

## ORDINANCE NO. 669

### AN ORDINANCE OF THE CITY OF BRISBANE ADDING SECTIONS 17.02.425, 17.02.565, 17.02.655, and 17.02.748; ADDING CHAPTER 17.45; AND AMENDING SECTIONS 17.02.050, 17.10.040, 17.10.050, 17.16.010, 17.16.020, 17.16.030, 17.16.040, 17.16.050, 17.16.060, 17.16.100, 17.16.110, 17.42.010, 17.42.020, 17.42.040, AND 17.56.030 OF THE BRISBANE MUNICIPAL CODE CONCERNING OBJECTIVE DESIGN STANDARDS AND HOUSING DEVELOPMENT PERMITS

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

**SECTION 1: Section 17.02.050 is amended and Sections 17.02.425, 17.02.565, 17.02.655, and 17.02.748 are added as follows:**

#### **17.02.425 Housing Development Project.**

“Housing Development Project” means a use consisting of any of the following: two or more residential units only; a mixed-use development consisting of two or more residential units and one or more nonresidential uses with at least two-thirds of the square footage designated for residential use; or transitional housing or supportive housing, as defined by California Government Code §50801, subdivision (i) or successor provisions. A Housing Development Project may consist of attached or detached residential units and may occupy more than one parcel, so long as the Housing Development Project is included in the same development application. This definition shall be superseded by changes to California Government Code §65589.5, subdivision (h)(2), or successor provisions. Projects located in the NCRO-2 District shall not be defined as Housing Development Projects.

#### **17.02.050 - Articulation.**

“Articulation” means changes of plane on the outside wall of a building such as provided by decks, bays, and other projections or recesses. Articulation also includes voids resulting from a change in the shape of the outside wall. The minimum offset requirement by permit type is as follows:

- A. Housing Development Permits: a minimum of one foot of offset in plane
- B. Design Permits: a minimum of two feet of offset in a plane

#### **17.02.565 Objective design standard.**

“Objective design standard,” also referred to “Objective zoning standard” or “objective subdivision standard”, shall have the same meaning as established in California Government Code §65913.4, subdivision (a)(5), or successor provisions.

#### **17.02.655 Public transit.**

“Public transit” means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge a set fare, run on fixed routes, and are available to the public.

**17.02.748 Streamlined housing development project.**

“Streamlined housing development project” shall mean a housing development project subject to a streamlined ministerial approval process pursuant to California Government Code §65913.4, or successor provisions.

**SECTION 2: Sections 17.10.040 and 17.10.050 are amended to read as follows:**

**17.10.040 Development regulations.**

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

A. Lot Area.

1. The minimum area of any lot shall be five thousand (5,000) square feet, except as otherwise provided in subsection B. of this section.
2. A single-family dwelling may be constructed on a lot of record with an area of less than five thousand (5,000) square feet, subject to the provisions of this chapter and the limitations set forth in Section 17.32.100.

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

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

Width	Depth
50 feet	100 feet

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

1. Front setback: Fifteen (15) feet, with the following exceptions:
  - a. Where the lot has a slope of fifteen percent (15%) or greater, the minimum front setback may be reduced to ten (10) feet.
  - b. Where fifty percent (50%) or more of the lots of record in a block have been improved with single-family dwellings, the minimum front setback may be the average distance of the front outside wall of the single-family structures from the front lot line, if less than fifteen (15) feet. Notwithstanding the foregoing, the minimum front setback for garages or carports shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.
2. Side setback: Five (5) feet, with the exception that a lot having a width of less than fifty (50) feet may have a side setback reduced to ten percent (10%) of the lot width, but in no event less than three (3) feet or the minimum setback required by the Uniform Building Code, whichever is greater. Notwithstanding the foregoing, the minimum side setback for garages, or carports accessed from a street or alley along that side of the lot shall be ten (10) feet, except where a lesser distance is determined by the city engineer to be safe in terms of pedestrian and vehicular traffic.
3. Rear setback: Ten (10) feet.

4. Garage setback: Eighteen (18) feet, with the following exceptions:
  - a. If paragraph 1(a) or 1(b) of this subsection D applies, then the garage shall be setback three (3) feet behind the front wall of the main structure.
  - b. If the garage setback exemptions set forth in Section 17.32.070(A)(3)(a) of this Title apply, the regulations of that section shall prevail.
- E. Lot Coverage. The maximum coverage by all structures on any lot shall be sixty percent (60%).
- F. Floor Area Ratio. The maximum floor area ratio for all buildings on a lot shall be 0.72, subject to the following exclusions:
  1. In the case of single-family dwellings, where the size of the lot is three thousand seven hundred (3,700) square feet or less, one covered parking space designed to accommodate a full-size automobile shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of two hundred (200) square feet.
  2. In the case of duplexes and multiple-family dwellings, the area of all covered parking spaces required to be provided for the site shall be excluded from the calculation of floor area ratio; provided, however, such exclusion shall not exceed a total area of four hundred (400) square feet per unit.
- G. Height of Structures.
  1. Except as otherwise provided in paragraph 2 of this subsection G. and in Section 17.32.060, the maximum height of any structure shall be as follows:
    - a. Twenty-eight (28) feet, for lots having a slope of less than twenty percent (20%); or
    - b. Thirty (30) feet, for lots having a slope of twenty percent (20%) or more.
  2. For a distance of fifteen (15) feet from the front lot line, the height of any structure shall not exceed twenty (20) feet as measured from finish grade; provided, however, garages and carports may be constructed to a height of fifteen (15) feet above the elevation of the center of the adjacent street when permitted by Section 17.32.070 of this title. A garage or carport in compliance with this subsection may exceed a height of thirty (30) feet, but the height of any permitted living area underneath shall not exceed thirty (30) feet from finish grade.
- H. Articulation Requirements. Unless exempted, outside walls that are greater in size than twenty (20) feet in width and twenty (20) feet in height shall have a cumulative area of articulation as follows:
  1. Front outside wall: Thirty percent (30%) articulation.
  2. Side outside walls:
    - a. Interior side outside wall: No articulation requirement.
    - b. Exterior side outside wall: Where the structure is located on a lot having an average width of forty (40) feet or greater, the articulation requirement for the exterior side outside wall shall be twenty percent (20%). No articulation shall be required for the exterior side outside wall of structures located on lots having an average width of less than forty (40) feet.
  3. Rear outside wall: Thirty percent (30%) articulation.

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

I. Landscaping Requirements.

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

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

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

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

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

K. Refuse and Recycling Area Requirements.

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

2. This requirement shall apply to all new residential buildings having five (5) or more living units, institutional buildings and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. This requirement shall also apply to such existing developments for which building permit applications are submitted within a twelve-month period collectively adding thirty percent (30%) or more to the existing floor area of the development project. (Ord. 485 § 3, 2004; Ord. 463 § 8(part), 2002).

(Ord. No. 548, § 3, 11-1-10; Ord. No. 556, § 8, 2-22-11; Ord. No. 576, § 3, 5-19-16; Ord. No. 607, § 4, 4-7-16; Ord. No. 653, § 13, 10-15-20)

### **17.10.050 Permits.**

- A. Housing Development Permit. A Housing development permit issued pursuant to Chapter 17.45 of this title shall be required for housing development projects and streamlined housing development projects within the R-3 district, including duplexes.
- B. Design Permit. A design permit issued pursuant to Chapter 17.42 of this title shall be required for every main structure to be constructed on a lot within an R-3 district, with the exception of single-family dwellings, housing development projects, and streamlined housing development projects.

(Ord. 463 § 8(part), 2002). (Ord. 463 § 8(part), 2002).

