

AN INTERIM ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK
ESTABLISHING DEVELOPMENT CONTROLS FOR NEW ACCESSORY DWELLING
UNITS IN ALL RESIDENTIAL ZONES, EXCEPT IN THE R-1-H ZONE TO ALLOW THE
COUNCIL TIME TO STUDY AND CONSIDER ENACTMENT OF ZONING MEASURES
IN RESPONSE TO NEW STATE LAW (PROJECT NO. 16-7616)

City Attorney's Synopsis

New state laws that took effect on January 1, 2017 (State Assembly Bill 2299 and Senate Bill 1069), have put in place new requirements for Accessory Dwelling Units (previously identified as Second Dwelling Units or "Granny Flats"). These state laws make parts of the City's current secondary dwelling unit requirements null and void and establish new regulations regarding on-site parking, type and size of dwelling units, setbacks, and water and sewer utility requirements for all new Accessory Dwelling Units or "ADUs".

The interim ordinance enacts permissible City standards for ADUs so that new ADU applications can be evaluated by the City in compliance with state law, which provides new housing opportunities while being sensitive to the existing character of the City's single family and multifamily residential neighborhoods. Any new Accessory Dwelling Unit (former Second Dwelling Unit) applications submitted on or after January 1st, 2017 must comply with these interim development standards including permitted zones, parking requirements, size and setbacks. This Ordinance will be effective for forty-five days immediately upon adoption.

THE CITY COUNCIL OF THE CITY OF BURBANK FINDS, DETERMINES AND
DECLARES THAT:

- A. On April 25th, 2017, the Council considered adoption of an interim ordinance pursuant to Government Code Section 65858 (a), which establishes interim development standards for new Accessory Dwelling Units in all residential zones.
- B. The City Council has determined that unless the City adopts this interim ordinance, the City would be required to either approve new ADUs in locations and under standards that may have severe negative impacts on the surrounding community or adopt permanent standards for the entire City without the benefit of an inquiry and study on the appropriate locations and standards for ADUs in the City and in particular areas.
- C. The City Council finds that property owners, who have already filed 12 separate applications for ADUs, are likely to continue to submit applications for new ADUs regardless of whether the City has new ADU regulations. Without an updated local ordinance, these ADU applications would cause confusion and ambiguity regarding the applicability of provisions in the City's current second dwelling unit (i.e., accessory dwelling unit) regulations with potentially inconsistent and unfair results for City residents and with limited ability for the City to address impacts in a reasonable and

even-handed manner through its code. The implementation of the state's ADU regulations without local refinements to applicable development standards may create potential conflict with the character of the surrounding neighborhoods in which they could be built. Adoption of the interim ordinance would facilitate the City's further study of the appropriate standards for ADUs in Burbank. Accordingly, this interim ordinance is necessary to protect the public safety, health, and welfare and its urgency is hereby declared.

- D. While this ordinance is in effect, the following interim development standards shall apply in all residentially zoned properties. Any and all development standards applicable to these zones as set forth in the Burbank Municipal Code (the "Code") that are not in conflict with these provisional standards shall remain in full force and effect.
- E. This Ordinance is exempt from the California Environmental Quality Act in accordance State CEQA Guidelines, Article 18: Statutory Exemptions, Section 15282(h). This section of CEQA provides a statutory exemption for "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 Sections 65852.1 and 65852.2 of Government Code as set forth in Section 21080.17 of the Public Resources Code." The City Planner shall file a Notice of Exemption from CEQA review in accordance with CEQA Guidelines Sections 15061 and 15062.

THE COUNCIL OF THE CITY OF BURBANK DOES ORDAIN AS FOLLOWS:

- 1. All of the findings set forth above are true and correct and are incorporated herein as if restated in their entirety.
- 2. The Interim Development Standards for Accessory Dwelling Units shall be as follows:
 - A. DEFINITION: For purposes of this interim ordinance, the terms "accessory dwelling unit" and "ADU" shall mean an attached or a detached accessory dwelling unit for which a complete application was submitted to the City on or after January 1, 2017, which provides complete independent living facilities for one or more persons and includes permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. The term accessory dwelling unit also includes an "Efficiency Unit" as defined in Health and Safety Code Section 17958.1 and a "Manufactured Home" as defined in Health and Safety Code Section 18007. The term "accessory dwelling unit" and "ADU" captures the terms, and supersedes regulations over, "second dwelling unit" as noted in Title 10, Chapter 1, Article 6, Divisions 1, 3.5, and 4 of the Code.
 - B. GENERAL PROVISIONS
Unless otherwise preempted by state law, an accessory dwelling unit, whether attached or detached, shall comply with all applicable building, housing, zoning

and site development standards otherwise applicable under the Code, including but not limited to standards regarding setbacks, floor area ratio standards, height, lot coverage, architectural design review, including compatibility with existing structures located on the same property and in the surrounding neighborhood that are listed in the California Register of Historic Places, fee and charge requirements and other applicable zoning requirements generally applicable to residential construction in the zone in which the property is located.

C. PERMITTED ZONES

An accessory dwelling unit shall be a permitted use only within the following single family residential and multifamily zones: R-1, R2, R3, and R4 zones. Subject to the general zoning restriction set forth in the preceding sentence, an ADU may only be permitted on a lot with one lawful and pre-existing single-family residence. .Accessory dwelling units will not be allowed in the R-1-H Zone, to allow time to study the potential public safety effects of having those units in a horse keeping zone.

D. ON-SITE PARKING

- 1) Parking for an accessory dwelling unit shall not exceed one parking space per unit.
- 2) When an existing garage is converted into an ADU, replacement parking for the main dwelling unit must be provided on-site.
- 3) The replacement parking, as well as ADU parking, that is provided on-site can be covered, uncovered, tandem or through the use of a mechanical automobile parking lift. Mechanical automobile parking lifts shall be enclosed.

E. ON-SITE PARKING EXCEPTIONS:

In addition, the parking development standards for accessory dwelling units noted in Section D above, accessory dwelling units that meet the following state provisions (consistent with AB 2299 and SB 1069) shall not be required to provide on-site parking:

- 1) The accessory dwelling unit is located within one-half mile of “public transit” within the meaning of Government Code Section 65852.2;
- 2) The accessory dwelling unit is located within an architecturally and historic significant historic district;
- 3) The accessory dwelling unit is 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; or
- 5) When there is a car share vehicle located within one block of the accessory dwelling unit.

F. PARKING LOCATION

The parking provided on-site can be tandem and in an existing driveway or anywhere on the lot so long as it is not closer to the front property line than the setback of the primary dwelling unit that is furthest from the front property line.

When a designated parking area is provided and is not located in the driveway as tandem, the parking space must meet the minimum required turning radius and backup distance as noted in the Code.

G. SQUARE FOOTAGE

- 1) All accessory dwelling units must comply with the Floor Area Ratio (FAR) requirements noted in Code section 10-1-603(D).
- 2) All accessory dwelling units must comply with the lot coverage requirements noted in Code section 10-1-603(F).
- 3) All new detached accessory dwelling units shall not exceed 500 square feet.
- 4) When an accessory dwelling unit is attached to the main unit, the maximum allowed size of that accessory dwelling unit is 50% of the main dwelling size, or 500 square feet, whichever is less.
- 5) When an existing detached structure is converted into an accessory dwelling unit, the new converted structure must comply with the FAR and lot coverage standards as well as the maximum allowed 500 square feet for the ADU.

H. HEIGHT

- 1) All new ADUs, attached to the main dwelling unit must comply with the height requirements defined in Code section 10-1-603(A).
- 2) When an ADU is constructed on top of a detached garage, the maximum top of plate height cannot exceed 20 feet as measured from grade level and the maximum height to any architectural features must not exceed 23 feet as measured from grade level.
- 3) All new detached ADUs, not constructed on top of a detached garage shall be no more than one (1) story with a maximum height of 13 feet, provided, however, that roof and architectural features may exceed the maximum height and be up to 17 feet, if a 45 degree angle is sustained as shown in diagram No. 1 in section 10-1-705.
- 4) ADUs ON TOP OF A GARAGE
When an ADU is constructed on top of a garage, the ADU cannot touch grade level, except through support posts. The bottom of the finished floor of the ADU must be above the top of plate of the garage.

I. SETBACK

- 1) Any new detached ADUs must have a minimum setback of 5 feet to the rear property line and 5 feet to the side-yard property line.
- 2) Accessory dwelling units attached to the primary dwelling unit must comply with the setbacks defined in Code section 10-1-603(A).
- 3) Any new detached ADUs located on properties that have a street facing side-yard shall be setback a minimum of 20% of the width of the lot, but no less than 10 feet on the street facing side.
- 4) Accessory dwelling units cannot be located closer to the front property line than the setback of the main dwelling that is furthest from the property line.
- 5) When a garage or other accessory structure exists and is legally permitted with City building permits, the existing legal non-conforming setback of the garage

- or other accessory structure can be maintained, subject to the regulations governing non-conforming structures in Code section 10-1-1810 and it is not required to provide the minimum required setback through this ordinance. The required minimum 5 foot rear and side yard setbacks shall still apply to all added space that goes beyond the existing building footprint and/or building envelope of the garage or other accessory structure.
- 6) No accessory dwelling unit may be located in a way that would prohibit access to a designated parking area.
 - 7) When an existing non-conforming structure is demolished more than 50%, that structure loses its legal non-conforming status.

