



## CITY COUNCIL AGENDA REPORT

**Meeting Date:** September 4, 2025  
**From:** John Swiecki, Community Development Director  
**Subject:** Zoning Text Amendment 2025-RZ-02; Introduction and first reading of draft ordinance to update the City's existing Accessory Dwelling Unit (ADU) regulations; and finding that this project is statutorily exempt from environment review under CEQA Guidelines Section 15282(h).

### Recommendation

Staff recommends introduction of an ordinance amending the Brisbane Municipal Code (BMC) to modify the regulations governing Accessory Dwelling Unit (ADU) development within the City, as provided in Attachment A, to comply with state law.

### Background

Since the last comprehensive update to the City's ADU Ordinance in October 2020, the State has adopted several bills to further incentivize the construction of ADUs as a part of legislative packages related to the statewide housing crisis. Starting in 2022, the California State Legislature passed laws pertaining to streamlining ADU permitting, increasing the number of ADUs allowed per lot, and reducing local and/or discretionary review of ADUs. (See Attachment C of Attachment 3 for a detailed summary of new state ADU laws.)

On May 8, 2025, the Planning Commission by unanimous vote adopted Resolution 2025-RZ-02 recommending approval of zoning amendments to achieve consistency with the new state regulations within Titles 15 and 17 of the BMC. The City's current ADU regulations are not in compliance with state law and must be updated.

### Discussion

#### Minimum Statutory Requirements

The amendments would bring Brisbane's ADU ordinance into compliance with state ADU law and do not go beyond the minimum statutory requirements, except regarding the height limit for detached ADUs which is discussed later. The attached May 8, 2025 Planning Commission agenda report provides a detailed review of the proposed zoning text amendments (see Attachment 3), while a snapshot of significant amendments is provided below:

- Cross-Reference to city and state SB 9 Legislation related to the maximum number of ADUs and JADUs allowed on a lot utilizing the provisions of SB 9 (a total of 4 dwelling units is allowed, inclusive of primary units, ADUs, and JADUs);
- Eliminate the requirement for an ADU Permit within the Brisbane Acres Residential District;

- Increase the number of ADUs allowed per single-family lot to 2 ADUs plus one JADU;
- Increase the number of ADUs allowed per multi-family lot to as many as 9;
- Redesignate “Unrestricted ADUs” as “State-exempt ADUs”; and
- Allow State-exempt ADUs to be constructed in front setback areas

Since 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 as well as with Title 15. Such updates include:

- Updating certain definitions in the zoning ordinance;
- Adding setback exceptions specifically for ADUs;
- Amending the language of off-street parking requirements to match state law; and
- Amending language in BMC Chapter 15.10 to be consistent with new height limits for detached ADUs

#### Detached ADU Height Limitation

As mentioned previously, the draft ordinance does not extend regulations beyond the minimum statutory requirements, except regarding the height limit for detached ADUs. (The draft ordinance does not change what is currently allowed under the BMC for attached ADUs.) Specifically, state law establishes a minimum height limit of 18 feet for detached ADUs within a half mile radius of “major transit stops” as defined by the state, which is 2–feet taller than the otherwise state–established height minimum of 16 feet. Attachment 4, shows the half-mile radius of major transit stops, as defined by the State, where the 18-foot height standard applies.

The Planning Commission recommended the adoption of a singular maximum height limitation of 18 feet for detached ADUs citywide. It was the Commission’s belief that a uniform standard would be more equitable than utilizing the State’s language which would allow some detached ADUs to be two feet taller than other ADUs, even within the same zoning district or on the same street. Additional discussion on detached ADU height is provided in the attached Planning Commission Agenda Packet.

#### **Fiscal Impact**

None.

#### **Attachments**

1. Redline Copy of proposed Zoning Text Amendments
2. Draft Ordinance
3. May 8, 2025, Planning Commission Resolution 2025-RZ-02 and Agenda Report, including an excerpt from California Department of Housing and Community Development ADU Handbook (January 2025) summarizing new state legislation
4. Half-Mile Radius of Major Transit Stops in Brisbane

Julia Ayres, Principal Planner/ for  
John Swiecki, Community Development Director