### **SECTION 4: Sections 17.16.010, 17.16.020, 17.16.030, 17.16.040, 17.16.050, 17.16.060, 17.16.070, 17.16.100, and 17.16.110 are amended to read as follows:**

#### **17.16.010 Purposes of chapter.**

The general plan designates several areas of the city for subregional commercial/retail/office use (SCRO). The SCRO-1 Southwest Bayshore commercial district (hereinafter referred to as the Southwest Bayshore district) is one of such planning areas and is included in the zoning ordinance codified in this title to achieve the following purposes:

- A. To create a zoning district for the Southwest Bayshore area that provides for orderly development consistent with the land use policies for that area as set forth in the city's general plan;
- B. To encourage a mix of subregional uses and the opportunity to include mixed-uses and residential uses when appropriate;
- C. To ensure that future development will be conducted in a manner that will adequately address the environmental constraints in the Southwest Bayshore district, as identified in the general plan;
- D. To address historical issues of incompatible land uses;
- E. To protect the community health and safety by establishing permit requirements, performance standards, and special findings for the establishment of uses in the Southwest Bayshore district;
- F. To provide an opportunity for multiple-family dwellings;
- G. To ensure that new residential development is compatible with existing development and reflects the diversity of the community;
- H. To ensure adequate light, air, space, safety, quiet, and privacy for residential uses;

- I. 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. (Ord. 443 § 2(part), 2000).

(Ord. No. 564, § 2, 10-3-11)

**17.16.020 Permitted uses.**

- A. The following are permitted uses in the SCRO-1 district:
  1. Emergency shelters in compliance with Section 17.16.040.
  2. Accessory dwelling units and junior accessory dwelling units associated with an existing or proposed single-family dwelling, duplex, or multiple-family dwelling in compliance with the provisions of Chapter 17.43 of this title.
  3. Multiple-family dwellings;
  4. Duplexes.
  5. Dwelling groups.
  6. Accessory structures and uses incidental to a permitted use, including personal cultivation of cannabis in compliance with Title 8, Chapter 8.12.
  7. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.
  8. Small and large family day care homes.
  10. A mixed use project that meet the definition of a Housing Development Project or a Streamlined Housing Development Project as defined in Chapter 17.02.

(Ord. 443 § 2(part), 2000).

(Ord. No. 564, § 2, 10-3-11; Ord. No. 626, § 6, 5-17-18; Ord. No. 653 , § 18, 10-15-20) (Ord. No. 564, § 2, 10-3-11; Ord. No. 626, § 6, 5-17-18; Ord. No. 653 , § 18, 10-15-20)

**17.16.030 Conditional uses.**

- A. Allowable Conditional Uses. The following conditional uses, not otherwise permitted per Section 17.16.020(A), may be allowed in the Southwest Bayshore district, upon the granting of a use permit pursuant to Chapter 17.40 of this title and if conducted in accordance with the performance standards set forth in Section 17.16.050 of this chapter:
  1. Commercial recreation/commercial gym and health facilities;
  2. Contractor's yards;
  3. Convalescent homes;
  4. Cultural facilities;
  5. Educational facilities;
  6. Emergency shelters with more than twelve (12) beds;

7. Financial institutions;
  8. Food production;
  9. Group care homes;
  10. Hotels;
  11. Light fabrication;
  12. Live/work developments;
  13. Media studios;
  14. Medical facilities;
  15. Meeting halls;
  16. Mobilehome parks in compliance with Section 17.32.110;
  17. Motels;
  18. Offices;
  19. Outdoor sales and rental;
  20. Personal services;
  21. Places of worship;
  22. Printing;
  23. Product showrooms;
  24. Research and development, where the planning director determines, as a result of a risk analysis performed in accordance with Policy No. 166.1 of the general plan, that the use of hazardous materials will not constitute a major component of the research and development activities to be conducted on the site. Research and development involving cannabis is additionally subject to the requirements in Chapter 17.33;
  25. Restaurants;
  26. Retail sales and rental;
  27. Single-family dwellings and single-family dwellings with accessory dwelling units in compliance with the provisions of Chapter 17.43 of this Title;
  28. Storage;
  29. Veterinary clinics;
  30. Warehousing;
  31. Single-room occupancy units.
- B. Mixed Uses. For a mixed use project that does not meet the definition of a Housing Development Project or Streamlined Housing Development Project, as defined in Chapter 17.02, a combination of any residential and nonresidential uses listed in subsection A of this Section 17.16.030, or in Section 17.16.020, may be allowed as a mixed use within the same structure or upon the same site when specifically authorized by the use permit granted for each

individual conditional use and upon such additional conditions as the approving authority may deem necessary or appropriate to insure the compatibility of such mixed uses.

- C. Night Operations. Night operations associated with the conduct of any uses listed in subsection A of this section (except residential uses) shall require a use permit when subject to the provisions of Section 17.16.070 of this chapter. (Ord. 443 § 2(part), 2000).

(Ord. No. 564, § 2, 10-3-11; Ord. No. 622, § 3, 11-16-17; Ord. No. 617, § 13, 9-7-17; Ord. No. 626, § 6, 5-17-18)

**17.16.040 Development regulations.**

Development regulations in the Southwest Bayshore district are as follows:

- A. Lot Area. The minimum area of any lot shall be seven thousand five hundred (7,500) feet.
- B. Density of Development. The minimum lot area for each dwelling unit on a site shall be as follows:
  - 1. Single-family dwellings: Seven thousand five hundred (7,500) square feet;
  - 2. Duplex dwellings: Three thousand seven hundred fifty (3,750) square feet;
  - 3. Multiple-family dwellings and dwelling groups: One thousand five hundred (1,500) square feet;
  - 4. Mixed use or live/work development: Dwelling unit density shall be determined by the use permit.
- C. Lot Dimensions. The minimum dimensions of any lot shall be as follows:

Width	Depth
50 feet	No requirement

- D. Setbacks. The minimum required setbacks for any lot, except as provided in Section 17.32.070, shall be as follows:
  - 1. Front setback:
    - a. Residential/Mixed Use: Ten (10) feet;
    - b. Commercial Uses: Twenty-five (25) feet for commercial uses;
    - c. Exception: The setbacks may be reduced to zero (0) where development includes dedication to public right-of-way for a frontage access road and sidewalk, to the satisfaction of the city engineer and fire department.
  - 2. Side setback:
    - a. Residential/Mixed Use: Five (5) feet;
    - b. Commercial Uses: Fifteen (15) feet;



- c. Exception: The planning commission may approve exceptions to the side setback regulations for commercial uses through the granting of a use permit.
- 3. Rear setback: Ten (10) feet.
- E. Lot Coverage. The maximum coverage by all structures on any lot shall be seventy percent (70%).
- F. Height of Structures. The maximum height of any structure, except as provided in Section 17.32.060, shall be thirty-five (35) feet.
- G. Fencing Requirements. If the site is next to a residential district, a wood fence of not less than eight (8) feet in height that adequately screens the site from the adjacent residential district shall be installed along the property line abutting the residential district. The planning director may approve deviations from the material and height requirements set forth in the preceding sentence, based upon a finding that the modified fence is more appropriate for the site and the adjacent residential district.
- H. Open Space. Usable open space shall be provided for residential uses of at least sixty (60) square feet per unit. Such open space shall not be less than five (5) feet in any dimension and may be provided as individual patios or decks, or as common patio or garden area, or any combination thereof.

Notwithstanding that an attached or detached accessory dwelling unit greater than eight hundred (800) square feet is added to an existing residential use, there shall be no reduction in the amount of required usable open space for the other residential use. If an existing residential use has open space that does not conform to the sixty (60) square feet per unit requirement, the addition of an attached or detached accessory dwelling unit greater than eight hundred (800) square feet to that use shall not further reduce the amount of open space. The addition of an attached or detached accessory dwelling unit that is eight hundred (800) feet or less may result in a loss of the required usable open space for the other residential uses, including the loss of non-conforming open space.

