, 1 parking space per each 200 square feet of floor area used for indoor commercial recreation, and 1 parking space per each 1,000 square feet of site area used for outdoor commercial recreation.
Marinas	1 space per 0.75 berths.
Schools—Public, private or commercial	1 space for each classroom and office.
Hospitals	1 space per bed plus 1 space for each 2 employees on the largest shift.
Financial services	1 space for each 200 square feet of gross floor area.
Administrative office	1 space for each 300 square feet of gross floor area.
Professional office	1 space for each 250 square feet of gross floor area.
Retail stores, restaurants, bars, offices	1 space for each 300 square feet of gross floor area.
Service stations	2 spaces for each working bay plus 1 space for each employee on the largest shift.

Warehousing, light fabrication, food production, media studios, printing	1 space for each 1,000 square feet of gross floor area.
Convalescent hospitals, sanitariums, rest homes	1 space for each 7 beds plus 1 space for each 2 employees on the largest shift.

(Subsection B, no change)

SECTION 6: Section 17.43.020 - Definitions in Chapter 17.43 - Accessory Dwelling Units and Junior Accessory Dwelling Units of the Municipal Code is amended to read as follows:

In addition to the definitions set forth in Chapter 17.02, all of which are applicable to this chapter, the following words and phrases shall have the meanings respectively ascribed to them in this section, in accordance with Chapter 13 to Division 1 of Title 7 of the Government Code, or successor provisions, unless the context or the provision clearly requires otherwise:

“Impact fees” include the fees specified in Sections 66000 and 66477 of the Government Code, but do not include utility connection fees or capacity charges.

"Living area" means the interior habitable area of a main dwelling unit, including basements and attics but not including a garage or any accessory structure.

"Main dwelling" means that dwelling unit on the property that is not an accessory dwelling unit or a junior accessory dwelling unit.

“Efficiency kitchen” means a kitchenette or a small kitchen or part of a room equipped as a kitchen in a junior accessory dwelling unit and shall include all of the following: (1) a cooking facility with appliances, and (2) a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

“Multiple-family dwellings” means a dwelling than contains two (2) or more attached dwelling units (including a “duplex”), provided, however, that a property containing a single-family dwelling and an attached lawful accessory dwelling unit and/or a junior accessory dwelling unit shall not be deemed a multiple-family dwelling. The term does not include a dwelling group as defined in Section 17.02.235.

“State-exempt accessory dwelling unit” means an accessory dwelling unit that is not subject to development or design standards, including both standards within this title and standards found in state accessory dwelling unit law that are not specifically listed in Government Code §66323. This includes, but is not limited to, parking, height, setbacks, or other zoning provisions (e.g., lot size, open space, floor area ratio, etc.). See Section 17.43.070(A) for accessory dwelling units that are considered state-exempt accessory dwelling units.

SECTION 7: Section 17.43.030 – Permit Requirements in Chapter 17.43 - Accessory Dwelling Units and Junior Accessory Dwelling Units of the Municipal Code is amended to read as follows:

- A. Except as provided by subsection C of this Section 17.43.030, building permit applications for junior accessory dwelling units or accessory dwelling units shall be ministerially processed within sixty (60) days of receipt of a complete building permit application and approved if they meet the requirements of this chapter. Incomplete applications will be returned to the applicant with a written explanation of the additional information required for approval.

- B. Notwithstanding subsection A, if the building permit application submitted will also create a new single-family dwelling or multiple-family dwelling on the lot, the application for the junior accessory dwelling unit or accessory dwelling unit(s) shall not be acted upon until the building permit application for the new single-family dwelling or multiple-family dwelling is approved, but thereafter shall be ministerially processed within sixty (60) days of receipt of a complete application and approved if it meets the requirements of this chapter. Occupancy of the junior accessory dwelling unit or accessory dwelling unit(s) shall not be allowed until the City approves occupancy of the main dwelling.
- C. The City shall grant a delay in processing an application for an accessory dwelling unit or junior accessory dwelling unit if requested by the applicant in writing.
- D. All junior accessory dwelling unit and accessory dwelling unit applications shall be subject to building inspection and permit fees as established by resolution of the City Council and water and sewer connection and capacity fees in compliance with Title 13, except that:
 - 1. No impact fees may be imposed on a junior accessory dwelling unit or accessory dwelling unit that is less than seven hundred fifty (750) square feet.
 - 2. For accessory dwelling units that have a floor area of seven hundred fifty (750) square feet or more, impact fees shall be charged proportionately in relation to the current impact fees for the square footage of the main dwelling.

SECTION 7: Section 17.43.040 - Development regulations for accessory dwelling units in Chapter 17.43 - Accessory Dwelling Units and Junior Accessory Dwelling Units of the Municipal Code is amended to read as follows:

Accessory dwelling units shall comply with all of the following development standards:

- A. Zoning Districts. Accessory dwelling units may only be established or occupied in the R-1, R-2, R-3, R-BA, NCRO-2, SCRO-1, PAOZ-1, PAOZ-2 and PD zoning districts with an existing or proposed single-family, multiple-family dwelling, or dwelling group.
- B. Density. An accessory dwelling unit that conforms to this chapter shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located. The accessory dwelling unit shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot and shall not be considered in the application of any City ordinance, policy, or program to limit residential growth.
- C. Lot Size. There is no minimum lot size requirement.
- D. Number of Units.
 - 1. Notwithstanding subsection 3., no more than one accessory dwelling unit may be constructed on any lot developed with a single-family, multiple-family dwelling, or dwelling group, except that multiple state-exempt accessory dwelling units may be constructed in accordance with Section 17.43.070.
 - 2. The maximum number of accessory dwelling units permitted on any lot developed with a multiple-family dwelling shall comply with Section 17.43.050 of this chapter.
 - 3. No more than a total of four (4) dwelling units, including accessory dwelling units, may be built in the same lot area typically used for a single-family residence for which an urban lot split or two-unit development was approved under Chapter 17.05 of this Title.

- E. Attached or Detached. Accessory dwelling units may be attached to or located within the existing or proposed main dwelling, including garages, storage areas, or accessory structures, or detached from the main dwelling on the same lot.
- F. Unit Size. Accessory dwelling units shall not exceed one thousand (1,000) square feet in floor area, as defined in Section 17.02.315 of Chapter 17.02 of this title.
1. Unit size for state-exempt accessory dwelling units is established under Section 17.43.070(C).
- G. Setbacks. Accessory dwelling units shall be subject to the following setback requirements:
1. Front Setback: The minimum front setback shall be as established in the underlying zoning district regulations.
 - a. State-exempt units may be located anywhere in the front setback area.
 2. Side Setback. Accessory dwelling units on any lot shall have a side setback of at least four (4) feet or as established in the underlying zoning district, whichever is less.
 3. Rear Setback. Accessory dwelling units on any lot shall have a rear setback of at least four (4) feet.
 4. No setback shall be required for an existing, legally permitted living area, garage, or accessory structure with nonconforming setbacks that is converted to an accessory dwelling unit or a portion of an accessory dwelling unit or an accessory dwelling unit constructed in the same location and to the same dimensions, including height, as an existing, legally permitted living area, garage, or accessory structure with nonconforming setbacks.
 5. Setback exceptions for detached accessory dwelling units.
 - a. Overhanging Architectural Features (Such as Eaves, Cornices Canopies, Rain Gutters and Downspouts). May extend into required setback areas, 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. A noncombustible awning over the main entrance to an accessory dwelling unit may into any portion of the setback area, but shall not extend over or drain onto an abutting property.
 - b. Stairs, Ramps and Landings (That Are Open and Uncovered). Shall be constructed of noncombustible material. No more than 1 set of stairs per accessory dwelling unit may extend from the structure into required setback areas. Stairs on grade, sidewalks, and other flatwork constructed of noncombustible materials may be located anywhere within setback areas.
 - c. Supported Decks, Cantilevered Decks and Balconies. Shall be no closer than 4 feet from any property line or the minimum setback required within the underlying zoning district, whichever is less.
 - d. No exceptions to the setback requirements shall be permitted for any of the following: cantilevered windows (such as bay, box, bow, and greenhouse windows); chimney boxes; exposed plumbing; or mechanical equipment such as heating, air conditioning units, or heat pumps.
 6. Setback exceptions for attached accessory dwelling units are as provided in Section 17.32.070 of this title.

- H. Lot Coverage. Accessory dwelling units shall be included in calculating the lot coverage for the lot on which the accessory dwelling unit is located.
1. State-exempt accessory dwelling units shall be excluded from lot coverage requirements.
- I. Floor Area Ratio. The floor area of the accessory dwelling unit shall be included in calculating the floor area ratio for the lot on which the accessory dwelling unit is located.
1. State-exempt accessory dwelling units shall be excluded from floor area ratio calculations.
- J. Height.
1. Attached accessory dwelling units shall not exceed two stories and shall be subject to the height maximum established in the underlying zoning district.
 2. Detached accessory dwelling units shall not exceed eighteen (18) feet.
- K. Required Facilities. An accessory dwelling unit shall include all of the following facilities:
1. A kitchen, including a sink, food preparation counter, storage cabinets, and permanent cooking facilities such as a range or cooktop and oven, that meet Building Code standards; and
 2. A full bathroom, including sink, toilet, and shower and/or bath facilities.
- L. Landscaping. Accessory dwelling units shall be subject to the landscaping requirements of the underlying zoning district except that state-exempt accessory dwelling units are exempt from landscaping requirements.
- M. Parking. Parking spaces for the main dwelling and accessory dwelling units shall be provided in accordance with the requirements set forth in Chapter 17.34 except that state-exempt accessory dwelling units are exempt from parking requirements.
1. When a garage, carport, covered parking structure, or uncovered parking space is demolished or converted in conjunction with the construction of an accessory dwelling unit, any parking spaces that were provided by such garage, carport, covered parking structure, or uncovered parking space are not required to be replaced.
- N. Unit Access.
1. As required by Section 17.01.060, the lot on which the accessory dwelling unit is located shall have a legal means of access to the public right of way that complies with the street standards set forth in Section 12.24.010.
 2. A separate exterior entry from the main entrance to the main dwelling shall be required to serve each attached accessory dwelling unit. Interior entry access between an accessory dwelling unit and the main dwelling is permitted, provided that the interior entry is located off a common living area of the main dwelling, such as a living room, family room, dining room, kitchen, or an interior hallway leading to common living areas.
- O. Utilities. The lot is served by adequate water, sewer, and storm drain facilities which comply with city standards as established per Title 13 of this Code. An accessory dwelling unit shall not be considered a new residential use for the purposes of calculating connection fees or capacity charges for water and sewer service provided by the City, pursuant to Title 13 of this Code. As to the main dwelling, a separate water connection, a separate sewer service

connection, or a separate power connection for water, sewer, and power service is not required for an accessory dwelling unit.

