

Eff.: ORDINANCE NO. _____

AN EXTENSION OF AN URGENCY ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF BURBANK EXTENDING INTERIM DEVELOPMENT
STANDARDS IN RESPONSE TO SENATE BILL 423

City Attorney's Synopsis

This Urgency Ordinance Extension extends Urgency Ordinance No. 23-4,003, adopted by the City Council on December 12, 2023, which established interim development standards to clarify that on sites located within the Rancho Commercial Land Use Designation, multifamily residential housing projects are allowed with a conditional use permit. Further, the interim standards specified that the phrase "with discretionary approval" appearing in footnote 1 of the General Plan Consistency Tables in Burbank Municipal Code Sections 10-1-701.5, 708.5, 714.5, 720.5, 801.5, 808.5, 901.5, 906.5, 910.5, 921.5, 2103.5, 2109.5, 2114.5, 2119.5, 2412.5, 2420.5, 2428.5, 2436.5, 2444.5, 2503.5, 2508.5, 2514.5, 2519.1.5, 2520.5, 2601.5, and 2611.5, means "with a Conditional Use Permit" for any sites within the Rancho Commercial Land Use Designation only while the City completes a specific plan process addressing long-term development in the Burbank Rancho Neighborhood area.

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

A. On December 12, 2023, pursuant to Burbank City Charter Section 500 and Burbank Municipal Code (BMC) Section 10-1-1996, the City Council adopted Urgency Ordinance No. 23-4,003 (Urgency Ordinance) that established interim development standards to clarify that on sites located within the Rancho Commercial Land Use Designation, multifamily residential housing projects are allowed with a conditional use permit. Further, the interim standards specified that the phrase "with discretionary approval" appearing in footnote 1 of the General Plan Consistency Tables in BMC Sections 10-1-701.5, 708.5, 714.5, 720.5, 801.5, 808.5, 901.5, 906.5, 910.5, 921.5, 2103.5, 2109.5, 2114.5, 2119.5, 2412.5, 2420.5, 2428.5, 2436.5, 2444.5, 2503.5, 2508.5, 2514.5, 2519.1.5, 2520.5, 2601.5, and 2611.5, means "with a Conditional Use Permit" for any sites within the Rancho Commercial Land Use Designation only, while the City completes a specific plan process addressing long-term development in the Burbank Rancho Neighborhood area. The Urgency Ordinance was adopted in response to amendments made to California Government Code Section 65913.4(r) by Senate Bill (SB) 423, approved by the Governor on October 11, 2023.

B. The adopted Urgency Ordinance took effect immediately and is in place for a period of 45 days and will expire by operation of law unless extended by the City Council on or before January 26, 2024.

C. On October 11, 2023, Governor Gavin Newsom signed SB 423, amending California Government Code Section 65913.4 (commonly referred to as "SB 35"), relating

to streamlined ministerial approval procedures for multifamily housing projects. SB 423 went into effect on January 1, 2024.

D. Among the changes included in SB 423 is the addition of Subsection (r) to California Government Code Section 65913.4, which established a temporary exemption from the streamlined ministerial approval process for multifamily housing projects proposed on “qualified sites.” Qualified sites are those that satisfy the following criteria:

1. The site is within an equine or equestrian district designated by a general plan, specific or master plan.
2. As of January 1, 2024, the general plan applicable to the site contains, and has contained for five or more years, an equine or equestrian district designation where the site is located.
3. As of January 1, 2024, the equine or equestrian district applicable to the site is not zoned to include residential uses but authorizes residential uses with a conditional use permit (CUP).
4. The local government jurisdiction has a state-law compliant adopted housing element.

E. Under SB 423, this temporary exemption will apply to qualified projects submitted on or after January 1, 2024, through July 1, 2025.

F. The only equine or equestrian district designated within the City is the Rancho Commercial Land Use Designation (RC-LUD) identified in the Land Use Element of the Burbank2035 General Plan. Within the RC-LUD, residential density is allowed on any site, with “discretionary approval.” However, to qualify for the temporary exemption under SB 423, residential uses must be allowed with a CUP before January 1, 2024.

