

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURBANK AMENDING TITLE 10, CHAPTER 1 (ZONING) IN ORDER TO AMEND THE ZONING DEFINITIONS, LAND USE TABLES AND DEVELOPMENT STANDARDS TO ALLOW ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS IN ALL RESIDENTIAL ZONES CONSISTENT WITH APPLICABLE STATE LAWS.

(Zone Text Amendment No. 19-02; Project No. 19-0007470)

City Attorney's Synopsis

New state laws that take effect on January 1, 2020 have put in place new requirements for Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (Junior ADUs). These state laws establish new regulations regarding ADUs, setbacks, on-site parking, and limitations on owner-occupancy requirements except for Junior ADUs.

This Ordinance establishes development standards regulating new ADUs and Junior ADUs in the City's single family and multiple family residential zones in compliance with State law. This ordinance provides new standards regarding the following: allowing ADUs and Junior ADUs residential zones, restricting the number of ADUs in the Mountain Fire Zone and R-1-H zone, and addressing the type and size of ADUs and location, setbacks, parking, and owner-occupancy requirements for Junior ADUs.

THE COUNCIL OF THE CITY OF BURBANK FINDS:

A. The City Council has determined that the City has complied with the 2018 State-mandated ADU law, the City of Burbank successfully approved and permitted more than 350 Accessory Dwelling Units. Approved, permitted and with building permits issued. The City Council protest that our success has neither been recognized nor considered by the State. The City Council is on record having opposed subsequent state-mandated ADU Laws, and is adopting any conforming local legislation under protest. It is the City Council's determination that the legislation coming out of our State Capitol tears down the system of local control and irresponsibly attempts to plan and zone from Sacramento and embodies a complete and total disregard for professional planning and ignores the nuances of our neighborhoods—Magnolia Park, the Media District, the Hillside, the Airport area, the Rancho and our unique hazard zones. This State legislative effort amounts to marginalizing the safety, health and public welfare of our community.

B. On December 9, 2019, the Planning Board held a duly noticed public hearing to consider establishing development standards for Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (Junior ADUs) within all of the City's single family and multi-family residential zones (Project No. 19-0007470). After considering the evidence presented, the Planning Board made a recommendation to the Burbank City Council ("Council") to adopt the proposed Ordinance amending Title 10, Chapter 1 (Zoning) with an exception in the Mountain Fire Zone in order to amend the zoning definitions and development standards to allow Accessory Dwelling Units and Junior Accessory Dwelling

Units in all residential zones, consistent with applicable state laws. (Project No. 19-7470)

C. On December 17, 2019, the Council adopted, as an urgency measure, Interim Development Control Ordinance No. 19-3,928 pursuant to Government Code Section 65858(a), which established interim development standards for new ADUs and Junior ADUs in all residential zones consistent with State law; but restricted on ADUs and Junior ADUs in the Mountain Fire Zone and R-1-H zone based on public safety.

D. On January 7, 2020, the Council at its regular meeting, held a public hearing on the proposed Zone Text Amendment No. 19-02, Project No. 19-0007470.

E. Said hearing was properly noticed in accordance with the provisions of Section 10-1-1994 of the Burbank Municipal Code.

F. The Council considered the report and recommendations of the City Planner, the action and recommendations of the Planning Board as evidenced in its Resolution No. 3407, and the evidence presented at such hearing.

G. The City Council has determined that California law provides local jurisdictions with the authority to designate specific areas where ADUs and Junior ADUs may be permitted. This designation may be based on the adequacy of water and sewer services and the impact of ADUs and Junior ADUs on traffic flow and public safety (Government Code Section 65852.2(a)(1)(A)). The intent of state law is to avoid unreasonable restrictions on the ability of homeowners to create ADUs and/or Junior ADUs.

H. The City Council has determined that unless the City adopts this ordinance, the City would be required to either approve new ADUs and/or Junior ADUs in locations and under standards that may have severe negative impacts on the surrounding community.

I. The City Council finds that after having received over 350 separate applications for ADUs since January 1, 2017 that the City is likely to continue to receive applications for new ADUs and Junior ADUs regardless of whether the City has new ADU regulations. Without an updated local ordinance, these ADU and Junior ADU applications would cause confusion and ambiguity regarding the applicability of provisions in the City's current 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 recently adopted ADU and Junior ADU regulations without local refinements to applicable development standards may create potential impacts to public safety and conflict with the character of the surrounding neighborhoods in which they could be built.

