

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRENTWOOD APPROVING A TEXT AMENDMENT (RZ 26-001) TO THE BRENTWOOD MUNICIPAL CODE AMENDING AND ADDING REGULATIONS FOR SIGNS, MICRO ECONOMIC HOME KITCHEN OPERATIONS (MEHKO), PUBLIC HEARING NOTICES, ELECTRIFIED FENCING AND APPLICATION REVIEW AND APPEAL PROCEDURES TO ENSURE CONSISTENCY WITH STATE AND FEDERAL LAW

WHEREAS, City staff prepared a zoning text amendment that would (1) amend and add regulations for signs, Micro Economic Home Kitchen Operations (MEHKO), public hearing notices, electrified fencing and application review and appeal procedures to ensure consistency with state and federal law (the "Ordinance"); and

WHEREAS, the Ordinance would amend Title 17 (Zoning) of the Brentwood Municipal Code ("BMC"); and

WHEREAS, new state legislation and/or court rulings on land uses necessitate that the City periodically review and update the BMC to ensure compliance with state and federal law; and

WHEREAS, as Brentwood has developed and changed over time, the zoning has transitioned to allow other types of uses and regulations in the BMC; and

WHEREAS, the Planning Commission has reviewed the proposed amendment to the Brentwood Municipal Code, has found that the proposed Ordinance is consistent with the goals and policies of the General Plan, and recommends adoption to the City Council; and

WHEREAS, on March 6, 2026, the City gave public notice of a Planning Commission public hearing to be held to consider this Ordinance by advertisement in the Brentwood Press, a newspaper of general circulation; and

WHEREAS, on March 17, 2026, the Planning Commission held a duly-noticed public hearing to consider the staff report, recommendation by staff, and public testimony concerning this Ordinance. Following the public hearing, the Planning Commission voted to recommend that the City Council adopt the proposed Ordinance by a vote of 5-0; and

WHEREAS, the City published a notice of public hearing in the Brentwood Press on April 17, 2026, in accordance with City policies and Government Code Section 65090; and

WHEREAS, on April 28, 2026, the City Council held a duly-noticed public hearing to consider the Ordinance, including: (1) the public testimony and agenda

reports prepared in connection with the Ordinance, (2) the policy considerations discussed therein, and (3) the consideration by the City's Planning Commission; and

WHEREAS, all legal prerequisites to the adoption of the Ordinance have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BRENTWOOD DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The above recitals are incorporated into this Ordinance as though fully set forth herein.

SECTION 2. CEQA. Pursuant to California Environmental Quality Act ("CEQA") Section 15061(b)(3) of the CEQA Guidelines, this project is exempt in that it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment, as the proposed Ordinance would not authorize or facilitate construction or groundbreaking activities and any future project subject to the Ordinance would undergo appropriate CEQA review prior to approval.

SECTION 3. Rezoning. Brentwood Municipal Code Section 17.870.008 provides:

No rezoning of property or text amendment shall occur which is inconsistent with the city's community development plan. In making a decision, the Planning Commission and Council shall consider the consistency of the proposed action to the community development plan and other applicable city plans, and shall consider whether the proposed action is inappropriate or otherwise contrary to the public interest.

The zoning text amendment set forth in Exhibit A is consistent and compatible with the City of Brentwood General Plan, including goals, policies, and implementation programs such as:

- a. Economic Development Policy ED 1-4 which seeks to maintain efficient processing of applications and permits related to economic development, and ensure that no unnecessary obstacles are created by creating consistency and compliance with state and federal law;
- b. Land Use Policy LU 3-9 which is intended to ensure that all commercial and other non-residential development is compatible with adjacent land uses, particularly residential uses. The Ordinance is appropriate and is not contrary to the public interest in that it will facilitate efficient application processing, encourage investment in Brentwood, and protect both the city's residents and existing development while also creating consistency between the City's current Zoning Code and State law.

SECTION 4. Amendment. Specified sections, or portions of sections, of Title 17 of the Brentwood Municipal Code are hereby amended, as shown in Exhibit

A attached hereto and incorporated herein, as follows. Revisions to existing sections are reflected in ~~striketrough~~ for deletions and underline for additions. Portions of sections not listed in the attached exhibit are not modified and remain in full force and effect.