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

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

**15.10.020 - Coordination with other Chapters.**

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

**15.10.030 - Applicability.**

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

**15.10.040 - Definitions.**

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

- A. "Addition and Alteration" shall mean new floor area added to an existing lawfully constructed building and/or changes to the existing floor area of a lawfully constructed building, which calculated together or apart constitute fifty (50) percent of the pre-existing floor area of the building. The conversion or recognition of non-habitable rooms to habitable space may be included in the calculation of alteration of space, at the discretion of the building official.
- B. "Major rebuild" shall mean removal of seventy-five percent (75%) or more of the combined surface area of the interior walls and ceilings of the habitable rooms of a building or structure to expose support members.
- C. "Floor Area" shall mean the sum of the gross horizontal areas of all floors of all buildings or structures measured from the interior face of the exterior walls, but excluding each of the following:
  - 1. Any area where the floor to ceiling height is less than six (6) feet.
  - 2. Any detached garage or other detached accessory structure which does not constitute habitable space.
  - 3. Any attached carport or covered deck.
  - 4. Any attached or detached accessory dwelling unit eight hundred (800) square feet or less in gross horizontal area that, if detached, does not exceed ~~sixteen~~ eighteen (1618) feet in height, where authorized pursuant to Chapter 17.43 of Title 17 of this Code.
- D. "Standards for new construction" shall mean:
  - 1. The requirements of the California Buildings Code adopted by this Title 15; and

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

#### **15.10.050 - Compliance Standards.**

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

#### **15.10.060 - Exceptions.**

- A. Standard Exceptions. The following standard exceptions to Section 15.10.050 shall apply:
1. The area of any additions and/or alterations not exceeding a cumulative total of four hundred (400) square feet within any five (5) year period.
  2. The conversion of existing floor area in an existing single-family or multiple-family dwelling to an accessory dwelling unit where authorized pursuant to Chapter 17.43 of Title 17.
  3. The area of any addition and/or alteration for the creation or expansion of an attached or detached accessory dwelling unit eight hundred (800) square feet or less in floor area where authorized pursuant to Chapter 17.43 of Title 17. If detached, the accessory dwelling unit may not exceed ~~sixteen~~sixteen ~~eighteen~~ (4618) 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.

**17.02.235 - Dwelling.**

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

- A. "Duplex dwelling" means a building containing two dwelling units totally separated from each other by a wall, floor or ceiling; provided, however, that a building containing a single-family dwelling and a lawful accessory dwelling unit or junior accessory dwelling unit shall not be deemed a duplex.
- B. "Dwelling group" means a group of two (2) or more detached buildings located upon the same site, each of which contains one or more dwelling units.
- C. "Dwelling unit" means a room or group of rooms including living, sleeping, eating, cooking and sanitation facilities, constituting a separate and independent housekeeping unit, designed, occupied, or intended for occupancy by one family on a permanent basis. Permanent residency shall mean continuous occupancy of the dwelling unit for a period of thirty (30) days or more.
- D. "Multiple-family dwelling" means a building or site containing three (3) or more dwelling units (also see "duplex"). The term includes single-room-occupancy dwelling units, typically comprised of one or two (2) rooms (which may include a kitchen and/or a bathroom, in addition to a bed), that are restricted to occupancy by no more than two (2) persons.
- E. "Accessory dwelling unit" means a separate dwelling unit created upon a site that contains a single-family dwelling, duplex, or multiple-family dwelling. Subject to the restrictions of this title, the accessory dwelling unit may be within, attached to, or detached from the single-family dwelling, duplex, or multiple-family dwelling. An accessory dwelling unit shall include permanent provisions for living, sleeping, eating, cooking, and sanitation. The term "secondary dwelling unit" shall have the same meaning throughout this title. An accessory dwelling unit also includes the following:
  - 1. An efficiency unit, as defined in section 17958.1 of the Health and Safety Code.
  - 4-2. A manufactured home, as defined in Section 18007 of the Health and Safety Code.
- E-F. "Junior accessory dwelling unit" means a dwelling unit that is no more than five hundred (500) square feet in size and contained entirely within a single-family dwelling. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the single-family dwelling. Junior accessory dwelling units are distinguished from accessory dwelling units in that they: (1) must include the conversion of existing, legally permitted floor area within an existing single-family dwelling; (2) must be owner occupied, or the main dwelling be owner occupied; and (3) are subject to unique standards that are not applicable to accessory dwelling units, as specified in Chapter 17.43 of this Title.

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

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



**17.12.020 - Permitted uses. (R-BA)**

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

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

**Chapter 17.32.070 - Exceptions – Setback requirements.**

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

Front setback area:	May extend three (3) feet from the building into the front setback
Rear setback area:	May extend three (3) feet from the building into the rear setback
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

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

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

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

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

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

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

All Setback Areas. Accessibility improvements, such as ramps, elevators and lifts, may be allowed within any front, rear or side area setback upon the granting of an accessibility improvement permit by the zoning administrator, following the conduct of a hearing with ten (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.

