



## PLANNING COMMISSION AGENDA

**Tuesday, December 12, 2017**

**Study Session 6:30 p.m.**

**Planning Commission Hearings 7:00 p.m.**

*James McGrade, Chair*

*Art Willis, Vice Chair*

*Pat Fox, Commission Member*

*Melanie Schlotterbeck, Commission Member*

*Jim Grosse, Commission Member*

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This agenda contains a brief general description of each item the Commission will consider. All Planning Commission decisions may be appealed to the City Council within ten (10) calendar days of the meetings. Please contact the City Clerk at (714) 990-7756 for further information about filing an appeal or obtaining an appeal application.

The Planning Department has on file copies of written documentation relating to each item of business on this Agenda available for public inspection. Contact the Planning Department's Office at (714) 990-7674 or view the Agenda and related materials on the City's website at [www.cityofbrea.net](http://www.cityofbrea.net). Materials related to an item on this agenda submitted to the Commission after distribution of the agenda packet are available for public inspection in the Planning Department's Office at 1 Civic Center Circle, Brea, CA during normal business hours. Such documents may also be available on the City's website subject to staff's ability to post documents before the meeting.

### **Procedures for Addressing the Commission**

The Commission encourages free expression of all points of view. For record keeping purposes, if you wish to make a statement regarding any item on the agenda, please complete the form located on the podium and deposit it with the secretary. **To allow all persons the opportunity to speak, please keep your remarks limited to five (5) minutes.** If others have already expressed your position, you may simply indicate that you agree with a previous speaker. If appropriate, a spokesperson may present the views of your entire group. Commission rules prohibit clapping, booing or shouts of approval or disagreement from the audience. **PLEASE SILENCE ALL PAGERS, CELL PHONES AND OTHER ELECTRONIC EQUIPMENT WHILE COMMISSION IS IN SESSION**

### **Special Accommodations**

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Planning Department's Office at (714) 990-7674. Notification 48 hours prior to the meeting will enable City staff to make reasonable arrangements to ensure accessibility. (28 CFR 35.102.35.104 ADA Title II)

**ALL PLANNING COMMISSION DECISIONS MAY BE APPEALED TO THE CITY COUNCIL WITHIN TEN (10) CALENDAR DAYS OF THE MEETING. PLEASE CONTACT THE CITY CLERK AT (714) 990-7756 FOR FURTHER INFORMATION ABOUT FILING AN APPEAL OR OBTAINING AN APPEAL APPLICATION.**

## **STUDY SESSION**

6:30 p.m. - Executive Conference Room, Level 3

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### **CALL TO ORDER / ROLL CALL**

1. **Matters from the Audience**
  2. **Agenda Items / Clarify Regular Meeting Topics**
  3. **Informational / Project Updates**  
Brea Place Hotel Update
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## **PLANNING COMMISSION**

### **PUBLIC HEARINGS**

7:00 p.m. - Council Chambers, Plaza Level

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4. **CALL TO ORDER / ROLL CALL - COMMISSION**
5. **INVOCATION** - Pastor Torian Scott of Harvest International Church
6. **PLEDGE OF ALLEGIANCE**
7. **MATTERS FROM THE AUDIENCE**

### **APPROVAL OF MINUTES**

8. Approval of Planning Commission Meeting Minutes of September 26, 2017, October 24, 2017 and November 28, 2017.

### **PUBLIC HEARINGS**

9. Resolution recommending approval of Zoning Ordinance Amendment No. 17-02.

### **ADMINISTRATIVE ITEMS**

10. **COMMITTEE REPORTS**
11. **INFORMATIONAL / PROJECT UPDATES**
12. **ADJOURNMENT**

City of Brea

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**PLANNING COMMISSION COMMUNICATION**

**TO:** Honorable Chair and Planning Commission

**DATE:** 12/12/2017

**SUBJECT:** Approval of Planning Commission Meeting Minutes of September 26, 2017, October 24, 2017 and November 28, 2017.

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**RESPECTFULLY SUBMITTED**

Jennifer A. Lilley, AICP, City Planner

Prepared by: Carrie Hosozawa

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**Attachments**

Draft Minutes 9.26.17

Draft Minutes 10.24.17

Draft Minutes 11.28.17

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# DRAFT

## PLANNING COMMISSION MEETING MINUTES STUDY SESSION September 26, 2017

### STUDY SESSION 6:00 p.m. - Executive Conference Room, Level 3

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#### CALL TO ORDER / ROLL CALL

Chair McGrade called the meeting to order at 6:02pm.

1. **Matters from the Audience**

Opened/Closed.

2. **Agenda Items / Clarify Regular Meeting Topics**

Senior Planner, Maribeth Tinio, gave a brief update on the Cannabis Ordinance that will be before Commission next month.

3. **Upcoming Agenda Items**

Assistant Planner, Jessica Magana, gave an overview of an upcoming Tentative Parcel Map at 1800 E Lambert that will be coming to the Commission at a later date.

4. **Informational / Project Updates**

Community Development Director, David Crabtree, gave an update on Central Park Village.

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### PLANNING COMMISSION PUBLIC HEARINGS 7:00 p.m. - Council Chambers, Plaza Level

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5. **CALL TO ORDER / ROLL CALL - COMMISSION**

Present: Commissioner Jim Grosse; Chair James McGrade; Commissioner Pat Fox; Commissioner Melanie Schlotterbeck; Vice Chair Art Willis

6. **INVOCATION** - Pastor Douglas Green of North Hills Church gave the invocation.

7. **PLEDGE OF ALLEGIANCE** - Commissioner Schlotterbeck led the Pledge of Allegiance.

## 8. MATTERS FROM THE AUDIENCE

Opened/Closed.

## APPROVAL OF MINUTES

### 9. Approval of the Planning Commission Meeting Minutes of July 25, 2017.

Motion to approve minutes made by Vice Chair Willis. Seconded by Commissioner Grosse.

Motion passed by a vote of 5-0.

