

Eff.:

ORDINANCE NO. _____

AN EXTENSION OF AN ADOPTED URGENCY ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK ESTABLISHING DEVELOPMENT CONTROLS FOR TWO-UNIT RESIDENTIAL DEVELOPMENTS AND URBAN LOT SPLITS IN ALL SINGLE-FAMILY RESIDENTIAL ZONES, TO ALLOW THE CITY COUNCIL TIME TO STUDY AND CONSIDER ENACTMENT OF ZONING MEASURES IN RESPONSE TO SENATE BILL (SB) 9, AS AMENDED.

City Attorney's Synopsis

This ordinance extends and amends the urgency ordinance adopted on April 5, 2022, that established permissible interim objective zoning, design and subdivision standards for Two-Unit Housing Developments and Urban Lot Splits in compliance with Senate Bill 9, codified as California Government Code Sections 66452.6, 65852.21 and 66411.7.

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

A. California Senate Bill 9 (SB 9) (Government Code Sections 66452.6, 65852.21 and 66411.7) was signed by Governor Gavin Newsom on September 16, 2021, and became effective January 1, 2022. SB 9 requires all cities and counties to ministerially review and approve certain housing developments containing no more than two residential units within a single family residentially zoned lot ("Two-Unit Housing Developments"), as well as certain subdivisions in which one existing single family residential zoned lot is subdivided to create two single family zoned lots ("Urban Lot Splits").

B. Pursuant to SB 9, all cities and counties may adopt regulations establishing objective standards for Two-Unit Housing Developments and Urban Lot Splits ("SB 9 Projects").

C. On April 5, 2022, pursuant to Government Code Section 65858, the City Council adopted an urgency ordinance that established interim objective zoning, design and subdivision standards for SB 9 Projects.

D. The adopted interim 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 May 20, 2022.

E. The City Council determined that the unmitigated development of SB 9 projects within the City's single family residential zoned neighborhoods would allow for the potential development of 4 to 8 residential dwelling units on one existing residential zoned lot where the City's Burbank2035 projected growth envisioned one single family residential dwelling and accessory dwelling units including one Accessory Dwelling Unit (ADU) and a potential Junior ADU pursuant to applicable State housing laws. An influx of applications

in a particular residential block and neighborhood could rapidly overwhelm the City's aging sewer and electrical infrastructure, causing sewer overflows and electrical outages, as well as overburden refuse collection and recycling services within an affected single family residential neighborhood. Therefore, the adopted urgency ordinance was intended to address the current and immediate threats to public safety, health, and welfare resulting by ensuring that the City can maintain the uninterrupted, current level of these City services to all residents of the City's single family residential neighborhoods.

F. Furthermore, the City Council determined that unless the City adopted an urgency ordinance, there would exist ambiguity as to whether the development of an SB 9 project on an existing single family zoned property could yield up to eight residential "units" through an urban lot split, as defined in Government Code Section 66411.7. Each of the two new lots created through an urban lot split could potentially be developed with a total of four residential units – a two-unit housing development, one Accessory Dwelling Unit (ADU) and one Junior Accessory Dwelling Unit (JADU). Based on the potential development scenario, up to a total of 8 residential units (4 per each lot) can be created from the one existing single-family zoned property. The potential for 8 units generated from one single family zoned property is well above the number of units that could have been attainable under the current General Plan land use designation of Low Density Residential, which anticipated a single-family residential dwelling unit and the potential of a combination of ADUs and JADUs.

G. The City Council determined that unless the City adopted an urgency ordinance, the City would be required to review new SB 9 projects applying only single-family residential zone objective standards that are already in the Burbank Municipal Code, which did not anticipate and were not enacted with Urban Lot Splits and ministerial Two-Unit Housing Developments in mind. Approval of SB 9 projects applying these existing single family residential zone objective standards without appropriate regulations specifically governing lot configuration, unit size, height, setback and design standards of SB 9 projects, may have severe negative impacts to the community and to the surrounding neighborhood.

H. The City Council determined that the urgency ordinance provided the City with the opportunity to explicitly limit the number of residential units yielded from an existing single family zoned property to a maximum of four residential units (2 residential units per lot), allowing additional time to further study the impact SB 9 projects may have on the City's existing utility infrastructure (e.g., electrical, wastewater, and refuse collection and recycling impacts), to ensure proper infrastructure health and growth to provide safe and reliable service to the City's existing and future utility customers through the establishment of appropriate permanent objective standards, which includes amongst other things the limitation on the number of units per property resulting from the implementation of State-mandated SB 9 regulations.