- P. Compliance with Codes. The accessory dwelling unit and all new construction on the lot that will be performed in connection therewith shall comply with all applicable provisions of this title and all applicable building, health and fire codes.
 - 1. Accessory dwelling units shall not be required to provide fire sprinklers except when fire sprinklers are required for the main dwelling, as determined by the building official consistent with Chapter 15.10.

SECTION 8: Section 17.43.050 - Accessory dwelling units in multiple-family dwellings in Chapter 17.43 - Accessory Dwelling Units and Junior Accessory Dwelling Units of the Municipal Code is deleted in its entirety and replaced to read as follows:

- A. Accessory dwelling units on lots with existing or proposed multiple-family dwellings shall comply with the development regulations established in Section 17.43.040 of this chapter, except that multiple state-exempt accessory dwelling units may be constructed in accordance with subsection B.
- B. Multiple state-exempt accessory dwelling units shall be allowed on lots with existing or proposed multiple-family dwellings, as defined in Section 17.43.020, in accordance with Section 17.43.070 as follows:
 - 1. Attached Accessory Dwelling Units. At least one (1) attached accessory dwelling unit shall be allowed per lot developed with an existing multiple-family dwelling.
 - a. The total number of attached accessory dwelling units permitted shall not exceed a maximum of twenty-five percent (25%) of the total number of existing dwelling units within the existing multiple-family dwelling.
 - b. Attached accessory dwelling units shall be allowed within existing portions of multiple-family dwellings that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, provided, that each accessory dwelling unit complies with state building standards for dwellings. An accessory dwelling unit shall not be created within any portion of the habitable area of an existing dwelling unit in a multiple-family dwelling.
 - 2. Detached Accessory Dwelling Units. Multiple detached accessory dwelling units, not to exceed the numbers specified below, as applicable, shall be allowed on a lot that has an existing or proposed multi-family dwelling provided that all detached accessory dwelling units shall be state-exempt accessory dwelling units constructed in accordance with Section 17.43.070.
 - a. Existing Multiple-Family Dwelling. In addition to attached accessory dwelling units permitted under subsection A, not more than eight (8) detached accessory dwelling units, provided that the number of detached accessory dwelling units shall not exceed the number of existing main dwelling units on the lot.
 - b. Proposed Multiple-Family Dwelling. Not more than two (2) detached accessory dwelling units may be allowed.

SECTION 9: Section 17.43.060 - Accessory dwelling units in multiple-family dwellings in Chapter 17.43 - Accessory Dwelling Units and Junior Accessory Dwelling Units of the Municipal Code is amended to read as follows:

Junior accessory dwelling units shall comply with all of the following development standards:

- A. Zoning Districts. Junior accessory dwelling units may only be established or occupied on lots in the R-1, R-2, R-3, R-BA, NCRO-2, SCRO-1, PAOZ-1, and PD zoning districts with an existing or proposed single-family dwelling.
- B. Density. A junior accessory dwelling unit that conforms to this Chapter 17.43 shall be deemed to be an accessory use and shall not be considered to exceed the allowable density for the lot upon which it is located. The junior accessory dwelling unit shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot and shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.
- C. Lot Size. There is no minimum lot size requirement.
- D. Number of Units.
 - 1. Notwithstanding subsection 3., no more than one junior accessory dwelling unit may be constructed on any lot developed with an existing or proposed single-family dwelling.
 - 2. A junior accessory dwelling unit may be permitted on a lot with an accessory dwelling unit, provided that the accessory dwelling unit(s) qualify as state-exempt units in accordance with Section 17.43.070.
 - 3. No more than a total of four (4) dwelling units, including junior accessory dwelling units, may be built in the same lot area typically used for a single-family residence for which an urban lot split or two-unit development was approved under Chapter 17.05 of this Title.
- E. Floor Area Requirements.
 - 1. Junior accessory dwelling unit shall not exceed five hundred (500) square feet in floor area and shall be constructed within the existing walls of the main dwelling. For purposes of this section, enclosed uses within the main dwelling, such as attached garages, are considered a part of the proposed or existing single-family residence.
 - 2. The floor area of the junior accessory dwelling unit shall be included in calculating the floor area ratio for the lot on which the junior accessory dwelling unit is located and subject to the maximum floor area ratio established in the underlying zoning district.
 - a. State-exempt junior accessory dwelling units shall be excluded from floor area ratio calculations.
- F. Unit Access.
 - 1. As required by Section 17.01.060, the lot on which the junior accessory dwelling unit is located shall have a legal means of access to the public right of way that complies with the street standards set forth in Section 12.24.010.
 - 2. A separate exterior entry from the main entrance to the main dwelling shall be provided to serve the junior accessory dwelling unit only. Interior entry access between the junior accessory dwelling unit and the main dwelling is permitted, provided that the

interior entry is located off a common living area of the main dwelling, such as a living room, family room, dining room, kitchen, or an interior hallway leading to these common living areas.

- G. Required Facilities. A junior accessory dwelling unit shall include all of the following facilities:
1. At a minimum, an efficiency kitchen.
 2. Sanitation facilities, but such facilities may be separated from or shared with the main dwelling.
- H. Owner Occupancy. Either the main dwelling or the junior accessory dwelling unit shall be occupied by the record owner of the property as the owner's principal place of residence. In the case of ownership by a corporation, limited liability company, partnership, trust or association, either the main dwelling or the junior accessory dwelling unit shall be the principal place of residence of an officer, director, shareholder, or member of the company, a partner in the partnership, a trustor or beneficiary of the trust, a member of the association, or an employee of any such organization. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.
- I. Recordation of Declaration of Restrictions.
1. A Declaration of Restrictions shall be recorded to run with the land that indicates the following:
 - a. Only one unit may be occupied solely by persons other than the owner or owners of record;
 - b. If a junior accessory dwelling unit is rented, the unit shall not be rented for a period of less than 30 consecutive calendar days;
 - c. Sale of the junior accessory dwelling unit separately from the main dwelling is prohibited; and
 - d. The approved size and attributes of the junior accessory dwelling unit.
 2. A copy of this Declaration of Restrictions must be given to each prospective purchaser or occupant.
- J. Parking. Parking spaces for the main dwelling and junior accessory dwelling unit shall be provided in accordance with the requirements set forth in Chapter 17.34 of this title.
1. When a garage is converted in conjunction with the construction of a junior accessory dwelling unit, any parking spaces that were provided by such garage are not required to be replaced.
- K. Utilities. The lot shall be served by adequate water, sewer, and storm drain facilities which comply with city standards as established per Title 13 of this Code. A junior accessory dwelling unit shall not be considered a new residential use for the purposes of calculating connection fees or capacity charges for water and sewer service provided by the City.
- L. Compliance with Codes. The junior accessory dwelling unit and all new construction on the lot that will be performed in connection therewith shall comply with all applicable provisions of this title and all applicable building, health, and fire codes.

1. Junior accessory dwelling units shall not be required to provide fire sprinklers except when fire sprinklers are required for the main dwelling, as determined by the building official consistent with Chapter 15.10.

SECTION 10: Section 17.43.070 - Prohibition on sale and limitation on rental in Chapter 17.43 - Accessory Dwelling Units and Junior Accessory Dwelling Units of the Municipal Code is renumbered to Section 17.43.080 - Prohibition on sale and limitation on rental.

SECTION 11: Section 17.43.080 - Delay of enforcement of building standards in Chapter 17.43 - Accessory Dwelling Units and Junior Accessory Dwelling Units of the Municipal Code is renumbered to Section 17.43.090 - Delay of enforcement of building standards.

SECTION 12: Section 17.43.090 - Appeals in Chapter 17.43 - Accessory Dwelling Units and Junior Accessory Dwelling Units of the Municipal Code is renumbered to Section 17.43.100 – Appeals, and amended to read as follows:

Any decision or determination by the Planning Director pursuant to this chapter may be appealed in accordance with the procedure set forth in Chapter 17.52 of this title.

SECTION 13: Section 17.43.070 is added to Chapter 17.43 - Accessory Dwelling Units and Junior Accessory Dwelling Units of the Municipal Code Brisbane Municipal Code, to read as follows:

17.43.070 – State-exempt Accessory and Junior Accessory Dwelling Units

- A. The following types of units shall be considered state-exempt accessory dwelling units when all requirements and development regulations indicated under subsection C., are met:
 1. An accessory dwelling unit within the proposed space of a single-family dwelling, or existing space of a single-family dwelling or accessory structure.
 2. A newly constructed, detached accessory dwelling unit.
 3. Accessory dwelling units constructed within an existing multiple-family dwelling structure not used as livable space.
 4. Detached accessory dwelling units on a lot with an existing or proposed multiple-family dwelling.
 5. A junior accessory dwelling unit within the proposed space of a single-family dwelling or existing space of a single-family dwelling when combined with an accessory dwelling unit from subsections A.1., or A.2., above.
- B. The following state-exempt accessory dwelling units are allowed as follows:

State-exempt ADU Type	Allowed on any lot with a Single-family Main Dwelling¹	Allowed on any lot with a Multiple-family Main Dwelling²
1. ADU constructed within proposed or existing SFD	Yes	No
2. Newly constructed, detached ADU	Yes	No

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3. ADUs constructed in existing MFD not used as livable	No	Yes
4. Multiple detached ADUs	No	Yes
5. JADUs	Yes	No
¹ Any combination of type 1, 2, or 5 state-exempt units may be combined on a single lot with a single-family main dwelling. Provided, however, no more than a total of 4 dwelling units, including ADUs and JADUs, may be built in the same lot area typically used for a single-family residence for which an urban lot split or two-unit development was approved under Chapter 17.05 of this Title. ² Any combination of type 3 or 4 state-exempt units may be combined on a single lot with a multiple-family main dwelling.		

- C. The following shall apply to state-exempt units, in addition to compliance with the development regulations established in Sections 17.43.040 thru 17.43.060 above:

State-Exempt ADU Type	Requirements and Provisions in Addition to Development Regulations	Applicable Development Regulations
1. ADU constructed within proposed or existing SFD	a. No limitation on unit size. b. When proposed within an existing accessory structure, the accessory structure may expand one hundred fifty (150) square feet from the existing structure for ingress and egress. c. Side and rear setbacks shall be sufficient for fire and safety, as determined by the building official.	§17.43.040
2. Newly constructed, detached ADU	a. Shall not exceed eight hundred (800) square feet in floor area.	§17.43.040
3. ADUs constructed in existing MFD non-livable space(s)	a. No limitation on unit size. b. Non-livable space(s), shall include, but is not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings. c. The planning director shall have authority to render administrative interpretations of what constitutes livable space. Any administrative interpretation by the Planning Director may be appealed to the Planning Commission in accordance with the procedure set forth in Chapter 17.52 of this title.	§17.43.040 & §17.43.050
4. Multiple detached ADUs	a. No limitation on unit size.	§17.43.040 & §17.43.050
5. JADUs	a. Side and rear setbacks shall be sufficient for fire and safety, as determined by the building official.	§17.43.060

SECTION 14: 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 15: The City Council finds and determines that the adoption of this Ordinance is exempt from review under the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17, which states that the CEQA does not apply to the adoption of local ordinances regulating construction of second units, and by CEQA Section 15282(h) that exempts adoption of an ordinance regarding second units in single-family and multifamily residential zones. In addition to being statutorily exempt from CEQA, the project is consistent with the General Plan per State CEQA Guidelines Section 15183(a)--this proposal falls within a class of projects which are consistent with existing zoning or general plan policies for which an EIR was certified and shall therefore not require further review. The exception to this section requiring environmental review as might be necessary to examine project specific significant effects does not apply.