- I. Landscaping Requirements.
  - 1. Not less than ten percent (10%) of the lot area shall be improved with landscaping. The addition of an attached or detached accessory dwelling unit greater than eight hundred (800) square feet shall not result in a loss of the required landscape area. The addition of an attached or detached accessory dwelling unit that is eight hundred (800) square feet or less may result in a loss of the required landscape area.
  - 2. Plant materials shall be drought resistant and non-invasive as required by the planning director.
  - 3. Landscaping required under this section, including replacement landscaping, shall be installed according to detailed plans approved by the planning director. The landscape plans shall be consistent with the following objectives:
    - a. Use of plants that are not invasive;

- b. Use of water conserving plants; and
  - c. Use of plants and other landscape features that are appropriate to the context.
4. Irrigated Landscapes. New and rehabilitated, irrigated landscapes are subject to the water conservation in landscaping ordinance (refer to Chapter 15.70) or the latest state provisions, whichever is more effective in conserving water.
- J. Screening Requirements.
- 1. Outside storage of pallets or containers used for transportation and delivery of items related to the uses conducted on the site shall not be located in any required setback from a street and shall be screened from off-site view to the extent it is reasonable to do so.
  - 2. The off-site visibility of exterior equipment such as heating and ventilation units, above-ground storage tanks, compactors and compressors, shall be mitigated through such measures as may be reasonable under the circumstances, including, but not limited to, the installation of screening, fencing, painting, or landscaping, or any combination of the foregoing.
  - 3. The screening requirements set forth in subsections H.1. and H.2. of this section are not intended to be exclusive and the approving authority may require, as a condition of the use permit, such other and additional screening measures as it deems necessary or appropriate to mitigate any potential adverse visual and audible impacts created by the intended use.
- K. Refuse and Recycling Area Requirements.
- 1. So as to adequately protect neighboring uses from adverse impacts such as noise, odor, vectors, wind-blown litter or glare, areas for depositing, collecting and loading refuse and recyclable materials shall be provided and fully enclosed within an enclosure a minimum of six feet tall. All receptacles for collection and recycling shall be completely screened from view at street level. All enclosures and gates should be detailed to withstand heavy use. Wheel stops or curbs shall be provided to prevent dumpsters from banging into walls of enclosure. The area shall be designed to prevent storm water run-on to the area and runoff from the area, and roofs shall be designed to drain away from neighboring properties. Lighting shall be provided at enclosures for nighttime security and use. Lights shall be full cutoff luminaires, as certified by the manufacturer, with the light source directed downward and away from adjacent residences. A sign clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein shall be posted adjacent to all points of direct access to the area.
  - 2. This requirement shall apply to all new commercial or institutional buildings, residential buildings having five (5) or more living units, and city facilities (including buildings, structures, and outdoor recreation areas owned by the city) where solid waste is collected and loaded. This requirement shall also apply to any existing development for which building permit applications are submitted within a twelve-month period collectively adding thirty percent (30%) or more to the existing floor area of the development project. For existing developments occupied by multiple tenants, this requirement shall apply to building permit applications submitted by any tenant within a twelve-month period collectively adding thirty percent (30%) or more to the existing floor area of that portion of the development which said

tenant leases. Such recycling areas shall, at a minimum, be sufficient in capacity, number, and distribution to serve that portion of the development project which said tenant leases.

- L. Emergency Shelters. Development standards for emergency shelters shall be the same as for residential development in the district, except density of development regulations, and emergency shelters that meet the following requirements are exempt from the requirement of a design permit and use permit:
  - 1. No emergency shelter shall be allowed to be located within three hundred (300) feet of another emergency shelter.
  - 2. The required setbacks for new development shall be:
    - a. Front setback: Ten (10) feet; except that the front setback may be reduced to zero (0) where development includes dedication to public right-of-way for a frontage access road and sidewalk, to the satisfaction of the city engineer and fire department.
    - b. Side setback: Five (5) feet; except that the planning commission may approve exceptions to the side setback regulations through the granting of a use permit.
    - c. Rear setback: Ten (10) feet.
  - 3. A maximum of twelve (12) persons (twelve (12) beds) to be served nightly.
  - 4. Each resident shall be provided personal living space.
  - 5. Bathrooms and bathing facilities shall be provided, adequate for the number of residents.
  - 6. Laundry facilities or services shall be provided on site, adequate for the number of residents.
  - 7. The length of stay for individual clients shall not exceed six (6) months, or as allowed by state law.
  - 8. Staff and services shall be provided to assist residents to obtain permanent shelter and income.
  - 9. For security, the facility shall provide outdoor lighting of common areas, entries, parking areas, pathways, in compliance with Section 17.16.050.E.
  - 10. For security, the shelter shall be adequately staffed twenty-four (24) hours a day, seven (7) days a week.
  - 11. Parking shall be as specified in Chapter 17.34.
  - 12. Outdoor activities, such as recreation, eating, and staging for drop-off, intake, and pick-up, may be conducted at the facility, between the hours of five (5:00) a.m. and ten (10:00) p.m. A night operations use permit is required for outdoor activities between the hours of ten (10:00) p.m. and five (5:00) a.m., as provided for in Section 17.16.070.
  - 13. The facility may provide the following:

- a. Kitchen facilities;
  - b. Dining area;
  - c. Recreation room;
  - d. Training and counseling support services;
  - e. Child care facilities;
  - f. Other facilities or services that are accessory to an emergency shelter.
14. Prior to commencing operation, the emergency shelter provider must have a written management plan, which shall be provided to the planning director. The management plan must include provisions for staff training, resident identification process, neighborhood outreach, policies regarding pets, the timing and placement of outdoor activities, provisions for residents' meals (including special dietary needs), medical care, mental health care, dental care, temporary storage of residents' personal belongings, safety and security, provisions in case of area-wide emergencies, screening of residents to ensure compatibility with services provided at the facility, plans to help secure other provisions for those who may not be part of the shelter's target population, computer access for residents, and training, counseling and social service programs for residents, as applicable.

M. Mobile Home Parks.

- 1. Mobile home parks in the SCRO-1 district shall be subject to the development and parking standards established in Chapter 17.11 of this Title.
- 2. Conversion, closure, or cessation of a mobile home park in the SCRO-1 district shall be subject to the procedures established in Section 17.11.090 of this Title.

(Ord. 443 § 2(part), 2000).

(Ord. No. 548, § 6, 11-1-10; Ord. No. 556, § 15, 2-22-11; Ord. No. 564, § 2, 10-3-11; Ord. No. 607, § 7, 4-7-16; Ord. No. 630, § 3, 12-6-18; Ord. No. 653, § 19, 10-15-20)

**17.16.050 Performance standards.**

All uses in the Southwest Bayshore district shall be conducted in accordance with the following performance standards:

- A. All routine aspects of the day-to-day operations of a business, including the storage of materials and products, shall be conducted entirely within an enclosed structure, with the exception of the following:
  - 1. Outdoor activities specifically authorized by the use permit;
  - 2. Parking of operable vehicles related to the authorized uses conducted on the site;
  - 3. Shipments and deliveries incidental to the conduct of the primary use on the site.

4. Emergency shelter outdoor activities as set forth in Section 17.16.040(L)(12).
- B. The site shall be kept free of trash and debris.
- C. Sound insulation housing or baffles, or other reasonable measures, shall be installed in conjunction with heating and ventilating equipment or other machinery when necessary to effectively mitigate sound emissions distinctly detectable from any off-site location.
- D. Odors from any use shall not be generally or distinctly detectable from any off-site location.
- E. Lighting shall be designed to avoid excessive glare as viewed from offsite locations and in compliance with the California Green Building Standards Code. Lighting shall also be stationary, shielded or otherwise directed away from direct view of the light source as viewed from adjacent properties and public rights of way, and of intensity compatible with the neighborhood.
- F. Site development shall minimize disturbance of existing natural slopes to the extent feasible, maintain public view corridors of the San Francisco Bay and San Bruno Mountain, minimize rooftop glare, and screen exterior mechanical equipment.

