



# MEMORANDUM

DATE: February 22, 2024  
TO: Planning Commission  
FROM: Planning Staff  
SUBJECT: Workshop – Discussion of Preliminary Zoning Ordinance Amendments for Compliance with State Senate Bill SB 9 (2021), SB 478 (2021) and Related Amendments

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## OBJECTIVE

The purpose of tonight's workshop is to provide the Planning Commission with a comprehensive draft of the zoning ordinance and related amendments to address SB 9 (2021) and SB 478 (2021) for urban lot splits and two-unit developments, for discussion and further input prior to public hearing.

## BACKGROUND

Tonight's workshop is a follow-up to the Planning Commission's workshops on December 5, October 26 and June 8, 2023 regarding these proposed ordinance amendments. These followed City Council's adoption and California Dept of Housing and Community Development's (HCD's) certification of the 2023 – 2031 Housing Element in May 2023.

### Housing Element

The Housing Element provides certain goals, policies and programs which are being addressed through this zoning text amendment. As a reminder, the goals and policies provide the overall direction, while the programs provide for specific actions by the City. Relevant goals, policies, and action programs to this zoning text amendment include:

*Goal 2: Facilitate and support the production of housing at all income levels, but especially affordable housing.*

*Policy 2.A: Provide zoning for a balance of housing types, sizes (bedrooms), tenure and the inclusion of affordable, senior and special needs dwelling units in multi-family developments consistent with the RHNA.*

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

- *Program 2.A.12: Amend the zoning ordinance for all districts that allow multifamily residential uses, to allow for building heights of at least 36 feet, to be able to accommodate 3-story development.*

*Goal 7: Avoid unreasonable government constraints to the provision of housing.*

*Policy 7.A: Improve the development review and approval process.*

- *Program 7.A.1: Continue to evaluate and implement changes to the zoning ordinance and permitting process to simplify and streamline approval of projects that meet the City's housing goals.*
- *Program 7.A.3: Continue to allow ministerial approval by the Community Development Director, subject to a minimal fee, of exceptions to the Zoning Ordinance for reasonable accommodation for housing for persons with disabilities per Government Code Section 65583(c)(3).*

### Workshop Follow-up Items

In the previous workshops, the Commission explored the implications of the ordinance to address SB 9 requirements, specifically the potential parking impacts related to urban lot splits/two-unit developments. Of concern was the tendency for residents to use garages for other uses besides parking and the potential loss of street parking that could result from urban lot splits. The Commission also voiced interest in permitting shared driveways both in the overlay district regulations and throughout the City's residential districts, where feasible, to minimize reduction in on-street parking for new development.

On the topic of implementation of the Housing Element Program 2.A.12 to raise the maximum height in the multifamily residential districts to 36 feet, to more readily allow for 3-story development, the Commission expressed interest in raising the limit for the single-family districts and not just multifamily districts. This would be to provide for greater equity in the development potential between neighboring properties, especially at the borders of the multifamily and single-family districts. Staff also noted that, prior to 1989, 35 feet was once permitted in all Residential districts and so there are some homes that are already above the current 30-foot limit for steeply sloped lots. The Commission requested further information on the history of why the limit was lowered.

The Commission also reviewed a preliminary draft of a reorganized residential district development regulations section, which would be to provide for clearer provisions by formatting the standards into a table for each district. This update was prompted by the required change to the height limits, per the Housing Element program, and changes to the floor area ratio limits required under SB 478.

Related to the reorganization of the development regulations, the Commission discussed exceptions to the district development regulations and procedures for modifications, as contained in Chapter 17.32 - General Use Provisions, and how to make these provisions clearer and more consistent.

Tonight's workshop pulls these various amendments together, in an effort to provide the Commission with a comprehensive package prior to public hearing.

## **DISCUSSION**

As noted above, tonight's meeting is to show how the proposed updates in the different sections of the Brisbane Municipal Code (BMC) relate to each other. The details of these proposed amendments set forth in the draft zoning text amendments provided in Attachments A, B, and C, but some highlights are as follows:

**Draft zoning text amendment for urban lot splits/two-unit developments (SB 9):** The draft provisions have been modified somewhat from the December 5<sup>th</sup> workshop to include the requirement that the minimum required off-street parking shall not be enclosed. This is to address the concern raised by the Commission about the loss of street parking in exchange for private garages, that may not always be used for the intended purpose of parking. The draft provision would require the minimum of one off-street space per primary dwelling unit not be provided within a garage. Any parking beyond the minimum may be provided within a garage. Also, the off-street parking provision and definition of driveway have been updated to allow for shared driveways. See the draft ordinance in Attachment A.

**Draft zoning text amendment for FAR maximums (SB 478):** These draft provisions were presented in the June 8<sup>th</sup> workshop and allow for a higher floor area ratio (FAR), of 1.25 versus 0.72, for multifamily developments of 3 units or more. This would be consistent with SB 478, which requires minimum FARs of at least 1.0 for 3 to 7 units and 1.25 for 8 to 10 units. The ordinance also removes the minimum lot size requirements consistent with the statute's requirements, so long as the property is a legally established lot. SB 478 prohibits lot size minimums for 3 to 10 unit developments. SB 478 also prohibits lot coverage maximums on 3 to 10 unit developments. The provisions for lower density, single family and duplex developments within the districts that allow multifamily development would remain unchanged from the previous workshop for SB 478 compliance. See the draft ordinance for these provisions along with formatting changes to the residential district regulations in Attachment B.

**Draft zoning amendments to raise residential height limits per Housing Element:** As noted above, Housing Element Program 2.A.12 calls for height limits of at least 36 feet for multifamily residential districts, to accommodate 3-story development. During the December workshop, the Planning Commission expressed interest in making the height limits more uniform across the residential districts and so, on a preliminary basis, staff has modified the draft ordinance to reflect that.

As requested, for the Commission's consideration, staff has provided an excerpt of the zoning map that is annotated to highlight the boundaries between multifamily and single-family districts (Attachment D). There are approximately 78 single family residential properties that are adjacent to the R-2 and R-3 multifamily zoning districts.

The Commission also asked about the original reasoning behind the change in the height standards from the 35-foot limit to be 28 or 30 feet, depending on lot slope. The 35-foot limit existed in the residential districts until 1989, with sloped roofs being allowed an exception as high as 38 feet, after

which time limit ranged from 28 to 35 feet depending on the slope of the lot. By the late 1990's, following adoption of the 1994 General Plan, the limit was reduced to the current 28 feet, or 30 feet for lots of 20 percent slope or more. In brief, it appears that the changes stemmed from a concern raised by City Council at that time about the mass or bulk of single-family homes and keeping the small-town character. The following General Plan policy and programs from the land use element and subareas chapter likely factored into the height reduction decision:

*“Policy LU.14 Provide clear performance standards in the Municipal Code for the physical character of all land use developments on private property.*

- *Program LU.14.a: Consider amendments to the Zoning Ordinance which contain clear and defined standards to protect creativity and diversity in design while addressing issues of height, scale, mass and articulation.*
- *Program LU.14.b: Review existing height limits in existing land use districts to determine whether current regulations result in structures appropriate in height and scale to the physical character of the City.*
- *Program LU.14.d Establish height limits for new zoning districts, taking into consideration the geology and topography of the area, as well as impacts to adjacent uses.*

*Policy CB.5 Keep the existing scale, character and intensity of use of Residential/Commercial Districts.*

- *Program CB.5.a: Encourage a modest scale and density character to residential development through standards established in the Zoning Ordinance.*

*Policy CB.8 Retain the intimate small-town character of Central Brisbane.*

- *Program CB.8.a: Consider revisions to the Zoning regulations to discourage overbuilding of residential parcels”*

As evidenced from the zoning, there was also apparently a desire to have the height limits essentially uniform between the Central Brisbane single family and multifamily residential districts (R-1, R-2 and R-3) of 28 feet or 30 feet for lots with slopes of 20 percent or more. Note also that the R-BA Brisbane Acres Residential district currently has a limit of 35 feet and the mixed-use districts of the NCRO-2 Downtown Brisbane Neighborhood Commercial District and the SCRO-1 Southwest Bayshore Commercial District both allow up to 35 feet building heights. The R-BA and SCRO-1 lots tend to be larger in size than those in Central Brisbane and generally are not as visible to public.

The draft ordinance provisions pertaining to height of residential structures are also provided in Attachment B.

**Other related draft amendments:** As discussed in the previous workshops, there are a number of related amendments that are being proposed. Many of these fall into the category of organizational cleanup items, to simplify the code or make the code more consistent for similar types of permits, especially related to development regulation exceptions. These also follow the thread of zoning administrator and planning commission responsibilities and the procedures for approving different permit types, but there are some updates to the standards as well. Many of these were previously discussed, but there are some additional changes included herein. The following is an outline of these draft code changes and the details are provided in the attached draft ordinance in Attachment C.

- Chapter 17.42 - Design Permits: Section 17.42.070 regarding modifications to a design permit has been updated to cross reference the updated Chapter 17.56 - Zoning Administrator. It leaves design permit modifications to the discretion of the zoning administrator or planning commission, depending on the nature of the modification.
- Chapter 17.46 - Variances: This chapter has been updated to remove the references to zoning administrator approval of variances. It leaves these permit types to the discretion of the Planning Commission, as has been the practice over the years.
- Chapter 17.47 - Exceptions to District Development Regulations (new): As a formatting structural change, this chapter would be added to Title 17 and would replace the sections pertaining to exceptions currently contained within Chapter 17.32 - General Use Regulations. These include:
  - Section 17.47.030 - Exceptions to Lot area, lot dimensions and lot lines, the content is largely unchanged except that urban lot split references have been added;
  - Height exceptions have been reorganized in Section 17.47.040 and the references to church steeples and radio towers in miscellaneous structures have been deleted since they have been superseded by other codes;
  - Setback exceptions have been reorganized in Section 17.47.050.A, as previously discussed, and the proposed allowable size for flags has been updated to 3 by 5 feet, per the Commission's direction;
  - As a type of setback exception, Section 17.47.050.B - Fences, hedges and walls has been included in this chapter and reorganized into a table format, similar to the other exceptions, along with some suggested updates and clarifications to the provisions. The height limit for fences within the side and rear setbacks is currently 8 feet, with the top 2 feet in lattice. A change is also suggested to allow for up to a 7 feet solid wood fence, without lattice, which corresponds to the threshold for which a building permit is required. If over 7 feet, up to 8 feet, then the top two feet would be required to be lattice or a similar open pattern, the same as currently required. Also, the provisions for chain-link fences have been clarified that chain-link fences may not be constructed in or adjacent to residential districts. As a new addition, fencing for certain districts that are public oriented, including the SP-CRO Sierra Point Commercial District, the NCRO-1 Brisbane Village Neighborhood Commercial District, TC-1 Crocker Park Trade

Commercial District, POAZ Parkside Overlay districts and PD Planned Development District, would by design permit or modification of a design permit.

- Also, within Section 17.47.050.B, the findings for approval of retaining walls over 6 feet in height have been updated to match those contained in Section 15.01.100, as adopted with the grading ordinance update in 2022.
- The Section 17.47.060 - Exception Modification Procedures has been added, as previously discussed, to bring together the various processes for modification approvals for consistency, under the purview of the zoning administrator, with findings listed for the exception type and a cross reference to Chapter 17.56 - Zoning Administrator, which is also being updated as noted below.
- Section 17.47.070 - Requests for reasonable accommodations has been pulled out as a separate administrative approval process through a building permit, as previously discussed.
- Chapter 17.52 - Appeals has been updated for clarity and consistency, with appeals on planning director and zoning administrator decisions to be 10 days and planning commission to remain at 15 days, except where specified otherwise in other sections of the BMC.
- Chapter 17.56 - Administration has been retitled to “Zoning Administrator” to reflect its actual content and updated to reflect the current application types that are under the zoning administrator’s purview and to add procedures.