SECTION 16: This Ordinance shall be in full force and effect thirty days after its passage and adoption.

* * *

The above and foregoing Ordinance was regularly introduced and after the waiting time required by law, was thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on the _____ day of _____, 2025, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor Cliff Lentz

ATTEST:

City Clerk

APPROVED AS TO FORM:



City Attorney

Chapter 15.10 - Additions, alterations, and major rebuilds to existing buildings.**15.10.010 - Authority.**

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

15.10.020 - Coordination with other Chapters.

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

15.10.030 - Applicability.

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

15.10.040 - Definitions.

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

- A. "Addition and Alteration" shall mean new floor area added to an existing lawfully constructed building and/or changes to the existing floor area of a lawfully constructed building, which calculated together or apart constitute fifty (50) percent of the pre-existing floor area of the building. The conversion or recognition of non-habitable rooms to habitable space may be included in the calculation of alteration of space, at the discretion of the building official.
- B. "Major rebuild" shall mean removal of seventy-five percent (75%) or more of the combined surface area of the interior walls and ceilings of the habitable rooms of a building or structure to expose support members.
- C. "Floor Area" shall mean the sum of the gross horizontal areas of all floors of all buildings or structures measured from the interior face of the exterior walls, but excluding each of the following:
 - 1. Any area where the floor to ceiling height is less than six (6) feet.
 - 2. Any detached garage or other detached accessory structure which does not constitute habitable space.
 - 3. Any attached carport or covered deck.
 - 4. Any attached or detached accessory dwelling unit eight hundred (800) square feet or less in gross horizontal area that, if detached, does not exceed ~~sixteen~~ eighteen (1618) feet in height, where authorized pursuant to Chapter 17.43 of Title 17 of this Code.
- D. "Standards for new construction" shall mean:

1. The requirements of the California Buildings Code adopted by this Title 15; and
 2. The storm water management and discharge requirements established by Chapter 13.06 of Title 13; and
 3. The standard specifications and street standards adopted by Section 12.24.010 of Title 12.
- E. "Hardship" means some verifiable level of difficulty or adversity, beyond the control of the applicant, by which the applicant cannot reasonably comply with the requirements of this Chapter.

15.10.050 - Compliance Standards.

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

15.10.060 - Exceptions.

- A. Standard Exceptions. The following standard exceptions to Section 15.10.050 shall apply:
1. The area of any additions and/or alterations not exceeding a cumulative total of four hundred (400) square feet within any five (5) year period.
 2. The conversion of existing floor area in an existing single-family or multiple-family dwelling to an accessory dwelling unit where authorized pursuant to Chapter 17.43 of Title 17.
 3. The area of any addition and/or alteration for the creation or expansion of an attached or detached accessory dwelling unit eight hundred (800) square feet or less in floor area where authorized pursuant to Chapter 17.43 of Title 17. If detached, the accessory dwelling unit may not exceed ~~sixteen-eighteen~~ (1618) feet in height.
 4. Work involving exterior surfaces, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck.
 5. Alterations, renovations or repairs which do not essentially change the uses of the rooms within the building.
- B. Other Exceptions. Where the above listed exceptions do not apply, the building official shall have authority on a case-by-case basis to grant modifications of any such requirements for the standards of new construction if the building official is able to find and determine that:
1. Compliance with the requirement will cause unreasonable hardship; or

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2. The modification does not reduce any requirements for fire protection or any requirements relating to structural support and integrity; or
3. The modification does not create any new or increased hazard to the health or safety of the occupants of the existing building or structure.

17.02.235 - 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. An accessory dwelling unit also includes the following:
 - 1. An efficiency unit, as defined in section 17958.1 of the Health and Safety Code.
 - 1-2. A manufactured home, as defined in Section 18007 of the Health and Safety Code.
- E.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.

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~~F.G.~~ "Primary dwelling unit" or "Main Dwelling" means a dwelling unit that is not an accessory dwelling unit or a junior accessory dwelling unit.

~~G.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.

17.12.020 - Permitted uses. (R-BA)

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

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

Chapter 17.32.070 - Exceptions – Setback requirements.

- A. Notwithstanding any other provision of this title, certain structures or portions thereof may extend into a front, rear or side setback area to the extent permitted by the following chart:
 - 1. Projections from a Building.
 - a. Overhanging Architectural Features (Such as Eaves, Cornices Canopies, Rain Gutters and Downspouts).

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

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

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

c. Supported Decks, Cantilevered Decks and Balconies.

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

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

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

d. Deck Railings within Setback Areas.

Front setback area:	May not be higher than four (4) feet from the surface of the deck.
Rear setback area:	May not be higher than four (4) feet from the surface of the deck.

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Side setback area:	No exception permitted.
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- e. Stairs, Ramps and Landings (That Are Open and Uncovered and Serve Buildings with No More Than Two Units).

Front setback area:	No more than one set of stairs per dwelling unit may extend from the building into the front setback area. Each set of stairs must lead to the front entrance of the unit. The height of the stairway within the front setback area shall not exceed twenty (20) feet. Stairs on grade, sidewalks, and other flatwork constructed of noncombustible materials may be located anywhere within the front setback area.
Rear setback area:	No more than one set of stairs per dwelling unit may extend from the building into the rear setback area, but no closer than five (5) feet from the rear lot line. Stairs on grade, sidewalks, and other flatwork constructed of noncombustible materials may be located anywhere within the rear setback area.
Side setback area:	No more than one set of stairs per dwelling unit may extend from the building into the side setback area, but no closer than three (3) feet from the side lot line. Stairs on grade, sidewalks, and other flatwork constructed of noncombustible materials may be located anywhere within the side setback area.

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

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(10) days' notice thereof being given to the owners of all adjacent properties. The zoning administrator may issue the accessibility improvement permit if he or she finds and determines that:

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

2. Small Free-Standing Structures.

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

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

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

- i. The modification will not result in overbuilding the site or result in the removal of significant greenscape.

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

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

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

Front setback area:	May not exceed eight (8) feet in height or cover more than fifteen percent (15%) of the front setback area.
Rear setback area:	May be placed at any location within the rear setback area which is not less than five (5) feet from the rear lot line, provided the structure, or portion thereof, within the rear setback area does not exceed eight (8) feet in height and does not cover more than fifteen percent (15%) of the rear setback area.
Side setback area:	May be placed at any location within the side setback area which is not less than three (3) feet from the side lot line, provided the structure, or portion thereof, within the side setback area does not exceed eight (8) feet in height and does not cover more than fifteen percent (15%) of the side setback area.

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

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

3. Miscellaneous Improvements.

- a. Garages and Carports and Parking Decks on Slopes of Fifteen Percent (15%) or Greater.

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- b. Decorative Artwork, Ponds, Fountains and Similar Water Features, Not More Than Six (6) Feet in Height.
- c. Existing Permitted Garages or Accessory Buildings Converted into Accessory Dwelling Units.

Front setback area:	May be placed at any location within the front setback area.
Rear setback area:	May be placed at any location within the rear setback area.
Side setback area:	May be placed at any location within the side setback area.

4. ~~Detached~~ Accessory Dwelling Units

- a. Exceptions to the setback requirements for ~~detached~~ accessory dwelling units shall be as established in Chapter 17.43.
- a.b. Attached accessory dwelling units within a principle or primary are subject to the setback exceptions contained within Section 17.32.070.

- 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.

Chapter 17.34.020 – Minimum requirements. (Parking)

- A. The following minimum parking requirements shall apply to all buildings erected, new uses commenced, and to the area of extended uses commenced after the effective date of this Chapter. For any use not specifically mentioned in this Chapter, the planning commission shall determine the amount of parking required. All required off-street parking facilities shall be on-site unless specified differently in this Chapter or as permitted under Title 12 of this Code. Required off-street parking facilities need not be provided as covered parking unless specified differently in this chapter:

Uses:	Parking Requirements:
Single-family dwellings and group care homes:	
Studio or 1-bedroom dwellings not more than 900 square feet in floor area:	1 off-street space (uncovered or covered).
All other dwellings not exceeding 1,800 square feet in floor area:	1 off-street space plus 1 space which shall be in a garage or carport.
Dwellings exceeding 1,800 square feet in floor area on lots having less than 37.5 feet in frontage:	2 off-street spaces plus 1 space which shall be in a garage or carport.
Dwellings exceeding 1,800 square feet in floor area on lots of 37.5 feet frontage or greater:	2 on-street or off-street spaces plus 2 spaces which shall be in a garage or carport.

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Uses:	Parking Requirements:
	See Section 17.34.020(B)(1) regarding garage and carport exclusions from the floor area calculation.
	Additional guest parking spaces shall be provided for all residential subdivisions of 5 or more single-family residences, at the rate of 1 parking space for every 5 units. Such spaces shall be located entirely within the public right-of-way and available for public use. Any accessible parking spaces required per Section 17.34.040(D) shall count as guest parking spaces.
Accessory dwelling units	In the R-1, R-2, R-3, NCRO-2, SCRO-1, PAOZ-1, or PAOZ-2 Districts: No off-street parking required. In the R-BA and PD Districts: 1 off-street parking space (uncovered or covered) <u>per accessory dwelling unit or per bedroom, whichever is less</u>, unless <u>any of the following criteria applies</u>: <u>1. the The accessory dwelling unit is located within one-half mile walking distance of public transit;</u> <u>2. , or the The accessory dwelling unit is part of the proposed or existing dwelling, as defined in Section 17.02.235, or an accessory structure as defined in subsection B of Section 17.02.755;</u> <u>3. Where the accessory dwelling unit is located within an architecturally and historically significant historic district;</u> <u>4. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit; or</u> <u>1.5. When there is a car share vehicle located within one block of the accessory dwelling unit.</u>
Junior accessory dwelling units	No off-street parking required.