J. The City Council has determined that wildland fires pose a serious threat in areas located within and adjacent to the Verdugo Mountains in northeast Burbank and within the southwestern portion of the City adjacent to the Warner Bros. Studios and the 134 Freeway (inclusive of the "Rancho area"). These two areas have been identified in the Burbank2035 General Plan Safety Element as Mountain Fire Zones by the City (see maps attached hereto). Structure fires and grass fires are a safety hazard throughout the City, but they pose a unique risk in these two Mountain Fire Zone areas for Burbank residents, visitors

and properties. Over the past three years, California has experienced an increase frequency and size of wildfires throughout the State. During this period the City of Burbank experienced three major fires, including La Tuna Fire that burned 7,194 acres and the Barham Fire that threatened the Hollywood Hills, the Burbank Hills Fire, and the Warner Bros. Studios Fire; all these fires were located within the City's Mountain Fire Zones. It is anticipated that climate change will increase the frequency and size of wildfires. Hotter, drier climates, aided by prolonged drought, will promote increased accumulation of fire-prone vegetation. When fires occur, stronger winds will continue to fan the flames, spreading fires faster and farther than previously experienced. This will expand the size of the urban-wildland interface, because more residential communities will be within reach of wildfire activity. The City's two designated fire zones are especially susceptible. The hillside area within the fire zone, which includes the R-1 zone (inclusive of the designated hillside area) is an area with unique circumstances and challenges not faced by other residential neighborhoods because of the location and topography of the area.

In many instances, hillside vegetation and brush grow into resident's backyards with sometimes only a fence line separating the two; couple these conditions with the very steep terrain and limited accessibility to potential fire hot spots. As such, it is imperative that the City take the necessary steps to implement development standards for ADUs within the Mountain Fire Zones that safeguard traffic flow and public safety in these designated areas to allow speedy and safe access of fire and emergency vehicles to these areas in the case of a fire as well as protecting public safety by providing safe ingress and egress of residents during needed evacuations. To this end, the proposed Ordinance includes specific limitations on ADUs related to the number and size of ADU and Junior ADU units allowed in the Mountain Fire Zones that will safeguard traffic flow on already constrained and narrow streets and preserve public safety by maintaining current response times for emergency service vehicles to reach all portions of the affected hillside area single family residential and single family residential horse keeping properties located within the Mountain Fire Zones. The other fire zone that encompasses the Rancho area is also a unique area that is susceptible to higher risk and also requires special care as one of the few remaining neighborhoods in the urbanized areas of Los Angeles County where homeowners may keep horses on their residential properties.

K. The City Council has determined that in addition to the fire zone issues in the R-1-H zone, special care must be taken in this zone to ensure implementation of new State laws regulating ADUs and Junior ADUs do not adversely impact equine/horse keeping uses located in the R-1-H zone and public safety for residents living nearby. Horses must be provided with "necessary...shelter or protection from the weather" [California Penal Code Section 597 (b)]. These shelters/enclosures and surrounding areas must be of sufficient size to enable a horse to comfortably stand up, turn around and lie down as well as provide an area for the horse to exercise. These areas require constant maintenance to remove excess feces, urine, mud or other waste products that can create excessive ambient temperatures or result in the buildup of toxic gases, such as ammonia. Clean and sanitary surroundings within the confines of any on-site equine facility are essential for the health and welfare of the horses and to avoid unnecessary environmental contamination that may affect on-site or nearby residents. The average horse defecates once every two hours (an average of 12 times per day). On average, this produces at total of 54 pounds

of feces per day. Furthermore, a horse on average voids 2.7 gallons of urine per day, with dramatic increases in urine output occurring as ambient temperature rises. The mixture of urine and feces produces noxious gases, including ammonia. Manure attracts breeding flies and other insects which are both irritating and unhealthy to animals and humans, alike. Areas designated as collection areas for the temporary storage of animal waste products before pickup and removal need to be well maintained.<sup>1</sup> To this end, special siting requirements must be considered to ensure that ADUs and/or Junior ADUs are allowed in the R-1-H zone in a manner that address safety concerns with possible unintended interface of residents and horses and does not preclude the existing and future horse keeping uses that are part of the community character for this zone. This is consistent with CA Vehicle Code Sections 22353.2 through 22353.4, wherein the legislature recognized the importance of equestrian safety in the R-1-H zone of the City of Burbank.

L. The City Council has determined that adoption of the ordinance would facilitate the implementation of appropriate standards for ADUs and Junior ADUs in Burbank in a manner that addresses fire and public safety concerns associated with the intensification of development in the City's aforementioned R-1 (inclusive of the designated hillside area) and R-1-H zones located in the City's Mountain Fire Zone and/or specifically designed for horse keeping uses. Accordingly, this ordinance is necessary to protect public safety.

M. 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 [accessory dwelling 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.

#### 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. Section 10-1-203 of Title 10, Chapter 1 of the Burbank Municipal Code is amended as follows:

JUNIOR ACCESSORY DWELLING UNIT OR Junior ADU means a unit that is no more than 500 square feet in size and contained entirely within an existing single-family structure. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

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<sup>1</sup> [A Guide: Minimum Standards of Horse Care in the State of California \(January 2019\) prepared by the Center for Equine Health, School of Veterinary Medicine University of California, Davis;](https://ceh.vetmed.ucdavis.edu/)

STRUCTURE: Means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground, except for: NON-COMMERCIAL CORRAL, STABLE inclusive of tack rooms and similar accessory support facilities and KENNEL that are constructed for the keeping of horses, dogs and cats, or a combination thereof and have a separate definition within this Code.