## **NEXT STEPS**

Concurrent with this workshop, the draft ordinance provisions are under review with the City Attorney’s office, Director of Public Works/City Engineer, North County Fire Authority and the Building Division. Additional refinements may be forthcoming from that review before the draft zoning text amendments are finalized. Following these staff reviews and based on the Planning Commission’s direction, a draft ordinance will be brought back to the Commission, for public hearing and recommendation to City Council.

## **ATTACHMENTS**

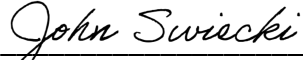
- A. Draft ordinance for two-unit developments and urban lot splits
- B. Draft ordinance for SB 478 compliance and update development regulations format
- C. Draft ordinance for updates to exceptions, height limits, exception procedures and related
- D. Zoning Map excerpted and annotated single family and multifamily residential boundaries
- E. [Planning Commission Workshop Memorandum, December 5, 2023 \(weblink\)](#)

- F. [Planning Commission Workshop Memorandum, Oct 26, 2023](#) (weblink)
- G. [Planning Commission Workshop Memorandum, June 8, 2023](#) (weblink)
- H. [Link to Current BMC Title 17](#) (weblink)



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Ken Johnson, Senior Planner



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John Swiecki, Community Development Director

## ATTACHMENT A

Note: **Red text** indicates proposed as new or strikeout changes to the Brisbane Municipal Code (BMC). BMC text shown in black is currently in effect and is provided for context.

### WORKSHOP DRAFT

#### Ordinance No. XX

### BRISBANE MUNICIPAL CODE TITLE 17 – ZONING AMENDMENTS TO ADD CHAPTER 17.05 RESIDENTIAL OVERLAY TO PROVIDE FOR URBAN LOT SPLITS AND TWO-UNIT DEVELOPMENTS IN SINGLE FAMILY RESIDENTIAL ZONES AND TO AMEND SECTION 17.02.235 TO ADD A DEFINITION FOR “PRIMARY DWELLING UNIT” OR “MAIN DWELLING” AND TO MODIFY SECTIONS 17.02.120 AND 17.02.220 DEFINING CARPORTS AND DRIVEWAYS

#### SECTION 1. Section 17.02.235 - Dwelling of Title 17 of the Brisbane Municipal Code is amended to add a definition for “Primary dwelling unit” or “Main Dwelling”, as follows:

##### 17.02.235 - Dwelling.

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

- A. "Dwelling group" means a group of two (2) or more detached buildings located upon the same site, each of which contains one or more dwelling units.
- B. "Dwelling unit" means a room or group of rooms including living, sleeping, eating, cooking and sanitation facilities, constituting a separate and independent housekeeping unit, designed, occupied, or intended for occupancy by one family on a permanent basis. Permanent residency shall mean continuous occupancy of the dwelling unit for a period of thirty (30) days or more.
- C. "Multiple-family dwelling" means a building or site containing three (3) or more dwelling units (also see "duplex"). The term includes single-room-occupancy dwelling units, typically comprised of one or two (2) rooms (which may include a kitchen and/or a bathroom, in addition to a bed), that are restricted to occupancy by no more than two (2) persons.
- D. "Accessory dwelling unit" means a separate dwelling unit created upon a site that contains a single-family dwelling, duplex, or multiple-family dwelling. Subject to the restrictions of this title, the accessory dwelling unit may be within, attached to, or detached from the single-family dwelling, duplex, or multiple-family dwelling. An accessory dwelling unit shall include permanent provisions for living, sleeping, eating, cooking, and sanitation. The term "secondary dwelling unit" shall have the same meaning throughout this title.



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E. "Junior accessory dwelling unit" means a dwelling unit that is no more than five hundred (500) square feet in size and contained entirely within a single-family dwelling. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the single-family dwelling. Junior accessory dwelling units are distinguished from accessory dwelling units in that they: (1) must include the conversion of existing, legally permitted floor area within an existing single-family dwelling; (2) must be owner occupied, or the main dwelling be owner occupied; and (3) are subject to unique standards that are not applicable to accessory dwelling units, as specified in Chapter 17.43 of this Title.

F. "Primary dwelling unit" or "Main Dwelling" means that/those dwelling unit(s) on a property that is not an accessory dwelling unit or a junior accessory dwelling unit.

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

**SECTION 2. Section 17.02.120 - Carport of Title 17 of the Brisbane Municipal Code is amended, as follows:**

17.02.120 - Carport. "Carport" means an accessory structure or a portion of a main structure designed for the storage of motor vehicles having a permanent roof and **enclosed on no more than two (2) sides not enclosed on two (2) or more sides.**

**SECTION 3. Section 17.02.220 - Driveway of Title 17 of the Brisbane Municipal Code is amended, as follows:**

17.02.220 - Driveway. "Driveway" means a private roadway which provides access to off-street parking or loading spaces, **the use of which is limited to persons residing or working on the site that the driveway is used to access, their invitees, licensees and business visitors. A driveway may be shared, to serve two or more sites, by access easement across one or more of the affected sites.**

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

**Section 4. Chapter 17.05 of the Brisbane Municipal Code is added to Title 17 as follows:**

**17.05 Two-unit Development Residential Overlay District - R-1 and R-BA Districts.**

**17.05.010 Purpose.** The purpose of this Chapter is to allow up to two detached or attached primary dwelling units on one lot of record, establish objective standards, and regulate certain subdivisions of a parcel in single-family zoning districts, in accordance with State law. This chapter shall be implemented

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and interpreted in conjunction with California Government Code Sections 65852.21 and 66411.7, as amended, and applicable objective standards and procedures contained within Chapters 17.06, 17.12, 17.43, 16.16, and 16.20 of the Brisbane Municipal Code.

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

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

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

**17.05.030 Definitions**

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

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

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- J. “Specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.
- K. “Two-unit Development” means a proposed housing development that contains two primary dwelling units.
- L. “Urban Lot Split” means a subdivision of an existing lot of record in a single-family zoning district into no more than two separate legal lots, which subdivision satisfies all of the criteria and standards set forth in this Chapter and Government Code Section 66411.7.

**17.05.040 Eligibility.**

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

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

- A. Development under this chapter shall not result in displacement of tenants from:
  - 1. A lot that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
  - 2. A lot that is subject to any form of rent or price control through the City’s valid exercise of its police power.
- B. Development under this chapter shall not result in:

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1. Demolition or alteration of a dwelling unit that has been occupied by a tenant in the last three years.
2. Demolition of a building, or alteration of exterior or structural walls to a building of more than 25 percent, as determined by the building official, when the building is occupied by a tenant.

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

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

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

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

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

| Development Scenario Options on a Single Lot | Single Family Residence | Duplex Dwelling (two attached primary units") | Two-unit Dwelling Group (two detached primary units") | ADU | JADU | Total Units |
|--|-------------------------|---|---|-----|------|-------------|
| 1.   | NA                      | 2   |   |     | NA   | 2           |
| 2.   | NA                      |   | 2   |     | NA   | 2           |
| 3.   | NA                      | 2   |   | 1   | NA   | 3           |
| 4.   | NA                      |   | 2   | 1   | NA   | 3           |
| 5.   | NA                      | 2   |   | 2   | NA   | 4           |
| 6.   | NA                      |   | 2   | 2   | NA   | 4           |

Notes:

1. Development of a single-family residence with an ADU and/or JADU is not subject to regulations under this chapter. See Chapters 17.06,17.12, 17.34 and 17.43 for applicable development regulations for ADU's or JADU's..
2. Four units is the maximum that may be permitted on a lot.

2. Primary Dwelling Unit Size. Each of the primary dwelling units shall be permitted to be at least 800 square feet in floor area, regardless of the zoning district's lot coverage and floor area ratio (FAR) limits. For primary dwelling units over 800 square feet, the zoning district floor area

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standards shall apply; provided, however, this shall not preclude the option to construct smaller primary dwelling units in compliance with the state building code. The minimum floor area for each unit shall be as permitted by the state building code.

3. Lot coverage. The district's lot coverage limit shall not apply.

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

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

5. Height of Primary Dwelling Units.

- (a) Where a primary dwelling unit utilizes the 4-foot side or rear setback allowance, for a reduced setback versus the district's setback, no portion of the building that is located in the area between the 4-foot setback and the district's setback minimum shall exceed 16 feet in height.
- (b) The maximum height of any primary dwelling unit on a ridgeline lot within the R-BA district, as defined in Section 17.02.695, shall be 24 feet, except for (i) an existing legal non-conforming structure, (ii) a replacement structure constructed in the same location and to the same dimensions as an existing legal non-conforming structure, or (iii) as approved by design permit per Section 17.12.040.L.

6. Off-Street Parking.

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

(c) Shared driveways may be permitted to serve more than one site, subject to approval by the City Engineer, based on finding that the driveway will not pose a hazard to public safety.

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

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

**17.05.080 Urban Lot Splits.** A parcel map for an urban lot split may be approved ministerially, subject to the ministerial parcel map procedures, requirements and development standards provided in this section.

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

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

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

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

1. Number of dwelling units. Development of up to four dwelling units may be built in the same lot area typically used for a single-family residence, with a lot split, as shown in Tables a and b:

**ATTACHMENT A – DRAFT ORDINANCE TWO-UNIT DEVELOPMENTS AND URBAN LOT SPLITS**

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

| Development Scenario Options for Each Resultant Lot Following Split | Single Family Residence | Duplex | Two-unit Dwelling Group | ADU | JADU | Total Units |
|---|-------------------------|--------|-------------------------|-----|------|-------------|
| Type A  | 1                       |        |                         |     |      | 1           |
| Type B  | 1                       |        |                         | 1   |      | 2           |
| Type C  | 1                       |        |                         |     | 1    | 2           |
| Type D  |                         | 2      |                         |     |      | 2           |
| Type E  |                         |        | 2                       |     |      | 2           |
| Type F  | 1                       |        |                         | 1   | 1    | 3           |
| Type G  |                         | 2      |                         | 1   |      | 3           |
| Type H  |                         |        | 2                       | 1   |      | 3           |

Note: Urban lot splits may utilize a combination of buildout types A – H, provided that all of the following conditions are met: a) the total number of units does not exceed four across the two lots, b) each of the two lots is to be developed with at least one primary dwelling unit, and c) development of ADUs and JADUs shall comply with Chapter 17.43.

**b. Lot Split - Resulting Lot Buildout Scenarios**

|                 | RESULTANT LOT 1       |            |            |            |            |            |            |            |            |
|-----------------|-----------------------|------------|------------|------------|------------|------------|------------|------------|------------|
| RESULTANT LOT 2 | Buildout Type (units) | Type A (1) | Type B (2) | Type C (2) | Type D (2) | Type E (2) | Type F (3) | Type G (3) | Type H (3) |
|                 | Type A (1)            | 2          | 3          | 3          | 3          | 3          | 4          | 4          | 4          |
|                 | Type B (2)            | 3          | 4          | 4          | 4          | 4          | NP         | NP         | NP         |
|                 | Type C (2)            | 3          | 4          | 4          | 4          | 4          | NP         | NP         | NP         |
|                 | Type D (2)            | 3          | 4          | 4          | 4          | 4          | NP         | NP         | NP         |
|                 | Type E (2)            | 3          | 4          | 4          | 4          | 4          | NP         | NP         | NP         |
|                 | Type F (3)            | 4          | NP         | NP         | NP         | NP         | NP         | NP         | NP         |
|                 | Type G (3)            | 4          | NP         | NP         | NP         | NP         | NP         | NP         | NP         |
|                 | Type H (3)            | 4          | NP         | NP         | NP         | NP         | NP         | NP         | NP         |

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

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

3. Lot coverage. The zoning district's lot coverage limit shall not apply.

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

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

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

5. Height of Primary Units.

(c) Where a primary dwelling unit utilizes the 4-foot side or rear setback allowance, for a reduced setback versus the district's setback, no portion of the building that is located in the area between the 4-foot setback and the district's setback minimum shall exceed 16 feet in height.