SECTION 5. Effective Date; Publication Date. This ordinance shall be published in accordance with Government Code Section 36933. This ordinance shall take effect 30 days after its adoption. The City Clerk is directed to cause the Municipal Code text to be entered in the Brentwood Municipal Code of the City of Brentwood to be modified accordingly.

THE FOREGOING ORDINANCE was introduced with the first reading waived at a regular meeting by the City Council of the City of Brentwood at a regular meeting held on the 28th day of April 2026 by the following vote:

EXHIBIT "A"

Section 1. Section 17.060.008 (Zoning – Annexations) of the Brentwood Municipal Code is hereby amended to read as follows:

17.060.008 Zoning – Annexations

Prior to the annexation to the city of any property and pursuant to Chapter 17.870, the sponsor of any annexations shall file an application for rezoning of the property to be annexed and the city shall establish the zoning in accordance with Government Code § 65859, which will be in effect on the effective date of the annexation. Such zoning shall be in conformance with the city's general plan.

Section 2. Section 17.640.001 (Title and purpose of provisions) of the Brentwood Municipal Code is hereby amended to read as follows:

17.640.001 Title and purpose of provisions.

- A. Title. This chapter shall be known as the sign ordinance of the City of Brentwood, California.
- B. Authority. This chapter is adopted pursuant to the city's general and police powers, California Constitution Article XI, Section 7; California Government Code Sections 65000 et seq., 65850(b), 38774, and 38775; Business and Professions Code Sections 5200 et seq., 5230, 5490 et seq., 13530 et seq., and 13540; Penal Code Section 556 et seq.; and other applicable state laws.
- C. Regulatory Scope. This chapter regulates signs, as defined herein, which are within the legal corporate limits of the city, but not on city property, as defined herein, or within the DT (downtown) zone. Signs on city property are controlled by Chapter 17.645. Signs on property located within the DT (downtown) zone are regulated by Chapter 17.280.
- D. Purpose and Intent. The purpose of this chapter is to create and enforce a comprehensive system for the reasonable regulation of signs within the city. By adopting this chapter, the city intends to balance many competing interests, which include, but are not limited to, the following:
 - 1. To provide each sign user an opportunity for effective identification by regulating the time, place, and manner under which signs may be displayed.
 - 2. To maintain a content-neutral approach to sign regulation so as not to inhibit protected forms of freedom of expression. ~~To allow exercise of the free speech right by the display of a sign.~~
 - 3. To regulate the number and size of signs according to standards consistent with the purpose of the city's various zoning districts and the intent of the zoning regulations.

4. To protect all zoning districts from the adverse impacts of excessive numbers or sizes of signs and signs of poor-quality design, and to enhance the character of residential neighborhoods and business areas, open views and vistas.
5. To protect and enhance property values.
6. To provide a reasonable and comprehensive system of sign regulations controls.
7. To serve the city's aesthetic interest by minimizing visual clutter while accommodating reasonable signage as a major and necessary form of communication.
8. To state rules for fair treatment of all sign users.
9. To promote public safety by reducing driver distraction while providing that official traffic regulation devices be easily visible and free from nearby visual obstructions such as blinking signs, and by prohibiting or limiting signs that constitute a traffic hazard or obstruct the visibility of motorists, bicyclists or pedestrians.
10. To reduce visual clutter by prohibiting the installation of new billboards, oversized signs, roof signs, animated signs and other similar types of signage.

Section 3. Subsection (H) of Section 17.660.008 (Fences and walls) of the Brentwood Municipal Code is hereby amended to read as follows:

17.660.008. Fences and walls

- H. Prohibited Fences. The following types of fences or fencing material are prohibited within all residential zones. In commercial zones, the following types of fencing material are prohibited unless specifically approved by the Planning Commission in conjunction with a design review or conditional use permit, or as required by city, state, or federal laws or regulations:
1. Barbed wire, razor, or concertina wire;
 2. Electrified fence, except as authorized under State law;
 3. Chain link fencing when visible from public areas, public rights-of-way, and/or private roadways;
 4. Temporary fencing, such as plastic or wire mesh fencing, barricades, and panel-system fences, except for construction sites, city-sponsored events, and temporary uses approved with a temporary use permit; and
 5. Fences and walls located within a public utility easement.