3. Section 10-1-602, subsection C, Applicable Sections, Table 10-1-602 of Title 10, Chapter 1 of the Burbank Municipal Code is amended as follows:

**Table 10-1-602**

**Permitted Uses in the R-1 and R-1-H Zones**

<i>Symbol</i>	<i>Meaning</i>		
P	Use is permitted		
AUP	Administrative use permit required (see Article 19, Division 4.1)		
CUP	Conditional use permit required (see Article 19, Division 4)		
---	Use is prohibited		

  

<i>Land Use</i>	<i>R-1</i>	<i>R-1-H</i>	<i>Specific Use Standards</i>
<b>Residential and Accessory Uses</b>			
Single family dwelling, not to exceed one per lot, including mobilehomes and manufactured homes	P	P	
Single family dwellings, additional, on one lot	CUP <sup>(1)</sup>	CUP <sup>(1)</sup>	
Garages, private	P <sup>(2)</sup>	P <sup>(2)</sup>	
Accessory structures, including minor structures for which no building permit is required <sup>(3)</sup>	P <sup>(4)</sup>	P <sup>(4)</sup>	<a href="#">10-1-604</a>
Accessory uses typical for a single family home including tennis courts and swimming pools	P	P	
Accessory dwelling unit and Junior accessory dwelling unit	P	P	Article 6, Division 3
Home occupation	P	P	Article 6, Division 11

<i>Land Use</i>	<i>R-1</i>	<i>R-1-H</i>	<i>Specific Use Standards</i>
Home occupation, music lessons	AUP	AUP	<a href="#">10-1-672</a>
Planned residential development	CUP	CUP	Article 6, Division 8
Stable or corral, non-commercial, for keeping horses owned by the owner or occupant of the property only	---	P	<a href="#">10-1-605</a>
Small family day care home	P	P	
Large family day care home	AUP	AUP	Article 6, Division 13
Community care facility (licensed, six or fewer occupants)	P	P	
Community care facility (unlicensed, six or fewer occupants)	P	P	
<b>Non-Residential Uses</b>			
Carnival conducted by a church, public or private school, service club, or nonprofit association or corporation	CUP	CUP	
Church or church school	CUP	CUP	
Educational institution, public or private	CUP <sup>(5)</sup>	CUP <sup>(5)</sup>	
Municipal fire station	CUP	CUP	
Municipal library	CUP	CUP	
Park or recreational facility, golf course, cultural facility; including incidental commercial uses commonly associated with a park or recreation use	CUP	CUP	
Parking lot, off-street	CUP	CUP	Article 14, Division 4
Public utility facility	CUP	CUP	
Wireless Telecommunications Facility	(6)	(6)	<a href="#">10-1-1118</a>
<b>Equestrian and Special Uses</b>			
Animal hospital; no boarding	---	CUP <sup>(7)</sup>	
Blacksmith; horse shoeing only	---	CUP <sup>(7)</sup>	

<i>Land Use</i>	<i>R-1</i>	<i>R-1-H</i>	<i>Specific Use Standards</i>
Petting zoo	---	CUP <sup>(7)</sup>	
Plant nursery	---	CUP <sup>(7)</sup>	
Stable, commercial; including housing facilities for caretaker on premises	---	CUP <sup>(7)</sup>	Article 24, Division 9
<b>Cannabis Uses</b>			
Cannabis delivery	---	---	<a href="#">10-1-512</a>
Commercial cannabis activities	---	---	<a href="#">10-1-512</a>
Cultivation	---	---	<a href="#">10-1-512</a>
Retailer	---	---	<a href="#">10-1-512</a>

Notes/Additional Requirements:

- (1) Additional single family dwellings legally constructed prior to June 4, 1963 are permitted uses that do not require a CUP.
- (2) Intentionally deleted.
- (3) Accessory structures include enclosed and non-enclosed structures that are detached from the main dwelling unit, including but not limited to detached garages, gazebos, workshops, storage sheds and buildings, and pool houses. Accessory dwelling units, whether attached to the main dwelling unit or detached, and additional dwelling units authorized by conditional use permit, are not considered accessory structures.
- (4) Intentionally deleted.
- (5) Public educational institutions existing prior to June 1, 1978 are permitted uses that do not require a CUP.
- (6) Permitted in accordance with Section [10-1-1118](#).
- (7) Permitted only on properties with a land area of 12,000 square feet or greater that abut commercially zoned land.