4. ~~Detached~~ Accessory Dwelling Units

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

a.b. ~~Attached accessory dwelling units within a principle or primary are subject to the setback exceptions contained within Section 17.32.070.~~

- B. The exceptions set forth in subsection A of this Section 17.32.070 shall not be construed to include chimney boxes, swimming pools and spas, exposed plumbing, or mechanical equipment such as heating and air conditioning units or pool pumps, and no exceptions to the setback requirements shall be permitted for any of these structures.
- C. Any structure, architectural feature, wall, or other improvement lawfully constructed within a setback area and constituting a nonconforming structure as defined in Section 17.02.560, may be allowed to continue in accordance with Chapter 17.38 of this title.

**Chapter 17.34.020 – Minimum requirements. (Parking)**

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

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

Uses:	Parking Requirements:
	See Section 17.34.020(B)(1) regarding garage and carport exclusions from the floor area calculation.
	Additional guest parking spaces shall be provided for all residential subdivisions of 5 or more single-family residences, at the rate of 1 parking space for every 5 units. Such spaces shall be located entirely within the public right-of-way and available for public use. Any accessible parking spaces required per Section 17.34.040(D) shall count as guest parking spaces.
Accessory dwelling units	<p>In the R-1, R-2, R-3, NCRO-2, SCRO-1, PAOZ-1, or PAOZ-2 Districts: No off-street parking required.</p> <p>In the R-BA and PD Districts: 1 off-street parking space (uncovered or covered) <u>per accessory dwelling unit or per bedroom, whichever is less</u>, unless <u>any of the following criteria applies</u>:</p> <ol style="list-style-type: none"> <li><u>1. <del>the</del> The accessory dwelling unit is located within one-half mile walking distance of public transit;</u></li> <li><u>2. <del>, or the</del> The accessory dwelling unit is part of the proposed or existing dwelling, as defined in Section 17.02.235, or an accessory structure as defined in subsection B of Section 17.02.755;</u></li> <li><u>3. Where the accessory dwelling unit is located within an architecturally and historically significant historic district;</u></li> <li><u>4. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit; or</u></li> <li><u>4.5. When there is a car share vehicle located within one block of the accessory dwelling unit.</u></li> </ol>
Junior accessory dwelling units	No off-street parking required.



## Chapter 17.43 - Accessory Dwelling Units and Junior Accessory Dwelling Units

### 17.43.010 - Purposes of chapter.

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

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

### 17.43.020 - Definitions.

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

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

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

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

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

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

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

**17.43.030 – Permit Requirements.**

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

**17.43.040 – Development regulations for accessory dwelling units.**

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

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

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

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

D. Number of Units.

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

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

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

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

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

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

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

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

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

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

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

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

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

5. Setback exceptions for detached accessory dwelling units.

- a. Overhanging Architectural Features (Such as Eaves, Cornices Canopies, Rain Gutters and Downspouts). May extend into required setback areas, but no closer than 2½ feet from the side lot line. Rain gutters and downspouts may extend no closer than 2 feet from the side lot line. A noncombustible awning over the main entrance to an accessory dwelling unit may into any portion of the setback area, but shall not extend over or drain onto an abutting property.
- b. Stairs, Ramps and Landings (That Are Open and Uncovered). Shall be constructed of noncombustible material. No more than 1 set of stairs per accessory dwelling unit may extend from the structure into required setback areas. Stairs on grade, sidewalks, and other flatwork constructed of noncombustible materials may be located anywhere within setback areas.
- c. Supported Decks, Cantilevered Decks and Balconies. Shall be no closer than 4 feet from any property line or as the minimum setback required within the underlying zoning district, whichever is less.
- d. No exceptions to the setback requirements shall be permitted for any of the following: cantilevered windows (such as bay, box, bow, and greenhouse windows); chimney boxes; exposed plumbing; or mechanical equipment such as heating, air conditioning units, or heat pumps.

4-6. Setback exceptions for attached accessory dwelling units are as provided in Section 17.32.070 of this title.

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

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

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

- 2-1. ~~except that~~ State-exempt accessory dwelling units shall be excluded from floor area ratio calculations.
- 3. ~~Accessory dwelling units eight hundred (800) square feet or less in floor area and no more than sixteen (16) feet in height, if detached, are exempt from calculating the floor area ratio for the lot; and~~
- 4. ~~Accessory dwelling units proposed within the space of a single-family dwelling or existing accessory structure may include an expansion of not more than one hundred fifty (150) square feet beyond the physical dimensions of the existing accessory structure or single-family dwelling, provided however, that the expansion of the single-family dwelling or accessory structure shall be limited to~~

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

J. Height.

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

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

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

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

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

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

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

I-N. Unit Access.

