

ORDINANCE NO. 700

**AN ORDINANCE OF THE CITY OF BRISBANE
AMENDING BMC CHAPTERS 15.10, 17.02, 17.12, 17.16, 17.32, 17.34, AND 17.43 TO
AMEND REGULATIONS PERTAINING TO
ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS**

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

SECTION 1: Section 15.10.040 - Definitions in Chapter 15.10 – Additions, alterations, and major rebuilds to existing buildings of the Municipal Code is amended to read as follows:

(Subsections A and B, no change)

- C. “Floor Area” shall mean the sum of the gross horizontal areas of all floors of all buildings or structures measured from the interior face of the exterior walls, but excluding each of the following:
1. Any area where the floor to ceiling height is less than six (6) feet.
 2. Any detached garage or other detached accessory structure which does not constitute habitable space.
 3. Any attached carport or covered deck.
 4. Any state-exempt attached or detached accessory dwelling unit where authorized pursuant to Chapter 17.43 of Title 17 of this Code.

(Subsections D and E, no change)

SECTION 2: Section 15.10.060 - Exceptions in Chapter 15.10 – Additions, alterations, and major rebuilds to existing buildings of the Municipal Code is amended to read as follows:

(Subsections A and B, no change)

- A. Standard Exceptions. The following standard exceptions to Section 15.10.050 shall apply:
1. The area of any additions and/or alterations not exceeding a cumulative total of four hundred (400) square feet within any five (5) year period.
 2. The conversion of existing floor area in an existing single-family or multiple-family dwelling to an accessory dwelling unit where authorized pursuant to Chapter 17.43 of Title 17.
 3. The area of any addition and/or alteration for the creation or expansion of a state-exempt attached or detached accessory dwelling where authorized pursuant to Chapter 17.43 of Title 17.
 4. Work involving exterior surfaces, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck.
 5. Alterations, renovations or repairs which do not essentially change the uses of the rooms within the building.

(Subsection B, no change)

SECTION 3: Section 17.02.235 - Dwelling in Chapter 17.02 - Definitions of the Municipal Code is amended to read as follows:

(Subsections A through D, no change)

- E. "Accessory dwelling unit" means a separate dwelling unit created upon a site that contains a single-family dwelling, duplex, or multiple-family dwelling. Subject to the restrictions of this title, the accessory dwelling unit may be within, attached to, or detached from the single-family dwelling, duplex, or multiple-family dwelling. An accessory dwelling unit shall include permanent provisions for living, sleeping, eating, cooking, and sanitation. The term "secondary dwelling unit" shall have the same meaning throughout this title. An accessory dwelling unit also includes the following:
 - 1. An efficiency unit, as defined in section 17958.1 of the Health and Safety Code.
 - 2. A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(Subsections F through H, no change)

SECTION 4: Section 17.12.020 - Permitted uses in Chapter 17.12 - R-BA Brisbane Acres Residential District of the Municipal Code is amended to read as follows:

The following permitted uses shall be allowed in the R-BA district:

- A. Single-family dwellings.
- B. Accessory structures and uses incidental to a permitted use, including personal cultivation of cannabis in compliance with Title 8, Chapter 8.12.
- C. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.
- D. Small family day care homes.
- E. Large family day care homes.
- F. Accessory dwelling units and junior accessory dwelling units, in accordance with Chapter 17.43 of this title.

SECTION 5: Section 17.32.070 – Exceptions – Setback requirements in Chapter 17.32 – General Use Regulations of the Municipal Code is amended to read as follows:

(Subsections A.1 through A1.3, no change)

- 3. Accessory Dwelling Units
 - a. Exceptions to the setback requirements for detached accessory dwelling units shall be as established in Chapter 17.43.
 - b. Attached accessory dwelling units within a principle or primary structure are subject to the setback exceptions contained within Section 17.32.070.

