

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

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July 27, 2020

Joel W. Rosen, Director
Community Development Department
City of Buena Park
6650 Beach Blvd.
Buena Park, CA 90621

Dear Joel W. Rosen:

RE: Buena Park's Accessory Dwelling Unit (ADU) Ordinance

The purpose of this letter is to submit written findings on the City of Buena Park's adopted ADU ordinance (Ordinance No. 1674), received by the California Department of Housing and Community Development (HCD) on January 29, 2020. Pursuant to Government Code section 65852.2, subdivision (h), and is submitting these written findings. Our findings were facilitated by a telephone conversation on March 10, 2020 with Joel Rosen, Community Development Director.

The adopted ADU ordinance meets many statutory requirements. However, the ordinance must be revised to comply with ADU law (Gov. Code section 65852.2), as follows:

- *Number of Dwelling Units:* The city's limitation on the number of allowable units within a single-family zone is more restrictive than what is allowed. Within a single-family zone, an applicant is allowed one junior accessory dwelling unit (JADU), and one ADU. Currently, the city's ordinance is more restrictive on the number of units allowed on a lot and should be revised to comply with the minimum ADU standard of one ADU and one JADU per lot. (Gov. Code, § 65852.2, subd. (e)(1)(A) and (B)).
- *Dwelling Unit Size (Single-family):* Local agencies may establish minimum and maximum unit size requirements for both attached and detached ADUs. Through an adopted ordinance, a local agency shall not establish a maximum square footage requirement for either an attached or detached ADU that is less than 850 square feet or 1,000 square feet depending on the number of bedrooms. Currently, the city's ordinance restricts the size of all ADUs to 850 square feet. The city should revise the ordinance to accommodate both the 850 square foot and 1,000 square foot ADU option. (Gov. Code, § 65852.2, subd. (c)(2)(B)(i) and (ii)).

- *Dwelling Unit Size (Multifamily)*: ADUs created on a lot with an existing multifamily dwelling are exempt from certain development standards, including dwelling unit size. As such, ADUs created on a lot with an existing multifamily dwelling are not subject to any minimum or maximum size requirement. Currently, the city's ordinance requires ADUs on a lot with an existing multifamily structure to be a minimum of 500 square feet and restricts these ADUs to 850 square feet. The city should revise this requirement and remove any minimum or maximum size for ADUs created on lots with an existing multifamily dwelling. (Gov. Code, § 65852.2, subd. (e)).
- *Number of Bedrooms*: ADU ordinances should not limit the number of bedrooms in an ADU. Limits on the number of bedrooms could have a discriminatory effect such as limiting housing choices based on familial status. Furthermore, limits on the number of bedrooms unduly burdens the development of ADUs and acts as a constraint on the development of housing. Currently, the city's ordinance restricts ADUs to one bedroom. The city should remove this limit on the number of bedrooms from the ordinance. (Gov. Code, § 65852.150, and Gov. Code, § 65852.2, subd. (c)).
- *Restricted Areas*: Local agencies may designate areas where ADUs are permitted. The designation may be based on the adequacy of water and sewer services and the impact of ADUs on traffic flow and public safety. If the local agency does not provide water or sewer services, the agency shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where ADUs may be permitted. The city is responsible for designating these areas, not the applicant; an applicant should not be required to provide evidence that adequate sewer, streets, and water are available. A requirement to do so is viewed as excessive and burdensome, having the effect of unduly constraining a homeowner's ability to create ADUs in zones in which they are authorized by a local ordinance. The city should consider alternative method to satisfy water and sewer service requirements. (Gov. Code, § 65852.2, subd. (a)(1)(A)).
- *Minimum Street Width and Ministerial Approval*: ADUs are allowed in areas zoned to allow single-family or multifamily dwelling residential use. Additionally, the consideration and approval of ADUs shall be a ministerial process without discretionary review or a hearing. The approval of an ADU that complies with standards set in Government Code section 65852.2 shall not be subject to a conditional use permit. The city's minimum street width and conditional use permit requirements are potentially a constraint on the creation of ADUs. Unless based on health and safety issues, the city should reconsider these requirements. (Gov. Code, § 65852.2, subd. (a)(1)).
- *Efficiency Kitchen*: The definition of an efficiency kitchen is limited to a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU. Any additional specifications shall be limited to the

city's adopted building code. Currently, the city requires a food preparation counter at least 8 square feet in area and food storage cabinets that total at least 16 square feet of shelf space. These may act as constraints. The city should modify the prescribed size requirements and could consider the standards set forth in Government Code section 65852.22, subdivisions (a)(6)(A) and (B).

This date on this letter shall serve as the start of the 30-day period for the local agency to respond to the findings before HCD takes any other action authorized pursuant to Government Code section 65852, subdivision (h). The city may choose to amend the ordinance to comply with this Section or adopt the ordinance without any changes. Should the city choose to adopt without any changes, the city shall include findings in its resolution that explain the reasons the local agency finds that the ordinance complies with this section despite the findings made by HCD. Please note that failure to do either of the above may lead to a referral to the Attorney General's Office.

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 feel free to contact Jose Ayala, of our staff, at (916) 263-5116 or at Jose.Ayala@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Megan Kirkeby', with a stylized flourish at the end.

Megan Kirkeby
Deputy Director