## PUBLIC HEARINGS

### 10. **CONSIDERATION OF CONDITIONAL USE PERMIT NO. CUP 17-04 AND PRECISE DEVELOPMENT NO. 17-02 – A REQUEST TO ALLOW A NEW RESIDENTIAL CARE FACILITY AND A PARKING MODIFICATION AT 149 WEST LAMBERT ROAD IN THE C-G GENERAL COMMERCIAL (PRECISE DEVELOPMENT) ZONE.**

Senior Planner, Maribeth Tinio, presented the item.

Commissioner Grosse asked to address the following: emergency support, parking modification, the gate on Peppertree and if residents have cars.

Douglas Pancake, the architect, addressed the Commission and spoke about design aspects of the project. Paul Mullen explained the operations and Pat Schick spoke about the vision and mission of the project.

It was confirmed the residents do not have cars.

Commissioner Schlotterbeck asked about the shuttle bus and if it would be parked on site? She inquired about public and emergency access. She also wanted to be sure the vegetation along the northern edge doesn't affect the neighbors with droppage.

12 passenger bus will be parked on site. It was affirmed that the wall on the north property line will increase in height.

Commissioner Schlotterbeck asked if the staff are RN's or LVN's. It was confirmed that various licensed nurses are on site at any given time with the Director of Health Services as the highest licensed nurse on staff.

Commissioner Fox wants to confirm access. The primary entrance was confirmed as Lambert Rd. and that the secondary exit on Peppertree would be gated and would only be used for emergency purposes.

Chair McGrade: Confirmed that a 'Knox Box' type lock would be used by emergency personnel.

Chair McGrade opened the Public Hearing for comment from the public

**Speaker 1:** Ryan Olum - Brea resident, supports project.

**Speaker 2:** Frank Gordon - Works in Brea, supports project and feels Silverado is a quality outfit.

**Speaker 3:** Reema Cattlepaul part of an eldercare concierge and spoke in support of

Silverado.

**Speaker 4:** Keith Fullington spoke in support, disagreed with Commissioner Grosse's suggestion to do away with Peppertree gate.

**Speaker 5:** Steve Martinson, mortgage broker and resident spoke in support.

**Speaker 6:** Tom Vorsick, founder of Senior Samaritans, spoke in support.

**Speaker 7:** Dr. Jane Mahkian supports the project

**Speaker 8:** Heidi Gallegos, CEO of Brea Chamber of Commerce, supports the project

**Speaker 9:** Marty Burbank, founder of OC Elder Law supports project.

**Speaker 10:** Craig Sanders, Placentia resident, supports project.

Commissioner Fox moved to approve. Seconded by Commissioner Schlotterbeck with the caveat that landscaping comeback to staff for additional review.

Motion passed by a vote of 5-0.

## **ADMINISTRATIVE ITEMS**

### **11. COMMITTEE REPORTS**

None.

### **12. INFORMATIONAL / PROJECT UPDATES**

None.

### **13. ADJOURNMENT**

Chair McGrade adjourned the meeting at 8:36pm.

Respectfully submitted,

The foregoing minutes are hereby  
approved this \_\_\_\_ day of \_\_\_\_\_

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Jennifer A. Lilley, City Planner

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James McGrade, Chair

# DRAFT

## PLANNING COMMISSION MEETING MINUTES STUDY SESSION October 24, 2017

### STUDY SESSION 6:00 p.m. - Executive Conference Room, Level 3

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#### CALL TO ORDER / ROLL CALL

Chair McGrade called the meeting to order at 6:02pm. All members present.

**1. Matters from the Audience**

Opened/Closed.

**2. Agenda Items / Clarify Regular Meeting Topics**

None.

**3. Upcoming Agenda Items**

City Planner Lilley let the Commission know that in the future a proposed Accessory Dwelling Unit Ordinance would be coming to them in November. Brea Imperial Center proposed renovations are still moving forward. The applicant is in the middle of a parking study, a traffic impact analysis and site design adjustments. Finally, an application for a hotel at 220 S Brea Blvd. was submitted for review today.

Chair McGrade asked about vacant space at Trader Joe's and whether traffic improvements had been done? City Planner Lilley said the developer has been diligent to come to an agreement with Cal Trans and should be moving forward soon.

**4. Informational / Project Updates**

City Planner Lilley provided updated information related to signage, circulation, materials and landscaping for CVS/Coffee Bean at 390 N Brea Blvd. as directed by the Commission.

The Planning Commission directed staff to work with the applicant further to resolve the potential circulation conflicts at the entrance on Lambert, sign quality, material and design, finishes/building materials and landscaping.

**5. CALL TO ORDER / ROLL CALL - COMMISSION**

Present: Commissioner Jim Grosse; Chair James McGrade; Commissioner Pat Fox; Commissioner Melanie Schlotterbeck; Vice Chair Art Willis

**6. INVOCATION** - Pastor Kirk Randolph of Southlands Church gave the invocation.

**7. PLEDGE OF ALLEGIANCE** - Commissioner Willis led the Pledge of Allegiance.

**8. MATTERS FROM THE AUDIENCE**

Nancee Hoertz, Brea Resident. Expressed concern with the project at Arrovista related to slope and erosion.

**APPROVAL OF MINUTES**

**9.** Approval of Planning Commission Meeting Minutes of August 22, 2017.

Motion to approve minutes made by Commissioner Grosse and seconded by Vice Chair Willis.

Motion passed by a vote of 5-0.

**PUBLIC HEARINGS**

**10.** Consideration of Zoning Ordinance Amendment No. 17-01 to amend Chapter 20.70 of the Brea Zoning Code to prohibit all medical and non-medical commercial cannabis uses in the City and regulate indoor cannabis cultivation, consistent with state law.

Aileen Camargo, Planning Technician, presented the item.

Commissioner Grosse moved to adopt the Resolution. Seconded by Commissioner Fox.

Motion passed by a vote of 5-0.

**ADMINISTRATIVE ITEMS**

**11. COMMITTEE REPORTS**

None.

**12. INFORMATIONAL / PROJECT UPDATES**

Commissioner Schlotterbeck invited the Commission and the public to attend a meeting on October 25th from 5-7 regarding a conservation plan for land in Carbon Canyon.



**13. ADJOURNMENT**

Chair McGrade adjourned the meeting at 7:28pm.