(Subsections B and C, no change)

SECTION 6: Section 17.34.020 – Minimum Requirements in Chapter 17.34 – Off-street Parking of the Municipal Code is amended to read as follows:

- A. The following minimum parking requirements shall apply to all buildings erected, new uses commenced, and to the area of extended uses commenced after the effective date of this chapter. For any use not specifically mentioned in this chapter, the planning commission shall determine the amount of parking required. All required off-street parking facilities shall be on-site unless specified differently in this chapter or as permitted under Title 12 of this code. Required off-street parking facilities need not be provided as covered parking unless specified differently in this chapter:

Uses:	Parking Requirements:
Single-family dwellings and group care homes:	
Studio or 1-bedroom dwellings not more than 900 square feet in floor area:	1 off-street space (uncovered or covered).
All other dwellings not exceeding 1,800 square feet in floor area:	1 off-street space plus 1 space which shall be in a garage or carport.
Dwellings exceeding 1,800 square feet in floor area on lots having less than 37.5 feet in frontage:	2 off-street spaces plus 1 space which shall be in a garage or carport.
Dwellings exceeding 1,800 square feet in floor area on lots of 37.5 feet frontage or greater:	2 on-street or off-street spaces plus 2 spaces which shall be in a garage or carport.
	See Section 17.34.020.B.1. regarding garage and carport exclusions from the floor area calculation.
	Additional guest parking spaces shall be provided for all residential subdivisions of 5 or more single-family residences, at the rate of 1 parking space for every 5 units. Such spaces shall be located entirely within the public right-of-way and available for public use. Any accessible parking spaces required per Section 17.34.040.D. shall count as guest parking spaces.
Accessory dwelling units	In the R-1, R-2, R-3, NCRO-2, SCRO-1, PAOZ-1, or PAOZ-2 Districts: No off-street parking required. In the R-BA and PD Districts: 1 off-street parking space (uncovered or covered) per accessory dwelling unit or per bedroom, whichever is less, unless any of the following criteria applies: 1. The accessory dwelling unit is located within one-half mile walking distance of public transit; 2. The accessory dwelling unit is part of the proposed or existing dwelling, as defined in Section 17.02.235, or an accessory

	structure as defined in subsection B of Section 17.02.755; 3. Where the accessory dwelling unit is located within an architecturally and historically significant historic district; 4. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit; or When there is a car share vehicle located within one block of the accessory dwelling unit.
Junior accessory dwelling units	No off-street parking required.
Duplex or multiple family dwelling units; Mobile home park units:	
Studios	1 (uncovered or covered) space per unit.
1-bedroom units	1½ spaces (1 of which shall be covered) per unit; only 1 (covered) space required for units not over 900 square feet in floor area.
2-bedroom units	1½ spaces (1 of which shall be covered) per unit.
3-bedroom units or larger	2 spaces (1 of which shall be covered) per unit, plus 1 (uncovered or covered) space for units over 2,700 square feet.
	See Section 17.34.020.B.1. regarding garage and carport exclusions from the floor area calculation.
	Additional guest parking spaces shall be provided for all developments of 5 or more units at the rate of 1 parking space for every 5 units. The accessible parking spaces required per Section 17.34.040.D. shall count as guest parking spaces.
Emergency shelters	0.35 space per bed plus 1 space per staff member on the largest shift.
Hotels, motels	One space per unit, plus applicable requirements for restaurants, bars and meeting halls.
Cultural facilities, meeting halls and places of worship	One space for each 50 square feet of assembly area or 1 space for each 4 fixed seats, whichever is greater, plus 1 space for each 300 square feet of the remaining floor area of the building (meeting rooms not exceeding 750 square feet and ancillary to an office use shall be included with the floor area of the office in calculating the parking requirement for the office use).
Commercial recreation	3 spaces per ball court; 2.5 spaces per batting cage; 4 spaces per lane for bowling alleys; 2 spaces per tee for golf courses; 20 spaces per playing field; 2 spaces per shooting range; 2 spaces per horse stall for stables; 1 space per 100 square feet of water area for

