

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURBANK AMENDING TITLE 10, CHAPTER 1 (ZONING) OF THE BURBANK MUNICIPAL CODE TO UPDATE THE EXISTING DEVELOPMENT STANDARDS FOR ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS IN ALL SINGLE-FAMILY AND MULTIFAMILY RESIDENTIAL ZONES, AND ON ANY LOTS WITH PROPOSED OR EXISTING SINGLE-FAMILY OR MULTIFAMILY USES TO ENSURE CONSISTENCY WITH STATE LAW

(PROJECT NO. 22-0007623, ZONE TEXT AMENDMENT)

City Attorney's Synopsis

This Ordinance amends the Burbank Municipal Code, Title 10, Chapter 1, by modifying design and development standards regulating Accessory Dwelling Units and Junior Accessory Dwelling Units in the City's single family and multiple family residential zones, and on any lots with proposed or existing single-family or multifamily residential uses in compliance with changes made to state law under Senate Bill 897 and Assembly Bill 2221, which amended, in part, California Government Code Sections 65852.2 and 65852.22.

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

A. California Senate Bill 897 (SB 897) and California Assembly Bill (AB 2221) (amending, in part, Government Code Sections 65852.2 and 65852.22) (collectively referred to herein as "State ADU/JADU Laws") were signed by Governor Gavin Newsom on September 28, 2022, and became effective January 1, 2023. SB 897 and AB 2221 establish additional regulations for Accessory Dwelling Units ("ADU") and Junior Accessory Dwelling Units ("JADU").

B. Pursuant to the State ADU/JADU Laws, all cities must make modifications to local ADU and JADU development standards and controls to be consistent with state law that include, but are not limited to: increasing the maximum height limit from 17 feet to 18 feet (or in certain instances, to 20 feet) for certain ADUs that are either located within a half-mile walking distance of a high-quality transit corridor or major transit stop, removing front yard setback requirements where construction of certain ADUs would otherwise be infeasible, and requiring that local ordinances only impose objective standards on ADUs. Failure to update local ordinances in compliance with state law may render local ADU ordinances null and void, and the City may be required to apply State ADU/JADU Laws without local refinements to all local ADU and JADU projects.

C. On December 13, 2022, pursuant to Government Code Section 65858 and Burbank Municipal Code 10-1-1996, the Burbank City Council adopted Urgency Ordinance No. 22-3,987, implementing interim regulations for ADU and JADU projects

consistent with the State ADU/JADU Laws, and thereafter extended the Urgency Ordinance on January 24, 2023. The interim regulations adopted under the Urgency Ordinance and extension will expire on December 12, 2023.

D. Pursuant to California Government Code Sections 65852.2 and 65852.22, all local agencies may adopt an ordinance providing for the creation and regulation of ADUs and JADUs. The City Council desires to adopt permanent regulations modifying the City's existing ADU and JADU standards consistent with the State ADU/JADU Laws, while including local regulations that address the unique local characteristics of the City. The updated regulations included in this proposed Ordinance provide for consistency with State ADU/JADU Laws, and add ADUs and JADUs as permitted uses on lots in non-residential zones when required by state law preemption.

E. By adopting modified objective development and design standards for ADUs and JADUs, the City will position itself to retain as much local control over future development as possible and preserve the public health, safety, and welfare by encouraging thoughtful neighborhood development, while continuing to comply with state preemption laws relating to ADU and JADU housing production.

F. On August 28, 2023, the Planning Commission held a duly noticed public hearing on this proposed Ordinance (Project No. 22-0007623), and at such hearing recommended that the City Council of the City of Burbank ("Council") approve the Zone Text Amendment ("ZTA").

G. On October 17, 2023, the Council at its regular meeting, held a public hearing on Project No. 22-0007623, a Zone Text Amendment.

H. Said hearing was properly noticed in accordance with the provisions of Burbank Municipal Code ("BMC") Section 10-1-1994.

I. The Council considered the report and recommendations of the City Planner, the action and recommendations of the Planning Commission as evidenced by its Resolution 3059, and the evidence presented at such hearing.