4. Section 10-1-627, subsection C, Applicable Sections, Table 10-1-627 of Title 10, Chapter 1 of the Burbank Municipal Code is amended as follows:

**Table 10-1-627**

**Permitted Uses in the Multiple Family Residential Zones**

<b>Symbol</b>	<b>Meaning</b>
P	Use is permitted

<b>Table 10-1-627 Permitted Uses in the Multiple Family Residential Zones</b>				
<b>Symbol</b>	<b>Meaning</b>			
AUP	Administrative use permit required (see Article 19, Division 4.1)			
CUP	Conditional use permit required (see Article 19, Division 4)			
--	Use is prohibited			
<b>Land Use</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>Specific Use Standards</b>
<b>Residential and Accessory Uses</b>				
Single family dwelling	P	P	P	
Multiple family dwelling	P	P	P	
Accessory dwelling unit, Junior accessory dwelling unit	P	P	P	Article 6, Division 3
Garages and carports, private	P	P	P	
Accessory structures, including minor structures for which no building permit is required	P	P	P	
Accessory uses typical for a residential project including tennis courts and swimming pools	P	P	P	
Driveway in buffer area	CUP	CUP	CUP	<a href="#">10-1-628(F)</a>
Home occupation	P	P	P	Article 6, Division 11
Home occupation, music lessons	AUP	AUP	AUP	<a href="#">10-1-672</a>

<b>Land Use</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>Specific Use Standards</b>
Planned residential development	CUP	CUP	CUP	Article 6, Division 8
Small family day care home	P	P	P	
Large family day care home	AUP	AUP	AUP	Article 6, Division 13
Community care facility (licensed, six or fewer occupants)	P	P	P	
Community care facility (unlicensed, six or fewer occupants)	P	P	P	
Community care facility (licensed, seven or more occupants)			CUP	
Community care facility (unlicensed, seven or more occupants)			CUP	
Supportive Housing		P	P	
Transitional Housing		P	P	
Single Room Occupancy Hotel (SRO)		CUP	CUP	
Residential care home-retirement home	---	---	CUP	
<b>Non-Residential Uses</b>				
Carnival conducted by a church, public or private school, service club, or nonprofit	CUP	CUP	CUP	

Land Use	R-2	R-3	R-4	Specific Use Standards
association or corporation				
Church or church school	CUP	CUP	CUP	
Convenience grocery store	CUP <sup>(1)</sup>	CUP <sup>(1)</sup>	CUP <sup>(1)</sup>	
Educational institution, public or private	CUP <sup>(2)</sup>	CUP <sup>(2)</sup>	CUP <sup>(2)</sup>	
Municipal fire station	CUP	CUP	CUP	
Municipal library	CUP	CUP	CUP	
Office, business or professional	---	CUP <sup>(3)</sup>	---	
Office, medical	---	CUP <sup>(4)</sup>	CUP <sup>(4)</sup>	
Park or recreational facility, golf course, cultural facility; including incidental commercial uses commonly associated with a park or recreation use	CUP	CUP	CUP	
Parking lot, off-street	CUP	CUP	CUP	Article 14, Division 4
Wireless Telecommunications Facility	(5)	(5)	(5)	<a href="#">10-1-1118</a>
Public utility facility	CUP	CUP	CUP	
Stable or corral, non-commercial, for keeping horses owned by the owner or occupant of the property only	---	CUP <sup>(5)</sup>	CUP <sup>(5)</sup>	

Land Use	R-2	R-3	R-4	Specific Use Standards
Cannabis Uses				
Cannabis delivery	---	---	---	<a href="#">10-1-512</a>
Commercial cannabis activities	---	---	---	<a href="#">10-1-512</a>
Cultivation	---	---	---	<a href="#">10-1-512</a>
Retailer	---	---	---	<a href="#">10-1-512</a>

Notes/Additional Requirements:

- (1) Permitted only on properties with a land area of 8,000 square feet or less.
- (2) Public educational institutions existing prior to June 1, 1978 are permitted uses that do not require a CUP.
- (3) Prohibited in R-2, R-3, R-4, and MDR-4 zones; CUP in MDR-3 zone when the parcel is adjacent to a Major or Secondary Arterial street, and the office use is conducted in an existing residential structure.
- (4) Permitted only in conjunction with one or more residential units on the same lot where the medical practitioner resides on the premises.
- (5) Permitted in accordance with Section [10-1-1118](#).
- (6) Stables and corrals are permitted only in the Rancho Area as defined in Section [10-1-630\(A\)](#).

[Amended by Ord. No. 18-3,901, eff. 4/13/18; 17-3,898; Formerly numbered Section 31-43; renumbered by Ord. No. 3058; 3872; 3860, 3840, 3817, 3791, 3751, 3743, 3697, 3676, 3535, 3139, 2727, 2386, 2371.]

5. Division 3 (Accessory Dwelling Units) to Chapter 1 of Title 10 of the Burbank Municipal Code is amended as follows:

Division 3. Accessory Dwelling Units and Junior Accessory Dwelling Units

10-1-620.1: CITATION AND AUTHORITY: This division is enacted under the authority granted by Chapter 4 (commencing with Section 65800) of Division 1 of Title 7 of the Government Code of the State of California.

10-1-620.2: PURPOSE AND INTENT:

A. PURPOSE.

The City Council declares and finds all of the following:

1. California housing production has not kept pace with demand with only half of the needed housing units built in the last decade.
2. Locally, there is a large unmet need for housing to shelter Burbank's residents who have a fixed or limited income.

3. Accessory dwelling units and junior accessory dwelling units have resulted in new housing units for seniors to age in place, provide new housing opportunities for couples, extended families, young people, disabled persons and employees working in the City seeking to find cost-effective dwelling units close to jobs, amenities, and schools.