(d) The maximum height of any primary dwelling unit on a ridgeline lot within the R-BA district, as defined in Section 17.02.695, shall be 24 feet, except for (i) an existing legal non-conforming structure, (ii) a replacement structure constructed in the same location and to the same dimensions as an existing legal non-conforming structure, or (iii) as approved by design permit per Section 17.12.040.L.

6. Off-Street Parking.

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

(c) Shared driveways may be permitted to serve more than one site, subject to approval by the City Engineer, based on finding that the driveway will not pose a hazard to public safety.

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

(iii) The parcel is located within one-half mile walking distance of either a transit stop located in a high-quality transit corridor, as defined in Public Resources Code Section 21155(b), or a major transit stop, as defined in Public Resources Code Section 21064.3; or



**ATTACHMENT A – DRAFT ORDINANCE TWO-UNIT DEVELOPMENTS  
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- (iv) There is a designated parking area for one or more car-share facilities within one block of the parcel.

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

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

**17.05.090 Requirement for Building Permit**

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

**17.05.100 Conveyance of Separate Units on a Single Lot.**

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

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

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**ATTACHMENT B**

**Note: The Brisbane Municipal Code (BMC) Sections provided in this draft represent reformatting of the development regulations, for most of the districts that allow residential uses, to a table format and non-substantive changes are not shown. The Red text indicates substantive proposed changes. Refer also to the companion ordinance on exceptions to the development regulations and the existing ordinances [Mini TOC: Title 17 - ZONING | Municipal Code | Brisbane, CA | Municode Library](#)**

**DRAFT**

**Ordinance No. XX**

**BRISBANE MUNICIPAL CODE TITLE 17 – ZONING AMENDMENTS TO MODIFY THE FLOOR AREA RATIOS FOR MULTIFAMILY AND RESIDENTIAL MIXED USE ZONING DISTRICTS, CONSISTENT WITH CALIFORNIA SENATE BILL SB 478 (“HOUSING OPPORTUNITY ACT”) AND FOR ADMINISTRATIVE RESTRUCTURING OF THE DEVELOPMENT STANDARDS SECTIONS FOR THE RESIDENTIAL ZONING DISTRICTS**

**SECTION 1: Section 17.06.040 of Chapter 17.06 - R-1 Residential District is replaced in its entirety to read as follows:**

**17.06.040 - Development regulations.**

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

| Type                             | Description   | Single-family Dwelling   | Exceptions and Notes  |
|----------------------------------|---|--|---|
| Density of Development – maximum |   | 1 DU/5,000 square feet   | A single-family dwelling may be constructed on a lot of record with an area of less than five thousand (5,000) square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.47.030 Exceptions to Lot area, lot dimensions and lot lines.<br><br>See also Chapter 17.05 of this title for urban lot split and two-unit development provisions. |
| Lot Dimensions                   | Lot Area – minimum  | 5,000 square feet  |   |
|                                  | Lot Width - minimum   | 50 feet  |   |
|                                  | Lot Depth - minimum   | 100 feet   |   |
| Setback minimums                 | Front: For dwellings and structures, except garages and carports. | 15 feet for lots with a slope of less than fifteen percent (15%); or<br><br>10 feet for lots with a slope of fifteen percent (15%) or greater; or<br><br>Where fifty percent (50%) or more of the lots of record in a block have been improved with single-family dwellings, the average distance of the front outside wall of the single- | That portion of the structure that is subject to this setback exception (within the district standard setback area) shall not exceed 20 feet in height measured from finish grade.  |

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| Type       | Description   | Single-family Dwelling  | Exceptions and Notes  |
|------------|---|---|---|
|            |   | family structures from the front lot line on the same side of the street, if less than ten (10) or fifteen (15) feet, as otherwise applicable.  |   |
|            | Front: For garages and carports.  | 10 feet   | See exception allowing for lesser setback by City Engineer approval in Section 17.47.050  |
|            | Side: For ≥50 ft wide lot (For dwellings and structures, except garages and carports accessed from a street or alley.)  | 5 feet  | See setback exceptions in Chapter 17.47   |
|            | Side: For <50 ft wide lot (For dwellings and structures, except garages and carports accessed from a street or alley..) | 10 percent (%) of the lot width, but not less than 3 feet.  | See setback exceptions in Chapter 17.47   |
|            | Side: For garages or carports accessed from a street or alley along that side of the lot.                               | 10 feet   | See exception allowing for lesser setback by City Engineer approval in Section 17.47.050  |
|            | Rear.   | 10 feet   | See exceptions in Chapter 17.47, including decks and an allowance for a lesser setback for garages and carports on through lots, by City Engineer approval, in Section 17.47.050. |
| Coverage   | Lot Coverage  | 40 percent (%) of lot area  | See lot coverage definition in Section 17.02.495.   |
| Floor Area | Floor Area Ratio: For lots greater than (>) three thousand seven hundred (3,700) square feet.                           | 0.72  | See definition of floor area and floor area ratio in Section 17.02.315.   |
|            | Floor Area Ratio: For lots less than or equal (≤) to three thousand seven hundred (3,700) square feet                   | 0.72, plus up to two hundred (200) square feet for a garage parking space   |   |
| Height     | Height of dwellings and structures, if not within the setback areas and at least 15 feet from the front lot line.       | <del>36 feet</del><br><del>Twenty-eight (28) feet, for lots having a slope of less than twenty percent (20%); or</del><br><del>Thirty (30) feet, for lots having a slope of twenty percent (20%) or more.</del> | See the definition of height in Section 17.02.400.<br><br>See various exceptions in Chapter 17.47.  |
|            | Height of dwellings and structures for the area within 15 feet of the front lot line,                                   | 20 feet   | See the exception for garages in the front setback in Table 17.47.050.A   |

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| Type         | Description  | Single-family Dwelling  | Exceptions and Notes  |
|--------------|--|---|---|
|              | where less than a 15 foot setback is permitted.  |   |   |
|              | Height of garages and carports when permitted within the front setback area                    | 15 feet above the elevation of the center of the adjacent street when permitted by Section 17.47.050 of this title. |   |
| Articulation | Front: exterior side outside walls > 20 ft by 20 ft  | 30%   | See definition of articulation in Section 17.02.050 and interior and exterior side outside walls in Section 17.02.065 of this title.<br><br>Exempt from articulation requirements: <ul style="list-style-type: none"> <li>• Single story two (2) car garages.</li> <li>• Accessory structures not exceeding a floor area of one hundred twenty (120) square feet.</li> <li>• Walls that are smaller than those listed in this table.</li> </ul> |
|              | Side: exterior side outside walls that are greater than (>) 20 ft by 20 ft on ≥40 ft wide lots | 20%   |   |
|              | Side: interior side outside walls  | NA  |   |
|              | Rear: Rear outside wall  | 30%   |   |
| Landscaping  | Front Setback Area for lots with ≥30 ft front lot line (minimum %)                             | 15  | Note that new and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.  |
|              | Rear of newly constructed main structure on a downslope lot.                                   | Screened with trees and shrubs in accordance with a landscape plan approved by the planning director                |   |

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

C. Subdivision Recycling Area Requirements. For new subdivisions containing an area where solid waste is collected and loaded in a location which serves five (5) or more living units, adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided to serve the needs of the living units which utilize the area. This requirement shall also apply to all institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign

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clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.

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**SECTION 2: Section 17.08.040.A of Chapter 17.08 - R-2 Residential District is amended to read as follows:**

**17.08.040 - Development regulations.**

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

| Type                             | Description   | Single-family Dwelling   | Two-units | Multi-family (3 or more primary dwelling units) | Exceptions and Notes  |
|----------------------------------|---|--|-----------|---|---|
| Density of Development – maximum |   | 1 DU/2,500 square feet   |           |   | Except a lot having an area of 4,950 square feet or greater shall be considered conforming for a development density of two units.<br><br>See also Chapter 17.05 of this title for urban lot split and two-unit development provisions. |
| Lot Dimensions                   | Lot Area – minimum  | 5,000 square feet  | 4,950     | 7,500   |   |
|                                  | Lot Width - minimum   | 50 feet  | 50        | 50  |   |
|                                  | Lot Depth - minimum   | 100 feet   | 100       | 100   |   |
| Setback minimums                 | Front: For dwellings and structures, except garages and carports. | 15 feet for lots with a slope of less than fifteen percent (15%); or<br><br>10 feet for lots with a slope of fifteen percent (15%) or greater; or<br><br>Where fifty percent (50%) or more of the lots of record in a block have been improved with single-family dwellings, the average distance of the front outside wall of the single-family structures from the front lot line on the same side of the street, if less than ten (10) or fifteen (15) feet, as otherwise applicable. |           |   | That portion of the structure that is subject to this setback exception (within the district standard setback area) shall not exceed 20 feet in height. See height definition in section 17.02.400.                                     |
|                                  | Front: For garages and carports.                                  | 10 feet  |           |   |   |
|                                  | Side: For ≥50 ft wide lot   | 5 feet   |           |   |   |

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| Type       | Description   | Single-family Dwelling   | Two-units  | Multi-family (3 or more primary dwelling units)   | Exceptions and Notes  |
|------------|---|--|--|---|---|
|            | (For dwellings and structures, except garages and carports accessed from a street or alley.)  |  |  |   |   |
|            | Side: For <50 ft wide lot (For dwellings and structures, except garages and carports accessed from a street or alley..)               | 10 percent (%) of the lot width, but not less than 3 feet.   |  |   | See setback exceptions in Chapter 17.47   |
|            | Side: For garages or carports accessed from a street or alley along that side of the lot.   | 10 feet  |  |   | See exception allowing for lesser setback by City Engineer approval in Section 17.47.050  |
|            | Rear.   | 10 feet  |  |   | See exceptions in Chapter 17.47, including decks and an allowance for a lesser setback for garages and carports on through lots, by City Engineer approval, in Section 17.47.050. |
| Coverage   | Lot Coverage  | 50 percent (%) of lot area   |  |   | See lot coverage definition in Section 17.02.495.   |
| Floor Area | Floor Area Ratio: For lots greater than (>) three thousand seven hundred (3,700) square feet.   | 0.72   | 0.72   | 1.25<br><del>0.72</del>   | See definition of floor area and floor area ratio in Section 17.02.315.   |
|            | Floor Area Ratio: For lots less than or equal (≤) to three thousand seven hundred (3,700) square feet                                 | 0.72, plus up to two hundred (200) square feet for a garage parking space.   | 0.72, plus up to four hundred (400) square feet for garage parking spaces. | 1.25<br><del>0.72, plus up to four hundred (400) square feet for garage parking spaces.</del> |   |
| Height     | Height of dwellings and structures, if not within the setback areas and at least 15 feet from the front lot line.                     | 36 feet<br><br><del>Twenty-eight (28) feet, for lots having a slope of less than twenty percent (20%); or Thirty (30) feet, for lots having a slope of twenty percent (20%) or more.</del> |  |   | See the definition of height in Section 17.02.400.<br><br>See various exceptions in Chapter 17.47.  |
|            | Height of dwellings and structures for the area within 15 feet of the front lot line, where less than a 15 foot setback is permitted. | 20 feet  |  |   | See the exception for garages in the front setback in Table 17.47.050.A   |

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| Type         | Description  | Single-family Dwelling  | Two-units | Multi-family (3 or more primary dwelling units) | Exceptions and Notes  |
|--------------|--|---|-----------|---|---|
|              | Height of garages and carports when permitted within the front setback area                    | 15 feet above the elevation of the center of the adjacent street when permitted by Section 17.47.050 of this title. |           |   |   |
| Articulation | Front: exterior side outside walls > 20 ft by 20 ft  | 30%   |           |   | See definition of articulation in Section 17.02.050 and interior and exterior side outside walls in Section 17.02.065 of this title.<br><br>Exempt from articulation requirements: <ul style="list-style-type: none"> <li>• Single story two (2) car garages.</li> <li>• Accessory structures not exceeding a floor area of one hundred twenty (120) square feet.</li> <li>• Walls that are smaller than those listed in this table.</li> </ul> |
|              | Side: exterior side outside walls that are greater than (>) 20 ft by 20 ft on ≥40 ft wide lots | 20%   |           |   |   |
|              | Side: interior side outside walls  | NA  |           |   |   |
|              | Rear: Rear outside wall  | 30%   |           |   |   |
| Landscaping  | Front Setback Area for lots with ≥30 ft front lot line (minimum %)                             | 15  |           |   | Note that new and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.  |
|              | Rear of newly constructed main structure on a downslope lot.                                   | Screened with trees and shrubs in accordance with a landscape plan approved by the planning director                |           |   |   |

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

C. Recycling Area Requirements: For all new residential buildings having five (5) or more living units, institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. This requirement shall also apply to such existing developments for which building permit applications are submitted within a twelve-month

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period collectively adding thirty percent (30%) or more to the existing floor area of the development project.

