

## Measure Q

### **A MEASURE OF THE VOTERS OF THE CITY OF BRENTWOOD AMENDING THE GENERAL PLAN TO CREATE A NEW OPEN SPACE OVERLAY, APPLY THE OVERLAY TO DESIGNATED AREAS, AND PROHIBIT MORE INTENSIVE USES WITHOUT A VOTE OF THE PEOPLE, SUBJECT TO CERTAIN EXCEPTIONS**

The people of the City of Brentwood do hereby ordain as follows:

#### **Section 1: Purpose and Effect**

The purpose of the *Voter-Protected Open Space Initiative* (“Initiative”) is to protect and preserve open space by requiring voter approval before important community open spaces can be developed with more intensive uses. This Initiative amends Brentwood’s General Plan to create a new land use “overlay” which identifies specified areas as “Voter-Protected Open Space.” Only uses consistent with open space, parks, recreation, and agriculture are permitted in areas designated Voter-Protected Open Space. With certain limited exceptions where the City Council makes specific findings, proposals to convert Voter-Protected Open Space to other uses—such as residential and commercial uses—must first be approved by a vote of the people. Important decisions about whether open space should be lost to other forms of development should rest with Brentwood residents.

#### **Section 2: Findings**

The voters of the City of Brentwood find that this Initiative promotes the health, safety, welfare, and quality of life of the City’s residents based upon the following:

a. **Parks, open space, agricultural lands, and recreational areas form an important part of Brentwood’s unique character and represent many of its greatest assets. Protecting and maintaining the City’s natural and open space resources improves water and air quality, preserves wildlife habitat, promotes responsible environmental stewardship, and enhances recreational opportunities for Brentwood residents, among other benefits.**

b. **The City has established a goal of providing 5 acres of park land per 1,000 residents to provide sufficient areas for recreation and enjoyment of the outdoors. This Initiative advances that goal by ensuring residents have the opportunity to evaluate and vote on proposals that could reduce the amount of park land in the City.**

c. **The City’s rich agriculture heritage remains an important part of the local economy. This Initiative promotes the continued viability of agriculture in Brentwood by protecting land with agricultural potential from developmental pressure and by promoting agri-tourism.**

d. Currently, with certain restrictions consistent with State law, the City Council may authorize the conversion of open space, park, agricultural, and recreational areas to other uses. The decision to convert open space areas to more development-intensive uses is often irreversible, given the practical difficulties in reclaiming open space once it is lost. This Initiative provides Brentwood residents with a critical role in deciding whether important community open spaces should be converted to other uses.

e. This Initiative furthers a number of the City's goals for open space, including those in the Conservation and Open Space ("COS") Element of the City's General Plan. The Open Space Overlay covers lands within the City Limits that are currently designated as Parks or Permanent Open Space in the General Plan. The Open Space Overlay also includes important community open spaces that are designated in the General Plan as Semi-Public Facility and provide valuable recreational opportunities for Brentwood residents. The Open Space Overlay advances the General Plan's policies for conservation and open space by helping to protect and preserve existing open spaces for conservation, recreation, and agricultural uses, as directed by Policies COS 1-2 and COS 1-3 of the General Plan.

f. It is vital for the City to adopt a balanced vision for land use that preserves the City's natural resources, open spaces, and agricultural heritage while promoting economic development and providing high-quality and affordable housing. This Initiative is designed to further those objectives by increasing protections for existing open spaces while preserving development potential in areas of the City where residential development is permitted.

g. This Initiative will not expand the uses allowed under a property's underlying General Plan land use designation. Instead, this Initiative creates an overlay that operates in addition to the restrictions in a property's underlying land use designation. This Initiative would not require a vote of the people to change a property's underlying land use designation (for example, from Semi-Public Facility to Agricultural Conservation) to allow different uses that are also consistent with the Open Space Overlay.

h. This Initiative allows the City Council to amend the location of the overlay and/or modify permissible land uses within the overlay only under certain limited circumstances, including where the City Council determines that doing so is necessary to comply with State or Federal law. The City Council may invoke this exception only if it first makes certain factual findings, supported by substantial evidence. This exception protects the City by providing an "escape hatch" in the unlikely event that application of the overlay results in violation of a specific provision of State or Federal law, including laws concerning the provision of housing.