	swimming pools.
	For commercial recreation uses that do not fall within the above categories, 1 parking space shall be required for every 4 fixed seats for spectators, 1 parking space per each 200 square feet of floor area used for indoor commercial recreation, and 1 parking space per each 1,000 square feet of site area used for outdoor commercial recreation.
Marinas	1 space per 0.75 berths.
Schools—Public, private or commercial	1 space for each classroom and office.
Hospitals	1 space per bed plus 1 space for each 2 employees on the largest shift.
Financial services	1 space for each 200 square feet of gross floor area.
Administrative office	1 space for each 300 square feet of gross floor area.
Professional office	1 space for each 250 square feet of gross floor area.
Retail stores, restaurants, bars, offices	1 space for each 300 square feet of gross floor area.
Service stations	2 spaces for each working bay plus 1 space for each employee on the largest shift.
Warehousing, light fabrication, food production, media studios, printing	1 space for each 1,000 square feet of gross floor area.
Convalescent hospitals, sanitariums, rest homes	1 space for each 7 beds plus 1 space for each 2 employees on the largest shift.

(Subsection B, no change)

SECTION 7: Section 17.43.020 - Definitions in Chapter 17.43 - Accessory Dwelling Units and Junior Accessory Dwelling Units of the Municipal Code is amended to read as follows:

In addition to the definitions set forth in Chapter 17.02, all of which are applicable to this chapter, the following words and phrases shall have the meanings respectively ascribed to them in this section, in accordance with Chapter 13 to Division 1 of Title 7 of the Government Code, or successor provisions, unless the context or the provision clearly requires otherwise:

“Impact fees” include the fees specified in Sections 66000 and 66477 of the Government Code, but do not include utility connection fees or capacity charges.

"Living area" means the interior habitable area of a main dwelling unit, including basements and attics but not including a garage or any accessory structure.

"Main dwelling" means that dwelling unit on the property that is not an accessory dwelling unit or a junior accessory dwelling unit.

“Efficiency kitchen” means a kitchenette or a small kitchen or part of a room equipped as a kitchen in a junior accessory dwelling unit and shall include all of the following: (1) a cooking facility with appliances, and (2) a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

“Multiple-family dwellings” means a dwelling than contains two (2) or more attached dwelling units (including a “duplex”), provided, however, that a property containing a single-family dwelling and an attached lawful accessory dwelling unit and/or a junior accessory dwelling

unit shall not be deemed a multiple-family dwelling. The term does not include a dwelling group as defined in Section 17.02.235.

“State-exempt accessory dwelling unit” means an accessory dwelling unit that is not subject to development or design standards, including both standards within this title and standards found in state accessory dwelling unit law that are not specifically listed in Government Code §66323. This includes, but is not limited to, parking, height, setbacks, or other zoning provisions (e.g., lot size, open space, floor area ratio, etc.). See Section 17.43.070(A) for accessory dwelling units that are considered state-exempt accessory dwelling units.

SECTION 8: Section 17.43.030 – Permit Requirements in Chapter 17.43 - Accessory Dwelling Units and Junior Accessory Dwelling Units of the Municipal Code is amended to read as follows:

- A. Except as provided by subsection C of this Section 17.43.030, building permit applications for junior accessory dwelling units or accessory dwelling units shall be ministerially processed within sixty (60) days of receipt of a complete building permit application and approved if they meet the requirements of this chapter. Incomplete applications will be returned to the applicant with a written explanation of the additional information required for approval.
- B. Notwithstanding subsection A, if the building permit application submitted will also create a new single-family dwelling or multiple-family dwelling on the lot, the application for the junior accessory dwelling unit or accessory dwelling unit(s) shall not be acted upon until the building permit application for the new single-family dwelling or multiple-family dwelling is approved, but thereafter shall be ministerially processed within sixty (60) days of receipt of a complete application and approved if it meets the requirements of this chapter. Occupancy of the junior accessory dwelling unit or accessory dwelling unit(s) shall not be allowed until the City approves occupancy of the main dwelling.
- C. The City shall grant a delay in processing an application for an accessory dwelling unit or junior accessory dwelling unit if requested by the applicant in writing.
- D. All junior accessory dwelling unit and accessory dwelling unit applications shall be subject to building inspection and permit fees as established by resolution of the City Council and water and sewer connection and capacity fees in compliance with Title 13, except that:
 - 1. No impact fees may be imposed on a junior accessory dwelling unit or accessory dwelling unit that is less than seven hundred fifty (750) square feet.
 - 2. For accessory dwelling units that have a floor area of seven hundred fifty (750) square feet or more, impact fees shall be charged proportionately in relation to the current impact fees for the square footage of the main dwelling.