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

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**SECTION 3: Section 17.10.040.A of Chapter 17.10 - R-3 Residential District is amended to read as follows:**

**17.08.040 - Development regulations.**

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

| Type             | Description   | Single-family Dwelling   | Two-units         | Multi-family (3 or more primary dwelling units) | Exceptions and Notes  |
|------------------|---|--|-------------------|---|---|
|                  | Density of Development – maximum                                  | 1 DU/1,500 square feet   |                   |   |   |
| Lot Dimensions   | Lot Area – minimum  | 5,000 square feet  | 5,000 square feet | No Requirement<br>4,950 for 3 units             | See Chapter 17.05 of this title for urban lot split and two-unit development provisions.  |
|                  | Lot Width - minimum   | 50 feet  | 50                | NA-50   |   |
|                  | Lot Depth - minimum   | 100 feet   | 100               | NA-100  |   |
| Setback minimums | Front: For dwellings and structures, except garages and carports. | 15 feet for lots with a slope of less than fifteen percent (15%); or<br><br>10 feet for lots with a slope of fifteen percent (15%) or greater; or<br><br>Where fifty percent (50%) or more of the lots of record in a block have been improved with single-family dwellings, the average distance of the front outside wall of the single-family structures from the front lot line on the same side of the street, if less than ten (10) or fifteen (15) feet, as otherwise applicable. |                   |   | That portion of the structure that is subject to this setback exception (within the district standard setback area) shall not exceed 20 feet in height. See height definition in section 17.02.400. |
|                  | Front: For garages and carports.                                  | 18 feet  |                   |   |   |



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| Type       | Description   | Single-family Dwelling   | Two-units  | Multi-family (3 or more primary dwelling units) | Exceptions and Notes   |
|------------|---|--|--|---|--|
|            |   |  |  |   | block average setbacks, then the garage setback minimum shall be three (3) feet behind the front wall of the main structure.<br><br>If the garage setback exemptions set forth in Section 17.32.070.A.3.a of this Title apply, the regulations of that section shall prevail.                  |
|            | Side: For ≥50 ft wide lot (For dwellings and structures, except garages and carports accessed from a street or alley.)  | 5 feet   |  |   | Notwithstanding the foregoing, the minimum side setback for garages, or carports accessed from a street or alley along that side of the lot shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic. |
|            | Side: For <50 ft wide lot (For dwellings and structures, except garages and carports accessed from a street or alley..) | 10 percent (%) of the lot width, but not less than 3 feet.                 |  |   |  |
|            | Side: For garages or carports accessed from a street or alley along that side of the lot.                               | 10 feet  |  |   | See exception allowing for lesser setback by City Engineer approval in Section 17.47.050   |
|            | Rear.   | 10 feet  |  |   | See exceptions in Chapter 17.47, including decks and an allowance for a lesser setback for garages and carports on through lots, by City Engineer approval, in Section 17.47.050.  |
| Coverage   | Lot Coverage  | 60 percent (%) of lot area   |  |   | See lot coverage definition in Section 17.02.495.  |
| Floor Area | Floor Area Ratio: For lots greater than (>) three thousand seven hundred (3,700) square feet.                           | 0.72   | 0.72   | <del>0.72</del> 1.25                            | See definition of floor area and floor area ratio in Section 17.02.315.  |
|            | Floor Area Ratio: For lots less than or equal (≤) to three thousand seven hundred (3,700) square feet                   | 0.72, plus up to two hundred (200) square feet for a garage parking space. | 0.72, plus up to four hundred (400) square feet for garage parking spaces. | <del>0.72</del> 1.25                            |  |

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| Type         | Description   | Single-family Dwelling   | Two-units | Multi-family (3 or more primary dwelling units) | Exceptions and Notes  |
|--------------|---|--|-----------|---|---|
| Height       | Height of dwellings and structures, if not within the setback areas and at least 15 feet from the front lot line.                     | 36 feet<br><del>Twenty-eight (28) feet, for lots having a slope of less than twenty percent (20%); or Thirty (30) feet, for lots having a slope of twenty percent (20%) or more.</del> |           |   | See the definition of height in Section 17.02.400.<br><br>See various exceptions in Chapter 17.47.<br><br>See the exception for garages in the front setback in Table 17.47.050.A   |
|              | Height of dwellings and structures for the area within 15 feet of the front lot line, where less than a 15 foot setback is permitted. | 20 feet  |           |   |   |
|              | Height of garages and carports when permitted within the front setback area   | 15 feet above the elevation of the center of the adjacent street when permitted by Section 17.47.050 of this title.  |           |   |   |
| Articulation | Front: exterior side outside walls > 20 ft by 20 ft   | 30%  |           |   | See definition of articulation in Section 17.02.050 and interior and exterior side outside walls in Section 17.02.065 of this title.<br><br>Exempt from articulation requirements: <ul style="list-style-type: none"> <li>• Single story two (2) car garages.</li> <li>• Accessory structures not exceeding a floor area of one hundred twenty (120) square feet.</li> <li>• Walls that are smaller than those listed in this table.</li> </ul> |
|              | Side: exterior side outside walls that are greater than (>) 20 ft by 20 ft on ≥40 ft wide lots  | 20%  |           |   |   |
|              | Side: interior side outside walls   | NA   |           |   |   |
|              | Rear: rear outside wall.  | 30%  |           |   |   |
| Landscaping  | Front Setback Area for lots with ≥30 ft front lot line (minimum %)  | 15   |           |   | Note that new and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.  |
|              | Rear of newly constructed main structure on a downslope lot.  | Screened with trees and shrubs in accordance with a landscape plan approved by the planning director   |           |   |   |

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| Type | Description                        | Single-family Dwelling  | Two-units | Multi-family (3 or more primary dwelling units) | Exceptions and Notes |
|------|------------------------------------|---|-----------|---|----------------------|
|      | Sites with Three (3) or More Units | Not less than ten percent (10%) of the lot area shall be improved with landscaping. |           |   |                      |

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

C. Refuse and Recycling Area Requirements.

1. So as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare, areas for depositing, collecting and loading refuse and recyclable materials shall be provided and fully enclosed within an enclosure a minimum of six (6) feet tall. All receptacles for collection and recycling shall be completely screened from view at street level. All enclosures and gates shall be designed to withstand heavy use. Wheel stops or curbs shall be provided to prevent dumpsters from banging into walls of enclosure. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. Lighting shall be provided at all enclosures for nighttime security and use. Lights shall be full cutoff luminaires, as certified by the manufacturer, with the light source directed downward and away from adjacent residences. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.

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

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**SECTION 4: Section 17.12.040.A of Chapter 17.06 - R-BA Brisbane Acres Residential District is amended to read as follows:**

**17.06.040 - Development regulations.**

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

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| Type                             | Description   | Single-family Dwelling  | Exceptions and Notes   |
|----------------------------------|---|---|--|
| Density of Development – maximum |   | 1 DU/20,000 square feet   | Not more than one single-family dwelling shall be located on each lot in the R-BA District, with the following exceptions.<br><br>Except as otherwise provided in Section 17.12.050, Density transfer, and Section 17.12.055, Clustered development, of this chapter, or Chapter 17.05 of this title for urban lot split and two-unit development provisions.<br>Also, a single-family dwelling may be constructed on a lot of record with an area of less than twenty thousand (20,000) square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.01.060 of Chapter 17.01 of this title. |
| Lot Dimensions                   | Lot Area – minimum  | 20,000 square feet  |  |
|                                  | Lot Width - minimum   | 110 feet  |  |
|                                  | Lot Depth - minimum   | 140 feet  |  |
| Setback minimums                 | Front.  | 10 feet   | See exception allowing for lesser garage setback by City Engineer approval in Section 17.47.050.   |
|                                  | Side.   | Ten percent (10%) of the lot width, but in no event more than fifteen (15) feet or less than five (5) feet.                                   | See also setback exceptions in Chapter 17.47   |
|                                  | Side: For garages or carports accessed from a street or alley along that side of the lot.     | 10 feet   | See exception allowing for lesser setback by City Engineer approval in Section 17.47.050   |
|                                  | Rear.   | 10 feet   | See exceptions in Chapter 17.47, including decks and an allowance for a lesser setback for garages and carports on through lots, by City Engineer approval, in Section 17.47.050.  |
| Coverage                         | Lot Coverage  | 25 percent (%) of lot area  | See lot coverage definition in Section 17.02.495.  |
| Floor Area                       | Floor Area Ratio: For lots greater than (>) three thousand seven hundred (3,700) square feet. | 0.72 provided, however, that in no event shall the floor area of all buildings on a lot exceed five thousand five hundred (5,500) square feet | Accessory dwelling units and junior accessory dwelling units are exempted from the floor area ratio limits as permitted in Chapter 17.43<br><br>See definition of floor area and floor area ratio in Section 17.02.315.  |
| Height                           | The maximum height of any structure outside the side and rear setbacks and more               | <del>36 feet</del><br><del>35 feet</del>  | See the definition of height in Section 17.02.400.   |

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| Type         | Description  | Single-family Dwelling  | Exceptions and Notes  |
|--------------|--|---|---|
|              | than 20 feet from the front lot line.  |   | See various exceptions in Chapter 17.47.  |
|              | For a distance of twenty (20) feet from the front lot line, but not within the side setbacks.  | Residential structures on sites sloping down from the adjacent street may be constructed to a height of twenty (20) feet above the elevation of the center of the street, so long; and<br>Garages and carports may be constructed to a height of fifteen (15) feet above the elevation of the center of the adjacent street and may exceed a height of thirty-six (36) feet, but the height of any permitted living area underneath shall not exceed thirty-six (36) feet from finish grade.  | See other exception for garages in the front setback in Table 17.47.050.A   |
| Articulation | Front: exterior side outside walls > 20 ft by 20 ft  | 30%   | See definition of articulation in Section 17.02.050 and interior and exterior side outside walls in Section 17.02.065 of this title.<br><br>Exempt from articulation requirements: <ul style="list-style-type: none"> <li>• Single story two (2) car garages.</li> <li>• Accessory structures not exceeding a floor area of one hundred twenty (120) square feet.</li> <li>• Walls that are smaller than those listed in this table.</li> </ul> |
|              | Side: exterior side outside walls that are greater than (>) 20 ft by 20 ft on ≥40 ft wide lots   | 20%   |   |
|              | Side: interior side outside walls  | NA  |   |
|              | Rear: rear outside wall  | 30%   |   |
| Landscaping  | All new and re-landscaping projects subject to the water conservation in landscaping ordinance (Chapter 15.70), except as permitted in Section 17.01.060 of Chapter 17.01 of this title. | Subject to approval by the planning director in consultation with the HCP plan operator. The plan shall show all proposed landscaping and the location of all protected trees and rare plants. The landscape plan shall be consistent with all of the following objectives: <ul style="list-style-type: none"> <li>• Preservation of protected trees and rare plants to the greatest extent possible;</li> <li>• Use of plants that are compatible with the natural flora and fauna, and are not invasive to the HCP area;</li> </ul> | Note that new and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.  |