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

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

service provided by the City, pursuant to Title 13 of this Code. As to the main dwelling, a separate water connection, a separate sewer service connection, or a separate power connection for water, sewer, and power service is not required for an accessory dwelling unit.

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

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

#### **17.43.050 - Accessory dwelling units in multiple-family dwellings.**

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

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

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

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

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

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

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



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

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

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

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

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

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

**17.43.060 - Development regulations for junior accessory dwelling units.**

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

- A. Zoning Districts. Junior accessory dwelling units may only be established or occupied on lots in the R-1, R-2, R-3, R-BA, NCRO-2, SCRO-1, PAOZ-1, and PD zoning districts with an existing or proposed single-family dwelling.
- B. Density. A junior accessory dwelling unit that conforms to this Chapter 17.43 shall be deemed to be an accessory use and shall not be considered to exceed the allowable density for the lot upon which it is located. The junior accessory dwelling unit shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot and shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.
- C. Lot Size. There is no minimum lot size requirement.
- D. Number of Units.

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

#### E. Floor Area Requirements.

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

#### F. Unit Access.

1. As required by Section 17.01.060, the lot on which the junior accessory dwelling unit is located shall have a legal means of access to the public right of way that complies with the street standards set forth in Section 12.24.010.
2. A separate exterior entry from the main entrance to the main dwelling shall be provided to serve the junior accessory dwelling unit only. Interior entry access between the junior accessory dwelling unit and the main dwelling is permitted,



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

- G. Required Facilities. A junior accessory dwelling unit shall include all of the following facilities:
1. At a minimum, an efficiency kitchen.
  2. Sanitation facilities, but such facilities may be separated from or shared with the main dwelling.
- H. Owner Occupancy. Either the main dwelling or the junior accessory dwelling unit shall be occupied by the record owner of the property as the owner's principal place of residence. In the case of ownership by a corporation, limited liability company, partnership, trust or association, either the main dwelling or the junior accessory dwelling unit shall be the principal place of residence of an officer, director, shareholder, or member of the company, a partner in the partnership, a trustor or beneficiary of the trust, a member of the association, or an employee of any such organization. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.
- I. Recordation of Declaration of Restrictions.
1. A Declaration of Restrictions shall be recorded to run with the land that indicates the following:
    - a. Only one unit may be occupied solely by persons other than the owner or owners of record;
    - b. If a junior accessory dwelling unit is rented, the unit shall not be rented for a period of less than 30 consecutive calendar days;
    - c. Sale of the junior accessory dwelling unit separately from the main dwelling is prohibited; and
    - d. The approved size and attributes of the junior accessory dwelling unit.
  2. A copy of this Declaration of Restrictions must be given to each prospective purchaser or occupant.
- J. Parking. Parking spaces for the main dwelling and junior accessory dwelling unit shall be provided in accordance with the requirements set forth in Chapter 17.34 of this title.
- ~~3-1.~~ When a garage is converted in conjunction with the construction of a junior accessory dwelling unit, any parking spaces that were provided by such garage are not required to be replaced.-
- J.K. Utilities. The lot shall be served by adequate water, sewer, and storm drain facilities which comply with city standards as established per Title 13 of this Code. A junior accessory dwelling unit shall not be considered a new residential use for the purposes of calculating connection fees or capacity charges for water and sewer service provided by the City.

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

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

#### **17.43.070 – State-exempt Accessory and Junior Accessory Dwelling Units**

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

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

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

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

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

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

**17.43.~~070-080~~ - Prohibition on sale and limitation on rental.**

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

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

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

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

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

**draft**  
**ORDINANCE NO. \_\_\_\_\_**

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

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

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

(Subsections A and B, no change)

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

(Subsections D and E, no change)

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

(Subsections A through D, no change)

- E. "Accessory dwelling unit" means a separate dwelling unit created upon a site that contains a single-family dwelling, duplex, or multiple-family dwelling. Subject to the restrictions of this title, the accessory dwelling unit may be within, attached to, or detached from the single-family dwelling, duplex, or multiple-family dwelling. An accessory dwelling unit shall include permanent provisions for living, sleeping, eating, cooking, and sanitation. The term "secondary dwelling unit" shall have the same meaning throughout this title. An accessory dwelling unit also includes the following:
1. An efficiency unit, as defined in section 17958.1 of the Health and Safety Code.
  2. A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(Subsections F through H, no change)

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

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

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

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

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

3. Accessory Dwelling Units

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

(Subsections B and C, no change)