SECTION 9: Section 17.43.040 - Development regulations for accessory dwelling units in Chapter 17.43 - Accessory Dwelling Units and Junior Accessory Dwelling Units of the Municipal Code is amended to read as follows:

Accessory dwelling units shall comply with all of the following development standards:

- A. Zoning Districts. Accessory dwelling units may only be established or occupied in the R-1, R-2, R-3, R-BA, NCRO-2, SCRO-1, PAOZ-1, PAOZ-2 and PD zoning districts with an existing or proposed single-family, multiple-family dwelling, or dwelling group.

- B. Density. An accessory dwelling unit that conforms to this chapter shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located. The accessory dwelling unit shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot and shall not be considered in the application of any City ordinance, policy, or program to limit residential growth.
- C. Lot Size. There is no minimum lot size requirement.
- D. Number of Units.
1. Notwithstanding subsection 3., no more than one accessory dwelling unit may be constructed on any lot developed with a single-family, multiple-family dwelling, or dwelling group, except that multiple state-exempt accessory dwelling units may be constructed in accordance with Section 17.43.070.
 2. The maximum number of accessory dwelling units permitted on any lot developed with a multiple-family dwelling shall comply with Section 17.43.050 of this chapter.
 3. No more than a total of four (4) dwelling units, including accessory dwelling units, may be built in the same lot area typically used for a single-family residence for which an urban lot split or two-unit development was approved under Chapter 17.05 of this Title.
- E. Attached or Detached. Accessory dwelling units may be attached to or located within the existing or proposed main dwelling, including garages, storage areas, or accessory structures, or detached from the main dwelling on the same lot.
- F. Unit Size. Accessory dwelling units shall not exceed one thousand (1,000) square feet in floor area, as defined in Section 17.02.315 of Chapter 17.02 of this title.
1. Unit size for state-exempt accessory dwelling units is established under Section 17.43.070(C).
- G. Setbacks. Accessory dwelling units shall be subject to the following setback requirements:
1. Front Setback: The minimum front setback shall be as established in the underlying zoning district regulations.
 - a. State-exempt units may be located anywhere in the front setback area.
 2. Side Setback. Accessory dwelling units on any lot shall have a side setback of at least four (4) feet or as established in the underlying zoning district, whichever is less.
 3. Rear Setback. Accessory dwelling units on any lot shall have a rear setback of at least four (4) feet.
 4. No setback shall be required for an existing, legally permitted living area, garage, or accessory structure with nonconforming setbacks that is converted to an accessory dwelling unit or a portion of an accessory dwelling unit or an accessory dwelling unit constructed in the same location and to the same dimensions, including height, as an existing, legally permitted living area, garage, or accessory structure with nonconforming setbacks.
 5. Setback exceptions for detached accessory dwelling units.
 - a. Overhanging Architectural Features (Such as Eaves, Cornices Canopies, Rain Gutters and Downspouts). May extend into required setback areas, but no closer

than 2½ feet from the side lot line. Rain gutters and downspouts may extend no closer than 2 feet from the side lot line. A noncombustible awning over the main entrance to an accessory dwelling unit may extend into any portion of the setback area, but shall not extend over or drain onto an abutting property.