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| Type | Description | Single-family Dwelling   | Exceptions and Notes |
|------|-------------|--|----------------------|
|      |             | <ul style="list-style-type: none"> <li>• Use of water conserving plants;</li> <li>• Use of plants that will effectively screen structures and blend with the natural landscape; and</li> <li>• Use of landscaping that is fire resistant.</li> </ul> |                      |

- A. Wildland Interface. The development shall incorporate such measures as the fire chief may deem necessary to protect against the spread of fire between the site and the adjacent wildland.
- B. HCP Compliance. All development within the R-BA District, except as provided in Section 17.01.060, shall comply with the requirements of the San Bruno Mountain Area Habitat Conservation Plan (HCP), including site activity review, environmental assessments, and operating programs for planned management units, consistent with the objectives and obligations set forth in the HCP.
- C. Ridgeline. Development on any site through which a ridgeline runs as identified in Figure 17.02.695, Ridgelines, shall be subject to design permit approval, except for accessory dwelling units and junior accessory dwelling units and except as provided in Section 17.01.060.
1. In addition to the required contents of application for design permit set forth in Section 17.42.020.A., story poles certified by a licensed architect, surveyor, civil engineer or contractor to represent the height of the proposed building shall be erected at the locations of its outer corners and roof peaks according to a plan pre-approved by the community development director. The upper one-foot length of each pole shall be painted OSHA yellow so as to be clearly visible from a distance.
  2. In addition to the findings required for issuance of design permits set forth in Section 17.42.040, the planning commission shall find that the building's placement, height, bulk and landscaping will preserve those public views of the San Bruno Mountain State and County Park as seen from the Community Park and from the Bay Trail along the Brisbane Lagoon and Sierra Point shorelines that are found to be of community-wide value. Methods to accomplish this may include varying the building's roofline to reflect the ridgeline's topography, orienting the building to minimize the impact of its profile upon public views, locating the building on the lower elevations of the site, and reducing the building's height below the maximum permitted in the district.
  3. An existing structure may be repaired or replaced in accordance with Section 17.38.090 without design permit approval, but any alteration or expansion which raises any portion of the roofline or increases the building's lot coverage shall be subject to design permit approval under this section.

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- D. Canyon Watercourses and Wetlands. Development of the site, including any temporary disturbance, shall be set back thirty (30) feet in each direction from the center line of any watercourse, and twenty (20) feet from the boundary of any wetlands. The specific location of watercourse center lines and wetland boundaries shall be determined by qualified personnel under the city's direction.
- E. Trails. The development shall incorporate public access trails to the extent feasible given the environmental sensitivities of the site.
- F. Nonconforming Residential Structures and Uses. Nonconforming residential structures and nonconforming residential uses, as defined in Section 17.02.560, may be repaired, restored, reconstructed, enlarged or expanded in accordance with the provisions of paragraph 3 of subsection L. of Section 17.12.040 and Chapters 17.34 and 17.38 of this title.
- G. Recycling Area Requirements. For new subdivisions containing an area where solid waste is collected and loaded in a location which serves five (5) or more living units, adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided to serve the needs of the living units which utilize the area. This requirement shall also apply to all institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. The area shall be located and fully enclosed so as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.

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**SECTION 5: Section 17.14.060.F of Chapter 17.14 - NCRO Neighborhood Commercial District  
NCRO-1 Brisbane Village NCRO-2 Downtown Brisbane district is amended to read as follows:**

D. Setbacks. The minimum required setbacks for any lot in the NCRO-2 district, except as provided in Chapter 17.47, shall be as follows:

1. Front setback: No requirement (0).
2. Side Setback: No requirement (0), except a ten (10) foot setback shall be required on the side setback where abutting any residential district.
3. Rear Setback: Ten (10) feet.

F. Height of Structures. The maximum height of any structure, except as provided in Chapter 17.47, shall be ~~twenty-eight (28) feet, except that the height may extend to thirty-five (35) feet when authorized by a~~

~~design permit granted pursuant to Chapter 17.42 of this title and provided the approving authority is able to make the findings set forth in Section 17.14.110 of this chapter thirty-six (36) feet.~~

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**SECTION 6: Section 17.16.040 of Chapter 17.16 - SCRO-1 SOUTHWEST BAYSHORE COMMERCIAL DISTRICT is amended to read as follows:**

D. Setbacks. The minimum required setbacks for any lot, except as provided in ~~Section 17.32.070 Chapter 17.47~~, shall be as follows:

1. Front setback:

a. Residential/Mixed Use: Ten (10) feet;

b. Commercial Uses: Twenty-five (25) feet for commercial uses;

c. Exception: The setbacks may be reduced to zero (0) where development includes dedication to public right-of-way for a frontage access road and sidewalk, to the satisfaction of the city engineer and fire department.

2. Side setback:

a. Residential/Mixed Use: Five (5) feet;

b. Commercial Uses: Fifteen (15) feet;

c. Exception: The planning commission may approve exceptions to the side setback regulations for commercial uses through the granting of a use permit.

3. Rear setback: Ten (10) feet.

F. Height of Structures. The maximum height of any structure, except as provided in Chapter 17.47, shall be ~~thirty-five (35) feet~~thirty-six (36) feet.

\*\*\*\*\*

**SECTION 7: Section 17.27.040.G of Chapter 17.27 - PAOZ PARKSIDE OVERLAY DISTRICT is amended to read as follows:**

G. Height.

1. Buildings and Architectural Features. The maximum building height shall be thirty-eight (38) feet and three (3) stories. Architectural features, including chimneys, elevators, towers, turrets, eaves, skylights



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or roof windows, utilities, utility penthouses, and solar panels, are allowed to project up to a maximum of ten (10) feet above the maximum building height.

2. Fences and Walls. Fences and walls in front yards shall be no more than three (3) feet in height from the adjacent sidewalk. Fences and walls in side yards shall not exceed six (6) feet in height. Deviations from maximum fence and wall heights shall require approval by the ~~planning commission~~ zoning administrator as provided in ~~Section 17.32.050.B.5. of this title~~ Chapter 17.47 of this title.

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## ATTACHMENT C

**Note:** The Brisbane Municipal Code (BMC) Sections provided in this draft represent both restructuring and update to the respective chapters. The **Red text** indicates substantive proposed changes. Refer also to the companion ordinance on exceptions to the development regulations and the existing ordinance [Mini TOC: Title 17 - ZONING | Municipal Code | Brisbane, CA | Municode Library](#)

### DRAFT

#### Ordinance No. XX

#### BRISBANE MUNICIPAL CODE TITLE 17 – ZONING AMENDMENTS

**TO CLARIFY THE REVIEWING AUTHORITY FOR DESIGN PERMIT MODIFICATIONS, CHAPTER 17.42 AND VARIANCES, CHAPTER 17.46; CREATE A SEPARATE CHAPTER AND UPDATE EXCEPTIONS TO THE DISTRICT DEVELOPMENT REGULATIONS, CHAPTER 17.47; UPDATE THE APPEALS PROCEDURES, CHAPTER 17.52; AND RE-TITLE AND UPDATE THE ZONING ADMINISTRATOR PROCEDURES CHAPTER 17.56**

**SECTION 1: Section 17.42.070 - Amendment of design permit—Minor modifications of Chapter 17.42 - Design Permits is updated to read as follows:**

**17.42.070 - Amendment of design permit—~~Minor m~~Modifications.**

A. Amendments or modifications to a design permit shall require approval by the ~~planning commission, except that the zoning administrator per Section 17.56.090 of this title, or the planning commission if so referred by the zoning administrator.~~ ~~shall have authority to approve the following matters:~~

~~1. Any items which, under the terms of the design permit, have been delegated to the zoning administrator for approval, either as a condition for issuance of the permit or at any time thereafter;~~

~~2. Minor changes during the course of construction which do not materially affect the use, nature, appearance, quality or character of the project.~~

~~B. The application requirements, public hearing procedures and findings required for amendments or modifications to a design permit shall be as prescribed in Sections 17.42.020, 17.42.030 and 17.42.040 of this chapter.~~

**SECTION 2: Chapter 17.46 - Variances is updated to read as follows:**

### Chapter 17.46 - VARIANCES

Sections:

**17.46.010 - Application—Required circumstances.**

Applications for variances from the strict application of the terms of this title may be made and variances granted when the following circumstances are found to apply:

- A. That any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and district in which the subject property is located;
- B. That because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of this title is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.

**17.46.020 - Application—Form—Contents.**

Application for variance shall be made in writing by a property owner, lessee, purchaser in escrow, or optionee with the consent of the owners, on a form prescribed by the ~~planning director-zoning administrator~~. The application shall be accompanied by a fee, set by the city council, a plan of the details of the variance requested and evidence showing:

- A. That the granting of the variance will not be contrary to the intent of this title or to the public safety, health and welfare; and
- B. That due to special conditions or exceptional characteristics of the property or its location, the strict application of this chapter results in practical difficulties and unnecessary hardship. "Hardship," as used in this chapter does not mean personal or financial hardship but refers to the conditions in subsection B of Section 17.46.010.

**17.46.030 - Application—Hearing date—Notice.**

The planning commission shall conduct a public hearing on the application for a variance. Notice of such hearing shall be given as set forth in Chapter 17.54.

**17.46.040 - Granting.**

- A. After the conclusion of the public hearing or continuations thereof, the planning commission ~~or zoning administrator~~ may grant or deny a variance from the strict application of the regulations established by this chapter. The commission may impose any reasonable conditions deemed necessary to achieve the purpose of this title.
- B. A variance shall be effective the seventh (7th) day after planning commission ~~or zoning administrator~~ approval unless the action is appealed to the city council, ~~or in the case of the zoning administrator, to the planning commission,~~ in which case the variance shall not be effective until final action upon the appeal.

**17.46.050 - Nonconforming uses not allowed.**

The use of lands or buildings not in conformity with the regulations specified for the district in which such lands or buildings are located may not be allowed by the granting of a variance.

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**SECTION 3: Sections 17.32.050 - Fences, Hedges and Walls, 17.32.055 - Exceptions – Lot Area, Lot Dimensions and Lot Lines, 17.32.060, 17.32.060 - Height Limit, 17.32.070 - Setback Requirements, 17.32.080- Request for Reasonable Accommodations are removed and replaced in their entirety with the new Chapter 17.47 - Exceptions to District Development Regulations, which reads as follows:**

## **17.47 - EXCEPTIONS TO DISTRICT DEVELOPMENT REGULATIONS**

### **17.47.010 Purpose of Chapter**

The purpose of this chapter is to provide standards and procedures for recognition of certain substandard lots as legal lots for development, as well as exceptions to specified district development regulations for certain structures and other built features.

### **17.47.020 Applicability**

Unless indicated otherwise in this title, the exceptions provided in this chapter shall apply to all districts.

### **17.47.030 Exceptions to Lot area, lot dimensions and lot lines.**

Lots sizes and dimensions shall conform to the district development regulations, except as provided herein.

#### **A. Substandard Lots.**

1. No substandard lot shall be independently developed if it is less than five thousand (5,000) square feet in area and if it was owned in common with contiguous property in the same district on October 27, 1969. A substandard lot at least five thousand (5,000) square feet in area may be developed as a standard site under the applicable district regulations.
2. In any R district, single-family dwellings only may be erected on any substandard lot less than five thousand (5,000) square feet in area, if the lot was not owned in common with contiguous property in the same district on October 27, 1969.