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

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

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

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	<p>In the R-1, R-2, R-3, NCRO-2, SCRO-1, PAOZ-1, or PAOZ-2 Districts: No off-street parking required. In the R-BA and PD Districts: 1 off-street parking space (uncovered or covered) per accessory dwelling unit or per bedroom, whichever is less, unless any of the following criteria applies:</p> <ol style="list-style-type: none"> <li>1. The accessory dwelling unit is located within one-half mile walking distance of public transit;</li> <li>2. The accessory dwelling unit is part of the proposed or existing dwelling, as defined in Section 17.02.235, or an accessory structure as defined in subsection B of Section 17.02.755;</li> <li>3. Where the accessory dwelling unit is located within an architecturally and historically significant historic district;</li> <li>4. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit; or</li> </ol> <p>When there is a car share vehicle located within one block of the accessory dwelling unit.</p>
Junior accessory dwelling units	No off-street parking required.
Duplex or multiple family dwelling units; Mobile home park units:	
Studios	1 (uncovered or covered) space per unit.
1-bedroom units	1½ spaces (1 of which shall be covered) per unit; only 1 (covered) space required for units not over 900 square feet in floor area.
2-bedroom units	1½ spaces (1 of which shall be covered) per unit.

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



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

(Subsection B, no change)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- E. Attached or Detached. Accessory dwelling units may be attached to or located within the existing or proposed main dwelling, including garages, storage areas, or accessory structures, or detached from the main dwelling on the same lot.
- F. Unit Size. Accessory dwelling units shall not exceed one thousand (1,000) square feet in floor area, as defined in Section 17.02.315 of Chapter 17.02 of this title.
  - 1. Unit size for state-exempt accessory dwelling units is established under Section 17.43.070(C).
- G. Setbacks. Accessory dwelling units shall be subject to the following setback requirements:
  - 1. Front Setback: The minimum front setback shall be as established in the underlying zoning district regulations.
    - a. State-exempt units may be located anywhere in the front setback area.
  - 2. Side Setback. Accessory dwelling units on any lot shall have a side setback of at least four (4) feet or as established in the underlying zoning district, whichever is less.
  - 3. Rear Setback. Accessory dwelling units on any lot shall have a rear setback of at least four (4) feet.
  - 4. No setback shall be required for an existing, legally permitted living area, garage, or accessory structure with nonconforming setbacks that is converted to an accessory dwelling unit or a portion of an accessory dwelling unit or an accessory dwelling unit constructed in the same location and to the same dimensions, including height, as an existing, legally permitted living area, garage, or accessory structure with nonconforming setbacks.
  - 5. Setback exceptions for detached accessory dwelling units.
    - a. Overhanging Architectural Features (Such as Eaves, Cornices Canopies, Rain Gutters and Downspouts). May extend into required setback areas, but no closer than 2½ feet from the side lot line. Rain gutters and downspouts may extend no closer than 2 feet from the side lot line. A noncombustible awning over the main entrance to an accessory dwelling unit may into any portion of the setback area, but shall not extend over or drain onto an abutting property.
    - b. Stairs, Ramps and Landings (That Are Open and Uncovered). Shall be constructed of noncombustible material. No more than 1 set of stairs per accessory dwelling unit may extend from the structure into required setback areas. Stairs on grade, sidewalks, and other flatwork constructed of noncombustible materials may be located anywhere within setback areas.
    - c. Supported Decks, Cantilevered Decks and Balconies. Shall be no closer than 4 feet from any property line or the minimum setback required within the underlying zoning district, whichever is less.
    - d. No exceptions to the setback requirements shall be permitted for any of the following: cantilevered windows (such as bay, box, bow, and greenhouse windows); chimney boxes; exposed plumbing; or mechanical equipment such as heating, air conditioning units, or heat pumps.
  - 6. Setback exceptions for attached accessory dwelling units are as provided in Section 17.32.070 of this title.

