

**URGENCY ORDINANCE NO. XXXX****AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRENTWOOD EXTENDING THE INTERIM ORDINANCE ADOPTING APPENDIX B TO THE CITY OF BRENTWOOD RESIDENTIAL DESIGN GUIDELINES TO IMPLEMENT INTERIM RESIDENTIAL OBJECTIVE DESIGN STANDARDS, AND FINDING THE ACTION EXEMPT FROM CEQA**

**WHEREAS**, on October 9, 2019, California Governor Gavin Newsom signed into law Senate Bill (SB) 330, establishing the Housing Crisis Act of 2019, which took effect on January 1, 2020; and

**WHEREAS**, SB 330 prevents jurisdictions from imposing or enforcing new design standards on housing projects that are not "objective" in accordance with Government Code § 66300(b)(1)(C); and

**WHEREAS**, on September 29, 2022, California Governor Gavin Newsom signed into law Senate Bill (SB) 6 and Assembly Bill (AB) 2011, allowing residential development on sites currently zoned and designated for commercial or retail uses if specified criteria are met, which will take effect on July 1, 2023; and

**WHEREAS**, the City of Brentwood requires new development to take place in a regulated, orderly manner (see, for example, Brentwood General Plan Land Use Policy LU 1-4, which provides "require new development to occur in a logical and orderly manner, focusing growth on infill locations and areas designated for urbanization on the Land Use Map (Figure LU-1), and be subject to the ability to provide urban services, including paying for any needed extension of services"); and

**WHEREAS**, the City of Brentwood likewise requires new development to conform to high standards governing architectural and site design (see, for example, Brentwood General Plan Land Use Goal 6, which provides "maintain and enhance the visual quality of Brentwood by promoting the highest standards of architecture and site design for all development projects, both public and private," as well as Brentwood General Plan Land Use Policy LU 6-4, which provides "apply design standards regulating setbacks, landscaping, screening, and architectural style to new residential development and rehabilitation projects"); and

**WHEREAS**, in order to implement the requirements of SB 330, SB 6, and AB 2011 in a regulated, orderly manner and ensure the application of objective standards by the statutes' July 1, 2023 effective date, staff has prepared this Urgency Ordinance; and

**WHEREAS**, on June 27, 2023, the City Council adopted interim objective design standards via Urgency Ordinance No. 1059; and

**WHEREAS**, the City desires to extend the Urgency Ordinance while permanent objective design standards are created and reviewed by the Planning Commission and City Council; and

**WHEREAS,** the City has determined that the Project is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section §15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that there is no possibility that the proposed interim objective design standards would have a significant effect on the environment, in that no new policies adopted modify the density of housing and so do not have the potential for causing a reasonably foreseeable direct or indirect change in the physical environment.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BRENTWOOD DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** That the above recitals and those recitals and findings in the Urgency Ordinance No. 1059 remain true and correct, and are incorporated herein by this reference.

**SECTION 2.** This Urgency Ordinance was noticed pursuant to Government Code Section 65090 and the City Council conducted a public hearing pursuant to Government Code Section 65858, subdivision (a).

**SECTION 3.** The interim ordinance adopted by Urgency Ordinance No. 1059 is extended by this Urgency Ordinance for a period of ten months and fifteen days, or until May 12, 2024.

**SECTION 4.** The City Council hereby finds that the project:

- A. is consistent with the existing General Plan, inasmuch as it will subject new housing projects to high standards that are objective in nature and which govern architectural and site design per Brentwood General Plan Land Use Goal 6 ("Maintain and enhance the visual quality of Brentwood by promoting the highest standards of architecture and site design for all development projects, both public and private"), as well as Brentwood General Plan Land Use Policy LU 6-4 ("Apply design standards regulating setbacks, landscaping, screening, and architectural style to new residential development and rehabilitation projects"). In addition, the project expresses the housing design features the City desires to encourage and thus implements the General Plan Housing Element Action Program H.1.g ("Continue implementation of the City's approved Residential Design Guidelines and encourage a variety of housing types to continue to provide safe, sound, and attractive for units all residents. The intent of these guidelines is to express the housing design features the City would like to encourage in order to improve certainty and to minimize the processing time for design review applications. The City will also review the Residential Design Guidelines for subjective language and adopt modifications to promote objectivity – as of January 24, 2023, the City Council has approved to create objective standards for all residential uses by the end of 2023"); and
- B. will require new housing projects to take place in a regulated, orderly manner per Brentwood General Plan Land Use Policy LU 1-4 ("Require

new development to occur in a logical and orderly manner, focusing growth on infill locations and areas designated for urbanization on the Land Use Map (Figure LU-1), and be subject to the ability to provide urban services, including paying for any needed extension of services”); and

- C. will create objective standards for high-quality residential design, as it sets out specific objective architectural and project design standards for superior residential development; and
- D. will create objective standards to help the City continue to provide safe, sound, and attractive housing.

