

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

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August 15, 2025

Michael J. Garcia, City Attorney
City of Glendale
City Attorney's Office
613 E. Broadway, Suite 220
Glendale, CA 91206-4308

Dear Michael J. Garcia:

RE: City of Glendale – Non-Compliant Ordinance Under State Accessory Dwelling Unit (ADU) Law – Follow-up Notice of Violation

The California Department of Housing and Community Development (HCD) is aware that the City of Glendale (City) has adopted ADU Ordinance No. 6035 along with Resolution No. 24-189. HCD hereby notifies the City that based on its failure to address all findings issued in HCD's June 19, 2024, Notice of Violation, the City's Ordinance is still in violation of State ADU Law.

Background

On December 7, 2023, HCD issued its review of the City's ADU ordinance, identifying 16 noncompliant provisions. On January 31, 2024, the City's attorney responded in writing and subsequently verbally represented at a Special City Council meeting on March 5, 2024, that, despite HCD's findings, the City's ordinance was in compliance with state law and that the City would continue to process applications using its existing ordinance, not the relevant provisions of state law.

On April 19, 2024, HCD issued a Notice of Potential Violation to the City citing its continuing failure to either commit to amending the ordinance and adequately addressing HCD's findings or to adopt a resolution with findings explaining why its ordinance was already compliant with state law despite HCD's findings, as required by Government Code section 66326.

On May 17, 2024, HCD notified the City via e-mail that the City's ordinance is null and void under Government Code section 66316 because the existing ordinance does not comply with state law, and that the City therefore has a duty to apply the standards in state law unless and until its ordinance is brought into compliance.

On May 28, 2024, the City responded that the City does not agree with HCD's findings and further asserted that "the City does not believe the language of State Law empowers HCD to declare a local ordinance null and void without a formal legal adjudication by a court."

On June 19, 2024, HCD issued a Notice of Violation, reminding the City that pursuant to Government Code section 66316, its ordinance is null and void and admonishing the City to apply the provisions of state law until it amends its ordinance to come into compliance.

On July 2, 2024, the City wrote a letter to HCD explaining that the process of amending an ordinance takes several months and that City staff do not have the City Council's authorization to commence working on amendments to the ordinance. Ultimately, however, the City committed to a timeline for the adoption of amendments to the ordinance or findings explaining why it would not be making specific amendments by early November 2024.

On September 17, 2024, HCD issued a Letter of Technical Assistance to the City noting that HCD had received numerous complaints about the City's policies that impeded or discouraged the complainants' ADU applications. The complaints specifically cited the City's requirement for deed restrictions on ADUs and the City's prohibition on building ADUs above detached garages. These complaints provided evidence of the real-life impacts of the City's continued application of a non-compliant ordinance in violation of state law.

On October 17, 2024, HCD received a response from the City reiterating that it disagrees with HCD's finding that the ordinance is null and void. The City repeated that amending an ordinance takes time. This response noted that the City was well underway in amending its ordinance but failed to commit to rectifying any specific violations. The City provided a schedule to adopt the necessary amendments or findings by November 19, 2024.

On December 3, 2024, the City adopted an amended Ordinance No. 6035 along with Resolution No. 24-189 determining that its amended ordinance complies with State ADU Law despite not addressing all of HCD's prior findings of inconsistency. While the City resolved most of the issues raised by HCD, its amended effective ordinance retains three significant and precedent-setting violations described in more detail below: (1) the City prohibits detached ADUs when a property contains an "accessory living structure," (2) the City continues to prohibit the mix of units mandated by state law, and (3) the City continues to prohibit ADUs above detached garages.

On August 7, 2025, HCD and the Attorney General's Office met with the City to discuss the three findings that were not corrected with the adoption of Ordinance No. 6035. HCD reiterated that while Resolution No. 24-189 was also received, and the law does require the City to make findings via resolution for any of HCD's findings that they disagree with, HCD does not have to accept those arguments, and those issues still need to be corrected. Additionally, HCD and the Attorney General's Office discussed potential next steps, including further enforcement, should the City continue to fail to correct the remaining issues with the Ordinance.

Analysis

While the City has addressed most of the findings previously made by HCD, HCD reaffirms the following findings which were originally made in the December 7, 2023, ADU Findings Letter and have been made in each subsequent letter issued by HCD:

Accessory Living Quarters and Detached ADUs

The City's ordinance prohibits the detached ADU allowed under Government Code section 66323, subdivision (a)(2) in circumstances where a single-family lot already contains one primary dwelling unit and an "accessory living quarters." The City defines "accessory living quarters" in its ordinance to include "a cabana, pool house, recreation room, workshop, studio, rumpus room, and similar." The City's resolution asserts that State ADU Law "neither requires a local agency to allow both an ADU and an accessory structure such as an accessory living quarters, nor does it prohibit a local agency from requiring a lot with a single family dwelling to make a choice to either have one or more ADUs or a guest house."