Chapter 17.43 - Accessory Dwelling Units and Junior Accessory Dwelling Units**17.43.010 - Purposes of chapter.**

Accessory dwelling units and junior accessory dwelling units are permitted under this chapter to achieve the following purposes:

- A. To provide opportunities to establish accessory dwelling units and junior accessory dwelling units on building sites developed with existing or proposed single-family dwellings, duplexes, or multiple-family dwellings.
- B. To provide affordable housing to meet the needs of Brisbane citizens.
- C. To ensure that the development of accessory dwelling units is compatible with existing development and reflects the diversity of the community.
- D. To implement and promote the goals and policies of the general plan so as to guide and manage residential development in the city in accordance with such plan.

17.43.020 - Definitions.

In addition to the definitions set forth in Chapter 17.02, all of which are applicable to this chapter, the following words and phrases shall have the meanings respectively ascribed to them in this section, in accordance with Chapter 13 to Division 1 of Title 7 of the Government Code, or successor provisions, unless the context or the provision clearly requires otherwise:

"Impact fees" include the fees specified in Sections 66000 and 66477 of the Government Code, but do not include utility connection fees or capacity charges.

"Living area" means the interior habitable area of a main dwelling unit, including basements and attics but not including a garage or any accessory structure.

"Main dwelling" means that dwelling unit on the property that is not an accessory dwelling unit or a junior accessory dwelling unit.

"Efficiency kitchen" means a kitchenette or a small kitchen or part of a room equipped as a kitchen in a junior accessory dwelling unit and shall include all of the following: (1) a cooking facility with appliances, and (2) a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

"Multiple-family dwellings" means a dwelling than contains two (2) or more attached dwelling units (including a "duplex"), provided, however, that a property containing a single-family dwelling and an n attached lawful accessory dwelling unit ~~(either attached and detached)~~ and/or a junior accessory dwelling unit shall not be deemed a multiple-family dwelling. The term does not include a dwelling group as defined in Section 17.02.235.

"State-exempt accessory dwelling unit" means an accessory dwelling unit that is not subject to development or design standards, including both standards within this title and standards found in state accessory dwelling unit law that are not specifically listed in Government Code §66323. This includes, but is not limited to, parking, height, setbacks, or other zoning provisions (e.g., lot size, open space, floor area ratio, etc.). See Section 17.43.070(A) for accessory dwelling units that are may be considered state-exempt accessory dwelling units.

17.43.030 – Permit Requirements.

- A. Except as provided by subsection C of this Section 17.43.030, building permit applications for junior accessory dwelling units or accessory dwelling units shall be ministerially processed within sixty (60) days of receipt of a complete building permit application and approved if they meet the requirements of this chapter. Incomplete applications will be returned to the applicant with a written explanation of the additional information required for approval.
- B. Notwithstanding subsection A, if the building permit application submitted will also create a new single-family dwelling or multiple-family dwelling on the lot, the application for the junior accessory dwelling unit or accessory dwelling unit(s) shall not be acted upon until the building permit application for the new single-family dwelling or multiple-family dwelling is approved, but thereafter shall be ministerially processed within sixty (60) days of receipt of a complete application and approved if it meets the requirements of this chapter. Occupancy of the junior accessory dwelling unit or accessory dwelling unit(s) shall not be allowed until the City approves occupancy of the main dwelling.
- C. The City shall grant a delay in processing an application for an accessory dwelling unit or junior accessory dwelling unit if requested by the applicant in writing.
- D. All junior accessory dwelling unit and accessory dwelling unit applications shall be subject to building inspection and permit fees as established by resolution of the City Council and water and sewer connection and capacity fees in compliance with Title 13, except that:
 - 1. No impact fees may be imposed on a junior accessory dwelling unit or accessory dwelling unit that is less than seven hundred fifty (750) square feet.
 - 2. For accessory dwelling units that have a floor area of seven hundred fifty (750) square feet or more, impact fees shall be charged proportionately in relation to the current impact fees for the square footage of the main dwelling.
- ~~E. Construction of an accessory dwelling unit and/or junior accessory dwelling unit in the R-BA Brisbane Acres Residential District shall require submittal of an application for an accessory dwelling unit permit in addition to an application for a building permit. Accessory dwelling unit permits shall be granted ministerially by the director of community development pursuant to this chapter within sixty (60) days of receipt of a complete permit application in accordance with Section 65852.2 of the California Government Code.~~

17.43.040 – Development regulations for accessory dwelling units.

Accessory dwelling units shall comply with all of the following development standards:

- A. Zoning Districts. Accessory dwelling units may only be established or occupied in the R-1, R-2, R-3, R-BA, NCRO-2, SCRO-1, PAOZ-1, PAOZ-2 and PD zoning districts with an existing or proposed single-family ~~or~~ multiple-family dwelling or dwelling group.
- B. Density. An accessory dwelling unit that conforms to this ~~Chapter~~ chapter 17.43 shall be deemed to be an accessory use or an accessory building and shall not be

considered to exceed the allowable density for the lot upon which it is located. The accessory dwelling unit shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot and shall not be considered in the application of any City ordinance, policy, or program to limit residential growth.

C. Lot Size. There is no minimum lot size requirement.

D. Number of Units.

1. Notwithstanding subsection 3., no more than one accessory dwelling unit may be constructed on any lot developed with a single-family dwelling, multiple-family dwelling, or dwelling group, except that multiple state-exempt accessory dwelling units may be constructed in accordance with Section 17.43.070.

2. The maximum number of accessory dwelling units permitted on any lot developed with a multiple-family dwelling shall comply with Section 17.43.050 of this chapter.

2-3. No more than a total of four (4) dwelling units, including accessory dwelling units, may be built in the same lot area typically used for a single-family residence for which an urban lot split or two-unit development was approved under Chapter 17.05 of this Title.

E. Attached or Detached. Accessory dwelling units may be attached to or located within the existing or proposed main dwelling, including garages, storage areas, or accessory structures, or detached from the main dwelling on the same lot.

F. Unit Size. Accessory dwelling units shall not exceed one thousand (1,000) square feet in floor area, as defined in Section 17.02.315 of Chapter 17.02 of this title.

1. Unit size for state-exempt accessory dwelling units is established under Section 17.43.070(C).

F.G. Setbacks. Accessory dwelling units shall be subject to the following setback requirements:

1. Front Setback: The minimum front setback shall be as established in the underlying zoning district regulations.

a. State-exempt units may be located anywhere in the front setback area.

2. Side Setback. Accessory dwelling units on a lot of forty (40) feet or more in width shall have a minimum side setback of four (4) feet. Accessory dwelling units on a lot with a width of less than forty (40) feet shall provide minimum side setbacks in compliance with the underlying zoning district regulations on any lot shall have a side setback of at least four (4) feet or as established in the underlying zoning district, whichever is less.

3. Rear Setback. Accessory dwelling units on any lot shall have a rear setback of at least four (4) feet.

4. No setback shall be required for an existing, legally permitted living area, garage, or accessory structure with nonconforming setbacks that is converted

to an accessory dwelling unit or a portion of an accessory dwelling unit or an accessory dwelling unit constructed in the same location and to the same dimensions, including height, as an existing, legally permitted living area, garage, or accessory structure with nonconforming setbacks.

5. Setback exceptions for detached accessory dwelling units.

- a. Overhanging Architectural Features (Such as Eaves, Cornices Canopies, Rain Gutters and Downspouts). May extend into required setback areas, 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. A noncombustible awning over the main entrance to an accessory dwelling unit may into any portion of the setback area, but shall not extend over or drain onto an abutting property.
- b. Stairs, Ramps and Landings (That Are Open and Uncovered). Shall be constructed of noncombustible material. No more than 1 set of stairs per accessory dwelling unit may extend from the structure into required setback areas. Stairs on grade, sidewalks, and other flatwork constructed of noncombustible materials may be located anywhere within setback areas.
- c. Supported Decks, Cantilevered Decks and Balconies. Shall be no closer than 4 feet from any property line or as the minimum setback required within the underlying zoning district, whichever is less.
- d. No exceptions to the setback requirements shall be permitted for any of the following: cantilevered windows (such as bay, box, bow, and greenhouse windows); chimney boxes; exposed plumbing; or mechanical equipment such as heating, air conditioning units, or heat pumps.

4.6. Setback exceptions for attached accessory dwelling units are as provided in Section 17.32.070 of this title.

H. Lot Coverage. Accessory dwelling units shall be included in calculating the lot coverage for the lot on which the accessory dwelling unit is located.

- 1. ~~State except for accessory dwelling units eight hundred (800) square feet or less in floor area and no more than sixteen (16) feet in height. exempt~~ accessory dwelling units shall be excluded from lot coverage requirements.

I. Floor Area Ratio. The floor area of the accessory dwelling unit shall be included in calculating the floor area ratio for the lot on which the accessory dwelling unit is located.

- 2.1. ~~State-exempt~~ accessory dwelling units shall be excluded from floor area ratio calculations.:
- 3. ~~Accessory dwelling units eight hundred (800) square feet or less in floor area and no more than sixteen (16) feet in height, if detached, are exempt from calculating the floor area ratio for the lot; and~~
- 4. ~~Accessory dwelling units proposed within the space of a single-family dwelling or existing accessory structure may include an expansion of not more than one hundred fifty (150) square feet beyond the physical dimensions of the existing~~

~~accessory structure or single-family dwelling, provided however, that the expansion of the single-family dwelling or accessory structure shall be limited to accommodating ingress and egress for the accessory dwelling unit, the setbacks of the expansion shall comply with the setback standards set forth in subsection G of Section 17.43.040 or of the underlying zoning district if the accessory dwelling unit is attached to the single-family dwelling, and shall be compliant with building, health, and fire codes.~~

J. Height.

1. ~~Attached Accessory-accessory~~ dwelling units shall not exceed two stories and shall be subject to the height maximum established in the underlying zoning district.

~~5-2. Detached accessory dwelling units shall not exceed eighteen (18) feet.~~

G.K. Required Facilities. An accessory dwelling unit shall include all of the following facilities:

1. A kitchen, including a sink, food preparation counter, storage cabinets, and permanent cooking facilities such as a range or cooktop and oven, that meet Building Code standards; and
2. A full bathroom, including sink, toilet, and shower and/or bath facilities.

H.L. Landscaping. Accessory dwelling units shall be subject to the landscaping requirements of the underlying zoning district ~~except that state-exempt accessory dwelling units are exempt from landscaping requirements.~~

M. Parking. Parking spaces for the main dwelling and accessory dwelling units shall be provided in accordance with the requirements set forth in Chapter 17.34, ~~except that state-exempt accessory dwelling units are exempt from parking requirements.~~

1. ~~except that when~~When a garage, carport, ~~or~~ covered parking structure, or uncovered parking space is demolished or converted in conjunction with the construction of an accessory dwelling unit, any parking spaces that were provided by such garage, carport, ~~or~~ covered parking structure, or uncovered parking space are not required to be replaced.