J. The ZTA and proposed Ordinance is consistent with BMC Section 10-1-1991 as follows:

- 1. The addition of the use will be in accord with the purposes of the zone in which it is proposed to be listed.*

The inclusion of ADUs and JADUs as permitted uses in the City's nonresidential zones pursuant to state-mandated ADU/JADU regulations, which includes all of the City's commercial and industrial zones will allow the proposed residential land uses at an intensity and density as mandated by State ADU/JADU Laws. The proposed use would not adversely conflict with the intended purpose of the City's commercial zones (i.e., C-1, C-2, C-3, and C-4), which provide for the buying and selling of goods and services including the

conducting of general commercial uses, and the development of retail centers for the shopping and personal needs of surrounding neighborhoods. Further, the proposed use would not adversely impact the intended uses of the City's industrial zones (i.e., M-1 and M-2) by allowing the continued focus promoting the development of fabrication, manufacturing, assembly and processing of materials that are already in processed form and/or the fabrication and assembly of goods and materials. It is anticipated that the future development of ADUs and JADUs in these zones are limited to very few parcels where previously legally established non-conforming residential structures already exist and the state prescribed requirements provide the potential to build a limited number of ADUs/JADUs per affected lot.

2. The proposed use is compatible with and has the same basic characteristics as the other permitted uses.

The City's nonresidential zones allow for a range of commercial and industrial uses as permitted and conditionally permitted uses. The by-right development of state-mandated ADUs/JADUs on nonresidential zoned lots with existing residential structures that provide for the development of one or more ADUs and JADUs would not adversely impact the basic characteristics of the general commercial, service commercial, retail, wholesale, warehouse, manufacturing, fabrication, and assembly of goods and materials that are the primary and ancillary uses allowed in these nonresidential zones. Furthermore, residential uses are already conditionally permitted uses in the City's commercial zones in the form of multifamily, mixed use developments (i.e., C-1 through C-4) and similarly multifamily residential can be considered as a allowable use via a discretionary review process (i.e., planned development) in the City's industrial zones (M-1 and M-2) and also considered as an allowed use per the permitted density under the City's General Plan pursuant to state-mandated requirements under Senate Bill 35 adopted in 2017 (California Government Code Section 65913.4) and Assembly Bill 2011 adopted in 2022 (California Government Code Sections 65400 and 65585).

3. The proposed use can be expected to conform with the required conditions for the zone.

The proposed ADU/JADU use shall comply with the applicable development standards as amended by the City to comply with state-mandated requirements for any proposed development of this type in the City's non-residential zones. In many instances the required setbacks, building height, and resulting floor area ratio resulting from the proposed ADUs/JADUs is more restrictive than the underlying development standards that would otherwise apply to new developments in the City's nonresidential, commercial, and industrial zones.

4. The proposed use will not be detrimental to the public health, safety or welfare.

The proposed development of ADU/JADU uses in the City's nonresidential zones are not anticipated to result in a detrimental impact to public health, safety, or welfare. Any future development of these types of use in the nonresidential zones will require strict adherence to the latest City building, life and safety codes, which ensure that future habitants of these structures and surrounding land uses are protected from any potential impact to public health, safety, and welfare.

5. The proposed use will not adversely affect the character of the zone.

The development of ADU/JADU uses in the City's nonresidential zones will not adversely impact the character of the City's nonresidential zones, which include the City's commercial and industrial zones. The commercial zones will continue to provide for a range of retail, commercial, service commercial uses in one to multistory structures with ancillary and support facilities. The commercial zones will continue to facilitate the manufacturing, fabrication and warehousing uses that facilitate the processing and development of goods and materials in primary one to two story buildings with ancillary uses. The development of ADU/JADU uses in these zones is limited to few nonresidential zoned parcels with existing residential structures, which is a not a dominant land use and therefore the character of the zone will be preserved.

6. The proposed use will not create more vehicular or other traffic than the volume normally created by any of the uses permitted.

The development of ADU/JADU uses in the City's nonresidential zones will not create more vehicular or other traffic than normally created by the commercial industrial uses in the City's nonresidential zones since one or more ADUs and/or JADUs being built in these zones would provide for a handful of trips per affected site during peak morning and evening times as compared to the potential trip generation and traffic volumes from more commercial and industrial intensive uses with employees, customers and truck traffic coming to these zones during morning and evening peaks as well as during midday lunch activities, as is the case for commercial zones with shopping center developments that focus on retail, commercial and service commercial uses that include but are not limited to restaurant, dry cleaning, and coffee shop type uses.