Respectfully submitted,

The foregoing minutes are hereby  
approved this \_\_\_\_ day of \_\_\_\_\_

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Jennifer A. Lilley, City Planner

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James McGrade, Chair

# DRAFT

## PLANNING COMMISSION MEETING MINUTES STUDY SESSION November 28, 2017

### STUDY SESSION 6:00 p.m. - Executive Conference Room, Level 3

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#### CALL TO ORDER / ROLL CALL

**Chair McGrade called the meeting to order at 6:01 pm. Roll call taken.**

Present: Chair McGrade; Vice Chair Willis; Commissioner Grosse; Commissioner Fox; Commissioner Schlotterbeck

**1. Matters from the Audience**

Opened/Closed

None

**2. Informational / Project Updates**

City Planner Lilley answered questions from Commission about status of parking garage, construction on Lambert, questions on hospital property, tracks, homeless population and hotel application.

**3. Future Agenda Items: Accessory Dwelling Unit Ordinance Update**

Assistant Planner, Jessica Magana, gave an overview and presentation of the Accessory Dwelling Unit Ordinance update that will be coming to the next Planning Commission meeting.

Chair McGrade adjourned the meeting at 6:47 pm.

#### NO PUBLIC HEARINGS

Respectfully submitted,

The foregoing minutes are hereby  
approved this \_\_\_\_ day of \_\_\_\_\_

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Jennifer A. Lilley, City Planner

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James McGrade, Chair

City of Brea

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**PLANNING COMMISSION COMMUNICATION**

**TO:** Honorable Chair and Planning Commission  
**DATE:** 12/12/2017  
**SUBJECT:** Accessory Dwelling Unit Ordinance Update

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**REQUEST**

City of Brea  
Planning Commission  
Staff Report

**Meeting Date: 12.12.17**

TO: City of Brea Planning Commission

FROM: Jennifer A. Lilley, AICP, City Planner

**REQUEST**

A proposal to amend Title 20, Chapters 20.00, 20.08.040, 20.200, 20.206, 20.208, 20.212, 20.216, and 20.220 of the Brea Zoning Ordinance the provisions pertaining to accessory dwelling units in single family and multifamily residential zones in accordance with new state legislation amending California Government Code Sections 65852.2 and 65852.22.

**RECOMMENDATION**

Staff recommends the Planning Commission:

- Adopt Resolution recommending approval of Zoning Ordinance Amendment No. 17-02.
- Recommend the City Council approve the Draft Ordinance

**BACKGROUND**

The State Legislature first adopted regulations for Second Dwelling Units (SDUs) in 1982. At that time, the Legislature identified a “tremendous unmet need” for new housing in California. Subsequent amendments to the original law were made by the State in 1986, 1990 and 1994 regarding certain development standards applicable to SDUs including the maximum size related to the size of the primary residence and required parking.

In 2003, Assembly Bill 1866 made more substantive amendments to the SDU Law in response to the relatively low number of SDUs that were being constructed throughout the state. On September 27, 2016, Governor Jerry Brown signed Senate Bill 1069 and Assembly Bill 2299, which amended Section 65852.2 of the Government Code and became effective January 1, 2017. The new Accessory Dwelling Unit (ADU) Law amended various sections of the Government Code that regulate ADUs (formerly called Second Dwelling Units) and clarifies certain requirements.

The intent of the new ADU Law is:

- to reduce the regulatory, physical and financial barriers to constructing ADUs; and

- to encourage construction of smaller, often more affordable housing options, for seniors, young adults, and others who are affected by the housing shortage in California. (Gov. Code sec. 65852.150.)

### **DISCUSSION**

The City of Brea first adopted a SDU Ordinance in 1984 to allow SDUs in single family residential zones. An amendment to the Ordinance was adopted in 2009, eliminating the discretionary review requirement of SDU in applicable single family residential zones, granting approval through a ministerial process and reducing the minimum size requirement. With the recently adopted legislation, amendments to the City's existing Ordinance are required.

The proposed provisions include but are not limited to:

- Change terminology in the Municipal Code from "Secondary Dwelling Units" to "Accessory Dwelling Units".
  - Include an ADU maximum size to not exceed 50 percent of the existing living area of the main unit, with a maximum floor area of 1,200 square feet for ministerial approval.
  - Allow various new options to meet off-street parking requirements including tandem parking, parking within required setback areas, through covered parking and/or extended driveways.
  - Allow ministerial approval of an ADU if the unit is contained within the existing space of a principal dwelling unit or accessory structure, has independent exterior access, and has side and rear yard setbacks sufficient for fire safety. As also required by the newly enacted legislation and as previously indicated above, the City's Zoning Code will include provisions where the parking requirement for ADUs can be waived in certain instances in an effort to assist homeowners with the challenges of providing off-street parking. Parking can be waived for an ADU in any of the following circumstance:
1. Located within one-half mile of public transit. The one-half mile distance is measured based on actual walking route between the ADU and the public transit rather than a straight line between points.
  2. Located within an architecturally and historically significant district. However, as of 2017 no significant historic districts exist within the City limits.
  3. Part of the existing primary residence or an existing accessory structure.
  4. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
  5. When there is a car share vehicle located within one block of the accessory dwelling unit. The City's Zoning Code will also include the following new language (as required in Government Code Section 65852.2) which will be incorporate into the existing development standards in the Municipal Code related to ADUs:
- No setback shall be required for an existing garage or an existing accessory building that is converted to an ADU.
  - A setback of not more than 5-feet from the side and rear lot lines shall be required for an ADU that is constructed above a garage.
  - An ADU shall provide one (1) additional off-street parking space in addition to the required parking for the existing dwelling unit. This additional parking space may be covered or uncovered and may be provided as tandem parking on an existing driveway.
  - An ADU may exceed the ministerially permitted size with the approval of a Certificate of Compatibility set forth in section 20.408.050.
  - Allow ADUs in all residential zones, including single family and multifamily residential zones. Textual changes to the existing Zoning Code as briefly outlined above are fully identified in Exhibit "A" (see Resolution, Attachment 1 Exhibit "A" – Draft Ordinance) to comply with State standards as outlined in Senate Bill 1069 and Assembly Bill 2299. The proposed changes are considered routine in order to comply with the mandates from the State. Therefore, it is recommended the Planning Commission approve a Resolution recommending the City Council approve Zone Change 17-02 for amendments to Title 20 "Zoning" of the City of Brea Municipal Code to continue to allow for Ministerial approval of ADUs in single family and multifamily residential zones pursuant to the requirements of SB 1069 and AB 2299, as outlined in the

attached resolution.

