

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

City Attorney's Synopsis

This Urgency Ordinance establishes interim development standards for multifamily residential housing projects on parcels within the Rancho Commercial Land Use Designation of the Burbank2035 General Plan, while the City completes a specific plan process addressing long-term development in this area. This Urgency Ordinance is in response to amendments made to California Government Code Section 65913.4(r) by Senate Bill 423, approved by the Governor on October 11, 2023.

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

A. On October 11, 2023, Governor Gavin Newsom signed Senate Bill (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 goes into effect on January 1, 2024.

B. Among the changes included in SB 423 is the addition of Subsection (r) to California Government Code Section 65913.4, which establishes 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.

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

D. 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.

E. Burbank City Charter Section 500 authorizes the City Council to adopt an interim urgency ordinance as an emergency measure for preserving the public peace, health, safety or welfare. Not less than four (4) members of the City Council must vote to approve the interim urgency ordinance. Burbank Municipal Code (BMC) Section 10-1-1996 authorizes the City Council to adopt an interim zoning ordinance as an urgency measure without complying with public hearing requirements that would otherwise apply to a zone text amendment to protect the public safety, health and welfare if the Planning Commission is conducting or intends to conduct studies within a reasonable time on zone changes, permitted uses, or property development standards.

F. The City Council finds that adoption of this Urgency Ordinance is necessary 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. Adoption of this 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 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. 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 immediately refine the definition of "discretionary approval" for the RC-LUD through this Urgency Ordinance 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. Therefore, this interim change must be adopted on an urgency basis.

G. The City Council finds the interim development standards set forth in this Urgency Ordinance arise from 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. The Urgency Ordinance is also exempt from CEQA, pursuant to the CEQA Guidelines Section 15061(b)(3), because the Urgency Ordinance 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 establishes that, for the purposes of providing clarity when determining “qualified site” eligibility under the regulatory changes enacted by SB 423, that “discretionary approval” within the RC-LUD includes approval through a conditional use permit. As this action clarifies 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. Temporary Residential Development Within the Rancho Commercial Neighborhood. Notwithstanding zoning or land use standards to the contrary within the Burbank Municipal Code, multifamily residential housing projects within the meaning of California Senate Bill 423 (2023-2024), Chapter 778 (Cal. Stat. 2023), are allowed on sites within the Burbank2035 General Plan’s Rancho Commercial Land Use Designation with a conditional use permit.

Section 3. Interim Definition for General Plan Consistency Tables. The phrase “with discretionary approval” in Footnote 1 of the General Plan Consistency Tables listed 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, shall mean “with a Conditional Use Permit” for any sites within the Rancho Commercial Land Use Designation. This definition shall only apply to Footnote 1 of the General Plan Consistency Tables as it relates to sites within the Rancho Commercial Land Use Designation identified in the Burbank2035 General Plan and shall not be extended to give further meaning to Footnote 1 as applied to any other land use designation identified in the General Plan Consistency Tables. For all other land use designations identified in the General Plan Consistency Tables, the language “with discretionary approval” appearing in Footnote 1 shall remain unchanged.

Section 4. Severability. If any provision of this Urgency Ordinance 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, 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 5. Environmental Assessment. The interim development standards set forth in this Urgency Ordinance arise from 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.

The Urgency Ordinance is also exempt from CEQA, pursuant to the CEQA Guidelines Section 15061(b)(3), because the Urgency Ordinance 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 establishes that, for the purposes of providing clarity when determining "qualified site" eligibility under the regulatory changes enacted by SB 423, that "discretionary approval" within the RC-LUD includes approval through a conditional use permit. As this action clarifies 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 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.

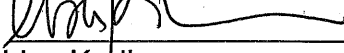
Section 6. Effective Date. Based on the findings contained herein, the staff report, and other written evidence and testimony concerning this Urgency Ordinance, the Council declares this Ordinance is necessary as an emergency measure to preserve the public peace, health, safety and welfare. As such, this Urgency Ordinance shall be introduced, passed, and adopted at one and the same meeting and shall become effective immediately upon a 4/5ths vote the Council, and shall expire and be of no further force and effect 45 days from the date of its adoption, unless otherwise amended or extended by the City Council. Notwithstanding the foregoing, this Urgency Ordinance 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 12th day of December, 2023.



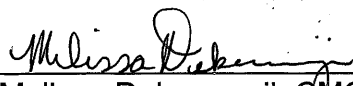
Konstantine Anthony
Mayor

Approved as to Form:
Office of the City Attorney



By: Lisa Kurihara
Senior Assistant City Attorney

Attest:



Melissa Dekermenji, CMC
Records Manager

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

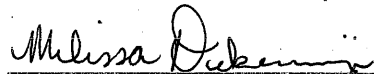
I, Melissa Dekermenji, CMC, Records Manager of the City of Burbank, do hereby certify that the foregoing Ordinance No. 23-4,003 was duly and regularly passed and adopted by the Council of the City of Burbank at its regular meeting held on the 12th day of December, 2023, by the following vote:

AYES: Mullins, Perez, Takahashi, Schultz, and Anthony.

NOES: None.

ABSENT: None.

I further certify that said Urgency Ordinance 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 December 12, 2023.



Melissa Dekermenji, CMC
Records Manager