4. Accessory dwelling units and junior accessory dwelling units have helped increase housing supply and provide relatively affordable housing options within the City's single family and multiple family residential zones.

5. Accessory dwelling units and junior accessory dwelling units can provide a cost-effective means of providing additional housing options through the use of existing infrastructure.

6. Accessory dwelling units and junior accessory dwelling units, as regulated in this Chapter will not adversely impact public safety or the character and quality of the City's single family neighborhoods in light of the restrictions in the Mountain Fire Zone and R-1-H zone.

7. Providing additional housing for employees that work in the City's employment centers could reduce the commute times and vehicle miles traveled by employees coming in to the City, and therefore, potentially reduce traffic congestion.

## B. INTENT.

By adoption of this division, it is acknowledged and determined this division will, to the extent permissible by law, allow for the development of accessory dwelling units and junior accessory dwelling units while maintaining and protecting the essential characteristics of the single family and multiple family residential zones and establishing criteria set forth in Government Code Section 65852.2 et seq.

10-1-620.3: DESIGN AND DEVELOPMENT STANDARDS FOR NEW CONSTRUCTION:  
The design and construction of all newly constructed accessory dwelling units and junior accessory dwelling units shall conform to the following standards:

### A. GENERAL PROVISIONS

Unless otherwise preempted by state law, the design and construction of all newly constructed accessory dwelling units ("ADU") and junior accessory dwelling units ("Junior ADU") shall comply with all applicable building, housing, zoning and site development standards of this division, 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. Applicants shall also comply with all applicable fee and charge requirements, and other applicable zoning requirements. Applications deemed complete for ADUs and Junior ADUs shall be approved ministerially with the applicable 60-day review period consistent with state law.

### B. PERMITTED ZONES

An ADU and Junior ADU shall be a permitted use within the City's single family and multiple family residential zones: R-1, R2, R3, R4, MDR-3, MDR-4 and R-1-H zones.

### C. ON-SITE PARKING

- 1) Required parking for an accessory dwelling unit shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less.
- 2) When an existing garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or is converted into an ADU, replacement parking for the main dwelling unit shall not be required.
- 3) When required on-site parking can be covered, uncovered, tandem or provided through the use of a mechanical automobile parking lift. Tandem parking as defined in this division means that two or more automobiles are parked in a driveway or in any other location on a lot, lined up behind one another.

### D. ON-SITE PARKING EXCEPTIONS

Notwithstanding the parking development standards for ADUs and Junior ADUs (collectively accessory dwelling units for this subsection D) noted in subsection C, ADUs that meet the following State provisions (consistent with AB 68, AB 881 , and SB 13 ) shall not be required to provide on-site parking if:

- 1) The accessory dwelling unit is located within one-half mile walking distance 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 dwelling unit 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.

### E. PARKING LOCATION

The parking provided on-site can 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 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.

## F. SQUARE FOOTAGE

- 1) All new accessory dwelling units and additions to existing and permitted accessory dwelling units are exempt from compliance with the Floor Area Ratio (FAR), lot coverage, open space, or minimum lot size requirements noted in this Code unless otherwise specified herein.
- 2) All new detached accessory dwelling units shall not exceed 850 square feet, except for an accessory dwelling with more than one bedroom shall not exceed 1,000 square feet.
- 3) When an accessory dwelling unit is attached to the existing primary dwelling unit, the maximum allowed size of that accessory dwelling unit shall be no more than 50% of the main dwelling size, or 850 or 1,000 square feet based on number of bedrooms as noted in preceding section F(2), but no less than 800 square feet.
- 4) Guest dwelling units previously approved by the City and constructed with City building permits may be converted up to the previously City-approved square footage or 850 or 1,000 square feet based on number of bedrooms as noted in preceding section F(2), whichever is less.
- 5) When a balcony, porch or patio is provided in conjunction with an ADU, if said structure is covered, it shall count towards the total ADU square footage allowance.
- 6) The building division will determine what is considered a landing or a balcony, porch or patio for the purposes of square footage requirements.
- 7) If a cover such as a porch or similar type structure is provided over the main entrance of the ADU, and is supported by posts, 25 square feet of the said cover will not count towards the maximum allowable square footage of the ADU.
- 8) ADUs may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

## G. HEIGHT

- 1) All new ADUs that are 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, accessory structure, or above another ADU when applicable under this Code, 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 or accessory structure shall be no more than one (1) story with a maximum top of plate height of 12 feet as measured from grade level and a maximum height of 17 feet to any architectural features.
- 4) When an ADU is constructed on top of a garage or accessory structure, 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 or accessory structure.

