

# FOCUSED ZONING CODE UPDATE

## 1. Automobile Service Stations

### Background

- A. Automobile Service Stations / Gasoline Service Stations: The gas station has been an iconic part of American car culture since the first one opened in Pittsburgh (a Gulf station) over one hundred years ago. And while gas stations can be considered essential businesses much like grocery stores and banks, they can have an impact on the urban landscape, particularly from an aesthetic and environmental/ecological perspective. In considering zoning provisions for automobile service stations, it is reasonable to ask if Brentwood is adequately served by the existing service station locations to meet the basic needs and expectations of residents and visitors. This is an important question because the city is becoming more “built-out” with less vacant land available for development that helps Brentwood meet other goals, such as attracting employment generating businesses, which would improve the city’s jobs/housing balance. Moreover, much of the remaining vacant land is surrounded by existing development that consists of residential neighborhoods, schools, and parks. It has become increasingly important to consider surrounding uses and context/compatibility when reviewing proposals for new automobile service stations.

Currently, there are no citywide regulations in the Brentwood Municipal Code (BMC) concerning development or performance standards for automobile service stations of any type. Thus, staff has limited tools available to effectively address the impacts caused by service station development and ensure that no adverse impacts occur from new service stations.

Further, the Environmental Protection Agency (EPA) has classified service stations and fuel storage locations as uses that may result in a brownfield site. Brownfield sites are properties, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. Common contaminants found at service station sites include gasoline, diesel, petroleum oil, volatile organic compounds and solvents, polycyclic aromatic hydrocarbons, and lead. Exposure to the types of contaminants present, or potentially present, at service stations can threaten the public health, safety, or welfare of the community.

With regard to fiscal considerations, automobile service stations do generate significant tax revenue, primarily from the sale of gasoline. However, it is anticipated that tax revenue will decline over time in part due to the availability and preference of alternative energy sources for powering automobiles. For example, electric cars powered by batteries are becoming more commonplace. In 2020 Governor Newsom signed [Executive Order N-79-20](#) to phase out gas-

powered passenger vehicles by 2035 and medium to heavy-duty vehicles by 2045. This was then followed up in 2021 by Assembly Bill 1279 [The California Climate Crisis Act](#) that codified the policies to achieve carbon neutrality no later than 2045. It is estimated that by 2030, more than one third of all new vehicles sold will be fully or partially electric powered. As battery charging can occur at home, work, or in parking lots, the need for service stations is likely to decline in a corresponding manner. The declining demand for gasoline due to changes in technology and consumer preferences may increase competition among the existing service stations in the city such that closures may occur over time.

The analysis of issues related to automobile service stations makes clear that the City should evaluate new regulations to address the potential impacts associated with this land use. Regulations could range from additional standards in the BMC to limitations on future service station locations. As Brentwood transitions to infill development and redevelopment of existing areas, there is less available open commercial land to locate new service station facilities. Automobile service stations may not be the best use of available commercial land, and on those sites that are near residentially zoned properties, they may not be compatible.

## Analysis

- A. General: There are currently 18 automobile stations operating in the city, as outlined in the following table and attached map (Car Wash and Service Station Map – Attachment 1a):

	<b>Name</b>	<b>Address</b>	<b>Carwash?</b>
1	Chevron	330 Oak Street	No
2	Quik Stop	3940 Walnut Blvd	No
3	Arco	2250 Balfour Road	Yes
4	Chevron	190 Griffith Lane	Yes
5	Chevron	6700 Brentwood Blvd	Yes
6	National Petroleum	8401 Lone Tree Way	No
7	Power Market	8750 Brentwood Blvd	No
8	AMPM	6481 Lone Tree Way	Yes
9	Chevron	2371 Balfour Road	Yes
10	Chevron	6935 Lone Tree Way	No
11	Shell	6031 Lone Tree Way	Yes
12	Rotten Robbie	6860 Lone Tree Way	Yes

	<b>Name</b>	<b>Address</b>	<b>Carwash?</b>
13	ARCO	6970 Brentwood Blvd	No
14	Chevron	5591 Lone Tree Way	Yes
15	Brentwood Petroleum	7920 Brentwood Blvd	No
16	7-Eleven	5931 Lone Tree Way	No
17	7-Eleven	7460 Brentwood Blvd	No
18	Mobil	6750 Brentwood Blvd	Yes

As shown on the attached map, gas stations throughout the city are located on the periphery, with the majority of stations located on Balfour Road, Brentwood Boulevard, and Lone Tree Way. There are no gas stations located within the interior of the city or along main thoroughfares such as Sand Creek Road and Fairview Avenue.

- B. Existing Regulations: Automobile service stations can only be approved in Brentwood with a conditional use permit (CUP), which provides the City with discretionary review ability. This allows staff and the Planning Commission to consider each service station application on a case-by-case basis and to apply specific conditions to a project to ensure land use compatibility with the surrounding area. It is recommended that the City maintain this requirement for a CUP for automobile service station facilities.
- C. Locations: Automobile service stations are conditionally permitted in three commercial zoning districts and in certain Planned Development (PD) Zones. In PD-6; however, stand-alone auto fueling and automobile service stations are conditionally permitted while auto fueling stations that are *accessory uses* to an anchor retailer as the principal use are permitted by right. Brief descriptions of the intended land uses for these zoning districts are below:

<b>C-1</b>	<b>Neighborhood Commercial.</b> Intended to provide neighborhood convenience centers, which are typically a 5-10 acre shopping center with a supermarket as the prime tenant. The neighborhood convenience center generally is intended to serve the day-to-day needs of the surrounding neighbors within a one-mile radius.
<b>C-2</b>	<b>General Commercial.</b> Intended to serve the general shopping needs of the Brentwood community as well as other nearby communities. This zoning district allows retail stores and service uses to serve the general needs of the community.

<b>C-3</b>	<p><b>Thoroughfare Commercial.</b> Commercial zone for retail and service businesses that are typically related to highways and major thoroughfares. Such uses generally do not lend themselves to be located in general commercial or neighborhood convenience centers, but are encouraged in orderly clusters in suitable locations adjacent to highways and major thoroughfares where special consideration is given to on-site and off-site traffic and circulation, impact on adjacent land uses, etc.</p>
<b>PD</b>	<p><b>Planned Development.</b></p> <ul style="list-style-type: none"> <li>• PD-6</li> <li>• PD-12</li> <li>• PD-16 – Subarea A</li> <li>• PD-20</li> <li>• PD-34</li> <li>• PD-35 – Subarea B</li> <li>• PD-38 – Subarea A</li> <li>• PD-41</li> <li>• PD-42 – Subarea C</li> <li>• PD-49 – Subareas A and C</li> <li>• PD-55 – Subareas 1 and 2</li> <li>• PD-67 – Subarea C</li> </ul>

In evaluating the suitability of the zoning districts in which automobile service stations are permitted, General Commercial (C-2) and Thoroughfare Commercial (C-3) are both intended to serve a broad market, typically along major transportation corridors. These zones can be considered a logical fit for an automobile service station use. The Neighborhood Commercial (C-1) zoning district; however, is intended for smaller scale, less intensive uses that serve the needs of the immediate neighborhood. Given that development pressure will continue throughout the city for land that will become increasingly scarce, preserving the Neighborhood Commercial zone for higher and better uses may be an economically strategic option. Furthermore, removing service stations as a conditionally permitted use in the Neighborhood Commercial zone will minimize, if not eliminate, any potential conflict between service station operations and sensitive residential receptors. It should be noted that if the BMC were amended to prohibit service stations in the C-1 zone, any existing automobile service stations in the C-1 zone would be allowed to continue operating as legal, nonconforming uses<sup>1</sup>.

D. Potential Development and Design Standards: The application of development and operational standards for automobile service stations will ensure the consistency

<sup>1</sup> § 17.610.004 of the BMC states that no nonconforming use shall be expanded, extended, enlarged, substituted, replaced or otherwise altered without conforming to the provisions of this chapter.

of regulations for new service stations and for the expansion of existing service stations. Of principal concern is the impact of service stations on residential uses and on certain public uses such as schools and parks. The development standards identified below could mitigate against the negative impacts that could result from new and remodeled automobile service station sites.

- **Location and separation.** An automobile service station shall be at least three hundred feet from any school, park, or similar use, and shall be at least five hundred feet from any other service station on the same side of a street, except at an intersection of two streets where a maximum of two stations may be permitted on the corners of such intersection.
- **Lot size.** An automobile service station site shall be at least one hundred fifty feet by one hundred fifty feet or the minimum required for the zone in which it is located, whichever is greater. A service station may be modified or rebuilt on an existing service station parcel with site dimensions less than required in this section, provided that all other development standards for the service station are satisfied.
- **Setbacks.** Notwithstanding the applicable setback regulations for the underlying zone, canopies over pump islands, whether attached to a building or not, may extend to within ten feet of street property lines.
- **Parking requirements.** An automobile service station and any ancillary uses shall comply with all applicable standards of Chapter 17.620 (Off-Street Parking). Where conflict arises between sections, the requirements of this subsection shall take precedence.
  - Automobile service station: Two spaces minimum. Spaces at the pump islands do not satisfy this parking standard. Any additional ancillary uses on the property shall also include the parking requirements listed below.
  - Automobile service station with a convenience store: Five spaces per 1,000 square feet of gross floor area of the convenience store. Up to 50 percent of the pump islands may be counted as parking spaces.
  - Automobile service station with car wash: The parking requirement shall be determined by a parking demand study prepared by an independent traffic engineer licensed by the State of California. The study shall be provided by the applicant, at their sole expense.
  - Automobile service station with vehicle service bay: One space per service bay.
  - A minimum of one loading space and delivery vehicle stacking area shall be located and designed to avoid undue interference with the public use of streets and alleys, drive aisles, or automobile parking spaces.

- **Driveways.** No more than two driveways or means of access shall be provided to any one street. Driveways shall be located as follows:
  - Not less than twenty-five feet from the nearest street intersection;
  - Not less than twenty-five feet from any other driveway;
  - Not less than five feet from a side property line.
- **Ancillary equipment/devices.** Ancillary equipment/devices such as air compressors shall not be located in any required building setback area.
- **Alternative fuel stations.** In addition to the minimum electric vehicle (EV) charging stations required by the California Building Code (CBC), a minimum of one alternative fuel station shall be provided for every four petroleum-based fuel pumps. The alternative fuel station can be an additional EV charging station, compressed natural gas (CNG), hydrogen, or other alternative fuel.
- **Restrooms.** Public restrooms shall be provided on site, at no charge, for customer use during normal business hours. The restroom shall be continuously maintained in a clean and sanitary manner. Entrances to restroom facilities shall be located within a building.
- **Design.** All service station developments shall be subject to the City of Brentwood Commercial and Industrial Design Guidelines. The service station structure must be architecturally compatible with any other buildings on site and with the surrounding neighborhood.
- **Landscaping.** In addition to all landscaping standards outlined in Chapter 17.630 (Landscaping and Screening), a landscaped buffer strip five feet wide shall be provided along all interior lot lines except where such area is occupied by buildings or driveways.
- **Signs.** Signs for an automobile service station and any ancillary uses shall comply with all applicable standards of Chapter 17.640 (Sign Ordinance).

E. Potential Operational Requirements:

- **Location of activities.** All activities shall be conducted within buildings except dispensing of fuel products from pump islands, vehicle charging, and air and water services, and minor emergency repairs including replacement of headlights, turn indicator bulbs, or windshield wipers.
- **Hours of Operation.** Hours of operation shall be determined through the CUP process based on nearby uses and shall not operate 24 hours a day if directly adjacent to residential development.
- **Site maintenance.** The site including all structures, landscaping, walls/fences, and signs shall be maintained in good repair, in a clean, neat, and orderly condition. Driveways, parking, landscape, and service areas shall

be maintained and kept free of grease, oil, and other petroleum products in addition to litter. These areas shall be periodically cleaned with equipment that dissolves spilled grease, oil, and other petroleum products without washing them into drainage, gutter, or sewer systems.

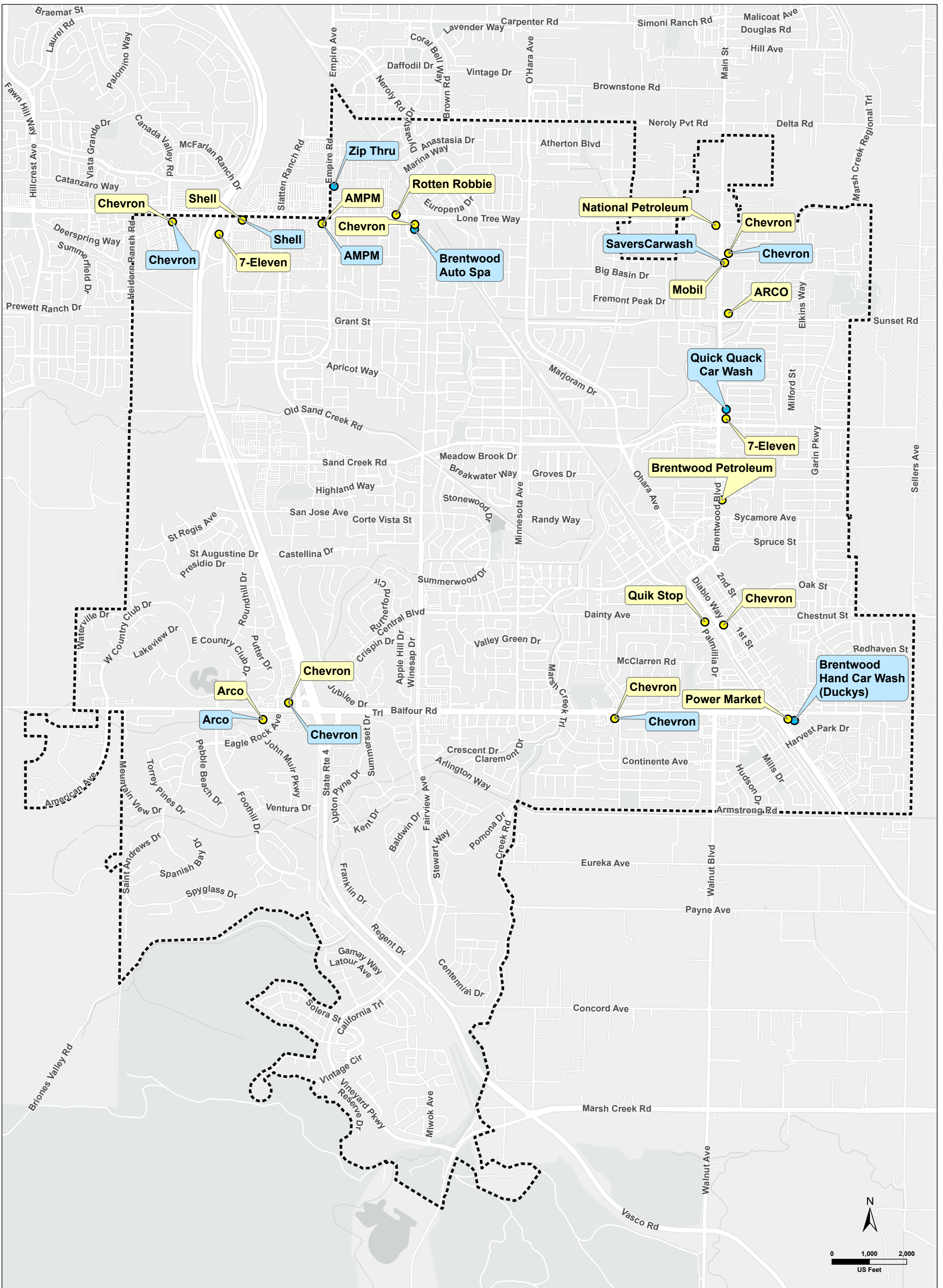
- **Trash receptacles.** Trash receptacles shall be located at the building entrance and at each pump island. The premises shall be kept free of the accumulation of litter or waste. Removal of waste or litter from the trash receptacles shall occur at a minimum of once each day the business is open.
- **Trash enclosure.** A trash enclosure, completely enclosed with a decorative masonry wall not less than six feet high with a solid metal, self-enclosing gated opening, and large enough to accommodate standard-sized commercial trash bins, shall be located on the rear portion of the property in a manner which is accessible to refuse collection vehicles.
- **Ancillary uses.** Ancillary uses related to automobile service stations shall comply with the following:
  - Convenience store.
    - Outdoor display of merchandise shall be prohibited unless a temporary use permit is obtained pursuant to Chapter 17.850 (Temporary Use Permits).
  - Car wash.
    - Shall comply with all applicable standards as determined through the Focused Zoning Code Update which may include additional separation requirements and operational restrictions.
    - Applicants shall provide a noise study prepared by an independent acoustical engineer licensed by the State of California. The study shall be provided by the applicant, at their sole expense.
  - Vehicle repair shop.
    - Shall not operate 24 hours a day and shall be determined through the CUP process based on nearby uses.
    - Openings of service bays shall be designed to minimize the visual intrusion onto adjoining public rights-of-way and properties.
    - Service bay doors shall not directly face an existing residential development or residential zone.
    - Vehicle repair shops shall be limited to battery and ignition services, tire repair and sales, and other accessory sales and services for automobiles, but shall exclude major automobile

repairs, tire recapping, steam cleaning, painting, body and fender work, engine overhaul, and other work of a similar nature.

- **Hazardous materials.** All necessary permits for the storage and use of hazardous materials shall be obtained. All automobile fluids shall be recycled or removed according to applicable state and federal standards.
- F. Potential Full or Partial Moratorium: In an effort to reduce greenhouse gas emissions and air pollution, a number bay area cities have adopted ordinances to prohibit any new fossil-fuel pumps throughout their cities. The movement to prohibit new gas stations began in 2021 when the City of Petaluma became the first city in the U.S. to prohibit new gas stations. After Petaluma’s ordinance was passed additional cities in Sonoma County and all cities in Napa County joined suit. As Brentwood transitions to infill development and redevelopment of existing areas, there is less available open commercial land to locate new service station facilities. Automobile service stations may not be the best use of available commercial land, and therefore a complete ban on future development may be considered.

As shown on the attached map, gas stations throughout the city are located on the periphery, with the majority of stations located on Balfour Road, Brentwood Boulevard, and Lone Tree Way. There are no gas stations located within the interior of the city or along main thoroughfares such as Sand Creek Road and Fairview Avenue. Therefore, based on the concentration map included in Attachment 1a, future stations in these areas such as along the Sand Creek Road extension west of Highway 4 on commercially designated parcels, would not cause or contribute to overconcentration and may be appropriate. Thus, the City may want to consider continuing to allow gas stations only in these zones/areas and ban future development in all other areas.



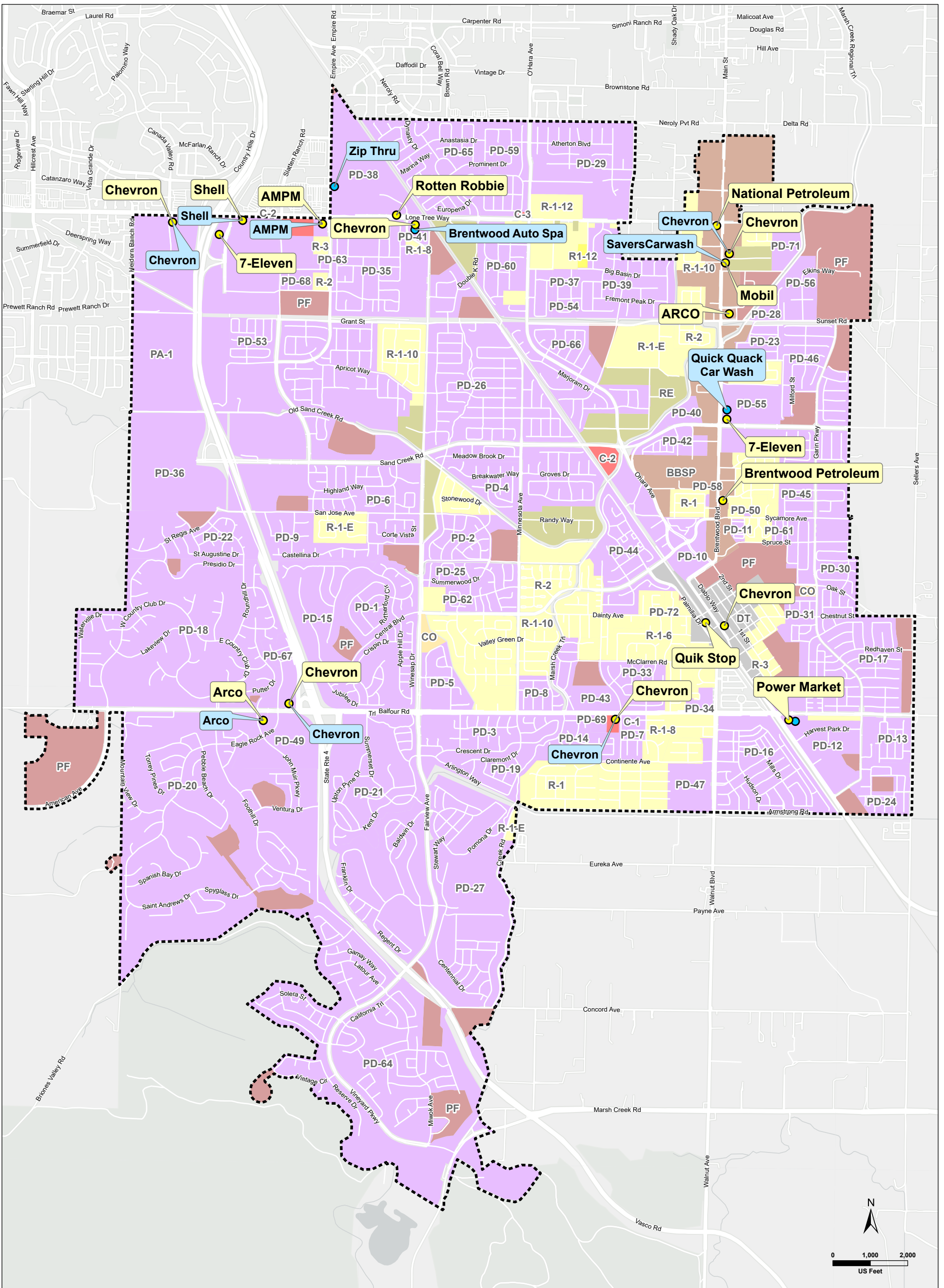


**LEGEND**

- Gas Station Locations
- Carwash Locations
- Brentwood City Limits

**CITY OF BRENTWOOD**

**Gas Stations and Carwashes**



**LEGEND**

- |                         |                                 |      |
|-------------------------|---------------------------------|------|
| ● Gas Station Locations | <b>City of Brentwood Zoning</b> | ■ PD |
| ● Carwash Locations     | ■ BBSP                          | ■ PF |
| ⋯ Brentwood City Limits | ■ C                             | ■ R  |
|                         | ■ CO                            | ■ R1 |
|                         | ■ DT                            | ■ RE |

**CITY OF BRENTWOOD**

**Gas Stations and Carwashes**

# FOCUSED ZONING CODE UPDATE

## 2. CAR WASHES

### Background

- A. Car Washes: Car washes have steadily developed to incorporate automation and water-saving technologies. There are three primary types of car washes today: full service, express service, and flex-service.

Full service car washes are typically stand-alone facilities that employ a relatively large number of people either to wash, hand wash, or detail vehicles. These types of car washes are typically the only use on a property. Express car washes are usually associated with gas stations and are more commonly called drive-thru car washes. These facilities are a secondary, accessory use relative to the gas station, convenience store, or combination thereof. They are fully automated and require little to no staff. Older, unattended self-service car washes where customers wash, dry, and vacuum their own vehicles also fall within the express car wash category as these types of facilities are typically unattended.

Flex-service car washes (a hybrid of the full service and express service car wash models) combine the full service and express car wash models to offer both services in one location. The car wash industry is trending toward greater flexibility and reducing labor costs by transitioning from a full service model to a flex-service model, often with a flat monthly fee for unlimited washes. The foundation of this style is a conveyerized tunnel with an entry payment system. Customers select a base wash package at the automated computer attendant and then add optional aftercare services such as interior vacuum, waxing, and/or a tire shine. All wash customers stay in the vehicle through the wash. Customers who purchase aftercare services follow directional signage to an aftercare center where they turn over their car to an attendant and wait in a lobby while their vehicle is prepared. Customers who do not elect any of the optional services may still utilize vacuums at vended stations which may contain between 10 to 40 vacuums. Flex-service car washes usually employ less staff than full service car washes.

There are currently no citywide regulations in effect regarding the operational and locational standards for car wash facilities of any type.

### Analysis

- A. General – Car Washes: There are currently 14 (2 full service, 9 express, and 3 flex-service) car washes operating in the city, as outlined in the following table and attached map (Car Wash and Service Station Map – Attachment 1a):

	Type	Name	Address
1	Full Service	Brentwood Auto Spa	6945 Lone Tree Way
2	Full Service	Brentwood Hand Car Wash (Ducky's)	4950 Balfour Road
3	Flex-Serve	Quick Quack Car Wash	7450 Brentwood Blvd
4	Flex-Serve	Savers Carwash	6750 Brentwood Blvd
5	Flex-Serve	Super Clean Carwash	6970 Brentwood
6	Express	Zip Thru	2650 Empire Ave
7	Express	Chevron	2371 Balfour Road
8	Express	Arco	2250 Balfour Road
9	Express	Chevron	190 Griffith Lane
10	Express	AM/PM	6481 Lone Tree Way
11	Express	Shell	6031 Lone Tree Way
12	Express	Rotten Robbie	6860 Lone Tree Way
13	Express	Chevron	5591 Lone Tree Way
14	Express	Chevron	6700 Brentwood Blvd

Car washes remain popular among drivers as the convenience and relative low cost of getting a car wash continues to attract customers. Additionally, there are environmental benefits to modern car washes as they utilize water recycling systems that consume less water than washing a car at home on a driveway. Trends in car wash development suggest a movement from full service car washes to express and flex-service car wash models.

Car washes are often loud because, in addition to other equipment that generates noise during their operation, they require the use of large-scale, industrial vacuuming systems. These impacts can be particularly acute when car washes are located near residential uses and when multiple car washes are concentrated in a small area. Car washes surrounded by residential uses may have the potential to expose neighboring residents to excessive noise. As car washes move from full service to express and flex-service models, there is also concern that fewer on-site employees may result in less oversight, and therefore less control of impacts that these facilities may have on adjacent properties.

- B. Existing Regulations: The Brentwood Municipal Code does not have citywide development standards to mitigate impacts caused by car washes. Currently, car washes are a conditionally permitted use in the Neighborhood Commercial (C-1) and Thoroughfare Commercial (C-3) Zones. Car washes are also permitted or

conditionally permitted in certain Planned Development (PD) Zones. Aside from the PD Zones, car washes can only be approved in Brentwood following the approval of a conditional use permit (CUP), which provides the City with discretionary review ability. This allows staff and the Planning Commission to consider each car wash application on a case-by-case basis and to apply specific conditions to a project to ensure land use compatibility with the surrounding area. It is recommended that the City maintain this requirement for a CUP for car wash facilities.

C. Locations: As noted above, car washes are allowed in two commercial zoning districts and in certain Planned Development Zones. A brief description of the intended land uses for these zoning districts is below:

<b>C-1</b>	<b>Neighborhood Commercial.</b> Intended to provide neighborhood convenience centers which are typically a five to ten acre shopping center with a supermarket as the prime tenant. The neighborhood convenience center generally is intended to serve the day-to-day needs of the surrounding neighbors within a one-mile radius.
<b>C-3</b>	<b>Thoroughfare Commercial.</b> Commercial zone for retail and service businesses that are typically related to highways and major thoroughfares. Such uses generally do not lend themselves to be located in general commercial or neighborhood convenience centers, but are encouraged in orderly clusters in suitable locations adjacent to highways and major thoroughfares where special consideration will be given to on-site and off-site traffic and circulation, impact on adjacent land uses, etc.
<b>PD</b>	<b>Planned Development.</b> <ul style="list-style-type: none"> <li>• PD-6</li> <li>• PD-12</li> <li>• PD-20</li> <li>• PD-35</li> <li>• PD-41</li> <li>• PD-42</li> <li>• PD-49 – Subareas A and C</li> <li>• PD-55</li> <li>• PD-67 – Subareas B and C</li> </ul>

As developable land becomes scarcer in the city there may be concern that a proliferation of car washes without further regulation could have adverse impacts on neighborhoods and result in significant, irreversible change to neighborhood and community character. As the city transitions to in-fill development and re-development of existing areas, there is less available open commercial land to

locate new car wash facilities. Many smaller commercial parcels potentially available for this type of land use may be near or adjacent to residential uses that could be negatively impacted by this use. Unattended or lightly staffed car washes with the potential for traffic and noise impacts may not be the best use of available commercial land, and on those sites that are in close proximity to residentially zoned properties they may not be compatible.

In evaluating the suitability of the land use districts in which car washes are permitted an argument can be made that the Neighborhood Commercial (C-1) Zone may not be the most suitable for allowing a car wash use and perhaps should be reconsidered. Although residential zones abut much of the commercial land in the city, the Neighborhood Commercial Zone is intended for smaller scale, less intensive uses that serve the needs of the immediate neighborhood. Given that development pressure will continue throughout the city for land that will become increasingly scarce, preserving the Neighborhood Commercial Zone for higher and better uses may be an economically strategic option. Furthermore, removing car washes as a conditionally permitted use in the Neighborhood Commercial Zone will minimize, if not eliminate, any potential conflict between car wash operations and sensitive residential receptors. It should be noted that any existing car wash in these districts would be allowed to continue operations as a legal, nonconforming use.

D. Potential Development Standards: The application of development and operational standards for car washes will ensure the consistency of regulations for new car washes and for the expansion of existing car washes. Of principal concern is the impact of car washes on residential uses. The development standards identified below will mitigate against the negative impacts that could result from new and remodeled car wash sites.

- **Residential Setback.** Whether automatic, by hand, or self-service, the car wash structure (including wash bays) and outdoor vacuuming machines or areas shall be located a minimum distance (e.g., 100 ft. or as LUD sees appropriate) feet from the property line parcel that contains a residential use or that could in the future (i.e., by GP/zoning).
- **Openings.** All washing facilities shall be located within a building which is enclosed except those openings necessary for vehicular and pedestrian access. Such openings shall not face any adjacent residentially zoned property.
- **Queuing of Vehicles.** An on-site queuing plan shall be provided to the City for review and approval. Traffic circulation shall be designed to ensure efficient circulation on and off the subject site and ensure that the car wash will not obstruct the use of any service station gasoline dispensers, drive aisles, back-up areas, or parking spaces. Furthermore, vehicles shall not queue onto a public street, alley, driveway, or onto adjacent properties/parcels not associated with the car wash use.

- **Design.** All car wash developments shall be subject to the City of Brentwood Commercial and Industrial Design Guidelines. The car wash structure must be architecturally compatible with any other buildings on site and with the surrounding neighborhood.

E. Potential Operational Requirements:

- **Hours of Operation.** Hours of operation shall be limited to: Monday through Saturday, 8:00 AM to 7:00 PM; and Sunday, 9:00 AM to 6:00 PM or as LUD recommends.
- **Water Recycling.** Recycling of water used for vehicle washing shall be maximized. The use of recycling water systems and the disposal of water fluids and solids shall comply with applicable state and federal guidelines/standards and must be approved by the Engineering Department.
- **Air Quality.** All mechanical ventilating equipment shall be directed to exhaust vents and cannot face adjacent residential properties. Exhaust systems shall be equipped with appropriate control systems to minimize or eliminate noxious pollutants that may impact ambient air quality and must adhere to all applicable local, state, and federal air quality standards.
- **Noise.** All uses at the subject site, including any power driven or steam cleaning machinery, drying equipment, or vacuuming machines shall maintain noise levels below the levels provided in Chapter 9.32 Noise Regulations of this Code.
- **Outdoor Loudspeakers.** The installation and operation of outdoor loudspeakers or public address systems are not permitted.

# FOCUSED ZONING CODE UPDATE

## 2. Short-Term Rentals

### Background

- A. Short-term Rentals: A short-term rental (STR) is a residential property that is rented for a brief duration, typically for 30 days or less. STRs consist of (1) home-sharing, where a room in a dwelling unit or an accessory structure is rented, usually with the owner present, or (2) vacation rentals, where the entire unit is rented out to guests with the owner absent. STRs have become increasingly popular over the past decade as homeowners and renters look for additional sources of income and with the proliferation of platforms such as Airbnb, VRBO, Home-Away, and FlipKey.

The rise in short-term rental activity over the last ten years caught many cities and municipal officials across the country off-guard, as STRs do not fit into normal municipal regulatory structures. Cities have responded by either banning STRs entirely or creating new regulatory systems to allow short-term rental activity. Currently, the Brentwood Municipal Code (BMC) prohibits short-term rentals constructed, converted, or otherwise developed through the use of the two-unit housing development (SB 9) provisions set forth in [BMC § 17.797](#) and/or through the use of the urban lot split provisions set forth in [BMC § 16.169](#). In addition, the BMC allows rooming and board for not for less than 30 days at a time. Although STRs are not explicitly defined and prohibited, by process of elimination, unless the STR qualifies as rooming and boarding, then it would be prohibited.

In addition, the City struggles to proactively enforce the prohibitions because there are little resource or mechanism to correlate length of stay with STRs to determine if it qualifies as a room and board. Although Community Enrichment does search short-term rental websites throughout the year to see if any Brentwood properties are listed, enforcement is difficult unless the addresses are listed or location is otherwise identifiable. Therefore, the majority of the time the City is reacting to short-term rental complaints as they are received and uses Community Enrichment and Police Department personnel to address each complaint on a case-by-case basis.

Not every city or locality is being impacted by short-term rentals in the same way. Coastal/beach communities, mountain/ski communities, and communities that can be considered a “destination” either for an attraction, as an employment center, etc., have seen greater STR demand than communities that do not have these characteristics or that may be considered bedroom communities. Nonetheless, a degree of STR activity seems to be present in most jurisdictions.

Arguments in favor of regulating and allowing STRs include allowing homeowners and renters to generate extra income, making more hotel-like rooms available for



rent in a city, providing alternatives to hotels, and creating an economic spark for the communities where STR visitors choose to stay. Arguments against regulating and allowing STRs are that they decrease the housing supply and increase rental prices by reducing the number of available units, create noise and parking supply issues in neighborhoods, and harm the existing hospitality industry.

Staff believes that the City of Brentwood should be explicitly clear in either prohibiting or allowing short-term rentals and understands that the direction from the City Council is to research prohibiting the use to protect residential neighborhoods. Should the City wish to allow STRs instead, then well-defined rules and regulations would (1) enable STR hosts and visitors to have standards regarding the operation of a short-term rental, (2) help to ensure STRs do not limit the housing market and that neighborhoods and residents are not affected by their operations, and (3) provide the City with additional Transient Occupancy Tax (TOT) collected in the same manner as with hotels.

- B. Short-term Renting of Backyards and Swimming Pools: As an off-shoot to the rise of short-term rentals, new platforms are emerging that allow property owners to market their swimming pools, courts, backyards, entire homes, and other on-site amenities for hourly rental. Platforms such as Swimply allow hosts to further commercialize their properties by facilitating pool parties, house parties, photoshoots, dinner parties, etc., at the residence of the host.

Although Airbnb and VRBO have tightened restrictions on having parties in short-term rentals, the new platforms that cater specifically to hosting events rather than nights stayed can have a negative impact on residential neighborhoods, particularly with regard to noise, traffic, parking, and other nuisance issues.

- C. Penalties and Fines: The City's enforcement efforts on unpermitted short-term rentals and unpermitted rentals of pools and backyards are often reactionary, happening after the fact. Furthermore, the fine for committing the infraction may not be substantial enough to deter the activity.

[BMC § 17.890.007](#) Penalties, states that "Any person who knowingly violates or causes or permits another person to violate any provision of this title is guilty of an infraction, and upon conviction shall be punishable by a fine of not more than two hundred fifty dollars. A violator may be deemed guilty of a separate offense for each day during any portion of which a violation of this title is committed, continued or permitted."

## **Analysis**

- A. General: A booking search for short-term rentals in Brentwood (using July 12-14 and August 2-4) found that only one listing for a private room in a house in the city was available on both Airbnb and VRBO. Similarly, only one listing for a swimming pool rental was available on Swimply (using July 12 and August 2). Although numerous listings are available in the region, including some neighboring

jurisdictions like Antioch and Discovery Bay, there is relatively little supply in Brentwood itself.

B. Existing Regulations: As noted above, the Brentwood Municipal Code *partially* prohibits short-term rentals under [BMC § 17.796.003](#) Short-term rentals prohibited, which states:

A. Pursuant to California Government Code Section [65852.21\(e\)](#), no residential dwelling unit constructed, converted, or otherwise developed through the use of the two-unit housing development provisions set forth in Chapter 17.797 of this code shall be rented, leased, or otherwise let for occupancy for a period of less than thirty calendar days.

B. Pursuant to California Government Code Section [66411.7\(h\)](#), no residential dwelling unit constructed, converted, or otherwise developed through the use of the urban lot split provisions set forth in Chapter 16.169 of this code shall be rented, leased, or otherwise let for occupancy for a period of less than thirty calendar days.

In addition as noted above, the Brentwood Municipal Code does allow for room and boarding, which is defined in [BMC § 17.650.003\(4\)](#) as follows:

**Rooming and boarding**, defined as the renting of a room with or without table board to an individual for a duration of not less than thirty consecutive calendar days, shall be permitted as follows:

- a. Occupancy to be limited to four paying guests,
- b. Occupancy in excess of four guests may be permitted subject to obtaining a conditional use permit,
- c. Rooming and boarding shall be conducted only by a person or persons residing on the premises,
- d. Off-street parking shall be provided in compliance with Chapter 17.620,
- e. The use of signs in conjunction with rooming and boarding shall be prohibited,
- f. Rooming and boarding shall be subject to all other applicable city ordinances;

Although STRs are not explicitly defined and prohibited, by process of elimination, unless the STR qualifies as rooming and boarding, then it would be prohibited. Moreover, commercial activities such as event/social centers are not permitted in residential zones without a Conditional Use Permit, and there are no regulations

in the BMC to explicitly prohibit the rental of backyards, swimming pools, courts, and other similar facilities.

- C. Survey of Nearby Cities: A survey of nearby cities was conducted to determine if and how they regulate STRs. The table below depicts the high-level results for a selection of cities in the region, including whether they allow home-sharing, vacation rentals, or both, and any other relevant provisions.

<b>City</b>	<b>Home-sharing</b>	<b>Vacation Rental</b>	<b>Specific Requirements</b>
Antioch	N/A	N/A	<ul style="list-style-type: none"> <li>No provisions in the Municipal Code to regulate or prohibit</li> </ul>
Livermore	Yes	Yes	<ul style="list-style-type: none"> <li>ADUs that obtained a building permit on or after January 1, 2020 cannot be used as STRs</li> <li>Hosts allowed only one STR in city</li> </ul>
Martinez	No	No	<ul style="list-style-type: none"> <li>No dwelling unit can be occupied as an STR</li> </ul>
Oakley	Yes	No (but unhosted stays permitted)	<ul style="list-style-type: none"> <li>Minimum stay of 2 nights required</li> <li>Max. number of guests</li> </ul>
Pittsburgh	N/A	N/A	<ul style="list-style-type: none"> <li>No provisions in the Municipal Code to regulate or prohibit</li> </ul>
Stockton	N/A	N/A	<ul style="list-style-type: none"> <li>No provisions in the Municipal Code to regulate or prohibit</li> </ul>
Walnut Creek	N/A	N/A	<ul style="list-style-type: none"> <li>No provisions in the Municipal Code to regulate or prohibit</li> </ul>

- D. Prohibiting Short-term Rentals in Brentwood: While some cities have chosen to ban short-term rentals, the main challenge to this is implementing ongoing enforcement. Resources would be needed to identify who is illegally operating an STR. Since online platforms do not provide addresses of rental units publicly, City staff might need assistance from a consulting firm that has the ability to find this information. Currently, staff does search short-term rental websites throughout the year to see if any Brentwood properties are listed, enforcement is difficult unless the addresses are listed or location is otherwise identifiable. The majority of information received about who is operating an STR is received from the public. If the public is able to provide information on the specific housing unit, Community

Enrichment staff can then investigate to find any information that is available online prior to contacting the homeowner.

Fortunately for Brentwood there appears to be relatively little STR activity and existing staff can likely handle the anticipated volume of cases. In other jurisdictions where short-term rentals are very active and the city has prohibited the use, significant resources have been needed to enforce the ban. For example, in the City of West Hollywood there was a ban on all STRs from 2015-2018 and staff experienced more than 265 open code enforcement cases related to STRs, mailed over 800 warning letters, and levied over \$250,000 in fines. However, the success rate in getting people to respond or remove their listing was low. People would either re-list at a different time or use a different room in their house. Due to the complexity of addressing the ban and the increased demand from residents to allow STRs, the City of West Hollywood now allows STRs through their Home-Sharing Program and requires residents to register for a Home-Sharing Business License as of 2018. While Brentwood has a different set of characteristics, the City should anticipate additional staffing resources associated with enforcing a ban.

- E. Potential Zoning Ordinance Amendment: Should the City wish to explicitly prohibit STRs of both residential units and outside amenities, then the following draft amendment to the Zoning Ordinance could be considered:

**BMC § 17.XXX Short-term rentals prohibited.**

It shall be unlawful for any person or entity to offer or make available for rent (via advertisement on a short-term or vacation rental website or otherwise) or to rent (by way of a rental agreement, lease, sublease, license, via a short-term or vacation rental website, or any other means, whether oral or written) for compensation or consideration a home-sharing rental, short-term, or vacation rental for less than 30 days, pursuant to a rental agreement, lease, sublease, license, via a short-term or vacation rental website, or any other means, whether oral or written, for compensation or consideration, or maintain any advertisement of a home-sharing rental, short-term, or vacation rental for less than 30 consecutive days. This prohibition shall also include rental of not only the habitable portions of a home or residential property but also rental of swimming pools, courts, backyards, entire homes, and other on-site amenities for hourly rental, daily, or nightly rental.