However, this mischaracterizes state law and is a clear violation of Government Code section 66323, subdivision (a)(2), which requires that a local agency "shall approve an application ... to create ... one detached, new construction accessory dwelling unit" so long as it is no greater than 800 square feet and meets the relevant height limitations. State law does not contain a carveout for lots with other detached accessory structures.

In addition, the City makes clear in its resolution that it considers this limitation similar to other development standards like lot coverage, floor area ratio, and landscaping and open space requirements, and thus the City's prohibition on detached ADUs in these circumstances also violates Government Code section 66323, subdivision (b)'s prohibition on "any objective development or design standard that is not authorized by this section."

Unit Mix

Government Code section 66323, subdivisions (a)(1)-(4), state that a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following: (1) on a lot with an existing or proposed single-family dwelling, (a) one interior conversion ADU and one interior conversion JADU, and (b) one detached, new construction ADU which may be combined with a JADU; and (2) on a lot with an existing or proposed multifamily dwelling, (a) ADUs constructed within the portions of existing multifamily dwelling structures that are not used as livable space, and (b) detached ADUs.

The City interprets this provision to mean that the local agency must allow units under either subdivision (a)(1) or (a)(2) for single-family lots, and either subdivision (a)(3) or (a)(4) for multifamily lots. The City's Resolution No. 24-189, passed alongside the amended ADU ordinance in fulfillment of the requirements of Government Code section 66326, argues that the statute's use of "any" rather than "any and all" supports its position.

However, these provisions require ministerial approval of a total of two ADUs and one JADU, in addition to the primary dwelling, for each applicant in a single-family zone. Similarly, for multifamily dwellings, an applicant is entitled to both detached ADUs and interior conversion ADUs, with the number of allowed ADUs dependent on the number of units in the multifamily structure(s). In other words, local agencies must approve applications for units under both Government Code section 66323, subdivisions (a)(1) and (a)(2) on a single-family lot, and for units under both subdivisions (a)(3) and (a)(4) on a multifamily lot. The City's failure to do so is a violation of Government Code section 66323.

ADUs Above Detached Garages

The City's ordinance prohibits new construction ADUs above detached garages. However, Government Code section 66314, subdivision (d)(3), requires local agencies to allow ADUs "either attached to, or located within, ... an accessory structure."

The City argues that this provision should be understood to mean "that the City allow an ADU to be either attached to or located within the space of the primary dwelling (including attached garages and other areas that are attached), or mandates that the City allow an ADU to be converted from an accessory structure, or mandates that the City allow an ADU to be detached from the primary dwelling, including detached garages." (Underlines in the City's resolution.)

This reading contains two crucial errors. First, it limits the phrase “is either attached to, or located within” to solely modifying the following phrase: “the proposed or existing primary dwelling, including attached garages, storage areas or similar uses.” But limiting the location phrase “is either attached to, or located within” in this way then leaves the next phrase “or an accessory structure” without any reference to how an ADU should be constructed in that scenario. The City’s reading therefore commits its second error, which is to invent the phrase “be converted from” to explain what to do with an accessory structure. But the statute does not, in fact, limit accessory structures to conversion ADUs.

A more sensible way of reading this section is:

“The accessory dwelling unit is either:

- 1) attached to, or (2) located within,
 - A) the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or
 - B) an accessory structure; or
- 3) detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling, including detached garages.”

This reading aligns with the rest of State ADU Law, which provides for three types of ADUs: attached ADUs, interior conversion ADUs, and detached ADUs. It also makes clear that the ADU may be attached to an accessory structure. A detached garage is an accessory structure, and an ADU above that garage is attached to the garage. Therefore, so long as the proposed ADU meets the rest of the requirements in the statute, including the height limitations in Government Code section 66321, subdivision (b)(4), the local agency must allow it.

The City’s prohibition on ADUs above detached garages violates this provision.

Additionally, because the City has not properly addressed the deficiencies in its ordinance that HCD identified, the City’s ordinance conflicts with state law. The City must therefore utilize State ADU Law when processing ADU applications pursuant to Government Code section 66325, which states, “Except as provided in subdivision (b), this article shall supersede a conflicting local ordinance.” Additionally, in accordance with Government Code section 66316, “If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this article, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this article for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this article.”

Conclusion and Next Steps

As a reminder, HCD has enforcement authority over State ADU Law.¹ Pursuant to Government Code sections 65585, subdivision (j), HCD has notified the California Office of the Attorney General that the City is in violation of state law. The City has 30 days (by September 12, 2025) to respond in writing to this letter with a plan of action to remedy the violations of State ADU Law in a timely manner. HCD will consider this response before taking further action authorized by state law.

If you have any questions or would like to discuss the contents of this letter, please contact Jamie Candelaria at jamie.candelaria@hcd.ca.gov.

Sincerely,



David Zisser
Assistant Deputy Director
Local Government Relations and Accountability

¹ Gov. Code, § 65585, subd. (j)(15).