(Ord. 443 § 2(part), 2000).

(Ord. No. 556, § 16, 2-22-11; Ord. No. 564, § 2, 10-3-11)

#### **17.16.060 Special findings.**

In addition to the findings required for approval of a use permit as set forth in Section 17.40.060, no use permit shall be granted for any conditional use in the Southwest Bayshore district unless the approving authority also makes such of the following findings as may be applicable to the application:

- A. Adequate measures have been taken to protect workers and residents from the twenty-four (24) hour noise generated by traffic on Bayshore Boulevard.
- B. The improvements have been designed in a manner that will make adequate provision for on-site parking and traffic circulation and safe ingress to and egress from the site.
- C. The improvements have been designed to be compatible with the topography and soils of the hillside.

(Ord. 443 § 2(part), 2000).

(Ord. No. 564, § 2, 10-3-11)

#### **17.16.070 Night operations.**

- A. Definitions. For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them as set forth below:

1. "Existing business" means a business or other use that is legally operating within the Southwest Bayshore district as of February 9, 2000, in accordance with all zoning regulations applicable thereto, and pursuant to a business license duly issued by the city.
  2. "Night operations" means any activity conducted between the hours of ten (10:00) p.m. and five (5:00) a.m. of the following day.
- B. Requirement for Use Permit to Conduct Night Operations. Except as otherwise provided in subsection C of this section, no business or other use, with the exception of residential uses, shall engage in the conduct of night operations at any location within the Southwest Bayshore district unless a use permit for such night operations has been granted pursuant to this chapter. The requirement for a use permit is applicable only to the commercial component of the project.
- C. Continuation of Night Operations by Existing Businesses. An existing business which has lawfully been conducting night operations prior to February 9, 2000, may continue to conduct such night operations on the same site and shall be exempted from the requirement to obtain a use permit pursuant to this section. This exemption shall not apply to any relocation of the night operations to a different site, nor may the exemption be assigned or transferred by the existing business to a different business establishment or use, whether conducted on the same site or elsewhere.
- D. Approving Authority. Applications for a use permit to conduct night operations shall be acted upon by the planning commission and shall be governed by the provisions of Chapter 17.40 of this title, as supplemented by this section.
- E. Findings for Use Permit Approval. In addition to the findings required for approval of a use permit, as set forth in Section 17.40.060 and elsewhere in this section, no use permit shall be granted for the conduct of night operations in the Southwest Bayshore district unless the planning commission also finds and determines that the night operations conducted by the applicant will not create noise, glare or other effects that are likely to create a sleep disturbance for the occupants of neighboring residential properties.
- F. Use Permit Conditions. Without limiting the authority of the planning commission to impose conditions on the granting of a use permit pursuant to Section 17.40.070, a use permit authorizing the conduct of night operations in the Southwest Bayshore district may contain limitations on the days and hours of operation, restrictions on the nightly volume of vehicle trips, restrictions on the type of vehicles or equipment that may be operated at night, requirements for special devices and measures for abatement of noise and glare, and requirements for mitigation monitoring and periodic mandatory review. The planning commission shall have continuing jurisdiction over every use permit issued pursuant to this section and may at any time, if the original findings required for issuance of the use permit can no longer be made, modify or amend any of the use permit conditions, or impose new and additional conditions, or revoke the use permit.

(Ord. 443 § 2(part), 2000).

(Ord. No. 564, § 2, 10-3-11)

### **17.16.100 Permits.**

A. Housing Development Permits. Housing Development Projects and Streamlined Housing Development Projects are subject to the findings in Section 17.45.040 and the objective design standards in Section 17.45.030.

B. Design Permits. The construction of any principal structure in the Southwest Bayshore district, except a single-family or duplex dwelling or emergency shelter as set forth in Section 17.16.040.L or a Housing Development Project or Streamlined Housing Development Project, as defined in Chapter 17.02 and permitted by Chapter 17.45, shall be subject to the granting of a design permit in accordance with the provisions of Chapter 17.42 of this title and any applicable design guidelines adopted by the city. (Ord. 443 § 2(part), 2000).

(Ord. No. 564, § 2, 10-3-11)

#### **17.16.110 Visual impact analysis.**

All projects, including single-family and duplex dwellings, but excluding emergency shelters as set forth in Section 17.16.040(L) and Housing Development Projects and Streamlined Housing Development Projects as defined in Chapter 17.02, shall submit a visual impact analysis, in accordance with guidelines approved by the planning commission, to address the following design issues: relationship to steep slopes; public view corridors; view of San Francisco Bay and San Bruno Mountain; material and lighting, especially as pertains to light and glare; treatment of roofs and the screening of mechanical equipment.

(Ord. 443 § 2(part), 2000).

(Ord. No. 564, § 2, 10-3-11)

### **SECTION 6: Section 17.42.010, 17.42.020, and 17.42.040 are amended to read as follows:**

#### **17.42.010 Applicability.**

- A. Except as otherwise provided in subsection B of this section, a design permit shall be required for the construction of any new principal structure or the substantial modification of an existing principal structure for which no design permit has previously been issued. As used herein, the term "substantial modification" means an alteration or expansion of the exterior and/or interior of the structure to the extent of significantly modifying its basic design, elevations, size, appearance, or relationship to adjacent properties or structures, as determined by the planning director.
- B. No design permit shall be required for the construction or substantial modification of any single-family dwelling, accessory dwelling unit, junior accessory dwelling unit, duplex, or accessory structure, unless part of a dwelling group totaling three (3) or more units or part of a mixed use development, or a design permit for such structure has been required as a condition of a development approval granted by the city. No design permit shall be required for the construction or substantial modification of an emergency shelter of twelve (12) beds or less, as set forth in Section 17.16.040(J).

- C. No design permit shall be required for housing development projects or streamlined housing development projects, as defined in Chapter 17.02; provided, however, housing development projects and streamlined housing development projects are subject to the housing development permit requirements set forth in Chapter 17.45.

(Ord. 449 § 1(part), 2000).

(Ord. No. 564, § 3, 10-3-11)

**17.42.020 Application for design permit.**

- A. Contents of Application. Application for a design permit shall be filed with the planning director on such form as the planning director shall prescribe. The application shall be accompanied by legible and reproducible sets of completely dimensioned, scaled site development and architectural plans, with bar scales, showing such of the following items as the planning director deems appropriate in order to evaluate and process the application:
1. Existing and/or proposed structures with floor plans (with the use of each room/space labeled), roof plans, and elevations of all sides of the existing and/or proposed structures, identifying colors and materials as appropriate, indicating the height from natural and/or finish grade on each elevation of the tallest points of the structure (cross-sections may also be required based upon the complexity of the design), and including UBC type of construction;
  2. Accurately dimensioned property lines, setbacks, structures on adjacent properties (and their uses), streets, easements, existing and proposed utilities, and building coverage and lot area calculations;
  3. Location of existing trees by size (circumference measured twenty-four (24) inches above grade) and type, indicating those proposed for removal;
  4. Conceptual landscaping plans showing species, common name, size and number of plantings, with description of proposed plantings (height at maturity, time to maturity, color, drought/wind/salt tolerance, and deciduousness), calculation of the total square footage of proposed irrigated landscaped area and explanation of proposed method of irrigation;
  5. Existing and proposed parking facilities, including the dimensions of parking spaces, number and location of spaces designated as compact or handicapped spaces, and a calculation of the number of parking spaces required by this title or any other applicable regulations;
  6. Paving details, improved street width (curb-to-curb), sidewalks, and driveway cuts;
  7. Existing and proposed topography of the property (at five (5) foot intervals), clearly indicating any proposed grading and filling and the amounts in cubic yards of proposed excavation, fill and removal from the site. If requested by the planning director, a soils report and/or geotechnical study shall also be furnished;
  8. Drainage details, exterior lighting, trash enclosures, signs, fences and method of screening exterior mechanical equipment (including rooftop air-conditioning units, transformers and public utilities);



9. Material and color samples and colored rendering of the project;
  10. Photographs of the Site. Photomontages of the proposal may also be required dependent upon the visual significance of the proposal.
- B. **Application Fee.** The application shall be accompanied by the payment of a processing fee in such amount as established from time to time by resolution of the city council. In addition to the processing fee, the applicant shall also deposit such amounts as the planning director may require from time to time to cover the cost of any environmental investigations or reports, geotechnical and engineering reports, review of green building documentation, and such other investigations and reports that may be required by the city in connection with the processing of the application.
- C. **Newly Constructed Condominiums.** In addition to the information listed in this section, an application for a design permit for newly constructed condominiums, as defined in BMC 17.30.020(A), shall also include the materials set forth in Section 17.30.040.

