CITY COUNCIL AGENDA REPORT

Meeting Date: September 17, 2020

From: John Swiecki, Community Development Director

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

Community Goal/Result
Community Building

Purpose

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

Recommendation

That the City Council introduce Ordinance No. 653.

Background

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

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

Discussion

<u>Zoning Amendments</u>

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

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

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

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

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

Title 15 Amendments

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

Fiscal Impact

None.

Measure of Success

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

Attachments

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

John Swiecki, Community Development Director

Clay Holstine, City Manager

ATTACHMENT 1

REDLINE COPY OF PROPOSED AMENDMENTS

Proposed Zoning Text Amendments: RZ-1-20 ADU

Table of Contents

13.04.453 - Disclosure and sewer lateral certificate; when required. 3
15.08.130 - Additions, alterations or repairs—Compliance with construction codes. 4
15.44.080 - Section 903 amended—Automatic sprinkler systems. 5
Chapter 15.10 - Additions, alterations, and major rebuilds to existing buildings. 9
17.01.060 - Requirement for lot of record and infrastructure improvements. 12
17.02.235 - Dwelling. 14
17.06.020 - Permitted uses. (R-1) 15
17.06.040 - Development regulations. 15
17.08.020 - Permitted uses. (R-2) 18
17.08.040 - Development regulations. 18
17.10.020 - Permitted uses. (R-3) 22
17.10.040 - Development regulations. 22
17.12.020 - Permitted uses. (R-BA) 26
17.12.040 - Development regulations. 26
17.14.020 - Permitted uses. (NCRO-1 & NCRO-2) 30
17.14.060 - Development regulations for the NCRO-2 district 30
17.16.020 - Permitted uses. (SCRO-1) 33
17.16.040 - Development regulations. 33
17.27.020 - Permitted uses. (PAOZ-1 & PAOZ-2) 38
17.27.040 - Development regulations for the PAOZ-1 district. 38
17.27.050 - Development regulations for the PAOZ-2 district. 40
17.28.120 - Amendment or modification of PD permit. 43
Chapter 17.32.070 - Exceptions – Setback requirements. 44
Chapter 17.34.020 – Minimum requirements. (Parking) 50
Chapter 17.38 - NONCONFORMING USES AND STRUCTURES 52
17.38.010 - Continuation of nonconforming uses and structures. 52
17.38.020 - Change or replacement of nonconforming use. 52
17.38.030 - Expansion of nonconforming uses. 52
17.38.040 - Maintenance and repair of nonconforming facility. 53
17.38.050 - Abandonment of nonconforming uses. 53

17.38.060 - Reconstruction or replacement of nonconforming facility. 53
17.38.070 - Maintenance and repair of nonconforming structures. 54
17.38.080 - Alteration or expansion of nonconforming structures. 54
17.38.090 - Repair and replacement of nonconforming residential structures. 54
17.38.100 - Replacement of nonconforming nonresidential structures. 55
17.38.110 - Addition of Accessory Dwelling Units to Nonconforming Uses or Structures. 55
Chapter 17.43 - Accessory Dwelling Units and Junior Accessory Dwelling Units 55
17.43.010 - Purposes of chapter. 55
17.43.020 - Definitions. 56
17.43.030 – Permit Requirements. 58
17.43.040 – Development regulations for accessory dwelling units. 59
17.43.050 - Accessory dwelling units in multiple-family dwellings. 61
17.43.060 - Development regulations for junior accessory dwelling units. 62
17.43.070 - Prohibition on sale and limitation on rental. 64
17.43.080 – Delay of enforcement of building standards. 64
17.43.090 - Appeals 65

Proposed Zoning Text Amendments: RZ-1-20 ADU

13.04.453 - Disclosure and sewer lateral certificate; when required.

A. A person must possess or obtain a sewer lateral certificate issued under Section 13.04.452 before the city will issue a final building permit when the person has undertaken work that:

1. Triggers the requirements of Chapter 15.10 ~~Section 15.08.140~~ of this code; or.

2. Is associated with a change in water service (e.g., change in meter size or the addition of a meter).

B. Beginning April 20, 2015, any person intending to sell or transfer a fee interest in real property must disclose the requirements of this section to each of the following, except as provided in subsection C:

1. The person's real estate broker or agent, if any;

2. The person to whom the real property is intended to be sold or transferred;

3. The real estate broker or agent, if any, of the person to whom the real property is intended to be sold or transferred;

4. The escrow company or holder involved in the real property sale or transfer, if any.

C. Subsection B does not apply to:

1. Sales or transfers of individual units within a condominium as defined in Section 17.02.150 of this code;

2. Sales or transfers of less than a fee interest, e.g., a leasehold;

3. Sales or transfers to a fiduciary in the course of the administration of a decedent's estate, a guardianship or a conservatorship;

4. Transfers from one co-owner to one or more other co-owners;

5. Transfers to a revocable trust if the trust is for the benefit of the grantor(s);

6. Transfers made by a trustor to an intervivos trust;

7. Transfers between spouses or between registered domestic partners;

8. Transfers to a financial institution, trust deed holder, or trustee of a deed of trust, as part of foreclosure or similar process.

D. The director shall prepare a handout or other written material, to be made available to the public, describing the requirements of this section. A person may satisfy the disclosure requirements of subsection B by providing a then current copy of the handout or other written material to those parties identified in subsection B.

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

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

15.44.080 - Section 903 amended—Automatic sprinkler systems.

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

903 Automatic fire extinguishing systems.

(a) Notwithstanding any other provisions of this Code or any other code or ordinance of the City of Brisbane, automatic fire sprinkler systems, approved by the Fire Marshal, shall be installed in the following buildings and structures that are classified as new construction:

1. For all occupancies except R-3 occupancies: Any new building or structure, regardless of size, except stand alone, uninhabitable buildings, garages and sheds having a floor area of less than 400 square feet.

2. For all R-3 occupancies: Any new single-family or duplex structure, excluding any detached accessory structure that does not constitute habitable space having a floor area of less than 400 square feet.

(b) When additions or alterations made to an existing building fall within the requirements under Brisbane Municipal Code Chapter 15.10,~~Section 15.08.140,~~ an automatic fire sprinkler system shall be provided for the entire building.

(c) Other Areas. An automatic fire sprinkler system shall be installed in all garbage compartments, rubbish and linen chutes, linen rooms, incinerator compartments, dumb waiter shafts, and storage rooms when located in all occupancies except Group R, Division 3. An accessible indicating shut off valve shall also be installed.

(d) Condominium Conversions. An automatic fire sprinkler system shall be installed for all condominium conversions.

(e) Where automatic fire sprinkler systems are required to be installed, the following additional requirements shall also be satisfied, as applicable:

1. A minimum of three (3) copies of plans and specifications for automatic sprinkler installations, plus water supply calculations, shall be provided to the Fire Department for review and approval prior to commencement of the installation work.

2. All required automatic sprinkler systems shall be approved by the Fire Department.

3. All acceptance tests and such periodic tests as required by the Fire Marshall or pursuant to NFPA Pamphlets No. 13, 13D, 13R and/or Subchapter 5, Title 19, California Code of Regulations, shall be conducted and, where applicable, witnessed by a representative of the Fire Department.

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

15.08.140 - Additions or alterations in excess of fifty percent of floor area.

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

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

1. For the purposes of this Section 15.08.140, the "floor area" of a building or structure shall mean the sum of the gross horizontal areas of a floors of all building or structure measured from the interior face of the exterior walls, but excluding each of the following:

    a. Any area where the floor to ceiling height is less than six (6) feet; or

    b. Any detached garage or other detached accessory structure which does not constitute habitable space; or

    c. Any attached carport or covered deck.

2. The "standards for new construction" shall mean: (a) the requirements of the California Buildings Code adopted by this Title 15; and (b) the storm water management and discharge requirements established by Chapter 13.06 of the Brisbane Municipal Code ; and (c) the standard specifications and street standards adopted by Section 12.24.010 of the Brisbane Municipal Code.

3. Calculation of the changes to the structure are to be determined by the building official, who may require documentation of applicants regarding effected areas and/or impose conditions of approval upon issuance of a building permit. The building official shall have the authority to determine whether combinations of additions or alterations, or combinations thereof are subject to subsection A of this Section 15.08.140 or if they qualify under the exceptions.

C. Exceptions to subsection A of Section 15.08.140:

1. Additions or alterations performed at different periods of time shall be considered to have been made within a five (5) years period if any building permits are issued or any work is commenced within five (5) years following the date of completion of any earlier work on the same building or structure. The date of completion shall normally be established as the date on which final inspection approval of the earlier work is granted by the city.

2. The area of any additions and/or alterations not exceeding a cumulative total of four hundred (400) square feet, permitted to be made under the provisions of

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

3. Work involving exterior surfaces, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck shall not be considered alterations subject to the provisions of this chapter.

4. Alterations, renovations or repairs which do not essentially change the original size, configuration, and habitable floor area of the building or structure or basic uses of the rooms within the building or structure, shall not be considered as additions or alterations subject to the provisions of this; provided, however:

    a. This exception includes conversion of existing room(s) in an existing single-family dwelling to an accessory dwelling unit, as provided by Chapter 17.43 of the Brisbane Municipal Code, as long as the use of those rooms remains the same (e.g. bedroom for bedroom, etc.).

    b. Conversion or recognition of previously undocumented rooms to be permitted as habitable may be included in the calculation of alteration of space, at the discretion of the building official.

    c. This exception may not be applied where the building official has determined that the alteration or repair constitutes a "major rebuild", where seventy-five percent (75%) or more of the combined surface area of the interior walls and ceilings of the habitable rooms are to be removed to expose support members.

B. Where an existing building or structure is required by this Section 15.08.140 to be brought into conformity with the standards for new construction, the building official shall have authority in individual cases to grant modifications of any such requirements, if the building official is able to find and determine that:

    1. Compliance with the requirement will cause practical difficulties or unreasonable hardship; and

    2. The modification does not reduce any requirements for fire protection or any requirements relating to structural support and integrity; and

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

E. This Section 15.08.140 is intended to establish requirements which are in addition to, and not in replacement of, any other ordinance, rule, regulation, or policy of the city which may be applicable to the proposed development project, including any of the codes adopted by this and include also any policy adopted in the Brisbane General Plan.

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

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

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

15.10.010 - Authority.

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

15.10.020 - Coordination with other Chapters.

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

15.10.030 - Applicability.

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

15.10.040 - Definitions.

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

A. “Addition and Alteration” shall mean new floor area added to an existing lawfully constructed building and/or changes to the existing floor area of a lawfully constructed building, which calculated together or apart constitute fifty (50) percent of the pre-existing floor area of the building. The conversion or recognition of non-habitable rooms to habitable space may be included in the calculation of alteration of space, at the discretion of the building official.

B. “Major rebuild” shall mean removal of seventy-five percent (75%) or more of the combined surface area of the interior walls and ceilings of the habitable rooms of a building or structure to expose support members.

C. “Floor Area” shall mean the sum of the gross horizontal areas of all floors of all buildings or structures measured from the interior face of the exterior walls, but excluding each of the following:

1. Any area where the floor to ceiling height is less than six (6) feet.

2. Any detached garage or other detached accessory structure which does not constitute habitable space.

3. Any attached carport or covered deck.

4. Any attached or detached accessory dwelling unit eight hundred (800) square feet or less in gross horizontal area that, if detached, does not exceed sixteen (16) feet in height, where authorized pursuant to Chapter 17.43 of Title 17 of this Code.

D. "Standards for new construction" shall mean:

1. The requirements of the California Buildings Code adopted by this Title 15; and

2. The storm water management and discharge requirements established by Chapter 13.06 of Title 13; and

3. The standard specifications and street standards adopted by Section 12.24.010 of Title 12.

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

15.10.050 - Compliance Standards.

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

15.10.060 - Exceptions.

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

1. The area of any additions and/or alterations not exceeding a cumulative total of four hundred (400) square feet within any five (5) year period.

2. The conversion of existing floor area in an existing single-family or multiple-family dwelling to an accessory dwelling unit where authorized pursuant to Chapter 17.43 of Title 17.

3. The area of any addition and/or alteration for the creation or expansion of an attached or detached accessory dwelling unit eight hundred (800) square feet or less in floor area where authorized pursuant to Chapter 17.43 of Title 17. If detached, the accessory dwelling unit may not exceed sixteen (16) feet in height.

4. Work involving exterior surfaces, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck.

5. Alterations, renovations or repairs which do not essentially change the uses of the rooms within the building.

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

1. Compliance with the requirement will cause unreasonable hardship; or

2. The modification does not reduce any requirements for fire protection or any requirements relating to structural support and integrity; or

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

17.01.060 - Requirement for lot of record and infrastructure improvements.

A. Except as permitted under subsections B and C of this section or as may be permitted under other provisions of this title, no permit or approval shall be granted for the construction or expansion of any new or existing main or accessory structure of any size upon any land, nor shall any permit or approval be granted for the establishment or expansion of any use upon any land, unless both of the following requirements are satisfied:

1. The land constitutes a lot of record, as such term is defined in Chapter 17.02 of this title, or the granting of the permit or approval is conditioned upon such land being established as a lot of record through the recording of a parcel map approved by the city; and

2. All infrastructure improvements necessary for providing service to the existing or proposed structure or use have been constructed or installed in accordance with applicable city standards as determined by the city engineer, or the granting of the permit or approval is conditioned upon such improvements being constructed or installed pursuant to the terms and within such period of time as set forth in an improvement agreement between the city and the applicant, which agreement shall be recorded in the office of the county recorder and shall constitute a covenant running with the land. The improvement agreement may require the applicant to provide security for performance of the work, in such form and amount as determined by the approving authority, and may provide for the applicant to either construct the improvements or to participate in an arrangement for such construction by others, or any combination thereof.

B. In the case of a lot of record which does not abut a public street providing the principal means of access to that lot, the following improvements may be constructed without compliance with the infrastructure requirements set forth in subsection (A)(2) of this section; provided, however no such improvements shall be allowed unless the approving authority determines that adequate infrastructure to service the proposed improvement is available at the site or will be constructed as part of the project:

1. Unenclosed hot tubs, decks, stairways and landings located on the same lot as a lawfully constructed dwelling;

2. Retaining walls;

3. Parking garages and carports, no portion of which is used or usable for human occupancy;

4. An addition, not exceeding a floor area of one hundred (100) square feet, to a lawfully constructed building or structure. Only one such addition shall be allowed under this exemption;

5. Repairs or remodels which do not change the original size or significantly alter the configuration and/or habitable floor area of a lawfully constructed building or structure, as determined by the planning director.

6. The conversion of existing floor area of the main dwelling or the conversion of existing floor area of an accessory structure to an accessory dwelling unit or a

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

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

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

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

17.02.235 - Dwelling.

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

A. "Dwelling group" means a group of two (2) or more detached buildings located upon the same site, each of which contains one or more dwelling units.

B. "Dwelling unit" means a room or group of rooms including living, sleeping, eating, cooking and sanitation facilities, constituting a separate and independent housekeeping unit, designed, occupied, or intended for occupancy by one family on a permanent basis. Permanent residency shall mean continuous occupancy of the dwelling unit for a period of thirty (30) days or more.

C. "Multiple-family dwelling" means a building or site containing three (3) or more dwelling units (also see "duplex"). The term includes single-room-occupancy dwelling units, typically comprised of one or two (2) rooms (which may include a kitchen and/or a bathroom, in addition to a bed), that are restricted to occupancy by no more than two (2) persons.

D. "Accessory dwelling unit" means a separate dwelling unit created upon a site that contains a single-family dwelling, duplex, or multiple-family dwelling ~~and for which an accessory dwelling unit permit has been granted pursuant to Chapter 17.43 of this title~~. Subject to the restrictions of this title, the accessory dwelling unit may be within, attached to, or detached from the single-family dwelling, duplex, or multiple-family dwelling. An accessory dwelling unit shall include permanent provisions for living, sleeping, eating, cooking, and sanitation. The term "secondary dwelling unit" shall have the same meaning throughout this title.

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

F. "Single-family dwelling" means a dwelling unit constituting the only principal structure upon a single site (excluding any lawfully established accessory dwelling unit that may be located within the same structure on upon the same site). The term includes employee housing for six (6) or fewer persons, residential care facilities, licensed by the state to provide twenty-four (24) hour nonmedical care, serving six (6) or fewer persons (not including the operator, the operator's family or persons employed as staff) in need of supervision, personal services, or assistance essential for sustaining the activities of daily living or for the protection of the individual. Also see "Group care home" for seven (7) or more persons.

17.06.020 - Permitted uses. (R-1)

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

A. Single-family dwellings.

B. Accessory structures and uses incidental to a permitted use, including personal cultivation of cannabis in compliance with Title 8, Chapter 8.12.

C. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.

D. Small family day care homes.

E. ~~Secondary~~ Accessory dwelling units and junior accessory dwelling units, ~~when authorized by a permit granted pursuant to~~ in accordance with Chapter 17.43 of this title.

17.06.040 - Development regulations.

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

A. Lot Area.

1. The minimum area of any lot shall be five thousand (5,000) square feet.

2. A single-family dwelling may be constructed on a lot of record with an area of less than five thousand (5,000) square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.32.100.

B. Density of Development. Not more than one single-family dwelling ~~unit~~ shall be located on each lot in the R-1 district~~, except for a secondary dwelling unit authorized pursuant to Chapter 17.43 of this title~~.

C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

Width	Depth
50 feet	100 feet

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

1. Front setback: Fifteen (15) feet, with the following exceptions:

a. Where the lot has a slope of fifteen percent (15%) or greater, the minimum front setback may be reduced to ten (10) feet.

b. Where fifty percent (50%) or more of the lots of record in a block have been improved with single-family dwellings, the minimum front setback may be the average distance of the front outside wall of the single-family structures from the front lot line, if less than fifteen (15) feet. Notwithstanding the foregoing, the minimum front setback for garages or carports shall be ten (10) feet, except

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

2. Side setback: five (5) feet, with the exception that a lot having a width of less than fifty (50) feet may have a side setback reduced to ten percent (10%) of the lot width, but in no event less than three (3) feet or the minimum setback required by the Uniform Building Code, whichever is greater. Notwithstanding the foregoing, the minimum side setback for garages or carports accessed from a street or alley along that side of the lot shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

3. Rear setback: Ten (10) feet.

E. Lot Coverage. The maximum coverage by all structures on any lot shall be forty percent (40%).

F. Floor Area Ratio. The maximum floor area ratio for all buildings on a lot shall be 0.72. Where the size of the lot is three thousand seven hundred (3,700) square feet or less, one covered parking space designed to accommodate a full-size automobile shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of two hundred (200) square feet.

G. Height of Structures.

1. Except as otherwise provided in paragraph 2 ~~subsection (G)(2)~~ of this subsection G and in Section 17.32.060, the maximum height of any structure shall be as follows:

a. Twenty-eight (28) feet, for lots having a slope of less than twenty percent (20%); or

b. Thirty (30) feet, for lots having a slope of twenty percent (20%) or more.

2. For a distance of fifteen (15) feet from the front lot line, the height of any structure shall not exceed twenty (20) feet as measured from finish grade; provided, however, garages and carports may be constructed to a height of fifteen (15) feet above the elevation of the center of the adjacent street when permitted by Section 17.32.070 of this title. A garage or carport in compliance with this subsection may exceed a height of thirty (30) feet, but the height of any permitted living area underneath shall not exceed thirty (30) feet from finish grade.

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

1. Front outside wall: Thirty percent (30%) articulation.

2. Side outside walls:

a. Interior side outside wall: No articulation requirement.

b. Exterior side outside wall: Where the structure is located on a lot having an average width of forty (40) feet or greater, the articulation requirement for the exterior side outside wall shall be twenty percent (20%). No articulation shall be required for the exterior side outside wall of structures located on lots having an average width of less than forty (40) feet.

3. Rear outside wall: Thirty percent (30%) articulation.

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

I. Landscaping Requirements.

1. Front Setback. A minimum of fifteen percent (15%) of the front setback area shall be landscaped where the lot has a front lot line of thirty (30) feet or greater.

2. Downslope Lots. The rear of any newly constructed main structure on a downslope lot shall be screened with trees and shrubs in accordance with a landscape plan approved by the planning director.

3. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

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

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

17.08.020 - Permitted uses. (R-2)

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

A. Single-family dwellings ~~and accessory dwelling units associated with an existing or proposed single-family dwelling in compliance with Chapter 17.43~~.

B. Duplexes.

C. Multiple family dwellings containing not more than six (6) dwelling units.

D. Dwelling groups.

E. Accessory structures and uses incidental to a permitted use, including personal cultivation of cannabis in compliance with Title 8, Chapter 8.12.

F. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.

G. Small family day care homes.

H. Accessory dwelling units and junior accessory dwelling units, in accordance with Chapter 17.43 of this title.

17.08.040 - Development regulations.

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

A. Lot Area.

1. The minimum area of any lot shall be five thousand (5,000) square feet, except as otherwise provided in subsection B of this Section 17.08.040~~(B)~~.

2. A single-family dwelling may be constructed on a lot of record with an area of less than five thousand (5,000) square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.32.100.