I.N. Unit Access.

1. As required by Section 17.01.060, the lot on which the accessory dwelling unit is located shall have a legal means of access to the public right of way that complies with the street standards set forth in Section 12.24.010.
2. A separate exterior entry from the main entrance to the main dwelling shall be required to serve each attached accessory dwelling unit. Interior entry access between an accessory dwelling unit and the main dwelling is permitted, provided that the interior entry is located off a common living area of the main dwelling, such as a living room, family room, dining room, kitchen, or an interior hallway leading to common living areas.

J.O. Utilities. The lot is served by adequate water, sewer, and storm drain facilities which comply with city standards as established per Title 13 of this Code. An

accessory dwelling unit shall not be considered a new residential use for the purposes of calculating connection fees or capacity charges for water and sewer service provided by the City, pursuant to Title 13 of this Code. As to the main dwelling, a separate water connection, a separate sewer service connection, or a separate power connection for water, sewer, and power service is not required for an accessory dwelling unit.

~~K.P.~~ Compliance with Codes. The accessory dwelling unit and all new construction on the lot that will be performed in connection therewith shall comply with all applicable provisions of this title and all applicable building, health and fire codes.

1. Accessory dwelling units shall not be required to provide fire sprinklers except when fire sprinklers are required for the main dwelling, as determined by the building official consistent with Chapter 15.10.

17.43.050 - Accessory dwelling units in multiple-family dwellings.

A. Accessory dwelling units on lots with existing or proposed multiple-family dwellings shall comply with the development regulations established in Section 17.43.040 of this chapter, except that multiple state-exempt accessory dwelling units may be constructed in accordance with subsection B.

B. Multiple state-exempt accessory dwelling units shall be allowed on lots with existing or proposed multiple-family dwellings, as defined in Section 17.43.020, in accordance with Section 17.43.070 as follows:

1. Attached Accessory Dwelling Units. At least one (1) attached accessory dwelling unit shall be allowed per lot developed with an existing multiple-family dwelling.

a. The total number of attached accessory dwelling units permitted shall not exceed a maximum of twenty-five percent (25%) of the total number of existing dwelling units within the existing multiple-family dwelling.

b. Attached accessory dwelling units shall be allowed within existing portions of multiple-family dwellings that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, provided, that each accessory dwelling unit complies with state building standards for dwellings. An accessory dwelling unit shall not be created within any portion of the habitable area of an existing dwelling unit in a multiple-family dwelling.

2. Detached Accessory Dwelling Units. Multiple detached accessory dwelling units, not to exceed the numbers specified below, as applicable, shall be allowed on a lot that has an existing or proposed multi-family dwelling provided that all detached accessory dwelling units shall be state-exempt accessory dwelling units constructed in accordance with Section 17.43.070.

a. Existing Multiple-Family Dwelling. In addition to attached accessory dwelling units permitted under subsection A, not more than eight (8) detached accessory dwelling units, provided that the number of

detached accessory dwelling units shall not exceed the number of existing main dwelling units on the lot.

b. Proposed Multiple-Family Dwelling. Not more than two (2) detached accessory dwelling units may be allowed.

~~In addition to compliance with the development regulations established in Section 17.43.040 of this chapter, accessory dwelling units on lots with existing multiple-family dwellings shall also comply with all of the following criteria:~~

~~A. At least one attached accessory dwelling unit shall be allowed per lot developed with a multiple-family dwelling.~~

- ~~1. The total number of attached accessory dwelling units permitted shall not exceed a maximum of twenty-five percent (25%) of the total number of existing dwelling units within the existing multiple-family dwelling.~~
- ~~2. Attached accessory dwelling units shall be allowed within existing portions of multiple-family dwellings that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, provided, that each accessory dwelling unit complies with state building standards for dwellings. An accessory dwelling unit shall not be created within any portion of the habitable area of an existing dwelling unit in a multiple-family dwelling.~~

~~B. In addition to attached accessory dwelling units permitted under subsection A, not more than two detached accessory dwelling units may be allowed on a lot developed with a multiple-family dwelling. Detached accessory dwelling units shall be subject to the following standards:~~

- ~~1. Setbacks. The setback requirements of Section 17.43.040 of this Chapter apply.~~
- ~~2. Floor Area. Detached accessory dwelling units may not exceed eight hundred (800) square feet in floor area per unit.~~
- ~~3. Height. Detached accessory dwelling units shall not exceed sixteen (16) feet in height.~~

17.43.060 - Development regulations for junior accessory dwelling units.

Junior accessory dwelling units shall comply with all of the following development standards:

- A. Zoning Districts. Junior accessory dwelling units may only be established or occupied on lots in the R-1, R-2, R-3, R-BA, NCRO-2, SCRO-1, PAOZ-1, and PD zoning districts with an existing or proposed single-family dwelling.
- B. Density. A junior accessory dwelling unit that conforms to this Chapter 17.43 shall be deemed to be an accessory use and shall not be considered to exceed the allowable density for the lot upon which it is located. The junior accessory dwelling unit shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot and shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

C. Lot Size. There is no minimum lot size requirement.

D. Number of Units.

1. ~~Notwithstanding subsection 3., no~~ more than one junior accessory dwelling unit may be constructed on any lot developed with an existing or proposed single-family dwelling.
2. A junior accessory dwelling unit may be permitted on a lot with an accessory dwelling unit, provided ~~that the the following criteria are met~~ accessory dwelling unit(s) qualify as state-exempt units in accordance with Section 17.43.070.:
- 2-3. No more than a total of four (4) dwelling units, including junior accessory dwelling units, may be built in the same lot area typically used for a single-family residence for which an urban lot split or two-unit development was approved under Chapter 17.05 of this Title.
 - a. ~~The accessory dwelling unit is fully detached and the junior accessory dwelling unit is within an existing or proposed single-family dwelling; and~~
 - b. ~~The detached accessory dwelling unit does not exceed a total floor area of more than eight hundred (800) square feet and a height limitation of sixteen (16) feet.~~

E. Floor Area Requirements.

1. Junior accessory dwelling unit shall not exceed five hundred (500) square feet in floor area and shall be constructed within the existing walls of the main dwelling. For purposes of this section, enclosed uses within the main dwelling, such as attached garages, are considered a part of the proposed or existing single-family residence.
2. The floor area of the junior accessory dwelling unit shall be included in calculating the floor area ratio for the lot on which the junior accessory dwelling unit is located and subject to the maximum floor area ratio established in the underlying zoning district.
 - a. State-exempt junior accessory dwelling units shall be excluded from floor area ratio calculations.
 - b. ~~Exemption: A junior accessory dwelling unit may expand the main dwelling by not more than one hundred fifty (150) square feet beyond the physical dimensions of the main dwelling, provided that the expansion of the main dwelling shall be limited to accommodating ingress and egress for the junior accessory dwelling unit. The setbacks of the expansion shall comply with the setback standards of the underlying zoning district and shall be compliant with building, health, and fire codes.~~

F. Unit Access.

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1. As required by Section 17.01.060, the lot on which the junior accessory dwelling unit is located shall have a legal means of access to the public right of way that complies with the street standards set forth in Section 12.24.010.
 2. A separate exterior entry from the main entrance to the main dwelling shall be provided to serve the junior accessory dwelling unit only. Interior entry access between the junior accessory dwelling unit and the main dwelling is permitted, provided that the interior entry is located off a common living area of the main dwelling, such as a living room, family room, dining room, kitchen, or an interior hallway leading to these common living areas.
- G. Required Facilities. A junior accessory dwelling unit shall include all of the following facilities:
1. At a minimum, an efficiency kitchen.
 2. Sanitation facilities, but such facilities may be separated from or shared with the main dwelling.
- H. Owner Occupancy. Either the main dwelling or the junior accessory dwelling unit shall be occupied by the record owner of the property as the owner's principal place of residence. In the case of ownership by a corporation, limited liability company, partnership, trust or association, either the main dwelling or the junior accessory dwelling unit shall be the principal place of residence of an officer, director, shareholder, or member of the company, a partner in the partnership, a trustor or beneficiary of the trust, a member of the association, or an employee of any such organization. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.
- I. Recordation of Declaration of Restrictions.
1. A Declaration of Restrictions shall be recorded to run with the land that indicates the following:
 - a. Only one unit may be occupied solely by persons other than the owner or owners of record;
 - b. If a junior accessory dwelling unit is rented, the unit shall not be rented for a period of less than 30 consecutive calendar days;
 - c. Sale of the junior accessory dwelling unit separately from the main dwelling is prohibited; and
 - d. The approved size and attributes of the junior accessory dwelling unit.
 2. A copy of this Declaration of Restrictions must be given to each prospective purchaser or occupant.
- J. Parking. Parking spaces for the main dwelling and junior accessory dwelling unit shall be provided in accordance with the requirements set forth in Chapter 17.34 of this title.
- ~~3-1.~~ When a garage is converted in conjunction with the construction of a junior accessory dwelling unit, any parking spaces that were provided by such garage are not required to be replaced.-

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~~J.K.~~ Utilities. The lot shall be served by adequate water, sewer, and storm drain facilities which comply with city standards as established per Title 13 of this Code. A junior accessory dwelling unit shall not be considered a new residential use for the purposes of calculating connection fees or capacity charges for water and sewer service provided by the City.

~~K.L.~~ Compliance with Codes. The junior accessory dwelling unit and all new construction on the lot that will be performed in connection therewith shall comply with all applicable provisions of this title and all applicable building, health, and fire codes.

1. Junior accessory dwelling units shall not be required to provide fire sprinklers except when fire sprinklers are required for the main dwelling, as determined by the building official consistent with Chapter 15.10.

17.43.070 – State-exempt Accessory and Junior Accessory Dwelling Units

A. The following types of units shall be considered state-exempt accessory dwelling units when all requirements and development regulations indicated under subsection C., are met:

1. An accessory dwelling unit within the proposed space of a single-family dwelling, or existing space of a single-family dwelling or accessory structure.
2. A newly constructed, detached accessory dwelling unit.
3. Accessory dwelling units constructed within an existing multiple-family dwelling structure not used as livable space.
4. Detached accessory dwelling units on a lot with an existing or proposed multiple-family dwelling.
5. A junior accessory dwelling unit within the proposed space of a single-family dwelling or existing space of a single-family dwelling when combined with an accessory dwelling unit from subsections A.1., or A.2., above.