(Ord. 524 § 4, 2007; Ord. 449 § 1(part), 2000).

(Ord. No. 564, § 3, 10-3-11; Ord. No. 612, § 19, 12-8-16)

#### **17.42.040 Findings required for issuance of design permit.**

The planning commission may grant a design permit as applied for or in modified form if, on the basis of the application and the evidence submitted, the commission finds and determines the following findings as may be applicable to the proposed development:

- A. The proposed development is consistent with the General Plan and any applicable specific plan.
- B. The proposal's scale, form and proportion, are harmonious, and the materials and colors used complement the project.
- C. The orientation and location of buildings, structures, open spaces and other features integrate well with each other and maintain a compatible relationship to adjacent development.
- D. Proposed buildings and structures are designed and located to mitigate potential impacts to adjacent land uses.
- E. The project design takes advantage of natural heating and cooling opportunities through building placement, landscaping and building design to the extent practicable, given site constraints, to promote sustainable development and to address long term affordability.
- F. For hillside development, the proposal respects the topography of the site and is designed to minimize its visual impact. Significant public views of San Francisco Bay, the Brisbane Lagoon and San Bruno Mountain State and County Park are preserved.
- G. The site plan minimizes the effects of traffic on abutting streets through careful layout of the site with respect to location, dimensions of vehicular and pedestrian entrances and exit drives, and through the provision of adequate off-street parking. There is an adequate circulation

pattern within the boundaries of the development. Parking facilities are adequately surfaced, landscaped and lit.

- H. The proposal encourages alternatives to travel by automobile where appropriate, through the provision of facilities for pedestrians and bicycles, public transit stops and access to other means of transportation.
- I. The site provides open areas and landscaping to complement the buildings and structures. Landscaping is also used to separate and screen service and storage areas, break up expanses of paved area and define areas for usability and privacy. Landscaping is generally water conserving and is appropriate to the location. Attention is given to habitat protection and wildland fire hazard as appropriate.
- J. The proposal takes reasonable measures to protect against external and internal noise.
- K. Consideration has been given to avoiding off-site glare from lighting and reflective building materials.
- L. Attention is given to the screening of utility structures, mechanical equipment, trash containers and rooftop equipment.
- M. Signage is appropriate in location, scale, type and color, and is effective in enhancing the design concept of the site.
- N. Provisions have been made to meet the needs of employees for outdoor space.

(Ord. 449 § 1(part), 2000).

(Ord. No. 556, § 27, 2-22-11; Ord. No. 564, § 3, 10-3-11)

**SECTION 7: Chapter 17.45 is added to read as follows:**

**Chapter 17.45 Housing Development Permits.**

**17.45.010 Applicability.**

- A. Except as otherwise provided in subsection B of this section, a housing development permit shall be required for the construction of any new principal structure that meets the definition of a Housing Development Project or a Streamlined Housing Development Project, as defined in Chapter 17.02.
- B. No housing development permit shall be required for the construction or substantial modification of a single-family dwelling, accessory dwelling unit, or junior accessory dwelling unit, unless part of a dwelling group totaling three (3) or more units. No housing development permit shall be required for the construction or substantial modification of a duplex, unless the duplex is located in the R-3 Zoning District.
- C. The Community Development Director shall determine applicability of this Section within 30 days of submittal of a complete housing development permit application.

### **17.45.020 Application.**

- A. Contents of Application. Applications for a housing development permit shall be filed with the planning director on such form as the planning director shall prescribe. The application shall be accompanied by legible and reproducible sets of completely dimensioned, scaled site development and architectural plans, with bar scales, showing such of the following items as the planning director deems appropriate in order to evaluate and process the application:
1. Existing and/or proposed structures with floor plans (with the use of each room/space labeled), roof plans, and elevations of all sides of the existing and/or proposed structures, identifying colors and materials as appropriate, indicating the height from natural and/or finish grade on each elevation of the tallest points of the structure (cross-sections may also be required based upon the complexity of the design), and including UBC type of construction;
  2. Accurately dimensioned property lines, setbacks, structures on adjacent properties (and their uses), streets, easements, existing and proposed utilities, and building coverage and lot area calculations;
  3. Location of existing trees by size (circumference measured twenty-four (24) inches above grade) and type, indicating those proposed for removal;
  4. Conceptual landscaping plans showing species, common name, size and number of plantings, with description of proposed plantings (height at maturity, time to maturity, color, drought/wind/salt tolerance, and deciduousness), calculation of the total square footage of proposed irrigated landscaped area and explanation of proposed method of irrigation;
  5. Existing and proposed parking facilities, including the dimensions of parking spaces, number and location of spaces designated as compact or handicapped spaces, and a calculation of the number of parking spaces required by this title or any other applicable regulations;
  6. Paving details, improved street width (curb-to-curb), sidewalks, and driveway cuts;
  7. Existing and proposed topography of the property (at five (5) foot intervals), clearly indicating any proposed grading and filling and the amounts in cubic yards of proposed excavation, fill and removal from the site. If requested by the planning director, a soils report and/or geotechnical study shall also be furnished;
  8. Drainage details, exterior lighting, trash enclosures, signs, fences and method of screening exterior mechanical equipment (including rooftop air-conditioning units, transformers and public utilities);
  9. Material and color samples and colored rendering of the project;
  10. Photographs of the Site. Renderings of the proposal may also be required dependent upon site circumstances.

- B. **Application Fee.** The application shall be accompanied by the payment of a processing fee in such amount as established from time to time by resolution of the city council. In addition to the processing fee, the applicant shall also deposit such amounts as the planning director may require from time to time to cover the cost of any environmental investigations or reports, geotechnical and engineering reports, review of green building documentation, and such other investigations and reports that may be required by the city in connection with the processing of the application.
- C. **Newly Constructed Condominiums.** In addition to the information listed in this section, an application for a housing development permit for newly constructed condominiums, as defined in 17.30.020(A) of this Title, shall also include the materials stipulated in Section 17.30.040.
- B. **Streamlined Housing Development Projects.** Applications for Streamlined Housing Development Projects shall include additional supporting documentation to demonstrate eligibility as set forth on a form prescribed by the city.

### **17.45.030 Objective Standards.**

Housing development projects and streamlined housing development projects must be consistent with each of the objective design standards below. Supplementary Housing Development Design Guidelines may be established and may be used as a supplement to these objective standards:

#### **A. Site design.**

1. A minimum of one (1) main exterior pedestrian entrance shall be publicly visible per building. Buildings entirely located greater than 50' from front property line are excluded from this requirement if another building on that site has at least one main publicly-visible exterior pedestrian entrance.
2. At least 50% percent of any street-facing, ground-floor facade shall be parallel to the street.