## **ENVIRONMENTAL ASSESSMENT**

The City of Brea has determined that the proposed project is exempt from CEQA pursuant to CEQA Guidelines Section 15282(h), "The adoption of an ordinance regarding second units in a single family or multifamily residential zone by the city or county to implement the provisions of Section 65852.1 and 65852.2 of the Government Code as forth in Section 21080.17 of the Public Resource Code", of the California Environmental Quality Act Guidelines.

## **ALTERNATE PLANNING COMMISSION ACTIONS**

- Amend the proposed Ordinance
- Deny
- Continue the item

## **Attachments**

1. Public Hearing Legal Notice
2. Code Amendment Summary
3. Draft Resolution
4. Draft Ordinance

## **RESPECTFULLY SUBMITTED**

Jennifer A. Lilley, AICP, City Planner

Prepared by: Jessica Magana

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### **Attachments**

Attachment 1: Public Hearing Notice  
Attachment 2: Code Amendment Summary  
Attachment 4: Draft Resolution  
Attachment 4: Draft Ordinance

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**CITY OF BREA  
PUBLIC HEARING NOTICE**

NOTICE IS HEREBY GIVEN by the City of Brea that a public hearing will be held by the Planning Commission on **Tuesday, December 12, 2017, at 7:00 p.m.**, or as soon thereafter as the matter can be heard, in the Council Chambers of the City of Brea Civic & Cultural Center, 1 Civic Center Circle, Brea, California 92821, in accordance with State Law and the Brea City Code, for the purpose of considering the following application:

**ZONING ORDINANCE AMENDMENT NO. ZOA 17-02** – A proposal to amend Title 20, Chapter 20.08 and all single family and multifamily zones of the Brea Zoning Ordinance to update the provisions pertaining to accessory dwelling units in single family and multifamily zones in accordance with new state legislation that amended California Government Code Sections 65852.2 and 65852.22.

The City of Brea has determined that the proposed project is exempt from CEQA pursuant to CEQA Guidelines Section 15282(h), "The adoption of an ordinance regarding second units in a single family or multifamily residential zone by the city or county to implement the provisions of Section 65852.1 and 65852.2 of the Government Code as forth in Section 21080.17 of the Public Resource Code", of the California Environmental Quality Act Guidelines.

Applicant: City of Brea  
1 Civic Center Circle  
Brea, CA 92821

*ALL INTERESTED PERSONS are invited to attend said hearing and express opinions on the matters outlined above. FURTHER INFORMATION may be obtained at the COMMUNITY DEVELOPMENT DEPARTMENT, Planning Division, or by calling (714) 990-7674.*

**IF YOU CHALLENGE THIS PROJECT AND THE RELATED ENVIRONMENTAL DETERMINATIONS IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE, DELIVERED TO THE PLANNING COMMISSION AT, OR PRIOR TO, THE PUBLIC HEARING.**

Jennifer A. Lilley, AICP  
City Planner

Date: November 21, 2017  
Publish: November 30, 2017 Star Progress

## ATTACHMENT 2

### Code Amendment Summary

The proposed language modifications area shown below as ~~striketrough~~ deletions and underline additions.

Zoning Code Section	Title 20 of the City of Brea Code is hereby amended to read as follows:
Section 20.00.070 Definitions	<del>SECOND</del> <u>ACCESSORY</u> DWELLING UNIT. An attached or detached dwelling unit which provides complete, independent living facilities for one (1) or more persons and shall include permanent provisions for living, sleeping, eating, cooking and sanitation on the same parcel as the existing single family dwelling unit is situated.
Section 20.208.020(A)(12) Uses Permitted, R-1	A maximum of one (1) <del>second</del> <u>accessory</u> dwelling unit per lot provided that:  a. The lot contains one (1) existing single family dwelling unit. b. The occupant of either the existing dwelling unit or the <del>second</del> <u>accessory</u> dwelling unit shall be the owner of both units. c. The <del>second</del> <u>accessory</u> dwelling unit shall meet all development standards as set forth in section 20.208.040 of this chapter. d. The <del>second</del> <u>accessory</u> dwelling unit shall not be constructed as to cause the existing dwelling to conflict with the minimum standards applicable to the single family zone on which it is located, including but not limited to, minimum dwelling area.
Section 20.208.040(C) Property Development Standards, Dwelling unit density, R-1	Not more than one (1) dwelling unit shall be permitted to be on any lot in the R-1 (Single Family Residential) Zone except that an <del>second</del> <u>accessory</u> dwelling unit may be permitted subject to the provisions set forth herein.
Section 20.208.040(E)(7) Property Development Standards, Yards, R-1	<u>Location of accessory dwelling units.</u>  A An attached <u>or detached</u> <del>second</del> <u>accessory</u> unit <u>that is constructed onto the primary structure, attached or detached garage or other accessory structure shall maintain a</u> <u>a rear yard of not less than ten (10) feet and conform to the development standards set forth herein.</u>  <u>b. An accessory dwelling unit constructed within existing square footage within the primary structure or within an existing accessory building on the property shall be permitted ministerially if complying with building and safety codes, has independent</u>