### **Section 3: General Plan Amendments**

This Initiative hereby amends the City of Brentwood's General Plan ("General Plan") as described below. The amendments in subsections (a) and (b) of this Section 3 may be changed only by a vote of the people.

- a. **General Plan Land Use Map Amendments:**
- The General Plan Land Use Map, attached as Exhibit A for informational purposes only, is hereby amended to include a new land use overlay designation, Voter-Protected Open Space, established in the locations indicated on the diagram attached as Exhibit B.
  - Except for the locations of the new land use overlay designation, the information depicted on Exhibit B is provided for informational purposes only and is not adopted by this Initiative.
- b. **General Plan Text Amendments:**

Text to be inserted in the General Plan is indicated as follows:

- Page 9-16 of the General Plan is amended to add the following Policies LU 1-11, LU 1-12, and LU 1-13 below existing Policy LU-10:

**Policy LU 1-11.**

**Creation of the Voter-Protected Open Space Overlay.** In 2022, the people of the City of Brentwood approved the Voter-Protected Open Space Initiative (“Initiative”), which created a new Voter-Protected Open Space overlay designation (“Open Space Overlay”) within the Land Use Element of the General Plan. The purpose of the Open Space Overlay is to preserve important community open spaces for parks, conservation, recreation, and agricultural use.

**Policy LU 1-12.**

**Implementation of the Voter-Protected Open Space Initiative.** Until November 8, 2062, the following General Plan provisions, as adopted by the Voter-Protected Open Space Initiative, may not be amended or repealed except by a vote of the people: Policy LU 1-11, Policy LU 1-12, and Policy LU 1-13.

**(a) Designation.** The Open Space Overlay applies to the lands designated Voter-Protected Open Space on the General Plan Land Use Map. Until November 8, 2062, lands designated Voter-Protected Open Space may be redesignated only by a vote of the people, or by the City Council pursuant to the procedures set forth in subsection (d).

**(b) Allowable Uses.** Lands designated as Voter-Protected Open Space may only be used for open space, parks, agricultural, and recreational uses. This designation includes park areas, open space areas, agricultural land, and indoor and outdoor recreational facilities of varying size, function, and location that are intended to serve the entire community.

**(c) Relationship to Underlying Land Use Designation.** The Open Space Overlay serves as an added set of limitations that applies in addition to any limitations imposed by a property’s underlying General Plan land use designation. The Open Space Overlay does not expand the uses permitted by underlying land

use designations. Where a property's underlying land use designation is more restrictive than the Open Space Overlay, allowable uses on the property are limited to those uses permitted by the underlying land use designation.

**(d) City Council Amendment.** The City Council may remove land from the Open Space Overlay, or amend the allowable uses for such land, if the City Council determines that doing so is necessary to comply with State or Federal law. The City Council may do so only if it first makes each of the following findings based on substantial evidence:

- (1)** A specific provision of State or Federal law requires the City to amend the Open Space Overlay;
- (2)** The amendment affects no more land than is necessary to comply with the State or Federal law;
- (3)** There are no alternative sites available to satisfy the specific State or Federal law.

In addition, the City Council may amend the General Plan to remove land from the Open Space Overlay if the City Council simultaneously adds an equal or greater amount of open space land to the Overlay. The City Council may do so only if it first makes both of the following findings based on substantial evidence:

- (1)** The land that will be removed from the Open Space Overlay will be owned by a governmental entity and used for a public purpose; and
- (2)** There will be no net loss in the amount of open space land protected by the Overlay as a result of the amendment.
- (3)** To the extent feasible, if park land is removed from the Overlay, the land that will be added to the Overlay shall be within the typical distances identified in the Parks, Trails and Recreation Master Plan Update for each park type.

**(e) Duration.** After November 8, 2062, unless extended by the voters, the voter approval requirements of this Policy LU 1-12 shall have no further force and effect, and the City Council, if it deems it in the public interest, may redesignate affected land or alter the allowable uses for the Open Space Overlay without a vote of the people. However, unless and until the City Council makes any such amendment or redesignation, the designations and allowable uses of the Open Space Overlay shall retain their full force and effect.