7. The proposed use will not create more odor, dust, dirt, smoke, noise, vibration, illumination, glare, unsightliness, or any other objectionable influence than the amount, if any, normally created by any of the permitted uses.

The development of ADU/JADU uses in the City's nonresidential zones will not create more odor, dust, dirt, smoke, noise, vibration, illumination, glare, unsightliness, or any other objectionable influence than the amount created by any other permitted use in the City's nonresidential zones. The proposed

development of these one and/or two-story residential structures would result in structures that do not create more objectionable environmental and/or quality of life impacts than could result from the development of commercial uses and industrial uses currently allowed in the City's nonresidential zones. Furthermore, any future development would have to comply with the applicable development standards and building code requirements that address construction noise and dust mitigation and future operation of the residential use would continue to be subject to the City's ADU/JADU development standards and the City's nuisance abatement requirements for any violation of the Burbank Municipal Code.

8. The proposed use will not create any greater hazard of fire or explosion than the hazards normally created by any of the permitted uses.

The development of ADU/JADU uses in the City's nonresidential zones will not create any greater hazard of fire or explosion than hazards normally created by any of the permitted uses in the City's nonresidential zones. The development of ADUs/JADUs shall comply with the City's building and fire codes ensuring that the future residential structures protect the health and safety of future residents and surrounding land uses.

9. The proposed use will not cause substantial injury to the values of property in the zone in which it is proposed to be listed or in any abutting zone.

The development of ADU/JADU uses in the City's nonresidential zones will not cause substantial injury to the values of property in the zone in which it is proposed to be listed or in any abutting zone. These residential structures will be limited to ADUs and JADUs as prescribed in state and local ADU/JADU regulations, therefore it is not anticipated that this type of residential development, which is limited to a small number of nonresidential zoned parcels with existing residential structures will result in a majority land use diminishing the ability for continued operation of maintenance commercial and industrial land uses that exist, and may be developed over time in these nonresidential zones consistent with the intended purpose of abiding by the City's zoning regulations and applicable goals and policies of the City's General Plan.

K. In accordance with California Government Code Section 65860, the proposed ZTA and associated Ordinance have been determined to be consistent with the Burbank 2035 General Plan and the provisions of Title 10, Chapter 1 (Zoning) of the Burbank Municipal Code, and are compatible with the objectives, policies, general land uses and programs specified therein, and more specifically, the General Plan Land Use and Housing Elements.

L. Pursuant to Section 21080.17 of the California Public Resources Code (PRC), the adoption of the proposed Ordinance is statutorily exempt from the California Environmental Quality Act (CEQA). Under PRC Section 21080.17, CEQA does not apply to the adoption of an ordinance by a city or county to implement the provisions of Section 65852.2 of the Government Code (the state ADU law). The proposed

Ordinance implements Government Code Sections 65852.2 and 65852.22 within the City of Burbank in a manner that is consistent with the requirements of state law. As such, the adoption of the proposed Ordinance is exempt from 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. Amendment to Burbank Municipal Code (“BMC”) Section 10-1-502 (Uses in All Zones (Except Residential Zones)). BMC Section 10-1-502 is hereby amended by adding “Accessory dwelling unit and Junior accessory dwelling unit” as follows:

P = permitted
 (blank) = prohibited
 [PRH] = prohibited if residentially adjacent as defined in 10-1-203

CUP = Conditional Use Permit required
 [CUP] = CUP required if residentially adjacent as defined in 10-1-203

AUP = Administrative Use Permit required
 [AUP] = AUP required if residentially adjacent as defined in 10-1-203

S = When required by State preemption law

LAND USE	C-2	C-3	C-4	M-1	M-2	MDM-1	MDC-2	MDC-3	MDC-4	NB	GO	RC	C-R	RBP	BCC-1	BCC-2	BCC-3	BCCM	MPC-1	MPC-2	MPC-3	OS	AP	RR	AD
RESIDENTIAL AND LODGING																									
Accessory dwelling unit and Junior accessory dwelling unit	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S				

Section 3. Amendment to BMC Section 10-1-620.3 (Design and Development Standards For New Construction). BMC Section 10-1-620.3 is hereby amended and restated as follows:

"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 on lots with existing single-family or multifamily dwellings shall be approved or denied ministerially within the applicable 60-day review period consistent with state law.