## ATTACHMENT 2

	<p><u>exterior access from the existing residence, and has sufficient side and rear setbacks for fire safety.</u></p> <p><u>c. No setback shall be required for an existing garage or an existing accessory building that is converted to an accessory dwelling unit, and a setback of no more than five (5) feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage. Pursuant to the standards set forth in 20.08.040, the property is required to provide and maintain parking for the primary residence.</u></p>
Section 20.208.040(H)(2) Property Development Standards, Distance Between Building, R-1	<p>A detached <del>second</del> <u>accessory</u> dwelling unit shall maintain a minimum separation of not less than ten (10) feet (regardless of openings in walls) from the external walls of the existing dwelling unit on the same lot. <u>No additional distance shall be required for an existing garage or other accessory structure that is converted to an accessory dwelling unit</u></p>
Section 20.208.040(I)(2) Property Development Standards, Minimum dwelling area, R-1	<p><del>Second</del> <u>Accessory</u> dwelling units shall have a minimum floor area of not less than one hundred fifty (150) square feet.</p>
Section 20.208.040(K)(1) Property Development Standards, Off-street Parking, R-1	<p>There shall be not less than two (2) off-street parking spaces within a garage or a three (3) sided carport for each primary dwelling unit. <u>An <del>second</del> accessory dwelling unit shall provide one (1) additional off-street parking space in addition to the required parking for the existing dwelling unit. This additional parking space may be covered or uncovered and shall meet all parking space location, dimension, and surfacing requirements for this title. The additional parking space may be provided as tandem parking on an existing driveway. Parking standards for an accessory dwelling unit shall not be required in any of the following instances:</u></p> <p><u>a. The accessory dwelling unit is located within one-half mile of public transit, including transit stations and bus stations. The one-half distance shall be measured on actual walking routes between the accessory dwelling unit and the public transit, rather than a straight line between points.</u></p> <p><u>b. The accessory dwelling unit is located within an architecturally and historically significant historic district.</u></p> <p><u>c. The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.</u></p> <p><u>d. When on-street parking permits are required but not offered to the occupants of the accessory dwelling unit.</u></p>



## ATTACHMENT 2

	<u>e. When there is a car share vehicle located within one block of the accessory dwelling unit.</u>
Section 20.208.040(O) Property Development Standards, Accessory Unit Architecture, R-1	<del>Second</del> <u>Accessory dwelling unit architecture.</u>  Each <del>second</del> <u>accessory dwelling unit</u> shall be architecturally compatible with the existing dwelling unit.
Section 20.208.040(P) Property Development Standards, Plan review, R-1	The provisions of § 20.408.040 of this title shall apply to the development of an <u>an second accessory dwelling unit</u> .
Section 20.208.040(Q) Property Development Standards, Accessory dwelling unit size, R-1	<u>Q. Accessory dwelling unit size.</u>  <u>1. The increase floor area of an accessory dwelling unit shall not exceed fifty percent of the existing living area, with a maximum total floor area of one thousand and two hundred (1,200) square feet.</u>  <u>2. Accessory Dwelling Unit may exceed the ministerially permitted size with the approval of a Certificate of Compatibility set forth in section 20.408.050.</u>
Section 20.200.020(B)(9) Uses permitted subject to a conditional use permit, Single Family - Hillside Zone	<del>9. The placement of one (1) second dwelling unit per lot subject to provisions of sections 20.208.020 and 20.208.040, of this title, excepting paragraph P. of section 20.208.040.</del>
Section 20.200.020(A)(10) Uses permitted, Single Family - Hillside Zone	<u>10. Accessory Dwelling Units, subject to the regulations contained in Section 20.208.020 and 20.208.040 of this title, and state law.</u>
Section 20.206.040(A)(2) Uses permitted, Hillside Residential	<del>Second</del> Accessory dwelling units, subject to the regulations contained in section <u>20.208.20 and 20.208.040 of this title</u> and state law.
Section 20.206.050(J) Application filing Requirements, Hillside Residential	For applications involving one (1) single-family dwelling unit residence on an existing lot, <del>or a second unit on a single lot</del> , architectural and landscaping treatment materials shall be provided consistent with the requirements for a certificate of compatibility, as set forth in section 20.408.050. <u>Accessory dwelling units shall be subject to the regulations contained in Section 20.208.020 and 20.208.040 of this title, and state law.</u>
Section 20.212.020(A)(11) Uses Permitted, R-1 (5,000)	<del>Second</del> Accessory dwelling units, subject to the regulations contained in section <u>20.208.20 and 20.208.040 of this tile</u> , and state law.

## ATTACHMENT 2

Section 20.216.020(A)(12) Uses Permitted, R-2	<u>12. Accessory dwelling units, subject to the regulations contained in section 20.208.20 and 20.208.040 of this title, and state law.</u>
Section 20.220.020(A)(13) Uses Permitted, R-3	<u>13. Accessory dwelling units, subject to the regulations contained in section 20.208.20 and 20.208.040 of this title, and state law.</u>
Section 20.08.040(C)(2)(c)(3) Development Standards, Off-street Parking and Loading, Design, parking Spaces, locations	(3) Required off-street parking in residential zones shall not be provided in areas required for ingress and egress to other parking spaces; no tandem parking is permitted, <u>except when applicable to an accessory dwelling unit pursuant to the standards as set forth in section 20.208.040 of this title.</u>

### RESOLUTION NO. PC 2017-

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BREA RECOMMENDING TO THE CITY COUNCIL THE ADOPTION OF ZONING ORDINANCE AMENDMENT NO. ZOA 17-02, A PROPOSAL TO AMEND TITLE 20, CHAPTER 20.00, 20.08 AND ALL SINGLE FAMILY AND MULTIFAMILY ZONES OF THE BREA ZONING ORDINANCE TO UPDATE THE PROVISIONS PERTAINING TO ACCESSORY DWELLING UNITS IN SINGLE FAMILY AND MULTIFAMILY ZONES IN ACCORDANCE WITH NEW STATE LEGISLATION THAT AMENDED CALIFORNIA GOVERNMENT CODE SECTIONS 65852.2 AND 65852.22.**

**A. RECITALS:**

(i) The Planning Commission of the City of Brea has heretofore held a duly noticed public hearing, as required by law, on a Zoning Ordinance Amendment to update various city code definitions and sections; amending Chapters 20.00, 20.08, 20.200, 20.206, 20.208, 20.212, 20.216, and 20.220 of Title 20 of the Brea Municipal Code, and recommending to the City Council the adoption of this Zoning Ordinance Amendment (“Zoning Ordinance Amendment” or “Amendments” herein).