B. Density of Development. The minimum lot area for each dwelling unit on the site shall be two thousand five hundred (2,500) square feet; provided, however, a lot having an area of four thousand nine hundred fifty (4,950) square feet or greater shall be considered conforming for a development density of two (2) units.

C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

Width	Depth
50 feet	100 feet

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

1. Front setback: Fifteen (15) feet, with the following exceptions:

a. Where the lot has a slope of fifteen percent (15%) or greater, the minimum front setback may be reduced to ten (10) feet.

b. Where fifty percent (50%) or more of the lots of record in a block have been improved with single-family dwellings, the minimum front setback may be the average distance of the front outside wall of the single-family structures from the front lot line, if less than fifteen (15) feet. Notwithstanding the foregoing, the minimum front setback for garages or carports shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

2. Side setback: five (5) feet, with the exception that a lot having a width of less than fifty (50) feet may have a side setback reduced to ten percent (10%) of the lot width, but in no event less than three (3) feet or the minimum setback required by the Uniform Building Code, whichever is greater. Notwithstanding the foregoing, the minimum side setback for garages, or carports accessed from a street or alley along that side of the lot shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

3. Rear setback: Ten (10) feet.

E. Lot Coverage. The maximum coverage by all structures on any lot shall be fifty percent (50%).

F. Floor Area Ratio. The maximum floor area ratio for all buildings on a lot shall be 0.72, subject to the following exclusions:

1. In the case of single-family dwellings, where the size of the lot is three thousand seven hundred (3,700) square feet or less, one covered parking space designed to accommodate a full-size automobile shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of two hundred (200) square feet.

2. In the case of duplexes and multiple-family dwellings, the area of all covered parking spaces required to be provided for the site shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of four hundred (400) square feet per unit.

G. Height of Structures.

1. Except as otherwise provided in paragraph 2 ~~subsection (G)(2)~~ of this subsection~~,~~ G and in Section 17.32.060, the maximum height of any structure shall be as follows:

a. Twenty-eight (28) feet, for lots having a slope of less than twenty percent (20%); or

b. Thirty (30) feet, for lots having a slope of twenty percent (20%) or more.

2. For a distance of fifteen (15) feet from the front lot line, the height of any structure shall not exceed twenty (20) feet as measured from finish grade; provided, however, garages and carports may be constructed to a height of fifteen (15) feet above the elevation of the center of the adjacent street when permitted by Section 17.32.070 of this title. A garage or carport in compliance

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

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

1. Front outside wall: Thirty percent (30%) articulation.

2. Side outside walls:

    a. Interior side outside wall: No articulation requirement.

    b. Exterior side outside wall: Where the structure is located on a lot having an average width of forty (40) feet or greater, the articulation requirement for the exterior side outside wall shall be twenty percent (20%). No articulation shall be required for the exterior side outside wall of structures located on lots having an average width of less than forty (40) feet.

3. Rear outside wall: Thirty percent (30%) articulation.

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

I. Landscaping Requirements.

1. Front Setback. A minimum of fifteen percent (15%) of the front setback area shall be landscaped where the lot has a front lot line of thirty (30) feet or greater.

2. Downslope Lots. The rear of any newly constructed main structure on a downslope lot shall be screened with trees and shrubs in accordance with a landscape plan approved by the planning director.

3. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

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

K. Recycling Area Requirements:

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

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

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

17.10.020 - Permitted uses. (R-3)

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

A. Multiple-family dwellings;

B. Single-family dwellings ~~and accessory dwelling units associated with an existing or proposed single-family dwelling in compliance with Chapter 17.43~~.

C. Duplexes.

D. Dwelling groups.

E. Accessory structures and uses incidental to a permitted use, including personal cultivation of cannabis in compliance with Title 8, Chapter 8.12.

F. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.

G. Small family day care homes.

H. Accessory dwelling units and junior accessory dwelling units, in accordance with Chapter 17.43 of this title.

17.10.040 - Development regulations.

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

A. Lot Area.

1. The minimum area of any lot shall be five thousand (5,000) square feet, except as otherwise provided in subsection B of this section.

2. A single-family dwelling may be constructed on a lot of record with an area of less than five thousand (5,000) square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.32.100.

B. Density of Development. The minimum lot area for each dwelling unit on the site shall be one thousand five hundred (1,500) square feet; provided, however, a lot having an area of four thousand nine hundred fifty (4,950) square feet or greater shall be considered conforming for a development density of three (3) units.

C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

Width	Depth
50 feet	100 feet

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

1. Front setback: Fifteen (15) feet, with the following exceptions:

a. Where the lot has a slope of fifteen percent (15%) or greater, the minimum front setback may be reduced to ten (10) feet.

b. Where fifty percent (50%) or more of the lots of record in a block have been improved with single-family dwellings, the minimum front setback may be the average distance of the front outside wall of the single-family structures from the front lot line, if less than fifteen (15) feet. Notwithstanding the foregoing, the minimum front setback for garages or carports shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

2. Side setback: five (5) feet, with the exception that a lot having a width of less than fifty (50) feet may have a side setback reduced to ten percent (10%) of the lot width, but in no event less than three (3) feet or the minimum setback required by the Uniform Building Code, whichever is greater. Notwithstanding the foregoing, the minimum side setback for garages, or carports accessed from a street or alley along that side of the lot shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

3. Rear setback: Ten (10) feet.

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

F. Floor Area Ratio. The maximum floor area ratio for all buildings on a lot shall be 0.72, subject to the following exclusions:

1. In the case of single-family dwellings, where the size of the lot is three thousand seven hundred (3,700) square feet or less, one covered parking space designed to accommodate a full-size automobile shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of two hundred (200) square feet.

2. In the case of duplexes and multiple-family dwellings, the area of all covered parking spaces required to be provided for the site shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of four hundred (400) square feet per unit.

G. Height of Structures.

1. Except as otherwise provided in paragraph 2 ~~subsection (G)(2)~~ of this subsection G and in Section 17.32.060, the maximum height of any structure shall be as follows:

a. Twenty-eight (28) feet, for lots having a slope of less than twenty percent (20%); or

b. Thirty (30) feet, for lots having a slope of twenty percent (20%) or more.

2. For a distance of fifteen (15) feet from the front lot line, the height of any structure shall not exceed twenty (20) feet as measured from finish grade; provided, however, garages and carports may be constructed to a height of fifteen (15) feet above the elevation of the center of the adjacent street when permitted by Section 17.32.070 of this title. A garage or carport in compliance

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

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

1. Front outside wall: Thirty percent (30%) articulation.

2. Side outside walls:

    a. Interior side outside wall: No articulation requirement.

    b. Exterior side outside wall: Where the structure is located on a lot having an average width of forty (40) feet or greater, the articulation requirement for the exterior side outside wall shall be twenty percent (20%). No articulation shall be required for the exterior side outside wall of structures located on lots having an average width of less than forty (40) feet.

3. Rear outside wall: Thirty percent (30%) articulation.

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

I. Landscaping Requirements.

1. Front Setback. A minimum of fifteen percent (15%) of the front setback area shall be landscaped where the lot has a front lot line of thirty (30) feet or greater.

2. Downslope Lots. The rear of any newly constructed main structure on a downslope lot shall be screened with trees and shrubs in accordance with a landscape plan approved by the planning director.

3. Sites with Three (3) or More Units. Not less than ten percent (10%) of the lot area shall be improved with landscaping where three (3) or more dwelling units are located on the same site.

4. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

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

K. Recycling Area Requirements:

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

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

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

17.12.020 - Permitted uses. (R-BA)

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

A. Single-family dwellings.

B. Accessory structures and uses incidental to a permitted use, including personal cultivation of cannabis in compliance with Title 8, Chapter 8.12.

C. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.

D. Small family day care homes.

E. ~~Secondary~~ Accessory dwelling units and junior accessory dwelling units, when authorized by a permit undergranted pursuant to Chapter 17.43 of this title.

17.12.040 - Development regulations.

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

A. Lot Area.

1. The minimum area of any lot shall be twenty thousand (20,000) square feet, except as otherwise provided in Section 17.12.050, Density transfer, and Section 17.12.055, Clustered development, of this chapter.

2. A single-family dwelling may be constructed on a lot of record with an area of less than twenty thousand (20,000) square feet, subject to the provisions of this chapter and the limitations set forth in ~~Section 17.32.100~~ Section 17.01.060 of Chapter 17.01 of this ~~T~~title.

B. Density of Development. Not more than one ~~dwelling unit~~single-family dwelling shall be located on each lot in the R-BA District.~~, except for a secondary unit authorized by a permit granted pursuant to Chapter 17.43 of this title.~~

C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

Width	Depth
110 feet	140 feet

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

1. Front setback: Ten (10) feet.

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

3. Rear setback: Ten (10) feet.

E. Lot Coverage. The maximum coverage by all structures on any lot shall be twenty-five percent (25%).

F. Floor Area Ratio. The maximum floor area ratio of all buildings on a lot shall be 0.72; provided, however, that in no event shall the floor area of all buildings on a lot exceed five thousand five hundred (5,500) square feet.

G. Height of Structures.

1. Except as otherwise provided in paragraph 2 ~~subsection (G)(2)~~ of this subsection G and in Section 17.32.060, the maximum height of any structure shall be thirty-five (35) feet.

2. For a distance of twenty (20) feet from the front lot line, the height of any structure shall not exceed twenty (20) feet as measured from finish grade; provided, however:

a. Residential structures on sites sloping down from the adjacent street may be constructed to a height of twenty (20) feet above the elevation of the center of the street, so long; and

b. Garages and carports may be constructed to a height of fifteen (15) feet above the elevation of the center of the adjacent street and may exceed a height of thirty-five (35) feet, but the height of any permitted living area underneath shall not exceed thirty-five (35) feet from finish grade.

H. Wildland Interface. The development shall incorporate such measures as the fire chief may deem necessary to protect against the spread of fire between the site and the adjacent wildland.

I. HCP Compliance. All development within the R-BA District, except as provided in Section 17.01.060, shall comply with the requirements of the San Bruno Mountain Area Habitat Conservation Plan (HCP), including site activity review, environmental assessments, and operating programs for planned management units, consistent with the objectives and obligations set forth in the HCP.

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

1. Front outside wall: Thirty percent (30%) articulation.

2. Side outside walls:

a. Interior side outside wall: No articulation requirement.

b. Exterior side outside wall: Where the structure is located on a lot having an average width of forty (40) feet or greater, the articulation requirement for the exterior side outside wall shall be twenty percent (20%). No articulation shall be required for the

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

3. Rear outside wall: Thirty percent (30%) articulation.

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

K. Landscaping Requirements.

1. Landscape Plan. All development proposals and re-landscaping projects subject to the water conservation in landscaping ordinance (Chapter 15.70), except as permitted in Section 17.01.060 of Chapter 17.01 of this title, shall include a landscape plan to be approved by the planning director in consultation with the HCP plan operator. The plan shall show all proposed landscaping and the location of all protected trees and rare plants. The landscape plan shall be consistent with all of the following objectives:

   a. Preservation of protected trees and rare plants to the greatest extent possible;

   b. Use of plants that are compatible with the natural flora and fauna, and are not invasive to the HCP area;

   c. Use of water conserving plants;

   d. Use of plants that will effectively screen structures and blend with the natural landscape; and

   e. Use of landscaping that is fire resistant.

2. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

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

1. In addition to the required contents of application for design permit set forth in Section 17.42.020(A), story poles certified by a licensed architect, surveyor, civil engineer or contractor to represent the height of the proposed building shall be erected at the locations of its outer corners and roof peaks according to a plan pre-approved by the community development director. The upper one-foot length of each pole shall be painted OSHA yellow so as to be clearly visible from a distance.

2. In addition to the findings required for issuance of design permits set forth in Section 17.42.040, the planning commission shall find that the building's placement, height, bulk and landscaping will preserve those public views of the San Bruno Mountain State and County Park as seen from the Community Park

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

3. An existing structure may be repaired or replaced in accordance with Section 17.38.090 without design permit approval, but any alteration or expansion which raises any portion of the roofline or increases the building's lot coverage shall be subject to design permit approval under this section.

M. Canyon Watercourses and Wetlands. Development of the site, including any temporary disturbance, shall be set back thirty (30) feet in each direction from the center line of any watercourse, and twenty (20) feet from the boundary of any wetlands. The specific location of watercourse center lines and wetland boundaries shall be determined by qualified personnel under the city's direction.

N. Trails. The development shall incorporate public access trails to the extent feasible given the environmental sensitivities of the site.

O. Nonconforming Residential Structures and Uses. Nonconforming residential structures and nonconforming residential uses, as defined in Section 17.02.560, may be repaired, restored, reconstructed, enlarged or expanded in accordance with the provisions of paragraph 3 of subsection L of Section 17.12.040~~(L(3)~~ and Chapters 17.34 and 17.38~~,and 17.34,~~ of this title.

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

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

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

A. Financial institutions.

B. Medical facilities.

C. Offices.

D. Personal services.

E. Restaurants.

F. Retail sales and rental.

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

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

17.14.060 - Development regulations for the NCRO-2 district.

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

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

B. Lot Dimensions. The minimum dimensions of any lot in the NCRO-2 district shall be as follows:

Width	Depth
25 feet	No requirement

C. Density of Residential Use. Dwelling unit density in a mixed use shall be established by the use permit.

D. Setbacks. The minimum required setbacks for any lot in the NCRO-2 district, except as provided in Section 17.32.070, shall be as follows:

1. Front setback: No requirement (0).

2. Side Setback: No requirement (0), except a ten (10) foot setback shall be required on the side setback where ~~when the site is~~ abutting any residential district.

3. Rear Setback: Ten (10) feet.

E. Lot Coverage. The maximum coverage by all structures on any lot in the ~~NCRO-1~~ NCRO-2 district shall be ninety percent (90%).

F. Height of Structures. The maximum height of any structure, except as provided in Section 17.32.060, shall be twenty-eight (28) feet, except that the height may extend to thirty-five (35) feet when authorized by a design permit granted pursuant to Chapter 17.42 of this title and provided the approving authority is able to make the findings set forth in Section 17.14.110 of this chapter.

G. Fencing Requirements. If the site is next to a residential district, a wood fence of not less than eight (8) feet in height that adequately screens the site from the adjacent residential property shall be installed along the property line abutting the residential district. The planning director may approve deviations from the material and height requirements set forth in the preceding sentence, based upon a finding that the modified fence is more appropriate for the site and the adjacent residential property.

H. Storefronts. All uses at street level facing Visitacion and/or San Bruno Avenues shall be storefronts, as defined in Section 17.02.746 of this titlechapter, except for entrances to uses above or behind the storefronts. Such uses shall comply with the following additional requirements:

1. The minimum floor area for a storefront use is six hundred (600) square feet. The approving authority may approve a lesser floor area if the approving authority finds that such lesser area is as large as possible for the intended storefront use, given the size, configuration, and physical constraints of the structure and the site.

2. No off-street parking shall be located on any portion of the site between the curb line and the storefront.

3. New construction shall incorporate the necessary vents and chases into the building design so as to allow future changes in occupancy of the storefront area.

4. Single-family dwellings in which mixed uses are conducted shall have a storefront character as viewed from the street.

I. Passive Open Space. Usable passive open space shall be provided for residential uses of at least sixty (60) square feet per unit. Such passive open space may be provided as individual patios or decks, or as common patio or garden area, or any combination thereof. Notwithstanding that an attached or detached accessory dwelling unit greater than eight hundred (800) square feet is added to an existing residential use, there shall be no reduction in the amount of required usable passive open space for the other residential use. If an existing residential use has passive open space that does not conform to the sixty (60) square feet per unit requirement, the addition of an attached or detached accessory dwelling unit greater than eight hundred (800) square feet to that use shall not further reduce the amount of passive open space. The addition of an attached or detached accessory dwelling unit that is eight hundred (800) feet or less may result in a loss of the required usable passive open space for the other residential uses, including the loss of non-forming passive open space.

J. Recycling Area Requirements.

1. Adequate, accessible and convenient areas for depositing, collecting and loading recyclable materials in receptacles shall be provided. The area shall be located and fully enclosed so as to adequately protect neighboring uses from

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

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

17.16.020 - Permitted uses. (SCRO-1)

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

1. Emergency shelters in compliance with Section 17.16.040.

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

17.16.040 - Development regulations.

Development regulations in the Southwest Bayshore district are as follows:

A. Lot Area. The minimum area of any lot shall be seven thousand five hundred (7,500) feet.

B. Density of Development. The minimum lot area for each dwelling unit on a site shall be as follows:

1. Single-family dwellings: Seven thousand five hundred (7,500) square feet;

2. Duplex dwellings: Three thousand seven hundred fifty (3,750) square feet;

3. Multiple-family dwellings and dwelling groups: One thousand five hundred (1,500) square feet;

4. Mixed use or live/work development: Dwelling unit density shall be determined by the use permit.

C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

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

~~2.~~1. ~~Depth: No requirement.~~

Width	Depth
50 feet	No requirement

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

1. Front setback;

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

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

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

2. Side setback:

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

b. Commercial Uses: Fifteen (15) feet;

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

3. Rear setback: Ten (10) feet.

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

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

G. Landscaping Requirements.

1. Not less than ten percent (10%) of the lot area shall be improved with landscaping. The addition of an attached or detached accessory dwelling unit greater than eight hundred (800) square feet shall not result in a loss of the required landscape area. The addition of an attached or detached accessory dwelling unit that is eight hundred (800) square feet or less may result in a loss of the required landscape area.

2. Plant materials shall be drought resistant and non-invasive as required by the planning director.

3. Landscaping required under this section, including replacement landscaping, shall be installed according to detailed plans approved by the planning director. The landscape plans shall be consistent with the following objectives:

a. Use of plants that are not invasive;

b. Use of water conserving plants; and

c. Use of plants and other landscape features that are appropriate to the context.

4. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to ~~the provisions of~~ the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

H. Screening Requirements.

1. Outside storage of pallets or containers used for transportation and delivery of items related to the uses conducted on the site shall not be located in any required setback from a street and shall be screened from off-site view to the extent it is reasonable to do so.

2. The off-site visibility of exterior equipment such as heating and ventilation units, above-ground storage tanks, compactors and compressors, shall be mitigated through such measures as may be reasonable under the circumstances, including, but not limited to, the installation of screening, fencing, painting, or landscaping, or any combination of the foregoing.

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

I. Recycling Area Requirements.

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

2. This requirement shall apply to all new commercial or institutional buildings, residential buildings having five (5) or more living units, and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. This requirement shall also apply to any existing development for which building permit applications are submitted within a twelve-month period collectively adding thirty percent (30%) or more to the existing floor area of the development project. For existing developments occupied by multiple tenants, this requirement shall apply to building permit applications submitted by any tenant within a twelve-month period collectively adding thirty percent (30%) or more to the existing floor area of that portion of the development which said tenant leases. Such recycling areas shall, at a minimum, be sufficient in capacity, number, and distribution to serve that portion of the development project which said tenant leases.

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

1. No emergency shelter shall be allowed to be located within three hundred (300) feet of another emergency shelter.

2. The required setbacks for new development shall be:

a. Front setback: Ten (10) feet; except that the front setback may be reduced to zero (0) where development includes dedication to public right-of-way for a frontage access road and sidewalk, to the satisfaction of the city engineer and fire department.

b. Side setback: Five (5) feet; except that the planning commission may approve exceptions to the side setback regulations through the granting of a use permit.

c. Rear setback: Ten (10) feet.

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

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

K. Mobile Home Parks.

1. Mobile home parks in the SCRO-1 district shall be subject to the development and parking standards established in Chapter 17.11 of this Title.

2. Conversion, closure, or cessation of a mobile home park in the SCRO-1 district shall be subject to the procedures established in Section 17.11.090 of this Title.

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

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

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

17.27.040 - Development regulations for the PAOZ-1 district.

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

A. Lot Area. There is no minimum lot area.

B. Density of Development. The minimum development density for any site shall be twenty (20) dwelling units per acre and the maximum development density shall be twenty-eight (28) dwelling units per acre.

C. Lot Dimensions. There are no minimum lot dimensions.

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

1. Front: Five (5) feet minimum, fifteen (15) feet maximum.
2. Side: Five (5) feet minimum, ten (10) feet maximum.
3. Street Side: Ten (10) feet minimum and maximum.
4. Rear: Fifteen (15) feet minimum.
5. Any architectural projection (including lobbies, porches, stoops, canopies, and other entry-related architectural features) may extend up to two (2) feet into the required front setback area.

E. Lot Coverage. There is no maximum lot coverage.

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

G. Height.

1. Buildings and Architectural Features. The maximum building height shall be thirty-eight (38) feet and three (3) stories. Architectural features, including chimneys, elevators, towers, turrets, eaves, skylights or roof windows, utilities, utility penthouses, and solar panels, are allowed to project up to a maximum of ten (10) feet above the maximum building height.
2. Fences and Walls. Fences and walls in front yards shall be no more than three (3) feet in height from the adjacent sidewalk. Fences and walls in side yards shall not exceed six (6) feet in height. Deviations from maximum fence and wall heights shall require approval by the planning commission as provided in Section 17.32.050(B)(5) of this title.