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

**17.43.070 – State-exempt Accessory and Junior Accessory Dwelling Units**

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

<b>State-exempt ADU Type</b>	<b>Allowed on any lot with a Single-family Main Dwelling<sup>1</sup></b>	<b>Allowed on any lot with a Multiple-family Main Dwelling<sup>2</sup></b>
1. ADU constructed within proposed or existing SFD	Yes	No
2. Newly constructed, detached ADU	Yes	No



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

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

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

**SECTION 14:** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Brisbane hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

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

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

\* \* \*

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

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Mayor Cliff Lentz

ATTEST:

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

APPROVED AS TO FORM:

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



## PLANNING COMMISSION AGENDA REPORT

**Meeting Date:** May 8, 2025

**From:** Jeremiah Robbins, Associate Planner

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

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

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

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

**APPLICABLE CODE SECTIONS:** Brisbane Municipal Code (BMC):

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

### ANALYSIS AND FINDINGS:

#### Background

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

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

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

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

### **Draft Ordinance**

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

#### ❖ *Cross-Reference to SB 9 Legislation*

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

#### ❖ *Eliminate ADU Permit*

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

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

❖ *Number of ADUs Allowed Per Lot*

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

<b>State Legislation:</b>	<ul style="list-style-type: none"> <li>▪ Must permit an attached, detached, or converted ADU on a lot that is zoned to allow single-family or multifamily residential use and includes an existing or proposed dwelling</li> <li>▪ Must allow any combination of <b>state-exempt ADUs</b> on lots with multiple-family structure as follows:               <ul style="list-style-type: none"> <li>○ At least one ADU (could potentially be more) constructed within existing non-livable space</li> <li>○ Two detached ADUs on proposed multi-family development</li> <li>○ As many as eight detached ADUs on an existing multi-family development (may not exceed the number of primary units)</li> </ul> </li> <li>▪ Must allow any combination of <b>state-exempt ADUs</b> on single-family lots as follows:               <ul style="list-style-type: none"> <li>○ One ADU constructed within existing space</li> <li>○ One newly constructed detached ADU</li> <li>○ One JADU constructed within existing space</li> </ul> </li> </ul>
<b>Existing BMC:</b>	<ul style="list-style-type: none"> <li>▪ One ADU per single-family lot</li> <li>▪ One JADU per single-family lot               <ul style="list-style-type: none"> <li>○ A JADU may be permitted on a lot with an ADU provided the ADU qualifies as unrestricted (state-exempt)</li> </ul> </li> <li>▪ At least one ADU (could potentially be more) constructed within existing non-livable space of a multiple-family structure</li> <li>▪ Two detached ADUs on existing or proposed multi-family development</li> </ul>
<b>Draft Ordinance:</b>	<ul style="list-style-type: none"> <li>▪ Matches state language from the Government Code regulating <b>state-exempt ADUs</b> (Section 66323)</li> </ul>

❖ *Unrestricted ADUs are now State-Exempt ADUs*

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

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

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

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

❖ *Setbacks*

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

❖ *Setback Exemptions*

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

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

**Discussion**

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

ADU Height Limitations

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

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

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

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

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

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

#### ADU Parking Requirements

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

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

**ATTACHMENTS**

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

*Jeremiah Robbins*  
Jeremiah Robbins, Associate Planner

*John Swiecki*  
John Swiecki, Community Development Director



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

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

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

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

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

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

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

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

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

WHEREAS, on May 8, 2025, the Planning Commission conducted a public hearing of the draft ordinance concerning ADUs and JADUs, publicly noticed in compliance with Brisbane Municipal Code Chapters 1.12 and 17.54, at which time any person interested in the matter was given an opportunity to be heard; and

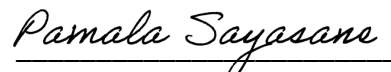
WHEREAS, the draft ordinance is statutorily exempt from the provisions of the California Environmental Quality Act (CEQA) per Section 15282(h) of the CEQA Guidelines and categorically exempt from CEQA per Section 15183(a) of the CEQA Guidelines, and the exceptions to the categorical exemption are inapplicable.

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

AYES: Funke, Gooding, Patel, and Sayasane

NOES: None

ABSENT: Lau

  
Pamala Sayasane  
Chairperson

ATTEST:

  
JOHN ASWIECKI, Community Development Director

**draft**  
**ORDINANCE NO. \_\_\_\_\_**

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

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

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

(Subsections A and B, no change)

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

(Subsections D and E, no change)

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

(Subsections A through D, no change)

- E. "Accessory dwelling unit" means a separate dwelling unit created upon a site that contains a single-family dwelling, duplex, or multiple-family dwelling. Subject to the restrictions of this title, the accessory dwelling unit may be within, attached to, or detached from the single-family dwelling, duplex, or multiple-family dwelling. An accessory dwelling unit shall include permanent provisions for living, sleeping, eating, cooking, and sanitation. The term "secondary dwelling unit" shall have the same meaning throughout this title. An accessory dwelling unit also includes the following:
1. An efficiency unit, as defined in section 17958.1 of the Health and Safety Code.
  2. A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(Subsections F through H, no change)

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

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

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

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

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

3. Accessory Dwelling Units

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

(Subsections B and C, no change)