3. A substandard lot may be created and developed in the R-1 and R-BA districts subject to the provisions of the Two-unit Development Residential Overlay District - R-1 and R-BA Districts, per Chapter 17.05.
4. As an exception to A.1, a property in the R-1 Residential district consisting of four (4) contiguous lots of record totaling at least nine thousand six hundred fifty (9,650) square feet that were owned in common on October 27, 1969, may be developed as two (2) sites, each consisting of one pair of contiguous lots.
5. Any substandard lot created through a parcel map, resubdivision or lot line adjustment approved by the city after October 27, 1969, shall be recognized as a standard lot.
6. Contiguous substandard lots owned in common may be subject to merger in compliance with this section and Municipal Code Chapter 16.12.

**B. Modification in Conjunction with Application for Tentative Map.** The planning commission may approve an application for a modification to the lot dimension regulations set forth in Title 17, Zoning, for real property located in any subdivision proposed in compliance with Title 16, Subdivisions, subject to the following findings:

1. The property is of such size or shape, or is subject to such title limitations of record, or is affected by such topographical location or conditions, or is to be devoted to such use that it is impossible, impractical or undesirable in a particular case for the subdivider to fully conform to the regulations;
2. Each lot or parcel subject to the modification will be capable of being developed in accordance with the other applicable provisions of the zoning ordinance; and
3. The modification conforms with the spirit and purpose of this title.

**C. Lot Line Adjustment.** In compliance with the procedures set forth in Chapter 16.32 of Title 16, Subdivisions, the planning director may approve a lot line adjustment that will not increase the degree of noncompliance or otherwise increase the discrepancy between existing conditions and the requirements of the Zoning Ordinance, even though the resulting parcels may not fully comply with the development regulations of the applicable zoning district. **Where an interior lot line exists, a lot line adjustment may also be utilized to effectuate an urban lot split resulting in substandard lots subject to the provisions of the two-unit development residential overlay district, per Chapter 17.05.**

**D. Elimination of Interior Lot Lines.** A property owner may eliminate an interior lot line between record lots in common ownership through recordation of a declaration of merger signed by the property owner and acknowledged by the community development director, as prescribed by Chapter 16.12 of Title 16, Subdivisions.

## **17.47.040 - Height Limit Exceptions**

Heights of structures shall conform to the district development regulations, except as provided herein.

### **A. Height Exception Limits.**

The following height limit exceptions apply to all zoning districts:

**Table 17.47.040.A**

| Type                     | Applicability  | Height Exception  | Eligible for Modification?  |
|--------------------------|--|---|---|
| Chimney                  | Chimney not exceeding 3 feet in width or depth.  | Feature may be ≤ 5 feet over the district height limit, or as required to comply with the California Building Code.   | No. Modification to the height exception provided may only be by variance, per Chapter 17.46, subject to the findings therein.                                  |
| Miscellaneous structures | Cupolas, flag poles, monuments, water tanks, mechanical appurtenances and similar structures. <del>Church steeples, radio and other towers</del> | Subject to use permit approval by the Planning Commission.  | Not through this chapter. Exceptions to the district height standards for these structures is per Chapter 17.40 of this title, subject to the findings therein. |
| Rooftop solar            | Rooftop solar energy systems, including those for water heating as well as photovoltaic purposes.  | Feature may be ≤ 24 inches above the roofline of the structure on which it is mounted, measured from the exterior roofing material to the highest point of the panel, regardless of the building height. If > 24 inches above the roofline and over the district height limit, the feature is subject to approval by the zoning administrator, per Section 17.32.060.B. | Yes (see Section 17.47.060)   |

~~Accessibility improvements~~ (Formatting Note: Replaced and revised to be administrative permit through a building permit. See draft BMC 17.47.070, below.)

### 17.47.050 - Setback Exceptions

Setbacks from lot lines to buildings and structures shall conform to the district development regulations, except as provided herein.

**A. Setback Exception Limits.** Notwithstanding any other provision of this title, certain structures or portions thereof may extend into a front, rear or side setback area to the extent permitted by the following chart and subject to applicable building and fire codes:

**Table 17.47.050.A**

| Type   | Applicability   | Front Setback Exception (ft) | Rear Setback Exception (ft)                                   | Side Setback Exception (ft)  |
|--|---|------------------------------|---|--|
| Residential Garages, Carports and Parking Decks in the R-1, R-2, R-3 and R-BA districts    | <ul style="list-style-type: none"> <li>If located within the setback area, a garage, carport, or parking deck may not exceed 15 feet in height above the centerline of the adjacent street.</li> <li>Notwithstanding the allowable exceptions, placement is subject to approval by the city engineer, based upon a finding that no traffic or safety hazard will be created.</li> <li>A garage or carport in compliance with this subsection may exceed the district height limit, but the height of any permitted living space underneath shall not exceed the district height limit.</li> </ul> | 0                            | Interior rear: NA<br><br>Exterior rear (i.e. through lots): 0 | Interior side: NA<br><br>Exterior side (i.e. corner street or alley lots): 0 |
| Overhanging Architectural Features   | Includes such features as eaves and cornices that extend from the wall of a building and into the setback area.   | 5                            | 7   | 2.5  |
| Gutters and downspouts   |   | 5                            | 7   | 2  |
| Cantilevered Windows   | <ul style="list-style-type: none"> <li>Includes window(s) extending from the wall of a building into the setback area such as bay windows, box windows, etc.</li> <li>To qualify for the exception, the window may not include floor area. If the window includes a built-in bench seat or shelf, 16 inches or higher from the floor, without steps, the area will not be counted as floor area regardless of the clear height above the bench or step (see also Floor Area defined, Section 17.02.315).</li> </ul>   | 5                            | 7   | 3  |
| Decks and Balconies  | Either free-standing or extending from a building.  | 5                            | 5   | NA   |
| Roof Decks and associated guardrails over a garage that is subject to a setback exception. | <ul style="list-style-type: none"> <li>Roof decks over garages that are subject to the garage setback exception may not be covered by a roofed or unroofed structure (i.e. pergola over a roof deck), except that the</li> </ul>  | 0                            | Interior rear: NA<br><br>Exterior rear (i.e. through lots): 0 | NA   |

| Type   | Applicability   | Front Setback Exception (ft) | Rear Setback Exception (ft) | Side Setback Exception (ft)           |
|--|---|------------------------------|-----------------------------|---------------------------------------|
|  | <ul style="list-style-type: none"> <li>portion of a deck covered by an eave from an adjacent building segment may cover the portion of the deck not to exceed 3 feet from the edge of the building wall</li> <li>Roof decks for ADUs are not included, but ADUs are addressed separately in Chapter 17.43.</li> </ul>   |                              |                             |                                       |
| Stairs, Ramps and Landings to a building entrance  | Includes stairs, ramps or landings that are unenclosed.<br>May not drain onto the neighbor's property. Materials must be non-combustible in the side setback, to the satisfaction of the building official.   | 0                            | 5                           | 0                                     |
| Awning over a building entrance or landing   | Allowed as a type of projection from a building. May not drain to the neighbor's property.  | 5                            | 5                           | 0                                     |
| Roofed Accessory Structures (such as detached home offices and art studios, sheds and gazebos) | <ul style="list-style-type: none"> <li>The building or structure portion within the setback area may not exceed <del>8</del>-10 feet in height measured from lowest grade immediately adjacent to the wall or the alignment of the supporting posts and may not have a floor area within the setback area in excess of 120 square feet.</li> <li>These exceptions do not apply to accessory dwelling units. See Chapter 17.43.</li> </ul> | NA                           | 5                           | Interior side: 3<br>Exterior side: NA |
| Unroofed Accessory Structures (such as arbors, trellises, pergolas and gateways)               | The structure's portion within the setback area may not exceed <del>8</del> -10 feet in height and may not cover more than 15% of the front setback area  | 0                            | 5                           | 3                                     |
| Ponds, Fountains and Similar Decorative Water Features   | Feature to be ≤ Six (6) Feet in Height<br>May not include swimming pools, spas or exposed plumbing for water features.  | 0                            | 0                           | NA-0                                  |
| Decorative Artwork   | Feature to be ≤ Six (6) Feet in Height.<br>The artwork shall not block access to a building entrance or otherwise create a safety hazard.   | 0                            | 0                           | NA 0                                  |
| Flag pole & flag   | <ul style="list-style-type: none"> <li>Not more than one (1) pole per lot</li> <li>Height of pole ≤ twenty (20) feet</li> <li>Individual flag size ≤ 3 by 5 ft, with up to two on a pole</li> <li>May not include advertising.</li> <li>Unlighted only.</li> </ul>  | 5                            | 5                           | NA                                    |



| Type                     | Applicability   | Front Setback Exception (ft) | Rear Setback Exception (ft) | Side Setback Exception (ft) |
|--------------------------|---|------------------------------|-----------------------------|-----------------------------|
|                          | <ul style="list-style-type: none"> <li>Flags shall be maintained in good repair.</li> </ul> |                              |                             |                             |
| Accessory Dwelling Units |   | See Chapter 17.43.           |                             |                             |
| Fences, hedges and walls |   | See Section 17.32.050        |                             |                             |

**Notes:**

1. NA: Not applicable. In such cases, the standard setback provided in the zoning district’s development regulations shall prevail.
2. The exceptions set forth in this Table shall not be construed to include chimney boxes, swimming pools and spas, exposed plumbing, or mechanical equipment such as heating and air conditioning units or pool pumps, and no exceptions to the setback requirements shall be permitted for any of these structures.
3. The exceptions do not waive the requirement to obtain any other required permits from the City, including, but not limited to, a building permit. New construction or tenant improvements on commercial properties may also require a design permit, in which case the requested exception may be included in the design permit application. In a case of conflict between the setback exceptions listed here and other laws, regulations or conditions of approval, the most stringent requirements shall prevail.
4. Fire Code may prohibit certain materials from use within setback areas.
5. Non-combustible flatwork, such as concrete pavers and stone on grade, are not subject to setbacks and so are not listed as exceptions.

**B - Fences, hedges and walls.**

Fences, hedges and walls may be erected within setback areas as provided herein.

**1. Fences.**

**a. Height and Fence Type Allowances.** Where a fence, as defined in Section 17.02.300, is to be constructed in a setback area, the following height and material provisions shall apply, except where otherwise indicated in Section 17.47.050.B.1.b. See also the definition of height for fences and walls in Section 17.02.400.C.

| Zoning District | Height Limit – Front Setback (feet) | Height Limit - Side and Rear Setbacks, except that portion extending to the front setback area (feet) | Special provisions   |
|-----------------|-------------------------------------|---|--|
| R-1             | 6                                   | 7 or 8*   | *If the top 2 feet of a fence is constructed of lattice, or other open pattern, to the satisfaction of the planning director, the fence may be 8 ft in total height in the side and rear setbacks, but not extending into front setback. <b>Otherwise, the</b> |
| R-2             | 6                                   | 7 or 8*   |  |
| R-3             | 6                                   | 7 or 8*   |  |
| R-BA            | 6                                   | 7 or 8*   |  |
| NCRO-2**        | 6                                   | 7 or 8*   |  |

| Zoning District | Height Limit – Front Setback (feet)  | Height Limit - Side and Rear Setbacks, except that portion extending to the front setback area (feet) | Special provisions   |
|-----------------|--|---|--|
|                 |  |   | <p>limit is 7 ft, but must step down to 6 ft in the front setback area. <del>Otherwise the limit is 6 ft.</del></p> <p>**In the NCRO-2 district, if the site is adjacent to a residential district property, a fence that adequately screens the site from the adjacent residential property shall be installed along the property line.</p> <p>**In the NCRO district, where applicable, a design permit may be used to specify fence requirements.</p> |
| R-MHP           | 8  | 8   | Fence heights may be up to ten (10) feet along the mobile home park perimeter abutting a public right-of-way   |
| C-1             | 8  | 8   |  |
| M-1             | 8  | 8   |  |
| SCRO-1          | 8  | 8   |  |
| TC-2            | 8  | 8   |  |
| HC              | 8  | 8   |  |
| C/P-U           | 8  | 8   |  |
| NCRO-1          | By design permit when associated with new development or modification of a design permit for existing development. See Chapter 17.42 for design permits and Section 17.56.090 for modification of a design permit. |   |  |
| PAOZ            |  |   |  |
| PD              |  |   |  |
| SP-CRO          |  |   |  |
| TC-1            |  |   |  |
| All Districts   | Temporary chain-link demolition/construction barricades not exceeding eight (8) feet in height are permitted in all districts, subject to removal prior to final inspection.                                       |   |  |

**b. Overriding Factors and Other Requirements**

- i. In any district, where the director of public works determines that traffic visibility would be affected, due to the location of the fence being near or adjacent to the public right-of-way, the fence height may be required to be reduced, ~~to the satisfaction of the director. shall be reduced to not less than three (3) feet~~
- ii. Where a fence is proposed to be constructed, or has been constructed, adjacent to city property, a boundary survey or other evidence of the location of the fence shall be submitted to the director of

public works upon request if the director determines that a question exists as to whether the fence encroaches on public property.