B. The following state-exempt accessory dwelling units are allowed as follows:

<u>State-exempt ADU Type</u>	<u>Allowed on any lot with a Single-family Main Dwelling¹</u>	<u>Allowed on any lot with a Multiple-family Main Dwelling²</u>
<u>1. ADU constructed within proposed or existing SFD</u>	<u>Yes</u>	<u>No</u>
<u>2. Newly constructed, detached ADU</u>	<u>Yes</u>	<u>No</u>
<u>3. ADUs constructed in existing MFD not used as livable</u>	<u>No</u>	<u>Yes</u>
<u>4. Multiple detached ADUs</u>	<u>No</u>	<u>Yes</u>
<u>5. JADUs</u>	<u>Yes</u>	<u>No</u>

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¹ Any combination of type 1, 2, or 5 state-exempt units may be combined on a single lot with a single-family main dwelling. Provided, however, no more than a total of 4 dwelling units, including ADUs and JADUs, may be built in the same lot area typically used for a single-family residence for which an urban lot split or two-unit development was approved under Chapter 17.05 of this Title.

² Any combination of type 3 or 4 state-exempt units may be combined on a single lot with a multiple-family main dwelling.

C. The following shall apply to state-exempt units, in addition to compliance with the development regulations established in Sections 17.43.040 thru 17.43.060 above:

<u>State-Exempt ADU Type</u>	<u>Requirements and Provisions in Addition to Development Regulations</u>	<u>Applicable Development Regulations</u>
<u>1. ADU constructed within proposed or existing SFD</u>	<u>a. No limitation on unit size.</u> <u>b. When proposed within an existing accessory structure, the accessory structure may expand one hundred fifty (150) square feet from the existing structure for ingress and egress.</u> <u>c. Side and rear setbacks shall be sufficient for fire and safety, as determined by the building official.</u>	<u>§17.43.040</u>
<u>2. Newly constructed, detached ADU</u>	<u>a. Shall not exceed eight hundred (800) square feet in floor area.</u>	<u>§17.43.040</u>
<u>3. ADUs constructed in existing MFD non-livable space(s)</u>	<u>a. No limitation on unit size.</u> <u>b. Non-livable space(s), shall include, but is not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.</u> <u>c. The planning director shall have authority to render administrative interpretations of what constitutes livable space. Any administrative interpretation by the Planning Director may be appealed to the Planning Commission in accordance with the procedure set forth in Chapter 17.52 of this title.</u>	<u>§17.43.040 & §17.43.050</u>
<u>4. Multiple detached ADUs</u>	<u>a. No limitation on unit size.</u>	<u>§17.43.040 & §17.43.050</u>

<u>5. JADUs</u>	<u>a. Side and rear setbacks shall be sufficient for fire and safety, as determined by the building official.</u>	<u>§17.43.060</u>
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17.43.~~070-080~~ - Prohibition on sale and limitation on rental.

- A. Accessory dwelling units and junior accessory dwelling units shall not be sold separately from the main dwelling(s).
- B. If an accessory dwelling unit or junior accessory dwelling unit is rented, the unit shall not be rented for a period of less than 30 consecutive calendar days.

17.43.~~080-090~~ – Delay of enforcement of building standards.

- A. Prior to January 1, 2030, the owner of an accessory dwelling unit that was built before January 1, 2020, may submit an application to the building official requesting that correction of any violation of building standards be delayed for five years. For the purposes of this section, “building standards” refer to those standards enforced by local agencies under the authority of Section 17960 and following of the California Health and Safety Code.
- B. The building official shall grant any application submitted under subsection A of this Section if the building official determines that enforcement of the building standard is not necessary to protect health and safety. In making this determination, the building official shall consult with the fire marshal.
- C. No applications submitted pursuant to this section shall be approved on or after January 1, 2030; provided, however, any delay to correct a violation that was approved by the building official before January 1, 2030, shall be valid for the full term of the delay that the building official approved at the time the building official approved the application.
- D. Until January 1, 2030, any notice to correct a violation of building standard that is issued to the owner of an accessory dwelling unit built before January 1, 2020 shall include a statement that the owner has a right to request a delay in enforcement of the building standard for an accessory dwelling unit pursuant to this section.
- E. This section shall remain in effect until January 1, 2035, and as of that date is repealed.

17.43.~~090-100~~ - Appeals.

Any decision or determination by the ~~director of community development~~Planning Director or building official pursuant to this chapter may be appealed in accordance with the procedure set forth in Chapter 17.52 of this title.

Summary of Recent Changes to ADU Law



In Government Code section 66310, subdivision (d), the California Legislature declared that allowing ADUs in zones that allow single-family and multifamily uses provides additional rental housing and is an essential component in addressing California's housing needs. Over the years, State ADU Law has been revised to improve its effectiveness in creating more housing units. Major changes to State ADU Law, effective January 1, 2023, January 1, 2024, and January 1, 2025, further reduced barriers to the development of ADUs and JADUs. Within this context, HCD developed –

and continues to update – this Handbook to assist local governments, homeowners, attorneys, architects, and the public in understanding and applying the requirements of state law. Below is a summary of recent legislation that amended State ADU Law.

Please visit <https://leginfo.legislature.ca.gov> for the complete statutory changes.

All local permitting agencies and interested parties should review the amendments to California law, effective January 1, 2023, 2024, and 2025, regarding the creation of ADUs and JADUs.

2022 legislation includes the following changes to State ADU Law (effective January 1, 2023):

Assembly Bill (AB) 2221 (Chapter 650, Statutes of 2022, Section 1) and Senate Bill (SB) 897 (Chapter 664, Statutes of 2022, Sections 2.5, 4, 5, and 6) built upon recent changes to State ADU and JADU Law and further addressed barriers to the development of ADUs and JADUs. Due to SB 897 being chaptered after AB 2221, section 2.5 of SB 897 incorporated amendments to ADU Law proposed by both SB 897 and AB 2221.

- **Objective Standards.** Requires local agencies to only impose objective standards on ADUs, which “involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal” of an ADU permit application. (Gov. Code, § 66313, subd. (i). See *also* Gov. Code, §§ 66314, subd. (b)(1); 66323, subd. (g).)
- **Detached Garages.** Allows ADUs detached from the proposed or existing primary dwelling, including in detached garages (Gov. Code, § 66314, subd. (d)(3)).
- **Occupancy Change.** Provides that the construction of an ADU does not constitute a

Group R occupancy change under the local building code, unless the local agency makes a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety (Gov. Code, § 66314, subd. (d)(8)).

- **Fire Sprinklers.** Precludes ADU construction from triggering a requirement that fire sprinklers be installed in the existing primary dwelling (Gov. Code, § 66314, subd. (d)(12)).
- **Permitting Process.** Requires a permitting agency to either approve or deny (replacing the former language “act on”) an application to create or serve an ADU or JADU within 60 days from when a completed application is received, if there is an existing single-family or multifamily dwelling on the lot (Gov. Code, §§ 66317, subd. (a); 66320, subd. (a); 66335, subd. (a)(2)).
- **Concurrent Permitting.** Clarifies that permitting agencies may concurrently approve or deny a proposed ADU and new single-family or multifamily dwelling when submitted simultaneously for permitting. The application for the ADU shall be considered without discretionary review or hearing. Clarifies that permitting agencies may concurrently approve or deny a proposed JADU and new single-family dwelling when submitted simultaneously for permitting. (Gov. Code, §§ 66317, subd. (a); 66320, subd. (a); 66335, subd. (a)(3).)
- **Permitting Agency Denials.** Obligates a permitting agency, when it denies an ADU or JADU application, to “return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant” within 60 days from when a completed application is received. (Gov. Code, §§ 66317, subd. (b); 66320, subd. (b); 66335, subd. (b).)
- **Demolition Permits.** Adds a requirement for a local agency to review and issue a demolition permit for “a detached garage that is to be replaced with an ADU” at the same time it reviews, and issues permits for, the ADU construction. (Gov. Code, § 66314, subd. (e).) Also prohibits permitting agencies requiring applicants to “provide written notice or post a placard for the demolition of a detached garage ... unless the property is located within an architecturally and historically significant district.” (Gov. Code, § 66314, subd. (f).)
- **Zoning & Setbacks.** Prohibits a local agency from requiring “a zoning clearance or separate zoning review or any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, front setbacks, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.” (Gov. Code, § 66321, subd. (b)(3).)
- **Detached ADU Height Limitations.** Establishes a base height limitation of 16 feet for detached ADUs (Gov. Code, § 66321, subd. (b)(4)(A)). Increases the maximum height limitation on a detached ADU to 18 feet if the ADU is “either within a half-mile walking distance of a major transit stop or a high-quality transit corridor” and provides for an

additional two feet for roof pitch to align with the roof pitch of the primary dwelling unit.” (Gov. Code, §§ 66321, subd. (b)(4)(B); 66323, subd. (a)(2)(B).) Increases the height to 18 feet for a detached ADU that is “on a lot with an existing or proposed multifamily, multistory dwelling.” (Gov. Code, § 66321, subd. (b)(4)(B).)

- **Attached ADU Height Limitations.** Establishes the maximum height limitation that may be imposed by a local agency on an attached ADU to 25 feet, or the existing primary dwelling height limit if lower than 25 feet. Does not require a local agency to allow an ADU to exceed two stories (Gov. Code, § 66321, subd. (b)(4)(D)).
- **Parking Standards.** Prohibits local agencies from imposing parking in a number of specific circumstances (Gov. Code, § 66322, subd. (a)).
- **Zoning Nonconformance & Building Code Violations.** Prohibits local agencies from denying an ADU permit due to the correction of “nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction of the accessory dwelling unit.” (Gov. Code, § 66322, subd. (b).) The prohibition was also added to Government Code section 66336 to apply to JADUs.
- **Multifamily Dwellings.** Prohibits a permitting agency from requiring “any modification of the existing multifamily dwelling as a condition of approving the application to construct an accessory dwelling unit” if the existing multifamily dwelling has “a rear or side setback of less than four feet...” (Gov. Code, § 66323, subd. (a)(4)(B)).
- **Permitting Agency Definition.** Adds definition of a permitting agency as “any entity that is involved in the review of a permit for an accessory dwelling unit or junior accessory dwelling unit and for which there is no substitute, including, but not limited to, applicable planning departments, building departments, utilities, and special districts.” (Gov. Code, § 66313, subd. (k).)
- **Unpermitted ADUs.** Precludes a local agency from denying a permit for an unpermitted ADU that was constructed before January 1, 2018, because the ADU violates building standards or because the ADU does not comply with State ADU Law or a local ordinance. (Gov. Code, § 66332, subd. (a).) This prohibition does not apply if the local agency makes a finding that “correcting the violation is necessary to protect the health and safety of the public or occupants of the structure” (Gov. Code, § 66332, subd. (b)) or to a building that is deemed substandard pursuant to Health and Safety Code section 17920.3 (Gov. Code, § 66332, subd. (c)).
- **Enclosed Uses.** Considers enclosed uses within the residence, such as attached garages, to be “a part of the proposed or existing single-family residence” for the purposes of JADUs (Gov. Code, § 66333, subd. (d)).

