

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

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March 25, 2022

Phil Lanzafame
Director of Community Development
City of Glendale
633 E Broadway, Room 103
Glendale, CA 91206

Dear Mr. Lanzafame:

RE: Review of Glendale's Accessory Dwelling Unit (ADU) Ordinance

Thank you for submitting the City of Glendale (City) accessory dwelling unit (ADU) Ordinance, ("The Ordinance") Number 5957, adopted December 8, 2020 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 April 24, 2022.

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

- 30.34.080 (A) (1) – *Primary Dwelling* – The Ordinance states that the “existing one residential dwelling on property zoned single family residential or property with an existing single-family dwelling on it shall also be known as the primary dwelling”. This definition omits *proposed* residential buildings, all multifamily dwellings, and any residential building in any zone other than single-family. Government Code 65852.2, subdivision(a)(1)(D)(ii), requires that ADUs be permitted in any lot that is “zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.” Therefore, the City must revise the definition to state that the primary dwelling can be an existing or proposed single-family or multifamily dwelling on a given lot.
- 30.34.080 (D) (10) – *Location Restriction* – The Ordinance prohibits new construction ADUs from being located between the primary dwelling and the “street front or street side setback”. Government Code section 65852.150 states that local jurisdictions must not create requirements that are not so arbitrary, excessive, or burdensome as to unreasonably restrict the ability of homeowners

to create ADUs, and HCD considers the restriction on a side street setback as being impermissibly onerous. Furthermore, Government Code section 65852.2, subdivision (e)(1)(B), states that “notwithstanding subdivisions (a) through (d), inclusive, a local agency shall ministerially approve an application to create... one detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks.” Therefore, the Ordinance cannot restrict the location of such a unit from the side street setback. The City must remove the reference to “side street setbacks” and should add clarifying language such as, “Notwithstanding the standards set herein, local design or zoning standards shall not preclude the development of an ADU of at least 800 square feet with four-foot [rear and side] setbacks and a maximum height of 16 feet.”

- 30.34.080 (D) (12) and (H)(1)(a) – *Separate Sale* - The Ordinance prohibits separate sale of an ADU or JADU from its respective primary dwelling. This does not reflect recent changes to state statute. Government Code section 65852.26, subdivision (a)(1), creates a narrow exception to allow separate conveyance of an ADU with the involvement of a “qualified nonprofit corporation” for “properties intended to be sold to low-income families who participate in a special no-interest loan program”. The City must amend to the Ordinance to allow for this exception.
- 30.34.080 (E)(3) and (F) (4) – *Historic Districts* – The Ordinance creates rules for “properties listed on the California Register of Historic Places, the Glendale Register of Historic Properties, any property in an adopted or nominated historic district overlay zone, or any property identified as significant or potentially significant on a historic survey meeting the requirements of Public Resources Code Section 5024.1(g).” This is overly broad. Government Code section 65852.2, subdivision (a)(1)(B)(i), states that local jurisdictions may, “Impose standards on accessory dwelling units that... prevent adverse impacts on any real property that is listed in the California Register of Historic Resources.” Therefore, state statute does not acknowledge local registers. The City must remove the references to any other historic district, register, or overlay zone.
- 30.34.080 (E)(5) – *Entry Restrictions* – The Ordinance states that alterations “which do not propose an additional story and/or change to a façade, including addition of a door, directly facing the street may be permitted.” This implies that such changes that do face the street are *not* permitted. As statute for both ADUs (Gov. Code, § 65852.2, subd. (e)(1)(a)(ii)) and JADUs (Gov. Code, § 65852.22, subd. (a)(5)) require independent entry into the unit, a constraint on the location of an entry door may prohibit the creation of an additional housing unit.

Furthermore, local development standards provided by the Ordinance pursuant to Government Code section 65852.2, subdivisions (a) through (d), do not apply to ADUs created under Government Code section 65852.2, subdivision (e), and the restrictions as implied would not be permissible. Therefore, the City must remove the section.

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 ADU Law. Please contact Mike Van Gorder of our staff, at (916) 776-7541 or at 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 black ink that reads "Shannan West". The signature is written in a cursive, flowing style.

Shannan West
Housing Accountability Unit Chief