Notwithstanding the foregoing, if an application for an ADU or Junior ADU is submitted with an application to create a new single-family or multifamily dwelling on the lot, the City may delay approving or denying the application for the ADU or Junior ADU until the permit application to create the new single-family or multifamily dwelling is approved or denied.

If the City denies an application for an ADU or Junior ADU, the City shall, within the time periods described above, return in writing a full set of comments to the applicant with a list of items that are defective or deficient and provide a description of how the application can be corrected by the applicant.

B. PERMITTED LOCATIONS

Unless otherwise provided by state law or this Code, ADUs and Junior ADUs shall be a permitted use in the following locations:

1. ADUs and Junior ADUs are permitted within the City's single family and multiple family residential zones: R-1, R-2, R-3, R-4, MDR-3, MDR-4 and R-1-H zones.
2. When required by state preemption law (including but not limited to California Government Code 65852.2(e)), ADUs are also permitted on any lot with an existing or proposed single-family or multifamily dwelling. If a lot does not have a single-family or multifamily dwelling at the time of submittal of the ADU application, the proposed single-family or multifamily dwelling on the lot shall be approved prior

to final approval of the ADU. Unless otherwise preempted by state law, no more than one ADU shall be permitted on a lot with an existing or proposed single-family dwelling.

3. When required by state preemption law (including but not limited to California Government Code 65852.2(e)), Junior ADUs are also permitted on any lot with an existing or proposed single-family dwelling. If a lot does not have a single-family dwelling at the time of submittal of the Junior ADU application, the proposed single-family dwelling on the lot shall be approved prior to final approval of the Junior ADU.

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. Unless otherwise preempted by state law, for purposes of this subsection C.2 an existing garage, carport, or covered parking structure shall be considered to be demolished "in conjunction" with the construction of an ADU or converted into an ADU when the area of the ADU footprint overlaps with the structure to be demolished or if the structure to be demolished otherwise impedes access to accommodate an ADU.

3. 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.

4. When an existing attached garage is located in the front or street-facing yard and is converted into an ADU or Junior ADU, the driveway and curb cut leading to said garage may be kept in place to accommodate parking only if the parking stalls in the driveway meet minimum parking stall dimensions of 18'-0" deep and 8'-6" wide. If the driveway does not meet these minimum parking stall dimensions, the driveway and curb cut shall be removed.

5. Notwithstanding any curb cut separation requirements, a new curb cut and driveway may be installed on a property so long as minimum vehicle parking stall dimensions of 18'-0" deep and 8'-6" wide are satisfied, and no additional onsite parking areas exist on the property that satisfy these minimum parking stall dimensions. Such driveway shall meet the development standards in Sections 10-1-603(I)(7), 10-1-603(I)(9), and 10-1-603(I)(10). Any proposed new driveway or curb cut will be subject to applicable tree protection provisions outlined in Burbank Municipal Code Title 7, Ch. 4 and adopted utility safety and design regulations regarding utility lines or boxes, as well as other public utilities that may be

impacted by said driveway or curb cut.

D. PARKING LOCATION

Required parking for an ADU 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 parking space dimensions, turning radius, and backup distance as required in the Code.

E. ON-SITE PARKING EXCEPTIONS

Notwithstanding the parking development standards noted in subsection C, ADUs that meet any of the following State provisions (consistent California Government Code Section 65852.2(d)) shall not be required to provide on-site parking if:

1. The ADU is located within one-half mile walking distance of “public transit” within the meaning of Government Code Section 65852.2;
2. The ADU is located within an architecturally and historically significant historic district;
3. The ADU is part of the proposed or 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 ADU; or
5. When there is a car share vehicle located within one block of the ADU.
6. If the applicant can provide fully dimensioned and drawn to scale building plans proving that there is no feasible location to physically accommodate required parking for an ADU, then on-site parking will not be required.