I. The City Council determined that unless the City adopted an urgency ordinance, SB 9 projects would have caused confusion and ambiguity regarding the applicability of provisions in the City's current 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 SB 9

without local refinements to applicable development standards may create potential significant impacts to the City's utility infrastructure and conflict with the City's goal of facilitating responsible development that ensures ongoing sustainability of the community and neighborhoods through reliable utility infrastructure that can accommodate the current and future demands resulting from new residential development, including SB 9 projects.

J. On May 3, 2022, pursuant to Government Code Section 65858(d), a report was provided to the City Council describing the measures City Staff has undertaken to alleviate the conditions which led to the adoption of the urgency ordinance on April 5th 2022. In the report Staff discussed the ongoing work being pursued by multiple City Departments and Divisions to establish permanent objective standards that regulate SB 9 Projects and are intended to address the current and immediate threats to public safety, health, and welfare by ensuring that the City can maintain reliable, unambiguous, and uninterrupted City services to all residents of the City's single family residential neighborhoods.

K. On May 17, 2022, pursuant to Government Code Section 65858(d), the City Council considered an extension and amendment to the urgency ordinance originally adopted on April 5, 2022, that established interim objective zoning, design and subdivision standards for SB 9 Projects.

L. The City Council considered the report and recommendations of the Community Development Director and the evidence presented at such meeting.

M. The City Council acknowledged the measures taken by City Staff to alleviate conditions which led to the adoption of Interim Ordinance No. 22-3,972 that are described in the City's written report, which was provided to the City Council on May 3, 2022, no less than 10-days prior to the expiration of the urgency ordinance pursuant to Government Code section 65858(d).

N. The City Council determined that the same conditions that existed at the time of the adoption of Interim Ordinance No. 22-3,972 exist now and determined that the same findings from the prior ordinance are true and correct now as applied to the adoption of the prior ordinance's extension. The City Council determined that the urgency ordinance extension is needed to further analyze potential City-specific objective standards that would be permanently codified into the Burbank Municipal Code through an eventual Zone Text Amendment, as the development of SB 9 projects as by right development submitted for City Plan Check review under the current State regulations could have irreparable harm to the public safety, health, and welfare, as well as the character of the surrounding neighborhoods in which they could be built. Therefore, adoption of the extended urgency ordinance is warranted and would facilitate the City's further study of the appropriate standards for SB 9 Projects in Burbank.

O. Based on the above recitals and to protect the public safety, health, and welfare, the Council determined it is necessary to extend and amend the adopted urgency ordinance that establishes permissible interim objective zoning, design and subdivision standards for SB 9 projects submitted pursuant to Government Code Sections 65852.21 and 66411.7, and its urgency is hereby declared. This urgency ordinance shall be

applicable to all pending and future applications submitted pursuant to Government Code Sections 65852.21 and 66411.7.

P. While this ordinance is in effect, the following interim development standards shall apply to SB 9 projects in all Single-Family Residential (R-1 and R-1-H) zoned properties. 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.

Q. The City Council determined that the adoption of this ordinance is statutorily exempt from CEQA pursuant to Government Code Sections 65852.21(j) and 66411.7(n).

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

1. All the findings set forth above are true and correct and are incorporated herein as if restated in their entirety.
2. Pursuant to Government Code Section 65858, Ordinance No. 22-3,972 is hereby extended for a period of ten (10) months and fifteen (15) days from May 20, 2022 through April 4, 2023 and amended as set forth below.
3. The interim development standards for Two-Unit Housing Developments and Urban Lot Splits (SB 9 Projects) shall be as follows:

A. DEFINITIONS

For purposes of this urgency ordinance the terms below are defined as follows:

“Two-Unit Housing Development” shall mean the development of two (2) primary dwelling units (the *Primary Dwelling Unit* and the *Second Primary Dwelling Unit*) on a single-family zoned lot in accordance with California Government Code Section 65852.21.

“Primary Dwelling Unit” shall mean a residential unit that is designated by an applicant as the main residence which contains livings facilities, including provisions for sleeping, eating, cooking, and sanitation.

