

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

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April 8, 2022

Andrew Ho, Director  
Community and Economic Development  
City of La Habra  
110 East La Habra Boulevard  
La Habra, CA 90631

Dear Andrew Ho:

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

Thank you for submitting the City of La Habra's (City) accessory dwelling unit (ADU) Ordinance, No. 1835 (Ordinance), adopted June 7, 2021, to the California Department of Housing and Community Development (HCD). The Ordinance was received on October 20, 2021. 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 May 8, 2022.

The adopted ADU Ordinance addresses many statutory requirements and includes at least one particularly innovative policy that allows a primary dwelling smaller than 1,200 square feet to be designated as an ADU to a new construction single-family home on the same lot (18.12.150 (F)(4)(c)). However, HCD finds that the Ordinance does not comply with ADU law in the following respects:

- 18.12.150 (B)(3) – *Utility Supply* – The Ordinance states that “unless prohibited by law, new ADUs are prohibited if the City Engineer determines the surrounding residential neighborhood has insufficient water or sewer service.” This is in keeping with Government Code section 65852.2 (a)(1)(A), which states that “the designation of [permitted] areas may be based on the adequacy of water and sewer services....” However, Government Code section 65852.2, subdivision (e), states: “Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create” an ADU created under subdivision (e). Therefore, the City must note such exceptions.
- 18.12.150 (B)(4)(a) – *Separate Sale* – The Ordinance prohibits separate sale of an ADU or junior ADU (JADU) from its respective primary dwelling. However, as

of January 1, 2022, Government Code section 65852.26, subdivision (a)(1), creates a narrow exception to allow separate conveyance of ADUs with the involvement of qualified nonprofit housing organizations. The Ordinance must provide for such an exception.

- 18.12.150 (F)(5)(a)(iii) – *Corner Lot Setbacks* – The Ordinance requires that streetside setbacks for ADUs on corner lots be ten feet. However, Government Code section 65852.2, subdivision (a)(1)(D)(vii), states: “a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.” HCD considers side lot line setbacks, established in statute, as applying to the street sides of a corner lot. Therefore, the City should remove this section or clarify that the provision applies to front setbacks only.
- 18.12.150 (5)(a)(v) – *Building Separation* – The Ordinance requires that “Detached ADUs must be at least ten feet from any other building on the lot.” However, 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). Therefore, unless provided for in the building code, building separation requirements may not prohibit construction of an 800 square-foot ADU with four-foot rear and side setbacks. The City must note this exception.

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 [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