Section 4. Sections 17.800.009 and 17.800.010 of the Brentwood Municipal Code are hereby amended to read as follows:

17.800.009 Public hearing notice.

Whenever the provisions of this title state that a public hearing shall be held, the public hearing notice shall be given as follows:

- A. Through mailing of a public hearing notice to the following:
 - 1. The applicant and/or property owner/s or their duly authorized agent;
 - 2. The owners of all property within one thousand feet of the subject site as shown on the latest equalized assessment rolls;
 - 3. Any person who has filed a written request with either the city clerk or the City Council; and
 - 4. Each local agency expected to provide water, sewage, streets, roads, schools or other essential facilities or services to the property which is the subject of the application, whose ability to provide those facilities and services may be significantly affected.
- B. The public hearing notice shall include the date, time, and place of the public hearing, the identity of the hearing body or officer, a general explanation of the matter to be considered, and a general description, in text or by diagram, of the location of the real property, if any, that is the subject of the hearing;
- C. Publication once in one newspaper of general circulation in the city;
- D. ~~At the time of project submittal and before an application may be deemed complete (pursuant to the State Permit Streamlining Act) by city staff, t~~The project applicant shall erect on-site a sign(s) that identifies their proposed project. The following standards shall be adhered to:
 - 1. The sign shall be four feet by eight feet, unless another size is determined appropriate by the community development department director;
 - 2. The sign(s) shall be erected adjacent to each public right-of-way street frontage that the project site abuts, but shall not create sight distance problems along the adjacent rights-of-way;
 - 3. The actual text on the sign shall include a description of the nature of the action being considered, the appropriate City Hall phone number to call for questions on the proposed project, and be readable from the adjacent right-of-way;
 - 4. The project applicant shall be responsible for maintaining the sign(s) in a satisfactory condition, and for adding a hearing date when that has been determined by the city; and

5. The project applicant shall remove all sign(s) at the start of project construction or when project approvals have expired, whichever comes first.
- E. Alternative or additional notice may also be given pursuant to Section 65091 of the Government Code;
 - F. All mailing, ~~or~~ publication, and erect on-site signage, shall be accomplished at least ten days prior to the public hearing, except in the case that if a proposed ordinance or amendment to a zoning ordinance affects the permitted uses of real property, notice of the hearing before the Planning Commission shall be published, posted, mailed, and delivered, or advertised, as applicable, at least 20 days prior to the public hearing;
 - G. The failure of any person to receive notice required by this section, shall not affect the authority of the city to act on a matter before it, provided proper notice has been found to be given.

17.800.010 Review procedure.

Processing and determining completeness of project applications shall be in accordance with the Permit Streamlining Act (Government Code § 65920 et seq.). The Permit Streamlining Act applies to all discretionary development projects that are quasi-adjudicatory actions such as approvals of use permits, tentative subdivision maps, and variances. The Permit Streamlining Act does not apply to ministerial projects such as building permits, or to legislative or quasi-legislative projects such as rezoning requests and general plan amendments (Government Code § 65928 and related court interpretations). Upon submittal to the city, applications shall be processed in accordance with the following:

- A. Preliminary Review. ~~Within thirty days following initial submittal of an application the following actions shall be taken~~ After an application has been filed and appropriate fees have been paid, the application shall be examined by the zoning administrator or other responsible administrative officer to determine whether it contains all of the required information and is complete for the purposes of complying with Government Code § 65928. No later than 30 days following the submittal of the application, the applicant shall be notified in writing whether the application is deemed to be complete or incomplete. If the application is determined to be incomplete, the applicant shall be notified in writing of the reasons therefor and informed of the information still needed to make the application complete. If the city does not inform the applicant within the 30-day period, the application will be deemed complete.

- ~~1. A determination shall be made as to whether the application is in order and complete pursuant to city requirements, CEQA and local CEQA Guidelines.~~
- ~~2. If the application is determined to be not in order or complete the applicant shall be notified of the deficiencies in the application and/or specific data necessary to make it complete.~~
- ~~3. At such time as the application is determined to be complete it shall be so certified on the application form.~~

B. Initial Study. Following certification determination that an application is deemed complete the city shall review the proposal, conducting any studies necessary for its proper consideration and causing the preparation of reports for the reviewing body including any prerequisite environmental documents.

C. Final Review and Action. The filing date of an application shall be the date the application is certified determined to be complete after which the following actions shall be taken.