- iii. In all districts, the following materials are prohibited: razor wire, barbed wire and similar materials with sharp edges or points.
- iv. Chain-link fence may not be constructed in or adjacent to residential districts and are required to be black or green vinyl coated, except as approved by the planning director where the fence is not readily within public view or is otherwise screened from view by landscaping.
- v. For fences within the San Bruno Mountain Area Habitat Conservation Plan (HCP), within the R-BA, SCRO-1 and certain PD districts, the height, location and/or design of fences may be subject to restrictions for protection or passage of butterflies, consistent with the site’s HCP operating program or other required permitting consistent with HCP requirements. ~~As a condition of approval for properties subject to the San Bruno Mountain Area Habitat Conservation Plan, the planning commission shall restrict the height, location and/or design of fencing to maintain sufficient openness to allow passage of butterflies while remaining consistent with building code requirements.~~
- vi. When construction of a fence would impair the visibility of address numbers on a house, such numbers shall be relocated with approval of the fire prevention officer, ~~or the fence may be required to be lowered.~~
- vii. ~~Gated driveways are subject to approval by the planning director, based on a determination that the gate will not create a safety hazard.~~
- viii. A building permit may be required for construction of a fence, depending on such factors as height or location relative to a retaining wall, and is subject to building official determination.

## 2. Retaining Walls

a. **Height.** Where a retaining wall, as defined in Section 17.02.690, is to be constructed in a setback area, the following provisions shall apply. See also the definition of height for fences and walls in Section 17.02.400.C.

| All Zoning Districts | Permitted Height in All Setback Areas | Special Provisions   |
|----------------------|---------------------------------------|--|
|                      | 6 feet of exposed wall surface        | None   |
|                      | More than 6 feet                      | >6 feet of exposed wall surface, where one or more of the following conditions are met, to the satisfaction of the planning director:<br>Retaining walls visible to the public are designed to be as visually unobtrusive as possible by means including, but not limited to:<br>(i) Ensuring walls are architecturally integrated with proposed or existing structures on the site; |

| All Zoning Districts | Permitted Height in All Setback Areas | Special Provisions   |
|----------------------|---------------------------------------|--|
|                      |                                       | <p>(ii) Ensuring wall faces are decorative and treated with color, texture, architectural features, trelliswork or other means to visually break up the wall expanses;</p> <p>(iii) Screening with water conserving, non-invasive landscaping that at maturity will soften and reduce the visible expanse of walls?<br/> <b>(Note: Taken from BMC Section 15.01.110.B.2)</b></p> <p><del>a. The surface of the retaining wall is treated with coloring, texture, architectural features, trelliswork, or other means that will visually divide the height of the retaining wall into horizontal sections of no more than six (6) feet.</del></p> <p><del>b. Water conserving, non-invasive landscaping of sufficient size at maturity will be planted and maintained to provide screening so that no more than six (6) feet of the height of the retaining wall would remain visible.</del></p> <p><del>c. The retaining wall is located on a cut slope so that it is not readily visible from off the site.</del></p> |

**b. Overriding Factors and Other Requirements.**

- i. Where construction of a retaining wall would result in grading, the provisions of Chapter 15.01 shall apply. If planning commission review of a grading permit is required, per Section 15.01.110, the retaining wall design will be considered as part of the planning commission’s grading review.
- ii. A building permit is generally required for construction of a retaining wall, subject to building official determination.

**3. Hedges**

**a. Height Limit:** Where a hedge, as defined in Section 17.02.390, is to be established within a setback area, the height limit shall be as follows:

|                                | Permitted Height in All Setback Areas |
|--------------------------------|---------------------------------------|
| Hedges in all zoning districts | 8 feet                                |

**b. Overriding Factors and Other Requirements**

In any district, where the director of public works determines that traffic visibility would be affected, due to the location of the hedge being near or adjacent to the public right-of-way, the height may be required to be reduced to less than 8 feet, to the satisfaction of the director.

**4. Modification to Fence, Wall and Hedge Exceptions:** All other exceptions, or modification to exceptions, pertaining to fences, walls or hedges shall require approval by the zoning administrator, as provided in Section 17.46.060.

## 17.47.060 - Exception Modification Procedures

Modifications to the height and setback exceptions specified in sections 17.32.060.B and C are subject to zoning administrator approval and are subject to the following procedures, except where indicated otherwise:

- A. **Application form, fee and plans.** Application for a height or setback exception shall be made in writing by the owners of the property, lessee, purchaser in escrow, or optionee with the consent of the owners, on a form prescribed by the planning director. At a minimum, the application shall be accompanied by a fee, set by the city council, and plans showing the details of the proposed feature.
- B. **Findings.** The zoning administrator may approve an exception if the zoning administrator is able to make the applicable findings
  - 1. Height Exception Modification for a rooftop solar height exception modification if the zoning administrator is able to make the finding that the feature would not result in a specific adverse impact upon the public health and safety
  - 2. Setback Exception Modification may be approved for any of the structures or features listed in Table 17.47.050.A if the zoning administrator is able to make the findings that:
    - a. It will not create any significant adverse impacts upon adjacent properties in terms of loss of safety, privacy, noise or glare.
    - b. The feature will be constructed in a sound and workmanlike manner, in compliance with all applicable provisions of the building and fire codes.
    - c. Structures are designed to be compatible with the primary dwelling(s) on the site.
    - d. Architectural features are designed to be compatible with the building on which they are located.
  - 3. Fence, hedge or wall Exception Modification may be approved if the zoning administrator is able to make the findings that:
    - a. The proposed fence, hedge or wall will not create a safety hazard for pedestrians or vehicular traffic.
    - b. The appearance of the fence, hedge or wall is compatible with the design, appearance and scale of the existing buildings and structures in the neighboring area.
- A. **Notice procedure and action by the zoning administrator.** The procedure for action by the zoning administrator shall be as provided in Chapter 17.56.
- D. **Appeals:** The decision of the zoning administrator or planning commission shall be effective on the close of the appeal period, unless an appeal has been filed pursuant to Chapter 17.52 of this title.
- E. **Notice to the Planning Commission:** All decisions of the zoning administrator shall be reported to the planning commission by email prior to the expiration of the appeal period. If any two members of the planning commission indicate in writing a desire to appeal the decision it shall be considered

appealed and placed on the next available commission agenda, following the public hearing notice procedures provided in Chapter 17.54.

### **17.47.070 - Requests for reasonable accommodations.**

Modifications or exceptions to the regulations set forth in Title 17, that are not otherwise addressed in Sections 17.32.060.B & C, may be granted as reasonable accommodations, for residential and non-residential improvements or new development, designed for, intended for occupancy by, or with supportive services for, persons with disabilities. Such requests may be granted by the planning director through a building permit, if through the building permit application it has been demonstrated that:

- A. The exception is necessary for current or future accessibility to the property or building by disabled people that cannot be addressed within either the applicable zoning district height limits or setbacks, or through the exceptions provided in Sections 17.32.060.B & C.
- B. The accessibility improvement(s) will be constructed in compliance with all applicable provisions of the state and local building and fire codes.

**17.47.080 - Nonconforming Structures and Features.** Any structure, architectural feature, wall, or other improvement lawfully constructed within a setback area or over the height limit and constituting a nonconforming structure as defined in [Section 17.02.560](#), may be allowed to continue in accordance with [Chapter 17.38](#) of this title.

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## **SECTION 4: Chapter 17.52 - Appeals is updated to read as follows:**

### **Chapter 17.52 - APPEALS**

#### **Sections:**

#### **17.52.005 - Appeal from planning director.**

Any person may appeal to the planning commission any order, requirement, decision, determination or other action of the planning director with regard to any matter arising under this title, including any determination concerning the contents, subject matter or completeness of any application, any determination concerning which permit or other approval is required.

#### **17.52.010 - Appeal from zoning administrator.**

A. Appeals from the decision of the zoning administrator, except decisions related to housing development permits per Chapter 17.45 of this title, shall be made to the planning commission.

B. Appeals from decisions of the zoning administrator related to housing development permits per Chapter 17.45 of this title shall be made to the city council.

**17.52.020 - Appeal from planning commission.**

Any person may appeal to the city council any order, requirement, decision, determination or other action of the planning commission in the manner provided in this title, including any planning commission decision of an appeal from an order, requirement, decision, determination or other action of the planning director or zoning administrator.

**17.52.030 - Method and timing.**

A. All appeals shall be in writing and filed with the city clerk and shall be accompanied by a fee, as set by the city council, and shall clearly state the reason for appeal. The appeal shall be filed according to the following schedule, unless specified otherwise in this title:

- Appeal of Planning Director decision: close of business ~~ten (10) fifteen (15)~~ days after the decision
- **Appeal of Zoning Administrator decision: close of business ten (10) days after the decision**
- Appeal of planning commission decision: close of business fifteen (15) days after the decision

**If the appeal closing date would be on a weekend or City observed holiday, the appeal date shall be the close of business on the next business day.**

B. In addition to the above, any two (2) members of the planning commission may appeal a decision of the planning director or zoning administrator, according to the schedule provided, by filling the appeal in writing with the city clerk. The mere fact that two (2) members of the planning commission have filed an appeal does not of itself require disqualification of either such commission member from hearing and/or deciding the item.

C. In addition to the above, any two (2) members of the city council may appeal any decision, according to the schedule provided, by filling the appeal in writing with the city clerk. The mere fact that two (2) members of the city council have filed an appeal does not of itself require disqualification of either such councilmembers from hearing and/or deciding the item.

D. Upon receipt of such appeal, the city clerk shall notify the planning department and the applicant. A time shall then be set as soon as practical but within sixty (60) days after the receipt of such appeal (unless the

applicant agrees otherwise) for a public hearing. Notice of such hearing shall be given as set forth in Chapter 17.54.

**17.52.040 - Planning department report.**

The planning department, upon receipt of the notice of appeal, shall prepare a report of the facts pertaining to the decision and shall submit such report to the appeal hearing body along with the department's recommendation and the reasons for the action.