G. Burbank City Charter Section 500 and BMC Section 10-1-1996 authorize the City Council to adopt an interim urgency ordinance and extensions thereof as an emergency measure for preserving the public peace, health, safety or welfare, which will become effective immediately upon adoption, if the Planning Commission is conducting or intends to conduct studies within a reasonable time on zone changes, permitted uses, or property development standards. Not less than four (4) members of the City Council must vote to approve the interim urgency ordinance or extension. Extensions to urgency ordinances must be preceded by a noticed public hearing, and a written report must be issued at least 10 days prior to the extension describing the measures taken to alleviate the conditions that led to the adoption of the urgency ordinance (See BMC Section 10-1-1996; Cal. Government Code Section 65858(d)).

H. On January 23, 2024, pursuant to BMC Section 10-1-1996 and City Charter Section 500, the City Council held a public hearing to consider an extension to the Urgency Ordinance (Urgency Ordinance Extension). Said hearing was properly noticed in accordance with the provisions of Burbank Municipal Code Section 10-1-1996. The Staff Report dated January 23, 2024, outlining measures taken to alleviate the conditions leading to the adoption of the original Urgency Ordinance was publicly issued at least 10 days prior to January 23, 2024.

I. The same conditions that led to the adoption of the Urgency Ordinance

continue to exist and necessitate the adoption of the Urgency Ordinance Extension to preserve the public peace, health, safety, and welfare. The facts constituting the urgency are:

1. SB 423 acknowledges a potential conflict between state-mandated streamlined ministerial housing projects and equestrian uses.

2. Extension of the Urgency Ordinance is necessary to provide the temporary relief from state mandated streamlined ministerial reviews afforded to equestrian districts by SB 423 while the City undertakes the process to prepare the Burbank Rancho Neighborhood Specific Plan and associated General Plan amendment efforts. The process to prepare the Specific Plan was previously approved and funded by the City Council as part of the Fiscal Year 2023/2024 Budget and is included in the work program for the City's Community Development Department.

3. Currently, the City does not have any objective quantifiable standards specifically addressing construction related impacts on equine uses. For housing development projects processed through the state-mandated streamlined ministerial reviews, the City may only implement those objective standards that are in effect at the time an application is submitted. Currently, it is unknown if the lack of standards may result in equine related safety hazards that may detrimentally impact the public health and safety for each ministerial housing project approved in the RC-LUD under state-mandated streamlined ministerial review. Specifically, members of the community have provided abundant testimony as to how riders and horses are impacted by intensification of land use and related construction when not properly conditioned to protect hazards resulting from conditions such as, but not limited to, stray nails in horse hooves, a horse's unique sensitivity and reaction to sudden noise, and the resulting risk this poses to riders in close proximity to the Los Angeles River flood channel.

4. On March 28, 2023, the City Council directed Staff to initiate a Burbank Rancho Neighborhood Specific Plan and associated General Plan amendment and budgeted \$1.4 million towards this effort to implement the Burbank2035 General Plan goals and policies for long-term development within the RC-LUD and reconcile public concerns regarding potential development and construction related impacts in the equestrian neighborhoods within the City. The Burbank Rancho Neighborhood Specific Plan process will also include studies regarding possible construction impacts on equine uses resulting from future development, and related construction mitigation measures.

5. Without an extension of the interim development standards established by the Urgency Ordinance, the City's current process to consider residential development on sites within the RC-LUD with discretionary approval is vague, in that the phrase "discretionary approval" is not specifically defined in the Burbank2035 General Plan or in the Burbank Municipal Code. This lack of definition has caused uncertainty as to the specific entitlement process necessary for residential development in the RC-LUD and does not satisfy the "qualified site" eligibility criteria for exemption under Government Code Section 65913.4(r) added

by SB 423. The City is currently studying refinements to this phrase as part of various ongoing specific plan efforts, including the forthcoming Burbank Rancho Neighborhood Specific Plan.