(ii) The proposed Ordinance would apply to all properties within in the City with a single family residential and multifamily residential zoning designation.

(iii) The proposed Ordinance is applicable to Brea City Code Chapters 20.00, 20.08, 20.200, 20.206, 20.208, 20.212, 20.216, and 20.220 of Title 20.

(iv) California Government Code Section 65852.2 requires cities to establish standards to allow for ministerial accessory dwelling units on residential properties so as to provide additional housing stock as an essential component of the hosing supply in the California.

(v) The project proponent is the City of Brea; 1 Civic Center Circle, Brea, California 92821.

(vi) All legal prerequisites to the adoption of this Resolution have occurred.

**B. RESOLUTION:**

**NOW, THEREFORE, BE IT FOUND, DETERMINED AND RESOLVED** by the Planning Commission of the City of Brea, as follows:

1. In all respects as set forth in Recitals, Part A, of this Resolution.

2. The Planning Commission hereby finds that the project identified above in this Resolution is exempt from the requirements of the California Environmental Quality Act of 1970, as amended, and the Guidelines promulgated thereunder pursuant to Section 15282(h) of Title 14, Chapter 3, Article 19 of the California Code of Regulations.

3. The Planning Commission further finds in consideration of the Zoning Ordinance Amendment as follows:

a. Finding: The proposed Amendments are consistent with the General Plan.

Fact: Under California law, every city and county must prepare a General Plan that is comprehensive and long-term in-perspective. State law further indicates that the General Plan is the primary document a jurisdiction must utilize to regulate land use. Consequently, the Zoning Ordinance (and other city documents) must be consistent with General Plan goals, policies, and standards. As part of the Zoning Ordinance, a municipality must ensure its Ordinance maintains compliance with State and Federal law. Ongoing compliance is achieved by code amendments such as those identified in the attached Exhibit A. Therefore having a General Plan and Zoning Ordinance that are consistent with State and Federal law, and current practices, allows Brea to continue establishing the fundamental framework to guide future decision-making about development, resource management, public safety, public services, and general community well-being. The Zoning Ordinance Amendment fulfills General Plan

Housing Element Program Goal 2.0. by assisting in the provision for adequate housing to meet the needs of the community, and establish a balanced approach to meeting housing needs that include the needs of both renter and owner households. The Ordinance also fulfills General Plan Housing Element Goal 4.0 and 5.0 by mitigating any governmental constraints to housing production and affordability and by promoting equal opportunity for all residents so that residents can reside in the housing of their choice.

b. Finding: The Zoning Ordinance Amendment will not be materially injurious or detrimental to real property or improvements nor will it have a significant adverse impact upon the environment.

Fact: The proposed Zoning Ordinance Amendment will not be materially injurious or detrimental to real property or improvements, nor will the Zoning Ordinance Amendment result in a significant adverse impact upon the environment, because the proposed amendment will encourage development in the City within existing residential zones, and will thereby serve to reduce potential significant adverse environmental impacts. The changes are intended to provide for compatibility and health and safety concerns related to accessory dwelling units in existing residential zones in the City, maintain compliance with State law, and provide process and policy determinations to ensure land use balance and compatibility.

4. The proposed Amendments are consistent with the General Plan. Revisions and modifications are consistent with the General Plan Housing Element.

5. It is the purpose and intent of ZOA 17 - 02 to comply with State and Federal fair housing laws, General Plan Housing Element and current practices. The proposed changes are intend to address the State of California's housing shortage and help alleviate

barriers to encourage the development of accessory dwelling units within existing residential zones pursuant Exhibit "A" attached hereto.

6. This Commission hereby recommends that the City Council of the City of Brea adopt Zoning Ordinance Amendment No. ZOA 17 - 02, as shown in Exhibit A attached hereto.

7. The Secretary of this Commission shall certify to the adoption of this Resolution; and forthwith transmit a copy of said Resolution to the City Clerk of the City of Brea.

**ADOPTED AND APPROVED** this 12<sup>th</sup> day of December, 2017.

\_\_\_\_\_  
Chairman, Planning Commission

I, Jennifer A. Lilley, Secretary to the Planning Commission of the City of Brea, do hereby certify that the foregoing Resolution was introduced at a regular meeting of the Planning Commission of the City of Brea held on the 12<sup>th</sup> day of December, 2017, and was finally passed at a regular meeting of the Planning Commission of the City of Brea, held on the 12<sup>th</sup> day of December, 2017, by the following votes:

AYES:	COMMISSIONERS:	
NOES:	COMMISSIONERS:	
ABSENT:	COMMISSIONERS:	None
ABSTAIN:	COMMISSIONERS:	None

ATTEST: \_\_\_\_\_  
Secretary, Planning Commission

## ORDINANCE NO. 18-

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BREA ADOPTING ZONING ORDINANCE AMENDMENT NO. ZOA 17-02, A PROPOSAL TO AMEND TITLE 20, CHAPTER 20.00, 20.08 AND ALL SINGLE FAMILY AND MULTIFAMILY ZONES OF THE BREA ZONING ORDINANCE TO UPDATE THE PROVISIONS PERTAINING TO ACCESSORY DWELLING UNITS IN SINGLE FAMILY AND MULTIFAMILY ZONES IN ACCORDANCE WITH NEW STATE LEGISLATION THAT AMENDED CALIFORNIA GOVERNMENT CODE SECTIONS 65852.2 AND 65852.22.**

### **A. Recitals.**

(i) On December 12, 2017, the Planning Commission of the City of Brea conducted a duly noticed public hearing concerning Zoning Amendment No. ZOA 17-02 (ZOA 17-02) and following the conclusion thereof, adopted its resolution No. 18-\_\_, recommending that the City Council adopt said Zoning Ordinance Amendment.

(ii) On \_\_\_\_\_, 2018, the City Council of the City of Brea conducted and concluded a duly noticed public hearing concerning Zoning Ordinance Amendment No. ZOA 17 - 02, as set forth in this Ordinance. It is the intent of the City Council of the City of Brea in adopting this Ordinance to update current standards for Second Dwelling Units in Single-Family and Multifamily Residential zones pursuant to the authority set forth in California Government Code Section 65852.2 and to provide consistency with new State Law provisions, under which such units are now renamed as "Accessory Dwelling Units".