- 1. If the matter is one requiring a public hearing, a public hearing date shall be set and advertised pursuant to Section 17.800.009.
- 2. If the matter is one allowing zoning administrator or other administrative officer action, the matter shall be reviewed and action shall be taken.
- 3. If the matter is one requiring Planning Commission action or recommendation to the City Council, the matter will be forwarded to the Planning Commission for its review and action or recommendation, as applicable.
- 4. If the matter is one requiring City Council action, the matter will be forwarded to the City Council for their review and action.

Section 5. Sections 17.810.001 and 17.810.009 of the Brentwood Municipal Code are hereby amended to read as follows: 17.810.001 Title and purpose of provisions.

A. Title. The provisions of this chapter shall be known as the "development agreement procedures" of this title.

B. Purpose. ~~The purpose of these regulations is to allow the city and an applicant to enter into an agreement that will assure the city that a proposed project will proceed to its completion in compliance with the plans submitted by the applicant and to guarantee the applicant that the project can proceed to its completion in accordance with the rules and regulations in effect at the time of project approval.~~

- 1. Government Code § 65864 et seq. authorizes local governments to enter into development agreements with applicants for development

projects. Under appropriate circumstances, development agreements will strengthen the public planning process, encourage private participation in comprehensive planning by providing a greater degree of certainty in that process, reduce the economic costs of development, allow for the orderly planning of public improvements and services and the allocation of costs, achieve the maximum utilization of public and private resources in the development process, and assure, to the extent feasible, that appropriate measures to enhance and protect the environment of the city are achieved.

2. The objective of such an agreement is to provide assurances that, upon approval of the project, the applicant may proceed with the project in accord with existing policies, rules, and regulations subject to the conditions of approval, thus vesting certain development rights in the property. Development agreements will also ensure that all conditions of approval, including the construction of off-site improvements made necessary by such land developments, will proceed in an orderly and economical fashion to the benefit of the city. The purpose of this chapter is to establish procedures and requirements for consideration of development agreements by the city consistent with state law.

17.810.009 Development agreement contents.

The city attorney shall approve the form of each development agreement with consideration of the following: ~~The proposed agreement shall contain all the elements specified in subsections A through D of this section and may include any other provisions permitted by law including those specified in subsections E through G of this section:~~

- A. ~~The duration of the development agreement;~~ A proposed development agreement shall specify the duration of the agreement, the permitted uses of the property, the density and intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes.
- B. ~~The permitted uses of the property;~~ A proposed development agreement may include conditions, terms, restrictions and requirements for subsequent discretionary actions; provided, that such conditions, terms, restrictions and requirements for subsequent discretionary actions shall not unreasonably prevent development of the land for the uses and to the density or intensity of the development set forth in the agreement. A proposed development agreement may also provide that construction shall be commenced within a specified time, and that the project or any phases thereof be completed within a specified time.

- C. ~~The density or intensity of use, the maximum height and size of proposed buildings; A program and standards for periodic review of the development agreement shall be included.~~
- D. ~~Provisions for reservation or dedication of land for public purposes; Appropriate provisions, acceptable to the city attorney, providing security for the performance of the developer under the development agreement shall be included.~~
- E. ~~Conditions, terms, restrictions and requirements for subsequent discretionary actions; provided, that such conditions, terms, restrictions and requirements for subsequent discretionary actions shall not prevent development of the land for the uses and to the density or intensity of development or within the time periods set forth in the agreement; A development agreement shall include all conditions imposed by the city with respect to the development project, including those conditions required as a result of any environmental review prepared under the California Environmental Quality Act. Agreements for special purposes may be adopted covering only certain aspects of the project. Any such special purpose development agreement shall be identified as such.~~
- F. ~~Conditions that construction shall be commenced within a specified time and that the project or any phase thereof be completed within a specified time; All development agreements shall contain an indemnity and insurance clause, in form and substance acceptable to the city attorney, requiring the developer to indemnify the city against claims arising out of the development process; provided, that such a provision does not violate applicable law or constitute a joint venture, partnership, or other participation in the business affairs of the developer by the city.~~
- G. A development agreement may include terms and conditions relating to the applicant's financing of necessary public facilities and subsequent reimbursement over time.