J. OWNER OCCUPIED AND RESTRICTIVE COVENANT

- 1) Either the primary dwelling unit or the accessory dwelling unit on a lot shall be occupied by the owner of the lot. The property owner shall enter into a restrictive covenant with the City that applies to the owner and all successors in interest, in a form acceptable to the City Attorney that will be recorded on the subject property.

The restrictive covenant shall: (i) specify that the property owner must reside in either the primary dwelling unit or the accessory dwelling unit; (ii) expressly prohibit the rental of both units at the same time; (iii) whichever is unit being rented may be rented only for terms longer than thirty (30) consecutive calendar days; (iv) the accessory dwelling unit may not to be sold or conveyed separately from the primary residence; and (v) the property owner and all successors in interest shall maintain the accessory dwelling unit and the property in accordance with all applicable Code requirements and standards.

- 2) When an ADU is constructed in a multi-family zone, the property must still be owner occupied and that ADU must comply with the development standards identified through this ordinance.

K. DESIGN AND DEVELOPMENT STANDARDS

- 1) The exterior design of the second unit shall match that of the main dwelling in terms of building forms, materials, colors, exterior finishes, and style of doors and windows. The structure(s) shall retain the appearance of a single-family dwelling, and the second unit shall be integrated into the design of the existing units on the property or as determined by the Community Development Director or his/her designee.
- 2) The design of an attached second unit shall be incorporated into the primary unit so in the event the use of the second dwelling is terminated, the use of the structure can be easily incorporated into the primary unit. If a separate entrance is provided, it shall be located on the side or rear of the structure. The additional entrance is prohibited from being located on the front of the single family residential structure. The second entrance shall be well lit and free of

concealment from landscaping to assure safe entrance and exit by the occupants.

- 3) The design and construction of each accessory dwelling unit shall conform to all applicable provisions of Title 9 Chapter 1 (Building) of this Code. The accessory dwelling unit shall comply with all provisions of the Code pertaining to the adequacy of water, sewer, electrical, drainage, and fire and emergency services to the property on which the accessory dwelling unit will be located as well as all applicable codes pertaining to building, fire, health, and/or safety.

L. UTILITY CONNECTION

The primary and accessory dwelling units may be connected to a common gravity-fed sewage disposal approved by the City. All utility connections and water hook-ups may be metered through the primary residence. Burbank Water and Power will determine the utility connection process and fees.

M. ADDRESS ASSIGNMENT

The Public Works department will determine address assignments to new ADUs.

3. This Ordinance shall be introduced, passed and adopted at one and the same meeting and shall become effective immediately upon the adoption thereof, and shall expire and be of no further force and effect after forty-five (45) days from the date of its adoption, unless further extended on or before this forty-fifth (45th) day.

4. All new Accessory Dwelling Unit (former Second Dwelling Unit) applications submitted on or after January 1st, 2017 shall comply with and be issued under the provisions of this interim ordinance. In the event there is a conflict between Title 10 of the Burbank Municipal Code and these Interim Development Standards, the provisions of the Interim Development Standards shall control.

5. If any section, subsection, sentence, clause, phrase, or word of this Ordinance is for any reason held to be invalid by a 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 passed and adopted this Ordinance, and each and all provisions hereof, irrespective of the fact that one or more provisions may be declared invalid.

6. The City Clerk shall certify to the passage of this Ordinance and cause the this Ordinance to be published, within fourteen days of the adoption hereof, once in a newspaper of general circulation, published and circulated in the City of Burbank, California.

PASSED AND ADOPTED this 25th day of April, 2017.

Jess A. Talamantes
Jess A. Talamantes
Mayor

Attest:

s/Zizette Mullins
Zizette Mullins, MMC, City Clerk

Approved as to Form
Office of the City Attorney

By: s/Joseph McDougall
Joseph McDougall
Sr. Assistant City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF BURBANK)

I, Zizette Mullins, MMC, City Clerk of the City of Burbank, do hereby certify that the foregoing Ordinance No. 17-3,892 was duly and regularly passed and adopted by the Council of the City of Burbank at its regular meeting held on the 25th day of April, 2017, by the following vote:

AYES: Frutos, Gabel-Luddy, Gordon, Rogers and Talamantes.

NOES: None.

ABSENT: None.

I further certify that said Ordinance was published as required by law in a newspaper of general circulation in the City of Burbank, California on the 6th day of May, 2017.

s/Zizette Mullins
Zizette Mullins, MMC, City Clerk