(iii) Adoption of this Ordinance is consistent with the General Plan. Under California law, every city and county must prepare a General Plan that is comprehensive and long-term in perspective. State law further indicates that the General Plan is the primary document a jurisdiction must utilize to regulate land use. Consequently, the Zoning Ordinance must be consistent with General Plan goals, policies, and standards. As part of the Zoning Ordinance, a municipality must ensure its Ordinance maintains compliance with State and Federal law. Ongoing compliance is achieved by code amendments such as those proposed for adoption by ZOA 17 - 02. Therefore, having a General Plan and Zoning Ordinance that are consistent with State and Federal law, and current practices, allows Brea to continue establishing the fundamental framework to guide future decision-making about development, resource management, public safety, public services, and general community well-being. ZOA 17 - 02 also fulfills General Plan Housing Element Program 2.0 by assisting in the provision for adequate housing to meet the needs of the community, and establish a balanced approach to meeting housing needs that include the needs of both renter and owner households. The Ordinance also fulfills General Plan Housing Element Goal 4.0 and 5.0 by mitigating any governmental constraints to housing production and affordability and by promoting equal opportunity for all residents so that residents can reside in the housing of their choice.

(iv) The City Council hereby finds and determines that the proposed amendment will not be materially injurious or detrimental to real property or improvements, nor will they have a significant adverse impact upon the environment, because the proposed amendment will impose greater limitations on development in the City, and will thereby serve to reduce potential significant adverse environmental impacts. It is therefore exempt from California Environmental Quality Act review pursuant to Title 14, Section 15282(h) of the California Code of Regulations.

(v) All legal prerequisites to the adoption of this Ordinance have occurred.

### **B. Ordinance**

NOW, THEREFORE, the City Council of the City of Brea ordains as follows:

Section 1. The City Council finds that the facts set forth in the Recitals, Part A, of this Ordinance are true and correct.

Section 2. The definition of “Second Dwelling Unit” set forth in Section 20.00.070 of Chapter 20.00 of Title 20 of the Brea City Code is hereby deleted to the alphabetical listing of definitions and the term replaced with Accessory Dwelling Unit and updated to read as follows:

**“ACCESSORY DWELLING UNIT.** An attached or detached dwelling unit which provides complete, independent living facilities for one (1) or more persons and shall include permanent provisions for living, sleeping, eating, cooking and sanitation on the same parcel as the existing single family dwelling unit is situated.”

Section 3. Subsection “12” of Section 20.208.020(A) of Chapter 20.208 of Title 20 of the Brea City Code is hereby amended to read as follows:

“12. A maximum of one (1) accessory dwelling unit per lot provided that:

- a. The lot contains one (1) existing single family dwelling unit.
- b. The occupant of either the existing dwelling unit or the accessory dwelling unit shall be the owner of both units.
- c. The accessory dwelling unit shall meet all development standards as set forth in section 20.208.040 of this chapter.
- d. The accessory dwelling unit shall not be constructed as to cause the existing dwelling to conflict with the minimum standards applicable to the single family zone on which it is located, including but not limited to, minimum dwelling area.”



Section 4. Subsection “C” of Section 20.208.040 of Chapter 20.208 of Title 20 of the Brea City Code is hereby amended to read as follows:

“C. *Dwelling unit density.* Not more than one (1) dwelling unit shall be permitted to be on any lot in the R-1 (Single Family Residential) Zone except that an accessory dwelling unit may be permitted subject to the provisions set forth herein.”

Section 5. Subsection “7” of Section 20.208.040(E) of Chapter 20.208 of Title 20 of the Brea City Code is hereby amended to read as follows:

“7. *Location of accessory dwelling units.*

a. An attached or detached accessory dwelling unit that is constructed onto the primary structure, attached or detached garage or other accessory structure shall maintain a rear yard of not less than ten (10) feet and conform to the development standards set forth herein.

b. An accessory dwelling unit constructed within existing square footage within the primary structure or within an existing accessory building on the property shall be permitted ministerially if complying with building and safety codes, has independent exterior access from the existing residence, and has sufficient side and rear setbacks for fire safety.

c. No setback shall be required for an existing garage or an existing accessory building that is converted to an accessory dwelling unit, and a setback of no more than five (5) feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage. Pursuant to the standards set forth in 20.08.040, the property is required to provide and maintain parking for the primary residence.

Section 6. Subsection “2” of Section 20.208.040(H) of Chapter 20.208 of Title 20 of the Brea City Code is hereby amended to read as follows:

“2. A detached accessory dwelling unit shall maintain a minimum separation of not less than ten (10) feet (regardless of openings in walls) from the external walls of the existing dwelling unit on the same lot. No additional distance shall be

required for an existing garage or other accessory structure that is converted to an accessory dwelling unit.”

Section 7. Subsection “2” of Section 20.208.040(I) of Chapter 20.208 of Title 20 of the Brea City Code is hereby amended to read as follows:

“2. Accessory dwelling units shall have a minimum floor area of not less than one hundred fifty (150) square feet.’

Section 8. Subsection “1” of Section 20.208.040(K) of Chapter 20.208 of Title 20 of the Brea City Code is hereby amended to read as follows:

“1. There shall be not less than two (2) off-street parking spaces within a garage or a three (3) sided carport for each primary dwelling unit. An accessory dwelling unit shall provide one (1) additional off-street parking space in addition to the required parking for the existing dwelling unit. This additional parking space may be covered or uncovered and shall meet all parking space location, dimension, and surfacing requirements for this title. The additional parking space may be provided as tandem parking on an existing driveway. Parking standards for an accessory dwelling unit shall not be required in any of the following instances:

- a. The accessory dwelling unit is located within one-half mile of public transit, including transit stations and bus stations. The one-half mile distance shall be measured on actual walking routes between the accessory dwelling unit and the public transit, rather than a straight line between points.
- b. The accessory dwelling unit is located within an architecturally and historically significant historic district.
- c. The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.
- d. When on-street parking permits are required but not offered to the occupants of the accessory dwelling unit.
- e. When there is a car share vehicle located within one block of the accessory dwelling unit.”