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

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

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

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	<p>In the R-1, R-2, R-3, NCRO-2, SCRO-1, PAOZ-1, or PAOZ-2 Districts: No off-street parking required. In the R-BA and PD Districts: 1 off-street parking space (uncovered or covered) per accessory dwelling unit or per bedroom, whichever is less, unless any of the following criteria applies:</p> <ol style="list-style-type: none"> <li>1. The accessory dwelling unit is located within one-half mile walking distance of public transit;</li> <li>2. The accessory dwelling unit is part of the proposed or existing dwelling, as defined in Section 17.02.235, or an accessory structure as defined in subsection B of Section 17.02.755;</li> <li>3. Where the accessory dwelling unit is located within an architecturally and historically significant historic district;</li> <li>4. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit; or</li> </ol> <p>When there is a car share vehicle located within one block of the accessory dwelling unit.</p>
Junior accessory dwelling units	No off-street parking required.
Duplex or multiple family dwelling units; Mobile home park units:	
Studios	1 (uncovered or covered) space per unit.
1-bedroom units	1½ spaces (1 of which shall be covered) per unit; only 1 (covered) space required for units not over 900 square feet in floor area.
2-bedroom units	1½ spaces (1 of which shall be covered) per unit.

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

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

(Subsection B, no change)

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

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

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

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

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

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

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

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

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

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



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

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

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

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



- E. Attached or Detached. Accessory dwelling units may be attached to or located within the existing or proposed main dwelling, including garages, storage areas, or accessory structures, or detached from the main dwelling on the same lot.
- F. Unit Size. Accessory dwelling units shall not exceed one thousand (1,000) square feet in floor area, as defined in Section 17.02.315 of Chapter 17.02 of this title.
1. Unit size for state-exempt accessory dwelling units is established under Section 17.43.070(C).
- G. Setbacks. Accessory dwelling units shall be subject to the following setback requirements:
1. Front Setback: The minimum front setback shall be as established in the underlying zoning district regulations.
    - a. State-exempt units may be located anywhere in the front setback area.
  2. Side Setback. Accessory dwelling units on any lot shall have a side setback of at least four (4) feet or as established in the underlying zoning district, whichever is less.
  3. Rear Setback. Accessory dwelling units on any lot shall have a rear setback of at least four (4) feet.
  4. No setback shall be required for an existing, legally permitted living area, garage, or accessory structure with nonconforming setbacks that is converted to an accessory dwelling unit or a portion of an accessory dwelling unit or an accessory dwelling unit constructed in the same location and to the same dimensions, including height, as an existing, legally permitted living area, garage, or accessory structure with nonconforming setbacks.
  5. Setback exceptions for detached accessory dwelling units.
    - a. Overhanging Architectural Features (Such as Eaves, Cornices Canopies, Rain Gutters and Downspouts). May extend into required setback areas, but no closer than 2½ feet from the side lot line. Rain gutters and downspouts may extend no closer than 2 feet from the side lot line. A noncombustible awning over the main entrance to an accessory dwelling unit may into any portion of the setback area, but shall not extend over or drain onto an abutting property.
    - b. Stairs, Ramps and Landings (That Are Open and Uncovered). Shall be constructed of noncombustible material. No more than 1 set of stairs per accessory dwelling unit may extend from the structure into required setback areas. Stairs on grade, sidewalks, and other flatwork constructed of noncombustible materials may be located anywhere within setback areas.
    - c. Supported Decks, Cantilevered Decks and Balconies. Shall be no closer than 4 feet from any property line or the minimum setback required within the underlying zoning district, whichever is less.
    - d. No exceptions to the setback requirements shall be permitted for any of the following: cantilevered windows (such as bay, box, bow, and greenhouse windows); chimney boxes; exposed plumbing; or mechanical equipment such as heating, air conditioning units, or heat pumps.
  6. Setback exceptions for attached accessory dwelling units are as provided in Section 17.32.070 of this title.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**17.43.070 – State-exempt Accessory and Junior Accessory Dwelling Units**

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

<b>State-exempt ADU Type</b>	<b>Allowed on any lot with a Single-family Main Dwelling<sup>1</sup></b>	<b>Allowed on any lot with a Multiple-family Main Dwelling<sup>2</sup></b>
1. ADU constructed within proposed or existing SFD	Yes	No
2. Newly constructed, detached ADU	Yes	No



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

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

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



**SECTION 14:** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Brisbane hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

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

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

\* \* \*

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

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Mayor Cliff Lentz

ATTEST:

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

APPROVED AS TO FORM:

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

[Link to Complete 2025 ADU Handbook](#)

## Summary of Recent Changes to ADU Law



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

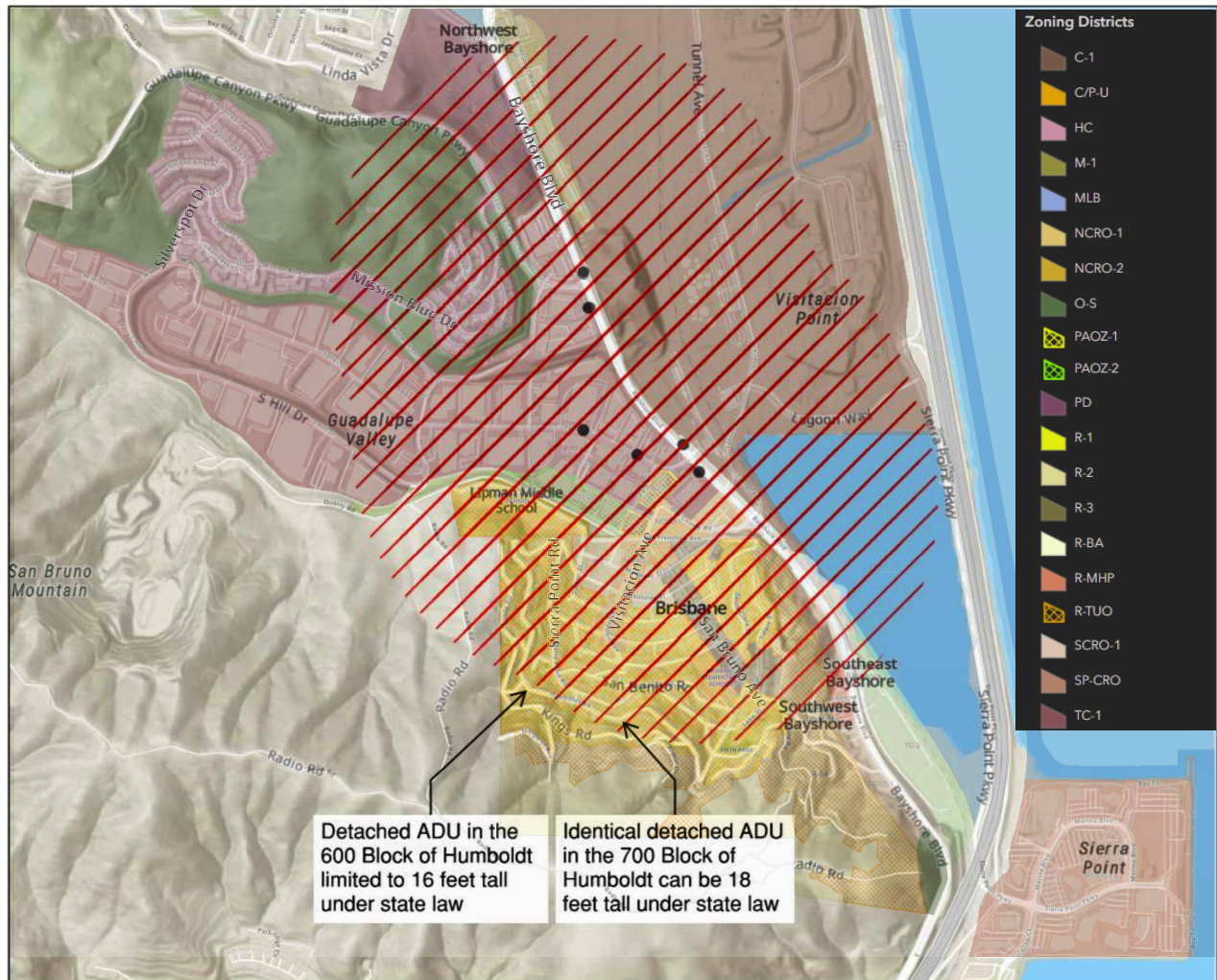


or because the ADU does not comply with State ADU Law or a local ordinance. (Gov. Code, § 66332, subd. (a).) A local agency shall inform the public about the provisions of this section through public information resources, including permit checklists and the local agency's internet website, which shall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

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

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

# Half-Mile Radius of Major Transit Stops in Brisbane



- Qualifying Major Transit Stops, per AB 2553

Half-mile Radius (18-foot maximum height limitation imposed by the State)

0 0.17 0.35 0.7 mi

Esri, NASA, NGA, USGS, FEMA, Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, (c) OpenStreetMap contributors, and the GIS User Community