

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

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May 4, 2023

Susan Koleda  
Director of Community Development  
City of La Cañada Flintridge  
One Civic Center Drive  
La Cañada Flintridge, CA 91011

Dear Susan Koleda:

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

Thank you for submitting the City of La Cañada Flintridge (City) accessory dwelling unit (ADU) Ordinance No. 22-505U (Ordinance), adopted November 15, 2022, to the California Department of Housing and Community Development (HCD). HCD has reviewed the Ordinance and submits these written findings pursuant to Government Code section 65852.2, subdivision (h). HCD finds that the Ordinance does not comply with section 65852.2 in the manner noted below. Under that 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 June 2, 2023.

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

- 11.33.030 – *JADU Definition* – The Ordinance defines a JADU as “contained entirely within an existing or proposed single-family dwelling...” However, Government Code section 65852.22, subdivision (a)(4), expands this definition stating: “For purposes of this paragraph, enclosed uses within the residence, such as attached garages, are considered a part of the proposed or existing single-family residence.” Therefore, the City must amend its definition.
- 11.33.040 (A)(2) – *Ministerial Approval* – Section 11.33.040 (A) provides for the ministerial approval of certain types of ADUs pursuant to Government Code 65852.2, subdivision (e). Particularly in (A)(2), the Ordinance permits “One, **attached** or detached, new-construction ADU on a lot with a proposed or existing single-family dwelling (in addition to any JADU that might otherwise be established on the lot).” (emphasis added). However, the corresponding provision in subdivision (e)(1)(B) of the statute, only provides for **detached, new**

**construction** ADUs. Therefore, the City must amend the Ordinance to conform with statute.

- 11.33.040 (A)(2) – *Permissible Combinations* – The Ordinance allows a JADU to be combined with a converted ADU in section (A)(1)(a) and a detached ADU in section (A)(2). However, there is no positive language in the Ordinance permitting the combination of a converted ADU with a detached ADU.

Government Code section 65852.2, subdivision (e)(1), states “Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application...to create any of the following: (A) One accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling...(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure.” Moreover subpart (B) permits “One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks.” The use of the term “any” followed by an enumeration of by right ADU types permitted indicate that any of these ADU types can be combined on a lot zoned for single family dwellings. Statute does not use “or” nor “one of” to indicate only one or another would be applicable to the exclusion of the other.

Thus, if the local agency approves an ADU that is created from existing (or proposed) space of a single-family dwelling, or created from an existing accessory structure, and the owner subsequently applies for a detached ADU permit (or vice versa), which meets the size and setback requirements, pursuant to the subdivision, the local agency cannot deny the applicant, nor deny a permit for a junior accessory dwelling unit (JADU) under this section. This permits a homeowner, who meets specified requirements, to create one (1) converted ADU, one (1) detached, new construction ADU, and one (1) JADU, in any order without prejudice, totaling three units. This standard simultaneously applies to ADUs created pursuant to Government Code section 65852.2, subdivision (e)(1)(C) and (D), on lots with proposed or existing multifamily dwellings according to specified requirements.

- 11.30.040 (A)(4)(b) – *Multifamily Size Limitations* – The Ordinance states that, for detached ADUs with a multifamily primary dwelling, “the total floor area (ADU) is 800 square feet or smaller.” However, Government Code section 65852.2, subdivision (e)(1)(D), requires ministerial approval of two detached ADUs with multifamily primary dwellings, and does not provide for, nor allow a local development standard to govern the maximum size of the units. Therefore, the City must remove this size limitation.
- 11.30.040 (B)(1) – *Timing* – The Ordinance states: “The city shall act on an application to create or construct an ADU or JADU within 60 days from the date that the city receives a completed application if there is an existing single-family or multifamily dwelling on the lot.” However, current Government Code section

65852.2, subdivision (a)(3), states: “The permitting agency **shall either approve or deny** the application to create or serve an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the permitting agency receives a completed application.” (emphasis added). Therefore, the City must replace the phrase “shall act” with “shall approve or deny.”

- 11.30.060 (A)(1) – *Slope* – The Ordinance requires conformity to “any applicable slope factor guideline contained within Chapter 11.35...” However, local development standards (such as a slope factor guideline) 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, the City must note these exceptions.
- 11.30.060 (F) – *Typographical Error* – The Ordinance states “...the following development standards shall apply to ADUs that are not consistent with Section 11.33.040(2).” However, this citation is unclear, as there is no section 11.33.040 (2), though this may be a reference to Section 11.33.040 (A)(2). Please review this section and make corrections as necessary.

In response to the findings in this letter, and pursuant to Government Code section 65852.2, subdivision (h)(2)(B), the City must either amend the Ordinance to comply with State ADU Law or adopt the Ordinance without changes. Should the City choose to adopt the Ordinance without the changes specified by HCD, the City must include findings in its resolution that explain the reasons the City finds that the Ordinance complies with State ADU Law despite the findings made by HCD. Accordingly, the City’s response should provide a plan and timeline to bring the Ordinance into compliance.

Please note that, pursuant to Government Code section 65852.2, subdivision (h)(3)(A), if the City fails to take either course of action and bring the Ordinance into compliance with State ADU Law, HCD may notify the City and the California Office of the Attorney General that the City is in violation of State ADU Law.

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) 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,



Shannan West  
Housing Accountability Unit Chief