

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

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[www.hcd.ca.gov](http://www.hcd.ca.gov)



June 19, 2024

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 Law – Notice of Violation**

On April 19, 2024, the California Department of Housing and Community Development (HCD) sent the City of Glendale (City) a Notice of Potential Violation (NOPV) (incorporated by reference) regarding the City's non-compliant Accessory Dwelling Unit (ADU) Ordinance. On May 16, 2024, the City responded to the NOPV.

At this time, the City has not complied with Government Code section 66326, subdivision (b), by either amending the ordinance to comply with Government Code sections 66314-66332 or by adopting the ordinance without changes with findings via resolution explaining why the ordinance complies with these sections despite HCD's findings. Further, the City has indicated an intention to continue to implement its non-compliant ordinance rather than apply the standards in State ADU Law, in violation of Government Code section 66316.

Where HCD finds that a local agency's ordinance does not comply with Government Code sections 66314-66332, HCD must then issue written findings to the local government.<sup>1</sup> Additionally, if the local agency does not amend its ordinance in response to HCD's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with those sections and addressing HCD's findings, HCD shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.<sup>2</sup> HCD hereby notifies the City that it is in violation of State ADU Law.

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<sup>1</sup> Gov. Code, § 66326, subd. (b)(1).

<sup>2</sup> Gov. Code, § 66326, subd. (c)(1).

## Background

HCD's records are as follows:

- On December 7, 2023, HCD issued its review of the City's ADU Ordinance No. 5997 via an ADU Findings Letter (incorporated by reference). The letter identified more than 15 places in the ADU ordinance that do not comply with State ADU Law, including issues related to setbacks, subjective standards, parking, deed restrictions, and owner occupancy.
- On January 31, 2024, 25 days after the statutorily mandated 30-day deadline, Glendale's City Attorney's Office issued a response to this review.
- On March 5, 2024, the City held a Special City Council Meeting. During this meeting, beginning at the 13-minute mark, members of the Council and City Attorney Yvette Neukian discussed items such as the allowance of second story ADUs and height requirements prescribed by Senate Bill (SB) 897, both of which were findings included in HCD's December 7, 2023, ADU Findings Letter. The City Attorney also stated that she believes the Ordinance is in compliance with State ADU Law and indicated that the City would continue to process applications according to the City's ordinance, regardless of HCD's findings. Additionally, while the City indicated they would "update the ADU Ordinance at some point to account for new state laws," at the 15:20 mark of the meeting, the City Development Director responded to a question about whether there would be an update to the Ordinance and stated that this is not something that is currently on their radar, despite HCD issuing an ADU Findings Letter that informs the City of its duty to update the Ordinance to comply with State ADU Law.
- On April 19, 2024, HCD responded to the City with an NOPV stating that the City's response fails to satisfy statutory requirements under Government Code section 66326, subdivision (b)(2).
- On May 16, 2024, the City sent a response to HCD, suggesting that the City may, by fall 2024, update the ordinance but does not provide any specificity about the timeline or the revisions or findings the City plans to make.
- On May 17, 2024, HCD sent a follow-up email confirming that the City's Ordinance is null and void under Government Code section 66316 because the Ordinance does not comply with State ADU Law, and that the City therefore has a duty to apply the standards in State ADU Law until the Ordinance is compliant.
- On May 28, 2024, the City responded, stating, among other things, that "the City does not agree with HCD's contention that the City's ADU Ordinance does not comply with State ADU Law, but merely acknowledges that it is willing to make clarifying amendments to address HCD's concerns." It also states, "While the City understands that it is HCD's position that the City's ADU Ordinance violates State ADU Law, 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."

## Analysis

The City's ADU Ordinance imposes various standards that do not comply with state law, as explained in HCD's December 7, 2023 findings letter.

State law prohibits the City from enforcing these standards. Government Code section 66315 states that "[n]o additional standards, other than those provided in Section 66314, shall be used or imposed" by local jurisdictions in evaluating ADUs. Section 66325 expressly provides that local ordinances that conflict with state law are superseded by state law. Because the City's ordinance conflicts with state law and imposes additional standards beyond what state law requires, the City's ordinance is unenforceable, and the City must instead apply state law to evaluate ADU applications.<sup>3</sup>

In addition, Government Code section 66326, subdivision (b)(2), provides as follows:

"The local agency shall consider the findings made by the department pursuant to paragraph (1) and shall do one of the following:

"(A) Amend the ordinance to comply with this article.

"(B) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this article despite the findings of the department."