“Second Primary Dwelling Unit” or “Second Dwelling Unit Allowed Pursuant to SB 9” shall mean a residential unit that is designated as an alternative unit other than the Primary Dwelling Unit, or Accessory Dwelling Units, on a parcel, that contains living facilities, including provisions for sleeping, eating, cooking, and sanitation.

“Urban Lot Split” shall mean subdivision of one existing single family zoned parcel into no more than two new parcels in accordance with California Government Code Section 66411.7.

“Objective Development Standards” shall mean City standards that involve no

personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. These standards may be embodied in alternative objective land use specifications adopted by the City, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.

“Specific Adverse Impact” shall have the same meaning as set forth in California Government Code Section 65589.5, subdivision (d), paragraph (2).

B. GENERAL PROVISIONS

Unless otherwise preempted by state law, a Two-Unit Development and an Urban Lot Split shall comply with all applicable requirements identified in this urgency ordinance, including but not limited to land use restrictions, objective development standards, and application processing procedures. As well as other applicable zoning requirements generally applicable to residential construction in the zone in which the property is located.

A lot shall only be eligible for a Two-Unit Housing Development and/or an Urban Lot Split (a “Project”) when all the following requirements are met:

- a. *Demolition or Alteration of Existing Housing.* The proposed Project would not require demolition or alteration of any of the following types of housing:
 - I. Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
 - II. Housing that is subject to any form of rent or price control through a public entity’s valid exercise of its police power.
 - III. Housing that has been occupied by a tenant in the last three years, from the date that an application is submitted.
- b. *Ellis Act Rental or Lease Termination.* The Owner(s) of the property on which the Project is proposed has not exercised the owner’s rights under Chapter 12.75 of Division 7 of Title 1 of the California Government Code (*the Ellis Act*) to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.
- c. *Historic Properties.* The Project is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.

- d. *Location of Development Site.* The Project is not located on a site that is any of the following:
- I. A coastal zone, as defined in Division 20 of the Public Resources Code.
 - II. Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.
 - III. Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2.
 - IV. Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This subparagraph does not apply to sites excluded from the specified hazard zones by the City of Burbank, pursuant to subdivision (b) of Section 51179, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.
 - V. A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the State Department of Public Health, State Water Resources Control Board, or Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.
 - VI. Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law, and any additional requirements from the City of Burbank, as allowed under Chapter 12.2 of Division 1 of Title 2.
 - VII. Within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency. A development may be located on a site described in this subparagraph if either of the following are met:

- a. The site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the City of Burbank.
 - b. The site meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program.
- VIII. Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations
- IX. Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act, habitat conservation plan pursuant to the federal Endangered Species Act of 1973, or other adopted natural resource protection plan.
- X. Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973, the California Endangered Species Act, or the Native Plant Protection Act.
- XI. Lands under a conservation easement.

C. TWO-UNIT HOUSING DEVELOPMENTS

Unless otherwise preempted by state law Two-Unit Housing Developments shall comply with all applicable requirements in the paragraphs below, and all applicable zoning requirements generally applicable to residential construction in the zone in which the property is located (Title 10 of the Burbank Municipal Code). If there is conflict between Title 10 (Zoning Regulations) of the Burbank Municipal Code and these requirements, the provisions of this ordinance shall control.

a. PERMITTED ZONES

Subject to the eligibility requirements set forth in Section B above, a Two-Unit Housing Development shall be a permitted use within the following single family residential zones: R-1 and R-1-H.

b. OBJECTIVE DEVELOPMENT STANDARDS

Unless otherwise indicated below, all other development standards in the underlying zone shall apply to Two-Unit Housing Developments.