H. Landscaping Requirements. Not less than thirty percent (30%) of the lot area shall be landscaped. New and rehabilitated, irrigated landscapes are subject to ~~the provisions of~~ the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest State provisions, whichever is more effective in conserving water. Landscaping shall conform to the development standards established in Section 3.5 of the Parkside Precise Plan. The addition of an attached or detached accessory dwelling unit greater than eight hundred (800) square feet shall not result in a loss of the required landscaping. The addition of an attached or detached accessory dwelling unit that is eight hundred (800) square feet or less may result in a loss of the required landscape area.

I. Open Area Requirements. At least four hundred (400) square feet of open area shall be provided for the dedicated use of each ~~residential~~ dwelling unit. The open area requirement shall not be met by shared or communal open areas. The addition of an attached or detached accessory dwelling unit greater than eight hundred (800) square feet shall not result in a loss of the required open areas. The addition of an attached or detached accessory dwelling unit that is eight hundred (800) square feet or less may result in a loss of the required open area.

J. Building Design. All buildings shall substantially comply with the building design standards established in Section 3.3 of the Parkside Precise Plan. Projects that do not comply with those building design standards shall be subject to design review as set forth in Section 17.27.060(B), in addition to any other discretionary review required by the specific deviations.

K. Site Design. All projects shall substantially comply with the site design standards established in Section 3.4 of the Parkside Precise Plan. Projects that do not comply with those site design standards shall be subject to design review as set forth in Section 17.27.060(B), in addition to any other discretionary review required by the specific deviations.

L. Parking. Required on-site parking for single-family dwellings shall be two (2) spaces per dwelling, both of which shall be in an enclosed garage. For multiple-family dwellings, accessory dwelling units, and junior accessory dwelling units, required on-site parking and additional guest parking shall be provided as set forth in Section 17.34.020 of this title.

    1. Design Requirements. Off-street parking facilities shall comply with the design standards as set forth in Table 1, which appears immediately following this section.

M. Recycling Area Requirements.

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

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

17.27.050 - Development regulations for the PAOZ-2 district.

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

A. Lot Area. There is no minimum lot area.

B. Density of Development. The minimum development density for any site shall be twenty-four (24) dwelling units per acre and the maximum development density shall be twenty-eight (28) dwelling units per acre.

C. Lot Dimensions. There are no minimum lot dimensions.

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

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

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

2. Side: Five (5) feet minimum.

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

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

4. Rear: Fifteen (15) feet minimum.

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

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

G. Height.

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

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

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

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

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

J. Building Design. All buildings shall substantially comply with the building design standards established in Section 3.3 of the Parkside Precise Plan. Projects that do not comply with those building design standards shall be subject to design review as set forth in Section 17.27.060(B), in addition to any other discretionary review required by the specific deviations.

K. Site Design. All projects shall substantially comply with the site design standards established in Section 3.4 of the Parkside Precise Plan. Projects that do not comply with those site design standards shall be subject to design review as set forth in Section 17.27.060(B), in addition to any other discretionary review required by the specific deviations.

L. Parking. Required on-site parking and additional guest parking shall be as established in Section 17.34.020 of this title for multiple-family developments and accessory dwelling units.

1. Design Requirements. Off-street parking facilities shall comply with the design standards as set forth in Table 1, which appears immediately following this section.

2. Short-term and long-term parking for bicycles in the PAOZ-2 district shall be provided as follows: Long-Term: 1/10 units; Short-Term: 1/20 units.

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

M. Recycling Area Requirements.

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

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

17.28.120 - Amendment or modification of PD permit.

A. Amendments or modifications to a PD permit shall require approval by the city council, except as follows:

1. The planning commission and the zoning administrator shall have authority to approve any items which, under the terms of the PD permit, have been specifically delegated to either of them for approval, either as a condition for issuance of the permit or at any time thereafter.

2. Minor changes during the course of construction which do not materially affect the use, nature, appearance, quality or character of the project may be approved by the zoning administrator.

3. The relocation of a use or activity authorized by the PD permit to another location regulated by the same permit where no significant adverse impacts are created as a result of such relocation may be approved by the zoning administrator.

~~3.~~4. The construction of an accessory dwelling unit or junior accessory dwelling unit in compliance with Chapter 17.43 of this title shall be approved ministerially by the zoning administrator.

B. The application requirements, public hearing procedures and findings required for amendments or modifications to a PD permit shall be as prescribed in Sections 17.28.040, 17.28.050 and 17.28.080 of this chapter.

Chapter 17.32.070 - Exceptions – Setback requirements.

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

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

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

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

      c. Supported Decks, Cantilevered Decks and Balconies.

Front setback area:	May extend five (5) feet from the building into the front setback area, but no closer than five (5) feet from the front lot line. Decks may be located atop a garage or carport approved under Section 17.32.070(A)(3)(a) and may extend to the front of the garage, but the railings of such deck may not exceed fifteen (15) feet in height above the elevation of the center of the adjacent street

	or four (4) feet from the surface of the deck, whichever is less, while at the same time maintaining the minimum railing height required by the building code.
Rear setback area:	May extend five (5) feet from the building into the rear setback area, but no closer than five (5) feet from the rear lot line. This exception shall not apply to the NCRO district.
Side setback area:	No exception permitted.

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

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

d. Deck Railings within Setback Areas.

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

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

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

Side setback area:	No more than one set of stairs per dwelling unit may extend from the building into the side setback area, but no closer than three (3) feet from the side lot line. Stairs on grade, sidewalks, and other flatwork constructed of noncombustible materials may be located anywhere within the side setback area.

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

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

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

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

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

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

2. Small Free-Standing Structures.

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

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

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

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

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

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

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

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

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

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

3. Miscellaneous Improvements.

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

b. Decorative Artwork, Ponds, Fountains and Similar Water Features, Not More Than Six (6) Feet in Height.

c. Existing Permitted Garages or Accessory Buildings Converted into Accessory Dwelling Units.

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

~~d. Accessory Dwelling Units Built Above Existing Permitted Garages.~~

~~Front setback area:~~	~~No exception permitted.~~

~~Rear setback area:~~	~~May extend into rear setback no closer than five (5) feet from the rear lot line.~~
~~Side setback area:~~	~~No exception permitted.~~

4. Accessory Dwelling Units

a. Exceptions to the setback requirements for accessory dwelling units shall be as established in Chapter 17.43.

B. The exceptions set forth in subsection A of this Section 17.32.070~~(A) of this section~~ shall not be construed to include chimney boxes, swimming pools and spas, exposed plumbing, or mechanical equipment such as heating and air conditioning units or pool pumps, and no exceptions to the setback requirements shall be permitted for any of these structures.

C. Any structure, architectural feature, wall, or other improvement lawfully constructed within a setback area and constituting a nonconforming structure as defined in Section 17.02.560, may be allowed to continue in accordance with ~~the provisions of~~ Chapter 17.38 of this title.

Chapter 17.34.020 – Minimum requirements. (Parking)

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

Uses:	Parking Requirements:
Single-family dwellings and group care homes:	
Studio or 1-bedroom dwellings not more than 900 square feet in floor area:	1 off-street space (uncovered or covered).
All other dwellings not exceeding 1,800 square feet in floor area:	1 off-street space plus 1 space which shall be in a garage or carport.
Dwellings exceeding 1,800 square feet in floor area on lots having less than 37.5 feet in frontage:	2 off-street spaces plus 1 space which shall be in a garage or carport.
Dwellings exceeding 1,800 square feet in floor area on lots of 37.5 feet frontage or greater:	2 on-street or off-street spaces plus 2 spaces which shall be in a garage or carport.
	See Section 17.34.020(B)(1) regarding garage and carport exclusions from the floor area calculation.

Uses:	Parking Requirements:
	Additional guest parking spaces shall be provided for all residential subdivisions of 5 or more single-family residences, at the rate of 1 parking space for every 5 units. Such spaces shall be located entirely within the public right-of-way and available for public use. Any accessible parking spaces required per Section 17.34.040(D) shall count as guest parking spaces.
Accessory dwelling units	~~No off-street parking required.~~ In the R-1, R-2, R-3, NCRO-2, SCRO-1, PAOZ-1, or PAOZ-2 Districts: No off-street parking required. In the R-BA and PD Districts: 1 off-street parking space (uncovered or covered), unless the accessory dwelling unit is located within one-half mile walking distance of public transit, or the accessory dwelling unit is part of the proposed or existing dwelling, as defined in Section 17.02.235, or an accessory structure as defined in subsection B of Section 17.02.755.
Junior accessory dwelling units	No off-street parking required.

Chapter 17.38 - NONCONFORMING USES AND STRUCTURES

~~Sections:~~

17.38.010 - Continuation of nonconforming uses and structures.

Nonconforming uses and nonconforming structures may be continued only in compliance with, and so long as permitted by, the provisions of this chapter.

17.38.020 - Change or replacement of nonconforming use.

A. A nonconforming use shall not be changed to or replaced by another nonconforming use.

B. A nonconforming use which is changed to or replaced by a conforming use shall not be re-established. Where any portion of a nonconforming facility is changed from a nonconforming use to a conforming use, such portion shall thereafter only be used for a conforming use.

17.38.030 - Expansion of nonconforming uses.

A. Except as otherwise provided in subsection B of this 17.38.030~~(B) of this section~~ and Section 17.38.110 of this chapter, a nonconforming use may not be enlarged, expanded or intensified. This prohibition shall include any enlargement, expansion or intensification of a nonconforming use which:

1. Increases the site area or floor area occupied by the nonconforming use; or

2. Increases the amount, volume, or intensity of nonconforming business use, or the machinery, equipment, trade fixtures or other personal property utilized in the conduct of such use; or

3. Displaces any conforming use occupying a structure or site.

B. Nonconforming residential uses located in the R-1, R-2, R-3 or R-BA district may be enlarged or expanded upon the granting of a use permit by the planning commission pursuant to Chapter 17.40 of this title. In addition to the findings required by Chapter 17.40, the planning commission shall also find and determine that:

1. Parking spaces in accordance with the requirements set forth in Chapter 17.34 of this title will be provided for the nonconforming use and all other uses on the site;

2. Any expansion of the nonconforming facility will comply with all applicable development standards for the district in which the site is located, including, but not limited to, floor area ratio, setbacks, height, and coverage limitations.

3. The nonconforming facility will comply with all applicable provisions of the building, health and fire codes.

4. The nonconforming use will comply with such other conditions and requirements which, in the judgment of the planning commission, are necessary or appropriate to mitigate any potential adverse impacts of the expansion on the neighborhood.

Note. A single-family dwelling on a lot of record in an R-1, R-2, R-3, or R-BA district having less than the minimum lot area prescribed by the applicable district regulations, shall constitute a conforming use and may be enlarged or expanded subject to the development standards of the applicable district and the limitations set forth in Section 17.32.055 of Chapter 17.32 of this title.

17.38.040 - Maintenance and repair of nonconforming facility.

A. Nonconforming facilities may be continued, maintained and repaired so as to protect the health and safety of the occupants and preserve the useful life of the structure.

B. Nonconforming facilities may be remodeled and the interior reconfigured so long as there is no enlargement, expansion, or intensification of the nonconforming use, except as otherwise permitted by subsection B of Section 17.38.030~~(B)~~.

17.38.050 - Abandonment of nonconforming uses.

A. Whenever a nonconforming nonresidential use has been abandoned, such use shall not be resumed or re-established and all subsequent uses of the site shall conform with the requirements of this title. Discontinuance of a nonconforming nonresidential use for a period of one hundred twenty (120) consecutive days or more shall conclusively be presumed an abandonment of such use; provided, however, discontinuance under any of the following circumstances shall not be considered an abandonment of the use:

1. Any discontinuance of use in connection with a pending sale or other transfer of ownership or management of the nonconforming use to a designated person or persons and the discontinuance of use is solely for the purpose of accomplishing the sale or transfer.

2. Any discontinuance of use during a reasonable period of reconstruction or replacement of the damaged or destroyed nonconforming facility, where such reconstruction or replacement is permitted under the provisions of Section 17.38.060.

3. Any other circumstance found by the planning commission to have been beyond the reasonable control of the person conducting the use, and such person commences the activity necessary for re-establishment of the use and prosecutes the same diligently to completion.

B. A nonconforming residential use may not be reestablished if the nonconforming facility has been modified to remove the features of residential occupancy.

17.38.060 - Reconstruction or replacement of nonconforming facility.

A nonconforming facility which is damaged or destroyed may be reconstructed or replaced for continued occupancy by the nonconforming use or uses previously conducted therein, subject to the following limitations:

A. The site area or floor area occupied by the nonconforming use, and the intensity of activity conducted by the nonconforming use, subsequent to reconstruction or replacement of the facility shall not exceed that~~.~~ existing prior to the damage or

destruction of the facility, except as otherwise permitted by subsection B of 17.38.030~~subsection 17.38.030 (B)~~.

B. The reconstructed or replaced facility shall comply with all of the applicable regulations of this title, other than the use of the structure, and all applicable provisions of the building, health, and fire codes.

17.38.070 - Maintenance and repair of nonconforming structures.

Nonconforming structures may be maintained and repaired so as to protect the health and safety of the occupants and preserve the useful life of the structure.

17.38.080 - Alteration or expansion of nonconforming structures.

A. A nonconforming structure shall not be altered, enlarged, or expanded so as to increase the degree of noncompliance or otherwise increase the discrepancy between existing conditions and the requirements of this title.

B. Structural alterations may be permitted when necessary to comply with the requirements of law.

C. The prohibitions of this section shall not apply to any alteration, enlargement or expansion for which a variance is granted pursuant to Chapter 17.46 or to which a use permit is granted pursuant to Chapter 17.34 and 17.40 of this title.

17.38.090 - Repair and replacement of nonconforming residential structures.

A. Damage of Less Than Seventy-Five Percent (75%). A nonconforming structure used for residential purposes which is damaged or destroyed by fire, flood, wind, earthquake, or other natural disaster~~calamity~~ to the extent of less than seventy-five percent (75%) of its floor area may be repaired, restored or reconstructed to its original size and configuration. All new construction, restoration and replacement shall comply with all applicable provisions of the building, health and fire codes.

B. Damage of More Than Seventy-Five Percent (75%). A nonconforming structure used for residential purposes which is damaged or destroyed by fire, flood, wind, earthquake, or other natural disaster~~calamity~~ to the extent of seventy-five percent (75%) or more of its floor area may be repaired, restored or reconstructed provided that all of the following conditions are satisfied:

1. The total floor area of the restored structure shall not be greater than the total floor area of the original structure.

2. The total number of dwelling units in the restored structure shall not be greater than the total number of dwelling units in the original structure.

3. The front, side and rear setbacks of the restored structure shall not be less than the setbacks of the original structure.

4. The number of off-street parking places shall not be reduced from the number available prior to the restoration.

5. The new construction, restoration and replacement shall comply with all applicable provisions of the building, health and fire codes.

C. Mixed Use Structure. A nonconforming structure containing both residential and nonresidential uses may be restored in accordance with the provisions of this section where the residential uses constitute more than fifty percent (50%) of the floor area of the entire structure.

17.38.100 - Replacement of nonconforming nonresidential structures.

A. Nonconforming nonresidential structures which are damaged or destroyed may not be reconstructed or replaced, except as follows:

1. When the entire structure is reconstructed or replaced as a conforming structure.

2. Where the damage or destruction affects only a portion of a nonconforming structure, which portion does not constitute or contribute to the noncompliance, such portion may be reconstructed or replaced to its previous configuration.

3. Where the damage or destruction affects only a portion of a nonconforming structure, which portion constitutes or contributes to the noncompliance and does not exceed fifty percent (50%) of the floor area of the entire structure, such portion may be reconstructed or replaced to its previous configuration.

B. Except as permitted by this section with regard to restoration of a structure to its previous configuration, all reconstruction and replacement shall comply with the provisions of this title and all applicable provisions of the building, health and fire codes.

17.38.110 - Addition of Accessory Dwelling Units to Nonconforming Uses or Structures.

A. Nonconforming single-family, duplex, or multiple-family uses may be expanded to accommodate accessory dwelling units and junior accessory dwelling units pursuant to Chapter 17.43 of this title.

B. A nonconforming structure may be rebuilt in the same location and to the same dimensions, including height, as the existing structure and converted to an accessory dwelling unit pursuant to Chapter 17.43 of this title.

Chapter 17.43 - Accessory Dwelling Units and Junior Accessory Dwelling Units

17.43.010 - Purposes of chapter.

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

A. To provide opportunities to establish accessory dwelling units and junior accessory dwelling units on building sites developed with existing or proposed single-family dwellings, duplexes, or multiple-family dwellings.

B. To provide affordable housing to meet the needs of Brisbane citizens.

C. To ensure that the development of accessory dwelling units is compatible with existing development and reflects the diversity of the community.

D. To implement and promote the goals and policies of the general plan so as to guide and manage residential development in the city in accordance with such plan.

17.43.020 - Definitions.

In addition to the definitions set forth in Chapter 17.02, all of which are applicable to this chapter, the following words and phrases shall have the meanings respectively ascribed to them in this section, unless the context or the provision clearly requires otherwise:

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

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

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

~~"Public transit" means a transit stop served by at least one publicly provided form of transportation.~~

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

"Multiple-family dwellings" means a dwelling than contains two (2) or more dwelling units (including a "duplex"), provided, however, that a property containing a single-family dwelling and a lawful accessory dwelling unit (either~~both~~ attached and detached) and/or a junior accessory dwelling unit shall not be deemed a multiple-family dwelling.

~~**17.43.030 - Applicability and requirements.**~~

~~A. Newly Constructed Accessory Dwelling Units. A newly constructed accessory dwelling unit shall be established or occupied only by an accessory dwelling unit permit granted by the director of community development pursuant to the provisions of this subsection as a ministerial act, in accordance with Section 65852.2 of the California Government Code. An existing nonconforming dwelling unit may be designated as an accessory dwelling unit subject to compliance with the requirements of this subsection.~~

~~Newly constructed accessory dwelling units shall comply with all of the following development standards:~~

~~1. Zoning Districts. Accessory dwelling units may only be established or occupied in the R-1, R-2, R-3, or R-BA Brisbane Acres residential districts, or in the SCRO-1 district, associated with an existing or proposed single-family dwelling, per the applicable district regulations.~~

~~2. Lot Size. There is no minimum lot size requirement.~~

~~3. One Accessory Dwelling Unit per Site. Only one accessory dwelling unit shall be permitted on any one site; provided, however, where a site already contains~~

two (2) or more dwelling units that exist as legally established nonconforming uses, no additional accessory dwelling units shall be allowed on that site.

4. Attached or Detached. The accessory dwelling unit may be attached to or constructed within the main dwelling or may be detached from the main dwelling on the site.

5. Unit Size. The accessory dwelling unit shall not exceed one thousand (1,000) square feet in floor area.

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

7. Parking. Parking spaces for the main dwelling and accessory dwelling units shall be provided in accordance with the requirements set forth in

8. Access. As required byof the Municipal Code, the site on which the accessory dwelling unit is located shall have a legal means of access that complies with the street standards set forth in.

9. Utilities. The site is served by adequate water, sewer, and storm drain facilities which comply with city standards. An accessory dwelling unit shall not be considered a new residential use for the purposes of calculating connection fees or capacity charges for water and sewer service provided by the city.

10. Compliance with Codes. The accessory dwelling unit and all new construction on the site that will be performed in connection therewith shall comply with all applicable provisions of this title and all applicable building, health and fire codes, with the following exception:

    a. Accessory dwelling units shall not be required to provide fire sprinklers if fire sprinklers are not required for the main dwelling, as determined by the building official consistent with BMC.

B. Conversion Accessory Dwelling Units: Notwithstanding subsection A of this, an accessory dwelling unit resulting from the conversion of existing building space shall be established by a city issued building permit and shall be exempt from the development standards of(A) if it meets the following requirements, as determined by the community development director:

1. It is contained within the existing space of a single-family dwelling or accessory structure, as defined in;

2. It has an independent exterior access from the existing residence; and

3. It has sufficient side and rear setbacks for fire safety.

17.43.040 - Owner occupancy restrictions.

Either the main dwelling or the accessory dwelling unit shall be occupied by the record owner of the property as the owner's principal place of residence. In the case of ownership by a corporation, limited liability company, partnership, trust or association, either the main dwelling or the accessory dwelling unit shall be the principal place of residence of an officer, director,

~~shareholder, or member of the company, a partner in the partnership, a trustor or beneficiary of the trust, a member of the association, or an employee of any such organization.~~

~~**17.43.050 - Recordation of accessory dwelling unit permit agreement.**~~

~~The original accessory dwelling unit permit agreement shall be recorded in the office of the county recorder. All of the conditions applicable to the permit shall be set forth therein, and such agreement shall run with the land and be binding upon successive owners and occupants of the property.~~

~~**17.43.060 - Modification or revocation of accessory dwelling unit permit.**~~

~~A. The city shall retain continuing jurisdiction over any accessory dwelling unit permit issued under this chapter and may, at any time, modify or revoke the permit, upon the occurrence of any of the following events:~~

~~1. The holder of the permit has failed to comply with any of the conditions set forth in the permit; or~~

~~2. The holder of the permit has violated the occupancy restriction set forth in Section 17.43.040 of this chapter; or~~

~~3. The accessory dwelling unit has been eliminated through alteration of the structure in which such unit was contained.~~

~~B.~~A. ~~Prior to any modification or revocation of the accessory dwelling unit permit, the director of community development shall conduct a hearing on the proposed action. Written notice of such hearing shall be given to the permittee not less than ten (10) days prior to the date of the hearing.~~

17.43.030 – Permit Requirements.