Adoption of this Urgency Ordinance is thus both appropriate and in the public interest as it implements the direction of the 2014 City of Brentwood General Plan. It is likewise necessary for the immediate preservation of the public peace, health or safety.

**SECTION 5.** The Appendix to the Residential Design Guidelines set forth in the attached Exhibit A, which is incorporated herein by reference, is hereby adopted.

**SECTION 6.** The City Council hereby finds that there is a current and immediate threat to the public health, safety and/or welfare and a need for immediate preservation of the public peace, health, or safety that warrants the adoption of this Urgency Ordinance, given that:

A. SB 330 prevents jurisdictions from imposing or enforcing new design standards on housing projects that are not “objective”. The Brentwood Municipal Code and adopted Residential Design Guidelines currently contain very few standards that are “objective” as defined in Government Code Section 66300(b)(1)(C). In order to confirm that new such housing projects will adhere to the General Plan goals and policies set forth above, among other things, it is necessary for the City to adopt objective design standards explicitly guiding such developments prior to the submission of any development applications brought pursuant to new legislation.

B. SB 330 specifically authorizes local agencies to adopt objective zoning, subdivision, and design standards that are objective and consistent with the bill’s provisions and state law, and to adopt an ordinance to implement its provisions. The City seeks to ensure that it has put in place the objective design standards that will apply to any housing project by July 1, 2023 in order to allow for clarity and certainty.

C. The objective design standards contained in this Urgency Ordinance protect the public health, safety, and/or welfare by, among other things:

- 1. establishing objective criteria for the minimum number of ingress and egress points for subdivisions of varying size, thus assuring emergency vehicle access commensurate with the size of the subdivision (see Objective Design Standard 1.1.A);

2. ensuring adequate distance between dwelling units and accessory buildings on the same parcel, thus facilitating fire access (see Objective Design Standard 2.J);
3. requiring the replacement of any tree 22" or larger in diameter at breast height removed in the course of residential construction, thus safeguarding the preservation of the City's urban forest, which aids in reducing soil erosion, providing shade, affording wildlife habitat, and increasing property values (see Objective Design Standard 2.G);
4. explicitly permitting the use of durable and fire-resistant alternatives for traditional building materials, thus allowing for the use of materials that offer greater protection against threats such as wildfire.

D. Without an extension to Urgency Ordinance No. 1059, the public health, safety, and/or welfare of the city would be endangered, insomuch as the objective standards temporarily put in place through the adoption of the urgency ordinance would terminate, and the permanent objective design standards ordinance currently being drafted by staff is not yet ready for City Council review and approval. The City Council thus finds that an extension of Urgency Ordinance No. 1059 is necessary to allow staff time to complete a permanent ordinance governing objective design standards.

This Urgency Ordinance is thus declared by the City Council to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, adopted per Government Code Section 65858. The facts constituting such urgency are all of those certain facts set forth and referenced in this Urgency Ordinance and the entirety of the record before the City Council.

**SECTION 7.** This Urgency Ordinance will be published in accordance with Government Code Section 36933 by either posting or publishing the Urgency Ordinance in accordance with that law.

**SECTION 8.** This Urgency Ordinance is adopted by a four-fifths vote of the Brentwood City Council. It shall take effect immediately upon its adoption and remain in effect for 10 months and 15 days as provided by Government Code Section 65858(a), unless extended. Any extension of this Urgency Ordinance will require a four-fifths vote of the City Council.

**SECTION 9.** Ten days prior to the expiration of this Urgency Ordinance or any extension, the City Council will issue a written report describing the measures taken to alleviate the condition which led to the adoption of this Urgency Ordinance, as required under Government Code Section 65858(d).

**THE FOREGOING URGENCY ORDINANCE EXTENSION** was adopted at the regular meeting of the Brentwood City Council on the 8<sup>th</sup> day of August, 2023, by the following vote:

AYES:  
NOES:  
ABSENT:  
RECUSE:

APPROVED:

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Joel Bryant, Mayor

ATTEST:

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Margaret Wimberly, MMC  
City Clerk