Development Standards	R-1 and R-1-H Zones
Maximum Number of Primary Dwelling Units	2 Primary Dwelling Units ⁽¹⁾⁽²⁾⁽³⁾
Maximum Height	
<i>Primary Dwelling Unit</i>	
Top of Plate	As established in the underlying zone.
Top of Roof	As established in the underlying zone.
<i>Second Primary Dwelling Unit Attached to the Primary Dwelling Unit</i>	
Top of Plate	As established in the underlying zone.
Top of Roof	As established in the underlying zone.
<i>Second Primary Dwelling Unit Detached from the Primary Dwelling Unit</i>	
Top of Plate	12 feet
Top of Roof	17 feet
Maximum Number of Stories	
<i>Primary Dwelling Unit</i>	1 story. 2 stories are permitted when complying with the upper story step back requirements.
<i>Second Primary Dwelling Unit Attached to the Primary Dwelling Unit</i>	1 story. 2 stories are permitted when complying with the upper story step back requirements.
<i>Second Primary Dwelling Unit Detached from the Primary Dwelling Unit</i>	1 story ⁽⁴⁾
Upper-story Stepbacks, when a Second Story is Permitted	As established in the underlying zone. Second stories shall be stepped back a minimum of 15-feet from the rear property line.
Maximum Floor Area Ratio (FAR)	As established in the underlying zone. ⁽⁵⁾
Maximum Lot Coverage	As established in the underlying zone. ⁽⁵⁾
Minimum Yard Setbacks ^{(6) (7)}	
Front	As established in the underlying zone.
Interior Side	4 feet
Street-facing Side	4 feet
Rear	15 feet – Primary Dwelling Unit 4 feet – Second Primary Dwelling Unit ⁽⁶⁾
Minimum Building Separation Between Primary Units	
Exterior Wall to Exterior Wall	6-feet
Eave to Eave	4-feet
Minimum Number of Off-Street Parking Spaces	1 space per primary dwelling unit. No parking is required if the parcel is located within one-half mile walking distance of either a high-quality transit

	corridor or a major transit stop, as expressly defined in the California Public Resources Code, or if there is a car share vehicle located within one block of the parcel.
Parking Location	Required parking shall be provided on-site and may be tandem and in an existing driveway or within any existing setback area, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site, topographical or fire and life safety conditions. When a required 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 established in the underlying zone.
Demolition or Alteration of Tenant Occupied Units	If units on site have been occupied by a tenant in the last three (3) years, the proposed housing development cannot demolish or alter any of the tenant occupied units. Demolition shall not exceed 25% (exterior and interior walls) of an existing structure or an existing unit to accommodate the construction of a Second Primary Dwelling Unit.
Notes:	
<p>(1) The 2 Primary Dwelling Units are made up of <i>1 Primary Dwelling Unit</i> and <i>1 Second Primary Dwelling Unit</i>. Additional residential housing units allowed on site can be approved pursuant to the City of Burbank’s Accessory Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (JADU) Ordinance with the exception identified in item ⁽²⁾ below.</p> <p>(2) No more than two units are permitted on a parcel that has been established through prior exercise of an Urban Lot Split. For the purposes of this paragraph only, “units” shall mean any dwelling unit, including, but not limited to, a unit or units created through a Two-Unit Housing Development, a primary dwelling, an accessory dwelling unit or a junior accessory dwelling unit.</p> <p>(3) An existing Primary Dwelling Unit can be converted into two primary dwelling units (<i>1 Primary Dwelling Unit</i> and <i>1 Second Primary Dwelling Unit</i>).</p> <p>(4) A detached Second Primary Dwelling Unit may not be constructed on top of or below an Accessory Dwelling Unit or any other Accessory Structure on site.</p> <p>(5) The FAR and Lot Coverage requirement are applicable to the extent that they do not prevent two primary dwelling units (<i>1 Primary Dwelling Unit</i> and <i>1 Second Primary Dwelling Unit</i>) on the lot at 800 square feet each.</p> <p>(6) Encroachments into the minimum yard setbacks are permitted as established in the underlying zone. Where utility easements exist, minimum setbacks for both primary dwelling units shall not encroach on utility easements.</p> <p>(7) No setback shall be required for an existing structure, or a structure constructed in the same location and to the same dimensions and building envelope as an existing structure.</p>	

c. OBJECTIVE DESIGN STANDARDS

Unless otherwise indicated below, all other design standards in the underlying zone shall apply to Two-Unit Housing Developments.