A. Except as provided by subsection C of this Section 17.43.0430, building permit applications for junior accessory dwelling units or accessory dwelling units shall be ministerially processed within sixty (60) days of receipt of a complete building permit application and approved if they meet the requirements of this chapter. Incomplete applications will be returned to the applicant with a written explanation of the additional information required for approval.

B. Notwithstanding subsection A, if the building permit application submitted will also create a new single-family dwelling or multiple-family dwelling on the lot, the application for the junior accessory dwelling unit or accessory dwelling unit(s) shall not be acted upon until the building permit application for the new single-family dwelling or multiple-family dwelling is approved, but thereafter shall be ministerially processed within sixty (60) days of receipt of a complete application and approved if it meets the requirements of this chapter. Occupancy of the junior accessory dwelling unit or accessory dwelling unit(s) shall not be allowed until the City approves occupancy of the main dwelling.

C. The City shall grant a delay in processing an application for an accessory dwelling unit or junior accessory dwelling unit if requested by the applicant.

D. All junior accessory dwelling unit and accessory dwelling unit applications shall be subject to building inspection and permit fees as established by resolution of the City

Council and water and sewer connection and capacity fees in compliance with Title 13, except that:

1. No impact fees may be imposed on a junior accessory dwelling unit or accessory dwelling unit that is less than seven hundred fifty (750) square feet.

2. For accessory dwelling units that have a floor area of seven hundred fifty (750) square feet or more, impact fees shall be charged proportionately in relation to the current impact fees for the square footage of the main dwelling.

E. Construction of an accessory dwelling unit and/or junior accessory dwelling unit in the R-BA Brisbane Acres Residential District shall require submittal of an application for an accessory dwelling unit permit in addition to an application for a building permit. Accessory dwelling unit permits shall be granted ministerially by the director of community development pursuant to this chapter within sixty (60) days of receipt of a complete permit application in accordance with Section 65852.2 of the California Government Code.

17.43.040 – Development regulations for accessory dwelling units.

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

A. Zoning Districts. Accessory dwelling units may only be established or occupied in the R-1, R-2, R-3, R-BA, NCRO-2, SCRO-1, PAOZ-1, PAOZ-2 and PD zoning districts with an existing or proposed single-family or multiple-family dwelling.

B. Density. An accessory dwelling unit that conforms to this Chapter 17.43 shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located. The accessory dwelling unit shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot and shall not be considered in the application of any City ordinance, policy, or program to limit residential growth.

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

D. Number of Units.

1. No more than one accessory dwelling unit may be constructed on any lot developed with a single-family dwelling.

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

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

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

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

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

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

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

4. No setback shall be required for an existing, legally permitted living area, garage, or accessory structure with nonconforming setbacks that is converted to an accessory dwelling unit or a portion of an accessory dwelling unit or an accessory dwelling unit constructed in the same location and to the same dimensions, including height, as an existing, legally permitted living area, garage, or accessory structure with nonconforming setbacks.

H. Lot Coverage. Accessory dwelling units shall be included in calculating the lot coverage for the lot on which the accessory dwelling unit is located, except for accessory dwelling units eight hundred (800) square feet or less in floor area and no more than sixteen (16) feet in height.

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

1. Accessory dwelling units eight hundred (800) square feet or less in floor area and no more than sixteen (16) feet in height, if detached, are exempt from calculating the floor area ratio for the lot; and

2. Accessory dwelling units proposed within the space of a single-family dwelling or existing accessory structure may include an expansion of not more than one hundred fifty (150) square feet beyond the physical dimensions of the existing accessory structure or single-family dwelling, provided however, that the expansion of the single-family dwelling or accessory structure shall be limited to accommodating ingress and egress for the accessory dwelling unit, the setbacks of the expansion shall comply with the setback standards set forth in subsection G of Section 17.43.040 or of the underlying zoning district if the accessory dwelling unit is attached to the single-family dwelling, and shall be compliant with building, health, and fire codes.

J. Height. Accessory dwelling units shall not exceed two stories and shall be subject to the height maximum established in the underlying zoning district.

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

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

2. A full bathroom, including sink, toilet, and shower and/or bath facilities.

L. Landscaping. Accessory dwelling units shall be subject to the landscaping requirements of the underlying zoning district.

M. Parking. Parking spaces for the main dwelling and accessory dwelling units shall be provided in accordance with the requirements set forth in Chapter 17.34, except that when a garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of an accessory dwelling unit, any parking spaces that were provided by such garage, carport, or covered parking structure are not required to be replaced.

N. Unit Access.

1. As required by Section 17.01.060, the lot on which the accessory dwelling unit is located shall have a legal means of access to the public right of way that complies with the street standards set forth in Section 12.24.010.

2. A separate exterior entry from the main entrance to the main dwelling shall be required to serve each attached accessory dwelling unit. Interior entry access between an accessory dwelling unit and the main dwelling is permitted, provided that the interior entry is located off a common living area of the main dwelling, such as a living room, family room, dining room, kitchen, or an interior hallway leading to common living areas.

O. Utilities. The lot is served by adequate water, sewer, and storm drain facilities which comply with city standards as established per Title 13 of this Code. An accessory dwelling unit shall not be considered a new residential use for the purposes of calculating connection fees or capacity charges for water and sewer service provided by the City, pursuant to Title 13 of this Code. As to the main dwelling, a separate water connection, a separate sewer service connection, or a separate power connection for water, sewer, and power service is not required for an accessory dwelling unit.

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

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

17.43.050 - Accessory dwelling units in multiple-family dwellings.

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

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

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

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

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

1. Setbacks. The setback requirements of Section 17.43.040 of this Chapter apply.

2. Floor Area. Detached accessory dwelling units may not exceed eight hundred (800) square feet in floor area per unit.

3. Height. Detached accessory dwelling units shall not exceed sixteen (16) feet in height.

17.43.060 - Development regulations for junior accessory dwelling units.

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

A. Zoning Districts. Junior accessory dwelling units may only be established or occupied on lots in the R-1, R-2, R-3, R-BA, NCRO-2, SCRO-1, PAOZ-1, and PD zoning districts with an existing or proposed single-family dwelling.

B. Density. A junior accessory dwelling unit that conforms to this Chapter 17.43 shall be deemed to be an accessory use and shall not be considered to exceed the allowable density for the lot upon which it is located. The junior accessory dwelling unit shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot and shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

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

D. Number of Units.

1. No more than one junior accessory dwelling unit may be constructed on any lot developed with an existing or proposed single-family dwelling.

2. A junior accessory dwelling unit may be permitted on a lot with an accessory dwelling unit, provided the following criteria are met:

a. The accessory dwelling unit is fully detached and the junior accessory dwelling unit is within an~~the~~ existing or proposed single-family dwelling; and

b. The detached accessory dwelling unit does not exceed a total floor area of more than eight hundred (800) square feet and a height limitation of sixteen (16) feet.

E. Floor Area Requirements.

1. Junior accessory dwelling unit shall not exceed five hundred (500) square feet in floor area and shall be constructed within the existing walls of the main dwelling. The floor area of the junior accessory dwelling unit shall be included in calculating the floor area ratio for the lot on which the junior accessory dwelling unit is located and subject to the maximum floor area ratio established in the underlying zoning district.

    a. Exemption: A junior accessory dwelling unit may expand the main dwelling by not more than one hundred fifty (150) square feet beyond the physical dimensions of the main dwelling, provided that the expansion of the main dwelling shall be limited to accommodating ingress and egress for the junior accessory dwelling unit. The setbacks of the expansion shall comply with the setback standards of the underlying zoning district and shall be compliant with building, health, and fire codes.

F. Unit Access.

1. As required by Section 17.01.060, the lot on which the junior accessory dwelling unit is located shall have a legal means of access to the public right of way that complies with the street standards set forth in Section 12.24.010.

2. A separate exterior entry from the main entrance to the main dwelling shall be provided to serve the junior accessory dwelling unit only. Interior entry access between the junior accessory dwelling unit and the main dwelling is permitted, provided that the interior entry is located off a common living area of the main dwelling, such as a living room, family room, dining room, kitchen, or an interior hallway leading to these common living areas.

G. Required Facilities. A junior accessory dwelling unit shall include all of the following facilities:

1. At a minimum, an efficiency kitchen.

2. Sanitation facilities, but such facilities may be separated from or shared with the main dwelling.

H. Owner Occupancy. Either the main dwelling or the junior accessory dwelling unit shall be occupied by the record owner of the property as the owner's principal place of residence. In the case of ownership by a corporation, limited liability company, partnership, trust or association, either the main dwelling or the junior accessory dwelling unit shall be the principal place of residence of an officer, director, shareholder, or member of the company, a partner in the partnership, a trustor or beneficiary of the trust, a member of the association, or an employee of any such organization. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

I. Recordation of Declaration of Restrictions.

1. A Declaration of Restrictions shall be recorded to run with the land that indicates the following:

a. Only one unit may be occupied solely by persons other than the owner or owners of record;

b. If a junior accessory dwelling unit is rented, the unit shall not be rented for a period of less than 30 consecutive calendar days;

c. Sale of the junior accessory dwelling unit separately from the main dwelling is prohibited; and

d. The approved size and attributes of the junior accessory dwelling unit.

2. A copy of this Declaration of Restrictions must be given to each prospective purchaser or occupant.

J. Parking. Parking spaces for the main dwelling and junior accessory dwelling unit shall be provided in accordance with the requirements set forth in Chapter 17.34 of this title.

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

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

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

17.43.070 - Prohibition on sale and limitation on rental.

A. Accessory dwelling units and junior accessory dwelling units shall not be sold separately from the main dwelling(s).

B. If an accessory dwelling unit or junior accessory dwelling unit is rented, the unit shall not be rented for a period of less than 30 consecutive calendar days.

17.43.080 – Delay of enforcement of building standards.

A. Prior to January 1, 2030, the owner of an accessory dwelling unit that was built before January 1, 2020, may submit an application to the building official requesting that correction of any violation of building standards be delayed for five years. For the purposes of this section, “building standards” refer to those standards enforced by local agencies under the authority of Section 17960 and following of the California Health and Safety Code.

B. The building official shall grant any application submitted under subsection A of this Section if the building official determines that enforcement of the building standard is not necessary to protect health and safety. In making this determination, the building official shall consult with the fire marshal.

C. No applications submitted pursuant to this section shall be approved on or after January 1, 2030; provided, however, any delay to correct a violation that was approved by the

building official before January 1, 2030, shall be valid for the full term of the delay that the building official approved at the time the building official approved the application.

D. Until January 1, 2030, any notice to correct a violation of building standard that is issued to the owner of an accessory dwelling unit built before January 1, 2020 shall include a statement that the owner has a right to request a delay in enforcement of the building standard for an accessory dwelling unit pursuant to this section.

E. This section shall remain in effect until January 1, 2035, and as of that date is repealed.

~~17.43.070~~ 17.43.090 - Appeals.

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

ATTACHMENT 2

DRAFT ORDINANCE NO. 653

draft
ORDINANCE NO. 653

AN ORDINANCE OF THE CITY OF BRISBANE AMENDING TITLE 17 OF THE BRISBANE MUNICIPAL CODE TO REGULATE ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS AND AMENDING TITLE 15 OF THE BRISBANE MUNICIPAL CODE TO REGULATE ALTERATIONS AND ADDITIONS TO EXISTING STRUCTURES

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

SECTION 1: Section 13.04.453 - Disclosure and sewer lateral certificate, when required of Chapter 13.04 of the Brisbane Municipal Code is amended to read as follows:

13.04.453 - Disclosure and sewer lateral certificate; when required.

A. A person must possess or obtain a sewer lateral certificate issued under Section 13.04.452 before the city will issue a final building permit when the person has undertaken work that:

1. Triggers the requirements of Chapter 15.10 of this code; or.

2. Is associated with a change in water service (e.g., change in meter size or the addition of a meter).

B. Beginning April 20, 2015, any person intending to sell or transfer a fee interest in real property must disclose the requirements of this section to each of the following, except as provided in subsection C:

1. The person's real estate broker or agent, if any;

2. The person to whom the real property is intended to be sold or transferred;

3. The real estate broker or agent, if any, of the person to whom the real property is intended to be sold or transferred;

4. The escrow company or holder involved in the real property sale or transfer, if any.

C. Subsection B does not apply to:

1. Sales or transfers of individual units within a condominium as defined in Section 17.02.150 of this code;

2. Sales or transfers of less than a fee interest, e.g., a leasehold;

3. Sales or transfers to a fiduciary in the course of the administration of a decedent's estate, a guardianship or a conservatorship;

4. Transfers from one co-owner to one or more other co-owners;

5. Transfers to a revocable trust if the trust is for the benefit of the grantor(s);

6. Transfers made by a trustor to an intervivos trust;

7. Transfers between spouses or between registered domestic partners;

8. Transfers to a financial institution, trust deed holder, or trustee of a deed of trust, as part of foreclosure or similar process.

D. The director shall prepare a handout or other written material, to be made available to the public, describing the requirements of this section. A person may satisfy the disclosure requirements of subsection B by providing a then current copy of the handout or other written material to those parties identified in subsection B.

SECTION 2: Section 15.08.130 - Additions, alterations or repairs - Compliance with construction codes of Chapter 15.08 of the Brisbane Municipal Code is amended to read as follows:

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

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

SECTION 3: Section 15.44.080 - Section 903 amended—Automatic sprinkler systems of Chapter 15.44 of the Brisbane Municipal Code is amended to read as follows:

15.44.080 - Section 903 amended—Automatic sprinkler systems.

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

903 Automatic fire extinguishing systems.

(a) Notwithstanding any other provisions of this Code or any other code or ordinance of the City of Brisbane, automatic fire sprinkler systems, approved by the Fire Marshal, shall be installed in the following buildings and structures that are classified as new construction:

1. For all occupancies except R-3 occupancies: Any new building or structure, regardless of size, except stand alone, uninhabitable buildings, garages and sheds having a floor area of less than 400 square feet.

2. For all R-3 occupancies: Any new single-family or duplex structure, excluding any detached accessory structure that does not constitute habitable space having a floor area of less than 400 square feet.

(b) When additions or alterations made to an existing building fall within the requirements under Brisbane Municipal Code Chapter 15.10, an automatic fire sprinkler system shall be provided for the entire building.

(c) Other Areas. An automatic fire sprinkler system shall be installed in all garbage compartments, rubbish and linen chutes, linen rooms, incinerator compartments, dumb waiter shafts, and storage rooms when located in all occupancies except Group R, Division 3. An accessible indicating shut off valve shall also be installed.

(d) Condominium Conversions. An automatic fire sprinkler system shall be installed for all condominium conversions.

(e) Where automatic fire sprinkler systems are required to be installed, the following additional requirements shall also be satisfied, as applicable:

1. A minimum of three (3) copies of plans and specifications for automatic sprinkler installations, plus water supply calculations, shall be provided to the Fire Department for review and approval prior to commencement of the installation work.

2. All required automatic sprinkler systems shall be approved by the Fire Department.

3. All acceptance tests and such periodic tests as required by the Fire Marshall or pursuant to NFPA Pamphlets No. 13, 13D, 13R and/or Subchapter 5, Title 19, California Code of Regulations, shall be conducted and, where applicable, witnessed by a representative of the Fire Department.

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

SECTION 4: Section 15.08.140 - Additions or alteration in excess of fifty percent of floor area of Chapter 15.08 of the Brisbane Municipal Code is deleted in its entirety and reserved for future use.

SECTION 5: A new Chapter 15.10 is adopted to read as follows:

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

15.10.010 - Authority.

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

15.10.020 - Coordination with other Chapters.

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

15.10.030 - Applicability.

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

15.10.040 - Definitions.

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

A. “Addition and Alteration” shall mean new floor area added to an existing lawfully constructed building and/or changes to the existing floor area of a lawfully constructed building, which calculated together or apart constitute fifty (50) percent of the pre-existing floor area of the building. The conversion or recognition of - non-habitable rooms to habitable space may be included in the calculation of alteration of space, at the discretion of the building official.

B. “Major rebuild” shall mean removal of seventy-five percent (75%) or more of the combined surface area of the interior walls and ceilings of the habitable rooms of a building or structure to expose support members.

C. “Floor Area” shall mean the sum of the gross horizontal areas of all floors of all buildings or structures measured from the interior face of the exterior walls, but excluding each of the following:

1. Any area where the floor to ceiling height is less than six (6) feet.

2. Any detached garage or other detached accessory structure which does not constitute habitable space.

3. Any attached carport or covered deck.

4. Any attached or detached accessory dwelling unit eight hundred (800) square feet or less in gross horizontal area that, if detached, does not exceed sixteen (16) feet in height, where authorized pursuant to Chapter 17.43 of Title 17 of this Code.

D. "Standards for new construction" shall mean:

1. The requirements of the California Buildings Code adopted by this Title 15; and

2. The storm water management and discharge requirements established by Chapter 13.06 of Title 13; and

3. The standard specifications and street standards adopted by Section 12.24.010 of Title 12.

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

15.10.050 - Compliance Standards.

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

15.10.060 - Exceptions.

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

1. The area of any additions and/or alterations not exceeding a cumulative total of four hundred (400) square feet within any five (5) year period.

2. The conversion of existing floor area in an existing single-family or multiple-family dwelling to an accessory dwelling unit where authorized pursuant to Chapter 17.43 of Title 17.

3. The area of any addition and/or alteration for the creation or expansion of an attached or detached accessory dwelling unit eight hundred (800) square feet or less in floor area where authorized pursuant to Chapter 17.43 of Title 17. If detached, the accessory dwelling unit may not exceed sixteen (16) feet in height.

4. Work involving exterior surfaces, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck.

5. Alterations, renovations or repairs which do not essentially change the uses of the rooms within the building.

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

1. Compliance with the requirement will cause unreasonable hardship; or

2. The modification does not reduce any requirements for fire protection or any requirements relating to structural support and integrity; or

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

SECTION 6: Section 17.01.060 - Requirement for lot of record and infrastructure improvements of Chapter 17.01 of the Zoning Ordinance is amended to read as follows:

17.01.060 - Requirement for lot of record and infrastructure improvements.

A. Except as permitted under subsections B and C of this section or as may be permitted under other provisions of this title, no permit or approval shall be granted for the construction or expansion of any new or existing main or accessory structure of any size upon any land, nor shall any permit or approval be granted for the establishment or expansion of any use upon any land, unless both of the following requirements are satisfied:

1. The land constitutes a lot of record, as such term is defined in Chapter 17.02 of this title, or the granting of the permit or approval is conditioned upon such land being established as a lot of record through the recording of a parcel map approved by the city; and

2. All infrastructure improvements necessary for providing service to the existing or proposed structure or use have been constructed or installed in accordance with applicable city standards as determined by the city engineer, or the granting of the permit or approval is conditioned upon such improvements being constructed or installed pursuant to the terms and within such period of time as set forth in an improvement agreement between the city and the applicant, which agreement shall be recorded in the office of the county recorder and shall constitute a covenant running with the land. The improvement agreement may require the applicant to provide security for performance of the work, in such form and amount as determined by the approving authority, and may provide for the applicant to either construct the improvements or to participate in an arrangement for such construction by others, or any combination thereof.

B. In the case of a lot of record which does not abut a public street providing the principal means of access to that lot, the following improvements may be constructed without compliance with the infrastructure requirements set forth in subsection (A)(2) of this section; provided, however no such improvements shall be allowed unless the approving authority determines that adequate infrastructure to service the proposed improvement is available at the site or will be constructed as part of the project:

1. Unenclosed hot tubs, decks, stairways and landings located on the same lot as a lawfully constructed dwelling;

2. Retaining walls;

3. Parking garages and carports, no portion of which is used or usable for human occupancy;

4. An addition, not exceeding a floor area of one hundred (100) square feet, to a lawfully constructed building or structure. Only one such addition shall be allowed under this exemption;

5. Repairs or remodels which do not change the original size or significantly alter the configuration and/or habitable floor area of a lawfully constructed building or structure, as determined by the planning director.

6. The conversion of existing floor area of the main dwelling or the conversion of existing floor area of an accessory structure to an accessory dwelling unit or a junior accessory dwelling unit as permitted under Chapter 17.43 of this title. Such conversion may include the addition of floor area as provided in paragraph 4 of this subsection B. Only one such conversion shall be allowed under this exemption.

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

1. The additions or alterations are exempt from the provisions of Chapter 15.10.060; and

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

SECTION 7: Section 17.02.235 – Dwelling of Chapter 17.02 of the Zoning Ordinance is amended to read as follows:

17.02.235 - Dwelling.

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

A. "Dwelling group" means a group of two (2) or more detached buildings located upon the same site, each of which contains one or more dwelling units.

B. "Dwelling unit" means a room or group of rooms including living, sleeping, eating, cooking and sanitation facilities, constituting a separate and independent housekeeping unit, designed, occupied, or intended for occupancy by one family on a permanent basis. Permanent residency shall mean continuous occupancy of the dwelling unit for a period of thirty (30) days or more.