- b. Stairs, Ramps and Landings (That Are Open and Uncovered). Shall be constructed of noncombustible material. No more than 1 set of stairs per accessory dwelling unit may extend from the structure into required setback areas. Stairs on grade, sidewalks, and other flatwork constructed of noncombustible materials may be located anywhere within setback areas.
- c. Supported Decks, Cantilevered Decks and Balconies. Shall be no closer than 4 feet from any property line or the minimum setback required within the underlying zoning district, whichever is less.
- d. No exceptions to the setback requirements shall be permitted for any of the following: cantilevered windows (such as bay, box, bow, and greenhouse windows); chimney boxes; exposed plumbing; or mechanical equipment such as heating, air conditioning units, or heat pumps.

- 6. Setback exceptions for attached accessory dwelling units are as provided in Section 17.32.070 of this title.

H. Lot Coverage. Accessory dwelling units shall be included in calculating the lot coverage for the lot on which the accessory dwelling unit is located.

- 1. State-exempt accessory dwelling units shall be excluded from lot coverage requirements.

I. Floor Area Ratio. The floor area of the accessory dwelling unit shall be included in calculating the floor area ratio for the lot on which the accessory dwelling unit is located.

- 1. State-exempt accessory dwelling units shall be excluded from floor area ratio calculations.

J. Height.

- 1. Attached accessory dwelling units shall not exceed two stories and shall be subject to the height maximum established in the underlying zoning district.
- 2. Detached accessory dwelling units:
 - a. On a lot with an existing or proposed single family or single-story, multifamily dwelling unit, detached accessory dwelling units shall not exceed sixteen (16) feet.
 - b. On a lot with an existing or proposed multistory, multifamily dwelling unit, detached accessory dwelling units shall not exceed eighteen (18) feet.
 - c. On a lot with an existing or proposed single family or multifamily dwelling unit that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code, detached accessory dwelling units shall not exceed eighteen (18) feet.

K. Required Facilities. An accessory dwelling unit shall include all of the following facilities:

1. A kitchen, including a sink, food preparation counter, storage cabinets, and permanent cooking facilities such as a range or cooktop and oven, that meet Building Code standards; and
 2. A full bathroom, including sink, toilet, and shower and/or bath facilities.
- L. Landscaping. Accessory dwelling units shall be subject to the landscaping requirements of the underlying zoning district except that state-exempt accessory dwelling units are exempt from landscaping requirements.
- M. Parking. Parking spaces for the main dwelling and accessory dwelling units shall be provided in accordance with the requirements set forth in Chapter 17.34 except that state-exempt accessory dwelling units are exempt from parking requirements.
1. When a garage, carport, covered parking structure, or uncovered parking space is demolished or converted in conjunction with the construction of an accessory dwelling unit, any parking spaces that were provided by such garage, carport, covered parking structure, or uncovered parking space are not required to be replaced.
- N. Unit Access.
1. As required by Section 17.01.060, the lot on which the accessory dwelling unit is located shall have a legal means of access to the public right of way that complies with the street standards set forth in Section 12.24.010.
 2. A separate exterior entry from the main entrance to the main dwelling shall be required to serve each attached accessory dwelling unit. Interior entry access between an accessory dwelling unit and the main dwelling is permitted, provided that the interior entry is located off a common living area of the main dwelling, such as a living room, family room, dining room, kitchen, or an interior hallway leading to common living areas.
- O. Utilities. The lot is served by adequate water, sewer, and storm drain facilities which comply with city standards as established per Title 13 of this Code. An accessory dwelling unit shall not be considered a new residential use for the purposes of calculating connection fees or capacity charges for water and sewer service provided by the City, pursuant to Title 13 of this Code. As to the main dwelling, a separate water connection, a separate sewer service connection, or a separate power connection for water, sewer, and power service is not required for an accessory dwelling unit.
- P. Compliance with Codes. The accessory dwelling unit and all new construction on the lot that will be performed in connection therewith shall comply with all applicable provisions of this title and all applicable building, health and fire codes.
1. Accessory dwelling units shall not be required to provide fire sprinklers except when fire sprinklers are required for the main dwelling, as determined by the building official consistent with Chapter 15.10.