- I. The Primary Dwelling Unit shall comply with all objective design standards applicable to single family homes in the underlying zone.
- II. The exterior design of the Second Primary Dwelling Unit shall reflect the appearance of a single-family dwelling by incorporating materials, colors, exterior finishes, roof forms and fenestration that match that of the Primary Dwelling Unit.
- III. All Second Primary Dwelling Unit façade elevations must provide entries, windows, or other architectural features that match the Primary Dwelling Unit.
- IV. Entrances into the Second Primary Dwelling Unit shall be located on the front, side, or rear elevations of the structure and whenever possible located toward interior yard areas. The second entrance shall be well lit with wall mounted light fixtures and/or illuminated walkways and free of concealment from landscaping that is no taller than 30 inches in height to assure safe entrance and exit by the occupants. All light fixtures shall be designed to focus light on the entryway and/or walkways and no resulting light shall be allowed to spill over onto adjacent properties.
- V. The main entrance of a detached Second Primary Dwelling Unit must face the same direction as the main entrance of the Primary Dwelling Unit. In those instances where the door placement conflicts with required vehicle and/pedestrian access and/or with an applicable building or fire code the proposed door may face an interior yard. In those instances where front facing and interior facing entries are not physically possible the location and orientation of the entry door facing a side or rear property line will be subject to review and approval of the Community Development Director or his/her designee.
- VI. When a garage is converted into a Second Primary Dwelling Unit, the garage door must be removed and replaced with windows, door, or permanent openings that occupy at least 20% of the wall surface area of the building elevation. The design of the windows, doors, or other openings shall be consistent with the architectural design style of the of the structure
- VII. No rooftop deck is permitted on any new or remodeled dwelling or structure constituting a Primary or Second Primary Dwelling Unit.
- VIII. No basements are allowed as part of a detached Second Primary Dwelling Unit.

d. LENGTH OF RENTAL TERM

Short Term Rentals are prohibited. Rental of any unit that is a part of a Two-Unit Housing Development shall be for a term longer than 30 days.

e. DEVELOPMENT STANDARDS FOR THE R-1-H ZONE

Consistent with the purpose of the R-1-H zone and to ensure that Two Unit Housing Developments do not adversely impact public safety and equine/horse keeping uses located in the R-1-H zone, all the provisions and development standards of the underlying zone must be met (BMC 10-1-605).

f. **SPECIFIC ADVERSE IMPACTS**

The Community Development Department may deny a proposed Two-Unit Housing Development upon a written finding from the Building Official, based upon a preponderance of the evidence, that the proposed Two-Unit Housing Development would have a specific, adverse impact upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

g. **UTILITY CONNECTION**

The primary and accessory dwelling units shall be connected to a common gravity-fed sewage disposal approved by the City. All utility connections (excluding electric) and water hook-ups shall be metered through the primary residence; electric meters may be separated where feasible. All electric and water connections shall be in accordance with Burbank Water and Power Rules and Regulations. The Burbank Water and Power and Public Works departments will determine the utility connection process, requirements, and fees. Backflow devices are required on parcels with multiple water services.

h. **ADDRESS ASSIGNMENT**

The Public Works department will determine address assignments for all new units that are part of a Two-Unit Housing Development.

i. **SUBMISSION OF APPLICATION, PAYMENT OF FEES AND PROCESSING OF A TWO-UNIT HOUSING DEVELOPMENT**

An application for a Two-Unit Housing Development must be submitted on the City's approved form. Only a complete application will be considered. The City's application form shall, at a minimum, require the applicant to submit the following:

- I. Architectural Plans that include a site plan, floor plans, elevations, pictures, and such other materials as may be deemed necessary by the Community Development Director to decide on the completeness of an application.
- II. Proof that none of the circumstances set forth in Section B of this urgency ordinance are present.
- III. If the lot would result in the demolition or alteration of existing housing, proof that no housing on the lot has been occupied by a tenant within the past three years from the date of the application submittal.
- IV. Property owner signature on the application.
- V. The applicable Application Fee.

D. URBAN LOT SPLITS

Unless otherwise preempted by state law Urban Lot Splits shall comply with all applicable requirements in the paragraphs below, all applicable zoning requirements generally applicable to the zone in which the property is located (Title 10 of the Burbank Municipal Code), and Title 11 of the Burbank Municipal Code. If there is conflict between Title 10 of the Burbank Municipal Code, Title 11 of the Burbank Municipal Code and the requirements in this urgency ordinance, the provisions of this ordinance shall control.

a. **PERMITTED ZONES**

The City shall approve or deny an application for a parcel map for an urban lot split ministerially without discretionary review and is a permitted use within the following single family residential zones: R-1 and R-1-H. Subject to the eligibility requirements set forth in Section B above.

b. OBJECTIVE SUBDIVISION AND DESIGN STANDARDS

Unless otherwise indicated below, the standards for an urban lot split shall conform with objective requirements of the Subdivision Map Act (Division 2 (commencing with Section 66410)), Title 11 of the Burbank Municipal Code and all other development and design standards in the underlying zone.