**Policy LU 1-13.**

**Limitations on the Effect of the Open Space Overlay.**

**(a)** Nothing in the Open Space Overlay is intended to prohibit or interfere with the provision of infrastructure and utility services, including, but not limited to, sewers, storm drains, streets, and water supply, storage, and distribution facilities.

**(b)** Nothing in the Open Space Overlay is intended to limit uses of park, open space, or agricultural land that are currently allowed under the City's General Plan land use designations for Park, Permanent Open Space, and Agricultural Conservation.

c. **General Plan Conforming Amendments:**

The General Plan is further amended as set forth in this Section 3(c) in order to incorporate the Open Space Overlay into various sections of the General Plan. Text to be inserted in the General Plan is indicated in **bold** type. Text in standard type currently appears in the General Plan and is not changed or readopted by this Initiative. The language adopted in the following amendments may be further amended as appropriate without a vote of the people, during the course of further updates and revisions to the General Plan, in a manner consistent with Policies LU 1-11, LU 1-12, and LU 1-13 of the General Plan.

- Page 3-3 of the General Plan is amended to include the following policy below existing Policy CSF 2-19:

**Policy CSF 2-20: Protect existing parks, open space, and recreational areas through implementation of the Voter-Protected Open Space Initiative, a ballot measure enacted by the people of Brentwood in 2022.**

- Page 4-1 of the General Plan is amended as follows:

Policy COS 1-3: Conversion of open space, as defined under Policy COS 1-1, to developed residential, commercial, industrial, or other similar types of uses, shall be strongly discouraged. Undeveloped land that is designated for urban uses may be developed if needed to support economic development, and if the proposed development is consistent with the General Plan Land Use Map, **including the Open Space Overlay created by the Voter-Protected Open Space Initiative.**

- Page 9-1 of the General Plan is amended as follows:

The Land Use Map (Figure LU-1) identifies the location of land uses by land use designation for lands in the city limits as well as the overall Planning Area. Uses allowed in each designation are described below under Policy LU 1-2 **and LU 1-12 (for Voter-Protected Open Space).**

- Page 9-8 of the General Plan is amended to include the following paragraph:

**Voter-Protected Open Space (VP-OS) – In 2022, the people of Brentwood passed the Voter-Protected Open Space Initiative which created a new land use overlay designation. The purpose of the overlay is to ensure that important community open spaces are not converted to more development-intensive uses without voter approval. Lands covered by the VP-OS overlay designation are limited to open space, parks, agricultural, and recreational uses, in addition to any limitations imposed by the property's underlying land use designation. The allowable uses and procedure for amending the VP-OS designation are described more fully in Policies LU 1-11, LU 1-12, and LU 1-13.**

- Page 9-15 of the General Plan is amended to include the following text below Table LU-1:

**Note: Lands designated as Voter-Protected Open Space are also subject to the limitations described in Policies LU 1-12 and LU 1-13.**

- Page 9-16 of the General Plan is amended as follows:

Policy LU 1-3: The Land Use Map may be amended from time to time in accordance with State law in order to ensure that there is an adequate supply of commercial, business park, industrial, public facility, parks, residential, and other lands to serve the City's needs. **Any amendment to lands designated as Voter-Protected Open Space must be consistent with the Voter-Protected Open Space Initiative, a ballot measure passed by the people of Brentwood in 2022.**

- Page 9-25 is amended to include the following paragraph below existing Policy LU 4-6:

**Policy LU 4-7: Protect important community open spaces by implementing the Voter-Protected Open Space Initiative, a ballot measure passed by the people of Brentwood in 2022.**

#### Section 4: Implementation

a. **Effective Date:** "Effective Date" means the date that the Initiative became effective pursuant to State law.

b. **City of Brentwood General Plan:** Upon the Effective Date of this Initiative, the provisions of Section 3 of the Initiative are hereby inserted into the City of Brentwood's General Plan ("General Plan"), as an amendment thereof; except that if the four amendments of the mandatory elements of the General Plan permitted by State law for any given calendar year have already been utilized in the year in which the Initiative becomes effective, this General Plan amendment shall be the first amendment inserted into the General Plan on January 1 of the following year. Upon the Effective Date of this Initiative, any provisions of the Municipal Code or of any other City of Brentwood ordinance or resolution that are inconsistent with the provisions adopted by this Initiative shall not be applied or enforced in a manner inconsistent with this Initiative.