As noted in the NOPV, the City's January 31, 2024, response did not satisfy the requirements of Government Code section 66326, subdivision (b)(2). The City offered two remedies to address the violations identified by HCD – either amending certain municipal code sections or leaving the violations as they are. However, State ADU Law requires that the City either amend the ordinance to comply with the statute or make findings by resolution explaining why the local agency complies with the statute despite HCD's findings.<sup>4</sup> The City did neither of those. While the City's May 16, 2024 and May 28, 2024 correspondence suggest that the City may, by fall 2024, follow one of these required pathways, the City does not clearly state that it will do so and has indicated otherwise on other occasions, such as the March 5, 2024, City Council meeting. For example, the City does not specifically reference its intention to make findings via a resolution. While HCD understands that it takes time to draft revisions to an ordinance or make the necessary findings, the fact remains that the City has not yet done so and is therefore in violation of state law.<sup>5</sup>

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<sup>3</sup> Gov. Code, § 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.")

<sup>4</sup> Gov. Code, § 66326, subd. (b)(2)(A), (B).

<sup>5</sup> Gov. Code, § 66326, subd. (c)(1).

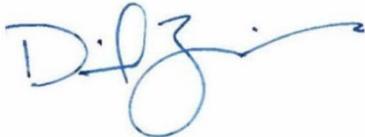
Precisely because revising an ordinance takes time, State ADU Law makes clear that until the ordinance complies with the statute, the City must apply the standards set forth in the statute.<sup>6</sup> In its May 28, 2024, email to HCD, the City clearly indicates that it does not consider its ordinance null and void and insists that only a court can determine as much. However, State ADU Law requires a local agency to submit a copy of its ADU ordinance to HCD and clearly vests in HCD the authority to issue written findings as to whether the ordinance is compliant with state law.<sup>7</sup> Pursuant to its statutory authority, HCD has found that the City's ordinance does not comply with state law and is thus null and void, and the City's failure to apply the standards in the statute is a violation of State ADU Law.

### **Conclusion and Next Steps**

HCD finds that the City has failed to amend Ordinance No. 5997 to comply with Government Code sections 66314-66332 or adopt the ordinance without changes with findings via resolution explaining why the ordinance complies with these sections despite HCD's findings. In addition, the City has refused to apply the standards in State ADU Law until it adopts an ordinance that complies with state law. As a result, the City is in violation of state law.

HCD requests a response from the City, including a plan and timeline to remedy the violations, no later than July 2, 2024. HCD will consider this response before taking further action authorized by state law, including referral to the California Office of the Attorney General.<sup>8</sup> If you have any questions or would like to discuss the contents of this letter, please contact Nicholas Green at [Nicholas.Green@hcd.ca.gov](mailto:Nicholas.Green@hcd.ca.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Zisser", with a long horizontal stroke extending to the right.

David Zisser  
Assistant Deputy Director  
Local Government Relations & Accountability

Enclosure: Notice of Potential Violation of State Accessory Dwelling Unit Statute  
Regarding Non-Compliant Ordinance, April 19, 2024

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<sup>6</sup> Gov. Code, §§ 66315, 66325; see § 66316.

<sup>7</sup> Gov. Code, § 66326, subds. (a), (b).

<sup>8</sup> Gov. Code, §§ 65585, subd. (j), 66326, subd. (c)(1).

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April 19, 2024

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: Notice of Potential Violation of State Accessory Dwelling Unit Statute  
Regarding Non-Compliant Ordinance**

**Please Note:** As of March 25, 2024, with the Chaptering of Senate Bill (SB) 477 (Chapter 7, Statutes of 2024), the sections of Government Code relevant to State Accessory Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (JADU) Law have been re-numbered (Enclosure 1).

The California Department of Housing and Community Development (HCD) is aware that the City of Glendale (City) will soon bring amendments to ADU Ordinance No. 5997. This letter serves to notify the City that the adoption of amendments that fail to address the complete findings of HCD's review letter would be unlawful and in violation of Government Code section 66323, subdivisions (b)(2)(A) and (b)(2)(B).

**The City's Response to HCD's Findings Letter Fails to Fulfill Statutory Commitments**

After HCD issued its review of the City's ADU Ordinance on December 7, 2023, the Glendale City Attorney's Office issued a response to this review on January 31, 2024. HCD does not find the City's responses persuasive and maintains the findings provided in the December 7, 2023 letter. Local agencies may either amend their ordinance pursuant to HCD's findings or adopt non-compliant ordinances without changes. If the City chooses the latter, the City must include findings via resolution that explain why the ordinance complies with this section.<sup>1</sup> The City's response to HCD's findings letter dated January 31, 2024, does not satisfy these statutory conditions. Therefore, the City must address all of HCD's findings via either amendment or resolution.

