

## URGENCY ORDINANCE NO. 1033

### **AN URGENCY ORDINANCE AMENDING SECTIONS 16.020.060, 17.100.005, 17.620.007, AND 17.820.003 OF, AND ADDING CHAPTERS 16.169, 17.796, AND 17.797 TO THE CITY OF BRENTWOOD MUNICIPAL CODE**

**WHEREAS**, on September 16, 2021, California Governor Gavin Newsom signed into law Senate Bill (SB) 9, which took effect on January 1, 2022; and

**WHEREAS**, SB 9 requires that housing developments with no more than two units on a parcel in a single family residential zone and parcel maps subdividing a parcel within a single-family residential zone into two parcels be considered ministerially, without discretionary review or hearing, if the project meets certain objective standards; and

**WHEREAS**, SB 9 likewise provides that a local agency may require development applications submitted to this new state law to meet objective standards; 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 9 in a regulated, orderly manner and ensure the application of objective standards by the statute’s January 1, 2022 effective date, staff prepared an Urgency Ordinance; and

**WHEREAS**, on December 14, 2021, the City Council adopted an interim ordinance via Urgency Ordinance No. 1030, implementing the provisions of SB 9; and

**WHEREAS**, the City desires to extend the Urgency Ordinance while a regular ordinance is reviewed by the Planning Commission and City Council; and

**WHEREAS**, an ordinance implementing the provisions of SB 9 is not be considered a project under the California Environmental Quality Act (CEQA, codified at Public Resources Code Section 21000, et seq., and as further governed by the CEQA Guidelines, found at 14 CCR 15000, et seq.) pursuant to Government Code Sections 66411.7(n) and 65852.21(j). In addition, the proposed ordinance is also exempt from environmental review pursuant to State CEQA Guidelines Sections 15378 (not a project), 15301 (existing facilities), and 15303 (new construction/conversion of small structures). Section 15378 defines what constitutes a “project” under CEQA. The State Legislature intended that ordinances such as the one proposed here,

adopted in order to implement state law, would not constitute a “project”. Further, Section 15301 exempts from environmental review the addition of up to 10,000 square feet if the project is in an area where all public services and facilities are available to allow for maximum development permissible in the city’s General Plan. All of Brentwood’s single-family residential areas eligible for SB 9 approval meet these two criteria, and it is anticipated that each project undertaken pursuant to SB 9 will not add more than 10,000 square feet of new development. Finally, Section 15303 (new construction/conversion) exempts from review the construction of up to six new residential structures in urbanized areas. Under the adopted Urgency Ordinance, the maximum number of new residential structures that could be constructed pursuant to a lot split combined with new construction is less than six.

**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. 1030 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. 1030 is extended by this Urgency Ordinance for a period of ten months and fifteen days, or until December 10, 2022.

**SECTION 4.** Brentwood Municipal Code Section 17.870.008 reads as follows:

*No rezoning of property or text amendment shall occur which is inconsistent with the city’s community development plan. In making a decision the planning commission and council shall consider the consistency of the proposed action to the community development plan and other applicable city plans, and shall consider whether the proposed action is inappropriate or otherwise contrary to the public interest.*

This zoning text amendments and additions set forth in Ordinance No. 1030 are consistent with the 2014 City of Brentwood General Plan, as amended from time to time, insomuch as they require new development permitted under SB 9 to:

A. 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

B. be subject 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”), among other things.

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 amendments and additions to the Brentwood Municipal Code set forth in Ordinance No. 1030, which is incorporated herein by reference, are hereby extended as set forth above.

**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 extension of this Urgency Ordinance, given that:

A. SB 9 newly allows for the ministerial approval of specified eligible dwelling units. The Brentwood Municipal Code currently contains no regulations specifically tailored to the development of dwellings proposed pursuant to SB 9. In order to confirm that new such dwellings will adhere to the General Plan goals and policies set forth above, among other things, it is necessary for the City to adopt implementing measures explicitly guiding such development prior to the submission of any development applications brought pursuant to SB 9.

B. SB 9 specifically authorizes local agencies to adopt objective zoning, subdivision, and design standards that are 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 development proposed pursuant to SB 9 by that statute's effective date in order to allow for clarity and certainty.

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 Sections 65858 and 36937. 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, including any comments made at the December 14, 2021, and January 25, 2022, City Council meetings.

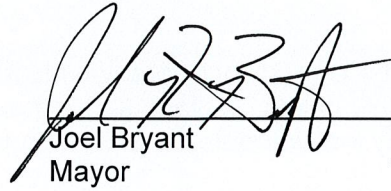
**SECTION 7.** This Urgency Ordinance will be published in accordance with Government Code Section 36933 by either posting or publishing the Urgency Ordinance in accordance with that law. Further, the City Clerk is requested to cause Ordinance No. 1030 to be entered in the City of Brentwood Municipal Code.

**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.

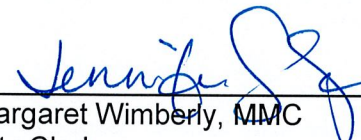
**SECTION 9.** Ten days prior to the expiration of this Urgency Ordinance or any extension, the City Council will issue a written report describing the measures taken to alleviate the condition which led to the adoption of this Urgency Ordinance, as required under Government Code Section 65858, subdivision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

**THE FOREGOING URGENCY ORDINANCE EXTENSION** was introduced with the first reading waived at the regular meeting of the Brentwood City Council on the 25<sup>th</sup> day of January, 2022, by the following vote:

**AYES:** Bryant, Mendoza, Meyer, Rarey, Rodriguez  
**NOES:** None  
**ABSENT:** None  
**RECUSE:** None

  
\_\_\_\_\_  
Joel Bryant Date  
Mayor 1/27/22

ATTEST:

  
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Margaret Wimberly, MMC  
City Clerk FOR: