

SUBJECT: Approve Amendments to the Brentwood Municipal Code related to State Legislative Updates, Gas Stations, Stream Setbacks, as well as updates to the Priority Area One Specific Plan related to Private and Public School Facilities

DEPARTMENT: Community Development

STAFF: Alexis Morris, Director of Community Development
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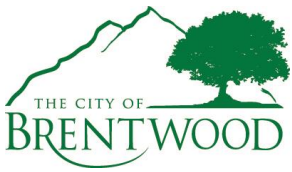
TITLE/RECOMMENDATION

Waive the first readings of
and introduce the following ordinances:

1. An Ordinance for text amendments (RZ 26-001) to the Brentwood Municipal Code that would amend and add regulations for signs, Microenterprise Home Kitchen Operations (MEHKO), public hearing notices, electrified fencing, and application review and appeal procedures, to ensure consistency with state and federal law;
2. An Ordinance for text amendments (RZ 26-001) to the Brentwood Municipal Code that would limit the total number of automobile service stations/gas stations to 20 within the city by adding Brentwood Municipal Code Chapter 17.665 (Automobile Service Stations/Gas Stations); and
3. An Ordinance for text amendments (RZ 26-001) to the Brentwood Municipal Code to add regulations and development standards related to stream setbacks within the city by adding Brentwood Municipal Code Chapter 17.625 (Stream Setback Regulations).

Adopt a Resolution approving a text amendment (SPA 26-001) to the Priority Area One Specific Plan updating regulations related to Private and Public School Facilities.

The proposed text amendments are exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that the proposed ordinances would restrict future land uses and development and would not facilitate new construction or other groundbreaking activities. There is no potential to result in either a direct physical change to the environment or a reasonably foreseeable indirect physical change to the environment.



FISCAL IMPACT

Adoption of the proposed ordinances and resolution will not result in a fiscal impact, as staff will continue to process appropriate planning applications through designated review processes, which include the collection of fees for the cost of these processes, in accordance with the City's Cost Allocation Plan.

BACKGROUND

On January 24, 2023, the City Council provided direction to staff on reinitiating the City's Zoning Code Update, including a focused and phased approach, rather than the comprehensive update that was initiated in the summer of 2020. On May 23, 2023, the project scope and budget were finalized when the City Council approved a Professional Services Agreement with De Novo Planning Group to prepare and complete the Focused Zoning Code Update and Objective Design Standards. The work plan approved by the City Council includes three main tasks to complete:

Task 1: Objective Design Standards;

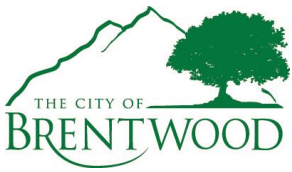
Task 2: Zoning Code Updates required by State law and the Housing Element;

Task 3: Focused Zoning Code updates.

This agenda item is related to both Task 2: Zoning Code Updates required by State law and Task 3: Focused Zoning Code updates. This includes amendments to various sections of the Zoning Ordinance required to bring it up to date and consistent with current State laws, as well as amendments to various sections of the Zoning Ordinance and Priority Area One Specific Plan to better reflect the community's values based on feedback from the community and City Council, including changes to some permitted and conditionally permitted uses throughout the city.

PLANNING COMMISSION ACTION

The Planning Commission considered this item at a public hearing at its regular meeting of [March 17, 2026](#), and was supportive of the requested text amendments. The Planning Commission unanimously adopted Resolution Nos. 26-004, 26-005, 26-006, and 26-007 recommending that the City Council approve the amendments as presented in the agenda report with minor, non-substantive changes, which are reflected in the Attachments.



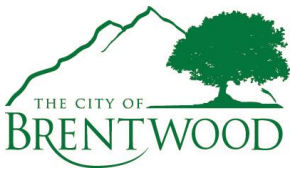
PROJECT DESCRIPTION AND ANALYSIS

STATE LEGISLATIVE UPDATES – ATTACHMENT 2

Recent years have seen numerous changes to state law, as well as various legal decisions that have created inconsistencies between the City’s current Zoning Ordinance and State law. While staff has tried to address those changes that require immediate attention (such as updating the Accessory Dwelling Unit Ordinance), other inconsistencies remain. For example, State law dictates the procedures and requirements pertaining to a number of areas including the review and processing of Development Agreements, Annexations, and permit review timelines. Amendments have now been added to reference relevant Government Codes sections related to these topics.

The required changes identified by staff include the following:

Zoning Regulation Updates	Chapter	Concerns
Sign Ordinance	Chapter 17.640	The sign regulations in the City’s Municipal Code (BMC) were adopted prior to the U.S. Supreme Court’s decision in <i>Reed v. Town of Gilbert</i> (2015) 576 U.S. 155, which held that certain content-based sign restrictions were invalid.
Processing/ review procedures	Chapters 17.810.001, 17.800.010, 17.060.008, 17.800.099	State law dictates the procedures and requirements pertaining to a number of topics, including: <ul style="list-style-type: none"> ▪ Development Agreement’s (Gov’t Code §§ 65864, <i>et seq.</i>) ▪ Permit Review timelines (Gov’t Code §§ 65920, <i>et seq.</i>) ▪ Annexation (Gov’t Code § 65859) ▪ Notice of public hearings (Gov’t Code §§ 65090, <i>et seq.</i>) The existing zoning ordinance does not include all of these procedures/requirements or reference them.
Appeal procedures	Chapter 17.840.009	The current appeals process does not address zoning text amendments. Section 17.870.009 should be amended to cover both (a) rezonings, and (b) zoning text amendments.



Zoning Regulation Updates	Chapter	Concerns
Microenterprise Home Kitchen Operations (MEHKO)	Chapter 17.840.011	The current home occupation section of the Code does not reflect current State required allowances for Cottage Food and MEHKO operations.
Public Hearing Notices	Chapter 17.800.009	The current code does not include noticing requirements pursuant to AB 2904.
Electrified Fencing	Chapter 17.6600.008	The current code does not include fencing requirements pursuant to AB 2371 (Electrified Security Fencing).

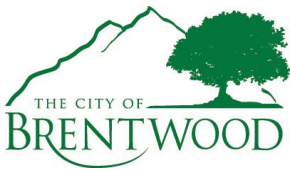
In order to create consistency throughout the Zoning Ordinance to better reflect State law, as well as existing land uses, staff drafted updates as summarized above and as shown in Attachment 2.

AUTOMOBILE SERVICE STATIONS/GAS STATIONS – ATTACHMENT 3

Based on initial direction from the Land Use and Development Committee (LUD), on [November 12, 2024](#), staff presented the City Council with amendments to the Zoning Ordinance to prohibit all future automobile service stations/gas stations throughout the city. At the conclusion of the public hearing, the City Council directed staff to revise the ordinance to cap the total number of stations instead of prohibiting all future stations. The Council did not specify what the numeric cap should be. The City Council based this direction on the consideration of zoning provisions for automobile service stations, and the needs of current and future residents to be adequately served by the existing facility locations to meet the basic needs and expectations of residents and visitors.

There are currently 19 automobile service stations operating in the city (shown in Attachment 6) and one vested entitlement currently under review for a project just west of State Route 4, on the north side of Sand Creek Road. Staff recommends that service stations be limited to a total of 20 throughout the city based on the following: the number of existing facilities within the city as well as the one application under review; the limited available land left to develop with service stations in the future; and to de-emphasize fossil-fueled and auto-centric uses (such as gas stations), which has the potential to reduce greenhouse gas emissions and air pollution in the future.

In order to create consistency throughout the Zoning Ordinance to better reflect State law as well as existing land uses, staff drafted updates as summarized above and as shown in Attachment 3.



CREEK SETBACKS – ATTACHMENT 4

On [October 22, 2024](#), staff presented the City Council an update and requested direction on ongoing implementation of action items from the General Plan's Conservation and Open Space Element. One of the specific actions related to the discussion was Action COS 4f:

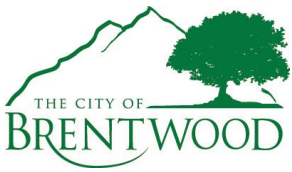
Explore revising Title 17 (Zoning) of the Brentwood Municipal Code to include standards for creek setbacks and the protection of riparian habitat along creek corridors. The standards should include minimum setback requirements, site design standards, and requirements for the ongoing maintenance of creek and riparian habitat on public and private lands.

The City Council recommended that this action item be included in the Focused Zoning Code Update. At the time it was determined that although not currently incorporated into Title 17 (Zoning), the City requires substantial creek setbacks and riparian habitat protections through its participation in the East Contra Costa County Habitat Conservation Plan Association (HCPA), a Joint Powers Authority that includes the City of Brentwood. All new projects adjacent to creeks and sensitive riparian habitats are required to gain approval through the HCPA, which established a coordinated, regional approach to conservation and regulation of endangered species. Under the Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP), the [U.S. Fish and Wildlife Service](#) and the [California Department of Fish and Wildlife](#) have provided regional permits to the cities of Brentwood, Clayton, Oakley, and Pittsburg, as well as Contra Costa County.

It was recommended that these existing requirements simply be reaffirmed by reference as part of the Focused Zoning Code Update. Based on this direction, staff drafted updates to add a Stream Setback Chapter into Title 17 included in Attachment 4.

PRIORITY AREA ONE SPECIFIC PLAN(PA-1) AMENDMENTS – ATTACHMENT 5

In California, cities have limited authority to regulate public school locations through zoning. The seminal case of *Hall v. City of Taft* (1956) 47 Cal.2d 177, established that public schools are a matter of statewide concern, and state entities are not subject to local regulations unless the Constitution or the Legislature consent to such regulation. This principle was followed by *Town of Atherton v. Superior Court* (1958) 159 Cal.App.2d 417, which held that school districts are exempt from municipal zoning ordinances. In 2022 when the last update to the PA-1 Specific Plan occurred, amendments to the Allowed Uses section of the Land Use Plan were made related to Public and Private schools. The changes related to Public Schools created



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inconsistencies between the City's current Specific Plan and State law, while the changes related to Private Schools created inconsistencies between the City's current Specific Plan and existing uses, creating non-conforming land uses. In order to create consistency throughout the Specific Plan to better reflect State law as well as existing land uses, staff drafted updates to the Specific Plan to eliminate regulatory provisions applicable to Public Schools, which are not subject to local zoning regulation under State law, and return Private Schools back to conditionally permitted uses within Table 4.2: Allowed Uses, as shown in Attachment 5.

SUMMARY AND CONCLUSION

With these final recommended amendments to the Zoning Ordinance related to Task 2 and 3 of the Focused Zoning Code Update, staff believes that the City Code will continue to reflect the community's values, will be consistent with State law and professional best practices, will update and streamline development review processes, and will be written to be easily read, understood, and implemented. Based on this, staff is recommending that the City Council approve the proposed amendments.

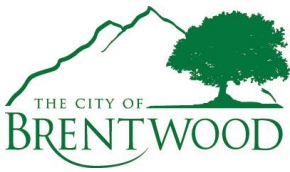
The work plan related to the Focused Zoning Code Update approved by the City Council included three main tasks to complete:

- Task 1: Objective Design Standards;
- Task 2: Zoning Code Updates required by State law and the Housing Element;
- Task 3: Focused Zoning Code updates.

If the subject applications are approved tonight, Task 2 will be completed. To date, amendments related to Task 3 including carwashes, short-term rentals, self-storage facilities, and drive-throughs have been completed. If the subject applications are approved finalizing amendments related to automobile service stations and gas stations, the only remaining task as part of Task 3 would be related to restaurants and alcohol sales which will be presented to the Planning Commission on April 21, 2026 for consideration. The last remaining task would be Task 1, Objective Design Standards, which staff will present to the City Council for final approval at its May 26, 2026 meeting. Staff's goal is to complete the entirety of the Focused Zoning Code Updates (Tasks 1-3) by the end of the fiscal year (June 30).

CITY COUNCIL STRATEGIC INITIATIVE

Not applicable.



PREVIOUS ACTION

Previous action by the City Council is included in Attachment 1.

DATE OF NOTICE

The City of Brentwood published a public hearing notice in the Brentwood Press on April 17, 2026.

ENVIRONMENTAL DETERMINATION

The proposed text amendments are exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15061(b)(3) of the CEQA Guidelines, as it can be seen with certainty that the proposed ordinances would restrict future land uses and development and would not facilitate new construction or other groundbreaking activities. There is no potential to result in either a direct physical change to the environment or a reasonably foreseeable indirect physical change to the environment.

ALTERNATIVE OPTION(S)

The following are alternative options that the City Council may consider:

1. Direct staff to make additional changes to the proposed amendments and return with revised ordinances.
2. Decline to adopt the proposed amendments to the Zoning Code related to various proposed amendments at this time. Note however that State law related to some of the proposed amendments would remain in effect regardless of the City's adoption of the ordinances and thus the City would be required to follow certain procedure and processing requirements.

ATTACHMENT(S)

1. Previous Actions
2. Draft Ordinance 1 – State Legislative Updates
3. Draft Ordinance 2 – Automobile Service/Gas Stations
4. Draft Ordinance 3 – Stream Setback Regulations
5. Resolution – PA-1 Specific Plan Updates, Schools
6. Map of Existing Service Stations