**17.52.050 - Action on appeal.**

The planning commission or city council shall conduct a de novo hearing on the appeal. At the close of the public hearing, the appeal hearing body may affirm, reverse or modify the decision, either at the same meeting or at such later meeting as the body may determine, for any basis permitted by law. If action is not taken on the appeal within sixty (60) days after the clerk's receipt of the appeal, unless the applicant otherwise agrees or the appeal hearing body has determined that additional time was needed in order for it to make an informed decision, the original action shall be deemed affirmed. To reverse or modify the decision shall require a majority of the quorum

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**SECTION 5: Chapter 17.56 - Administration is replaced in its entirety with Chapter 17.56 - Zoning Administrator, which reads as follows:**

**Chapter 17.56 - ZONING ADMINISTRATOR ADMINISTRATION**

**Sections:**

**17.56.010 - Zoning administrator—Function created.**

There is created the function of zoning administrator which shall be carried out by the planning director.

**17.56.020 - Zoning administrator—Powers and duties.**

The zoning administrator shall have all the powers and duties of a board of zoning adjustment as set forth in Section 65900 through 65909 of Article 3 of Chapter 4 of Title 7 of the Government Code of the state.

**17.56.030 - Zoning administrator—Action on applications.**



A. Except as otherwise provided in this title, the zoning administrator shall decide the following, unless referred by the zoning administrator to the planning commission:

1. Design review in the POAZ districts pursuant to Section 17.27.060.A;
2. Wireless telecommunication facilities pursuant to Section 17.32.032;
3. Height and setback exception modification permits pursuant to Section 17.32.060;
4. Certain sign permits pursuant to Section 17.36.060;
5. Amendments or modifications to a design permit pursuant to Section 17.42.070;
6. Housing development permits pursuant to Section 17.45.050;
7. Zoning conformance pursuant to Section 17.56.080;
8. Planning application modifications pursuant to Section 17.56.090.
- ~~9. Variances, accessibility improvements, large family daycare homes~~

B. In connection with the applications provided for in this section, the zoning administrator shall have all the duties and responsibilities set forth in this title for the planning commission.

#### **17.56.080 - Zoning conformance.**

Zoning conformance shall be determined in conjunction with, and as a part of, building permits. If it has been determined that any proposed construction is not in conformity with the regulations for the district in which the construction is to be located, the determination shall be provided by the zoning administrator, or the zoning administrator's authorized representative. No building permit shall be issued until the zoning conformance has been confirmed by the zoning administrator or the authorized representative.

#### **17.56.090 - Planning Application Modifications.**

An applicant may request modifications to a previously approved planning application prior to or during construction. Examples of such modifications include alteration to an approved building or structure, change in configuration of site improvements, or modification or deletion of conditions of approval. A modification shall not automatically extend the approval expiration date beyond that of the original planning application.

Modifications are classified in three ways based on the significance of the proposed change and amount of additional review required: A) substantial conformance, B) minor, or B) major. The Zoning Administrator shall determine the type of modification required based on the criteria specified below. This decision shall be final.

**A. Substantial Conformance. Modifications that are in substantial conformance with the original planning application can be approved as part of the building permit review process.**

**1. Substantial conformance is generally defined as a modification or change that:**

- a. Results in a project with reduced or inconsequential changes in size, scale, design, or intensity; or
- b. Is necessary to accommodate parking requirements, utility configurations or other mechanical or operational components of a project identified during building permit review or construction; or
- c. Cumulatively would not result in substantive changes to the overall project.

**2. Public notification shall not be required for substantial conformance modifications.**

B. Minor Modification. Modifications that result in minor changes to an approved planning application require review and approval by the Zoning Administrator.

1. Minor modification is generally defined as a modification where all of the following circumstances apply:

- a. The modification would not result in a Major Modification, as defined below, to the approved site plan or project design; and
- b. The modification would not significantly change the nature of the approved use(s); and
- c. The modification would not significantly intensify the approved use(s); and
- d. The modification would not result in any new or substantially greater environmental effects than the originally approved project.
- ~~e. A maximum of twenty percent (20%) reduction in lot area, building coverage and yard requirements;~~
- ~~f. A maximum of twenty percent (20%) increase in the height limit in fence, wall and hedge requirements.~~

2. Procedures for minor modifications are as provided in Section 17.56.110, or, where otherwise provided in this title, according to the original permitting procedures.

C. Major Modification. Modifications that result in a significant change require review and approval by the original decision-making body, whether zoning administrator or planning commission. If the original decision maker was the planning commission or city council, whether in the first instance or on appeal, then public noticing and public hearing for approval by the planning commission are required.

1. A modification to a project is considered major if any of the following circumstances apply:

- a. The modifications involve substantive changes to the approved site plan or project design. A substantive change, for the purpose of this section, includes but is not limited to:
  - i. A change that is visually conspicuous from the public right-of-way or adjacent properties; or
  - ii. A change that results in non-conformance with City standards or policies in order to comply with updated Federal or State laws including, but not limited to, the Americans with Disability Act, Building Code requirements, or Fire Code requirements; or
  - iii. A change that alters the intent of a project-specific condition of approval.
- a. The modifications significantly change the nature of the approved use; or
- b. The modifications significantly intensify the approved use; or
- c. The modifications may result in new or substantially greater environmental impacts than the originally approved project; or
- d. The modifications involve major policy decisions or unique land use characteristics, as determined by the Zoning Administrator.

2. Procedures for major modifications are as provided in Section 17.56.110, or, where otherwise provided in this title, according to the original permitting procedures.

### **17.56.100 - Other Permits.**

Findings for permits types provided elsewhere in this title shall be subject to the findings and procedures provided therein. Where procedures are not otherwise provided in this title, the zoning administrator procedures shall be as provided in Section 17.56.110.

### **17.56.110 - Procedures.**

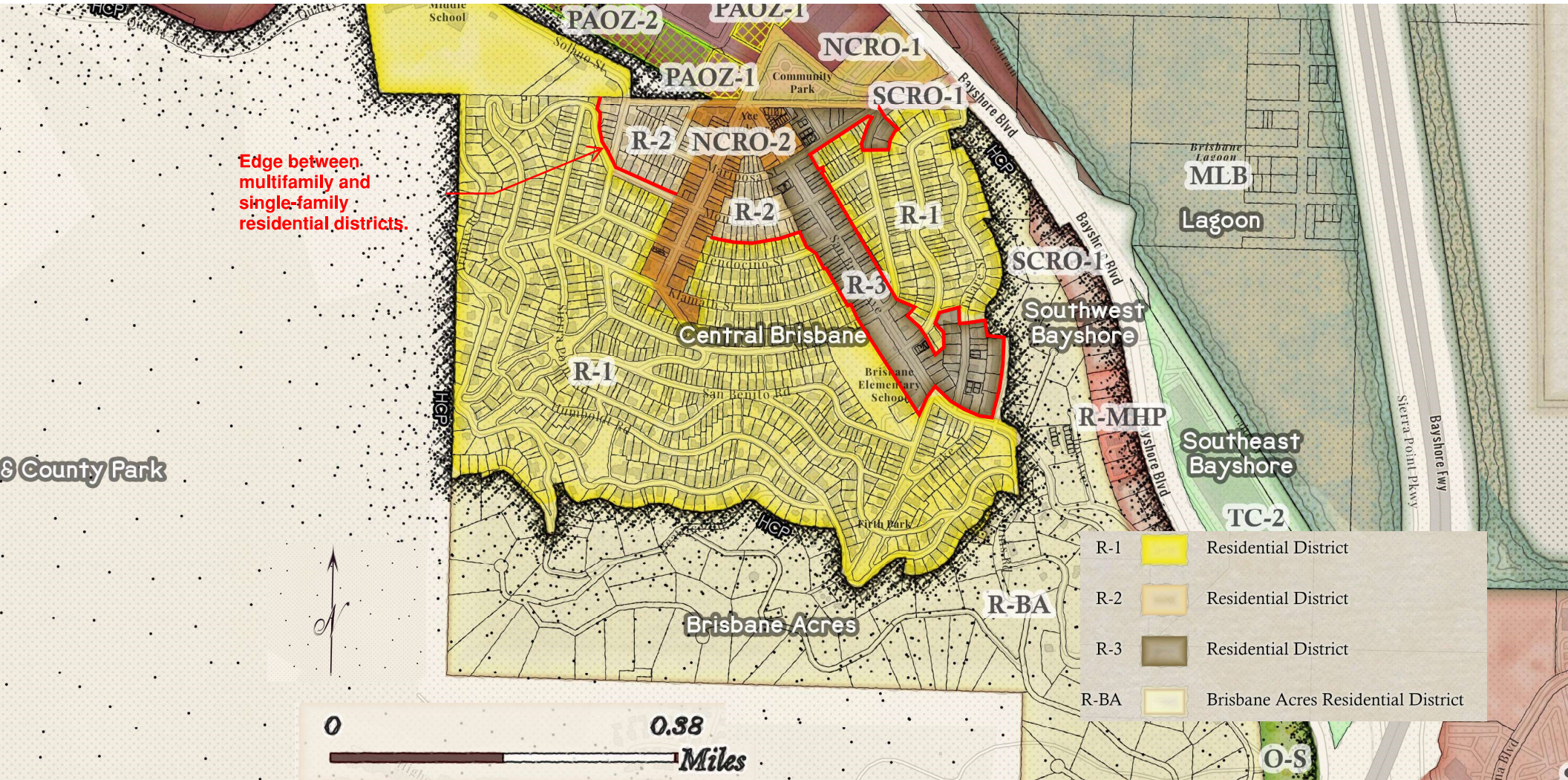
The following procedures shall apply to minor modifications and other zoning administrator permits, unless provided otherwise in this title.

- A. **Application form, fee and plans.** Application shall be made in writing by the owner(s) of the property, lessee, purchaser in escrow, or optionee with the consent of the owners, on a form prescribed by the planning director. At a minimum, the application shall be accompanied by a fee, set by the city council, and plans showing and describing the details of the proposed.
  
- C. **Notice procedure and action by the zoning administrator.**
  - 1. **Notice of recommended decision and action:**
    - a. The zoning administrator shall provide notice of the application and publish a staff report with a recommended decision to grant or deny the permit at least ten (10) days prior to a decision on the permit application. The notice shall be mailed to all owners of property adjacent to, and directly across the street from, the exterior boundaries of the subject property.
    - b. If no written public comments are received objecting to the recommended decision by the date indicated on the notice, at least ten (10) days following the issuance of the notice, the zoning administrator shall act on the application consistent with the recommendation contained in the staff report and the decision shall be effective immediately.
  - 2. **Public hearing, when required:**
    - a. If written public comments objecting to the recommended decision are received, that relate to the required findings, the zoning administrator shall hold a public hearing on the application. Notice of the hearing shall be given to all owners of property adjacent to, or directly across the street from the exterior boundaries of the subject property, and any party that has requested notice or provided written public comments on the application. The notice of public hearing shall be mailed not less than ten (10) or more than thirty (30) days before the date of the hearing. Alternatively, the zoning administrator may refer the application to the planning commission for public hearing and decision.
    - b. The zoning administrator, or if referred, the planning commission, may either grant or deny the application subject to the required finding(s). The zoning administrator or planning commission may grant the permit subject to such conditions as deemed necessary or appropriate to meet the required findings.
  
- D. **Appeals:** The decision of the zoning administrator or planning commission shall be effective on the close of the appeal period, unless an appeal has been filed pursuant to Chapter 17.52 of this title.

- E. **Zoning administrator—Reporting decisions to planning commission.** All decisions of the zoning administrator that are subject to public hearing shall be reported to the planning commission by email prior to the expiration of the appeal period. If any two members of the planning commission indicate in writing a desire to appeal the decision it shall be considered appealed and placed on the next available commission agenda, following the public hearing notice procedures provided in Chapter 17.54.

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**ATTACHMENT D**  
**Zoning Map Excerpt**  
**Annotated to Highlight**  
**Single-Family/Multifamily**  
**Borders**



Edge between multifamily and single-family residential districts.

|      |   |                                     |
|------|---|-------------------------------------|
| R-1  |  | Residential District                |
| R-2  |  | Residential District                |
| R-3  |  | Residential District                |
| R-BA |  | Brisbane Acres Residential District |