SECTION 10: Section 17.43.050 - Accessory dwelling units in multiple-family dwellings in Chapter 17.43 - Accessory Dwelling Units and Junior Accessory Dwelling Units of the Municipal Code is deleted in its entirety and replaced to read as follows:

- A. Accessory dwelling units on lots with existing or proposed multiple-family dwellings shall comply with the development regulations established in Section 17.43.040 of this chapter,

except that multiple state-exempt accessory dwelling units may be constructed in accordance with subsection B.

B. Multiple state-exempt accessory dwelling units shall be allowed on lots with existing or proposed multiple-family dwellings, as defined in Section 17.43.020, in accordance with Section 17.43.070 as follows:

1. Attached Accessory Dwelling Units. At least one (1) attached accessory dwelling unit shall be allowed per lot developed with an existing multiple-family dwelling.
 - a. The total number of attached accessory dwelling units permitted shall not exceed a maximum of twenty-five percent (25%) of the total number of existing dwelling units within the existing multiple-family dwelling.
 - b. Attached accessory dwelling units shall be allowed within existing portions of multiple-family dwellings that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, provided, that each accessory dwelling unit complies with state building standards for dwellings. An accessory dwelling unit shall not be created within any portion of the habitable area of an existing dwelling unit in a multiple-family dwelling.
2. Detached Accessory Dwelling Units. Multiple detached accessory dwelling units, not to exceed the numbers specified below, as applicable, shall be allowed on a lot that has an existing or proposed multi-family dwelling provided that all detached accessory dwelling units shall be state-exempt accessory dwelling units constructed in accordance with Section 17.43.070.
 - a. Existing Multiple-Family Dwelling. In addition to attached accessory dwelling units permitted under subsection A, not more than eight (8) detached accessory dwelling units, provided that the number of detached accessory dwelling units shall not exceed the number of existing main dwelling units on the lot.
 - b. Proposed Multiple-Family Dwelling. Not more than two (2) detached accessory dwelling units may be allowed.

SECTION 11: Section 17.43.060 - Development regulations for junior accessory dwelling units in Chapter 17.43 - Accessory Dwelling Units and Junior Accessory Dwelling Units of the Municipal Code is amended to read as follows:

Junior accessory dwelling units shall comply with all of the following development standards:

- A. Zoning Districts. Junior accessory dwelling units may only be established or occupied on lots in the R-1, R-2, R-3, R-BA, NCRO-2, SCRO-1, PAOZ-1, and PD zoning districts with an existing or proposed single-family dwelling.
- B. Density. A junior accessory dwelling unit that conforms to this Chapter 17.43 shall be deemed to be an accessory use and shall not be considered to exceed the allowable density for the lot upon which it is located. The junior accessory dwelling unit shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot and shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.
- C. Lot Size. There is no minimum lot size requirement.
- D. Number of Units.

1. Notwithstanding subsection 3., no more than one junior accessory dwelling unit may be constructed on any lot developed with an existing or proposed single-family dwelling.
2. A junior accessory dwelling unit may be permitted on a lot with an accessory dwelling unit, provided that the accessory dwelling unit(s) qualify as state-exempt units in accordance with Section 17.43.070.
3. No more than a total of four (4) dwelling units, including junior accessory dwelling units, may be built in the same lot area typically used for a single-family residence for which an urban lot split or two-unit development was approved under Chapter 17.05 of this Title.

E. Floor Area Requirements.

1. Junior accessory dwelling unit shall not exceed five hundred (500) square feet in floor area and shall be constructed within the existing walls of the main dwelling. For purposes of this section, enclosed uses within the main dwelling, such as attached garages, are considered a part of the proposed or existing single-family residence.
2. The floor area of the junior accessory dwelling unit shall be included in calculating the floor area ratio for the lot on which the junior accessory dwelling unit is located and subject to the maximum floor area ratio established in the underlying zoning district.
 - a. State-exempt junior accessory dwelling units shall be excluded from floor area ratio calculations.

