

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

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March 30, 2023

Jeffrey Beiswenger, Planning Manager
Planning Division
City of Rohnert Park
130 Avram Ave, 2nd Floor
Rohnert Park, CA 94928

Dear Jeff Beiswenger:

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

Thank you for submitting the City of Rohnert Park (City) accessory dwelling unit (ADU) Ordinance No. 972 (Ordinance), adopted December 13, 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 April 29, 2023.

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

- Section 17.07.020, subdivision (X)(1) – *JADUs in Multi-family* – The Ordinance states that: “Accessory dwelling units (ADUs) or junior accessory dwelling unit (JADUs) shall be permitted with a certificate of zoning compliance, on any lot zoned to allow for a single family or multi- family residential uses, including mixed- use zones, subject to the requirements of this subsection.” However, Government Code section 65852.22, subdivision (a)(1), states that ADU Ordinances shall: “Limit the number of junior accessory dwelling units to one per residential lot zoned for single-family residences with a single-family residence built, or proposed to be built, on the lot.” As such, JADUs are only allowed in single-family residences, not multi-family residences. Therefore, the City must clarify that JADUs are permitted only in areas zoned for single-family residences.
- Section 17.07.020, subdivision (X)(3) – *Ministerial Approval* – The Ordinance states that: “The application for an ADU or JADU shall be considered ministerially without discretionary review or a hearing within 60 days after receiving the

application if there is an existing single-family or multi-family dwelling on the lot, unless the applicant requests a delay.” However, 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 if there is an existing single-family or multifamily dwelling on the lot.” This statutory language states that ADU applications must not only be considered but approved or denied within 60 days. Therefore, the City must amend statute to include this language.

- Section 17.07.020, subdivision (X)(5)(b)(iii) – *Detached ADU and JADU Combination* – The Ordinance states: “The detached ADU may be combined with the JADU, described in section 17.07.020. X(5)(a), provided all requirements for JADUs outlined in this section are met.” It is unclear if the Ordinance intends to allow for the creation of a detached ADU and a JADU or for the creation of a JADU within the detached ADU. While an applicant may create both a detached ADU and a JADU, Government Code section 65852.22, subdivision (a)(4), requires that JADUs be constructed within the walls of the proposed or existing single-family residence. Thus, JADUs may not be created within a detached ADU. Due to this ambiguity and potential violation of state law, the City must clarify that JADUs cannot be built within the envelope of a detached ADU.
- Section 17.07.020, subdivision (X)(6)(d) – *JADU Efficiency Kitchen* – The Ordinance states: “A JADU shall include an efficiency kitchen, with the following minimal requirements:
 - i. a sink with a maximum waste line diameter of 1.5 inches,
 - ii. a cooking facility with appliances that do not require electrical service greater than 120 volts, natural gas, or propane gas, and
 - iii. a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the dwelling unit.”

However, please note that these requirements have been stricken from state statute. Government Code section 65852.22, subdivision (a)(6), which dictates requirements for efficiency kitchens, now only requires the following:

- (A) A cooking facility with appliances.
- (B) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.”

Therefore, the City may choose to amend statute to adopt a more lenient efficiency kitchen requirement.

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 provided in the preparation and adoption of the Ordinance and welcomes the opportunity to assist the City in fully complying with State ADU Law. Please feel free to contact Nicholas Green of our staff, at (916) 841-6665 or at Nicholas.Green@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Shannan West". The signature is fluid and cursive, with the first name "Shannan" written in a larger, more prominent script than the last name "West".

Shannan West
Housing Accountability Unit Chief