<i>Development Standards</i>	<i>R-1 and R-1-H Zones</i>
Permitted Uses	Any lot created through an Urban Lot Split shall be limited to residential uses.
Minimum Lot Area of Existing Parcel to Qualify for an Urban Lot Split ⁽¹⁾	2,400 square feet.
Total Number of Parcels that Can Be Created from the Existing Lot	2 parcels ⁽²⁾
Total Number of Units allowed on lots created through an Urban Lot Split	2 units ⁽³⁾⁽⁴⁾
Minimum Lot Area of Proposed Parcels	No less than 40% of original parcel. Minimum 1,200 square feet.
Minimum Lot Width of Proposed Parcels	No less than 40% of the width of the original parcel or a minimum of 25-feet, whichever is greater.
Minimum Public Right-of-Way Frontage of Proposed Parcels	No less than 40% of the frontage of the original parcel or a minimum of 25-feet, whichever is greater.
Minimum Vehicle Access	10 – foot driveway
<u>Notes:</u>	
<p>(1) Additionally, a property shall only be eligible for an Urban Lot Split when:</p> <ul style="list-style-type: none"> a. The existing parcel has not been established through prior exercise of an Urban Lot Split as provided for in California Government Code Section 66411.7; and b. Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel using an Urban Lot Split as provided for in California Government Code Section 66411.7. <p>(2) Properties subdivided through an Urban Lot Split, for which the original property does not have existing secondary access to a public right-of-way from a rear or side property line shall only be subdivided via a new lot line that starts at the front property line and runs straight to the rear property line. There shall be no curve or angles on the new lot line creating the subdivision. The creation of Flag Lots is prohibited.</p>	

- (3) For the purposes of this paragraph only, "units" shall mean any dwelling unit, including, but not limited to, a unit or units created through a Two-Unit Housing Development, a primary dwelling, an accessory dwelling unit or a junior accessory dwelling unit.
- (4) When a two-unit housing development is proposed on a newly created lot, the new construction of- or the conversion to- an Accessory Dwelling Unit and Junior Accessory Dwelling Unit is/are prohibited. However, if one proposed primary dwelling unit is proposed on that newly created lot, the underlying zoning development standards apply.

c. OWNER OCCUPANCY AFFIDAVIT

The owner of record of the original property shall occupy one of the lots as their principal residence for a minimum of three years from the date of approval of the Urban Lot Split. This requirement shall not apply to a community land trust," as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code, or a "qualified nonprofit corporation," as described in Section 214.15 of the Revenue and Taxation Code.

d. LENGTH OF RENTAL TERM

Short Term Rentals are prohibited. Rental of any unit that is a part of an Urban Lot Split shall be for a term longer than 30 days.

e. DEED RESTRICTION

The owner must record a deed restriction for the benefit of the City, in a form established by the City of Burbank Community Development Department and City Attorney's Office, that does each of the following:

- I. Gives notice that the parcel was created through an Urban Lot Split.
- II. Gives notice of any site limitations resulting from an Urban Lot Split.
- III. Expressly prohibits any development or construction on the parcel that would be inconsistent with City adopted SB 9 Standards.
- IV. Expressly prohibits any rental of any dwelling on the property for a period of less than 30 days.
- V. Expressly prohibits any non-residential use of the lots created by the Urban Lot Split.
- VI. Expressly prohibits any separate conveyance of a Primary Dwelling Unit on the property, any separate fee interests, and any common interest development within the lot.
- VII. Identifies the City as an intended third-party beneficiary with the right, but not the obligation, to enforce its terms and provisions.

f. SEPARATE CONVEYANCE

- I. Dwelling units on a single lot that is created by an urban lot split may not be owned or conveyed separately from each other.
- II. Condominium airspace divisions and common interest developments are not permitted on a lot that is created by an urban lot split.
- III. All fee interest in a lot must be held equally and undivided by all property owners.