F. Unit Access.

1. As required by Section 17.01.060, the lot on which the junior accessory dwelling unit is located shall have a legal means of access to the public right of way that complies with the street standards set forth in Section 12.24.010.
2. A separate exterior entry from the main entrance to the main dwelling shall be provided to serve the junior accessory dwelling unit only. Interior entry access between the junior accessory dwelling unit and the main dwelling is permitted, provided that the interior entry is located off a common living area of the main dwelling, such as a living room, family room, dining room, kitchen, or an interior hallway leading to these common living areas.

G. Required Facilities. A junior accessory dwelling unit shall include all of the following facilities:

1. At a minimum, an efficiency kitchen.
2. Sanitation facilities, but such facilities may be separated from or shared with the main dwelling.

H. Owner Occupancy. Either the main dwelling or the junior accessory dwelling unit shall be occupied by the record owner of the property as the owner's principal place of residence. In the case of ownership by a corporation, limited liability company, partnership, trust or association, either the main dwelling or the junior accessory dwelling unit shall be the principal place of residence of an officer, director, shareholder, or member of the company, a partner in the partnership, a trustor or beneficiary of the trust, a member of the association, or an employee of any such organization. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

I. Recordation of Declaration of Restrictions.

1. A Declaration of Restrictions shall be recorded to run with the land that indicates the following:
 - a. Only one unit may be occupied solely by persons other than the owner or owners of record;
 - b. If a junior accessory dwelling unit is rented, the unit shall not be rented for a period of less than 30 consecutive calendar days;
 - c. Sale of the junior accessory dwelling unit separately from the main dwelling is prohibited; and
 - d. The approved size and attributes of the junior accessory dwelling unit.
2. A copy of this Declaration of Restrictions must be given to each prospective purchaser or occupant.

J. Parking. Parking spaces for the main dwelling and junior accessory dwelling unit shall be provided in accordance with the requirements set forth in Chapter 17.34 of this title.

1. When a garage is converted in conjunction with the construction of a junior accessory dwelling unit, any parking spaces that were provided by such garage are not required to be replaced.

K. Utilities. The lot shall be served by adequate water, sewer, and storm drain facilities which comply with city standards as established per Title 13 of this Code. A junior accessory dwelling unit shall not be considered a new residential use for the purposes of calculating connection fees or capacity charges for water and sewer service provided by the City.

L. Compliance with Codes. The junior accessory dwelling unit and all new construction on the lot that will be performed in connection therewith shall comply with all applicable provisions of this title and all applicable building, health, and fire codes.

1. Junior accessory dwelling units shall not be required to provide fire sprinklers except when fire sprinklers are required for the main dwelling, as determined by the building official consistent with Chapter 15.10.

SECTION 12: Section 17.43.070 - Prohibition on sale and limitation on rental in Chapter 17.43 - Accessory Dwelling Units and Junior Accessory Dwelling Units of the Municipal Code is renumbered to Section 17.43.080 - Prohibition on sale and limitation on rental.

SECTION 13: Section 17.43.080 - Delay of enforcement of building standards in Chapter 17.43 - Accessory Dwelling Units and Junior Accessory Dwelling Units of the Municipal Code is renumbered to Section 17.43.090 - Delay of enforcement of building standards.

SECTION 14: Section 17.43.090 - Appeals in Chapter 17.43 - Accessory Dwelling Units and Junior Accessory Dwelling Units of the Municipal Code is renumbered to Section 17.43.100 – Appeals, and amended to read as follows:

Any decision or determination by the Planning Director pursuant to this chapter may be appealed in accordance with the procedure set forth in Chapter 17.52 of this title.