F. SQUARE FOOTAGE

1. All new ADUs and additions to existing and permitted ADUs 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 attached and detached ADUs shall not exceed 850 square feet, except for an ADU with more than one bedroom shall not exceed 1,000 square feet. ADU square footage shall be measured from exterior wall to exterior wall,

unless the ADU shares a wall with the primary dwelling, in which case, it shall be measured from the midpoint within the shared wall to the exterior wall.

3. Any portion of a structure, including the area above a staircase, over 12 feet in interior height, shall count towards the total allowable square footage as if a second story were within the space. This means that any space with an interior height exceeding 12 feet shall be considered as constituting two stories for the purpose of calculating square footage and thus the ground floor area is counted twice.
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 subsection F(2), whichever is less.
5. When an attached 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. If a roof or other 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.
7. An existing accessory structure may be converted to an ADU with a maximum overall square footage of the greater of: (1) up to 850 square feet for ADUs with one bedroom or less, or 1,000 square feet for an ADU with more than one bedroom; or (2) the square footage of the existing accessory structure.
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.
9. Notwithstanding the maximum ADU square footage listed in this Subsection F or otherwise established by state law, for each additional onsite parking stall provided beyond the minimum onsite parking required by this Division, up to an additional 120 square feet will be added to the maximum size of one ADU on the lot. However, in no event shall a single ADU exceed the maximum square footage listed in this Subsection F or state law by more than 120 square feet. If additional parking is furnished as provided in this Subsection F(10) and an ADU that otherwise exceeds the maximum square footage is approved, a deed restriction must be recorded and will run with the land prohibiting the removal of the onsite parking spaces for as long as the ADU(s) remain on the lot and exceed the otherwise applicable maximum square footage. The deed restriction must include a statement that it may be enforced against future purchasers.

G. HEIGHT

1. All new ADUs, attached to the main dwelling unit must comply with the height requirements defined in Code Section 10-1-603(A). Attached ADUs are defined as ADUs that are attached to the main dwelling unit through a shared wall or abutting walls. Abutting walls are walls that are adjoined with no space in between them. Abutting walls must be adjoined to the main dwelling unit by at least 50% of the of the length of the ADU wall or 5 feet, whichever is greater.
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 have a maximum height of 17 feet to any architectural features, unless one of the following exceptions applies:
 - a. If the detached ADU will be on a lot located within a ½ mile walking distance of a “high-quality transit corridor” or “major transit stop” (as those terms are defined in California Public Resources Code 21155), a maximum height of 18 feet (as measured from existing grade to the top of roof) shall be permitted. An additional two feet in height beyond the maximum 18 feet will be permitted to accommodate a roof pitch on the ADU that matches the roof pitch of the primary dwelling.
 - b. If there is an existing or proposed multistory, multifamily dwelling on the lot where the detached ADU will be located, a maximum height of 18 feet (as measured from existing grade to the top of roof) shall be permitted.
4. When an ADU is constructed on top of a garage or accessory structure, the ADU cannot touch grade level, except through support posts or stair access. The bottom of the finished floor of the ADU must be above the top of plate of the garage or accessory structure.
 - a. Ground floor access to the ADU, inclusive of stairs and landing, shall be limited to 150 square feet. The ADU must not have any interior circulation with the rest of the garage or accessory structure below.
5. All attic spaces and loft areas within a one-story ADU shall be less than 5 feet in height, as measured from finished floor to the top of the attic ceiling. Attic space that exceeds 5 feet in height shall count towards the total allowable square footage as if a second story were within the space. This means that any attic space that exceeds 5 feet in height shall be considered as constituting two stories for the purpose of calculating square-footage and thus the ground floor area is counted

twice.

6. All air conditioning units and other mechanical equipment shall be ground mounted or installed within an enclosed attic space. ADUs that include a parapet roof can include roof mounted air conditioning units that are behind the roof parapet wall so long as they are not visible from the grade level of adjacent properties.

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 including ADUs constructed on top of a garage or accessory structure.