#### H. SETBACK

- 1) Unless otherwise provided in this Division, any new attached or detached ADUs must have a minimum setback of 4 feet to the rear property line and 4 feet to the side-yard property line with the exception that ADUs on top of a garage shall maintain a minimum 5 feet setback from side and rear property lines.
- 2) Any new ADU or Junior ADU cannot be located closer to the front property line than the prevailing front yard setback for a single family residential zoned lot or minimum required front setback for a multifamily residential zoned lot. An exception to this requirement would be to allow the conversion of existing legal non-conforming building footprint of the main structure or attached accessory structure into an ADU or Junior ADU within the main structure that is located within the front yard setback.
- 3) 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. The required minimum 4 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.
- 4) New ADUs must maintain a 5-foot separation from building face to building face, and a 4 foot separation from eave to eave of any adjacent structure.
- 5) No accessory dwelling unit may be located in a way that would prohibit access to a designated parking area or impede safe ingress and egress from a required side, rear, or front setback.
- 6) No setback shall be required when an ADU is constructed in the same location and to the same dimensions as an existing legal Structure that is converted into an ADU or to a portion of an accessory dwelling unit, even when that Structure has been demolished.
- 7) When a balcony, porch or patio is provided in conjunction with the ADU and is 7 inches above grade level, the balcony, porch or patio must be setback from the rear and side property lines a minimum of 4 feet.

- 8) When a staircase or landing is provided for a new or existing second story ADU, whether attached or detached to the primary dwelling unit, that staircase or landing must provide a minimum 4 foot setback to the rear and side property line.

#### I. OWNER OCCUPIED AND RESTRICTIVE COVENANT

Special Note: Pursuant to state law, the City shall not impose an owner-occupancy and restrictive covenant requirements noted in this section, inclusive of the following items 1) through 3) until January 1, 2025, unless said prohibition is subsequently extended by state law. If state law is amended to allow owner-occupancy restrictions before January, 1, 2025, then this Owner Occupied and Restrictive Covenant Section shall spring back into effect without further action of the City Council.

- 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.

One year from the date of approval of a final building permit for an accessory dwelling unit, and every year thereafter, the applicant or subsequent property owner of the lot shall submit and certify, on forms provided by the City, that the property owner of record of the property continues to live on and occupy the property as his/her principal place of residence. It shall be a violation of this Code if the property owner or subsequent property owner fails to comply with this section.

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 unit being rented may be rented only for terms longer than thirty (30) consecutive calendar days; (iv) the accessory dwelling unit may not be sold or conveyed separately from the primary dwelling unit; (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; and (vi) the property owner of a unit in the R-1-H (Single-Family Horse keeping) zone shall provide written notification to a tenant(s) of the allowance of equestrian activities in the zone, which may include the keeping of horses, and may result in unpleasant or objectionable odors, dust, noise, etc.

- 2) When an ADU is constructed in a multiple family residential zone, the property must still be owner occupied and that ADU must comply with the development standards identified through this ordinance.
- 3) A waiver from the owner occupancy requirement may be granted by the Community Development Director for a period up to two years if the property owner is able to establish a bona fide hardship to the restriction as follows: the property owner is hospitalized, or requires daily living assistance that prevents the owner from physically living on the property; the property owner is on active military duty and is deployed to a location that prevents the owner from occupying the property; the property owner is deceased and the property is being held pending dispensation of the estate. The waiver shall be submitted on a form approved by

the Director. The property owner shall provide evidence of the hardship to the satisfaction of the Director. The Director's decision on a waiver is final.

#### J. DESIGN AND DEVELOPMENT STANDARDS

- 1) The exterior design of the ADU shall match that of the main dwelling in terms of building forms, materials, colors, exterior finishes, roof forms and style of doors and windows. The structure(s) shall retain the appearance of a single-family dwelling, and the accessory dwelling unit shall be integrated into the design of the existing primary dwelling unit on the property or as determined by the Community Development Director or his/her designee.
- 2) The design of an attached ADU shall be compatible with the architectural design of the primary dwelling unit in order to ensure long term compatibility regardless of whether the use of the ADU is continued or terminated. If a separate entrance is provided, it shall be located on the side or rear of the structure and whenever possible located toward interior yard areas. The additional entrance is prohibited from being located on the front of the primary dwelling unit. The second entrance shall be well lit and free of concealment from landscaping to assure safe entrance and exit by the occupants.
- 3) All ADU façade elevations visible from any public right of way must provide entries, windows, or other architectural features compatible with the existing primary dwelling unit.
- 4) When a garage is converted into an ADU, the garage door must be removed and replaced with windows, door, or other design treatments that are consistent with the overall architectural design of the structure and the primary dwelling unit.
- 5) The design and construction of each ADU 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.
- 6) The main entrance of a detached ADU must face the same direction as the main entrance for the primary dwelling unit or face the side property lines, whichever is more compatible to the neighborhood character as determined by the City Planner. An ADU entrance proposed to face an alley or rear property line is subject to review and approval by the City Planner.

#### K. UTILITY CONNECTION AND CITY FEES

- 1) The primary and accessory dwelling units may be connected to a common gravity-fed sewage disposal approved by the City.