c. **Interim Amendments:** The General Plan in effect on the Submittal Date as amended by this Initiative comprises an integrated, internally consistent, and compatible statement of policies for the City of Brentwood. In order to ensure that nothing in this Initiative measure would prevent the General Plan from being an integrated, internally consistent, and compatible statement of the policies of the City, as required by State law, and to ensure that the actions of the voters in enacting this Initiative are given effect, any amendment or update to the General Plan that is adopted between the Submittal date and the date that the General Plan is amended by this Initiative shall, to the extent that such

interim-enacted provision is inconsistent with the General Plan provisions adopted by this Initiative, be amended as soon as possible to ensure consistency between the provisions adopted by this Initiative and other provisions of the General Plan.

d. **Other City Plans, Ordinances, and Policies:** The City of Brentwood is hereby authorized and directed to amend the General Plan and other ordinances and policies affected by this Initiative as soon as possible and periodically thereafter as necessary to ensure consistency between the provisions adopted in this Initiative and other sections of the General Plan and other City plans, ordinances, and policies.

e. **Reorganization:** The General Plan may be reorganized or updated, or readopted in different format, and individual provisions may be renumbered or reordered, in the course of ongoing updates of the General Plan in accordance with the requirements of State law, provided that the provisions of Section 3(a) and 3(b) of this Initiative shall remain in the General Plan through at least November 8, 2062, unless earlier repealed or amended by vote of the people of the City of Brentwood.

f. **Exemptions:** The provisions of this Initiative shall not apply to the extent they would violate the constitution or laws of the United States or the State of California. Should any application of the Initiative effect an unconstitutional taking of private property, an exemption is permitted only to the minimum extent necessary to avoid such a taking. Likewise, this Initiative shall not apply to any development project or ongoing activity that has obtained, as of the Effective Date of the Initiative, a vested right pursuant to State or Federal law.

## **Section 5: Effect of Competing or Alternative Measure on the Same Ballot**

This Initiative adopts a comprehensive scheme to establish an open space overlay for the City of Brentwood. By voting for this Initiative, the voters expressly declare their intent that any other measure which appears on the same ballot as this Initiative and addresses the existence or location of an open space overlay for the City of Brentwood, or conflicts with any provision of this Initiative, shall be deemed to conflict with the entire cohesive scheme adopted by this Initiative. Because of this conflict, if this Initiative and any such other City of Brentwood measure receive a majority of votes by the voters voting thereon at the same election, then the measure receiving the most votes in favor shall prevail and no provision of the other measure shall take effect. For the purposes of this section, any other measure that appears on the same ballot as this Initiative and purports to amend any provision of this Initiative shall be deemed to directly conflict with this entire Initiative.

## **Section 6: Severability and Interpretation**

This Initiative shall be broadly construed to achieve its purpose.

This Initiative shall be interpreted so as to be consistent with all applicable Federal, State, and County laws, rules, and regulations. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, part, or portion of this Initiative is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity

of the remaining portions of this Initiative. The voters hereby declare that this Initiative, and each section, subsection, paragraph, subparagraph, sentence, clause, phrase, part, or portion thereof would have been adopted or passed even if one or more sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, parts, or portions were declared invalid or unconstitutional. If any provision of this Initiative is held invalid as applied to any person or circumstance, such invalidity shall not affect any application of this Initiative that can be given effect without the invalid application.

Any singular term shall include the plural and any plural term shall include the singular. The title and captions of the various sections in this Initiative are for convenience and organization only, and are not intended to be referred to in construing the provisions of this Initiative.

### **Section 7: Amendment or Repeal**

Except as otherwise provided herein, this Initiative may be amended or repealed only by a vote of the people of the City of Brentwood. The City Council may make technical, non-substantive modifications to the provisions of this Initiative; however, any such modification or amendment must be fully consistent with the intent and purposes of the Initiative.

### **Exhibits:**

Exhibit A –General Plan Land Use Map (attached for information purposes only)

Exhibit B – Map of Voter-Protected Open Space.