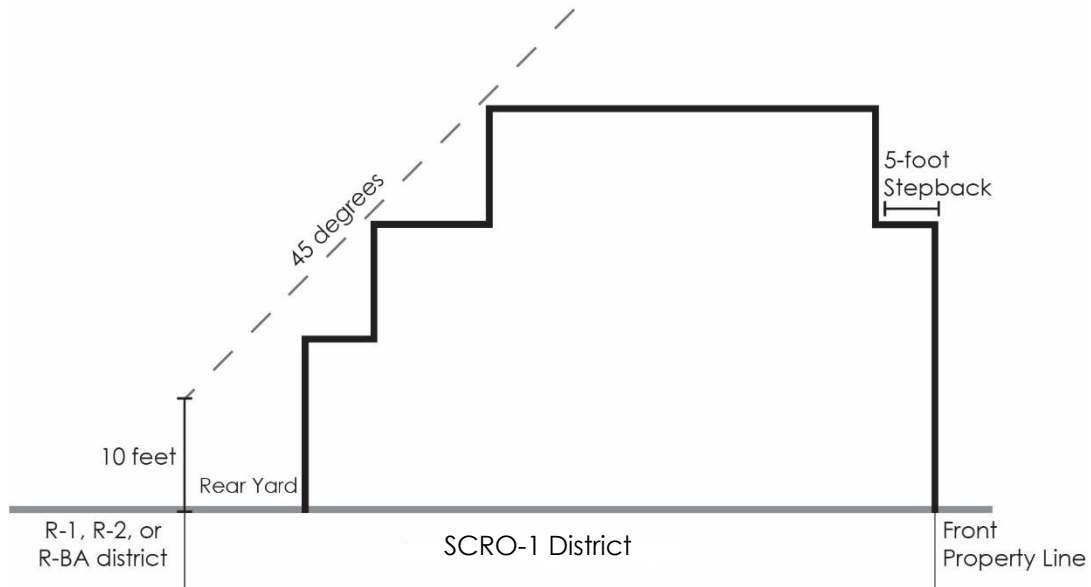
**B. Roof design.** Rooflines shall be articulated at least every 50 feet along the street frontage. For purpose of this standard, roofline articulation can be achieved through the use of architectural elements such as parapets, varying cornices, reveals, clerestory windows, and varying roof height, roof planes, special treatment of corner elements, and/or form.

#### **C. Materials.**

1. Affordable units and market rate units in the same development shall be constructed of the same or similar exterior materials and details such that the units are not distinguishable.
2. Buildings over two stories must provide a ground floor elevation that is distinctive from the upper stories by providing a material change between the first floor and upper floors along at least 75% of the building façade with frontage upon a street, adjacent public park, or public open space.
3. Buildings shall carry the same theme on all elevations. For the purposes of this standard, a theme includes primary (non-accent) materials and colors.

4. Exterior materials and finishes shall be consistent with the proposed architectural style.
  5. Exterior primary (non-accent) materials and finishes shall be durable and have a demonstrated service life of at least 30 years (e.g. a warranty period provided by its installer).
  6. At least two materials shall be used on any building frontage, in addition to glazing, trim, railings, and any visible roofing or building skirt materials.
  7. For buildings in the SCRO-1 District, durable and highly resistant building base materials, such as precast concrete, brick, stone masonry, and commercial grade ceramic, shall be selected to withstand pedestrian traffic.
  8. Materials for roofing, buildings, and windows shall be consistent with the Community Development Department's Supplemental Housing Development Design Guidelines.
- D. **Window design.** Window trim of at least one inch width shall be provided at all exterior window and door openings. In lieu of exterior window trim, windows may be recessed from wall plane by a minimum of three inches.
- E. **Stepbacks.** For buildings in the SCRO-1 District:
1. **Front:** Structures shall include a 5-foot minimum front step-back for the 3<sup>rd</sup> story or any floor above 25 feet along at least 30% of the frontage, and a 10-foot minimum front step-back for the 4th story or any floor above 35 feet in height. For corner lots, the stepped back portion of the structure shall be located away from the corner, defined as the portion of the structure that faces the intersection of two public rights of way, in order to add emphasis to architectural corner elements.
  2. **Rear and interior side:** Structures shall not intercept a forty-five-degree inclined plane inward from a height of ten feet above existing grade at any rear or interior lot line adjoining an R-1, R-2, or R-BA district.

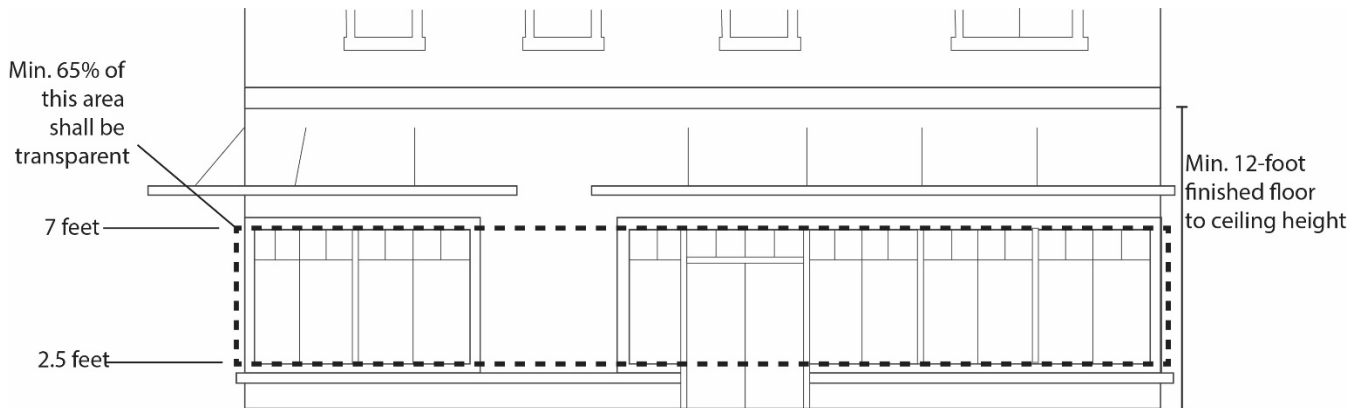
**Figure 17.45.030-1 SCRO-1 Stepbacks**



**F. Ground Floor Requirements.**

1. **Minimum Height.** Any ground floor associated with a non-residential use shall have a minimum finished floor to ceiling height of 12 feet.
2. **Ground Floor Transparency.** The ground-floor street-facing building walls of non-residential uses shall provide transparent windows or doors with views into the building for a minimum of 65 percent of the building frontage located between 2½ and 7 feet above the sidewalk. Ninety percent of the transparent windows or doors area shall remain clear to allow views into the building. The transparent area shall be maintained and not obscured. Street-facing areas used as parking structures or garage doors are exempt from this requirement, but are subject to the design requirements in subsection H(3) below.

**Figure 17.45.030-2 Ground Floor Requirements**

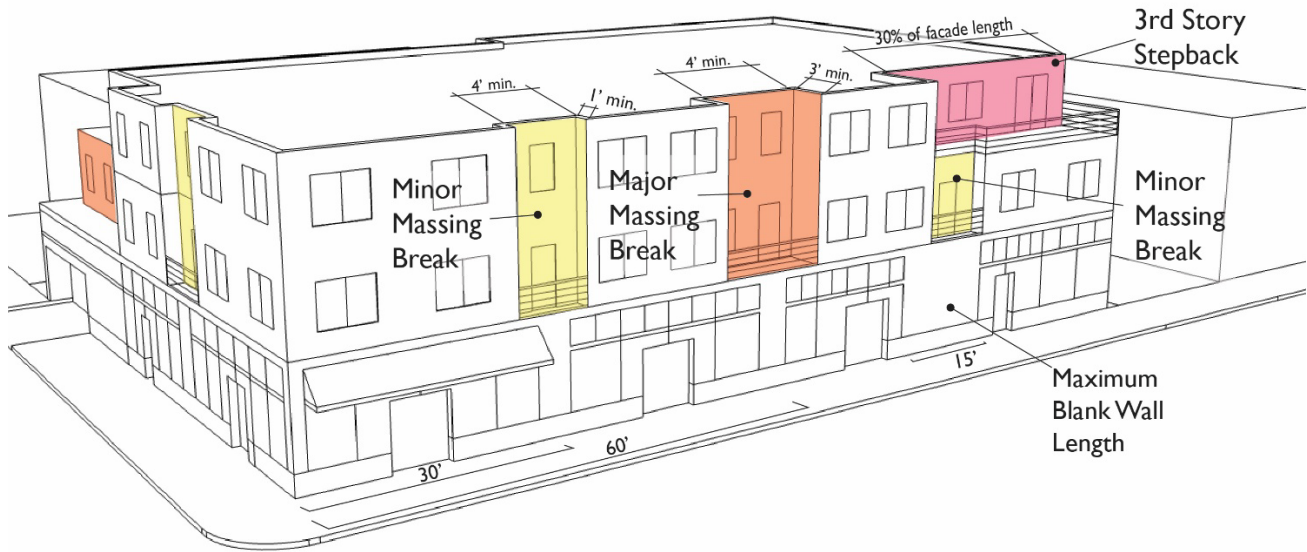


**G. Massing and articulation.**

1. A minimum of one architectural feature, such as balconies, cantilevers, dormers, bay windows, patios, and individualized entries, shall be incorporated into each building.

2. Blank walls (façades without doors, windows, landscaping treatments) shall be less than 15 feet in length along sidewalks, pedestrian walks, or publicly accessible outdoor space areas.
3. **Articulation Requirements.** For purposes of this chapter, articulation shall be defined as a minimum of twelve inches of offset in plane, as defined in Section 17.02.050(A). Unless exempted, outside walls that are greater in size than twenty (20) feet in width and twenty (20) feet in height shall have a cumulative area of articulation as follows:
  - a. Front outside wall: Thirty percent (30%) articulation of total wall area.
  - b. Side outside walls:
    - i. Interior side outside wall: Where the structure is located on a lot having an average width of forty (40) feet or greater, the articulation requirement for the interior side outside wall shall be twenty percent (20%) of total wall area. No articulation shall be required for the interior side outside wall of structures located on lots having an average width of less than forty (40) feet.
    - ii. Exterior side outside wall: Where the structure is located on a lot having an average width of forty (40) feet or greater, the articulation requirement for the exterior side outside wall shall be twenty percent (20%) of total wall area. No articulation shall be required for the exterior side outside wall of structures located on lots having an average width of less than forty (40) feet.
  - c. Rear outside wall: Thirty percent (30%) articulation of total wall area.
  - d. **Exemptions.** Single-story two (2) car garages and accessory structures not exceeding a floor area of one hundred twenty (120) square feet. Parking structures are exempt but subject to the articulation requirements in subsection H(3) below.
4. **Massing Breaks.** Massing breaks, as described below, shall be required for buildings with street frontage of 30 feet or greater. Ground floor non-residential uses shall be exempt from massing break requirements.
  - a. **Minor.** Buildings shall have minor massing breaks at least every 30 feet along the street frontage, through the use of varying setbacks, building entries and recesses, or structural bays. Minor breaks shall be a minimum of one foot deep and four feet wide and extend the full height of the building.
  - b. **Major.** Buildings shall have major massing breaks at least every 60 feet along any street frontage, adjacent public park, publicly accessible outdoor space, or designated open space, through the use of varying setbacks and/or building entries. Major breaks shall be a minimum of three feet deep and four feet wide and extend the full height of the building.

**Figure 17.45.030-3 Articulation and Massing Breaks**



## H. Parking design and location.

1. **General Location.** Parking shall be located out of public view wherever feasible.

2. **Uncovered Parking.**

a. **Location.** Uncovered parking lots shall be located out of public view or screened as set forth below.

b. **Lighting.** All parking lot lights shall be full cutoff luminaires, as certified by the manufacturer, with the light source directed downward and away from adjacent residences.

c. **Screening.** Uncovered parking areas shall be screened from view from public streets and adjacent lots in the R-1, R-2, or R-BA Districts, according to the following standards:

i. **Screening from Residential Districts.** Screening of parking lots along interior lot lines that abut an R-1, R-2, or R-BA District shall be eight feet in height. If landscaping is used as a screening material along an interior lot line, it must also be a minimum of 3 feet in width. Screening materials may consist of fencing or planting. Plant materials shall consist of compact evergreen plants that form an opaque screen. Use of chain-link or vinyl fencing for screening purposes is prohibited.

ii. **Screening from Public Streets.** Screening of parking lots from adjacent public streets shall be three feet in height. Screening may consist of one or any combination of the methods listed below:

(a) **Walls.** Walls consisting of brick, stone, stucco, or other quality durable material approved by the Director, and including a decorative cap or top finish as well as edge detail at wall ends. Plain concrete blocks are not allowed as a screening wall material unless capped and finished with stucco or other material approved by the Director.



- (b) **Fences.** An open fence of wrought iron or similar material combined with plant materials to form an opaque screen. Use of chain-link or vinyl fencing for screening purposes is prohibited.
- (c) **Planting.** Compact evergreen plants that form an opaque screen. Such plant materials must achieve a minimum height of two feet within eighteen months after initial installation.
- (d) **Berms.** Berms planted with grass, ground cover, or other low-growing plant materials.
- (e) **Exception.** Screening shall not be required for uncovered tandem parking located within a driveway in the R-3 District.

### 3. **Covered Parking.**

- a. **Location: Parking Garages.** Parking Garages may be located in an area that is publicly visible, provided that the design standards below are met.
  - b. **Design.** The following design features shall be incorporated into all covered parking structures.
    - i. Garages and carports shall be designed to include a minimum of two of the following from the main building(s): materials, detailing, roof materials, and colors.
    - ii. Carport support posts shall be a minimum of eight inches (8") square and exposed steel columns and posts are prohibited. At least one material from the primary structure shall be included in the carport design.
    - iii. Parking structures or garage entrances shall not occupy more than 60% of the building width of any front elevation facing a Front Lot line in the SCRO-1 District.
    - iv. Parking structure exterior walls shall not present a solid unbroken wall surface. Walls greater than 40 feet in length shall include articulation, landscaping, or textured treatments over 25% of the total wall area at minimum.
    - v. Ventilation openings shall be screened, for example with decorative grille work or landscaping.
4. **Bicycle Parking.** Where bicycle parking is not visible from the street, directional signage shall be included at the main building entrance.

### I. **Accessory elements.**

- 1. Perimeter fencing utilized along public streets shall be constructed of decorative iron, pre-painted welded steel, or wood material. Chain link fencing, vinyl fencing, and expanded metal panels are prohibited.

2. Roof top equipment shall be screened from visibility. The point of view for determining visibility shall be five feet above grade at a distance of 200 feet. If the roof structure does not provide this screening, include an equipment screen in the design.
3. All exterior trash, recycling, and storage utility boxes, wood service poles, electric and gas meters, fire sprinkler valves and backflow preventers and transformers shall be screened from visibility.

J. **Additional objective standards within Title 17.** Projects subject to this chapter must comply with all other applicable objective standards within Title 17 including, but not limited to:

1. Development regulations including lot area, density of development, lot dimensions, setbacks, lot coverage, height of structures, landscaping requirements, and additional screening requirements, recycling area requirements not covered in this chapter include:
  - a. Development regulations as indicated for the R-2 District in 17.08.040,
  - b. Development regulations as indicated for the R-3 District in 17.10.040,
  - c. Development regulations as indicated for the SCRO-1 District in 17.16.040
2. Parking standards as indicated in Section 17.34.
3. Signage standards as indicated in Section 17.36

#### **17.45.040 Findings.**

A. The Zoning Administrator may approve a housing development permit subject to the following finding:

1. The project conforms to the objective design standards established in Section 17.45.045 and throughout Title 17 and conforms to the development standards of the zoning district in which the project is located.

B. **Findings for denial.** The Zoning Administrator may deny a housing development permit, or approve upon the condition that the project be developed at a lower density, subject to the following findings and supported by substantial evidence in the record:

1. The project does not comply with applicable objective general plan and zoning code objective standards in effect at the time the application has been determined to be deemed complete.
2. The housing development project would have a specific, adverse impact upon the public health or safety.
3. There is no feasible method to satisfactorily mitigate or avoid the adverse impact, other than through disapproval or approval upon the condition that the project be developed at a lower density.

4. **Affordable Housing.** In addition to the findings above, the Zoning Administrator may deny a housing development permit for a proposed housing development project for very low, low-, or moderate-income households or condition approval in a manner that renders development of such a project infeasible, subject to at least one of the following findings, supported by substantial evidence in the record:

- a. The city has met or exceeded its share of the regional housing need allocation for the planning period for each of the income categories proposed for the housing development project as identified in the housing element.
- b. The development project as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households.
- c. The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households.
- d. The development project is proposed on land which does not have adequate water or wastewater facilities to serve the project.
- e. The development project is inconsistent with both the zoning ordinance and general plan land use designation as of the date the application was deemed complete, and the project is not proposed for a site that is identified as suitable for very low, low-, or moderate-income households in the housing element and is inconsistent with the density specified in the housing element.

C. As used in this section, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as of the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

D. Any disapproval or conditional approval of a housing development permit for a proposed project for very low, low-, or moderate-income households shall not discriminate on the basis of any of the reasons prohibited by California Government Code Section 65008.

#### **17.45.050 Action by the Zoning Administrator.**

A. The Zoning Administrator may either grant or deny the application for housing development permit subject to the required findings under Section 17.45.040, as applicable to the project type, and may grant the permit subject to such conditions as the Zoning Administrator deems necessary or appropriate.

B. The Zoning Administrator shall provide notice of the application and publish a staff report with a recommended decision to grant or deny a housing development permit 14 days prior to a decision on a housing development permit. The notice of the application shall be given to all

owners of property within three hundred (300) feet of the exterior boundaries of the subject property.

- C. If no public comments objecting to staff's analysis of an application's consistency with objective standards are received within 14 days of the date of notice of application, the Zoning Administrator shall act on the application consistent with the recommendation contained in the staff report.
- D. If public comments objecting to staff's analysis of consistency with objective standards are received, the Zoning Administrator shall hold a public meeting to review the application and consistency analysis. Notice of the meeting shall be given to all owners of property within three hundred (300) feet of the exterior boundaries of the subject property. The notices shall be mailed not less than ten (10) or more than thirty (30) days before the date of the meeting.
- E. The housing development permit shall become effective upon the expiration of ten (10) days following the date on which the housing development permit was granted by the Zoning Administrator, unless an appeal has been filed pursuant to Chapter 17.52 of this Title.
- F. Streamlined housing development projects are exempt from the notice of application requirement above, and only a notice of decision shall be given to property owners within three hundred feet of the exterior boundaries of the subject property. Streamlined housing development projects shall be subject to the approval time limits described in California Government Code §65913.4, or successor provisions.

#### **17.45.060 Expiration of a housing development permit--Extensions.**

- A. A housing development permit granted pursuant to this chapter shall expire twenty-four (24) months from the date on which such permit became effective, unless prior to such expiration date a building permit for the structure which is the subject of the permit has been issued.
- B. A housing development permit may be extended by the Zoning Administrator for a period or periods of time not exceeding thirty-six (36) months. The application for extension shall be filed prior to the expiration date of the permit and shall be accompanied by payment of a processing fee in such amount as established from time to time by resolution of the city council. Public notice thereof shall be given in the same manner as prescribed in Section 17.45.060 of this chapter. Extension of a housing development permit is not a matter of right and the Zoning Administrator may deny the application or grant the same subject to conditions. Streamlined housing development projects shall be subject to the procedures and expiration described in California Government Code §65913.4, or successor provisions.

#### **17.45.070 Amendment of a housing development permit—Minor Modifications.**

- A. Amendments or modifications to a housing development permit shall require approval by the Zoning Administrator. The application requirements, objective standards and findings required for amendments or modifications to a housing development permit shall be as prescribed in Sections 17.45.020, 17.45.030 and 17.45.040 of this chapter.

- B. Notwithstanding the above, streamlined housing development projects shall be subject to the modification standards described in California Government Code §65913.4, or successor provisions.

**SECTION 8: Section 17.56.030 and 17.56.100 are amended to read as follows:**

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

- A. Except as otherwise provided in this chapter, the zoning administrator shall hear and decide the following:
1. Applications for zoning conformance;
  2. Applications for variances;
  3. Applications for minor modifications;
  4. Applications for certain sign permits, in accordance with the provisions of Chapter 17.36 of this title;
  5. Applications for administrative permits for wireless telecommunication facilities, in accordance with the provisions of Section 17.32.032 of this title;
  6. Applications for administrative permits for solar energy systems, in accordance with the provisions of Section 17.32.060(C);
  7. Applications for accessibility improvement permits, in accordance with the provisions of Sections 17.32.060(D), 17.32.070(A)(1)(f) and 17.32.080;
  8. Applications for large family day care homes, per State Health and Welfare Code Sections 1597.46(a)(3) and 1597.465; and
  9. Applications for amendments or modifications to a design permit, per Section 17.42.070.
  10. Applications for housing development permits, per Chapter 17.45.
- B. In connection with the applications provided for in this section, the zoning administrator shall have all the duties and responsibilities set forth in this title for the planning commission.

(Ord. 508 § 3, 2005; Ord. 417 § 8, 1997; Ord. 401 § 2, 1995; Ord. 253 § 15.1(C), 1984).

(Ord. No. 564, § 4, 10-3-11)

**17.56.100 Appeals.**

- A. Appeals from the decision of the zoning administrator, except decisions related to Housing Development Permits per Chapter 17.45 of this Title, may be made to the planning commission within seven (7) days after the action of the zoning administrator. Upon receipt of an appeal, the zoning administrator shall forward the same, together with the records on the matter, to the planning commission. The secretary to the planning commission shall set the

matter for hearing before the planning commission at the earliest available date and cause notice of such hearing to be given as set forth in Chapter 17.54. The planning commission shall consider the matter in the same manner as an application for a variance.

- B. Appeals from decisions of the zoning administrator related to Housing Development Permits per Chapter 17.45 of this Title shall be made to the city council within seven (7) days after the action of the zoning administrator and shall follow the procedure set forth in Chapter 17.52. (Ord. 298 § 15.6, 1984).

**SECTION 10:** Where a use permit, design permit or variance approval has been issued through final action by the City prior to the effective date of this Ordinance, or where such planning permit approval is not required and a complete building permit application has been submitted prior to the effective date of this Ordinance, the holder of such use permit, design permit or variance approval or complete building permit application may proceed to construct the improvements or establish the use authorized by such permit or approval and the same shall be exempted from any conflicting regulations that may be contained in this Ordinance.

**SECTION 11:** 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 12:** 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 19th day of May 2022, by the following vote:

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

NOES: None

ABSENT: None

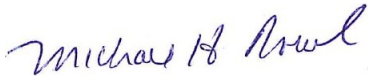
ABSTAIN: None

\_\_\_\_\_  
Coleen Mackin, Mayor

ATTEST:

APPROVED AS TO FORM:

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

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