- 2) An ADU under 750 square feet shall not be charged development impact fees. An ADU greater than 750 square feet may be charged development impact fees. These development impact fees shall be proportional to the square footage of the main dwelling and calculated using the ADU square footage.
- 3) An ADU not built within the existing space of a single family house or accessory structure may be required to obtain a new or separate utility connection as determined by Burbank Water and Power process and may be subject to a connection fee or capacity charge based on its square footage or number the number of its drainage fixtures unit values.

#### L. ADDRESS ASSIGNMENT AND VERIFICATION OF EASEMENTS AND DEDICATIONS

The Public Works department will determine address assignments to new ADUs and Junior ADUs and verify any public easements and land dedications required by the Burbank Municipal Code.

#### M. MOUNTAIN FIRE ZONE AND FIRE SPRINKLERS

No ADU or Junior ADU shall be permitted on R-1 or R-1-H zoned properties located within the City's designed Mountain Fire Zones as noted in the City's General Plan Safety Element, unless all of the following requirements are met:

- 1) No more than one ADU no greater than 800 square feet or one Junior ADU no greater than 500 square feet is allowed on R-1 and R-1-H zoned properties located in the City's Mountain Fire Zones.
- 2) All new ADUs proposed within the City's Mountain Fire Zones shall comply with any applicable brush clearance requirements. Unless otherwise required by applicable City building and fire codes, in any residential zone where new ADUs are allowed, if fire sprinklers are required for the primary dwelling unit then they are also required for new ADUs.

#### N. STANDARDS IN THE R-1-H SINGLE FAMILY RESIDENTIAL HORSE KEEPING (R-1-H) ZONE

Consistent with the purpose of the R-1-H zone and in order to ensure that ADUs do not adversely impact public safety and equine/horse keeping uses located in the R-1-H zone, all of the provisions of this section shall apply to ADUs in the R-1-H Zone unless otherwise stated in the following:

- 1) No more than one ADU or one Junior ADU is allowed on R-1-H zoned properties. No new construction of ADUs shall be permitted in the R-1-H zone except for the following:
  - a) The conversion of an existing permitted garage shall be permitted.

- b) The conversion of an existing permitted guest dwelling unit shall be permitted.
  - c) The conversion of existing square footage within the main dwelling unit is permitted.
  - d) Additions to or conversions of existing square footage within the main dwelling unit is permitted in the area outside of the rear 35 feet of the lot, which is the area reserved for horse keeping uses (e.g. barns, corrals, stables, and tack rooms).
- 2) The conversion of any existing accessory structure (storage, shed, pool house, recreation room), and barn, stable, corral, tack room, etc.) into an ADU shall not be permitted.
  - 3) Unless otherwise required to comply with the City's building and fire codes, any doors, windows, and other openings in any accessory dwelling unit shall comply with the requirements of Section 10-1-605(B).

#### O. ADDITIONAL STANDARDS IN MULTIFAMILY ZONES

All of the provisions of this section shall apply to ADUs in the Multifamily Zones unless otherwise stated in the following:

- 1) No more than two (2) ADUs can be constructed on a multifamily zoned lot or on a lot with a multiple family dwelling. These ADUs must be detached from the primary structure; these ADUs may be attached or detached from each other.
- 2) ADUs may be created within a multifamily dwelling structure in areas not used as livable space, such as storage rooms, boiler rooms, passageways, attics, basements, common areas or garages, so long as the converted space complies with state building standards for dwellings. The number of ADUs so created shall be up to 25% of the existing multifamily dwelling units in the multifamily dwelling structure, but at least one ADU is permitted.

#### P. JUNIOR ACCESSORY DWELLING UNIT STANDARDS

All of the provisions of this section shall apply to a Junior ADU unless otherwise stated in the following:

- 1) A Junior ADU is limited to 500 square feet.
- 2) One Junior ADU is allowed per residentially zoned lot that includes an existing or proposed single-family dwelling unit structure.
- 3) A deed restriction must be recorded and will run with the land prohibiting the sale of the Junior ADU separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.

- 4) The deed restriction must include the size and attributes of the Junior ADU that conforms to this section.
- 5) The Junior ADU must be constructed within the existing walls of the single-family residence.
- 6) The Junior ADU must include a separate entrance from the main entrance to the single-family residence.
- 7) The Junior ADU must include an efficiency kitchen, which shall include all of the following:
  - a) A cooking facility with appliances.
  - b) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the Junior ADU.
- 8) Additional parking may not be required as a condition to grant a permit for a Junior ADU.
- 9) An inspection, including the imposition of a fee for that inspection to determine whether the Junior ADU is in compliance with applicable building standards may be required at any time after the Junior ADU has been built.
- 10) For the purposes of any fire or life protection ordinance or regulation, a Junior ADU shall not be considered a separate or new dwelling unit. This section shall not preclude the city from adopting an ordinance or regulation relating to fire and life protection requirements within a single-family residence that contains a Junior ADU so long as the ordinance or regulation applies uniformly to all single-family residences within the zone regardless of whether the single-family residence includes a Junior ADU or not.
- 11) For the purposes of providing service for water, sewer, or power, including a connection fee, a Junior ADU shall not be considered a separate or new dwelling unit.
- 12) A Junior ADU requires owner-occupancy as follows: The owner shall reside in either the remaining portion of the single-family residence or the newly created Junior ADU. This provision does not apply if the owner is a governmental entity, land trust or housing organization. The property owner shall enter into a restrictive covenant memorializing this restriction 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.

