

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 TO ADD REGULATIONS AND DEVELOPMENT STANDARDS RELATED TO STREAM SETBACKS

WHEREAS, City staff prepared a zoning text amendment to amend the Brentwood Municipal Code to add regulations and development standards related to stream setbacks within the City by adding Brentwood Municipal Code Section 17.625 (Stream Setback Regulations) (the "Ordinance"); and

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

WHEREAS, Goal COS 3 of the Conservation and Open Space Element of the City's General Plan calls for the protection and enhancement of Brentwood's ecosystem and natural habitats; and

WHEREAS, Policy COS 3-1 of the Conservation and Open Space Element of the City's General Plan recognizes that sensitive habitats include creek corridors, wetlands, vernal pools, riparian areas, wildlife and fish migration corridors, native plant nursery sites, waters of the United States, sensitive natural communities, and other habitats designated by state and federal agencies; and

WHEREAS, Policy COS 3-1 of the Conservation and Open Space Element of the City's General Plan looks to preserve and enhance those biological communities that contribute to Brentwood's and the region's biodiversity including, but not limited to, wetlands, riparian areas, aquatic habitat, and agricultural lands; and

WHEREAS, Action COS 3a of the Conservation and Open Space Element of the City's General Plan requires new development, as well as infrastructure projects, long-range planning projects, and other projects, to comply with the requirements of the HCP/NCCP to ensure that potentially significant impacts to special-status species and sensitive resources are adequately addressed; and

WHEREAS, the proposed HCP/NCCP conservation measures address the landscape level, community-level (or habitat), and species-level impacts, and include measures to address the following objectives: design of covered activities to avoid or minimize impacts on covered species and covered vegetation communities; preservation of covered vegetation communities; preservation of covered species populations and habitats; restoration of covered species habitat and vegetation communities to compensate for direct and indirect impacts on specific species and vegetation communities; restoration of species habitat to contribute to the recovery of listed covered species and help prevent the listing of non-listed covered species, and management of preserves to maximize the functions of habitats for covered species; and

WHEREAS, by developing a plan that addresses natural resource issues comprehensively and proactively, the City would increase its control over local land use issues and benefit species and project proponents alike; 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 because 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 with the General Plan, as amended from time to time, inasmuch as it helps implement Brentwood's General Plan Conservation and Open Space Element, including, specifically, Goal COS 3, in that the regulations will be used to help protect and enhance Brentwood's ecosystem and natural habitats by maintaining a buffer zone between urban development and existing and restored streambeds throughout the City. In addition, the amendment would help to implement Policies COS 3-1 and COS 3-2 in that the regulations will be used to preserve and enhance biological communities that contribute to the biodiversity of Brentwood and the region by maintaining and enhancing the water quality of the streams to protect native fish populations. Lastly, Action COS 3a would be implemented in that these regulations will be required of qualifying new development to ensure that potentially significant impacts to special status species and sensitive resources are adequately addressed.

The City Council likewise finds that the Ordinance is appropriate and is not contrary to the public interest in that it will add clarity to and update the provisions of the Brentwood Municipal Code and the Zoning Ordinance.

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. 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"

Chapter 17.625 of the Brentwood Municipal Code is hereby added to read as follows:

Chapter 17.625 Stream Setback Regulations**17.625.001 Title and purpose of provisions.**

- A. Title. The provisions of this chapter shall be known as the "Stream Setback Regulations" of this title.
- B. Purpose. This section is intended to protect the City's creek and riparian areas, which provide benefits to the community in the form of natural habitats, flood protection and stormwater runoff, and areas for active and passive recreation and is intended to achieve the following purposes:
 - 1. Maintain or improve water quality by filtering sediments and pollutants from urban runoff before they reach the stream.
 - 2. Allow for protection of preserved and restored riparian woodland and scrub within and adjacent to the stream channel.
 - 3. Maintain a buffer zone between urban development and existing and restored nesting habitat for Swainson's hawk and other bird species.
 - 4. Maintain and enhance the water quality of the stream to protect native fish populations, including populations of special-status species that occur in downstream reaches (e.g. fall-run Chinook salmon in Marsh Creek).
 - 5. Maintain a more viable wildlife corridor for some species (e.g. California red-legged frog, foothill yellow-legged frog) than would be present with a narrower buffer zone.
 - 6. Maximize the natural flood protection value of the floodplain.
 - 7. Provide for recreational trails along the corridor that are compatible with wildlife use.

17.625.002 Applicability of provisions—General.

A stream setback will be applied to all development projects which include or are adjacent to any perennial, intermittent, and ephemeral streams, including projects not covered by the Final East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP). All projects shall follow Conservation Measure 1.7 "Establish Stream Setbacks" of the Final HCP/NCCP to determine the applicable regulations and setbacks. The setback shall be measured from the top of the stream bank in an aerial perspective (to eliminate differences in setbacks on different slopes). Where native woody riparian vegetation is present, setbacks will extend, at minimum, to the outer dripline of this vegetation. Stream setbacks will be established for all perennial, intermittent, and ephemeral streams for all covered activities within the Urban Development Area.