6. Preparation for the development of the Burbank Rancho Neighborhood Specific Plan is currently underway. The process to develop the Burbank Rancho Neighborhood Specific Plan will include extensive and robust community engagement involving potentially affected residents, property owners, and interested stakeholders including business owners and land developers. The draft Burbank Rancho Neighborhood Specific Plan will be brought to the Planning Commission at a public hearing for consideration and input prior to a formal recommendation and presentation to the City Council at a public hearing.

7. In addition, the draft Burbank Rancho Neighborhood Specific Plan will be accompanied by an appropriate environmental assessment pursuant to the California Environmental Quality Act. It is anticipated that this document will be an Environmental Impact Report.

8. It is necessary to extend the refinement to the definition of “discretionary approval” for the RC-LUD through this Urgency Ordinance Extension to provide clarity as well as enable qualified properties to be eligible for the temporary relief afforded to equestrian districts by SB 423, which will allow the City to complete its development of the Burbank Rancho Neighborhood Specific Plan. Such relief will only be afforded if the City refines its definition of “discretionary approval” to include approval with a CUP before January 1, 2024, and extends this interim standard through the conclusion of the City’s specific plan efforts or the expiration of the temporary exemption from SB 35 projects afforded by California Government Code Section 65913.4(r), whichever occurs first. Therefore, this Urgency Ordinance Extension must be adopted on an urgency basis.

J. Furthermore, as stated in the Urgency Ordinance and these recitals, the continued approval of SB 35 streamlined ministerial multifamily housing projects in the RC-LUD without further refinements to objective development standards to address construction related impacts to equine uses will have a specific, adverse impact on the public health and safety that is significant, quantifiable, direct, and unavoidable. Ample public testimony has demonstrated the adverse health and safety impacts associated with horses in the RC-LUD being inadvertently exposed to construction debris such as stray nails, construction noise, as well as the dangers this poses to horseback riders in close proximity to the Los Angeles River flood channel. The Urgency Ordinance Extension is necessary to mitigate these specific, adverse impacts. Due to the state-mandated ministerial approval process for SB 35 projects that otherwise applies within the RC-LUD without the extension of the interim development standards established by the Urgency Ordinance, this Urgency Ordinance Extension is the only feasible way to mitigate these specific, adverse impacts while the City completes its specific plan efforts, including extensive and robust community engagement of potentially affected residents, property owners, and interested stakeholders including business owners and land developers, to establish more permanent objective development standards to address these specific, adverse impacts.

K. The City Council finds that an extension to the Urgency Ordinance is necessary to allow City staff adequate time to continue preparation for the development of the Burbank Rancho Neighborhood Specific Plan. An extension of the Urgency Ordinance will allow staff time to continue to develop policies and recommendations derived from extensive and robust community engagement of potentially affected residents, property owners, and interested stakeholders including business owners and land developers to ensure all interests are considered in the development of new standards.

L. The City Council has determined that the extension of the interim development standards established by the Urgency Ordinance is consistent with the Burbank2035 General Plan and, as such, were contemplated in the Program Environmental Impact Report (EIR) for Burbank2035 (SCH #2010021004) and no further environmental review is required, pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15152. In addition, pursuant to CEQA Guidelines Section 15162, no subsequent EIR is required as there are no changes proposed to the Burbank2035 General Plan land uses or densities as noted in the General Plan Consistency Tables outlined in the BMC, there have been no substantial changes in circumstances, and no new information has become known since the time of the General Plan EIR certification. This Urgency Ordinance Extension is also exempt from CEQA, pursuant to the CEQA Guidelines Section 15061(b)(3), because the Urgency Ordinance Extension is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The Urgency Ordinance Extension continues interim development standards that provide that, for the purposes of providing clarity when determining “qualified site” eligibility under the regulatory changes enacted by SB 423, “discretionary approval” within the RC-LUD includes approval through a conditional use permit. As this action continues the previously adopted clarification of existing process, and there are no significant impacts resulting from this procedural clarification, the use of the Exemption is appropriate. Any future changes to the land use or development standards within the RC-LUD will be studied and implemented through the development of the Burbank Rancho Neighborhood Specific Plan, which will be prepared in conformance with applicable local and state laws and accompanied by the required environmental analysis pursuant to CEQA.

