

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

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February 11, 2022

Konrad Bolowich  
Planning Director  
City of Loma Linda  
25541 Barton Rd  
Loma Linda, CA 92354

Dear Konrad Bolowich:

**RE: Review of Loma Linda's Accessory Dwelling Unit (ADU) Ordinance under  
State ADU Law (Gov. Code, § 65852.2)**

Thank you for submitting the City of Loma Linda's (City) accessory dwelling unit (ADU) ordinance No. 766 ("the Ordinance"), adopted April 13, 2021, to the California Department of Housing and Community Development (HCD). HCD has reviewed the Ordinance and is submitting these written findings pursuant to Government Code section 65852.2, subdivision (h). HCD has determined that the Ordinance does not comply with section 65852.2 in the manner noted below. Under the statute, the City has up to 30 days to respond to these findings. Accordingly, the City must provide a written response to these findings no later than March 14, 2022.

The adopted ADU ordinance addresses many statutory requirements; however, HCD finds that the ordinance does not comply with State ADU Law in the following respects:

- Pg 16, 17.110.020 (D) – *Efficiency kitchen* – The ordinance definition for Efficiency Kitchen requires "cooking appliances that do not require natural gas, propane, or electrical service greater than 120 volts...." This language was deleted from the current version of the junior ADU (JADU) statute. Government Code section 65852.22, subdivision (a)(6)(A) requires only "a cooking facility with appliances." The *types* of appliances are not specified; thereby, creating more options to satisfy the appliance requirement. Therefore, the City should remove this language in the Ordinance to comply with existing statute.
- Pg. 16, 17.110.020 (E) – *Impermissible occupancy limitation* – The Ordinance defines JADUs as providing "living facilities for up to two persons," thus restricting the number of occupants in a JADU. Government Code section 65852.22, subdivision (a), authorizes a local agency by ordinance to provide for the creation of JADUs. The statute lists the provisions by which an ordinance may be adopted and does not include provisions on the number of occupants allowed in a JADU. Therefore, the City may not draft an Ordinance that limits

occupancy to two persons. Moreover, restrictive occupancy limits that are based on a fixed number of occupants per dwelling, in contrast to reasonable occupancy limits based on floor space, can have discriminatory effects on families with children, people with disabilities, and other people with protected characteristics in violation of fair housing laws, including Government Code section 65008, subdivisions (a)(1)(A) and (b)(1)(B)(i). The City should remove this restriction from its definition.

- Pg. 17, 17.110.040 (B) – *Permitted zones* – The Ordinance provides for ADUs on “parcels developed with existing residential dwellings.” However, Government Code section 65852.2, subdivision (a)(1)(D)(ii), permits ADUs where a “lot is zoned to allow single-family or multifamily dwelling residential use and includes a *proposed* or existing dwelling.” (Emphasis added.) Similarly, JADUs may be created in single-family residences that are “built or proposed to be built.” (Gov. Code § 65852.22, subd. (a)(1)). Therefore, since ADUs and JADUs may be included with proposed residential construction, the City should add the language to address parcels developed with *proposed* residential dwellings.

In these respects, revisions are necessary to comply with statute.

HCD will consider any written response to these findings, such as a revised ordinance or a detailed plan to bring the Ordinance into compliance with law by a date certain, before taking further action authorized pursuant to Government Code section 65852.2. Please note that HCD may notify the Attorney General’s Office in the event that the City fails to take appropriate and timely action under section 65852.2, subdivision (h).

HCD appreciates the City’s efforts in the preparation and adoption of the Ordinance and welcomes the opportunity to assist the City in fully complying with State ADU Law. Please contact Mike Van Gorder, of our staff, at (916) 776-7541 or at [mike.vangorder@hcd.ca.gov](mailto:mike.vangorder@hcd.ca.gov) if you have any questions or would like HCD’s technical assistance in these matters.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Zisser', with a stylized flourish extending to the right.

David Zisser  
Assistant Deputy Director  
Local Government Relations and Accountability