Section 6. Sections 17.840.010, 17.840.011, and 17.840.012 of the Brentwood Municipal Code are hereby amended, and Section 17.840.013 of the Brentwood Municipal Code is hereby added, to read as follows:

17.840.010 Exception for cottage food operations.

For the purposes of this section a cottage food operation means an enterprise within the registered or permitted (by the Contra Costa County Environmental al Health Division department) area of a private home or apartment, or other multifamily housing unit (i.e., condominiums or townhomes), where the individual, who proposes to conduct the cottage food operation in his or her private residence and is the owner of the cottage food operation, prepares and/or packages cottage food products that are not potentially hazardous foods for direct or indirect sale to consumers as permitted by the Contra Costa County Environmental Health Division in accordance with the California Health and Safety Code. Cottage food operations are allowed as a

home occupation subject to the California Health and Safety Code ([AB 1616, Gatto. Food safety: cottage food operations](#)) and this chapter with the following exceptions and performance standards:

- A. On-Site Customers. Only one vehicle and two customers are allowed at a time on the site with a maximum of twelve customers per day for direct sales. Such direct sales to customers shall be limited to the hours of eight a.m. to six p.m. Monday through Saturday. Direct sales on Sunday, as well as outdoor sales, are prohibited.
- B. On-Site Dining. On-site dining is prohibited.
- C. Employees. Only one full-time equivalent employee, not including the operator's family or household members, shall be on the premises of the cottage food operation at any time.
- D. Parking and Loading Requirements. For single-family homes, parking spaces for the cottage food operator and any employee shall be accommodated on the property site. For apartments and multifamily developments, the cottage food operator's designated space(s) shall be available for the use, including parking spaces for the applicant's own vehicles and any employee. On-site parking in an apartment complex or other multifamily residence requires approval from the property owner, landlord, homeowners association or property manager.

On-street parking spaces may be used for persons picking-up and/or delivering materials for the operation and third-party retailers coming to the property if proposed.

Loading of food products into vehicles may occur anytime within an enclosed garage when the garage door is shut. Hours for loading vehicles outside of a garage are limited from eight a.m. to six p.m. Monday through Saturday with no Sunday hours. Vehicles shall not idle when being loaded.

- E. Solid waste collection is limited to the city's regular cart service. No commercial trash collection shall occur on the site.
- F. There shall be no discharge of grease associated with the cottage food operation into the city's solid waste or storm drain system.

17.840.011 Exception for microenterprise home kitchen operation (MEHKO).

A microenterprise home kitchen operation (MEHKO) is a small-scale, home-based restaurant operated by a resident in a private home. MEHKOs can offer meals for dine-in, take-out, and/or delivery, and can also be used as a commissary for permitted food carts. A MEHKO is subject to the California Health and Safety Code (AB 626, Garcia. California Retail Food Code: microenterprise home kitchen operations) and the permitting requirements of the Contra Costa County Environmental Health Division, and shall meet all of the following requirements:

- A. Operating Conditions. A MEHKO may operate within the City of Brentwood only under the following conditions:
1. A valid permit must be obtained from the Contra Costa County Environmental Health Division before a person may lawfully commence operations as a MEHKO.
 2. A business license must be obtained from the City of Brentwood pursuant to Chapter 5.04 of the Brentwood Municipal Code before a person may lawfully commence operations as a MEHKO.
 3. Onsite consumption of food is permitted only pursuant to Health and Safety Code § 113825 and 114367.2 and food may be provided for delivery only pursuant to Health and Safety Code § 114367.5.
 4. Solid waste collection shall be limited to the city's regular cart service. No commercial solid waste collection shall occur on the site.
 5. There shall be no discharge of grease associated with the microenterprise home kitchen operation operation into the city's sanitary sewer, solid waste, or storm drain system.

17.840.01~~2~~ Authority and effect.

Nothing in this chapter shall be construed to preclude the enforcement of other applicable county, state and federal laws and regulations, including, but not limited to, Americans with Disabilities Act requirements and building code requirements.

17.840.01~~3~~ Appeal.

Action of the community development director may be appealed pursuant to Chapter 17.880.

Section 7. Section 17.870.009 of the Brentwood Municipal Code is hereby amended to read as follows:

17.870.009 Appeal.

Action by the Planning Commission denying a rezoning or zoning ordinance text amendment may be appealed pursuant to Chapter 17.880.