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 or nonresidential zoned lot. Notwithstanding the foregoing, the following exceptions shall apply:

a. The conversion of an existing building footprint of a primary structure or attached accessory structure into an ADU or Junior ADU that is located within the front yard setback is permitted.

b. An ADU that complies with all other applicable development standards may be built within the front yard setback of a lot if it is otherwise deemed physically infeasible to construct an 800 square foot ADU on other areas of the lot with at least a 2-foot side and rear setback. For purposes of this subsection, "other areas of the lot" include, but are not limited to, construction of a two-story ADU with at least a 2-foot side and rear setback. The physically infeasible determination will be made by the City during plan review and will be based on factors including, but not limited to, the feasibility of providing the required utility connections from public facilities that serve the project site. If an ADU provides a side and rear setback less than 3 feet, then no openings are allowed along the impacted building elevation.

If applying for this exception, an applicant must provide exhibits demonstrating that the construction of an 800 square foot ADU in the rear yard is not physically feasible with a 2-foot side and rear setback. The City will evaluate the plans and if it is determined that an 800 square foot ADU can be placed in the rear yard of the lot while maintaining a 2-foot or more side and rear setback, the ADU will be permitted in that rear yard location in a footprint that maintains the rear and side yard setbacks as close to 4-feet as possible, and in no event results in a side or rear yard setback that is less than 2-feet. Alternatively, if the City issues a physically infeasible determination, an ADU of up to 800 square

feet that complies with all other applicable development standards in this Code and state law (including 4-foot side and rear setbacks) shall be allowed to encroach into the front yard setback on the lot in a footprint that otherwise maximizes the front yard setback to the extent feasible.

3. When a garage or other accessory structure exists and is legally permitted with City building permits and is converted into an ADU, 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. Any unpermitted accessory structures can have their legal nonconforming setbacks maintained as part of an ADU conversion or addition, as long as it does not present a threat to public health and safety based on applicable building and fire codes as determined by the Building Official, or unlawfully violate previously recorded real property interests including recorded easements and fee dedications.
4. New ADUs must maintain a 5-foot linear separation on a horizontal or vertical plane from building face to building face, and a 4 foot separation from eave to eave of any adjacent structure, unless it is physically infeasible to construct an 800 square foot ADU on other areas of the lot with at least 4-foot side and rear setbacks.
5. No ADU 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 California Government Code Section 65852.2(a)(8), the City shall not impose any owner-occupancy and restrictive covenant requirements noted in this section, inclusive of the following items 1) through 3). If state law is amended at a future date to allow owner-occupancy restrictions, 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 their 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. When a garage is converted into an ADU, the garage door must be removed and replaced with one or more windows and/or a residential entry door.
2. The design and construction of each new detached ADU and ADU conversion of existing structures shall conform to all applicable provisions of Title 9 Chapter 1 (Building) of this Code, unless otherwise provided for in California Government Code Section 65852.2(a)(1)(D)(viii). 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.
3. If a detached ADU is visible from the street, then 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. The main entrance for the ADU may face an alley if the entrance is at least 5 feet away from the property line abutting the alley, and another entrance is provided facing the front or side property lines.

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 standards adopted by Burbank Water and Power or the Public Works Department, and may be subject to a connection fee or capacity charge based on its square footage or 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. Unless otherwise determined by the Public Works Director, all existing and proposed structures must be located outside of any recorded easement or dedication.

M. MOUNTAIN FIRE ZONE AND FIRE SPRINKLERS

1. Unless otherwise required by state law, no ADU or Junior ADU shall be

permitted on R-1 or R-1-H zoned properties located within the City's designated Mountain Fire Zones as noted in the City's General Plan Safety Element, unless all of the following requirements are met:

- a. 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.
- b. All new ADUs proposed within the City's Mountain Fire Zones shall comply with any applicable brush clearance requirements.

2. Unless otherwise required by applicable City building and fire codes, in any zone where new ADUs are allowed, if fire sprinklers are required for the primary dwelling unit, then they are also required for new ADUs. The installation of fire sprinklers will not be required in an ADU if sprinklers are not required for the primary dwelling unit. Furthermore, the construction of an ADU, by itself, will not trigger a requirement for fire sprinkles to be installed in an existing single family or multifamily primary dwelling unit.