## ATTACHMENT 4

Section 9. Subsection “O” of Section 20.208.040 of Chapter 20.208 of Title 20 of the Brea City Code is hereby amended to read as follows:

“O. *Accessory dwelling unit architecture.* Each accessory dwelling unit shall be architecturally compatible with the existing dwelling unit.”

Section 10. Subsection “P” of Section 20.208.040 of Chapter 20.208 of Title 20 of the Brea City Code is hereby amended to read as follows:

“P. *Plan review.* The provisions of § 20.408.040 of this title shall apply to the development of an accessory dwelling unit.

Section 11. Section 20.208.040 of Chapter 20.208 of Title 20 of the Brea City Code is hereby amended to add subsection Q to read as follows:

“Q. *Accessory dwelling unit size.*

1. The increase floor area of an accessory dwelling unit shall not exceed fifty percent of the existing living area, with a maximum total floor area of one thousand and two hundred (1,200) square feet.

2. Accessory dwelling unit may exceed the ministerially permitted size with the approval of a Certificate of Compatibility set forth in section 20.408.050.”

Section 12. Subsection 9 of Section 20.200.020(B) of Chapter 20.200 of Title 20 of the Brea City Code is hereby amended to remove subsection 9 as follows:

“9. The placement of one (1) second dwelling unit per lot subject to provisions of sections 20.208.020 and 20.208.040, of this title, excepting paragraph P. of section 20.208.040.”

Section 13. Subsection A of Section 20.200.020 of Chapter 20.000 of Title 20 of the Brea City Code is hereby amended to add subsection 10 to read as follows:

“10. Accessory dwelling units, subject to the regulations contained in Section 20.208.020 and 20.208.040 of this title, and state law.”

Section 14. Subsection 2 of Section 20.206.040(A) of Chapter 20.206 of Title 20 of the Brea City Code is hereby amended to read as follows:

“2. Accessory Dwelling Units, subject to the regulations contained in Section 20.208.20 and 20.208.040 of this title, and state law.”

Section 15. Subsection J of Section 20.206.050 of Chapter 20.206 of Title 20 of the Brea City Code is hereby amended to read as follows:

J. For applications involving one (1) single-family dwelling unit residence on an existing lot, architectural and landscaping treatment materials shall be provided consistent with the requirements for a certificate of compatibility, as set forth in Section 20.408.050. Accessory dwelling units shall be subject to the regulations contained in Section 20.208.020 and 20.208.040 of this title, and state law.”

Section 16. Subsection 11 of Section 20.212.020(A) of Chapter 20.212 of Title 20 of the Brea City Code is hereby amended to read as follows:

“11. Accessory dwelling units, subject to the regulations contained in Section 20.208.20 and 20.208.040 of this tile, and state law.”

Section 17. Subsection A of Section 20.216.020 of Chapter 20.216 of Title 20 of the Brea City Code is hereby amended to add subsection 12 to read as follows:

“12. Accessory dwelling units, subject to the regulations contained in Section 20.208.020 and 20.208.040 of this tile, and state law.”

Section 18. Subsection A of Section 20.220.020 of Chapter 20.220 of Title 20 of the Brea City Code is hereby amended to add subsection 13 to read as follows:

“13. Accessory dwelling units, subject to the regulations contained in Section 20.208.020 and 20.208.040 of this tile, and state law.”

Section 19. Subsection 3 of Section 20.08.040(C)(2)(c) of Chapter 20.08 of Title 20 of the Brea City Code is hereby amended to read as follows:

(3) Required off-street parking in residential zones shall not be provided in areas required for ingress and egress to other parking spaces; no tandem parking is permitted, except when applicable to an accessory dwelling unit pursuant to the standards as set forth in section 20.208.040 of this title.

Section 20. The provisions of this Ordinance, insofar as they are substantially the same as provisions of Ordinances previously adopted by the City relating to the same matter, shall be construed as restatements and continuations of the earlier enactment, and not as new enactments. The adoption of this Ordinance does not affect the following matters:

- a. Actions and proceedings that began before the effective date of this Ordinance.
- b. Prosecution for Ordinance violations committed before the effective date of this Ordinance.
- c. Licenses and penalties due and unpaid at the effective date of this Ordinance.
- d. Collection of licenses and penalties due and unpaid at the effective date of this Ordinance.
- e. Bonds and cash deposits required to be posted, filed, or deposited pursuant to any ordinance, resolution, or regulation.
- f. Matters of record that refer to or are connected with an Ordinance previously adopted by the City the substance of which is amended by this Ordinance. Such references shall be construed to apply to the corresponding provisions of this Ordinance.

Section 8. CEQA. This Ordinance is exempt from CEQA pursuant to CEQA Guidelines section 15282(h), “the adoption of an Ordinance regarding second units in a single family or multifamily residential zone by a city or county to implement the provisions of Section 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resource Code” of the California Environmental Quality Act Guidelines.

Section 9. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

Section 10. Effective Date. This Ordinance shall become effective thirty (30) days after its adoption in accordance with the provisions of California law.

Section 11. Certification. The City Clerk shall certify to the passage of this Ordinance and cause the same or a summary thereof to be published within fifteen (15)

## ATTACHMENT 4

days after adoption in a newspaper of general circulation, printed and published in \_\_\_\_\_, California.

**PASSED, APPROVED, AND ADOPTED**, this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Lillian Harris-Neal  
City Clerk

STATE OF CALIFORNIA    )  
COUNTY OF ORANGE    ) ss.  
CITY OF \_\_\_\_\_    )

I, Lillian Harris- Neal, City Clerk of the City of Brea, do hereby certify that foregoing Ordinance No. \_\_\_\_\_ was duly and regularly adopted by the City Council of the City of Brea at a regular meeting thereof held on the \_\_\_\_ day of \_\_\_\_\_, 2018, and that the same was passed and adopted by the following vote, to wit:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Lillian Harris-Neal  
City Clerk