- IV. Separate conveyance of the resulting lots is permitted. If dwellings or other structures (such as garages) on different lots are adjacent or attached to each other, the urban lot split boundary may separate them for conveyance purposes if the structures meet building code safety standards and are sufficient to allow separate conveyance. If any attached structures span or will span the new lot line, the owner must record appropriate conditions, covenants, restrictions, easements or other documentation that is necessary to allocate risk and responsibility between the owners of the two lots.
- g. **SPECIFIC ADVERSE IMPACTS**
The Community Development Department may deny a proposed Urban Lot Split upon a written finding from the Building Official, based upon a preponderance of the evidence, that the proposed Urban Lot Split would have a specific, adverse impact upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.
- h. **UTILITY CONNECTION**
Each lot created through an Urban Lot Split shall have its own independent utility connections. All primary and accessory dwelling units on each newly created lot shall be connected to a common gravity-fed sewage disposal approved by the City. All utility connections (excluding electric) and water hook-ups shall be metered independently. All electric and water connections shall be in accordance with Burbank Water and Power Rules and Regulations. The Burbank Water and Power and Public Works departments will determine the utility connection process, requirements, and fees.
- i. **EASEMENT REQUIREMENT**
When applicable, an easement may be required for each newly created parcel that is created through an Urban Lot Split to accommodate for vehicle and pedestrian access onto the site, backflow devices (if necessary), and/or utility service. When applicable, easements shall be reflected in the recorded parcel map.
- j. **DEDICATIONS AND OFFSITE IMPROVEMENTS**
No dedication of rights-of-way or construction of offsite improvements shall be required for an Urban Lot Split, except for those necessary to complete standard sidewalk, parkway, and/or drainage improvements directly associated with the subject property. To the extent that dedication of rights-of-way or construction of offsite improvements are necessary to avoid a specific adverse impact, the application shall be subject to denial.
- k. **ADDRESS ASSIGNMENT**
The Public Works Department will determine address assignments for all new units that are constructed on lots that are a part of an Urban Lot Split.

I. SUBMISSION OF APPLICATION, PAYMENT OF FEES AND PROCESSING OF AN URBAN LOT SPLIT

An application and tentative parcel map for an Urban Lot Split must be submitted on the City's approved form. Only a complete application will be considered. The City's application form shall, at a minimum, require the applicant to submit the following:

- I. A tentative parcel map that is prepared in accordance with Article 2 of Chapter 1, in Title 11 (Subdivisions) of the Burbank Municipal Code.
- II. A signed affidavit stating that the applicant intends to occupy one of the dwelling units on one of the resulting lots as the applicant's principal residence for a minimum of three years after the urban lot split is approved.
- III. Proof that none of the circumstances set forth in Section B of this urgency ordinance are present.
- IV. Proof that the lot to be split was not established through a prior urban lot split under this section.
- V. If the lot would result in the demolition or alteration of existing housing, proof that no housing on the lot has been occupied by a tenant within the past three years.
- VI. Property owner signature on the application.
- VII. The applicable Application Fee.

The Community Development Department shall ministerially review and approve all applications for Urban Lot Splits that are subject to approval. These decisions shall be final.

4. This urgency 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 April 4, 2023.
5. All new SB 9 Projects that have not been issued a Building Permit on or after April 5th, 2022 shall be subject to the rules and regulations stated in this urgency ordinance. All development standards applicable to the Single-Family Residential (R-1 and R-1-H) zones as set forth in the Code that are not in conflict with the provisional standards in this Ordinance shall remain in full force and effect.
6. 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.
7. The City Clerk shall certify to the passage of this Ordinance and cause 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 ____ day of May _____, 2022.

Jess A. Talamantes
Mayor

Approved as to Form:
Office of the City Attorney

Attest:

Zizette Mullins, MMC, City Clerk

By: _____
Iain MacMillan
Senior 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. _____ was duly and regularly passed and adopted by the Council of the City of Burbank at its regular meeting held on the ____ day of _____, 2022, by the following vote:

AYES:

NOES:

ABSENT:

I further certify that said Synopsis was published as required by law in a newspaper of general circulation in the City of Burbank, California within 14 days following of the ordinance’s adoption on _____, 2022.

Zizette Mullins, MMC, City Clerk