**An Amendment that Fails to Address Each Finding Would Violate Government Code Sections 66313 - 66342**

In response to HCD's review letter, the City presents different remedies to address each finding. For example, the City "will bring forth a clarifying amendment" to address HCD's

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<sup>1</sup> Gov. Code, § 66326, subd. (b)(2)(B)

finding regarding JADUs in multi-family zones. In other responses, such as the City's response to HCD's position on by-right ADU allowances, the City provides no action steps before declaring that "this section of the ADU Ordinance is in compliance with State Law."

The City provides two remedies for the listed violations, either amending certain municipal code sections or leaving the violations as they are, based on the City's stated interpretations of State ADU Law. However, Government Code section 66326, subdivision (b)(2)(A), states that the City must amend the ordinance to comply with Government Code sections 66313 - 66342. Accordingly, any final amendment and/or resolution regarding the City's ADU Ordinance must address *all* of HCD's findings related to the City's failure to comply with Government Code sections 66313 - 66342. Any amendment that does not address the entirety of HCD's findings may violate Government Code section 66326, subdivision (b)(2).

### **Conclusion and Next Steps**

Statute provides local agencies two options after receiving notice of a non-compliant ordinance: 1.) amend the ordinance to comply with Government Code sections 66313 - 66342 or 2.) adopt the ordinance without changes with findings via resolution explaining why the ordinance complies with this section despite the department's findings.<sup>2</sup> In response to HCD's findings letter, the City must complete one of these two actions to be considered in compliance with State ADU Law.

Additionally, Government Code section 66316, states that, "...[i]f a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section." Therefore, until the City brings its ordinance in compliance, the ordinance is null and void, and the City must apply the standards provided in statute.

As a reminder, HCD has enforcement authority over Government Code sections 66313 - 66342. Accordingly, HCD may review local government actions and inactions to determine consistency with these laws. If HCD finds that a city's actions do not comply with state law, HCD may notify the California Office of the Attorney General that the local government is in violation of state law.<sup>3</sup> Government Code section 66326, subdivision (c)(1), provides that as part of HCD's review of the City's ordinance, it may notify the Attorney General that the City is in violation of State ADU Law. When a local ordinance violates State ADU Law, the City has 30 days to respond to this Notice of Potential Violation and must provide a written response and plan of action to remedy the violations of State ADU Law no later than May 18, 2024.

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<sup>2</sup> Gov. Code, § 66326, subd. (b)(2)(B).

<sup>3</sup> Gov. Code, § 65585, subd. (j).

If you have questions or need additional information, please contact Nicholas Green at [Nicholas.Green@hcd.ca.gov](mailto:Nicholas.Green@hcd.ca.gov).

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

cc: David Pai, Office of the Attorney General

Enclosure – State ADU/JADU Law Statutory Conversion Table

**State ADU/JADU Law Statutory Conversion Table**

<b>New Government Code Sections</b>	<b>Previous Government Code Sections</b>
<b>Article 1. General Provisions</b>	
66310	65852.150 (a)
66311	65852.150 (b)
66312	65852.150 (c)
66313	General Definition Section 65852.2 (j) 65852.22 (j)
<b>Article 2. Accessory Dwelling Unit Approvals</b>	
66314	65852.2(a)(1)(A), (D)(i)-(xii), (a)(4)-(5)
66315	65852.2 (a)(8)
66316	65852.2 (a)(6)
66317	65852.2 (a)(3), (a)(7)
66318	65852.2 (a)(9), 65852.2 (a)(2)
66319	65852.2 (a)(10)
66320	65852.2 (b)
66321	65852.2 (c)
66322	65852.2 (d)
66323	65852.2 (e)
66324	65852.2 (f)
66325	65852.2 (g)
66326	65852.2 (h)
66327	65852.2 (i)
66328	65852.2 (k)
66329	65852.2 (l)
66330	65852.2 (m)
66331	65852.2 (n)
66332	65852.23.
<b>Article 3. Junior Accessory Dwelling Units</b>	
66333	65852.22 (a)
66334	65852.22 (b)
66335	65852.22 (c)
66336	65852.22 (d)
66337	65852.22 (e)
66338	65852.22 (f)-(g)
66339	65852.22 (h)
<b>Article 4. Accessory Dwelling Unit Sales</b>	
66340	65852.26 (b)
66341	65852.26 (a)
66342	65852.2 (a)(10)