

Eff.:

ORDINANCE NO. _____

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

City Attorney's Synopsis

This ordinance extends the urgency ordinance originally adopted on April 5, 2022 and extended with amendments on May 17, 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 California Government Code Section 65858 and Burbank Municipal Code 10-1-1996, the City Council adopted an urgency ordinance that established interim objective zoning, design, and subdivision standards for SB 9 Projects. The adopted interim ordinance took effect immediately and was set to expire 45 days thereafter, on May 20, 2022.

D. On May 3, 2022, pursuant to Government Code Section 65858(d), a report was provided to the City Council describing the measures City Staff had taken to date to alleviate the conditions which led to the adoption of the urgency ordinance on April 5, 2022. In the report, City staff discussed the ongoing work being undertaken 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.

E. On May 17, 2022, pursuant to Government Code Section 65858, the City Council extended an amended version of the urgency ordinance originally adopted on April 5, 2022, for an additional 10 months and 15 days. Unless extended by the City Council, the urgency ordinance will expire by operation of law on April 4, 2023.

F. 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 General Plan projected growth envisioned one single family residential dwelling and accessory dwelling units including one Accessory Dwelling Unit (ADU) and a potential Junior ADU (JADU) 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.

G. Furthermore, the City Council determined that unless the City adopted an urgency ordinance, there would be 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 ADU and one 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.

H. 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 for SB 9 Projects, may have severe negative impacts to the community and to the surrounding neighborhood.

I. 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 lot resulting from the implementation of State-mandated SB 9 regulations.

J. 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 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.

K. On March 14, 2023, pursuant to Government Code Section 65858(d), a report was provided to the City Council and the public describing the measures City Staff has undertaken to alleviate the conditions which led to the adoption of the urgency ordinance on April 5, 2022 and extended on May 17, 2022. The report is included in the Staff Report dated March 14, 2023, and incorporated herein. In the report, Staff discussed the ongoing work being pursued by multiple City Departments and Divisions to establish permanent objective development standards applicable to SB 9 Projects and are intended to address the current and immediate threats to public health, safety and welfare

L. On March 14, 2023, pursuant to Government Code Section 65858 and Burbank Municipal Code 10-1-1996, the City Council considered an additional one full year extension to the urgency ordinance originally adopted on April 5, 2022 and extended on May 17, 2022, that established interim objective zoning, design, and subdivision standards for SB 9 Projects (Urgency Ordinance Extension).

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

N. The City Council determined that the same conditions that existed at the time of adoption of the interim urgency Ordinance No. 22-3,972 and the interim urgency extension Ordinance No. 22-3,975 continue to exist now and that the same findings from the prior ordinances are true and correct now as applied to the Urgency Ordinance Extension. The City Council determined that the Urgency Ordinance Extension is needed to further analyze potential City-specific objective standards that could be permanently codified into the Burbank Municipal Code through the future consideration of a 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 alone could result in 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 Urgency Ordinance Extension is warranted and will facilitate the City's further study of the appropriate standards as part of the preparation of a Zone Text Amendment to regulate 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 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 Extension shall be applicable to all pending and future applications submitted pursuant to Government Code Sections 65852.21 and 66411.7.

P. While this Urgency Ordinance Extension is in effect, the interim development standards established in Ordinance No. 22-3,975 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 adoption of this Urgency Ordinance Extension is not a "project" subject to the requirements of the California Environmental Quality Act (CEQA) pursuant to Government Code Sections 65852.21(j) and 66411.7(n).

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. Pursuant to Government Code Section 65858 and Burbank Municipal Code Section 10-1-1996, Ordinance No. 22-3,972, and amended and extended by Ordinance No. 22-3,975 is hereby extended for a period of one (1) year from April 4, 2023 through April 4, 2024 ("Extension Period").

Section 3. Interim Development Standards. During the Extension Period, the interim development standards outlined in Ordinance No. 22-3,972, as amended by Ordinance No. 22-3,975, shall continue to apply to all new Two-Unit Housing Developments and Urban Lot Splits (SB 9 Projects) submitted to the City. 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 Urgency Ordinance Extension shall remain in full force and effect.

Section 4. Severability. If any section, subsection, sentence, clause, phrase, or word of this Urgency Ordinance Extension 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 Urgency Ordinance Extension, and each and all provisions hereof, irrespective of the fact that one or more provisions may be declared invalid.

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 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 by the City Council, and shall expire and be of no further force and effect after April 4, 2024.

PASSED AND ADOPTED this ____ day of March _____, 2023.

Konstantine Anthony
Mayor

Approved as to Form:
Office of the City Attorney

Attest:

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 _____, 2023, 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 adoption on _____, 2023.

Kimberley Clark, City Clerk