C. "Multiple-family dwelling" means a building or site containing three (3) or more dwelling units (also see "duplex"). The term includes single-room-occupancy dwelling units, typically comprised of one or two (2) rooms (which may include a kitchen and/or a bathroom, in addition to a bed), that are restricted to occupancy by no more than two (2) persons.

D. "Accessory dwelling unit" means a separate dwelling unit created upon a site that contains a single-family dwelling, duplex, or multiple-family dwelling. Subject to the restrictions of this title, the accessory dwelling unit may be within, attached to, or detached from the single-family dwelling, duplex, or multiple-family dwelling. An accessory dwelling unit shall include permanent provisions for living, sleeping, eating, cooking, and sanitation. The term "secondary dwelling unit" shall have the same meaning throughout this title.

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

F. "Single-family dwelling" means a dwelling unit constituting the only principal structure upon a single site (excluding any lawfully established accessory dwelling unit that may be located within the same structure on upon the same site). The term includes employee housing for six (6) or fewer persons, residential care facilities, licensed by the state to provide twenty-four (24) hour nonmedical care, serving six (6) or fewer persons (not including the operator, the operator's family or persons employed as staff) in need of supervision, personal services, or assistance essential for sustaining the activities of daily living or for the protection of the individual. Also see "Group care home" for seven (7) or more persons.

SECTION 8: Section 17.06.020 – Permitted uses of Chapter 17.06 of the Zoning Ordinance is amended to read as follows:

17.06.020 - Permitted uses.

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

A. Single-family dwellings.

B. Accessory structures and uses incidental to a permitted use, including personal cultivation of cannabis in compliance with Title 8, Chapter 8.12.

C. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.

D. Small family day care homes.

E. Accessory dwelling units and junior accessory dwelling units, in accordance with Chapter 17.43 of this title.

SECTION 9: Section 17.06.040 – Development regulations of Chapter 17.06 of the Zoning Ordinance is amended to read as follows:

17.06.040 - Development regulations.

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

A. Lot Area.

1. The minimum area of any lot shall be five thousand (5,000) square feet.

2. A single-family dwelling may be constructed on a lot of record with an area of less than five thousand (5,000) square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.32.100.

B. Density of Development. Not more than one single-family dwelling shall be located on each lot in the R-1 district.

C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

Width	Depth
50 feet	100 feet

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

1. Front setback: Fifteen (15) feet, with the following exceptions:

a. Where the lot has a slope of fifteen percent (15%) or greater, the minimum front setback may be reduced to ten (10) feet.

b. Where fifty percent (50%) or more of the lots of record in a block have been improved with single-family dwellings, the minimum front setback may be the average distance of the front outside wall of the single-family structures from the front lot line, if less than fifteen (15) feet. Notwithstanding the foregoing, the minimum front setback for garages or carports shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

2. Side setback: five (5) feet, with the exception that a lot having a width of less than fifty (50) feet may have a side setback reduced to ten percent (10%) of the lot width, but in no event less than three (3) feet or the minimum setback required by the Uniform Building Code, whichever is greater. Notwithstanding the foregoing, the minimum side setback for garages or carports accessed from a street or alley along that side of the lot shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

3. Rear setback: Ten (10) feet.

E. Lot Coverage. The maximum coverage by all structures on any lot shall be forty percent (40%).

F. Floor Area Ratio. The maximum floor area ratio for all buildings on a lot shall be 0.72. Where the size of the lot is three thousand seven hundred (3,700) square feet or less, one covered parking space designed to accommodate a full-size automobile shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of two hundred (200) square feet.

G. Height of Structures.

1. Except as otherwise provided in paragraph 2 of this subsection G and in Section 17.32.060, the maximum height of any structure shall be as follows:

    a. Twenty-eight (28) feet, for lots having a slope of less than twenty percent (20%); or

    b. Thirty (30) feet, for lots having a slope of twenty percent (20%) or more.

2. For a distance of fifteen (15) feet from the front lot line, the height of any structure shall not exceed twenty (20) feet as measured from finish grade; provided, however, garages and carports may be constructed to a height of fifteen (15) feet above the elevation of the center of the adjacent street when permitted by Section 17.32.070 of this title. A garage or carport in compliance with this subsection may exceed a height of thirty (30) feet, but the height of any permitted living area underneath shall not exceed thirty (30) feet from finish grade.

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

1. Front outside wall: Thirty percent (30%) articulation.

2. Side outside walls:

    a. Interior side outside wall: No articulation requirement.

    b. Exterior side outside wall: Where the structure is located on a lot having an average width of forty (40) feet or greater, the articulation requirement for the exterior side outside wall shall be twenty percent (20%). No articulation shall be required for the exterior side outside wall of structures located on lots having an average width of less than forty (40) feet.

3. Rear outside wall: Thirty percent (30%) articulation.

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

I. Landscaping Requirements.

1. Front Setback. A minimum of fifteen percent (15%) of the front setback area shall be landscaped where the lot has a front lot line of thirty (30) feet or greater.

2. Downslope Lots. The rear of any newly constructed main structure on a downslope lot shall be screened with trees and shrubs in accordance with a landscape plan approved by the planning director.

3. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

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

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

SECTION 10: Section 17.08.020 – Permitted uses of Chapter 17.08 of the Zoning Ordinance is amended to read as follows:

17.08.020 - Permitted uses.

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

A. Single-family dwellings.

B. Duplexes.

C. Multiple family dwellings containing not more than six (6) dwelling units.

D. Dwelling groups.

E. Accessory structures and uses incidental to a permitted use, including personal cultivation of cannabis in compliance with Title 8, Chapter 8.12.

F. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.

G. Small family day care homes.

H. Accessory dwelling units and junior accessory dwelling units, in accordance with Chapter 17.43 of this title.

SECTION 11: Section 17.08.040 – Development regulations of Chapter 17.08 of the Zoning Ordinance is amended to read as follows:

17.08.040 - Development regulations.

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

A. Lot Area.

1. The minimum area of any lot shall be five thousand (5,000) square feet, except as otherwise provided in subsection B of this Section 17.08.040.

2. A single-family dwelling may be constructed on a lot of record with an area of less than five thousand (5,000) square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.32.100.

B. Density of Development. The minimum lot area for each dwelling unit on the site shall be two thousand five hundred (2,500) square feet; provided, however, a lot having an area of four thousand nine hundred fifty (4,950) square feet or greater shall be considered conforming for a development density of two (2) units.

C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

Width	Depth
50 feet	100 feet

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

1. Front setback: Fifteen (15) feet, with the following exceptions:

a. Where the lot has a slope of fifteen percent (15%) or greater, the minimum front setback may be reduced to ten (10) feet.

b. Where fifty percent (50%) or more of the lots of record in a block have been improved with single-family dwellings, the minimum front setback may be the average distance of the front outside wall of the single-family structures from the front lot line, if less than fifteen (15) feet. Notwithstanding the foregoing, the minimum front setback for garages or carports shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

2. Side setback: five (5) feet, with the exception that a lot having a width of less than fifty (50) feet may have a side setback reduced to ten percent (10%) of the lot width, but in no event less than three (3) feet or the minimum setback required by the Uniform Building Code, whichever is greater. Notwithstanding the foregoing, the minimum side setback for garages, or carports accessed from a street or alley along that side of the lot

shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

3. Rear setback: Ten (10) feet.

E. Lot Coverage. The maximum coverage by all structures on any lot shall be fifty percent (50%).

F. Floor Area Ratio. The maximum floor area ratio for all buildings on a lot shall be 0.72, subject to the following exclusions:

1. In the case of single-family dwellings, where the size of the lot is three thousand seven hundred (3,700) square feet or less, one covered parking space designed to accommodate a full-size automobile shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of two hundred (200) square feet.

2. In the case of duplexes and multiple-family dwellings, the area of all covered parking spaces required to be provided for the site shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of four hundred (400) square feet per unit.

G. Height of Structures.

1. Except as otherwise provided in paragraph 2 of this subsection G and in Section 17.32.060, the maximum height of any structure shall be as follows:

a. Twenty-eight (28) feet, for lots having a slope of less than twenty percent (20%); or

b. Thirty (30) feet, for lots having a slope of twenty percent (20%) or more.

2. For a distance of fifteen (15) feet from the front lot line, the height of any structure shall not exceed twenty (20) feet as measured from finish grade; provided, however, garages and carports may be constructed to a height of fifteen (15) feet above the elevation of the center of the adjacent street when permitted by Section 17.32.070 of this title. A garage or carport in compliance with this subsection may exceed a height of thirty (30) feet, but the height of any permitted living area underneath shall not exceed thirty (30) feet from finish grade.

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

1. Front outside wall: Thirty percent (30%) articulation.

2. Side outside walls:

a. Interior side outside wall: No articulation requirement.

b. Exterior side outside wall: Where the structure is located on a lot having an average width of forty (40) feet or greater, the articulation requirement for the exterior side outside wall shall be twenty percent (20%). No

articulation shall be required for the exterior side outside wall of structures located on lots having an average width of less than forty (40) feet.

3. Rear outside wall: Thirty percent (30%) articulation.

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

I. Landscaping Requirements.

1. Front Setback. A minimum of fifteen percent (15%) of the front setback area shall be landscaped where the lot has a front lot line of thirty (30) feet or greater.

2. Downslope Lots. The rear of any newly constructed main structure on a downslope lot shall be screened with trees and shrubs in accordance with a landscape plan approved by the planning director.

3. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

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

K. Recycling Area Requirements:

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

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

SECTION 12: Section 17.10.020 – Permitted uses of Chapter 17.10 of the Zoning Ordinance is amended to read as follows:

17.10.020 - Permitted uses.

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

A. Multiple-family dwellings;

B. Single-family dwellings.

C. Duplexes.

D. Dwelling groups.

E. Accessory structures and uses incidental to a permitted use, including personal cultivation of cannabis in compliance with Title 8, Chapter 8.12.

F. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.

G. Small family day care homes.

H. Accessory dwelling units and junior accessory dwelling units, in accordance with Chapter 17.43 of this title.

SECTION 13: Section 17.10.040 – Development regulations of Chapter 17.10 of the Zoning Ordinance is amended to read as follows:

17.10.040 - Development regulations.

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

A. Lot Area.

1. The minimum area of any lot shall be five thousand (5,000) square feet, except as otherwise provided in subsection B of this section.

2. A single-family dwelling may be constructed on a lot of record with an area of less than five thousand (5,000) square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.32.100.

B. Density of Development. The minimum lot area for each dwelling unit on the site shall be one thousand five hundred (1,500) square feet; provided, however, a lot having an area of four thousand nine hundred fifty (4,950) square feet or greater shall be considered conforming for a development density of three (3) units.

C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

Width	Depth
50 feet	100 feet

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

1. Front setback: Fifteen (15) feet, with the following exceptions:

a. Where the lot has a slope of fifteen percent (15%) or greater, the minimum front setback may be reduced to ten (10) feet.

b. Where fifty percent (50%) or more of the lots of record in a block have been improved with single-family dwellings, the minimum front setback may be the average distance of the front outside wall of the single-family structures from the front lot line, if less than fifteen (15) feet. Notwithstanding the foregoing, the minimum front setback for garages or carports shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

2. Side setback: five (5) feet, with the exception that a lot having a width of less than fifty (50) feet may have a side setback reduced to ten percent (10%) of the lot width, but in no event less than three (3) feet or the minimum setback required by the Uniform Building Code, whichever is greater. Notwithstanding the foregoing, the minimum side setback for garages, or carports accessed from a street or alley along that side of the lot shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.

3. Rear setback: Ten (10) feet.

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

F. Floor Area Ratio. The maximum floor area ratio for all buildings on a lot shall be 0.72, subject to the following exclusions:

1. In the case of single-family dwellings, where the size of the lot is three thousand seven hundred (3,700) square feet or less, one covered parking space designed to accommodate a full-size automobile shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of two hundred (200) square feet.

2. In the case of duplexes and multiple-family dwellings, the area of all covered parking spaces required to be provided for the site shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of four hundred (400) square feet per unit.

G. Height of Structures.

1. Except as otherwise provided in paragraph 2 of this subsection G and in Section 17.32.060, the maximum height of any structure shall be as follows:

a. Twenty-eight (28) feet, for lots having a slope of less than twenty percent (20%); or

b. Thirty (30) feet, for lots having a slope of twenty percent (20%) or more.

2. For a distance of fifteen (15) feet from the front lot line, the height of any structure shall not exceed twenty (20) feet as measured from finish grade; provided, however, garages and carports may be constructed to a height of fifteen (15) feet above the elevation of the center of the adjacent street when permitted by Section 17.32.070 of this title. A garage or carport in compliance with this subsection may exceed a height of thirty (30) feet, but the height of any permitted living area underneath shall not exceed thirty (30) feet from finish grade.

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

1. Front outside wall: Thirty percent (30%) articulation.

2. Side outside walls:

    a. Interior side outside wall: No articulation requirement.

    b. Exterior side outside wall: Where the structure is located on a lot having an average width of forty (40) feet or greater, the articulation requirement for the exterior side outside wall shall be twenty percent (20%). No articulation shall be required for the exterior side outside wall of structures located on lots having an average width of less than forty (40) feet.

3. Rear outside wall: Thirty percent (30%) articulation.

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

I. Landscaping Requirements.

1. Front Setback. A minimum of fifteen percent (15%) of the front setback area shall be landscaped where the lot has a front lot line of thirty (30) feet or greater.

2. Downslope Lots. The rear of any newly constructed main structure on a downslope lot shall be screened with trees and shrubs in accordance with a landscape plan approved by the planning director.

3. Sites with Three (3) or More Units. Not less than ten percent (10%) of the lot area shall be improved with landscaping where three (3) or more dwelling units are located on the same site.

4. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

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

K. Recycling Area Requirements:

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

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

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

SECTION 14: Section 17.12.020 – Permitted uses of Chapter 17.12 of the Zoning Ordinance is amended to read as follows:

17.12.020 - Permitted uses.

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

A. Single-family dwellings.

B. Accessory structures and uses incidental to a permitted use, including personal cultivation of cannabis in compliance with Title 8, Chapter 8.12.

C. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.

D. Small family day care homes.

E. Accessory dwelling units and junior accessory dwelling units, when authorized by a permit under Chapter 17.43 of this title.

SECTION 15: Section 17.12.040 – Development regulations of Chapter 17.12 of the Zoning Ordinance is amended to read as follows:

17.12.040 - Development regulations.

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

A. Lot Area.

1. The minimum area of any lot shall be twenty thousand (20,000) square feet, except as otherwise provided in Section 17.12.050, Density transfer, and Section 17.12.055, Clustered development, of this chapter.

2. A single-family dwelling may be constructed on a lot of record with an area of less than twenty thousand (20,000) square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.01.060 of Chapter 17.01 of this title.

B. Density of Development. Not more than one single-family dwelling shall be located on each lot in the R-BA District.

C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

Width	Depth
110 feet	140 feet

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

1. Front setback: Ten (10) feet.

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

3. Rear setback: Ten (10) feet.

E. Lot Coverage. The maximum coverage by all structures on any lot shall be twenty-five percent (25%).

F. Floor Area Ratio. The maximum floor area ratio of all buildings on a lot shall be 0.72; provided, however, that in no event shall the floor area of all buildings on a lot exceed five thousand five hundred (5,500) square feet.

G. Height of Structures.

1. Except as otherwise provided in paragraph 2 of this subsection G and in Section 17.32.060, the maximum height of any structure shall be thirty-five (35) feet.

2. For a distance of twenty (20) feet from the front lot line, the height of any structure shall not exceed twenty (20) feet as measured from finish grade; provided, however:

a. Residential structures on sites sloping down from the adjacent street may be constructed to a height of twenty (20) feet above the elevation of the center of the street, so long; and

b. Garages and carports may be constructed to a height of fifteen (15) feet above the elevation of the center of the adjacent street and may exceed a height of thirty-five (35) feet, but the height of any permitted living area underneath shall not exceed thirty-five (35) feet from finish grade.

H. Wildland Interface. The development shall incorporate such measures as the fire chief may deem necessary to protect against the spread of fire between the site and the adjacent wildland.

I. HCP Compliance. All development within the R-BA District, except as provided in Section 17.01.060, shall comply with the requirements of the San Bruno Mountain Area Habitat Conservation Plan (HCP), including site activity review, environmental assessments, and operating programs for planned management units, consistent with the objectives and obligations set forth in the HCP.

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

1. Front outside wall: Thirty percent (30%) articulation.

2. Side outside walls:

    a. Interior side outside wall: No articulation requirement.

    b. Exterior side outside wall: Where the structure is located on a lot having an average width of forty (40) feet or greater, the articulation requirement for the exterior side outside wall shall be twenty percent (20%). No articulation shall be required for the exterior side outside wall of structures located on lots having an average width of less than forty (40) feet.

3. Rear outside wall: Thirty percent (30%) articulation.

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

K. Landscaping Requirements.

1. Landscape Plan. All development proposals and re-landscaping projects subject to the water conservation in landscaping ordinance (Chapter 15.70), except as permitted in Section 17.01.060 of Chapter 17.01 of this title, shall include a landscape plan to be approved by the planning director in consultation with the HCP plan operator. The plan shall show all proposed landscaping and the location of all protected trees and rare plants. The landscape plan shall be consistent with all of the following objectives:

    a. Preservation of protected trees and rare plants to the greatest extent possible;

    b. Use of plants that are compatible with the natural flora and fauna, and are not invasive to the HCP area;

    c. Use of water conserving plants;

    d. Use of plants that will effectively screen structures and blend with the natural landscape; and

    e. Use of landscaping that is fire resistant.

2. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the provisions of the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

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

1. In addition to the required contents of application for design permit set forth in Section 17.42.020(A), story poles certified by a licensed architect, surveyor, civil engineer or contractor to represent the height of the proposed building shall be erected at the locations of its outer corners and roof peaks according to a plan pre-approved by the community development director. The upper one-foot length of each pole shall be painted OSHA yellow so as to be clearly visible from a distance.

2. In addition to the findings required for issuance of design permits set forth in Section 17.42.040, the planning commission shall find that the building's placement, height, bulk and landscaping will preserve those public views of the San Bruno Mountain State and County Park as seen from the Community Park and from the Bay Trail along the Brisbane Lagoon and Sierra Point shorelines that are found to be of community-wide value. Methods to accomplish this may include varying the building's roofline to reflect the ridgeline's topography, orienting the building to minimize the impact of its profile upon public views, locating the building on the lower elevations of the site, and reducing the building's height below the maximum permitted in the district.

3. An existing structure may be repaired or replaced in accordance with Section 17.38.090 without design permit approval, but any alteration or expansion which raises any portion of the roofline or increases the building's lot coverage shall be subject to design permit approval under this section.

M. Canyon Watercourses and Wetlands. Development of the site, including any temporary disturbance, shall be set back thirty (30) feet in each direction from the center line of any watercourse, and twenty (20) feet from the boundary of any wetlands. The specific location of watercourse center lines and wetland boundaries shall be determined by qualified personnel under the city's direction.

N. Trails. The development shall incorporate public access trails to the extent feasible given the environmental sensitivities of the site.

O. Nonconforming Residential Structures and Uses. Nonconforming residential structures and nonconforming residential uses, as defined in Section 17.02.560, may be repaired, restored, reconstructed, enlarged or expanded in accordance with the provisions of paragraph 3 of subsection L of Section 17.12.040 and Chapters 17.34 and 17.38 of this title.

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

SECTION 16: Section 17.14.020 – Permitted uses of Chapter 17.14 of the Zoning Ordinance is amended to read as follows:

17.14.020 - Permitted uses.

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

A. Financial institutions.

B. Medical facilities.

C. Offices.

D. Personal services.

E. Restaurants.

F. Retail sales and rental.

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

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

SECTION 17: Section 17.14.060 – Development regulations for the NCRO-2 district of Chapter 17.14 of the Zoning Ordinance is amended to read as follows:

17.14.060 - Development regulations for the NCRO-2 district.

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

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

B. Lot Dimensions. The minimum dimensions of any lot in the NCRO-2 district shall be as follows:

Width	Depth
25 feet	No requirement

C. Density of Residential Use. Dwelling unit density in a mixed use shall be established by the use permit.

D. Setbacks. The minimum required setbacks for any lot in the NCRO-2 district, except as provided in Section 17.32.070, shall be as follows:

1. Front setback: No requirement (0).

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

3. Rear Setback: Ten (10) feet.

E. Lot Coverage. The maximum coverage by all structures on any lot in the NCRO-2 district shall be ninety percent (90%).

F. Height of Structures. The maximum height of any structure, except as provided in Section 17.32.060, shall be twenty-eight (28) feet, except that the height may extend to thirty-five (35) feet when authorized by a design permit granted pursuant to Chapter 17.42 of this title and provided the approving authority is able to make the findings set forth in Section 17.14.110 of this chapter.

G. Fencing Requirements. If the site is next to a residential district, a wood fence of not less than eight (8) feet in height that adequately screens the site from the adjacent residential property shall be installed along the property line abutting the residential district. The planning director may approve deviations from the material and height requirements set forth in the preceding sentence, based upon a finding that the modified fence is more appropriate for the site and the adjacent residential property.