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 or otherwise required by state law:

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 ON LOTS WITH MULTIFAMILY DWELLING STRUCTURES

All of the provisions of this section shall apply to ADUs on any lot containing an existing or proposed multifamily dwelling structure, which is defined as a structure with two or more dwelling units, unless otherwise stated in the following:

1. No more than two (2) ADUs can be constructed on a lot with an existing or proposed multifamily dwelling structure(s). These ADUs must be detached from the existing or proposed multifamily dwelling structure(s); these ADUs may be attached or detached from each other and must provide the required building separation from all primary and accessory structures on the lot as required in Subsection (H)(4).
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 within an existing multifamily structure shall be limited 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 or otherwise required by state law:

1. The size of a Junior ADU is limited to no more than 500 square feet.
2. One Junior ADU is allowed per each residentially zoned lot that includes an existing or proposed single-family dwelling unit structure. Lots with multiple detached single-family structures are not eligible to have Junior ADUs.
3. A deed restriction must be recorded prior to the issuance of a Certificate of Occupancy, 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 existing or proposed single-family residence or attached garage. Junior ADUs that are proposed in a single-family residence are subject to the development standards found in Section 10-1-603 of this Code.
6. The Junior ADU must include a separate entrance from the main entrance to the single-family residence.
7. A Junior ADU that does not include a separate bathroom shall include a separate entrance from the main entrance to the structure, with an interior entry to the main living space of the existing or proposed single-family dwelling structure.
8. The Junior ADU must include an efficiency kitchen, which shall include all of the following:
 - a. A cooking facility with appliances that meet the definition of Kitchen as defined in Section 10-1-203 of this Code.
 - b. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the Junior ADU.
9. Additional parking may not be required as a condition to grant a permit for a Junior ADU.
10. 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.
11. 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.
12. 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.
13. 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 90 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.”

Section 4. Amendment to BMC Section 10-1-620.7 (Determination on Accessory Dwelling Unit and Junior Accessory Dwelling Unit Application). BMC Section 10-1-620.7 is hereby amended and restated as follows:

“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 (when applicable).
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.
5. All non-ADU structures not associated with the construction of an ADU must be reviewed under a separate permit. Applications to replace a detached garage with an ADU shall require City approval of a demolition permit for the garage. The demolition permit will be reviewed with the application for the ADU and issued at the same time as the building permit to construct the ADU.”

Section 5. Severability. 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.

Section 6. Environmental Assessment This Ordinance is not subject to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) (“CEQA”). Pursuant to Section 21080.17 of the California Public Resources Code (PRC), the adoption of the Ordinance is statutorily exempt from the California Environmental Quality Act (CEQA). Under PRC Section 21080.17, CEQA does not apply to the adoption of an ordinance by a city or county to implement the provisions of Section 65852.2 of the Government Code (the state ADU law). The Ordinance implements Government Code Sections 65852.2 and 65852.22 within the City of Burbank in a manner that is consistent with the requirements of state law. As such, the adoption of the Ordinance is exempt from CEQA.

Section 7. Notice to HCD. In compliance with California Government Code Section 65852.2(h), the Community Development Director or Director’s designee is directed to provide a copy of this Ordinance to the California Department of Housing and Community Development within 60 days after the date of adoption.

Section 8. Effective Date and Expiration of Urgency Ordinance. This Ordinance shall become effective at 12:01 a.m. on the thirty-first (31st) day after the date of adoption. Upon that effective date, Urgency Ordinance No. 23-3,988 shall automatically expire and the interim development standards adopted therein will automatically be repealed and replaced by the standards adopted in this Ordinance.

PASSED AND ADOPTED this 7th day of November, 2023.

s/Konstantine Anthony
Konstantine Anthony
Mayor

Approved as to Form:
Office of the City Attorney

Attest:

s/Kimberley Clark
Kimberley Clark, City Clerk

By: s/Lisa Kurihara
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. 23-4,002 was duly and regularly passed and adopted by the Council of the City of Burbank at its regular meeting held on the 7th day of November, 2023, by the following vote:

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

NOES: None.

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 within 14 days following of the ordinance’s adoption on November 7, 2023.

 s/Kimberley Clark
Kimberley Clark, City Clerk