- **JADU Separate Entrance.** Requires a JADU without a separate bathroom to “include a separate entrance from the main entrance to the proposed JADU, with an interior entry to the main living area.” (Gov. Code, § 66333, subd. (e)(2).)

2023 legislation includes the following changes to State ADU Law (effective January 1, 2024):

AB 976 (Chapter 751, Statutes of 2023) and AB 1033 (Chapter 752, Statutes of 2023) made changes to State ADU Law. AB 1332 (Chapter 759, Statutes of 2023) added Government Code section 65852.27 to expedite the approval of ADUs. AB 434 (Chapter 740, Statutes of 2023) modified Government Code section 65585 to require enforcement of State ADU Law, ADU amnesty laws, and lot split / duplex laws, among others.

- **Owner Occupancy.** Removes the existing 2025 sunset of the prohibition on owner-occupancy requirements and instead mandates no owner-occupancy requirement for ADUs (Gov. Code, § 66315). Authorizes a local agency to adopt a local ordinance to allow the separate conveyance of the primary dwelling unit and ADU(s) as condominiums (Gov. Code, § 66342).
- **Pre-Approved ADU Plans.** Requires the local agency to develop a program for the preapproval of ADU plans by January 1, 2025. The local agency shall accept ADU plan submissions for preapproval from any party and shall approve or deny applications pursuant to standards established in Government Code sections 66314-66332. The local agency shall post preapproved ADU plans and the contact information of the applicant on the local agency’s website. The local agency may also post plans pre-approved by other local or state agencies. (Gov. Code, § 65852.27.)
- **Enforcement Authority.** Amends Government Code section 65585, subdivision (j), by adding to the list of laws about which HCD is authorized to notify a local jurisdiction or the Attorney General when the local jurisdiction fails to comply with those laws, including Chapter 13 (commencing with Section 66310) and Government Code sections 65852.21, 65852.24, 65852.28, 65913.4.5, and 66411.7, among others.

2024 legislation includes the following changes to State ADU Law (effective March 27, 2024, and January 1, 2025):

SB 477 (Chapter 7, Statutes of 2024) made changes to the numbering of the government code sections related to ADU and JADU Law. AB 2533 (Chapter 834, Statutes of 2024) and SB 1211 (Chapter 296, Statutes of 2024) made changes to State ADU Law.

- **Updated Government Code Sections.** Government Code sections related to ADU and JADU law were updated from 65852.2, 65852.22, 65852.23, and 65852.26 to Government Code sections 66310-66342.
- **Unpermitted ADUs and JADUs.** Changes the date from January 1, 2018, to January 1, 2020, such that a local agency is precluded from denying a permit for an unpermitted ADU that was constructed before January 1, 2020, because the ADU violates building standards

or because the ADU does not comply with State ADU Law or a local ordinance. (Gov. Code, § 66332, subd. (a).) A local agency shall inform the public about the provisions of this section through public information resources, including permit checklists and the local agency's internet website, which shall include both of the following: (1) a checklist of the conditions specified in Section 17920.3 of the Health and Safety Code that would deem a building substandard, and (2) information that, before applying for a permit, the homeowner may obtain a confidential third-party code inspection from a licensed contractor to determine the unit's existing condition or potential scope of building improvements before applying for a permit. (Gov. Code, § 66332, subd. (d)(1), (d)(2).)

- **Objective Standards.** Prohibits a local agency from imposing any objective development standards on 66323 Units that are not authorized by the provisions of Government Code section 66323, subdivision (a).
- **Livable Space.** Defines "livable space" as a space in a dwelling intended for human habitation, as the term appears in Government Code sections 66313, subdivision (e), and 66323, subdivision (a)(3)(A).
- **Uncovered Parking.** Specifies that uncovered, off-street parking spaces demolished in conjunction with the construction of an ADU do not need to be replaced.
- **Detached ADUs.** Authorizes up to eight detached ADUs on a lot with an existing multifamily dwelling, provided that the number of ADUs does not exceed the number of existing units on the lot.

For additional summaries of ADU legislation, please see the Resources section.

File Attachments for Item:

D. Consideration of changing Commission meeting time



PLANNING COMMISSION MEMORANDUM

Meeting Date: April 10, 2025

From: Julia Ayres, Principal Planner

Subject: Consider Changing Planning Commission Meeting Time

Background

In February 2025, the City Council voted to adjust their regularly scheduled meeting start time to 6:30 PM, effective the first Council meeting in April (April 3, 2025). Staff shared this update at the February 27, 2025 Planning Commission meeting, and in response the Commission asked staff to agendize discussion to consider modification of regular Planning Commission meeting start time to align with the adjusted City Council meeting start time at the next Planning Commission meeting.

The City's Parks and Recreation Commission, as well as the Open Space and Ecology and Complete Streets committees, also meet at 6:30 PM on their respective meeting dates.

The Planning Commissions Rules of Procedure (Attachment 1), adopted in 2002, establishes the regular meeting dates and times for the Planning Commission as the second and fourth Thursdays of every month at 7:30 PM. Should the Commission wish to adjust its regular meeting start time, it should direct staff to bring back a Resolution effecting such change for adoption at a future meeting. The Commission's consideration and/or adoption of a procedural resolution does not require a public hearing.

ATTACHMENTS

1. Planning Commission Resolution 02/02, Rules of Procedure

Julia Ayres
Julia Ayres, Principal Planner

John Swiecki
John Swiecki, Community Development Director

02/02

RULES OF PROCEDURE

A. SETTING THE TIME AND PLACE FOR MEETINGS

1. Regular Meetings

The Planning Commission of the City of Brisbane shall hold regular meetings on the second and fourth Thursday of each month at 7:30 p.m. When the day for any regular meeting of the Commission falls on a legal holiday, no meeting shall be held on such holiday, but the regular meeting shall be scheduled at a time and place that shall be noticed in accordance with City procedures. Due to scheduling constraints, regular meetings may be rescheduled from time to time.

2. Special Meetings

Special meetings or study sessions for the Planning Commission may be called at any time by the Planning Commission Chair, the Planning Director, or a majority of the Planning Commission by delivering personally or by mail written notice to each Planning Commissioner, and by posting the written notice at posting places established by the Brisbane Municipal Code, Chapter 1.12, Section 1.12.010. Such notice must be delivered and posted at least twenty-four (24) hours before the time of such meeting as specified in the notice. The notice shall specify the time and place of the special meeting and the business to be transacted; no other business shall be considered. Such written notice may be dispensed with as to any Planning Commissioner who, at or prior to the time the meeting convenes, files with the Secretary of the Planning Commission a written waiver of notice. Such waiver may also be given by telegram.

3. Place of Meetings

All regular meetings of the Planning Commission shall be held in locations established in Brisbane City Council Resolution No. 90-15. Such meetings may be adjourned to such other locations as the Commission may determine.

B. OFFICERS

1. Selection of Officers

The Planning Commission shall select from its members a Chair and a Vice-Chair annually at the first February meeting as the last order of business prior to adjournment.

Any member of the Planning Commission is eligible to serve as Chair or Vice-Chair, irrespective of seniority, rotation, or prior service as Chair or Vice-Chair. In casting their votes for Chair and Vice-Chair, Commissioners may consider the candidate's leadership qualities, his or her ability to conduct meetings of the Commission expeditiously and fairly, and his or her willingness to represent positions adopted by the Commission when such positions are at variance with his or her personal views, as well as other pertinent factors.

If the position of Chair becomes vacant, the Commission shall, at its next regular meeting select from its members a new Chair. In the event that the Commission is unable to select a new

Chair due to a tie vote, the Commission shall select one of its remaining members to serve as the temporary Chair until such time as a new Chair can be selected by majority vote.

2. Responsibilities of the Chair and Vice-Chair

The Chair, or, in his or her absence the Vice-Chair, shall be the Presiding Officer of the Planning Commission and shall assume his or her place and duties as such immediately following his or her election. If the Chair is absent or unable to act, the Vice-Chair shall serve until the Chair returns or is able to act. During such periods, the Vice-Chair has all of the powers and duties of the Chair. In the event that the Vice-Chair is absent, the Chair shall have the right to name any member of the Commission to perform the duties of the Vice-Chair, but such substitution shall not extend beyond adjournment.

The responsibilities of the Planning Commission Chair include the following:

- a. As Presiding Officer, preserve strict order at all meetings of the Commission, announce the Commission's decisions on all subjects, and decide all questions of order. The Presiding Officer may move, second, debate, and exercise all of the rights and privileges of Commissioners set forth in these Rules;
- b. Call special meetings of the Commission in accordance with legal requirements and these Rules of Procedure;
- c. Sign documents of the Commission;
- d. Assist Staff in determining agenda items;
- e. Attend City Council, County Planning Commission and other meetings as the Planning Commission representative, when appropriate;
- f. Communicate informally as necessary with the Mayor, City Council members and the City Manager on Planning Commission matters;
- g. Assist in the orientation and education of new Planning Commission members; and
- h. Write and approve letters on behalf of the Planning Commission.

C. CONDUCT OF MEETINGS

1. Meetings to be Public

All regular, adjourned and special meetings of the Planning Commission shall be open and public.

2. Call to Order

Meetings shall be called to order by the Chair, or if absent, by the Vice-Chair. In the absence of both, the Secretary shall call the meeting to order whereupon those Commissioners present shall elect a Chair Pro Tem.

3. Quorum

Three members of the Planning Commission shall constitute a quorum for the transaction of business. The Secretary shall take a roll call and keep a record of those Commissioners present, absent or excused. Where there is no quorum, the Planning Commission Chair or Vice-Chair, or any Commissioner shall adjourn the meeting, or, if no Commissioner is present, the Secretary shall adjourn the meeting.

4. Agenda and Agenda Packet

An agenda for all Planning Commission regular and special meetings shall be prepared by the Planning Director, containing the specific items of business to be transacted and the order thereof. Agendas shall be prepared in a manner that ensures, to the extent practicable, that issues are handled in an expeditious manner, legal requirements are met, necessary materials and persons are available, and time allotments are balanced between individual matters and overall planning issues.

The agenda for regular meetings shall be made available to the public in the Planning Office and posted in the locations designated in the Brisbane Municipal Code, Chapter 1.12, Section 1.12.010, no later than seventy-two (72) hours prior to the meeting and at the meeting location during each meeting.

A copy of the agenda and agenda packet for regular meetings shall be made available to each Commissioner no later than seventy-two (72) hours prior to the meeting, and earlier if practicable. At the time the agenda and agenda packets are made available to the Commissioners, each applicant whose application appears on the agenda shall be mailed a copy of the agenda and the Staff Report that relates to his or her application. The Planning Director shall make available for public inspection in the Planning Office one or more copies of the agenda packet on the same day they are made available to the Commissioners.