H. Storefronts. All uses at street level facing Visitacion and/or San Bruno Avenues shall be storefronts, as defined in Section 17.02.746 of this title, except for entrances to uses above or behind the storefronts. Such uses shall comply with the following additional requirements:

1. The minimum floor area for a storefront use is six hundred (600) square feet. The approving authority may approve a lesser floor area if the approving authority finds that such lesser area is as large as possible for the intended storefront use, given the size, configuration, and physical constraints of the structure and the site.

2. No off-street parking shall be located on any portion of the site between the curb line and the storefront.

3. New construction shall incorporate the necessary vents and chases into the building design so as to allow future changes in occupancy of the storefront area.

4. Single-family dwellings in which mixed uses are conducted shall have a storefront character as viewed from the street.

I. Passive Open Space. Usable passive open space shall be provided for residential uses of at least sixty (60) square feet per unit. Such passive open space may be provided as individual patios or decks, or as common patio or garden area, or any combination thereof. Notwithstanding that an attached or detached accessory dwelling unit greater than eight hundred (800) square feet is added to an existing residential use, there shall be no reduction in the amount of required usable passive open space for the other residential use. If an existing residential use has passive open space that does not conform to the sixty (60) square feet per unit requirement, the addition of an attached or detached accessory dwelling unit greater than eight hundred (800) square feet to that use shall not further reduce the amount of passive open space. The addition of an attached or detached accessory dwelling unit that is eight hundred (800) feet or less may result in a loss of the required usable passive open space for the other residential uses, including the loss of non-forming passive open space.

J. Recycling Area Requirements.

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

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

SECTION 18: Section 17.16.020 – Permitted uses of Chapter 17.16 of the Zoning Ordinance is amended to read as follows:

17.16.020 - Permitted uses.

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

1. Emergency shelters in compliance with Section 17.16.040.

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

SECTION 19: Section 17.16.040 – Development regulations of Chapter 17.16 of the Zoning Ordinance is amended to read as follows:

17.16.040 - Development regulations.

Development regulations in the Southwest Bayshore district are as follows:

A. Lot Area. The minimum area of any lot shall be seven thousand five hundred (7,500) feet.

B. Density of Development. The minimum lot area for each dwelling unit on a site shall be as follows:

1. Single-family dwellings: Seven thousand five hundred (7,500) square feet;

2. Duplex dwellings: Three thousand seven hundred fifty (3,750) square feet;

3. Multiple-family dwellings and dwelling groups: One thousand five hundred (1,500) square feet;

4. Mixed use or live/work development: Dwelling unit density shall be determined by the use permit.

C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

Width	Depth
50 feet	No requirement

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

1. Front setback;

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

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

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

2. Side setback:

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

   b. Commercial Uses: Fifteen (15) feet;

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

3. Rear setback: Ten (10) feet.

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

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

G. Landscaping Requirements.

1. Not less than ten percent (10%) of the lot area shall be improved with landscaping. The addition of an attached or detached accessory dwelling unit greater than eight hundred (800) square feet shall not result in a loss of the required landscape area. The addition of an attached or detached accessory dwelling unit that is eight hundred (800) square feet or less may result in a loss of the required landscape area.

2. Plant materials shall be drought resistant and non-invasive as required by the planning director.

3. Landscaping required under this section, including replacement landscaping, shall be installed according to detailed plans approved by the planning director. The landscape plans shall be consistent with the following objectives:

    a. Use of plants that are not invasive;

    b. Use of water conserving plants; and

    c. Use of plants and other landscape features that are appropriate to the context.

4. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.

H. Screening Requirements.

1. Outside storage of pallets or containers used for transportation and delivery of items related to the uses conducted on the site shall not be located in any required setback from a street and shall be screened from off-site view to the extent it is reasonable to do so.

2. The off-site visibility of exterior equipment such as heating and ventilation units, above-ground storage tanks, compactors and compressors, shall be mitigated through such measures as may be reasonable under the circumstances, including, but not limited to, the installation of screening, fencing, painting, or landscaping, or any combination of the foregoing.

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

I. Recycling Area Requirements.

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

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

a twelve-month period collectively adding thirty percent (30%) or more to the existing floor area of that portion of the development which said tenant leases. Such recycling areas shall, at a minimum, be sufficient in capacity, number, and distribution to serve that portion of the development project which said tenant leases.

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

1. No emergency shelter shall be allowed to be located within three hundred (300) feet of another emergency shelter.

2. The required setbacks for new development shall be:

    a. Front setback: Ten (10) feet; except that the front setback may be reduced to zero (0) where development includes dedication to public right-of-way for a frontage access road and sidewalk, to the satisfaction of the city engineer and fire department.

    b. Side setback: Five (5) feet; except that the planning commission may approve exceptions to the side setback regulations through the granting of a use permit.

    c. Rear setback: Ten (10) feet.

3. A maximum of twelve (12) persons (twelve (12) beds) to be served nightly.

4. Each resident shall be provided personal living space.

5. Bathrooms and bathing facilities shall be provided, adequate for the number of residents.

6. Laundry facilities or services shall be provided on site, adequate for the number of residents.

7. The length of stay for individual clients shall not exceed six (6) months, or as allowed by state law.

8. Staff and services shall be provided to assist residents to obtain permanent shelter and income.

9. For security, the facility shall provide outdoor lighting of common areas, entries, parking areas, pathways, in compliance with Section 17.16.050(E).

10. For security, the shelter shall be adequately staffed twenty-four (24) hours a day, seven (7) days a week.

11. Parking shall be as specified in Chapter 17.34.

12. Outdoor activities, such as recreation, eating, and staging for drop-off, intake, and pick-up, may be conducted at the facility, between the hours of five (5:00) a.m. and ten

(10:00) p.m. A night operations use permit is required for outdoor activities between the hours of ten (10:00) p.m. and five (5:00) a.m., as provided for in Section 17.16.070.

13. The facility may provide the following:

    a. Kitchen facilities;

    b. Dining area;

    c. Recreation room;

    d. Training and counseling support services;

    e. Child care facilities;

    f. Other facilities or services that are accessory to an emergency shelter.

14. Prior to commencing operation, the emergency shelter provider must have a written management plan, which shall be provided to the planning director. The management plan must include provisions for staff training, resident identification process, neighborhood outreach, policies regarding pets, the timing and placement of outdoor activities, provisions for residents' meals (including special dietary needs), medical care, mental health care, dental care, temporary storage of residents' personal belongings, safety and security, provisions in case of area-wide emergencies, screening of residents to ensure compatibility with services provided at the facility, plans to help secure other provisions for those who may not be part of the shelter's target population, computer access for residents, and training, counseling and social service programs for residents, as applicable.

K. Mobile Home Parks.

1. Mobile home parks in the SCRO-1 district shall be subject to the development and parking standards established in Chapter 17.11 of this Title.

2. Conversion, closure, or cessation of a mobile home park in the SCRO-1 district shall be subject to the procedures established in Section 17.11.090 of this Title.

SECTION 20: Section 17.27.020 – Permitted uses of Chapter 17.27 of the Zoning Ordinance is amended to read as follows:

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

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

PAOZ-1	PAOZ-2	Permitted Uses
X	Not permitted	Single-family dwellings

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

SECTION 21: Section 17.27.040 – Development regulations for the PAOZ-1 district of Chapter 17.27 of the Zoning Ordinance is amended to read as follows:

17.27.040 - Development regulations for the PAOZ-1 district.

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

A. Lot Area. There is no minimum lot area.

B. Density of Development. The minimum development density for any site shall be twenty (20) dwelling units per acre and the maximum development density shall be twenty-eight (28) dwelling units per acre.

C. Lot Dimensions. There are no minimum lot dimensions.

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

1. Front: Five (5) feet minimum, fifteen (15) feet maximum.

2. Side: Five (5) feet minimum, ten (10) feet maximum.

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

4. Rear: Fifteen (15) feet minimum.

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

E. Lot Coverage. There is no maximum lot coverage.

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

G. Height.

1. Buildings and Architectural Features. The maximum building height shall be thirty-eight (38) feet and three (3) stories. Architectural features, including chimneys, elevators, towers, turrets, eaves, skylights or roof windows, utilities, utility penthouses, and solar panels, are allowed to project up to a maximum of ten (10) feet above the maximum building height.

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

H. Landscaping Requirements. Not less than thirty percent (30%) of the lot area shall be landscaped. New and rehabilitated, irrigated landscapes are subject to the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest State provisions, whichever is more effective in conserving water. Landscaping shall conform to the development standards established in Section 3.5 of the Parkside Precise Plan. The addition of an attached or detached accessory dwelling unit greater than eight hundred (800) square feet shall not result in a loss of the required landscaping. The addition of an attached or detached accessory dwelling unit that is eight hundred (800) square feet or less may result in a loss of the required landscape area.

I. Open Area Requirements. At least four hundred (400) square feet of open area shall be provided for the dedicated use of each dwelling unit. The open area requirement shall not be met by shared or communal open areas. The addition of an attached or detached accessory dwelling unit greater than eight hundred (800) square feet shall not result in a loss of the required open areas. The addition of an attached or detached accessory dwelling unit that is eight hundred (800) square feet or less may result in a loss of the required open area.

J. Building Design. All buildings shall substantially comply with the building design standards established in Section 3.3 of the Parkside Precise Plan. Projects that do not comply with those building design standards shall be subject to design review as set forth in Section 17.27.060(B), in addition to any other discretionary review required by the specific deviations.

K. Site Design. All projects shall substantially comply with the site design standards established in Section 3.4 of the Parkside Precise Plan. Projects that do not comply with those site design standards shall be subject to design review as set forth in Section 17.27.060(B), in addition to any other discretionary review required by the specific deviations.

L. Parking. Required on-site parking for single-family dwellings shall be two (2) spaces per dwelling, both of which shall be in an enclosed garage. For multiple-family dwellings, accessory dwelling units, and junior accessory dwelling units, required on-site parking and additional guest parking shall be provided as set forth in Section 17.34.020 of this title.

1. Design Requirements. Off-street parking facilities shall comply with the design standards as set forth in Table 1, which appears immediately following this section.

M. Recycling Area Requirements.

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

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

SECTION 22: Section 17.27.050 – Development regulations for the PAOZ-2 district of Chapter 17.27 of the Zoning Ordinance is amended to read as follows:

17.27.050 - Development regulations for the PAOZ-2 district.

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

A. Lot Area. There is no minimum lot area.

B. Density of Development. The minimum development density for any site shall be twenty-four (24) dwelling units per acre and the maximum development density shall be twenty-eight (28) dwelling units per acre.

C. Lot Dimensions. There are no minimum lot dimensions.

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

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

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

2. Side: Five (5) feet minimum.

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

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

4. Rear: Fifteen (15) feet minimum.

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

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

G. Height.

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

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

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

I. Open Area Requirements. At least one hundred (100) square feet of open area per dwelling unit shall be provided. The open area may be met through a combination of common or private open areas provided on-site. Open areas shall be usable and shall support residents' passive and/or active use. The computation of open areas may include amenities and structures designed to enhance usability, such as swimming pools, rooftop gardens or decks, fountains, planters, benches, and usable landscaping. The addition of an attached or detached accessory dwelling unit greater than eight hundred (800) square feet shall not result in a loss of the required open areas. The addition of an attached or detached accessory dwelling unit that is eight hundred (800) square feet or less may result in a loss of the required open area.

J. Building Design. All buildings shall substantially comply with the building design standards established in Section 3.3 of the Parkside Precise Plan. Projects that do not comply with those building design standards shall be subject to design review as set forth in Section 17.27.060(B), in addition to any other discretionary review required by the specific deviations.

K. Site Design. All projects shall substantially comply with the site design standards established in Section 3.4 of the Parkside Precise Plan. Projects that do not comply with those site design

standards shall be subject to design review as set forth in Section 17.27.060(B), in addition to any other discretionary review required by the specific deviations.

L. Parking. Required on-site parking and additional guest parking shall be as established in Section 17.34.020 of this title for multiple-family developments and accessory dwelling units.

1. Design Requirements. Off-street parking facilities shall comply with the design standards as set forth in Table 1, which appears immediately following this section.

2. Short-term and long-term parking for bicycles in the PAOZ-2 district shall be provided as follows: Long-Term: 1/10 units; Short-Term: 1/20 units.

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

M. Recycling Area Requirements.

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

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

SECTION 23: Section 17.28.120 – Amendment or modification of a PD permit of Chapter 17.28 of the Zoning Ordinance is amended to read as follows:

17.28.120 - Amendment or modification of PD permit.

A. Amendments or modifications to a PD permit shall require approval by the city council, except as follows:

1. The planning commission and the zoning administrator shall have authority to approve any items which, under the terms of the PD permit, have been specifically delegated to either of them for approval, either as a condition for issuance of the permit or at any time thereafter.

2. Minor changes during the course of construction which do not materially affect the use, nature, appearance, quality or character of the project may be approved by the zoning administrator.

3. The relocation of a use or activity authorized by the PD permit to another location regulated by the same permit where no significant adverse impacts are created as a result of such relocation may be approved by the zoning administrator.

4. The construction of an accessory dwelling unit or junior accessory dwelling unit in compliance with Chapter 17.43 of this title shall be approved ministerially by the zoning administrator.

B. The application requirements, public hearing procedures and findings required for amendments or modifications to a PD permit shall be as prescribed in Sections 17.28.040, 17.28.050 and 17.28.080 of this chapter.

SECTION 24: Section 17.32.070 - Exceptions – Setback requirements of Chapter 17.32 of the Zoning Ordinance is amended to read as follows:

17.32.070 - Exceptions – Setback requirements.

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

1. Projections from a Building.

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

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

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

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

Side setback area:	May extend two (2) feet into the side setback area, but no closer than three (3) feet from the side lot line.

c. Supported Decks, Cantilevered Decks and Balconies.

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

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

i. The modification is necessary in order to gain access to the property or to the dwelling unit on the property.

ii. The modification is necessary because of unusual or special circumstances relating to the configuration of the property.

iii. The visual impacts of the modification have been minimized.

d. Deck Railings within Setback Areas.

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

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

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

Rear setback area:	No more than one set of stairs per dwelling unit may extend from the building into the rear setback area, but no closer than five (5) feet from the rear lot line. Stairs on grade, sidewalks, and other flatwork constructed of noncombustible materials may be located anywhere within the rear setback area.
Side setback area:	No more than one set of stairs per dwelling unit may extend from the building into the side setback area, but no closer than three (3) feet from the side lot line. Stairs on grade, sidewalks, and other flatwork constructed of noncombustible materials may be located anywhere within the side setback area.

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

i. The modification is necessary in order to gain access to the property or to the dwelling unit on the property.

ii. The modification is necessary because of unusual or special circumstances relating to the configuration of the property.

iii. The visual impacts of the modification have been minimized.

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

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

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

i. The exception is necessary to meet special needs for accessibility of a person having a physical handicap which impairs his or her ability to access the property and cannot be addressed through the standard exceptions to the setback area requirements under this Section 17.32.070.

ii. Visual impacts of the accessibility improvements located within a setback area have been minimized.

iii. The accessibility improvements will not create any significant adverse impacts upon adjacent properties in terms of loss of privacy, noise or glare.

iv. The accessibility improvements will be constructed in a sound and workmanlike manner, in compliance with all applicable provisions of the building and fire codes.

2. Small Free-Standing Structures.

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

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

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

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

ii. The modification will not create any significant adverse impacts upon adjacent properties in terms of loss of privacy, noise, or glare.

iii. The accessory structure is designed to be compatible with the primary dwelling(s) on the site.

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

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

Front setback area:	May not exceed eight (8) feet in height or cover more than fifteen percent (15%) of the front setback area.

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

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

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

ii. The modification will not create any significant adverse impacts upon adjacent properties in terms of loss of privacy, noise, or glare.

iii. The accessory structure is designed to be compatible with the primary dwelling(s) on the site.

3. Miscellaneous Improvements.

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

Front setback area:	Garages, carports and parking decks not more than fifteen (15) feet in height above the elevation of the center of the adjacent street in the R-1, R-2 and R-3 Districts and parking decks in the R-BA District may be placed at any location within the front setback area provided: (i) there is no encroachment into any side setback area, and (ii) the garage is approved by the city engineer, based upon a finding that no traffic or safety hazard will be created.
Rear setback area:	On through lots, garages, carports and parking decks not more than fifteen (15) feet in height above the elevation of the center of the adjacent street may be placed at any location within the rear setback area provided: (i) there is no encroachment into any side setback area, and (ii) the garage is approved by the city engineer, based upon a finding that no traffic or safety hazard will be created.
Side setback area:	No exception permitted.

b. Decorative Artwork, Ponds, Fountains and Similar Water Features, Not More Than Six (6) Feet in Height.

Front setback area:	May be placed at any location within the front setback area.
Rear setback area:	May be placed at any location within the rear setback area.
Side setback area:	No exception permitted.

c. Existing Permitted Garages or Accessory Buildings Converted into Accessory Dwelling Units.

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

4. Accessory Dwelling Units

a. Exceptions to the setback requirements for accessory dwelling units shall be as established in Chapter 17.43.

B. The exceptions set forth in subsection A of this Section 17.32.070 shall not be construed to include chimney boxes, swimming pools and spas, exposed plumbing, or mechanical equipment such as heating and air conditioning units or pool pumps, and no exceptions to the setback requirements shall be permitted for any of these structures.

C. Any structure, architectural feature, wall, or other improvement lawfully constructed within a setback area and constituting a nonconforming structure as defined in Section 17.02.560, may be allowed to continue in accordance with Chapter 17.38 of this title.

SECTION 25: Section 17.34.020 – Minimum requirements of Chapter 17.34 of the Zoning Ordinance is amended to read as follows:

17.34.020 – Minimum requirements.

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

Uses:	Parking Requirements:
Single-family dwellings and group care homes:	

Uses:	Parking Requirements:
Studio or 1-bedroom dwellings not more than 900 square feet in floor area:	1 off-street space (uncovered or covered).
All other dwellings not exceeding 1,800 square feet in floor area:	1 off-street space plus 1 space which shall be in a garage or carport.
Dwellings exceeding 1,800 square feet in floor area on lots having less than 37.5 feet in frontage:	2 off-street spaces plus 1 space which shall be in a garage or carport.
Dwellings exceeding 1,800 square feet in floor area on lots of 37.5 feet frontage or greater:	2 on-street or off-street spaces plus 2 spaces which shall be in a garage or carport.
	See Section 17.34.020(B)(1) regarding garage and carport exclusions from the floor area calculation.
	Additional guest parking spaces shall be provided for all residential subdivisions of 5 or more single-family residences, at the rate of 1 parking space for every 5 units. Such spaces shall be located entirely within the public right-of-way and available for public use. Any accessible parking spaces required per Section 17.34.040(D) shall count as guest parking spaces.
Accessory dwelling units	In the R-1, R-2, R-3, NCRO-2, SCRO-1, PAOZ-1, or PAOZ-2 Districts: No off-street parking required. In the R-BA and PD Districts: 1 off-street parking space (uncovered or covered), unless the accessory dwelling unit is located within one-half mile walking distance of public transit, or the accessory dwelling unit is part of the proposed or existing dwelling, as defined in Section 17.02.235, or an accessory structure as defined in subsection B of Section 17.02.755.
Junior accessory dwelling units	No off-street parking required.
Duplex or multiple family dwelling units; Mobilehome park units:	
Studios	1 (uncovered or covered) space per unit.

Uses:	Parking Requirements:
1-bedroom units	1½ spaces (1 of which shall be covered) per unit; only 1 (covered) space required for units not over 900 square feet in floor area.
2-bedroom units	1½ spaces (1 of which shall be covered) per unit.
3-bedroom units or larger	2 spaces (1 of which shall be covered) per unit, plus 1 (uncovered or covered) space for units over 2,700 square feet.
	See Section 17.34.020(B)(1) regarding garage and carport exclusions from the floor area calculation.
	Additional guest parking spaces shall be provided for all developments of 5 or more units at the rate of 1 parking space for every 5 units. The accessible parking spaces required per Section 17.34.040(D) shall count as guest parking spaces.
Emergency shelters	0.35 space per bed plus 1 space per staff member on the largest shift.
Hotels, motels	1 space per unit, plus applicable requirements for restaurants, bars and meeting halls.
Cultural facilities, meeting halls and places of worship	
	1 space for each 50 square feet of assembly area or 1 space for each 4 fixed seats, whichever is greater, plus 1 space for each 300 square feet of the remaining floor area of the building (meeting rooms not exceeding 750 square feet and ancillary to an office use shall be included with the floor area of the office in calculating the parking requirement for the office use).
Commercial recreation	3 spaces per ball court; 2.5 spaces per batting cage; 4 spaces per lane for bowling alleys; 2 spaces per tee for golf courses; 20 spaces per playing field; 2 spaces per shooting range; 2 spaces per horse stall for stables; 1 space per 100 square feet of water area for swimming pools.

Uses:	Parking Requirements:
	For commercial recreation uses that do not fall within the above categories, 1 parking space shall be required for every 4 fixed seats for spectators, 1 parking space per each 200 square feet of floor area used for indoor commercial recreation, and 1 parking space per each 1,000 square feet of site area used for outdoor commercial recreation.
Marinas	1 space per 0.75 berths.
Schools—Public, private or commercial	1 space for each classroom and office.
Hospitals	1 space per bed plus 1 space for each 2 employees on the largest shift.
Financial services	1 space for each 200 square feet of gross floor area.
Administrative office	1 space for each 300 square feet of gross floor area.
Professional office	1 space for each 250 square feet of gross floor area.
Retail stores, restaurants, bars, offices	1 space for each 300 square feet of gross floor area.
Service stations	2 spaces for each working bay plus 1 space for each employee on the largest shift.
Warehousing, light fabrication, food production, media studios, printing	1 space for each 1,000 square feet of gross floor area.
Convalescent hospitals, sanitariums, rest homes	1 space for each 7 beds plus 1 space for each 2 employees on the largest shift.

B. The minimum parking requirements shall be calculated according to the following:

1. All references to square feet shall be in regards to floor area as defined in Chapter 17.02. The floor area of garages and carports shall not be included in measuring floor area to calculate the parking requirements, except for any floor area exceeding 400 square feet within a garage or carport exclusively for the use of a single residential unit.

2. When more than one use subject to the parking requirements occupies a site, the requirements for each use shall be calculated separately. The floor area occupied by accessory uses, such as hallways, bathrooms, breakrooms, utility rooms and storage closets, shall be included in the calculation of the parking requirements for the associated primary use.

3. No parking shall be required for accessory structures 200 square feet or less in floor area.

4. When application of the parking requirements results in a fractional number, all fractions shall be rounded up from 0.5 to the next whole number, except when specified otherwise. No parking shall be required for uses for which the requirement is less than 0.5 space.

SECTION 26: Section 17.38.030 – Expansion of nonconforming uses of Chapter 17.38 of the Zoning Ordinance is amended to read as follows:

17.38.030 - Expansion of nonconforming uses.

A. Except as otherwise provided in subsection B of this 17.38.030 and Section 17.38.110 of this chapter, a nonconforming use may not be enlarged, expanded or intensified. This prohibition shall include any enlargement, expansion or intensification of a nonconforming use which:

1. Increases the site area or floor area occupied by the nonconforming use; or

2. Increases the amount, volume, or intensity of nonconforming business use, or the machinery, equipment, trade fixtures or other personal property utilized in the conduct of such use; or

3. Displaces any conforming use occupying a structure or site.

B. Nonconforming residential uses located in the R-1, R-2, R-3 or R-BA district may be enlarged or expanded upon the granting of a use permit by the planning commission pursuant to Chapter 17.40 of this title. In addition to the findings required by Chapter 17.40, the planning commission shall also find and determine that:

1. Parking spaces in accordance with the requirements set forth in Chapter 17.34 of this title will be provided for the nonconforming use and all other uses on the site;

2. Any expansion of the nonconforming facility will comply with all applicable development standards for the district in which the site is located, including, but not limited to, floor area ratio, setbacks, height, and coverage limitations.

3. The nonconforming facility will comply with all applicable provisions of the building, health and fire codes.

4. The nonconforming use will comply with such other conditions and requirements which, in the judgment of the planning commission, are necessary or appropriate to mitigate any potential adverse impacts of the expansion on the neighborhood.

Note. A single-family dwelling on a lot of record in an R-1, R-2, R-3, or R-BA district having less than the minimum lot area prescribed by the applicable district regulations, shall constitute a conforming use and may be enlarged or expanded subject to the development standards of the applicable district and the limitations set forth in Section 17.32.055 of Chapter 17.32 of this title.

SECTION 27: Section 17.38.040 – Maintenance and repair of nonconforming facility of Chapter 17.38 of the Zoning Ordinance is amended to read as follows:

17.38.040 - Maintenance and repair of nonconforming facility.

A. Nonconforming facilities may be continued, maintained and repaired so as to protect the health and safety of the occupants and preserve the useful life of the structure.

B. Nonconforming facilities may be remodeled and the interior reconfigured so long as there is no enlargement, expansion, or intensification of the nonconforming use, except as otherwise permitted by subsection B of Section 17.38.030.

SECTION 28: Section 17.38.060 – Reconstruction or replacement of nonconforming facility of Chapter 17.38 of the Zoning Ordinance is amended to read as follows:

17.38.060 - Reconstruction or replacement of nonconforming facility.

A nonconforming facility which is damaged or destroyed may be reconstructed or replaced for continued occupancy by the nonconforming use or uses previously conducted therein, subject to the following limitations:

A. The site area or floor area occupied by the nonconforming use, and the intensity of activity conducted by the nonconforming use, subsequent to reconstruction or replacement of the facility shall not exceed that existing prior to the damage or destruction of the facility, except as otherwise permitted by subsection B of 17.38.030.

B. The reconstructed or replaced facility shall comply with all of the applicable regulations of this title, other than the use of the structure, and all applicable provisions of the building, health, and fire codes.

SECTION 29: Section 17.38.080 – Alteration or expansion if nonconforming structures of Chapter 17.38 of the Zoning Ordinance is amended to read as follows:

17.38.080 - Alteration or expansion of nonconforming structures.

A. A nonconforming structure shall not be altered, enlarged, or expanded so as to increase the degree of noncompliance or otherwise increase the discrepancy between existing conditions and the requirements of this title.

B. Structural alterations may be permitted when necessary to comply with the requirements of law.

C. The prohibitions of this section shall not apply to any alteration, enlargement or expansion for which a variance is granted pursuant to Chapter 17.46 or to which a use permit is granted pursuant to Chapter 17.34 and 17.40 of this title.

SECTION 30: Section 17.38.090 – Repair and replacement of nonconforming residential structures of Chapter 17.38 of the Zoning Ordinance is amended to read as follows:

17.38.090 - Repair and replacement of nonconforming residential structures.

A. Damage of Less Than Seventy-Five Percent (75%). A nonconforming structure used for residential purposes which is damaged or destroyed by fire, flood, wind, earthquake, or other natural disaster to the extent of less than seventy-five percent (75%) of its floor area may be repaired, restored or reconstructed to its original size and configuration. All new construction, restoration and replacement shall comply with all applicable provisions of the building, health and fire codes.

B. Damage of More Than Seventy-Five Percent (75%). A nonconforming structure used for residential purposes which is damaged or destroyed by fire, flood, wind, earthquake, or other natural disaster to the extent of seventy-five percent (75%) or more of its floor area may be repaired, restored or reconstructed provided that all of the following conditions are satisfied:

1. The total floor area of the restored structure shall not be greater than the total floor area of the original structure.

2. The total number of dwelling units in the restored structure shall not be greater than the total number of dwelling units in the original structure.

3. The front, side and rear setbacks of the restored structure shall not be less than the setbacks of the original structure.

4. The number of off-street parking places shall not be reduced from the number available prior to the restoration.

5. The new construction, restoration and replacement shall comply with all applicable provisions of the building, health and fire codes.

C. Mixed Use Structure. A nonconforming structure containing both residential and nonresidential uses may be restored in accordance with the provisions of this section where the residential uses constitute more than fifty percent (50%) of the floor area of the entire structure.

SECTION 31: A new Section 17.38.110 – Addition of accessory dwelling units to nonconforming uses or structures is added to Chapter 17.38 of the Zoning Ordinance to read as follows:

17.38.110 - Addition of Accessory Dwelling Units to Nonconforming Uses or Structures.

A. Nonconforming single-family, duplex, or multiple-family uses may be expanded to accommodate accessory dwelling units and junior accessory dwelling units pursuant to Chapter 17.43 of this title.

B. A nonconforming structure may be rebuilt in the same location and to the same dimensions, including height, as the existing structure and converted to an accessory dwelling unit pursuant to Chapter 17.43 of this title.

SECTION 32: Chapter 17.43 - Accessory Dwelling Units of the Zoning Ordinance is amended in its entirety to read as follows:

Chapter 17.43 - Accessory Dwelling Units and Junior Accessory Dwelling Units

17.43.010 - Purposes of chapter.

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

A. To provide opportunities to establish accessory dwelling units and junior accessory dwelling units on building sites developed with existing or proposed single-family dwellings, duplexes, or multiple-family dwellings.

B. To provide affordable housing to meet the needs of Brisbane citizens.

C. To ensure that the development of accessory dwelling units is compatible with existing development and reflects the diversity of the community.

D. To implement and promote the goals and policies of the general plan so as to guide and manage residential development in the city in accordance with such plan.

17.43.020 - Definitions.

In addition to the definitions set forth in Chapter 17.02, all of which are applicable to this chapter, the following words and phrases shall have the meanings respectively ascribed to them in this section, unless the context or the provision clearly requires otherwise:

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

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

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

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

"Multiple-family dwellings" means a dwelling than contains two (2) or more dwelling units (including a "duplex"), provided, however, that a property containing a single-family dwelling and a lawful accessory dwelling unit (either attached and detached) and/or a junior accessory dwelling unit shall not be deemed a multiple-family dwelling.

17.43.030 – Permit Requirements.

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

B. Notwithstanding subsection A, if the building permit application submitted will also create a new single-family dwelling or multiple-family dwelling on the lot, the application for the junior accessory dwelling unit or accessory dwelling unit(s) shall not be acted upon until the building permit application for the new single-family dwelling or multiple-family dwelling is approved, but thereafter shall be ministerially processed within sixty (60) days of receipt of a complete application and approved if it meets the requirements of this chapter. Occupancy of the junior accessory dwelling unit or accessory dwelling unit(s) shall not be allowed until the City approves occupancy of the main dwelling.

C. The City shall grant a delay in processing an application for an accessory dwelling unit or junior accessory dwelling unit if requested by the applicant.

D. All junior accessory dwelling unit and accessory dwelling unit applications shall be subject to building inspection and permit fees as established by resolution of the City Council and water and sewer connection and capacity fees in compliance with Title 13, except that:

    1. No impact fees may be imposed on a junior accessory dwelling unit or accessory dwelling unit that is less than seven hundred fifty (750) square feet.

2. For accessory dwelling units that have a floor area of seven hundred fifty (750) square feet or more, impact fees shall be charged proportionately in relation to the current impact fees for the square footage of the main dwelling.

E. Construction of an accessory dwelling unit and/or junior accessory dwelling unit in the R-BA Brisbane Acres Residential District shall require submittal of an application for an accessory dwelling unit permit in addition to an application for a building permit. Accessory dwelling unit permits shall be granted ministerially by the director of community development pursuant to this chapter within sixty (60) days of receipt of a complete permit application in accordance with Section 65852.2 of the California Government Code.

17.43.040 – Development regulations for accessory dwelling units.

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

A. Zoning Districts. Accessory dwelling units may only be established or occupied in the R-1, R-2, R-3, R-BA, NCRO-2, SCRO-1, PAOZ-1, PAOZ-2 and PD zoning districts with an existing or proposed single-family or multiple-family dwelling.

B. Density. An accessory dwelling unit that conforms to this Chapter 17.43 shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located. The accessory dwelling unit shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot and shall not be considered in the application of any City ordinance, policy, or program to limit residential growth.

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

D. Number of Units.

1. No more than one accessory dwelling unit may be constructed on any lot developed with a single-family dwelling.

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

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

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

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

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

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

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

4. No setback shall be required for an existing, legally permitted living area, garage, or accessory structure with nonconforming setbacks that is converted to an accessory dwelling unit or a portion of an accessory dwelling unit or an accessory dwelling unit constructed in the same location and to the same dimensions, including height, as an existing, legally permitted living area, garage, or accessory structure with nonconforming setbacks.

H. Lot Coverage. Accessory dwelling units shall be included in calculating the lot coverage for the lot on which the accessory dwelling unit is located, except for accessory dwelling units eight hundred (800) square feet or less in floor area and no more than sixteen (16) feet in height.

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

1. Accessory dwelling units eight hundred (800) square feet or less in floor area and no more than sixteen (16) feet in height, if detached, are exempt from calculating the floor area ratio for the lot; and

2. Accessory dwelling units proposed within the space of a single-family dwelling or existing accessory structure may include an expansion of not more than one hundred fifty (150) square feet beyond the physical dimensions of the existing accessory structure or single-family dwelling, provided however, that the expansion of the single-family dwelling or accessory structure shall be limited to accommodating ingress and egress for the accessory dwelling unit, the setbacks of the expansion shall comply with the setback standards set forth in subsection G of Section 17.43.040 or of the underlying zoning district if the accessory dwelling unit is attached to the single-family dwelling, and shall be compliant with building, health, and fire codes.

J. Height. Accessory dwelling units shall not exceed two stories and shall be subject to the height maximum established in the underlying zoning district.

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

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

2. A full bathroom, including sink, toilet, and shower and/or bath facilities.

L. Landscaping. Accessory dwelling units shall be subject to the landscaping requirements of the underlying zoning district.

M. Parking. Parking spaces for the main dwelling and accessory dwelling units shall be provided in accordance with the requirements set forth in Chapter 17.34, except that when a garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of an accessory dwelling unit, any parking spaces that were provided by such garage, carport, or covered parking structure are not required to be replaced.

N. Unit Access.

1. As required by Section 17.01.060, the lot on which the accessory dwelling unit is located shall have a legal means of access to the public right of way that complies with the street standards set forth in Section 12.24.010.

2. A separate exterior entry from the main entrance to the main dwelling shall be required to serve each attached accessory dwelling unit. Interior entry access between an accessory dwelling unit and the main dwelling is permitted, provided that the interior entry is located off a common living area of the main dwelling, such as a living room, family room, dining room, kitchen, or an interior hallway leading to common living areas.

O. Utilities. The lot is served by adequate water, sewer, and storm drain facilities which comply with city standards as established per Title 13 of this Code. An accessory dwelling unit shall not be considered a new residential use for the purposes of calculating connection fees or capacity charges for water and sewer service provided by the City, pursuant to Title 13 of this Code. As to the main dwelling, a separate water connection, a separate sewer service connection, or a separate power connection for water, sewer, and power service is not required for an accessory dwelling unit.

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

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

17.43.050 - Accessory dwelling units in multiple-family dwellings.

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

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

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

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

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

1. Setbacks. The setback requirements of Section 17.43.040 of this Chapter apply.

2. Floor Area. Detached accessory dwelling units may not exceed eight hundred (800) square feet in floor area per unit.

3. Height. Detached accessory dwelling units shall not exceed sixteen (16) feet in height.

17.43.060 - Development regulations for junior accessory dwelling units.

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

A. Zoning Districts. Junior accessory dwelling units may only be established or occupied on lots in the R-1, R-2, R-3, R-BA, NCRO-2, SCRO-1, PAOZ-1, and PD zoning districts with an existing or proposed single-family dwelling.

B. Density. A junior accessory dwelling unit that conforms to this Chapter 17.43 shall be deemed to be an accessory use and shall not be considered to exceed the allowable density for the lot upon which it is located. The junior accessory dwelling unit shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot and shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

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

D. Number of Units.

1. No more than one junior accessory dwelling unit may be constructed on any lot developed with an existing or proposed single-family dwelling.

2. A junior accessory dwelling unit may be permitted on a lot with an accessory dwelling unit, provided the following criteria are met:

a. The accessory dwelling unit is fully detached and the junior accessory dwelling unit is within an existing or proposed single-family dwelling; and

b. The detached accessory dwelling unit does not exceed a total floor area of more than eight hundred (800) square feet and a height limitation of sixteen (16) feet.

E. Floor Area Requirements.

1. Junior accessory dwelling unit shall not exceed five hundred (500) square feet in floor area and shall be constructed within the existing walls of the main dwelling. The floor area of the junior accessory dwelling unit shall be included in calculating the floor area ratio for the lot on which the junior accessory dwelling unit is located and subject to the maximum floor area ratio established in the underlying zoning district.

a. Exemption: A junior accessory dwelling unit may expand the main dwelling by not more than one hundred fifty (150) square feet beyond the physical dimensions of the main dwelling, provided that the expansion of the main dwelling shall be limited to accommodating ingress and egress for the junior accessory dwelling unit. The setbacks of the expansion shall comply with the setback standards of the underlying zoning district and shall be compliant with building, health, and fire codes.

F. Unit Access.

1. As required by Section 17.01.060, the lot on which the junior accessory dwelling unit is located shall have a legal means of access to the public right of way that complies with the street standards set forth in Section 12.24.010.

2. A separate exterior entry from the main entrance to the main dwelling shall be provided to serve the junior accessory dwelling unit only. Interior entry access between the junior accessory dwelling unit and the main dwelling is permitted, provided that the interior entry is located off a common living area of the main dwelling, such as a living room, family room, dining room, kitchen, or an interior hallway leading to these common living areas.

G. Required Facilities. A junior accessory dwelling unit shall include all of the following facilities:

1. At a minimum, an efficiency kitchen.

2. Sanitation facilities, but such facilities may be separated from or shared with the main dwelling.

H. Owner Occupancy. Either the main dwelling or the junior accessory dwelling unit shall be occupied by the record owner of the property as the owner's principal place of residence. In the case of ownership by a corporation, limited liability company, partnership, trust or association, either the main dwelling or the junior accessory dwelling unit shall be the principal place of residence of an officer, director, shareholder, or member of the company, a partner in the partnership, a trustor or beneficiary of the trust, a member of the association, or an employee of any such organization. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

I. Recordation of Declaration of Restrictions.

1. A Declaration of Restrictions shall be recorded to run with the land that indicates the following:

a. Only one unit may be occupied solely by persons other than the owner or owners of record;

b. If a junior accessory dwelling unit is rented, the unit shall not be rented for a period of less than 30 consecutive calendar days;

c. Sale of the junior accessory dwelling unit separately from the main dwelling is prohibited; and

d. The approved size and attributes of the junior accessory dwelling unit.

2. A copy of this Declaration of Restrictions must be given to each prospective purchaser or occupant.

J. Parking. Parking spaces for the main dwelling and junior accessory dwelling unit shall be provided in accordance with the requirements set forth in Chapter 17.34 of this title.

K. Utilities. The lot shall be served by adequate water, sewer, and storm drain facilities which comply with city standards as established per Title 13 of this Code. A junior accessory dwelling

unit shall not be considered a new residential use for the purposes of calculating connection fees or capacity charges for water and sewer service provided by the City.

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

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

17.43.070 - Prohibition on sale and limitation on rental.

A. Accessory dwelling units and junior accessory dwelling units shall not be sold separately from the main dwelling(s).

B. If an accessory dwelling unit or junior accessory dwelling unit is rented, the unit shall not be rented for a period of less than 30 consecutive calendar days.

17.43.080 – Delay of enforcement of building standards.

A. Prior to January 1, 2030, the owner of an accessory dwelling unit that was built before January 1, 2020, may submit an application to the building official requesting that correction of any violation of building standards be delayed for five years. For the purposes of this section, "building standards" refer to those standards enforced by local agencies under the authority of Section 17960 and following of the California Health and Safety Code.

B. The building official shall grant any application submitted under subsection A of this Section if the building official determines that enforcement of the building standard is not necessary to protect health and safety. In making this determination, the building official shall consult with the fire marshal.

C. No applications submitted pursuant to this section shall be approved on or after January 1, 2030; provided, however, any delay to correct a violation that was approved by the building official before January 1, 2030, shall be valid for the full term of the delay that the building official approved at the time the building official approved the application.

D. Until January 1, 2030, any notice to correct a violation of building standard that is issued to the owner of an accessory dwelling unit built before January 1, 2020 shall include a statement that the owner has a right to request a delay in enforcement of the building standard for an accessory dwelling unit pursuant to this section.

E. This section shall remain in effect until January 1, 2035, and as of that date is repealed.

17.43.090 - Appeals.

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

SECTION 33: Where a use permit, design permit or variance approval has been issued through final action by the City prior to the effective date of this Ordinance, or where such planning permit approval is not required and a complete building permit application has been submitted prior to the effective date of this

Ordinance, the holder of such use permit, design permit or variance approval or complete building permit application may proceed to construct the improvements or establish the use authorized by such permit or approval and the same shall be exempted from any conflicting regulations that may be contained in this Ordinance.

SECTION 34: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Brisbane hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

SECTION 35: This Ordinance shall be in full force and effect thirty days after its passage and adoption.

* * *

The above and foregoing Ordinance was regularly introduced and after the waiting time required by law, was thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on the seventeenth day of September 2020, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Terry O'Connell, Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

ATTACHMENT 3

PLANNING COMMISSION AGENDA REPORT

City of Brisbane
Planning Commission Agenda Report

TO: Planning Commission For the Meeting of 5/14/2020

SUBJECT: Zoning Text Amendment RZ-1-20; Zoning Text Amendments to update the City's existing Accessory Dwelling Unit (ADU) regulations and increase the Floor Area Ratio (FAR) exemption for covered parking on small lots to 400 square feet; City of Brisbane, applicant; Citywide.

REQUEST: Recommend City Council adoption of proposed zoning text amendments to:
(1) Increase the FAR exemption for covered parking for lots 3,700 square feet or smaller in size in the R-1, R-2, and R-3 Residential zoning districts; and
(2) Update the existing ADU regulations in Title 17 to comply with State law.

RECOMMENDATION: Recommend City Council adoption of Zoning Text Amendment RZ-1-20 via adoption of Resolution RZ-1-20.