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

Section 1. Findings. All the findings set forth above are true and correct and are incorporated herein as if restated in their entirety.

Section 2. Extension of Urgency Ordinance. Urgency Ordinance No. 23-4,003, adopted by the Burbank City Council on December 12, 2023, and all interim development standards established therein, is hereby extended for a period of 10 months and 15 days from January 26, 2024, through December 11, 2024.

Section 3. Severability. If any provision of this Urgency Ordinance Extension or its application is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions, sections, or applications of the Urgency Ordinance Extension, which can be given effect without the invalid provision or application, and to this end each phrase, section, sentence, or word is declared to be severable.

Section 4. Environmental Assessment. The interim development standards adopted by Urgency Ordinance No. 23-4,003 and extended by this Urgency Ordinance Extension, are consistent with the Burbank2035 General Plan and, as such, were contemplated in the Program Environmental Impact Report for Burbank2035 (SCH #2010021004) and no further environmental review is required, pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15152. In addition, pursuant to CEQA Guidelines Section 15162, no subsequent EIR is required as there are no changes proposed to the Burbank2035 General Plan land uses or densities as noted in the General Plan Consistency Tables outlined in the Burbank Municipal Code, there have been no substantial changes in circumstances, and no new information has become known since the time of the General Plan EIR certification.

This Urgency Ordinance Extension is also exempt from CEQA, pursuant to the CEQA Guidelines Section 15061(b)(3), because the Urgency Ordinance Extension is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The Urgency Ordinance Extension continues interim development standards that provide that, for the purposes of providing clarity when determining “qualified site” eligibility under the regulatory changes enacted by SB 423, “discretionary approval” within the RC-LUD includes approval through a conditional use permit. As this action continues the previously adopted clarification of existing process, and there are no significant impacts resulting from this procedural clarification, the use of the Exemption is appropriate. Any future changes to the land use or development standards within the Rancho Commercial Land Use Designation will be studied and implemented through the Burbank Rancho Neighborhood Specific Plan, which will be prepared in conformance with applicable local and state laws and accompanied by the required environmental assessment pursuant to CEQA.

Section 5. Effective Date. Based on the findings contained herein, the staff report, and other written evidence and testimony concerning this Urgency Ordinance Extension, the Council declares this Ordinance is necessary as an emergency measure to preserve the public peace, health, safety and welfare. As such, this Urgency Ordinance Extension shall be introduced, passed, and adopted at one and the same meeting and shall become effective immediately upon a 4/5ths vote of the Council, and shall extend the effective date of Urgency Ordinance No. 23-4,003 for 10 months and 15 days from January 26, 2024 through December 11, 2024, and after that date shall be of no further force and effect unless otherwise amended or extended by the City Council. Notwithstanding the foregoing, this extension of Urgency Ordinance No. 23-4,003 shall immediately expire and be of no further force and effect if the language added to California Government Code Section 65913.4(r) by Senate Bill 423 (2023) expires, is removed, or is otherwise no longer effective.

PASSED AND ADOPTED this ____ day of _____, 2024.

Nick Schultz
Mayor

Attest:

Approved as to Form:
Office of the City Attorney

Kimberley Clark, City Clerk

By: _____
Lisa Kurihara
Senior Assistant City Attorney

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

I, Kimberley Clark, City Clerk of the City of Burbank, do hereby certify that the foregoing Ordinance No. _____ was duly and regularly passed and adopted by the Council of the City of Burbank at its regular meeting held on the ____ day of _____, 2024, by the following vote:

AYES:

NOES:

ABSENT:

I further certify that the Full Ordinance was published as required by law in a newspaper of general circulation in the City of Burbank, California within 14 days following its __, 2024 adoption.

Kimberley Clark, City Clerk