## Q. SHORT TERM RENTALS

Unless otherwise provided for in the Burbank Municipal Code, ADUs and Junior ADUs, which are rented, shall be rented for terms longer than 30 days.

## R. CONVEYANCE

Any ADU may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

### 10-1-620.4: EXISTING SECOND DWELLING UNITS:

All accessory dwelling units (formerly “second dwelling units”) constructed prior to January 1, 2017, shall comply with all applicable requirements of Article 18 of this chapter, commencing with Section 10-1-1801. [Added by Ord. no. 18-3,901, eff. 4/13/18].

### 10-1-620.5: EXISTING CONDITIONAL USE PERMITS:

A. The provisions of Article 18 of this chapter (Nonconforming Land Uses and Structures) notwithstanding, this division shall not render invalid or nonconforming any second dwelling unit for which a Conditional Use Permit was granted prior to the effective date of Ordinance No. 3622.

B. All existing Conditional Use Permits and existing permits for accessory dwelling units (formerly “second dwelling units”) shall remain subject to conditions imposed thereon at the time such permits were granted, except that any condition that limits the occupants of a permitted accessory dwelling unit to certain named persons, or certain classes of persons, or which requires the permittees to identify the residents of the accessory dwelling unit to the City by name, or to obtain a new permit for the purpose of authorizing a new resident, shall no longer be applicable. [Added by Ord. no. 18-3,901, eff. 4/13/18].

### 10-1-620.6: PENALTIES AND ENFORCEMENT PRACTICES:

A. A violation of willfully providing a false statement or failing to provide a statement pursuant to Section 10-1-620.3 of this division shall be a misdemeanor.

B. A violation of any provision of this section shall be a misdemeanor resulting in a penalty of at least One Hundred Dollars (\$100) per day for a first violation; and a minimum penalty of Five Hundred Dollars (\$500) per day for a second violation; a minimum fine of One Thousand Dollars (\$1,000) per day for any further violation. This section does not preclude probation or any other terms or conditions of such. [Added by Ord. no. 18-3,901, eff. 4/13/18].

### 10-1-620.7: DETERMINATION ON ACCESSORY DWELLING UNIT AND JUNIOR ACCESSORY DWELLING UNIT APPLICATION

## A. SUBMISSION OF APPLICATION.

Any person desiring to construct or establish an ADU and/or Junior ADU must submit the following materials to the Community Development Department's Planning Division:

- 1) A completed ADU and/or Junior ADU Permit application on forms as established and provided by the City Planner.
- 2) Site plans, floor plans, elevations, pictures and such other materials as may be deemed necessary by the City Planner to make a determination on the application.
- 3) A copy of the Property Deed establishing the identity of the owner of record of the property.
- 4) The Accessory Dwelling Unit and/or Junior ADU Permit application fee in accordance with the City of Burbank Adopted Citywide Fee Schedule in effect at the time of application submittal. An application shall not be deemed to be filed until such time as all necessary information has been provided to the Director.

6. All new Accessory Dwelling Unit and Junior Accessory Dwelling Unit applications submitted on or after January 1, 2020 shall comply with and be issued under the provisions of this Ordinance. In the event there is a conflict between Title 10 of the Burbank Municipal Code and these Development Standards noted in this Ordinance, the provisions of the Development Standards in this Ordinance shall control.

7. 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.

8. Interim Development Control Ordinance ("IDCO") No. 19-3,928 regarding ADUs/Junior ADUs is hereby terminated.

9. 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 [accessory dwelling 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.

10. If any provision of this 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 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.

11. The City Clerk shall certify to the passage of this Ordinance and cause the City Attorney Synopsis of this Ordinance to be published once in a newspaper of general circulation within fourteen (14) days of adoption, published and circulated in the City of Burbank, California.

12. The City Clerk shall insert the effective date of this Ordinance in the body of this Ordinance wherever noted.

13. This Ordinance shall become effective at 12:01 a.m. on the thirty-first (31st) day after the date of adoption.

PASSED AND ADOPTED this 11th day of February, 2020.

s/Sharon Springer  
Sharon Springer  
Mayor

Attest:

Approved as To Form:  
Office of the City Attorney

s/Zizette Mullins  
Zizette Mullins, MMC, City Clerk

By: s/Amy Albano  
Amy Albano, 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. 20-3,932 was duly and regularly passed and adopted by the Council of the City of Burbank at its regular meeting held on the 11th day of February, 2020, by the following vote:

AYES:           Frutos, Gabel-Luddy, Murphy and Talamantes.

NOES:           Springer.

ABSENT:       None.

I further certify that said Synopsis was published as required by law in a newspaper of general circulation in the City of Burbank, California on the 22nd day of February, 2020.

          s/Zizette Mullins            
Zizette Mullins, MMC, City Clerk