5. Additions to Agenda

No matter shall be finally acted upon by the Planning Commission other than those on the posted agenda, except in accordance with the provisions of the California Government Code Section 54954.2(b). A Commissioner may request amendment of the agenda at the beginning of a meeting to add an information item which will not require action by the Planning Commission.

6. Order of Business

The order of business shall be as follows and shall be shown on the agenda of each regular meeting:

- a. Call to order
- b. Roll call
- c. Adoption of agenda
- d. Consent calendar
(Approval of Minutes)

- e. Oral communications
- f. Written communications (Correspondence addressed to the Commission)
- g. Applications and petitions continued from the previous regular meeting in the order as they appeared on the previous agenda
- h. New applications and petitions in the order filed in the City Planning Office.
- i. Staff reports
- j. Items initiated by Staff
- k. Items initiated by Commissioners
- l. Special Items
- m. Adjournment

A majority of the Commission may change the order of business at any time during the meeting. Otherwise, business shall be conducted in the order shown above.

7. Adjournment Time

The Planning Commission shall adjourn each meeting by 10:30 p.m. if such meeting has not been adjourned prior to that time, unless a majority of the Commissioners then present vote to extend the time of adjournment. When the agenda for the meeting has not been completed by the time of adjournment, it shall be continued over to the next regular meeting of the Planning Commission, or, if the majority of the Commissioners then present so determines, to an adjourned meeting of the Commission to be held on such date and at such time as the Commission shall determine. Failure of the Commission to adjourn at 10:30 p.m. in accordance with this provision shall not affect the validity of any hearing held, deliberations conducted or action taken, either before or after the adjournment hour.

8. Public Hearings

The conduct of public hearings shall generally be as follows:

- a. The Presiding Officer shall ask for, and Staff shall present, any staff report or staff recommendations relevant to the matter under consideration. The Commission shall ask Staff to state for the record the written communications received pertaining to the application. The Commission shall ask Staff questions if necessary to clarify the factual basis of the matter.
- b. If the matter under consideration is an application, the applicant, or the applicant's authorized representative, may then offer evidence, oral or documentary, in support of the application under consideration. The Commission may ask the applicant or the applicant's authorized representative questions if necessary to clarify the factual basis of the application.
- c. The Presiding Officer shall then open the public hearing and solicit from the audience any person or persons desiring to address the Commission with remarks or questions relevant to the matter under consideration. Members of the public who wish to address the Planning Commission with respect to matters set forth on the agenda to be considered during a public hearing shall fill out a request form and hand such form to the Secretary. The Secretary shall forward such forms to the Presiding Officer. In order to ensure that all members of the audience who wish to address the Commission about a matter under consideration have an opportunity to be heard, the Presiding Officer may designate and declare a period of time for all comments on the matter and/or designate a specific length of time for each speaker.

Members of the public may speak for such length of time as the Presiding Officer shall permit.

d. An applicant shall have the right to make a final presentation, after which the public hearing shall be closed by a majority vote of the Commission. Nothing herein shall prevent a member of the Commission from addressing, through the Chair, a direct question to the applicant or any person(s) addressing the Commission regarding the application or matter under consideration.

e. Thereafter, the Commission shall, after due deliberation and proper motion and second, vote to either approve conditionally or unconditionally, or deny with or without prejudice the motion regarding the matter under consideration, or continue the matter for further consideration at another date and time. If the Commission wishes to continue the public hearing, the Presiding Officer shall reopen the public hearing prior to the motion for continuance.

f. When both a written request and a cash deposit covering the cost of record preparation are received from the person(s) making the request, the City shall ensure that an approved written record of all such hearings shall be made and duly preserved. Copies shall be available to any interested person(s) at cost. Requests for a court reporter must be received prior to the date of the public hearing.

9. Oral Communications

In addition to the right to address the Planning Commission as provided above, interested persons or their authorized representatives shall have a right to address the Planning Commission during Oral Communications on any matter concerning Planning Commission business that is not on the agenda. Interested persons wishing to address the Planning Commission during Oral Communications shall fill out a written request form and present it to the Secretary prior to addressing the Commission. The Secretary shall forward such forms to the Presiding Officer, who will allot the time equally among those who have given notice, provided, however, that no such presentation shall exceed five (5) minutes unless an extension of time is approved by a majority of Commissioners present.

10. Addressing the Planning Commission

Any interested person may request permission from the Presiding Officer to address the Commission relevant to any subject matter on the agenda. The Presiding Officer may designate and declare a period of time for any such addresses.

11. Manner of Addressing the Planning Commission

Any person wishing to address the Planning Commission shall stand or raise the hand and wait to be recognized by the Presiding Officer. Preferably, using the microphone, he or she shall state his or her name and address for the record and proceed to address the Commission. All remarks and questions shall be addressed to the Commission through the Presiding Officer and not to any Commissioner or member of the public. No question shall be asked of a Commissioner or member of the Planning Staff without first obtaining permission of the Presiding Officer.

12. Points of Order

Only a Commissioner may raise a point of order. Points of order shall be limited to cases where the discussion or debate on the floor does not pertain to the item of business before the Commission at the time or is in violation of any of the provisions of these Rules.

13. Motions

Motions and seconds regarding the item of business before the Commission may be made by any Commissioner not otherwise disqualified to act with respect to that item of business. Once a motion is made and seconded, it may be amended if such amendment is accepted by the makers of the motion and second. The motion or amended motion pending before the Commission must be approved conditionally or unconditionally, denied with or without prejudice, continued for determination at a later time or withdrawn before another motion is made.

14. Call for the Question

A call for the question is a motion to halt debate on a motion before the Commission. A Commissioner calling for the question must receive a second to his or her motion. A properly moved and seconded call for the question must be voted on immediately and is not debatable. If the motion calling for the question passes, then the motion before the Commission on which the question was called must be voted on immediately without further debate.

15. Voting

Motions may generally be passed by a majority of Commissioners sitting to debate the matter. However, an approval of the general plan or general plan amendments require the affirmative votes of not less than a majority of the Commission's total members. Zoning amendments require approval by a majority of the members of the Commission not disqualified from voting on the zoning amendment.

In the case of a tie vote, it is considered that no action has been taken and the item returns to discussion until another motion is made. If another motion is not made by any of the Commissioners debating the matter, the item is considered denied. If another motion is made and another tie vote is taken, then a) the item is considered denied if the disqualification of a Commissioner from voting on the item has left an even number of voting Commissioners; or b) the item shall be continued for consideration at another date and time if the absence of a Commissioner has left an even number of voting Commissioners, or if an even number of voting Commissioners is the result of the abstention of a Commissioner due to his or her absence at a prior hearing where evidence on the item was presented. Prior to the date and time to which an item is continued, the abstaining or absent Commissioner shall rehabilitate him or herself by reviewing the record of the hearing from which he or she was absent so that he or she is able to vote on the item when it next comes before the Commission for consideration.

In the case of a final vote which is a tie vote, any member of the Commission who voted can make a motion to either reconsider the Commission's action at that meeting or to place reconsideration of the item on the agenda of the next meeting for action at that time.

When a motion for approval of a permit application fails due to a tie vote and the project application is deemed denied, the only finding applicable to that denial is that the number of votes necessary for approval was not forthcoming. In this event, it is preferable to move for denial with findings that make it clear was the project was not approved. If an application is deemed denied due to a tie vote, the Commission shall recommend to the City Council that no fee be charged to the applicant for filing an appeal from that denial.

16. Abstentions

Abstentions shall only be permitted if a Commissioner, due to a prior absence, is unable to vote on the item under consideration because he or she has not heard the material evidence that relates to that item.

17. Conflict of Interest

Any Commissioner who has a conflict of interest, as defined by the City's Conflict of Interest Guidelines, with respect to a matter coming before the Commission shall, as soon as the item is called on the agenda, state on the record that a conflict exists and the nature of the conflict. That Commissioner shall then disqualify him or herself from discussing or voting on such matter and shall remove him or herself from the Commissioner's dais.

However, there is an exception to the rule requiring disqualification based on a conflict of interest. If disqualification of a Commissioner or Commissioners renders it impossible for the Commission to take actions required under the California Government Code, the Commission may bring back as many disqualified Commissioners as is necessary to establish a quorum. Which Commissioner or Commissioners are brought back shall be determined by lot, or by some other impartial and equitable means of random selection.

Where it is not clear whether a Commissioner has an interest of a disqualifying nature, the affected Commissioner may request an opinion of the City Attorney, and, if still in doubt, may request the Commission to make a determination.

A Commissioner who is disqualified from discussing or voting on any matter to be considered by the Commission shall, if possible, so inform Staff and the Chair prior to the meeting at which that matter is to be considered.

18. Minutes

The minutes of the Planning Commission shall be kept by the Secretary. The Secretary shall be required to make record of such business as was actually passed upon by vote of the Commission, showing the vote of each Commissioner, including if he or she was absent or failed to vote on the matter considered. The Secretary shall not be required to make verbatim transcripts of the proceedings. However, the minutes shall be sufficiently informative so that basic facts and

relevant explanations are included. Further, the minutes shall include the names and addresses of persons addressing the Commission, the agenda item or other subject matter to which their remarks related and a brief description of the nature of their remarks.

As soon as possible after each Commission meeting, the Secretary shall cause a copy of the minutes thereof to be forwarded to the Commission on its regular agenda. A Commissioner who has a question regarding any portion(s) of said minutes shall make all reasonable efforts to notify the Secretary prior to the next regularly scheduled meeting so that the Secretary may have the opportunity to research the matter prior to consideration of the minutes at that meeting.

Only those Commissioners who were present at the meeting which is the subject of the minutes under consideration may vote on approval of the minutes. Approval of the minutes shall require a majority of those Commissioners present who are voting on the minutes.

The Secretary and Planning Commission Chair shall sign the final form of the approved minutes. The Secretary shall maintain a copy of said minutes in such a manner as to be readily available for inspection by the public.

D. APPLICATION WITHDRAWAL PROCEDURE

A permit application may be withdrawn by the applicant only if a request for withdrawal is submitted in writing to the Secretary of the Planning Commission prior to the commencement of the meeting at which the application is to be considered. If an applicant has not filed such a written request, and that applicant informs the Commission during the course of the meeting at which his or her application is to be considered that he or she wishes to withdraw the application, the Commission shall continue the matter to its next regular meeting in order to give the applicant an opportunity to file a timely written request for withdrawal. When the matter comes before the Commission for consideration at its next regular meeting, the Commission shall decide whether to grant or deny the request for withdrawal. Withdrawal of a permit application shall terminate all further action on the application. Once an application is withdrawn, it may not be refiled for one year from the date of such withdrawal.