SECTION 15: Section 17.43.070 is added to Chapter 17.43 - Accessory Dwelling Units and Junior Accessory Dwelling Units of the Municipal Code Brisbane Municipal Code, to read as follows:

17.43.070 – State-exempt Accessory and Junior Accessory Dwelling Units

- A. The following types of units shall be considered state-exempt accessory dwelling units when all requirements and development regulations indicated under subsection C., are met:
1. An accessory dwelling unit within the proposed space of a single-family dwelling, or existing space of a single-family dwelling or accessory structure.
 2. A newly constructed, detached accessory dwelling unit.
 3. Accessory dwelling units constructed within an existing multiple-family dwelling structure not used as livable space.
 4. Detached accessory dwelling units on a lot with an existing or proposed multiple-family dwelling.
 5. A junior accessory dwelling unit within the proposed space of a single-family dwelling or existing space of a single-family dwelling when combined with an accessory dwelling unit from subsections A.1., or A.2., above.
- B. The following state-exempt accessory dwelling units are allowed as follows:

State-exempt ADU Type	Allowed on any lot with a Single-family Main Dwelling¹	Allowed on any lot with a Multiple-family Main Dwelling²
1. ADU constructed within proposed or existing SFD	Yes	No
2. Newly constructed, detached ADU	Yes	No
3. ADUs constructed in existing MFD not used as livable	No	Yes
4. Multiple detached ADUs	No	Yes
5. JADUs	Yes	No
¹ Any combination of type 1, 2, or 5 state-exempt units may be combined on a single lot with a single-family main dwelling. Provided, however, no more than a total of 4 dwelling units, including ADUs and JADUs, may be built in the same lot area typically used for a single-family residence for which an urban lot split or two-unit development was approved under Chapter 17.05 of this Title. ² Any combination of type 3 or 4 state-exempt units may be combined on a single lot with a multiple-family main dwelling.		

- C. The following shall apply to state-exempt units, in addition to compliance with the development regulations established in Sections 17.43.040 thru 17.43.060 above:

State-Exempt ADU Type	Requirements and Provisions in Addition to Development Regulations	Applicable Development Regulations
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1. ADU constructed within proposed or existing SFD	a. No limitation on unit size. b. When proposed within an existing accessory structure, the accessory structure may expand one hundred fifty (150) square feet from the existing structure for ingress and egress. c. Side and rear setbacks shall be sufficient for fire and safety, as determined by the building official.	§17.43.040
2. Newly constructed, detached ADU	a. Shall not exceed eight hundred (800) square feet in floor area.	§17.43.040
3. ADUs constructed in existing MFD non-livable space(s)	a. No limitation on unit size. b. Non-livable space(s), shall include, but is not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings. c. The planning director shall have authority to render administrative interpretations of what constitutes livable space. Any administrative interpretation by the Planning Director may be appealed to the Planning Commission in accordance with the procedure set forth in Chapter 17.52 of this title.	§17.43.040 & §17.43.050
4. Multiple detached ADUs	a. No limitation on unit size.	§17.43.040 & §17.43.050
5. JADUs	a. Side and rear setbacks shall be sufficient for fire and safety, as determined by the building official.	§17.43.060

SECTION 16: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Brisbane hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

SECTION 17: The City Council finds and determines that the adoption of this Ordinance is exempt from review under the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17, which states that the CEQA does not apply to the adoption of local ordinances regulating construction of second units, and by CEQA Section 15282(h) that exempts adoption of an ordinance regarding second units in single-family and multifamily residential zones. In addition to being statutorily exempt from CEQA, the project is consistent with the General Plan per State CEQA Guidelines Section 15183(a)--this proposal falls within a class of projects which are consistent with existing zoning or general plan policies for which an EIR was certified and shall therefore not require further review. The exception to this section requiring environmental review as might be necessary to examine project specific significant effects does not apply.

SECTION 18: This Ordinance shall be in full force and effect thirty days after its passage and adoption.

* * *

The above and foregoing Ordinance was regularly introduced and after the waiting time required by law, was thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on the 2nd day of October 2025, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor Cliff Lentz

ATTEST:

City Clerk

APPROVED AS TO FORM:



City Attorney