ENVIRONMENTAL DETERMINATION: The project is statutorily exempt from the requirements of California Environmental Quality Act (CEQA) pursuant to Section 15282(h) of the CEQA Guidelines, which exempts adoption of an ordinance regarding ADUs in single-family and multifamily residential zones. In addition to being statutorily exempt from CEQA, the project falls within a class of projects which are consistent with existing zoning or general plan policies for which an EIR was certified and shall therefore not require further review. The exception to this exemption does not apply.

APPLICABLE CODE SECTIONS:

- General provisions (BMC Chapter 17.01)
- "Dwelling" defined in Chapter 17.02
- R-1 Residential District (BMC Chapter 17.06)
- R-2 Residential District (BMC Chapter 17.08)
- R-3 Residential District (BMC Chapter 17.10)
- R-BA Residential District (BMC Chapter 17.12)
- Downtown Brisbane Neighborhood Commercial District (BMC Chapter 17.14)
- Southwest Bayshore Commercial District (BMC Chapter 17.16)
- Parkside Overlay District (BMC Chapter 17.27)
- Planned Development District (BMC Chapter 17.28).
- Setback exceptions (BMC Chapter 17.32)
- Off-street parking (BMC Chapter 17.34)
- Nonconforming uses and structures (BMC Chapter 17.38)
- Accessory Dwelling Units (BMC Chapter 17.43)

ANALYSIS AND FINDINGS:

1. *Floor Area Ratio Parking Exemption*

Background

Lots 3,700 square feet or less in the R-1, R-2, and R-3 Residential Districts with a single-family dwelling are currently granted a 200 square foot exemption for covered parking (equivalent to one parking space) when calculating the floor area ratio (FAR) for the property. The origin and timeline of the FAR exemption for covered parking on small lots is described in Attachment F.

On July 17, 2019, the City Council Planning Issues Subcommittee met to discuss amending the FAR exemption for garages on small lots and on September 5, 2019 the City Council initiated a zoning text amendment to increase the FAR exemption for garages on small lots as a means to increasing the supply of available off-street parking in residential areas.

Draft Ordinance

The draft ordinance would increase the FAR exemption for covered parking to 400 square feet, or the equivalent of two parking spaces, for single-family dwellings in the R-1, R-2, and R-3 Residential zoning districts, matching the original 400 square foot exemption passed in 2002. No change is made towards its limitation to lots 3,700 square feet or less.

2. Accessory Dwelling Units

Background

In 2019, the California State Legislature passed a flurry of bills pertaining to Accessory Dwelling Units (ADUs) (see Attachments C, D, and E) that became effective January 1, 2020. The City's current ADU regulations (BMC Chapter 17.43) were last updated in May 2018 (Ordinance 626) and must be updated to comply with current State law.

These new State laws require local agencies to:

- Permit ADUs in any zoning district zoned for single or multifamily dwellings (including mixed use zones);
- Allow ADUs in multifamily buildings;
- Permit ADUs in a planned developments regardless of any existing covenant, condition, or restriction(CC&Rs);
- Exempt ADUs meeting certain size, height, and setback limitations from FAR and lot coverage limits;
- Allow conversion or demolition of a garage, carport, or covered parking structure in conjunction with the construction of an ADU without replacement off-street parking;
- Permit a junior ADU (JADU) in addition to an ADU on single family lots;
- Allow conversion of legal nonconforming accessory structures into ADUs;
- Require that rentals of ADUs must be for a term longer than 30 consecutive days;

- Eliminate owner-occupancy requirements for ADUs; and
- Require owner-occupancy for JADUs.

The primary goal of the State when passing this new legislation was to increase affordable housing by easing regulations on ADUs.

Draft Ordinance

The draft ordinance proposes a complete overhaul of the existing Chapter 17.43, Accessory Dwelling Units of the BMC and a number of minor amendments to other sections of the BMC to comply with the new State regulations. Below is a list of the major amendments the draft ordinance addresses.

➢ Zoning Districts

State Legislation:	▪ ADUs must be permitted in all residential and mixed-use zones, with limited exceptions. ▪ CC&Rs that prohibit or restrict ADUs and JADUs for single family dwellings are null and void.
Existing BMC:	▪ ADUs allowed in R-1, R-2, R-3, R-BA, and SCRO-1 zoning districts only.
Draft Ordinance:	▪ ADUs allowed in any zone that permits residential uses either by right or conditionally (R-1, R-2, R-3, R-BA, NCRO-2, SCRO-1, PAOZ-1, PAOZ-2 and PD zoning districts) with an existing or proposed single-family or multiple-family dwelling.

➢ Unrestricted ADUs

State Legislation:	▪ Must allow an "unrestricted ADU" up to 800 square feet that is at least 16 feet in height with 4 foot side and rear yard setbacks on any residential lot.
Existing BMC:	▪ ADUs may be limited or restricted by lot coverage, FAR, and development standards.
Draft Ordinance:	▪ "Unrestricted ADUs" less than 16 feet tall and 800 square feet or less in size are exempt from lot coverage, FAR, and other development standards. ▪ Any ADU greater than 800 square feet and/or 16 feet tall shall be included in the calculation of floor area, lot coverage, and open space requirements.

➢ Junior Accessory Dwelling Units

State Legislation:	▪ JADUs must be allowed in any zone that allow single-family dwellings; ▪ JADUs shall be contained within existing walls of main dwelling, owner occupied, and no more than 500 square feet. ▪ Single-family dwellings may have one detached ADU up to 800 square feet and less than 16 feet tall and a JADU.
Existing BMC:	▪ JADUs not permitted.

Draft Ordinance:	▪ Defines JADU as a dwelling unit no more than 500 square feet in size contained entirely within a single-family dwelling. A JADU may share sanitation facilities with the single-family dwelling and are distinguished from ADUs in that they: (1) must include the conversion of existing, legally permitted floor area within an existing single-family dwelling; and (2) must be owner occupied, or the main dwelling be owner occupied; and (3) are subject to unique standards that are not applicable to ADUs. ▪ JADUs permitted only in conjunction with an existing or proposed single-family dwelling; may have a detached ADU and JADU.

➢ **Accessory Dwelling Units in Multiple-Family Dwellings**

State Legislation:	▪ ADUs permitted in multiple-family dwellings. ▪ At least one attached ADU shall be allowed; the total number of attached ADUs permitted is limited to 25% of the total number of existing dwelling units. ▪ Attached ADUs shall be allowed within existing portions of multiple-family dwellings that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages; attached ADUs shall not be created within any portion of the habitable area of an existing dwelling unit in a multiple-family dwelling. ▪ No more than two additional detached ADUs may be permitted; each detached ADU shall be limited to a height of 16 feet, a total floor area of 800 square feet, and a minimum side and rear setback of 4 feet.
Existing BMC:	▪ ADUs not permitted in multiple-family dwellings.
Draft Ordinance:	▪ ADUs are permitted in multiple-family dwellings in any zone that allows residential uses either by right or conditionally. ▪ Complies with new state laws regulating quantity, location, and size of ADUs in multiple-family dwellings.

➢ **Setbacks and Height**

State Legislation:	▪ Setbacks: 4-foot side and rear setbacks; rebuilds or conversions may maintain nonconforming setbacks.
Existing BMC:	▪ Setbacks: Front: Per district regulations; Side: 5-3 feet based on lot width; Rear: 10 feet; Converted structures may retain existing nonconforming setbacks. ▪ Height: established by underlying zone.
Draft Ordinance:	▪ Setbacks: Front: no change; Side: 3-4 feet based on lot width; rebuilds or converted structures may maintain nonconforming setbacks. ▪ Height: established by underlying zone; two-story limit; “unrestricted ADUs” limited to 16 feet.

➢ **Parking**

State Legislation:	▪ One parking space for ADUs except no parking required when located within one-half mile of transit. ▪ When a garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of an ADU, any parking spaces that were provided by such garage, carport, or covered parking structure are not required to be replaced. ▪ No parking required for JADU.
Existing BMC:	▪ No off-street parking required for ADUs.
Draft Ordinance:	▪ No off-street parking required for ADUs except in the R-BA or PD zoning districts; one parking space required in R-BA and PD except no parking is required when located within one-half mile of transit. ▪ Complies with new state laws regulating parking facility conversions to ADUs and parking requirements for JADUs.

➢ **Owner Occupancy and Short-Term Rentals**

State Legislation:	▪ Cannot require owner occupancy for ADUs; JADUs shall require owner occupancy restrictions. ▪ ADUs and JADUs cannot be rented for less than 30 consecutive days.
Existing BMC:	▪ Owner occupancy required for all ADUs. ▪ Short term rentals (STR) currently banned in City; RZ-2-19 would permit STR in ADUs legally established before April 1, 2017.
Draft Ordinance:	▪ Complies with new state laws regulating owner occupancy restrictions and STR for ADUs and JADUs. ▪ RZ-2-19 would permit STR in ADUs legally established before April 1, 2017.

ATTACHMENTS:

A. Draft Resolution RZ-1-20 (including draft ordinance) (Resolution only)
B. ~~Redline copy of proposed zoning text amendments~~ (Not provided)
C. Department of Housing and Community Development Memorandum addressing California Law regarding ADUs and JADUs
D. Government Code Sections 65852.2 and 6585.22, relating to ADUs
E. Summary of new State legislation
F. ~~History of FAR covered parking exception~~ (Not provided)
G. May 14, 2020 Planning Commission Draft Meeting Minutes

Jeremiah Robbins, Associate Planner

John Swiecki, Community Development Director

ATTACHMENT 3.A

RESOLUTION RZ-1-20

RESOLUTION NO. RZ-1-20

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BRISBANE RECOMMENDING CITY COUNCIL APPROVAL OF ZONING TEXT AMENDMENT RZ-1-20 AMENDING REGULATIONS CONCERNING ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS TO COMPLY WITH STATE LAW AND REVISING THE FLOOR AREA RATIO EXEMPTION FOR COVERED PARKING ON SMALL LOTS

WHEREAS, the City Council adopted the Housing Element for the 2015-2022 cycle on April 2, 2015 via Resolution No. 2015-08; and

WHEREAS, Housing Element Goal H.B establishes the community's aspiration to maintain a diverse housing stock in Brisbane; and

WHEREAS, Housing Element Policy H.B.1 encourages the construction of a balance of housing types, sizes, and tenure, and the inclusion of affordable dwelling units in multiple-family developments; and

WHEREAS, Housing Element Policy H.I.1 encourages reducing regulatory constraints on the development of new housing, especially infill housing and housing that adds to the mix of types, size, tenure and affordability of the local housing stock; and

WHEREAS, effective January 1, 2020, Senate Bill 13, Assembly Bill 68, and Assembly Bill 881 amended Sections 65852.2 and 65852.22 of the Government Code and changed the requirements for local governments relating to accessory dwelling units (ADUs) and junior ADUs (JADUs); and

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

WHEREAS, on September 5, 2019, the City Council initiated a zoning text amendment to increase the floor area ratio exemption for covered parking on lots equal to or less than 3,700 square feet in area; and

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

WHEREAS, the draft ordinance attached as Exhibit A to this resolution proposes amendments to Title 17 (Zoning), specifically existing Chapters 17.06 (R-1 Residential District), 17.08 (R-2 Residential District), and 17.10 (R-3 Residential District), to increase the floor area ratio exemption for covered parking on lots equal to or less than 3,700 square feet in area; and

WHEREAS, on May 14, 2020, the Planning Commission conducted a hearing of the draft ordinance concerning ADUs and JADUs and revisions to the floor area ratio covered parking exemption for small lots, publicly noticed in compliance with Brisbane Municipal Code Chapters 1.12 and 17.54, at which time any person interested in the matter was given an opportunity to be heard; and

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

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

ADOPTED this 14th of May 2020 by the following vote:

AYES: Gomez, Gooding, Mackin, Patel, and Sayasane
NOES: None
ABSENT: None

Pamala Sayasane
PAMALA SAYASANE
Chairperson

ATTEST:

John Swiecki
JOHN SWIECKI, Community Development Director

ATTACHMENT 3.C

ADU MEMO FROM HCD

STATE OF CALIFORNIA - BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY
Gavin Newsom, *Governor*

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT
2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov

MEMORANDUM

DATE: January 10, 2020

TO: Planning Directors and Interested Parties

FROM: Zachary Olmstead, Deputy Director
Division of Housing Policy Development

SUBJECT: **Local Agency Accessory Dwelling Units**
Chapter 653, Statutes of 2019 (Senate Bill 13)
Chapter 655, Statutes of 2019 (Assembly Bill 68)
Chapter 657, Statutes of 2019 (Assembly Bill 587)
Chapter 178, Statutes of 2019 (Assembly Bill 670)
Chapter 658, Statutes of 2019 (Assembly Bill 671)
Chapter 659, Statutes of 2019 (Assembly Bill 881)

This memorandum is to inform you of the amendments to California law, effective January 1, 2020, regarding the creation of accessory dwelling units (ADU) and junior accessory dwelling units (JADU). Chapter 653, Statutes of 2019 (Senate Bill 13, Section 3), Chapter 655, Statutes of 2019 (Assembly Bill 68, Section 2) and Chapter 659 (Assembly Bill 881, Section 1.5 and 2.5) build upon recent changes to ADU and JADU law (Government Code Section 65852.2, 65852.22 and Health & Safety Code Section 17980.12) and further address barriers to the development of ADUs and JADUs. (Attachment A includes the combined ADU statute updates from SB 13, AB 68 and AB 881).

This recent legislation, among other changes, addresses the following:

- Development standards shall not include requirements on minimum lot size (Section (a)(1)(B)(i)).
- Clarifies areas designated for ADUs may be based on water and sewer and impacts on traffic flow and public safety.
- Eliminates owner-occupancy requirements by local agencies (Section (a)(6) & (e)(1)) until January 1, 2025.
- Prohibits a local agency from establishing a maximum size of an ADU of less than 850 square feet, or 1000 square feet if the ADU contains more than one bedroom (Section (c)(2)(B)).
- Clarifies that when ADUs are created through the conversion of a garage, carport or covered parking structure, replacement offstreet parking spaces cannot be required by the local agency (Section (a)(1)(D)(xi)).

- Reduces the maximum ADU and JADU application review time from 120 days to 60 days (Section (a)(3) and (b)).
- Clarifies "public transit" to include various means of transportation that charge set fees, run on fixed routes and are available to the public (Section (j)(10)).
- Establishes impact fee exemptions or limitations based on the size of the ADU. ADUs up to 750 square feet are exempt from impact fees and impact fees for an ADU of 750 square feet or larger shall be proportional to the relationship of the ADU to the primary dwelling unit (Section (f)(3)).
- Defines an "accessory structure" to mean a structure that is accessory or incidental to a dwelling on the same lot as the ADU (Section (j)(2)).
- Authorizes HCD to notify the local agency if the department finds that their ADU ordinance is not in compliance with state law (Section (h)(2)).
- Clarifies that a local agency may identify an ADU or JADU as an adequate site to satisfy RHNA housing needs as specified in Gov. Code Section 65583.1(a) and 65852.2(m).
- Permits JADUs without an ordinance adoption by a local agency (Section (a)(3), (b) and (e)).
- Allows a permitted JADU to be constructed within the walls of the proposed or existing single-family residence and eliminates the required inclusion of an existing bedroom or an interior entry into the single-family residence (Gov. Code Section 65852.22).
- Allows upon application and approval, an owner of a substandard ADU 5 years to correct the violation, if the violation is not a health and safety issue, as determined by the enforcement agency (Section (n).
- Creates a narrow exemption to the prohibition for ADUs to be sold or otherwise conveyed separate from the primary dwelling by allowing deed-restricted sales to occur. To qualify, the primary dwelling and the ADU are to be built by a qualified non-profit corporation whose mission is to provide units to low-income households (Gov. Code Section 65852.26).
- Removes covenants, conditions and restrictions (CC&Rs) that either effectively prohibit or unreasonably restrict the construction or use of an ADU or JADU on a lot zoned for single-family residential use are void and unenforceable (Civil Code Section 4751).
- Requires local agency housing elements to include a plan that incentivizes and promotes the creation of ADUs that can offer affordable rents for very low, low-, or moderate-income households and requires HCD to develop a list of state grants and financial incentives in connection with the planning, construction and operation of affordable ADUs (Gov. Code Section 65583 and Health and Safety Code Section 50504.5) (Attachment D).

For assistance, please see the amended statutes in Attachments A, B, C and D. HCD continues to be available to provide preliminary reviews of draft ADU ordinances to assist local agencies in meeting statutory requirements. In addition, pursuant to Gov. Code Section 65852.2(h), adopted ADU ordinances shall be submitted to HCD within 60 days of adoption. For more information and updates, please contact HCD's ADU team at adu@hcd.ca.gov.

ATTACHMENT 3.D

HYPELINKS TO GOVERNMENT CODE REGARDING ADUs

Government Code Section 65852.2 and 65852.22

ATTACHMENT 3.E

SUMMARY OF NEW STATE LEGISLATION

Attachment E
Summary of new State legislation regarding ADUs

AB 68 (Ting) & AB 881 (Bloom) – Allows ADUs in any zone that permits dwelling units; no conformance rezoning as condition of approval.

Requires local agencies to approve or deny an ADU project on existing SF/MF units within 60 days.

Prohibits local agencies from adopting ADU ordinances that: impose minimum lot size requirements for ADUs; impose lot coverage standards; require replacement off-street parking when a "garage, carport or covered parking structure" is demolished or converted to construct the ADU.

Allows for an ADU as well as a "junior" ADUs in SF units.

Junior ADU must be within existing structure, must be owner occupied or primary unit must be owner occupied, and cannot exceed 500 sq ft; may share sanitary facilities and must have efficiency kitchen.

ADU max size is 1200 sq ft; minimum allowed 800 sq ft/16' height/ 4' rear & side setback; must have permanent cooking and sanitary facilities.

Allows ADUs in multifamily buildings including ministerial approval of ADUs in existing non-livable areas such as storage rooms, boiler rooms, etc.

No impact fees for ADUs less than 750 sq ft; no connection/capacity fees for ADUs unless in conjunction with a new SF residence.

Rental of ADUs must be for a term longer than 30 days.

SB 13 (Wieckowski) – until January 1, 2025, prohibit a local agency from imposing an owner-occupant requirement as a condition of issuing a permit.

Authorize the owner of an accessory dwelling unit built before January 1, 2020, or built on or after January 1, 2020, under specified circumstances, that receives a notice to correct violations or abate nuisances to request that the enforcement of the violation be delayed for 5 years if correcting the violation is not necessary to protect health and safety, as determined by the enforcement agency, subject to specified requirements.

AB 587 (Friedman) – local agencies **may** now allow ADUs to be sold or conveyed separately from a primary residence if certain conditions are met.

AB 670 (Friedman) – prevents homeowners' associations from barring ADUs; makes void and unenforceable any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a planned development, and any provision of a governing document, that effectively prohibits or unreasonably restricts the construction or use of an accessory dwelling unit or junior accessory dwelling unit on a lot zoned for single-family residential use.

AB 671 (Friedman) – requires local governments to include a plan to incentivize and promote the creation of ADUs that can be offered at affordable rent for, "very low, low, **or** moderate-income households" in their General Plan Housing Element.

Require the Department of Housing and Community Development to develop and post on its website, by Dec. 31, 2020, a list of state grants and financial incentives for ADU development.

ATTACHMENT 3.G

PLANNING COMMISSION MEETING MINUTES

The Planning Commission discussed with staff their concerns with their purview of authority when reviewing grading permits, particularly with potential impact to site hydrology.

At the request of staff, the meeting was recessed for 5 minutes to address technical issues associated with the call-in public access to the meeting.

Chairperson Sayasane brought the meeting back to order and the recognized members of the public wishing to address the Commission.

Prem Lall, Brisbane resident, spoke against the project.

There were no other members of the public wishing to address the Commission.

After some discussion, Commissioner Mackin made a motion to deny the applicant's request for reconsideration and adopt findings of denial for the project, but later withdrew the motion.

Following further discussion, Commissioner Patel moved to grant the applicant's request to reconsider the application at a future public hearing. Commissioner Gooding seconded the motion and the motion was approved 5-0.

NEW BUSINESS

D. Zoning Text Amendment RZ-1-20; Various zoning districts; Zoning text amendments to update the existing accessory dwelling unit (ADU) regulations in the zoning ordinance to comply with updated State regulations, and to increase the existing floor area ratio (FAR) exception of 200 square feet to 400 square feet for covered parking on substandard lots; City of Brisbane, applicant.

Associate Planner Robbins gave the staff presentation.

The Planning Commission identified concerns about potential implications of increasing the FAR covered parking exception in conjunction with the required, limitations on ADU parking requirements in State legislation.

Chairperson Sayasane opened the public hearing.

With no one coming forward to address the Commission, Commissioner Gooding moved to close the public hearing. Commissioner Gomez seconded the motion and it was approved 5-0.

Following deliberation, Commissioner Mackin moved to recommend City Council adoption of the draft ordinance by adopting Resolution RZ-1-20. Commissioner Gooding seconded the motion and the motion was approved 5-0.

Chairperson Sayasane read the appeals process of Planning Commission actions.

ITEMS INITIATED BY STAFF